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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

March 17, 2010
Jefferson City, Missouri
Volume 26

In the Matter of Union Electric)
Company d/b/a AmerenUE's Tariffs)
To Increase Its Annual Revenues) File No. ER-2010-0036
For Electric Service)

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

ROBERT M. CLAYTON III, Chairman,
JEFF DAVIS,
KEVIN GUNN,
ROBERT S. KENNEY
COMMISSIONERS.

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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APPEARANCES:

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

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

JAMES M. FISCHER, Attorney at Law
Fischer & Dority
101 Madison, Suite 400
Jefferson City, MO 65101
(573)636-6758
jfisherpc@aol.com

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

MARK W. COMLEY, Attorney at Law
Newman, Comley & Ruth
601 Monroe, Suite 301
P.O. Box 537
Jefferson City, MO 65102
(573)634-2266
comleym@ncrpc.com

FOR: Charter Communications, Inc.

SHELLEY A. WOODS, Assistant Attorney General
SARAH MANGELSDORF, Assistant Attorney General
P.O. Box 899
Supreme Court Building
Jefferson City, MO 65102
(573)751-3321
shelley.woods@ago.mo.gov
sarah.mangelsdorf@ago.mo.gov

FOR: Missouri Department of Natural
Resources.

1 DIANA VUYLSTEKE, Attorney at Law
MARK LEADLOVE, Attorney at Law
2 BRENT ROAM, Attorney at Law
CAROL ILES, Attorney at Law
3 Bryan Cave, LLP
211 North Broadway, Suite 3600
4 St. Louis, MO 63102
(314)259-2543
5 dmvuyksteke@bryancave.com

6 EDWARD F. DOWNEY, Attorney at Law
Bryan Cave, LLP
7 221 Bolivar Street, Suite 101
Jefferson City, MO 65101-1575
8 (573)556-6622

9 FOR: Missouri Industrial Energy Consumers.

10 DAVID WOODSMALL, Attorney at Law
Finnegan, Conrad & Peterson
11 428 East Capitol, Suite 300
Jefferson City, MO 65101
12 (573) 635-2700
dwoodsmall@fcplaw.com

13 FOR: MEUA.

14 LELAND B. CURTIS, Attorney at Law
15 Curtis, Oetting, Heinz, Garrett & O'Keefe
130 South Bemiston, Suite 200
16 Clayton, MO 63105-1913
(314)725-8788
17 clumley@lawfirmemail.com

18 FOR: Municipal Group.

19 MICHAEL C. PENDERGAST, Attorney at Law
Laclede Gas Company
20 720 Olive Street
St. Louis, MO 63101
21 (314)342-0532

22 FOR: Laclede Gas Company.

23

24

25

1 LISA C. LANGENECKERT, Attorney at Law
Sandberg Phoenix & von Gontard
2 515 North 6th Street
St. Louis, MO 63101
3 (314)641-5158
llangeneckert@sandbergphoenix.com
4
FOR: Missouri Energy Group.

5 JOHN COFFMAN, Attorney at Law
6 871 Tuxedo Boulevard
St. Louis, MO 63119
7 (573)424-6779
8
FOR: AARP.
Consumers Council.

9 DOUGLAS HEALY, Attorney at Law
10 Healy & Healy
939 Boonville, Suite A
11 Springfield, MO 65802
(417)864-8800
12
FOR: Missouri Joint Municipal Electric
13 Utility Commission.

14 THOMAS R. SCHWARZ, JR., Attorney at Law
Blitz, Bardgett & Deutsch
15 308 East High Street, Suite 301
Jefferson City, MO 65101-3237
16 (573)634-2500
17
FOR: Missouri Retailers Association.

18 LEWIS R. MILLS, JR., Public Counsel
Office of the Public Counsel
19 P.O. Box 2230
200 Madison Street, Suite 650
20 Jefferson City, MO 65102-2230
(573)751-4857
21
FOR: Office of the Public Counsel
22 and the Public.

23

24

25

1 KEVIN THOMPSON, Chief Staff Counsel
STEVEN DOTTHEIM, Chief Deputy Counsel
2 NATHAN WILLIAMS, Deputy Counsel/Electric
JENNIFER HERNANDEZ, Legal Counsel
3 SARAH KLIETHERMES, Legal Counsel
JAIME OTT, Legal Counsel
4 SAM RITCHIE, Legal Counsel
Missouri Public Service Commission
5 P.O. Box 360
200 Madison Street
6 Jefferson City, MO 65102
(573)751-3234

7
8 FOR: Staff of the Missouri Public
Service Commission.

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

2 JUDGE WOODRUFF: Welcome back for day three
3 of AmerenUE's rate case hearing. We're going to begin
4 today on a new issue with storm expense amortization and
5 tracker. Anything anyone wants to bring up before we get
6 started with the mini openings?

7 (No response.)

8 JUDGE WOODRUFF: All right. Let's get
9 started on mini openings, then, on this issue, beginning
10 with AmerenUE.

11 MS. TATRO: Good morning. And first I
12 would apologize. I'm getting over a cold. Sunday I
13 couldn't talk at all, so this is a massive improvement,
14 and hopefully I can make it through the day.

15 AmerenUE has asked this Commission to grant
16 it the authority to implement a tracker for storm
17 restoration costs and to set that base amount in rates
18 equal to the actual level experienced by the company in
19 the test year, and that amount is \$10.4 million.

20 Now, AmerenUE recognizes that its request
21 is for a change from how these expenditures are normally
22 handled. We believe that request for this change is
23 justified. AmerenUE's service territory, as you all well
24 know, has experienced a high level of severe and frequent
25 storms. Perusing EFIS over the past ten years reveals

1 multiple Staff investigations into AmerenUE's response to
2 that storm damage. The testimony of both Mr. Rackers and
3 Mr. Meyer in this case reveals multiple amortizations
4 which have been implemented to recover over time the cost
5 associated with restoring our customers after these
6 storms.

7 AmerenUE has learned a lot from these
8 storms and our recovery efforts and we're very proud of
9 the ability that we've shown to restore service to our
10 customers as quickly as possible. Our customers expect it
11 from the company, and we believe that you as the
12 Commission expect it from the company.

13 Given that expectation, AmerenUE asks this
14 Commission to reconsider how it determines what amount for
15 storm restoration work is included in the revenue
16 requirement. The company asks this Commission to use the
17 amount actually expended during the test year. Now, that
18 is not how the Commission has traditionally handled these
19 expenditures. We acknowledge that fact. But the company
20 also believes it's time to change that tradition.

21 Currently, because costs vary, the storm
22 costs are normalized over four years by averaging the
23 costs incurred over that period, but first the cost
24 associated with, quote, extraordinary storms are removed.
25 So the large costs are removed and then the cost is

1 normalized. The end result then is a level that can't be
2 expected to cover when a large storm takes out many of
3 AmerenUE's customers, which has happened time and time
4 again over the past couple of years.

5 If the company only experienced
6 extraordinary storm restoration costs infrequently, then
7 the normalization would be the appropriate treatment, but
8 that is not the reality that faces us today. Going back
9 over the last decade, Staff's completed reports evaluating
10 AmerenUE's restoration efforts in June of 2002, July of
11 2004, August of 2005.

12 More recently, AmerenUE experienced the
13 terrific wind storms in July of 2006 and major ice storm
14 in December of 2006, another ice storm in January of 2007.
15 There was another storm in December of 2007, and before
16 Staff could even complete its report on that one, another
17 portion of AmerenUE's service territory experienced an ice
18 storm in February of 2008.

19 Staff's own report in that case, which was
20 EO-2008-0218, acknowledges the company's experienced
21 repeated severe weather occurrences over the last four
22 years which caused major outages over a wide section of
23 the company's service territory. And, of course, the
24 company's direct testimony in this case details the
25 devastating storm that took out service to most of our

1 customers in the southeast portions of AmerenUE's service
2 territory.

3 As I said before, restoring our customers
4 as quickly as possible is AmerenUE's goal after these
5 storms. The timing of the storms is not something
6 AmerenUE controls. The timing of restoration work is not
7 something that AmerenUE can control. The company must
8 spend the money necessary to put the work force into the
9 field as quickly as possible to restore service, and we're
10 doing that, Commissioners. No one in this case alleges
11 anything different.

12 Now, Mr. Wakeman, our witness on this
13 issue, is uniquely qualified to tell you about the
14 improvements we've made to this aspect of the company's
15 service. Prior to being promoted to his current position,
16 Mr. Wakeman was the person responsible for AmerenUE's
17 storm restoration efforts. He's the person responsible
18 for improving those efforts over the past few years. Talk
19 with Mr. Wakeman about that process and the improvements
20 that have been made.

21 The company asks you to acknowledge and
22 recognize the reality of the challenge of a widespread
23 outage after a major storm, acknowledge the reality that
24 these storms occur more frequently than they might have
25 occurred in the past, and make a change to the manner in

1 which these storm costs are collected.

2 Currently the company must request an
3 Accounting Authority Order, request the -- collect those
4 costs and request them in the next rate case and then
5 typically amortize that cost over five years. That is why
6 the testimony of Mr. Rackers and Mr. Meyer both discuss
7 multiple amortizations that are still ongoing. Yet the
8 company doesn't expend that money over five years. It
9 spends that money immediately.

10 The company is asking you, Commissioners,
11 to change that process and provide a better match between
12 what the company spends on restoration work and what it
13 collects through rates from its customers.

14 Now, it would have been a legitimate
15 request for AmerenUE to ask you to merely increase the
16 amount in the revenue requirement, to reject Staff's
17 normalization recommendation and just to allow the entire
18 test year amount into rates. We could have done that, but
19 the company chose not to do that. AmerenUE recognizes
20 storms are unpredictable and that one likely could find a
21 period where a major storm did not impact the company's
22 territory. So AmerenUE is requesting a tracker because
23 that would send back to customers any portion of the base
24 amount, 10.4 is the request, which isn't used for storm
25 restoration.

1 We've offered an option that provides the
2 company with the recovery it deserves without putting our
3 customers at risk for paying for something that might or
4 might not occur.

5 The company believes this recommendation is reasonable and
6 makes sense. Continuing down the path of relying on the
7 accountant and auditor's normalization efforts is not
8 reasonable and doesn't make sense given the operational
9 reality facing the company after these storms.

10 Commissioners, we ask you to take this
11 step, improve this aspect of the regulatory relationship,
12 and implement a tracker with a base that is not normalized
13 down but rather is reflective of AmerenUE's actual
14 experience with these costs. Thank you.

15 JUDGE WOODRUFF: Thank you, Ms. Tatro.
16 Opening for Staff.

17 MS. OTT: Good morning. May it please the
18 Commission?

19 Staff believes that the -- that AmerenUE's
20 storm expense should be set at \$6.4 million. This is due
21 to an abnormally high storm expense during the test year.
22 We -- Staff believes that the cost that incurred above the
23 6.4 million in the test year should be amortized.

24 Additionally, Staff is opposed to a storm
25 tracker for AmerenUE. AmerenUE has the ability to seek

1 recovery for costs from storms through an Accounting
2 Authority Order. This is traditionally how utilities have
3 recovered costs for storm expense in the past, and Staff
4 believes this is how it should happen in the future.
5 AmerenUE has taken advantage of the ability to recover
6 storm costs through the Accounting Authority Order and
7 should continue in the future, and Staff believes that
8 6.4 million set in base rates is a reasonable cost for
9 storm expense.

10 Thank you.

11 JUDGE WOODRUFF: Public Counsel.

12 MR. MILLS: Good morning. May it please
13 the Commission?

14 I'll be fairly brief. I talked about
15 trackers in my main opening statements in the case and
16 took several questions from the Bench and went through the
17 general philosophy about trackers. I think really the way
18 the Commission should evaluate the question of trackers
19 for storms in this case is whether or not the nature of
20 expenses incurred because of storms throughout the service
21 territory is so different from ordinary expenses that --
22 well, let me put it this way -- is so different from
23 extraordinary expenses that the Commission needs to create
24 a new mechanism to take care of them.

25 You know, Commissioner Kenney asked me, I

1 believe it was Commissioner Kenney during the open
2 statement, whether OPC would ever support a tracker, and I
3 gave a somewhat qualified no, but I've been asked in the
4 past whether Public Counsel would ever support Accounting
5 Authority Orders because we tend to oppose those as well,
6 primarily because they have grown from the traditional use
7 for extraordinary events to cover events and expenses that
8 I think are really not truly extraordinary.

9 But the one area in which Public Counsel is
10 almost always supporting Accounting Authority Orders is
11 for storm expense. Storm expenses for decades have been
12 treated through Accounting Authority Orders, and it has
13 been a useful and effective method of handling those. In
14 fact, that's -- until perhaps the early to mid '90s, that
15 was primarily the way that AAOs were used, and Public
16 Counsel agrees with Staff that that is the appropriate way
17 to treat storm cost expense in this case and going
18 forward. Thank you.

19 JUDGE WOODRUFF: For MIEC.

20 MR. ROAM: May it please the Commission?
21 The company is requesting an unnecessarily high level of
22 \$17.1 million on an annual basis for recovery of storm
23 expenses. The evidence will demonstrate that the amount
24 currently included in rates, 11.9 million, is more than a
25 sufficient level to establish rates in this case.

1 Specifically, the evidence will show that
2 UE has experienced only one major storm since rates went
3 into effect in this case on March 1st, 2009. Thus, the
4 level of storm expenses allowed in the last rate case
5 exceeds by several million dollars the level of actual
6 storm expenses incurred by Ameren since March 1, 2009. As
7 such, the current level of storm expense, 11.1 million, is
8 more than adequate for establishing rates in this case and
9 the adoption of a tracker is unnecessary.

10 Thank you.

11 JUDGE WOODRUFF: Thank you. That's all the
12 parties who wish to make an opening.

13 COMMISSIONER DAVIS: Judge, can I inquire
14 of Ms. Tatro for a moment?

15 JUDGE WOODRUFF: Go ahead.

16 COMMISSIONER DAVIS: You can sit there,
17 Ms. Tatro.

18 MS. TATRO: Okay.

19 COMMISSIONER DAVIS: Who would be the most
20 appropriate Ameren witness for me to inquire of concerning
21 the financial effects or I guess more appropriately I
22 guess the difference, the economic difference to the
23 company between an AAO and a tracking mechanism?

24 MS. TATRO: Well, I think Mr. Baxter could
25 have spoke to that. I think next week Lynn Barnes could

1 probably speak to that as well. I believe she's scheduled
2 for Monday of next week.

3 COMMISSIONER DAVIS: Okay. All right.
4 Thank you.

5 JUDGE WOODRUFF: All right. Let's move on
6 to the first witness, then. On my list that's David
7 Wakeman for Ameren. Good morning, Mr. Wakeman.

8 THE WITNESS: Good morning.

9 (Witness sworn.)

10 JUDGE WOODRUFF: Thank you very much. And
11 I just want to advise you before you start that I'm giving
12 this little speech to everyone, all the witnesses now,
13 that when you're asked questions, please respond to the
14 question. Don't elaborate unless an attorney asks you to
15 do that. That way things move along much more smoothly
16 and we get out of here quicker.

17 THE WITNESS: Okay.

18 JUDGE WOODRUFF: You may inquire.

19 DAVID N. WAKEMAN testified as follows:

20 DIRECT EXAMINATION BY MS. TATRO:

21 Q. Good morning, sir. Could you please state
22 your name and business address for the Commission.

23 A. David N. Wakeman, 1901 Chouteau, St. Louis,
24 Missouri.

25 Q. And your title, please?

1 A. I'm Vice President of Energy Delivery.

2 Q. And it is my understanding, Mr. Wakeman,
3 that you're adopting the direct testimony that was
4 previously filed by Ronald Zdellar which consists of 22
5 pages of direct and 2 exhibits; is that correct?

6 A. That is correct.

7 Q. And then following your signature with 17
8 pages of rebuttal and two exhibits, which includes one
9 late-filed exhibit, and 11 pages of surrebuttal, including
10 one exhibit; is that correct?

11 A. That's also correct.

12 Q. Do you have any additions or corrections to
13 that testimony?

14 A. Yes, I do. In my rebuttal testimony on
15 page 11, in the beginning of line 15, a sentence begins
16 with the word Staff, and then it goes until the end of
17 line 17. I'd like to strike that.

18 Q. Do you have any other additions or
19 corrections you'd like to make?

20 A. No, I do not.

21 Q. Given that addition or that correction, if
22 I asked you the questions contained in these three pieces
23 of testimony, would your answers remain the same?

24 A. Yes, they would.

25 MS. TATRO: I would move for Exhibits -- I

1 forgot to write down the exhibit numbers. I apologize.

2 JUDGE WOODRUFF: Zdellar direct is 157, and
3 Wakeman rebuttal is 109, Wakeman surrebuttal is 110.

4 MS. TATRO: Thank you. Move those into the
5 record, and I will tender the witness for
6 cross-examination.

7 JUDGE WOODRUFF: 157, 109 and 110 have been
8 offered. Are there any objections to their receipt?

9 (No response.)

10 JUDGE WOODRUFF: Hearing none --

11 MS. OTT: Can I have a clarification on
12 what you have sought to strike from the testimony?
13 Page 11, line --

14 MS. TATRO: This sentence (indicating).

15 MS. OTT: Okay.

16 JUDGE WOODRUFF: 157, 109 and 110 are
17 admitted into evidence.

18 (EXHIBIT NOS. 157, 109 AND 110 WERE MARKED
19 AND RECEIVED INTO EVIDENCE.)

20 JUDGE WOODRUFF: And for cross-examination,
21 we will begin with Public Counsel.

22 MR. MILLS: No questions.

23 JUDGE WOODRUFF: For Staff?

24 CROSS-EXAMINATION BY MS. OTT:

25 Q. Good morning, Mr. Wakeman.

1 A. Good morning.

2 Q. You're adopting all Mr. Zdellar's direct
3 testimony, correct?

4 A. That's correct.

5 Q. So you agree with everything that it says
6 and supports?

7 A. Yes.

8 Q. I'd like to refer you to page 22/11 of his
9 direct testimony.

10 A. Page 22?

11 Q. Right. And on line 11, it begins and it
12 says that immediate service restoration is demanded by the
13 company's customers and by the Commission. Do you see
14 that?

15 A. Yes, I do.

16 Q. Can you tell me which Commissioner or
17 Commissioners stood up at a public forum or provided a
18 written statement saying they demanded that the company
19 restore service immediately?

20 A. During the storm hearings from 2006, a
21 number of Commissioners, I think Commissioner Clayton did
22 that, and I believe Commissioner Davis as well, both
23 indicated the need and the urgency for restoring
24 customers' service.

25 Q. And that was in a public forum?

1 A. Yes, in the storm hearings from -- I don't
2 remember the exact date, but it was after the 2006 storms.

3 Q. Do you have a document or a transcript to
4 prove that?

5 A. I do not, with me.

6 Q. Or a case number?

7 A. I assume it's available.

8 Q. Do you believe that the Commission wants
9 the company to spare no expense in restoring service?

10 A. I don't believe that's true.

11 Q. So you believe that the Commission still
12 expects UE to spend prudently when restoring storm
13 service?

14 A. Absolutely.

15 Q. Prior to this case, have you ever testified
16 about establishing a tracker?

17 A. No, I have not.

18 Q. Have you ever testified about an Accounting
19 Authority Order?

20 A. No.

21 Q. Are you aware that the Commission allows
22 for Accounting Authority Orders for storm expense?

23 A. I am.

24 Q. And isn't it true that Ameren has utilized
25 these Accounting Authority Orders to recover expenses?

1 A. That is correct.

2 Q. And one of the last ones in which they
3 sought an Accounting Authority Order was in EU-2008-0141,
4 and that was the January 2000 storm. Are you aware of
5 that?

6 A. The last one was January 2000?

7 Q. No, 2007. Sorry.

8 A. 2007, correct.

9 Q. And that was a major storm?

10 A. Yes, it was.

11 Q. And you would agree that UE was able to
12 recover for that major storm through the Accounting
13 Authority Order?

14 A. Yes.

15 Q. And would you agree that no party here is
16 claiming that UE has acted imprudently in regards to
17 expenses for storm restoration?

18 A. Yeah, I believe that's true.

19 Q. So UE is prudent with its storm costs?

20 A. Yes.

21 Q. Okay. I would like to direct you to your
22 surrebuttal, page 7, line 11. You talk about a storm in
23 May of 2009?

24 A. That's correct.

25 Q. And you classify that storm as a major

1 storm?

2 A. Yes.

3 Q. Now, was the storm restoration major or was
4 just the storm itself major?

5 A. I think both were.

6 Q. Well, isn't it true that UE has only spent
7 \$1 million in non-labor costs for storms since January of
8 2009?

9 A. Yes, that's true.

10 Q. So that storm wasn't as large as the
11 January 2007 storm?

12 A. That's correct. I think there's two things
13 about that. One's the weather, the actual weather that
14 occurs, and the second thing is where it occurs on our
15 system. If you look at where that storm occurred, it was
16 in a fairly remote area of our service territory, so less
17 damage occurred on our facilities.

18 Q. But the restoration efforts weren't as
19 major as the previous, the 2006 and 2007 ice storms?

20 A. That's correct.

21 Q. Okay. Would you agree with me that
22 Mr. Zdellar's testimony and your testimony talk a fair
23 amount about the job UE did in the process in place to
24 restore service after a storm?

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

1 Q. Would you agree your testimony and
2 Mr. Zdellar's testimony talk a lot about UE's efforts to
3 restore service after a storm?

4 A. Yes.

5 Q. Even so much that you attached a news
6 release to your surrebuttal about an award UE received for
7 storm restoration?

8 A. That's correct. Yes.

9 Q. So you would agree with me that how well UE
10 performed with regards to restoring service should not
11 dictate whether or not UE receives a storm tracker?

12 A. I wouldn't necessarily agree with that.
13 What I would agree with is that AmerenUE performs very
14 well during storm restoration efforts consistently.

15 Q. So that means you should have a tracker?

16 A. I think we should have a tracker.

17 Q. Because you've been awarded for having good
18 storm restoration service?

19 A. No. I think we should have a tracker
20 because of the expense that we -- that's incurred during
21 storms, and I think that the effect of regulatory lag
22 resulting from using Accounting Authority Orders to
23 recover that cost, I think a tracker is more appropriate.

24 Q. Do you know of any other Missouri utility
25 that has received an award from Edison Electric Institute

1 for storm restoration?

2 A. I'm not exactly aware of that, no.

3 Q. Would you agree with me that KCPL won an
4 award in 2008 and 2007?

5 A. I don't have any information to that. I
6 don't know for sure.

7 Q. Well, let's say another utility in
8 Missouri -- well, do you know of any other utility in
9 Missouri that has a storm tracker?

10 A. I don't believe there is one.

11 Q. Do you think if another utility won a
12 similar award, that they deserve a tracker as well?

13 A. I don't think it has anything to do with
14 winning the award. I think it has to do with other
15 factors.

16 Q. I'd like to now direct you to page 15, line
17 10 of your rebuttal testimony.

18 A. Page 15, line 10?

19 Q. Yes.

20 A. Okay.

21 Q. Would you agree that you believe that UE
22 customers are satisfied with its storm restoration efforts
23 or there's an increased satisfaction?

24 A. Absolutely, yes.

25 Q. And you think part of the satisfaction

1 means that there could be a storm -- that you should have
2 a storm tracker?

3 A. I believe that the satisfaction is a good
4 thing. I think it's a result of hard efforts by our
5 company to improve storm restoration, and I think we do a
6 very good job. I think the tracker is a separate issue.
7 I think we want to do a good job regardless, but I think a
8 tracker is an important part of the regulatory process
9 going forward.

10 Q. So the customers being satisfied with your
11 reliability has nothing to do with whether or not AmerenUE
12 should have a tracker?

13 A. I think they're separate issues.

14 MS. OTT: I have no further questions.

15 JUDGE WOODRUFF: All right. Cross for
16 MIEC?

17 MR. ROAM: Just one question.

18 CROSS-EXAMINATION BY MR. ROAM:

19 Q. Would it be fair to say that a storm
20 experienced by Ameren before the implementation of the
21 more rigorous vegetation management requirements, all
22 things being equal, would a storm that occurred before the
23 implementation of those requirements have less of an
24 impact on Ameren's reliability than a storm after the
25 implementation of those more rigorous requirements, all

1 things being equal, location, magnitude of the storm, et
2 cetera?

3 A. I think, depending on the storm, there
4 could be an improvement in the response. There could be
5 an improve -- a lessening of the damage by the storm, yes.

6 Q. So all things being equal, if the same
7 storm, one before the implementation and one after the
8 implementation, the storm after the implementation would
9 have less of an effect?

10 A. I think it could have, yes.

11 Q. You think it would have? Is it your
12 opinion that it would have or is it your opinion that it
13 would not have?

14 A. I think it would have, but the degree would
15 vary. It's a very difficult question because storms
16 aren't all alike and where they hit, but -- but --

17 Q. I'm saying all things being equal,
18 hypothetically.

19 A. I think it would have some effect, yes.

20 MR. ROAM: No further questions.

21 JUDGE WOODRUFF: All right. Come up for
22 questions from the Bench. Chairman Clayton.

23 QUESTIONS BY CHAIRMAN CLAYTON:

24 Q. I want to follow up on that. I think the
25 way I was going to ask the question, is there a

1 correlation between -- between vegetation management and
2 infrastructure expense and storm expense? Meaning you
3 increase expense on the vegetation management side, does
4 that correlate to lower storm recovery costs, is the way I
5 was going to phrase the question, which I think is similar
6 to that one?

7 A. I think it certainly can. I think it -- it
8 depends on the kind of storm. When you look at the storms
9 we had in 2006 where huge trees were uprooted and blown
10 into lines, that's not a tree trimming or vegetation
11 management issue. But when you look at storms that occur
12 more on the every day basis, 30, 40 mile an hour winds
13 that can cause limbs to break off trees and fall, and then
14 I think it does make a difference.

15 Q. Okay. I wanted to ask about the difference
16 in Ameren's storm recovery activities between storms of
17 2006 and 2007 and the storm of 2009.

18 A. Okay.

19 Q. Can you describe any difference in how
20 Ameren -- aside from the geography, can you describe for
21 me the difference in how Ameren approached those different
22 periods of time?

23 A. We've done a number of things over those
24 years to improve storm restoration activities. One is our
25 mobile storm trailers, material trailers that are

1 prestocked and ready to move and prestaged throughout the
2 state. Mobile command centers that give us the ability to
3 move essentially mobile offices into an area to increase
4 efficiencies around supervision. Improvements in
5 logistics and our ability to get food to our employees and
6 housing, things like that. Improvements in our staging
7 and our material handling where how we get the materials
8 to the linemen so they can put them up. Advancements in a
9 weather system that we invested in in order to get better
10 weather information and weather monitors throughout the
11 state.

12 Those are some of the things I think that
13 are important, in addition to an increase in the amount of
14 supervision and dividing of the work within the area to
15 improve the efficiencies and the effectiveness of the
16 linemen on the ground.

17 Q. So would it be fair to characterize the
18 change between 2006 and '07 versus 2009, it sounds like
19 Ameren made a number of investments and re-evaluated how
20 it addresses storm recovery; is that a fair
21 characterization?

22 A. Yes, sir. I think there was a continual
23 improvement during those years.

24 Q. All right. I mean, you just off the top of
25 your head threw out five or six significant changes, and

1 would you consider the recovery effort in 2009 to be a
2 success from Ameren's point of view?

3 A. Absolutely.

4 Q. Okay. With those changes, though, could I
5 also turn that backwards and -- and make the
6 characterization that perhaps the storm recovery of
7 2006/2007 could have been a whole lot better if a number
8 of these steps would have been taken prior to that time?

9 A. Yeah. Yes, sir. I think -- I think storm
10 restoration could always get better, to be honest with
11 you, and we learn from every one, and we do an after
12 action meeting and look at what ways to improve, and we'll
13 continue to do that as we move forward.

14 Q. Could you go as far to say that the storm
15 recovery of 2006 and 2007 was deficient because of the
16 lack of the steps that were taken in anticipation of 2009?

17 A. I would hate to use the word deficient only
18 because I think we did a good job in those storms. Those
19 were very difficult situations if you think about 2006 and
20 the multiple storms that occurred two days apart. Had we
21 done everything that we're doing today back then, I think
22 things would have gone better, yes.

23 Q. So if -- if Ameren would have taken the
24 steps between 2007 and 2009 prior to those storms of
25 '06/'07, and I know this is getting complicated, do you

1 think the size and duration of the outages would have been
2 reduced, the scope and the duration of the outages would
3 have been reduced?

4 A. I'm not sure about the scope because I
5 think the same damage would have occurred, but I think the
6 duration might have been lessened, yes.

