

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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5 TRANSCRIPT OF PROCEEDINGS

6 Evidentiary Hearing

7 May 12, 2011

8 Jefferson City, Missouri

9 Volume 30

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12 In the Matter of Union)

13 Electric Company d/b/a)

 AmerenUE's Tariff To Increase)

14 Its Annual Revenue For) File No. ER-2011-0028

15 Electric Service)

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 MORRIS WOODRUFF, Presiding

 CHIEF REGULATORY LAW JUDGE

17 TERRY JARRETT,

 COMMISSIONER.

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21 REPORTED BY:

 NANCY L. SILVA, RPR, CCR

22 TIGER COURT REPORTING, LLC

23

24

25

A P P E A R A N C E S

1
2 MICHAEL TRIPP, Attorney at Law
JAMES B. LOWERY, Attorney at Law
3 Smith Lewis, LLP
111 South Ninth Street
4 Columbia, Missouri 65201
573.443.3141

5 FOR: AmerenUE
6

TOM BYRNE, Attorney at Law
7 WENDY TATRO, Attorney at Law
1901 Chouteau Avenue
8 St. Louis, Missouri 63109
314.554.2514

9 FOR: AmerenUE
10

RUSS MITTEN, Attorney at Law
11 Brydon, Swearingen & England
312 East Capitol Avenue
12 P.O. Box 456
Jefferson City, Missouri 65102-0456
13 573.635.7166

14 FOR: AmerenUE

JENNIFER FRAZIER, Assistant Attorney General
15 P.O. Box 899
Jefferson City, Missouri 65102
16 573.751.8803

17 FOR: Missouri Department of Natural Resources

18 LELAND CURTIS, Attorney at Law
CARL J. LUMLEY, Attorney at Law
19 KEVIN O'KEEFE, Attorney at Law
Curtis, Heinz, Garrett & O'Keefe
20 130 South Bemiston, Suite 200
Clayton, Missouri 63105
21 314.725.8788

22 FOR: The Municipal Group
23
24
25

1 DIANA VUYLSTEKE, Attorney at Law
BRENT ROAM, Attorney at Law
2 CAROL ILES, Attorney at Law
ED DOWNEY, Attorney at Law
3 MARK LEADLOVE, Attorney at Law
Bryan Cave LLP
4 211 North Broadway, Suite 3600
St. Louis, Missouri 63102
5 314.259.2543
FOR: MIEC
6
7 JOHN B. COFFMAN, Attorney at Law
John B. Coffman, LLC
8 871 Tuxedo Boulevard
St. Louis, Missouri 63119
9 314.424.6779
FOR: Consumers Council of Missouri
10
11 DAVID WOODSMALL, Attorney at Law
Finnegan, Conrad & Peterson
12 428 East Capitol, Suite 300
Jefferson City, Missouri 65101
13 573.635.2700
FOR: MEUA
14
15 THOMAS R. SCHWARZ, JR., Attorney at Law
Blitz, Bardgett & Deutsch
308 East High, Suite 301
16 Jefferson City, Missouri 65101
573.634.2500
17 FOR: Missouri Retailers Association
18 LISA LANGENECKERT
Sandberg, Phoenix, VonGontard
19 One City Center Square
15th Floor
20 St. Louis, Missouri 63101
FOR: MEG
21
22 LEWIS MILLS
Office of Public Counsel
23 200 Madison Street
P.O. Box 2230
24 Jefferson City, MO 65102
573.751.4857
25 FOR: Office of Public Counsel

1 STEVE DOTTHEIM, Chief Deputy Counsel
NATHAN WILLIAMS, Deputy Counsel
2 JAIME OTT, Legal Counsel
KEVIN THOMPSON, Chief Staff Counsel
3 JENNIFER HERNANDEZ, Legal Counsel
SARAH KLIETHERMES, Legal Counsel
4 ERIC DEARMONT, Legal Counsel
ANNETTE SLACK, Legal Counsel
5 MEGHAN MCCLOWERY, Legal Counsel
Public Service Commission
6 200 Madison Street
P.O. Box 309
7 Jefferson City, MO 65102
573.751.6514
8 FOR: The Staff of the Missouri Public Service
Commission
9
10
11
12
13
14
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21
22
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1 JUDGE WOODRUFF: Good morning, everyone.
2 Welcome back for another day of the Ameren rate case
3 hearing. There was some developments overnight and
4 since we last were here on Tuesday.

5 MIEC, you filed a stipulation last
6 night. Will you explain what's going on.

7 MS. VUYLSTEKE: Your Honor, as we
8 announced at the hearing on rate design last week,
9 that we wanted to go ahead and ask for an extension
10 so we could bring parties on-board to a stipulation
11 and agreement.

12 It is nonunanimous, but it reflects
13 almost every ratepayer party. The only ratepayer
14 party that is not on the stipulation is the lighting
15 class, and we've been working with them. I don't
16 know that we can ever reach agreement with them, but
17 we certainly have tried and are willing to continue,
18 but I think this nonunanimous stipulation does change
19 the dynamic, from our perspective, for the hearing
20 this morning, and I think we would like to focus on
21 the unified approach that we've agreed to of all the
22 consumers.

23 And in consideration of our discussions
24 with the other parties to the nonunanimous
25 stipulation and agreement, we think we've all agreed

1 that the best approach is to not submit the testimony
2 of Mr. Fayne and Mr. Smith into the record this
3 morning and to simply focus on the cost of service
4 evidence of Mr. Brubaker.

5 And the other parties may wish to speak
6 to their perspective on that, but it's something that
7 we all think is going to provide the best
8 presentation for the Commission.

9 I know that at least one party to the
10 stipulation who's in support of it has had a little
11 bit -- has had an issue with Mr. Smith's testimony
12 and Mr. Fayne's testimony, that if their testimony
13 doesn't go into the record, we can focus on the
14 things we do agree upon.

15 JUDGE WOODRUFF: So you're going to
16 withdraw the Noranda testimony entirely then? Is
17 that the plan?

18 MS. VUYLSTEKE: Correct. Well, we don't
19 plan to introduce it into the record. I think that's
20 the same as withdraw.

21 JUDGE WOODRUFF: Well, yeah.

22 MS. VUYLSTEKE: Okay.

23 JUDGE WOODRUFF: I mean, you're not taking
24 it out of egress. It's still going to be --

25 MS. VUYLSTEKE: Correct.

1 JUDGE WOODRUFF: All right. I understand
2 we do still have -- well, let me ask Ameren where
3 they're at.

4 MR. LOWERY: Well, your Honor, the
5 stipulation wasn't filed until about 12:20 this
6 morning, and we didn't see it until about --
7 personally until about 6:30 this morning.

