

1

2

STATE OF MISSOURI

3

PUBLIC SERVICE COMMISSION

4

5

6

7

TRANSCRIPT OF PROCEEDINGS

8

Evidentiary Hearing

9

December 4, 2008  
Jefferson City, Missouri  
Volume 23

10

11

12

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

15

16

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

17

18

19

JEFF DAVIS, Chairman,  
CONNIE MURRAY,  
20 TERRY JARRETT,  
KEVIN GUNN,  
21 COMMISSIONERS.

22

23 REPORTED BY:

24

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

25

## 1 APPEARANCES:

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

5 JAMES B. LOWERY, Attorney at Law  
6 Smith Lewis, LLP  
111 South 9th Street, Suite 200  
7 P.O. Box 918  
Columbia, MO 65205-0918  
8 (573)443-3141  
lowery@smithlewis.com

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

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

14 STUART CONRAD, Attorney at Law  
15 Finnegan, Conrad & Peterson  
3100 Broadway  
16 1209 Penntower Officer Center  
Kansas City, MO 64111  
17 (816)753-1122  
stucon@fcplaw.com

18 DAVID WOODSMALL, Attorney at Law  
19 Finnegan, Conrad & Peterson  
428 East Capitol, Suite 300  
20 Jefferson City, MO 65101  
(573) 635-2700

21 FOR: Noranda Aluminum, Inc.

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

25

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

6 FOR: Missouri Department of Natural  
7 Resources.

8 H. TODD IVESON, Assistant Attorney General  
9 P.O. Box 899  
10 Supreme Court Building  
11 Jefferson City, MO 65102  
12 (573)751-3321

13 FOR: State of Missouri.

14 HENRY B. ROBERTSON, Attorney at Law  
15 Great Rivers Environmental Law Center  
16 705 Olive Street, Suite 614  
17 St. Louis, MO 63101  
18 (314)231-4181  
19 hrobertson@greatriverslaw.org

20 FOR: Missouri Coalition for the  
21 Environment.  
22 Missourians for Safe Energy,

23 DIANA VUYLSTEKE, Attorney at Law  
24 Bryan Cave, LLP  
25 211 North Broadway, Suite 3600  
St. Louis, MO 63102  
(314)259-2543  
dmvuyksteke@bryancave.com

FOR: Missouri Industrial Energy Consumers.

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

FOR: Missouri Energy Group.

1 JOHN COFFMAN, Attorney at Law  
2 871 Tuxedo Boulevard  
3 St. Louis, MO 63119  
4 (573)424-6779

5 FOR: AARP.  
6 Consumers Council of Missouri.

7 RICK CHAMBERLAIN, Attorney at Law  
8 6 N.E. 63rd Street, Suite 400  
9 Oklahoma City, MO 73105  
10 (405)848-4014

11 FOR: Commercial Group.

12 LEWIS R. MILLS, JR., Public Counsel  
13 P.O. Box 2230  
14 200 Madison Street, Suite 650  
15 Jefferson City, MO 65102-2230  
16 (573)751-4857

17 FOR: Office of the Public Counsel  
18 and the Public.

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

FOR: Staff of the Missouri Public  
Service Commission.

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

2 JUDGE WOODRUFF: All right. Let's go on  
3 the record. Welcome back to this morning's session in the  
4 Ameren rate case hearing. Mr. Dottheim, what is the  
5 situation?

6 MR. DOTTHEIM: Well, I can only represent  
7 the situation from the Staff's perspective, and James  
8 Watkins of the Staff, one of the Staff's principal  
9 witnesses, is in the process of completing some short, I  
10 think it's approximately five pages, responsive testimony  
11 to the Nonunanimous Stipulation & Agreement which was  
12 filed yesterday afternoon.

13 JUDGE WOODRUFF: And is Staff going to be  
14 opposing that?

15 MR. DOTTHEIM: Yes. Yes. The Staff is --  
16 excuse me. The Staff is opposing the Stipulation &  
17 Agreement which was filed yesterday afternoon, and since  
18 Mr. Watkins can't be at two places at the same time, we  
19 would like to suggest or request that the hearings not  
20 start now, that they start, we would think at -- by 9:30  
21 would be possible, which would give the Staff the  
22 opportunity to have Mr. Watkins complete his supplemental  
23 testimony, for that testimony to be filed, for the Staff  
24 to distribute to the parties copies of that supplemental  
25 testimony and distribute copies to the Bench and give the

1 parties an opportunity to review that testimony and then  
2 start up the proceedings.

3                   The Staff thought that that would probably  
4 speed the proceedings along. The Staff doesn't believe  
5 that in any event two days, two full days are going to be  
6 needed for class cost of service and rate design.

7                   The Staff also believes that with the  
8 witnesses that do have scheduling problems that must  
9 testify today, they can be accommodated. So we can work  
10 around existing scheduling problems. The Staff apologizes  
11 about suggesting that the proceedings not start up for  
12 maybe an hour, but everything considered, how the issue  
13 has developed, the Staff doesn't believe that its  
14 suggestion or request is -- is out of order.

15                   JUDGE WOODRUFF: All right. Let me ask  
16 AmerenUE, do you have a position yet on the Stipulation &  
17 Agreement?

18                   MR. FISCHER: Yes, Judge. AmerenUE will  
19 not be a signatory to the Stipulation & Agreement.  
20 However, we are not going to be opposing or objecting to  
21 the Stipulation, and I'll explain our position in some  
22 more detail in an opening if you'd like.

23                   JUDGE WOODRUFF: That's fine when we get to  
24 it. Anything else from any of the parties regarding the  
25 Stipulation that they want to inform the Commission of at

1 this time?

2 (No response.)

3 JUDGE WOODRUFF: Okay.

4 CHAIRMAN DAVIS: Judge, do we have an  
5 objection?

6 JUDGE WOODRUFF: Yes, Staff is going to  
7 object to it. And it was just explained by Mr. Dottheim  
8 that they are preparing some supplemental written  
9 testimony that they will be filing within the hour, and  
10 his request was that we delay starting the hearing until  
11 9:30 to deal with that, which I think is reasonable.

12 Moving to the other issue, we also have the  
13 off-system sales. The parties were working on a  
14 settlement on that. Where does that stand?

15 MR. MILLS: There was a draft Stipulation &  
16 Agreement circulated yesterday, late afternoon, early  
17 evening. I'm not sure that many of the parties have had a  
18 chance to look at it in any detail. I know I have not  
19 yet. But it is reduced to writing and it is circulating.

20 JUDGE WOODRUFF: And it's anticipated there  
21 will not be opposition to that, is that --

22 MR. MILLS: That's my anticipation, yes.

23 JUDGE WOODRUFF: I see nods of agreement on  
24 that.

25 MR. DOTTHEIM: Yes, that is the Staff's

1 anticipation also. And Staff is also in the same  
2 situation as Office of the Public Counsel. Mr. Lowery has  
3 circulated a draft, but I on behalf of the Staff have not  
4 had an opportunity to review the draft.

5 JUDGE WOODRUFF: Okay. And when we come  
6 back, then, on the class cost of service issues, I assume  
7 we'll just bring the witnesses up as we would otherwise  
8 and go through the normal process of cross-examination?

9 MR. MILLS: I think that's correct,  
10 although we may, given the somewhat changing dynamic of  
11 who's supporting what, we may want to take them in a  
12 different order than what's listed.

13 JUDGE WOODRUFF: That's fine. I'll be  
14 flexible on that. Just tell me how you want to do it.  
15 All right, then. We'll adjourn until 9:30 when we come  
16 back and deal with class cost of service issue. We're  
17 adjourned.

18 (A BREAK WAS TAKEN.)

19 JUDGE WOODRUFF: We're back after our  
20 break. It's now 9:30, and I believe we're ready to take  
21 up the class cost of service and rate design issue.

22 During the break, Staff filed some  
23 supplemental testimony of James Watkins. I assume  
24 everybody's had a chance to see that now. Let me ask  
25 first, I guess, Ameren, where do we -- since you're the



1 first witness on the -- the first party to present  
2 evidence on this issue, where do we start?

3 MR. FISCHER: Judge, I would suggest that  
4 perhaps we have some opening statements that would allow  
5 the parties to explain their current positions and then, I  
6 don't know, the parties were thinking it might make some  
7 sense to change the order a little bit with the  
8 Stipulation. And Mr. Mills, had you discussed among the  
9 parties that have the Stipulation & Agreement where you'd  
10 like to go?

11 MR. MILLS: We did have some informal  
12 discussions. I think it may make some sense to have Staff  
13 put on the Staff witnesses first and we'll go through  
14 Mr. Watkins' -- Mr. Watkins' new testimony on direct and  
15 then cross-examination and then follow up with the  
16 non-opposed witnesses, and then follow up with the  
17 witnesses for the parties that are signatories to the  
18 Stipulation & Agreement.

19 JUDGE WOODRUFF: Is that agreeable to  
20 Staff?

21 MS. KLIETHERMES: Frankly, that seems  
22 somewhat counterintuitive to Staff. I think we would  
23 suggest that the parties propounding the Stipulation would  
24 go first, followed by those unopposed, followed by those  
25 opposed.

1 JUDGE WOODRUFF: Well, let's go ahead and  
2 do our openings first and then we'll decide where we want  
3 to go from there. So for opening on the class cost of  
4 service and rate design issue, we'll start with Ameren.

5 MR. FISCHER: May it please the Commission?  
6 My name is Jim Fischer, and as you know, I'm representing  
7 Ameren in this proceeding.

8 Let me start with the position of the  
9 company on the Stipulation & Agreement that was -- the  
10 Nonunanimous Stipulation & Agreement that was filed in  
11 this proceeding just recently. Ameren is taking the  
12 position that we are not going to sign the Stipulation.  
13 We're not a signatory to it, but we're not going to object  
14 to the terms of that particular Stipulation & Agreement.

15 Ameren was not included in the negotiations  
16 on this issue and development of that Stipulation. We  
17 just received that substantive proposal on Tuesday  
18 afternoon and we didn't receive the actual stipulation  
19 until yesterday at the end of the day.

20 Now, if the Stipulation were adopted and  
21 Ameren received an \$80 million increase or less, then  
22 under the terms of that Stipulation & Agreement there  
23 would be the equal percentage across the board increase to  
24 all the customer classes. That is consistent with the  
25 position that Ameren has taken throughout this proceeding,

1     that it ought to be an equal percentage increase across  
2     the board.

3                     If the increases are higher, then there are  
4     some class shifts that would be adopted. Those are fairly  
5     close to the shifts that were also contained in Ameren's  
6     cost of service study. Above 80 million there would be a  
7     nominal increase above average for the residential class  
8     and a decrease for the Noranda customer.

9                     We're going to have Will Cooper available  
10    to answer questions on this Stipulation & Agreement, and I  
11    think he's probably the best person to answer the  
12    questions that are raised by the Staff's rebuttal  
13    testimony that they filed this morning. I think they all  
14    have explanations for how -- that the Commission could  
15    adopt the Stipulation or adopt the Ameren written position  
16    across the board and be consistent with the evidence.  
17    But I'll just leave it at that and be happy to answer your  
18    questions if you'd like.

19                    JUDGE WOODRUFF: And opening for Staff?

20                    MS. KLIETHERMES: Good morning. All good  
21    humor from yesterday aside, the Staff does, in fact,  
22    welcome the Commission to decide this issue of ratemaking,  
23    of rate design. Essentially a class cost of service study  
24    looks at a snapshot in time and considers at that time  
25    what the proper distribution of the cost of a multitude of

1 assets are, what the proper distribution of the cost of  
2 operating and maintaining those assets are, and what the  
3 revenue generated by each class is.

4                   A class cost of service study is a useful  
5 tool, but it only has a certain degree of precision.  
6 There are many assumptions regarding cost causation  
7 inherent in every study, and there's a certain margin of  
8 error. However, class cost of service studies do provide  
9 the Commission important information regarding the general  
10 cost causation of customer classes and whether or not the  
11 revenue generated by the class covers the cost of serving  
12 them plus their return.

13                   The Staff study does show some variation  
14 among the class revenue responsibilities. However,  
15 because of the margin of error inherent in the class cost  
16 of service studies, the variation shown by Staff's study  
17 does not rise to a level that would indicate that shifts  
18 are appropriate much less necessary.

19                   Therefore, Staff proposes that in  
20 implementing a rate increase in this case, each component  
21 of each class' rate structure should be changed by an  
22 equal percentage. If the Commission varies from that  
23 procedure, it should be only to hold the residential  
24 customer charge constant as proposed by AmerenUE.

25                   If there are shifts in class revenue

1 responsibility, the shifts should not contradict the  
2 results of Staff's class cost of service study. That is,  
3 a class' revenue responsibility should not be reduced when  
4 the Staff's study showed that class is providing a revenue  
5 that yields a lower than average rate of return.

6 Similarly, the class' revenue  
7 responsibility shouldn't be increased if Staff's study  
8 showed that class is providing revenues that yield a  
9 higher than average rate of return.

10 The Nonunanimous Stipulation & Agreement  
11 runs afoul of those principles. The bottom line on these  
12 matters is simply that the class cost of service study  
13 submitted by Staff does not indicate that shifts in class  
14 revenue responsibility are appropriate in this case,  
15 especially in light of the significant shifts made in the  
16 last case and taking into account the level of precision  
17 of this type of study. And on that note, I've prepared a,  
18 what I hope is a helpful visual aid on this.

19 Now, what you're looking at here is the  
20 difference from zero that Staff's service study revealed,  
21 and this is based on the summary table provide in David  
22 Roos' schedule. As you can see, that top number is 6, and  
23 that bottom number is negative 6, and the difference from  
24 average that Staff study revealed isn't too far from zero,  
25 as you can see.

1                   As to what the other study shows, this  
2 graph depicts for each class -- and I apologize, the  
3 titles for class rates are at the top of the page, but  
4 they go in the order that we customarily discuss them,  
5 from starting at RES and ending at LTS. And as you can  
6 see, this is the sign and magnitude, if you will, of each  
7 class' study put side by side.

8                   When you look at RES, you don't see much  
9 variation in magnitude. You see very little variation in  
10 sign. When you look at, I believe the next one there is  
11 SGS, very minimal variation in magnitude and no variation  
12 in sign. Same for the next class, slightly more changes  
13 in magnitude for the, I believe that is LPS -- LGS. And  
14 then when you get to this last class of Noranda, you see -  
15 or I apologize. When you get to the LTS class, you see a  
16 -- a fairly significant, I would characterize it, granted  
17 I'm not a technical expert, a variation in magnitude and  
18 in sign.

19                  To further illustrate this, if you just  
20 sort of plot out the same information on a different graph  
21 but to see the overall shape of the studies, if you will,  
22 you see that there's not much disagreement on the overall  
23 shape until you get to that last class. There's not much  
24 disagreement on the overall magnitude until you get to  
25 that last class. There's not much variation on the sign

1   until you get to that last class. That last class has  
2   a -- what I would again characterize as a substantial  
3   amount of variation when it comes to both sign and  
4   magnitude.

5                   And finally, when you order the classes  
6   in -- according to the, I guess the proper way to  
7   characterize it would be the most deserving of help to the  
8   least deserving of help according to each participant's  
9   study, you see that when you deal with LTS, there's not a  
10   lot of agreement that LTS is deserving of help.

11                   It's my understanding from the -- the  
12   information that we received yesterday, I believe it was  
13   about three o'clock, in the finalized form of the  
14   Stipulation, that the primary beneficiary of the  
15   Nonunanimous Stipulation & Agreement is the LTS class,  
16   which some studies show not to be, if you will, deserving  
17   of help to begin with and, in fact, part of the problem if  
18   any, and I believe that's what Staff's study shows, versus  
19   one study that shows LTS in need of help.

20                   And Mr. James Watkins and Mr. David Roos  
21   are Staff's witnesses on this matter and they're available  
22   today to answer any questions you might have. Thank you.

23                   JUDGE WOODRUFF: Opening for Public  
24   Counsel?

25                   CHAIRMAN DAVIS: Can I inquire of

1 Ms. Kliethermes for a moment?

2 JUDGE WOODRUFF: Go right ahead.

3 CHAIRMAN DAVIS: I'm well aware of  
4 Mr. Watkins' credentials as well as Mr. Roos', but I'm not  
5 sure they can answer some of my questions, so  
6 Ms. Kliethermes I'd like to ask you a few questions, if  
7 that's all right.

8 MS. KLIETHERMES: I will attempt to oblige.

9 CHAIRMAN DAVIS: Do you know how many  
10 aluminum smelters we have in this state?

11 MS. KLIETHERMES: I believe there's one.  
12 That's subject to check.

13 CHAIRMAN DAVIS: Do you know how many we  
14 have in the United States?

15 MS. KLIETHERMES: I believe four. I'm not  
16 certain on that, and that is certainly not something I'm  
17 confident in.

18 CHAIRMAN DAVIS: Do you know how many we  
19 had in the -- how many aluminum smelters we had in the  
20 United States ten years ago?

21 MS. KLIETHERMES: Substantially more. The  
22 industry has been declining is my understanding, or  
23 consolidating at least.

24 CHAIRMAN DAVIS: Have you had the  
25 opportunity to review the testimony of some of Noranda's



1 witnesses in this case?

2 MS. KLIETHERMES: I have.

3 CHAIRMAN DAVIS: Okay. So Noranda's  
4 payroll is approximately \$60 million; is that correct?

5 MS. KLIETHERMES: That does not disagree  
6 with my recollection. I frankly don't recall a number.

7 CHAIRMAN DAVIS: And they have roughly  
8 1,100 employees, correct?

9 MS. KLIETHERMES: I believe that is  
10 correct.

11 CHAIRMAN DAVIS: So if you have to divide  
12 those numbers out, rough math, you're looking at an  
13 average salary of more than \$50,000, salary and benefits  
14 of more than \$50,000 per employee; is that correct?

15 MS. KLIETHERMES: That's somewhat  
16 surprising given the economic circumstances of most of the  
17 residents of the bootheel, but I will trust your math.

18 CHAIRMAN DAVIS: That's all right,  
19 because -- do you know what the median family or household  
20 income is in New Madrid County?

21 MS. KLIETHERMES: If I recall correctly, it  
22 is below -- it is near if not below the poverty line.

23 CHAIRMAN DAVIS: And that's for the entire  
24 county, isn't it?

25 MS. KLIETHERMES: I believe so.

1 CHAIRMAN DAVIS: It's less than \$20,000 per  
2 household, isn't it?

3 MS. KLIETHERMES: That sounds right.

4 CHAIRMAN DAVIS: Could be 15, 16, might  
5 even be lower, depending on how you calculate it?

6 MS. KLIETHERMES: That would not surprise  
7 me.

8 CHAIRMAN DAVIS: Do you read the Sikeston  
9 Standard Democrat?

10 MS. KLIETHERMES: On occasion, actually.

11 CHAIRMAN DAVIS: Did you read it yesterday?

12 MS. KLIETHERMES: I did not.

13 CHAIRMAN DAVIS: So you didn't read the  
14 story in yesterday's Sikeston Standard Democrat where  
15 Noranda had laid off 70 employees this week, did you?

16 MS. KLIETHERMES: I did not.

17 CHAIRMAN DAVIS: Did not. So you also  
18 wouldn't have read that, in that same story, they had laid  
19 off 30 employees previously this month, would you?

20 MS. KLIETHERMES: I did not.

21 CHAIRMAN DAVIS: Do you know what the price  
22 of aluminum is today?

23 MS. KLIETHERMES: It's gone down based on  
24 the last time I cleaned out my shed.

25 CHAIRMAN DAVIS: So, I mean, would you dare

1 to speculate?

2 MS. KLIETHERMES: I wouldn't hazard a  
3 guess.

4 CHAIRMAN DAVIS: Do you know what it was  
5 last year?

6 MS. KLIETHERMES: I think at one point it  
7 got up to, as far as consumer, recycled cans, I think was  
8 65 cents a pound at one point. Beyond that, I have no  
9 knowledge.

10 CHAIRMAN DAVIS: You don't know what -- you  
11 don't know what the price of aluminum is, like, on the  
12 London Exchange or anything like that?

13 MS. KLIETHERMES: I do not.

14 CHAIRMAN DAVIS: But you are aware that  
15 Noranda is competing in a global market?

16 MS. KLIETHERMES: I am.

17 CHAIRMAN DAVIS: Okay. And do you recall  
18 from, I can't think of the gentleman's name right now, the  
19 county commissioner who testified on behalf of Noranda,  
20 what percentage of the property taxes that Noranda pays in  
21 New Madrid County is?

22 MS. KLIETHERMES: I would suspect it is a  
23 substantial percentage.

24 CHAIRMAN DAVIS: Do you think it does  
25 Mr. Mills' consumers any good if they get a modest rate

1     increase or even a rate reduction if they don't have a job  
2     to pay their bills with?

3                   MS. KLIETHERMES:   That's not something I  
4     tend to speculate on, sir.   I feel Mr. Mills capably  
5     represents his clientele.

6                   CHAIRMAN DAVIS:   Okay.   So -- I think  
7     that's all the questions I have for now, Judge.

8                   JUDGE WOODRUFF:   Thank you.

9                   COMMISSIONER JARRETT:   May I inquire,  
10    Judge?   I just have one question.

11                   Am I correct that all of the ratepayer  
12    interests, the parties that represent ratepayer interests  
13    in this case are in agreement on this?

14                   MS. KLIETHERMES:   Well, I think I can  
15    answer that question if I first correct a misapprehension  
16    that I believe is in your question.

17                   COMMISSIONER JARRETT:   Okay.   Please do.

18                   MS. KLIETHERMES:   Not all ratepayer  
19    interests are represented in this case.

20                   COMMISSIONER JARRETT:   Okay.   But all of  
21    the ratepayers that are represented in this case, are they  
22    in agreement with the Stipulation & Agreement?

23                   MS. KLIETHERMES:   That is my understanding.

24                   COMMISSIONER JARRETT:   Thank you.

25                   JUDGE WOODRUFF:   Opening for Public

1 Counsel?

2 MR. MILLS: I'll be quite brief because I  
3 think the Commission is fairly comfortable with its  
4 understanding of what's going on here in terms of what the  
5 Stipulation is and what the positions of the parties were  
6 before that.

7 Public Counsel supports the Nonunanimous  
8 Stipulation & Agreement as a reasonable result of the  
9 issues that are raised with respect to class cost of  
10 service and rate design. I would certainly have to agree  
11 with the Staff that what the resolution is in this  
12 Nonunanimous Stipulation & Agreement does not exactly  
13 mirror anyone's cost study. Nonetheless, it is well  
14 within the range of results of all of the cost studies.

15 All of the cost studies in this case have  
16 been conducted and produced by qualified experts, any one  
17 of which the Commission could choose to rely on. I think  
18 as a result, the compromised position that all of these  
19 parties have reached is -- is a reasonable result and will  
20 result in just and reasonable rates depending, of course,  
21 on the overall revenue increase, but this portion of the  
22 -- of the proceedings would result in just and reasonable  
23 rates.

24 And with respect to the question of whether  
25 or not all ratepayer interests are represented, I have to

1 beg to differ with Ms. Kliethermes. My charge is to  
2 represent the public, not simply the residential  
3 ratepayers. So it's my belief and certainly my duty to  
4 represent all ratepayers, and I think they have all been  
5 amply well served by this Stipulation & Agreement. Thank  
6 you.

7 JUDGE WOODRUFF: Thank you.

8 COMMISSIONER JARRETT: Can I inquire?

9 JUDGE WOODRUFF: Sure.

10 COMMISSIONER JARRETT: I just wanted to  
11 follow up with that, Mr. Mills. Assuming that there are  
12 any classes of ratepayers that are not represented in this  
13 case, wouldn't they have had an ample opportunity to  
14 intervene in this case and participate --

15 MR. MILLS: Certainly.

16 COMMISSIONER JARRETT: -- if they wanted  
17 their interests represented?

18 MR. MILLS: Certainly. The Commission  
19 gives broad notice when a case such as this is filed. It  
20 goes out to a lot of people, a lot of news organizations.  
21 There is a fairly wide window allowed for intervention.  
22 The Commission is always lenient and generous in allowing  
23 late intervention. So I think there is quite a sufficient  
24 opportunity for parties to intervene.

25 COMMISSIONER JARRETT: Thank you,

1 Mr. Mills.

2 JUDGE WOODRUFF: All right. Opening then  
3 for MIEC?

4 MS. VUYLSTEKE: May it please the  
5 Commission?

6 Settlement is favored in the law, and this  
7 Commission has always favored settlement of issues  
8 whenever possible. The customer settlement that's before  
9 you represents a convergence of interests of all of the  
10 major parties to this case, all the customers. And I  
11 think for that reason the fact that all the customers were  
12 able to come together, this is a compelling demonstration  
13 of the fairness of the settlement.

14 The large transmission, the large power,  
15 the small general service, the large general service, the  
16 residential were all able to put their differences aside  
17 through difficult negotiations in order to achieve this  
18 settlement.

19 We hope the Commission will give that fact  
20 great weight and that it will approve the settlement as a  
21 reasonable compromise of the various positions before you.  
22 Thank you.

23 JUDGE WOODRUFF: Okay.

24 CHAIRMAN DAVIS: Can I inquire of  
25 Ms. Vuylsteke, just briefly? Are the signatories, are

1    they going to put on -- who's going to be the main witness  
2    for the signatories, or is it just going to be all of  
3    their witnesses?

4                   MS. VUYLSTEKE:  We think that, given the  
5    fact that this is an Nonunanimous settlement, the  
6    Commission is going to have to receive evidence.  So every  
7    witness on rate design, I believe every major witness is  
8    going to come before you.

9                   CHAIRMAN DAVIS:  Okay.  Thank you.

10                  JUDGE WOODRUFF:  Opening for MEG?  Not  
11    here.

12                  Okay.  For the Commercial Group?

13                  MR. CHAMBERLAIN:  Good morning, your Honor.  
14    Good morning, Commissioners.  My name is Rick Chamberlain.  
15    I've not appeared before you previously in this case, so  
16    I'd like to take a moment to address some issues this  
17    morning.  I do represent the Commercial Group.  That  
18    group, as the name implies, consists of commercial  
19    customers, specifically the JC Penney Corporation, Macy's,  
20    Incorporated and Wal-Mart Stores East, LP.

21                  The members of the Commercial Group are all large  
22    general service or small primary service customers.  And  
23    in reference to Staff's visual aid, those customers are  
24    the ones that are deserving of help in every cost of  
25    service study that's been submitted to this Commission.



1 All of the cost of service studies  
2 submitted, including the Staff's, all indicate that the  
3 members of the large general service, small primary  
4 service class, all of the studies indicate they're paying  
5 more than their fair share. And yet most of the filed  
6 positions, most of the recommended positions are that  
7 there be an equal, across-the-board rate increase.

8 Specifically that's Staff's filed position,  
9 and that's the position they're advocating to you today,  
10 despite the fact that their own cost of service study  
11 shows that our clients are deserving of some help. Now,  
12 that to me, is the most important part of this case for my  
13 client's perspective.

14 In terms of our filed position, we have  
15 advocated that the Commission accept Ameren's filed class  
16 cost of service study. We have entered into the  
17 Nonunanimous Stipulation. And the reason for that, quite  
18 simply, is that the Nonunanimous Stipulation does move  
19 somewhat in the direction that my clients feel is  
20 necessary and the direction that all of the cost of  
21 service studies indicates we should be moving, and so for  
22 those reasons we have entered into a Stipulation.

23 We are going to put on a witness to testify  
24 in support of the Stipulation, and I believe that's all I  
25 have. I'd be happy to answer any questions you might

1 have.

2 JUDGE WOODRUFF: Thank you. For Noranda?

3 MR. CONRAD: Good morning, your Honors. It  
4 seems like an eon ago that I gave you two numbers, 34 and  
5 14. 20 years ago -- actually, I think it's actually about  
6 19 years ago, there were 34 aluminum smelters in the  
7 United States. Today there are 14, one of which is  
8 Noranda.

9 Our position coming into this case was  
10 essential support of the company's cost of service study.  
11 Directionally we felt that was the -- that was the best  
12 representation of the cost. Mr. Johnstone, our  
13 consultant, had offered some fairly minor adjustments that  
14 he thought would make it still closer to accurate.  
15 Nevertheless, after considerable negotiation, Noranda is  
16 willing to accept, as my signature indicates, this  
17 package.

18 Like all compromises, it has no mother, it  
19 has no father. If -- there used to be a sign in one of  
20 the Staff people's offices that suggested the definition  
21 of a compromise was that all parties felt that they had  
22 been equally harmed. I think the word harmed might have  
23 been conformed by me as something more politically correct  
24 for use today.

25 This will be challenging for Noranda, I

1 make no bones about that. Nevertheless, in the spirit of  
2 compromise, we support this.

3 Commissioner, to your question, I believe  
4 it is fair to say that all active parties, save Staff  
5 obviously, and the company who is not opposing, have  
6 spoken on this package. And I would lift up to you that  
7 all active parties who are ratepayers are before you today  
8 in support of this package.

9 Now, that is not insignificant. When you  
10 consider the diversity of interests and the diversity of  
11 results, the achievement that they have brought to you  
12 today is not insignificant. It is -- it is not usual that  
13 parties that have as wide a disparity are able to come to  
14 agreement, and as is always the case with a compromise, it  
15 represents the tradeoffs.