7 Q. Now, when you were talking about the major
8 wind damage, you're talking about the July of 2006 storm
9 where the major trees were uprooted and knocked out major
10 parts of the system --

11 A. That's correct.

12 Q. -- is that accurate if I make that
13 characterization?

14 A. Yes.

15 Q. Do you think increases in investment in
16 vegetation management had a greater impact or would have a
17 greater impact on the ice outages that occurred in
18 November/December of 2006 as well as in January of 2007, I
19 believe?

20 A. The December storm of 2006, and the --
21 that's an ice storm and then also --

22 Q. Yeah. It was November 30th and
23 December 1st, because I was in St. Louis then.

24 A. Exactly. Right.

25 Q. That was an ice storm, and then there was

1 an ice storm within 45 days.

2 A. January 13th I believe, yes.

3 Q. Do you agree or disagree that if Ameren had
4 been trimming trees in advance of those outages, that --
5 that those outages could have been significantly reduced
6 because of basically gravity pulling trees down over the
7 lines?

8 A. Well, up to that point we had made
9 significant increases in our investment in tree trimming
10 going through those times, and it continued to increase
11 going back to --

12 Q. Wait a minute. I want to ask now, when --
13 when did you begin to make that increase in vegetation
14 management expense?

15 A. Well, in 2004 -- if I can refer to my
16 testimony, I could get it exactly right, but I think we
17 went from in 23 and a half million dollar range up to
18 \$30 million as a result of an agreement with Staff that we
19 made after the 2004 storms. I think that's a November
20 agreement, and so that was an increase. We increased
21 again, I believe, in 2007, and so we continued to make
22 improvements in an increase in investment in tree
23 trimming.

24 If you're asking me today, if the standards
25 were in place today or were in place then that are in

1 place today, would it have made a difference? I think it
2 would have made a difference. I don't know if we would
3 have seen a step change in the response for our system,
4 but there would certainly in my estimation have been some
5 outages that hadn't occurred, absolutely.

6 Q. Would you agree that it is nearly
7 impossible for an electric utility to eliminate all
8 outages --

9 A. Absolutely.

10 Q. -- during adverse weather?

11 A. Yes.

12 Q. But the utility does have the power and
13 ability to reduce the frequency or reduce the duration
14 perhaps or reduce the scope of damage through these steps
15 of increased vegetation management, infrastructure
16 inspection and other measures?

17 A. Yes. I think those -- I think those help,
18 but I think still when you have the storms that we've had
19 and that we're having really throughout the United States
20 even in the last few days on the east coast, those kind of
21 storms are going to cause electrical power system outages
22 throughout no matter what system they occur on, in my
23 opinion.

24 Q. Okay. If the Commission increases or
25 authorizes Ameren to increase its budget relating to

1 have any other questions. Thank you very much.

2 JUDGE WOODRUFF: Commissioner Davis?

3 QUESTIONS BY COMMISSIONER DAVIS:

4 Q. Good morning, Mr. Wakeman.

5 A. Good morning.

6 Q. With regard to -- Ms. Ott asked you some
7 questions about references in Mr. Zdellar's testimony that
8 Commissioners expect service to be restored immediately.
9 Do you -- when there are storm outages, do you get call
10 center reports?

11 A. Yes, sir, I do.

12 Q. And is it fair to say that when the power
13 goes out, the phone banks light up?

14 A. Absolutely that's fair to say.

15 Q. And it wouldn't come as any great surprise
16 to you that our phone banks light up here as well?

17 A. I know for a fact they do.

18 Q. It wouldn't surprise you that people that
19 I've never even heard or know of somehow, like, call my
20 home, call my cell phone, call me saying, you know, get my
21 power restored?

22 A. I wasn't aware of that, but I'm not
23 surprised by it.

24 Q. And often is the case, you know, you
25 wouldn't be surprised to know that they somehow think that

1 we have a magic wand that we can somehow turn their lights
2 on while all their neighbors are still out?

3 A. Right. They think we have that magic wand
4 as well.

5 Q. Do you have that magic wand?

6 A. I do not, no.

7 Q. I don't either. And is it fair to say that
8 the longer an outage goes, the angrier the customers get?

9 A. It absolutely is fair, and I think really
10 what we've seen from some of our customer satisfaction
11 data is after three days customers probably reach the end
12 of their tolerance, even more tolerant customers. Three
13 days is when customers get more agitated, maybe lack of a
14 better word, about the situation that they're in.

15 Q. And do you know, how long is it before
16 people lose the, like, the frozen foods in their
17 refrigerator?

18 A. I think in the summertime, it can be as
19 quick as one day depending on how often they open it to
20 look in there. In the wintertime, maybe a little better.

21 Q. I guess if you have an ice storm and it's
22 still cold outside, then you can just leave it there or
23 stick it outside?

24 A. Stick it outside, right.

25 Q. The ice storm in January 2009 hit, what,

1 approximately 35,000 people out of service?

2 A. Yes.

3 Q. And that's a fairly rural area for the most
4 part?

5 A. Yes, it is.

6 Q. And so it would take longer to restore
7 service there? I mean, you've just got more -- more wire?

8 A. That's exactly right.

9 Q. On a per customer basis, it would take
10 longer to restore because you've got more -- I guess fewer
11 customers per -- per mile of line, is that --

12 A. Yes, that's exactly correct.

13 Q. Is that a fair statement?

14 A. Yes, it is.

15 Q. And there was a -- there was a previous
16 storm in southeast Missouri, wasn't there?

17 A. Yes, there was.

18 Q. April 2006?

19 A. Right.

20 Q. And April 2006 you pretty much had to
21 rebuild the system then because in some of those areas, in
22 the same areas of southeast Missouri because a tornado
23 pretty much took everything out?

24 A. That is correct.

25 Q. So that does sort of give credence to that

1 theory about you do mass accounting for telephone poles
2 because you don't know how long they're going to last? If
3 you don't know anything about that --

4 A. I really don't. Sorry.

5 Q. But it is fair to say that a substantial
6 portion of that system that you had replaced after the ice
7 storm of January 2009 had already been replaced in 2006?

8 A. There was absolutely additional damage to
9 those same facilities, and frankly, it could happen again.
10 Hope it doesn't.

11 Q. Or it could not happen?

12 A. It could not. Absolutely.

13 Q. Okay. And getting back to some of
14 Ms. Ott's earlier questions. Okay. From February 1st,
15 2009 to present, you had the one storm in southern
16 Missouri that affected your system?

17 A. That is correct. It was more central
18 Missouri. It was near Taum Sauk, our power plant. It was
19 in that area of the country, of the state.

20 Q. Right. Okay. And what was -- what was the
21 total bill for that storm?

22 A. If you don't mind, I'd like to look in my
23 testimony. I think it was -- well, I don't know exactly.
24 I'll find it. Having trouble remembering exactly where it
25 is. Here it is. It's on page 7. It was 1.1 million in

1 O&M expense and 6.2 million in capital investments.

2 Q. Okay. So do you recall, was there -- was
3 there a disaster declaration?

4 A. I don't believe there was for that one.
5 I'm not 100 percent sure, but I don't believe there was.
6 It was in a fairly remote area of the country. It was a
7 tornado that went through, did a lot of damage to the
8 countryside, but since our facilities are more sparsely
9 spread through that territory, there wasn't much damage to
10 our facilities.

11 Q. Okay. So in the grand scheme of things, it
12 wasn't nearly as severe a storm as, say, oh, January 2009
13 ice storm?

14 A. That's true, yes. But if you compared it
15 to the one we talked about, the tornado in Braggadocio in
16 2006, it was similar in the weather event, but it's just
17 the location was different.

18 Q. Right. You can -- you can have a tornado
19 in the middle of nowhere and it doesn't necessarily cost
20 as much?

21 A. That's exactly right.

22 Q. Mr. Wakeman, if you would, could you turn
23 to page 14 of your rebuttal testimony where you've got
24 that graph?

25 A. Yes, sir, I'm there.

1 Q. Okay. So I'm looking at this graph here.
2 Is it -- is it fair to say that in three of the last
3 six years your total storm costs have not exceeded
4 \$20 million?

5 A. That's fair to say.

6 Q. Okay. And in -- in three of the years your
7 storm costs exceeded \$75 million?

8 A. Yes, sir.

9 Q. Okay. Can you explain the financial
10 significance to the company of why a tracker would be
11 preferable to a -- an AAO after the storm occurs?

12 A. I can explain my understanding of the
13 financial implication.

14 Q. Okay. Explain your understanding.

15 A. The -- an AAO is -- is an after-the-fact
16 mechanism that we have to ask to be granted to collect
17 those storms and create a regulatory asset, and then later
18 it goes into the next rate case under another set of
19 reviews that allow it to be included or not. That's my
20 understanding, where a tracker would allow us to collect
21 those costs and -- and collect those more certainly after
22 the fact and then have them in the next rate case, of
23 course under a prudency review.

24 I think the implication is around
25 regulatory lag and the certainty of recovering those costs

1 that I think we've all talked about here already today,
2 how important they are to make those expenditures in a
3 very timely fashion. We have to make them -- it happens
4 on immediate damage and immediate response, and it's
5 really an immediate expense. So we're expending money
6 very quickly, and it can have a financial impact, but
7 those monies are typically borrowed.

8 Q. So basically you're saying that the tracker
9 would encourage you to continue to have a robust storm
10 response?

11 A. I think we're going to have a robust storm
12 response because it's the right thing to do for customers,
13 but I think the financial impact, which Mr. Baxter or Lynn
14 Barnes may be better able to explain, can have a
15 significant difference. We're going to still have the
16 same response. We think it's important to restore
17 customer service obviously, as I think the Commissioners
18 would agree. But I think that if we adopt a new base
19 amount in rates, that the tracker will help protect both
20 the customers and the company going forward.

21 Q. Okay. I'm going to read you three
22 statements here and tell me if you agree or disagree.
23 Okay. The costs/revenues to be tracked are beyond the
24 control of management where utility management has little
25 influence over experienced revenue or cost levels. Do you

1 think that -- that would be true on this issue?

2 A. Could you read it again? I'm sorry.

3 Q. The costs/revenues to be tracked are beyond
4 the control of management where a utility management has
5 little influence over experienced revenue or cost levels.

6 A. I'm struggling a little bit with the very
7 last part, experienced, the very last part of the
8 statement. Struggling with a little bit to be honest what
9 exactly that means.

10 Q. Well, how about over revenue or cost
11 levels, we'll just --

12 A. I'm sorry. I would have to ask you to read
13 it again. That's possible.

14 Q. Okay. You're seeking a tracker
15 mechanism --

16 A. We are, yes, sir.

17 Q. -- for storm outages, are you not?

18 A. (Witness nodded.)

19 Q. Okay. Page -- well, you don't have a copy
20 of it, but take my word for it, that page 18 of Ameren's
21 Statement of Position they -- they lay out a test for
22 tracking fuel costs. So what I'm trying to get at is,
23 one, are the costs/revenues that you're seeking to be
24 tracked on this issue, are they beyond the control of
25 management?

1 A. I would say the damage that occurs is
2 beyond the control of management. Obviously making
3 prudent expenditures in response to that damage is within
4 our control.

5 Q. Okay. So where the utility management has
6 little influence over the cost levels, is that a fair
7 statement?

8 A. I think that's a fair statement.

9 Q. Okay. Would you agree that the
10 costs/revenues to be tracked are volatile in amount?

11 A. Yes.

12 Q. Can they cause a significant swing in
13 income and cash flow if not tracked?

14 A. Yes. I agree with that.

15 Q. Now, do you know if the costs/revenues that
16 you're seeking to be tracked with this tracker are
17 substantial enough to have a material impact upon the
18 revenue requirements and the financial performance of
19 the -- of Ameren's business between rate cases?

20 A. I think they absolutely can. If you look
21 at some of the expenditures we've had and if you look at
22 that graph in 2006 and '07, those are very large amounts
23 of money that we had to expend and restore customers.

24 Q. Okay. Now -- oh, what I heard in the
25 opening statements from Mr. Mills, from Staff, is, you

1 know, great concern that they just don't want you, you
2 know, tracking -- tracking any storm expense and then
3 passing the bill on to customers. Do you think there's
4 any middle ground here?

5 A. I suppose there may be. I think what's
6 important, if we get the right amount or close to the
7 right amount in base rates, or certainly the amount we're
8 asking for would be, I think, an appropriate amount, that
9 the tracker's going to allow us to, if there's a concern
10 about overcollecting we'll be able to return that to
11 customers. And in the event we don't collect enough, then
12 we'll be able to track that and collect it through the
13 tracker mechanism. So I think that putting that amount in
14 base rates and then using the tracker protects both
15 parties.

16 Q. Should it be a two-way tracker?

17 A. Yes.

18 Q. Okay. Hypothetically speaking, how would
19 you feel if the Commission were to make the operation of
20 the tracker contingent on, say, an executive order from
21 the Governor issuing a disaster declaration, so it truly
22 only applied where there is a, you know, he's not going to
23 issue a disaster declaration unless it's a serious event?

24 A. I think the one disadvantage of that
25 approach would be that the Governor in my estimation and

1 knowledge of it does an emergency declaration order with
2 response to the needs of the citizens and specific
3 circumstances within the state. We're looking at damage
4 and investment we're making to restore our electrical
5 distribution system. I expect there could be a difference
6 in that approach.

7 We have a -- we use a mechanism that's
8 industry-wide, an IEEE standard that allows us to look at
9 the definition of a major storm. And so I think doing
10 that within the utility industry and what's experienced on
11 our system, it may end up to be the same, but I'd have
12 some concern that it wouldn't be, and the governor may not
13 do a declaration -- emergency declaration but yet we'd
14 still have a significant investment in restoring our
15 customers.

16 Q. Okay. But looking -- looking at your graph
17 and your experience from 2006, 2007, 2009, you know, you'd
18 agree with me that in -- in most of those cases the
19 Governor did issue a disaster declaration, did he not?

20 A. I believe he did in '06 and '09. I'm not
21 100 percent sure in '07.

22 Q. So you would agree with me that that --
23 that if we were to make it contingent, that that would
24 provide you more protection than you have currently?

25 A. Yes. It would provide more than we have

1 currently. I think there is the opportunity, however,
2 that you would have storms that were below the Governor's
3 level but still significant investment. Maybe have a few
4 of those that would add up to a larger number than would
5 be in base rates as well. I think that's a potential
6 outcome of that approach.

7 Q. Okay. So, yes, you could have several --
8 you could have several small storms?

9 A. Small, medium, whatever, yes, absolutely.

10 Q. And in the aggregate?

11 A. Yes.

12 Q. And in that case, you could still -- you
13 could still come in for an Accounting Authority Order,
14 correct?

15 A. Yes. I would assume that would be correct
16 still.

17 Q. Right. But I guess, you know, in theory,
18 if we were to make it contingent on something like the
19 Governor's disaster declaration, then you think that would
20 in most cases protect you from, you know, any sort of
21 catastrophic, you know, when you're trying to recover from
22 some sort of catastrophic loss, because you figure if it's
23 a serious enough problem for the Governor to issue a
24 disaster declaration for an area, then, you know, chances
25 are it's going to be a major catastrophe for you, too,

1 vice versa?

2 A. Yeah. I certainly think that would be a
3 step in the right direction in establishing a tracker.

4 Q. If you don't like -- don't like that
5 concept, I mean, do you have another suggestion for some
6 sort of trigger?

7 A. We have the -- the standard that we use,
8 the IEEE 1366, which is an industry-wide standard that
9 looks at the magnitude of an outage of that and classifies
10 them as major storms, and that might be a good way to
11 measure it as well.

12 Q. So --

13 A. It's a calculation done on customer minutes
14 out on a daily basis.

15 Q. That standard, that doesn't make a
16 distinction between a major storm, say, like the one you
17 had in, was it May 2009 which cost you roughly 7 million,
18 and one in January 2009 that may have cost you 35 or
19 50 million, does it?

20 A. It makes a distinction only in that it will
21 categorize or not categorize a storm -- an event as a
22 major storm. So there's -- and if you look at it on a
23 division basis, it looks at what's the average number of
24 customer minutes out on a given day, and then it takes
25 that data and pushes it pretty far out and says, well, if

1 it's above this number then its a major storm, and it kind
2 of tries to evaluate the real effect on customers and on
3 the system from a given weather event.

4 Q. Okay. So -- so do you think a given number
5 of customers being affected would be a better trigger
6 for --

7 A. We've looked at that in the past, directly
8 customers. The difficulty about that is sometimes the
9 number of customers isn't a direct measure of the damage
10 or the cost that occurred. As we looked in southeast
11 Missouri in January 2009, 37,000 customers in another part
12 of the system could be -- require less investment to
13 recover. So it really depends on the damage in a sense,
14 but --

15 Q. Less than 5 percent of St. Louis County?

16 A. Yeah. I think that's probably right, yes.

17 Q. Okay. So any other suggestions along those
18 lines?

19 A. I think we could use -- we could use the
20 methodology where we collect major event things. I think
21 that's probably one that says it's an abnormal event, it's
22 a storm. There's other storms that we incur on a more
23 regular basis, the smaller ones, but these big ones, if it
24 goes into a -- if it's classified as a major event by that
25 standard that's used throughout, really throughout the

1 industry, I think that's a good approach.

2 Q. And I guess that's what I'm trying to get
3 at, Mr. Wakeman, is there's, you know, a big one and then
4 there's the big one?

5 A. Right. Exactly.

6 Q. Now, I know back in 2006/2007 we had some
7 discussions about, you know, it seemed like there were two
8 or three, quote, big ones --

9 A. Yes, we did.

10 Q. -- right there in a row, and, you know, I
11 do admit that it is -- it is feasible that you could
12 experience two or three of those, quote, big ones in the
13 same year. I'm just trying to figure out how do we -- how
14 do we strike a balance between the year or years where you
15 don't have anything much to speak of and then the year
16 where, you know, you do have one or more big ones that,
17 you know, is three or potentially four times the average
18 amount that you would spend on storm restoration?

19 A. I think that -- that measure that again I'm
20 talking about, IEEE standard, really provides an objective
21 view of what's a major storm. It says -- it's a number.
22 It's either bigger than this number or it's not. And if
23 it exceeds this number, then it's way out in two and a
24 half standard deviations past the average, it's way out
25 there in the curve, and so there's few events. So it's

1 really looking to capture what is really a big deal on our
2 system.

3 Q. Does it measure the size of the storm or
4 measure the amount of damage to the system?

5 A. It really measures ultimately the amount of
6 damage, but it does that through customer minutes out, and
7 it compares them to what the system normally acts like on
8 a normal day and on the small storm day. So it looks at
9 what's -- what's way out there statistically, what's
10 really big, along the words that you were using, what's
11 the really big ones.

12 Q. And Mr. Wakeman, I -- forgive me. I'm just
13 not -- I'm just not sold on that approach, because if you
14 have an extremely reliable system, you know, that's
15 99 percent reliable plus, you know, I'm concerned that,
16 you know, if you're at the circuit level or, you know,
17 it's not going to take much to get two or three standard
18 deviations.

19 A. Okay. I would agree with that. I'm sorry.

20 Q. Go ahead.

21 A. I wouldn't want to do it on a circuit
22 basis. We could do it across the system. There's a lot
23 less than those. You could do it on a per division so
24 you're looking at southeast Missouri as a standalone
25 entity, but not on a per circuit basis.

1 And I think to your other point, though, I
2 think our system is reliable, and I think we do provide
3 good reliable service to our customers if you look at our
4 outage frequency performance and other numbers along those
5 lines. So I think we do have a reliable system, but
6 weather events are still going to impact it outside of
7 that reliability. It's kind of every day reliability, you
8 know, the blue sky kind of minor storm reliability, and
9 then there's these major storms, which are in my view
10 separate instances.

11 Now, to your point, I think is that that
12 data all gets married together to make that analysis. I
13 think if we did it on a per division basis, on a
14 system-wide basis, we would get to your point about just
15 the big ones.

16 Q. All right. Well, and I guess, you know,
17 I'm -- you know, I'm looking for the middle ground here,
18 and I'm having a hard time finding it just because if we
19 use the dollar amount, you know, I'm -- I would be
20 concerned that, I think as Mr. Coffman said earlier, I
21 mean, that gives you sort of an incentive to get -- to get
22 to that dollar amount in order to recover the money. I
23 mean, don't take this the wrong way, please, but do you
24 understand -- do you understand that concern?

25 A. Yeah. I would agree that may not be the

1 best approach.

2 Q. And so I'm looking for some objective,
3 objective criterion, and to me something more like a
4 Governor's disaster declaration seems to be a little more
5 objective than say, well, it meets the IEEE definition
6 standard.

7 A. That's a -- I could see either point, but I
8 would give a lot of credence to the IEEE 1366 standard and
9 being a nationally recognized, nationally used standard
10 for most investor-owned utilities and other entities
11 across -- across the country and throughout the state.

12 COMMISSIONER DAVIS: All right. Thank you,
13 Mr. Wakeman.

14 JUDGE WOODRUFF: Commissioner Gunn?

15 QUESTIONS BY COMMISSIONER GUNN:

16 Q. Most of my questions were asked already,
17 but I have a couple more. Are you still finding when you
18 do the postmortems after each one of the storm reviews,
19 are you still finding enough changes that make
20 significant -- that create significant savings?

21 A. On occasion we do, yes.

22 Q. So let me ask you this. If the storm in
23 January of this year or '09 happens again, exactly the
24 same way, exactly the same scope, would you be able to
25 restore service at -- at a savings than what you did

1 previously?

2 A. I would expect there could be some
3 incremental savings, and those probably would be mostly
4 around logistics and housing and feeding peop -- that's a
5 very difficult situation down there because it's a very
6 remote area. There's not many hotels and places to sleep,
7 and so I think there could be some savings there. I
8 think, to be honest with you, it would probably be
9 incremental, not a huge number.

10 Q. But you wouldn't see an increased cost if
11 it was the same?

12 A. No, I don't think so, not the exact same
13 situation.

14 Q. And pardon my ignorance here. Explain how
15 when you provide mutual aid -- because I know during that
16 storm you cooperated significantly with the coops. In
17 terms of a cost, do you do that at cost for either a
18 utility or a coop or is it a cost plus? Do you make money
19 off of it?

20 A. Right. No. It is at cost, to my
21 understanding. The contracts are -- and most of the time
22 we do mutual assistance with -- we do help coops, but most
23 of the time it's with other investor-owneds, and that's
24 a -- an at cost, all costs included contract, so whether
25 it's coming or going. So if they come on our property, we

1 pay for all their costs, trucks, fuel, all that kind of
2 stuff, and their rates, associated labor rates. And the
3 same goes if we go off property. It's a very good
4 arrangement we have with -- through the -- through EEI,
5 our mutual assistance partners.

6 Q. So it's a wash? There's no offset to any
7 other expenses that you have?

8 A. That's correct.

9 Q. Commissioner Davis asked this similarly,
10 and I apologize for asking this again, but I think it's
11 kind of the crux of some of this. Public Counsel stated
12 both in their main opening and in their opening today that
13 trackers don't give the company the incentive in order to
14 save costs that you would otherwise, and that they have
15 actually been pretty amenable to supporting storm
16 restoration AAOs.

17 And this question was kind of asked, but
18 how would you respond to that? How would you respond to
19 the incentive question where an AAO puts a much greater
20 incentive on saving what costs can be saved rather than a
21 tracker?

22 A. Well, I would say I'm not sure there's a
23 difference because I still think we have a responsibility
24 to make prudent expenditures even during an emergency
25 restoration. So whether it's captured in a tracker or

1 whether it's captured later in an AAO, the same prudence
2 review is appropriate by all parties and we're going to
3 make the same expenditures. It's not about the effort or
4 how much we're going to spend. It's about how we recover
5 and the impact on the company.

6 Q. And the same way we could disallow -- we
7 could disallow imprudent costs under either mechanism?

8 A. I expect you could and should.

9 Q. Just one more question. Do you believe
10 that there are two types of people in this world, those
11 that are Irish and those that wish they were?

12 A. I can agree with that, sir.

13 COMMISSIONER GUNN: I don't have anything
14 further.

15 COMMISSIONER DAVIS: Judge, let me go back
16 and ask a couple more questions.

17 FURTHER QUESTIONS BY COMMISSIONER DAVIS:

18 Q. Southeast Missouri ice storm January 2009,
19 you pretty much restored all service within two weeks, did
20 you not?

21 A. I believe it was nine days, yes, sir.

22 Q. Okay. Do you recall how long the coops had
23 customers out down there?

24 A. My understanding is up to four weeks.
25 I've heard stories of longer periods, but I couldn't

1 substantiate those.

2 Q. Right. And municipals like Kennett, et
3 cetera, also had people out for longer than AmerenUE?

4 A. That's my understanding, yes, sir.

5 Q. It wouldn't surprise you to know that I had
6 customers of municipal systems down there calling, saying
7 how do I get on Ameren?

8 A. Wouldn't surprise me.

9 COMMISSIONER DAVIS: Thank you.

10 THE WITNESS: You're welcome.

11 JUDGE WOODRUFF: Commissioner Kenney had
12 sent me some questions. They've already been asked, so I
13 won't repeat them. We will go to recross. Anyone wish to
14 recross? Begin with Public Counsel.

15 RE-CROSS-EXAMINATION BY MR. MILLS:

16 Q. Mr. Wakeman, has AmerenUE done focus groups
17 to try to get to customers' desires with respect to the
18 balance between rates and reliability?

19 A. I don't know the answer to that. I'm not
20 sure.

21 Q. You're not aware of any?

22 A. No, I'm not.

23 Q. How did you as vice president over this
24 area determine the amount of money to spend on reliability
25 improvements and how that's going to relate to rate

1 increases?

2 A. Okay. Well, I'm given a budget each year,
3 and there's two types of work that I consider in that
4 budget. Some is work that absolutely has to be done, and
5 some is work on reliability investments that we want to do
6 and we should do, it's the right thing to do for
7 customers. So I take that money that I'm given each year
8 and divide it among those projects and fund all the
9 projects in the order that's appropriate to do the most
10 work we can for that investment.

11 Q. And in the long term, if you don't spend
12 the money that's in that second bucket, will rates tend to
13 go up less than they would otherwise if you did spend all
14 that money?

15 A. I suppose that's true. However, I think
16 that those are wise and prudent investments to make for
17 the good of our system and our customers.

18 Q. Do you consider those discretionary
19 investments?

20 A. There's some discretion around those, yes.

21 Q. And how do you decide how many of those to
22 do? Do you consider rate impact in making your decisions?

23 A. I make my decisions based on the budget
24 that's -- that's given to me by Mr. Baxter and others in
25 AmerenUE.

1 Q. So with respect to that second bucket, you
2 spend that all regardless because it's in your budget; is
3 that what you're saying?

4 A. I can -- yes, but I can tell you that I
5 have more projects than I'm able to fund, and so I would
6 like -- if I had more money, I could make additional
7 prudent investments to improve service to our customers.

8 Q. So let me back up to that second bucket,
9 which I think you've agreed is a discretionary investment.
10 It's not your testimony that you can either spend that or
11 not spend it, it's a question of where you spend it; is
12 that correct?

13 A. Where I spend, it's a discretion,
14 absolutely, and -- but I think it's appropriate to spend.
15 I think we need to continue to make those investments in
16 our system to maintain and improve reliability.

17 Q. Now, you went through sort of from the
18 period of time of 2004 to the present, you went through
19 with Commissioner Clayton sort of an overview of the
20 amount of money you've spent on storm restoration since
21 2004. Have you made -- and I know you've characterized
22 this as a -- as a period of constant improvement. Have
23 you made sort of revolutionary changes in the way that you
24 manage storm restoration or have they been more
25 evolutionary?

1 A. I guess by the nature of which we make
2 them, I would have to characterize them as evolutionary
3 because, after each event, we review how things went and
4 what opportunities we have to make improvements. So I
5 would, I guess, consider that evolution. But when you
6 look at where we've come from in past years, many, many
7 years ago 'til today, there's -- we're significantly
8 different.

9 Q. Let me ask it a different way because I
10 think -- I think we're in agreement here. I just want to
11 be clear. Have you -- are there areas in which you've
12 decided to do things completely differently than you did
13 back then or have you simply found ways to do the same
14 sorts of things better?

15 A. Both occurred. We absolutely do things
16 totally different than we've done them in the past, and we
17 found many ways to make incremental improvements in other
18 areas.

19 Q. What are some things that you do that are
20 completely different?

21 A. Some of the things I mentioned is the
22 mobile storm trailers that are prestocked and prestaged
23 throughout the state. So we have a capability within a
24 matter of hours to move large amounts of materials into a
25 damaged area. That's a huge advantage for restoration.

1 Q. And when did you implement that procedure?

2 A. I would say we started that in the -- right
3 after the 2006 storms.

4 Q. Now, you were asked this question and I'm
5 not sure that I understand the answer. So can you explain
6 to me, how does a tracker mitigate regulatory lag better
7 than an Accounting Authority Order?

8 A. I can give you my same answer that I gave,
9 and -- and maybe if you would want to address that
10 question to Lynn Barnes more directly, she may give you
11 additional insight.

