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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
TRANSCRIPT OF PROCEEDINGS  
Hearing  
February 9th, 2017  
Jefferson City, Missouri  
Volume 10

IN THE MATTER OF )  
KANSAS CITY )  
POWER & LIGHT COMPANY'S )  
REQUEST FOR AUTHORITY )  
TO IMPLEMENT A )  
GENERAL RATE )  
INCREASE FOR ELECTRIC )  
SERVICE, )  
)  
)  
) File No. ER-2016-0285  
)  
)

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Presiding Regulatory Law Judge  
Daniel Y. Hall, Chairman  
Commissioners:  
Stephen M. Stoll  
William P. Kenney  
Scott T. Rupp  
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1 (The hearing commenced at 8:29 a.m.)

2 JUDGE PRIDGIN: Good morning. We are back  
3 on the record in ER-2016-0285. When we went off the  
4 record last night, Mr. Rush was on the stand; Mr.  
5 Opitz was in the middle of cross-examining him. And  
6 so unless I hear anything from counsel, I'll let  
7 Mr. Opitz resume his cross-examination. And,  
8 Mr. Rush, I would remind you you're still under  
9 oath.

10 Is there anything from counsel before we  
11 resume cross?

12 All right. Mr. Opitz, when you're ready,  
13 sir.

14 MR. OPITZ: Judge, may I have permission  
15 to cross from my seat?

16 JUDGE PRIDGIN: You may.

17 CROSS- EXAMINATION

18 BY MR. OPITZ:

19 Q. Good morning, Mr. Rush.

20 A. Good morning.

21 Q. Yesterday we were talking about specific  
22 account numbers in the FAC tariff. Do you recall  
23 that?

24 A. I do.

25 Q. And I believe you mentioned a name of a

1 witness who would be able to have detailed answers.

2 Can you remind of the name of that witness?

3 A. Beth Herrington. She's already been up.

4 Q. Okay. Thank you.

5 MR. OPITZ: Judge, may I approach?

6 JUDGE PRIDGIN: You may.

7 MR. OPITZ: I'd like to have this marked  
8 as 324.

9 (Exhibit 324 was marked for  
10 identification.)

11 Q. (By Mr. Opitz) Mr. Rush, I've handed you  
12 what I have had marked as Exhibit 324.

13 A. Yes.

14 Q. Can you tell me what that document is?

15 A. It is a data request from the office of  
16 public counsel Lena Mantle. It is data request  
17 number 8032.

18 Q. Thank you. And this data request asks  
19 that the company reference the rebuttal testimony of  
20 Mr. Rush at page 27. "Please provide the basis of  
21 Mr. Rush's claim. The commission has consistently  
22 rejected that including costs in the FAC removes the  
23 incentive to take action to decrease nonfuel and  
24 nonpurchase power costs. Please include any report  
25 and orders in which the commission has rejected this

1 claim."

2 And the answer was that: "Commission  
3 approval of FACs supports that claim."

4 A. That's what it says.

5 Q. And so the only basis for your testimony  
6 that the commission has consistently rejected that  
7 including those costs in the FAC removes the  
8 incentive to decrease nonfuel and nonpurchased power  
9 costs is that the commission has approved FACs in  
10 the past?

11 A. I think that would be evidence that the  
12 commission has accepted the position of where the  
13 FACs are today.

14 Q. Have FACs in the past included incentive  
15 mechanisms?

16 A. What time period are you talking about?

17 Q. Well, let's just narrow it to KCPL's  
18 current FAC. For KCPL's current FAC, there is a  
19 95/5 sharing incentive mechanism, isn't there?

20 A. That is correct.

21 Q. Looking at this data request, or  
22 Exhibit 324, you would agree that the question is  
23 directed at your testimony, wouldn't you?

24 A. It is.

25 Q. And the response says that it's provided

1 by Christy Irk; is that correct?

2 A. It does.

3 Q. And attached to this is a verification of  
4 response that is signed by you; is that correct?

5 A. That is correct.

6 Q. Can you tell me the process of how you go  
7 about verifying these responses?

8 A. Essentially, I review every data request  
9 that is submitted by parties in a case to verify its  
10 accuracy. I often help in compiling and putting  
11 together the response. I work towards any  
12 assistance that may be needed to reply to put the  
13 responses together, but, essentially, I review every  
14 single one of the data requests.

15 Q. So if that's the case, wouldn't it just be  
16 simpler to list you as the responding party on these  
17 data requests?

18 A. Sometimes that happens.

19 MR. OPITZ: Judge, I would move for the  
20 admission of Exhibit 324.

21 JUDGE PRIDGIN: 324 is offered. Any  
22 objection?

23 Hearing none, 324 is admitted.

24 Q. (By Mr. Opitz) Mr. Rush, yesterday you had  
25 a copy of your testimony with you. Do you have that

1     again today?

2             A.     I do.

3             Q.     Would you please look at your -- I believe  
4     it's your rebuttal testimony, page 35. And at  
5     line 6, you testify that, "Each time more  
6     information is provided, she uses this information  
7     to argue that the definitions are not clear, that  
8     the costs are not completely identified, and that  
9     the information is not comprehensive."

10            That testimony is referring to OPC witness  
11     Ms. Mantle; is that correct?

12            A.     It is.

13            Q.     Do you agree that if a witness in a case  
14     believes that something is unclear, they should  
15     point it out to the commission?

16            A.     Generally, I think they first ought to  
17     talk to the company or the party that they have the  
18     issue with.

19            Q.     Do you agree that if an expert in a case  
20     believes costs are not identified, they should point  
21     it out -- identified properly or completely, they  
22     should point it out to the commission?

23            A.     I think I just said that I think that they  
24     ought to talk to the party first, and then they --  
25     if not addressed, they should obviously talk to the

1 commission.

2 Q. And you would also agree, then, that if a  
3 party to a case believes that information hasn't  
4 been provided in a comprehensive manner, that that  
5 should be pointed out to the commission?

6 A. I just essentially said, again, that they  
7 should talk to the parties, and then they would talk  
8 to the commission. But I -- in this case, the  
9 company has made every effort to try to provide the  
10 details that have been asked every time.

11 MR. OPITZ: Thank you, Judge. That's all  
12 the cross I have.

13 JUDGE PRIDGIN: Thank you.

14 Any cross, Mr. Berlin?

15 MR. BERLIN: Yes, Judge, I have a few  
16 questions.

17 EXAMINATION

18 BY MR. BERLIN:

19 Q. Good morning, Mr. Rush.

20 A. Good morning.

21 Q. Do you have your surrebuttal in front of  
22 you?

23 A. I do.

24 Q. Could you go to page 4, please.

25 A. I'm there.



1           Q.    Okay.  On line 18 you say that the company  
2   disagrees with Item No. 9 that refers to a reporting  
3   requirement.  If you would please go to line 7 and  
4   read Item No. 9, lines 7 through 10.

5           A.    "The monthly as-burned fuel report  
6   supplied by KCP&L required by 4CSR240-3.1901(1)(b)  
7   shall explicitly designate fixed and variable  
8   components of the average cost per unit burned,  
9   including commodity, transportation, emissions, tax,  
10  fuel blend, and any additional fixed or variable  
11  costs associated with the coverage cost per unit  
12  reported."

13          Q.    Okay.  Thank you.  Now, this objection in  
14  your surrebuttal or your dispute of that report --  
15  now, tell me if I'm wrong, but it's not in your  
16  direct testimony; is that right?

17          A.    My direct testimony was submitted prior to  
18  any other parties' testimony being submitted, so,  
19  yes, it was not included.

20          Q.    Okay.  Thank you.  Mr. Rush, are you  
21  familiar with a report and order in KCPL's previous  
22  rate case ER-2014-0730?

23          A.    Generally.

24          Q.    Do you have a copy of it in front of you?

25          A.    No, I don't.

1 MR. BERLIN: Judge, may I approach?

2 JUDGE PRIDGIN: You may.

3 Q. (By Mr. Berlin) Mr. Rush, please go to  
4 page 47, 48.

5 A. I'm there.

6 Q. Are you there?

7 A. Yes.

8 Q. If you would, would you please read the  
9 sentence that begins with "1066."

10 A. "The monthly as-burned fuel report  
11 supplied by KCP&L required by 4CSR245-03.190(1)(b)  
12 shall explicitly designated fixed and variable  
13 components of the average cost per unit burned,  
14 including commodity, transportation, emission, tax,  
15 fuel blend, and any additional fixed and variable  
16 costs associated with the average cost per unit  
17 reported. (The staff is willing to work with KCPL  
18 on the electronic format of the report).

19 Q. And if you would, please read that first  
20 sentence in paragraph 107.

21 A. "KCPL has agreed to provide this  
22 information to staff."

23 Q. And if you would note that that's  
24 footnoted in the report and order as 163. Would you  
25 please read that 163 footnote.

1           A.    Rush rebuttal -- I'm sorry.  "Exhibit 135,  
2   Rush rebuttal, page 17, transcript Volume 18, page  
3   1700-01."

4           **Q.    And you'll agree with me that that is the**  
5   **report that was ordered in the commission's last**  
6   **rate case report and order?**

7           A.    I would agree with that, yes.

8           **Q.    Has KCPL been complying with that**  
9   **requirement?**

10          A.    I know that we provide the report that's  
11   required.  I don't know if we provide the fixed and  
12   variable components that are mentioned here.

13          **Q.    All right.**

14          A.    I don't know that answer.

15          **Q.    Are you aware, Mr. Rush, that this is a**  
16   **report that staff uses in its FAC prudence review**  
17   **audits?**

18          A.    I am.

19          **Q.    Has KCPL had a prudence review audit of**  
20   **its FAC?**

21          A.    No.

22          **Q.    Are you aware that a prudence review audit**  
23   **of KCPL's FAC is to begin March 1?**

24          A.    Yes -- I'm sorry.  That may have been a  
25   different prudence review.  I don't remember that --

1 the FAC. I think there's another prudence audit  
2 that's going on on another subject.

3 Q. Okay. Mr. Rush, were you here yesterday  
4 for Mr. Blunk's testimony?

5 A. I was, yes.

6 Q. Do you recall yesterday Mr. Blunk making a  
7 statement that it's always prudent to follow a  
8 commission order?

9 A. Yes.

10 Q. Would you agree with Mr. Blunk on that?

11 A. I would.

12 Q. Okay.

13 MR. BERLIN: Judge, I have no further  
14 questions. Thank you.

15 JUDGE PRIDGIN: Mr. Berlin, thank you.  
16 Any bench questions?

17 COMMISSIONER STOLL: I do.

18 JUDGE PRIDGIN: Mr. Stoll.

19 COMMISSIONER STOLL: Good morning, Mr.  
20 Rush.

21 MR. RUSH: Good morning.

22 COMMISSIONER STOLL: I just had a couple  
23 of questions -- after some of the conversations  
24 we've had in here, a couple of questions about cost  
25 recovery for trans- -- let's see -- cost recovery

1 for transmission costs to serve your native load.

2 THE WITNESS: Okay.

3 COMMISSIONER STOLL: Okay. Now, in this  
4 case, you believe -- the company believes that those  
5 transmission costs should also be included in the  
6 FAC; is that correct?

7 THE WITNESS: That's correct.

8 COMMISSIONER STOLL: Okay. And in the --  
9 has -- of course, KCPL has only had an FAC for how  
10 long?

11 THE WITNESS: I believe it went into  
12 effect September of 2015, so it's been 16 months or  
13 so.

14 COMMISSIONER STOLL: Okay. And that was  
15 according to an agreement reached in a comprehensive  
16 settlement or ...

17 THE WITNESS: There was a case -- the last  
18 case ER-2014-4370 that resolved that issue, where a  
19 fuel adjustment was put into place.

20 COMMISSIONER STOLL: Okay. Do you recall  
21 or do you know in what year KCP&L joined the  
22 Southwest Power Pool?

23 THE WITNESS: It's way before my time when  
24 they joined Southwest Power Pool, but as far as an  
25 RTO, the establishment is --

1 COMMISSIONER STOLL: How about that?

2 That's what I really want to know.

3 THE WITNESS: It's been many years, but it  
4 would be in the early 2000 period when the  
5 establishment occurred; I just don't remember. We  
6 were an original entity there.

7 COMMISSIONER STOLL: Yeah. Because the --  
8 SPP goes back to World War II, and so since it  
9 became an RTO, you've been a member.

10 MR. RUSH: Right.

11 COMMISSIONER STOLL: Maybe you've heard,  
12 though. Why did KCP&L join the Southwest Power  
13 Pool?

14 THE WITNESS: Well, a lot of it had to do  
15 with reliability and working together as an entity.  
16 I think a lot of it -- I would feel awkward, but  
17 I -- it had to do with something about aluminum  
18 smelters in Oklahoma and Arkansas and the war  
19 efforts and what was happening at that time, but  
20 I -- I'm way out of my element there, talking about  
21 that.

22 COMMISSIONER STOLL: That's okay. I was  
23 just curious if you knew that.

24 Did KCP&L have to receive authorization to  
25 join the Southwest Power Pool?

1 THE WITNESS: Yes, we did.

2 COMMISSIONER STOLL: And that  
3 authorization came --

4 THE WITNESS: To join the RTO as --

5 COMMISSIONER STOLL: Yeah. I should  
6 just -- yeah. Anytime I say to join SPP, I'm saying  
7 RTO.

8 Yeah. So when they joined the RTO, did  
9 they have to have authorization to do that?

10 THE WITNESS: We did.

11 COMMISSIONER STOLL: And that came from?

12 THE WITNESS: The commission here.

13 COMMISSIONER STOLL: The commission.  
14 Okay. So did --

15 THE WITNESS: I'm sorry to interrupt, but  
16 in Kansas, also, we went through a similar process.

17 COMMISSIONER STOLL: With the Kansas  
18 Corporation Commission?

19 THE WITNESS: That's correct.

20 COMMISSIONER STOLL: Okay. Did membership  
21 in SPP, as you say it was approved by the  
22 commission, did it change the way KCP&L viewed  
23 transmission cost recovery?

24 THE WITNESS: I don't think it did,  
25 because it predated anything with regard to the fuel

1 adjustment clause. So we did not have a fuel  
2 adjustment clause at that time at all, so it would  
3 basically -- we had to look at how we operated our  
4 transmission business, and we had to provide  
5 evidence that it was still beneficial to be a part  
6 of SPP. We have to go through a process with the  
7 commission on a regular basis to do that.

8 COMMISSIONER STOLL: And so in your --  
9 with your membership in SPP, you were -- as an RTO,  
10 you -- the company sells their native load --  
11 technically, I guess, sells the native load into the  
12 power pool and then buys back what it needs to serve  
13 native load?

14 THE WITNESS: That is correct, yes.

15 COMMISSIONER STOLL: Are there additional  
16 transmission costs that have occurred because of  
17 that relationship in the RTO? How does that work?

18 THE WITNESS: There are additional  
19 activities that are occurring at SPP that previously  
20 were handled by KCP&L where -- for example, we used  
21 to provide our own spinning reserve, we used to  
22 provide our own support of our system. Now we've  
23 relinquished that over to the RTO and they manage  
24 it. And so now they go out and they're treated like  
25 a huge utility, and they pick and choose what



1 generators are to run, instead of us deciding that,  
2 for example, and so they try to manage the system to  
3 the most economic means they can, and so they are --  
4 they are really in control to the best of their  
5 ability to make the most efficient decisions they  
6 can for the whole RTO organization.

