

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

FILED⁴

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Missouri Public
Service Commission

IN THE MATTER OF LACLEDE GAS COMPANY'S TARIFF
TO REVISE NATURAL GAS RATE SCHEDULES

Case No. GR-99-315

TELEPHONE DEPOSITION OF STEVEN FETTER
TAKEN ON BEHALF OF THE STAFF OF MISSOURI
PUBLIC SERVICE COMMISSION

SEPTEMBER 13, 2004

Exhibit No. 151

Case No(s) GR-99-315

Date 9-24-04 Rptr TS

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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

In the Matter of Laclede Gas)
Company's Tariff to Revise)
Natural Gas Rate Schedules.)

Case No.
GR-99-315

TELEPHONE DEPOSITION OF STEVEN

FETTER, a witness, produced, sworn and examined on
the 13th day of September, 2004, between the hours
of 8:00 a.m. and 6:00 p.m. of that day at the
offices of the Missouri Public Service Commission,
1845 Borman Court, Suite 101, St. Louis, Missouri,
63146, before

TARA SCHWAKE, RPR, CRR, CCR, CSR
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And Notary Public within and for the State of
Missouri, commissioned in St. Louis County,
Missouri, in the above-entitled cause, on the part
of the Missouri Public Service Commission,
pursuant to agreement.

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1 SIGNATURE INSTRUCTIONS:

2 Presentment waived; signature requested.

3

4 EXHIBIT INSTRUCTIONS:

5 None marked.

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7 I N D E X

8 Direct Examination by Mr. Schwarz 5

9 Cross Examination by Mr. Lowery 45

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1 STEVEN FETTER, being sworn, testified as follows:

2 DIRECT EXAMINATION BY MR. SCHWARZ:

3 Q Good morning, Mr. Fetter. My name
4 is Tim Schwarz, I'm an attorney with the staff of
5 the Public Service Commission.

6 First of all, if you have any
7 trouble hearing or understanding my questions,
8 please let me know, and whether it's as to content
9 or just, you know, the telephone, we'll get that
10 squared away. If you need to take a break at any
11 time, just let us know.

12 Do you have any questions?

13 A In case the connection breaks off,
14 will the operator call me back?

15 Q Yes, I'm assuming so.

16 A Okay.

17 Q All right. Are we ready, then, to
18 go?

19 Your testimony indicates that you
20 had -- you received an AB in communications in
21 1974 from Michigan. Is that correct?

22 A Yes, sir.

23 Q What courses in mathematics did you
24 have in connection with that degree?

25 A I don't recall any courses in

1 mathematics as part of that degree.

2 Q So you don't recall that -- did you
3 take calculus, for instance?

4 A I took calculus for a while in high
5 school, but not at the university level.

6 Q What about statistics?

7 A I do not believe I took statistics
8 through a formal course.

9 Q Okay. You got your juris doctor
10 from Michigan in 1979; is that correct?

11 A Yes.

12 Q Was that a five year program, or did
13 you do something in the interim?

14 A That was a three year program.

15 Q What -- but it's five years between
16 '74 and '79. What happened to the extra two
17 years?

18 A First year after graduating with a
19 communications degree, I was a horse race
20 announcer in Pennsylvania.

21 Q Really. What track?

22 A It was at the Meadows Race Track
23 about a half hour south of Pittsburgh. And for
24 the second year, after getting laid off at the end
25 of the season, I traveled for the following year.

1 Q Very good. You indicate that you
2 were an appellate litigation attorney for the
3 National Labor Relations Board from '79 to '82.
4 What were your job duties in that position?

5 A Within that administrative agency,
6 when the board -- when the National Labor
7 Relations Board decided a decision, it was not
8 enforceable -- well, if the losing party did not
9 comply voluntarily at that point, it was not
10 enforceable until a federal court of appeals from
11 the district from whence the case came would agree
12 with the board's determination.

13 So, accordingly, my job, we would
14 take the entire record and brief it to the court
15 of appeals, arguing for enforcement of the
16 underlying board decision. I would then go out
17 and at the time that the oral argument was
18 scheduled, which could be anywhere from a month
19 later to two years later, I would go and argue
20 before the three member panel, arguing that the
21 board decision should be enforced.

22 Q What were your job duties as
23 assistant legal counsel to Governor Milliken?

24 A Governor Milliken had a legal
25 counsel and one assistant legal counsel. So I

1 would say that the job encompassed virtually any
2 legal and often policy issue that could come up
3 within the context of state government that a
4 governor's office would get involved with.

5 Q And what sort of issues did you deal
6 with for that -- for that period?

7 A I -- it was everything from labor to
8 legislative to financial, strategic planning on
9 policy. I'd say, a correction, you know, prison
10 issues. I'd say virtually anything that could
11 come up within a governor's office, I would have
12 some involvement in the review of that issue.

13 Q Okay. What -- what were your duties
14 with the Michigan senate?

15 A Started out as counsel to the
16 republican caucus. And through recall elections,
17 the republicans gained control of the senate and I
18 became senate majority general counsel.

19 Q And -- and what were your duties --
20 what kind of issues did you deal with as legal
21 counsel and majority general counsel?

22 A The same as I kind of just described
23 where any policy or procedural issue being
24 considered by the senate would -- would require
25 some involvement from myself or a member of the

1 office that I headed.

2 Q In -- in your career up through
3 1985, had you done any depreciation studies?

4 A No.

5 Q Okay. Your next position is
6 certainly a mouthful. What -- what did the
7 executive assistant to the deputy undersecretary
8 at the Department of Labor do?

9 A The deputy undersecretary in labor
10 was one of approximately eight to ten individuals
11 reporting to the secretary of labor. So I was the
12 chief assistant to that individual who headed the
13 Bureau of Labor Management Relations and
14 Cooperative Programs.

15 Q Okay. And what -- what did that
16 bureau or department deal with?

17 A That bureau dealt -- gave advice to
18 the secretary of labor on labor relations issues,
19 and it also was a division that was charged with
20 figuring out innovative ways for labor and
21 management to cooperate outside the adversarial
22 process. So we would do speeches, writings,
23 meetings to try to achieve that goal.

24 Q Okay. Your -- your next engagement
25 was as a member and then chair of the Michigan

1 Commission; is that correct?

2 A Yes.

3 Q And can you -- can you give me an
4 idea of how many full blown rate cases you -- you
5 ruled on in your time there in, let's start with
6 '87 and '88?

7 A I could not respond in that kind of
8 detail.

9 Q Could you tell me if it was -- did
10 -- were you litigating, say, three or four full
11 rate cases a year?

12 A No.

13 Q So it's fewer than that, then?

14 A Most of the issues when I was there
15 had to do with companies in financial distress and
16 nuclear plant abandonment or overrun issues. So
17 it was kind of a -- it was kind of a basket of
18 regulatory type issues which did not really hone
19 in on the traditional workaday type rate case.

20 But the types of issues we were
21 dealing with required the setting of rates, but
22 often in a stressed financial situation for the
23 utility.

24 Q Did you -- particularly in the
25 electric and gas area and excluding

1 telecommunications, did most rate cases settle?

2 A I remember Detroit Edison had a
3 major settlement. I believe Michigan Con, we had
4 a rate case that went to final decision. And then
5 Consumers Power had several decisions along the
6 way having to deal with rates. And then as I was
7 nearing the end of my six years, there was a
8 global settlement that covered pretty much all of
9 the remaining outstanding issues.

10 So I would say in the course of my
11 six years, you know, maybe, you know, other than
12 very small rate case issues, maybe a handful of
13 major rate cases. That would be subject to check.

14 Q Yeah. I'm not clear on the global
15 settlement. Was that for a particular utility or
16 for an industry group?

17 A Consumers Power was the utility that
18 had abandoned the construction of the Midland
19 nuclear plant. It had turned that abandoned plant
20 into a co-generation facility. The utility had
21 also received extraordinary financial relief from
22 the Commission to keep it out of bankruptcy.

23 So when you roll all those issues
24 together, and you can imagine it would include
25 consumer side concerns, but also with the

1 co-generation aspect, it included I think 40 to 50
2 outside parties interested in being co-generators.
3 So it was a global settlement of dozens of parties
4 that brought all these issues together into a
5 settlement agreement.

6 Q Okay. But -- and, again, just to be
7 clear, that was in the context of Consumer Power
8 as the -- or Consolidated [sic] Powers as the
9 regulated utility?

10 A Consumers Power.

11 Q Consumers, I'm sorry. Thank you.
12 Then I understand that you were with Fitch's
13 between October of '93 to April of 2002; is that
14 correct?

15 A Yes.

16 Q And your description, at least on
17 page 3 of your testimony, is that you were senior
18 vice president and director of regulatory and
19 government affairs; is that correct?

20 A When I was hired.

21 Q And how many senior vice presidents
22 did Fitch have?

23 A Within that -- within the utility
24 group?

25 Q Well, yeah, we'll start with within

1 the utility group.

2 A When I was hired, I believe there
3 were two other senior vice presidents.

4 Q And in Fitch's overall, how many
5 were there?

6 A When I was hired, Fitch had about
7 200 people. Of the 200, I would say maybe 20
8 might have been senior vice presidents?

9 Q Okay. And, you know, what were your
10 day-to-day activities in that position?

11 A When I was brought in by Fitch, it
12 was to be a regulatory analyst and look at
13 regulatory issues and proceedings going on around
14 the country and the potential financial impact as
15 it would relate to credit rating.

16 Q And so on a day-to-day basis, what
17 might you do?

18 A I would read decisions, I would talk
19 to regulators or staff. It was pretty much any
20 action that would keep me up on what was going on
21 in the industry, so reading a lot of industry
22 newsletters, newspapers. The web wasn't so big
23 back then; as it became more important, tracking
24 things on websites.

25 Q Did you have to talk with anyone in

1 Missouri during that period?

2 A I would interact with the Missouri
3 commissioners back then.

4 Q Do you recall who you -- who you
5 talked to at that time?

6 A Oh, let me think. Ken McClure,
7 later on I think Karl Zobrist. Jim Fischer.
8 There were others, but there have been a lot of
9 regulators since --

10 Q Yes. Yes. And at this time were
11 you focused on energy, or just general -- did you
12 include telecommunications and water and sewer?

13 A When I started at the group,
14 telecommunications was within that group. Within
15 a couple years it was spun off into the industrial
16 group because of its competitive -- movement
17 towards the competitive direction.

18 Water -- there were very few private
19 water utilities, so it would be -- it would be --
20 would be a rare occurrence to look at water.
21 Sewer, I think that was pretty much within the
22 municipal group at Fitch.

23 Q Okay. How did your duties change in
24 1995 when you went to group manager of the Global
25 Power Group?

1 A I went from being one of the three
2 senior VPs, and then I was made kind of a co-equal
3 with the group head. And I was -- from that time
4 I managed the group on a day-to-day basis, and so
5 the senior vice presidents reported to me.

6 Q Okay. And from -- from the
7 adjective "Global," I assume that it was more than
8 just domestic utility operations?

9 A It was -- I'd say it was primarily
10 domestic. It included public power, and it had a
11 little involvement with foreign utilities at that
12 time.

13 Q What areas of the world, if -- if
14 you remember?

15 A I know that in the course of my role
16 there, I went to South America on several
17 occasions. I believe I went to Europe once. So
18 there was not -- there was not a -- it was not a
19 substantial part of my responsibility.

20 Q Okay. What natural gas utilities
21 did Fitch's follow during, say, between '93 and
22 '98?

23 A Probably just -- you know, thinking
24 back, our market share in electric and gas was
25 about two-thirds, and so pretty much two-thirds of

1 the gas utilities around the country.

2 Q Okay. In '98, you became managing
3 director of the Global Power Group; is that
4 correct?

5 A Yes.

6 Q And how many people were involved at
7 -- you know, underneath you at that stage?

8 A It would have been the -- it would
9 have been the same as before, except they started
10 paying me for the duties I started doing in 1995.

11 Q We may have to talk later. So at
12 that stage, if my recollection is correct, there
13 were like 18 or 20 folks in the group?

14 A I think at that point it was
15 probably around -- that was before the Duff and
16 Phelps merger, so I would think the group was
17 about maybe eleven -- maybe eleven, twelve people?

18 Q And during this period, how much of
19 your time was devoted to natural gas and how much
20 was devoted to electric?

21 A Well, the -- the senior director --
22 by then SVPs had become senior director by title.
23 The senior director of electric reported to me,
24 the senior director of gas reported to me. So,
25 you know, I say that as issues came up in either

1 of those sectors, the more important or more
2 controversial the issue, the more likely I was
3 involved.

4 I would say on a day-to-day basis, I
5 would guess my electric versus gas was maybe
6 60/40. Electric to gas. Maybe two to one. Maybe
7 67/33.

8 Q Okay. I think you indicated that
9 you continued to consult for Fitch's after you
10 left; is that correct?

11 A I was involved -- while at Fitch, I
12 was involved in preparing testimony for Ameren in
13 their rate case. And after I left Fitch, Fitch
14 retained me to continue in that role through the
15 completion of that rate case.

16 Q Yeah. You indicate that in February
17 of 2002, you were appointed to the Board of
18 Directors of CH Energy Group; is that correct?

19 A Yes.

20 Q So for several months you served as
21 both a supervisor of rating analysts as well as
22 serving on the board of an LDC?

23 A Well, I -- I took that position with
24 the realization that that was going to initiate a
25 transition out of Fitch. And so during the period

1 after going on the board of CH Energy Group, I was
2 in a transitional phase through March of '02.

3 Q So I -- I take it that that's yes?

4 You were --

5 A That I was heading the ratings
6 during that period?

7 Q Yeah. That you were still employed
8 at Fitch while you were serving on a Board of
9 Directors?

10 A I was employed at Fitch, but my
11 responsibilities for credit ratings was no longer
12 in force.

13 Q Well, when -- when were you relieved
14 of those duties?

15 A When I told them I went on the
16 board, we agreed that I would just spend the next
17 month -- I think most of the next month was mostly
18 on vacation, and then just throwing away papers
19 and passing on documents and files onto
20 individuals who ended up being acting head of the
21 group or the divisional heads. It was just to
22 make for a smooth transition.

23 Q What's the function of a ratings
24 agency such as Fitch's? Is it fair to call
25 Fitch's a ratings agency?

1 A Yeah. It's a credit rating agency,
2 yes.

3 Q Okay.

4 A The function would be to provide
5 investors with information to inform them of the
6 likelihood that they will receive back their
7 investment with interest on a timely basis.