8 At this point we can't say whether we're
9 going to object to the stipulation or not, but we may
10 object to the stipulation. Depending on what the
11 rate increase may turn out to be, some of the
12 industrial classes get about half the increase that
13 the residential class would receive. Those are rough
14 numbers, but that's what our preliminary analysis
15 shows, and that's, of course, inconsistent with our
16 proposal.

17 This issue that, while we want to focus
18 just on the stipulation, I mean, frankly, under the
19 Fisher case, we're entitled to try the issue, and we
20 may object to the stipulation. Our folks have come
21 down here twice, and so as far as we're concerned,
22 the entire issue remains open.

23 I also would have to question -- if
24 Mr. Smith and Mr. Fayne's testimony is not going to
25 be offered, I would have to question support for the

1 stipulation where, for example, the LGS class gets
2 half the increase that a residential class gets, and
3 it was our expectation that those witnesses would be
4 here this morning. The Commission issued no separate
5 order to that effect.

6 We were here to try the rate design
7 issues, and we do have questions for those witnesses,
8 so it's our position that those witnesses need to be
9 produced and the issue needs to be tried.

10 JUDGE WOODRUFF: All right. What's
11 Staff's position?

12 MS. KLIETHERMES: Similarly, Staff has not
13 had a thorough opportunity to review this. We have
14 some preliminary thoughts, but we certainly haven't
15 had time to have discussions that a situation like
16 this would merit.

17 I'm not sure that we would have --
18 assuming that Mr. Smith and Mr. Fayne's testimony
19 will not be offered, I don't know that we have cross
20 for them, but if that testimony is going to come into
21 the record at some point, I believe we would have
22 cross for them. That's, I think, all that we're --
23 we have knowledge of at this time.

24 JUDGE WOODRUFF: Okay. Ms. Vuylsteke.

25 MS. VUYLSTEKE: Your Honor, I just wanted

1 to respond back to the statements by Mr. Lowery. I
2 think it's very important for the Commission to know
3 that Mr. Fayne and Mr. Smith traveled here and are in
4 Jefferson City and that the decision to take this
5 approach of not offering their testimony was agreed
6 upon based on discussions with the signatories this
7 morning, and this is not a result of anything other
8 than our decision and our election to not introduce
9 their testimony and that that is our right. And I
10 just wanted to, you know, respond that, you know,
11 Ameren would have no reason to cross those witnesses
12 if we're not admitting their testimony.

13 JUDGE WOODRUFF: In effect, you're saying
14 they're not going to be witnesses.

15 MS. VUYLSTEKE: Correct.

16 JUDGE WOODRUFF: Okay.

17 MR. LOWERY: Your Honor, if I may
18 respond --

19 JUDGE WOODRUFF: Sure.

20 MR. LOWERY: -- given that this
21 stipulation gives Noranda half the increase of the
22 residentials and given that their testimony, in
23 effect -- their testimony that's been prefiled, in
24 effect, made the case that Noranda's electricity
25 costs and cost structure was such that they needed to

1 have a lower than -- lower-than-average increase and
2 that affected the economics of the smelter, that goes
3 directly to whether the stipulation, whether the
4 result reflected in the stipulation and rate design
5 perspective is appropriate or not, and so I question
6 the -- I question the support for the stipulation
7 without that evidence.

8 If they choose not to put forth the
9 evidence and we choose not to, for example, subpoena
10 those witnesses, we'll deal with that issue, but
11 there is relevance. Their testimony is relevant to
12 the validity of that stipulation, whether it's
13 appropriate or not and whether it's supported by
14 confident and substantial evidence.

15 JUDGE WOODRUFF: And ultimately, of
16 course, it's going to be up to the Commission to
17 decide whether it's supported by sufficient evidence
18 and whether to accept the stipulation and agreement.

19 Assuming we do go forward with testimony
20 on this issue today, and I think that we will, then
21 it's -- Noranda's taking the risk if they don't want
22 to produce the witnesses.

23 MS. VUYLSTEKE: Your Honor, the testimony
24 of Mr. Smith and Mr. Fayne is certainly relevant and
25 important, and it's something that both witnesses,

1 and Mr. Smith in particular, wanted and were desirous
2 of appearing before the Commission.

3 I do think, however, that in
4 consideration of the stipulation and our discussions
5 with the other parties, it's certainly an option that
6 we have, and we believe that our position is fully
7 supported by the testimony of Maurice Brubaker and
8 the evidence that he has put in the record.

9 Noranda's position is a cost-of-service
10 position, and it is the policy of promoting economic
11 development of making sure that rates are fair for
12 all customer classes, is reflected in the agreement.
13 It's reflected in the testimony that we are putting
14 into the record, and I think that's certainly our
15 decision to make.

16 And, I think, of course, the most
17 important thing is for the Commission to recognize is
18 that this is a decision that is based on agreement of
19 the parties. It is not based on any -- a decision
20 that was simply made today in the spirit of
21 cooperation with them, and there was no other motive
22 for our decision to do that.

23 JUDGE WOODRUFF: Well, we do have at least
24 one issue, I know, that is not part of the
25 stipulation and agreement that needs to be heard

1 today, so we'll go ahead and hear that, and I'm
2 talking about the declining block rates issue that
3 involves natural resources, so we'll go ahead and
4 hear that first, and then we'll go on to the other
5 issues as appropriate.

6 Mr. Woodsmall.

7 MR. WOODSMALL: Just a clarification.

8 Going on to the declining block rates issue, that's
9 clear. I agree with what Mr. Lowery said, that given
10 its nonunanimous stipulation, we have to recognize
11 all hearing procedures.

12 JUDGE WOODRUFF: Yeah.

13 MR. WOODSMALL: So I think it's incumbent
14 that we have a hearing on that issue. Is it your
15 intention, then, to make a decision later about when
16 we come back to that or --

17 JUDGE WOODRUFF: When we come back to
18 which?

19 MR. WOODSMALL: To the class cost of
20 service issue that we need to try.

21 JUDGE WOODRUFF: Correct. Actually, I
22 want to have a chance to consult with some of the
23 commissioners. At least one commissioner who really
24 wants to be here today, Mr. Davis, had some dental
25 emergency problems and may be here a little bit

1 later, so I want to deal with a little less
2 controversial issues first.

3 MR. WOODSMALL: I'm with you.

4 JUDGE WOODRUFF: We'll come back with the
5 others after we take a break.

6 MS. KLIETHERMES: Judge, just for point of
7 clarification, you mentioned the declining block
8 issue. Would we also be addressing, then, the
9 residential customer charge issue this morning?