7 COMMISSIONER STOLL: Okay.

8 THE WITNESS: And so there's tremendous  
9 efficiencies that are coming out of that that we  
10 could not achieve on our own.

11 COMMISSIONER STOLL: And that's all of the  
12 benefit of being in an RTO?

13 THE WITNESS: That's correct.

14 COMMISSIONER STOLL: Okay. Let's see. So  
15 there -- any new costs would have resulted -- any  
16 new transmission charges would have resulted because  
17 of the membership -- the relationship of the RTO and  
18 the fact that some of the services that are provided  
19 by the RTO used to be provided by Kansas City Power  
20 & Light itself?

21 THE WITNESS: That's correct. And if you  
22 kind of think about it, when we -- while we may have  
23 had increases in costs for transmission cost, for  
24 example, there is an evaluation that says that will  
25 provide a benefit elsewhere, and it probably is in

1 the energy side. So we would see a reduction in  
2 the -- you know, in the energy cost, while we might  
3 see an increase in the transmission cost. All of  
4 those work hand in glove; they're just -- it all  
5 fits together so that it's one activity happening.  
6 So they have this thing called -- I think it's  
7 called co-optimization, but where they're trying to  
8 come up with the best solution for every single hour  
9 for every entity in the SPP RTO.

10 So while the company is paying additional  
11 costs, we've had tremendous increases in  
12 transmission costs. The purpose of that is to see  
13 reductions in other things, such as the energy cost  
14 and to make the system more efficient and economic  
15 for all parties.

16 COMMISSIONER STOLL: What I was trying to  
17 understand is how a membership of the RTO may have  
18 affected the transmission cost to serve the native  
19 load.

20 THE WITNESS: Right.

21 COMMISSIONER STOLL: And you -- Kansas  
22 City Power & Light doesn't differentiate between  
23 transmission cost to serve native load or to -- for  
24 off-system sales or for purchase power.

25 THE WITNESS: That is correct. I mean,

1 it's all comingled together in one -- we don't say,  
2 Okay, this is the transmission cost for our native  
3 load coming in, and this is the transmission cost  
4 for wholesale, if we're selling out, or what we're  
5 purchasing; it's all comingled together.

6 COMMISSIONER STOLL: Okay. I think that's  
7 the -- all of the questions I have.

8 THE WITNESS: Okay.

9 COMMISSIONER STOLL: Thank you.

10 THE WITNESS: Okay.

11 JUDGE PRIDGIN: Further bench questions?

12 COMMISSIONER KENNEY: Actually, I just --  
13 my questions were regarding the same topic that  
14 Commissioner Stoll, and he's asked about every one  
15 except one.

16 When did the change take place that  
17 utility -- your utility was -- had to -- I noticed  
18 SPP has gone through some changes, and --

19 THE WITNESS: They've gone through some  
20 changes, yes.

21 COMMISSIONER KENNEY: Where you sell all  
22 of your energy, all of your load in, and then you  
23 buy back -- or you buy back what's for your native  
24 load.

25 THE WITNESS: That would have been in the

1 IM market that -- think it was in March or April of  
2 2014, when everything -- I believe it was 2014 that  
3 everything changed.

4 COMMISSIONER KENNEY: Okay.

5 THE WITNESS: Somebody may correct me,  
6 but ...

7 COMMISSIONER KENNEY: Now, were the SPP  
8 administration fees, the NERC and FERC fees an issue  
9 with GMO prior to 2014 in their FAC?

10 THE WITNESS: There were additional  
11 transmission costs that with incurring, yes.

12 COMMISSIONER KENNEY: Were they excluded  
13 from the FAC?

14 THE WITNESS: You're talking about the  
15 administrative costs?

16 COMMISSIONER KENNEY: I'm just trying  
17 to -- I know with the changeover with SPP, I'm just  
18 curious if that's when -- because we -- I only  
19 remember dealing with this about -- on your FAC and  
20 the GMO cases. I don't remember it beforehand.

21 THE WITNESS: It's been probably the last  
22 three cases that we've brought before this  
23 commission where we've addressed the transmission at  
24 GMO, and so it's probably been over the last -- less  
25 than five years that we've had this issue of

1 trending of cost in the transmission, and that's  
2 really because of the build-out that's occurred  
3 because of the creation of the RTO's efficiency and  
4 their plan. But everything takes some time. Once  
5 the plan was established, it took some time for this  
6 build-out to occur --

7 COMMISSIONER KENNEY: Are you talking  
8 about the FERC/NERC plans or ...

9 THE WITNESS: I'm talking about the RTO's  
10 build-out to improve the efficiency where they've  
11 actually directed each utility to build certain  
12 transmission facilities, and, you know, that was, to  
13 me, where we really started seeing the cost  
14 increases. The administrative cost of SPP, they  
15 have always had it, but the escalation of that has  
16 not happened until the last few years.

17 COMMISSIONER KENNEY: Okay. Great.  
18 Thanks.

19 JUDGE PRIDGIN: Thank you.

20 Further bench questions?

21 Any cross based on bench questions?

22 Mr. Lowry?

23 MR. LOWRY: No, thank you.

24 JUDGE PRIDGIN: Mr. Opitz?

25 MR. OPITZ: Just very briefly, Judge.

1 EXAMINATION

2 BY MR. OPITZ:

3 Q. Mr. Rush, you were just asked about FERC  
4 fees and NERC fees. Do you recall that?

5 A. I do.

6 Q. And the company is seeking to include  
7 those in its FAC now?

8 A. Yes.

9 Q. Has the company performed an evaluation as  
10 to whether the FERC fees are volatile?

11 A. We've shown you the different price --  
12 we've gone through a price evaluation and the cost  
13 and provided that information. We've not looked at  
14 the individual because I think you looked at the  
15 totality of the costs.

16 Q. So for the FERC fees, the company hasn't  
17 provided any testimony stating that those FERC fees  
18 in isolation are volatile?

19 A. We have provided -- I believe it was in  
20 the testimony of John Carlson that provided evidence  
21 about the volatility -- about the pricing and cost  
22 of the FERC and NERC and administrative fees.

23 Q. But nothing that says they're volatile and  
24 nothing that says that they're stable?

25 A. I believe he did provide information

1 regarding that.

2 Q. Okay. Is there any analysis providing  
3 testimony that the NERC fees are stable?

4 A. Again, you're getting down to a very, very  
5 finite piece, and I would say that we looked at the  
6 totality of the whole cost and looked at that as an  
7 evaluation of whether there was lot of volatility  
8 and the variability associated with that.

9 Q. So as an isolated cost, you did not for  
10 the NERC fees?

11 A. That, again, would have been addressed in  
12 Mr. Carlson's testimony.

13 MR. OPITZ: That's all I have. Thank you,  
14 Judge.

15 JUDGE PRIDGIN: Thank you.

16 Mr. Berlin?

17 MR. BERLIN: No questions, Judge.

18 JUDGE PRIDGIN: Redirect? Mr. Zobrist,  
19 when you're ready.

20 MR. ZOBRIST: Judge, this is not exactly  
21 redirect at this point, but the chairman asked  
22 yesterday about information with regard to  
23 transmission revenue and transmission expense, and I  
24 believe Mr. Rush said it was contained in the staff  
25 revenue requirement report, and so I have pages from

1 those reports, highly confidential, for the bench at  
2 this point and copies for the counsel, and they are,  
3 specifically with regard to the transmission  
4 revenue, on page -- oh, I'm sorry. They're not HC  
5 anymore, so ...

6 Page 70 relates to transmission revenue  
7 and page 136 relates to transmission expense.

8 JUDGE PRIDGIN: And, Mr. Zobrist, did you  
9 want that marked and offered as an exhibit or ...

10 MR. ZOBRIST: That's fine, Judge. Yeah,  
11 I've lost track of the numbers, so --

12 JUDGE PRIDGIN: As have I. I am trying  
13 to --

14 MR. ZOBRIST: I didn't know if because it  
15 was a request for the bench, if you wanted it marked  
16 differently --

17 JUDGE PRIDGIN: I would show it as -- I  
18 think your next exhibit number would be No. 157.  
19 That is my list. If anybody sees anything  
20 different, please let me know, but we'll label that  
21 as 157.

22 (Exhibit No. 157 was marked for  
23 identification.)

24 JUDGE PRIDGIN: And this is 157, and even  
25 though it has an HC designation, I believe



1 Mr. Zobrist, you acknowledge that this is actually  
2 public --

3 MR. ZOBRIST: Yes, Judge, that's correct.  
4 And I've given a copy to Mr. Rush, if any of the  
5 members of the commission here this morning have any  
6 questions.

7 JUDGE PRIDGIN: Thank you.

8 MR. ZOBRIST: And then I do have a couple  
9 redirect questions.

10 JUDGE PRIDGIN: When you're ready.

11 EXAMINATION

12 BY MR. ZOBRIST:

13 Q. Mr. Rush, yesterday Mr. Opitz asked you a  
14 number of questions about your or the company's  
15 definition of purchase power, fuel, and some other  
16 items. What is the basis for your use of those  
17 terms: Fuel, purchase power, off-system sales, and  
18 so forth?

19 A. I would use the uniform system of accounts  
20 established by Federal Energy Regulatory Commission.  
21 I did include those -- those definitions in my  
22 testimony, and I believe it was in my schedule --  
23 TMR-8, I had a definition of what fuel is purchase  
24 power, et cetera, and I should have used that in my  
25 discussions yesterday, but that would have been my

1 definition of fuel, is whatever the uniform system  
2 of accounts addressed accounts 501, 547, 518.

3 Q. And are -- the descriptions of those  
4 accounts, were they contained in the company's  
5 application in this case that were in compliance  
6 with the commission's regulations with regard to the  
7 fuel adjustment clause and what must be presented  
8 with the description of fuel costs, purchase power,  
9 and so forth?

10 A. They were, yes. Several different places.

11 Q. And is that attached to your direct  
12 testimony?

13 A. It is attached to my direct testimony.

14 Q. And also attached to your direct  
15 testimony, is there a fuel adjustment clause base  
16 calculation that refers to each of those FERC  
17 accounts?

18 A. There is. And that's contained in TMR-5,  
19 page 1 of 13, but there are 12 other pages that  
20 support that, that actually walk through all of the  
21 cost components.

22 Q. And when I said "FERC account, what I'm  
23 referring to is the uniform system of accounts  
24 promulgated by FERC.

25 A. That's correct. Okay. I would agree.

1           **Q. With regard to Mr. Opitz's questions**  
2 **related to the surveillance report, it indicated**  
3 **that the company was earning 9.88 percent. How**  
4 **would you characterize that figure in the context of**  
5 **what's happened in the past 12 months?**

6           A. Well, I kind of picture it as a point --  
7 picture in time of 12 months of information, not  
8 necessarily of a consistent basis that you can say,  
9 Oh, okay, well, that's how we will continue on.  
10 There were a number of things in that period of time  
11 where the time period that Mr. Opitz was talking  
12 about, of which we had a warmer weather period of  
13 time that significantly altered what the earnings  
14 were, that has a significant bearing. There was a  
15 point in time where we had maintenance that did not  
16 occur during that period that has occurred later on  
17 in the fourth quarter of 2018, so it was a timing  
18 issue associated with that.

19           **Q. Let's be explicit. What does the effect**  
20 **of hot weather have on the company's earnings?**

21           A. Well, it can have the bearing of  
22 increasing the earnings because there are additional  
23 sales that occur to customers, and because of our  
24 rate design that we have where we have a high energy  
25 rate, higher than the variable cost of fuel, that

1 you actually increase your earnings. Likewise, if  
2 we had a low or a cooler summer, you'd have lower  
3 earnings because of that, potentially, and it's part  
4 of the rate design of the company that the company  
5 has. So it has a very big bearing on our earnings,  
6 whether it's a hot period or a cold.

7 **Q. Pardon me for interrupting. Go ahead.**  
8 **You were talking about --**

9 A. That's fine. I was just saying that  
10 outages -- we had a period of time, 12 months,  
11 ending that September period he was referencing,  
12 where we did not have a lot of maintenance occur.  
13 We have -- in the fourth quarter of 2016, did have  
14 quite a bit for maintenance. That was simply a  
15 scheduling and timing period. So you can't just  
16 take a picture of time.

17 **Q. Now, Commissioner Stoll was asking you**  
18 **about the company's joining Southwest Power Pool.**  
19 **What authority did this commission exercise in about**  
20 **2009, when both this company and KCP&L Greater**  
21 **Missouri Operations Company proposed to transfer the**  
22 **functional operational control of your transmission**  
23 **system to Southwest Power Pool?**

24 A. Right. We went through a process where we  
25 went through an application to do so. The

1 commission ruled that that is an interim subject to  
2 review again. We've had to file, basically, a cost  
3 evaluation back to the commission to assure that we  
4 were still in compliance with that. We've done that  
5 once. I think the last one we have is a -- there's  
6 some agreement that came about to wait another  
7 period of time without doing this extensive cost  
8 study. There was a fairly substantial cost of doing  
9 the financial side of it, but the commission is  
10 still keeping an eye on the interim basis, subject  
11 to continued review of being a party of SPP.

12 **Q. And just finally, I think in response to**  
13 **one of Commissioner Stoll's questions, you were**  
14 **talking about the ancillary services provided by**  
15 **SPP, the generation dispatch process, this**  
16 **co-optimization process.**

17 A. Right.

18 **Q. Who is the witness on behalf of the**  
19 **company who testified on those issues?**

20 A. Jessica Tucker talked extensively about  
21 her process is to make sure it brings together in  
22 the most efficient manner from the company's  
23 perspective, and she works with that to do so.

24 MR. ZOBRIST: Thank you, Mr. Rush.

25 Nothing.

1 JUDGE PRIDGIN: Mr. Zobrist, thank you.  
2 Mr. Rush, thank you very much. You may  
3 step down.

4 I believe our next witness would be  
5 Ms. Barnes from Ameren Missouri.

6 LYNN BARNES,  
7 of lawful age, being first duly sworn, testifies as  
8 follows:

9 EXAMINATION

10 BY MR. LOWRY:

11 Q. Would you please state your name for the  
12 record.

13 A. Lynn Barnes.

14 Q. Did you cause to be prepared for filing in  
15 this docket rebuttal testimony that's been marked  
16 for identification as Exhibit 750.

17 A. I have.

18 Q. Do you have any corrections to that  
19 testimony?

20 A. I do. I have four corrections. First of  
21 all, on page 13 in Footnote 5. At the very end of  
22 the footnote it says, "Finally, MISO has added a few  
23 charge types." It says "Five over the past few  
24 years --" that "five" should be six -- "-- as its  
25 market has evolved." And then it said, "Two of

1 which have added revenues"; that should be "three."

2 On page 16 in line 4, at end of the  
3 sentence it says, "Components of purchase power  
4 which are "pre" by -- and the word "pre" should be  
5 replaced with the word "offset."

6 On page 26, line 21, the case number there  
7 is incorrect. Instead of it being ER-2016-0166, it  
8 should be 2012-0166.

9 And, finally, on page 27, line 17 and 18,  
10 it is similar as a footnote replacement. "MISO has  
11 implemented -- " instead of five new charge types,  
12 it should be six, and in line 18, "In fact, two of  
13 the new charge types --" should say "three."

14 Q. (By Mr. Lowry) And were those all of the  
15 corrections that you had?

16 A. Yes.

17 Q. With those corrections, if I asked you the  
18 questions posed in your testimony, would your  
19 answers be the same?