8 Q So it functions on the outlooks and
9 needs and expectations of creditors?

10 A I've heard it described as an entity
11 that uses its First Amendment right to offer its
12 opinions to the market. And so while the
13 information we provide, I would say, is of
14 greatest interest to bond investors, we do not
15 view that bond investors is a client -- well -- we
16 don't view that the bond issuers are our client;
17 we don't view that bond investors are our client
18 in the sense that we're supposed to act in the
19 interest of our clients.

20 We would put information out into
21 the marketplace that was utilized by both of those
22 entities, but we didn't feel that we were acting
23 as an agent or advocate for either of those
24 entities.

25 Q When did the ratings agencies,

1 Fitch's, Moody's, Standard and Poor's, among the
2 prominent ones, pick up on the problems at -- in
3 the energy industry such as encountered by Enron
4 or Aquila or Duke or El Paso?

5 A Well, I'm proud to say that Fitch
6 led the way in downgrading the California
7 utilities leading up to their difficulties.
8 Unfortunately, credit rating agencies operate by
9 relying on the information provided by issuers.
10 So we, like everyone else on Wall Street, relied
11 on the information provided by Enron. To our, and
12 the entire financial community's, detriment.

13 Q So you didn't do any independent
14 analysis if the returns that Enron, or any of the
15 other troubled operations, the returns that those
16 outfits were reporting seemed excessive?

17 A Fitch, and I don't think S&P or
18 Moody's, has an investigatory arm. So we cite on
19 our reports that we rely on the information
20 provided. So given fraudulent information, I
21 don't see any way around what occurred. As -- as
22 far as it affected the credit rating agencies.

23 Q With respect to, say, are you
24 familiar with the situation at Aquila here in
25 Missouri?

1 A I just know of their financial
2 difficulties dating back a couple years.

3 Q Well, with respect to Enron and
4 Aquila, would you agree with me that the problems
5 were not with the regulated aspects of those
6 businesses, but with the non-regulated aspects of
7 those businesses?

8 A As far as I know, I would -- I would
9 probably say yes.

10 Q And is that something as a rating
11 analyst, a credit rating analyst, that you would
12 take into account?

13 A That they had financial
14 difficulties?

15 Q No, that -- that in recent history,
16 non-regulated activities tend to cause more credit
17 problems than regulated.

18 MR. LOWERY: I'll object to the form
19 of the question. I don't think that's what Mr.
20 Fetter testified to. You can answer the question.

21 THE WITNESS: I've seen problems at
22 unregulated entities like you described, and I
23 also mentioned the California utilities. And in
24 my mind even a worse case, with regard to
25 fairness, what happened to the Nevada regulated

1 utilities where they were, what I believe, were
2 innocent victims of the California catastrophe.

3 Q (BY MR. SCHWARZ) And what Nevada
4 utilities are you referring to?

5 A Nevada Power and Sierra Pacific
6 Power.

7 Q What are the sources of debt
8 coverage for utilities?

9 A I don't understand the question.

10 Q Well, would you -- I -- have you
11 read the testimony of the other witnesses in this
12 case, particularly Mr. Lyons and Mr. Cooper, Mr.
13 Baxter and Mr. Sherwin?

14 A I think I read Mr. Lyons. Would you
15 tell me the names of the others again?

16 Q Cooper?

17 A I don't think so.

18 Q Sherwin?

19 A I don't think so.

20 Q Baxter?

21 A Baxter, I've read.

22 Q Okay. On page 6 of your testimony,
23 you indicate that depreciation issues are
24 important to the Wall Street financial community.
25 Do you recall that?

1 A Yes.

2 Q And why is it important that the
3 Wall Street financial -- well, first of all --
4 strike that.

5 What is the Wall Street financial
6 community?

7 A I would view the Wall Street
8 financial community as equity and debt investors,
9 bankers, credit raters, and analysts.

10 Q Okay. And why is depreciation
11 important to that community?

12 A Because the capital that goes into
13 assets at a utility gets returns in the form of
14 depreciation, and that's why the people putting
15 the money up for those assets have a great
16 interest in how that depreciation is treated.

17 Q Okay. And that's a concern for
18 utilities in every other industry; is that
19 correct?

20 A I would think so.

21 Q So that there -- and I don't want to
22 put words in your mouth, but you think the
23 principal focus of the financial community on
24 depreciation is to ensure that the, in this case,
25 utilities will actually recover their capital

1 investment?

2 A Will be recovery on a timely basis
3 and in a way that increases the likelihood of a
4 return of prudent expenditures.

5 Q You indicate in your testimony I
6 think in various places that debt coverage is
7 important to the Wall Street community; is that
8 correct?

9 A Yes.

10 Q And what do you mean by "debt
11 coverage"?

12 A Can you direct me to where I used
13 the phrase "debt coverage"?

14 Q I -- I don't know that I have it
15 here in my notes.

16 A Well, then, I'll have to ask you the
17 same thing I did a couple minutes ago. What do
18 you mean by "debt coverage"?

19 Q Well, all right. Let -- on page 12
20 you indicate that cash flow has evolved to be the
21 most important financial measure relied upon by
22 the credit agencies in determining utility bond
23 ratings. Okay?

24 A Let me find it. Yes, I see it.

25 Q Okay. How -- how is cash flow

1 **figured into financial measures?**

2 A Rating agencies use it to see if the
3 -- what multiples of incoming cash flow, how many
4 multiples over the interest that needs to be paid
5 each year, how -- what -- what that ratio results
6 in. Because as you would expect, if cash flow,
7 let's say, exactly equals interest required to be
8 paid, then any little blip in an operation of
9 utility could put that utility in a situation
10 where they could not meet their interest
11 obligation.

12 So Wall Street, the financial
13 community I described before, looks for multiples
14 of cash flow above that interest so that there is
15 a great comfort that with the ups and downs of
16 utility operations and regulatory decision making,
17 that the utility will be able to meet its
18 obligations on a timely basis.

19 Q And now I'll go back to my earlier
20 questions. What are the sources of that cash
21 flow?

22 A Cash flow would pretty much be that
23 income, and then things like deferred taxes or
24 depreciation could add to that number.

25 Q So that depreciation is but one

1 factor among several as far as cash flow is
2 concerned?

3 A Well, depreciation is a very big
4 factor among a few.

5 Q How -- how is it relative to the
6 actual allowance for debt in a company's capital
7 structure and rate structure?

8 A I don't understand the question.

9 Q You understand that a company's
10 capital structure includes a trench for cost of
11 debt? Or debt?

12 A It would include -- it usually would
13 include a percentage of debt.

14 Q And that is -- is one factor that
15 contributes to cash flow?

16 A Well, the -- the calculation of rate
17 of return would -- would have an effect on cash
18 flow.

19 Q And what is the relative magnitude
20 of that element compared to depreciation?

21 A It would vary from utility to
22 utility.

23 Q So that variations are not
24 unexpected?

25 A Variations based on the specific

1 circumstances of a particular utility.

2 Q Have you ever had any specific
3 courses in depreciation?

4 A I -- I attended the Michigan State
5 University Institute of Public Utilities training
6 for commissioners and commission staff. I
7 attended it once as an attendee and several times
8 as a speaker. And I'm sure at least once, and
9 possibly more than once, I would have sat through
10 the portion of that course directed at
11 depreciation.

12 Q What's the -- what are you -- what's
13 the reserve for depreciation? On a company's
14 books?

15 A Would be money that has been set
16 aside to deal with depreciation as -- as it's
17 needed based on regulatory policies dictating how
18 much depreciation is allowed to be recovered each
19 year.

20 Q You say it's money set aside. Is it
21 -- let me ask you, in Michigan, do you require
22 utilities to hold the reserve for depreciation as
23 cash?

24 A I don't recall.

25 Q Is it -- is it your understanding

1 that here in Missouri, utilities have cash on hand
2 that is equal to the reserve for depreciation?

3 A I would doubt it. I would think
4 it's a ongoing book entry.

5 Q Okay. So that -- so that the --
6 there -- there's no cash fund that is the reserve
7 for depreciation; correct?

8 A I'm not sure.

9 Q Do you know how the reserve for
10 depreciation increases and decreases?

11 A I know that there can be
12 depreciation studies from time to time which
13 indicate that too much is being set aside or not
14 enough is being set aside, and so there can be
15 midterm corrections.

16 Q Okay. But do you understand the
17 bookkeeping entries by which the reserve either
18 increases or decreases?

19 A I'm not sure I understand the
20 question.

21 Q What -- what would cause the reserve
22 to grow?

23 A The reserve would grow when a
24 commission would have set policies with regard to
25 what would be the depreciation allowance each

1 year.

2 Q Okay. I can tell my question's not
3 clear. At -- at the end of every month, would you
4 agree that the utility closes the depreciation
5 expenses it charged for that month to the reserve
6 and that that has the effect of increasing the
7 reserve?

8 A I think that may be too technical
9 for me to answer.

10 Q That's fine. That's fine. Now, let
11 me ask you this. Is it your understanding that,
12 at least under the method that is proposed by
13 Laclede and seconded by Ameren in this case, that
14 the reserve for depreciation would have a
15 component that reflects payment or expense charged
16 to reflect a return of the utility's original
17 investment, and also a component that represents a
18 charge for future cost of removal? Strike -- let
19 me -- future cost of removal of plant when it
20 retires.

21 A Well, the use of the word "removal"
22 and "retirement" may be a little confusing there,
23 but it has a component for net salvage that's done
24 on an ongoing basis.

25 Q Okay. And would you agree that the

1 -- the component or factor of the reserve that
2 represents the return of the company's investment
3 is payment by rate payers for the portion of the
4 shareholder's investment that has been consumed to
5 provide service?

6 A That a rate payer is paying for its
7 portion of the use of the capital asset?

8 Q Yes, that's been consumed in
9 providing service.

10 A Yes.

11 Q And that -- would you also agree
12 that the other factor for net salvage, at least as
13 -- as considered by Laclede in this case, consists
14 of advance payment for costs that are to be
15 incurred in the future?

16 A I'm not sure I'd describe it like
17 that. I would describe it that it's -- it's
18 allocating those future costs for the current use
19 of the facilities to the current rate payers.

20 Q Would you agree that the retirement
21 costs are costs that have not actually been
22 incurred and paid by the utility?

23 A Well, as I understand, retirement
24 costs can be ongoing for portions of mass
25 property, so, you know, I'm a little reluctant to

1 use the word "future" for all of those costs. But
2 I view it as an ongoing process.

3 And the method, the standard method
4 approach put forward by the company is attempts to
5 basically charge off the current customers the --
6 the retirement costs, whether they happen
7 yesterday or today or next year or ten years from
8 now, of the assets currently being utilized by
9 those customers.

10 Q There aren't any current assets
11 being used by the utility to provide service that
12 have already been retired, are there?

13 A Well, with regulatory lag, there
14 could be something that ended yesterday. And if
15 the -- the day of the month that the book entry is
16 made is a day after, I would view those as assets
17 that were used by the customers paying it a day
18 later.

19 I think when you get to six months
20 or a year or three years or five years in the
21 past, I don't think there would be a relationship
22 between those retirements and the current rate
23 payers.

24 Q Has Staff proposed an amortization
25 of any over accrual of the reserve for

1 depreciation in this case?

2 A I'd have to check. I don't believe
3 so.

4 Q Okay. Are you finished?

5 A Yes.

6 Q Okay. You -- you -- is it your
7 understanding that application of the method, I'll
8 call it the standard method just for shorthand,
9 results in Laclede collecting more for net salvage
10 than they are currently expending?

11 A Could you repeat the question?

12 Q Is it your understanding that
13 application of the standard method results in this
14 case in Laclede collecting in -- in rates and
15 revenues more for net salvage than they are
16 currently expending?

17 A Well, I believe that the -- the
18 collection would reflect that tie-in to usage of
19 all the current assets will be -- which will be
20 retired, you know, anywhere from tomorrow to 50
21 years from now as compared to what they're -- what
22 they're expending now, which would be a much
23 smaller asset base, which has been in -- which has
24 been within their business for anywhere from, you
25 know, a few days ago to 70 years ago.

1 So I think the, you know, I think
2 the size of the company today, I would expect, is
3 substantially bigger than its size was 30 years
4 ago, 40 years ago when some of the retired assets
5 -- current retiring of assets began their useful
6 life.

7 Q But on a -- I'll repeat the question
8 because I don't -- maybe we're miscommunicating.
9 But on a cash basis, application of the standard
10 method will result in Laclede collecting in cash
11 currently more than they are currently spending
12 for net salvage.

13 A As I said, I -- because of the
14 differential in when assets came into operation in
15 the past and ones currently being used on into the
16 future, I believe they are probably collecting
17 more now than they are spending right now.

18 Q Okay. And at some time in the
19 future, that will reverse, will it not? That is,
20 they will be spending more than they are
21 collecting.

22 A I would expect if that -- I would
23 expect that that would be the case.

24 Q And what will be the source of cash
25 when that happens?

1 A The management of the utility would
2 have to manage its operations, including its cash
3 flow responsibilities, not only incoming cash
4 flow, but outgoing cash flow. Utility management
5 would have to manage that as it does in a host of
6 other areas of their business.

7 Q Well, as -- as someone in the credit
8 rating business who's concerned with the
9 sufficiency of cash flow to cover a -- debt
10 obligations, what would you foresee as a source of
11 cash at that -- when -- when the position
12 reverses?

13 A Sorry, is the question finished?

14 Q Yeah.

15 A What would be the source of cash?

16 Q Yes.

17 A As a credit rating agency, we would
18 not tell them where the source should be. We
19 would ask them how they specifically plan to meet
20 their upcoming liabilities, and we would then
21 factor their preparedness into the credit rating.

22 Q Well, let me -- earlier you
23 indicated that I think rate of return was a
24 possibility -- or -- source of cash flow, okay?
25 At the stage when -- when net salvage in the

1 formula takes depreciation out of the running for
2 that, what sources are you left with?

3 A Say that again?

4 Q Well, earlier and in your testimony
5 I think you indicate there -- the sources of cash
6 flow. And when depreciation is no longer one of
7 them, what sources are you left with?