12 Q. If you're going to give me the same answer,
13 then let's not bother. I'll ask a different question.

14 Do rates change outside of a rate case with
15 a tracker?

16 A. No, I don't believe so.

17 Q. Okay. Do they change outside of a rate
18 case with an Accounting Authority Order?

19 A. No.

20 Q. So in either circumstance, you have to wait
21 'til the rate case following the event to recover costs
22 associated with that event; is that correct?

23 A. That's my understanding, yes, sir.

24 Q. Now, with respect to the -- the list of
25 statements that Commissioner Davis asked you, is it your

1 sworn testimony that UE has little influence over cost
2 levels for storm restoration?

3 A. No, that's not my testimony.

4 Q. Okay.

5 A. My testimony would be that we have no
6 influence over the damage essentially that occurs as a
7 result of a storm. We have influence over the cost, but
8 we have a responsibility to our customers to make -- to
9 perform restoration efforts that are prudent and as quick
10 and safe as possible.

11 Q. And so in that exercise of prudence you
12 talk about, that's where you exercise the influence over
13 those costs?

14 A. Yes.

15 Q. You could conceivably spend a great deal
16 more in storm restoration if you did not prudently manage
17 those; is that true?

18 A. I suppose that's true, yes.

19 Q. Now, you had some discussion with
20 Commissioner Davis about a two-way tracker. Can you
21 explain to me how you use the term two-way tracker?

22 A. What I understand a two-way tracker, how it
23 would work is at the end of a -- the end of a period, a
24 year, we would have the amount that goes into the tracker
25 collected for storm restoration, and we would compare that

1 to the amount in base rates. And if we overcollected,
2 then we would return that to customers during the next
3 rate case, as you just spoke of, and if we undercollected,
4 then we would expect to receive that back from customers
5 during the next rate case in some fashion.

6 Q. And is that your proposal in this case for
7 storm costs?

8 A. Yes.

9 Q. Now, the way the two-way tracker works,
10 what do shareholders get if you come in below the base
11 level?

12 A. I'm not sure I can answer that exactly.

13 Q. Can you think of any benefit that the
14 shareholders would get if you come in below the base
15 level?

16 A. I suppose we have that overcollection
17 amount for that period until we're trued up at the end of
18 the collector, at the end of the tracker.

19 Q. In your proposal would there be interest
20 awarded on that to customers for the amount of time that
21 the company held it?

22 A. I'm not sure the answer to that question.

23 Q. Do you think it would be fair to afford
24 ratepayers interest on monies that they provided more or
25 less in advance that you-all don't end up using?

1 A. I don't really know what the history or the
2 approach has been on those kind of issues. I would be --
3 not really able to answer that.

4 Q. Well, let me give you a hypothetical. Say
5 you've got a charge account at a grocery store and you pay
6 in advance for a year and you true up at the end of the
7 year. Would you expect the grocer to -- to not credit you
8 some amount for the amount of time that he's kept your
9 money?

10 A. I would expect that would be the case.

11 Q. Would you expect that you would get some
12 interest?

13 A. No. I'd expect I wouldn't. That's not
14 what I would expect if I would have a charge account at a
15 grocery store.

16 Q. But you paid in advance?

17 A. Right.

18 Q. You wouldn't expect someone to credit you
19 for paying in advance?

20 A. No. I'm not saying I wouldn't want it, but
21 I wouldn't expect it to happen.

22 Q. Now, envision a situation in which you
23 don't have a two-way tracker, but that you have simply an
24 amount of storm expense in base rates, and if you spend
25 less than that -- in my hypothetical, assume that you do

1 spend less than in a given year. What do shareholders get
2 in that situation?

3 A. Where there's no tracker and we spent less
4 than in base rates?

5 Q. Yes.

6 A. They get additional revenue.

7 Q. Is that a more beneficial outcome to them
8 than perhaps the time value of money of the same amount of
9 revenue?

10 A. I'm not sure of the answer to that
11 question.

12 Q. Let me -- let me put some numbers in and
13 see if I can help you out. Say you've got a base amount
14 of \$10 million and you spend only \$8 million in that given
15 year. In that situation, without a tracker, what do the
16 shareholders get?

17 A. The \$2 million.

18 Q. If there is a tracker, what do shareholders
19 get?

20 A. The \$2 million for the short term until
21 it's trued up.

22 Q. So whatever the value is of holding that
23 \$2 million for a period --

24 A. Right.

25 Q. -- and then giving it back?

1 A. That's fair. Yes.

2 Q. Isn't it always going to be the case that
3 that is less value to the shareholders than actually
4 getting the entire \$2 million?

5 A. Sure.

6 Q. Okay. Do you have a fiduciary duty to
7 maximize return to shareholders?

8 A. Yes.

9 MR. MILLS: That's all the questions I
10 have. Thank you.

11 JUDGE WOODRUFF: Staff?

12 RE-CROSS-EXAMINATION BY MS. OTT:

13 Q. Mr. Wakeman, I just have a few questions.

14 A. Okay.

15 Q. Are you aware of a time where the
16 Commission has denied an AA -- Accounting Authority Order
17 for storms?

18 A. I am not.

19 Q. Okay. I'm going to go to when Commissioner
20 Davis was talking about customers being unhappy when
21 there's an outage. I think everyone can agree customers
22 are not happy when their lights go out for a period of
23 time, but would you agree that UE still has to act
24 prudently with its efforts to restore -- to restore after
25 a storm regardless of how angry a customer is?

1 A. Oh, absolutely, yes.

2 Q. And then also in regards to some questions
3 that Commissioner Davis was asking, is this issue about
4 capital investment?

5 A. For the tracker?

6 Q. Yes.

7 A. No. It's about O&M expense.

8 Q. So much of the expense that Commissioner
9 Davis was talking to you about earlier is already included
10 in rate base?

11 A. Which expense would you be referring to?

12 Q. The capital investment portion, not the O&M
13 expenses.

14 A. Right. It depends on the particular storm
15 that we would be discussing.

16 Q. But in your chart on page 14, it shows that
17 the majority of the expenses that UE incurs are capital
18 costs, not O&M costs, correct?

19 A. Yes. The majority, but if you look in
20 2007, I'd say it's barely a majority, but a majority.

21 Q. But overall?

22 A. Yes.

23 Q. And that capital cost is in rate base in
24 this case, correct?

25 A. Yes.

1 MS. OTT: I have no further questions.

2 JUDGE WOODRUFF: MIEC?

3 MR. ROAM: Just a couple.

4 RE-CROSS-EXAMINATION BY MR. ROAM:

5 Q. I just wanted to follow up on a couple
6 statements that you made just to understand, and one is, I
7 believe you said that it wouldn't make a difference in
8 your restoration efforts whether there was a tracker or
9 whether you had to seek an AAO; is that right?

10 A. That's right.

11 Q. So a tracker, the establishment of a
12 tracker is not going to help your -- or is not going to
13 alter your storm restoration efforts --

14 A. No.

15 Q. -- one way or another?

16 Okay. And then another statement, you said
17 you have more reasonable and prudent projects that you
18 could perform if you had a bigger budget --

19 A. Yes.

20 Q. -- something to that --

21 A. Yes.

22 Q. Isn't that always the case?

23 A. I expect it -- there could become a time
24 where you've invested, you've done all the prudent
25 projects, but it's been the case for some time for us, and

1 if I had additional monies now, we could make additional
2 investments to benefit customers and improve reliability.

3 Q. But isn't -- isn't -- I mean, isn't that
4 sort of a -- isn't -- doesn't that go off into infinity?
5 I mean, you can always -- if you have a bigger budget,
6 there's always going to be more projects that will be
7 reasonable and prudent based upon the larger budget. So
8 part of the reasonableness and prudence of your decisions
9 are based on how much money you have, so if you have a
10 million dollars it might be prudent to buy a nicer car
11 than if you have, you know, \$100,000, and that nicer car
12 would still be prudent, but it wouldn't be prudent if you
13 had 100,000, right?

14 A. That's correct.

15 Q. So that could go on indefinitely?

16 A. Okay.

17 MR. ROAM: Okay. No further questions.

18 JUDGE WOODRUFF: Redirect?

19 REDIRECT EXAMINATION BY MS. TATRO:

20 Q. Mr. Wakeman, I believe the first question
21 asked to you by Staff was something along the lines of
22 what Commissioner ever stood up at a public proceeding and
23 said that storm restoration had to be done immediately.
24 Do you remember that conversation?

25 A. I do.

1 MS. TATRO: And I apologize. I don't have
2 copies of this with me because I had no intention of
3 offering the exhibit, so I'll have to do that afterwards.

4 JUDGE WOODRUFF: Okay.

5 (EXHIBIT NO. 171 WAS MARKED FOR
6 IDENTIFICATION BY THE REPORTER.)

7 BY MS. TATRO:

8 Q. Mr. Wakeman, I've handed you a Data Request
9 that's been marked Exhibit 171. What's the Data Request
10 number?

11 A. MPSC 0188.

12 Q. And who was it asked by?

13 A. Steve Rackers.

14 Q. And can you tell me who answered that Data
15 Request?

16 A. Ron Zdellar did.

17 Q. Are you familiar with that Data Request?

18 A. I am.

19 Q. All right. And part 2 of the Data Request
20 answer, I think it starts on page 2 -- actually, I want
21 you to turn to page 3, which is the last page of that Data
22 Request answer.

23 A. Okay.

24 Q. Does it list various Commissioners and
25 statements they made at various public forums about

1 AmerenUE's storm restoration?

2 A. Yes, it does.

3 Q. Specifically, do you see a comment made by
4 Commissioner Murray in Case EO-2007-0037? I think it's at
5 the top of the page on page 3.

6 A. Yes, I do. Yes. Couldn't find the name.
7 Yes.

8 Q. Okay. And after that there is a statement
9 made by Commissioner Gaw in the same docket?

10 A. That's correct.

11 Q. And under that there's another comment made
12 by Commissioner Appling?

13 A. Yes.

14 Q. He was talking to Mr. Zdellar, told him to
15 fix it?

16 A. Yes, that's correct.

17 Q. Then below that, referencing Docket
18 EX-2008-0232, do you see a quote that is from then
19 Commissioner Clayton from his dissent in that rulemaking?

20 A. Yes, I do.

21 MS. TATRO: I'm going to offer this into
22 the record. I realize that counsel hasn't had an
23 opportunity to look at it, so if I can give that to them.

24 JUDGE WOODRUFF: 171 has been offered. I'm
25 assuming since nobody -- opposing counsel hasn't had a

1 chance to see it yet, they may want to reserve time to
2 object?

3 MR. MILLS: I would, thank you.

4 JUDGE WOODRUFF: All right.

5 COMMISSIONER KENNEY: Could we get a copy
6 of it, Judge?

7 JUDGE WOODRUFF: Yes. I'm assuming you'll
8 get a copy for the Commissioners as well.

9 MS. TATRO: Yes, I will. I'll get a copy
10 for everyone as soon as I possibly can.

11 JUDGE WOODRUFF: I'll defer ruling on its
12 admissibility, then.

13 MS. TATRO: Thank you.

14 BY MS. TATRO:

15 Q. Now, after that question, she -- let's see,
16 Staff attorney talked to you about the storm in May of '09
17 and the fact that there was a million dollars in O&M in
18 that storm. Do you remember that?

19 A. I do.

20 Q. Is that the only major storm restoration
21 expense AmerenUE experienced in 2009?

22 A. No, it's not.

23 Q. What other experience -- what other storm
24 was --

25 A. The January ice storm.

1 Q. And how much O&M was involved in that one?

2 A. I believe it was \$7.8 million.

3 Q. And how much O&M is -- how much is the
4 storm restoration cost for O&M in UE's rates coming out of
5 last rate case?

6 A. The number in base rates is \$5.2 million.

7 Q. So in calendar year '09, did AmerenUE spend
8 more or less than what would have been in rates?

9 A. More.

10 Q. Ms. Ott asked you several questions
11 relating to performance after a storm and customer
12 satisfaction and whether or not that was reason to justify
13 the tracker. Do you remember that conversation?

14 A. I do.

15 Q. Is AmerenUE requesting the tracker because
16 it got an award from EEI or because its customers are or
17 aren't happy with it?

18 A. Absolutely not. Those are independent
19 considerations. The tracker's a financial tool or
20 situation, and customer service, responding to storms is a
21 wholly different event or situation.

22 Q. Well, why is -- why is AmerenUE asking for
23 the tracker?

24 A. Well, because storms are highly variable.
25 They have impacted our service territory a number of times

1 over the last years as you can see in my rebuttal
2 testimony graph from the expenditures. It's immediate
3 damage to our system. Requires immediate investment for
4 the good of the customer in order to restore service, and
5 those costs have been much above what's been in base rates
6 a number of times, as evidenced by the numerous Accounting
7 Authority Orders that have been used in recent years.

8 And the ability to change the amount in
9 base rates which we've asked for and then include a
10 tracker will allow us to more appropriately handle these
11 costs in future storm events.

12 Q. And, in fact, you're requesting that the
13 Commission significantly change the amount that's in the
14 base in the revenue requirement or base rates as we've
15 been saying, correct?

16 A. That's correct.

17 Q. What -- what is that amount you're
18 requesting?

19 A. It is \$10.4 million.

20 Q. And you said it was 5. something that's
21 currently in rates?

22 A. That's correct, 5.2.

23 Q. After Ms. Ott, the attorney for MIEC
24 cross-examined you and talked about improvements in
25 vegetation management and how that does or does not impact

1 storm damage. Do you remember that conversation?

2 A. I do.

3 Q. And I believe you also had a similar
4 conversation with Commissioner Davis?

5 A. Yes.

6 Q. Is storm damage limited to limbs that
7 haven't been trimmed recently?

8 A. Absolutely not. Storm damage can occur in
9 a number of fashions depending on the weather event. If
10 we're talking about a windstorm, it can occur from
11 branches that fall out of trees, from branches that blow
12 from neighboring trees that would never be trimmed. Whole
13 trees are typically uprooted and blown into facilities,
14 and sometimes facilities like billboards or other customer
15 equipment or sheds or things blow into our facilities. So
16 there's a lot of different things that occur that cause
17 storm damage.

18 Q. Would that same general be true for ice
19 damage with ice storm?

20 A. Yes. Ice storms, significantly different
21 weather event. Certainly some damages from trees falling
22 into them, limbs and whole trees falling into the wires,
23 but if you look at the ice storm in southern Missouri in
24 2009, that's an event that had so much mechanical loading
25 from the weight of the ice that the facilities are damaged

1 by just the weight of the ice without any trees involved.

2 Q. The storm that damaged UE's facilities in
3 January of 2009, are there a lot of trees in that area of
4 UE's territory?

5 A. No. I would say for our service territory,
6 that's one of the more sparsely vegetation areas, sparsely
7 populated vegetation areas of our service territory.

8 Q. Then a little while later you and
9 Commissioner Davis had a rather lengthy discussion about
10 potential alternative ways to trigger a tracker. Do you
11 recall that conversation?

12 A. I do, yes.

13 Q. Would -- and he mentioned the Governor
14 issuing an emergency declaration as one possibility.
15 Would you be -- and you had indicated, I believe, in your
16 answer that you were unfamiliar whether it had -- one of
17 those had been issued each time you'd had one of these
18 major storms. Would that be something you'd be willing to
19 put together and provide to the Commission if they so
20 desire?

21 A. Absolutely, yes, we would be more than
22 willing to research that data.

23 Q. And would you be willing to put together a
24 supplemental filing that might look at other options which
25 could be a trigger to look for this middle ground for

1 which Commissioner Davis was searching?

2 A. Yes. Yes, I would.

3 Q. Could a possible trigger be when you call
4 in outside assistance?

5 A. It's a possible trigger, sure.

6 Q. On redirect, Mr. Mills asked you if UE had
7 done focus groups to talk about the balance between rates,
8 what customers are willing to pay in rates versus
9 reliability, and you indicated you weren't familiar with
10 those?

11 A. That's correct.

12 Q. Does that mean it's not being done at UE?

13 A. No, it doesn't mean that at all. I'm just
14 not specifically aware, and I wouldn't want to make a
15 statement that I'm not 100 percent sure of.

16 Q. Who would be the individual who would know
17 the answer to that question?

18 A. Richard Mark may know the answer to that.

19 Q. Mr. Mills also ask you about the difference
20 between a tracker and the AAO, pointing out that rates
21 can't change outside of a rate case with either mechanism.
22 Do you remember that conversation?

23 A. Yes, I do.

24 Q. Is the only change you're requesting is the
25 two-way tracker, or are you requesting an additional

1 change from the Commission in how they base -- in the
2 revenue requirement they base storm costs, storm
3 restoration costs?

4 A. We're asking for an increase in the amount
5 in base rates in addition to a tracker. So we've looked
6 at this storm cost a number of different ways, and the
7 Staff has looked at it in some ways and other parties in
8 the case, and there's a -- coming to that base rate number
9 has been done in several fashions. The number we asked
10 for, which is what occurred in the test year, other
11 parties have suggested you take out extraordinary events
12 and then you average the remaining numbers. The events
13 are extraordinary in their -- in the weather that -- in
14 the damage that this caused, but they're not extraordinary
15 in the fact that if you look at the graphs, they're
16 becoming quite ordinary and -- and occur year after year.

17 And so I think that looking at another
18 mechanism to come up with a number that's more appropriate
19 in base rates is -- is the right way to go, and I think
20 10.4 million is an appropriate number.

21 Q. Mr. Mills also discussed with you about
22 whether or not you have influence over costs when you're
23 restoring after a storm damage. Do you recall that
24 question?

25 A. Yes, I do.

1 Q. Is UE able to put off restoration efforts
2 because it needs to wait for a month that it has a better
3 cash flow?

4 A. Absolutely not, no. We can't do that.
5 It's important to customers, it's important to our
6 communities we serve that we restore service as quickly as
7 possible. There's a lot of side effects from power
8 outages, and so we act very aggressively and very quickly
9 to move as many appropriate resources and materials and
10 different things into the damaged area to restore
11 customers safely and as quickly as possible.

12 Q. So when you say that UE has to spend
13 prudently, is it a matter of degree? Is it the difference
14 between the word influence and the word control of those
15 costs?

16 A. I think both occur. I think we have -- we
17 have an influence in that we certainly make the decisions
18 that -- and ultimately of control. We're making the
19 decisions on what resources to bring in. But I'm
20 confident in what we've done in the past and what we will
21 continue to do to make the appropriate prudent
22 expenditures to restore customers.

23 Q. But if a pole is snapped, such as what
24 happened in the January '09 ice storm, UE has no control
25 over whether or not it has to put those poles back up,

1 does it?

2 MR. MILLS: I object. That's leading.

3 JUDGE WOODRUFF: I'll sustain it.

4 MS. TATRO: I'll rephrase.

5 BY MS. TATRO:

6 Q. In the ice storm that occurred in January
7 of '09, did UE have control over whether or not it
8 restored the poles that had been broken?

9 A. No, we have no control over the damage that
10 occurs and -- nor the fact that we have to restore the
11 service to those customers. That's our obligation and our
12 responsibility and, frankly, our desire.

13 Q. And does the damage that occurs have a
14 great deal to do with the amount of money you need to
15 spend in order to restore service to customers?

16 A. The damage, yes. The damage is the driving
17 factor of the cost of the storm and comes from the weather
18 event as a direct -- direct impact.

19 Q. All right. Mr. Mills also asked if your
20 two-way tracker paid interest to customers in the event
21 that the company overcollected. Do you recall that
22 question?

23 A. I do recall that, yes.

24 Q. Presuming for a moment that interest was to
25 be paid back to customers, in a two-way tracker would

1 interest be paid to the utility in the event that it
2 undercollected?

3 A. I would expect it would if we were going to
4 enter -- use that kind of a mechanism to account for
5 interest of the time value of that money, then we would do
6 it in both directions, being a two-way tracker.

7 MS. TATRO: Thank you, your Honor.

8 JUDGE WOODRUFF: All right. Thank you.
9 You can step down.

10 (Witness excused.)

11 JUDGE WOODRUFF: We're due for a break.
12 Let's take about a ten-minute break. We'll come back at
13 10:15.

14 (A BREAK WAS TAKEN.)

15 JUDGE WOODRUFF: Welcome back from break,
16 and while we were on break Mr. Meyer has taken the stand.
17 He'll be the next witness. Please raise your right hand.

18 THE WITNESS: I've already been sworn.

19 JUDGE WOODRUFF: Pardon me?

20 THE WITNESS: I was already sworn in
21 yesterday.

22 JUDGE WOODRUFF: That's right. You're
23 still under oath. I believe you also heard my little
24 speech several times about only answering the questions
25 that are asked rather than elaborating unless you're asked

1 to do so.

2 THE WITNESS: Yes.

3 JUDGE WOODRUFF: Thank you. You may
4 inquire.

5 GREG MEYER testified as follows:

6 DIRECT EXAMINATION BY MR. ROAM:

7 Q. Mr. Meyer, you testified yesterday. You're
8 the same Greg Meyer that testified yesterday, correct?

9 A. Yes, I am.

10 Q. And you filed -- prefiled direct and
11 surrebuttal testimony in this case, and that was marked
12 as, and admitted as Exhibits 400, 401 and 402; is that
13 correct?

14 A. That's correct.

15 Q. Are there any portions of that testimony
16 that you would change today?

17 A. No.

18 MR. ROAM: At this time I would tender the
19 witness for cross-examination.

20 JUDGE WOODRUFF: Thank you. For cross, we
21 begin with Public Counsel.

22 MR. MILLS: No questions.

23 JUDGE WOODRUFF: For Staff?

24 MS. OTT: No questions.

25 JUDGE WOODRUFF: For AmerenUE?

1 MS. TATRO: Thank you.

2 CROSS-EXAMINATION BY MS. TATRO:

3 Q. Good morning, Mr. Meyer.

4 A. Good morning.

5 Q. I'd like to start by discussing AmerenUE's
6 storm restoration efforts. Do you have an opinion on the
7 quality of UE's storm restoration efforts?

8 A. No.

9 Q. Are you the only witness for MIEC
10 testifying on the issue of the storm restoration cost and
11 the tracker?

12 A. I would reserve the right for Mr. Gorman to
13 talk about cash flow. But besides that, no, I'm the only
14 one.

15 Q. And are you recommending any disallowance
16 of AmerenUE's expenditures on storm cost restoration --
17 storm restoration costs? Sorry.

18 A. In relation to what time period?

19 Q. The test year or the updated test year.

20 A. I'm recommending that the level that's
21 established in rates currently be continued to be
22 implemented. So to the extent that -- to the extent that
23 the test year had an amount over and above the amount
24 that's been established in rates from the prior case, that
25 would be an adjustment.

1 Q. All right. Are you making the allegation
2 that any expenditure that UE made in its storm restoration
3 costs was imprudent?

4 A. No.

5 Q. Thank you. In your direct testimony -- you
6 have that with you?

7 A. Yes, I do.

8 Q. On page 27, you discuss the fact that since
9 rates have gone into effect from the last rate case, there
10 was one major storm, the May 2009 storm. Do you see that
11 portion of your testimony?

12 A. Are you referring to lines 4 through 7?

13 Q. Yes, I am.

14 A. Yes.

15 Q. Okay. If you look at calendar year 2009,
16 that's no longer a true statement, correct?

17 A. No. This statement is still true.

18 Q. All right. Let me ask you this way. In
19 calendar year 2009, how many major storms has AmerenUE had
20 impact its system?

21 A. Two.

22 Q. When were those storms?

23 A. January 27th and May 8th.

24 MS. TATRO: I have no further questions.

25 COMMISSIONER KENNEY: You said calendar

1 year 2009. Did you say calendar year 2009?

2 MS. TATRO: Yes.

3 COMMISSIONER KENNEY: Okay. Never mind.

4 JUDGE WOODRUFF: That completes
5 cross-examination. Then we'll come up for questions from
6 the Bench. Commissioner Davis?

7 QUESTIONS BY COMMISSIONER DAVIS:

8 Q. Good morning, Mr. Meyer.

9 A. Good morning, Mr. Davis.

10 Q. Did you recall my questioning of
11 Mr. Wakeman regarding some sort of a -- a trigger
12 mechanism for a tracker to actually go into effect so it
13 wouldn't just -- wouldn't just be a complete tracker but
14 it would only be a tracker for, you know, I guess as I
15 described it to Mr. Wakeman, the really big storm, the big
16 one? Were you listening in on that?

17 A. I was listening.

18 Q. Okay. Do you have any -- any -- what are
19 your impressions of that concept?

20 A. Well, I think as you -- as you gleaned from
21 my direct testimony and my surrebuttal, I'm primarily
22 opposed to trackers, and so -- and the reason I am, one of
23 the reasons is I believe that what you've done when you do
24 a tracker is you really established a preapproval of
25 expenses.

1 And I believe that the current situation
2 that you have or that the Commission's -- the mechanisms
3 that the Commission has at its disposal where it
4 recognizes AAOs, where the company can file for an AAO and
5 receive the recognition for that at a later rate case or
6 the opportunity for that recognition is a better mechanism
7 because it -- it continues to take into effect and it
8 requires an examination of all the relevant factors.

9 Q. Okay. So the difference between a tracker
10 and AAO is preapproval of expenses?

11 A. That's one of them. I believe that's --

12 Q. Would you agree that that's the most
13 significant one, the predominant factor?

14 A. Well, it's -- I don't want to miss -- or
15 mislead you here. I think the AAO does give you
16 preapproval -- I'm sorry. The tracker does give you
17 preapproval. The AAO still allows a party to challenge
18 the recovery of those costs because of when they -- of a
19 review of all relevant factors. For instance, if they had
20 an extraordinary gain during that time, a party would be
21 able to argue that -- that rates should not be adjusted
22 for recognition of that storm because there's -- there's
23 other factors out there that would offset those costs.

24 Q. Do you know, does Ameren have any kind of
25 storm insurance where they could -- it's not like

1 homeowners insurance where your roof gets blown off, you
2 can get a new roof, pays for it?

3 A. I'm not aware that they have insurance. I
4 didn't investigate that area.

5 Q. So you don't know?

6 A. No.

7 Q. You did obviously review Mr. Wakeman's
8 testimony?

9 A. Yes, I did.

10 Q. And you've made adjustments, but certainly
11 does appear that in three of the last four years, that if
12 you just look at Mr. Wakeman's chart on page 14 of his
13 rebuttal testimony, it certainly appears that they have
14 incurred significant expenditures above the baseline?

15 A. Just so we're clear, are we on page 14?

16 Q. Page 14 of Mr. Wakeman's rebuttal
17 testimony. I mean, what's the number that -- that you and
18 Staff are advocating for?

19 A. I don't believe we're both advocating for
20 the same number.

21 Q. Oh, you're not?

22 A. No. I'm proposing that the level that you
23 established in the last case, the total level of expenses
24 is sufficient for -- to continue going into the future,
25 because since rates have been established in this case in

1 March you've only -- the company's only experienced one
2 storm, the storm that you discussed with Mr. Wakeman.

3 Q. Right.

4 A. So there's -- there's still a pot of
5 money -- or there was a pot of money.

6 Q. Right. But obviously looking at
7 Mr. Wakeman's -- we set that amount of money in March '09
8 roughly. I mean, looking at this chart, I mean, the 2009
9 number certainly exceeded that amount, didn't it?

10 A. Well, I mean, just so we're clear, this is
11 both capital and O&M.

12 Q. Okay.

13 A. And so the -- the O&M is 13 million. The
14 capital is 74 million. And I think what needs to be
15 discussed here is that when you're talking about the
16 capital expenses, those -- those capital expenses are the
17 new dollars associated with the -- with the -- we use the
18 example poles, that I put a new pole in, but --

19 Q. That would go in -- that would go into rate
20 base?

21 A. Right. But I took somebody -- I took one
22 out. So there's already depreciation. So really the
23 difference in the 74 million is the incremental difference
24 in the cost of the pole, because you've already got a pole
25 in rate base, and if it gets snapped and you want to put

1 another one in, it's just the incremental difference and
2 the incremental difference in depreciation that would
3 create the regulatory lag. Nothing else. Because you're
4 already paying for the pole that was sitting there.

5 So these -- I mean, I'm not going to
6 quarrel with Mr. Wakeman about these levels, but these
7 levels are certainly -- these can be misleading when you
8 want to look at what the true financial impact is on these
9 storms.

10 Q. Okay. I'm -- I think I'm -- I think I'm
11 getting your point here. So you've got the pole that's
12 already in rate base that's being depreciated out, and
13 storm, pole gets snapped, you put a new pole up, and the
14 difference is the increment?

15 A. Correct. These are total.

16 Q. Right. These are -- these are -- these are
17 total expenditures?

18 A. And total capital.

19 Q. And -- and total capital. Okay. So some
20 adjustment needs to be -- would need to be made there,
21 correct?

22 A. It's -- if you just wanted -- I mean, I
23 guess what -- to make it clear again, what we want -- I
24 think what you'd be interested in measuring is what's the
25 incremental change in your capital, not what's your total

1 change.