20 A. Yes.

21 Q. Are the answers that you gave true and  
22 correct to the best of your knowledge and belief?

23 A. Yes.

24 MR. LOWRY: With that, Your Honor, I'd  
25 offer Exhibit 750 and tender Ms. Barnes for

1 cross-examination.

2 JUDGE PRIDGIN: Mr. Lowry, Thank you. Let  
3 me make sure I've got the number correct. It's 750.

4 MR. LOWRY: Correct.

5 JUDGE PRIDGIN: Okay. 750 has been  
6 offered. Any objections?

7 Hearing none, 750 is admitted.

8 Cross-examination? KCP&L?

9 MR. ZOBRIST: No questions, Judge.

10 JUDGE PRIDGIN: Thank you.

11 Staff? Mr. Berlin?

12 MR. BERLIN: One question, Judge.

13 EXAMINATION

14 BY MR. BERLIN:

15 Q. Good morning, Ms. Barnes.

16 A. Good morning.

17 Q. I listened to Mr. Lowry's opening  
18 statement about Ameren's intervention in this case,  
19 and I would like to hear in your own words what your  
20 objective is in appearing in the KCPL rate case FAC  
21 issue.

22 A. Certainly. We believe that the FAC in  
23 Missouri is important and has been developed over  
24 the years with -- as a collaboration between both --  
25 all the parties have been involved, as well as the



1 commission, in different rulings, and that  
2 regulatory consistency is very important. It seems  
3 in this case that the positions that have been  
4 offered by the OPC for KCPL are similar to the  
5 issues and proposals that they are raising in our  
6 case, and we're concerned that decisions that might  
7 get made in this case would be then impactful to us,  
8 and it seems to me that, you know, making a change  
9 as significant as the OPC is proposing without  
10 really a reason to do so demonstrated by the  
11 parties -- the companies would signal maybe a policy  
12 change that is a little more significant than just  
13 something that would pertain to KCPL.

14 So we're just very concerned about making  
15 sure that our views are expressed and that the  
16 commission has the benefit of our views before they  
17 make that decision, because it could impact us.

18 MR. BERLIN: Thank you. I have no other  
19 questions.

20 JUDGE PRIDGIN: Mr. Berlin, thank you.

21 Mr. Opitz?

22 MR. OPITZ: A few, Judge. Thank you.

23 CROSS-EXAMINATION

24 BY MR. OPITZ:

25 Q. Good morning, Ms. Barnes.

1 A. Good morning.

2 Q. You filed testimony in this case and are  
3 appearing here as a witness; right?

4 A. Uh-huh.

5 Q. And did you spend any time reviewing,  
6 researching, and preparing your testimony?

7 A. Yes.

8 Q. Are any of the costs associated with your  
9 work in this Kansas City Power & Light case being  
10 charged to Ameren Missouri rate payers?

11 A. They're part of my -- yeah, I guess, they  
12 are. I think they appropriately should be.

13 Q. Are they being included as rate case  
14 expense in Ameren Missouri's current rate case?

15 A. No.

16 Q. So the costs incurred are your salary and  
17 your time that's normally spent on Ameren Missouri  
18 work?

19 A. Right. Which I would consider this Ameren  
20 Missouri work, frankly.

21 Q. Now, you would agree that you also have  
22 counsel here today; correct?

23 A. Yes.

24 Q. Is Ameren seeking to recover the cost of  
25 counsel for the company to participate in this

1 Kansas City Power & Light rate case from Ameren  
2 Missouri rate payers?

3 A. Yes.

4 Q. Is that cost -- are you seeking to recover  
5 that cost in rate case expense in the company's  
6 pending rate case?

7 A. No.

8 Q. Are you seeking to recover that cost in  
9 the legal fees account in the company's current rate  
10 case?

11 A. I think this expense will come outside of  
12 the test year, so I would say no.

13 Q. Would that expense fall within the true-up  
14 period?

15 A. No, since a true-up ended at the end of  
16 December.

17 Q. Thank you. Are you aware that attorneys  
18 appearing on behalf of Ameren Missouri attended all  
19 four of the local public hearings for the Kansas  
20 City Power & Light rate case?

21 A. I was not aware.

22 Q. Are you aware whether or not Ameren is  
23 seeking to recover the cost of having counsel attend  
24 those Kansas City Power & Light local public  
25 hearings in its current race case?

1           A.     I am not aware.

2           MR. OPITZ:   That's all of the questions I  
3     have.

4           JUDGE PRIDGIN:   Thank you.

5           Any bench questions?

6           Any redirect?

7           MR. BERLIN:   Yes, Your Honor, just a  
8     couple of questions.

9                               EXAMINATION

10          BY MR. LOWRY:

11           Q.     Ms. Barnes, when you answered Mr. Opitz's  
12     questions about whether rate payers are paying for,  
13     you know, your time or salary or the time that I've  
14     spent, and he asked you, I think, about general  
15     legal expense, as opposed to rate case expense in  
16     Ameren Missouri's rate case --

17           A.     Uh-huh.

18           Q.     -- isn't it correct that the accounts to  
19     which general legal expense are charged are not  
20     trued up in Ameren Missouri's rate case? Isn't that  
21     right?

22           A.     That's true.

23           Q.     And unless we are in a test year in  
24     Ameren Missouri's next rate case right now,  
25     customers aren't going to be impacted at all by the

1 expenses that may have been incurred for your salary  
2 or time or my time in Ameren Missouri's next rate  
3 case; isn't that correct?

4 A. That would that be correct.

5 MR. LOWRY: Thank you.

6 JUDGE PRIDGIN: All right. Thank you.

7 Ms. Barnes, thank you very much. You may  
8 step down.

9 Our next witness would be -- is it  
10 Mr. Meyer?

11 ANDREW MEYER,  
12 of lawful age, being first duly sworn, testifies as  
13 follows:

14 EXAMINATION

15 BY MR. LOWRY:

16 Q. Thank you. Would you please state your  
17 name for the record.

18 A. Andrew Meyer.

19 Q. Mr. Meyer, did you cause to be prepared  
20 for filing in this docket rebuttal testimony marked  
21 as Exhibit 751?

22 A. I did.

23 Q. Do you have any corrections to that  
24 testimony?

25 A. I do, one. On page 9, line 1, there's a

1 typo where I say the audit report was issued  
2 March 27th, 2005. It was issued in 2015.

3 Q. And no other corrections?

4 A. Correct.

5 Q. If I were to pose the questions in that  
6 testimony to you, would your answers be the same  
7 here today, with that one correction?

8 A. They would.

9 Q. Are your answers true and correct, to the  
10 best of your knowledge and belief?

11 A. They are.

12 MR. LOWRY: With that, Your Honor, I offer  
13 Exhibit 751 and tender Mr. Meyer for  
14 cross-examination.

15 JUDGE PRIDGIN: Thank you. 751 is  
16 offered. Any objection?

17 Hearing none, 751 is admitted.

18 Cross? Mr. Berlin?

19 MR. BERLIN: No questions, Judge.

20 JUDGE PRIDGIN: Mr. Opitz?

21 MR. OPITZ: No, thank you, Judge.

22 JUDGE PRIDGIN: Any bench questions?

23 All right. Mr. Meyer, thank you very  
24 much.

25 I believe the next witness is Ms. Sarver.

1                                   ASHLEY SARVER,  
2   of lawful age, being first duly sworn, testifies as  
3   follows:

4                                   EXAMINATION

5   BY MR. BERLIN:

6           **Q.   Please state your name for the record.**

7           A.   Ashley Sarver.

8           **Q.   And how are you employed?**

9           A.   By the Missouri Public Service Commission  
10   as a utility regulatory auditor.

11          **Q.   How long have you been employed by the**  
12   **commission?**

13          A.   Three and a half years.

14          **Q.   And are you the same Ashley Sarver that**  
15   **caused to be prepared certain testimony of the**  
16   **staff's calculation of the fuel adjustment clause**  
17   **base factor, which is found on page 36 of staff's**  
18   **rate design class cost-to-service report?**

19          A.   Yes.

20          **Q.   And that is premarked as Exhibit 202, I**  
21   **would note. And do you have any corrections to your**  
22   **testimony at this time?**

23          A.   No.

24          **Q.   And is your testimony true and correct to**  
25   **your best information and belief?**

1           A.    Yes.

2                   MR. BERLIN:   Judge, I tender the witness  
3   for cross-examination and note that I understand  
4   that staff's direct report will be moved into  
5   evidence at the end of this proceeding, when all  
6   witnesses have testified.

7                   JUDGE PRIDGIN:   Thank you.

8                   MR. BERLIN:   Thank you.

9                   JUDGE PRIDGIN:   All right.   Any cross,  
10   Mr. Opitz?

11                   MR. OPITZ:   No, thank you, judge.

12                   JUDGE PRIDGIN:   KCPL?   Mr. Zobrist?

13                   MR. ZOBRIST:   No questions, Judge.

14                   JUDGE PRIDGIN:   Mr. Lowry?

15                   MR. LOWRY:   No questions.   Thank you.

16                   JUDGE PRIDGIN:   Any bench questions?

17                   COMMISSIONER KENNEY:   No questions.

18                   JUDGE PRIDGIN:   Ms. Sarver, thank you very  
19   much.

20                   I believe we are now on to public counsel  
21   witnesses.

22                   MR. ZOBRIST:   I think it's Mr. Luebbert.

23                   JUDGE PRIDGIN:   Did I miss somebody?   I'm  
24   sorry.   I don't see -- I apologize if I missed.   I  
25   don't see anybody else on that list, but that's



1 perfectly fine. Will that be the last staff  
2 witness?

3 MS. MEYERS: Yes, Judge. He's on the  
4 notice of correction.

5 JUDGE PRIDGIN: Thank you. My apologies.

6 J. LUEBBERT,  
7 of lawful age, being first duly sworn, testifies as  
8 follows:

9 EXAMINATION

10 BY MS. MEYERS:

11 Q. Mr. Luebbert, please state your name for  
12 the record.

13 A. J. Luebbert.

14 Q. And could you please spell your first and  
15 last name.

16 A. It's the letter J. Luebbert,  
17 L-u-e-b-b-e-r-t.

18 Q. And Mr. Luebbert, where are you employed  
19 and in what capacity?

20 A. The Missouri Public Service Commission.  
21 I'm a utility engineering specialist.

22 Q. Are you the same J. Luebbert who prepared  
23 or caused to be prepared portions of the revenue  
24 requirement cost of service report, which has been  
25 marked as Exhibit 200, as well as a surrebuttal

1 testimony that's been marked as Exhibit 214?

2 A. I am.

3 Q. Do you have anything you wish to correct  
4 in either of these testimonies?

5 A. I have one correction.

6 Q. Is that correction to your direct or your  
7 surrebuttal?

8 A. Surrebuttal.

9 Q. What page?

10 A. Page four, lines 5 and 6 beginning with,  
11 "as" and ending with the citation should be deleted.

12 Q. So the deletion would be "As required by  
13 4CSR243.163 3(q); is that correct?

14 A. 3.161 3(q), yes.

15 Q. Okay.

16 MR. ZOBRIST: I'm sorry. Could I get that  
17 again, please? The page and --

18 THE WITNESS: Page 4, lines 5 and 6  
19 beginning -- or -- "As required by  
20 4CSR240-3.161(3)(q) should be deleted.

21 MR. ZOBRIST: Thank you.

22 Q. (By Ms. Meyers) Do you have any other  
23 corrections, Mr. Luebbert?

24 A. I don't.

25 Q. So with those corrections in mind, if I

1 asked you the same questions today, would your  
2 answers be the same?

3 A. Yes.

4 Q. Is the information in these documents true  
5 and accurate to your knowledge and belief?

6 A. Yes.

7 MS. MEYERS: And at this time, Your Honor,  
8 I'm only going to move to offer 214, Mr. Luebbert's  
9 surrebuttal, and I tender Mr. Luebbert for cross.

10 JUDGE PRIDGIN: Ms. Meyers, Thank you.

11 Any objection?

12 Hearing none, 214 is admitted.

13 Cross-examination, Mr. Opitz?

14 MR. OPITZ: Briefly, Judge.

15 CROSS-EXAMINATION

16 BY MR. OPITZ:

17 Q. Good morning, Mr. Luebbert.

18 A. Good morning.

19 Q. Your testimony in staff's case is related  
20 to the heat rate testings requirements; is that  
21 correct?

22 A. Yes.

23 Q. And did the company provide that  
24 information in its direct case filing?

25 A. They supplied part of the information.

1 Q. And so to the extent the remainder was  
2 supplied, was that as a result of a follow-up data  
3 request?

4 A. Yes.

5 Q. Once that information was supplied, what  
6 was the -- I guess, what did do you with that  
7 information?

8 A. I reviewed the heat rate test results that  
9 were supplied and compared those to the previous  
10 results.

11 MR. OPITZ: That's all of the questions I  
12 have. Thank you, Judge.

13 JUDGE PRIDGIN: Thank you.

14 Cross-examination Ameren? Mr. Lowry?

15 MR. LOWRY: No questions, Judge.

16 JUDGE PRIDGIN: Mr. Zobrist?

17 MR. ZOBRIST: Thank you, Judge.

18 EXAMINATION

19 BY MR. ZOBRIST:

20 Q. Mr. Luebbert, in reviewing the testing  
21 information that was provided by the company both in  
22 its direct case and in response to staff's data  
23 request, did you come to a conclusion as to whether  
24 those tests were performed correctly?

25 A. KCPL provided in the last case testing --

1 just a moment.

2 They developed a generating heat rate  
3 testing procedure, and I have no reason to believe  
4 that they didn't follow that procedure.

5 Q. Has any party to this case, including  
6 public counsel, provided any evidence to the  
7 contrary?

8 A. No.

9 Q. Now, public counsel witness Mr. Robinett  
10 submitted rebuttal testimony in this case. Do you  
11 recall that?

12 A. Yes.

13 Q. And Mr. Robinett made a recommendation  
14 with regard to the establishment of what he called a  
15 baseline to compare future test results against. Do  
16 you remember that?

17 A. Yes.

18 Q. Okay. And what is staff's view of that  
19 recommendation?

20 A. Can you clarify that for me?

21 Q. Yes. Does staff believe that it is  
22 appropriate for the commission to adopt that  
23 recommendation in this rate case?

24 A. The recommendation to create a baseline?

25 Q. Correct. As proposed by the Office of

1 **Public Counsel.**

2 A. It's staff's position that the commissions  
3 should not require that.

4 **Q. Thank you.**

5 MR. ZOBRIST: No further questions.

6 JUDGE PRIDGIN: Mr. Zobrist, thank you.

7 Bench questions?

8 COMMISSIONER KENNEY: No questions. Thank  
9 you.

10 JUDGE PRIDGIN: Thank you. Redirect?

11 MS. MEYERS: Just briefly, Judge.

12 EXAMINATION

13 BY MS. MEYERS

14 **Q. Mr. Zobrist asked you about follow-up DR.  
15 When did you send that follow-up DR? I guess I  
16 could clarify. Was it in response to the company's  
17 direct filing?**

18 A. Yes.

19 **Q. Yes. And then when did you provide the  
20 conclusion that they were -- had provided all of the  
21 necessary heat rate tests?**

22 A. That would have be in staff's cost of  
23 service report.

24 **Q. So part of our direct filing as well?**

25 A. Yes.

1           Q.    Thank you.  And then in regards to  
2   Mr. Zobrist's question about Mr. Robinett's  
3   rebuttal, and you stated that staff's position was  
4   that the commission should not order baselines to be  
5   created at this time.  Could you provide some more  
6   insight on that?