16 The tradeoff for us is that for -- us being  
17 Noranda, we're going to have some challenges, not just  
18 here but, Commissioner, Chairman, Mr. McPheeters will be  
19 here, possibly here now, but shortly. He will be here to  
20 correct one number in his testimony. Perhaps he will be  
21 able to answer more accurately some of the questions that  
22 you asked. I can tell you the 34 and 14. I think I can  
23 also tell you with some authority that Missouri has only  
24 one smelter, and it is located in New Madrid or near it,  
25 also near Cooter.

1                   The aluminum price, I think when I spoke to  
2   you before, three months prior it had -- and compared  
3   those, it had dropped 77 percent. If I were to do that  
4   calculation today, it would be closer and perhaps  
5   exceeding 80 percent. I believe the hard numbers about  
6   three months ago was about \$1.49, \$1.48 and perhaps  
7   changed by the LME. This morning or today I'm advised  
8   it's 78 cents.

9                   CHAIRMAN DAVIS: I'm sorry. What was the  
10  first number, a dollar --

11                  MR. CONRAD: \$1.48 or .49 three months ago.  
12  And LME publishes those numbers, so I'm presuming it's  
13  something that people can look up and check for  
14  themselves.

15                  CHAIRMAN DAVIS: So you do believe we could  
16  take notice of the spot market price of aluminum on the  
17  London Metals Exchange?

18                  MR. CONRAD: Judge, we all take notice of  
19  what the DOW has been doing, and these are -- these are  
20  international markets that are set. They obviously need  
21  some substantiation as to where you get them as opposed to  
22  pulling numbers out of the air, which admittedly I'm  
23  doing, but I believe mine are pretty close to being  
24  accurate.

25                  And so that in itself represents a

1 substantial challenge for Noranda, but we intend -- and I  
2 think I'm speaking with full authority of the company on  
3 this. We intend to do everything that we can do to  
4 continue a sustainable platform and continue to sustain  
5 operations in New Madrid. That will take, as I told you  
6 all an eon ago, cooperation, and I am pleased to report  
7 that although this package will present its own set of  
8 challenges to Noranda, it represents cooperation from the  
9 other ratepaying parties, and I would soundly commend it  
10 to your consideration.

11 JUDGE WOODRUFF: Thank you, sir. I believe  
12 that's all the parties that would be interested in making  
13 openings at this time.

14 MR. PENDERGAST: Your Honor.

15 JUDGE WOODRUFF: I'm sorry. Mr. Pendergast  
16 for Laclede. I didn't see you back there. Go right  
17 ahead.

18 MR. PENDERGAST: Sometimes I'm hard to see.  
19 I heard there was a rate case going on down here and I  
20 figured I better stop by and make sure it wasn't mine.

21 If it please the Commission? Like Ameren,  
22 we do not object to the Stipulation & Agreement, and also  
23 like Ameren, we're not signatories to it, and that's  
24 primarily because the Stipulation & Agreement goes beyond  
25 the limited issue that we had intervened in this case for,

1 and that limited issue was basically the intra-residential  
2 rate design.

3 In our position statement, we indicated  
4 that we supported AmerenUE's position which was really  
5 preserving what had happened in the last Stipulation &  
6 Agreement in its last rate case that all of the rate  
7 components in the residential rate design with the  
8 exception of the customer charge should be increased on an  
9 equal percentage basis.

10 And while there remains some disputes in  
11 the case that you'll be hearing about this afternoon and  
12 later this morning about how the revenue increase should  
13 be allocated among the classes, I don't believe that  
14 there's any dispute among any of the parties regarding  
15 that particular rate design solution for the residential  
16 class.

17 So in light of that, regardless of how you  
18 may decide the other matters, I think that's one area that  
19 hopefully everybody's reached a full consensus on, and I  
20 would certainly recommend that for your favorable  
21 consideration. Thank you.

22 JUDGE WOODRUFF: Anybody else out there who  
23 wants to make an opening? All right. Well, as you're all  
24 aware, the Commission has before it a Nonunanimous  
25 Stipulation & Agreement on the class cost of service, and

1 it's been objected to by Staff. So it's important to  
2 recognize that at this point any decision that the  
3 Commission makes will have to be supported by competent  
4 and substantial evidence. This is not just a matter of  
5 deciding, yes, we'll accept the Stipulation & Agreement or  
6 we won't. And there's a Fischer case from several years  
7 ago jumped on the Commission about that, and we're not  
8 going to try -- we're not going to repeat those mistakes  
9 in this case.

10 So as you're going through -- as we're  
11 going through the witnesses, it's important to keep in  
12 mind that they do need to be able to support their  
13 position through competent and substantial evidence.  
14 They'll be subject to cross-examination as it would be if  
15 -- as if this Stipulation & Agreement was not out there.

16 So we talked about modifying the procedural  
17 order of witnesses. I think that is appropriate, and I  
18 think Staff's view on that is more appropriate that we go  
19 ahead and have the parties who are proposing the  
20 Stipulation & Agreement go first, and then we'll let Staff  
21 conclude the matters.

22 MR. MILLS: If I may ask a question, Judge?  
23 Would it be -- will we be allowed to do some -- since  
24 Staff has filed additional testimony, will we be allowed  
25 to put on our witnesses after that testimony is -- is --

1 we've done direct examination and cross-examination on  
2 that, will we be allowed to put our witnesses on in  
3 rebuttal to that?

4 JUDGE WOODRUFF: I think that would be  
5 appropriate.

6 MR. MILLS: Thank you.

7 JUDGE WOODRUFF: And I'll also add that I  
8 think it's appropriate as these witnesses come on, that  
9 we'll allow additional direct examination to deal with the  
10 changes in position brought by the proposed Stipulation &  
11 Agreement. Everybody on board with that? I don't hear  
12 any cries of pain, so I guess we'll go with that.

13 Well, looking at the witnesses that were on  
14 the list before, skipping over the UE witnesses, we'll  
15 take them later, the first witness would be Mr. Brubaker  
16 for MIEC.

17 Mr. Brubaker, is this the first issue  
18 you've testified on at this proceeding?

19 THE WITNESS: Yes, sir, it is.

20 (Witness sworn.)

21 JUDGE WOODRUFF: Thank you. You may  
22 inquire.

23 MS. VUYLSTEKE: Thank you.

24 MAURICE BRUBAKER testified as follows:

25 DIRECT EXAMINATION BY MS. VUYLSTEKE:



1 Q. Good morning, Mr. Brubaker.

2 A. Good morning.

3 Q. Could you state your business address for  
4 the record, please.

5 A. It is 16690 Swingley Ridge Road, Suite 140,  
6 Chesterfield, Missouri 63017.

7 Q. Are you the same Maurice Brubaker who  
8 caused to be filed in this case direct, rebuttal and  
9 surrebuttal testimony on cost of service and rate design?

10 A. Yes.

11 Q. And if I asked you the questions that are  
12 contained in that prefiled testimony today, would your  
13 answers be the same?

14 A. They would.

15 MS. VUYLSTEKE: I would request at this  
16 time that Mr. Brubaker's testimony, MIEC Exhibit 610, 611  
17 and 612, be admitted into the record.

18 JUDGE WOODRUFF: I also have him as 606  
19 being his direct on revenue requirement; is that correct?

20 MS. VUYLSTEKE: We have Mr. Brubaker's  
21 testimony on fuel adjustment issues as well, and I had  
22 planned to introduce that at the time those issues were  
23 heard next week.

24 JUDGE WOODRUFF: So for right now we're  
25 just talking about 609, 610, 611 and 612? Let me ask you

1 to repeat what you have there.

2 MS. VUYLSTEKE: Sure. I believe the  
3 exhibits we'd like at this time to introduce are 610, 611  
4 and 612.

5 JUDGE WOODRUFF: 610, 611 and 612 have been  
6 offered. Are there any objections to their receipt?

7 (No response.)

8 JUDGE WOODRUFF: Hearing none, they will be  
9 received.

10 (EXHIBIT NOS. 610, 611 AND 612 WERE MARKED  
11 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

12 BY MS. VUYLSTEKE:

13 Q. Mr. Brubaker, have you reviewed the  
14 Nonunanimous Stipulation of the customer parties to this  
15 case?

16 A. I have, yes.

17 Q. Did you participate in the negotiations  
18 that led up to that agreement?

19 A. I did.

20 Q. Could you explain to the Commission the  
21 reasons why you believe that this Nonunanimous customer  
22 stipulation is reasonable and fair?

23 A. Certainly. First, I believe that the  
24 distribution of the revenue adjustments that are set forth  
25 in that Stipulation & Agreement is consistent with the

1 cost of service evidence in this proceeding, and I guess  
2 like any witness, I would look first to my own study for  
3 comfort on that, but I also find that when I look at the  
4 studies of the other parties, that the result here is  
5 within the range that's described by those parties.

6 I think also the fact that the deviations  
7 from system average are relatively minor for most customer  
8 class gives some credibility to the structure of the  
9 allocations. There is no major disruptive increase  
10 proposed for any customer class. The rate structure  
11 provides for continuity and stability in the rates, which  
12 I think also is appropriate.

13 So for those reasons, I think it is a  
14 reasonable resolution of the cost of service rate design  
15 issues that we're facing in this proceeding, and I support  
16 it.

17 MS. VUYLSTEKE: At this point, I would  
18 tender the witness for cross-examination.

19 JUDGE WOODRUFF: All right. Thank you.

20 MS. KLIETHERMES: Judge, if I may  
21 interject? It seems it would be more appropriate to take  
22 rebuttal, if any, that they might have of Mr. Watkins'  
23 testimony at this time as opposed to bringing each witness  
24 up twice as I believe Mr. Mills has suggested.

25 JUDGE WOODRUFF: Well, Mr. Watkins'

1 testimony, in fact, hasn't been admitted or anything at  
2 this point, but I'm willing to allow what -- how the  
3 parties want to do it. Is anybody opposed to that idea?

4 MS. VUYLSTEKE: Judge Woodruff, I think  
5 that it would be ideal for the Commission to simulate the  
6 process that it uses for prefiled testimony, which would  
7 be a direct, a rebuttal and potentially a surrebuttal,  
8 though I'm not sure that we need that.

9 I think that given the fact that the  
10 Commission is intent upon treating the Nonunanimous  
11 Stipulation as if it's a position of the parties that must  
12 be fully supported by evidence, I think having at least  
13 two separate rounds of testimony will allow a full  
14 exposition of the issues. And so our preference, our  
15 strong preference would be that the witnesses can take the  
16 stand after Mr. Watkins testifies live.

17 JUDGE WOODRUFF: I think that would work  
18 better as well. Ms. Kliethermes, do you want to add  
19 anything?

20 MS. KLIETHERMES: If I could address that  
21 on two points? I believe that the parties supporting the  
22 Nonunanimous agreement had just as much an opportunity to  
23 prefile testimony as Staff did and took that opportunity,  
24 and I also believe that if we do proceed as Ms. Vuylsteke  
25 has recommended, that in that case Staff would be given

1 the opportunity to also have the benefit of rebuttal and  
2 surrebuttal and such.

3 JUDGE WOODRUFF: Well, Staff already has an  
4 opportunity for -- to cross. I'm not sure what else  
5 you're looking for.

6 MS. KLIETHERMES: Well, if they're going to  
7 be presenting additional direct live, I think that we  
8 would like the opportunity to run through the witnesses  
9 again as she is expressing the desire to run through our  
10 witnesses a second time, if I understand your proposition  
11 correctly.

12 JUDGE WOODRUFF: I'm not sure what would  
13 happen, but yeah, if that appears to be necessary after  
14 we've gone through the witnesses, we'll deal with it as we  
15 need to. I'm not going to try to make a ruling on it at  
16 this point, but we'll proceed and see how things go.  
17 We'll certainly keep Staff's interests and rights to due  
18 process in mind.

19 All right. For cross-examination, then of  
20 this witness, MEG I don't believe is here. Noranda?

21 MR. CONRAD: We have no questions for this  
22 witness.

23 JUDGE WOODRUFF: Commercial Group?

24 MR. CHAMBERLAIN: No questions.

25 JUDGE WOODRUFF: Laclede?

1 MR. PENDERGAST: No questions, your Honor.

2 JUDGE WOODRUFF: Public Counsel?

3 MR. MILLS: No questions.

4 JUDGE WOODRUFF: I'll skip over Staff, go  
5 to AmerenUE, and come back to Staff.

6 MR. FISCHER: Mr. Brubaker, I have no  
7 questions on rate design or cost of service. I did want  
8 to inquire, you are planning to come back next week for  
9 the fuel adjustment clause portion of this case?

10 THE WITNESS: Yes, sir, I am.

11 MR. FISCHER: Okay. I have no other  
12 questions.

13 JUDGE WOODRUFF: Staff?

14 CROSS-EXAMINATION BY MS. KLIETHERMES:

15 Q. Good morning.

16 A. Good morning.

17 Q. I see on the bottom of the Stipulation that  
18 you're here on behalf of a number of different entities.  
19 I just want to make sure I didn't miss any. Are you here  
20 on behalf of Metropolitan Sewer District?

21 A. No.

22 Q. Could you direct me to which witness is  
23 here on behalf of the Metropolitan Sewer District?

24 A. I'm not aware that they have a specific  
25 witness.

1           Q.     Okay. Well, I guess I've -- your companies  
2     you have listed here, I guess a lot of them probably have  
3     parking lots, correct?

4           A.     Well, yes.

5           Q.     Do you know if your -- the companies listed  
6     here that you're testifying on behalf of have lights in  
7     those parking lots?

8           A.     I would hope so.

9           Q.     And would you suspect that some or all of  
10    them are on the lighting tariff of AmerenUE?

11          A.     I would suspect that to be true.

12          Q.     Would you suspect that the bulk of their  
13    bill comes from the lighting tariff?

14          A.     No.

15          Q.     Or comes from their other tariffs?

16          A.     From their other tariffs.

17          Q.     Okay. So were you -- well, strike that.

18                   I don't see Johnson Controls on the list of  
19    companies that you're representing. Was that an oversight  
20    or are you here on their behalf?

21          A.     I'm not here on their behalf.

22          Q.     Okay. And I'm trying to think. As you're  
23    going on the interstate into St. Louis, there's a lot of  
24    warehouses. I think it's FedEx Distribution Center or  
25    something along those lines. Are you here on FedEx's

1   behalf?

2           A.       No.   I'm here only on behalf of the  
3   individual corporations that have been listed by  
4   Ms. Vuylsteke as the MIEC members participating in this  
5   case.

6           Q.       And which tariffs are they primarily on?

7           A.       Large power predominately.

8           Q.       Are there other large power customers that  
9   you're not here representing?

10          A.       Yes.

11          Q.       Just wanted to check.   Have you  
12   received a copy of Mr. Watkins' supplemental testimony?

13          A.       Yes, I have.

14          Q.       Could you turn with me to page -- well, I  
15   take that back.   It's not page numbered on the appendix.  
16   Could you turn with me to Table 7 in the appendix?

17          A.       Okay.

18          Q.       All right.   If you'll bear with me just one  
19   moment.   If you're aware, what is the customer charge for  
20   the LPS class at currently?   does \$217.25 ring a bell with  
21   you?

22          A.       I was going to say something around 275.  
23   Yes, I'll accept that.

24          Q.       And to your recollection, if you would  
25   happen to know, is the LTS customer charge also 217.25?



1           A.       Yes.

2           Q.       All right. Now, as I look at -- well, and  
3 I guess I have -- pardon me. I have a different question  
4 as well. Now, does Table 8 -- I'm sorry. Table 7 is  
5 where we're at. Does Table 7, is that an accurate  
6 calculation of what this stipulation would accomplish?

7           A.       I haven't had a chance to check the numbers  
8 in Table 7. I assume Mr. Watkins can verify that, but  
9 they look in the range of what I would expect.

10          Q.       Well, can you come with me to -- let's go  
11 to large primary at the \$200 million increase level. You  
12 see where I'm at?

13          A.       Yes.

14          Q.       And what number does that read there?

15          A.       9.70 percent.

16          Q.       And what does that 9.70 percent indicate at  
17 the top of the table?

18          A.       Percentage increase by class, and that's  
19 over current tariffs.

20          Q.       Okay. And so the large transmission  
21 tariff, what's that number at the \$200 million level?

22          A.       7.91 percent.

23          Q.       All right. I hope you're better at doing  
24 math live than I am, because I'm going to have to ask you  
25 to do some. Now, if I understand this Stipulation

1 properly, what it does is it moves every component of a  
2 rate up by the number that the percentage increase is for  
3 that class; is that correct?

4 A. With the exception of the residential  
5 customer charge, I believe that's accurate.

6 Q. All right. Well, could you tell me what  
7 that 9.7 percent is times -- or what -- pardon me. Could  
8 you tell me what a 9.7 percent increase is over 217.25?

9 A. Yes. 7.9 percent?

10 Q. The 9.7.

11 A. 9.7. Sorry. \$21.09.

12 Q. All right. So -- and what is the 7.9  
13 percent of 200,000?

14 A. Of 200,000?

15 Q. Yeah. Or I'm sorry. Of 200 million?

16 A. Of 200 million?

17 Q. Yes.

18 A. I don't -- I guess I don't follow what  
19 you're asking me. The 200 million is the total increase.  
20 7.91 percent is the percentage increase in the large  
21 transmission revenues over its current rates.

22 Q. I'm sorry. I did misspeak. Could you tell  
23 me what that 7.91 percent of 21 -- pardon me -- 217.25 is?

24 A. \$17.18.

25 Q. Well, that doesn't sound like the same

1     number you said a moment ago as what the increase would be  
2     for the large primary class. Is that the same number?

3             A.       I don't follow your question. You asked me  
4     two completely separate questions.

5             Q.       My apologies.

6             A.       I've given you two separate answers about  
7     the impact in the increase in the customer charge for two  
8     different customer classes, and they would not be the  
9     same.

10            Q.       Okay. In the last case, were they the  
11     same?

12            A.       I don't know.

13            Q.       Was the last case resolved by a  
14     stipulation?

15            A.       It was.

16            Q.       Do you recall if that stipulation provided  
17     that those customer charges would be held constant -- or  
18     not held constant, would be the same dollar value?

19            A.       It may be that the stipulation in the last  
20     case, which specified how the rates from the last case  
21     would be designed, said that.

22            Q.       Okay.

23            A.       The Stipulation in this case says  
24     something --

25            Q.       You've answered my question, sir. Thank

1     you.

2                     Well, would -- what do you think a customer  
3     would do if they were in -- pardon me. Let me check one  
4     piece of information here.

5                     What's the criteria for being a large power  
6     service customer?

7             A.       Large power or large primary?

8             Q.       Large primary. I'm sorry.

9             A.       I think the minimum kilowatt demand is  
10    5,000 KW.

11            Q.       And what's the minimum kilowatt demand for  
12    large transmission?

13            A.       It's many times that. I don't recall what  
14    the number is, but it's -- I know there's only one  
15    customer on that tariff.

16            Q.       Strike that. Well, no. I guess leave it.

17                     If the customer could be on two tariffs,  
18    given their characteristics, and one tariff offered a  
19    lower customer charge than the other, which tariff would  
20    that customer choose, all else being equal?

21            A.       All else is never equal. The customer  
22    would choose the rate that was most suitable for its  
23    needs.

24            Q.       Could --

25            A.       The differences in the range of \$3 to \$4 a

1 month in terms of the magnitude of the bills we're talking  
2 about for these classes is completely insignificant.

3 Q. Let's talk about some other classes, then.  
4 As I look at small GS and combined LGS and SPS -- I'm  
5 sorry. There it is. As I look at -- now, if I understand  
6 the Stipulation & Agreement properly, it says the same  
7 thing three times. Is that a fair characterization?

8 A. I don't know what you're talking about. If  
9 you could point me to the language, I'll try to answer.

10 Q. Certainly. When I look at the written  
11 language, I see one description of what's to happen to  
12 calculate rates. Would you agree with that?

13 A. Well, I guess I would say pages 1 and 2  
14 address the steps that would be taken to determine the  
15 class revenue targets.

16 Q. All right. And when I look at the  
17 attachment, I see steps 1 through 4; is that correct?

18 A. Yes.

19 Q. And when I see the chart there, I see  
20 something that someone much more skilled at mathematics  
21 and these sorts of things than I am could probably use to  
22 derive what it is the Stipulation is going for; is that  
23 correct?

24 A. Are you talking about the notes at the  
25 upper left-hand corner of the page that has the

1 spreadsheet calculations on it?

2 Q. I was a moment ago, yes, sir.

3 A. Are you still or are you asking me about --

4 Q. I was asking you about the chart itself at  
5 this point.

6 A. The chart itself implements what was  
7 described.

8 Q. Okay. What does the Commission do if it  
9 doesn't implement an increase of exactly the increments  
10 proposed on this sheet?

11 A. I think it follows the process or would  
12 direct the utility to follow the process that's described  
13 in the stipulation.

14 MS. KLIETHERMES: I believe that's all I  
15 have for you at this time. Thank you.

16 JUDGE WOODRUFF: I'll come up then for  
17 questions from the Bench. Commissioner Murray?

18 COMMISSIONER MURRAY: I have no questions.  
19 Thank you.

20 JUDGE WOODRUFF: Commissioner Jarrett?  
21 QUESTIONS BY COMMISSIONER JARRETT:

22 Q. Good morning, Mr. Brubaker.

23 A. Good morning.

24 Q. Good to see you again.

25 A. Thank you, sir. Good to see you.

1           Q.       Talk a little bit about class cost of  
2 service studies. Would you agree that there is a lot of  
3 judgment and discretion in putting those together?

4           A.       I would agree it's not formalistic and that  
5 parties doing them need to apply some judgments as to  
6 what's -- what are important factors.

7           Q.       So two different people can take the same  
8 data and come up with different class cost of service  
9 results because of discretion and judgment, and both of  
10 those could be reasonable?

11          A.       Could be, yes.

12          Q.       I believe you testified that in your  
13 opinion the Stipulation & Agreement in this case falls  
14 within the reasonableness of all of the class cost of  
15 service studies that are included in this case; is that  
16 correct?

17          A.       Yes, sir.

18          Q.       Can you elaborate on why you believe that?

19          A.       Well, when I look at the numbers, the  
20 increases that would come out of the Stipulation, you can  
21 go find somebody's cost of service study that would  
22 support that outcome for each individual class. Some  
23 studies I think would support that particular outcome for  
24 each class. Others would support it for one or more  
25 classes.

1                   So I say if you look at the evidence, there  
2   is a basis to judge the reasonableness of the increases to  
3   the individual classes based on more than one cost of  
4   service study that's been presented to you.

5                   COMMISSIONER JARRETT: Thank you,  
6   Mr. Brubaker. I have no further questions.

7                   JUDGE WOODRUFF: Commissioner Gunn?

8   QUESTIONS BY COMMISSIONER GUNN:

9           Q.       Counsel for Staff talked about the class of  
10   service being a snapshot of a particular point in time?

11          A.       Yes.

12          Q.       So -- and I just want to clarify. These  
13   studies are accurate as of that particular point in time;  
14   is that correct?

15          A.       Let me try it this way. They are most  
16   accurate at that point in time.

17          Q.       They are most accurate?

18          A.       Yes.

19          Q.       So does that mean that they are accurate  
20   within a range at different points in time or is that --

21          A.       I think unless you have major changes in  
22   the utility system in its cost structure, those basic  
23   relationships would hold for a period of time, they would  
24   hold across time. If you go and put in some huge amount  
25   of investment in a particular component, that could move



1 the results a little bit the next time you went to take a  
2 look at it.

3 But absent some major dislocating factor  
4 that would disproportionately affect the different  
5 customer classes, you would see a fairly stable pattern.  
6 For example, the results in this case from each individual  
7 party's cost study are pretty similar to what they were in  
8 the last case from those same respective cost studies.

9 Q. And with the charts that were put up,  
10 the -- the studies generally followed the same pattern as  
11 a general -- they appeared to have similar patterns to  
12 them?

13 A. Yeah. There are some differences that  
14 Staff counsel pointed out on some classes that not all  
15 parties were quite in sync as to directional, where they  
16 should go, but for most of the classes what you say is  
17 accurate.

18 Q. And can you -- can you take those  
19 differences, because of the kind of necessary problems  
20 with the accuracy or the timeliness of these studies, can  
21 you take those differences as the range in which kind of  
22 anywhere that it falls in there is kind of a reasonable  
23 point or is that not able to be done?

24 A. I think to go to that point you have to  
25 begin to apply some judgments about how reasonable are the

1 individual cost of service studies if you want to come to  
2 those kinds of decision points.

3 COMMISSIONER GUNN: All right. I think  
4 that's all the questions I have. Thank you, sir. I  
5 appreciate it.

6 JUDGE WOODRUFF: Chairman Davis?

7 QUESTIONS BY CHAIRMAN DAVIS:

8 Q. Good morning, Mr. Brubaker.

9 A. Good morning.

10 Q. You don't happen to have a copy of the  
11 latest reconciliation filed by Staff in this case on  
12 November 19th, do you?

13 A. No, sir, I don't.

14 MR. MILLS: May I approach, your Honor?

15 JUDGE WOODRUFF: You may.

16 CHAIRMAN DAVIS: Thank you, Mr. Mills.

17 BY CHAIRMAN DAVIS:

18 Q. Okay. Now, Mr. Brubaker, I'm trusting that  
19 if I -- if I tread into the area of -- of sacred  
20 settlement negotiations, either that you or somebody's  
21 counsel will stop me here at some point.

22 So based on the reconciliation, AmerenUE  
23 was asking -- or as of November 19th was seeking  
24 \$202 million roughly, and Staff's current position on the  
25 19th was approximately 68,266,000, correct?

1           A.       Sir, the number I see for Ameren is  
2 217 million. I'm not sure if that's the number you said  
3 or not.

4           Q.       I'm not seeing 217 million. Maybe this  
5 is --

6                   MR. MILLS: Maybe I should have kept my  
7 seat. I believe that is the one that was actually filed  
8 in EFIS on the 19th that I gave Mr. Brubaker.

9                   CHAIRMAN DAVIS: This is what we were  
10 handed (indicating).

11                  MR. MILLS: At the beginning of the  
12 hearing, and I don't believe that has ever been filed in  
13 EFIS.

14                  CHAIRMAN DAVIS: Okay. That has never been  
15 filed.

16                  MR. MILLS: I don't think it has. You can  
17 check with Staff, but I don't believe that -- I believe  
18 the most recent reconciliation was filed before the start  
19 of the hearing at roughly the same time as the statements  
20 of positions, and I don't know that that -- that that one  
21 that you're referring to has been filed.

22                  CHAIRMAN DAVIS: Okay.

23                  JUDGE WOODRUFF: That was handed out at the  
24 beginning of the hearing, is that what your contention is?

25                  MR. MILLS: I think that's correct.

1                   CHAIRMAN DAVIS: So it was handed out. So  
2 again, I am confused as to whether or not we can rely on  
3 this information. I mean, because obviously issues like  
4 off-system sales, energy margin I believe is settled, fuel  
5 and purchased power is settled, and I'm just trying to  
6 figure out.

7 BY CHAIRMAN DAVIS:

8                   Q. I guess where I'm trying to go,  
9 Mr. Brubaker, and maybe you can help me out here, looking  
10 at the reconciliation that you have, is -- is \$80 million,  
11 you know, the -- sort of the lowest recommendation of any  
12 of the parties right now in terms of what Ameren should  
13 actually get in terms of a rate increase? I mean, if you  
14 add up --

15                  A. It doesn't show on this -- this  
16 reconciliation shows 89 million as the Staff position.

17                  Q. Right.

18                  A. I was under the impression that the Staff  
19 had an updated number that was lower than that.

20                  Q. Right. And that would be the \$68 million  
21 sheet that we were handed on the 19th, and I think a  
22 couple more issues have settled since then, but I don't  
23 know. So that hasn't been filed anywhere, so I'm really  
24 confused if we can even talk about that now. But -- so in  
25 the reconciliation that was filed, Staff was at

1 89 million?

2 A. Correct, the reconciliation I'm looking at.

3 Q. Right.

4 A. The -- fiduciary-wise, I can't --

5 Q. The 89 million, and you believe that

6 subsequently they've actually lowered --

7 A. That's my belief.

8 Q. -- that amount?

9 A. Yes.

10 Q. Okay. And is it -- is it possible that

11 that number could now be 80 million?

12 A. I suppose it's possible. I've not put

13 pencil to paper.

14 Q. Is it possible? Okay.

15 A. Could be higher. Could be lower.

16 Q. Now, based on that reconciliation that you

17 have and are working off of, MIEC's recommendation was

18 actually that the company get more money than Staff's,

19 correct?

20 A. We didn't take a position on all the issues

21 that Staff did, but as to -- the reconciliation only shows

22 our difference from Ameren on the particular issues that

23 were addressed, and so I don't know what --

24 Q. Right. You actually have fewer -- you

25 actually had fewer differences than the Staff.

1           A.       We had -- let me say it this way. We had  
2 fewer issues that we addressed.

3           Q.       Had fewer --

4           A.       That doesn't mean we don't necessarily  
5 agree with Staff versus Ameren on some of the issues that  
6 we did not address in testimony.