10 JUDGE WOODRUFF: Yes. Well, that is,
11 actually, part of the stipulation, I believe.

12 MS. KLIETHERMES: Yes. I was just unclear
13 whether not questioning on that would be considered
14 a waiver of the right to question on that.

15 JUDGE WOODRUFF: No, it would not be
16 considered waiver to that.

17 MS. KLIETHERMES: Okay.

18 JUDGE WOODRUFF: When we call the
19 witnesses for the declining block issue, we'll limit
20 it just to that, and if we need to recall those
21 witnesses on the other aspects of the case --

22 MS. KLIETHERMES: All right. That sounds
23 reasonable.

24 JUDGE WOODRUFF: All right.

25 Let's have opening statements, then, on

1 the declining block issue, and we'll take that up.

2 Mr. Dottheim.

3 MR. DOTTHEIM: If we might do just a
4 housekeeping --

5 JUDGE WOODRUFF: All right.

6 MR. DOTTHEIM: -- matter first, going back
7 to the first week of the hearings on the Sioux wet
8 flue gas desulphurisation issue, the Sioux scrubbers
9 issue, I had marked and received into evidence the
10 Staff's construction audit and prudence review, the
11 HC exhibit, which was Exhibit 200-HC.

12 I didn't have at the time the NP and the
13 P version, which Ameren Missouri had filed on
14 April 8. Staff had filed the entire document as HC.
15 I do have copies at this time, the NP and the P
16 version.

17 JUDGE WOODRUFF: If you want to go ahead
18 and give that to the court reporter, then that would
19 be fine.

20 MR. DOTTHEIM: Yes, please, and that would
21 be 200-NP and 200-P.

22 JUDGE WOODRUFF: Okay.

23 MR. DOTTHEIM: Thank you.

24 JUDGE WOODRUFF: All right. Let's --

25 MR. MILLS: Can I bring up one more

1 matter --

2 JUDGE WOODRUFF: Sure.

3 MR. MILLS: -- for a second on the
4 nonunanimous stipulation and agreement?

5 The Commission's Rule 4 CSR 240-2.115
6 allow parties seven days to respond to a nonunanimous
7 stipulation and agreement. Of course, the Commission
8 can change that by order, or the parties can waive a
9 portion of that and so, you know, I understand that
10 the Staff and the Company have not had time to
11 reflect upon the stipulation and agreement, but it
12 might be -- if we're going to take up one issue and
13 then come back later this morning, it might be good
14 to inquire when we come back of those parties how
15 much time they think they need to know whether they
16 will object and to which parts they object, because
17 Rule 115 also requires parties that do object to
18 state which issues they want to hear so --

19 JUDGE WOODRUFF: I will certainly do that
20 and, of course, everything is complicated by the fact
21 that the Commission's schedule over the next few
22 weeks is very, very crowded with the Empire case
23 starting in another week. That complicates things.

24 Mr. Lowery.

25 MR. LOWERY: Your Honor, I don't know that

1 we're going to, really, be able to give you much
2 information, having not even had a discussion with
3 any of the parties of that stipulation, about what it
4 might look like -- well, to this minute we haven't
5 had that discussion, but we certainly didn't know
6 what it looked like until 6:30 this morning, in my
7 case, so I don't think we can be expected to be
8 forced into making a decision about that on the day
9 we get it.

10 JUDGE WOODRUFF: I'm certainly not going
11 to try and force anybody into making any decisions.
12 As Mr. Mills indicated, the rule allows for seven
13 days, and I see the municipal group is not even here
14 this morning, so they can certainly be out there.

15 Even if everybody in the room today
16 indicated that they were in agreement with the
17 stipulation and agreement or wouldn't oppose it,
18 there could still be a possibility of having
19 opposition coming from somebody that's not in the
20 room today.

21 All right. Let's go ahead and get
22 started with the declining block rate issue.

23 Opening for Ameren.

24 MR. MITTEN: Your Honor, would it be
25 acceptable for me to make my very brief opening

1 statement on that issue here (indicated)?

2 JUDGE WOODRUFF: That's fine.

3 MR. MITTEN: The Department of Natural
4 Resources in this case is proposing to eliminate the
5 declining block rate structure for residential
6 customers. As expressed in the prefiled testimony of
7 Laura Wolfe, the rationale for that is the
8 Department's desire to send proper pricing signals to
9 customers to allow them, if they so desire, to
10 conserve the use of electricity.

11 Ameren Missouri opposes that change in
12 this case for a couple of reasons. First of all, if
13 the Commission adopts that, it could result in an
14 increase of as much as 24 percent over and above any
15 increase that is authorized due to an increase in the
16 Company's revenue requirement in this case, and we're
17 concerned that for some customers who really have
18 little choice but to use more than the 750 kilowatt
19 hours per month minimum, that could be very
20 problematic.

21 The other concern we have is that there's
22 really no evidence on the record in this case as to
23 what the effect of the MDNR proposal will be on the
24 billing units that the Commission ultimately must use
25 to spread any rate increase that it grants in this

1 case; therefore, there's a distinct possibility that
2 if the MDNR proposal is adopted in this case, it
3 could materially impact the Company's ability to earn
4 a fair rate of return under whatever rate design is
5 ultimately approved by the Commission in this case.

6 JUDGE WOODRUFF: Opening for Natural
7 Resources.

8 MS. FRAZIER: Thank you, and good morning,
9 Commissioner.

10 Department of Natural Resources does have
11 one issue before the Commission on rate design, and
12 that is whether Ameren should be required to
13 eliminate its declining block rates for the
14 residential winter energy charge.

15 Laura Wolfe, from the Department, will
16 testify today that she no longer disputes Ameren's
17 calculations with respect to the effect of
18 eliminating the declining block rate. So now our
19 issue is one of policy only, and we will be making
20 corrections to her testimony this morning to that
21 effect.

22 The declining block rates should be
23 eliminated in this case and all future rate cases for
24 one simple reason: They reward customers for
25 consuming more energy, instead of less energy. This

1 is contrary to our state's energy policy and contrary
2 to common sense.

3 Further, this can be done in a revenue
4 neutral manner. The Department recognized that if
5 declining block rates are eliminated all at once in a
6 revenue neutral manner, as we recommend, some
7 residential customers will see a decrease in rates
8 and some will see an increase depending, of course,
9 on how much electricity they use.

10 If the customer impact is unacceptable to
11 the Commission, then it has the option of phasing out
12 declining block rates as recommended by the Office of
13 Public Counsel, and which the Department can also
14 support.