7           A.    Yeah.  The rule doesn't require the  
8   company to set a baseline.  The requirement set  
9   forth by the rule is actually that the company  
10  supply the heat rate test results within its filing,  
11  and they've -- they've done so.

12          Q.    Correct.  And I believe it's also part of  
13  staff's position that it should be done in a FAC  
14  rule-making context; isn't that correct?

15          A.    Yes.  If the rule were to change, I don't  
16  think that it's appropriate to do so within a rate  
17  case.

18          Q.    All right.

19                MS. MEYERS:  Thank you, Mr. Luebbert.  No  
20  further questions.

21                JUDGE PRIDGIN:  Ms. Meyers, thank you.

22                Mr. Luebbert, thank you very much.  You  
23  may step down.

24                Now I think we're going on to  
25  Mr. Robinett.

1           And you have already been sworn previously  
2 Mr. Robinett, so you are still under oath.

3           Mr. Opitz, whenever you are ready.

4                               EXAMINATION

5 BY MR. OPITZ:

6           **Q. Mr. Robinett, your testimony has already**  
7 **been previously admitted, but since we have a new**  
8 **court reporter, would you state and spell your name**  
9 **for the record.**

10          A. I believe she's the same one from  
11 yesterday.

12          **Q. Oh, I apologize. I thought you testified**  
13 **on the first day.**

14          MR. OPITZ: With that, I'll tender the  
15 witness for cross.

16          JUDGE PRIDGIN: Mr. Opitz, thank you.  
17 Cross-examination? Staff?

18          MS. MEYERS: No cross, Judge.

19          JUDGE PRIDGIN: Ms. Meyers, thank you.

20          Mr. Lowry?

21          MR. LOWRY: No, thank you.

22          JUDGE PRIDGIN: Mr. Zobrist?

23          MR. ZOBRIST: Just briefly.

24

25



1 EXAMINATION

2 BY MR. ZOBRIST:

3 Q. Mr. Robinett, as I understand it in your  
4 surrebuttal testimony, with regard to the unit  
5 trained depreciation issue, you changed your  
6 position from that which was stated in your rebuttal  
7 testimony. Is that fair to say?

8 A. Yes.

9 Q. Okay. And in surrebuttal, you stated that  
10 with regard to the unit trained depreciation  
11 expense, that you simply want to avoid double  
12 counting of that expense; correct?

13 A. Yes.

14 Q. Okay. And that the recommendation to  
15 allow for changes in depreciation expense on unit  
16 trains can be reflected in the fuel adjustment  
17 clause, as long as there's not double counting?

18 A. Yes.

19 MR. ZOBRIST: Okay. Nothing further,  
20 Judge.

21 JUDGE PRIDGIN: Thank you.

22 COMMISSIONER KENNEY: No questions. Thank  
23 you.

24 JUDGE PRIDGIN: Redirect?

25 MR. OPITZ: No, thank you, Judge.

1 JUDGE PRIDGIN: Thank you.

2 Mr. Robinett, thank you. May step down.

3 I believe the next witness is Riley.

4 JOHN S. RILEY,

5 of lawful age, being first duly sworn, testifies as  
6 follows:

7 EXAMINATION

8 BY MR. OPITZ:

9 Q. Thank you, Judge.

10 Mr. Riley, would you please state and  
11 spell your name for the record.

12 A. My name is John S. Riley, R-i-l-e-y.

13 Q. And where are you employed and in what  
14 capacity?

15 A. I'm employed with the Office of Public  
16 Counsel as a utility accountant.

17 Q. Are you the same John Riley who prefiled  
18 direct, rebuttal, and surrebuttal testimony marked  
19 as OPC Exhibits 316, 317 and 318?

20 A. That is correct.

21 Q. Do you have any corrections to make to  
22 that testimony?

23 A. Yes, I do. I have one.

24 Q. And what is that correction?

25 A. In my surrebuttal, page 10, line 16, I had

1 pointed out that KCPL files FERC Form 580 annually.  
2 That is incorrect; it is biannually.

3 Q. Are there any other corrections?

4 A. No. No, there is not.

5 Q. And have those corrections changed the  
6 conclusions contained in your testimony?

7 A. No, they have not.

8 Q. If I were to ask you the same questions  
9 that are posed in your prefile testimony, would your  
10 answers be the same today?

11 A. Yes, they would.

12 Q. And your answers are true and correct, to  
13 the best of your knowledge and belief?

14 A. Yes.

15 MR. OPITZ: With that, Judge, OPC would  
16 move into evidence Exhibits 316, 317, and 318.

17 JUDGE PRIDGIN: 316, 317, 318 have all  
18 been offered. Any objection?

19 Hearing none, Exhibits 316, 317, 318 are  
20 admitted.

21 MR. OPITZ: Thank you, Judge. I tender  
22 the witness for cross-examination.

23 JUDGE PRIDGIN: Cross, Ms. Meyers? Any  
24 questions -- Mr. Berlin, excuse me.

25 MR. BERLIN: That's all right.

1 CROSS-EXAMINATION

2 BY MR. BERLIN:

3 Q. I have a -- just a couple of questions.  
4 Good morning, Mr. Riley.

5 A. Good morning, sir.

6 Q. Mr. Riley, are you familiar with Public  
7 Counsel Data Request 1314?

8 A. Yes, sir, I am.

9 MR. BERLIN: Judge, may I approach?

10 JUDGE PRIDGIN: You may.

11 Q. (By Mr. Berlin) I'd like to mark this as  
12 an exhibit. I don't know the number, Judge, where  
13 we're at.

14 JUDGE PRIDGIN: Let me review. I think --  
15 just a moment, please.

16 MR. BERLIN: I think it could be 236.

17 JUDGE PRIDGIN: I haven't seen anything  
18 that wasn't premarked, so I think it would be 236.  
19 Thank you.

20 (Deposition Exhibit No. 236 was marked for  
21 identification.)

22 Q. (By Mr. Berlin) Okay. Mr. Riley, what  
23 I've handed out to you was staff's copy of Public  
24 Counsel's Data Request 313 to 316 to KCPL, and down  
25 below there's the actual request on the front page

1 for 313. Does this look familiar to you?

2 A. Yes, it does, sir.

3 Q. Okay. And it says on the second page it  
4 was issued -- submitted on behalf of John Riley; is  
5 that correct?

6 A. That's correct.

7 Q. Okay. And attached is a response -- and I  
8 believe it's not the entire response, but there is a  
9 spreadsheet that talks to currently excluded but  
10 proposed to be included items by account number and  
11 resource number, and then there's a resource  
12 description. Do you see that?

13 A. Yes, I do.

14 Q. Is this attachment part of the response by  
15 KCPL to your data request?

16 A. I think this is, yes.

17 Q. And so this -- is this the source document  
18 you use in your surrebuttal schedule JSRS-2?

19 A. Well, I think it was an updated version  
20 they provided, and it was a complete spreadsheet of  
21 several months. I condensed it down to, I believe,  
22 the totals for 2015, but, basically, this is the  
23 same idea, yes.

24 Q. Okay. So it's a pretty accurate list,  
25 then, of currently excluded but proposed four

1 inclusion types of expenses under the various  
2 account codes listed. Would you agree with me  
3 there?

4 A. I'll agree with you that it's rather  
5 extensive. To be exactly like my testimony, I'm not  
6 quite sure.

7 Q. Okay. All right. That's fair enough.

8 MR. BERLIN: All right, Judge. I would  
9 just move that this exhibit be admitted into  
10 evidence.

11 JUDGE PRIDGIN: 236 has been offered.

12 Any objections?

13 Hearing none, 236 is admitted.

14 MR. BERLIN: I have no further questions.  
15 Thank you.

16 JUDGE PRIDGIN: All right. Thank you.

17 Cross-examination, Mr. Lowry?

18 MR. LOWRY: Yes, Your Honor. Thank you.

19 CROSS-EXAMINATION

20 BY MR. LOWRY:

21 Q. Good morning, Mr. Riley.

22 A. Good morning, sir.

23 Q. Your surrebuttal testimony on page 1,  
24 particularly at line 11, you make claims about the  
25 degree to which the FAC tariff proposed by KCP&L in

1 this case is consistent with the Missouri statute,  
2 do you not?

3 A. Can you redirect me there again, sir? I  
4 didn't catch that.

5 Q. Page 1, line 11 of your surrebuttal  
6 testimony.

7 A. Yes.

8 Q. You make claims about the degree to which  
9 the tariff they've proposed is consistent with the  
10 Missouri statute, do you not?

11 A. Yes, sir.

12 Q. And the statute you're referring to is  
13 Section 386.266; is that right?

14 A. I believe so, yes.

15 MR. LOWRY: May I approach, Your Honor?

16 JUDGE PRIDGIN: You may.

17 Q. (By Mr. Lowry) I've just handed you a  
18 document that's titled, "Public Counsel's Responses  
19 --" and it should have said, "To Ameren Missouri's  
20 First Set of Data Requests to OPC." Do you  
21 recognize that?

22 A. Not really.

23 Q. You haven't seen this document before?

24 A. I can't say that I have.

25 Q. Do you have any reason to believe that

1 these are not the responses provided by your  
2 colleague Lena Mantle to data requests that company  
3 submitted to OPC in this case?

4 A. No, I don't have any reason to doubt that.

5 Q. If you take a look at the second and third  
6 question -- and certainly take the time you need to  
7 read it -- both of them, but I'm going to suggest to  
8 you what they ask and what the answer is, and you  
9 can take a look and confirm whether I'm correct  
10 about that.

11 Essentially, the questions ask whether or  
12 not Ms. Mantle is claiming that the proposal by  
13 KCP&L in this case in its FAC tariff is inconsistent  
14 with the FAC statute, Section 386.266, if the costs  
15 that KCP&L wants to include would be inconsistent  
16 with that statute, and the answer that is given is,  
17 first, an objection by OPC's lawyers, followed by  
18 Ms. Mantle indicating she doesn't have an opinion  
19 about whether KCPL's proposal is inconsistent. Is  
20 that a fair paraphrase of the answer?

21 A. Yes, sir.

22 Q. Are you expressing a legal opinion about  
23 whether or not KCPL's proposal is consistent while  
24 Ms. Mantle is indicating she has no such opinion?

25 A. I'm not expressing a legal opinion, sir;



1 I'm making an opinion about the law and I'm pointing  
2 that out, that that possibly may not be correct, and  
3 I'm asking the commission to make that opinion.

4 Q. You're making an opinion about the law,  
5 but you're not offering a legal opinion? Is that  
6 your testimony?

7 A. My -- I have concerns about whether it  
8 is -- if it is following statute.

9 Q. You don't, in fact, know what Section  
10 386.266 does or does not require as a matter of law;  
11 isn't that fair?

12 A. If you're asking if I'm a lawyer, no.

13 Q. Well, first I asked whether you know what  
14 386.266 requires as a matter of law or not. Do you  
15 know?

16 A. No. I'm not going to -- I've read the  
17 statute and I have questions on whether it's legal,  
18 yes.

19 Q. Okay. You aren't a member of the general  
20 assembly when that statute was adopted, were you?

21 A. No. I don't think so.

22 Q. Let's turn to pages 2 and 3 of your  
23 surrebuttal testimony. Is it fair to say -- and  
24 I'll give you a second to get there.

25 A. Yes, sir.

1 Q. Is it fair to say that you are suggesting  
2 that the provision in KCP&L's tariff -- and you  
3 attached these tariff sheets. I think they're  
4 sheets 50.4 and 50.5 -- that you are suggesting that  
5 the provision in KCPL's tariff that allows for SPP  
6 charge types that come along between rate cases,  
7 that that provision in the tariff, which is in the  
8 tariff today is somehow inconsistent with the FAC  
9 statute. Is that basically what you're arguing?

10 A. I guess I'd have to agree, yes.

11 Q. Are you -- you've read the FAC statute.  
12 You just indicated you have; correct?

13 A. Yes, I have.

14 Q. Do you recall -- and I can show it to you  
15 if you don't, but do you recall that the statute  
16 says that the commission is authorized to approve  
17 rate schedules that would allow a utility to reflect  
18 inquiries and decreases in prudently incurred fuel,  
19 purchase power, associated transportation, et  
20 cetera? Is that a fair paraphrase of the statute?

21 A. I would probably agree, yes.

22 Q. And the tariff that KCPL -- the FAC tariff  
23 that KCPL has in place today, it -- those are the  
24 rate schedules that the commission approved in its  
25 last rate case under that statute; is that true?

1     **Would you agree?**

2           A.    I don't know exactly how they were  
3 approved, but, yes, they are in the tariffs, so,  
4 yes.

5           Q.    Well, when the commission was authorized  
6 by the statute to approve rate schedules that allow  
7 changes in fuel and purchase power to flow through,  
8 that's a reference to an FAC; correct?

9           A.    That would be correct, yes.

10          Q.    And the commission approved the FAC tariff  
11 in the last rate case; right?

12          A.    Yes, they did.

13          Q.    And that tariff is in effect right now;  
14 isn't that right?

15          A.    That's correct.

16          Q.    And the provision that you suggest might  
17 be inconsistent with 386.266 is in that approved  
18 tariff and was approved by the commission; isn't  
19 that right?

20          A.    That's correct.

21          Q.    I've handed you the fuel adjustment clause  
22 portion of the report and order in KCPL's last rate  
23 case, which ends in the number 3070. You're  
24 familiar with this, aren't you?

25          A.    Yes.

1 Q. Would you turn to page 48 of that order  
2 excerpt.

3 A. I'm there.

4 Q. Could you read the issue on page 48 that's  
5 bolded that the commission is resolving in that  
6 case?

7 A. Number 18?

8 Q. Correct.

9 A. "If the commission authorizes KCPL to have  
10 an FAC, should KCPL be allowed to add costs and  
11 revenue types to its FAC between rate cases?  
12 Finding of Facts 108 --"

13 Q. You don't need -- yeah. Thank you. You  
14 don't need to go on with the rest of it.

15 And in resolving that issue -- the issue  
16 being, can KCPL add cost or revenue types to its FAC  
17 between rate cases, in resolving that issue, the  
18 commission said, and I quote:

19 "KCPL should not be able to add costs and  
20 revenue types to its FAC between rate cases unless  
21 the FAC tariff provides for those changes."

22 Did I read that correctly?

23 A. Where exactly was that, sir?

24 Q. Under the "Conclusion of Law and Decision"  
25 heading on that same page.

1 A. That's the way I read your sentence, yes.

2 Q. That's what the commission said; correct?

3 A. That's correct.

4 Q. And the commission, in fact, approved an  
5 FAC tariff that does provide for those changes for  
6 KCPL; isn't that right?

7 A. Yes.

8 Q. And while you cited a portion of this  
9 order in your surrebuttal testimony in support of  
10 your claim that it's inappropriate to have such a  
11 provision, you didn't cite this portion or point out  
12 its existence in your surrebuttal testimony at all,  
13 did you?

14 A. No, I did not.

15 Q. And it's certainly a relevant ruling of  
16 the commission to the issue we're discussing, is it  
17 not?

18 A. Well, I guess, yes, it could be relevant.

19 Q. Okay. Page 8, lines 10 to 25 of your  
20 surrebuttal testimony, you cite this commission's  
21 rule -- " and I'm -- are you there? I'll give you a  
22 second?