7           Q.       Right. So you didn't file an overall cost  
8 of service --

9           A.       We did not.

10          Q.       -- you just filed it on the issues?

11          A.       Correct.

12          Q.       Okay. Why is -- why is \$80 million a fair  
13 number?

14          A.       I think 80 -- well, may transgress into  
15 some discussions we had on settlement.

16          Q.       If that's your answer, and that's -- if  
17 that's --

18          A.       That's my answer.

19          Q.       If you're saying that's the number we all  
20 agreed on, then okay. All right.

21                   CHAIRMAN DAVIS: Judge, I don't think I  
22 have any more questions for Mr. Brubaker. Thank you.

23                   JUDGE WOODRUFF: All right. Thank you.

24                   QUESTIONS BY JUDGE WOODRUFF:

25          Q.       I have a question about the Stipulation &

1 Agreement just to be clear as to how it works. There are,  
2 I believe, three categories in there. The first  
3 80 million would be an across-the-board change, and then  
4 between 80 and I believe it's 150 million there would be  
5 another formula. I'm assuming if the Commission were to  
6 award, say, 100 million, the first 80 million would be  
7 across the board and then another 20 million would be  
8 subject to the formula; is that the way it would work?

9 A. Yes, sir, that's correct.

10 Q. I just wanted to be clear on that.

11 JUDGE WOODRUFF: Does anyone wish to  
12 recross based on those questions from the Bench?

13 MR. MILLS: Just briefly.

14 JUDGE WOODRUFF: Mr. Mills.

15 RE-CROSS-EXAMINATION BY MR. MILLS:

16 Q. In response to a question by Commissioner  
17 Gunn, I think that the general question was, could the  
18 Commission decide that anything within the extreme ranges  
19 of all the cost studies would be reasonable. Do you  
20 recall a question like that?

21 A. Yes.

22 Q. And you were somewhat hesitant, I think, to  
23 go out to the extremes, but would it be fair to say that  
24 anything that comes close to where the averages are rather  
25 than the extremes is likely to be somewhat more

1 reasonable?

2 A. Somewhat more reasonable, yes.

3 MR. MILLS: That's all I have.

4 JUDGE WOODRUFF: Any other recross? For  
5 Noranda?

6 MR. CONRAD: I think just two.

7 RECROSS-EXAMINATION BY MR. CONRAD:

8 Q. Mr. Brubaker, Commissioner Jarrett asked  
9 you about the judgment that was employed in performing  
10 cost of service studies?

11 A. Yes.

12 Q. You recall that?

13 A. I do.

14 Q. Is there an analog in another part of the  
15 case such as return on equity that might be useful in  
16 explaining the relationship?

17 A. Well, I guess return on equity would  
18 usually have opinions from experts who come at the issue  
19 with some different perspectives, and if they're qualified  
20 experts, I think you find some comfort in being within the  
21 range of those. If you find that some of the evidence  
22 presented doesn't measure up, then you have to take that  
23 into account as well and give it proportionately less  
24 weight.

25 MR. CONRAD: Thank you. That's all.



1 JUDGE WOODRUFF: Any other recross?

2 Redirect?

3 REDIRECT EXAMINATION BY MS. VUYLSTEKE:

4 Q. Mr. Brubaker, I just want to follow up on a  
5 few questions that Chairman Davis asked you regarding the  
6 settlement stipulation. Has the MIEC or any party taken  
7 the position that \$80 million is somehow a minimum amount  
8 that AmerenUE's rates should be increased?

9 A. No, it's not.

10 Q. And does that amount and does the spread  
11 that's reflected in the settlement reflect any judgment on  
12 what rate increase AmerenUE should receive in this case?

13 A. It does not.

14 Q. So isn't it your position that any increase  
15 up to 80 million would be system averaged under the  
16 stipulation and that that would be a reasonable result?

17 A. Yes, and that's the way the stipulation is  
18 structured.

19 Q. So if the Commission were to decide on a  
20 rate increase of 75 million, that would be spread on an  
21 equal percentage under the stip?

22 A. That's correct.

23 MS. VUYLSTEKE: I have no other questions.

24 JUDGE WOODRUFF: Then, Mr. Brubaker, you  
25 can step down. Next witness is also for MIEC, I believe

1 would be Mr. Stowe. I just want to make clear on the  
2 record that it's my understanding that this issue is  
3 divided into two parts, class cost of service and rate  
4 design. I assume we're cross-examining on both at the  
5 same time?

6 And Mr. Stowe, if you'd please raise your  
7 right hand.

8 (Witness sworn.)

9 JUDGE WOODRUFF: You may be seated.

10 DAVID STOWE testified as follows:

11 DIRECT EXAMINATION BY MS. VUYLSTEKE:

12 Q. Good morning Mr. Stowe.

13 A. Good morning.

14 Q. Could you state your business address for  
15 the record.

16 A. Yes. Business address is 16690 Swingley  
17 Ridge Road, Suite 140, Chesterfield, Missouri. Zip code  
18 is 63017.

19 Q. And could you also state by whom you're  
20 employed and in what capacity?

21 A. I am employed as a consultant for  
22 Brubaker & Associates.

23 Q. And are you the same David Stowe that  
24 caused to be filed in this case direct and rebuttal  
25 testimony?

1           A.       Yes, I am.

2           Q.       Okay.  If I were to ask you the questions  
3 today that were set forth in that testimony, would your  
4 answers be the same?

5           A.       Yes.

6                   MS. VUYLSTEKE:  Okay.  At this time I would  
7 request to have admitted the testimony, the direct and  
8 rebuttal testimony of David Stowe, and I'm sorry, I need  
9 to refresh myself on which exhibit numbers those were.

10                  JUDGE WOODRUFF:  I believe I have his  
11 rebuttal is 613 and his surrebuttal is 614; is that  
12 correct?

13                  MS. VUYLSTEKE:  Thank you.

14                  JUDGE WOODRUFF:  613 and 614 have been  
15 offered.  Are there any objections to their receipt?

16                   (No response.)

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

19                   (EXHIBIT NOS. 613 AND 614 WERE MARKED FOR  
20 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

21                  MS. VUYLSTEKE:  And at this point I would  
22 tender Mr. Stowe for cross-examination.

23                  JUDGE WOODRUFF:  All right.  For  
24 cross-examination, beginning with Noranda?

25                  MR. CONRAD:  No questions, your Honor.

1 JUDGE WOODRUFF: All right. Commercial  
 2 Group?  
 3 MR. CHAMBERLAIN: No questions.  
 4 JUDGE WOODRUFF: Laclede?  
 5 MR. PENDERGAST: No questions, your Honor.  
 6 JUDGE WOODRUFF: Public Counsel?  
 7 MR. MILLS: Mr. Stowe, as much as I would  
 8 like to talk to you about zero intercept again, I have no  
 9 questions today.  
 10 JUDGE WOODRUFF: AmerenUE?  
 11 MR. FISCHER: No questions.  
 12 JUDGE WOODRUFF: And Staff?  
 13 CROSS-EXAMINATION BY MS. KLIETHERMES:  
 14 Q. Good morning, sir.  
 15 A. Good morning.  
 16 Q. Approximately how many Missourians are  
 17 employed by your constituents?  
 18 A. I wouldn't be able to answer that question.  
 19 The content of my rebuttal and surrebuttal as well as my  
 20 direct testimony is dealing with specifics of some of the  
 21 underlying data, underlying studies that went into the  
 22 cost of service. So I'm not prepared to answer that  
 23 question.  
 24 Q. Are you a Missouri resident?  
 25 A. Yes, I am.

1 Q. Does AB employ a lot of people?

2 A. I'm sorry?

3 Q. Does Anheuser Busch employ a lot of people?

4 A. I do not know how many people they employ.

5 Q. More than ten?

6 A. I would assume so.

7 Q. Does Bio -- I honestly don't know how to

8 pronounce that. Does your second listed company,

9 B-i-o-k-y-o-w-a, do they employ a lot of people?

10 A. You're referring to the list of our

11 clients?

12 Q. I am.

13 A. I did not prepare that list. I really

14 wasn't involved in that preparation.

15 Q. Does Boeing employ more than 100 people?

16 A. I would assume so.

17 Q. Does Chrysler employ more than 200 people?

18 A. I would assume so.

19 Q. Does Doe Run employ more than 2,000 people?

20 A. I don't know.

21 Q. Would you characterize that your

22 constituents employ a lot of people?

23 A. Yes.

24 MS. KLIETHERMES: That's all. Thank you.

25 JUDGE WOODRUFF: I believe I did misdirect

1 counsel on admission of her documents for this witness.  
 2 Mr. Stowe has direct also as 608, which I'd overlooked. I  
 3 assume you wish to offer that also?

4 MS. VUYLSTEKE: I do. Thank you very much.

5 JUDGE WOODRUFF: 608 has been offered. Are  
 6 there any objections to its receipt?

7 (No response.)

8 JUDGE WOODRUFF: Hearing none, it will be  
 9 received.

10 (EXHIBIT NO. 608 WAS MARKED FOR  
 11 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

12 JUDGE WOODRUFF: Then we'll come up for  
 13 questions from the Bench. Commissioner Murray?

14 COMMISSIONER MURRAY: No questions.

15 JUDGE WOODRUFF: Commissioner Jarrett?

16 COMMISSIONER JARRETT: No questions.

17 JUDGE WOODRUFF: Commissioner Gunn?

18 COMMISSIONER GUNN: No questions.

19 JUDGE WOODRUFF: All right. No need for  
 20 recross. Any redirect?

21 MS. VUYLSTEKE: No questions.

22 JUDGE WOODRUFF: All right. Then you can  
 23 step down.

24 THE WITNESS: Thank you.

25 JUDGE WOODRUFF: Then the next witness

1 would be Mr. Johnstone for Noranda. Good morning,  
2 Mr. Johnstone. I believe this is the first time you filed  
3 testimony in this case; is that correct?

4 THE WITNESS: That's correct.

5 (Witness sworn.)

6 JUDGE WOODRUFF: You may inquire.

7 MR. CONRAD: Thank you.

8 DONALD JOHNSTONE testified as follows:

9 DIRECT EXAMINATION BY MR. CONRAD:

10 Q. Please state your name and your business  
11 address for the reporter.

12 A. My name is Donald Johnstone. My business  
13 address is 384 Blackhawk Drive, Lake Ozark, Missouri.

14 Q. And by whom have you been engaged for this  
15 proceeding?

16 A. Noranda Aluminum.

17 Q. Are you the same Donald Johnstone who has  
18 previously caused to be filed with the Commission prepared  
19 testimony in question and answer form, prepared direct on  
20 the -- let's see, I have the fuel adjustment clause on  
21 Noranda operations, that's 753, Judge.

22 JUDGE WOODRUFF: Yes.

23 MR. CONRAD: Class cost of service and fuel  
24 adjustment clause on 754, and Exhibit 755 class cost of  
25 service.

1 THE WITNESS: Yes.

2 JUDGE WOODRUFF: He also has surrebuttal as  
3 756.

4 MR. CONRAD: He also has, and it's my --  
5 it's been my understanding, and we would include that in  
6 the list because I see that has to do probably more with  
7 fuel adjustment, but there may be some tangential things  
8 that counsel would wish to inquire. So we can include  
9 that in the list, too, but it would be understood that  
10 we're not on the fuel adjustment clause today.

11 JUDGE WOODRUFF: Certainly.

12 BY MR. CONRAD:

13 Q. If I were to ask you about 756, your answer  
14 would be the same? That's the testimony that was filed in  
15 November.

16 A. Yes, sir.

17 Q. Do you have any changes or corrections to  
18 any of those items of testimony?

19 A. No.

20 Q. So looking at Exhibit 753, 754, 755 and  
21 756, now that you have been sworn, if I were to ask you  
22 today those questions contained in those documents, would  
23 your answers therein contained be the same?

24 A. Yes.

25 Q. Are there exhibits attached to any of those



1 documents?

2 A. I don't believe so.

3 Q. Save perhaps the exhibit that tells your  
4 qualifications?

5 A. That's correct.

6 Q. Okay. Was that prepared by you or under  
7 your direction and supervision?

8 A. Yes, it was.

9 MR. CONRAD: Your Honor, with that, I would  
10 move admission -- or I move admission of Exhibit 753, 754,  
11 755 and 756 on behalf of Noranda, but understanding that  
12 the offer is made with respect to the issues for today and  
13 the witness will appear later next week, I believe it is,  
14 on the fuel adjustment clause.

15 JUDGE WOODRUFF: All right. 753 through  
16 756 have been offered. Are there any objections to their  
17 receipt?

18 MR. FISCHER: Judge, we have no objection  
19 to their receipt, with the understanding that the fuel  
20 adjustment issues will be heard next week and there might  
21 be some objection at that time.

22 JUDGE WOODRUFF: Well, for the moment,  
23 then -- well, those documents are admitted subject to  
24 further objection if there are any to the fuel adjustment  
25 clause issues.

1 (EXHIBIT NOS. 753, 754, 755 AND 756 WERE  
2 MARKED FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

3 MR. CONRAD: And your Honor, we have no  
4 problem with Mr. Fischer's reservation. I'll recognize  
5 that. The witness is tendered for cross-examination.

6 JUDGE WOODRUFF: Let me ask it this way.  
7 Are there any parties other than Staff that wish to cross?  
8 Then Staff.

9 CROSS-EXAMINATION BY MS. KLIETHERMES:

10 Q. Good morning.

11 A. Good morning.

12 Q. Are you aware whether or not Anheuser Busch  
13 has recently been involved in a merger or acquisition?

14 A. Yes, I'm aware that they have.

15 Q. Have you heard anything in the financial  
16 news recently about Chrysler Corporation?

17 A. Yes.

18 Q. What have you heard?

19 A. As one of the auto makers, they are having  
20 financial troubles.

21 Q. And have you heard anything recently about  
22 General Motors Corporation?

23 A. Yes.

24 Q. What have you heard?

25 A. The same.

1 Q. Have you heard anything recently about Doe  
2 Run Corporation?

3 A. No.

4 Q. You haven't heard that they were, I  
5 believe, cited by the EPA as in need of additional  
6 pollution safeguards that are potentially very expensive?

7 A. I'm not aware of that.

8 Q. Mr. Johnstone, are you a bird hunter?

9 A. No.

10 Q. Have you ever shot a shotgun?

11 A. At a target.

12 Q. Did you have a scope on that shotgun?

13 A. No.

14 Q. Why is that?

15 A. Did not need it.

16 Q. Would you say that the scatter is so wide  
17 that a scope becomes impractical?

18 A. I suppose.

19 MS. KLIETHERMES: That's all I have. Thank  
20 you.

21 JUDGE WOODRUFF: All right. Up to  
22 questions from the Bench, then. Commissioner Murray?

23 QUESTIONS BY COMMISSIONER MURRAY:

24 Q. Good morning.

25 A. Good morning.

1           Q.       Can you in a general way compare the  
2       decline to the aluminum smelter industry in the last few  
3       years to the weakness in other areas of the economy today,  
4       such as retail or -- let's just say to retail?

5           A.       The aluminum product is something that's  
6       used in other products. It's not something that's bought  
7       by consumers. So as such, it depends on the demand for  
8       these downstream products. As the other areas of the  
9       economy, including retail, have had problems, that ripples  
10      back to the basic industries such as aluminum. And so  
11      there is, I guess, a bit of an indirect relationship, but  
12      certainly the economic problems that are faced by all  
13      sectors come back and affect the aluminum industry as  
14      well.

15          Q.       And if you were comparing the weakness to  
16      certain segments of the economy such as retail sales to  
17      the aluminum smelter industry, would -- in your opinion,  
18      would an increase in the cost of electric power supply to  
19      the aluminum smelter industry affect you -- affect that  
20      industry to a greater extent than it would affect, say,  
21      the retail segment of society?

22          A.       Yes, ma'am. The cost of aluminum is  
23      comprised approximately one-third by the cost of  
24      electricity. So it's very important. On the other side,  
25      within the retail sector, of course, you have mixed

1 results within that sector. For one thing, various types  
2 of retailers, but in any event, the cost of electricity is  
3 something that's a much smaller percentage than it would  
4 be in the context of the aluminum industry.

5 COMMISSIONER MURRAY: Thank you.

6 JUDGE WOODRUFF: Commissioner Jarrett?

7 QUESTIONS BY COMMISSIONER JARRETT:

8 Q. Good morning. I just have a couple of  
9 questions. Are you familiar with the Stipulation &  
10 Agreement that's been filed --

11 A. Yes, sir.

12 Q. -- that we've been talking about this  
13 morning?

14 A. Yes, sir, I am.

15 Q. And are you prepared to talk a little bit  
16 about it?

17 A. I'd be happy to.

18 Q. Okay. You were here when Mr. Conrad gave  
19 his opening statement on this issue this morning, were you  
20 not?

21 A. Yes, I was.

22 Q. And he'd indicated that there even -- even  
23 if this Commission were to accept the stipulation in this  
24 rate case, that Noranda would still have challenges. Are  
25 you -- can you elaborate on what some of those challenges

1     might be? Do you know?

2             A.       The fundamental challenge is to reduce  
3     costs to a level to allow them to survive this downturn,  
4     to get to where the commodity price turns around again.  
5     So there will be a very difficult period, and certainly  
6     the company's working very hard on all areas of cost,  
7     including electricity.

8             Q.       All right. And would you agree that the  
9     aluminum smelting business is really a global business  
10    now?

11            A.       Yes, sir.

12            Q.       Are you aware of any steps that Noranda has  
13    taken just recently or within the past few years to change  
14    their operations in a way that they are more able to  
15    compete in a global marketplace?

16            A.       Noranda has a process of continuous  
17    improvement, and for example, when one looks at the amount  
18    of electricity that is consumed per pound of aluminum,  
19    they have continued to work on their process to reduce the  
20    amount of electricity that's required, which allows them  
21    in turn to remain competitive. That is an ongoing  
22    concern. I've worked with them for a number of years, and  
23    every aspect of cost to my experience has been carefully  
24    watched.

25                    Now, there are extraordinary challenges in

1 these recent economic times, and there have been  
2 adjustments to the number of jobs. There will be a  
3 correction by Mr. McPheeters, and he can probably get into  
4 some more depth about the important steps that have been  
5 taken very recently to make further adjustments.

6 COMMISSIONER JARRETT: Thank you. No  
7 further questions.

8 JUDGE WOODRUFF: Commissioner Gunn?

9 COMMISSIONER GUNN: I don't have any  
10 questions. Thank you.

11 JUDGE WOODRUFF: Does anyone wish to  
12 recross based on questions from the Bench?

13 (No response.)

14 JUDGE WOODRUFF: Any redirect?

15 MR. CONRAD: Just one thing.

16 REDIRECT EXAMINATION BY MR. CONRAD:

17 Q. Commissioner Jarrett asked you,  
18 Mr. Johnstone, about your involvement, review of the  
19 Stipulation & Agreement?

20 A. Yes, sir.

21 Q. Are you prepared to make any comment to the  
22 Commission about your view as to its reasonableness and  
23 appropriateness?

24 A. Yes. It would certainly be my opinion that  
25 this settlement represents a reasonable resolution of the

1 issues, will result in just and reasonable rates.

2 Certainly with respect to Noranda in the  
3 cost studies that I believe are the most appropriate, in  
4 my judgment, it remains above cost. There are other  
5 people with cost studies that have been submitted. In  
6 consideration of all those views, in particular I think it  
7 gets to a reasonable result.

8 Q. Commissioner Murray asked you a couple of  
9 questions about the pricing of aluminum in the context of  
10 retail products and how the economic downturn had affected  
11 that. Is it also -- or do you have a comment with respect  
12 to the international nature of the competitive aluminum  
13 market that you would like to share?

14 A. Well, certainly there are the sales into  
15 the products that go into domestic production, but there  
16 is also the international. It's certainly primarily an  
17 international market that sets the prices for this  
18 company.

19 Q. Are you aware of whether any of those  
20 international companies external to the United States  
21 receive any type of government subsidies?

22 A. I have not studied the international  
23 procedures.

24 MR. CONRAD: Very well. Thank you,  
25 Mr. Johnstone. That's all.



1 JUDGE WOODRUFF: You can step down,  
2 Mr. Johnstone. Is Mr. McPheeters here now?  
3 MR. CONRAD: He is.  
4 JUDGE WOODRUFF: Let's call him next.  
5 MR. CONRAD: All right. That would be  
6 fine.  
7 JUDGE WOODRUFF: Good morning.  
8 THE WITNESS: Good morning. How are you,  
9 sir?  
10 JUDGE WOODRUFF: Please raise your right  
11 hand.  
12 (Witness sworn.)  
13 JUDGE WOODRUFF: You may be seated. You  
14 may inquire.  
15 MR. CONRAD: Thank you, your Honor.  
16 STEVE MCPHEETERS testified as follows:  
17 DIRECT EXAMINATION BY MR. CONRAD:  
18 Q. Please state your name and business address  
19 for the reporter.  
20 A. My name is Steve McPheeters. I work with  
21 Noranda Aluminum, which is located in St. Jude Industrial  
22 Park in New Madrid, Missouri. Zip code is 63869.  
23 Q. Are you the same Steve McPheeters who  
24 earlier caused to be filed prepared direct testimony in  
25 question and answer form with this Commission?

1           A.       Yes, sir.

2           Q.       Do you have a copy of that prepared  
3 testimony before you?

4           A.       I do, sir.

5           Q.       Please note that that has been marked as  
6 Exhibit 758. Now, while you have that before you, do you  
7 have any corrections that you would like to make to that  
8 testimony as from what it was originally -- how it was  
9 originally filed?

10          A.       Yes, I would, Mr. Conrad. On page 4,  
11 line 8, I believe the date was August 28th when this was  
12 filed. There were at that time 1,120, 1,120 employees at  
13 the end of August. The normal baseline is around 1,100  
14 employees. That's a fair --

15          Q.       Just a second. I think I maybe had looked  
16 at the wrong line, but I'm seeing that at line 5, Judge.

17          A.       Line 5. Okay.

18          Q.       I'm sorry. Please continue.

19          A.       Typically the 1,100 employee mark is where  
20 we've been for the last several years, but effective  
21 today, that change will have to be reduced by another 228  
22 fewer persons by the end of first quarter 2009. Through  
23 today I believe that number is 187 that have been reduced  
24 so far, in response to the changing market conditions.

25          Q.       Are there any other corrections that you

1     need to make to your prepared testimony at this time?

2             A.       Well, when you look at the total  
3     employment, if it's 1,100 and it's going to be reduced by  
4     228 by the first quarter of next year, we also put in  
5     testimony regarding employee compensation in the aggregate  
6     by county, which will obviously change. We have payroll  
7     and benefits amount that we put in the testimony, and I  
8     don't have the exact figure, but if you reduce it by 228  
9     fewer persons, that's quite a lot of money.

10            Q.       If the Commission was interested in those  
11     numbers, they could be provided at a later date, could  
12     they not?

13            A.       Yes. Yes, they certainly could.

14            Q.       Are there any other changes or corrections  
15     of which you're aware?

16            A.       Just those that relate to the fewer jobs  
17     and the corresponding employee compensation numbers.

18            Q.       So with that correction and with the  
19     subject, too, as noted about the compensation numbers, if  
20     I were to ask you today the questions that are contained  
21     in Exhibit 758, would your answers thereto be the same?

22            A.       After the changes?

23            Q.       Yes.

24            A.       Yes.

25            Q.       And would those answers be true and correct

1 to the best of your knowledge, information and belief?

2 A. Yes, sir.

3 MR. CONRAD: Your Honor, I move admission  
4 at this time of the corrected 758 exhibit. If the  
5 Commission has desire for those updated numbers in the  
6 other area, we'd certainly supply them, and would  
7 thereafter tender the witness for cross.

8 JUDGE WOODRUFF: 758 has been offered into  
9 evidence. Are there any objection to its receipt?

10 (No response.)

11 JUDGE WOODRUFF: Hearing none, it will be  
12 received.

13 (EXHIBIT NO. 758 WAS MARKED FOR  
14 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

15 JUDGE WOODRUFF: For cross-examination,  
16 anyone other than Staff wish to cross?

17 (No response.)

18 JUDGE WOODRUFF: Then Staff.

19 MS. KLIETHERMES: Thank you, Judge.  
20 Nothing for this witness.

21 JUDGE WOODRUFF: All right. Come up for  
22 questions from the Bench, then. Commissioner Murray?

23 COMMISSIONER MURRAY: No questions. Thank  
24 you.

25 JUDGE WOODRUFF: Commissioner Jarrett?

1 QUESTIONS BY COMMISSIONER JARRETT:

2 Q. Good morning, Mr. McPheeters. How are you?

3 A. Good morning, sir.

4 Q. How long have you worked for Noranda?

5 A. December 31st it will be 11 years.

6 Q. And refresh my memory, what's your title?

7 A. I'm a superintendent of communications,  
8 training and development. I have management oversight of  
9 St. Jude Industrial Park which houses Noranda, Associated  
10 Electric, ADM and Riceland, New Madrid County Port. And I  
11 also assist our president with energy issues.

12 Q. Are you aware, does Noranda have any  
13 problem attracting employees?

14 A. Typically Noranda is seen as the employer  
15 of choice in southeast Missouri. There's a concentrated  
16 area of six counties, Scott, Mississippi, New Madrid,  
17 Pemiscot, Dunklin and Stoddard, that comprise the greatest  
18 percentage, but we reach out into Cape Girardeau County,  
19 Butler County, as far away as northwest Arkansas. Even  
20 have a few employees from Dyersburg, Tennessee. So over  
21 40 communities of people come to work at Noranda.

22 Q. And there's no shortage of folks looking  
23 for work in those areas?

24 A. Well, there are a lot of people looking for  
25 work in those areas these days, and a lot of people hope

1 to get on at Noranda because Noranda's always paid a fair  
2 wage.

3 Q. How important is Noranda to the economic  
4 health of the area?

5 A. Well, Noranda is one of two large -- it's  
6 one of two largest employers in that whole region, the  
7 other being Proctor and Gamble in Cape Girardeau. But for  
8 the deep bootheel on those six counties, maybe expanding  
9 to ten counties, it's a huge impact economically not only  
10 because of the employment and the payroll but of the  
11 procurement that goes on outside power and raw material,  
12 just the things that we spend money on to keep the  
13 operation going and how it impacts other local employers  
14 who provide services to our operation.

15 COMMISSIONER JARRETT: Thank you,  
16 Mr. McPheeters. I have no further questions. Appreciate  
17 your testimony.

18 JUDGE WOODRUFF: Commissioner Gunn?

19 COMMISSIONER GUNN: I don't have any  
20 questions. Thank you.

21 JUDGE WOODRUFF: Anyone wish to recross  
22 based on those questions?

23 (No response.)

24 JUDGE WOODRUFF: Any redirect?

25 MR. CONRAD: Just one small area.

1 REDIRECT EXAMINATION BY MR. CONRAD:

2 Q. Commissioner Jarrett asked you about the  
3 economic impact of Noranda to the area. Have you had  
4 occasion, Mr. McPheeters, to ever look about what I might  
5 call a multiple that if there's one manufacturing job,  
6 that that manufacturing job supports X number of other  
7 jobs?

8 A. It's not an exact science, but we were  
9 supplied by -- you take the impact on the Sikeston  
10 Community Sheltered Workshop that produces the pallets  
11 that we use in our rod mill. They employ a couple hundred  
12 needy people from the area, and we have a major impact on  
13 them.

14 There's other companies in the region that  
15 supply steel products, oil products for all the mobile  
16 equipment that we have operating the plant, sometimes 300  
17 different pieces of mobile equipment. So we're a major  
18 customer of those entities, and so whatever happens to us  
19 certainly has an impact on them.

20 Q. I have sometimes heard that multiple to be  
21 in the range of one manufacturing job and eight  
22 non-manufacturing jobs or six non-manufacturing jobs. Can  
23 you comment on that?

24 A. That's a hard number to tie down, but I  
25 think five to six is a safe range to say it does have that

1 kind of impact. Of course, the money that goes out in  
2 payroll and procurement services turns several times in  
3 that region of local businesses and local retailers. The  
4 impact it has on the New Madrid County school system where  
5 we are, it's a pretty huge impact.

6 Q. Were you here when Chairman Davis was  
7 inquiring of another witness about --

8 MS. KLIETHERMES: Judge, I'm certain he's  
9 exceeded the scope of cross at this point.

10 MR. CONRAD: I haven't gotten there yet,  
11 counsel.

12 JUDGE WOODRUFF: We'll let him ask his  
13 question first, then you can renew your objection if you  
14 wish to.

15 MR. CONRAD: I'm just inquiring if he was  
16 here when Commissioner Jarrett -- or excuse me, when  
17 Chairman Davis actually asked that question to counsel for  
18 Staff.