15 The reasons Ameren gives for keeping the
16 declining block rates are not persuasive. Just
17 because it's cheaper for Ameren to produce and
18 transmit electricity in the winter months does not
19 mean that we should encourage people to use more
20 electricity in the winter months. This component of
21 rate design is no longer relevant or justified in the
22 current environment, and its historical use should
23 come to an end. Thank you.

24 JUDGE WOODRUFF: Opening for Staff.

25 MS. McCLOWERY: May it please the

1 Commission.

2 Simply put, Staff recommends that the
3 declining block rates structure be retained.
4 Although Staff has filed no testimony on this issue,
5 it generally supports Ameren Missouri's position on
6 this matter.

7 Thank you.

8 JUDGE WOODRUFF: Public Counsel.

9 MR. MILLS: Very, very briefly. Public
10 Counsel believes that declining block rates do send
11 the improper price signal, but we are concerned about
12 the rate impacts, and so while it -- we generally
13 support the move to eliminate or reduce declining
14 block rates, it may be too much to do all in one step
15 in this case.

16 COMMISSIONER JARRETT: May I inquire of
17 Mr. Mills?

18 JUDGE WOODRUFF: Sure.

19 COMMISSIONER JARRETT: Is your proposal
20 also revenue neutral as far as the Company?

21 MR. MILLS: Yes, it would -- well, with
22 something like this, it's perhaps a little more
23 speculative of some other changes because it has to
24 do with the elasticity of demand and whether -- we
25 don't really know exactly what customers will do in

1 response to a change in price signals, but it was
2 intended to be revenue-neutral.

3 COMMISSIONER JARRETT: Thank you,
4 Mr. Mills.

5 JUDGE WOODRUFF: MIEC wish to open?

6 MS. VUYLSTEKE: We have no statement on
7 the issue.

8 JUDGE WOODRUFF: AARP.

9 No statement.

10 JUDGE WOODRUFF: I think that's everyone
11 in the room, so we'll call the first witness, which
12 will be for Ameren.

13 MR. MITTEN: Mr. Cooper, your Honor.

14 JUDGE WOODRUFF: Mr. Cooper? Okay.

15 And you have testified earlier in this
16 proceeding, so you are still under oath.

17 MR. COOPER: Yes. Thank you.

18 JUDGE WOODRUFF: You may inquire.

19 WILBON COOPER, having been previously sworn,
20 testified as follows:

21 MR. MITTEN: Mr. Cooper's testimony has
22 already been received into evidence. I have no
23 further evidence, and he is available for cross-
24 examination.

25 JUDGE WOODRUFF: Okay. For cross-

1 examination, then, we'll begin with AARP.

2 MR. COFFMAN: No questions, your Honor.

3 JUDGE WOODRUFF: MIEC.

4 MS. VUYLSTEKE: No questions.

5 JUDGE WOODRUFF: Public Counsel.

6 MR. MILLS: No questions.

7 JUDGE WOODRUFF: Staff.

8 MS. McCLOWERY: No questions.

9 JUDGE WOODRUFF: DNR.

10 MS. FRAZIER: Good morning, Mr. Cooper.

11 THE WITNESS: Good morning.

12 CROSS-EXAMINATION BY MS. FRAZIER:

13 Q. Mr. Cooper, in your direct testimony you
14 included a discussion of Ameren Missouri's declining
15 block rates for residential customers in the winter
16 months; is that right?

17 A. Yes.

18 Q. And you discussed a study of these
19 declining block rates that Ameren performed pursuant
20 to a stipulation in the last rate case; right?

21 A. Yes.

22 Q. Did the study address the elimination of
23 declining block rates for residential service where
24 Ameren's revenues would remain neutral?

25 A. Yes, if you were to ignore any elasticity

1 of use that's associated with a change or either an
2 increase in the declining block rate or an
3 elimination of same.

4 Q. Wouldn't it be fair to say that the study
5 found that if declining block rates were eliminated
6 with those clarifications that you just made, some
7 residential customers would see their rates go down,
8 and some residential customers would see their rates
9 go up? Would that be a fair statement?

10 A. Yes. That's depicted on Schedule
11 WLCEA-2, I believe.

12 Q. Great. Thank you.
13 Would it be fair to say that the
14 residential customers who would see their rates go up
15 would be those who use more than about 3,000
16 kilowatts per hour per month.

17 A. My schedule depicts about 1400 kilowatt
18 hours, I believe.

19 Q. So 1400 is at the point where those
20 customers would see their rates go up?

21 A. In that range.

22 Q. Thank you.

23 How many kilowatt hours per month does
24 the average residential home use? Do you know?

25 A. I don't have that off the top of my head.

1 Q. Is it in your report somewhere?

2 A. I can --

3 Q. Do you know if it's more than 700 kilowatt
4 hours per month?

5 A. I believe it's in the range of 1,000 to
6 1,100 kilowatt hours per month.

7 Q. How many kilowatt hours per month, if you
8 know, does the average residential space heating
9 customer use?

10 A. That number I do not have with me.

11 Q. All right.

12 Is Ameren Missouri opposed to eliminating
13 the declining block rate in this case?

14 A. Yes.

15 Q. Are you opposed to a phase-out of
16 declining block rates over future cases?

17 A. It depends, and my response to that would
18 be: If there's cost support for an elimination or an
19 increase, so to speak, in the declining block rate,
20 then Ameren would be willing to review that, and then
21 at the same time to look at the other, I'll say,
22 factors, for example, of public acceptance of such,
23 the value of service, revenue stability, and rate
24 stability.

25 Q. Would you agree with me that one of your

1 concerns is the impact to customers', some
2 customers', bills if declining block rates were
3 eliminated in this case? Is that one of the reasons
4 you've been opposed?

5 A. That would be one of the reasons, yes.

6 Q. And so would a phase-out over time address
7 that concern? There wouldn't be the sudden increase
8 in a customer's bill.

9 A. In isolation, the answer would be yes.

10 Q. In your direct testimony you stated that
11 declining block rate is warranted because -- I'll try
12 to quote -- winter space heating makes more efficient
13 use of existing production and transmission installed
14 to meet higher summer demand. That was one of your
15 justifications; correct?

16 A. Yes, they're more efficient,
17 utilizes fixed assets.

18 Q. I'm not sure I understand that. That
19 means to me that we should have declining block rates
20 to encourage higher electricity use in the winter
21 because -- just because the production and
22 transmission capacity is available.

23 A. No, we have declining block rates to
24 reflect cost causation and equitable cost recovery
25 principles, and we feel strongly that the off-peak

1 nature of the residential space heating customers who
2 are the predominant customers, who actually use
3 greater than 750 kilowatt hours, support a lower
4 than -- a lower rate than the initial block at zero
5 to 750, again, because you've got more throughput for
6 a fixed level of investment.