23 A. Page 8, yes.

24 Q. Lines 10 to 25 is what I'm going to ask  
25 you about.

1           You cite this commission's rule that you  
2 characterize at USOA rule -- is that how you  
3 characterize that rule?

4           A.    Yes.

5           Q.    And then you go on to argue that this  
6 commission's USOA rule supports your contention that  
7 FERC Account 151 should control which fuel costs are  
8 included in KCPL's FAC; right?

9           A.    That's a fair characterization.

10          Q.    Now, first of all, the USOA rule of this  
11 commission, as you point to it, by its expressed  
12 terms does not commit this commission to follow the  
13 USOA when it fixes rates or when it determines any  
14 other matter before the commission; isn't that  
15 right?

16          A.    I would probably agree with you, yes.

17          Q.    Secondly, would you agree that Account 151  
18 is an asset account?

19          A.    Yes, I would.

20          Q.    And asset accounts are recorded on the  
21 balance sheet of the utility, not the income  
22 statement. Would you agree with that?

23          A.    That's correct.

24          Q.    Would you agree that the cost and revenues  
25 that are tracked in a fuel adjustment clause are

1 expenses or revenues on the income statement?

2 A. Yes, I would.

3 Q. OPC argues, I think, that a key reason --  
4 I think, actually, the argument is that the key  
5 reason that OPC argues that only costs recorded in  
6 Account 151 should be included in the FAC, and we're  
7 talking about fuel costs here -- is because there  
8 are separate FERC regulations governing what OPC  
9 calls a FERC fact, and those FERC fact regulations  
10 place the limitations on fuel cost components.  
11 Isn't that your argument?

12 A. Yes. We believe that 151 should be the  
13 defining definition of "fuel."

14 Q. And the regulation -- you cite that  
15 regulation -- that separate regulation at page 11,  
16 lines 2 to 13 of your surrebuttal; correct?

17 A. A portion of it, yes.

18 Q. That regulation is not a part of the  
19 uniform system of accounts, is it?

20 A. You know, I spent a whole lot of time  
21 reviewing my testimony for the claim that I said  
22 that it was part of the uniform system.

23 Q. I didn't -- and I'm not suggesting -- I  
24 don't think you did say that; I'm just asking  
25 whether you can confirm that it's not. Isn't that

1 right?

2 A. No, it's -- I don't believe it is.

3 Q. No Missouri Commission regulation refers  
4 to or adopts this FERC regulation on the FERC fact  
5 that you point to; isn't that right?

6 A. They have not adopted -- officially  
7 adopted the definition, and we believe 151 should be  
8 used.

9 Q. FERC facts would not apply to retail sales  
10 of electricity from an investor-owned utility in  
11 Missouri to those customers; isn't that right?

12 A. FERC FAC deals mainly with wholesale, yes.

13 Q. Between utilities or utilities and power  
14 partners; right?

15 A. That's correct.

16 Q. The governing law in Missouri on fuel  
17 adjustment clause, as we've discussed, is Section  
18 386.266, right, not a FERC regulation on FERC facts;  
19 isn't that right?

20 A. That's correct.

21 Q. On page 13, line 15 of your surrebuttal,  
22 you claim that in order for a fuel cost to be in a  
23 fuel adjustment clause, it must be, "Appropriately  
24 charged to Account 151." Did I read that correctly?

25 A. What page was that, sir?



1 Q. Page 13, line 15.

2 A. Fifteen -- "Foremost, the fuel cost must  
3 be "Appropriately charged to Account 151 fuel  
4 stock."

5 Q. But even the FERC has ruled that in order  
6 for a fuel cost to be included in a FERC FAC, the  
7 cost doesn't have to be charged to 151, haven't  
8 they?

9 A. No, it doesn't have to be charged to 151.  
10 We're basing our thoughts on the definition of 151  
11 fuel.

12 Q. Okay. So you're -- and that's fine. I  
13 want -- I thought there must be an inconsistency.  
14 So when you said "appropriately charged to," you  
15 don't literally mean appropriately charged to, you  
16 mean it has to fall within the listing of items in  
17 151. Is that your testimony today?

18 A. That would probably be more accurate,  
19 because fossil fuels are accounted for in 151;  
20 however, possible natural gas goes directly to 547,  
21 and nuclear fuel goes to 518, but -- but it does  
22 match the definition of fuel.

23 Q. And, in fact, Ms. Mantle has a FERC  
24 decision attached to her surrebuttal testimony where  
25 the FERC says there were take-or-pay payments under

1 a coal contract that were not appropriately charged  
2 to 151, but, nevertheless, they fell within the  
3 listing in 151, and, therefore, could be included;  
4 isn't that right?

5 A. I think that's correct.

6 MR. LOWRY: Thank you, Mr. Riley.

7 That's all I have, Your Honor.

8 JUDGE PRIDGIN: Mr. Lowry, thank you.

9 Mr. Zobrist?

10 MR. ZOBRIST: Thank you, Judge.

11 CROSS- EXAMINATION

12 BY MR. ZOBRIST:

13 Q. Mr. Riley, I've got some questions about  
14 your reference to FERC Order 668. Now, FERC Order  
15 668 requires the netting of sales for resale from  
16 Account 447 with purchase power in Account 555; is  
17 that correct?

18 A. Generally, 668 requires them to do -- to  
19 net power on an hourly basis. If it's a purchase,  
20 it would be 555.

21 Q. And in your proposal on behalf of public  
22 counsel, is it that netting should occur in the fuel  
23 adjustment clause; correct?

24 A. We believe that the information should be  
25 presented consistent with 668.

1 Q. And now there's no requirement in 668 with  
2 regard to state fuel adjustment clauses; isn't that  
3 fair to say?

4 A. That's fair to say.

5 Q. There's no discussion in Order 668 about  
6 how state commissions should engage in rate making  
7 in rate cases like this one; correct?

8 A. That would be a fair assumption, yes.

9 Q. And am I correct that in Schedule TMR-4 to  
10 Mr. Rush's direct testimony, that he does set forth  
11 in the FAC base calculation numbers that relate to  
12 sales for resale on Account 447, as well as purchase  
13 power in Account 555?

14 A. Without getting into specific numbers,  
15 the -- Mr. Rush's exhibit has a very large  
16 adjustment to purchase power that's inconsistent  
17 with their income statement.

18 Q. Well, I'm just simply stating that in that  
19 base calculation, he references these FERC accounts  
20 that FERC Order 668 mentions, and so there is  
21 information in there not netted, but individual  
22 numbers related to both the purchase power and the  
23 sales for resale?

24 A. I didn't see any reference to 668.

25 Q. Correct. Only to those accounts Order 668

1 relates to the purchase power Account 555 and the  
2 sale for resale Account 447?

3 A. Those are two of the accounts, yes.

4 Q. Mr. Riley, I'm going to show you an  
5 excerpt from Order 668 and just ask you a couple of  
6 questions about that, if I might.

7 MR. ZOBRIST: And I believe, Judge, this  
8 is Exhibit 158.

9 JUDGE PRIDGIN: So noted.

10 Q. (By Mr. Zobrist) Now, Mr. Riley, Order 668  
11 is about 80 pages long; is that correct?

12 A. That's correct.

13 Q. Now, what I've done here is given you the  
14 front page -- I should say the face page, page  
15 romanette 2 to 3 which indicate the table of  
16 contents; is that correct?

17 A. Yes.

18 Q. And then the last two pages, which are  
19 pages 39 and 40, those are the relevant paragraphs  
20 that relate to the netting issue that you discuss in  
21 your testimony; correct?

22 MR. ZOBRIST: You know -- I'm sorry. Let  
23 me hand out copies to counsel. I've got extra  
24 copies.

25 Q. (By Mr. Zobrist) Mr. Riley, I've got a

1 full copy of the Order 668 if you want to look at  
2 it; I just didn't make copies for the commission.

3 A. No. I was trying to resolve -- I don't  
4 have this page in my testimony.

5 Q. Right. I'm not suggesting it should be in  
6 your testimony; I'm suggesting that the paragraphs  
7 80 through 84 are FERC's conclusions with regard to  
8 the netting issue that you do discuss in your  
9 testimony.

10 A. Yes.

11 Q. Okay.

12 MR. ZOBRIST: And so with that  
13 clarification, I offer Exhibit 158 into evidence.

14 JUDGE PRIDGIN: 158 is offered. Any  
15 objections?

16 Hearing none, 158 admitted.

17 MR. OPITZ: Judge, I guess, may I inquire  
18 about the -- page 39 is contained within 18 CFR Part  
19 1-1? Is that -- that's the case, Mr. Zobrist?

20 MR. ZOBRIST: No. This is with that  
21 Order 668. These are just excerpts from 668; the  
22 face page, the table of contents so you can  
23 reference that pages 39 and 40 are those portions  
24 dealing with the section that's even titled,  
25 "Accounting for Settlement Amounts," and it's

1 subsection F6 of the order. I've got a copy of the  
2 order I can show you.

3 MR. OPITZ: Judge, if I may request that I  
4 be able to -- if I can get a copy of that -- enter  
5 that into evidence or put in the file, since this is  
6 just an excerpt.

7 MR. ZOBRIST: Right. And I can either do  
8 that, Judge, or I can request that the commission  
9 take official notice of the FERC order, but I can do  
10 either.

11 JUDGE PRIDGIN: Will official notice --

12 MR. OPITZ: Yeah, that would be sufficient  
13 for me.

14 JUDGE PRIDGIN: The court will take  
15 notice.

16 MR. ZOBRIST: Thank you.

17 MR. OPITZ: Thank you.

18 Q. (By Mr. Zobrist) Okay. Mr. Riley, I've  
19 got a question on paragraph 84. That's the  
20 concluding paragraph in Order 668 that says:

21 "Finally, one purpose of this rule is to  
22 establish uniform accounting requirements for the  
23 purchase and sale of energy in RTO markets."

24 Correct?

25 A. That's what it says, yes.

1 Q. And the next sentence says: "The purpose  
2 of gross reporting -- I'm sorry -- The purpose of  
3 reporting gross information in EQRs in contrast is  
4 to provide the commission and the public with a more  
5 complete picture of wholesale market activities,  
6 which affect jurisdictional services and rates,  
7 thereby helping to monitor for any market power and  
8 to ensure that customers are protected from improper  
9 conduct." Correct?

10 A. Are you going to include the next  
11 sentence?

12 Q. I wasn't, right yet. I'm going ask you  
13 some questions about that sentence, if I might.

14 A. That sentence is fine.

15 Q. Okay. Now, when the commission -- when  
16 the federal commission is talking about gross  
17 reporting, they're talking about both purchases and  
18 sales; correct?

19 A. I assume, yes.

20 Q. And EQRs -- what are EQRs?

21 A. I do not know.

22 Q. Are EQRs a report that public utilities  
23 file that relate to sales of energy?

24 A. I'll take your word for it.

25 Q. So you actually don't know what EQRs are?

1           A.    It didn't come into play with my concern  
2 with this section.

3           Q.    Okay.  Now, FERC is saying that -- the  
4 reporting of gross information in EQRs.  Do you know  
5 what the word "gross information" refers to in the  
6 context of this order?

7           A.    I have a fairly good idea.

8           Q.    Okay.  And what's your idea?

9           A.    Total production.

10          Q.    Does it also mean both purchases and  
11 sales?  In other words, not netting, but gross sales  
12 and gross purchases?

13          A.    I'll take your word for that, yes.  That  
14 sounds reasonable.

15          Q.    And if we look, then, at paragraph 80 of  
16 the previous page, if you would look at the last  
17 sentence in paragraph 80.  Are you there, sir?

18          A.    Yes, sir.

19          Q.    The last sentence reads:

20                   "The commission does expect public  
21 utilities, however, to maintain detailed records for  
22 auditing purposes of the gross sale and purchase  
23 transactions that support the net energy market  
24 amounts recorded in their books."  Correct?

25          A.    That's what it says, yes.



1           Q.    And is it true that KCP&L in its fuel  
2   adjustment clause does maintain both gross sale and  
3   gross purchase transaction information?

4           A.    Well, that is what our contention is, that  
5   it shouldn't be displayed that way.

6           Q.    Yeah.  And wouldn't you agree that if you  
7   net these transactions, you're actually decreasing  
8   transparency because you're not informing either the  
9   commission or staff what the actual sales and  
10  purchases of energy are?

11          A.    I believe I've mentioned in my testimony  
12  that the commission has ruled before that they don't  
13  believe that's the way it should be.

14          Q.    This commission has ruled that public  
15  utilities must follow --

16          A.    I put in my testimony.

17          Q.    Pardon me.  Pardon me.  Let me get my  
18  question out, sir.

19                    Are you saying that this commission has  
20  ordered any public utility in Missouri to follow  
21  Order 668 and engage in netting with regard to their  
22  fuel adjustment clause?

23          A.    No.  They haven't ordered that, no.

24                   MR. ZOBRIST:  Okay.  I have no further  
25  questions, Judge.

1 JUDGE PRIDGIN: Thank you. Any bench  
2 questions?

3 COMMISSIONER KENNEY: No questions. Thank  
4 you.

5 COMMISSIONER STOLL: No, Judge, thank you.

6 JUDGE PRIDGIN: Redirect?

7 MR. OPITZ: Yes, Judge, briefly.

8 EXAMINATION

9 BY MR. OPITZ:

10 Q. Mr. Riley, do you still have the  
11 exhibit that was just being discussed with you?

12 A. Yes.

13 Q. And I can -- can you can tell me what the  
14 exhibit number on that was again?

15 A. 158.

16 Q. Okay. Thank you.

17 You were being asked about -- on page 40  
18 in paragraph 84, there was a particular sentence  
19 there.

20 A. Yes.

21 Q. And you had inquired whether you were  
22 going to be asked about the next sentence.

23 A. That's correct.

24 Q. And what did you want to say about the  
25 next sentence?

1           A.    Well, the next sentence, it -- counsel  
2    there questioned me about EQRs, and the next  
3    sentence in that paragraph is, as it went on to  
4    discuss, these are not necessarily the same criteria  
5    and principles that should be used in establishing  
6    uniform accounting requirements.  Because 668 is --  
7    it's an accounting requirement that they net their  
8    purchases and sales; whereas, the EQR that he was  
9    referring to and pointed out to me is that they do  
10   gross.  And my contention is that to point out that  
11   they're gross is not transparent when what the  
12   accounting for in the FAC should be netting.

13           **Q.    You were also -- and I believe this was**  
14   **Mr. Zobrist again.  You were also asked about**  
15   **schedule TMR-4?**

16           A.    Yes, sir.

17           **Q.    And you began to talk about a purchase**  
18   **power adjustment.**

19           A.    Yes.

20           **Q.    Can you tell me -- what was that**  
21   **adjustment?**

22           A.    The TMR-4 is marked highly confidential.  
23   The adjustment I was talking about was --

24           **Q.    One moment, Mr. Riley.  Is your response**  
25   **going to be highly confidential information?**

1           A.    If I'm required to actually mention the  
2 numbers, they will be.

3           **Q.    Had you planned on mentioning the numbers?**

4           A.    It's not that important to me that I  
5 mention the numbers because Mr. Rush's exhibit is in  
6 there.