2 Q. Well, you've got the incremental change in
3 your capital and then the incremental change in your O&M
4 expenses?

5 A. Over what's established in rates.

6 Q. Over -- over what's established in rates?

7 A. That's my position.

8 COMMISSIONER DAVIS: Commissioner Kenney,
9 do you have any questions?

10 COMMISSIONER KENNEY: Actually, I
11 don't. Thank you.

12 BY COMMISSIONER DAVIS:

13 Q. Okay. Mr. Meyer, I'm going to go back and
14 I'm going to ask you about your position on coal plant
15 maintenance, if that's all right.

16 A. I didn't bring that material with me, but
17 I'll try.

18 Q. That's all right. This is -- your approach
19 on coal plant maintenance was on a plant by plant basis?

20 A. Well -- I'm sorry. I didn't mean to
21 interrupt.

22 Q. Was that -- was that not?

23 A. After the surrebuttal testimony, I mean --
24 I'm sorry. After the rebuttal testimony of the company, I
25 filed surrebuttal that went into a specific analysis of

1 power production maintenance expense on a plant by plant,
2 and on a -- trying to establish a base level or routine,
3 and then an incremental portion that's associated with
4 scheduled outages.

5 Q. Okay. Whereas Ameren's approach just sort
6 of lumped everything into one pot?

7 A. I don't want to speak for Ameren, but I'll
8 give you what my impression was.

9 Q. Give me your mental impression of their
10 approach.

11 A. They looked at the test year and they said,
12 we're looking at the test year and we're looking at the
13 budgeted amounts we have going forward, and the test year
14 level is reasonable. And my position is, you've got an
15 extended period of time for some of these plants between
16 scheduled maintenance, scheduled outages, and therefore
17 you need to do a -- what I call a normalization process
18 for those expenses, and my normalization process was --
19 amounted to \$104.6 million per year.

20 Q. Now, just my impression is that your
21 approach is analogous to a life span approach, and
22 Ameren's approach on the coal plant maintenance issue is
23 more analogous to the mass plant approach. Is that a fair
24 impression?

25 A. You know, I sat in here last night back

1 there, so I -- but I couldn't tell you if that comparison
2 would work or not. So I -- I just don't know.

3 Q. You just don't know?

4 A. No. I wouldn't even want to venture an
5 opinion on that one.

6 Q. You don't want any more of that action?

7 A. I heard enough of it last night.

8 COMMISSIONER DAVIS: I don't think I have
9 any other questions of Mr. Meyer. Thank you.

10 THE WITNESS: Thank you.

11 QUESTIONS BY JUDGE WOODRUFF:

12 Q. Mr. Meyer, I do have one question. It's
13 about how a tracker would work. Would the Commission
14 still have to approve the recovery of tracked expenses in
15 the next rate case or would it be an automatic recovery?

16 A. My interpretation is once you establish a
17 tracker, you would have to -- you would have to
18 acknowledge recovery of that expense in the next case.

19 Q. Can the Commission design a tracker in any
20 way it wanted to?

21 A. Well, if you do that, there's no difference
22 between that and an AAO. I mean, if you --

23 Q. That's my question. What is the difference
24 between an AAO and a tracker?

25 A. That's what I was -- I think it's a

1 preapproval of expenses.

2 Q. Would it have to be a preapproval?

3 A. Well, again, I would come back to if -- if
4 that was your -- if you were going to put that caveat into
5 it, then I would suggest that you would just stay with the
6 AAOs because then parties can look at all relevant
7 factors.

8 Q. AAOs can be made both ways as well, can
9 they not?

10 A. Absolutely. We've attempted in past cases
11 to use the AAO methodology for complaint cases.

12 JUDGE WOODRUFF: Okay. That's the only
13 questions I have. Recross based on questions from the
14 Bench? I see lots of shaking heads. Redirect?

15 MR. ROAM: I have nothing. Nothing
16 further.

17 JUDGE WOODRUFF: All right. Then you can
18 step down.

19 (Witness excused.)

20 JUDGE WOODRUFF: And the next witness was
21 Mr. Rackers. And Mr. Rackers, you are still under oath.

22 THE WITNESS: Yes.

23 JUDGE WOODRUFF: I'm sure you've heard my
24 speech also about only answer the questions that are asked
25 and don't elaborate.

1 THE WITNESS: Yes, I did.

2 JUDGE WOODRUFF: Thank you. You may
3 inquire.

4 STEPHEN RACKERS testified as follows:

5 DIRECT EXAMINATION BY MS. OTT:

6 Q. Please state your name for the record.

7 A. Stephen Rackers.

8 Q. Are you the same Steve Rackers who has
9 previously testified in this case?

10 A. Yes, I am.

11 Q. And are you the same Steve Rackers whose
12 direct, rebuttal and surrebuttal has been previously
13 admitted as Exhibit 201, 202 and 203?

14 A. Yes.

15 MS. OTT: I tender Mr. Rackers for
16 cross-examination.

17 Judge WOODRUFF: All right. Beginning with
18 Public Counsel.

19 MR. MILLS: Just very briefly.

20 CROSS-EXAMINATION BY MR. MILLS:

21 Q. Mr. Rackers, if you can, very briefly
22 explain to me what the company's approach to this issue
23 is.

24 A. The company's approach to this issue is
25 that whatever was spent during the test year should

1 continue on as the ongoing level in the cost of service
2 and should also serve as the base amount in an ongoing
3 tracker that tracks non-internal labor O&M cost for
4 consideration in a future case.

5 Q. And is that the -- is that the way the
6 Commission set it up in the last rate case?

7 A. No.

8 Q. From your perspective, what has changed
9 since the Commission issued its Order in the last rate
10 case which has made this approach -- what has changed to
11 drive AmerenUE's changed position on this?

12 A. I'm not aware of any circumstances that
13 have changed with regard to Ameren's operations, although
14 Mr. Wakeman discussed this morning that every time they
15 have a storm there are improvements that they make, so I
16 would -- and that's an evolutionary process. So I would
17 assume that every time they have a storm, all things being
18 equal, costs would get cheaper as we move out as they
19 learn better ways to deal with them.

20 Q. Now, the Staff has in past cases supported
21 trackers for various expenses; is that true?

22 A. Yes.

23 Q. And in those cases, is it typically a test
24 year amount that you use as a baseline or is it a
25 calculated amount based on a normalized level of expense?

1 A. I would say that we've -- we've used both
2 methods. To the extent that what occurred during the test
3 year was believed to be representative of a reasonable
4 ongoing level, that may have served as the base for the
5 tracker. If not, Staff would have attempted to determine
6 a normal level.

7 Q. And with respect to the test year level of
8 storm restoration expense in this case, does the Staff
9 believe that that is a representative level that should be
10 used for a baseline if there were a tracker?

11 A. No, it does not.

12 MR. MILLS: That's all I have. Thank you.

13 JUDGE WOODRUFF: All right. For MIEC?

14 MR. ROAM: No questions.

15 COMMISSIONER DAVIS: For AmerenUE?

16 MS. TATRO: Thank you.

17 CROSS-EXAMINATION BY MS. TATRO:

18 Q. Good morning, Mr. Rackers.

19 A. Good morning.

20 Q. I'd like to start by discussing AmerenUE's
21 storm restoration efforts. Okay? Do you have an opinion
22 on the quality of AmerenUE's storm restoration efforts?

23 A. No, I do not.

24 Q. And is that because you're not an
25 operational expert, you're an auditor?

1 A. It's because I haven't really done an
2 analysis or spent much time looking at any reporting the
3 company's done on its storm restoration efforts.

4 Q. Okay. Did you recommend in this case to
5 the Commission any disallowance of any portion of
6 AmerenUE's expenditures related to the storm restoration
7 costs in the test year?

8 A. No.

9 Q. Do you agree that AmerenUE has little
10 control over storm restoration expenditures?

11 A. I heard Mr. Wakeman agree to a certain
12 extent with Commissioner Clayton that the company has
13 control over the storm restoration costs.

14 Q. Do you agree that AmerenUE has no control
15 over the storm damage that's done to its system?

16 A. No, I don't. I think that Mr. Wakeman
17 stated this morning that because the company continues to
18 have a very robust vegetation management program, that the
19 amount of damage that could occur as a result should be
20 decreasing over time.

21 Q. Have you quantified what amount of damage
22 has decreased over time?

23 A. I have not.

24 Q. Have you looked at it to try to quantify
25 what amount of damage has decreased over time?

1 A. No.

2 Q. Would you agree that AmerenUE -- AmerenUE
3 can't control when storms hit its system?

4 A. I agree with that.

5 Q. All right. Do you agree that AmerenUE's
6 customers expect their service to be restored quickly?

7 A. Their customers may expect that. That may
8 not be possible. That may not be a prudent course of
9 action to do so.

10 Q. But the question was, do they expect it?
11 And your answer was yes, correct?

12 A. No. I said they may expect that.

13 Q. Okay. Do you agree that the cost of storm
14 restoration efforts varies with different storms?

15 A. Yes.

16 Q. And sometimes it's more capital costs, and
17 sometimes it's more O&M costs?

18 A. I believe that the capital costs and the
19 O&M costs vary. I would say it's usually more capital
20 than O&M.

21 Q. And you'd agree that this tracker is only
22 focused on the O&M portion of those costs?

23 A. It's even a more discrete set of numbers.
24 It's the non-internal labor O&M costs.

25 Q. Okay. I'll accept that. Non-internal

1 labor. Now, let's discuss your normalization that you
2 propose. You're using a four-year average; is that
3 correct?

4 A. Yes.

5 Q. And you removed the cost, the non-internal
6 labor O&M storm costs related to storms occurring in July
7 of '06, December of '06 and January of '07; is that
8 correct?

9 A. I think I removed the O&M labor from all
10 the storms that I considered.

11 Q. I'm talking about non-labor. All right.
12 The tracker is supposed to, as proposed, deals with
13 non-labor O&M, right?

14 A. Correct.

15 Q. You removed the non-labor O&M from the July
16 '06, December '06 and January '07 storms; is that correct?

17 A. Could you repeat those exact storms you're
18 talking about?

19 Q. July '06. I said December '06. I guess it
20 was November 30th, December 1st, '06 and January '07.

21 A. Now ask me your question again now that
22 I've got the storms identified, please.

23 Q. The non-labor O&M for those storms you
24 removed prior to normalizing that cost?

25 A. Yes.

1 Q. And the reason you removed those storms is
2 you considered them extraordinary; is that correct?

3 A. That's partly the reason. The other reason
4 is -- was because in a prior Order from this Commission,
5 they stated that those storms, the cost of those storms
6 had been recovered and that they should never be
7 considered in any way in future cost of service.

8 Q. So that UE wouldn't recover them twice?

9 A. Yes.

10 Q. What is -- what does the term extraordinary
11 storm mean to you? What does extraordinary mean?

12 A. Well, we've -- I don't believe the
13 Commission has necessarily accepted a specific definition.
14 Staff has often used 5 percent of net operating income as
15 sort of a gauge of extraordinary.

16 Q. And you would agree that AmerenUE has
17 experienced multiple extraordinary storms over the past
18 five or six years?

19 A. Yes.

20 Q. Now, in your portion of the Staff Report,
21 you have that with you?

22 A. Yes.

23 Q. Starting on page 90, you go through a list
24 of amortizations. Are you there?

25 A. Yes.

1 Q. Okay. You discuss from ER-2007-002 the
2 amortization of storms that came from that rate case,
3 correct?

4 A. Yes.

5 Q. Then you discuss an Accounting Authority
6 Order Case EU-2008-0141 that was used to defer the cost of
7 January '07 ice storm, correct?

8 A. Yes.

9 Q. Okay. And that was because the actual
10 storm costs incurred was over and above what had been
11 built into the revenue requirements, correct?

12 A. Well, the company requested an AAO in that
13 case. Staff didn't initiate the Accounting Authority
14 Order.

15 Q. Ultimately did Staff oppose that request?

16 A. I don't believe we did.

17 Q. Okay. Then in AmerenUE's previous rate
18 case, ER-2008-0318, there was an amortization of storm
19 restoration costs that stemmed from storms in 2008,
20 correct?

21 A. Yes.

22 Q. Okay. And then for the January 2009 storm,
23 you're recommending yet another amortization related to
24 that, the cost from that storm?

25 A. I think it's more than just that storm.

1 It's all the storms in the test year.

2 Q. Okay. All the storms in the test year.

3 And the reason that you recommend that is because it's
4 more than what AmerenUE would have recovered, what was
5 built into rates from the last rate case?

6 A. And more than what I'm recommending as an
7 ongoing level in this case.

8 Q. I understand. I just want to talk about --
9 presuming there's not a tracker. You're recommending an
10 amortization for that amount, for those costs?

11 A. Yes.

12 Q. Okay. So we have multiple amortizations
13 there, right?

14 A. Yes.

15 Q. How many?

16 A. Four.

17 Q. On top of whatever you would recommend as
18 the normal level of storm restoration costs to be built
19 into rates?

20 A. Correct.

21 Q. Do you know what that totals?

22 A. Do some math here for you.

23 Q. Sure.

24 A. I think it's 13.9. The way I got that
25 number is, I believe there's 11.9 currently in rates,

1 based on 5.2 as an ongoing level, and I'm recommending
2 6.4. So I've added a million two onto that 11.9. And
3 then we're recommending an amortization of approximately
4 \$800,000, so I've added that on, and I get 13.9.

5 Q. So the accumulation of these amortizations
6 year after year has increased -- the storm occurrence year
7 after year has increased the amount of amortizations that
8 have to applied in order to capture those costs, correct?

9 A. Yes.

10 Q. And if the base amount or the amount built
11 into the revenue requirement had been higher than 5.2
12 coming out of the last rate case, that amortization would
13 be smaller, wouldn't it? The amount of the amortization
14 would be smaller?

15 A. It would, but there's an offset to that.

16 Q. What's the offset?

17 A. The base amount in rates would have been
18 higher.

19 Q. Right. But the -- but it would have been
20 collected each year, correct, or had the opportunity to be
21 collected each year?

22 A. Yes.

23 Q. And with an AAO, traditionally Staff has
24 recommended and the Commission has adopted a five-year
25 amortization period, correct?

1 A. Yes.

2 Q. Do you have your surrebuttal testimony with
3 you?

4 A. I think I do. Yes.

5 Q. On page 6, you recap Mr. Wakeman's chart
6 taking out the internal labor from the O&M?

7 A. And the capital.

8 Q. And the capital. Although Mr. Wakeman's
9 chart clearly broke out between capital and O&M, right?

10 A. Well, it broke it out, yes, it did.

11 Q. Okay.

12 A. It identified it.

13 Q. If you were to average, let's say still
14 using a four-year average, the costs from 2009, '08, '07
15 and '06, what number would you come up with? I didn't
16 bring a calculator, but you're a numbers guy, right?

17 A. I'll do the best I can.

18 Q. All right. Thank you.

19 MR. ROAM: We do have the calculator from
20 yesterday.

21 BY MS. TATRO:

22 Q. We do have a calculator available if you'd
23 like.

24 A. I think I'll be okay. I get an average of
25 18 million.

1 Q. All right. What if you did a six-year
2 average? I'm sorry. I think my microphone was off. What
3 if you did the six-year average that's shown there, 2004
4 through 2009?

5 A. I think I get 12.5.

6 Q. Both those numbers are higher than the
7 10.4 million that Mr. Wakeman recommends, correct?

8 A. They are, but you had two and --

9 MS. TATRO: Okay. Thank you. I have no
10 further questions.

11 JUDGE WOODRUFF: Come up for questions from
12 the Bench then. Chairman Clayton?

13 CHAIRMAN CLAYTON: No questions. Thank
14 you.

15 JUDGE WOODRUFF: Commissioner Davis?

16 COMMISSIONER DAVIS: Just a couple.

17 QUESTIONS BY COMMISSIONER DAVIS:

18 Q. Mr. Rackers, here you're using a four-year
19 average, correct?

20 A. Yes.

21 Q. Coal plant maintenance, they used a
22 three-year average. When you're -- when you're averaging
23 out the costs, is that -- is that something that is just a
24 matter of judgment, you just look at the numbers and make
25 an informed judgment decision about what you think is most

1 appropriate?

2 A. You mean in terms of how many years to use?

3 Q. Right, how many years to -- to do the
4 normalization.

5 A. Well, I would say it's based on more than
6 just looking at the numbers. There are various
7 circumstances that exist with regard to how expenses were
8 incurred. In terms of coal plant maintenance, we were --
9 the company was transitioning two different periods of
10 outages, so we chose a shorter amortization period. So it
11 depends on the circumstances of the expense, too.

12 Q. Okay. Earlier, I believe in questioning
13 from Ms. Tatro, you were talking about a -- I guess some
14 sort of internal rule of thumb that Staff uses that
15 basically you consider an event, a major event if -- if it
16 exceeds -- if the costs exceed 5 percent of the net
17 operating income of the utility; is that a fair statement?

18 A. Well, I want to be pretty careful with
19 that. She used the term extraordinary.

20 Q. Right.

21 A. And I think we've -- sort of a rule of
22 thumb, although it's not been accepted by the Commission,
23 I don't believe, that an extraordinary expense is 5
24 percent of operating net income. The word major has been
25 used in a couple different ways here.

1 Q. Okay. So if it exceeds 5 percent of net
2 operating income, you would consider it an extraordinary
3 event?

4 A. Yes.

5 Q. And is that the criteria you would more or
6 less follow when deciding whether or not to support or
7 oppose the company's application for an Accounting
8 Authority Order?

9 A. It's something we would consider.

10 Q. Okay.

11 A. I don't consider that to be like an
12 absolute definitive statement.

13 Q. Right. I mean, you're going to look at all
14 relevant -- all relevant circumstances?

15 A. Yes, sir.

16 Q. But certainly if -- if that's not present,
17 then they've got a hill to climb in your opinion; is that
18 a -- is that a fair statement?

19 A. I'll agree with that in general.

20 Q. Okay. Looking at page 14 of Mr. Wakeman's
21 rebuttal testimony, that chart there appears, in my
22 opinion, to, you know, where the company's expenses swing
23 wildly in this area; is that a fair statement?

24 A. Bear with me. I just located his testimony
25 here. You said page 14?

1 Q. Uh-huh. Page 14 of Mr. Wakeman's rebuttal.

2 A. And you asked me if based on this chart the
3 cost of storms has varied widely?

4 Q. Yes. I guess it would be the cost of storm
5 response, I guess would be a more --

6 A. I haven't tried to measure it, you know,
7 deviation. Based on this chart, there's been significant
8 variations in the cost.

9 Q. Just eyeballing it, there's significant
10 variation. Now, earlier you've heard my questioning of
11 Mr. Meyer and Mr. Wakeman about -- about the big one.
12 Okay. So I think you've got a better term and that's
13 extraordinary. So I'm going to assume that an
14 extraordinary -- 2000 to 2006, did those expenses rise to
15 this 5 percent net operating income threshold, do you
16 know?

17 A. I don't know that for a fact.

18 Q. Do you know if they did in 2007?

19 A. I-- I didn't attempt to measure that.

20 Q. So you wouldn't know about 2009?

21 A. No.

22 Q. Okay. It's -- it's pretty clear that '04,
23 '05 and '08 would not; is that a fair statement?

24 A. I believe that's correct, but again, I
25 haven't attempted to calculate that.

1 Q. Okay. Now, if I'm trying to find middle
2 ground, I mean, is there any middle ground on this issue,
3 Mr. Rackers?

4 A. Well, I think there is, and I think it
5 already exists. And the reason I say that is, if we think
6 about completely traditional regulation, that would mean
7 that the company incurs a significant or an extraordinary
8 storm, and if it was so burdensome to the company's
9 earnings, they'd file a rate case or they might file for
10 an emergency. That's sort of the one end.

11 The other end would be the company would
12 have some kind of an automatic rate increase type of a
13 mechanism that, as soon as a big storm kicked in, they
14 could increase rates to capture them. This would be
15 completely at the other end of the spectrum.

16 To me, when you ask for a middle ground, we
17 already have it. It's called an AAO. The company
18 experiences an event. It is so burdensome that they're
19 concerned about the effect it's going to have on their
20 earnings. Either they're not in a position to file a rate
21 case or they might even have a rate case currently in
22 progress, but the storm's not in the test year, so the
23 company can file for an AAO. Those expenses can be
24 deferred and preserved to be addressed in a future case.

25 And in that respect, if that's similar to I

1 think how the tracker would work, it's going to capture
2 expenses and they're going to be deferred, considered in a
3 future case. And I wouldn't suspect that in that future
4 case all those expenses would be recognized at once.
5 You'd still be amortizing them over some period.

6 So in my mind we don't need a tracker.
7 We've already got that middle ground. We've already got
8 that mechanism. We have the AAO, and we've used it
9 recently for this company for storms.

10 Q. Right. And in your opinion, why does the
11 company -- I mean, let's see. Do you have -- do you have
12 a mental impression as to why the tracker would be
13 preferable to the AAO?

14 A. Until Mr. Wakeman made some statements this
15 morning, I would have had somewhat the same impression as
16 Mr. Meyer, but Mr. Wakeman stated under either an AAO or
17 the company's tracker mechanism imprudent expenses could
18 be addressed. So I don't necessarily think it's a
19 preapproval situation, although I would agree with him
20 that once costs are deferred in an AAO or a tracker, it
21 does seem like it's an incredible uphill battle to get
22 those eliminated and invariably the whole amount gets
23 recovered over some period.

24 So I think the difference here is the
25 tracker would kick in automatically. Whereas, with an

1 Accounting Authority Order, the company has to request it,
2 and under your -- I think under some of your questioning,
3 you suggested some kind of a trigger like --

4 Q. Right.

5 A. -- the Governor declares a national
6 disaster.

7 Q. Right.

8 A. To me, that's -- that's sort of where we
9 are with an AAO. There's some trigger. In the company's
10 mind, something has occurred that's so drastic, so
11 burdensome on earnings that it asks for an AAO.

12 Q. Okay. And you heard my questioning this
13 morning about the, you know, if the Governor were to issue
14 a disaster declaration, and then -- then I heard your
15 testimony about you'll kind of a -- not necessarily the
16 only criteria, but the -- you know, a threshold for an
17 extraordinary event being 5 percent of net earnings, or
18 I'm sorry, net operating income.

19 You know, if we were going to go down that
20 road, do you think one of those -- I mean, obviously you
21 don't support using a tracker just -- just because
22 expenses rise. But if we had a truly extraordinary event,
23 say a January 2009 ice storm, say a tornado in St. Louis
24 County, I mean, what -- what would you recommend be that
25 objective measure, if you had to recommend something?

1 A. Well, first of all, I would recommend that
2 the company has to come in and ask for it, and then in
3 terms of whether to grant it or not, we could have a
4 financial test, which could be 5 percent of net operating
5 income. I don't know that I would agree with it, but, you
6 know, one of the triggers that you discussed this morning
7 could be certainly considered.

8 Q. Okay. And then you'd want to be able to
9 audit for prudence?

10 A. Well, I'd want to be able to establish that
11 it met the trigger assuming that we had one --

12 Q. Right.

13 A. -- that the Commission had established
14 as --

15 Q. Right.

16 A. -- what constituted a trigger, what test
17 had to be met, and then -- but that would -- to me, that
18 would be the test for the deferral, at that moment, at
19 that time.

20 Q. Right.

21 A. The audit for imprudence would not have to
22 occur.

23 Q. Right. I mean, prudence on it would
24 come -- now --

25 A. But I -- I -- to me, what we've just

1 described is an AAO.

2 Q. Okay. My impression is that -- you know,
3 would you agree with me that in a sense they're -- they're
4 here asking for pretty much the same thing right now
5 except there is no major event that has occurred, they're
6 just asking for it as part of a rate case to have some
7 provision made on a going forward basis so they don't have
8 to come in and ask for an AAO later? Is that a fair
9 impression?

10 A. I think that's a major difference between
11 than what they're asking for and an Accounting Authority
12 Order.

13 Q. Okay.

14 A. They're also asking for interest to be
15 accumulated on the mechanism, and I think past commission
16 rulings would indicate that the costs should be recovered,
17 the amount of the cost should be recovered but not the
18 return on. So the company's asking for some carrying
19 costs here, too.

20 Q. Right. And setting aside past Commission
21 precedence, what do you think is right, carrying costs or
22 no carrying costs and why?

23 A. I don't think carrying costs are
24 appropriate, mainly because we're talking about an expense
25 here, not a capital item. We're talking about

1 non-internal labor O&M expense, and I think the sharing of
2 costs related to an act of God seems appropriate to me.

3 Q. Okay. Now, you're the -- you're the
4 auditor 5? You're the case manager, correct? And I'm
5 just -- your group of auditors performed an audit?

6 A. Yes.

7 Q. And was -- can you just briefly recount for
8 me what that audit covered? I mean, we know the period,
9 but describe for me what the audit covered. I mean,
10 you've looked at all the ledger statements and everything?

11 A. We tried to address all the major items,
12 all the relevant items that go into the cost of service.

13 Q. And did you look at prudence?

14 A. We didn't conduct a specific prudence
15 audit, but yes, as we looked at various expense items we
16 made some determination as to whether they were prudent
17 expenses or not.

18 Q. Right. And so I guess because when you're
19 auditing a company that has, you know, hundreds of
20 millions if not a billion dollars a year in expenses, you
21 probably have to make some choices when you're doing a
22 six-month audit. So I mean, do you just -- you look for
23 anomalies in terms of -- I'm just trying to say, help me
24 explain what you do look at for prudence and what you
25 don't look at, or what's that methodology, I guess?

1 A. Well, we -- we would examine variations in
2 expenses, and based on that analysis, if you saw a
3 significant variation, if you would examine that, there
4 may be imprudent incurrence of cost there. It may be --
5 require some adjustment to that level to get to a better
6 ongoing level. Might require some normalization.

7 Q. Okay. So is it fair to say that when
8 you're auditing expenses, you're looking more for -- for
9 variation than it is that you're looking for -- you're
10 actually examining the prudence of those expenditures?

11 A. Well, we do look at plant items in
12 particular and try to examine significant increases in the
13 plant level and determine if those were prudent.

14 COMMISSIONER DAVIS: Thank you,
15 Mr. Rackers.

16 JUDGE WOODRUFF: Commissioner Gunn?

17 QUESTIONS BY COMMISSIONER GUNN:

18 Q. I apologize if this has been asked before.
19 Can you just -- from a practical standpoint, do you make
20 in your review of the -- of the -- of a tracker and AAO,
21 is there any practical difference in what you look at in
22 determining whether these costs are appropriate or not to
23 be recovered?

24 A. I believe the -- when I'm looking at
25 recovery of an Accounting Authority Order, that the

1 analysis is probably more stringent than whether a number
2 goes into a tracker that's already established.

3 Q. And is that because it's a standalone
4 request rather than wrapped up in the context of a much
5 larger -- larger rate case?

6 A. I would agree with that in part, yes.

7 Q. Is it a -- is it just because it's a
8 standalone issue or is it much of what Commissioner Davis
9 alluded to, a resource, a resource and choice issue?

10 A. I think it's more that it's a standalone
11 issue.

12 Q. But you feel that if there were a tracker,
13 you would be able to determine what that -- that those
14 costs were appropriate and prudent?

15 A. I'm sorry. Say your question again.

16 Q. Let's assume that we grant a tracker, and
17 in the next rate case you feel you would be able to make a
18 determination as to what included in that tracker would be
19 appropriate?

20 A. I would think we would be required to do
21 that.

22 Q. The scrutiny on an AAO might be a little
23 bit greater and you may come up with the same answer?

24 A. Yes.

25 COMMISSIONER GUNN: All right. That's all

1 I have. Thank you.

2 JUDGE WOODRUFF: Commissioner Kenney?

3 QUESTIONS BY COMMISSIONER KENNEY:

4 Q. Just to follow up on Commissioner Gunn's.
5 In fact, you probably would come up with the same answer.
6 It just might be a more stringent review. I mean, I think
7 there was testimony that there's never -- an AAO's not
8 been denied for storm expense thus far as long as anybody
9 can remember; is that accurate?

10 A. To the best of my knowledge.

11 COMMISSIONER KENNEY: All right. I don't
12 have any other questions.

13 JUDGE WOODRUFF: Commissioner Clayton -- or
14 Chairman Clayton?

15 CHAIRMAN CLAYTON: Thank you, Judge.

16 QUESTIONS BY CHAIRMAN CLAYTON:

17 Q. Mr. Rackers, can you give me some feedback
18 on whether you believe there's a correlation between an
19 increase or decrease in expenditures on preventive
20 maintenance versus expenditures that would be incurred
21 because of adverse weather or a storm or a significant
22 outage? Does the Staff have a philosophy on any
23 correlation among those figures?

24 A. I would say that while we haven't attempted
25 to quantify it specifically or -- or necessarily measure

1 it through some mathematical exercise, I think we believe
2 that some of the programs the company is engaging in in
3 the preventive side will help in terms of storm
4 restoration costs.