8 A When you say, "depreciation is no
9 longer one of them," what do you mean?

10 Q Well, I mean at some point in the
11 future, you will be spending more than you're
12 collecting or accruing. And when that happens,
13 what are the sources of cash flow to pay that cash
14 difference?

15 A Well, they -- they could have cash
16 on hand, they could -- they could borrow money
17 through debt, they could issue more equity. These
18 are all things that, you know, as a credit rater
19 and as a regulator, you know, I expect good
20 utility management to manage their future
21 liabilities. And either as a credit rater or a
22 regulator, if they did not manage them, I would be
23 let down equally in either role.

24 Q As a credit analyst, how would you
25 view a debt offering that was not to purchase hard

1 assets, but rather was to simply meet cash flow
2 need for net salvage?

3 A For one, a debt offering would not
4 be done for specifically one purpose like that.
5 And I would have to see the overall circumstances
6 like the amount of debt outstanding, the amount of
7 debt it had maturing. You know, it's a
8 hypothetical that it's impossible to give an
9 answer to without seeing the specific situation.

10 Q Well, let me ask you this. Would --
11 as a former regulator and as a credit analyst,
12 assume that a utility borrows money to cover its
13 net salvage needs. Would those debt instruments
14 be the responsibility of the shareholders or the
15 rate payers?

16 A I kind of lost you there. I --
17 would the -- they -- they borrow money, and then
18 they will have to, at some point, pay back that
19 debt.

20 Q Yes.

21 A With interest. If -- if it's viewed
22 as prudent action by the regulators and there's a
23 rate case in the interim, if it's viewed as
24 prudent, then it would be charged to the rate
25 payers. If it's viewed as imprudent, then it

1 would be charged to the shareholders.

2 Q So the rate payers, under the
3 standard method, for 50 years provide for the cost
4 of removal of property in the future; and when the
5 future arrives, if the company, the utility
6 finances the actual cash needs, it's your -- your
7 position that the rate payers should pay again?

8 MR. LOWERY: Objection.

9 THE WITNESS: I said if the
10 regulators -- for one, I said there's no single
11 issue debt issuance. The way the company manages
12 its entire operation, including its financial
13 operation, and those -- and those debts and
14 actions are considered on an ongoing basis by
15 regulators.

16 And so if a company takes rash
17 action that's unfair to rate payers, I have great
18 confidence in the regulators in the State of
19 Missouri that they would not allow that to occur
20 or allow those costs to be passed through.

21 Q (BY MR. SCHWARZ) Let me try to
22 approach it a different way. I don't mean
23 particularly to be unfair or tricky.

24 There is a -- the standard method
25 results in a cash timing difference, and I will

1 explain that to say that the company is collecting
2 for cash now to pay obligations that it will -- or
3 expenditures that it will incur in the future. Is
4 that correct?

5 A Yes, because it's related to the use
6 -- related to the use of the assets now.

7 Q But it creates a cash timing
8 difference, correct?

9 A It collects on the time of the --
10 just -- I mean, I guess it's similar to the time
11 -- the cash timing difference when investors put
12 up hundreds of millions of dollars up front to
13 invest in the utility with the expectation that
14 over the next 30 years, they would be receiving
15 their cash back with interest.

16 So yes, it's a timing difference
17 very similar, or a mirror image of when investors
18 put up this enormous amount of money on faith that
19 regulators will treat them fairly and give them a
20 return of the money they loaned.

21 Q Right. And -- and the net salvage
22 issue as presented in this case is just the
23 obverse of that point, isn't it?

24 That is, the rate payers are
25 providing funds in advance for an expense that the

1 company will incur later. And when that expense
2 is incurred, it is something that the rate payers
3 have already paid for; is that correct?

4 A I would agree that it's a mirror
5 image in the sense that the capital is put up and
6 then it's rateably charged off against rate payers
7 during the useful life. And net salvage is
8 treated the same way with the -- with the mirror
9 image where it is recoupment of the ultimate net
10 salvage based on the assets being used today.

11 And so I -- I view it as a mirror
12 image where a lot of money is put up up front by
13 investors, and then there's a collection on those
14 assets as they are used with the company having
15 the ultimate responsibility to use those
16 collections for retirement or removal.

17 Q Are you familiar with the -- what's
18 known in depreciation circles, at least, as the
19 Iowa curves?

20 A No.

21 Q And -- and from your answer to the
22 last question, I'm going to follow up a bit. It's
23 your understanding that -- that the one component
24 is designed to return to the investor the
25 historical cost of his investment rateably over

1 the life -- the estimated life of that property?

2 A I'm not sure what the word
3 "historical" means, but I think it's the return
4 its investment over the life of the asset.

5 Q Right. But one of the things that
6 we know is the dollar amount of the investment and
7 when it was made, because that's reflected on the
8 books of the company, is it not?

9 A The amount and the investment when
10 it's made, and then we make an estimate of how
11 long it will have a useful life.

12 Q Right. Right. And with respect to
13 net salvage, do we know what the cost of removal
14 will be in the future? Or is that something that
15 we're estimating?

16 A We make estimates and then we put
17 safeguards in place in case the estimates have to
18 be modified over time.

19 Q And we don't know exactly when those
20 costs are going to be incurred, do we?

21 A We don't know exactly when, but we
22 do know that based on history, there will be costs
23 incurred on an ongoing basis.

24 Q Let me ask you about Michigan
25 practice. Does the Michigan Commission require

1 its jurisdictional utilities to separately state
2 on its books and records the portion of the
3 accrual that's attributable to the return of the
4 investors' investment, the capital, and the amount
5 that's attributable to net salvage?

6 A I don't recall.

7 Q Do you know if that's identified on
8 Laclede's books?

9 A I don't know.

10 Q Do you know if the reserve for
11 depreciation in most states required to be
12 reflected -- is there a cash fund that's equal to
13 the amount of the accrual for depreciation?

14 A A cash in hand?

15 Q Yes.

16 A I am not sure, but I would expect
17 not.

18 Q On page 16 of your testimony --
19 excuse me, page 14. I'm sorry. Line 16, you talk
20 about major energy investors. Who would those be?

21 A They would be pension funds, mutual
22 funds, insurance companies. Those are probably
23 the most -- the most important investors for
24 utilities.

25 Q Do you have an opinion whether

1 investors in local gas distribution companies
2 expect returns that are any different than, say,
3 telecommunications or publishing or any other
4 segment of business?

5 A As I said, I stopped looking at
6 telecom about ten years ago, and have never looked
7 at publishing. So I would have no means of having
8 an opinion on that question.

9 Q And you wouldn't -- okay. On page 7
10 of your testimony, you -- down at line 21, if
11 you're following, you observe that almost every
12 state public utility commission follows this
13 policy. Do you know what states do and what
14 states don't?

15 A I'd say the overwhelming majority
16 do. I do seem to recall that Pennsylvania and New
17 Jersey, for their own particular reasons, do not.

18 Q Do you know if utilities companies
19 are required by state commissions to report the
20 amounts actually expended for net salvage or cost
21 of removal on an annual basis?

22 A I'm not sure.

23 Q Do you know if they have to report
24 that to anyone?

25 A I'm not sure.

1 Q Do you know how pension obligations
2 are estimated?

3 A Say it again?

4 Q Do you know how pension obligations
5 are estimated?

6 A Do you mean can I -- can I go
7 through the actions of doing it, or do I have a
8 sense of how they're done?

9 Q Well, if you tell me what you know,
10 that would be sufficient.

11 A Well, I know that there are
12 actuarial estimates made as to how much has to go
13 into the pension to ultimately equal an amount
14 that the pension fund would be required to pay out
15 on a certain timetable.

16 Q And what's your general
17 understanding of what an actuarial study is?

18 A An actuarial study would be a
19 calculation of estimates, taking in a lot of
20 financial factors to attempt to figure out what's
21 needed to come in to ultimately meet the
22 obligation and provide a return on investment for
23 the pension fund or insurance company or whatever
24 that's providing that commitment.

25 Q Is it safe to say that actuarial

1 studies are specialized statistical analyses of
2 data?

3 A You know, I'm not -- I'm not an
4 actuarial expert, but that description by layman
5 point of view of actuarial practice sounds like an
6 accurate description.

7 Q As a commissioner, did you ever have
8 to read an actuarial report?

9 A I hope not.

10 Q I'll take that as a you don't
11 recall?

12 A I don't recall.

13 Q Do you know of any state commission
14 that, by order, requires a utility to calculate
15 its estimate of net salvage by the standard method
16 that's been used here? Or proposed here?

17 A Do I know anything that requires it?

18 Q Yes.

19 A I'm not sure if there's a
20 requirement anywhere other than a policy choice by
21 many commissions.

22 MR. SCHWARZ: Okay. I think that
23 completes my questioning. Ruth?

24 MS. O'NEILL: Yeah?

25 MR. SCHWARZ: Do you have anything?

1 MS. O'NEILL: No, I think I'm okay.

2 MR. LOWERY: Mr. Fetter, I've got
3 just a couple questions. This is Jim Lowery.

4 CROSS EXAMINATION BY MR. LOWERY:

5 Q Do you know if state utility
6 commission staffs in general have access to the
7 books and records of the entities they regulate?

8 A Yes, they do.

9 Q Could they, for example, look at
10 those books and records and see what depreciation
11 expense has been booked at any given time?

12 A Yes, they could.

13 Q Could they look at those books and
14 records to see what the costs of removal have
15 been?

16 A I believe so.

17 MR. LOWERY: That's all I have.
18 We'll read and sign.

19 (Wherein, the taking of the instant
20 deposition ceased.)

21 (Deposition to be read and signed by
22 the witness.)

23

24

25

1 CERTIFICATE OF REPORTER

2

3

I, TARA SCHWAKE, a Registered

4

Professional Reporter and Notary Public within and

5

for the State of Illinois, do hereby certify that

6

the witness whose testimony appears in the

7

foregoing deposition was duly sworn by me; that

8

the testimony of said witness was taken by me to

9

the best of my ability and thereafter reduced to

10

typewriting under my direction; that I am neither

11

counsel for, related to, nor employed by any of

12

the parties to the action in which this deposition

13

was taken, and further that I am not a relative or

14

employee of any attorney or counsel employed by

15

the parties thereto, nor financially or otherwise

16

interested in the outcome of the action.

17

18

19



20

A handwritten signature in cursive script, appearing to read "Tara Schwake", is written over a horizontal line.

21

Notary Public in and for

22

The State of Illinois

23

My commission expires August 14, 2005

24

25

Page 45

1 MS. O'NEILL: No, I think I'm okay.
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 3 just a couple questions. This is Jim Lowery.
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 16 A I believe so.
 17 MR. LOWERY: That's all I have.
 18 We'll read and sign.
 19 (Wherein, the taking of the instant
 20 deposition ceased.)
 21 (Deposition to be read and signed by
 22 the witness.)
 23
 24
 25

Page 46

1 CERTIFICATE OF REPORTER
 2
 3 I, TARA SCHWAKE, a Registered
 4 Professional Reporter and Notary Public within and
 5 for the State of Illinois, do hereby certify that
 6 the witness whose testimony appears in the
 7 foregoing deposition was duly sworn by me; that
 8 the testimony of said witness was taken by me to
 9 the best of my ability and thereafter reduced to
 10 typewriting under my direction; that I am neither
 11 counsel for, related to, nor employed by any of
 12 the parties to the action in which this deposition
 13 was taken, and further that I am not a relative or
 14 employee of any attorney or counsel employed by
 15 the parties thereto, nor financially or otherwise
 16 interested in the outcome of the action.
 17
 18
 19
 20 Notary Public in and for
 21 The State of Illinois
 22
 23 My commission expires August 14, 2005
 24
 25

Page 47

1 Midwest Litigation Services
 2 711 North 11th Street
 3 St. Louis, Missouri 63101
 4 Phone (314) 644-2191 * Fax (314) 644-1334
 5
 6 September 16, 2004
 7 Smith Lewis, LLP
 8 Attn: Mr. James B. Lowery
 9 111 South Ninth, Suite 200
 10 Columbia, Missouri 65201-0918
 11
 12 In Re: Laclede Gas Company/GR-99-314
 13
 14 Dear Mr. Lowery:
 15
 16 Please find enclosed your copy of the deposition
 17 of STEVEN FETTER, taken on September 13, 2004, in
 18 the above-referenced case. Also enclosed is the
 19 original signature page and errata sheets.
 20 Please have the witness read your copy of the
 21 transcript, indicate any changes and/or
 22 corrections desired on the errata sheets, and sign
 23 the signature page before a notary public.
 24
 25 Please return the errata sheets and notarized
 signature page to Mr. Thomas R. Schwarz, Jr. for
 filing prior to trial date.
 Thank you for your attention to this matter.
 Sincerely,
 Tara Schwake, CRR, RPR, CSR
 Enclosures
 cc: Thomas R. Schwarz, Jr.
 Rick Zucker

Page 48

1 STATE OF Missouri
 2 COUNTY OF COLE
 3 I, STEVEN FETTER, do hereby certify:
 4 That I have read the foregoing deposition;
 5 That I have made such changes in form
 6 and/or substance to the within deposition as might
 7 be necessary to render the same true and correct;
 8 That having made such changes thereon, I
 9 hereby subscribe my name to the deposition.
 10 I declare under penalty of perjury that the
 11 foregoing is true and correct.
 12 Executed this 24th day of SEPTEMBER
 13 2004, at JEFFERSON CITY, MO
 14 [Signature]
 15 Notary Public
 16 My commission expires: 6-7-2008
 17 [Signature]
 18 STEVEN FETTER
 19
 20 TRS/STEVEN FETTER, 09/13/04
 21 RE: Laclede Gas Company/GR-99-314
 22
 23
 24
 25

12 (Pages 45 to 48)

0049

- 1 WITNESS ERRATA SHEET
- 2 Witness Name: STEVEN FETTER
- Case Name: Laclede Gas Company/GR-99-315
- 3 Date Taken: 09/13/04
- 4 Page # 0008 Line # 9
- 5 Should read: I'd say Corrections, you know
- 6 Reason for change: court reporter misheard
- 7
- 8 Page # 0020 Line # 18
- 9 Should read: does not have an investigatory arm
- 10 Reason for change: court reporter misheard
- 11
- 12 Page # 0023 Line # 13
- 13 Should read: gets returned in the form
- 14 Reason for change: court reporter misheard
- 15
- 16 Page # 0025 Line # 22
- 17 Should read: pretty much be net income
- 18 Reason for change: court reporter misheard
- 19
- 20 Page # 0026 Line # 10
- 21 Should read: includes a tranche of debt?
- 22 Reason for change: court reporter misheard
- 23
- 16 Page # 0031 Line # 4
- 17 Should read: delete "is"
- 18 Reason for change: court reporter misheard
- 19
- 20 Page # 0031 Line # 5
- 21 Should read: charge off to current customers
- 22 Reason for change: court reporter misheard
- 24
- 25 Witness signature:



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a 1:9 2:1,1,1 5:10	43:15,18,18,19,22	19:1 34:17	11:4,6,24 12:6,16	37:22
5:13,16,22,25 6:4	44:3,7,9,10,12,14	agent 19:23	12:18,18,21 13:4	approximately 9:10
6:4,7,8,11,12,14	44:17,19,19,20	ago 24:17 32:25,25	13:9,12,13,14,16	April 12:13
6:14,18,18,19,22	45:3,8,12,16 46:3	33:4,4 42:6	14:10,12,12 15:2	Aquila 20:4,24 21:4
6:23 7:5,7,10,18	46:13 47:14	agree 7:11 21:4	15:3,4,6,10,21,24	are 5:17 19:16,17
7:24,24 8:3,7,9,11	AB 5:20	29:4,25 30:11,20	15:25 16:6,15,18	20:23 22:4,7,23
8:15,22,25 9:4,6,9	abandoned 11:18	39:4	16:19 17:13,25	25:20 26:23
9:17,19,25 10:2,7	11:19	agreed 18:16	18:18,19,19 19:8	27:12 30:14,21
10:11,12,14,17,17	abandonment	agreement 1:24	19:9,12 20:1,11	31:12 32:4,10,15
10:22 11:2,2,4,7	10:16	12:5	20:17 21:3,10,22	33:11,16,17,20
11:12,15,17,20	ability 46:9	all 5:6,17 11:8,23	21:23 22:3,5,12	35:2,7,13,18
12:3,4,10,15,20	able 25:17	12:4 23:3 24:19	22:13 23:2,8,9,10	37:14 38:24
12:23 13:2,6,11	about 6:6,23 13:6	31:1 32:19 35:18	23:14,17,21 24:3	39:14,17 40:20
13:12,16,18,21	15:25 16:17	45:17	24:10 25:15,16,19	41:22 42:2,19
14:2,6,8,13,15,20	40:24 41:20 42:6	allocating 30:18	25:23 26:7,14,19	43:2,5,11 44:1
15:1,2,4,9,10,15	above 25:14	allow 37:19,20	27:6,7,8,8 28:10	area 10:25
15:18,18,23 16:5	above-entitled 1:22	allowance 26:6	28:14 29:6,13,17	areas 15:13 34:6
16:8,14,21 17:4	above-referenced	28:25	29:22,25 30:11,22	aren't 31:10
17:11,19,21,23,24	47:11	allowed 27:18	31:3,14,22 32:14	argue 7:19
18:2,5,8,10,15,22	access 45:6	almost 42:11	33:15,18,24 34:20	arguing 7:15,20
18:23,25 19:1,1,4	accordingly 7:13	along 11:5	35:4,6,12,19,21	argument 7:17
19:7,10,15 20:5	account 21:12	already 31:12 39:3	36:5,11,17,22	arm 20:18
20:17 21:1,2,8,10	accrual 31:25 41:3	also 9:19 11:21,25	37:4,13,13,13,16	around 13:13 16:1
21:11,13,24 22:5	41:13	21:23 29:17	37:25 38:19,21,21	16:15 20:21
22:9,14,17,19,21	accruing 35:12	30:11 47:11	39:1,5,7,11,13,21	arrives 37:5
23:1,7,12,13,15	accurate 44:6	am 41:16 46:10,13	39:21 40:6,9,10	as 5:1,8 6:1 7:22
23:17,20 24:2,2,3	achieve 9:23	Amendment 19:11	40:12,16,19 41:2	8:15,20,22 9:25
24:3,9,12,16,17	act 19:18	Ameren 2:2 17:12	41:4 42:6,9,13,16	11:6 12:8,8 13:14
24:24 25:2,9,15	acting 18:20 19:22	29:13	43:16,22 45:7,10	13:23 16:9,25
25:18,22 26:3,3,4	action 13:20 36:22	America 15:16	45:10,13,18,21	17:20,21,21 18:24
26:6,8,9,10,12,13	37:17 46:12,16	among 20:1 26:1,4	46:4,4,9,13,20	19:10,23 20:3,21
26:16,21,25 27:1	actions 37:14 43:7	amortization 31:24	47:12,14,15 48:7	20:21,22 21:8,8
27:4,8,13,15,24	activities 13:10	amount 36:6,6	48:11	21:10 23:8 25:6
28:3,4,8,11,19,23	21:16	38:18 40:6,9 41:4	and/or 47:13 48:6	26:1,1 27:7,8,16
28:23 29:8,14,16	actual 26:6 37:6	41:13 43:13	announcer 6:20	27:16,22 30:12,13
29:17,17,21,22,23	actually 23:25	amounts 42:20	annual 42:21	30:23 31:2,16
30:6,6,10,16,23	30:21 42:20	an 5:4,20 7:2 10:3	answer 21:20 29:9	32:21 33:13 34:5
30:25 31:13,16,17	actuarial 43:12,17	11:16 17:22	36:9 39:21	34:7,7,10,17
31:20,21 32:2,5	43:18,25 44:4,5,8	19:10,23 20:18	any 5:6,10,12,25	35:18,19,21,24
32:11,17,22,25	add 25:24	25:8 26:17 27:7	8:1,23 9:3 13:19	36:11,11,22,23,25
33:7,9,13,22 34:1	adjective 15:7	29:24 31:2,24	20:13,14,21 25:8	38:22 39:11,14,18
34:5,9,10,13,15	administrative 7:5	36:8 37:14 38:25	27:2 31:10,25	42:5 43:12 44:7
34:17,17,23 35:3	advance 30:14	40:10,23 41:25	42:2,3 44:13	44:10 48:6
35:8,15,18,19,21	38:25	42:8,21 43:13,17	45:11 46:11,14	aside 27:16,20
35:21,24,25 36:3	adversarial 9:21	43:18 44:3,5,8	47:13	28:13,14
36:3,7,11,11,12	advice 9:17	analyses 44:1	anyone 13:25 42:24	ask 24:16 27:21
36:16,21,22 37:16	advocate 19:23	analysis 20:14	anything 8:10	29:11 34:19
37:22,24,25 38:5	affairs 12:19	analyst 13:12 21:11	44:17,25	36:10 40:24
38:7,9,16,17,19	affected 20:22	21:11 35:24	anywhere 7:18	aspect 12:1
39:4,4,11,12,13	after 6:18,24 17:9	36:11	32:20,24 44:20	aspects 21:5,6
39:20,22 40:2,9	17:13 18:1 31:16	analysts 17:21 23:9	appeals 7:10,15	asset 30:7 32:23
40:11,16,21 41:6	again 12:6 22:15	and 1:9,11,20,20	appears 46:6	40:4
41:9,12,14,14,16	35:3 37:7 43:3	5:8 6:16,23 7:14	appellate 7:2	assets 23:13,15 31:8
41:21 42:5,15,22	against 39:6	7:17,19,25 8:2,5	application 32:7,13	31:10,16 32:19
42:25 43:3,6,7,11	agencies 19:25 20:8	8:16,17,19,19,21	33:9	33:4,5,14 36:1
	20:22 24:22 25:2	9:13,15,19,20,25	appointed 17:17	38:6 39:10,14
	agency 7:5 18:24,25	10:3,6,15,25,25	approach 31:4	assistant 2:12,23

7:23,25 9:7,12 assume 15:7 36:12 assuming 5:15 at 1:11 2:3,7,16 5:10 6:5,22,24 7:9,17 9:8 12:16 13:12 14:5,10,13 14:20,22 15:11 16:6,7,11,14 17:11 18:8,10 20:2,24 21:21 23:13 27:8,10 29:3,3,12 30:12 33:18 34:11,25 35:10 36:18 39:18 42:5,7,10 45:9,11,13 48:13 attempt 43:20 attempts 31:4 attended 27:4,7 attendee 27:7 attention 47:17 Attn 47:6 attorney 2:3,7,16 5:4 7:2 46:14 attributable 41:3,5 August 46:23 Avenue 2:8 away 5:10 18:18 a.m 1:11	29:22 30:14,24 31:14,21 32:19,19 32:22 33:20,23,24 34:15,18 35:11,22 36:4,14,24 37:1 37:20,23 38:14 40:14,18,20,22 41:11,20,21 43:10 43:14,18 45:21 48:7 became 8:18 13:23 16:2 because 14:16 23:12 25:6 33:8 33:13 38:5 40:7 become 16:22 been 13:8 14:8 16:8 16:9 27:15 30:4,8 30:21 31:12 32:23,24 44:16 45:11,15 before 1:14 7:20 16:9,15 25:13 47:14 began 33:5 being 5:1 8:23 12:2 15:1 18:20 28:13 28:14 31:8,11 33:15 39:10 believe 6:7 11:3 13:2 15:17 22:1 32:2,17 33:16 45:16 best 46:9 between 1:10 6:15 12:13 15:21 31:22 big 13:22 26:3 bigger 33:3 bit 39:22 blip 25:8 blown 10:4 board 7:3,6,7,16,21 17:17,22 18:1,8 18:16 board's 7:12 bond 19:14,15,16 19:17 24:22 book 28:4 31:15 booked 45:11 bookkeeping 28:17 books 27:14 40:8 41:2,8 45:7,10,13 Borman 1:13 borrow 35:16 36:17 borrows 36:12 both 17:21 19:21	break 5:10 breaks 5:13 brief 7:14 brought 12:4 13:11 bureau 9:13,16,17 business 32:24 34:6 34:8 42:4 businesses 21:6,7 but 6:5,15 10:20,21 11:25 12:6 14:8 18:10 19:22 21:6 23:22 25:25 28:16 29:23 31:1 33:7,9 34:4 36:1 38:7 40:3,5,21 41:16 44:4 by 2:7,15,18,19,22 3:5,6,7 4:8,9 5:2 8:24 13:11 16:22 16:22 19:21 20:3 20:8,9,11 22:3 24:10,18,21 28:17 29:12,13 30:3,13 30:22 31:4,8,11 31:17 36:22 37:14,21 39:12 42:19 44:4,14,15 44:20 45:4,21 46:7,8,11,14 BYRNE 2:7	40:17 47:11 49:2 cases 10:4,11 11:1 11:13 cash 24:20,25 25:3 25:6,14,20,22 26:1,15,17 27:23 28:1,6 33:9,10,24 34:2,3,4,9,11,15 34:24 35:5,13,13 35:15 36:1 37:6 37:25 38:2,7,11 38:15 41:12,14 catastrophe 22:2 caucus 8:16 cause 1:22 21:16 28:21 cc 47:23 CCR 1:16 ceased 45:20 certain 43:15 certainly 9:6 CERTIFICATE 46:1 certify 46:5 48:3 CH 17:18 18:1 chair 9:25 change 14:23 49:6 49:10,14,18,22 changes 47:13 48:5 48:8 charge 29:18 31:5 charged 9:19 29:5 29:15 36:24 37:1 39:6 check 11:13 32:2 chief 9:12 choice 44:20 Chouteau 2:8 circles 39:18 circumstances 27:1 36:5 cite 20:18 City 2:24 3:4 clear 11:14 12:7 29:3 client 19:15,16,17 clients 19:19 closes 29:4 collecting 32:9,14 33:10,16,21 35:12 38:1 collection 32:18 39:13 collections 39:16 collects 38:9 Columbia 2:5 47:7 come 8:2,11 43:21	comfort 25:15 commission 1:2,12 1:23 3:1 5:5 10:1 11:22 27:6 28:24 40:25 42:12 44:13 45:6 46:23 48:17 commissioned 1:21 commissioner 44:7 commissioners 14:3 27:6 commissions 42:19 44:21 commitment 43:24 communications 5:20 6:19 community 22:24 23:6,8,11,23 24:7 25:13 community's 20:12 companies 10:15 41:22 42:1,18 company 2:11 31:4 33:2 37:5,11,16 38:1 39:1,14 40:8 43:23 company's 1:5 26:6 26:9 27:13 30:2 Company/GR-99... 47:8 48:23 Company/GR-99... 49:2 compared 26:20 32:21 competitive 14:16 14:17 completes 44:23 completion 17:15 comply 7:9 component 29:15 29:17,23 30:1 39:23 Con 11:3 concern 23:17 concerned 26:2 34:8 concerns 11:25 confidence 37:18 confusing 29:22 connection 5:13,24 considered 8:24 30:13 37:14 consists 30:13 Consolidated 12:8 construction 11:18 consult 17:9 consumed 30:4,8
--	--	--	---	--