19 THE WITNESS: Yes.

20 BY MR. CONRAD:

21 Q. Okay. Commissioner Jarrett asked you a  
22 question about whether Noranda had trouble in employing  
23 people. Do you recall that --

24 A. Yes, sir.

25 Q. -- exchange?



1           A.       Uh-huh.

2           Q.       Tell me if you can the average pay for a  
3   Noranda employee in the New Madrid smelter.

4           A.       Well, the hourly workers represented by  
5   United Steel Workers, they have a range that starts  
6   somewhere in the \$19 an hour range for that worker. On  
7   the salaried side, of course, it depends on the expertise  
8   and experience and things like that, but salary and  
9   benefits even at a \$50,000 average per year has a major  
10  impact when you have to reduce that work force along with  
11  the hourly work force.

12          Q.       And am I correct that when he asked you  
13  about trouble in employment, that you made a comment about  
14  there were people down in that area that were always  
15  looking for work?

16          A.       Yes.

17          Q.       And these jobs are, forgive the expression,  
18  perhaps plum jobs for that level of pay in that area; is  
19  that correct?

20          A.       Well, they're the best of jobs in that  
21  area, best paying jobs, yes.

22                   MR. CONRAD: Thank you, Mr. McPheeters.  
23  That's all, Judge.

24                   JUDGE WOODRUFF: Thank you. The next  
25  witness then would be Mr. Baudino for the Commercial

1 Group. Please raise your right hand.

2 (Witness sworn.)

3 JUDGE WOODRUFF: You may inquire.

4 MR. CHAMBERLAIN: Thank you.

5 RICHARD A. BAUDINO testified as follows:

6 DIRECT EXAMINATION BY MR. CHAMBERLAIN:

7 Q. Would you please state your name for the  
8 record, please.

9 A. My name's Richard Baudino.

10 Q. And Mr. Baudino, did you cause to be  
11 prepared and filed what's been titled direct testimony and  
12 exhibit of Richard A. Baudino?

13 A. Yes, I did.

14 Q. Did you also cause to be prepared and filed  
15 the rebuttal testimony of Richard A. Baudino?

16 A. Yes.

17 Q. And finally, did you cause to be prepared  
18 and filed the surrebuttal testimony of Richard A. Baudino?

19 A. Yes, I did.

20 Q. Do you have any changes or corrections to  
21 those testimonies at this time?

22 A. I do not.

23 MR. CHAMBERLAIN: Okay. Judge, one small  
24 matter. The witness affidavit was inadvertently omitted  
25 from the rebuttal testimony. I did separately file that

1 with EFIS. My question is, do you want to label that as a  
2 separate exhibit or how do you want to handle that?

3 JUDGE WOODRUFF: Does anyone have any  
4 objection to just going ahead and attaching it to 701?  
5 Just attach it to 701. Physically staple it on there.

6 MR. CHAMBERLAIN: Okay. Thank you.

7 JUDGE WOODRUFF: All right. 700, 701 and  
8 702 have been offered. Are there any objections to its  
9 receipt?

10 (No response.)

11 JUDGE WOODRUFF: Hearing no objections,  
12 they will be received.

13 (EXHIBIT NOS. 700, 701 AND 702 WERE MARKED  
14 FOR IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

15 BY MR. CHAMBERLAIN:

16 Q. Mr. Baudino, subsequent to the filing of  
17 your prefiled testimony, did you have occasion to be  
18 involved in the negotiations leading to the partial  
19 stipulation that's been submitted to the Commission?

20 A. Yes, I was involved in those negotiations.

21 Q. And have you had an opportunity to review  
22 that stipulation at this point?

23 A. Yes, I've read it and reviewed it.

24 Q. And without getting into the confidential  
25 negotiations at this point, do you have any comments that

1 you would offer to the Commission as far as the  
2 stipulation and whether or not it should be accepted by  
3 the Commission?

4 A. Yes. I've read through it, and given the  
5 disparity of positions by the parties, given the cost of  
6 service studies that were filed, I think it's very much a  
7 reasonable compromise, results in just and reasonable  
8 rates the Commission can rely on.

9 Q. Anything else you wish to add?

10 A. Not at this time.

11 MR. CHAMBERLAIN: Your Honor, with that, I  
12 would tender this witness for cross-examination.

13 JUDGE WOODRUFF: Does any party wish to  
14 cross this witness?

15 (No response.)

16 JUDGE WOODRUFF: I don't see any hands  
17 going up, so we'll come up to questions from the Bench.  
18 Commissioner Murray?

19 QUESTIONS BY COMMISSIONER MURRAY:

20 Q. Good morning.

21 A. Good morning.

22 Q. Is there in your testimony somewhere a list  
23 of the Commercial Group, members of the Commercial Group?

24 A. Check and see if it's in my direct. There  
25 is a list in the Stipulation, on the first page of the

1 Stipulation & Agreement, Footnote 3.

2 Q. I see it. Thank you. Is it accurate to  
3 say that the class that the Commercial Group falls in,  
4 according to at least several cost of service studies, has  
5 traditionally paid more than the cost of service to that  
6 class?

7 A. Traditionally, I'm not sure. This is my  
8 first class cost of service case here with Ameren.  
9 Certainly every cost of service study filed in this case  
10 showed that the large general service and small primary  
11 service were above cost of service, yeah.

12 Q. And is it your position, then, that the  
13 slight movement toward parity for that class of service is  
14 an improvement over the class cost of service and rate  
15 design that was proposed in this case by AmerenUE?

16 A. Yes. We did want some kind of benefit out  
17 of the stipulation that was -- that made some kind of  
18 movement towards cost of service which we felt that just  
19 strict across-the-board increase did not accomplish.

20 So I wish it could have been more, frankly,  
21 from my perspective, but our clients and I was willing to  
22 recommend it to our client, that given the position of the  
23 other parties in the case, this is a reasonable  
24 compromise. It does give large general service and small  
25 primary service some benefit.

1           Q.       All right. And then in terms of the  
2       economic effect on the Commercial Group that you're here  
3       to represent, I saw that the Wall Street Journal today  
4       indicated that in the month of November, I believe,  
5       Macy's, I believe it was their in-house sales had declined  
6       something like 13 percent in the month of November. Would  
7       you have any reason to disagree with that?

8           A.       I didn't see that number, but I think it's  
9       going to be sort of a tough year for all of the retailers,  
10       yeah.

11          Q.       And in an economic environment like this,  
12       any kind of increase to the cost of business would  
13       certainly be a hardship, would it not?

14          A.       It really is, and, you know, also our  
15       clients are sensitive to the fact that their customers are  
16       residential customers, too. So we try to balance off  
17       reasonable rate impact with some kind of movement toward  
18       cost for our clients as well.

19          Q.       And again, in your opinion, this  
20       Stipulation & Agreement does provide some movement in the  
21       right direction?

22          A.       Yes.

23                    COMMISSIONER MURRAY: Thank you.

24                    THE WITNESS: You're welcome. Thank you.

25                    JUDGE WOODRUFF: Commissioner Jarrett?

1 QUESTIONS BY COMMISSIONER JARRETT:

2 Q. Good morning.

3 A. Good morning.

4 Q. Were you here when Mr. Brubaker testified?

5 A. Yes, I was.

6 Q. And you heard his testimony?

7 A. Yes, sir, I did.

8 Q. And I believe he had testified that given  
9 the ranges in all of the cost of service studies, all of  
10 the numbers in the Stipulation could be supported. Do you  
11 remember that testimony?

12 A. Yes, I do.

13 Q. Do you agree with that?

14 A. I do, yes, sir.

15 Q. And why do you agree?

16 A. I can tell you from -- first of all, from  
17 our client's perspective, all of the cost of service  
18 studies filed showed us -- showed that the large general  
19 service and small primary were above cost. This does make  
20 some small movement in the correct direction for our  
21 clients, certainly. Not as much as we'd like, but better  
22 than an across-the-board increase.

23 I think when you look at the range of  
24 studies filed by the company, which we support, we also  
25 agree with the study that MIEC did as well. But even with

1 the Staff -- Staff studies and OPC studies, I think you  
2 can pretty much support this Stipulation. And this  
3 Stipulation I would also say is fairly close -- I would  
4 offer that it has more in common with Staff's filed  
5 revenue allocation really than differences if you look at  
6 how the revenue allocation is spread.

7 COMMISSIONER JARRETT: Thank you. No  
8 further questions.

9 JUDGE WOODRUFF: Commissioner Gunn?

10 QUESTIONS BY COMMISSIONER GUNN:

11 Q. Could you just expand on your last answer a  
12 little bit for me?

13 A. Sure.

14 Q. What similarities do you see between the  
15 stipulation and Staff's --

16 A. At a --

17 Q. -- position?

18 A. Sure. At a revenue increase up to  
19 80 million, it's an across-the-board increase, which is  
20 what Staff is recommending to the Commission in this case.  
21 Then you look at the increment above 150 million, that  
22 will be spread on an across-the-board increase as well.  
23 It's that bit between 80 and 150 million where we have the  
24 adjustment and where we saw the benefit for our guys.  
25 So -- and it is a slight adjustment. It's not a huge



1 adjustment between -- as far as the revenue transfers  
2 between classes there.

3 So that's why I feel there's really more in  
4 common probably with Staff's filed position than  
5 differences is how I see it. That would be my opinion  
6 anyway.

7 COMMISSIONER GUNN: Great. I think that's  
8 all I have.

9 JUDGE WOODRUFF: Chairman Davis?

10 CHAIRMAN DAVIS: No questions.

11 JUDGE WOODRUFF: Anyone wish to recross  
12 based on the questions? We'll go Public Counsel first.

13 RE-CROSS-EXAMINATION BY MR. MILLS:

14 Q. Mr. Baudino, in response to Commissioner  
15 Gunn's questions, you talked about -- I think your answer  
16 mostly addressed the potential increases below 80 and  
17 above 150. In the middle part, does the settlement  
18 agreement also line up with Staff's cost of service study  
19 with respect to residential, small general service and  
20 large general service, small primary service?

21 A. It certainly does, yes.

22 Q. So even in that interim block, there is  
23 much in common with the Staff's cost of service study?

24 A. Yes, sir, that's true. I'll agree with  
25 that.

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

2 JUDGE WOODRUFF: Then Staff.

3 RECROSS-EXAMINATION BY MS. KLIETHERMES:

4 Q. Good morning.

5 A. Good morning.

6 Q. I just want to make sure I'm understanding  
7 this stipulation right. Based on your comment to  
8 Commissioner Gunn, did I understand you to say that any  
9 increase over 150 million would be an equal percentage  
10 increase?

11 A. Yes.

12 Q. It's not just the increment that is over  
13 150 million that's --

14 A. Any increase.

15 Q. -- adjusted?

16 A. It's the same thing. We're saying the same  
17 thing. It's the increment over 150 million.

18 Q. Okay. So once you get to, say, a system  
19 average -- oh, I guess it switches over. It looks like at  
20 a system average of 7.19 percent increase, a system  
21 average 7.19 percent increase, you're not testifying that  
22 each class would receive a 7.19 percent increase, are you?

23 A. No, I'm not.

24 Q. I just wanted to make sure I understood.

25 Thank you.

1           A.       You're welcome.

2                   JUDGE WOODRUFF: Redirect?

3                   MR. CHAMBERLAIN: No questions.

4                   JUDGE WOODRUFF: Then, Mr. Baudino, you can

5 step down.

6                   THE WITNESS: Thank you.

7                   JUDGE WOODRUFF: I believe we would then be

8 moving to the Public Counsel witnesses.

9                   MR. MILLS: Ms. Meisenheimer.

10                   (Witness sworn.)

11                   JUDGE WOODRUFF: You may inquire.

12 BARBARA A. MEISENHEIMER testified as follows:

13 DIRECT EXAMINATION BY MR. MILLS:

14           Q.       Can you state your name for the record,

15 please.

16           A.       My name is Barbara Meisenheimer.

17           Q.       And for whom do you work?

18           A.       The Office of the Public Counsel.

19           Q.       What is your title?

20           A.       I'm a chief economist.

21           Q.       And did you cause to be filed in this case

22 direct and surrebuttal testimony on the issue of class

23 cost of service that has been marked as Exhibits 406 and

24 407?

25           A.       Yes, I did.

1           Q.       Are the answers contained therein true and  
2 correct to the best of your knowledge?

3           A.       Yes, they are.

4           Q.       If I were to ask you those same questions  
5 here today, would your answers be the same?

6           A.       Yes, they would.

7                   MR. MILLS: Judge, with that, I will tender  
8 the witness for cross-examination and offer Exhibits 406  
9 and 407.

10                   JUDGE WOODRUFF: 406 and 407 have been  
11 offered. Any objection to their receipt?

12                   (No response.)

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

15                   (EXHIBIT NOS. 406 AND 407 WERE MARKED FOR  
16 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

17                   JUDGE WOODRUFF: Cross-examination. Does  
18 anyone wish to cross-examine this witness?

19                   (No response.)

20                   JUDGE WOODRUFF: I don't see any hands  
21 going up. We'll come up to the Bench. Commissioner  
22 Murray?

23 QUESTIONS BY COMMISSIONER MURRAY:

24           Q.       Good morning, Ms. Meisenheimer.

25           A.       Good morning, Commissioner.

1           Q.       I assume that it is your position that the  
2   small incremental increase to the residential class  
3   between 80 -- revenue increase of 80 million and the 150  
4   million is a just and reasonable outcome?

5           A.       Yes.  And if I might add, actually my  
6   testimony addressed only a cost issue in this case, a cost  
7   of service issue.  We have another witness that did the  
8   rate design, and that was Ryan Kind.

9                   COMMISSIONER MURRAY:  All right.  Thank  
10   you.

11                  JUDGE WOODRUFF:  Commissioner Jarrett?

12                  COMMISSIONER JARRETT:  No questions.

13                  JUDGE WOODRUFF:  Commissioner Gunn?

14   QUESTIONS BY COMMISSIONER GUNN:

15           Q.       Just a quick question.  Do you agree with  
16   the previous witness' testimony, if you heard it and paid  
17   attention to it and can comment on it?

18           A.       In large part, I think I would agree with  
19   the previous witnesses.  Certainly for the limited role  
20   that I played in developing Public Counsel's cost study,  
21   we prefer our outcome, our result in terms of the cost  
22   study.  However, looking at the total picture and the  
23   range of cost study outcomes, I do agree with the majority  
24   of the testimony that you've heard thus far from the  
25   signatory parties.

1 COMMISSIONER GUNN: Thanks. I don't have  
2 any further questions.

3 JUDGE WOODRUFF: Chairman Davis?

4 QUESTIONS BY CHAIRMAN DAVIS:

5 Q. Good morning, Ms. Meisenheimer.

6 A. Good morning, Chairman.

7 Q. How are you?

8 A. I'm fine. And you?

9 Q. Fine. Did you have a good Thanksgiving?

10 A. I did.

11 Q. Well, have a good day. Thank you.

12 JUDGE WOODRUFF: Any recross based on  
13 questions from the Bench?

14 (No response.)

15 JUDGE WOODRUFF: Any redirect?

16 MR. MILLS: No questions.

17 JUDGE WOODRUFF: Then you can step down.

18 THE WITNESS: Thanks.

19 JUDGE WOODRUFF: Next witness then would be  
20 Mr. Kind. Good morning, Mr. Kind. I believe you have  
21 testified earlier.

22 THE WITNESS: That's correct.

23 JUDGE WOODRUFF: You're still under oath.

24 MR. MILLS: And Judge, is it correct that  
25 all of his testimony has previously been admitted?

1 JUDGE WOODRUFF: I believe so, yes.

2 RYAN KIND testified as follows:

3 DIRECT EXAMINATION BY MR. MILLS:

4 Q. Mr. Kind, since you filed your testimony in  
5 this case, have you been involved in discussions that led  
6 to the filing of a Stipulation & Agreement yesterday?

7 A. Yes, I have been.

8 Q. And do you support the resolution of the  
9 issues contained in the Stipulation & Agreement as the --  
10 as they were resolved by that agreement?

11 A. Yes, I fully support the Stipulation &  
12 Agreement.

13 Q. And can you explain why?

14 A. Yes. I think as a lot of other witnesses  
15 have touched on, you know, reasonable people can have  
16 differences over the proper way to structure class cost of  
17 service studies. And we've had a lot of studies  
18 introduced in this case from a lot of witnesses I've had  
19 experiences with over the years, and they're all very  
20 competent in this area. A lot of us have been doing these  
21 types of studies for at least one decade, some of us well  
22 beyond that period of time.

23 And as has been discussed, the shifts that  
24 occur within the range of 80 and 150 million I think can  
25 be supported by the evidence that you find in those

1 studies. The shifts can be supported pretty much by  
2 looking at, you know, certain individual studies, and then  
3 I think also the shifts can be supported by looking  
4 collectively at the outcome of all the studies.

5                   And I think it's -- it's important for  
6 decision-makers to look collectively at the outcome of all  
7 the studies, while Public Counsel, you know obviously  
8 would -- could strongly argue that we believe our study is  
9 the best study. As I said, there can be reasonable  
10 differences in how these studies are done, and I think  
11 that the shifts that occur pursuant to the Nonunanimous  
12 Stipulation & Agreement are well supported by the evidence  
13 in those studies.

14                   MR. MILLS: Thank you. That's all I have.  
15 I'll tender the witness for cross-examination.

16                   JUDGE WOODRUFF: Does any party wish to  
17 cross Mr. Kind?

18                   (No response.)

19                   JUDGE WOODRUFF: Don't see any hands, so  
20 we'll come up to the Bench. Commissioner Murray?

21                   COMMISSIONER MURRAY: I think you've  
22 already answered my questions. Thank you.

23                   THE WITNESS: You're welcome.

24                   JUDGE WOODRUFF: Commissioner Jarrett?

25 QUESTIONS BY COMMISSIONER JARRETT:



1           Q.       Good morning Mr. Kind. I think you've  
2 already answered my question, too, but I just want to make  
3 sure I'm clear. Obviously your testimony is that you  
4 believe that OPC's study is the best, but do you believe  
5 that all of the studies could be considered reasonable?

6           A.       I guess I would hesitate to say that every  
7 study could be considered reasonable, but I think that the  
8 general direction that's shown by all the studies combined  
9 is generally reasonable. I think that the people -- that  
10 they -- each study is reasonable to the extent that a  
11 witness has used allocation factors that they think best  
12 represent cost causation, and they have done that in good  
13 faith, and these people are people that have a great  
14 amount of expertise in this area generally.

15          Q.       Well, how about this, then: As far as all  
16 of the numbers that are in the stipulation, are you aware  
17 of any cost of service study where that -- those numbers  
18 might be supported where you would say where that is found  
19 in a certain class cost of service study that that portion  
20 of it is unreasonable? I mean, is all of the numbers --  
21 I'm not being very clear on my question. Understand I'm  
22 trying to think on my feet here.

23                    But I just want to make sure that all of  
24 the numbers -- that you believe that all of the numbers  
25 are supported at least somewhere in a class cost of study

1 in this issue and that the parts that are relied on are  
2 reasonable?

3 A. Yes, I could certainly agree with that.

4 COMMISSIONER JARRETT: Okay. Thank you.

5 JUDGE WOODRUFF: Commissioner Gunn?

6 COMMISSIONER GUNN: I don't have any  
7 questions. Thank you.

8 JUDGE WOODRUFF: Chairman Davis?

9 CHAIRMAN DAVIS: Always a pleasure,  
10 Mr. Kind.

11 JUDGE WOODRUFF: Anyone wish to recross  
12 base on questions from the Bench?

13 (No response.)

14 JUDGE WOODRUFF: Any redirect?

15 MR. MILLS: No questions.

16 JUDGE WOODRUFF: Then Mr. Kind, you can  
17 step down.

18 THE WITNESS: Thank you.

19 JUDGE WOODRUFF: All right. We've been  
20 going now for about two hours. We're due for a break, and  
21 the Commission has an agenda meeting at 12. What I  
22 propose to do now is go ahead and break for lunch and  
23 we'll come back at, let's say, 1:30.

24 MR. FISCHER: Judge, before or after we're  
25 off the record, that's fine too, but --

1 JUDGE WOODRUFF: Let's do it while we're on  
2 the record.

3 MR. FISCHER: We would propose to call  
4 Mr. Cooper, who is our overall witness on rate design,  
5 after the break, and then Mr. Warwick is available, too,  
6 but he did the cost of service study, more of a technical  
7 witness, if that's acceptable to the Bench and to the  
8 parties.

9 JUDGE WOODRUFF: Let me ask the parties,  
10 does anyone wish to cross-examine Mr. Warwick?

11 (No response.)

12 JUDGE WOODRUFF: I assume the Commissioners  
13 probably don't have any technical questions. If you do,  
14 we'll bring him in. All right.

15 CHAIRMAN DAVIS: Judge, the only unrelated  
16 topic, is Mr. McPheeters going to be here after lunch?

17 MR. CONRAD: He can be.

18 CHAIRMAN DAVIS: I didn't know, are we  
19 going to have rebuttal after Mr. Watkins testifies?

20 JUDGE WOODRUFF: We may.

21 CHAIRMAN DAVIS: Okay.

22 JUDGE WOODRUFF: It'll be up to the parties  
23 to tell me which witnesses they want to call for rebuttal.

24 CHAIRMAN DAVIS: So if I want to call  
25 Mr. McPheeters in rebuttal, I may or may not, but --

1 JUDGE WOODRUFF: I understand

2 Mr. McPheeters needs to get back to --

3 MR. CONRAD: Well, he has a four-hour drive  
4 ahead of him, but Mr. Chairman, we're -- I'm pretty sure  
5 that we can make him available to you.

6 CHAIRMAN DAVIS: Okay.

7 JUDGE WOODRUFF: And if we need to pull him  
8 out of order, we can do that, too. I'm sure. All right.  
9 Well, for Mr. Warwick, does he need to leave?

10 MR. FISCHER: He's available. I was  
11 just -- we were asking if we could put Mr. Cooper on first  
12 and --

13 JUDGE WOODRUFF: You can certainly put  
14 Mr. Cooper on first.

15 With that, then, we are adjourned until  
16 1:30.

17 CHAIRMAN DAVIS: Judge, do you want to  
18 shoot for one o'clock, because I think we can get done  
19 with agenda early? Keep things moving.

20 JUDGE WOODRUFF: One o'clock sounds fine.  
21 We're adjourned until one o'clock.

22 (A BREAK WAS TAKEN.)

23 JUDGE WOODRUFF: It's one o'clock. We're  
24 back from lunch. I believe the agreement was we agreed to  
25 go with Mr. Cooper next.

1                   MR. FISCHER: Yes, your Honor. We'd call  
2 Will Cooper.

3                   JUDGE WOODRUFF: Good afternoon.

4                   THE WITNESS: Good afternoon.

5                   (Witness sworn.)

6                   JUDGE WOODRUFF: Thank you very much. You  
7 may inquire.

8 WILBON COOPER testified as follows:

9 DIRECT EXAMINATION BY MR. FISCHER:

10                Q.       Please state your name and address for the  
11 record.

12                A.       Wilbon Cooper, One Ameren Plaza, 1901  
13 Chouteau, St. Louis, Missouri 63103.

14                Q.       Are you the same Will Cooper that caused to  
15 be filed in this case direct testimony, rebuttal testimony  
16 that have been marked Exhibit 39 and 40 respectively?

17                A.       Yes, I am.

18                Q.       Do you have any changes or corrections you  
19 need to make to either of those exhibits?

20                A.       Yes, I do.

21                Q.       Would you let the -- put your change on the  
22 record?

23                A.       I certainly will. At page 4 of my rebuttal  
24 testimony, line 20, there's a typo. The number as written  
25 is 55. It should be 53. So it would read, starting at

1 line 20, 53 percent system load factor. And that's the  
2 only change I have.

3 Q. With that change, if I ask you the  
4 questions contained in that direct and rebuttal today,  
5 would your answers still be the same?

6 A. Yes, they would be.

7 Q. And are they true and accurate to the best  
8 of your knowledge?

9 A. Yes, they are.

10 MR. FISCHER: With that, Judge, I would  
11 move the admission of Exhibit 39 and 40 and tender the  
12 witness for cross-examination.

13 JUDGE WOODRUFF: 39 and 40 have been  
14 offered. Are there any objections to their receipt?

15 (No response.)

16 JUDGE WOODRUFF: Hearing none, they will be  
17 received.

18 (EXHIBIT NOS. 39 AND 40 WERE MARKED FOR  
19 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

20 JUDGE WOODRUFF: All right. For  
21 cross-examination, does anyone wish to cross this witness?

22 MR. MILLS: No questions.

23 JUDGE WOODRUFF: I don't see hands going  
24 up. Up to the Bench. Chairman Davis?

25 CHAIRMAN DAVIS: I don't believe I have any

1 questions for Mr. Cooper.

2 JUDGE WOODRUFF: All right. There's no  
3 need for recross and no need for redirect, and you can  
4 step down.

5 THE WITNESS: Thank you.

6 JUDGE WOODRUFF: Then the other UE witness  
7 was William Warwick, I believe.

8 MR. FISCHER: Yes, your Honor. I  
9 believe there was indication there were no questions for  
10 Mr. Warwick. We can bring him up.

11 JUDGE WOODRUFF: Do you want to offer his  
12 testimony?

13 MR. FISCHER: We'd just offer Exhibit 36,  
14 and Exhibit 38 is the amended rebuttal which replaces  
15 Exhibit 37. Unless there's a need, we'll just introduce  
16 36 and 38.

17 JUDGE WOODRUFF: Okay. 36 and 38 have been  
18 offered. Are there any objections to their receipt?

19 (No response.)

20 JUDGE WOODRUFF: Hearing none, they will be  
21 received.

22 (EXHIBIT NOS. 36 AND 38 WERE MARKED FOR  
23 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

24 JUDGE WOODRUFF: And I will ask the  
25 Commissioners whether you have any questions for

1 Mr. Warwick. Otherwise, he's not going to take the stand.

2 COMMISSIONER GUNN: I don't have any  
3 questions.

4 CHAIRMAN DAVIS: No questions.

5 JUDGE WOODRUFF: Then he won't need to take  
6 the stand. That brings us then to the Staff witnesses.  
7 Staff has two witnesses, Mr. Watkins and Mr. Roos. You  
8 want to do Mr. Roos first?

9 MR. CONRAD: Judge, did you -- there was  
10 some indication just before we broke from the Chairman  
11 that he might want to talk to Mr. McPheeters.

12 CHAIRMAN DAVIS: Has Mr. Watkins testified?  
13 Did I miss that in my brief absence?

14 JUDGE WOODRUFF: He has not. I assume the  
15 concern is Mr. McPheeters would like to get out of town?

16 MR. CONRAD: We can accommodate him.  
17 What's your Honor and the Bench's pleasure?

18 CHAIRMAN DAVIS: How soon are we to get to  
19 Mr. Watkins?

20 JUDGE WOODRUFF: He'd basically be next.

21 MR. CONRAD: Let's go, then, with --

22 JUDGE WOODRUFF: Okay. I was going to ask,  
23 do you want Mr. Roos to go before Mr. Watkins or how do  
24 you want to do it?

25 MS. KLIETHERMES: We can call Mr. Watkins



1 first.

2 JUDGE WOODRUFF: All right. Mr. Watkins.

3 And I believe this is the first time you've testified in  
4 this case also?

5 THE WITNESS: It is.

6 JUDGE WOODRUFF: Please raise your right  
7 hand.

8 (Witness sworn.)

9 JUDGE WOODRUFF: You may inquire.

10 JAMES C. WATKINS testified as follows:

11 DIRECT EXAMINATION BY MS. KLIETHERMES:

12 Q. Good afternoon, Mr. Watkins. Would you  
13 please state and spell your name for the record.

14 A. My name is James C. Watkins, J-a-m-e-s, C.  
15 W-a-t-k-i-n-s.

16 Q. And your business address?

17 A. 301 -- I'm in the Governor Office Building.

18 Q. Is that 200 Madison Street?

19 A. This building. 200 Madison Street, yes.

20 Q. Are you the same James Watkins who  
21 submitted direct testimony in this matter?

22 A. Yes, I am.

23 Q. And did you also author a section of the  
24 Staff class cost of service report, or sections?

25 A. Yes, I did.

1           Q.       And are you the same James Watkins who  
2 submitted rebuttal testimony in this matter?

3           A.       Yes.

4           Q.       And supplemental testimony?

5           A.       Yes.

6           Q.       And do you have any corrections to make to  
7 any of that testimony?

8           A.       I have a correction to my supplemental  
9 testimony. On page 2, at the time this was prepared I was  
10 not sure whether the contract customer was highly  
11 confidential information or not. In No. 4, it talks about  
12 that customer, and it's actually the Metropolitan Sewer  
13 District of St. Louis, and it is not highly confidential.

14          Q.       And if I were to ask you the same questions  
15 again today, would your answers be the same?

16          A.       Yes.

17          Q.       And if you were to redraft your sections of  
18 these class cost of service report, would they be the  
19 same?

20          A.       Yes, they would.

21                   MS. KLIETHERMES: I offer the witness'  
22 exhibits.

23                   JUDGE WOODRUFF: All right. Part of 200  
24 and 207 and 208 have been offered. Are there any  
25 objections to their receipt?

1                   MR. CONRAD: Your Honor, could I get just a  
2 little clarification on what portions of the -- I'm not  
3 sure if it's 200 or 201.