5 Q. Does the Staff's case recognize perhaps the
6 adage of a penny's worth of prevention, or what is it, an
7 ounce of prevention is worth a pound of cure? Is that
8 built into the Staff's analysis in looking at the dollars?
9 Forgive my for screwing up the metaphor.

10 A. In this case, Staff did not specifically
11 establish the level that it's recommending for vegetation
12 management or infrastructure inspection with the idea that
13 that amount is correlated with a reduction or an increase
14 in the amount that it has recommended for storms.

15 Q. So that is not taken into consideration?

16 A. Well, I think it's -- it may be inherent in
17 the process, but as a mathematical exercise, that's not
18 the way that I came up with the level that I'm
19 recommending for the preventive maintenance as opposed to
20 the -- to the storms.

21 Q. Looking at the history of the storms and
22 the outages that this company has faced over, say, the
23 last five years, how does the Staff analyze the
24 investments that have been made or investments that need
25 to be made in trying to forecast an idea of what outages

1 will look like in the future?

2 A. I don't specifically think we've done that.

3 Q. In compiling the Staff's case, has the
4 Staff compared the recovery efforts by this company among
5 the outages of '06, '07 and '09 in looking at best
6 practices or identifying dollar amounts that should be
7 included in rates, or do you simply look at normalizing
8 through averaging, which is what it sounded like with your
9 questioning, your conversation with Commissioner Davis?

10 A. My analysis did not try to establish the
11 level of storms based on reducing that number that was
12 experienced during the test year in the belief that going
13 forward that number would be smaller because of preventive
14 maintenance or because of capital that they've put in.
15 That's not an exercise I went through. But as you say, we
16 did look at averaging and we did look at expenses over
17 time and the company's actual experience in terms of
18 coming up with the amount.

19 Q. Has Staff estimated what the weather will
20 be like in the next year or so?

21 A. No.

22 Q. You haven't tried to guess the weather?

23 A. No.

24 Q. Has the Staff made any other significant
25 observations on -- on performance in terms of the recovery

1 of '09 versus the recovery -- recoveries of '06, '07? Is
2 Staff in a position to say there was improvement, no
3 improvement, about the same, any analysis like that?

4 A. I haven't performed an analysis like that.

5 Q. Is there anyone on Staff that has -- that
6 has performed a qualitative rather than quantitative
7 analysis on comparing the recoveries in those two time
8 periods?

9 A. I don't specifically know that. Mr. Beck
10 is here this morning and may have some knowledge in that
11 area, but I have not done that.

12 Q. So in your analysis, you do not build in
13 any suggested expenditures for hopeful improvements in
14 recovery for any observations such as that? Does that
15 make sense?

16 A. I don't believe I've done that.

17 Q. Your analysis is for the most part looking
18 at time, looking at dollar amounts and looking at some
19 reasonable figure based on those rather than looking at
20 the -- the qualitative or substance of the performance of
21 the utility in the recovery?

22 A. That's what I've done in this case. Now,
23 to the extent that I had that knowledge and I could
24 quantify it and determine how it affected these numbers, I
25 would have taken that into consideration.

1 Chairman CLAYTON: Okay. Thank you very
2 much, Mr. Rackers.

3 JUDGE WOODRUFF: All right. Recross based
4 on questions from the Bench. Anyone wish to recross?
5 Let's start with Public Counsel.

6 RE-CROSS-EXAMINATION BY MR. MILLS:

7 Q. Let me start just by sort of a general
8 discussion about normalization. Is it -- is it the
9 Staff's approach to an expense, like -- like storm
10 restoration expense or, you know, plant maintenance
11 expense or anything like that, that -- well, first, just
12 describe that in general. What is the Staff approach to
13 normalizing an expense that does not appear to be entirely
14 constant from year to year?

15 A. I don't think I could pin it down to any
16 one methodology. It's going to depend on the
17 circumstances and the situation and the type of expense
18 you're looking at, what the history of that expense shows
19 you, to the extent you have some information about what
20 the future is going to be with regard to that expense.
21 All those things can be considered.

22 Q. So if you have some information on future
23 trends, you would take that into account?

24 A. Well, not necessarily future trends, but if
25 the trend, if you could tell from historical analysis that

1 there was a trend, you could -- you could address that.

2 Q. Okay. You wouldn't just ignore that?

3 A. No.

4 Q. How long have you been a utility auditor?

5 A. Over 30 years.

6 Q. Can you recall a period of storms during
7 that 30-year period, a period of two years like the
8 two-year period of '06-'07?

9 A. No.

10 Q. So if, for example, we were to extend your
11 chart on page 6 of your surrebuttal testimony, the chart
12 that shows O&M non-labor costs for storm restoration --

13 A. Okay.

14 Q. -- if we were to extend that back 30 years,
15 '06 and '07 would appear to be outliers, to the best of
16 your recollection?

17 A. To the best of my recollection.

18 Q. And when Staff does normalization, does
19 Staff sometimes take out the outliers, that there are some
20 that are just really clearly spikes?

21 A. Yes.

22 Q. On a similar note, if you look at -- and
23 just assume for the purpose of my questions that if you
24 did extend this chart out it would look -- most of the
25 years would be somewhere like 2000 -- or 2005, 2008, 2009,

1 and the 2006 and 2007 spikes, would you consider that
2 storm restoration expense swings wildly?

3 A. No, I wouldn't. I would believe that there
4 was some sort of base level or normal level and that we've
5 got some outliers.

6 Q. Now in response to a couple of questions,
7 you mentioned the notion of looking at 5 percent of NOI
8 for determining whether something is extraordinary or
9 unusual. Where does that notion come from?

10 A. I think that type of test appears as part
11 of the Uniform System of Accounts.

12 Q. As a measurement of whether an event is
13 extraordinary or significant?

14 A. Yes.

15 Q. Now, you were asked a lot of questions that
16 sort of tried to compare and contrast the tracker that UE
17 has proposed in this case with an Accounting Authority
18 Order; is that correct?

19 A. Yes.

20 Q. Let me just ask you a few more. Does a
21 tracker allow for a consideration of other factors?

22 A. At the time the expenses are being
23 deferred, no.

24 Q. How about at the time in which expenses are
25 being recovered through the tracker?

1 A. I think it would.

2 Q. Okay. So if, for example, if the
3 Commission awards Union Electric Company a tracker in this
4 case and in the period of time between this case and the
5 next case they exceed the tracker, would the Commission
6 consider declines in other areas of expense for the
7 company in deciding whether or not to allow recovery
8 through the tracker?

9 A. I believe they could consider that.

10 Q. Do you understand that to be Union
11 Electric's proposal in this case?

12 A. No.

13 Q. And maybe a more straightforward way to get
14 at this, is a tracker a single issue ratemaking mechanism?

15 A. I believe it is.

16 Q. Is an Accounting Authority Order?

17 A. Yes.

18 Q. When an Accounting Authority Order is
19 applied for, does the Staff look at, for example, the
20 company's level of earnings during the period of time in
21 which the allegedly extraordinary event occurs?

22 A. That's a consideration.

23 Q. And do you look at the level of earnings,
24 for example, in the test year when recovery of the amounts
25 deferred pursuant to an Accounting Authority Order in

1 determining whether to recommend or not recommend
2 recovery?

3 A. Yes.

4 Q. Under the traditional application of the
5 tracker, do either of those things happen?

6 A. The trackers I'm familiar with that exist
7 today, no.

8 Q. And -- and the same question with respect
9 to the tracker that UE has proposed in this case.

10 A. I think that's correct.

11 Q. Same answer?

12 A. Yes.

13 Q. Now, under an Accounting Authority Order,
14 when does amortization of the cost deferred begin?

15 A. I would say traditionally the amortization
16 begins in close proximity to when the event that caused
17 the AAO occurred.

18 Q. So that if an event occurs in 2007 and a
19 rate case doesn't occur until 2009, it's -- based on that
20 thinking, it's the assumption that some of those costs
21 have already been recovered by the time you get around to
22 changing rates based on the extraordinary event; is that
23 correct?

24 A. Yes.

25 Q. Does anything similar happen with the

1 tracker?

2 A. I don't believe it does.

3 Q. Now, Commissioner Davis asked you some sort
4 of general questions about audit practices, and I'd like
5 to follow up on those. Were you here when I gave my
6 opening statement at the beginning of the case?

7 A. I'm sorry. I wasn't.

8 Q. Let me just represent to you that I
9 presented sort of a pie chart based on the Staff's
10 accounting schedule filed with Staff's direct testimony
11 that showed a big piece of UE's revenues goes to other
12 operating expenses. This is other than payroll. And
13 Commissioner Gunn is kindly helping me out and handing you
14 that pie chart.

15 I will represent to you that those numbers
16 come from Staff's accounting schedules, and they show
17 that, in addition to discrete areas like return and
18 payroll and fuel, there's a fairly large chunk of
19 expenses, they're sort of lumped together under the other
20 operating expenses to the tune of about \$800 million.
21 Does that -- can you make that assumption and does that
22 sound like a reasonable assumption based on what you know
23 of UE's revenues?

24 A. Yes.

25 Q. In a normal audit and in the audit that you

1 and the rest of the Staff undertook in this case, how do
2 you examine the prudence of all the expenses that make up
3 that \$800 million chunk of other operating expenses?

4 A. Well, I guess I can use it as an example.
5 I can't give you an exhaustive list of all those items,
6 but as an example, one of the items that is -- I believe
7 would be in other operating expense would be maintenance,
8 and Staff examined that area. We performed a -- or we
9 recommended a normalization. As we were conducting that
10 audit, we were also looking to see if the company incurred
11 any imprudent expenses as part of the maintenance that
12 occurred during the test year.

13 Q. Just for another example, IT expenditures,
14 that would fall under other operating expenses, correct?

15 A. Yes.

16 Q. And did Staff do any sort of analysis to
17 determine whether UE is prudently managing its IT expense?

18 A. I don't believe that was a specific area
19 that we looked at in the case.

20 Q. If it had doubled from the last case, it
21 might have jumped out at you; is that correct?

22 A. That's correct.

23 Q. If it's only an incremental change from the
24 last case or the case before, would you take a look at
25 that to see whether that was a prudent level of

1 expenditures?

2 A. Ordinarily we would not.

3 Q. Is that same sort of analysis true for the
4 bulk of the items in that \$800 million piece of the pie?

5 A. Yes.

6 MR. MILLS: That's all the questions I
7 have. Thank you.

8 JUDGE WOODRUFF: MIEC wish to recross?

9 MR. ROAM: No, Judge. I just have one
10 brief procedural question. During Mr. Rackers' testimony,
11 Mr. Meyer indicated that in response to one of
12 Commissioner Davis' questions, he had misspoke, and he
13 would like an opportunity to correct his statement. So I
14 would ask if I could recall him to the stand for just a
15 minute?

16 JUDGE WOODRUFF: We'll do that when we're
17 finished with Mr. Rackers.

18 MR. ROAM: Thank you.

19 JUDGE WOODRUFF: Recross from Ameren?

20 MS. TATRO: Thank you.

21 RE-CROSS-EXAMINATION BY MS. TATRO:

22 Q. Mr. Rackers, early in questioning from
23 Commissioner Davis -- sorry.

24 A. Yes. I'm with you.

25 Q. Early in questions from Commissioner Davis,

1 you first talked about this 5 percent kind of test that
2 you -- sometimes that you apply on extraordinary, which is
3 5 percent of UE's net operating income. Do you remember
4 that line of questioning?

5 A. Yes.

6 Q. What would you estimate UE's electric net
7 operating income would be?

8 A. I don't know. I'm sorry.

9 Q. Do you have an estimation?

10 A. The best I can do for you right now is
11 refer to Staff's filed income statement in the rate case,
12 and it shows net operating income on a Missouri
13 jurisdictional basis of 312 million.

14 Q. Okay.

15 A. Now, what your actual income was or what it
16 is for any rolling 12-month period, I don't know.

17 Q. All right. Let's -- let's accept for
18 purposes of this questioning that it's around 400, okay,
19 To make a nice round number. So what's your 5 percent
20 have to hit then to meet your test?

21 A. 20 million.

22 Q. 20 million. Okay. Does Staff only
23 recommend AAOs that meet this extraord -- that's your test
24 for extraordinary storms; is that right?

25 A. (Witness nodded.)

1 Q. We've also used the phrase major storms.
2 Would you consider that the same or different?

3 A. I used that -- I'm sorry. I didn't mean to
4 interrupt you. I use that definition in terms of
5 extraordinary items, would not just limit it to storms.

6 Q. Okay. We're talking about storm
7 restoration costs today, right?

8 A. Yes.

9 Q. So as far as storms go, I understand how
10 you would define extraordinary storm. When you hear the
11 word major storm, is it the same definition? Is it a
12 different category?

13 A. I would consider it a different category.

14 Q. Okay. Lesser, more strict?

15 A. Lesser.

16 Q. Okay. Does Staff amortize costs that are
17 associated with major storms or recommend amortization of
18 costs associated with major storms?

19 A. We have amortized major storm costs in this
20 case above what we consider to be a normal ongoing level.

21 Q. Even though it didn't rise to the level of
22 extraordinary?

23 A. That's correct.

24 Q. Okay. Shortly after that Commissioner
25 Davis talked to you about this middle ground, and you

1 indicate that you believe that the AAO is the middle
2 ground. Do you remember that line of questions?

3 A. Yes.

4 Q. An AAO is the middle ground because it
5 preserves the cost and gives the utility an opportunity to
6 recover it later after Staff's conducted whatever analysis
7 it needs to conduct, is that a --

8 A. Yes.

9 Q. -- fair repeating of what you said?

10 Okay. What amortization periods does Staff
11 usually recommend?

12 A. Five years.

13 Q. Would Staff accept an amortization period
14 of two years?

15 A. I don't believe so.

16 Q. Why?

17 A. I think it would -- for an extraordinary
18 event, I think it would place too much cost in any one
19 period, might distort the level of operating expense. And
20 certainly if you built that cost into rates, it would
21 distort the costs that you're passing on to ratepayers.

22 Q. The cost was incurred by the utility within
23 one calendar year, right?

24 A. Yes.

25 Q. And you don't put carrying costs on those

1 amounts, do you?

2 A. Not normally.

3 Q. So if a storm occurs in 2009, presuming we
4 happen to be in the middle of a rate case and so it
5 immediately becomes amortized and reflected in rates, when
6 is it finally recovered?

7 A. Are you asking me if the amortization
8 period begins with the rates from the case?

9 Q. Yeah. Yeah.

10 A. For that one specific cost, it would be
11 five years from the time the rates went into effect.

12 Q. All right. So that's 2014 or 2015, just
13 depending on what point in 2009 that rate becomes
14 effective, right?

15 A. Yes.

16 Q. Does a dollar in 2015 have the same value
17 as a dollar in 2009?

18 A. I don't believe it does.

19 Q. Which dollar has more value?

20 A. The dollar in 2009.

21 Q. Okay. Now, there's no rate base treatment
22 of the unamortized amounts that are in these AAOs
23 currently, correct?

24 A. That's correct.

25 Q. Continuing on with your conversation with

1 Commissioner Davis, you talked about with a tracker, and I
2 think you talked about this some with Mr. Mills as well,
3 whether or not you're able to do the same type of review
4 as you would do with an AAO. Do you remember that
5 conversation?

6 A. Yes.

7 Q. In the AAOs and in the rate cases that UE's
8 had over the past five years, has Staff, to your
9 knowledge, ever recommended a disallowance of any storm
10 restoration cost?

11 A. Not to my knowledge.

12 Q. In Commissioner Gunn's conversation with
13 you on this same subject, talking about whether or not the
14 AAO analysis is more stringent, and I believe you
15 indicated that it was, right?

16 A. Yes.

17 Q. So how does an AAO work? First the utility
18 makes a filing?

19 A. Correct.

20 Q. Then Staff files a recommendation in
21 response to that request for an AAO?

22 A. Yes.

23 Q. How much time normally falls in between
24 those two?

25 A. I don't know the normal level.

- 1 Q. Okay. Can it be as little as a month?
- 2 A. I think that's possible.
- 3 Q. Okay. Could it be two months?
- 4 A. Certainly.
- 5 Q. Would it be a year?
- 6 A. A year until the Commission grants the
7 authority?
- 8 Q. Until Staff files its recommendation.
- 9 A. To allow the AAO or to allow recovery?
- 10 Q. I'm just talking about whether or not the
11 AAO is established.
- 12 A. Are you saying a year from the request or a
13 year from the event?
- 14 Q. A year from the request, from when the
15 utility files a pleading with this Commission asking it to
16 establish an AAO.
- 17 A. I don't specifically recall it taking a
18 year, but it's possible.
- 19 Q. You don't recall that ever happening?
- 20 A. I don't recall that.
- 21 Q. How long do rate cases take?
- 22 A. 11 months.
- 23 Q. 11 months. Could be shorter, but typically
24 is not, correct?
- 25 A. I think that's correct.

1 Q. All right. How long after the utility
2 files a rate case does Staff have to complete its audit
3 prior to direct testimony being filed?

4 A. Roughly five months.

5 Q. Five months. Okay. Now, the Chair had
6 some questions with you about Staff's evaluation of UE's
7 storm restoration efforts, and he asked you if Staff had
8 done any analysis of those storm restoration efforts, and
9 you indicated that you had not. Do you remember that
10 conversation?

11 A. Yes, that I personally had not.

12 Q. Right. Do you know of any Staff Report
13 that's been filed with the Commission analyzing or
14 evaluating UE's storm restoration effort? Let's start
15 with the January 2009 ice storm.

16 A. I believe Staff did file a report.

17 Q. Okay. Does Case No. EO-2008-0218 sound
18 right?

19 A. I don't know the case number.

20 Q. Okay. Do you know if the storms of 2006
21 and 2007 were evaluated by Staff?

22 A. I don't know.

23 Q. You don't know if there was a Staff Report?

24 A. I don't know.

25 Q. On recross by Mr. Mills, he gave you an

1 example if there's an event that occurs in 2007 and a rate
2 case in 2009, and you walked through how that would work.
3 A statement that you made is that some is recovered prior
4 to those rates taking effect in 2009. Do you remember
5 that conversation?

6 MR. MILLS: Judge, I object to this line of
7 questioning. This is supposed to be cross based on
8 questions from the Bench. This was exclusively based on
9 my additional --

10 JUDGE WOODRUFF: I'll sustain that
11 objection.

12 MS. TATRO: I have no further questions.

13 JUDGE WOODRUFF: Redirect?

14 REDIRECT EXAMINATION BY MS. OTT:

15 Q. Mr. Rackers, do you remember when Ms. Tatro
16 was talking about extraordinary storms that occurred in
17 the past five years?

18 A. Yes.

19 Q. And she was saying multiple. How many
20 multiple extraordinary storms have occurred in the last
21 five years?

22 A. I believe if we use as our basis
23 20 million, I believe just one, but in 2006 there was one
24 that was close to 20 million.

25 Q. And how could those costs be recovered from

1 the extraordinary storms?

2 A. The company could request an Accounting
3 Authority Order, or they could be dealt with as part of a
4 rate case.

5 Q. Okay. In your questioning from
6 Commissioner Davis about the 5 percent of revenue
7 threshold --

8 A. I'm sorry. 5 percent of net operating.

9 Q. I apologize. Would those costs include
10 capital costs?

11 A. No, they would not.

12 Q. Internal labor operating maintenance
13 expense?

14 A. No.

15 Q. How about non-labor?

16 A. Non-labor O&M, yes, they would.

17 Q. How often does UE incur above the 5 percent
18 net operating income for floods?

19 A. Union Electric Company?

20 Q. Yes.

21 A. For floods? I'm not aware that they ever
22 have, but if it did occur, it was probably in 1993.

23 Q. Has UE addressed the inclusion or exclusion
24 of floods in their proposed storm tracker?

25 A. No.

1 Q. Earlier Ms. Tatro asked you some questions
2 regarding storm costs that were addressed by the company
3 in AAOs in particular in early January of 2007. When was
4 that? Do you know the exact date of that storm?

5 A. I believe it was January 13th of 2007.

6 Q. And how did Ameren seek recovery of those
7 costs?

8 A. The company filed for an AAO to defer those
9 costs.

10 Q. And how much storm costs did UE seek for
11 recovery in that AAO case?

12 A. The number's approximately 25 million.

13 Q. In a part of Ameren's last rate case, did
14 the Commission rule that approximately 25 million amount
15 that it sought be deferred as established in the AAO case
16 should be amortized and included in a cost of service over
17 five years?

18 A. Yes.

19 Q. Now, you recall what the true-up point,
20 cutoff point was in that rate case?

21 A. I believe it was September 30, 2008.

22 Q. Do you recall what the true-up period in
23 the rate case prior to that, which would be ER-2007-002?

24 A. I believe it was the 12 months ending
25 January 1st of 2007.

1 Q. And could Ameren have requested recovery of
2 that January 13th storm in that 2007 rate case?

3 A. Yes, it could have.

4 Q. Did they?

5 A. No, they did not.

6 Q. And why didn't they?

7 A. I'm not specifically sure of their
8 motivation, but they did not seek recovery. They did not
9 request that recovery of that item from the Commission.
10 They chose instead to request an Accounting Authority
11 Order at a later time.

12 Q. Would Staff have allowed them to include
13 that in their rate case?

14 A. I don't know specifically. My assumption
15 would be that we'd probably have opposed that.

16 Q. Do you know who from Ameren made the
17 decision not to try to include it in that 2007 rate case?

18 A. I don't know.

19 Q. Okay. Do you recall when Ms. Tatro asked
20 you to perform averaging of the storm costs over
21 three-year and six years based upon a chart?

22 A. Yes.

23 Q. Do the averages that you provided to
24 Ms. Tatro include some level of 2006 and 2007 O&M
25 non-internal labor costs?

1 A. Yes, they do.

2 Q. And that those costs the Commission had
3 previously determined should not be considered in any
4 future ratemaking proceedings?

5 A. That's correct.

6 MS. TATRO: I have no further questions.

7 JUDGE WOODRUFF: All right. Mr. Rackers,
8 you may step down.

9 (Witness excused.)

10 JUDGE WOODRUFF: I believe MIEC wanted to
11 recall Mr. Meyer to make a correction. And, of course,
12 Mr. Meyer, you're still under oath also.

13 GREG MEYER testified as follows:

14 EXAMINATION BY MR. ROAM:

15 Q. Mr. Meyer, during Mr. Rackers' testimony,
16 you indicated to me that you would like to clarify a
17 statement that you had made in response to one of
18 Commissioner Davis' questions. Would you please clarify
19 your statement?

20 A. Commissioner Davis, we were talking about
21 page 16 of Mr. Birk's -- I'm sorry, Mr. Wakeman's
22 testimony, I believe, or 14, where we looked at the
23 capital expenditures.

24 COMMISSIONER DAVIS: Uh-huh.

25 THE WITNESS: I didn't want to mislead you.

1 The rate base from -- the rate base effect from those
2 storms will actually increase by the amount that's listed
3 by Mr. Wakeman in his schedule. The incremental
4 depreciation expense, the difference of depreciation
5 expense would only be the incremental difference between
6 what was in rates before the storm, the original
7 investment of the plant and the new -- the new plant.

8 So, for instance, if a pole cost \$100 and
9 it was snapped and a new one cost 125, the incremental
10 difference in depreciation would only be the \$25. The
11 rate base, though, would go up by the full 125 because of
12 the accounting treatment that needs to be recognized for
13 the retirement of that investment.

14 I just wanted to make sure that you were
15 clear. I spoke before that these numbers were
16 substantially -- could be substantially overstated, and
17 from a ratemaking rate base theory, they're the same.
18 They would be the 74 million in 2009.

19 Intuitively, it seems like you would --
20 intuitively you would think if I took a pole out that cost
21 100 and I put in one that cost 125, that I only have a \$25
22 change in investment base, but because of the retirement
23 accounting requirements for retirement, the rate base
24 actually goes up by the 125, because you have to -- you
25 have to assume that the \$100 pole was fully depreciated

1 when you took it out of service and that's just -- that's
2 typically not the case.

3 So I just wanted to make sure that you
4 were -- that we were clear that the rate base will still
5 go up by the amount Mr. Wakeman lists here, but it's just
6 the incremental difference. The incremental difference
7 would only be on the depreciation side.

8 COMMISSIONER DAVIS: All right. That's --
9 that's helpful. That's helpful. Thank you, Mr. Meyer. I
10 appreciate it.

11 JUDGE WOODRUFF: Anyone have questions
12 about that correction?

13 MS. TATRO: No.

14 MR. MILLS: I think I do.

15 CROSS-EXAMINATION BY MR. MILLS:

16 Q. Okay. How does -- so you're saying that in
17 the event that a piece of equipment is replaced, there is
18 not -- there's not a netting of the net book value of the
19 original piece of equipment with the value of the new
20 piece of equipment?

21 A. In mass property accounting, if you put a
22 pole in for \$100 and it's \$50 depreciated and you retire
23 it, you have to retire -- you reduce plant by 100 and you
24 reduce reserve by 100. You don't reduce it by the 50.
25 You reduce it by the total investment. So the rate base

1 stays the same. You turn around and put a new pole in for
2 125. The rate base goes up by the 125. Because in mass
3 property accounting, some will live longer, short will
4 live shorter than the life that's been described. The
5 assumption is that you always retire it at original cost.

6 MR. MILLS: I'll have to think about that.

7 JUDGE WOODRUFF: All right. Anyone else?
8 You can step down, Mr. Meyer.

9 (Witness excused.)

10 JUDGE WOODRUFF: I believe that completes
11 our storm expense amortization tracker issue. Next issue
12 then would be vegetation management expense tracker and
13 infrastructure inspection expense tracker. We'll wait
14 until after lunch to take that up.

15 We'll break for lunch now. The
16 Commissioners have agenda beginning at 12 o'clock. We'll
17 resume at one o'clock whether agenda is over or not in
18 order to keep things moving. We may have to recall
19 witnesses if the Commissioners have questions for them.

20 COMMISSIONER DAVIS: I'm sorry, Judge.
21 What time are you coming back?

22 JUDGE WOODRUFF: We'll come back at
23 one o'clock, and I announced that if the Commissioners
24 have questions of witnesses, we'll recall them and deal
25 with them at that point.

1 MS. TATRO: Did you say that maybe we'd
2 move to rate of return today?

3 JUDGE WOODRUFF: No. I'm sorry.
4 Vegetation management.

5 MS. TATRO: We don't have the witnesses
6 here, so that was not going to happen.

7 JUDGE WOODRUFF: No. I don't know where
8 you heard that.

9 COMMISSIONER DAVIS: Judge, can I inquire?
10 Can the parties do opening statements? I'm just asking.
11 If you're not ready, Ms. Tatro, that's fine. We can start
12 tomorrow morning. I'm just saying, we do have an
13 opportunity to get ahead, and I know you don't --

14 MS. TATRO: Oh, on ROE. I see what you're
15 saying. Perhaps. I'm not the attorney for that, so I
16 can't speak for Mr. Byrne. I can ask him.

17 MR. MILLS: Judge, I am the attorney for
18 that, and I can tell you that, having gone 'til
19 ten o'clock last night, it was you struggle for me to get
20 ready for vegetation management and storm. I am not
21 prepared to move on even to opening statements for ROE
22 today.

23 MR. FISCHER: Judge, I just wanted to bring
24 to your attention that we were not likely to be able to go
25 on to ROE today, and therefore, if you wanted to wait

1 until the end of agenda for the Commissioners to come
2 back, that probably won't be a problem.

3 JUDGE WOODRUFF: We'll go ahead and start
4 at one o'clock, see how things go this afternoon. I'm
5 sure everyone would appreciate a little time off this
6 afternoon if we can. All right. We are recessed then
7 until one o'clock.

8 (A BREAK WAS TAKEN.)

9 JUDGE WOODRUFF: We're back from lunch.
10 Our next issue will be on vegetation management. Before
11 we get on that, I want to make a couple announcements. If
12 you were watching in agenda, the Commissioners decided
13 that they wanted to have an on-the-record presentation
14 about the Nonunanimous Stipulation & Agreement that was
15 filed last week. We're going to have that first thing
16 Monday morning at 8:30 so it will supplant the schedule
17 for Monday.

18 The Commissioners -- nobody indicated they
19 were opposed to the Stipulation & Agreement, but they do
20 have questions particularly about energy efficiency that
21 they wanted to address with the parties, and the notice
22 will be coming out in EFIS very shortly on that.

23 One other thing I wanted to bring up is for
24 MIEC. Mr. Roam, MIEC filed a motion for protective order
25 regarding the deposition of Mr. Smith. Has that been

1 resolved?

2 MR. ROAM: I believe it has, but I'm not
3 certain. I can find out for you.

4 JUDGE WOODRUFF: Well, I just know that he
5 was supposed to be deposed tomorrow. So if you want an
6 order from me, you better let me know.