7 Q. Forgive me if I don't understand, but are
8 you saying that the second block of energy costs less
9 to produce than the first block?

10 A. If you're looking at energy costs only,
11 the answer would likely be no. If you're looking,
12 again, at throughput -- maybe an example would be
13 helpful.

14 Let's assume I had a snowball machine and
15 I needed to collect \$1,000 in fixed costs associated
16 with that snowball machine and someone was willing to
17 buy 1,000 snowballs. Well, I would need \$1 per
18 snowball in order to cover my fixed costs associated
19 with the snowball machine.

20 On the other hand, someone else might
21 say, Well, I'll take 2,000 snowballs out of that
22 machine, and that's also assumed that that machine
23 has a capacity to produce that 2,000 snowballs. I
24 would only need 50 cents per snowball in order to
25 cover my fixed costs.

1 Q. Would you agree that charging a reduced
2 rate for higher levels of electricity use encourages
3 higher levels of electricity use?

4 A. No, I would not. The price signal is
5 still there. It's not all you can eat. It's not all
6 you can drink with free refills. To the extent that
7 you use additional energy, you pay for that energy.

8 MS. FRAZIER: Thank you. No further
9 questions.

10 JUDGE WOODRUFF: Commissioner Jarrett, do
11 you have any questions?

12 COMMISSIONER JARRETT: Yes. Good morning.

13 THE WITNESS: Good morning, Commissioner.

14 QUESTIONS BY COMMISSIONER JARRETT:

15 Q. I just had one question. If the declining
16 block rate can be eliminated or phased out in a
17 revenue-neutral fashion, what would be Ameren's
18 objection to that?

19 A. The objection would be that which I stated
20 earlier, and that is that we would need some cost
21 support. We feel strongly that our rates should
22 reflect costs, and it's consistent with the principle
23 of cost causation and equitable cost recovery. We
24 recognize that there are other factors that one
25 considers when designing rates or setting class

1 revenue requirements, but we feel that costs are the
2 primary driver.

3 Q. But if it can be designed in such a way
4 that Ameren would feel comfortable that they were
5 getting all of their costs and it was revenue-
6 neutral, would Ameren have any objection to doing
7 away with the declining block rates, as long as it
8 was designed correctly?

9 A. I would say yes. You know, when you look
10 at our rates, you know, customers want to feel that
11 they're paying a fair price for the service that
12 they're getting. You also want to send a proper
13 price signal so customers use energy efficiently and
14 not in a wasteful manner, and then we also have the
15 element of competition, where we do compete with
16 LaClede Gas, for example, in the metropolitan area,
17 for our space heating load and also water heating
18 load, and some customers also have the option of
19 self-generation.

20 COMMISSIONER JARRETT: Okay. Thank you.

21 JUDGE WOODRUFF: Recross based on those
22 questions from the Bench? Anyone wish to recross?

23 Mr. Mills, we'll start with you.

24 RECROSS-EXAMINATION BY MR. MILLS:

25 Q. Mr. Cooper, when Commissioner Jarrett

1 asked you about getting rid of the declining block
2 rates in the winter, you raised the equitable and
3 cost recovery arguments. Would those same arguments
4 justify inclining block rates in the summer?

5 A. No. We have no quantitative analyses to
6 support an inclining block rate for the summer, but
7 we do have seasonally differentiated rates where the
8 summer rates are, I'll say, higher. I don't know if
9 I'd use the word "materially," but higher in the
10 winter.

11 Q. Doesn't it cost more to produce more
12 energy in the summertime and peak periods?

13 A. Depends on power markets. I would say it
14 costs more than it does in the winter, typically. If
15 you're suggesting that it -- does it cost more on the
16 hottest days of the year? That's likely.

17 Q. So wouldn't that cost basis justify an
18 inclining block rate in the summer in the same way
19 that you justified a declining block rate in the
20 winter?

21 A. Well, I don't think it's quite that
22 simple, Mr. Mills. I would like to conduct, I'd say,
23 a more quantitative analysis, as we did when we first
24 developed a declining block rate for the residential
25 winter rate.

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

2 JUDGE WOODRUFF: Staff or Ameren? Ameren
3 wish to recross?

4 MR. MITTEN: I have some redirect, yes,
5 your Honor.

6 JUDGE WOODRUFF: I'm sorry. Yes. Go
7 ahead.

8 REDIRECT EXAMINATION BY MR. MITTEN:

9 Q. Mr. Cooper, could you direct your
10 attention to WLCEA-2, which I believe Ms. Frazier
11 questioned you about.

12 MS. FRAZIER: Excuse me, your Honor. I
13 object on the basis that I didn't ask any questions
14 about that schedule. I think the witness referred to
15 it in his answer to a question, but I did not bring
16 that up.

17 JUDGE WOODRUFF: I'll overrule the
18 objection.

19 THE WITNESS: Okay. I'm there.

20 BY MR. MITTEN:

21 Q. And I believe in response to a question
22 from Ms. Frazier, you indicated that approximately
23 1400 kilowatt hours per month was the point at which
24 a customer would see increased rates under MDNR's
25 proposal in this case.

1 A. That is correct.

2 Q. What are the characteristics of a customer
3 who would use 1400 or more kilowatt hours of energy
4 over the winter months?

5 A. That would likely be a space heating
6 customer.

7 Q. So in response to another question from
8 Ms. Frazier, you indicated the average usage for an
9 Ameren customer was between 1,000 and 1,100 kilowatt
10 hours per month; is that correct?

11 A. That is correct.

12 Q. So would you expect a space heating
13 customer to use more than that average amount during
14 the wintertime?

15 A. Yes.

16 Q. What options does a customer who uses
17 electricity for space heating in the winter have to
18 reduce usage under the MDNR proposal?

19 A. I guess they could practice thermostat
20 setback if they're -- the thermostat is normally set
21 at 70, maybe they could set it back to a much lower,
22 I guess, temperature, and put on more clothing.

23 Q. So would you agree that there are, really,
24 very limited things that they could do to cut back
25 usage during the winter if they rely on electricity

1 for space heating?

2 A. In many cases that would be true. What I
3 found out over the years in talking to quite a few
4 people with regard to energy consumption, especially
5 in the winter and space heating, especially in the
6 lower-income neighborhoods, is that many lower-income
7 people actually may have gas, natural gas, as their
8 primary supply for heating in the winter, but in some
9 cases the gas is disconnected, and what they'll end
10 up doing is creating, I'll say, a comfort zone, so to
11 speak, and utilizing electric space heating to keep
12 that area warm. In that case -- in those cases, many
13 times they do exceed the zero to 750 threshold of
14 energy and end up using more than that.