consumer 11:25 12:7 Consumers 11:5,17 12:10,11 content 5:8 context 8:3 12:7 continue 17:14 continued 17:9 contributes 26:15 control 8:17 controversial 17:2 Cooper 2:19 22:12 22:16 cooperate 9:21 Cooperative 9:14 copy 47:10,13 correct 5:21 6:10 10:1 12:14,19 16:4,12 17:10,18 23:19 24:8 28:7 38:4,8 39:3 48:7 48:11 correction 8:9 corrections 28:15 47:14 cost 26:10 29:18,19 37:3 39:25 40:13 42:20 costs 30:14,18,21 30:21,24 31:1,6 37:20 40:20,22 45:14 could 7:18 8:2,10 10:7,9 25:9,10,24 31:14 32:11 35:15,16,16,17 45:9,12,13 counsel 2:21,23 3:3 7:23,25,25 8:15 8:18,21,21 46:11 46:14 Counsel-Regulat... 2:12 country 13:14 16:1 County 1:21 48:2 couple 14:15 21:2 24:17 45:3 course 6:8 11:10 15:15 27:10 courses 5:23,25 27:3 court 1:13 7:10,14 cover 34:9 36:12 coverage 22:8 24:6 24:11,13,18 covered 11:8 co-equal 15:2	co-generation 11:20 12:1 co-generators 12:2 creates 38:7 credit 13:15 18:11 19:1 20:8,22 21:11,16 23:9 24:22 34:7,17,21 35:18,21,24 36:11 creditors 19:9 Cross 4:9 45:4 CRR 1:16 47:21 CSR 1:16 47:21 current 30:18,19 31:5,10,22 32:19 33:5 currently 31:8 32:10,16 33:11,11 33:15 curves 39:19 customers 31:5,9 31:17 D D 4:7 data 44:2 date 47:16 49:3 dating 21:2 day 1:10,11 31:15 31:16,17 48:12 days 32:25 day-to-day 13:10 13:16 15:4 17:4 deal 8:5,20 9:16 11:6 27:16 dealing 10:21 dealt 9:17 Dear 47:9 debt 22:7 23:8 24:6 24:10,13,18 26:6 26:11,11,13 34:9 35:17,25 36:3,6,7 36:13,19 37:11 debts 37:13 decided 7:7 decision 7:7,16,21 11:4 25:16 decisions 11:5 13:18 declare 48:10 decreases 28:10,18 deferred 25:23 degree 5:24 6:1,19 department 9:8,16 deposition 1:8 45:20,21 46:7,12 47:10 48:4,6,9	depreciation 9:3 22:23 23:10,14,16 23:24 25:24,25 26:3,20 27:3,11 27:13,16,18,22 28:2,7,10,12,25 29:4,14 32:1 35:1 35:6,8 39:18 41:11,13 45:10 deputy 3:3 9:7,9 describe 30:16,17 described 8:22 19:10 21:22 25:13 description 12:16 44:4,6 designed 39:24 desired 47:14 detail 10:8 determination 7:12 determining 24:22 detriment 20:12 Detroit 11:2 devoted 16:19,20 dictating 27:17 did 5:23 6:2,12 7:8 8:5,20 9:6,15 10:9,18,24 11:1 12:22 13:25 14:11,23 15:21 19:25 24:17 35:22 44:7 didn't 19:22 20:13 difference 35:14 37:25 38:8,11,16 different 37:22 42:2 differential 33:14 difficulties 20:7 21:2,14 direct 4:8 5:2 24:12 directed 27:10 direction 14:17 46:10 director 12:18 16:3 16:21,22,23,24 Directors 17:18 18:9 distress 10:15 distribution 42:1 district 7:11 division 9:19 divisional 18:21 do 5:12 6:7,13 9:8 9:22 10:15 13:17 14:4 19:14 20:13 22:25 24:10,17 27:21 28:9,16	35:9 40:13,20,22 41:7,10,25 42:13 42:13,16,16,17,18 42:23 43:1,4,6,7 44:13,17,25 45:5 45:8 46:5 48:3 doctor 6:9 documents 18:19 does 34:5 40:25 doing 16:10 43:7 dollar 40:6 dollars 38:12 domestic 15:8,10 done 9:3 29:23 36:4 43:8 don't 5:25 6:2 19:16,17 20:17,21 21:19 22:9,17,19 23:21 24:14 26:8 27:24 31:21 32:2 33:8 37:22 40:19 40:21 41:6,9 42:14 44:10,12 doubt 28:3 down 35:23 42:10 downgrading 20:6 downs 25:15 dozens 12:3 Duff 16:15 Duke 20:4 duly 46:7 during 14:1 15:21 16:18 17:25 18:6 39:7 duties 7:4,22 8:13 8:19 14:23 16:10 18:14 E E 2:1,1 4:7 each 25:5 27:18 28:25 earlier 25:19 34:22 35:4 Edison 11:2 effect 26:17 29:6 eight 9:10 either 16:25 19:23 28:17 35:21,23 El 20:4 elections 8:16 electric 10:25 15:24 16:20,23 17:5,6 element 26:20 eleven 16:17,17 else 20:10 employed 18:7,10	46:11,14 employee 46:14 enclosed 47:10,11 Enclosures 47:22 encompassed 8:1 encountered 20:3 end 6:24 11:7 29:3 ended 18:20 31:14 energy 14:11 17:18 18:1 20:3 41:20 enforceable 7:8,10 enforced 7:21 enforcement 7:15 engagement 9:24 enormous 38:18 enough 28:14 Enron 20:3,11,14 21:3 ensure 23:24 entire 7:14 20:12 37:12 entities 19:22,24 21:22 45:7 entity 19:10 entries 28:17 entry 28:4 31:15 equal 28:2 41:12 43:13 equally 35:23 equals 25:7 equity 23:8 35:17 errata 47:12,14,15 49:1 estimate 40:10 44:15 estimated 40:1 43:2 43:5 estimates 40:16,17 43:12,19 estimating 40:15 Europe 15:17 even 21:24 ever 27:2 44:7 every 23:18 29:3 42:11 everyone 20:10 everything 8:7 evolved 24:20 exactly 25:7 40:19 40:21 Examination 4:8,9 5:2 45:4 examined 1:9 example 45:9 except 16:9 excessive 20:16 excluding 10:25
---	---	---	--	---

excuse 41:19	21:13 22:24 23:3	form 21:18 23:13	Governor 7:23,24	heard 19:10
Executed 48:12	23:5,8,23 24:21	48:5	governor's 8:4,11	hearing 5:7
executive 9:7	25:1,12 37:12	formal 6:8	graduating 6:18	here 20:24 24:15
EXHIBIT 4:4	43:20	former 36:11	great 23:15 25:15	28:1 44:16,16
expect 25:6 33:2,22	financially 46:15	formula 35:1	37:17	hereby 46:5 48:3,9
33:23 35:19	find 24:24 47:10	forward 31:4	greatest 19:14	high 6:4
41:16 42:2	fine 29:10,10	four 10:10	group 11:16 12:24	hired 12:20 13:2,6
expectation 38:13	finished 32:4 34:13	fraudulent 20:20	13:1 14:13,14,16	his 39:25
expectations 19:9	first 5:6 6:18 19:11	from 5:21 6:10 7:3	14:22,24,25 15:3	historical 39:25
expended 42:20	23:3	7:10,11,18 8:7,25	15:4 16:3,13,16	40:3
expending 32:10,16	Fischer 14:7	11:21 15:1,3,6,6	17:18 18:1,21	history 21:15 40:22
32:22	Fitch 12:22 13:6,11	26:21 28:12 31:7	grow 28:22,23	hold 27:22
expenditures 24:4	14:22 17:11,13,13	32:20,21,24 39:21	GR-98-315 1:5	hone 10:18
38:3	17:25 18:8,10	front 38:12 39:12	guess 17:5 38:10	hope 44:9
expense 29:15	20:5,17	full 10:4,10	GUY 3:6	horse 6:19
38:25 39:1 45:11	Fitch's 12:12 13:4	function 18:23 19:4		host 34:5
expenses 29:5	15:21 17:9 18:24	functions 19:8	H	hour 6:23
expert 44:4	18:25 20:1	fund 28:6 41:12	had 5:20 7:24 9:3	hours 1:10
expires 46:23 48:17	five 6:12,15 31:20	43:14,23	10:15 11:2,3,5,18	how 10:4 12:21
explain 38:1	flow 24:20,25 25:3	funds 38:25 41:21	11:19,20 13:6	13:4 14:23 16:6
extra 6:16	25:6,14,21,22	41:22	15:10 16:22	16:18,19 23:16
extraordinary	26:1,15,18 34:3,4	further 46:13	21:13 27:2 36:7	24:25,25 25:3,5
11:21	34:4,9,24 35:6,13	future 29:18,19	half 6:23	26:5,5 27:17 28:9
	36:1	30:15,18 31:1	hand 28:1 35:16	34:19 35:24
F	focus 23:23	33:16,19 35:11,20	41:14	40:10 43:1,4,8,12
facilities 30:19	focused 14:11	37:4,5 38:3 40:14	handful 11:12	hundreds 38:12
facility 11:20	folks 16:13		happen 31:6	hypothetical 36:8
factor 26:1,4,14	follow 15:21 39:22	G	happened 6:16	
30:1,12 34:21	following 6:25	gained 8:17	21:25	I
factors 43:20	42:11	gas 1:5,6 2:11 10:25	happens 33:25	I 4:7 5:25 6:4,7,7,19
fair 18:24	follows 5:1 42:12	15:20,24 16:1,19	35:12	6:25 7:16,19,25
fairly 38:19	for 1:20 2:2,11,21	16:24 17:5,6 42:1	hard 35:25	8:7,11,17,22 9:1
fairness 21:25	3:1 6:3,4,23,25	47:8 48:23 49:2	has 20:18 24:20	9:11 10:7,14 11:2
faith 38:18	7:2,15 8:6,6 9:20	gave 9:17	27:15 29:6,23	11:3,6,10 12:1,12
familiar 20:24	10:22 11:15,16	general 2:12 3:3	30:4 31:24 32:23	12:20 13:2,2,6,7
39:17	16:10 17:9,12,20	8:18,21 14:11	32:23 43:12	13:11,18,18 14:2
far 20:22 21:8 26:1	18:11,22 19:23	43:16 45:6	45:11	14:7,13,21 15:1,2
Fax 47:3	22:8 23:15,17	get 5:9 8:4 31:19	have 5:6,12,24 8:11	15:3,4,7,15,16,17
February 17:16	25:13 26:6,10	gets 23:13	12:22 13:8,25	15:17 16:10,14,16
federal 7:10	27:6,13,22 28:2,7	getting 6:24	14:8 16:8,9,11	16:25 17:2,4,4,8
feel 19:22	28:9 29:5,9,14,18	GILBERT 3:6	22:10 23:15	17:11,11,13,23,23
Fetter 1:9 5:1,3	29:23 30:3,6,12	give 10:3 36:8	24:14,16 26:17	18:1,3,3,5,10,15
21:20 45:2 47:11	30:14,18,24 31:1	38:19	27:2,9 28:1,24	18:15,16,17 19:13
48:3,20,22 49:2	31:25 32:8,9,15	given 20:20 45:11	29:14 30:21	20:17,20 21:1,8,8
few 14:18 26:4	32:24 33:12 35:1	global 11:8,14 12:3	31:12 32:2 34:2,5	21:8,19,22 22:1,9
32:25	36:2,3,4 37:3,3,10	14:24 15:7 16:3	35:15 36:5,18	22:10,14,14,17,19
fewer 10:13	38:2,25 39:3,16	go 5:18 7:16,19	37:17 39:3 40:11	23:7,20,21 24:5
figure 43:20	41:10,13,23 42:17	25:19 43:6,12	40:17 41:25 42:6	24:12,14,14,14,17
figured 25:1	42:20 43:22 45:9	goal 9:23	42:7,23 43:7 44:7	24:24 25:13 26:8
figuring 9:20	46:5,11,20 47:16	goes 23:12	44:25 45:6,14,17	27:4,4,6,9,24 28:3
files 18:19	47:17 49:6,10,14	going 13:13,20	47:13 48:4,5	28:3,11,19 29:2,8
filing 47:16	49:18,22	17:24 18:1 39:22	having 11:6 39:14	30:17,23 31:2,16
final 11:4	force 18:12	40:20	42:7 48:8	31:19,21 32:2,17
finances 37:6	foregoing 46:7 48:4	good 5:3 7:1 35:19	head 15:3 18:20	33:1,1,2,8,13,13
financial 8:8 10:15	48:11	got 6:9 45:2	headed 9:1,12	33:16,22,22 34:23
10:22 11:21	foreign 15:11	government 8:3	heading 18:5	35:5,10,19,22
13:14 20:12 21:1	foresee 34:10	12:19	heads 18:21	36:5,16,16 37:9