4                   JUDGE WOODRUFF: 200.

5                   MR. CONRAD: Pardon me?

6                   JUDGE WOODRUFF: 200 is the Staff report.

7                   MR. CONRAD: Is that the class cost of  
8 service report?

9                   JUDGE WOODRUFF: Yes. Well, it's cost of  
10 service report.

11                  MS. KLIETHERMES: If I could interject? He  
12 actually contributed to the class cost of service report,  
13 which I believe is 206HC and NP.

14                  MR. CONRAD: And could counsel specify what  
15 portions of that?

16                  MS. KLIETHERMES: He did Part I, executive  
17 summary, and Part II, rate design. Those are the Roman --  
18 we have two Roman numeral IIs. My apologies. The  
19 sections on executive summary and rate design.

20                  JUDGE WOODRUFF: Mr. Conrad, does that  
21 answer your question?

22                  MR. CONRAD: That would encompass, help me  
23 out a little bit, what pages, counsel? I can't find your  
24 twos either.

25                  MS. KLIETHERMES: As identified in the

1 table of contents, which I assume are accurate, that  
2 appears to be executive summary on page 1, and the rate  
3 design appears to be entirely on page 16.

4 MR. CONRAD: And the portion on rate design  
5 is really three lines, am I correct, that this witness  
6 sponsored?

7 MS. KLIETHERMES: Yes.

8 MR. CONRAD: And the other portion that's  
9 really the better part of the page if you put it on a  
10 page, correct? Page 1 stretches over to a little bit of  
11 page 2?

12 MS. KLIETHERMES: Yes.

13 MR. CONRAD: We have no objection to that.

14 JUDGE WOODRUFF: All right. Portions of  
15 206, 207 and 208 have been offered. Are there any  
16 objections to its receipt?

17 (No response.)

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

20 (EXHIBIT NOS. 207 AND 208 WERE MARKED FOR  
21 IDENTIFICATION AND RECEIVED INTO EVIDENCE; PORTIONS OF  
22 EXHIBIT NO. 206 WERE RECEIVED INTO EVIDENCE.)

23 MS. KLIETHERMES: And Judge, if I could  
24 take this opportunity to present rebuttal?

25 JUDGE WOODRUFF: Well, he's got his

1 supplemental testimony that hasn't been offered yet. Is  
2 that what you were going to do?

3 MS. KLIETHERMES: I thought I'd offered  
4 that. My apologies.

5 JUDGE WOODRUFF: I believe that would have  
6 to be separately numbered.

7 MS. KLIETHERMES: Yes.

8 JUDGE WOODRUFF: I'm talking about what he  
9 filed this morning.

10 MS. KLIETHERMES: Oh, yes.

11 JUDGE WOODRUFF: It's entitled supplemental  
12 testimony of James Watkins.

13 MS. KLIETHERMES: Yes.

14 JUDGE WOODRUFF: We'll mark that as 242.  
15 And did you want to ask him questions about this or just  
16 offer it directly or --

17 MS. KLIETHERMES: Well, I had included this  
18 in the authentication that he provided for the other  
19 testimonies. It was my understanding that he would have  
20 an opportunity to rebut the direct testimony that was  
21 presented this morning.

22 JUDGE WOODRUFF: Certainly. Well, let me  
23 first deal with Exhibit 242.

24 MS. KLIETHERMES: Certainly.

25 JUDGE WOODRUFF: Does anyone have any

1 objection to the receipt -- admission of that document?

2 (No response.)

3 JUDGE WOODRUFF: Hearing no complaints, it  
4 will be received.

5 (EXHIBIT NO. 242 WAS MARKED FOR  
6 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

7 JUDGE WOODRUFF: Now you can go ahead and  
8 inquire about your rebuttal.

9 MS. KLIETHERMES: Thank you.

10 BY MS. KLIETHERMES:

11 Q. Mr. Watkins, do you agree with  
12 Mr. Baudino's characterization of Staff's cost of service  
13 study -- class cost of service study as being in support  
14 of the Nonunanimous Stipulation & Agreement?

15 A. Yes. I think as far as he testified in  
16 terms of the classes through the small primary, large  
17 general service class, there's certainly agreement, but on  
18 large transmission class, there's a large disagreement.  
19 The signs on our recommendations are different.

20 Q. And what does that mean that the signs are  
21 different?

22 A. Well, rather than getting a less than  
23 system average increase, the Staff believes large  
24 transmission service customers should get a greater than  
25 average increase, according to its cost study.

1           Q.       And how is that inconsistent with the  
2 Nonunanimous Stipulation & Agreement?

3           A.       That agreement provides for a less than  
4 average increase to the large transmission service  
5 customer.

6           Q.       And how does that compare to the numbers  
7 the Staff study revealed for the residential class?

8           A.       The Staff's study showed that there should  
9 be an increase, slight increase for the residential class,  
10 so it is consistent with that.

11          Q.       Would Staff's study indicate that all of it  
12 should come from residential that is going to the large  
13 transmission -- pardon me, to the LTS class?

14          A.       No. It should also come from the large  
15 primary service customers.

16          Q.       Does Staff's study show that more should  
17 come from the LTS or the residential for SGS and LGS?

18          A.       Would you repeat that?

19                   MR. CONRAD: I'm slightly confused about  
20 the question myself.

21 BY MS. KLIETHERMES:

22          Q.       Should more money come from LTS or  
23 residential according to Staff's study to the benefit of  
24 SGS and LGS? The question is, who should pay more, RES or  
25 LTS?

1                   MR. CONRAD: Excuse me. Objection. Who  
2 should pay more as compared to what?

3                   MS. KLIETHERMES: As compared to each  
4 other.

5                   THE WITNESS: If you're -- well, one answer  
6 is that on a percentage basis the large transmission  
7 service customers should have their rates increased by  
8 more than the residential customers on a percentage basis.  
9 On an absolute basis, of course, residential would be a  
10 lot more money.

11 BY MS. KLIETHERMES:

12                 Q.       So do you agree, then, with Mr. Baudino's  
13 characterization from this morning that Staff's study  
14 supports the results of the Nonunanimous Stipulation &  
15 Agreement?

16                 A.       No, it does not support that agreement.  
17 Nor does anyone else's study.

18                   MS. KLIETHERMES: I tender the witness for  
19 cross.

20                   JUDGE WOODRUFF: All right. For  
21 cross-examination, then, begin with Public Counsel?

22                   MR. MILLS: Thank you, Judge. I do have a  
23 few questions.

24 CROSS-EXAMINATION BY MR. MILLS:

25                 Q.       Mr. Watkins, on page 2 of your supplemental



1 testimony, in particular lines 4 through lines 15, is it  
2 correct that there you raise some concerns with the  
3 Stipulation & Agreement about those particular aspects of  
4 rate design?

5 A. Yes.

6 Q. Let's sort of go through them one by one.  
7 Where in your testimony have you addressed the customer  
8 charge on the small primary service, large primary service  
9 and large transmission service?

10 A. You mean in terms of keeping them the same?

11 Q. Yes.

12 A. Since the recommendation is an equal  
13 percentage increase and those rates are the same now, when  
14 they're factored up by the same percent, they'll remain  
15 the same.

16 Q. Now, were you involved in the last UE rate  
17 case?

18 A. Yes.

19 Q. Was the -- the rate design and class cost  
20 of service issues, were those resolved by stipulation in  
21 the last case?

22 A. Yes.

23 Q. Do you recall what the result of that  
24 agreement was for the lighting class?

25 A. I don't recall specifically, but I can't

1     imagine it would be anything other than system average.

2             Q.       Now, let's just sort of talk in general  
3     terms about the Stipulation & Agreement. I think I  
4     understand from your testimony in response to  
5     Ms. Kliethermes that insofar as a small increase to  
6     residential and some decrease to SGS, LGS and L -- and  
7     SPS, did I say that right? Let me try again -- SGS, LGS  
8     and SPS, you believe that that kind of shift is  
9     appropriate; is that correct?

10            A.       Well, I believe an equal percentage change  
11    is appropriate, but on the base of the cost study itself,  
12    even though the amounts are fairly small, the sign of that  
13    change is correct. I agree that the study shows a  
14    negative sign which means they should have their rates  
15    increased less than system average.

16            Q.       And when you say the amounts are small, do  
17    you mean the amounts shown in the cost study or the  
18    amounts agreed to in the Stipulation & Agreement?

19            A.       I was referring to the table on page 3 of  
20    my testimony --

21            Q.       Okay.

22            A.       -- the percentage amount.

23            Q.       Now, with respect to at least residential,  
24    SGS and LGS, SPS, are not the shifts agreed upon in the  
25    Stipulation & Agreement closer to equal percentage than

1     what Staff's cost of service study showed as indicated on  
2     page 3?

3             A.       That's correct.

4             Q.       Now, just in terms of round numbers, your  
5     cost study showed residential should go up 3 percent, SGS  
6     should go down 3, and LGS should go down 5; is that  
7     correct?

8             A.       That's correct.

9             Q.       So it's your testimony that given that cost  
10    study, each of those numbers that I just read should, in  
11    fact, be zero rather than the numbers that we agreed upon  
12    in the Stipulation & Agreement?

13            A.       What I'm saying is there's no evidence that  
14    those numbers should be anything other than zero.

15            Q.       There's no evidence?

16            A.       I believe not. No valid evidence.

17            Q.       The Staff's cost study is not valid  
18    evidence?

19            A.       I think it is, and also the OPC's.

20            Q.       Well, let's just focus on the residential  
21    one, for example. There you show 3.16 percent increase.

22            A.       Uh-huh.

23            Q.       And these, of course, are revenue neutral  
24    shifts which are not exactly the same mathematically as  
25    difference from system average; is that true? One is

1 generally done before an increase and one is done in  
2 conjunction with an increase?

3 A. No. These are revenue neutral --

4 Q. Right.

5 A. -- shifts, so that if there were no  
6 increase in revenues, these shifts would align rates with  
7 the quantitative results of the Staff's class cost of  
8 service study.

9 Q. So your cost study shows on a revenue  
10 neutral basis that residential rates should go up a little  
11 over 3 percent. From that you conclude that the right  
12 answer is residential rates should go up zero; is that  
13 correct?

14 A. That's correct. I believe that result is  
15 within the margin of error of the study.

16 Q. Okay. So going from 3 to zero is  
17 appropriate, but going from 3 to .3 is inappropriate?

18 A. I'm not sure that I indicated anywhere that  
19 a slight increase to residential would be inappropriate.

20 Q. Okay. So you don't believe that the slight  
21 increase to residential is inappropriate?

22 A. I mean, I don't think it's necessary  
23 because -- but it's not -- it's not a movement in the  
24 wrong direction and it's not a very large movement. But  
25 that particular feature of the agreement, I don't really

1 have any problem with.

2 Q. And then sort of moving from left to right,  
3 would the same be true to the changes to SGS, LGS and SPS,  
4 you don't really have a problem with what has been done  
5 there; is that correct?

6 A. I don't have a problem with small changes  
7 reducing those rates. Those are consistent with Staff's  
8 study, OPC's study and, in fact, everyone's study agrees  
9 on that.

10 Q. Do you have a problem with what has been  
11 done in the Stipulation & Agreement with respect to the  
12 LPS service?

13 A. Yes.

14 Q. And the problem there is what?

15 A. The problem there is that all of the  
16 studies except one show that that rate should go up on a  
17 cost basis, and there may be other factors, too.

18 Q. Okay. Go up either on a revenue neutral  
19 basis or go up more relative to an overall system average  
20 increase?

21 A. Yes.

22 Q. Okay. And then I think we're going to get  
23 to perhaps your biggest problem, and correct me if I'm  
24 mischaracterizing, and that is the LTS. You believe that  
25 the LTS should actually go the opposite direction from

1 where the Stipulation & Agreement takes it; is that  
2 correct?

3 A. Yes.

4 Q. Is it accurate to say that that is Staff's  
5 most significant concern with the Stipulation & Agreement?

6 A. I don't exactly know how to weigh that.  
7 It's certainly one significant element that that class'  
8 revenues are going in the wrong direction related to the  
9 average, but there are a number of other factors, too,  
10 that prevent me from agreeing to what's going on in the  
11 Stipulation & Agreement, and those I believe are found on  
12 page 2, continued on into page 3 of my testimony. In my  
13 opinion, it fouls up the rate design we've worked for  
14 years and years and years to put together, and I think  
15 that's an important element.

16 Q. In terms of the concerns that you raised  
17 on -- on -- particularly on page 2, the lines that we've  
18 talked about before, for example, 5 through -- lines 5  
19 through 15, could those principles, could those goals be  
20 achieved under the shifts that are outlined in the  
21 Stipulation & Agreement?

22 For example, could you make the time of day  
23 energy charge adjustments the same on LPS and LTS in  
24 conjunction with the shifts that are shown on the  
25 Stipulation & Agreement simply by making changes to

1 different rate elements within the classes?

2 A. You seem to be asking me if it was a  
3 different agreement, could it accomplish these things, and  
4 sure, it could, but not -- not the agreement there is now.  
5 As I understand the agreement that exists now is every  
6 rate element is going to be factored up by exactly the  
7 class average, except for the residential customer charge.  
8 And that's what's going to foul all this up.

9 Q. Have you developed a proposal that would  
10 make some rate shifts that would nonetheless achieve these  
11 goals that you've set out on page 2?

12 A. Staff's proposal of equal percentage  
13 increases does achieve these goals.

14 Q. My question was, have you developed a  
15 proposal that has some rate shifts that would also achieve  
16 these goals?

17 A. No.

18 Q. Could it be done?

19 A. Yes.

20 Q. Could it, in fact, be done with the rate  
21 shifts that are shown on the Stipulation & Agreement?

22 A. Yes.

23 Q. Just sort of a clarifying point. On  
24 page 3, you show the results of two OPC cost of service  
25 studies. Those were taken from Mr. Roos' rebuttal

1 testimony, correct?

2 A. That's correct.

3 Q. And so they don't show the results of the  
4 updated cost of service studies that Mr. Kind attached to  
5 his surrebuttal testimony?

6 A. No, it does not.

7 Q. Have you looked at the updates that  
8 Mr. Kind put in his surrebuttal testimony?

9 A. I don't recall seeing them actually.

10 MR. MILLS: I don't have any further  
11 questions. Thank you.

12 JUDGE WOODRUFF: All right. Cross for  
13 Noranda?

14 CROSS-EXAMINATION BY MR. CONRAD:

15 Q. Good afternoon, Mr. Watkins.

16 A. Good afternoon to you, sir.

17 Q. Are you familiar, Mr. Watkins -- well, let  
18 me -- excuse me.

19 Let me start actually with your -- just  
20 briefly your original direct, and forgive me, I don't know  
21 the number that was assigned to that. Do you have your  
22 direct testimony that was filed September 11, 2008 before  
23 you?

24 A. Yes, I do.

25 Q. Page 1, I wanted to focus your attention on



1 line 16 through 17. Do you have those?

2 A. Yes, I do.

3 Q. How long have you been working on your

4 Ph.D., Mr. Watkins?

5 A. I'm no longer working on that.

6 Q. You're no longer working on it?

7 A. No.

8 Q. Why is that, sir?

9 A. Too busy working here.

10 Q. Could it possibly be because the time limit

11 on doing a dissertation had expired?

12 A. Well, that has happened, too, yes. You

13 asked me why.

14 Q. But you continued to include that in your

15 testimony. Were you doing that on the September 11 date?

16 A. I think I misunderstood maybe what your

17 question is. What I said is I have completed all the

18 requirements except the dissertation for a Ph.D.

19 Q. So your testimony isn't that you're

20 continuing to work on a Ph.D.?

21 A. It doesn't say that, does it?

22 Q. I asked you, does your testimony say that?

23 A. I said no.

24 Q. Now, are you familiar with the work of the

25 OPC on class cost of service issues, sir?

1           A.       Pretty much.

2           Q.       Do you hold any personal animosity towards

3   Mr. Kind or Mrs. Meisenheimer?

4           A.       Certainly not.

5           Q.       Do you know what customer classes are

6   represented by the OPC?

7           A.       I heard what Mr. Lewis said this morning,

8   Lewis Mills.

9           Q.       You've worked here for how many years?

10          A.       26, I believe.

11          Q.       I'm going to ask you again, do you know

12   what customer class or classes are represented by the OPC;

13   yes or no, sir, or you don't know?

14          A.       Not positive.

15          Q.       You don't know. And how long have you

16   worked here?

17          A.       26 years.

18          Q.       And you don't know that?

19          A.       I said I'm not positive.

20          Q.       In your opinion, does the OPC do a

21   competent job of representing the customer classes that

22   they claim to represent; yes, no or you don't know?

23          A.       Well, in the areas where I have --

24          Q.       Yes, no or you don't know, do they do a

25   competent job, sir?

1           A.       Overall, I don't know. I mean, I know they  
2 do a competent job --

3           Q.       You've answered the question. Thank you.  
4 And you -- are you in a better position than they are to  
5 represent the customer classes that they're statutorily  
6 assigned to represent?

7           A.       The Staff doesn't represent any classes.

8           Q.       I didn't ask you who Staff represented.  
9 We'll get there. Are you in a better position to  
10 represent the customer classes that OPC is statutorily  
11 charged with representing?

12          A.       No.

13          Q.       Now, have you worked with Mr. Baudino  
14 before?

15          A.       No. I don't believe so.

16          Q.       Have you reviewed his work in this  
17 proceeding?

18          A.       I reviewed his testimony, I believe.

19          Q.       Did you review his other work, if any?

20          A.       No.

21          Q.       Do you hold any personal animosity toward  
22 him?

23          A.       Certainly not.

24          Q.       Are you familiar with the work of the  
25 customer group, excuse -- yes, the Commercial Group

1     rather, on the class cost of service issue; yes, no or you  
2     don't know?

3             A.       I am somewhat familiar with them.

4             Q.       Is that a yes, a no or you don't know?

5             A.       Yes.

6                     JUDGE WOODRUFF:   If I can interrupt for a  
7     moment, Mr. Watkins, could you get a little bit closer to  
8     the microphone?

9                     THE WITNESS:   Sorry.

10                    JUDGE WOODRUFF:   Thank you.

11     BY MR. CONRAD:

12             Q.       Do you know which customer groups they  
13     represent?

14             A.       The Commercial Group?   As far as I know,  
15     it's the three customers that are listed on the bottom of  
16     the Nonunanimous Stipulation & Agreement.

17             Q.       Are those customers served under specific  
18     tariffs or under tariffs that are generic to those other  
19     customers that fit the applicable paragraphs?

20             A.       Those customers are served under the  
21     standard rate schedules.

22             Q.       In your opinion, does the Commercial Group  
23     do a competent job of representing those customer classes?

24             A.       I don't know.

25             Q.       Now, are you familiar with the work of the

1 MIEC on the class cost of service issue?

2 A. Yes.

3 Q. And you're familiar, I take it, with the

4 work of Mr. Brubaker who was retained by the MIEC in this

5 matter?

6 A. Yes.

7 Q. Do you hold any personal animosity towards

8 him?

9 A. Certainly not.

10 Q. Do you know what customer class or classes

11 are represented by MIEC members?

12 A. I believe those are primarily large primary

13 customers. I don't know if there are any that are in the

14 small primary, large general service class. I don't

15 think so.

16 Q. You don't think so what?

17 A. I don't think any of them are in the large

18 general service or primary class, or small general --

19 Q. Well, do you know what classes they're in?

20 A. They're in the large primary.

21 Q. In your opinion, does the MIEC do a

22 competent job of representing those customer classes?

23 A. Yes.

24 Q. Are you in a better position than they to

25 represent those customer classes?

1           A.       No.

2           Q.       Now, are you familiar with the work of

3   Mr. Johnstone on the class cost of service study issue?

4           A.       Yes, I am.

5           Q.       Do you hold any personal animosity towards

6   Mr. Johnstone?

7           A.       No, I don't.

8           Q.       Do you know what customer class or classes

9   he represents?

10          A.       He represents Noranda.

11          Q.       And that --

12          A.       Large transmission.

13          Q.       -- is a single customer in one class,

14   correct?

15          A.       Yes.

16          Q.       It's the LTS class. Does he do a -- in

17   your opinion, does he do a competent job of representing

18   the LTS customer class?

19          A.       Yes.

20          Q.       Do you believe you are in a better position

21   than Noranda to represent that class?

22          A.       No.

23          Q.       Now, Mr. Watkins, on page 2 of your

24   supplemental testimony, lines 21 through 23, you have some

25   material that is bolded. Do you see that?

1           A.       Yes.

2           Q.       Is that bolded in order to call attention  
3 to it?

4           A.       Yes.

5           Q.       Is the purpose in calling attention to it  
6 to attempt to suggest that the class revenue shifts are  
7 unnecessary in -- the class revenue shifts in this case  
8 and by this proposed settlement are made unnecessary as a  
9 reason of the Commission's decision in the preceding rate  
10 case?

11          A.       Yes.

12          Q.       And you understand the preceding rate case  
13 was the settled case insofar as the rate design/class cost  
14 of service issue, right?

15          A.       That's correct.

16          Q.       You have a copy of the Stipulation,  
17 Nonunanimous Stipulation & Agreement that was filed in  
18 that case on or about -- I don't have a date on this one,  
19 but I can find one. Do you have that document around with  
20 you?

21          A.       No, I -- you're talking about the prior  
22 case?

23          Q.       Yes.

24          A.       No, I do not have that.

25          Q.       Let me show you one. And I've opened that

1 to paragraph 4, Mr. Watkins. Would you concentrate your  
2 attention on that, page 12. Tell me when you're there.

3 A. I'm on page 12.

4 Q. I want you to read along with me and tell  
5 me if I read this correctly. This Stipulation & Agreement  
6 is being entered into solely for the purpose of settling  
7 the identified issues, stroke, items in this case alone  
8 that are listed above. Did I read that correctly?

9 A. Uh-huh.

10 Q. Now, what part of that sentence do you not  
11 understand?

12 A. I don't know that I'm confused about any  
13 part of it.

14 Q. I see. So when the parties settled that  
15 issue in that case and entered into that agreement solely  
16 for the purpose of settling that issue in that case alone,  
17 your apparent belief is that that settled it for all time;  
18 is that correct?

19 A. It settles what was settled for all time.  
20 Maybe I don't understand --

21 Q. Not for that -- not for this case alone,  
22 then?

23 A. There were specific provisions that were  
24 agreed to in this case, and they -- I guess they continue  
25 on until they're changed.



1           Q.       So when a new case is filed, this one is  
2 still in place, this settlement is still in place; is that  
3 your position?

4           A.       Yes, I guess. The revenue shifts were  
5 made, and so now they're feeding into current revenues in  
6 this case.

7           Q.       That's not what I asked you, sir. Look at  
8 page 17. You see there's some signature blocks?

9           A.       Yes, I do.

10          Q.       You see a signature by the Staff of the  
11 Public Service Commission?

12          A.       Yes, I do.

13          Q.       You recognize that signature?

14          A.       No, but I recognize the name under it.

15          Q.       Would you agree with me that that's Kevin  
16 Thompson's signature?

17          A.       Yes.

18          Q.       And would you agree with me that he's  
19 General Counsel?

20          A.       Yes.

21          Q.       Do you have any reason to believe that he  
22 was beyond his authority in acting to sign this agreement?

23          A.       No.

24          Q.       Do you have any reason to believe that he  
25 didn't know what he was signing?

1           A.       No.

2           Q.       Mr. Watkins, we talked a little bit about  
3   how long you'd been employed by the MPSC. Did you ever  
4   work with Dr. Proctor on class cost of service study/rate  
5   design issues?

6           A.       Yes, for many years.

7           Q.       Do you recall whether or not there has been  
8   any opposition to the TOU method, time of use method of  
9   cost allocation that is described in a certain article  
10  attached to the Staff rate design report?

11          A.       Would you mind repeating that about what  
12  I --

13          Q.       Do you recall whether there has been  
14  opposition to that method that is described in that  
15  article?

16          A.       Oh, from other parties you mean, not from  
17  Dr. Proctor?

18          Q.       Has there been opposition?

19          A.       Yes.

20          Q.       It is my recollection, and I would ask you  
21  if you agree, that for some period of years Dr. Proctor  
22  would submit for the Commission's consideration three sets  
23  of recommendations; is that correct?

24          A.       Yes. Yes, it is.

25          Q.       One of those was labeled as the impact

1 recommendation that was simply an equal percentage  
2 increase for all customer classes. One was labeled as an  
3 equity presentation that was based on a TOU allocation,  
4 and finally a third set labeled as efficiency that was  
5 based on a peak allocation method. Do you recall that?

6 A. Only vaguely.

7 Q. But you don't disagree with my  
8 recollection?

9 A. No, I don't.

10 Q. Finally, Mr. Watkins, we've run through the  
11 parties that seem to be active on this issue in this case.  
12 Staff alone is opposing it; is that correct?

13 A. Yes.

14 Q. Who are you representing?

15 A. Staff.

16 Q. Who is Staff representing?

17 A. Staff doesn't have any customer clients.

18 Q. Do you live in the AmerenUE service  
19 territory?

20 A. I didn't hear you from the cough.

21 Q. Do you live in this utility's service  
22 territory?

23 A. Yes, I do.

24 Q. So you have personal interests?

25 A. Yes.

1           Q.       Do you have any family that lives in this  
2 utility's service territory?

3           A.       My household.

4           Q.       I want you to do one more calculation for  
5 me. Do you have a calculator? You might not.

6           A.       I don't.

7           Q.       Would you take the number 50,000 and  
8 multiply it by 228 and tell me the result, please?

9           A.       If my scratching on this pad is correct,  
10 it's 11,400,000.

11          Q.       Multiply 228 by 5. And what is that  
12 result, sir?

13          A.       1,140.

14                   MR. CONRAD: Thank you. That's all.

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

17                   MS. VUYLSTEKE: Yes. Thank you.

18 CROSS-EXAMINATION BY MS. VUYLSTEKE:

19          Q.       Good afternoon, Mr. Watkins. How are you?

20          A.       Good afternoon. I'm fine.

21          Q.       Would you agree with me that different  
22 parties might have opposing views about what's fair and  
23 reasonable?

24          A.       Certainly.

25          Q.       Did you recommend that the Staff take a

1 position opposing the consumer settlement in this case?

2 A. Yes, I did.

3 Q. Are you the primary Staff member who  
4 recommended that this settlement be opposed by Staff?

5 A. I don't want to take more credit than is  
6 due, but I was probably the lowest level Staff member to  
7 recommend that the agreement be opposed.

8 Q. Could you tell me if you know which other  
9 Staff members made that decision?

10 A. Lena Mantle, the division directors.

11 Q. And those would be?

12 A. Primarily be Bob Schallenberg, Wes  
13 Henderson, Natelle Dietrich.

14 Q. If residential customers had only received  
15 \$1 above system average increase, would you have continued  
16 to recommend to the Staff and to the Commission that the  
17 settlement be opposed?

18 A. It depends on where the \$1 comes from.

19 Q. If it was \$1 above system average coming  
20 from any customer class?

21 A. And then depends on where it goes.

22 Q. Going to any customer class?

23 A. I said it depends on which customer class  
24 it's going to, whether we would oppose it or not.

25 Q. If it had gone to the residential class,

1 would you oppose it?

2 A. That's where you said it came from.

3 Q. I'm sorry.

4 A. You're going to increase the residential

5 rates \$1 to reduce somebody else's rates \$1.

6 Q. Okay. To reduce -- to reduce the large

7 transmission class, would you have opposed it if it had

8 been \$1?

9 A. Certainly theoretically I would have, but I

10 don't --

11 Q. Theoretically, or would you just have

12 opposed it, yes or no? It's a yes or no question.

13 A. I don't know that I have a yes or no

14 answer. I -- because at \$1, the roundoff would cause

15 nothing to happen.

16 Q. How about \$1,000?

17 A. Same thing.

18 Q. The rounding would have caused a

19 thousand -- let's say it was \$10,000, would you have

20 opposed it if it had gone from residential to large

21 transmission?

22 A. It isn't really the magnitude that's

23 important. It's the direction. So, I mean, I would be

24 opposed to it, but that doesn't mean the Staff would

25 oppose it, too.

1 Q. If it had been \$10,000, would you have  
2 opposed it, yes or no?

3 A. Yes, if it was to reduce LTS rates.

4 Q. Okay. Mr. Watkins, the Staff's  
5 recommendation in this case is an across-the-board equal  
6 percentage increase; is that correct?

7 A. That's correct.

8 Q. Okay. Is it correct, then, to state that  
9 the consumer, the part or the aspect of the consumer  
10 settlement that you find objectionable is the distribution  
11 of the increase between the amounts of \$80 million and  
12 \$150 million?

13 A. That's correct.

14 Q. Under the consumer settlement, \$150 million  
15 is the greatest amount of an increase to which equal  
16 percentage would apply; is that correct?

17 A. No.

18 Q. Excuse me. Not apply. I'll ask the  
19 question again.

20 A. Okay.

21 Q. I garbled it. Under the consumer  
22 settlement, \$150 million is the greatest amount of an  
23 increase to which equal percentage would not apply; is  
24 that correct?

25 A. No. If you're talking -- if you're talking

1 about the result, the end result of that, the answer is  
 2 no. If you're talking about what happens with the last  
 3 dollar, then I guess the answer is yes.