15 Q. Ms. Frazier, and also Commissioner
16 Jarrett, asked you about possible phase-in of an
17 elimination of the declining block rate structure in
18 the winter. Do you recall those questions?

19 A. Yes, I do.

20 Q. Is there any evidence in the record in
21 this case as to how to implement a phased-in
22 elimination of the declining block rate structure?

23 A. No.

24 Q. Would that create any problems in terms of
25 spreading revenue -- any revenue increase that the

1 Commission grants in this case?

2 A. Yes, it would.

3 Q. What would be the effect of those problems
4 on the Company?

5 A. Uncertainty.

6 Q. Uncertainty in terms of what?

7 A. In terms of I don't see a reasonable
8 opportunity to earn the fair rate of return granted
9 by the Commission in this case. We would have
10 uncertainty with regard to the billing units.

11 MR. MITTEN: I don't have any further
12 questions, your Honor. Thank you.

13 JUDGE WOODRUFF: Thank you. Then you can
14 step down, Mr. Cooper.

15 We'll move to Ms. Wolfe for the DNR.

16 Ms. Wolfe, you also testified earlier in
17 this proceeding, so you're still under oath as well.

18 THE WITNESS: Yes, sir.

19 LAURA WOLFE, having been previously sworn,
20 testified as follows:

21 JUDGE WOODRUFF: You may inquire.

22 MS. FRAZIER: Excuse me. We do have some
23 corrections to make to testimony. There's no
24 objection, I don't believe.

25 JUDGE WOODRUFF: This would be the time to

1 do it.

2 MS. FRAZIER: Oh, okay. Thank you. I
3 thought you were asking for cross.

4 DIRECT EXAMINATION BY MS. FRAZIER:

5 Q. Ms. Wolfe, are you the same person who
6 sponsored Exhibit 801, which is rebuttal testimony in
7 this case?

8 A. Yes, I am.

9 Q. And I believe 801 has already been
10 admitted into evidence, but I would like to ask if
11 you have any corrections to that testimony since you
12 last testified?

13 A. Yes, I do. I have several lines that I
14 wish to have removed. Beginning on page 16, line 22
15 through line 1, the word "no" on page 18. Also on
16 page 18, line 3, beginning with the word "however"
17 through line -- all of line 10 on that same page.
18 Also on page 18 on line 14, insert the word "a" for
19 "the" and delete the final two words "I
20 demonstrated." This also would eliminate Schedule
21 LAW rebuttal too.

22 Q. Would the rest of your testimony remain
23 the same?

24 A. Yes, it would.

25 MS. FRAZIER: Your Honor, we would ask the

1 record to reflect the -- exhibit 801 amended as
2 stated.

3 JUDGE WOODRUFF: All right. Any objection
4 to the --

5 MS. FRAZIER: And we would tender
6 Ms. Wolfe for cross-examination.

7 Ms. Kliethermes, you're anxious to jump
8 in here.

9 MS. KLIETHERMES: Well, I was nervously
10 twitching. Actually, I was just curious what that
11 testimony generally dealt with. I'm sorry. I don't
12 have a copy of it here.

13 THE WITNESS: I initially sent a data
14 request to Ameren for a copy of the study. I did not
15 see some earlier work papers, so I did not see the
16 original calculation for the flat rate that
17 Mr. Cooper had determined. I have since seen that
18 and agree with his calculations.

19 MS. KLIETHERMES: So it does pertain to
20 this issue as opposed to one of the other issues --

21 THE WITNESS: That is correct. It
22 pertains only to this issue.

23 JUDGE WOODRUFF: For cross-examination,
24 then, we'll begin with AARP.

25 MR. COFFMAN: No questions.

1 JUDGE WOODRUFF: MIEC.

2 MS. VUYLSTEKE: No questions.

3 JUDGE WOODRUFF: Public Counsel.

4 MR. MILLS: No questions.

5 JUDGE WOODRUFF: Staff.

6 MS. McCLOWERY: Good morning, Ms. Wolfe.

7 THE WITNESS: Good morning.

8 MS. McCLOWERY: I just have two questions
9 for you.

10 CROSS-EXAMINATION BY MS. McCLOWERY:

11 Q. Have you done a cost study to determine
12 whether all of Ameren's fixed costs are recovered
13 through the fixed customer charge?

14 A. No, I have not. I anticipated that Ameren
15 would do that since the previous stip asked them to
16 conduct a study of eliminating block rates.

17 Q. Would you agree that to the extent some
18 fixed costs are recovered by volume metric charges, a
19 tail block may be appropriate?

20 A. It is possible, but I have not seen the
21 calculations for that.

22 MS. McCLOWERY: I have no further
23 questions.

24 JUDGE WOODRUFF: For Ameren.

25 MR. MITTEN: Good morning.

1 THE WITNESS: Good morning.

2 CROSS-EXAMINATION BY MR. MITTEN:

3 Q. Am I correct in characterizing MDNR's
4 proposal to eliminate the declining block rate
5 structure as being primarily motivated by a desire to
6 give customers a better pricing signal in terms of
7 their use of electricity?

8 A. Yes, sir.

9 Q. Now, the Company's class cost of service
10 study in this case indicated that if the residential
11 class was going to be moved to a cost-based rate,
12 those rates would have to increase by approximately
13 19 percent; is that correct?

14 A. Yes, I did see that.

15 Q. Is MDNR in favor of increasing the
16 residential rates by 19 percent to give them a
17 completely accurate price signal in terms of the uses
18 of electricity?

19 A. My understanding was the 19 percent
20 increase would only be certain customers --

21 Q. All right.

22 A. -- those that are receiving a reduced rate
23 for greater usage.

24 Q. And would you be in favor of increasing
25 rates by 19 percent for those customers so that they

1 get a completely accurate price signal of the
2 electricity that they're using?

3 A. That's certainly an ugly way to put it,
4 but in terms of those customers having -- receiving
5 their service at a lesser cost when others are paying
6 a slightly higher cost, some of that is offset.

7 Q. But again, my question had to do with
8 pricing signals. If we're going to send completely
9 accurate pricing signals to customers, is MDNR in
10 favor of increasing certain residential customers by
11 as much as 19 percent?

12 A. Yes.

13 Q. You are?

14 A. Yes.

15 Q. Did you file testimony to that effect in
16 this case?

17 A. We are in favor of a flatter rate as
18 opposed to a declining block rate, and that would be
19 the result of that.