7 MR. ROAM: I believe it's been resolved but
8 I'll -- I should make a phone call just to make sure all
9 the details have been hammered out. I believe they have.

10 JUDGE WOODRUFF: Very good. I kind of
11 thought that was the case since no one's been asking.

12 MR. ROAM: Exactly. I'll actually send an
13 e-mail.

14 MR. FISCHER: Judge, I had seen an e-mail
15 that suggested that Mr. Woodsmall worked out an extension
16 of time to have the deposition next Monday instead of
17 tomorrow.

18 JUDGE WOODRUFF: Very good. Thank you.
19 All right. Then let's move on to vegetation management
20 expense tracker and infrastructure inspection expense
21 tracker. We'll do mini openings on this one again,
22 beginning with Ameren.

23 MS. TATRO: Before we do that, your Honor,
24 could we take up the exhibit that we didn't put into
25 evidence yet because the parties wanted to look at it, and

1 they've now looked at it over the lunch period, I presume.

2 JUDGE WOODRUFF: That was No. 171?

3 MS. TATRO: Yes.

4 JUDGE WOODRUFF: Anyone have any objection
5 to the admission of 171?

6 (No response.)

7 JUDGE WOODRUFF: Hearing no objections, it
8 will be received.

9 (EXHIBIT NO. 171 WAS RECEIVED INTO
10 EVIDENCE.)

11 JUDGE WOODRUFF: All right. Then openings.

12 MS. TATRO: Just over a year ago, this
13 Commission allowed AmerenUE to implement a tracker for the
14 expenditures it makes for vegetation management and
15 infrastructure inspection. That tracker was implemented
16 because AmerenUE, like other Missouri utilities, was
17 required to meet a new and higher standard for meeting the
18 vegetation -- for managing the vegetation around its
19 system and a new and higher standard for inspecting its
20 facilities.

21 Those new and higher standards come at a
22 cost, and the Commission recognized that fact in the
23 Report and Order in AmerenUE's last rate case when it
24 allowed the company to establish the trackers.

25 Now, other parties in this case don't

1 believe it's necessary to continue the tracker, but the
2 reasons behind the recommendation are mostly factors that
3 this Commission has already considered and rejected. The
4 fact that the company made an agreement in 2004 to trim
5 its circuits on a four to six-year cycle, which is the
6 letter from Ron Zdellar, isn't a new fact. The fact that
7 the Commission accomplished that goal -- or the company
8 accomplished that goal by November of 2008 isn't a new
9 fact. Both of those facts were true in the last case, and
10 both of those facts were considered in the last rate case.

11 What is also true is that the work done
12 under the 2004 agreement is very different than the work
13 required by the Commission under its -- under its new and
14 current vegetation management rules. Perhaps the
15 shorthand we've all adopted is confusing. We tend to just
16 refer to it as trimming on a four to six-year cycle.

17 Yet the commonality between AmerenUE's
18 previous commitment and that required by the Commission
19 rules is merely the frequency of the work. The amount of
20 the work required to be completed every four years or
21 every six years is very different. Mr. Wakeman's
22 testimony speaks to that difference, and I hope the
23 Commissioners will discuss those differences with him
24 today.

25 This Commission acknowledged that

1 difference in the Report and Order issued in the last
2 case. The Commission found that AmerenUE has made good
3 progress in meeting its prior commitments and the
4 requirements of the Commission's rule by attaining the
5 required four to six-year tree trimming cycle as of
6 November 14th, 2008. The Commission wants to encourage
7 the company to continue making progress, and allowing an
8 amount in rates that is likely to match the company's
9 actual expenditures is the best way to achieve that goal.

10 The Commission's statement is still true
11 today. AmerenUE continues to work to meet the
12 requirements of the Commission's rules on vegetation
13 management and on infrastructure inspections and has been
14 successful. No one in this case is recommending a
15 disallowance of those costs.

16 This Commission should still want to
17 encourage the company to continue making progress, and
18 they can best do that by continuing the trackers. The
19 trackers are a mechanism that balances the needs of the
20 company with those of its customers. Tracker is still the
21 best mechanism to allow AmerenUE to comply with the
22 Commission rules and recover the costs of that compliance.

23 Now, AmerenUE has stated in its direct
24 testimony in this case that it is in compliance with the
25 Commission's rules. Mr. Rackers, Mr. Beck and Mr. Meyer

1 would have us distort the meaning of that statement. They
2 argue it means the programs are mature and that compliance
3 costs are known. That is not true. Compliance means the
4 company is at the point it is supposed to be at this point
5 in time in the rule.

6 Mr. Wakeman, AmerenUE's witness on this
7 issue, is the only witness who will come before you with
8 real life operational knowledge as to what the company's
9 experience under these rules have been to date. He will
10 tell you that the majority of the company's distribution
11 circuits have not been trimmed. He will tell you that the
12 cost to trim those circuits varies greatly. He will tell
13 you that the company doesn't have a full year's worth of
14 experience with many of the inspections, including the
15 underground inspection or the streetlight inspections.

16 I encourage the Commission to ask
17 Mr. Wakeman about the assertions made by Mr. Rackers,
18 Mr. Beck and Mr. Meyer, and he will tell you the
19 assumptions are untrue and should be rejected by this
20 Commission.

21 Now, Mr. Wakeman acknowledges that the
22 circumstances which justify a tracker for these
23 expenditures won't exist forever, and there's a point when
24 the tracker should be discontinued, but that point hasn't
25 yet been reached.

1 Now, there's been a lot of discussion in
2 this case about regulatory lag, and this is an area where
3 the Commission has taken action to allow the company to
4 recover its cost of compliance in a manner that's more
5 concurrent with its expenditures. They did that because
6 the costs were imposed upon AmerenUE by this Commission in
7 their vegetation management and infrastructure inspection
8 rules.

9 But the Commission took this step in a
10 manner that protects the company's customers as well as
11 the company. AmerenUE views this as a positive step
12 towards resolving a portion of regulatory lag and asks the
13 Commission to continue the regulatory treatment it began
14 in the last rate case.

15 I'm guessing there's no Commission
16 questions.

17 JUDGE WOODRUFF: You are correct. Opening
18 for Staff.

19 MS. OTT: Staff believes that the level of
20 vegetation management and infrastructure inspection
21 expenses included in the cost of service should be the
22 actual level of those expenses incurred during the test
23 year as trued up. The level for vegetation management
24 should be set at \$50.3 million, and the level for
25 infrastructure inspection should be \$7.6 million.

1 Staff is also asking this Commission to
2 terminate Ameren's vegetation management and
3 infrastructure inspection tracker mechanisms. The
4 trackers originated in Ameren's last rate case.

5 Chapter 23 of the Commission rules, which
6 are known as the infrastructure inspection and vegetation
7 management rules, they went into effect in July of 2008.
8 The rule allows for recovery of additional expenses
9 incurred by the utility from the origination of the rule.
10 However, it also says that the tracker is allowed up until
11 the next rate case. That is now.

12 Recovery -- while Staff believes that we
13 have enough data obtained through AmerenUE's vegetation
14 management practice and infrastructure inspection practice
15 that we can establish a base rate amount in the cost of
16 service to meet compliance with the rule and continue
17 compliance with the rule.

18 AmerenUE recovered \$5 million in excess
19 from these tracking devices that were established in the
20 last rate case. Staff is proposing that 2 million of that
21 amount be used to offset the cost incurred for vegetation
22 management/infrastructure inspection costs that the
23 Commission allowed the company to defer for the period of
24 October 1st, 2008, through February 28, 2009.

25 Staff is proposing that the remaining

1 3 million be retained by the company as an offset against
2 the potential of costs incurred in excess of the amount
3 included in the expense for these programs.

4 AmerenUE is in compliance with the
5 Commission's Chapter 23 rules. If UE exceeds expenses
6 beyond the level set for them in rates, it has the
7 opportunity to seek an accounting authority order to
8 recover those additional expenses.

9 Staff is seeking that the Commission
10 discontinue the vegetation management tracker and
11 infrastructure inspection tracker and set the level for
12 expenses at 50.3 million and 7.6 million respectively.

13 Thanks.

14 JUDGE WOODRUFF: Public Counsel.

15 MR. MILLS: Judge, I'll be very brief
16 because this would be the third time I've talked about
17 trackers.

18 The only thing I want to point out is the
19 differences on sort of a broad look between this issue and
20 the issue we heard this morning. With respect to the
21 storm tracker, UE at least had the argument that it was
22 not in a position to be able to know the amount of costs
23 that will be imposed upon it by storms because storms are
24 by their nature unpredictable and the amount of damage
25 caused by them is as well unpredictable.

1 However, we don't have that same argument
2 here. The Commission's rules are no longer new.
3 Companies across the state have been operating under them
4 for some time now. And so there really is no reason for
5 UE to be able to say that they don't know what it will
6 take to comply with these rules, other than some notion
7 that they simply cannot manage their business well enough
8 to be able to extrapolate from a year's worth of
9 experience into the future to know what the costs will be
10 to do similar activities in other areas of the state, or I
11 shouldn't even say other areas of the state, but what it
12 will cost to do similar activities on other miles of
13 similar circuits will be. And I don't -- I don't think
14 that's a very persuasive argument for the company to try
15 and make.

16 The other difference I think that is
17 significant is that the -- the company is now operating
18 with trackers for these expenses, and it's asking for a
19 new tracker for storm expenses. And I think there's --
20 there are valid reasons to discontinue the use of
21 trackers.

22 As I said in my original opening remarks at
23 the beginning of the case in response to questions by, I
24 believe it was Commissioner Kenney, there's some
25 justification for having a tracker if you've got a new

1 rule, and companies really have a legitimate argument that
2 they -- or at least a plausible argument that they don't
3 know what it's going to cost to comply with the rules.

4 We don't have that argument anymore.
5 They've been operating under these rules, and the most
6 they can say is, gosh, we just -- we just can't figure out
7 what's going to happen in the future because we don't have
8 enough experience. And my position is that they do have
9 enough experience. These costs are not -- no longer new
10 and they're now known, and there's no longer any need for
11 any extraordinary ratemaking treatment for them.

12 Thank you.

13 JUDGE WOODRUFF: Opening for MIEC.

14 MR. ROAM: The company requests an
15 abnormally high level of \$53.7 million for vegetation
16 management despite the historical evidence that such a
17 request is more than \$3 million in excess of the actual
18 expense it incurs on an annual basis.

19 In the test year ending March 31, 2009, the
20 testimony will show that Ameren's costs came to
21 \$50.3 million for vegetation management, in other words,
22 \$3.4 million less than what it now seeks. Similarly, in
23 the true-up period ending January 31st, 2010, Ameren's
24 costs came to \$50.4 million, or in other words,
25 \$3.3 million less than what it now seeks.

1 Ameren's argument that its costs are too
2 unpredictable due to the stiffer rules imposed by the
3 Commission in July 2008 is flawed. According to Ameren's
4 own testimony, it implemented the more stringent standards
5 on January 1st, 2008. Thus, Ameren has been complying
6 with the more stringent regulations for over two years
7 now, and yet its costs have remained relatively constant
8 for the past two years.

9 The testimony will demonstrate that there
10 is sufficient historical data for this Commission to set
11 Ameren's vegetation level at \$50.4 million. Additionally,
12 Ameren seeks a tracker for its vegetation management
13 costs. While the Commission agreed that a tracker should
14 be established in the last case, it also pointed out that
15 it did not intend to allow the overuse of tracking
16 mechanisms in future cases.

17 In this case, the evidence will demonstrate
18 that a tracker for vegetation management is no longer
19 justifiable because two years of historical data
20 demonstrates that there is very little volatility in the
21 cost of vegetation management, and a \$50.4 million level
22 is more than sufficient.

23 The company is also asking for \$9 million
24 and the continued use of a tracker for infrastructure
25 inspections. For the same reasons that apply to

1 vegetation management, a tracker is unnecessary and the
2 level the company has requested is too high.

3 For over a year the company has, according
4 to its own testimony, complied with the Commission's
5 requirements for inspections, and even under the new
6 requirements its costs for the true-up period to
7 January 31, 2010, only come to 7.6 million. Based on the
8 historical data, the company's level for inspections
9 should not exceed \$7.6 million, and the use of a tracker
10 should be terminated.

11 Thank you.

12 JUDGE WOODRUFF: I believe that's all the
13 parties interested in this issue. The first witness,
14 then, would be Mr. Wakeman. Good afternoon, Mr. Wakeman.
15 You're still under oath.

16 THE WITNESS: Thank you.

17 JUDGE WOODRUFF: You may inquire.

18 MS. TATRO: Since Mr. Wakeman's testimony
19 has already been received, I'll tender him for
20 cross-examination.

21 JUDGE WOODRUFF: For cross-examination, we
22 begin with Public Counsel.

23 MR. MILLS: Thank you.

24 DAVID WAKEMAN testified as follows:

25 CROSS-EXAMINATION BY MR. MILLS:

1 Q. Mr. Wakeman, are you ready?

2 A. I am. Thank you.

3 Q. Let me begin by giving you a description of
4 a tree trimming program. Let me ask you if this is
5 consistent with your vegetation management program. Do
6 you have large crews of tree trimming folks that are
7 trimming entire circuits?

8 A. Yes.

9 Q. And this is compared to the notion of hot
10 spotting. Are you familiar with the term hot spotting?

11 A. I am familiar, yes.

12 Q. Did you used to do hot spotting?

13 A. Yes. Absolutely, yes.

14 Q. And for the record, can you explain to me
15 what that is?

16 A. That's when you find a particular area of
17 the circuit that has abnormal tree growth or another issue
18 that needs to be addressed with respect to vegetation
19 management.

20 Q. And trimming entire circuits is just sort
21 of a more methodical approach of you just go through and
22 you trim the entire circuit all at once rather than
23 looking for spots that really need trimming?

24 A. Right. That's exactly right. Trimming the
25 whole circuit's done in our maintenance program. Hot

1 spotting is typically done in response to a particular
2 problem or area of concern.

3 Q. And would you say that your current
4 approach is a more aggressive trimming plan, more
5 clearance, more attempts at tree removal?

6 A. Than in the past?

7 Q. Yes.

8 A. Yes, absolutely.

9 Q. And would you agree that you are, perhaps
10 not you personally, but the company at least is getting
11 less push back from customers about aggressive tree
12 trimming and tree removal than you did before the ice
13 storms?

14 A. I think that's true, yes. I think it
15 varies per customer, but in general, yes.

16 Q. Now, would it surprise you if I told you
17 that the things that I've just been asking you about are
18 statements of what the Empire District Electric Company
19 was doing in 2005?

20 A. No, not at all.

21 Q. So some of the things that we're talking
22 about are really not new?

23 A. Well, I would say that some of the things
24 you describe, when you say we're doing more removals, we
25 are doing more removals under the new rule. What we were

1 doing -- we had stepped up removals in the past as well.

2 So more is obviously a relative number.

3 And the approach that we're -- that you
4 described for Empire is a similar approach we've had in
5 the past, but under the new rules, there's a higher
6 standard with clearance, on side clearance and overhead
7 clearance.

8 Q. And isn't that what I read to you about
9 more clearance, a more aggressive trimming plan?

10 A. That was my point is more is relative.
11 It's relative to -- from the previous state. So as we --
12 if you look at my testimony, you look at how we transition
13 through various periods of vegetation management. When we
14 increased our expenditures since 2004, we were increasing
15 our clearances and our scheduled maintenance, but that's
16 different than the step change that occurred when we went
17 to the new rules. That's a new level of clearances.

18 Q. Now, do you do any of the vegetation -- I'm
19 sorry.

20 Do you do any of this kind of circuit
21 trimming/vegetation management with in-house personnel?

22 A. The actual trimming, no, we do not.

23 Q. That's all contract labor?

24 A. That's correct, yes, sir.

25 Q. How about infrastructure inspections?

1 A. Most of the infrastructure inspection is
2 done with outsourced labor, but some is done by in-house
3 labor.

4 Q. What's the split between those two?

5 A. I would say just in the number of
6 activities, the large majority is done by outsourced
7 labor, but specifically the device inspections are done,
8 individual devices on circuits are done by in-house labor.

9 Q. Okay. And when did you enter into the
10 contracts that you have with your current vegetation
11 management contractors?

12 A. I believe that was -- I'm not exactly sure.
13 I know they're ending in 2010. I'm not exactly sure.

14 Q. Was it before or after the beginning of the
15 test year?

16 A. It was before.

17 Q. So for the test year and the test year as
18 updated, you've had the same contractors under the same
19 contracts?

20 A. Yes, I believe that's true.

21 Q. And would the same be true for
22 infrastructure inspection contractors?

23 A. Yes, I believe that's true.

24 Q. And do you know when in -- and when do the
25 infrastructure inspection contracts come up?

1 A. That I'm not exactly sure.

2 Q. With respect -- if they were coming up for
3 renewal soon, do you think you would know about it?

4 A. I think I would, yes.

5 Q. And with respect to the vegetation
6 management contractors, do your current contracts have the
7 ability for you to renew rather than rebid?

8 A. I'm not sure if they do. We intend to go
9 through a formalized strategic sourcing process to look at
10 those contracts and consider vendors based on a number of
11 performance metrics.

12 Q. Are you not satisfied with your current
13 vendors?

14 A. Oh, no. We're satisfied, yes.

15 Q. Now, with respect to the -- to the need for
16 a tracker, let me ask you this: Do you believe that for
17 vegetation management and infrastructure inspection, that
18 you need a tracker because your costs have increased due
19 to the implementation of the new rules or because you
20 don't know what the costs will be to comply with the new
21 rules?

22 A. I think there's uncertainty around the
23 costs in both areas as we move forward. I don't think we
24 have enough of a historical basis to understand what the
25 cost of going forward will be with the implementation of

1 either set of rules.

2 Q. And how long -- just so the record is
3 clear, how long have you been complying or attempting to
4 comply with the new rules?

5 A. Which part of the rules?

6 Q. Let's break it down. Infrastructure
7 inspections.

8 A. We've been -- that varies based on the type
9 of equipment. We've been inspecting underground equipment
10 only for about a year, underground and streetlight
11 inspections for about a year. The other overhead
12 inspections we've really been doing probably since mid
13 2007.

14 Q. Okay. And with respect to vegetation
15 management?

16 A. We've been operating under the new rules
17 since January of 2008.

18 Q. So at a minimum for all of the aspects of
19 both rules, you've been operating under them for a year?

20 A. That's correct.

21 Q. Now, I think based on some discussions that
22 you and I had earlier today, you are in charge of a budget
23 in your current position; is that correct?

24 A. That's correct.

25 Q. And prior to becoming a vice president in

1 December of 2009, did you have responsibility for
2 executing to a budget with AmerenUE?

3 A. Yes.

4 Q. Have you ever, during the time that you
5 worked for AmerenUE that you've been responsible for
6 executing to a budget, ever gone to your superior and
7 said, I can't meet the budget because I only have a year's
8 worth of experience doing this particular task?

9 A. No, I have not.

10 MR. MILLS: That's all I have. Thank you.

11 JUDGE WOODRUFF: All right. For Staff.

12 CROSS-EXAMINATION BY MS. OTT:

13 Q. Mr. Wakeman, you testified earlier that you
14 didn't have any prior experience testifying with
15 establishing a tracker?

16 A. That's correct.

17 Q. And you also stated earlier today that a
18 cost doesn't have to be imprudent for a tracker to be
19 eliminated?

20 A. Could you repeat the question, please?

21 Q. You testified earlier that in order for a
22 tracker to be eliminated, a cost doesn't have to be
23 imprudent. A cost can be prudent and the tracker still
24 could be eliminated?

25 A. Yes, I think that's true.

1 Q. Do you know how much data is necessary for
2 a utility to eliminate a tracker?

3 A. I don't have an exact number. I think
4 what's important is an understanding of if we're going to
5 use historical test data to understand the costs going
6 forward, we have to have enough data. And so I would say
7 that in infrastructure inspection and vegetation
8 management both, there's a limited set of data looking
9 backwards as opposed to what we'll have in the future.

10 Q. And are you familiar with the Commission
11 rules in Chapter 23?

12 A. Somewhat, yes, some of them.

13 Q. And they're pretty much known as the
14 vegetation management and infrastructure inspection rules?

15 A. Okay.

16 Q. Do you have a copy of it with you?

17 A. I do not.

18 Q. Would you like a copy?

19 A. Sure.

20 MS. OTT: Would anybody else like a copy?
21 May I approach?

22 JUDGE WOODRUFF: You certainly may.

23 BY MS. OTT:

24 Q. Okay. And in subsection, I have it tabbed
25 as 1 for you, 020, it addresses the infrastructure

1 inspection standards. Do you see that?

2 A. Yes, I do.

3 Q. And then if you direct your attention to
4 subsection H, sub 4, is where it allows the Commission to
5 establish a tracking mechanism for expenses that are
6 incurred by a utility for this rule?

7 A. Okay.

8 Q. Do you also see that that rule states that
9 the utility can recover the excess expenses until the next
10 rate case?

11 A. Yes, it does say that.

12 Q. Okay. Now, if you go to tab 2, that's .030
13 and that's the vegetation management standards.

14 A. Okay.

15 Q. If you look at subsection 10, that too
16 states that the Commission can grant a tracking mechanism
17 to recover expenses incurred from this rule. Do you
18 agree?

19 A. Yes.

20 Q. And then that subsection also states that
21 recovery is up until the next rate case?

22 A. Okay. Agree.

23 Q. And we're here today on a different rate
24 case than which these trackers were established, correct?

25 A. Right.

1 Q. Can you point to anywhere in the rule where
2 it says, and that would be in section 030, that the
3 tracker should be maintained until the completion of a
4 maintenance cycle?

5 A. No, I can't.

6 Q. And these rules went into effect in July of
7 2008?

8 A. That's correct.

9 Q. But AmerenUE began complying with the rules
10 in January of 2008?

11 A. For vegetation management, yes.

12 Q. And the Commission allowed you to recover
13 expenses in your last rate case for the costs that -- from
14 January until inception of the rules because you started
15 complying prior to the rules?

16 A. Right.

17 Q. And you were able to amortize those costs?

18 A. Correct.

19 Q. And your tracker's now been in place for a
20 year, correct?

21 A. That is correct.

22 Q. And you also had the opportunity to defer
23 the expenses that were incurred from October of 2008
24 through February of 2008?

25 A. Yes.

1 Q. Now, I want to direct you to your rebuttal
2 testimony in which you -- it's on page 5, line 12, and you
3 state that you actually recovered 5 million over the base
4 level rates for vegetation/infrastructure management from
5 the last rate case.

6 A. Okay.

7 Q. And then on page 11 of your rebuttal, you
8 say that some of the over-- overcollection to pay the
9 amount UE incurred from October 1st through February 28th,
10 correct?

11 A. Yes.

12 Q. Now, you identified that amount as
13 2.9 million, and Mr. Rackers has identified it as
14 2 million. Do you agree with Mr. Rackers?

15 A. Yes, I do.

16 Q. So if you use Mr. Rackers' 2 million and
17 subtract it from the 5 million, that's 3 million, correct?

18 A. That is correct.

19 Q. Now, in the last rate case, didn't the
20 Commission's order say that any over or undercollection
21 would be considered in UE's next rate case?

22 A. Yes, I believe that's true.

23 Q. And that would be right now?

24 A. Yes.

25 Q. So when is the company going to tell us

1 what it's going to do with its overcollection? Are you
2 just going to put that money in your pocket?

3 A. No. I would say a two-way tracker is --
4 would have the opportunity -- I mean, I don't think it was
5 spelled out explicitly how this would be handled at the
6 end, but I think it could be returned to ratepayers as an
7 overcollection like it would have expected to be if it was
8 undercollected.

9 So I think the advantage of a two-way
10 tracker is just that. It allows us to understand the
11 costs going forward based on projections and then true up,
12 if you will, at the end of that period.

13 Q. So is it fair to say setting a base amount
14 in a tracker isn't always going to be accurate?

15 A. Yes, I think that's fair to say. I think
16 that's why it's important to have a tracker.

17 Q. Now, Mr. Wakeman, you agree that the
18 dollars considered by the Commission for vegetation
19 management/infrastructure inspections should not include
20 internal payroll?

21 A. That is correct.

22 Q. And, in fact, you admit that the company
23 erred in providing the wrong amounts to the Commission?

24 A. Yes, I do. I pointed that out in my
25 testimony.

1 Q. And those were budget amounts for
2 vegetation management/infrastructure inspections that
3 inappropriately included internal payroll?

4 A. Yes. That amount that was based in the
5 tracker initially had internal labor included. Again, I
6 pointed that out in my testimony and we suggested that
7 that be removed.

8 Q. And in this case, you're recommending that
9 the Commission accept your budget amounts to use for an
10 ongoing level of cost of service?

11 A. Yes, budget amounts with a tracker in
12 place.

13 Q. Now, do these budget amounts include
14 internal payroll?

15 A. No, they do not. Not to my knowledge.

16 Q. Are you as sure as you were in the last
17 case that they do not include internal payroll?

18 A. I can assure you that, to the best of my
19 knowledge, it's not in there, no.

20 Q. All right. Again, we're talking about the
21 fact that these issues were considered non-internal labor
22 costs for vegetation management and infrastructure
23 inspections?

24 A. Right.

25 Q. Isn't it true that the cost the company

1 identified to the Commission that it incurred to comply
2 with vegetation management and infrastructure inspection
3 rules from January 1st of '08 through September 30th of
4 '08 included internal payroll?

5 A. Could you ask me that again, please?

6 Q. Okay. The costs the company identified to
7 the Commission that it incurred to comply with the
8 vegetation and infrastructure rules from January 1st of
9 '08 through September 30th of 2008 included internal
10 payroll?

11 A. I can't be certain of that. You may ask
12 Lynn Barnes that question.

13 Q. Pardon me?

14 A. You could ask Lynn Barnes that question.
15 I'm not certain at this point.

16 Q. Okay. Are you familiar with Staff Data
17 Request 374?

18 A. I don't have it in front of me.

19 Q. I have a copy. Can I -- may I approach?
20 If you want to take a look at it.

21 A. Okay.

22 Q. Does that refresh your memory any?

23 A. Yes, it does.

24 Q. Okay. So it did include internal payroll?

25 A. Yes.

1 Q. Thank you. And the Commission set up a
2 three-year amortization for those costs incurred from
3 January 1st through September 30th of '08?

4 A. Yes.

5 Q. And a third of those costs include -- are
6 included in the cost of service for this rate case?

7 A. Right.

8 Q. Okay. You stated earlier that you began
9 complying with the rules in January of 2008?

10 A. Right. That's correct.

11 Q. So that's a little over two years ago,
12 correct?

13 A. Yes.

14 Q. And at this point you have two years full
15 of experience with the vegetation management and
16 infrastructure inspections?

17 A. Two full years of vegetation management. I
18 don't know if I would make the same conclusion on
19 infrastructure inspection.

20 Q. Well, in terms of vegetation management,
21 it's on what they call a four-year/six-year cycle, four
22 years for urban and six years for rural?

23 A. That's correct.

24 Q. At this point you would be more than
25 50 percent completed with your first cycle for urban?

1 A. That's correct, yes.

2 Q. And you'd be a third of the way done for
3 rural?

4 A. Right.

5 Q. And by the time these rates go in effect,
6 you'll be probably more closer to 60 percent or 75 percent
7 for urban and more towards halfway, 50 percent complete
8 for rural?

9 A. I'd say probably a little less than that,
10 but yeah, close.

11 Q. Now, when Ameren began its maintenance
12 cycles, would you agree that it would make sense for the
13 utility to begin the cycle in the most problematic areas
14 or the ones where hot spots had been previously
15 identified?

16 A. When you're looking at trimming cycles, if
17 we were going to start the -- when we started the program,
18 we were moving through adapting to a four and six-year
19 cycle. The difference was, is that the new trim standards
20 were a higher clearance level, so more overhang, more side
21 clearance. So what you'd want to do in that case is
22 continue along the methodology you had, the schedule you
23 had in place before so in order to continue to move
24 through your circuits.

25 Q. Are you saying that you did not start in

1 the most problematic areas?

2 A. We --

3 Q. Or you hadn't identified the most
4 problematic areas?

5 A. We trim on -- based on a cycle. Now, we do
6 hot spot trimming for problematic areas, but we identified
7 circuits that -- or we moved through a schedule to trim
8 our entire service territory. If we did it another way,
9 then we would have the situation where we'd have some
10 circuits that went much longer without being trimmed.

11 Q. And would you agree that you have always
12 been in compliance -- or UE has always been in compliance
13 with the Chapter 23 rules?

14 A. Always since when?

15 Q. Since even prior to the rules
16 being incepted?

17 A. No, I would not agree with that.

18 Q. Well, since January 1st of 2008?

19 A. In compliance meaning that we're working
20 through, achieving the clearances on the circuits that are
21 prescribed in the rules as we work through them, yes, we
22 are in compliance with the rules in that. We haven't
23 complied with -- we haven't completed the entire cycle on
24 all circuits. So some circuits haven't been trimmed to
25 this new standard. Some have.