37:10,17,22,25 38:10,10 39:4,11 39:11 40:3 41:6,9 41:16,16 42:5,5,7 42:16 43:6,6,7,11 44:9,12,17,22 45:1,16,17 46:3 46:10,13 48:3,4,5 48:8,10 idea 10:4 identified 41:7 if 5:6,10 7:8 10:9 15:13,13 16:12 20:14 25:2,6 31:14 33:22 35:22 36:21,21,23 36:25 37:5,9,16 41:7,10 42:10,18 42:23 43:9 44:19 45:5 Illinois 46:5,21 image 38:17 39:5,9 39:12 imagine 11:24 impact 13:14 important 13:23 17:1 22:24 23:2 23:11 24:7,21 41:23 impossible 36:8 imprudent 36:25 in 1:5,21,22 5:13,20 5:20,23,24,25 6:4 6:10,13,20 7:4 8:12 9:2,2,9 10:5 10:5,7,15,19,22 10:24 11:10 12:2 12:7 13:4,10,11 13:21,25 14:23 15:15,24 16:2,10 16:13,25 17:12,12 17:14,16 18:2,12 19:18,18 20:2,6 20:24 21:15,23 22:11 23:13,16,18 23:22,24 24:3,5,6 24:15,22 25:6,8,9 26:6 27:3,21 28:1 29:13 30:8,13,15 31:20 32:1,9,13 32:14,14,14,23 33:10,10,14,14,18 34:5,7,25 35:4,10 35:23 36:23 37:4 37:18,18,25 38:3 38:13,22,25 39:5 39:18 40:14,17,17	41:11,14 42:1 43:19,21 45:6 46:6,12,16,20 47:8,11 48:5 include 11:24 14:12 26:12,13 included 12:1 15:10 includes 26:10 including 34:2 37:12 income 25:23 incoming 25:3 34:3 increases 24:3 28:10,18 increasing 29:6 incur 38:3 39:1 incurred 30:15,22 39:2 40:20,23 independent 20:13 indicate 7:1 17:16 22:23 24:5,20 28:13 35:5 47:13 indicated 17:8 34:23 indicates 5:19 individual 9:12 individuals 9:10 18:20 industrial 14:15 industry 11:16 13:21,21 20:3 23:18 inform 19:5 information 19:5 19:13,20 20:9,11 20:19,20 initiate 17:24 innocent 22:2 innovative 9:20 instance 6:3 instant 45:19 Institute 27:5 INSTRUCTIONS 4:1,4 instruments 36:13 insurance 41:22 43:23 interact 14:2 interest 19:7,14,19 23:16 25:4,7,10 25:14 36:21 38:15 interested 12:2 46:16 interim 6:13 36:23 into 11:20 12:4 14:15 19:20	21:12 23:12 25:1 33:14,15 34:21 43:13 invest 38:13 investigatory 20:18 investment 19:7 24:1 29:17 30:2,4 39:25 40:4,6,9 41:4 43:22 investor 39:24 investors 19:5,14 19:15,17 23:8 38:11,17 39:13 41:4,20,23 42:1 involved 8:4 16:6 17:3,11,12 involvement 8:12 8:25 15:11 Iowa 39:19 is 5:4,21 6:10 9:5 10:1 12:13,17,19 16:3,12 17:10,18 18:24 19:13,15 21:10 23:2,5,10 23:16,18,24 24:6 24:7,25 25:14,25 26:1,3,5,14,14,19 27:18,20,25,25 28:2,6,13,14 29:11,12 30:3,6 31:4,15,16 32:6 32:12 33:2,19 34:13 35:6,8 37:24 38:1,3,22 38:24 39:2,2,3,5,7 39:9,12,24 40:6,8 40:14 41:12 43:17,25 45:3 47:11 48:11 isn't 38:23 issuance 37:11 issue 8:2,12,23 17:2 35:17 37:11 38:22 issuers 19:16 20:9 issues 8:5,10,20 9:18 10:14,16,18 10:20 11:9,12,23 12:4 13:13 16:25 22:23 it 6:22 7:7,9,14 8:7 9:19 10:9,17,17 11:19,22,24 12:1 12:3 13:11,15,19 13:23 14:15,19,19 15:7,9,9,10,10,18 16:8,8,14 18:3,21	18:24 19:8,10 20:22 23:2 24:14 24:24,24 25:2 26:5,12,12,21 27:7,20,25,25 28:3 29:5,11,19 29:23 30:16,17 31:2,17 32:6,8,12 33:19 34:5 36:7 36:24,25 37:22 38:2,3,7,9,23 39:2 39:9,11 40:7,8,11 43:3,7,25 44:17 its 14:16 19:11,11 25:17 30:6 33:3 34:2,2 36:12 37:12,12 40:4 41:1,2 44:15 it's 5:8 6:15 10:13 19:1 27:16,20 28:4 30:17,17 36:7,8,21,23,25 37:6 38:5,10,16 39:4,6,22 40:3,10 I'd 8:9,10 15:9 30:16 32:2 42:15 I'll 21:18 24:16 25:19 32:7 33:7 44:10 I'm 5:4,15 11:14 12:11 20:5 27:8 28:8,19 30:16,25 39:22 40:2 41:19 42:22,25 44:3,3 44:19 45:1 I've 19:10 21:21 22:21 45:2	Ken 14:6 kind 8:20,22 10:7 10:17,17 15:2 36:16 know 5:8,9,11 8:9 11:11,11 13:9 15:15,23 16:7,25 21:1,8 24:14 28:9 28:11 30:25 32:20,25 33:1 35:18,19 36:7 40:6,13,19,21,22 41:7,9,10 42:13 42:18,23 43:1,4,9 43:11 44:3,13,17 45:5 known 39:18 KREMER 3:5
L				
labor 7:3,6 8:7 9:8 9:9,11,13,18,18 9:20 Laclede 1:5 2:11 29:13 30:13 32:9 32:14 33:10 47:8 48:23 49:2 Laclede's 41:8 lag 31:13 laid 6:24 LARRY 2:18 last 39:22 later 7:19,19 14:7 16:11 31:18 39:1 Law 2:3,7,16 layman 44:4 LDC 17:22 leading 20:7 least 12:16 27:8 29:12 30:12 39:18 led 20:6 left 17:10,13 35:2,7 legal 7:23,24,25 8:2 8:20 legislative 8:8 let 5:8,11 14:6 24:19,24 27:21 29:10,18 34:22 35:23 36:10 37:21 40:24 let's 10:5 25:7 level 6:5 Lewis 2:4 47:6 liabilities 34:20 35:21 life 33:6 39:7 40:1,1				
J				
James 2:3 47:6 Jefferson 2:24 3:4 Jersey 42:17 Jim 14:7 45:3 job 7:4,13,22 8:1 JOLIE 3:7 Jr 3:2 47:16,23 juris 6:9 jurisdictional 41:1 just 5:9,11 8:22 12:6 14:11 15:8 15:23 18:16,18,21 21:1 32:8 38:10 38:22 45:3				
K				
Karl 14:7 keep 11:22 13:20				

40:4,11 like 16:13 20:10 21:22 25:23 30:16 36:4,6 44:5 likelihood 19:6 24:3 likely 17:2 line 41:19 42:10 49:4,8,12,16,20 LISA 3:5 litigating 10:10 litigation 1:16 7:2 47:1 little 15:11 25:8 29:22 30:25 LLP 2:4 47:6 loaned 38:20 local 42:1 long 40:11 longer 18:11 35:6,9 look 13:12 14:20 45:9,13 looked 42:6 looking 42:5 looks 25:13 losing 7:8 lost 36:16 lot 13:21 14:8 39:12 43:19 Louis 1:13,17,21 2:8,13,17 47:2 Lowery 2:3 4:9 21:18 37:8 45:2,3 45:4,17 47:6,9 lowery@smithle... 2:6 Lyons 22:12,14	managing 16:2 many 10:4 12:21 13:4 16:6 25:3 44:21 March 18:2 marked 4:5 market 15:24 19:12 marketplace 19:21 mass 30:24 mathematics 5:23 6:1 MATHIS 3:7 matter 1:5 47:17 maturing 36:7 may 16:11 29:8,22 maybe 11:11,12 13:7 16:17,17 17:5,6,6 33:8 McClure 14:6 me 5:8,14 10:3,9 13:20 14:6 15:5 16:10,23,24 17:14 21:4 22:15 24:12 24:24 27:21 29:9 29:11,19 34:22 36:10 37:21 40:24 41:19 43:9 46:7,8 Meadows 6:22 mean 24:10,18 35:9 35:10 37:22 38:10 43:6 means 40:3 42:7 measure 24:21 measures 25:1 meet 25:10,17 34:19 36:1 43:21 meetings 9:23 member 7:20 8:25 9:25 mentioned 21:23 merger 16:16 method 29:12 31:3 31:3 32:7,8,13 33:10 37:3,24 44:15 MICHAEL 2:15 Michigan 5:21 6:10 8:14 9:25 11:3 27:4,21 40:24,25 Midland 11:18 midterm 28:15 Midwest 1:16 47:1 might 13:8,17 48:6 Milliken 7:23,24 millions 38:12 mind 21:24	minutes 24:17 mirror 38:17 39:4,8 39:11 miscommunicating 33:8 Missouri 1:1,12,13 1:17,21,22,23 2:5 2:8,13,17,24 3:1,4 14:1,2 20:25 28:1 37:19 47:2,7 modified 40:18 money 23:15 27:15 27:20 35:16 36:12,17 38:18,20 39:12 month 7:18 18:17 18:17 29:3,5 31:15 months 17:20 31:19 Moody's 20:1,18 more 13:23 15:7 17:1,1,2 21:16 27:9 32:9,15 33:11,17,20 35:11 35:17 morning 5:3 most 10:14 11:1 18:17 24:21 41:11,23,23 mostly 18:17 mouth 23:22 mouthful 9:6 movement 14:16 Mr 4:8,9 5:2,3 21:18,19 22:3,12 22:12,12,13,14 37:8,21 44:22,25 45:2,2,4,17 47:6,9 47:16 MS 44:24 45:1 much 11:8 13:19 14:21 15:25 16:18,19 25:22 27:18 28:13 32:22 43:12 multiples 25:3,4,13 municipal 14:22 mutual 41:21 my 5:3,7 7:13 11:7 11:10 15:15,19 16:12 17:5 18:10 21:24 24:15 25:19 29:2 44:23 46:9,10,23 48:9 48:17 myself 8:25	N N 2:1 4:7 name 5:3 48:9 49:2 49:2 names 22:15 National 7:3,6 natural 1:6 15:20 16:19 nearing 11:7 necessary 48:7 need 5:10 36:2 needed 27:17 43:21 needs 19:9 25:4 36:13 37:6 neither 46:10 net 29:23 30:12 32:9,15 33:12 34:25 36:2,13 38:21 39:7,9 40:13 41:5 42:20 44:15 Nevada 21:25 22:3 22:5 never 42:6 New 42:16 newsletters 13:22 newspapers 13:22 next 9:5,24 18:16 18:17 31:7 38:14 Ninth 2:4 47:7 no 1:5 9:4 10:12 18:11 21:15 28:6 35:6,8 37:10 39:20 42:7 45:1 None 4:5 non-regulated 21:6 21:16 nor 46:11,15 North 1:17 47:1 not 6:5,7 7:7,8,9 10:7,18 11:14 15:18,18,18 19:14 21:5 25:10 26:23 28:8,13,19 29:2 30:16,21 33:19 34:3,18 35:22,25 36:3 37:19 40:2,8 41:16,17 42:17,22 42:25 44:3,3,9,19 46:13 notarized 47:15 notary 1:20 46:4,20 47:14 48:16 notes 24:15 now 25:19 29:10 31:8 32:21,22	33:17,17 38:2,6 nuclear 10:16 11:19 number 25:24 O object 21:18 Objection 37:8 obligation 25:11 43:22 obligations 25:18 34:10 38:2 43:1,4 observe 42:11 obverse 38:23 occasions 15:17 occur 37:19 occurred 20:21 occurrence 14:20 October 12:13 of 1:1,5,8,10,11,11 1:12,20,23 2:21 3:1 5:4,6 6:1,23 6:25 7:10,15,15 8:3,5,12,17,20,22 8:25 9:8,10,11,13 9:18,25 10:4,7,14 10:17,17,17,20,21 11:7,8,10,12,18 11:22 12:3,3,7,13 12:13,17,18 13:7 13:21 14:8,16,24 15:1,2,13,15,19 15:25 16:3,18,23 16:24 17:1,15,17 17:17,18,21,22,25 18:1,2,8,14,17,20 18:23 19:5,9,13 19:19,21,23 20:14 21:1,5,6,19 22:2,7 22:11,15,22 23:3 23:13,23 24:3,4 25:3,8,14,15,20 26:10,13,16,17,20 27:1,5,10 29:3,6 29:16,18,19,21 30:1,2,3,7,7,14,19 30:24 31:1,8,15 31:25,25 32:7,13 32:18 33:2,4,5,9 33:13,24 34:1,5,6 34:9,10,15,23,24 35:1,5,6,9,13 36:6 36:6,14,16 37:4,4 37:18 38:6,9,12 38:12,17,18,20,23 39:9,12,25 40:1,4 40:5,6,8,10,13 41:2,3,13,18 42:4
--	---	---	--	---

42:7,10,21 43:7,8 43:17,19,19 44:1 44:5,5,13,15 45:7 45:14,19 46:1,5,8 46:9,11,14,16,21 47:10,11,13 48:1 48:2,10,12 off 5:13 6:24 14:15 31:5 39:6 offer 19:11 offering 35:25 36:3 office 2:21 8:4,11 9:1 offices 1:12 often 8:2 10:22 Oh 14:6 okay 5:16 6:9 8:13 9:5,15,24 12:6 13:9 14:23 15:6 15:20 16:2 17:8 19:3 22:22 23:10 23:17 24:23,25 28:5,16 29:2,25 32:4,6 33:18 34:24 42:9 44:22 45:1 Olive 2:13,16 on 1:9,22 8:8 9:18 10:5,19 11:14 12:16 13:13,16,20 13:20,24 14:7,11 15:4,16 17:4,22 18:1,8,15,18,19 19:7,8 20:2,9,10 20:11,18,19 22:22 23:23 24:2,19 25:18 26:17,25 27:13,17 28:1 29:24 33:7,9,15 35:16 37:14 38:9 38:18 39:10,13 40:7,22,23 41:2,7 41:18 42:8,9,21 43:15,22 47:11,14 once 15:17 27:7,8,9 one 7:25 9:10 15:1 17:6 25:25 26:14 35:6,9 36:3,4 37:10 39:23 40:5 ones 20:2 33:15 ongoing 28:4 29:24 30:24 31:2 37:14 40:23 only 34:3 onto 18:19 operate 20:8 operation 25:8	33:14 37:12,13 operations 15:8 20:15 25:16 34:2 operator 5:14 opinion 41:25 42:8 opinions 19:12 or 5:7,9 6:12 8:23 8:25 9:16 10:10 10:16 11:15 12:8 13:19 14:11 16:13 17:1 18:21 19:23 20:4,4,4,14 20:17 25:23 26:11 28:13,18 29:15 30:1 31:7,7 31:7,20,20,20 34:24 35:12,21 36:14 37:20,23 38:2,17 39:16 40:14 42:3,3,20 43:7,23,23 44:16 46:13,14,15 oral 7:17 order 44:14 original 29:16 47:12 other 11:11 13:3 20:15 22:11 23:18 30:12 34:6 42:3 44:20 others 14:8 22:15 otherwise 46:15 our 15:24 19:16,17 19:19 20:11,19 out 7:16 8:15 9:20 11:22 17:25 19:20 35:1 43:14 43:20 outcome 46:16 outfits 20:16 outgoing 34:4 outlooks 19:8 outside 9:21 12:2 outstanding 11:9 36:6 over 25:4 31:25 38:14 39:25 40:4 40:18 overall 13:4 36:5 overrun 10:16 overwhelming 42:15 own 42:17 O'NEILL 2:22 44:24 45:1	P 2:1,1 Pacific 22:5 page 12:17 22:22 24:19 41:18,19 42:9 47:12,14,16 49:4,8,12,16,20 paid 25:4,8 30:22 39:3 panel 7:20 papers 18:18 part 1:22 6:1 15:19 particular 11:15 27:1 42:17 particularly 10:24 22:12 37:23 parties 12:2,3 46:12 46:15 party 7:8 Paso 20:4 passed 37:20 passing 18:19 past 31:21 33:15 pay 35:13 36:18 37:7 38:2 43:14 payer 30:6 payers 30:3,19 31:23 36:15,25 37:2,7,17 38:24 39:2,6 paying 16:10 30:6 31:17 payment 29:15 30:3 30:14 penalty 48:10 PENDERGAST 2:15 Pennsylvania 6:20 42:16 pension 41:21 43:1 43:4,13,14,23 people 13:7 16:6,17 23:14 percentage 26:13 period 8:6 14:1 16:18 17:25 18:6 perjury 48:10 phase 18:2 Phelps 16:16 Phone 47:3 phrase 24:13 pick 20:2 Pittsburgh 6:23 place 40:17 places 24:6 plan 34:19 planning 8:8 plant 10:16 11:19	11:19 29:19 please 5:8 47:10,13 47:15 point 7:9 16:14 35:10 36:18 38:23 44:5 policies 27:17 28:24 policy 8:2,9,23 42:13 44:20 Poor's 20:1 portion 27:10 30:3 30:7 41:2 portions 30:24 position 7:4 9:5 13:10 17:23 34:11 37:7 possibility 34:24 possibly 27:9 potential 13:14 power 11:5,17 12:7 12:10 14:25 15:10 16:3 22:5,6 Powers 12:8 practice 40:25 44:5 preparedness 34:21 preparing 17:12 presented 38:22 Presentment 4:2 president 12:18 presidents 12:21 13:3,8 15:5 pretty 11:8 13:19 14:21 15:25 25:22 primarily 15:9 principal 23:23 prior 47:16 prison 8:9 private 14:18 probably 15:23 16:15 21:9 33:16 41:22 problems 20:2 21:4 21:17,21 procedural 8:23 proceedings 13:13 process 9:22 31:2 produced 1:9 Professional 46:4 program 6:12,14 Programs 9:14 prominent 20:2 property 30:25 37:4 40:1 proposed 29:12 31:24 44:16 proud 20:5	provide 19:4,13 30:5 31:11 37:3 43:22 provided 20:9,11 20:20 providing 30:9 38:25 43:24 prudent 24:4 36:22 36:24 public 1:2,12,20,23 2:21,23 3:1 5:5 15:10 27:5 42:12 46:4,20 47:14 48:16 publishing 42:3,7 purchase 35:25 purpose 36:4 pursuant 1:24 put 19:20 23:22 25:9 31:4 38:11 38:18 39:5,12 40:16 putting 23:14 p.m 1:11
Q				
Q 5:3,15,17,23 6:2 6:6,9,12,15,21 7:1 7:22 8:5,13,19 9:2,5,15,24 10:3,9 10:13,24 11:14 12:6,11,16,21,25 13:4,9,16,25 14:4 14:10,23 15:6,13 15:20 16:2,6,11 16:18 17:8,16,20 18:3,7,13,23 19:3 19:8,25 20:13,23 21:3,10,15 22:3,7 22:10,16,18,20,22 23:2,10,17,21 24:5,10,14,19,25 25:19,25 26:5,9 26:14,19,23 27:2 27:12,20,25 28:5 28:9,16,21 29:2 29:10,25 30:8,11 30:20 31:10,24 32:4,6,12 33:7,18 33:24 34:7,14,16 34:22 35:4,10,24 36:10,20 37:2,21 38:7,21 39:17,21 40:5,12,19,24 41:7,10,15,18,25 42:9,18,23 43:1,4 43:9,16,25 44:7				