20 Q. Is MDNR concerned about rate shock?

21 A. Certainly. We are, and particularly since
22 we've had the opportunity to look at -- we thank
23 Office of Public Counsel for the suggestion of
24 taking, perhaps, multiple steps to get there, which
25 we had thought of that as well, but we were initially

1 looking at a total removal at this point, but after
2 reviewing the calculations, that would, indeed, be a
3 rate shock for a certain number of customers, and so
4 perhaps a better route would be to take steps to
5 eventually eliminate the block rates.

6 Q. Well, Mr. Cooper, in his prefiled
7 testimony, estimates that if MDNR's proposal in this
8 case were adopted by the Commission that some
9 customers' winter rates would increase by as much as
10 24 percent over and above any revenue requirement
11 increase that's approved by the Commission in this
12 case.

13 A. Right.

14 Q. Do you recall that testimony?

15 A. Yes.

16 Q. Would that constitute a rate shock, in
17 your estimation?

18 A. It would for me.

19 Q. Have you done any studies to determine if
20 customers who use more than the Ameren average of
21 1,000 to 1,100 kilowatt hours per month during the
22 wintertime really have any options to help them
23 significantly reduce usage during that period?

24 A. No, I have not.

25 Q. Were you here when Mr. Cooper testified?

1 A. Yes, sir.

2 Q. He indicated that space heating customers
3 might not have any options at all to significantly
4 reduce their usage. Did you hear that testimony?

5 A. Yes.

6 Q. Do you agree with that?

7 A. I agree that there are probably -- there
8 are some customers out there that, due to their
9 economic circumstances, may not have any options, if
10 any.

11 Q. I'm sorry. I didn't mean to cut you off.

12 A. If any.

13 Q. Do you also agree with Mr. Cooper that
14 there isn't any evidence in the record to support a
15 phased-in implementation of the MDNR proposal to
16 eliminate the declining block rate structure for the
17 winter rates?

18 A. I agree.

19 MR. MITTEN: I don't have any further
20 questions. Thank you.

21 JUDGE WOODRUFF: Commissioner Jarrett, do
22 you have any questions?

23 COMMISSIONER JARRETT: Good morning.

24 THE WITNESS: Good morning.

25 QUESTIONS BY COMMISSIONER JARRETT:

1 Q. I just have a couple of questions. I know
2 in her opening, your attorney talked about that this
3 is a, I guess, general policy of DNR.

4 A. Correct.

5 Q. Is that DNR developing that themselves or
6 is there a national push toward getting rid of
7 declining block rates?

8 A. Eliminating declining block rates is one
9 of the recommendations in the National -- NAPEE,
10 whatever that stands for, N-A-P-E-E, National Action
11 Plan for Energy Efficiency.

12 Q. Okay. And are you aware of any other
13 states that are vertically-integrated states,
14 traditional ratemaking states like Missouri that are
15 eliminating declining block rates?

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

17 COMMISSIONER JARRETT: Okay. Thank you,
18 anyway. Thanks for your testimony.

19 JUDGE WOODRUFF: Any recross based on
20 questions from the Bench?

21 (No response.)

22 JUDGE WOODRUFF: Then redirect.

23 MS. FRAZIER: Thank you. Just a couple,
24 Ms. Wolfe.

25 REDIRECT EXAMINATION BY MS. FRAZIER:

1 Q. Counsel for Ameren talked about -- asked
2 you about options for low-income customers. Do you
3 remember that?

4 A. Yes, I do.

5 Q. In terms of options for low-income
6 customers to reduce their energy consumption, would
7 weatherization be an option?

8 A. Weatherization can certainly assist in
9 lowering the cost of keeping a home heated in the
10 wintertime.

11 Q. How about an upgrade of equipment?

12 A. Certainly.

13 Q. Setting back the thermostat?

14 A. Yes.

15 MS. FRAZIER: Thank you.

16 No further questions.

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

19 THE WITNESS: Thank you.

20 JUDGE WOODRUFF: I believe that concludes
21 the declining block portion of this issue.

22 What we're going to do at this time is
23 take a break and come back at 9:45, and we'll decide
24 at that time how we want to proceed with the rest of
25 the day.

1 (A recess was taken.)

2 JUDGE WOODRUFF: Let's go back on the
3 record. We're back from break.

4 Has there been any changes in anybody's
5 position while we were on break?

6 MR. LOWERY: Your Honor, I guess I have a
7 suggestion, maybe, about how we might be able to
8 proceed. I think the Company could commit to making
9 a decision about whether the Company's going to
10 object or not by noon Tuesday.

11 We need to evaluate whether we think we
12 are going to object or just not oppose. I don't
13 think -- I don't see a signing on, but at least
14 whether we're going to object or not oppose, so we
15 could commit to doing that by noon Tuesday.

16 I looked at the Commission's -- what I
17 think is the Commission's calendar next week. If it
18 turned out that we did oppose, it looks like the
19 Commission has time Wednesday morning or Thursday
20 afternoon or even Friday. I would certainly think
21 any hearing that needs to take place could be done in
22 half a day, at the most, but we need to figure out if
23 we did oppose, what questions we might have.

24 I mean, now that we have a stipulation,
25 that may change what we would have otherwise done,

1 and we haven't had any time at all, obviously, to
2 think about that or consider that, so I would suggest
3 not, necessarily, going ahead and having a hearing
4 today because it may be unnecessary. We may not
5 oppose the stipulation.

6 Staff can speak for themselves. They may
7 not oppose the stipulation. And the lighting class
8 may not, and if they don't, then there won't be a
9 need for a hearing at all.

10 JUDGE WOODRUFF: What's Staff's position?

11 MS. KLIETHERMES: I don't think we find
12 that approach unreasonable. We're not certain yet
13 what our position is going to be, and certainly we
14 would like to know what issues, if any, other parties
15 would be opposing -- that certainly has a factor in
16 our decision-making process -- so I think that what
17 Mr. Lowery's suggesting is probably a good way to
18 handle this.

19 JUDGE WOODRUFF: Okay. MIEC have any
20 views on this?

21 MS. VUYLSTEKE: We support that approach.
22 We filed the stipulation with -- you know, just last
23 night. I think early this morning I think people
24 should have time to review it and develop their
25 approach.

1 JUDGE WOODRUFF: Okay. And the question
2 on Mr. Smith and Mr. Fayne? Would they be available
3 or have you made decisions further on whether to
4 offer their testimony?