4 Q. Over \$150 million would be equal  
 5 percentage?

6 A. Excuse me?

7 Q. Over \$150 million would be equal  
 8 percentage?

9 A. The increment over \$150 million is proposed  
 10 to be equal percentages.

11 Q. Then would you agree that slightly over  
 12 \$2.9 million is being redistributed between classes from  
 13 an equal percentage basis?

14 A. I believe that's correct.

15 Q. Okay. What are the current revenues of  
 16 AmerenUE?

17 A. You know, I don't know.

18 Q. Would you accept, subject to check, that  
 19 it's approximately 2 billion? It's actually on the  
 20 Stipulation & Agreement.

21 A. That's where I was looking, and I -- it has  
 22 approximately 2 billion. I'm sure that's correct.  
 23 Whether or not any of the -- whether or not these are  
 24 exactly correct and what are agreed to in this case, I  
 25 can't tell you today.



1           Q.       Would you agree with me that \$2.9 million  
2 out of \$2 billion is .14 percent of the total current  
3 revenues of UE?

4           A.       Yes.

5           Q.       Now, I want to refer to your supplemental  
6 testimony at page 2, okay, and then referring to bullet  
7 point 4. Is the customer that's discussed in the bullet 4  
8 part of the lighting and MSD class?

9           A.       Yes.

10          Q.       And to be clear, the class discussed in  
11 bullet item 4 is the same as the class discussed in bullet  
12 item No. 3? Are those two different?

13          A.       Well, there is a column on some of the cost  
14 of service that is -- that says, I think abbreviated  
15 somehow, lighting and MSD. Okay. But no, it's not a  
16 class we studied. No costs were allocated to it.

17          Q.       In reference --

18          A.       And they are just in the same miscellaneous  
19 group. There is no real group of lighting and MSD. I  
20 mean, one is lighting customers and one's a sewer  
21 customer.

22          Q.       Now, looking at page 2, bullet points 3 and  
23 4, would you agree that the dollar of increase that's  
24 being discussed, the dollar amount is approximately  
25 \$32,142?

1           A.       Could you clarify that as to the increase  
2   to who and under what circumstances that would happen?

3           Q.       The increase to the customers discussed in  
4   the bullet points 3 and 4 is \$32,142; is that correct?

5           A.       Well, there is probably some overall  
6   increase that would cause that result --

7           Q.       What are the --

8           A.       -- but it isn't a fixed result.

9           Q.       Okay. Looking -- can we refer to  
10   Appendix A of your testimony?

11          A.       Uh-huh.

12          Q.       And I'd ask you to look at Table 2 --

13          A.       Okay.

14          Q.       -- of Appendix A. You have a column that's  
15   the second column from the right-hand side of the page.

16          A.       Yes.

17          Q.       And there is a number there under lighting  
18   and MSD \$32,142; is that correct?

19          A.       That number appears five times in that  
20   column.

21          Q.       Okay. So -- and what are the test year  
22   revenues from this class or these customers?

23          A.       I really couldn't tell you for sure.

24          Q.       Would you accept subject to check  
25   \$28 million, about \$28 and a half million?

1           A.       That's the number that's in the agreement.

2           Q.       Okay.

3           A.       And I don't have any evidence or knowledge  
4 to dispute that.

5           Q.       Okay. So do you agree that this is .11 or  
6 11/100 of 1 percent of an increase? And this is shown in  
7 table 8 of your supplemental.

8           A.       That number is .11 percent, yes, a tenth of  
9 one percent.

10          Q.       If this was the only revenue shift that was  
11 proposed by the stipulation, would the Staff continue to  
12 oppose it?

13          A.       Yes.

14          Q.       Okay. And let's turn to page 4 of your  
15 supplemental testimony, lines 8 and 9. You testify there  
16 that AmerenUE's study shows the LTS revenues could be  
17 increased between 2 and 3 percent below system average; is  
18 that correct?

19          A.       That's correct.

20          Q.       And further down on page 4, lines 14  
21 through 18, you state that the MIEC study was the only one  
22 that showed LTS should receive an increase less than  
23 system average; is that correct?

24          A.       I see that.

25          Q.       Can you -- I'm sorry.

1           A.       I don't at this moment believe that's  
2 accurate given the table on page 3 which says that  
3 AmerenUE's study shows a decrease to large transmission  
4 service as well.

5                   MS. VUYLSTEKE:   Okay.   I don't have any  
6 other questions.   Thank you.

7                   JUDGE WOODRUFF:   All right.   Cross for the  
8 Commercial Group?

9                   MR. CHAMBERLAIN:   Yes.

10       CROSS-EXAMINATION BY CHAMBERLAIN:

11           Q.       Good afternoon, Mr. Watkins.

12           A.       Good afternoon.

13           Q.       My name is Rick Chamberlain.   I represent  
14 the Commercial Group.

15           A.       Hi.

16           Q.       Sorry that we have to meet under these  
17 circumstances.   I'd like to begin, I guess, by looking at  
18 your supplemental testimony, page 3, please.

19           A.       Yes.

20           Q.       And I believe in some of your earlier  
21 questioning -- well, let me back up.

22                   If I could focus your attention on the  
23 table in the middle of the page there.

24           A.       Uh-huh.

25           Q.       Specifically the line labeled Staff, and

1     that's Staff's cost of service study; is that correct?

2             A.       That's correct.

3             Q.       And I believe in earlier -- a response to  
4     earlier questioning you indicated that these numbers in  
5     that line indicate the shifts that need to occur based  
6     upon Staff's cost of service study; is that correct?

7             A.       That's correct.

8             Q.       Okay. And specifically the small general  
9     service and large general service, small primary service,  
10    the figures there indicate that shifts need to occur.  
11    What types of shifts would those be?

12            A.       Reductions.

13            Q.       Reductions in what?

14            A.       Revenues -- excuse me. Reductions relative  
15    to system average increase.

16            Q.       Okay. So they're paying more than their  
17    fair share?

18            A.       That's the quantitative results of the  
19    study.

20            Q.       Now, Staff's recommendation in this cause,  
21    however, is for across-the-board equal percentage  
22    increases to all classes; is that correct?

23            A.       That's correct.

24            Q.       Okay. And to the extent that  
25    recommendation is followed, these inequities in the line

1     labeled Staff would be -- would continue, would they not?

2             A.       Well, I'm not sure I agree that the line  
3     labeled Staff shows inequities. I mean, it's -- that's a  
4     quantitative result, and I interpret that as pretty close  
5     to zero.

6             Q.       Okay. Whatever those numbers are in the  
7     line labeled Staff, those would continue under Staff's  
8     recommendation, correct?

9             A.       That's correct.

10            Q.       And you said that you interpreted those  
11    results as close to zero?

12            A.       All the way across that line.

13            Q.       Okay. And why is that?

14            A.       Because the -- the studies just aren't  
15    accurate enough to pinpoint exactly how much a particular  
16    class costs to serve.

17            Q.       Okay. What -- what would you estimate  
18    would be the -- let me ask you this way. Class cost of  
19    service study indicates that the large general service  
20    class is minus 5 relative to the other classes?

21            A.       Uh-huh.

22            Q.       How large would that number have to get  
23    before Staff's recommendation would change?

24            A.       The rule of thumb that we have used is a  
25    5 percent band one way or the other as a first step at

1 whose rates should be increased or decreased. In the  
2 event that, as in this example, large general service,  
3 small primary shows a decrease of more than 5 percent, the  
4 next thing we would look at is to see if there's somebody  
5 whose rates exceed 5 percent, and in the -- and our  
6 recommendation is balanced by there is really no one's  
7 rates that should be -- should definitely be increased in  
8 order to fund that rate reduction.

9 Q. Do you know whether the relative rate  
10 shifts in the stipulation exceed 5 percent?

11 A. I don't believe that they do.

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

14 JUDGE WOODRUFF: All right. Then cross for  
15 Ameren?

16 MR. FISCHER: No, thank you, Judge.

17 JUDGE WOODRUFF: Up to for the Bench.  
18 Commissioner Murray?

19 COMMISSIONER MURRAY: I think I'm going to  
20 pass. Thank you.

21 JUDGE WOODRUFF: Commissioner Gunn?

22 COMMISSIONER GUNN: I just have a couple  
23 questions.

24 QUESTIONS BY COMMISSIONER GUNN:

25 Q. What cost of -- what studies in your

1 opinion are valid? You mentioned Staff and OPC's at the  
2 beginning of this.

3 A. Staff's, of course.

4 Q. Of course.

5 A. The major distinguishing factor between the  
6 class cost of service studies are how the production and  
7 capacity costs are allocated. The Staff and OPC used some  
8 version of a capacity utilization allocator while the  
9 other parties used a peak responsibility allocator.

10 Q. Let me just stop you. I understand that.  
11 I'm not asking you why one is more valid or nonvalid. I'm  
12 merely asking, which ones do you consider to be valid  
13 studies, just Staff's and OPC's or all of them?

14 A. Mostly just Staff's. The OPC's is probably  
15 not too bad, but the others are.

16 Q. Are bad?

17 A. Are bad.

18 Q. Okay. So we've had a parade of witnesses  
19 that have come up here that said that actually the  
20 settlement appears to be at least -- and let's assume the  
21 other ones are bad, but at least in line with Staff's  
22 recommendation zero to 80 million and over 150 million.  
23 You would agree with that?

24 A. As long as we're talking about the  
25 incremental amount over 150.



1           Q.       Right. And that's what the testimony  
2       appeared to be, that it was at incremental. So we're  
3       really talking about the middle band is the only thing  
4       you're disputing?

5           A.       That's correct.

6           Q.       And that's what the stipulation calls for?

7           A.       Uh-huh.

8           Q.       Now, as I understood, and maybe I was wrong  
9       and maybe you can clarify this, in the opening statements,  
10      your counsel called these studies a snapshot. Would you  
11      agree with that?

12          A.       Yes.

13          Q.       And that -- and maybe this was my  
14      interpretation, but -- but it sounded like because these  
15      things are snapshots, they weren't hyperaccurate?

16          A.       I would say that that's a minor result in  
17      most cases. I think Mr. Brubaker testified about some of  
18      that earlier on. The timing is important under some  
19      circumstances, and others it's not. And this is really an  
20      example, which is, if you do a cost of service study on a  
21      company and you find out that you don't really need to do  
22      anything with their rates in terms of shifting revenues  
23      around, in the next case you do a study and you get pretty  
24      much the same answer as long as they haven't had any  
25      major, you know, investments or anything like that.

1 That's no surprise. In this case, what you'll see is the  
2 results are quite different between this case and the last  
3 case.

4 Q. I wasn't here for the last case, so I don't  
5 really care that much about it. Let me move on.

6 Do you have -- can I -- you had some visual  
7 representations of these studies. Do you mind if I borrow  
8 that for just a couple seconds? You can put it on the  
9 overhead so everybody can understand my question.  
10 Actually, the one below that. Right.

11 Now, from a purely visual representation,  
12 all the models, with the exception of the very end of that  
13 modeling, appear to make a similar track?

14 A. Uh-huh.

15 Q. So -- but you're claiming that the only  
16 one, even though the other studies track Staff's, the only  
17 one that's valid is Staff's? Here, let me -- let me kind  
18 of get what I'm trying to get at. It seems to me that  
19 you're advocating a religious adherence or a dogmatic  
20 adherence to Staff's cost of study and that any other --  
21 any other study that we have in front of us we shouldn't  
22 even -- we shouldn't consider. That appears to be -- am I  
23 interpreting that correctly?

24 A. I don't know about dogmatic, but I  
25 certainly support the Staff's study.

1           Q.       But you said it's the only one that really  
2 matters, it's the only that we can take into account  
3 because it is the only valid study?

4           A.       It is the only one I have full confidence  
5 in.

6           Q.       Because?

7           A.       There's some -- in terms of production  
8 allocations, the OPC's 12 NCP averaging peak allocator is  
9 fine, but we have some minor differences in how to  
10 allocate some of the distribution accounts, for example,  
11 which aren't a lot of money, you know, but there are some  
12 theoretical differences there.

13          Q.       So you don't believe that all the testimony  
14 that says that this -- this taking Staff's study into  
15 account, that the fact that these numbers appear to fall  
16 within, and taking all the studies together, that -- that  
17 these numbers in the stipulation are in the range of, with  
18 some minor deviations of what everyone -- what everyone,  
19 including Staff's recommendation has done, you don't  
20 believe that that's -- that testimony is valid?

21          A.       I think the only -- the big discrepancy  
22 that seems to be causing problems is for the large  
23 transmission service customers.

24          Q.       Exactly. I want you focus on my question  
25 here.

1           A.       Sorry. All right.

2           Q.       There was a long list of witnesses that  
3 came in and said -- and some of the times it was  
4 specifically asked and sometimes it was generally gotten  
5 to, that the numbers in the stipulation fall within the  
6 range of all the studies that were done, which included  
7 Staff's. Do you agree or disagree with those previous  
8 witnesses?

9           A.       I disagree in terms of Staff with respect  
10 to large transmission, and I --

11          Q.       Are the large transmission customers  
12 represented?

13          A.       Yes.

14          Q.       And the public is represented?

15          A.       Yes.

16          Q.       And the company is represented?

17          A.       Yes.

18          Q.       All right. Now, one of the -- one of the  
19 things that you mentioned is -- is that the -- one of the  
20 problems with this is that the rate design that's been  
21 worked on for years would get fouled up, and I think  
22 fouled up were your words. Can you describe that for me a  
23 little bit? What do you mean by that?

24          A.       There's a list of items in my testimony on  
25 page -- page 2 that have to do with those items which will

1 no longer be -- those items that are the same.

2 MR. CONRAD: Your Honor, I'm having a great  
3 deal of trouble hearing this witness.

4 JUDGE WOODRUFF: Maybe lean in a little  
5 closer.

6 THE WITNESS: There's a list of items which  
7 currently have the same dollar value, ,which will no  
8 longer be so after the implementation of this agreement as  
9 long as they're within that band between 80 and 150  
10 million.

11 BY MR. CHAMBERLAIN:

12 Q. Okay. And that's a problem because? It's  
13 just difficult to implement?

14 A. No, it's not difficult to implement. One  
15 of the potential problems is that in making those  
16 adjustments, customers could choose to move from one rate  
17 schedule to another. I mean, they would have to be  
18 customers at the margin, and they have to be very  
19 sensitive to the changes.

20 Q. Okay.

21 A. But I mean, there's certainly no --

22 Q. So we're talking about a pretty small  
23 percentage? I mean, it would have to be?

24 A. Yeah. We're talking like a customer  
25 charge. The way I look at it is there is no reason for it

1 to be different between small primary and large general  
2 service. So basically, the same kind of customers'  
3 getting the same service. The only difference is one owns  
4 a transformer and the other one doesn't. Why should that  
5 charge be different?

6 Q. Well, why shouldn't it be?

7 A. Because the cost that would go into being  
8 recovered in that component of the rate would be the same,  
9 costs the same amount to build.

10 Q. Are those class of customers that would  
11 have that issue represented here today?

12 A. Yes.

13 Q. All right. On No. 4, you talk about how  
14 the contract between the customer, and I think we've  
15 identified it as MSD, and Ameren may potentially be  
16 violated if this rate goes into effect. Is that a private  
17 contract or --

18 A. I've been here a long time. As far as I  
19 know, it existed before I got here.

20 Q. But isn't it really up to MSD to enforce  
21 that contract?

22 A. Well, let me put it a different way. I  
23 don't think the Commission is bound to that contract in  
24 any way. It's certainly between Union Electric and MSD.

25 Q. So why is that important? I'm -- you know,

1 and I know some of these questions might -- I'm not trying  
2 to be antagonistic. I'm just trying to figure out why  
3 some of these issues that we care that much or that we  
4 really should get involved. If that's a private matter  
5 between MSD and Ameren, MSD is a very sophisticated  
6 municipal water system and has the ability to represent  
7 themselves in terms of possible contract breach.

8 And so why -- why are we going to stop an  
9 agreement to protect the interests of two parties who have  
10 the ability to protect themselves? You know, that's  
11 probably unfair to ask to you, so I don't need a response  
12 to that.

13 And I just want to clarify one other thing  
14 that you said. So for you it's not -- it's not magnitude,  
15 it's not the amounts that we're talking about, the dollars  
16 or the amounts aren't really a problem, it's the  
17 direction?

18 A. That's correct.

19 Q. And that's a basic fairness issue?

20 A. Yes.

21 COMMISSIONER GUNN: Okay. Thank you.  
22 That's all I have.

23 JUDGE WOODRUFF: Chairman Davis?

24 QUESTIONS BY CHAIRMAN DAVIS:

25 Q. Good afternoon, Mr. Watkins.

1           A.     Good afternoon.

2           Q.     Are you back full-time with the Commission  
3     now?

4           A.     No.

5           Q.     No.  You're -- you're still only working --

6           A.     About three-quarter time.

7           Q.     About three-quarter time.  Without going  
8     into detail, it's -- you had some health issues, did you  
9     not?

10          A.     Yes.

11          Q.     Okay.  You've been here for 26 years,  
12     correct?

13          A.     That's correct.

14          Q.     Were you here when Alberta Slavin was  
15     Commissioner?

16          A.     You know, I think so, except let me qualify  
17     that.  When I first came here, we were -- my section was  
18     located in the Shell Ridge Office Building, and most of us  
19     who were down there never came downtown where the  
20     Commission was, so I don't recall ever seeing Alberta.

21          Q.     Okay.  But you've been doing class cost of  
22     service rate design -- did you do any ROE?

23          A.     No.

24          Q.     No.  Okay.  You've been doing class cost of  
25     service and rate design pretty much that whole time,



1 right?

2 A. Yes.

3 Q. Earlier, I believe in response to a line of  
4 questioning from Mr. Conrad, I think you made a reference  
5 to, quote, screwed up rate design, do you -- something  
6 leading to screwed up rate design. Do you recall that  
7 statement?

8 A. No.

9 Q. All right. We'll just keep going then.  
10 You were certainly here after Commissioner Slavin --

11 A. Yes.

12 Q. -- were you not?

13 A. Certainly, yeah.

14 Q. Is it fair to say that it took the Staff of  
15 this Commission more than a decade to sort of realign rate  
16 design after some of the decisions that Commissioner  
17 Slavin participated in?

18 A. I don't know the answer to that. I do know  
19 that after the passage of PURPA, the Staff has  
20 continuously worked on trying to adopt those concepts into  
21 the rate designs.

22 Q. Right.

23 A. And I was so low on the totem pole, I don't  
24 know what Alberta's --

25 Q. Do you think from the -- from the early

1 '80s to say the early '90s, is it-- is it fair to say  
2 that -- that whenever there were rate cases involving  
3 AmerenUE and its predecessors and -- that there was some  
4 gradual adjustments made that favored industrial and  
5 commercial users? Is that fair to say?

6 A. I don't know that I can respond to that  
7 really.

8 Q. Okay. Did you participate in preparing the  
9 reconciliation that was filed in this case?

10 A. No.

11 Q. No. Okay. But you are concerned about  
12 equity, are you not?

13 A. Certainly.

14 Q. Certainly.

15 A. Let me answer that a different way. May I?

16 Q. Sure.

17 A. I think you should be concerned about  
18 equity. I should be concerned with the quantitative  
19 economic analysis upon which you should base your  
20 determination.

21 Q. Okay. Are you familiar with the -- the  
22 organizational structure of the PSC and how it fits into  
23 state government?

24 A. Only vaguely.

25 Q. Okay. You know that we're a part of the

1 Department of Economic Development?

2 A. That's correct. I know that.

3 Q. Do you think economic development is, you  
4 know, part of what we do here?

5 A. Yes.

6 Q. Okay. Do you think it would serve any  
7 purpose if we were to adopt a rate design that could  
8 encourage the state's only aluminum smelter to move south  
9 to Brazil?

10 A. I don't think you'd want to intentionally  
11 do that, but there's enough pain out there to spread  
12 around to everybody.

13 Q. And it's your position that you just want  
14 to spread that pain out equally, is that --

15 A. No. It's my position that based on the  
16 results of the study, really, nothing has to be done  
17 urgently at this time.

18 Q. Okay. Nothing -- I mean, there's a  
19 difference between saying that nothing has to be done and  
20 saying what ought or should be done, is it not?

21 A. Yes.

22 Q. And so basically, in essence, your position  
23 is, well, everything's kind of close, let's just give  
24 everybody the same increase and we'll punt this issue to a  
25 future rate case?

1           A.       I think I would agree with everything  
2     except the last comment, because in a sense the last rate  
3     case we made some significant changes in the class revenue  
4     requirements, particularly with respect to Noranda, and  
5     one should expect that now when you do a cost of service  
6     study, the results of that study are going to be a lot  
7     different than last time because you made in the meantime  
8     significant revenue shifts.

9           Q.       Did you review the testimony of the witness  
10    who testified on behalf of Noranda who represented the  
11    Sheltered Workshop?

12          A.       No, I did not.

13          Q.       You did not. Okay. So you wouldn't even  
14    know, you know, what -- what rate classification a  
15    Sheltered Workshop would be in, would you?

16          A.       I wouldn't know for sure.

17          Q.       If they make pallets, wooden pallets?

18          A.       My guess would be that they'd be in small  
19    general service, but I don't know that for sure. The  
20    cutoff would be 100 KW.

21          Q.       Cutoff would be 100 KW. Okay. So you  
22    think if -- and not to put words, but my impression of  
23    that testimony was that, you know, that business relied on  
24    Noranda's business to keep these people employed and to a  
25    lesser extent keep the doors open. So obviously do you

1 think they're concerned about rate design in this case?

2 A. They certainly indicated they were, yes.

3 Q. Now, you testified that you've never done  
4 anything on ROE?

5 A. That's correct.

6 Q. Do you think Staff expects to win every  
7 issue in this rate case?

8 A. I don't have any way to answer that.

9 Q. Have they ever -- have they ever won every  
10 issue in a past rate case, to your knowledge?

11 A. Not to my knowledge.

12 Q. Not to your knowledge. Do you think it's  
13 inequitable that Staff would make an ROE recommendation  
14 that would be, in essence, 70 basis points lower than  
15 \$34.4 million, lower than any other witness testifying in  
16 this case?

17 A. I don't -- I'm not involved in that part of  
18 the case. I don't understand ROE.

19 Q. But looking at your, I think it was  
20 Schedule A of your rebuttal testimony, you ran -- you ran  
21 the numbers on the effects of the difference between,  
22 basically in \$20 million increments, did you not,  
23 Appendix A?

24 A. Yes. That was prepared under my  
25 directions, but not by me.

1           Q.       That was prepared under your direction.

2   Okay.  So, you know, comparing 34.4 million to two of your  
3   \$20 million increments, say the difference between  
4   100 million and 140 million, you know, let's look at the  
5   -- at the top table, Table 1 there.  You know, would you  
6   be at all concerned about a class cost of service and rate  
7   design that gave consumers the false impression that their  
8   rates should be \$17 million lower than they actually are?  
9   I'm just looking at, say, the difference between 100  
10  million and 140 million for residential customers there on  
11  the Table 1.

12           A.       I found the numbers now.  Could you repeat  
13  the question, please?

14           Q.       Sure.  If Staff comes in and says the  
15  number that residential customers ought to be responsible  
16  for is 43 million, if that's their position, but if their  
17  real expectation is that the Commission would adopt  
18  something closer to 60 million, and are you at all  
19  concerned that that's somehow harming the ratepayers of  
20  this state by giving them a false impression that their  
21  rates should be lower than they actually should be?

22           A.       The numbers you're referring to in that  
23  table just for clarification are equal percentage  
24  increases to each class at each level.

25           Q.       Uh-huh.

1           A.       But no, I don't think any customer class  
2       should be given false expectation about what might happen  
3       in this rate case.

4           Q.       Mr. Watkins, does the PSC Staff ever take  
5       positions opposite of utilities in cases just to give them  
6       maximum negotiating room inside the rate case?

7           A.       I assume you're talking about on revenue  
8       requirement issues, and I don't know the answer to that.  
9       The Staff does not take arbitrary positions in rate design  
10      issues just to see if we can cause trouble. We have a  
11      rate design position. It's our position independently of  
12      anything else.

13          Q.       Okay. And just it is what it is?

14          A.       That's right.

15          Q.       And is that methodology that you employ,  
16      was that, you know, developed through rate cases or is it  
17      just, you know, based on your study and what you think is  
18      right? How do you -- how do you get there?

19          A.       The cost of service study itself has --  
20      let's call it the software, has been developed over a  
21      period of many years, also the theory that goes into it,  
22      the same kind of thing.

23          Q.       But a theory is just that, it's a theory,  
24      correct?

25          A.       Right. Right. And what we're trying to

1 provide you is a quantitative analysis of what -- what it  
2 costs to serve customer classes under a whole number of  
3 assumptions. And I don't think any of the class cost of  
4 service witnesses would tell you they've got it pinned  
5 down to the penny or the dollar or the thousand dollars or  
6 anything like that.

7                   What we try to do is provide you that  
8 quantitative evidence to consider in making your decision,  
9 and we also will make a recommendation to you as to how we  
10 believe a reasonable way to decide the issue based on our  
11 quantitative analysis. But the decision about what's  
12 reasonable is certainly with the Commissioners.

13           Q.       Uh-huh. Well, Mr. Watkins, I guess what I  
14 hear you saying is that there is, to quote Commissioner  
15 Jarrett, some degree of subjectivity in this analysis; is  
16 that fair?

17           A.       Absolutely.

18           Q.       So it's a lot more art than science?

19           A.       Yes. I mean, if it wasn't, you'd see five  
20 studies with all the same answers.

21           Q.       Right. And so that's how we get a fairly  
22 wide range of discrepancies, I believe, if we go back and  
23 look at page 3 of your surrebuttal testimony, if you look  
24 at the -- which I guess this is summarizing Mr. Roos'  
25 testimony.



1           A.       This is testimony from his -- excuse me.

2       The table is basically from his rebuttal testimony.

3           Q.       Yes, the table is from his rebuttal  
4       testimony, so that you've got deviations from a positive  
5       23 to a negative 16. That's a -- that's a 39 point swing,  
6       is it not?

7           A.       Yes.

8           Q.       And I see that Staff has probably the  
9       lowest deviation; is that a fair statement?

10          A.       You mean among classes?

11          Q.       Among classes, yes.

12          A.       Yes. Yes. Our results are basically all  
13       within 5 percent one way or the other for each class.

14          Q.       Is that the path of least resistance?

15          A.       I'm not sure I understand the question.

16          Q.       Well, I mean, is it -- was it designed to  
17       come out that way?

18          A.       No.

19          Q.       Just --

20          A.       It came out that way and then we made the  
21       recommendation.

22          Q.       Came out that way and you made the  
23       recommendation. But even though small general services  
24       and a large general services and small primary services  
25       are, you know, entitled to a reduction, you're saying that

1 they should -- should bear the same portion of the costs  
2 of any increase that everyone else is getting; is that  
3 right?

4 A. What I'm saying is, is that when you look  
5 at the results of the Staff's cost of service study, you  
6 should consider that the Staff is making a caveat that the  
7 numbers that they produced have quite a bit of variability  
8 in terms of being unreliable. We believe that if, as a  
9 general rule, these numbers are for revenue shifts are  
10 within plus or minus 5 percent, but that's as -- that's  
11 within the accuracy of our study. We could get one of  
12 those -- if it was zero in reality, if we got a plus five  
13 or a minus five, that wouldn't surprise us.

14 Q. Right. And what is the -- what is the  
15 deviation for the -- for the settlement proposal for the  
16 gap between 80 million and 150 million? What's the  
17 deviation there?

18 I mean, is it -- sum total it's \$2.2  
19 million roughly to Noranda, and it's a million more to the  
20 residential class. So roughly it's 2.1 -- or 2.2 million  
21 from the large transmission class, and everyone else, you  
22 know, shares that pain, so to speak. So what's -- what is  
23 that deviation? You know, we're trying to put it in in  
24 the terms of, you know, the schedule you cited in page 3  
25 of your testimony.

1           A.       I don't have that information. I'd refer  
2   you, I guess, to David Roos who put together the cost of  
3   service study, because I don't know what the revenue  
4   amounts that were used for each class in that study were.

5           Q.       Okay. Did you hear Mr. McPheeters'  
6   testimony before lunch?

7           A.       Yes, I did.

8           Q.       And do you recall that, I believe he'd  
9   updated that Noranda has now lost approximately 225 jobs?

10          A.       Yes, something like that.

11          Q.       Okay. And at an average wage and benefits  
12   for the entire company, it's something over \$50,000 per  
13   employee. So can you help me do the math here,  
14   Mr. Watkins? What's 220 -- what's 200,000 -- what's 200  
15   times 50,000?

16          A.       10 million.

17          Q.       Okay. So that's -- that's -- you know,  
18   assuming an average payroll of 50,000 and reducing 200  
19   employees, that's \$10 million in lost payroll right there.  
20   And assuming that we adopt, you know, Staff's schedule,  
21   they're going to be looking at roughly a \$5 million  
22   increase in just their electric cost at an \$80 million  
23   increase, and roughly another 4 million if we -- if the  
24   increase is 150 million. Is that a fair statement?

25          A.       I believe that's correct. Let me take that

1 back for a second until I can verify it. The table we've  
2 been looking at, Table 1, is the amount of the increases  
3 at the system average rate for all classes.