1 Q. But Staff hasn't filed a complaint against
2 you for not being in compliance?

3 A. Well, we're in compliance with moving
4 through the schedule. So yes, we're in compliance with
5 the rule. We're in compliance --

6 Q. Okay. Thank you.

7 A. -- with the plan.

8 Q. Do you think that using the budgeted
9 amounts as base level, that you are at least in some
10 degree capturing inflation with respect to vegetation
11 management and infrastructure inspection costs?

12 A. I suppose in some respects. We're actually
13 trying to capture what we think the costs will be next
14 year, and that's what's placed in the tracker.

15 Q. So inflation would be included in those
16 costs?

17 A. Yes.

18 Q. Do you think that was the intent of the
19 rule, of the tracker?

20 A. I think the intent of the track -- no. I
21 think the intent of the tracker was to allow us to gain an
22 understanding of what this program will really cost going
23 forward to implement, and having no historical basis to
24 gain that data, I think the tracker's an appropriate
25 mechanism to use forecasted costs and then track the

1 differences like we did. If we over-recover or
2 under-recover, we can either make the company or the
3 customers whole in that.

4 Q. Did you intend to include inflation?

5 A. Well, the number --

6 Q. It's a yes or no question.

7 A. The number includes inflation.

8 Q. Did you intend to or not?

9 A. Yes.

10 MS. OTT: I have no further questions.

11 Thank you.

12 JUDGE WOODRUFF: Cross for MIEC.

13 CROSS-EXAMINATION BY MR. ROAM:

14 Q. Mr. Wakeman, the company spent
15 \$49.2 million in vegetation management in 2008; isn't that
16 correct?

17 A. I don't think I have that number in front
18 of me at this time.

19 Q. You're not sure?

20 A. In the calendar year 2008?

21 Q. Yes.

22 A. I don't have that number in front of me, so
23 I can't verify it at this point.

24 Q. Have you -- did you review Mr. Rackers'
25 work papers in this case?

1 A. I reviewed a lot of Mr. Rackers' testimony.
2 I don't know if I saw specifically his work papers.

3 Q. Do you recall him stating in any of his
4 work papers what the total cost of vegetation management
5 in the year 2008 was?

6 A. I don't recall that.

7 Q. Okay. Nothing that you reviewed -- let me
8 ask it this way. In any of Mr. Rackers' testimony or any
9 papers that you reviewed, did you see any numbers in terms
10 of actual numbers for costs that -- costs that he stated,
11 did you see any numbers that were incorrect?

12 A. I don't recall any numbers that were
13 incorrect.

14 Q. So if you spent -- if the company spent
15 49.2 in 2008, that would be \$4.5 million less than what
16 it's seeking now; isn't that right?

17 A. Yes.

18 Q. And the company spent \$50.3 million in test
19 year ending March 2009, isn't that right, for vegetation
20 management?

21 A. Ending when?

22 Q. March 2009.

23 A. In front of me, I only have the updated
24 test year number.

25 Q. Okay. We can go to that. That's fine. So

1 you mean the true-up, is that --

2 A. Yes.

3 Q. So it spent 50.4 in the true-up ending
4 January 31st, 2010, right?

5 A. That's correct.

6 Q. And that's \$3.3 million less than what it's
7 now seeking?

8 A. That's correct.

9 Q. You don't have calendar year 2009, do you,
10 the numbers for that, do you?

11 A. The calendar 2009?

12 Q. Uh-huh.

13 A. I do not.

14 Q. Would you -- do you have any reason to
15 disagree with -- if I told you it was 50.9, would you have
16 any reason to disagree with that?

17 A. Sounds reasonable.

18 Q. Okay. Now, if you don't -- if the tracker
19 is terminated in this case, that's not going to change --
20 that's not going to change the which you do vegetation
21 management, is it?

22 A. No, I wouldn't expect it would.

23 Q. You wouldn't decrease it?

24 A. We will live up to the Commission rules.

25 Q. Okay. And this is -- this is more a

1 clarifying question so that I can understand it. You
2 said -- I think you said that you were -- when were the
3 four to six-year -- when did that four and six-year cycle
4 come into practice?

5 A. Originally -- begin to achieve it?

6 Q. Uh-huh.

7 A. Originally in -- after the 2004 agreement,
8 so beginning of 2005.

9 Q. Okay. And then you implemented the new
10 rules even though they hadn't been implemented, you
11 implemented the practice of the new regulations in January
12 2008 --

13 A. That's correct.

14 Q. -- for vegetation management?

15 So when you come back around to that cycle
16 for those -- for those areas that need to be trimmed at
17 the beginning of next, I guess it would be at the
18 beginning of the cycle, that growth would have already
19 been gone through once within the four to six-year cycle
20 depending on if it's rural or urban, right?

21 A. In 2012?

22 Q. 2012.

23 A. Right. That's correct. When we come back
24 around, we will have achieved in the first round the
25 standard of the new rules.

1 Q. So we would anticipate that there would be
2 less growth, and I would -- and maybe you can correct me
3 on this, but I would think there would be some correlation
4 to an area that's already been trimmed within a relatively
5 recent time, would cost less to trim than, you know, than
6 an area that hadn't been trimmed in a longer period of
7 time. Does that make sense?

8 A. It does, and I think what we'll see is the
9 costs will become better known as we move through that
10 second cycle. We will have removed the overhang and a lot
11 of the other trees, and I think we'll have a better handle
12 on those costs going forward.

13 Q. Let me put it this way. That's not really
14 what I'm asking. What I'm really asking is, if you go
15 through and cut an area, two equal areas of equal growth,
16 and you cut one and then you don't go back to it for ten
17 years. You cut another one, but you go back to it in six
18 years. The one that you went back to in six years is
19 going to have less growth, isn't that right, if all
20 things -- all things being equal?

21 A. Yeah. Yeah. I would say, you know, there
22 becomes a point where it's so much work I think on your
23 six and ten-year analogy that it would be expensive either
24 way. But certainly when you come back through on a
25 regular cycle, you're more able to handle vegetation

1 management issues more cost effectively.

2 Q. So if I understood that answer, when you
3 come back through the six-year cycle, you're going to have
4 less growth than you would on the ten-year cycle, all
5 things being equal, and so it's going to be less expensive
6 to trim the six-year growth than it's going to be to trim
7 the ten-year growth?

8 A. Yes.

9 MR. ROAM: Okay. I think that's all I have
10 for you.

11 THE WITNESS: Thank you.

12 JUDGE WOODRUFF: All right. I have no
13 questions from the Bench at this time, but I think as I
14 mentioned earlier before lunch, the Commissioners are
15 still up in agenda as far as I know. When they come back,
16 they may have some questions for you, so if you'd stay
17 around.

18 THE WITNESS: Absolutely.

19 JUDGE WOODRUFF: They may want to recall
20 you. No questions from the bench at this time, so no need
21 for recross. Any redirect?

22 MS. TATRO: Thank you.

23 REDIRECT EXAMINATION BY MS. TATRO:

24 Q. Mr. Wakeman, when you were being
25 cross-examined by the Staff's attorney, she talked about

1 internal labor being included in some of the numbers. Do
2 you remember that conversation?

3 A. Yes, I do.

4 Q. Was it ever AmerenUE's intention to include
5 internal labor in those numbers?

6 A. No.

7 Q. And does AmerenUE have an objection to
8 removal of internal labor from those numbers?

9 A. No, we do not.

10 Q. She asked you if the new numbers that
11 you've given included internal labor, and you said, to the
12 best of your knowledge, it did not. Do you remember that
13 conversation?

14 A. Yes, I do.

15 Q. Did you specifically check and ask to
16 ensure that those numbers excluded internal labor before
17 putting them into your testimony?

18 A. Yes.

19 Q. She also asked you some questions about, on
20 the vegetation management side, that you have been in
21 compliance with the rules since January of 2008. Do you
22 remember that conversation?

23 A. Yes, I do.

24 Q. If you've been in compliance, why does that
25 not provide you with sufficient basis to know what your

1 costs are going to be going forward?

2 A. I think there's two main reasons. The
3 first is we've only trimmed 60 percent of our circuits,
4 and there's a high variability on a circuit by circuit
5 basis on trim costs when you're talking about overhang
6 removal and increasing side clearances, additional tree
7 removals. So that variation can be from thousands to tens
8 of thousands of dollars on a per-circuit basis.

9 And high variability, these are real world
10 situations and back yards and other areas that are -- just
11 have high variability around actually implementing the
12 rules.

13 Q. So even though you've had experience with
14 up to 50 or 60 percent of the circuits, you can't tell the
15 Commission as you sit here today that -- that you'll have
16 the same experience with the remaining circuits?

17 A. I can't say that with certainty, and even
18 as evidenced by the results of the tracker during this
19 first year, we'd underspent. So I think keeping the
20 tractor -- tracker in existence for, as I mention in my
21 testimony, for two to four more years until this program
22 is in a more stable, mature condition so costs are better
23 known, I think it's -- it's an advantage to customers and
24 it's an advantage to the company. So I don't see a real
25 driving reason to remove the tracker at this point.

1 Q. Okay. And the attorney for MIEC was
2 talking to you about the four to six cycle that you
3 started back in 2004 after the commitment was made --

4 A. Yes.

5 Q. -- stemming from the case.

6 Is there a difference between that
7 commitment and the four to six-year cycle that UE
8 currently trims under?

9 A. Absolutely. It's not the cycle that's
10 important. It's the trimming standards. And when the
11 Commission passed these new rules, they raised the bar, so
12 to speak, or they raised the level of trimming standards.
13 They required removal of overhang, which we hadn't done in
14 the past generally, and additional side clearances, which
15 result in more removal of trees and a higher cost to
16 implement that type of a program over what we had in 2004.

17 So going through and doing it every four to
18 six years is one thing, but it's just as important when
19 you talk about a cost basis what you're doing when you go
20 through. So if you raise the standards, say we want to
21 trim farther back and remove the overhang, then that
22 obviously, I would think, has some additional cost
23 associated with it.

24 MS. TATRO: Thank you. I have nothing
25 further.

1 JUDGE WOODRUFF: Okay. Mr. Wakeman, you
2 can step down.

3 We'll take a short break. Come back at
4 two o'clock.

5 (A BREAK WAS TAKEN.)

6 JUDGE WOODRUFF: During the break, I went
7 upstairs and checked on the Commissioners. They're still
8 going in agenda. There's a presentation going on about
9 Southwest Power Pool. It's taking up a lot of their time.
10 Looks like maybe another half hour or so of that. We'll
11 go ahead and press on.

12 While we were on the break, Mr. Meyer has
13 retaken the stand, and you are still under oath. You may
14 inquire.

15 MR. ROAM: At this point I'll just tender
16 Mr. Meyer for cross-examination.

17 JUDGE WOODRUFF: Okay. Public Counsel's
18 not in the room at the moment, so we'll go to Staff.

19 MS. OTT: I have no questions.

20 JUDGE WOODRUFF: For Ameren.

21 MS. TATRO: Thank you.

22 GREG MEYER testified as follows:

23 CROSS-EXAMINATION BY MS. TATRO:

24 Q. Good afternoon, Mr. Meyer.

25 A. Good afternoon.

1 Q. Before turning to your testimony, I want to
2 ask you some general questions. Do you believe that
3 AmerenUE's vegetation management expenditures in the
4 updated test year were prudent?

5 A. Yes.

6 Q. Do you believe AmerenUE's infrastructure
7 inspection expenditures in the updated test year were
8 prudent?

9 A. Yes.

10 Q. Did you approach your testimony and your
11 recommendation by conducting an operational review of
12 AmerenUE's vegetation management practices or are you
13 merely making a mathematical accounting/auditing type
14 normalization?

15 A. Well, I hesitate to go to either approach
16 because I have -- I've been involved in the vegetation
17 management area since the 2002 complaint case, and so the
18 knowledge I gained through that process and through today
19 would lend some general knowledge so that it wouldn't be
20 just a mathematical calculation or approach.

21 Q. All right. Well, prior to filing your
22 testimony in this case, did you conduct -- did you visit a
23 portion of UE's distribution system to see what kind of
24 vegetation was being removed?

25 A. As we discussed in my deposition, if you

1 drive around in the St. Louis area or at least in my --
2 with my experience in the St. Louis area or in the
3 outskirts of UE's service territory, you can see the
4 results of the vegetation management.

5 Q. So as you drove by, you saw that vegetation
6 management work was occurring?

7 A. And occasionally you would see crews
8 working.

9 Q. Did you -- do you believe that provides you
10 with enough operational information to know what kind of
11 vegetation -- what amount of vegetation is being removed?

12 A. I didn't measure the vegetation that was
13 being removed.

14 Q. Okay. But your experience is limited to
15 what you saw driving by?

16 A. And meetings with the company.

17 Q. When would those meetings with the company
18 have occurred?

19 A. Like I testified just prior, from the
20 complaint case in 2002 forward through, I believe through
21 the -- well, including the technical conference in this
22 case, through the conclusion of the 2007 rate case.

23 Q. Okay. Just focusing on after the company
24 started complying with the Commission's vegetation
25 management standards, which would have been January of

1 '08. Okay?

2 A. Okay.

3 Q. Since that date, have you -- besides
4 driving by, have you conducted, have you visited, have
5 you -- with Mr. Wakeman or Mr. Zdellar prior to his
6 retirement, about what type of vegetation management work
7 had to be done under the Commission's new rules?

8 A. Only to the extent it would have been
9 discussed in the technical conference. The answer would
10 be no.

11 Q. Okay. You didn't review AmerenUE's
12 vegetation management compliance filing that was made in
13 EO-2009-0012, did you?

14 A. No, I did not.

15 Q. Okay. And you haven't reviewed it --
16 strike that question.

17 Now, prior to filing your testimony, did
18 you visit any portion of AmerenUE's distribution system to
19 see how the infrastructure inspection programs were being
20 implemented?

21 A. No.

22 Q. Now, Mr. Meyer, your background's not
23 operational in terms of operating a utility, is it?

24 A. I have an accounting degree.

25 Q. So you're not an electrical engineer?

1 A. Not with an accounting degree.

2 Q. Okay. You've never worked as a utility
3 tree trimmer?

4 A. No.

5 Q. You've never inspected utility facilities?

6 A. No.

7 Q. I want to talk about the Commission's
8 vegetation management rules. Are you familiar with those
9 rules?

10 A. I've reviewed them.

11 Q. Okay. What do you believe they require
12 utilities to do?

13 A. The vegetation management rule?

14 Q. Yes, sir.

15 A. I think the major impetus of the rule is to
16 trim, remove or -- trim/remove trees on a four to six-year
17 cycle for rural and urban areas.

18 Q. So you would consider that four to six-year
19 trim cycle to be the main driver of the rules?

20 A. I can review the rule again if you'd like.

21 Q. I just want to know your understanding,
22 what you're basing your conclusion on.

23 A. I'd say that that's the main impetus of the
24 rule with guidelines on certain trims.

25 Q. Okay. I'd like to turn to your surrebuttal

1 testimony, please. Specifically page 11, around line 20
2 to 22 you indicate that you consider the percentage of
3 trimmed circuits to be sufficient data to establish
4 ongoing level of expenses. Do you see that?

5 A. I'm sorry. Could you give me the lines
6 again?

7 Q. Page 11.

8 A. I got that.

9 Q. Line 20 through the end of the page.

10 A. Yes, I see that sentence.

11 Q. So the basis for your assertion is that
12 there's an existence of a year's worth of data, thus
13 that's -- you consider that sufficient data; is that
14 correct?

15 A. No.

16 Q. All right. What's the basis of the
17 assertion?

18 A. You have two years of data available.

19 Q. From January '08?

20 A. Well, actually, you have over two years of
21 data now, then. You have -- you've trimmed in excess
22 of -- well, let me put it this way. By the time rates go
23 into effect, you'll have trimmed in excess of 50 percent
24 of your routes.

25 Q. All right.

1 A. As we sit here today, you've trimmed in
2 excess of 42 percent of your routes.

3 Q. All right. 42 percent. Because when rates
4 go into effect and it's the 50 percent, the Commission
5 won't have that evidence in front of them, will they?

6 A. No.

7 Q. Okay. Do you know what stage -- do you
8 know when AmerenUE began its underground inspections?

9 A. I can find that. In compliance with the
10 rule?

11 Q. Yes.

12 A. Can you be more specific about your
13 underground inspection?

14 Q. The inspection of underground facilities.

15 A. Well, do you want to go further?

16 Q. Facilities that are underground.

17 A. Okay. Well, then I'll tell you. Your
18 pad-mounted inspections you didn't start until January of
19 2009. Your underground network inspections has been an
20 existing program, and it doesn't say when you started it.

21 Q. What is it?

22 A. That's all the information I have.

23 Q. Okay. I do have some more. Your
24 underground cable replacement program, you modified it
25 from an existing program, and your underground conversion

1 program was started in 2007.

2 Q. Underground conversion, that's not an
3 inspection program, right?

4 A. Correct. I'm sorry.

5 Q. So that's not required by the
6 infrastructure inspection rule, is it?

7 A. You submitted it as part of it.

8 Q. Regardless, can you tell me whether the
9 infrastructure inspection rule requires the company to
10 convert cable underground?

11 A. All I'm responding to is that you reported
12 it in response to your requirements for the new inspection
13 rule.

14 Q. All right. Where was it reported?

15 A. It's in the back of Mr. Zdellar's
16 testimony.

17 Q. Mr. Zdellar's testimony covered -- which
18 was adopted by Mr. Wakeman, covered a variety of topics,
19 correct?

20 A. Correct.

21 Q. Let's turn to your surrebuttal, page 12,
22 line 18. I'm sorry. Line 9.

23 A. What page again? I'm sorry.

24 Q. Page 12, one page from where we were
25 before.

1 A. Line?

2 Q. 9.

3 A. Okay.

4 Q. It says, it is not possible at this time to
5 determine if AmerenUE has only trimmed the easiest
6 circuits or the most difficult. Do you see that?

7 A. Did you say surrebuttal?

8 Q. I did. The word "it" is the last word on
9 line 9. It is not possible at this time to determine if
10 AmerenUE's only trimmed the easiest, is line 10.

11 A. I see the sentence.

12 Q. Okay. What do you mean by the easiest or
13 most difficult circuits to trim?

14 A. As Mr. Wakeman described earlier, the
15 amount of overhang that you would experience or that you
16 would be encountering when traveling the circuit.

17 Q. So you would agree that not every circuit
18 costs the same amount to remove vegetation?

19 A. Correct.

20 Q. And you would agree there's a -- that means
21 there could be a difference in cost trimming one circuit
22 to the next circuit, right?

23 A. I agree.

24 Q. Okay. Would you agree it costs more to
25 remove vegetation in heavily treed areas?

1 A. In what context? I'm struggling with it
2 because of the cycle trim.

3 Q. Okay. If you have a circuit that doesn't
4 have a tree and a circuit that's heavily treed, it costs
5 more to trim the heavily treed circuit because you don't
6 have to trim the other circuit, right?

7 A. I'll agree with you, if you have a circuit
8 that has no trees versus a circuit with trees, it's going
9 to be different.

10 Q. What if you have a circuit that has twice
11 the trees of another circuit, and if they were both
12 trimmed at the -- they were both trimmed, and then four
13 years later they're both trimmed again, is it going to
14 cost you more to trim the circuit that has twice as many
15 trees?

16 A. Twice as much, is that what you said?

17 Q. Just would it cost more to trim?

18 A. I'd agree there might be some
19 incremental -- some incremental increase in the expense
20 for the twice an heavily populated circuit versus the
21 other.

22 Q. Okay. If you're trimming a circuit and as
23 part of that trim you are removing all overhang, would
24 that cost -- does it sound reasonable to you that it would
25 cost more than trimming a circuit in which you do not

1 remove all overhang?

2 A. Well, obviously if the scope of the work is
3 different, I think the one that generates or has a higher
4 scope would cost more.

5 Q. Okay. Do you have a copy of the vegetation
6 management rules with you?

7 A. Yes.

8 Q. Could you please turn to point 30, sub 9.
9 It's on page 9 of the rules, if that helps you.

10 A. Page 9?

11 Q. Yeah. And it's titled "specific
12 requirements".

13 A. I see it.

14 Q. Would you agree with me that a utility that
15 has trimmed 15 percent of its urban distribution miles by
16 the 12th month anniversary of these rules is in compliance
17 with the rules?

18 A. 15 percent of the urban within the first 12
19 months is in compliance.

20 Q. Do you have the infrastructure rules with
21 you?

22 A. I believe I do.

23 Q. You do? Okay. Would you please turn to
24 the chart where it lists the various cycles that different
25 inspections have to be done?

1 A. Yes.

2 Q. And this is a chart that sets forth when
3 certain inspections must occur, right?

4 A. Correct.

5 Q. All right. Let me pose another
6 hypothetical for you. If a utility completed their first
7 year under the infrastructure rules and had not completed
8 an intrusive inspection on every urban wood pole, had not
9 completed every inspection on the chart, would they be in
10 violation of the rule?

11 A. If they had not -- just so I understand, if
12 they had not intrusively inspected every pole on your
13 system, would they be out of compliance with the rule?

14 Q. Right.

15 A. No.

16 Q. Okay. So that very same utility, even
17 though they hadn't completed those inspections, could
18 still be in compliance with the rule, right?

19 A. Yes.

20 Q. Let's go back to your surrebuttal, page 14,
21 please. And again, you're talking about -- about line 15
22 and 16, you discuss if the level of expense incurred for
23 the inspections through the true-up period is sufficient
24 to establish an annual level of expense?

25 A. That's correct.

1 Q. How many years of experience do you believe
2 UE has as of the true-up period?

3 A. In compliance with the rule?

4 Q. Yes.

5 A. Through the true-up period, 19 months.

6 MS. TATRO: I have no further questions.

7 JUDGE WOODRUFF: Okay. I have no questions
8 from the Bench. There's no need for recross. Any
9 redirect?

10 MR. ROAM: Redirect.

11 REDIRECT EXAMINATION BY MR. ROAM:

12 Q. Just for clarification, Mr. Meyer, you've
13 never stated that -- you've never stated -- or it's not
14 your testimony that just because AmerenUE may be in
15 compliance, therefore there's sufficient maturity of this
16 program for there to be historical data that would allow
17 the termination of a tracker? That's not your testimony,
18 is it?

19 MS. TATRO: Objection, leading.

20 BY MR. ROAM:

21 Q. Do you recall Ms. Tatro indicating during
22 her mini opening that you had distorted the term
23 compliance or distorted the term maturity?

24 A. I recall that she made some type of
25 statement to that effect.

1 Q. Is it your testimony that compliance, the
2 term compliance equals the term maturity?

3 A. No. I think -- I think what I was trying
4 to establish is that, given that they've been in
5 compliance with the rule and operated under the rule for
6 19 months, in excess of two years for vegetation
7 management, that there's sufficient cost history and cost
8 experience to disallow, to set up an ongoing level of
9 expense and to eliminate the need for the trackers.

10 Q. So it's the length of -- it's the length of
11 time in addition to the compliance, is that what you're
12 saying, that leads you to believe that there's sufficient
13 maturity to this program?

14 A. Well, obviously -- obviously you have to be
15 in compliance with the program, and then from -- when it's
16 been established that you're continually in compliance
17 with the program, you're gathering and maintaining cost
18 history. What I believe is that there's sufficient cost
19 history in these areas to establish an ongoing level of
20 expense, and the necessity for a tracker is no longer
21 necessary.

22 Q. Is that because they've been in compliance
23 for over two years in the vegetation side?

24 A. They've been trimming -- they've been
25 trimming circuits for over two years.

1 MR. ROAM: I have no further questions.

2 JUDGE WOODRUFF: You may step down.

3 The next witness then is Dan Beck for
4 Staff. Good afternoon, Mr. Beck.

5 THE WITNESS: Good afternoon.

6 JUDGE WOODRUFF: Please raise your right
7 hand.

8 (Witness sworn.)

9 JUDGE WOODRUFF: You may be seated. And
10 you may have heard my speech before about please answer
11 only the questions that are asked and don't try and
12 elaborate on answers. We'll move along well.

13 THE WITNESS: Do my best, Judge.

14 JUDGE WOODRUFF: Thank you. You may
15 inquire.

16 DANIEL I BECK testified as follows:

17 DIRECT EXAMINATION BY MS. OTT:

18 Q. Can you please state your name for the
19 record.

20 A. Daniel I. Beck.

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

23 A. I work the Missouri Public Service
24 Commission Staff, and my title is Engineering Analysis
25 Supervisor.

1 and portions of 200 have been offered into evidence. Are
2 there any objections to their receipt?

3 (No response.)

4 JUDGE WOODRUFF: Hearing none, they will be
5 received into evidence.

6 (PORTIONS OF EXHIBIT NO. 200 AND EXHIBIT
7 NO. 209 WERE RECEIVED INTO EVIDENCE.)

8 MS. OTT: And I tender Mr. Beck for
9 cross-examination.

10 JUDGE WOODRUFF: Okay. Cross, then,
11 beginning with Public Counsel.

12 MR. MILLS: I have no questions.

13 JUDGE WOODRUFF: For MIEC?

14 MR. ROAM: No questions.

15 JUDGE WOODRUFF: For AmerenUE?

16 MS. TATRO: Thank you.

17 CROSS-EXAMINATION BY MS. TATRO:

18 Q. Good afternoon, Mr. Beck.

19 A. Good afternoon.

20 Q. Much as I've done before, I want to talk
21 generally with you before we turn to your testimony. Do
22 you believe AmerenUE's vegetation management expenditures
23 in the updated test year were prudent?

24 A. Yes, to the best of my knowledge.

25 Q. Do you believe AmerenUE's infrastructure

1 expenditures in the updated test year were prudent?

2 A. Yes.

3 Q. Prior to filing your testimony, did you
4 visit AmerenUE's system to see how vegetation management
5 work was proceeding? When I ask that question, I'm asking
6 for a visit that would have occurred after January 2008.

7 A. Yes. After January 2008, I would have had
8 visits. Now, whether that visit would have been in the
9 company of Dave Wakeman, Ron Zdellar, that type of thing,
10 that -- you'd mentioned that earlier in previous
11 questions. Is that your intent there?

12 Q. Well, tell me what your visit was.

13 A. Okay. In my role as an engineer with the
14 PSC, it is fairly common that we go out on -- working on
15 specific customer complaints. And so I'm going to give an
16 estimate, but my estimate would be that I probably visited
17 half a dozen specific customer complaint sites that would
18 have involved tree trimming complaints, lines, that type
19 of thing.

20 In addition to that, then, I'm trying to
21 think of any specific visits that were made, and it would
22 be my best estimate that those visits would have taken
23 place prior to January 2008, with the exception of
24 specific visits related to storm damage and the tree
25 trimming that went on as a part of that.

1 Q. Okay. So other than when you were out
2 investigating specific customer complaints, did you tour
3 AmerenUE's distribution facility to look at tree trimming
4 practices and how those programs were being implemented?

5 A. I think other than that exception and then,
6 of course, you know, as an engineer, the whole drive-by
7 thing, but we can't help but stop and look at things, too,
8 so that happens. We just can't help ourselves on things
9 like that. That type of thing, but nothing formal.

10 Q. Okay. How about on the infrastructure
11 inspections, have you -- since UE started complying with
12 those rules, have you gone on any type of tour or done any
13 type of inspection to see how that compliance is working?

14 A. The only thing that I've been involved
15 there was once again also the complaint issue. There's
16 been a series of complaints regarding customers asked to
17 move their -- things on their property that were somehow
18 blocking the equipment, and so when, for example, one of
19 those asked the customer to move a building, that garnered
20 my attention and a visit.

21 Q. But that visit wouldn't necessarily have
22 told you anything about how AmerenUE was inspecting its
23 infrastructure, would it?

24 A. I think it actually did help in terms of
25 first I got to see the form letter that was being

1 generated. Second, I got to see an actual, you know,
2 facility, and this was -- here was the assessment made
3 that this particular, in this case it was a pad-mounted
4 transformer, was not in meeting with the operation
5 standards. And then subsequently to that, I had several
6 conversations with AmerenUE personnel regarding that
7 installation and several other installations as well. And
8 I think that kind of practical example was actually a very
9 valuable learning about the actual application of the
10 rule.

11 Q. Okay. And again, as with the vegetation
12 management, other than those customer complaint visits,
13 did you go on a tour of the facility with either
14 Mr. Zdellar or Mr. Wakeman to talk about how that program
15 was progressing?

16 A. No, I did not.

17 Q. I want you to turn to your rebuttal
18 testimony, please.

19 A. Okay.

20 Q. And I would ask you to turn to page 1, but
21 you have two page 1s.

22 A. I see that.

23 Q. So please turn to the second page 1. And
24 on line 15, you start your discussion of what you call
25 vegetation management milestones. Do you see that?