7           **Q.    Okay. Thank you. I just didn't want to  
8 make sure we had to go into hidden camera.**

9                   **Please continue.**

10          A.    Okay. Can you ask me the question again?

11          **Q.    So I was referring you to the questions by  
12 Mr. Zobrist of schedule TMR-4, and there was some  
13 discussion about the purchase power adjustment, and  
14 I asked you to explain what was your understanding  
15 of that adjustment.**

16          A.    Well, the -- the schedule lists -- the  
17 first column is per book test year, which would  
18 coincide with their income statement. And the  
19 purchase power in the counsel statement, it would be  
20 89,593,000 --

21          **Q.    Wait. Sorry.**

22                   MR. ZOBRIST: Yeah, I think we decided we  
23 weren't going talk about numbers.

24          **Q.    (By Mr. Opitz) I think we weren't going to  
25 talk specific numbers, so I apologize for that.**

1           A.    Well, that's in other records; it's not  
2    a -- but basically what I'm going to refer to is  
3    that in the next column, there's a very large  
4    adjustment to purchase power, and that is what we  
5    contend, is that we should be only looking at the  
6    book purchase power, as opposed to this very large  
7    adjustment, and that I couldn't refer back to any  
8    other work papers. I couldn't determine why that  
9    adjustment was there.

10           **Q.    And so what is your recommendation about**  
11    **that adjustment?**

12           A.    That if they followed 668, we would still  
13    be in the first column per books, as opposed to a  
14    very large adjustment in the rate case presentation  
15    that he puts in Column 2.

16           **Q.    I think going back to questions you were**  
17    **asked by Mr. Lowry, he asked you about appropriately**  
18    **charged to -- the language used "appropriately**  
19    **charged." Do you recall that?**

20           A.    Yes, sir.

21           **Q.    And is it your testimony that -- I guess,**  
22    **what is the purpose of referring to Account 151 in**  
23    **your testimony?**

24           A.    Well, 151 being an asset account, it has a  
25    much better definition of what fuel is for what we

1 believe should be included in the fuel adjustment  
2 clause, as opposed to a definition that they report  
3 as in 501. 501 is an expense that -- fuels that  
4 come from 151 will eventually go into 501, 517, 547;  
5 but we believe that it's a much clearer definition  
6 if we use the definition used in 151, which I put  
7 out on page 12 of my surrebuttal.

8 Q. So when you're using Account 151, are you  
9 using it more as a list of what is the eligible  
10 criteria under your definition?

11 A. That would be -- yes.

12 Q. Do you recall Mr. Lowry asking you about  
13 the portion of the report and order in KCPL's last  
14 case, case number ending 0370 at page 48?

15 A. Yes.

16 Q. And I think he was inquiring whether --  
17 about the -- your testimony regarding including  
18 additional or new costs outside of a rate case. Was  
19 that what he was asking you about?

20 A. Yes, sir. Between rate cases.

21 Q. And you aren't suggesting that the  
22 commission go back and change those retrospectively,  
23 are you?

24 A. No, sir.

25 Q. It's your testimony and your

1 recommendation that this provision should be  
2 excluded going forward; is that right?

3 A. That's correct.

4 Q. Can you explain to me why you believe this  
5 provision should be excluded going forward?

6 A. Well, the provision in 50.4 or whatever  
7 points out that -- I'll get a little more specific.

8 The wording here, I believe, allows --  
9 states that they may add expenses to the FAC, and it  
10 mentions that parties have 60 days to refute or  
11 argue against it or whatever, and I pointed out in  
12 testimony that that doesn't sound like it jibes with  
13 statute, and it doesn't seem to apply -- I mean,  
14 when the -- with the -- the commission rules. And  
15 then I went on to point out in -- that the -- as I  
16 point out in the report and order, that the  
17 commission denied the -- if I can find it.

18 That on page 4 of my surrebuttal, I've  
19 pulled out an excerpt from ER-2014-0370 -- it was on  
20 page 39 of the report and order where the conclusion  
21 of law and decision by the commission was KCPL  
22 argues that the FAC should include all costs of  
23 revenues relating to fuel and purchase power cost,  
24 whether or not they are currently being incurred;  
25 however, allowing a new cost or revenue to flow

1 through the FAC is a modification to that FAC, which  
2 under Section 386.266, RSMo, only the commission has  
3 the authority to modify. It is the commission that  
4 should make the determination as to what cost of  
5 revenue should flow through the FAC; not the  
6 electric utility, emphasis added.

7 Q. So working in the regulated utility area,  
8 there's a lot of -- I guess, what could be  
9 considered legal documents, statutes, rules, report  
10 and orders; is that correct?

11 A. That would be my impression, yes.

12 Q. And as an expert working in that area, you  
13 often have to look at those when considering what  
14 recommendations you're going to make in a case; is  
15 that correct?

16 A. That's correct, sir.

17 Q. But that doesn't mean that you're making a  
18 legal opinion on any of that, does it?

19 A. No. No, sir.

20 Q. So you were asked about -- and I believe  
21 it was by Mr. Zobrist, but I'm not certain -- but  
22 about whether the commission is bound by FERC  
23 orders. Do you recall that?

24 A. Yes, sir.

25 Q. And you would agree that while the



1 commission is not bound by FERC decisions, it might  
2 be a helpful guide in the commission's analysis?

3 A. I believe that's true, yes.

4 Q. So Mr. Berlin asked you about what was, I  
5 believe, admitted as Exhibit 236. Do you have that  
6 with you?

7 A. Yes, sir, I do. I also have that,  
8 basically, as an exhibit in mine.

9 Q. So on that exhibit there was a list of  
10 costs listed by account; correct?

11 A. Yes. It listed -- it doesn't have the  
12 actual cost in the filing, but, yes, it lists all of  
13 the accounts and subaccounts.

14 Q. And in anywhere on that list -- and can  
15 you tell me what that list -- what the description  
16 of that list is -- I guess, what is being shown in  
17 that list?

18 A. Well, in the -- Data Request 1314 asked  
19 for each of the individual costs and revenue types,  
20 FERC account, subaccount, resource code that the  
21 company is requesting to be included in its FAC  
22 listed in schedule TMR-1. Please provide the  
23 following information in an Excel spreadsheet with  
24 formulas intact, general ledger, subaccount, code,  
25 monthly list, cost for most recent 36 months,

1 remainder for 216, 217. Basically, what they had  
2 provided here in this exhibit is the -- what they're  
3 proposing to include in the FAC.

4 Q. And these are things they're proposing to  
5 include that aren't in their current FAC?

6 A. That's correct. These are currently  
7 excluded but proposed to be included.

8 Q. So this includes -- I guess, along with  
9 the descriptions there is an account number. Are  
10 those subaccount numbers?

11 A. Yes, sir. That would be --

12 Q. And looking through this list, are there  
13 any costs proposed to be included in Subaccount  
14 No. 501505?

15 A. There is no account listed in 501505.

16 Q. So, I guess, is it your understanding that  
17 the company is not requesting to include any costs  
18 that would fall within Account 51505?

19 A. It's my understanding that they've  
20 requested 501 through 510.

21 Q. But in listing -- in this document listing  
22 the costs broken down that aren't -- that they're  
23 seeking to include, there's none listed that  
24 actually fall within that account, is there?

25 A. That's correct.

1 Q. So looking at this exhibit again, you  
2 would agree that there are a number of costs that  
3 are characterized as being included in  
4 Subaccount 501510; is that correct?

5 A. There's several listed under 501510.

6 Q. And did you have -- do you happen to have  
7 a copy of the schedules that have the tariffs that  
8 KCPL is requesting in this case on them?

9 I'm looking at Sheet No. 5.13 which is  
10 schedule TMR-3, page 13 of 21.

11 A. I don't have the company's -- I have their  
12 current tariffs; I don't have Mr. Rush's proposed  
13 tariffs -- oh, yes I do. What page was it again?

14 Q. It is -- the tariff sheet is 50.13, but it  
15 is schedule TMR-3, page 13 of 21.

16 A. Yes, sir.

17 Q. And on that tariff sheet, it has a list of  
18 subaccounts, and it says 501500 through 501509; is  
19 that correct?

20 A. That's correct.

21 Q. So even though the company has said it's  
22 going to include a number of costs included in  
23 Account 501510, that's not included in the tariff  
24 that's been provided by Mr. Rush; is that correct?

25 A. That's correct.

1 MR. OPITZ: That's all of the questions I  
2 have. Thank you.

3 JUDGE PRIDGIN: Mr. Opitz, thank you.  
4 You may step down, sir.

5 And this looks to be a good time to take a  
6 break. Mr. Riley's testimony is done, so we'll have  
7 Mr. Hyneman and Ms. Mantle coming up after the  
8 break.

9 Anything further before we go off the  
10 record?

11 All right. Let's resume at -- it's almost  
12 10:20. Let's resume at 10:35.

13 Thank you. We are off the record.

14 (A recess was taken.)

15 JUDGE PRIDGIN: Good morning. We are back  
16 on the record.

17 Mr. Hyneman is on the stand. And,  
18 Mr. Hyneman, you've already been sworn in, so we  
19 won't need to swear you in again.

20 Before we go to direct, Mr. Hyneman, I'll  
21 just let counsel know I'm going to look for a  
22 natural break for lunch. If we don't get this, you  
23 know, done by, say, 12 or 12:15 -- if we do, that's  
24 great; if not, I really don't want to interrupt, but  
25 I also don't want to interfere with people's normal

1 lunch schedules. So I'm going to kind of look to  
2 you for guidance and play it by ear. We'll see how  
3 things are going around 12, 12:15.

4 So anything further from counsel before  
5 Mr. Hyneman testifies on FAC?

6 Hearing nothing, Mr. Opitz, when you're  
7 ready.

8 MR. LOWRY: Judge, I believe this witness  
9 has been sworn --

10 JUDGE PRIDGIN: He has been sworn, yes.

11 MR. OPITZ: And his prefile testimony has  
12 been admitted? I believe so.

13 JUDGE PRIDGIN: Do you have an  
14 exhibit number?

15 MR. OPITZ: It would be 302, 303, and  
16 304HC and NP.

17 JUDGE PRIDGIN: Yes. That's been offered  
18 and admitted.

19 MR. OPITZ: With that, I tender the  
20 witness for cross-examination.

21 JUDGE PRIDGIN: All right. Staff?

22 MR. BERLIN: No questions, Judge.

23 JUDGE PRIDGIN: Mr. Berlin, thank you.  
24 Ameren Missouri?

25 MR. LOWRY: No questions, Judge.

1 MR. BERLIN: KCP&L?

2 MR. ZOBRIST: No questions, Judge. Thank  
3 you.

4 JUDGE PRIDGIN: Any bench questions?

5 Mr. Hyneman, thank you.

6 And then Ms. Mantle.

7 LENA MANTLE,

8 of lawful age, being first duly sworn, testifies as  
9 follows:

10 JUDGE PRIDGIN: Mr. Opitz, when you're  
11 ready.

12 EXAMINATION

13 BY MR. OPITZ:

14 Q. Ms. Mantle, would you please state and  
15 spell your name for the record.

16 A. My name is Lena M. Mantle, M-a-n-t-l-e.

17 Q. And where are you employed and in what  
18 capacity?

19 A. I'm employed by the Office of the Public  
20 Counsel as a senior analyst.

21 Q. Are you the same Lena Mantle who prefiled  
22 direct, rebuttal, and surrebuttal testimony that has  
23 been premarked as Exhibits 305, 306HC, and 306NP and  
24 307?

25 A. Yes.

1           **Q. Do you have any corrections to make to**  
2           **that testimony?**

3           A. Yes. I have one change to my rebuttal  
4 testimony and one change to my surrebuttal  
5 testimony. And my rebuttal testimony on page 15,  
6 line 1. The sentence starts with, "For example, one  
7 KCPL is requesting." The change is to omit the word  
8 "one." So it would read: "For example, KCPL is  
9 requesting in its FAC."

10           **Q. Any additional changes?**

11           A. And one change to my surrebuttal testimony  
12 on page 9, line 23. It says -- the current reading  
13 is: "FAC is also consistent with FERC's policy that  
14 only cost be included in its FAC." I would like to  
15 insert the word "direct" between "only" and "cost."  
16 So that line would read: "FAC is also consistent  
17 with the FERC's policy that only direct cost be  
18 included in its FAC."

19           **Q. And with those -- do those corrections**  
20           **change the conclusions in your testimony?**

21           A. No.

22           **Q. If I were to ask you the same questions**  
23           **posed in your prefile testimony today, would your**  
24           **answers be the same?**

25           A. Yes.

1 Q. And your answers in that testimony are  
2 true and correct to the best of your information and  
3 belief?

4 A. Yes.

5 MR. OPITZ: With that, Judge, public  
6 counsel will move to enter into evidence Exhibits  
7 305, 306HC, 306NP, and 307.

8 JUDGE PRIDGIN: All right. Those exhibits  
9 have been offered. Any objection?

10 Hearing none, Exhibit 305 is admitted,  
11 Exhibit 306HC and NP is admitted, Exhibit 307 is  
12 admitted.

13 MR. OPITZ: Thank you, Judge. I tender  
14 the witness for cross-examination.

15 JUDGE PRIDGIN: Mr. Opitz, thank you.  
16 Cross-examination, Mr. Berlin?

17 MR. BERLIN: No questions, Judge.

18 MR. LOWRY: Ameren Missouri?

19 JUDGE PRIDGIN: Thank you, Your Honor.

20 CROSS-EXAMINATION

21 BY MR. LOWRY:

22 Q. Good morning, Ms. Mantle.

23 A. Good morning.

24 Q. OPC has been, in general, been very  
25 negative about fuel adjustment clauses since fuel



1 adjustment clauses were first reauthorized in  
2 Missouri in 2005; isn't that fair to say?

3 A. Up until the last GMO rate case, it was  
4 typically -- I believe it was always OPC's policy --  
5 or position that an FAC not be granted. Up until  
6 GMO's case, if that could be interpreted as -- what  
7 were the words you used? Fairly negative?

8 Q. Generally been very negative about FACs.

9 A. That --

10 Q. Let's exclude up to the GMO case. At  
11 least up until then, OPC, from the inception of the  
12 FAC in Missouri, had generally been very negative  
13 about fuel adjustment clauses; isn't that fair to  
14 say?

15 A. That is how it could be characterized,  
16 yes.

17 Q. In fact, you've characterized it that way  
18 in response to questions from me before; isn't that  
19 true?

20 A. I believe in a deposition you asked me  
21 that, and I answered yes.

22 Q. Now, I'm going to direct your attention to  
23 page 4, line 24 of your surrebuttal testimony. And  
24 I'll give you a second to get there.

25 MR. OPITZ: Mr. Lowry, do you mind stating

1 that citation again.

2 MR. LOWRY: Page 4, line 24 of the  
3 surrebuttal testimony.

4 A. I'm there.

5 Q. (By Mr. Lowry) Now, you characterized the  
6 inclusion of the change provision that was first  
7 included in Ameren Missouri's FAC tariff in 2012 as  
8 something the utilities, "insisted upon." Do you  
9 not?

10 A. I'm sorry. I'm going have to ask my  
11 counsel for -- I'm sorry. I'm confused. We've got  
12 Ameren's case and -- I thought I had the wrong  
13 testimony here.

14 Q. And I could have the wrong reference, so  
15 let me double-check.

16 Nope, I don't think I do.

17 A. Okay. What is it again?

18 Q. Your surrebuttal.

19 A. Okay.

20 Q. Page 4.

21 A. Okay.

22 Q. Line 24. You see "The utilities insisted"  
23 on line 24?

24 A. At the end of line 24, yes.

25 Q. So let me set up my question a little more

1 to make sure you're not confused.