5 MS. VUYLSTEKE: Your Honor, our original
6 statement still stands. We do not intend to offer
7 their testimony at this point, and I don't know that
8 the position of Mr. Lowery or the position of
9 Ms. Kliethermes, I don't know that there would be any
10 difference regarding their opposition, nonopposition,
11 or delay. I think our position will be the same on
12 that.

13 JUDGE WOODRUFF: Mr. Hughes, would you
14 come forward. I at least wanted to talk to you.

15 (A discussion was held off the record.)

16 JUDGE WOODRUFF: Okay. Anyone else want
17 to be heard on this?

18 (No response.)

19 JUDGE WOODRUFF: Well, I guess it's
20 decision time then. What I'm going to do is postpone
21 the hearing for today. We'll reschedule it for next
22 week after the parties have had a chance to review
23 the stipulation and give their views on whether they
24 wish to oppose it or not.

25 I will also indicate that it's possible

1 out later when we know more what's going on.

2 The other question I had, I was going to
3 ask you before this all came up this morning, is the
4 true-up. We have a true-up scheduled. Were there
5 any true-up issues that anyone wanted to hear?

6 MR. LOWERY: Pardon me, your Honor.
7 Mr. Tripp was asking me a question. I didn't hear
8 your -- it was obvious it was about the true-up.
9 What was your specific question?

10 JUDGE WOODRUFF: Well, in general, were
11 there any other true-up issues that anyone wanted to
12 have heard at a true-up hearing?

13 MR. LOWERY: Presently, it's my
14 expectation, although I would have to confirm this,
15 that we will not need to have a true-up hearing. I
16 think that -- as we've done, I think, in the last
17 three cases, the Company and the Staff, I think, will
18 file, just so the record supports the numbers, both
19 of us.

20 I haven't talked to Mr. Mills or any
21 other parties, so this is all subject to -- this is
22 an expectation, not a confirmed fact, that that's --
23 I'm not aware of there being issues where the numbers
24 are going to be disputed somehow.

25 JUDGE WOODRUFF: Okay.

1 Ms. Kliethermes.

2 MS. KLIETHERMES: The necessary Staff
3 counsel to respond to that isn't present, but I have
4 no knowledge that contradicts what Ameren's just
5 stated.

6 JUDGE WOODRUFF: Well, my thought on that
7 is we do have some dates available, then, if we need
8 to hear anything further on this case aside from any
9 other special setting we might have.

10 Ms. Vuylsteke.

11 MS. VUYLSTEKE: My witness, Mr. Brubaker,
12 reminds me that it would be good at the earliest
13 possible date to know the specifics on any further
14 hearings that we might have on rate design, and I --

15 JUDGE WOODRUFF: I understand.

16 MS. VUYLSTEKE: -- the availability, just
17 making sure that we --

18 JUDGE WOODRUFF: Yes, I will certainly let
19 everybody know as soon as possible as far as that.

20 Mr. Mills.

21 MR. MILLS: Along those lines, Judge, my
22 witness, Mr. Kind, just informed me that he is out of
23 town at a meeting most of next week, but will be
24 available on Friday, which I think is one of the
25 Commission's open days on the calendar.

1 JUDGE WOODRUFF: Okay. That would also
2 get us past the seven days for objections, so we
3 would be talking about the 20th. I'm pulling it up
4 on my calendar here to make sure it's --

5 MR. LOWERY: The weekly docket and the
6 online calendar, at least, shows that day as being
7 open, if that's up-to-date.

8 JUDGE WOODRUFF: That should be. Okay.
9 All right. Well, then we'll continue this hearing
10 and we'll resume at 8:30 on April 20, unless
11 otherwise ordered by the Commission.

12 Ms. Kliethermes.

13 MS. KLIETHERMES: Judge, just as a matter
14 of housekeeping, I think we have some testimony that
15 may not have been offered or received at this point.
16 When would be a convenient time to make sure that the
17 record is properly completed?

18 JUDGE WOODRUFF: Which testimony are you
19 asking about?

20 MS. KLIETHERMES: Well, I guess it's
21 the -- one of the questions would be whether to go
22 ahead and put in the remainder of the Staff's Class
23 Cost of Service Report. There are sections that do
24 not relate to the issues that are affected by the
25 stipulation. I think that's the only Staff

1 testimony.

2 I don't show offered, actually, the
3 surrebuttal testimony of Lisa Hanneken isn't shown on
4 my list as having been offered, which is Exhibit 215.

5 JUDGE WOODRUFF: It shows it has been
6 offered and received. I did that yesterday -- or on
7 Tuesday. Mr. Scheperle's testimony also was
8 involving class cost of service issues, so that's not
9 been received yet.

10 MS. KLIETHERMES: Yes, but there's also
11 portions of the class cost of service and rate design
12 report that dealt with issues, I think LED lighting
13 and some other items like that, that haven't been
14 offered yet.

15 JUDGE WOODRUFF: Why don't you go and
16 offer those now.

17 MS. KLIETHERMES: I would like to offer
18 any Staff testimony not offered to date --

19 JUDGE WOODRUFF: That sounds a little
20 broad.

21 MS. KLIETHERMES: -- which includes, at
22 least, but not limited to, the portions of the
23 Staff's Class Cost of Service Report not previously
24 offered and the Staff's Cost of Service Report not
25 previously offered.

1 JUDGE WOODRUFF: All right.

2 Would that be 201?

3 MS. KLIETHERMES: That would be 201 and
4 204. 201 is the Cost of Service Report. 204 is --

5 JUDGE WOODRUFF: 201, Mr. Thompson offered
6 all of that, and it was received yesterday.

7 MS. KLIETHERMES: Okay. I apologize.

8 JUDGE WOODRUFF: 204, will just be --
9 defer that until we deal with the other class cost of
10 service issues.

11 MS. KLIETHERMES: Okay.

12 JUDGE WOODRUFF: Okay. We are adjourned
13 until Friday the 20th at 8:30.

14 (WHEREUPON, the hearing is adjourned until
15 Friday, May 20, 2011.)

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CERTIFICATE

1
2 I, Nancy L. Silva, RPR, a Certified Court
3 Reporter, CCR No. 890, the officer before whom the
4 foregoing hearing was taken, do hereby certify that
5 the witness whose testimony appears in the foregoing
6 hearing was duly sworn; that the testimony of said
7 witness was taken by me to the best of my ability and
8 thereafter reduced to typewriting under my direction;
9 that I am neither counsel for, related to, nor
10 employed by any of the parties to the action in which
11 this hearing was taken, and further, that I am not a
12 relative or employee of any attorney or counsel
13 employed by the parties thereto, nor financially or
14 otherwise interested in the outcome of the action.

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16 _____
17 Nancy L. Silva, RPR, CCR
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