4 Q. Uh-huh.

5 A. Okay. The Table 6 shows the dollar  
6 increases proposed by the parties to the Nonunanimous  
7 Stipulation & Agreement. But your point is, the  
8 difference between those two numbers is still fairly --

9 Q. Right. And so it's your opinion that the  
10 \$2 million shift in favor of Noranda is still against  
11 public policy even though it might be -- it might keep 40  
12 people employed at an average wage and salary of \$50,000 a  
13 year in a county where the average household makes less  
14 than 20? That's your position?

15 A. No, sir. My position is the results of our  
16 study do not indicate that that's appropriate. However,  
17 from a public policy standpoint, the Staff has no position  
18 on that.

19 Q. But you're okay with that potentially being  
20 the effect?

21 A. If that's what the Commission decides, that  
22 will just be peachy with me.

23 Q. Okay. You'll still be able to go home and  
24 sleep at night if this Commission decides to agree with  
25 Mr. Mills and everyone else?

1           A.       Yes, and I hope I will be able to get up  
2     the next morning and come in here to work.

3           Q.       Well, we certainly hope you will, too,  
4     Mr. Watkins, because we still need your expertise here.

5                   CHAIRMAN DAVIS:   So thank you, Judge.  No  
6     further questions.

7                   JUDGE WOODRUFF:   Recross based on questions  
8     from the Bench.  Looks like Mr. Mills.

9     RE CROSS-EXAMINATION BY MR. MILLS:

10          Q.       Mr. Watkins, in response to, I think, a --  
11     some of the questions by Commissioner Gunn and Chairman  
12     Davis, you pointed back to some of the concerns that  
13     you've raised on page 2 of your supplemental testimony?

14          A.       Yes.

15          Q.       Are these the only concerns that you have  
16     with the rate design aspects of the Stipulation &  
17     Agreement?

18          A.       If you mean rate design as opposed to class  
19     revenue shifts?

20          Q.       Yes, I do.

21          A.       Yes.

22          Q.       Okay.

23          A.       These are the only ones.

24          Q.       And I think just to sort of paraphrase some  
25     of the questions, you said one of your concerns is rate

1 switching; is that correct?

2 A. Yes.

3 Q. Have you done a rate switching analysis?

4 A. No.

5 Q. So at least as of now, that's just sort of

6 a hypothetical concern, you don't know if there actually

7 will be any customers that will jump classes because of

8 the shifts that are created by the Stipulation &

9 Agreement?

10 A. That's correct. And that partly depends on

11 the magnitude of the increase.

12 Q. Right. At any of the increases shown on

13 your tables in Appendix A, what is the -- what is the

14 maximum dollar difference in customer charge between SPS

15 and LPS? Have you calculated that?

16 A. I have not calculated that.

17 Q. Can you -- just by looking, can you tell

18 whether it's likely to be more than a few dollars?

19 A. I think -- I think I heard that calculation

20 made recently by someone who had a calculator and termed

21 it was in the range of \$25 or so.

22 Q. According to questions that your counsel

23 asked of Mr. Brubaker?

24 A. Yes, I believe so. I have no reason to say

25 that that's not correct.

1           Q.       Do you have any reason to -- well, let me  
2 ask you this.

3                   Do you agree with Mr. Brubaker that at the  
4 time -- that the kinds of volumes that these customers  
5 consume, that that amount of difference in customer charge  
6 is, I believe he said very insignificant?

7           A.       I would agree. But he represents those  
8 clients. He should know. But I don't have any reason not  
9 to believe that the \$25 is going to be make or break those  
10 customers.

11          Q.       Now, with respect to your Appendix A, and  
12 looking in particular at Table 8, is it correct that at  
13 any increase up to \$120 million and perhaps just a little  
14 bit beyond that, no customer class would be more than  
15 1 percent away from the system average increase?

16          A.       That's correct.

17          Q.       And anywhere up to \$200 million, the  
18 farthest you ever get away for any class from system  
19 average increase is 1.68 percent?

20          A.       That's correct.

21          Q.       And looking at all the other classes except  
22 for large transmission, does any other class anywhere up  
23 to \$200 million ever get even a half a percent away from  
24 system average increase?

25          A.       No. The largest increase would be for RES,

1 and that's .3 percent.

2 Q. Now, let's talk briefly about lighting and  
3 MSD. Is lighting and MSD truly a class in the sense that  
4 the other groups are classes of customers?

5 A. No.

6 Q. It's really just some -- in terms of a cost  
7 study, it's a miscellaneous cost and some miscellaneous  
8 revenues; is that correct?

9 A. Let me give you an answer and see if it  
10 fits your question.

11 Q. Okay.

12 A. Which is, no costs are actually allocated  
13 to those customers. There are some costs that are  
14 directly assigned, and what we do in the study is  
15 reallocate those costs and revenues back to the other  
16 classes.

17 Q. Okay. So in terms of your cost study  
18 and -- well, let me ask you that. Just in terms of your  
19 cost study, the Staff's cost study, there is no indication  
20 from the Staff's cost study whether lighting is above or  
21 below where it should be --

22 A. That's correct.

23 Q. -- is that correct?

24 Okay. But it's nonetheless your position  
25 that not making any change to that is okay, but making a



1     tenth of a percent change to that is bad; is that correct?

2             A.       Would you say it again? I'm sorry.

3             Q.       You don't know what it actually costs to  
4     serve the lighting group; is that correct?

5             A.       Right.

6             Q.       So it's your position that we should not  
7     change the rates of the lighting group with respect to the  
8     system average?

9             A.       Yeah.

10            Q.       And it's your position that we should  
11    oppose changing them by roughly a tenth of a percent  
12    different than the system average; is that correct?

13            A.       I don't know what the reason for doing that  
14    is without any evidence that it should be done. I mean,  
15    there's -- there should be inertia if it's there already.

16            Q.       Well, let's talk about inertia. You had  
17    the choice, not necessarily you personally, but the Staff  
18    had the choice to either oppose a Stipulation & Agreement  
19    or agree to it or simply not oppose it; is that correct?

20            A.       That's correct.

21            Q.       Okay. And so opposition is not the  
22    inertial position; it's a movement of position, is it not?  
23    You're actively challenging the Stipulation & Agreement  
24    and trying to convince the Commission not to accept it?

25            A.       Yes.

1           Q.       And one of the reasons for that is because  
2     lighting is changing by roughly .1 percent rather than .0  
3     percent?

4           A.       Yes.

5           Q.       Now, given that your cost study in this  
6     case shows revenue shifts of anywhere from very little to  
7     roughly 5 percent, and that the shifts that are proposed  
8     by the -- the Nonunanimous Stipulation & Agreement will be  
9     somewhat less than that, assuming that there aren't huge  
10    changes, new plants, significant customers that go out of  
11    business, if we do another rate case for UE in two years,  
12    what would you anticipate your cost of service study would  
13    look like in that case?

14          A.       You're saying if we don't do anything now?

15          Q.       If we make the shifts that are contemplated  
16    by the Nonunanimous Stipulation & Agreement, what would  
17    you anticipate that your cost of service study would look  
18    like in the next case?

19          A.       I would assume that if you just look at the  
20    percentages, they wouldn't vary by a whole lot, but for  
21    the large transmission service, it would have gotten  
22    larger. It would have gone in the wrong direction.

23          Q.       So just in terms of order of magnitude, if  
24    you're showing them at almost 5 percent out of whack now,  
25    you would expect them to be maybe 6 and a half percent out

1 of whack the next time around? If your cost of service  
2 study shows them 4.882 above now -- or I'm sorry, below  
3 now, they should go up 4.882, and if we change that by --  
4 by 1.68 in this case, just assuming that the increase is  
5 that large, the most they would get out of whack would be  
6 a little less than 5 in this case, a little more than 6 in  
7 the next case?

8 A. I think those would be the numbers, yes.  
9 But we would view the number bigger than 5 as being a  
10 significant indication of which directions rates should be  
11 moved.

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

14 JUDGE WOODRUFF: Any other recross?

15 MR. CONRAD: Yes.

16 JUDGE WOODRUFF: Mr. Conrad.

17 RECROSS-EXAMINATION BY MR. CONRAD:

18 Q. Mr. Watkins, at the expense of belaboring  
19 this, I wanted to go back to a question or two that  
20 Chairman Davis and Commissioner Gunn had. First of all --

21 JUDGE WOODRUFF: Mr. Conrad, is your  
22 microphone on?

23 MR. CONRAD: Yes. I'll try to get a little  
24 closer. I'm struggling with a bunch of papers here. I'll  
25 do the best I can.

1 BY MR. CONRAD:

2 Q. I hope I got this quote down right. That  
3 this change, quote, fouls up rate design that I've worked  
4 years and years to put together, close quote; is that  
5 right?

6 A. I'm not sure that I used the pronoun I. It  
7 seems more reasonable I would have said we, but yes.

8 Q. Who would we be that had worked years and  
9 years?

10 A. Be primarily the Staff and company, with  
11 participation of other parties in rate cases.

12 Q. You understand company isn't opposing this?

13 A. The company isn't?

14 Q. Opposing --

15 A. Yeah.

16 Q. -- is that correct?

17 A. That's my understanding, yes.

18 Q. So the we is Staff and company, fouls up  
19 rate design that Staff and company have worked years and  
20 years to put together, right?

21 A. I think they've been the major  
22 participants, yes.

23 Q. Well, that's -- but that's what you said.  
24 Isn't that what you said, Mr. Watkins?

25 A. Did I say Staff and company or did I say

1 we?

2 Q. You just corrected it. You said we, and I  
3 asked you who we was and you said Staff and company.

4 A. Okay.

5 Q. So when I interpellate Staff and company  
6 for the pronoun we, is the statement that you're making  
7 fouls up rate design that Staff and company worked years  
8 and years to put together, right?

9 A. Yes. That's correct.

10 Q. Now, how many is years and years?

11 A. I think I've been involved for about 20.

12 Q. So years and years is 20?

13 A. Yes.

14 Q. How long has Noranda been on the system?

15 A. I don't know that I know exactly. Probably  
16 in the range of five years.

17 Q. Are you familiar with case citation  
18 EA-2005-0180?

19 A. EA? That doesn't ring a bell with me.

20 Q. That's not one that you had listed?  
21 Because I have your testimony in here. That was the  
22 certificate case, Mr. Watkins. Do you remember that?

23 A. I don't recognize it by that.

24 Q. Do you remember the certificate case,  
25 Mr. Watkins?

1           A.       I don't know what you mean by certificate  
2 case.

3           Q.       That is when this utility, this utility  
4 being Ameren, AmerenUE or UE, filed an application with  
5 this Commission to expand its service territory and extend  
6 its certificate to cover Noranda. Do you remember that  
7 case?

8           A.       Yes, sir, I do.

9           Q.       Do you remember testifying in that case?

10          A.       Yes.

11          Q.       Do you remember testifying in that case in  
12 opposition to the company's proposed large transmission  
13 service rate schedule?

14          A.       Yes.

15          Q.       And I think your specific statement,  
16 quoting from your testimony, is Staff's recommendation is  
17 that if the company's application is approved, the  
18 proposed large transmission service rates schedule should  
19 be rejected. Do you recall that?

20          A.       Yes.

21          Q.       And you recall being on the stand in that  
22 case?

23          A.       Not really.

24          Q.       And you don't recall. Do you recall Judge  
25 Thompson being behind the desk where Judge Woodruff is

1 now?

2 A. I apologize, but I don't remember very much  
3 of that hearing.

4 Q. Do you recall me using the illustration of  
5 two all beef patties, special sauce, lettuce, cheese,  
6 pickles, onions on a sesame seed bun?

7 A. I'm sure I've heard you say that, but I  
8 don't know in what context.

9 Q. Do you remember the context of that was  
10 what Noranda wanted was the sesame bun but you wanted us  
11 to take everything that was between the loaves? Do you  
12 remember that?

13 A. No.

14 Q. You don't remember that?

15 A. I'm sorry, I don't, no.

16 Q. Do you remember then Commissioner Davis  
17 asking George Slogger to come to the stand?

18 A. No.

19 Q. I see. Now, how did that case come out?

20 A. Noranda became a Union Electric customer,  
21 served under the large transmission service rates  
22 schedule.

23 Q. As proposed by the company, right?

24 A. I don't know. I'm sorry, I just don't  
25 know.

1 Q. In fact, your recommendation was rejected?

2 A. That's entirely possible.

3 Q. And the application was approved, correct?

4 Could they be served if the application hadn't been

5 approved, Mr. Watkins?

6 A. The application to serve, no. I'm sure the

7 application was approved, and they are a customer, but I

8 don't believe the rate schedule was the one proposed by

9 Noranda.

10 Q. Well, it wouldn't have been Noranda that

11 would have proposed it, would it?

12 A. It wasn't the one proposed by the company

13 either.

14 Q. Now, then, do you remember the subsequent

15 rate case, ER-2007-0002?

16 A. Is that the most recent one?

17 Q. Pardon me?

18 A. The most recent rate case?

19 Q. Do you remember that number?

20 A. No. I mean, I remember the number, but I

21 don't know how to tie it to a particular case.

22 Q. Do you remember something called the ACF?

23 That's shorthand, Mr. Watkins, for annual contribution

24 factor. Do you remember that?

25 A. Yes.



1           Q.       And do you remember that that was a part of  
2     the tariff that had been proposed by the company that  
3     would -- that the elimination of which would reduce  
4     Noranda's revenues by 9 million? Do you remember that?

5           A.       Yes.

6           Q.       Do you remember filing testimony on that  
7     issue? Would you like to see a copy of it?

8           A.       Yes.

9           Q.       Does that refresh your recollection,  
10    Mr. Watkins?

11          A.       Yes.

12          Q.       Does that refresh your recollection --

13          A.       Yes.

14          Q.       -- Mr. Watkins?

15                    Now that your recollection is refreshed, do  
16    you recall what your recommendation was in that case?

17          A.       I believe my recommendation was that  
18    Noranda should pay the same amount as they would pay on  
19    the large primary service rate.

20          Q.       And you would propose -- had proposed  
21    eliminating -- excuse me, opposed eliminating the annual  
22    contribution factor, correct?

23          A.       In that case, yes.

24          Q.       And that case resulted in settlement, did  
25    it not?

1           A.       I believe so.

2           Q.       And when the Commission approved that  
3   settlement, the result of that settlement at the revenue  
4   level that was approved resulted in elimination of the  
5   ACF, did it not?

6           A.       That's not my recollection.

7           Q.       Yes, no, or you don't know?

8           A.       Would you repeat the question, please?

9           Q.       When the Commission approved the settlement  
10   that was proposed in that case, the result of that  
11   approval at the revenue level that was approved eliminated  
12   the ACF from Noranda's rate, did it not?

13          A.       I don't know.

14          Q.       Is there an annual contribution factor in  
15   the rate today?

16          A.       No, there is not. It was eliminated in the  
17   last rate case.

18          Q.       So just to sum up that little series, you  
19   opposed in the first instance the tariff proposal by which  
20   the company proposed to add Noranda to its service  
21   territory and provide service to them; is that correct?

22          A.       That's correct.

23          Q.       And you also -- and the Commission said,  
24   no, Mr. Watkins, we're going to do it the way we're going  
25   to do it. Secondly, in Case No. ER-2007-0002, you opposed

1 elimination of the annual contribution factor, did you  
2 not?

3 A. I believe that's correct.

4 Q. And even though you don't recall or won't  
5 acknowledge the result of the stipulation which you  
6 indicated you understood was a settled case, and which I  
7 think I showed you before that your counsel signed, you do  
8 acknowledge that the ACF is gone?

9 A. Yes.

10 Q. And it could only be removed, am I correct,  
11 Mr. Watkins, if the Commission so ordered?

12 A. That's correct.

13 Q. Now, did those two events, did the addition  
14 of Noranda as a customer, which started in 2005, and the  
15 elimination of the ACF in last year's rate case, foul up  
16 the rate design that you and the company, the Staff and  
17 the company had worked years and years to put together?

18 A. No.

19 Q. In response to Commissioner Gunn's  
20 questions about which studies were valid, I believe your  
21 response indicated just Staff's, and only one is valid,  
22 that being Staff's, and I believe your quote was, that was  
23 the only study in which you had, quote, full confidence,  
24 close quote?

25 A. Yes.

1           Q.       And that's despite your acknowledgement to  
2 Commissioner Gunn that there had been a number of  
3 witnesses, competent witnesses which you previously  
4 acknowledged, come forward and indicate disagreement with  
5 Staff's study, correct?

6           A.       Yes.

7           Q.       Mr. Watkins, do you have a private  
8 revelation?

9           A.       I don't understand the question.

10          Q.       Do you know what the truth is, sir?

11          A.       I believe so.

12          Q.       Do you know what the truth is?

13          A.       Now I don't understand your question since  
14 you've repeated it.

15          Q.       Do you know what the true allocation  
16 mechanism is?

17          A.       No, I'm sorry, I do not know the one true  
18 allocation method.

19          Q.       So apparently that one true allocation  
20 mechanism is not Staff's, right?

21          A.       Well, yes, it is. It's the one I believe  
22 in. But do I know it? No.

23          Q.       Now, you indicated again in response to  
24 Commissioner Gunn and I believe a question from  
25 Commissioner Davis that one of your concerns was rate

1 switching, correct?

2 A. Yes.

3 Q. Now, if within the band that you're

4 objecting to a customer should switch rates, what would

5 happen?

6 A. The customer would go on another rate

7 schedule, pay a different amount of revenue.

8 Q. And why would they do that, Mr. Watkins?

9 A. Save money, compared to the new rate.

10 Q. And why would that be offensive to you?

11 A. It isn't particularly offensive to me.

12 It's just -- would be a revenue shortfall for the company.

13 Q. How do you know that?

14 A. Because the customer would presumably shift

15 to lower his rate, lower his bill.

16 Q. All other things being equal?

17 A. Yes.

18 Q. The company would not have any other change

19 in its revenues?

20 A. Under that assumption, yes.

21 Q. Under that assumption?

22 A. Uh-huh.

23 Q. So that would be the only -- that would be

24 your concern about rate switching, right?

25 A. Yes.

1           Q.     The company isn't opposing this settlement;  
2     is that correct?

3           A.     That's my understanding.

4           Q.     Do you feel you can better represent them  
5     than their counsel?

6           A.     No.

7           Q.     Do you feel you do a better job of  
8     designing their rates than Mr. Cooper?

9           A.     Certainly.

10          Q.     You do?

11          A.     Yes.

12          Q.     Again, I ask you, do you have a private  
13     revelation, sir?

14          A.     You asked me if I thought I could do a  
15     better job, and I do think I could. I don't know if it's  
16     the truth or not.

17          Q.     I understand that they're looking for  
18     people to come work for them. Should we consider this a  
19     job application?

20          A.     Maybe it's an interview.

21                 CHAIRMAN DAVIS: Judge, I'm hesitant to  
22     object to Mr. Conrad's line of questioning, but I believe  
23     it would be -- I think there's some, like, state statute  
24     that prohibits PSC employees that are currently employed  
25     from seeking employment with utilities or something.

1                   MR. CONRAD: You would have to wait a  
2 couple years.

3                   CHAIRMAN DAVIS: I knew there was something  
4 in there, Mr. Conrad.

5                   MR. FISCHER: And let the record reflect  
6 we're not trying to violate that statute, Judge.

7 BY MR. CONRAD:

8           Q.       Now, as far as rate switching goes, Noranda  
9 takes power at -- from Ameren, the connection point there,  
10 it's a 345 KV. Do you understand that in this case?

11          A.       Yes.

12          Q.       And your objection there is that the  
13 customer charge is the same as between LPS and LTS --

14          A.       Yes.

15          Q.       -- is that your objection? Is that your  
16 objection?

17          A.       Yes, that's one of my objections.

18          Q.       Now, do you have any idea what would be  
19 involved in the sense of capital expenditure for a  
20 customer to install the equipment required necessary to  
21 accept power from this utility at 345 KV?

22          A.       I have no idea.

23          Q.       No idea. Do you have any idea how the  
24 losses associated with that transfer of power are  
25 absorbed?

1           A.     Only vaguely.

2           Q.     And finally, I believe finally -- my  
3 consultant may give me something else -- Commissioner Gunn  
4 asked you about involvement of MSD. Do you recall those  
5 questions?

6           A.     Yes.

7           Q.     Is MSD able to intervene in this case?

8           A.     As far as I know, there's nothing to  
9 prevent.

10          Q.     So they chose not to; is that correct?

11          A.     Yes.

12          Q.     And again, because they chose not to,  
13 you're interpellating that you need to represent them; is  
14 that what I understand your position?

15          A.     No.

16          Q.     That's not your position?

17          A.     That's not my position.

18          Q.     I'm talking about you as Staff.

19          A.     Okay.

20          Q.     We went through that before.

21          A.     Yeah.

22          Q.     I don't want to go through that again who  
23 Staff is.

24          A.     Okay.

25          Q.     You told me already you didn't have any



1 client or any paying customers, right?

2 A. That's correct.

3 Q. So you feel -- Staff feels that it is  
4 better able to represent the interests of MSD than MSD is?

5 A. No, I don't think that at all.

6 MR. CONRAD: That's all, your Honor. Thank  
7 you. Thank you, Mr. Watkins.

8 JUDGE WOODRUFF: Any other recross? MIEC?

9 MS. VUYLSTEKE: Thank you.

10 RE-CROSS-EXAMINATION BY MS. VUYLSTEKE:

11 Q. Mr. Watkins, you had a conversation with  
12 Commissioner Gunn regarding the Staff's cost of service  
13 study?

14 A. Uh-huh.

15 Q. Can you name any state that has adopted the  
16 same production cost allocation methodology that the Staff  
17 has used in this case?

18 A. I can't name any.

19 MS. VUYLSTEKE: Thank you.

20 JUDGE WOODRUFF: Any other recross? We've  
21 been going for two hours, so we'll take a ten-minute break  
22 before we come back for redirect. We'll come back at  
23 3:15.

24 (A BREAK WAS TAKEN.)

25 JUDGE WOODRUFF: We're back from break and

1 we're ready for redirect.

2 MS. KLIETHERMES: Thank you, Judge.

3 REDIRECT EXAMINATION BY MS. KLIETHERMES:

4 Q. Mr. Watkins, Mr. Conrad was asking you  
5 about your testimony on it looks like page 2, lines 21  
6 through 23. Do you recall that?

7 A. Which piece of testimony?

8 Q. I'm sorry. Your supplemental testimony.

9 A. Okay. Page 2?

10 Q. Yes.

11 A. And I forgot what lines you said.

12 Q. 21 to 23.

13 A. Okay. Yes.

14 Q. Would you like to clarify what that  
15 language actually reflects?

16 A. I don't know how to clarify that, I don't  
17 believe.

18 Q. Well, would -- did you necessarily agree  
19 with the characterizations that Mr. Conrad made regarding  
20 that testimony?

21 MR. CONRAD: Objection, leading and  
22 suggestive. The witness has answered the question. This  
23 is redirect.

24 JUDGE WOODRUFF: I'll sustain the  
25 objection.

1 BY MS. KLIETHERMES:

2 Q. Does your testimony at lines 21 through 23  
3 speak for itself?

4 A. Yes.

5 Q. Ms. Vuylsteke I believe asked you some  
6 questions about what stipulations you would have opposed.  
7 Do you recall that?

8 A. I recall the questions about elements.

9 Q. Yes.

10 A. Yes.

11 Q. Would Staff oppose any stipulation that  
12 creates a misalignment in rates?

13 A. Yes.

14 Q. Commissioner Gunn was asking you some  
15 questions about the class cost of service studies?

16 A. Yes.

17 Q. And you were describing your position on  
18 capacity utilization?

19 A. Yes.

20 Q. Could you complete that description?

21 A. The fundamental difference between the cost  
22 of service studies that have been performed in this case  
23 have to do with whether you allocate capacity on your  
24 responsibility for creating the class -- excuse me --  
25 system peak or whether your contribution to the need for

1 capacity depends on how you use energy throughout the  
2 year.

3                   So basically what's happening is if you  
4 have a customer that say has 100 percent load factor, they  
5 will be using the same amount of electricity all through  
6 the year and should be allocated capacity on that basis.  
7 Okay. Because it's -- and likewise, for all the other  
8 classes, until you get to the lighting class, and they  
9 will only be on at night, so that has to be considered.  
10 Then you have the more peaking customer classes like SGS  
11 and residential that are only on -- well, they're on most  
12 of the time but have extremely high peaks on summer  
13 afternoons.

14                   It's been the Staff's position for now many  
15 years that capacity utilization is the proper way to  
16 recover the cost of production capacity.

17           Q.       Chairman Gunn also asked if your problem  
18 with the stipulation was a basic fairness issue. Do you  
19 recall that?

20                   MR. CONRAD: Excuse me. Has there been a  
21 change in Commission responsibility that I missed?

22                   MS. KLIETHERMES: I'm sorry. Did I --

23                   COMMISSIONER GUNN: Thank you for promoting  
24 me.

25                   MR. MILLS: Is that why that one light went

1 out?

2 BY MS. KLIETHERMES:

3 Q. Shows the haste of my jotted notes. I  
4 believe it was Commissioner Gunn. I don't believe it was  
5 Chairman Davis, although I suspect one of them is who  
6 asked you if your problem with the stipulation was a basic  
7 fairness issue. Do you recall that questioning,  
8 regardless of who it came from?

9 A. I recall the question and answer.

10 Q. Could you explain how you viewed the use of  
11 the word fairness in that context?

12 A. Well, I think fairness is moving in the  
13 right direction. It's unfair to move in the wrong  
14 direction.

15 Q. And Mr. Mills asked if you had done a rate  
16 switching analysis. Do you recall that?

17 A. Yes.

18 Q. Does a rate switching analysis, if one were  
19 contemplated, take more than 24 hours?

20 A. It depends. Depends on from where. I  
21 imagine in this particular situation it would take a year  
22 or something because we don't have the information  
23 prepared on individual customers to run the analysis at  
24 all in this case.

25 Q. Could the record reflect that it is 3:22 by

1 my watch on Thursday afternoon.

2 You were also asked, I believe by Mr.  
3 Mills, about what Staff's study would look like in the  
4 next case. Do you recall that?

5 A. I don't recall that. I don't believe I  
6 recall that specific question.

7 Q. You don't recall if Mr. Mills asked whether  
8 applying the shifts accomplished by the stipulation, what  
9 mathematically that would do to the Staff's class cost of  
10 service study as submitted in this case?

11 A. I do remember that.

12 Q. And I'm not sure I understood your answer  
13 to that question. Was your answer -- well, please answer  
14 that question.

15 A. As I now understand your question, it's if  
16 the Stipulation & Agreement is adopted, what would I  
17 expect the study to show --

18 Q. Yes.

19 A. -- after that's been implemented?

20 Q. Yes, Absent other factors.

21 A. What it would show is that the residential  
22 and small general service, large general service and small  
23 primary customers would have a smaller deviation from zero  
24 than they do now, and the large transmission service  
25 customer would have a larger deviation from zero, in the

1 same direction it is now.

2 Q. So I guess two questions. First, would  
3 that be to say that the problems that Staff has  
4 potentially identified in its class cost of service study  
5 in this case would be exacerbated?

6 MR. CONRAD: Objection to the word problem.

7 MS. KLIETHERMES: Certainly.

8 BY MS. KLIETHERMES:

9 Q. Would that be to then say that the  
10 situation identified by the class cost of service study  
11 submitted by the Staff in this case would be exacerbated  
12 as regards the large transmission service class?

13 A. I don't feel that the results of the  
14 Staff's study clearly indicate that any shift should be  
15 made at all, so it's hard to exacerbate that. But if you  
16 want to know what happens to large transmission in the  
17 next case, it would be a bigger number than it is now and  
18 likely over 5 percent.

19 Q. And what happens when a number's over 5  
20 percent?

21 A. Then we tend to believe that, yes, if it's  
22 positive, that rate should be increased somewhat more than  
23 the system average, and vice versa if it's negative.

24 Q. Mr. Conrad also had a fairly lengthy  
25 discussion about what you meant by the word we in an

1 earlier piece of testimony. Do you recall that?

2 A. Yes.

3 Q. Would you like to explain more fully who we  
4 was?

5 A. I guess we is all the participants in Union  
6 Electric's rate and rate design cases since I can  
7 remember, or the ones that participated.

8 Q. If I could ask you regarding your  
9 discussion with, and I believe this was with Commissioner  
10 Gunn, you were discussing why the last rate case's outcome  
11 is important in view of changes in results class cost --  
12 of class cost of service studies over time. Do you recall  
13 that?

14 A. Yes.

15 Q. Could you explain that more fully?

16 A. Well, that was the situation where the  
17 Staff's class cost of service study showed that revenue  
18 shifts were indicated to be necessary because they fell  
19 out of that range. In that case, we agreed to make some  
20 revenue shifts while keeping the rate design factors that  
21 were listed in my testimony the same to bring things back  
22 more into alignment, and that's what's causing in this  
23 case the rates to be fairly well aligned with cost of  
24 service.

25 Q. Well, I guess I wonder then how come since



1 it is showing some misalignment on the margins in this  
2 case, why doesn't Staff just recommend fixing those  
3 misalignments at the margins in this case?