44:10,13,18 45:5 45:9,13 question 21:19,20 22:9 26:8 28:20 32:11 33:7 34:13 39:22 42:8 questioning 44:23 questions 5:7,12 25:20 45:3 question's 29:2	recollection 16:12 record 7:14 records 41:2 45:7 45:10,14 recoupment 39:9 recover 23:25 recovered 27:18 recovery 24:2 reduced 46:9 referring 22:4 reflect 29:16 32:18 reflected 40:7 41:12 reflects 29:15 regard 21:24 28:24 Registered 46:3 regulate 45:7 regulated 12:9 21:5 21:17,25 regulator 35:19,22 36:11 regulators 13:19 14:9 36:22 37:10 37:15,18 38:19 regulatory 10:18 12:18 13:12,13 25:16 27:17 31:13 relate 13:15 related 38:5,6 46:11 relations 7:3,7 9:13 9:18 relationship 31:21 relative 26:5,19 46:13 relied 20:10 24:21 relief 11:21 relieved 18:13 reluctant 30:25 rely 20:19 relying 20:9 remaining 11:9 remember 11:2 15:14 removal 29:18,19 29:21 37:4 39:16 40:13 42:21 45:14 render 48:7 repeat 32:11 33:7 report 42:19,23 44:8 reported 15:5 16:23 16:24 Reporter 46:1,4 reporting 9:11 20:16	reports 20:19 represents 29:17 30:2 republican 8:16 republicans 8:17 requested 4:2 require 8:24 27:21 40:25 required 10:21 25:7 41:11 42:19 43:14 requirement 44:20 requires 44:14,17 reserve 27:13,22 28:2,6,9,17,21,23 29:5,7,14 30:1 31:25 41:10 respect 20:23 21:3 40:12 respond 10:7 responsibilities 18:11 34:3 responsibility 15:19 36:14 39:15 result 33:10 results 25:5 32:9,13 37:25 retained 17:14 retired 31:12 32:20 33:4 retirement 29:22 30:20,23 31:6 39:16 retirements 31:22 retires 29:20 retiring 33:5 return 24:4 26:17 29:16 30:2 34:23 38:20 39:24 40:3 41:3 43:22 47:15 returns 20:14,15 23:13 42:2 revenues 32:15 reverse 33:19 reverses 34:12 review 8:12 Revise 1:5 Rick 2:12 47:23 right 5:17 19:11 24:19 33:17 38:21 40:5,12,12 role 15:15 17:14 35:23 roll 11:23 ROSELLA 3:8 RPR 1:16 47:21 ruled 10:5	running 35:1 Ruth 2:22 44:23 rzucker@laclede... 2:14 S S 2:1 safe 43:25 safeguards 40:17 said 33:13 37:9,10 42:5 46:8 salvage 29:23 30:12 32:9,15 33:12 34:25 36:2,13 38:21 39:7,10 40:13 41:5 42:20 44:15 same 8:22 16:9 24:17 39:8 48:7 sat 27:9 say 8:1,9,10 10:10 11:10 13:7 15:9 15:21 16:25 17:4 19:13 20:5,23 21:9 25:7 27:20 35:3,8 38:1 42:2 42:15 43:3,25 SCHAD 3:8 scheduled 7:18 Schedules 1:6 school 6:5 Schwake 1:16 46:3 47:21 Schwarz 3:2 4:8 5:2 5:4 22:3 37:21 44:22,25 47:16,23 season 6:25 second 6:24 seconded 29:13 secretary 9:11,18 sectors 17:1 see 20:21 24:24 25:2 36:5 45:10 45:14 seeing 36:9 seem 42:16 seemed 20:16 seen 21:21 segment 42:4 senate 8:14,17,18 8:24 senior 12:17,21 13:3,8 15:2,5 16:21,22,23,24 sense 19:18 39:5 43:8 separately 41:1	September 1:10 47:5,11 served 17:20 service 1:2,12,23 3:1 5:5 30:5,9 31:11 Services 1:16 47:1 serving 17:22 18:8 set 27:15,20 28:13 28:14,24 setting 10:21 settle 11:1 settlement 11:3,8 11:15 12:3,5 several 11:5 15:16 17:20 26:1 27:7 sewer 14:12,21 share 15:24 shareholders 36:14 37:1 shareholder's 30:4 SHEET 49:1 sheets 47:12,14,15 Sherwin 2:18 22:13 22:18 shorthand 32:8 should 7:21 34:18 37:7 49:5,9,13,17 49:21 sic 12:8 side 11:25 Sierra 22:5 sign 45:18 47:14 signature 4:1,2 47:12,14,16 49:25 signed 45:21 similar 38:10,17 simply 36:1 since 14:9 Sincerely 47:18 single 37:10 sir 5:22 situation 10:22 20:24 25:9 36:9 six 11:7,11 31:19 size 33:2,3 small 11:12 smaller 32:23 Smith 2:4 47:6 smooth 18:22 so 5:15 6:2 7:13,25 9:11,22 10:13,16 11:10,23 12:3 13:16,21,22 14:19 15:4,17,25 16:11 16:16,24 17:20,25 18:3 19:8,12
---	---	---	---	---

20:10,13,18,20 22:17,19 23:20,21 25:12,14,25 26:23 28:5,5,14 30:25 32:3 33:1 37:2,16 38:16 39:11 42:7 45:16 some 8:12,25 33:4 33:18 35:10 36:18 someone 34:7 something 6:13 21:10 31:14 39:2 40:14 sorry 12:11 34:13 41:19 sort 8:5 sounds 44:5 source 33:24 34:10 34:15,18,24 sources 22:7 25:20 35:2,5,7,13 south 2:4 6:23 15:16 47:7 speaker 27:8 specialized 44:1 specific 26:25 27:2 36:9 specifically 34:19 36:4 speeches 9:22 spend 18:16 spending 33:11,17 33:20 35:11 spun 14:15 squared 5:10 St 1:13,17,21 2:8,13 2:17 47:2 staff 3:1 5:4 13:19 27:6 31:24 staffs 45:6 stage 16:7,12 34:25 standard 20:1 31:3 32:8,13 33:9 37:3 37:24 44:15 start 10:5 12:25 started 8:15 14:13 16:9,10 state 1:1,20 8:3 27:4 37:18 41:1 42:12,19 44:13 45:5 46:5,21 48:1 states 41:11 42:13 42:14 statistical 44:1 statistics 6:6,7 STEVEN 1:8 5:1	47:11 48:3,20 49:2 still 18:7 stopped 42:5 strategic 8:8 Street 1:17 2:13,16 2:23 3:3 20:10 22:24 23:3,5,7 24:7 25:12 47:1 stressed 10:22 strike 23:4 29:18 structure 26:7,7,10 studies 9:3 28:12 44:1 study 43:17,18 subject 11:13 subscribe 48:9 substance 48:6 substantial 15:19 substantially 33:3 such 18:24 20:3 48:5,8 sufficiency 34:9 sufficient 43:10 Suite 1:13 2:4,23 47:7 supervisor 17:21 supposed 19:18 sure 27:8 28:8,19 30:16 40:2 41:16 42:22,25 44:19 SVPs 16:22 sworn 1:9 5:1 46:7 S&P 20:17 T take 5:10 6:3 7:14 18:3 21:12 44:10 taken 46:8,13 47:11 49:3 takes 35:1 37:16 taking 43:19 45:19 talk 13:18,25 16:11 41:19 talked 14:5 Tara 1:16 46:3 47:21 Tariff 1:5 taxes 25:23 technical 29:8 telecom 42:6 telecommunicatio... 11:1 14:12,14 42:3 telephone 1:8 2:7 2:15,18,19,22 3:5 3:6,7 5:9	tell 10:9 22:15 29:2 34:18 43:9 ten 9:10 31:7 42:6 tend 21:16 testified 5:1 21:20 testimony 5:19 12:17 17:12 22:11,22 24:5 35:4 41:18 42:10 46:6,8 than 10:13 11:11 15:7 21:17 27:9 32:10,15 33:3,11 33:17,20 35:11 42:2 44:20 Thank 12:11 47:17 that 1:11 5:9,19,21 5:24 6:1,2,10,12 6:14 7:1,4,5,9,17 7:20 8:1,2,3,6,6 8:10,12 9:1,12,15 9:17,19,23 10:1,7 10:13 11:4,8,13 11:15,17,19 12:4 12:7,12,13,17,19 12:23 13:10,20 14:1,5,14,21 15:3 15:7,11,15 16:3,7 16:12,14,15,25 17:8,10,14,15,16 17:18,23,24,24 18:3,5,6,7,16 19:6 19:11,15,16,17,18 19:21,22 20:5,14 20:15,19 21:4,10 21:11,13,15,15 22:23,25 23:2,4 23:11,12,16,18,21 23:24 24:3,6,7,14 24:20 25:4,5,9,14 25:14,15,17,20,22 25:24,25 26:9,14 26:14,20 23:27 10 27:15 28:1,2,5,5,6 28:11,13 29:4,5,6 29:6,8,11,12,13 29:15,17,25 30:1 30:4,6,11,12,14 30:17,17,20,21 31:11,14,15,17 32:7,12,17,18 33:19,19,22,23,23 33:25 34:5,11,23 35:2,3,12,13,18 35:25 36:4,8,12 36:18 37:7,19,19 38:1,1,2,3,4,13,18	38:23,24,25 39:1 39:2,3,4,5,23,23 40:1,5,14,14,22 42:2,8,11,16,24 43:10,11,14,24,25 44:4,10,14,17,22 46:5,7,10,13 48:4 48:5,8,10 that's 18:3 21:19 23:14,17 29:10,10 29:23 30:8 37:17 40:7 41:3,5,7,12 43:24 44:16 45:17 the 1:5,10,10,11,12 1:20,22,22,23 2:21,21 3:1,1 5:4 5:5,9,13,14 6:5,13 6:16,22,24,24,25 6:25 7:2,6,6,8,11 7:11,12,14,14,15 7:17,17,20,20 8:1 8:3,12,14,15,17 8:17,22,24,25 9:6 9:7,8,9,11,11,12 9:18,21,25 10:14 10:19,20,21,22,24 11:5,7,9,10,14,17 11:18,18,20,22,25 12:7,8,8,23 13:1,7 13:14,14,21,22 14:2,13,15,17,21 14:24 15:1,3,4,5,6 15:13,15 16:1,1,3 16:8,9,10,13,15 16:16,21,21,23,24 17:1,2,2,14,17,22 17:24,25 18:1,5 18:15,16,17,20,21 18:23 19:4,5,8,12 19:12,16,18,18,21 19:25 20:1,2,3,6,6 20:9,11,12,14,14 20:15,19,22,24 21:4,5,6,18,19,20 21:21,23,25 22:2 22:7,9,11,11,15 22:15,24 23:2,5,7 23:12,13,14,15,22 23:23,24 24:3,7 24:13,16,20,22 25:2,4,12,15,17 25:20 26:5,8,16 26:16,19,25 27:4 27:10,12,13,22 28:2,5,6,9,16,17 28:19,21,23,25	29:3,4,4,5,6,6,12 29:14,16,21,21,25 30:1,1,2,2,3,3,7,7 30:12,15,18,19,19 30:20,22 31:1,3,3 31:4,5,5,6,8,11,15 31:15,15,15,17,20 31:22,25 32:7,8 32:11,13,17,17,19 33:1,2,2,4,7,9,13 33:15,15,18,23,24 34:1,1,7,8,11,13 34:15,18,21,25,25 35:1,5,10,13 36:5 36:6,6,9,14,14,14 36:17,22,23,24 37:1,2,2,3,4,4,5,5 37:6,7,9,9,11,11 37:18,18,24 38:1 38:3,5,6,6,9,9,10 38:11,13,13,14,20 38:21,22,24,25 39:2,5,5,7,8,8,8,9 39:10,14,15,17,18 39:21,23,24,24 40:1,1,2,3,4,4,5,6 40:6,7,8,9,9,13,14 40:17,25 41:2,2,3 41:3,4,4,10,13,13 41:23,23 42:15,19 43:7,13,14,21,23 44:15 45:6,7,14 45:19,19,22 46:5 46:6,6,8,9,12,12 46:15,16,16,21 47:10,11,11,13,13 47:14,14,15 48:4 48:6,7,9,10 their 17:13 19:6 20:7 21:1 23:25 25:10 32:24 33:5 34:6,20,21 35:20 38:15 42:17 them 18:15 19:5 34:18,19 35:7,9 35:22 38:19,19 then 5:17 7:16 9:25 10:13 11:4,6 12:12 13:23 14:3 15:2 16:22 18:18 24:16 25:8,23 34:20 36:17,24,25 39:6,13 40:10,16 there 10:5,14 11:7 13:2,5 14:8,8,18 15:16,18,18 16:12 23:21 25:14 28:6
---	---	--	--	---