2 The change provision that we had some  
3 discussion with Mr. Riley about that OPC is asking  
4 the commission to essentially remove from KCPL's FAC  
5 tariff now, the genesis of that change provision --  
6 or one very similar to it was Ameren Missouri's 2012  
7 rate case, was it not?

8 A. Yes, ER-2012-0166.

9 Q. And, in fact, the KCPL provision and the  
10 Ameren provisions as they exist today are -- they're  
11 either identical or they're very similar. Would you  
12 agree with that?

13 A. They are very similar.

14 Q. They may not be identical, but they are  
15 pretty close, aren't they?

16 A. I would refer to a different exhibit as to  
17 where the accounts are listed, and there may be a  
18 difference in the -- which ones of the components  
19 are listed in those provisions.

20 Q. Right. But the mechanics, the operation,  
21 who has the burden of proof, et cetera; those are  
22 all the same; right?

23 A. As was recently -- I believe, as  
24 was recently -- the original provision and the rules  
25 did not require the utility to file when a change

1 was created, and the current one does. I believe  
2 KCPL does require filing. So it is different than  
3 what was in 2012-0166, but it is similar. And I do  
4 believe KCPL requires them to file.

5 Q. And Ameren's current one requires Ameren  
6 file, also; isn't that right?

7 A. That is correct.

8 Q. But when you were talking about a  
9 provision utilities insisted on, you're talking  
10 about this change provision as it started in the  
11 0166 case and as has evolved today; right?

12 A. Yes.

13 Q. Now, you recall, do you not -- and I can  
14 show you if you don't. You recall, do you not, that  
15 the genesis of that change provision was after you  
16 personally, I think, as part of some stipulation  
17 negotiations in the 0166 case yourself insisted that  
18 the FAC tariff contain significantly more detail and  
19 significantly more prescriptiveness than it had  
20 previously included. And that was an Ameren  
21 Missouri case, but that was essentially the position  
22 that you took; isn't that right?

23 A. I took the position -- and that was when I  
24 was on staff -- yes, that the tariffs needed to be  
25 very prescriptive. We had problems --

1           Q.    Ms. Mantle, I didn't ask you about  
2    problems; I asked you whether or not you insisted  
3    upon in that rate case that the tariffs be made much  
4    more detailed and much more prescriptive.  Isn't  
5    that right?

6           A.    Is -- are you asking me if that's the  
7    question you asked or if that's --

8           Q.    You did insist that they may be made much  
9    more detailed and much more prescriptive.  Is that  
10   right or is that not right?

11          A.    As part of staff, yes, I was part of that  
12   effort.  But whether it originated with me or  
13   somebody else on staff, I do not remember.

14          Q.    The staff insisted, and you were staff's  
15   main FAC witness in that case; isn't that right?

16          A.    Yes.

17          Q.    And so in response to that, the utility  
18   said, Fine, we will put more detail -- actually, it  
19   wasn't the utility; it was Ameren Missouri said,  
20   Fine, we'll put more detail and make the tariff more  
21   prescriptive, but if we're going to do that, then a  
22   change provision should also be included.  Isn't  
23   that essentially what the company indicated to the  
24   staff?

25          A.    Yes.

1 Q. And that's what happened; right?

2 A. Yes.

3 Q. So you may say that utilities insisted  
4 upon something, but they insisted upon something in  
5 response to something you insisted upon. Isn't that  
6 right?

7 A. Yes.

8 Q. Would you turn to page 13, line 7 to 11 of  
9 your surrebuttal.

10 A. Okay.

11 Q. Now, you indicate that Section 386.266  
12 does not mention spinning the reserves; right?

13 A. Yes.

14 Q. You agree that FERC Account 555 is the  
15 account where purchase power costs are recorded.  
16 Would you agree with that?

17 A. Yes.

18 Q. Account 555 specifically lists spinning  
19 reserves, doesn't it?

20 A. Account 555 lists -- says, as I understand  
21 the FERC USOA -- and I'm not an accountant. As I  
22 understand it, FERC lays out what costs should be  
23 recorded under an account which is titled  
24 "Transmission Service," and that is one of the costs  
25 that are recorded in that.

1 Q. 555 isn't for transmission service, is it?

2 A. No. It's purchase power.

3 MR. LOWRY: May I approach, Your Honor?

4 JUDGE PRIDGIN: You may.

5 Q. (By Mr. Lowry) I've handed you a copy --  
6 and you can obviously take a look at it and make  
7 sure it is what I say it is -- of Mr. Meyer's  
8 rebuttal testimony in this case, which I assume  
9 you've read. Is that true?

10 A. Yes.

11 Q. And the page I opened it to has the entire  
12 definition of Account 555. Would you agree?

13 A. I don't know if it's the entire  
14 description, but he does have a description and it's  
15 pretty long, so it could very well be the entire.

16 Q. At least the part that's there you  
17 recognize that -- you've read 555 before, haven't  
18 you?

19 A. Yes.

20 Q. And the -- isn't it true that the purchase  
21 power account in the USOA 555 lists spinning  
22 reserves as one of the components of purchase power?

23 A. No. It says, "This account shall include  
24 the cost." It does not say that spinning reserves  
25 is purchase power.

1 Q. The cost of spinning reserves; right?

2 A. It does say, "This account shall  
3 include --" and then in the list, spinning reserves  
4 capacity is one of the costs that can be recorded.

5 Q. And 555 is titled "Purchase Power in the  
6 USOA," is it not?

7 A. Yes, it is.

8 Q. And it not only says "spinning reserves,"  
9 it says spinning reserves, et cetera, doesn't it?

10 A. Yes.

11 Q. And "et cetera" means and so forth, does  
12 it not?

13 A. That's what I read it as, yes.

14 Q. So it's not an exclusive list, is it?

15 A. No.

16 Q. Now, your argument in this case is that  
17 only the energy and capacity components of purchase  
18 power and off-system sales should be allowed in the  
19 fuel adjustment clause; isn't that right?

20 A. Yes.

21 Q. Does the FAC statute, does it mention the  
22 word "capacity" anywhere?

23 A. No.

24 Q. Does it mention the word "energy"  
25 anywhere?



1           A.    When it talks about interim energy charge,  
2    so the word "energy" is in the section.

3           **Q.    But an interim energy charge is different**  
4    **than a fuel adjustment clause, isn't it?**

5           A.    Yes, it is.

6           **Q.    And the statute where it says the**  
7    **commission is authorized to approve rate schedules**  
8    **to reflect increase and decrease in fuel, purchase**  
9    **power, and in associated transportation isn't**  
10   **talking about an interim energy charge. That part**  
11   **of the statute is not talking about an interim**  
12   **energy charge, is it?**

13          A.    Yes, it is. It says the commission -- the  
14    sentence is: "Subject to the requirements of this  
15    section, any electrical corporation may make an  
16    application to the commission to approve rate  
17    schedules authorizing interim energy charge or  
18    periodic rate adjustments outside of general  
19    proceedings to reflect increases and decreases in  
20    its prudently incurred fuel and purchase power cost,  
21    including transportation."

22                    So it does refer to interim energy charge  
23    and says that's what should be included in an  
24    interim energy charge.

25          **Q.    Is a fuel adjustment -- is an interim**

1 energy charge a periodic adjustment outside a rate  
2 case?

3 A. The ones that have occurred in the past  
4 have not been.

5 Q. And we're here talking about fuel  
6 adjustment clauses in this case, not interim energy  
7 charges; right?

8 A. That is correct.

9 Q. Do you recall -- and we can get the  
10 document if we need to. Do you recall that  
11 account -- the USOA account description from 151  
12 refers to excise taxes, purchasing agents,  
13 commissions, and insurance? And maybe it's in your  
14 testimony. I can't remember if it's yours or  
15 Mr. Riley's or both.

16 A. It is in my surrebuttal on page 7. I  
17 have -- uniform system accounts describes the list  
18 of items in Account 151.

19 Now, what is it that you were asking me  
20 about?

21 Q. 155 -- part of the list in 151 are excised  
22 taxes, purchasing agents, commissions, and  
23 insurance; correct?

24 A. Yes.

25 Q. None of those words appear in 386.266, do

1 they?

2 A. No.

3 Q. "Other expenses" is also mentioned in 151,  
4 is it not? "Other expenses directly assignable to  
5 the cost of fuel." Correct?

6 A. That is what --

7 Q. That's in 151.

8 A. That is what it says, yes.

9 Q. And that language is not in the FAC  
10 statute either, is it?

11 A. No, it is not.

12 Q. Now, you claim -- and I've moved on to  
13 page 15, line 3 of your surrebuttal testimony. You  
14 claim that purchase power is the purchase of energy,  
15 capacity, or both; right?

16 A. Yes.

17 Q. We've just established that FERC  
18 Account 555 allows the recordation of significantly  
19 more than just those components; the cost of other  
20 components besides the energy capacity, does it not?

21 A. Yes.

22 Q. Isn't it true that the commission-approved  
23 fuel adjustment clause tariffs for all of the  
24 Missouri utilities reflect a definition of purchase  
25 power that is significantly broader than just energy

1 and capacity components that you favor?

2 A. They do typically include other things  
3 than what I've -- OPC has recommended.

4 Q. And the commission has approved those  
5 tariffs or they wouldn't be in effect; right?

6 A. That is correct.

7 Q. Now, your position is that emissions  
8 should be excluded from the fuel adjustment clause;  
9 right?

10 A. Yes.

11 Q. You've actually testified in the past that  
12 emissions should be included in the fuel adjustment  
13 clause, haven't you?

14 A. I don't recall. I've filed testimony on  
15 the fuel adjustment clause so many times.

16 Q. You don't recall taking that position when  
17 you were on the staff?

18 A. I may have. No, I do not recall.

19 MR. LOWRY: May I approach, Your Honor?

20 JUDGE PRIDGIN: You may.

21 Q. (By Mr. Lowry) Do you recognize the  
22 document I just handed you as being the fuel  
23 adjustment clause portion of your rebuttal testimony  
24 in Empire's 2008 rate case?

25 A. Yes.

1 Q. You were the staff's FAC witness in that  
2 case; right?

3 A. I don't know if I was their main witness,  
4 but I did -- it appears I testified in this case.

5 Q. Let's turn to page 5 of that testimony.

6 A. Okay.

7 Q. From lines 10 to 17, you quote and are  
8 talking about a commission order, are you not?

9 A. I'm discussing the commission order from  
10 the GMO -- or, at that time, it would have been  
11 Aquila Case ER-2007-0004, yes.

12 Q. And in discussing that, you're answering  
13 the question, Why is staff recommending that  
14 emission allowance purchases and sales be allowed in  
15 the FAC? That's the question you're answering;  
16 right?

17 A. Yes.

18 Q. And your answer is because the commission  
19 has already ruled they should be, essentially;  
20 right?

21 A. Yes.

22 Q. And, in fact, what the commission said  
23 was, is that SO2 emission allowance costs are  
24 variable fuel-related costs in that they vary based  
25 upon the volume of coal used, as well as the market

1 prices of the allowances themselves.

2 Did I read that correctly?

3 A. That is what I put down, yes.

4 Q. And based on that, you recommended they be  
5 included; correct?

6 A. Based on that, staff recommended that it  
7 be included, and I was staff's witness.

8 Q. Well I assume that when you file testimony  
9 on behalf of staff and you swear that it's true,  
10 you're giving your own opinion, as well, aren't you?

11 A. With the guidance from staff, from  
12 management. It's not -- even now, it's not just my  
13 own judgment; it's the party that I'm working for.

14 Q. So what you're telling us is that if your  
15 employer tells you to take a position, that you'll  
16 take that position; is that true?

17 A. If I agree with it.

18 Q. If you agree with it. So you agreed with  
19 the -- you agreed that emission allowances properly  
20 should be included in the fuel adjustment clause at  
21 that time; right?

22 A. At that time, yes.

23 Q. And you agreed with the commission's  
24 reasoning for doing so; correct?

25 A. I don't know.

1 Q. You don't know what you agreed with?

2 A. I don't know if I agreed with the  
3 commission's reasoning.

4 Q. Okay. Let me ask you this: Isn't it a  
5 fact that the volume of ash produced by a utility  
6 when it burns coal varies with the volume of the  
7 coal used?

8 A. Yes.

9 Q. In fact, the ash is just -- it is the  
10 coal, right? It's what's left after it's been  
11 combusted; right?

12 A. Yes.

13 Q. Isn't it a fact that the volume of, let's  
14 say, activated carbon, one of the fuel additives  
15 that we've talked about in this case. Isn't it true  
16 that the volume of activated carbon added to the  
17 coal before it's put in the boiler and burned varies  
18 with the volume of coal used?

19 A. Yes.

20 Q. On page 15, line 6 to 9 of your  
21 surrebuttal testimony, you criticize Mr. Rush,  
22 claiming that just because a cost of revenue belongs  
23 in a fuel account, say Account 501, for example, for  
24 purchase power account, say, Account 555 does not  
25 mean that the cost for revenue is fuel or purchase

1 **power; right? That's your criticism?**

2 A. Would you give me that cite again?

3 **Q. Sure. Page 15, lines 6 to 9.**

4 A. Yes.

5 **Q. Did I fairly characterize your criticism?**

6 A. The -- what I said in my testimony is  
7 recording these costs in FERC USOA accounts that  
8 include fuel purchase power or transmission of the  
9 title of the account does not make them fuel  
10 purchase power transmission costs any more than  
11 putting a bike in the garage makes it a car.

12 **Q. That's right. And I was going to ask you**  
13 **about your analogy. In your analogy, the garage is**  
14 **a fuel adjustment clause tariff; right?**

15 A. No.

16 **Q. What is the fuel -- what is the analogy**  
17 **then?**

18 A. It is -- the garage would be the FERC  
19 account.

20 **Q. The garage would be the FERC account.**  
21 **Well, the FERC account says all of those comments**  
22 **that you say shouldn't be in the FAC belong in those**  
23 **FERC accounts; right?**

24 A. What is --

25 **Q. Let me -- I'm sorry.**



1           But I don't think that answer makes any  
2 sense.

3           If the garage is the FERC account and if,  
4 for example, 501 says all of these costs can go in  
5 the FERC account, then your analogy doesn't make any  
6 sense, does it?

7           A. It doesn't if -- with the way you're  
8 looking at it, but what I'm looking at is calling --  
9 because a cost is recorded in an account that's  
10 titled "Transmission," that does not make it  
11 transmission. So putting a bike in the garage  
12 doesn't make it a car. So the car could be more  
13 considered transmission, and the garage is the FERC  
14 account, and these other costs are the bike.

15           Q. Maybe everybody else understands your  
16 answer, but I don't. Let me ask you this: At least  
17 in my house -- and a lot of the people I know --  
18 bikes belong in a garage. Do they not belong in  
19 your garage?

20           A. I believe we have a couple in our garage,  
21 but that doesn't make them a car.

22           Q. Let me ask you another question about  
23 this. Today, most of us refer to the vehicles that  
24 we drive as a car or an automobile or a truck.  
25 Would you agree with that?

1 A. Yes.

2 Q. Now, tomorrow, let's imagine that the  
3 nomenclature has changed so that we don't call them  
4 cars anymore; we call them motorized transport  
5 vehicles. Are you with me?