4 A. Well, the Staff doesn't believe that its  
5 study is that precise to make those kind of shifts -- or  
6 decisions on those shifts.

7 Q. Does that create a problem if you make  
8 those marginal shifts each and every case?

9 MR. CONRAD: Objection, clarification of  
10 what create a problem means.

11 BY MS. KLIETHERMES:

12 Q. Does Staff seek to avoid adjusting class  
13 revenue to -- pardon me. If I can start over?

14 Why doesn't Staff adjust the class revenue  
15 in every case according to its class cost of service  
16 study, or recommend that adjustment I should say?

17 A. That's kind of a broad question. But, I  
18 mean, in some cases the magnitude of the shifts don't  
19 warrant it.

20 Q. Well, let's go with that scenario where the  
21 magnitude of shift doesn't warrant it, as you say, why  
22 doesn't Staff make that adjustment?

23 A. Why doesn't Staff make an adjustment that's  
24 not warranted?

25 Q. Yes.

1           A.       That's too easy a question to have an  
2 answer to.

3           Q.       Indulge me.

4           A.       Well, I certainly wouldn't recommend that  
5 adjustments be made that weren't warranted, particularly  
6 if they're in the wrong direction.

7           Q.       What would happen if a series of  
8 unadjusted -- or a series of unwarranted adjustments were  
9 made over time?

10          A.       In the same direction? Things would get  
11 more and more distant from what should be recovered in  
12 rates.

13          Q.       And if those were made in opposite  
14 directions, would they effectively cancel each other out  
15 from case to case?

16          A.       You mean if one case you increased and the  
17 next case you decreased?

18          Q.       Yes.

19          A.       Yes.

20          Q.       What would the effect of that be over time?

21          A.       Well, if all the increases and decreases  
22 were the same, there'd be no effect, other than customer  
23 bills would go up and then they'd come down and they'd go  
24 up and then they'd come down, but they would average out.

25          Q.       So is the nature of class cost of service

1 studies that there's a certain level of precision that  
2 you -- or certain level of imprecision that there's no  
3 need to make those marginal adjustments?

4 A. Well, I think that it's certainly the case  
5 that it's not appropriate to make those adjustments for  
6 small deviations from the class average.

7 Q. All right. I think this is my last  
8 question for you, Mr. Watkins, unless Ms. Mantle over here  
9 signals me otherwise, but you were asked a while ago if  
10 you were an AmerenUE residential customer. Do you recall  
11 that?

12 A. Yes.

13 Q. Did that fact have any impact whatsoever on  
14 your analysis in this case?

15 A. No.

16 MS. KLIETHERMES: Thanks. That's all.

17 JUDGE WOODRUFF: Mr. Watkins, you can go  
18 ahead and step down.

19 We had talked about doing any sort of  
20 rebuttal and surrebuttal to Mr. Watkins' testimony. Does  
21 any party wish to do that? Mr. Chairman, I believe you  
22 wanted to have Mr. McPheeters back to the stand.

23 CHAIRMAN DAVIS: Could we bring Mr.  
24 McPheeters back up briefly?

25 JUDGE WOODRUFF: Sure.

1                   MR. CONRAD: Your Honor, at the invitation  
2 of the Chair, we will recall Mr. McPheeters.

3                   JUDGE WOODRUFF: Mr. McPheeters, you are  
4 still under oath.

5                   THE WITNESS: Yes, sir. Thank you.

6                   JUDGE WOODRUFF: We'll just go straight to  
7 questions from the Bench, then.

8 STEVE MCPHEETERS testified as follows:

9 QUESTIONS BY CHAIRMAN DAVIS:

10                  Q.       Mr. McPheeters, do you recall the previous  
11 case here at the Commission where the Commission approved  
12 Ameren's contract with Noranda?

13                  A.       Yes.

14                  Q.       Is it fair to say that in that case Staff's  
15 position was built around the premise that Noranda did not  
16 have an extraordinarily high load factor somewhere in the  
17 neighborhood of 95 percent or so?

18                  A.       I think so. I believe so.

19                  Q.       At which point do you recall that I asked  
20 Mr. Slogger to come forward and to testify about Noranda's  
21 load factor?

22                  A.       Oh, yes.

23                  A.       Uh-huh.

24                  Q.       Okay. And then there was a recess, and the  
25 hearing never resumed, did it?

1           A.       As I recall, that's what happened.

2           Q.       Okay. So clearly there was -- there was at  
3   least one instance where -- is it -- let me try to think  
4   of how to phrase that. In your opinion, do you think that  
5   was at least one case where Staff didn't really understand  
6   Noranda?

7           A.       From the load factor perspective?

8           Q.       From the load factor perspective.

9           A.       I'm not sure they fully understood.

10          Q.       Okay. Do you think -- and obviously we've  
11   read the testimony of State Senator Rob Mayer, State  
12   Representative Steve Hodges, the county commission, the  
13   Sheltered Workshop, and do you think that the PSC Staff  
14   appreciates the impact that Noranda has on those -- New  
15   Madrid and the surrounding counties?

16          A.       I think most of them do, yes.

17          Q.       Okay. And in your own words, though,  
18   obviously how -- I mean, how important is \$2 million to  
19   Noranda?

20          A.       Well, when you see the average price for  
21   aluminum in the third quarter was \$1.34 a pound and today  
22   it's 69 cents a pound, it's very important. You see that  
23   the action taken when you reduce your work force by  
24   eventually 228 people, that that just didn't happen as a  
25   reactive thing. It was actually well thought out and well

1 planned because we're trying to survive long-term.

2                   So I think there -- the management team  
3 there is looking at every dollar and trying to make it  
4 stretch as far as it can, looking at energy efficiency to  
5 make it the best it can. And so I don't think anything's  
6 being taken lightly with that money, you know. A few  
7 million dollars give or take a few hundred thousand  
8 dollars these days is very, very important as we go  
9 through this downturn in the aluminum price. It will come  
10 back, and we will survive, but right now, that -- any  
11 amount of money is very important. You relate it to jobs  
12 and you relate it to people. It's very important right  
13 now.

14               Q.     Is it fair to say that Noranda is part of  
15 the economic foundation in the community?

16               A.     Without a doubt. The whole region.

17               Q.     Having heard Mr. Watkins' testimony, is  
18 there anything you wish to add or --

19               A.     Anything that I would add to his testimony?

20               Q.     Anything, I mean, not necessarily to add to  
21 his testimony, but --

22               A.     Comment about?

23               Q.     Is there anything else about the  
24 circumstances of the large transmission tariff and the  
25 settlement? You know, obviously not going into settlement

1 negotiations, but, you know, this is it. This is your  
2 last shot.

3 A. Well, I mean, there are obviously  
4 philosophical differences. As I understand it, all the  
5 other consumers are on the same page, and reasonable  
6 people come to various conclusions, but obviously there's  
7 just a major philosophical difference. In the economic  
8 development world you try to get people to work together.  
9 When you come to a consensus, you get a decision, you go  
10 with it. Obviously it's not always that way in the rate  
11 case world.

12 Q. Are you familiar with data that's put out  
13 by the Energy Information Administration?

14 A. Somewhat.

15 Q. Somewhat?

16 A. Somewhat.

17 Q. In essence, they publish statewide  
18 averages?

19 A. Uh-huh.

20 Q. So you can look at the average electrical  
21 rates in one state and compare them to the average  
22 electrical rates, and they don't necessarily break them  
23 out by utility, but -- so you're vaguely familiar with  
24 that?

25 A. Sure. I know here in the midwest we have

1     some more favorable rates than they do on the west coast  
2     and the east coast.

3             Q.       Right.  Is it fair to say that in terms of  
4     residential and commercial rates, that on a statewide  
5     average we have some of the lowest rates in the country?

6             A.       We have very favorable rates in the  
7     country, if I could quote the Ball State University study  
8     that was done last July.

9             Q.       Right.  And not talking specifically about  
10    Noranda's rate, but is it also fair to say that our  
11    industrial rates, although they're still very good  
12    compared to the national average, don't rank quite as  
13    favorable as residential and commercial?

14            A.       I think that's a very fair statement.  In  
15    the rates that the remaining smelters in the country pay,  
16    we pay somewhere in the middle of that group.  There's  
17    about 14 of them.  Somewhere in the middle.  Don't have  
18    the specific details, but it's not the absolute best, not  
19    the absolute worst.

20            Q.       Okay.  But if, let's say that the average  
21    Missouri electric rate for residential customer ranks,  
22    say, No. 1, 2 or 3 in the country, somewhere, somewhere in  
23    the top -- certainly in the top five, and commercial rates  
24    do, too.  And then industrial rates are somewhat further  
25    down, say ranking 10th or 13th or whatever.  Then that



1 would be an indication that possibly the people setting  
2 rates in those other states are putting more emphasis in  
3 terms of getting favorable electric rates to their  
4 industrial customers than they are to, say, residential or  
5 commercial, would it not?

6 A. Correct. Correct. And if you look at the  
7 regions that surround southeast Missouri, Kentucky,  
8 Tennessee, Arkansas, if you look at more favorable rates,  
9 it's obviously designed to attract industry and jobs, and  
10 that's why they have those more favorable rates, and  
11 anything we can do to make that more favorable in essence  
12 is going to help the state's economy.

13 Q. Now you're -- you're on the board of the  
14 state chamber; is that right?

15 A. Yes, sir.

16 Q. Okay. Has Missouri been gaining or losing  
17 manufacturing jobs?

18 A. Well, I made reference a while ago to the  
19 Ball State University study that was -- came out last  
20 July, and it ranked Missouri No. 1 in the nation for  
21 manufacturing and logistics, and part of that was because  
22 of some improving energy rates, but also, you know, our  
23 location, the river, the transportation system. And the  
24 Department of Economic Development before the bottom fell  
25 out of the economy, Missouri was doing quite well in some

1 of the programs that they have -- they have put together.  
2 But I think right now everybody is seeing somewhat of a  
3 crash in a lot of the markets like we've seen in the  
4 commodity market that's really unprecedented.

5                   So I'm on the chamber's economic  
6 development committee, and I can tell you everyone's  
7 trying to sort out exactly what's happened, because it  
8 happened in such a short period of time, but I think we  
9 have a good basic foundation for economic development in  
10 the state, but there's many things we can do to improve  
11 that atmosphere.

12           Q.       All right. Anything else you wish to add,  
13 Mr. McPheeters?

14           A.       Not at this time.

15           Q.       Well, thank you for your patience. I know  
16 you've got a drive back home, so I apologize for holding  
17 you here for an additional four hours, but appreciate  
18 that.

19           A.       Thank you.

20                   JUDGE WOODRUFF: Anyone wish to recross  
21 based on those questions from the bench? Redirect?

22                   MR. CONRAD: I'll be very brief.

23 REDIRECT EXAMINATION BY MR. CONRAD:

24           Q.       The Chairman asked you a question that  
25 elicited a response about the LME prices.

1           A.       Uh-huh.

2           Q.       Do you recall that? In my opening, I used  
3   apparently an incorrect number, and I'd like to get that  
4   corrected. I think I had said \$1.49 or \$1.48, and I heard  
5   you say a different number. My low end range was also  
6   higher than your low end number. Could you help me out --  
7   get me out of the hole I've dug myself in?

8           A.       Sure. No problem. There was a high in  
9   that \$1.50 range. What I reported was a whole quarter  
10  average of \$1.34, so you started out higher, and obviously  
11  in the third quarter of '08 the market started to come  
12  down, but it still averaged \$1.34, which is not bad at  
13  all.

14                   But when talking today to Nashville and you  
15  hear the price of 69 cents a pound, that's more than  
16  average drop and it's averaging probably -- it's been  
17  trending down quite steadily. We just don't know where  
18  the bottom is. But that number I quoted was a quarter  
19  average, a third quarter average.

20                   MR. CONRAD: Judge, I believe that's all I  
21  have. Thank you.

22                   JUDGE WOODRUFF: All right. Then you can  
23  step down.

24                   THE WITNESS: Thank you, sir.

25                   JUDGE WOODRUFF: And you can head back down

1 to New Madrid.

2 THE WITNESS: Thank you. Thank you, sir.

3 JUDGE WOODRUFF: We have one other Staff

4 witness, Mr. Roos. Please raise your right hand.

5 (Witness sworn.)

6 JUDGE WOODRUFF: Be seated. You may

7 inquire.

8 DAVID ROOS testified as follows:

9 DIRECT EXAMINATION BY MS. KLIETHERMES:

10 Q. Good afternoon, Mr. Roos.

11 A. Good afternoon.

12 Q. Could you please state and spell your name

13 for the record.

14 A. My name is David Roos, D-a-v-i-d, R-o-o-s.

15 Q. And your business address?

16 A. It is 200 Madison Street, Jefferson City,

17 Missouri 65102.

18 Q. And are you the same David Roos who

19 submitted surrebuttal testimony in this matter?

20 A. Yes, I am.

21 Q. And are you same David Roos who contributed

22 to the Staff's class cost of service report?

23 A. Yes, I am.

24 Q. Do you have any corrections to make to that

25 testimony or that report?

1           A.       No, I do not.

2           Q.       And if I were to ask the same questions  
3 today or if you were to draft the same sections again  
4 today, would they be substantially the same?

5           A.       Yes, they would.

6                   MS. KLIETHERMES: I offer Mr. Roos'  
7 surrebuttal testimony and report sections.

8                   JUDGE WOODRUFF: He had rebuttal also, or  
9 he's got rebuttal listed here as 214.

10 BY MS. KLIETHERMES:

11          Q.       Did you have rebuttal?

12          A.       Yes.

13          Q.       In that case, do you have any corrections  
14 to make to your rebuttal testimony?

15          A.       No, I do not.

16          Q.       And if I were to ask you those same  
17 questions today, would you have substantially the same  
18 answers?

19          A.       Yes, I would.

20                   MS. KLIETHERMES: Then I also tender --  
21 submit his rebuttal testimony. My apologies.

22                   JUDGE WOODRUFF: All right. Let's do --  
23 rebuttal and surrebuttal have been offered for Mr. Roos.  
24 Any objection to their receipt?

25                   (No response.)

1 JUDGE WOODRUFF: Hearing none, they will be  
2 received.

3 (EXHIBIT NOS. 214 AND 215 WERE MARKED FOR  
4 IDENTIFICATION AND RECEIVED INTO EVIDENCE.)

5 JUDGE WOODRUFF: And you also offered a  
6 portion of, was it 206?

7 MS. KLIETHERMES: I believe that's 206.

8 MR. CONRAD: Just to clarify, that would be  
9 the remaining portion of that other what had been offered  
10 by Mr. Watkins before or --

11 MS. KLIETHERMES: There's also a portion of  
12 that that's already been offered and accepted that's Mike  
13 Ensrud's. Mr. Roos' sections are on pages 2 through 15.

14 JUDGE WOODRUFF: The concern I think  
15 Mr. Conrad had is, is this the last of this document?

16 MR. CONRAD: That's partly correct, your  
17 Honor.

18 JUDGE WOODRUFF: That was my concern  
19 anyway.

20 MS. KLIETHERMES: I believe that is all.  
21 We're verifying that.

22 JUDGE WOODRUFF: Unless it has something to  
23 do with FAC, it should be everything.

24 MS. KLIETHERMES: I believe that's it.

25 JUDGE WOODRUFF: The balance of 206 has

1     been offered. Any objection to its receipt?

2                     (No response.)

3                     JUDGE WOODRUFF: Hearing none, it will be  
4     received into evidence.

5                     (A PORTION OF EXHIBIT NO. 206 WAS RECEIVED  
6     INTO EVIDENCE.)

7                     JUDGE WOODRUFF: Does anyone wish to  
8     cross-examine Mr. Roos?

9                     MR. CONRAD: Very briefly.

10                    JUDGE WOODRUFF: All right. For Noranda.

11     CROSS-EXAMINATION BY MR. CONRAD:

12                    Q.     Mr. Roos, I'm looking at -- I'm not sure  
13     what page this is, or if it even has a page number. It is  
14     your curriculum vitae, which is toward the end of that  
15     report. Do you have that available to you?

16                    A.     No, I don't have that page.

17                    Q.     Immediately following in the sequence that  
18     I have Mr. Watkins' affidavit --

19                    A.     Okay.

20                    Q.     You have it now?

21                    A.     Yes.

22                    Q.     I just wanted to clarify that you have been  
23     involved -- been employed at the Missouri Public Service  
24     Commission since March of '06, right?

25                    A.     That's correct.

1           Q.       So that's just basically little more than  
2 two years, right?

3           A.       About two and a half years.

4           Q.       So if you recall the discussion that we had  
5 with Mr. Watkins about fouling up rate design that had  
6 been worked on by a large group of people called we for  
7 many years, that we would not include you going back  
8 before March of 2006, right?

9           A.       That's correct.

10          Q.       Now, you list under your -- right down at  
11 the bottom of that, you list previous cases. See that  
12 list?

13          A.       Yes, I do.

14          Q.       And one of those at the very top is the  
15 Empire District Electric Company?

16          A.       Yes.

17          Q.       ER-2006-0315?

18          A.       Yes.

19          Q.       Did you do a cost of service study there?

20          A.       No, I did not.

21          Q.       Am I correct that your testimony there was  
22 limited to an analysis of the impact of continuation or  
23 noncontinuation of what we call the IEC or interim energy  
24 charge?

25          A.       That's correct.



1           Q.       Now, we've talked before today with  
2   Mr. Watkins, I'm certainly not going to recover that  
3   ground, about the next case, which is ER-2007-0002. That  
4   was the next prior AmerenUE case, right?

5           A.       Correct.

6           Q.       And you did work on a class cost of service  
7   study there, right?

8           A.       Correct.

9           Q.       And that was settled, correct?

10          A.       That's correct.

11          Q.       Now, on the Aquila, ER-2007-004, did you do  
12   a cost of service study there?

13          A.       No, I did not.

14          Q.       Am I correct that your testimony there was  
15   limited to an analysis of the impact of revenue on steam  
16   from steam sales?

17          A.       Yes.

18          Q.       On the Kansas City Power & Light case,  
19   ER-2007-0291, did you do a class cost of service study  
20   there?

21          A.       No, I did not.

22          Q.       And on AmerenUE, EO-2007-0409, is that even  
23   a rate case, sir?

24          A.       No, that's not.

25          Q.       That's the --

1           A.       IRP.

2           Q.       IRP case. Thank you. And am I correct or  
3   incorrect that there's not even been formal testimony  
4   filed there; is that correct?

5           A.       That's correct. There's been a Staff  
6   report.

7           Q.       All right. Staff report and so on, stuff  
8   back and forth. Okay. And finally, on the Empire  
9   District case just recently completed, ER-2008-0093, did  
10   you do a class cost of service study there?

11          A.       No, sir.

12          Q.       And am I correct that that was an analysis  
13   of the primary voltage and correcting the revenues there,  
14   primary voltage customers?

15          A.       In general, yes.

16          Q.       I may have it slightly wrong. It may have  
17   been broader than that, but it did not include a class  
18   cost of service study; am I correct?

19          A.       That is correct

20                   MR. CONRAD: Thank you, your Honor. That's  
21   all I have.

22                   JUDGE WOODRUFF: Anyone else wish to cross?

23                   (No response.)

24                   JUDGE WOODRUFF: Come up to questions from  
25   the Bench. Commissioner Murray?

1 COMMISSIONER MURRAY: No questions.

2 JUDGE WOODRUFF: Commissioner Gunn?

3 COMMISSIONER GUNN: No questions.

4 JUDGE WOODRUFF: Chairman Davis?

5 CHAIRMAN DAVIS: No questions.

6 JUDGE WOODRUFF: All right. No need for

7 recross. Any redirect?

8 MS. KLIETHERMES: No questions.

9 JUDGE WOODRUFF: Okay. Mr. Roos, you can

10 step down.

11 And I believe that's all the witnesses on

12 the class cost of service and rate design issues.

13 MR. FISCHER: Judge before we go off the

14 record, can I inquire to make sure Exhibit 36, 38, 39 and

15 40 have been admitted?

16 JUDGE WOODRUFF: My recollection is that

17 they were. That would Mr. Warwick's testimony?

18 MR. FISCHER: Yes, and --

19 JUDGE WOODRUFF: 36 and 38 was admitted.

20 37 you didn't offer because that was --

21 MR. FISCHER: Right. 39 and 40?

22 JUDGE WOODRUFF: 39 and 40 are in.

23 MR. FISCHER: Thank you.

24 JUDGE WOODRUFF: Okay. Anything else we

25 need to deal with on this matter at this time?

1                   MR. CONRAD: Could I inquire as to  
2   counsel's intention or lack thereof with respect to  
3   Mr. Cooper?

4                   MR. FISCHER: We aren't intending.

5                   MR. CONRAD: Very well. We have nothing  
6   further.

7                   JUDGE WOODRUFF: I don't know what that was  
8   about.

9                   MR. CONRAD: I was inquiring if he had any  
10   intention of putting Mr. Cooper on.

11                  JUDGE WOODRUFF: For rebuttal purposes?  
12   Okay.

13                  CHAIRMAN DAVIS: Can we get Staff to  
14   prepare another reconciliation by, say, Wednesday, when we  
15   start back? Would that be feasible?

16                  JUDGE WOODRUFF: Mr. Dottheim, come on  
17   forward and let us know.

18                  MR. DOTTHEIM: Mr. Rackers left a short  
19   while ago, but I think that probably is feasible. I will  
20   check with him and let you know if there's any problem  
21   with that, but I believe that is doable.

22                  JUDGE WOODRUFF: Very good. Well, then, I  
23   believe the next issue then is the FAC, which is not  
24   scheduled until Wednesday of next week. I assume we'll  
25   wait until Wednesday of next week to get started on that.

1                   So at this point then we are adjourned  
2   until 8:30 on Wednesday morning. Thank you.

3                   WHEREUPON, the hearing of this case was  
4   recessed until December 2, 2008.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## I N D E X

## CLASS COST OF SERVICE AND RATE DESIGN

3	Opening Statement by Mr. Fischer	1891
	Opening Statement by Ms. Kliethermes	1892
4	Opening Statement by Mr. Mills	1902
	Opening Statement by Ms. Vuylsteke	1904
5	Opening Statement by Mr. Chamberlain	1905
	Opening Statement by Mr. Conrad	1907
6	Opening Statement by Mr. Pendergast	1910

## MIEC'S EVIDENCE:

## MAURICE BRUBAKER

9	Direct Examination by Ms. Vuylsteke	1913
	Cross-Examination by Ms. Kliethermes	1919
10	Questions by Commissioner Jarrett	1927
	Questions by Commissioner Gunn	1929
11	Questions by Chairman Davis	1931
	Questions by Judge Woodruff	1935
12	Recross-Examination by Mr. Mills	1936
	Recross-Examination by Mr. Conrad	1937
13	Redirect Examination by Ms. Vuylsteke	1938

## DAVID STOWE

14	Direct Examination by Ms. Vuylsteke	1939
15	Cross-Examination by Ms. Kliethermes	1941

## NORANDA'S EVIDENCE:

## DONALD JOHNSTONE

18	Direct Examination by Mr. Conrad	1944
	Cross-Examination by Ms. Kliethermes	1947
19	Questions by Commissioner Murray	1948
	Questions by Commissioner Jarrett	1950
20	Redirect Examination by Mr. Conrad	1952

## STEVE MCPHEETERS

21	Direct Examination by Mr. Conrad	1954
22	Questions by Commissioner Jarrett	1957
	Redirect Examination by Mr. Conrad	1959

1	COMMERCIAL GROUP'S EVIDENCE:	
2	RICHARD A. BAUDINO	
	Direct Examination by Mr. Chamberlain	1963
3	Questions by Commissioner Murray	1965
	Questions by Commissioner Jarrett	1967
4	Questions by Commissioner Gunn	1969
	Recross-Examination by Mr. Mills	1970
5	Recross-Examination by Ms. Kliethermes	1971
6	OPC'S EVIDENCE:	
7	BARBARA MEISENHEIMER	
	Direct Examination by Mr. Mills	1972
8	Questions by Commissioner Murray	1973
	Questions by Commissioner Gunn	1974
9	Questions by Chairman Davis	1975
10	RYAN KIND	
	Direct Examination by Mr. Mills	1976
11	Questions by Commissioner Jarrett	1977
12	AMERENUE'S EVIDENCE:	
13	WILBON COOPER	
	Direct Examination by Mr. Fischer	1982
14	STAFF'S EVIDENCE:	
15	JAMES C. WATKINS	
16	Direct Examination by Ms. Kliethermes	1986
	Cross-Examination by Mr. Mills	1993
17	Cross-Examination by Mr. Conrad	2001
	Cross-Examination by Ms. Vuylsteke	2013
18	Cross-Examination by Mr. Chamberlain	2021
	Questions by Commissioner Gunn	2024
19	Questions by Chairman Davis	2032
	Recross-Examination by Mr. Mills	2046
20	Recross-Examination by Mr. Conrad	2052
	Recross-Examination by Ms. Vuylsteke	2066
21	Redirect Examination by Ms. Kliethermes	2067
22	DAVIS ROOS	
	Direct Examination by Ms. Kliethermes	2077
23	Cross-Examination by Mr. Conrad	2083

24

25

1 REBUTTAL EVIDENCE:

2 STEVE MCPHEETERS

Questions by Commissioner Davis 2085

3 Redirect Examination by Mr. Conrad 2088

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25



1	EXHIBITS INDEX		
2		MARKED	RECEIVED
3	EXHIBIT NO. 36		
4	Direct Testimony of William M. Warwick	1984	1984
5	EXHIBIT NO. 38		
6	Amended Rebuttal Testimony of		
7	William M. Warwick	1984	1984
8	EXHIBIT NO. 39		
9	Direct Testimony of Wilbon L. Cooper	1983	1983
10	EXHIBIT NO. 40		
11	Rebuttal Testimony of Wilbon L. Cooper	1983	1983
12	EXHIBIT NO. 207		
13	Direct Testimony of James C. Watkins	1989	1989
14	EXHIBIT NO. 208		
15	Rebuttal Testimony of James C. Watkins	1989	1989
16	EXHIBIT NO. 214		
17	Rebuttal Testimony of David C. Roos	2087	2087
18	EXHIBIT NO. 215		
19	Surrebuttal Testimony of David C. Roos	2087	2087
20	EXHIBIT NO. 242		
21	Supplemental Testimony of James C.		
22	Watkins	1991	1991
23	EXHIBIT NO. 406		
24	Direct Testimony of Barbara A.		
25	Meisenheimer	1973	1973
26	EXHIBIT NO. 407		
27	Surrebuttal Testimony of Barbara A.		
28	Meisenheimer	1973	1973
29	EXHIBIT NO. 608		
30	Direct Testimony of David L. Stowe	1943	1943
31	EXHIBIT NO. 610NP/HC		
32	Direct Testimony of Maurice Brubaker	1915	1915
33	EXHIBIT NO. 611		
34	Rebuttal Testimony of Maurice Brubaker	1915	1915

1	EXHIBIT NO. 612		
2	Surrebuttal Testimony of Maurice		
	Brubaker	1915	1915
3	EXHIBIT NO. 613		
4	Rebuttal Testimony of David L. Stowe	1940	1940
5	EXHIBIT NO. 614		
	Surrebuttal Testimony of David L. Stowe	1940	1940
6	EXHIBIT NO. 700NP		
7	Direct Testimony of Richard A. Baudino	1964	1964
8	EXHIBIT NO. 701NP		
	Rebuttal Testimony of Richard A.		
	Baudino	1964	1964
9	EXHIBIT NO. 702NP		
10	Surrebuttal Testimony of Richard A.		
	Baudino	1964	1964
11	EXHIBIT NO. 753		
12	Direct Testimony of Donald E. Johnstone		
13	Noranda Operations, Aluminum Industry		
	and Fuel Adjustment Clause	1947	1947
14	EXHIBIT NO. 754		
15	Direct Testimony of Donald E. Johnstone		
16	Class Cost of Service Fuel Adjustment		
	Clause	1947	1947
17	EXHIBIT NO. 755		
	Rebuttal Testimony of Donald Johnstone	1947	1947
18	EXHIBIT NO. 756		
19	Surrebuttal Testimony of Donald		
	Johnstone	1947	1947
20	EXHIBIT NO. 758		
21	Direct Testimony of Steve McPheeters	1957	1957
22			
23			
24			
25			

## 1 C E R T I F I C A T E

2 STATE OF MISSOURI )  
3 COUNTY OF COLE ) ss.

4 I, Kellene K. Feddersen, Certified  
5 Shorthand Reporter with the firm of Midwest Litigation  
6 Services, and Notary Public within and for the State of  
7 Missouri, do hereby certify that I was personally present  
8 at the proceedings had in the above-entitled cause at the  
9 time and place set forth in the caption sheet thereof;  
10 that I then and there took down in Stenotype the  
11 proceedings had; and that the foregoing is a full, true  
12 and correct transcript of such Stenotype notes so made at  
13 such time and place.

14 Given at my office in the City of  
15 Jefferson, County of Cole, State of Missouri.

16

17 Kellene K. Feddersen, RPR, CSR, CCR  
18 Notary Public (County of Cole)  
My commission expires March 28, 2009.

19

20

21

22

23

24

25