28:11,14 29:22 31:10,12,13,21 35:5 36:16 37:24 40:22 41:12 43:11 thereafter 46:9 thereon 48:8 thereto 46:15 there's 28:6 36:22 37:10 39:13 44:19 these 12:4 35:17 they 16:9 19:6 21:13 22:1 25:10 31:6 32:10,15 33:11,16,17,20,20 34:19 35:15,15,16 35:16,17,22 36:17 36:17,18 37:19 38:14,20 39:14 41:21 42:23 45:7 45:8,9,12,13 they're 32:21,22 43:8 thing 24:17 things 13:24 25:23 35:18 40:5 think 12:1 14:6,7 14:21 16:14,16 17:8 18:17 20:17 21:19 22:14,17,19 23:20,22 24:6 28:3 29:8 31:19 31:21 33:1,1 34:23 35:5 40:3 44:22 45:1 thinking 15:23 this 14:10 16:18 22:11 23:24 29:11,13 30:13 32:1,13 36:10 38:18,22 42:12 45:3 46:12 47:17 48:12 Thomas 2:7 3:2 47:16,23 those 11:23 17:1 18:14 19:21,23 20:15 21:5,7 23:15 30:18 31:1 31:9,16,22 36:13 37:13,13,20 39:13 39:15 40:19 41:20,22 45:10,13 three 6:14 7:20 10:10 15:1 31:20 through 6:8 8:16	9:2 17:14 18:2 27:9 35:17 37:20 43:7 throwing 18:18 tie-in 32:18 Tim 5:4 time 5:11 7:17 10:5 14:5,10 15:3,12 16:19 28:12,12 33:18 38:9,10 40:18 45:11 timely 19:7 24:2 25:18 times 27:7 timetable 43:15 timing 37:25 38:7 38:11,16 title 16:22 to 1:5,24 5:8,10,17 6:16 7:3,14,19,23 8:7,8,15 9:7,10,11 9:12,17,21,23,23 10:15 11:4,6,13 11:22 12:1,6,13 13:12,15,19,25 14:5,20,24 15:5 15:16,17 16:11,19 16:20,23,24 17:6 17:6,9,14,17,24 18:21,24 19:4,5 19:11,12,14,18 20:5,7,11,23 21:3 21:16,18,20,24,25 22:4,24 23:11,21 23:24 24:7,12,16 24:20 25:2,4,7,17 25:19,24 26:5,15 26:20,21 27:16,18 27:22 28:2,12,22 28:24 29:5,9,16 30:4,14,19,25 31:4,11,19 32:2 32:18,20,21,25 34:2,5,9,19 35:13 35:20,25 36:1,5,8 36:9,12,18,24 37:1,17,19,20,21 37:23 38:1,2,5,6 38:10,12 39:15,21 39:22,24,24 40:12 40:17,20 41:1,3,5 41:11,12 42:16,19 42:23,24 43:12,12 43:13,14,20,20,21 43:21,25 44:8,14 45:6,14,21 46:8,9 46:11,12 47:16,16	47:17 48:6,7,9 today 31:7 33:2 39:10 together 11:24 12:4 told 18:15 tomorrow 32:20 too 28:13 29:8 took 6:4,7 17:23 towards 14:17 track 6:21,22 tracking 13:23 traditional 10:19 training 27:5 transcript 47:13 transition 17:25 18:22 transitional 18:2 traveled 6:25 treat 38:19 treated 23:16 39:8 trench 26:10 trial 47:16 tricky 37:23 trouble 5:7 troubled 20:15 TRS/STEVEN 48:22 true 48:7,11 try 9:23 37:21 turned 11:19 twelve 16:17 two 6:16 7:19 13:3 17:6 two-thirds 15:25,25 type 10:18,19 types 10:20 typewriting 46:10 U UE 2:2 ultimate 39:9,15 ultimately 43:13,21 under 29:12 37:2 46:10 48:10 underlying 7:16 underneath 16:7 undersecretary 9:7 9:9 understand 12:12 22:9 26:8,9 28:16 28:19 30:23 understanding 5:7 27:25 29:11 32:7 32:12 39:23 43:17 unexpected 26:24 unfair 37:17,23	Unfortunately 20:8 university 6:5 27:5 unregulated 21:22 until 7:10 up 8:2,11 9:2 13:20 16:25 18:20 20:2 20:7 23:15 38:12 38:12,18 39:5,12 39:12,22 upcoming 34:20 upon 24:21 ups 25:15 us 5:11 usage 32:18 use 25:2 29:21 30:7 30:18 31:1 38:5,6 39:15 used 24:12 31:11,17 33:15 39:10,14 44:16 useful 33:5 39:7 40:11 uses 19:11 usually 26:12 utilities 14:19 15:11 15:20 16:1 20:7 21:23 22:1,4,8 23:18,25 27:5,22 28:1 41:1,24 42:18 utility 10:23 11:15 11:17,20 12:9,23 13:1 15:8 23:13 24:22 25:9,9,16 25:17 26:21,22 27:1 29:4 30:22 31:11 34:1,4 35:20 36:12 37:5 38:13 42:12 44:14 45:5 utility's 29:16 utilized 19:21 31:8 V vacation 18:18 variations 26:23,25 various 24:6 vary 26:21 versus 17:5 very 7:1 11:12 14:18 26:3 38:17 vice 12:18,21 13:3,8 15:5 victims 22:2 view 19:15,16,17 23:7 31:2,16 35:25 39:11 44:5	viewed 36:21,23,25 virtually 8:1,10 voluntarily 7:9 VPs 15:2 W waived 4:2 Wall 20:10 22:24 23:3,5,7 24:7 25:12 want 23:21 was 6:12,14,19,22 7:7,9,17 8:7 9:10 9:11,19,19,25 10:9,14,17,17 11:6,7,15,17 12:3 12:7,20 13:2,6,11 13:12,19,20 14:14 14:15,21 15:2,3,7 15:9,9,18,18,18 15:24 16:14,15,16 16:19,20 17:2,5 17:11,12,24 18:1 18:5,10,11,17,21 19:21 33:3 34:23 35:25 36:1 40:7 46:7,8,13 wasn't 13:22 water 14:12,18,19 14:20 way 11:6 20:6,21 24:3 37:11,22 39:8 ways 9:20 we 5:17 7:13 9:22 10:20 11:3 16:11 18:16 19:13,14,15 19:17,20,22,22 20:10,18,19 34:17 34:18,20 40:6,10 40:13,16,16,19,20 40:21,21 web 13:22 websites 13:24 well 7:8 12:25 16:21 17:21,23 18:13 19:15 20:5 21:3 22:10 23:3 24:16,19 26:3,16 29:21 30:23 31:13 32:17 34:7 34:22 35:4,10,15 36:10 43:9,11 went 11:4 14:24 15:1,16,17 18:15 were 7:2,4,22 8:13 8:19 10:10,20
---	---	--	--	---

12:12,17 13:3,5,9 14:8,10,18 16:6 16:13 17:17 18:4 18:7,8,13 19:22 20:16 21:5 22:1,1 31:17 we'll 5:9 12:25 45:18 we're 19:18 33:8 40:15 what 5:23 6:6,15,16 6:21 7:4,22 8:5 8:13,13,19,20 9:6 9:6,15,15 13:9,16 13:20 15:13,20 20:21 21:19,25 22:1,3,7 23:5 24:10,17 25:3,5,5 25:20 26:19 27:12 28:21,21,25 32:21,21 33:24 34:10,15 35:2,7,9 35:13 40:2,13 42:13,13 43:9,17 45:10,14 whatever 43:23 what's 18:23 27:12 27:12 39:17 43:16,20 when 7:6,6 10:14 11:23 12:20 13:2 13:6,11 14:13,24 18:13,13,15 19:25 28:23 29:19 31:19 33:4,14,25 34:11,11,25,25 35:6,8,12 37:4 38:11,17 39:1 40:7,9,19,21 whence 7:11 where 8:23 22:1 24:12 25:10 34:18 39:9,12 Wherein 45:19 whether 5:8 31:6 41:25 which 7:18 10:18 28:12,17 32:19,22 32:23,23 46:12 while 6:4 17:11 18:8 19:12 who 9:12 14:4,4 18:20 41:20 whose 46:6 who's 34:8 why 23:2,10,14 will 5:14 19:6 23:25	24:2 25:17 32:19 32:19 33:10,19,19 33:20,24 35:11 36:18 37:25 38:2 38:3,19 39:1 40:11,14,22 with 5:4,24 6:18 7:12 8:4,6,14,20 9:16,19 10:5,15 10:21 11:6,25 12:12,25 13:25 14:2 15:3,11 17:23 19:5,7 20:23,24 21:3,4,5 21:6,24 25:15 27:16 28:24 31:13 34:8 35:2,7 36:21 38:13,15 39:8,8,14,17 40:12 within 1:20 7:5 8:3 8:11 12:23,23,25 14:14,14,21 32:24 46:4 48:6 without 36:9 witness 1:9 21:21 37:9 45:22 46:6,8 47:13 49:1,2,25 witnesses 22:11 word 29:21 31:1 40:2 words 23:22 workaday 10:19 world 15:13 worse 21:24 would 7:11,13,16 7:19 8:1,4,11,24 8:24 9:22 11:10 11:13,24 13:7,15 13:18,18,20 14:2 14:19,19,20 16:8 16:8,16 17:4,5 18:16 19:4,13,20 21:4,8,8,11 22:10 22:14 23:7,20 25:6,22 26:12,12 26:17,17,21 27:9 27:15 28:3,3,21 28:23,24,25 29:3 29:14,25 30:11,17 30:20 31:16,21 32:18,22 33:2,22 33:22,23 34:1,5 34:10,15,17,19,20 35:22,24 36:3,5 36:10,13,17,24 37:1,19 38:14	39:4 41:16,20,21 42:7 43:10,14,18 wouldn't 42:9 writings 9:22 X X 4:7 Y yeah 11:14 12:25 17:16 18:7 19:1 34:14 44:24 year 6:12,14,18,24 6:25 10:11 25:5 27:19 29:1 31:7 31:20 years 6:15,17 7:19 11:7,11 14:15 21:2 31:7,20,20 32:21,25 33:3,4 37:3 38:14 42:6 yes 5:15,22 6:11 10:2 12:15 14:10 14:10 16:5 17:19 18:3 19:2 21:9 23:1 24:9,24 30:8 30:10 32:5 34:16 36:20 38:5,16 41:15 44:18 45:8 45:12 yesterday 31:7,14 you 5:6,9,10,12,19 5:20,23 6:2,2,9,13 7:1,1 8:5,9,20 9:3 10:3,3,4,4,9,10,24 11:11,11,23,24 12:11,12,17 13:9 13:17,25 14:4,4,4 14:11,11,24 15:14 15:23 16:2,7,7,25 17:8,9,9,16,17,20 18:4,7,8,13 20:13 20:23 21:4,11,20 21:22 22:4,10,10 22:14,23,25 23:22 24:5,10,12,16,18 24:20 25:6 26:9 27:2,12,20,21,21 28:9,16 29:3,11 29:25 30:11,20,25 31:19 32:4,6,6,11 32:20,24 33:1 34:10,22 35:2,5,7 35:8,9,11,18,19 35:24 36:7,10,16 39:17 40:24 41:7 41:10,19,25 42:9	42:10,11,13,18,23 43:1,4,6,9,9 44:3 44:7,10,13,25 45:5 47:17 your 5:19 6:9 7:4 7:22 8:13,19 9:2 9:5,24,24 10:5 12:16,17 13:9 14:23 16:19 22:22 23:22 24:5 27:25 29:11 32:6 32:12 35:4 37:6,6 39:21,23 41:18 42:10 43:16 47:10,13,17 you're 35:11 42:11 Z Zobrist 14:7 Zucker 2:12 47:23 0 02 18:2 09/13/04 48:22 49:3 1 101 1:13 11th 1:17 47:1 111 2:4 47:7 12 24:19 13 47:11 13th 1:10 14 41:19 46:23 16 41:18,19 47:5 18 16:13 1845 1:13 1901 2:8 1974 5:21 1979 6:10 1985 9:3 1995 14:24 16:10 2 20 13:7 16:13 200 2:4,23 3:3 13:7 13:7 47:7 2002 12:13 17:17 2004 1:10 47:5,11 48:13 2005 46:23 21 42:10 3 3 12:17 30 33:3 38:14 314 1:18 2:9,14,17 47:3,3	342-0533 2:14,17 4 40 12:1 33:4 443-3141 2:5 45 4:9 5 5 4:8 50 12:1 32:20 37:3 554-2237 2:9 573 2:5,24 3:4 6 6 22:22 6:00 1:11 60/40 17:6 63101 1:17 2:13,17 47:2 63103 2:8 63146 1:14 644-1334 47:3 644-2191 1:18 47:3 650 2:23 65102 3:4 65102-2230 2:24 65201-0918 2:5 47:7 67/33 17:7 7 7 42:9 70 32:25 711 1:17 47:1 720 2:13,16 74 6:16 751-3234 3:4 751-4857 2:24 79 6:16 7:3 8 8:00 1:11 82 7:3 87 10:6 88 10:6 9 93 12:13 15:21 98 15:22 16:2
---	--	--	---	---