1 A. Yes.

2 Q. The first one you talk about there is the
3 November letter from Mr. Zdellar talking about increasing
4 the tree trimming budget from 23.5 million to 30 million
5 and starting to eliminate the backlog with the goal of
6 completing that by 12/31/08. Do you see that?

7 A. Yes, I do.

8 Q. And the commitments in that letter, did
9 that stem from a particular case?

10 A. This letter I believe is filed in the EW,
11 believe it's 2004-578.

12 Q. 0583?

13 A. 0583. Okay.

14 Q. You're close.

15 A. But I think it -- while it was filed in
16 there, I'm not sure that that docket, you know, that this
17 is the only thing that that docket was created for or this
18 was the total result of that. Instead, I think this was
19 the result of the storm that Ameren experienced in 2004,
20 summer of 2004, Staff's report, and subsequent discussions
21 and negotiations between AmerenUE and Staff to come up
22 with this plan to move forward.

23 Q. Okay. And are you familiar with the
24 vegetation management practices UE used back in 2004?

25 A. Yes.

1 Q. Okay. So at the time of that letter from
2 Mr. Zdellar, did Union Electric remove overhang when it
3 was completing a trim cycle?

4 A. No, not typically.

5 Q. Okay. That's now required by the
6 Commission's vegetation management rules, correct?

7 A. That's correct.

8 Q. In your opinion, is there more work
9 associated with removing all overhang versus only removing
10 the portion perhaps that's closest to the line?

11 A. I think there's definitely more work,
12 especially in that first cycle where you're removing that
13 overhang.

14 Q. And how long does that first cycle take?

15 A. Ameren's operational procedures at that
16 time and -- and now with the rule in place are still the
17 same. Their procedure was a four-year urban/six-year
18 rural cycle. They weren't meeting that back in 2004, but
19 that was -- that was the operational procedures.

20 Q. Okay. And under the Commission's current
21 rules, it will take four years to remove all the overhang
22 on urban circuits and six years to remove all the overhang
23 on rural circuits; is that correct?

24 A. On the specific circuits that it's
25 required. It's not required of all circuits that Ameren

1 has by any means.

2 Q. Right. But on the circuits it's required?

3 A. Yes.

4 Q. I just want to make sure that we got an
5 answer on that one.

6 If there's more work associated, is it fair
7 to expect that there's more cost associated with that
8 removal?

9 A. It would -- it would seem to be logical.

10 Q. Okay.

11 A. Yes.

12 Q. Are you familiar with the distance of line
13 clearance that AmerenUE trims to under the commitment as
14 set forth in Mr. Zdellar's letter, so in 2004?

15 A. I don't remember any specific line
16 clearance. If you have a copy of the letter, I -- and
17 there's some specific reference, I'd be happy to look at
18 that.

19 Q. Do you know if there's a clearance
20 requirement under the Commission's rules?

21 A. Yes, there is.

22 Q. What is that requirement?

23 A. It varies by voltage. It is -- it's the
24 various clearances listed under the specific requirements
25 section, which is section 9 of the vegetation management

1 standards.

2 Q. And what's the requirement for the 50,000
3 volts?

4 A. 15 feet.

5 Q. And for above that? I should have said
6 below 50. I'm sorry.

7 A. I'm sorry.

8 Q. Let's start with that.

9 A. I'm sorry.

10 Q. Below 50.

11 A. Okay. Ten feet for the 600 through 50,000
12 volt range, and then 15 feet above that.

13 Q. And to the best of your knowledge, was
14 AmerenUE trimming to those distances prior to the
15 Commission's vegetation management rule?

16 A. I don't believe they were.

17 Q. Okay.

18 A. It varied by circuit.

19 Q. Okay. If you'd turn the page to what's
20 labeled page 2 on your rebuttal testimony, you continue
21 with some additional milestones, one of which you
22 mentioned is ER-2008-00 -- that should be 2007-0002, and
23 you talked about increasing vegetation management expenses
24 to 45 million. Do you see that?

25 A. Yes, I do.

1 Q. Were the Commission's vegetation management
2 rules in effect at that time?

3 A. No, they were not.

4 Q. So if I asked you some of the questions we
5 just went through, was AmerenUE at that time removing
6 overhand and were they trimming to the distance we
7 discussed earlier, your answer would be no?

8 A. My recollection of that was, is that Ameren
9 made a commitment at this time to begin to take down the
10 overhang for the what was termed feeder circuits. But as
11 far as the minimum distance, that was not something that
12 was being discussed, to my knowledge, at that time.

13 Q. Okay. And that fact would have been true
14 during the last rate case, correct?

15 A. That's correct.

16 Q. Still on that same page, on line 23, at the
17 very bottom, you say AmerenUE's vegetation management
18 program has remained constant for the last two years, the
19 funding. I'm sorry. That's not -- let me rephrase that.

20 You say, the vegetation management program
21 has essentially remained constant for at least the last
22 two years?

23 A. That's correct.

24 Q. What two years are you referring to?

25 A. 2008 and 2009.

1 Q. What was the budget in 2008, do you know?

2 A. I do not right off the top of my head, no.

3 Q. Would that be the \$45 million discussed at
4 the bullet in the top of the page?

5 A. It might have been the budget going into
6 that year, but the actual expenditures I don't think -- I
7 don't think that was something that -- I think at that
8 point Ameren worked on compliance, not on meeting some
9 budget target that was set a year earlier.

10 Q. When AmerenUE filed its rate case
11 ER-2008-0318, had they spent that that \$45 million, do you
12 remember?

13 A. They spent more than 45 million.

14 Q. But you don't remember what that amount
15 was?

16 A. I don't. I just remember it was
17 significantly more than that. When I say significant, I'm
18 thinking around 10 percent more than that, but that's just
19 a number that comes to mind.

20 Q. Okay. Then in the last rate case, in
21 ER-2008-0318, AmerenUE asked the Commission to adopt the
22 average to -- implement a tracker; you remember that?

23 A. Yes, I do.

24 Q. And the base amount for that tracker was to
25 be the average of its budget for 2009 and 2010; is that

1 right?

2 A. That was the request, yes.

3 Q. And was that a step increase from the
4 amount that had been expended prior to that point?

5 A. I believe it was both a step increase of
6 the 45 million and the amount that was incurred prior,
7 yes, both.

8 Q. So when you say that the program was
9 remaining constant, you're not really talking about the
10 dollars being expended, right?

11 A. That's -- that's correct.

12 Q. Okay. Let's turn to page 3, please. Now,
13 on lines 3 and 4, you talk about the specific scheduled
14 requirement in the rules for completion targets at
15 intervals of 12 months, 18 months, 24 months, and you said
16 that you have that rule with you; is that right?

17 A. That's correct.

18 Q. So hypothetically -- you may have heard
19 this question before -- a utility that has trimmed
20 15 percent of its urban circuits at the 12-month mark
21 after implementation of the Commission's rules is in
22 compliance with the Commission's rules?

23 A. That's correct.

24 Q. Okay. And they're in compliance even
25 though they may not yet have trimmed 85 percent of the

1 urban circuits; isn't that true?

2 A. I'm not sure where the number 85 comes
3 from, but as long as they're meeting those minimum
4 requirements.

5 Q. All right.

6 A. And they're following -- yes. They don't
7 have to be 100 percent if we're, for example, where we're
8 at, which is two years into this -- well, a year and a
9 half into this rule being in effect.

10 Q. Okay. And 100 minus 15's 85, right?

11 A. Yes.

12 Q. I've been known to make a mistake.

13 A. I wasn't thinking on that side of the coin.
14 I'll sorry.

15 Q. That's okay. All right. Page 3, line 6
16 through 22, you talk about the tracker language and the
17 cost recovery mechanism that's in the vegetation
18 management rule. Do you see that part of your testimony?

19 A. Yes, I do.

20 Q. Now, sir, is it -- Mr. Beck, is it your
21 testimony that the Commission is only allowed to use this
22 mechanism set forth in this rule for cost recovery?

23 A. You mean -- maybe I don't understand the
24 question. The Commission has a lot of options for cost
25 recovery, this -- this particular section of this rule

1 being one of them.

2 Q. All right. Let me ask it a different way.

3 A. Okay.

4 Q. Does the rule prohibit the Commission from
5 authorizing a tracker that varies from what's described in
6 that language?

7 A. No, it does not.

8 Q. Okay. Does the rule prohibit the
9 Commission from authorizing any specific treatment that it
10 may desire to authorize?

11 A. No, it does not.

12 Q. Okay. Now, at the bottom of that page,
13 around line 26, you talk about giving AmerenUE the most
14 incentive to negotiate the most cost-effective contract
15 with its vegetation management work force. Do you see
16 that?

17 A. Yes.

18 Q. Mr. Beck, is it your testimony that if
19 AmerenUE maintains a tracker, it will not negotiate in
20 good faith to renew that contract?

21 A. No, that's not my testimony.

22 Q. Okay. AmerenUE has a tracker for pension
23 and OPEBs, correct?

24 A. I know that it exists.

25 Q. Okay. Do you know if Staff has ever

1 alleged some type of imprudent expenditure for the -- for
2 the dollars involved with that tracker?

3 A. I really -- I have no knowledge of any
4 imprudency recommendation that Staff has made on that, but
5 I have very limited knowledge of that area.

6 Q. Okay. So the basis of your incentive
7 argument, is it just that it's a theoretical possibility
8 that AmerenUE wouldn't negotiate the best contract
9 possible?

10 A. I -- the basis of my incentive is that if
11 you have money in your pocket or the opportunity for money
12 in your pocket, it is -- it is a powerful incentive.

13 Q. Do you know whether AmerenUE has internal
14 policies that dictate whether it uses a bidding process
15 when it renegotiates those contracts?

16 A. I am not aware of any specific internal
17 policies. I am aware that in the past it has always been
18 a bidding process. I've just never looked into what
19 policies are followed to do that.

20 Q. So you never submitted a Data Request
21 asking that question?

22 A. No.

23 Q. And you never picked up the phone and
24 called Mr. Wakeman to ask that question?

25 A. No.

1 Q. And similarly, I presume you never picked
2 up the phone and called Mr. Zdellar prior to his
3 retirement to ask him that question?

4 A. No.

5 Q. Let's talk about the infrastructure
6 inspection tracker, and I think on page 14 you make the
7 argument, similar to what we made on the vegetation
8 management rules, that the language in the rule
9 contemplates something different than what UE is asking
10 for in this case. Is that a fair statement? Look at
11 line 7.

12 A. I think that the -- my statement is that
13 the language of the rule is consistent for both
14 infrastructure and vegetation management regarding
15 trackers.

16 Q. All right. Does the rule prohibit the
17 Commission from authorizing a tracker such as that has
18 been proposed by AmerenUE?

19 A. No, it does not.

20 Q. Does the rule prohibit the Commission from
21 any particular treatment? Is that clause intended to
22 limit the way the Commission can treat those costs?

23 A. No, it's not.

24 Q. Now, Mr. Beck, while your rebuttal
25 testimony went through AmerenUE's vegetation management

1 history, you didn't go through its infrastructure
2 inspection program history, correct?

3 A. Correct.

4 Q. And that's because it's a lot newer
5 program, right?

6 A. To be honest, it also had a little bit to
7 do with the fact that it's a much less costly program, the
8 vegetation management being the larger number.

9 Q. Okay. Do you believe UE's infrastructure
10 inspection program is mature?

11 A. I'm sorry. Which one?

12 Q. Infrastructure inspection.

13 A. Infrastructure?

14 Q. As a whole.

15 A. Yes, I believe it is.

16 Q. Okay. What do you base that on?

17 A. I base that on the fact that -- that
18 various components of that were already being done by the
19 company. Other components have been done for
20 approximately a year and a half, and then finally other
21 components have been done for approximately a year. So
22 there's -- there's varying levels of experience depending
23 on which specific component of that infrastructure rule
24 you pick, but in total, they've at a minimum been at it
25 for over a year.

1 Q. Let's talk about some of the specific
2 programs.

3 A. Okay.

4 Q. Prior to the Commission rules, did AmerenUE
5 conduct scheduled underground inspections?

6 A. As mentioned earlier, Ameren has -- has had
7 an underground inspection program for their -- I want to
8 get the term right -- for their underground networks for
9 long before this rule ever was contemplated, and it's
10 always been my understanding that Ameren's schedule is
11 much more aggressive than this four-year contemplation
12 here.

13 But then there's a second component,
14 though, of underground, and that is the underground,
15 direct buried in conduit, and for that, that is a new
16 program that Ameren has embarked on, and it is -- in my
17 estimation has been going fully implemented for the last
18 year.

19 Q. So at the beginning of 2009?

20 A. That's my understanding, yes.

21 Q. Okay. How about streetlight inspections,
22 prior to the Commission rules, did AmerenUE do scheduled
23 streetlight inspections?

24 A. No.

25 Q. How about scheduled overhead facility and

1 pole inspections?

2 A. There were -- when you say scheduled, I
3 think given the -- given the emphasis on that word, I
4 would say Ameren did not have scheduled overhead
5 inspections prior to the rule.

6 Q. Did it do intrusive inspections of its
7 poles?

8 A. Transmission, yes. Distribution, no.

9 Q. Okay. What percentage of AmerenUE's
10 underground facilities have been inspected as required
11 under the Commission's rule? Do you know?

12 A. I do not know.

13 Q. Do you know what percentage of streetlights
14 have been inspected in compliance with the Commission's
15 rule?

16 A. I do not know.

17 Q. Do you know what percentage of intrusive
18 inspections on poles have occurred?

19 A. I do not know that.

20 Q. I could walk you through all of the
21 inspections that are required on that chart, for example,
22 on the infrastructure inspection rule, and would you have
23 a feel for how much of the inspections has or has not
24 occurred?

25 A. I really would not.

1 Q. All right. Well then I won't walk you
2 through each one.

3 MS. TATRO: I have no further questions.

4 JUDGE WOODRUFF: I have no questions from
5 the Bench. No need to recross. Any redirect?

6 MS. OTT: Yes, I have a few questions.

7 REDIRECT EXAMINATION BY MS. OTT:

8 Q. Ms. Tatro was talking about the incentive
9 to negotiate contracts. Do you remember that
10 conversation?

11 A. Yes.

12 Q. Why would there be an incentive to
13 negotiate contracts if there was not a tracker?

14 A. I think it kind of gets back to, I mean,
15 AmerenUE has a fiduciary responsibility to their
16 shareholders, and to the extent that rates would be set in
17 a traditional manner and then savings could be realized,
18 those dollars would flow to their shareholders. So I
19 think that's a powerful incentive.

20 There's other things that Ameren has in
21 place as well, I think, that probably go to that, but --
22 in terms of employee incentives, but I'm not really an
23 expert on that.

24 Q. Do you remember when Ms. Tatro was talking
25 about the Commission Chapter 23 rules? Now, the

1 Commission approved these rules. Did the Commission
2 approve these rules?

3 A. Yes. Yes.

4 Q. And would you say they endorsed it when
5 they sent it over to the Secretary of State?

6 A. Yes.

7 Q. And at that time, they didn't say they
8 wanted different treatment to the cost recovery in the
9 rule, did they, other than what's already there?

10 A. No. No, they did not.

11 Q. Now, if the Commission was -- wanted
12 different treatment of the cost recovery, could it have
13 put it into the rule possibly?

14 A. Oh, yes. I mean, that -- that section was
15 one that was discussed during the rulemaking. I think the
16 Commission, you know, contemplated that and made their
17 decision based on their deliberations of that.

18 MS. OTT: Thank you. I have no further
19 questions.

20 JUDGE WOODRUFF: Mr. Beck, you can step
21 down.

22 Next witness is Mr. Rackers for the Staff.

23 And you are also still under oath.

24 STEPHEN RACKERS testified as follows:

25 DIRECT EXAMINATION BY MS. OTT:

1 Q. Mr. Rackers, I failed to ask you earlier
2 today if you had any changes to your testimony, your
3 prefiled testimony. Do you have any changes?

4 A. Yes, I do.

5 Q. And what would that change be?

6 A. On page 4, line 5.

7 Q. Of your rebuttal, surrebuttal, direct?

8 A. My surrebuttal testimony.

9 Q. Okay.

10 A. I state that the amount that -- the amount
11 that was incurred to comply with the Commission's new
12 rules over and above what was already in rates through --
13 excuse me, beginning October 1 of 2008 through
14 December 28th of, I say 2008, but that should be 2009. I
15 identify that number as 2 million on line 5, and as I was
16 going through some additional materials last night, I
17 believe that number may be 1.6 rather than 2 million, but
18 I need to do some additional clarification to be sure
19 about that.

20 MS. OTT: Judge, would it be okay if
21 Mr. Rackers late filed an exhibit to correct the numbers
22 once he verifies that his 2 million is incorrect?

23 JUDGE WOODRUFF: Sure. Go ahead and file
24 it and offer it, and if anyone has any objections at that
25 time we'll deal with it.

1 MS. OTT: Thank you. I now tender
2 Mr. Rackers for cross-examination.

3 JUDGE WOODRUFF: Cross-examination,
4 beginning with Staff. I'm sorry. Lewis Mills for Public
5 Counsel.

6 CROSS-EXAMINATION BY MR. MILLS:

7 Q. Just -- and I don't really have any real
8 questions. I just want to ask you about that correction.
9 So on your surrebuttal testimony, page 4, line 2, you
10 changed the second reference to 2008 to 2009?

11 A. Yes.

12 Q. And you reserved the right to correct the
13 reference to \$2 million in line 5 to something else based
14 on a little more investigation?

15 A. That's correct.

16 MR. MILLS: That's all I have. Thanks.

17 JUDGE WOODRUFF: For MIEC?

18 MR. ROAM: No questions.

19 JUDGE WOODRUFF: For AmerenUE.

20 MS. TATRO: Thank you.

21 CROSS-EXAMINATION BY MS. TATRO:

22 Q. Good afternoon, Mr. Rackers.

23 A. Good afternoon.

24 Q. I have some general questions I'd like to
25 start with. You might have heard them before.

1 Do you believe AmerenUE's vegetation
2 management expenditures in the updated test year were
3 prudent?

4 A. Yes.

5 Q. Do you believe AmerenUE's infrastructure
6 inspection expenditures in the updated test year were
7 prudent?

8 A. Yes.

9 Q. In making your recommendation in this case,
10 did you review AmerenUE's vegetation management or
11 infrastructure inspection practices to underpin your
12 recommendation or did you perform some other type of, I'll
13 say, accounting or auditing analysis?

14 A. I performed an accounting analysis,
15 auditing analysis. I also had some discussions with
16 Mr. Beck, who would have -- who's the individual who's in
17 charge of making visits or inspections in the field and
18 also has familiarity with the reports that the company
19 files in this area.

20 Q. Okay. But your specific background is not
21 operational?

22 A. That's correct.

23 Q. You're not an electrical engineer?

24 A. I am not.

25 Q. You don't have experience doing tree

1 trimming or inspecting utility facilities?

2 A. I do not.

3 Q. Your background's accounting?

4 A. Yes, it is.

5 Q. Now, prior to filing your testimony, did
6 you visit AmerenUE's system to see how the vegetation
7 management work was progressing?

8 A. No.

9 Q. If I asked you the same question as for
10 infrastructure inspections, would your answer be the same?
11 Did you tour any of that work?

12 A. No.

13 Q. And prior to filing your testimony, did you
14 contact Mr. Wakeman or Mr. Zdellar to inquire how either
15 the vegetation management work or the infrastructure
16 inspection work was proceeding?

17 A. I didn't contact them specifically. I did
18 review Data Requests that they had responded to.

19 Q. Okay. Now, in preparing your testimony in
20 this case, did you review the vegetation management rule?

21 A. I looked at it briefly.

22 Q. Okay. And I believe Monday in this case
23 when you were on the stand, you responded to a
24 cross-examination question from Mr. Mills and said that
25 you were not very familiar with the vegetation management

1 rules. Do you remember that?

2 A. I thought he asked me about the
3 Commission's reliability rules. If that's the same thing
4 you're referring to, then I would give the same answer.

5 Q. Okay. What do you consider the
6 Commission's reliability rules?

7 A. I think the inspections are a part of that.

8 Q. All right. Are the infrastructure
9 inspection rules, you mean vegetation and infrastructure
10 inspection rules? Are you putting both of them in the
11 reliability category?

12 A. Yes.

13 Q. Mr. Rackers, prior to filing testimony in
14 this case, did you review any documents from Case No.
15 EO-2009-0011, which is AmerenUE's compliance filing with
16 the Commission's infrastructure inspection rules?

17 A. No, I did not.

18 Q. How about Case No. EO-2009-0012, which is
19 AmerenUE' compliance filing for the vegetation management
20 rules?

21 A. No.

22 Q. In any of your Data Requests, did you
23 request a copy of AmerenUE's vegetation management
24 procedures?

25 A. I don't believe that I did.

1 Q. Okay. In any of your Data Requests from
2 AmerenUE, did you request a copy of AmerenUE's
3 infrastructure inspection procedures?

4 A. I don't recall doing that.

5 Q. Okay. Let's talk about your testimony.
6 Starting with vegetation management, in your Staff Report,
7 page 87, line 3, you talk about AmerenUE being in
8 compliance with the Commission's vegetation management
9 rules. Do you see that?

10 A. Yes.

11 Q. Do you have a copy of the vegetation
12 management rules with you?

13 A. I do not.

14 Q. Okay. I'll hand you a copy. And in the
15 vegetation management rules, I'd like to turn to Part 9,
16 which happens to be on page 9. It's labeled Specific
17 Requirements, kind of in the middle. Middle column. Do
18 you see it?

19 A. I'm on page 9.

20 Q. Okay. Do you see Part 9 that's labeled
21 Specific Requirements?

22 A. Yes.

23 Q. Okay. And looking at A1, I'm going to ask
24 you a hypothetical, which also may sound familiar. Let's
25 say a utility performing vegetation management has trimmed

1 15 percent of its urban circuits at the 12-month
2 anniversary date. Are they in compliance with the
3 Commission's rules?

4 A. I believe so.

5 Q. Despite the fact they haven't trimmed yet
6 85 percent of their urban circuits, correct?

7 A. That's correct.

8 Q. Back to the Staff Report, on page 87,
9 line 6, you assert the programs, both programs have
10 reached a mature status and are manageable by the company.
11 What does a mature status mean?

12 A. Well, by that I meant that the company had
13 been operating in compliance with the Commission's rules
14 for a year and a half to two years, and I believe that
15 they, after such a time and that experience, that they --
16 the programs were -- they had been doing it long enough
17 that they had reached a maturity level and should be able
18 to -- we should be able to get rid of the trackers.

19 Q. So you reached that decision based on the
20 length of time that UE had been complying with the rules;
21 is that what you're saying?

22 A. And also a review of the expenses that they
23 were incurring.

24 Q. But you're not an expert on utility
25 vegetation management practices, are you?

1 A. No.

2 Q. And we established earlier that you're only
3 vaguely familiar with the Commission's vegetation
4 management rules or not very familiar?

5 A. Not very.

6 Q. Do you know if AmerenUE has removed all
7 overhang on its circuits that it's required to remove them
8 from?

9 A. In compliance with the rule at this time or
10 that they've done it for all the circuits in their system?

11 Q. Well, that they've done it for all the
12 circuits on their system that they're required to remove
13 it from?

14 A. I don't know that, but I would doubt that.

15 Q. Okay. Do you know if AmerenUE has reached
16 the 10-foot or 15-foot clearance requirements of which I
17 spoke with Mr. Beck on on all of its circuits?

18 A. I don't know that.

19 Q. Okay. I can walk you through all the
20 vegetation management requirements, and you probably
21 wouldn't be able to tell me for sure whether AmerenUE had
22 completed all those requirements; is that a fair
23 statement?

24 A. Yes.

25 Q. Is it your assertion that it costs the same

1 to perform vegetation management on every circuit, or do
2 you believe there's variability in those costs?

3 A. I would assume there's variability.

4 Q. Okay. Do you know what that variability
5 depends upon?

6 A. I do not.

7 Q. Let's talk about infrastructure inspection.
8 You don't hold yourself out as an expert on utility
9 infrastructure inspection practices, right?

10 A. No.

11 Q. And we established earlier that you aren't
12 very familiar with the Commission's infrastructure
13 inspection rules, correct?

14 A. That's correct.

15 Q. So the assertion on -- your assertion that
16 AmerenUE's inspection program is mature is the same basis
17 as what you said for vegetation management, the length of
18 time and looking at the dollars; is that correct?

19 A. Did you say looking at the numbers?

20 Q. Yeah. I said dollars, but --

21 A. Yeah.

22 Q. When did AmerenUE begin its underground
23 inspections?

24 A. I don't know.

25 Q. When did AmerenUE begin its streetlight

1 inspections?

2 A. I don't specifically know.

3 Q. Do you know if AmerenUE has a full year of
4 all of its infrastructure inspection program costs
5 included in the updated test year?

6 A. I've heard testimony today that it does
7 not.

8 Q. Did you know that at the time you filed
9 your testimony?

10 A. No.

11 MS. TATRO: I have no further questions.

12 JUDGE WOODRUFF: Thank you. I have no
13 questions from the Bench. There's no need for recross.
14 Before we go to redirect, however, I do want to go up and
15 check with the Commissioners to see where they're at on
16 their agenda. So we'll take about a ten-minute break.
17 We'll come back at 3:15.

18 (A BREAK WAS TAKEN.)

19 JUDGE WOODRUFF: Let's come back to order.
20 We're back from break, and before we took our break, we
21 had Mr. Rackers on the stand and ready for redirect.
22 Please proceed.

23 REDIRECT EXAMINATION BY MS. OTT:

24 Q. Mr. Rackers, do you remember when Ms. Tatro
25 asked you what you relied on in forming your testimony?

1 A. Yes.

2 Q. And you said time and money, I believe, or
3 expenses?

4 A. Well, the expense levels and the amount of
5 time that the company had been compliant under the
6 Commission's rules.

7 Q. Was there anything else you relied on in
8 forming your opinion?

9 A. Yes. I had previously mentioned that I had
10 had conversations with Mr. Beck, who is in charge of
11 making inspections, and he's the one that inspects the
12 company's reporting.

13 Q. Was there anyone else on Staff that you
14 relied on in forming your testimony?

15 A. I don't believe so.

16 Q. Do you also recall when Ms. Tatro was
17 asking whether you were a tree trimming expert or
18 structure?

19 A. Yes.

20 Q. Do you need to be an expert to make an
21 accounting adjustment, or do you need to be an engineering
22 expert to make an accounting adjustment?

23 A. I don't believe so.

24 Q. And you're not claiming that you're not an
25 expert in this case, are you?

1 A. No.

2 Q. You're just not an engineer?

3 A. Correct.

4 Q. Ms. Tatro was also asking you questions
5 about whether or not you had submitted DRs on procedures
6 to -- of the procedures for infrastructure inspection and
7 vegetation management. Do you recall that?

8 A. Yes.

9 Q. Is it necessary to review those procedures
10 to make an accounting adjustment?

11 A. I don't believe so.

12 Q. And Ms. Tatro also was asking you questions
13 about whether or not you made an onsite visit. Did you
14 recall that?

15 A. Yes.

16 Q. Is it necessary for Staff to make an onsite
17 adjustment when it's making all O&M adjustments in a rate
18 case?

19 A. I don't believe so, but again, I relied on
20 conversations with Mr. Beck who did make onsite visits and
21 inspections.

22 Q. So Staff doesn't go onsite to make
23 adjustments to labor or other operating and maintenance
24 expenses not related to vegetation management or
25 infrastructure inspections?

1 A. I'm sorry. Would you ask me that again?

2 Q. Does Staff do onsite visits for each and
3 every O&M expense in the rate case in which it makes an
4 adjustment?

5 A. No.

6 Q. And Staff has -- have they made an
7 allegation that UE is out of compliance with Chapter 23?

8 A. No.

9 MS. OTT: I have no further questions.

10 JUDGE WOODRUFF: Thank you. Then,
11 Mr. Rackers, you can step down.

12 There is one other matter I want to take up
13 today that involved Noranda Aluminum's motion for a
14 protective order. I understand that's been resolved. Is
15 that correct, Mr. Roam?

16 MR. ROAM: That's correct, Judge. MIEC
17 withdraws its motion for a protective order.

18 JUDGE WOODRUFF: Thank you very much. All
19 right. That completes the vegetation management expense
20 tracker issue, and the next issue then will be ROE, and
21 we're not going to take that up today. That will be
22 resuming at 8:30 on tomorrow morning. So with that, we
23 are adjourned for the day. Thank you.

24 WHEREUPON, the hearing of this case was
25 recessed until March 18, 2010.

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STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified

Shorthand Reporter with the firm of Midwest Litigation
Services, do hereby certify that I was personally present
at the proceedings had in the above-entitled cause at the
time and place set forth in the caption sheet thereof;
that I then and there took down in Stenotype the
proceedings had; and that the foregoing is a full, true
and correct transcript of such Stenotype notes so made at
such time and place.

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

Kellene K. Feddersen, RPR, CSR, CCR