6 A. Okay.

7 Q. Would the vehicle be the same and still  
8 suitable for parking in the garage if we changed the  
9 label?

10 A. Sure.

11 Q. Let me ask you another hypothetical.  
12 Let's say that today, which I think is the case,  
13 that when I go in and buy a car, I pay one price for  
14 the car. I pay the purchase price, let's say, okay?  
15 Are you with me?

16 A. You're buying a car.

17 Q. And I pay the purchase price for the car.

18 A. That's good.

19 Q. Let's say that starting next year, GM  
20 decides they're going to break out the components of  
21 the purchase price into three different things, A,  
22 B, and C. A is the research and development piece  
23 of the purchase price, B is the manufacturing cost,  
24 and C is the marketing costs. From my perspective  
25 as the buyer, isn't the sum of A, B, and C still the

1 **purchase price of that car?**

2 A. I don't know.

3 **Q. You don't know?**

4 MR. LOWRY: Your Honor, I'd like to get a  
5 couple of exhibits marked, please. I think they'll  
6 be 752 and 3.

7 JUDGE PRIDGIN: That's what I show.

8 (Exhibit Nos. 752, 753 was marked for  
9 identification.)

10 MR. OPITZ: Mr. Lowry, before you go on,  
11 can you help me mark which one is which number.

12 MR. LOWRY: The first one is 52 and the  
13 second one is 53.

14 MR. OPITZ: Thank you.

15 MR. LOWRY: Your Honor, while we're at it,  
16 I'll mark one additional one, 754.

17 (Exhibit No. 754 was marked for  
18 identification.)

19 **Q. (By Mr. Lowry) Ms. Mantle, do you**  
20 **recognize Exhibit 752, 753, and 754?**

21 A. I haven't read through all of them, but  
22 they appear to be my responses to Ameren's data  
23 request of me in the KCPL rate case.

24 **Q. The rate case that we're in; right?**

25 A. Yes.

1 Q. In fact, if I'm not mistaken, you answered  
2 every single one of these; isn't that right?

3 A. Yes.

4 Q. I want to direct your attention in  
5 particular to the third set at this point. We had  
6 some questions about your recommendation, did we  
7 not, about what exactly your recommendation was.

8 A. Yes.

9 Q. And regardless of whether or not you agree  
10 that changes need to be made to lines 1 to 16, on  
11 page 16 in your surrebuttal to make it accurate, you  
12 do agree that the language reflected in quotes in  
13 Question 42 in this third set of data requests, you  
14 do agree that that language does accurately reflect  
15 your recommendation; right?

16 A. Yes.

17 Q. You agree that fuel and fuel  
18 transportation costs, as you listed them in your  
19 first Item 1 in your testimony that we've reproduced  
20 and slightly modified here, you agree that includes  
21 the fuel burned both to produce megawatt hours sold  
22 as sales and megawatt hours sold to load; right?

23 A. Yes.

24 Q. And you agree that the generation cost  
25 that you originally listed in your second item one

1 below the one that starts out with "Off-system sales  
2 revenue," you agree that those generation costs are  
3 fuel and fuel transportation costs incurred to make  
4 off system sales; correct?

5 A. And they could include purchase power  
6 also.

7 Q. That's a good clarification. I'm ignoring  
8 the purchase power. Just for purposes of my  
9 question, let's assume it's a simpler system and  
10 it's all generated, it's all -- there's no purchase  
11 power that you would use to make sales, just to  
12 simplify the question. Do you understand what I'm  
13 saying?

14 A. Yes.

15 Q. But -- so setting aside purchase power,  
16 you agree that the generation cost that you're  
17 talking about there in that Item 1 below where it  
18 starts out "off-system sales revenue," those are  
19 fuel and fuel transportation costs incurred to make  
20 off-system sales; right?

21 A. Yes.

22 Q. And you agree that the word "offset" used  
23 in the lead-in to that item means subtracted from;  
24 right?

25 A. Yes. Or it's just offset. One is a

1 positive; one is a negative. If it's a negative,  
2 it's added.

3 Q. All of the stuff above where it says,  
4 "These costs would be offset," that would produce a  
5 dollar figure, and then you would offset that dollar  
6 figure by subtracting the dollar figures in the  
7 items below from that first one; right?

8 A. Yes.

9 Q. If I take the fuel and fuel transportation  
10 for load and sales, if I take both and I subtract or  
11 offset the off-system -- offset that with the  
12 off-system revenue's net of the fuel and fuel  
13 transportation costs incurred to make the  
14 off-systems sales, the equation will account for  
15 fuel and fuel transportation to make the sales  
16 twice, won't they?

17 A. In your equation that you just gave me,  
18 yes.

19 Q. And you don't mean to account for that  
20 fuel twice, do you?

21 A. No, I do not.

22 MR. LOWRY: Your Honor, I'd also at this  
23 time like to offer Exhibits 752, -3, and -4,  
24 Ms. Mantle's response to data requests on this issue  
25 in this case.

1 JUDGE PRIDGIN: Any objections?

2 Hearing none, 752, 753, 754 are admitted.

3 Q. (By Mr. Lowry) Now, Ms. Mantle, in the  
4 past when we've discussed this issues, and brought  
5 it up in a past rate case once, you have pointed to  
6 a subsection of one of the commission's rules, the  
7 one that talks about volatility, magnitude, control.  
8 You're familiar with the regulation I'm talking  
9 about, are you not?

10 A. I believe it's 4 CSR 240-20 090.

11 Q. You're close. 0912(c).

12 A. It's 090 and then Section 2(c).

13 Q. Okay. I'm the one that's off a number.  
14 It's 0902(c); right?

15 A. Yes.

16 Q. And that regulation provides that in  
17 determining the cost components in a fuel adjustment  
18 clause, the commission will consider -- it's not  
19 limited to consider, but it's supposed to consider  
20 magnitude, volatility, uncertainty, ability to  
21 manage the cost, things like that; right?

22 A. For determining which cost components to  
23 include in an FAC, yes.

24 Q. And you're taking the position in this  
25 case, and you made a similar argument in Ameren

1 Missouri's last rate case, that the commission --  
2 that this means that the commission should consider  
3 those three factors as to -- I think in the words  
4 you've used, the cost components of every single  
5 line item. Isn't that the position you're taking?

6 A. I don't believe I discuss volatility or  
7 manageability in this case.

8 Q. That wasn't what I asked you.

9 A. You asked me if I was asking the  
10 commission to consider those, and I don't believe I  
11 discussed that in this case.

12 Q. So it's not your position that the  
13 commission should be considering volatility,  
14 magnitude, control issues?

15 A. It is OPC's, yes, but it's not in my  
16 testimony.

17 Q. And I don't think I asked you if it was in  
18 testimony. So just so to be, clear it is OPC's  
19 position, and it's a position that you've taken in  
20 the past, that those three factors should be looked  
21 at as to every line item in a utilities accounting  
22 with respect to those items that would be included  
23 in the FAC? Isn't that your position?

24 A. That is how I -- that is what I think in  
25 determining which cost components to include. I



1 believe that's how I read that, that -- it's the  
2 cost components, and those are cost components.

3 Q. And while you may not in this case said  
4 anything about that in your written testimony, in  
5 Ameren Missouri's last case, that's exactly the  
6 argument you were making, isn't it?

7 A. Probably. I don't -- there's been a few  
8 cases since then.

9 Q. You agreed with me when I asked you about  
10 this before, that the commission has not applied the  
11 regulation in the way that you claim it should be  
12 applied, has it?

13 A. It hasn't had the data available for it to  
14 do that.

15 Q. Wasn't my question. Has the commission  
16 applied the regulation in the way that you say it  
17 should be applied in any rate case prior to this  
18 one?

19 A. No, sir.

20 Q. Excuse me?

21 A. No, sir.

22 Q. And the staff hasn't either?

23 A. I'm -- the staff hasn't either --

24 Q. The staff hasn't applied that regulation  
25 in any rate case before this one in the way that

1 you're suggesting it should be applied, has it?

2 A. I don't think so.

3 Q. You would agree, would you not -- in fact,  
4 I think you have agreed that just because you know  
5 the price of coal does not mean that you know what  
6 your coal costs are going to be next year or the  
7 next year or the next?

8 A. Based upon a single price of coal, no.

9 Q. Price and cost are not the same thing, are  
10 they?

11 A. No.

12 Q. A projection of coal costs for the next  
13 three to four years may or may not turn out to be an  
14 accurate one; isn't that fair?

15 A. It's very unlikely to be accurate.  
16 Forecasts are not accurate. I mean, they're wrong.  
17 That's the only thing that you can say that's true  
18 about forecasts is they are typically wrong.

19 Q. Future coal costs are uncertain -- the  
20 total coal costs KCPL is going to have in the  
21 future, those are uncertain?

22 A. Yes.

23 Q. So even in the case where you may have  
24 known prices for a certain volume of coal, for  
25 example, what those coal costs are going to be, you

1 don't know, do you?

2 A. No.

3 MR. LOWRY: Thank you, Your Honor. That's  
4 all I have.

5 JUDGE PRIDGIN: Mr. Lowry, thank you.

6 Mr. Zobrist?

7 CROSS-EXAMINATION

8 BY MR. ZOBRIST:

9 Q. Thank you, Judge.

10 Ms. Mantle, you were here on Monday when  
11 Mr. Opitz made his opening statement; correct?

12 A. No, I was not.

13 Q. Okay. Do you remember hearing that your  
14 counsel stated that this was the first time that  
15 Office of the Public Counsel presented a fuel  
16 adjustment proposal?

17 A. I was upstairs reasoning, and he -- I  
18 believe his phrase was to his best understanding, it  
19 was the first time.

20 Q. And Mr. Rush presented the current KCPL  
21 fuel adjustment clause tariff, as well as a proposal  
22 opinion his direct testimony that was attached as  
23 Schedule TMR-3; isn't that correct?

24 A. It's not the exact; it's very similar --  
25 the words within it are similar; the headings are

1 different. But, yes, you can look at what he  
2 provided and see what the current ones are and what  
3 KCPL's proposing.

4 Q. Thank you. And you have not submitted any  
5 tariff sheets for the commission's consideration in  
6 either your direct, rebuttal, or surrebuttal  
7 testimony; isn't that true?

8 A. That's true.

9 Q. And you have not provided any red line or  
10 track changes version to any of Mr. Rush's testimony  
11 that reflect public counsel's recommendations; isn't  
12 that true?

13 A. That is true.

14 Q. And you have not actually proposed any  
15 specific language in the form of an independently  
16 drafted tariff by public counsel for the  
17 commission's consideration; isn't that true?

18 A. That is true.

19 Q. Now, in surrebuttal testimony, you  
20 attached to your -- one of your schedules the FERC  
21 fuel adjustment clause that's found in the Code of  
22 Federal Regulations; correct?

23 A. I attached what I understand is Code of  
24 Federal -- CFR -- Code of Regulation 35.14 that is  
25 titled, "Fuel Cost and Purchased Economic Power

1 Adjustment Clauses."

2 Q. And that's attached as Schedule 1 to your  
3 surrebuttal testimony; correct?

4 A. LM-R-1, yes, sir.

5 Q. And you have not, again, presented to the  
6 commission an exemplar of a federal fuel adjustment  
7 clause for the commission's consideration; correct?

8 A. That is correct.

9 Q. And have you presented any tariff language  
10 based on any other state's adoption in some form of  
11 the fuel adjustment clause?

12 A. No.

13 Q. Now, it's your -- at page 6 of your direct  
14 testimony, you have a reference to the purest  
15 definition of fuel and transportation cost; is that  
16 correct?

17 A. Yes.

18 Q. And the word "pure" or "purest" is not  
19 found in Section 386.266.1, is it?

20 A. No.

21 Q. And the word "direct," in terms of  
22 referring to direct fuel costs, the word "direct" is  
23 also not in the statute, is it?

24 A. I don't know about in the statute, but in  
25 referring to fuel and purchase power cost, no, it is

1 not.

2 Q. And there's nothing in Section 386.266  
3 that directs the commission to adopt a narrow  
4 definition of fuel and purchase power cost; isn't  
5 that true?

6 A. No. The way I read it, the commission is  
7 allowed to determine that, whether it wants to be  
8 what OPC is recommending or what KCPL is  
9 recommending.

10 Q. And, actually, in Subsection 4 of the  
11 statute, this first subsection, it states that if  
12 the commission grants an adjustment mechanism, it  
13 should be reasonably designed to provide the utility  
14 with a sufficient opportunity to earn a fair return  
15 on equity. I think I just did not say that  
16 correctly. Let me try it again.

17 It states that the adjustment mechanism is  
18 to be reasonably designed to provide the utility  
19 with a sufficient opportunity to earn a fair return  
20 on equity; correct?

21 A. Yes.

22 Q. And then going back to Subsection 1 of the  
23 statute, 386.266.1, it states that: "The commission  
24 may include in such a fuel adjustment rate schedule  
25 features designed to provide the electrical

1 corporation with incentives to improve the  
2 efficiency and cost effectiveness of its fuel and  
3 purchase power procurement activities." Correct?

4 A. That is what it says.

5 Q. And would you agree that procurement  
6 activities include such things as negotiating  
7 contracts related to coal, natural gas, uranium, and  
8 oil to generate electricity?

9 A. Yes.

10 Q. Now, in this case, is it true that it's  
11 public counsel's position that not only are you  
12 requesting that costs be categorized by FERC prime  
13 account, which is the three-digit account, the  
14 subaccount, which is a six-digit account, resource  
15 codes of the company and, also, cost and  
16 revenue-type descriptions? Is that true?

17 A. I believe that I -- if it's in the -- for  
18 the costs that the commission determines should be  
19 included in the FAC's -- in KCPL's FAC, yes, those  
20 should be identified so as -- so prudence audits and  
21 reviews can be done with certainty on which cost the  
22 commission was allowing in the FAC.

23 Q. Now, today, KCPL tariff -- and I'm  
24 speaking of the tariff itself -- requires that costs  
25 be identified by a FERC prime account and by

1     **subaccount; correct?**

2           A.     That is what's in the current FAC tariff,  
3     yes.

4           Q.     And the last time that we brought this  
5     **issue before the commission, it stated that resource**  
6     **codes did not need to be identified in the tariff**  
7     **itself; correct?**

8           A.     The commission did that, but I don't know  
9     that they had recourse codes to know exactly what it  
10    meant so that they could see what kind of costs  
11    really were being included in each one of those  
12    subaccounts.

13          Q.     But the commission is holding in that case  
14    on that issue was accounting for these costs by FERC  
15    prime account and by the six-digit subaccount was  
16    **sufficient for the tariff; correct?**

17          A.     Given the information that the commission  
18    had, that is the decision that they made.

19          Q.     And in this case, when you, in the course  
20    of discovery, needed public county and any other  
21    party has requested of KCPL further detailed  
22    **information, that has been provided; correct?**

23          A.     It has.

24          Q.     Now, if we look at Schedule 2 to your  
25    **direct testimony, you list categories of costs by**



1 the FERC subaccount, by the KCPL internal resource  
2 account, and by some additional descriptions; is  
3 that correct?

4 A. Those would be descriptions that were  
5 supplied in response to OPC Data Request 1314, so  
6 those would have been provided by the company.

7 Q. And in each of those columns, there is  
8 about 41 lines of code -- resource codes and  
9 descriptions for a column. Does that look about  
10 right?

11 A. That may be the first page. The second  
12 page would be less than that. I have -- it's  
13 been -- I haven't counted, but there's a lot of  
14 them.

15 Q. Well, there's about 180 if you count all  
16 of them, isn't there, if you count all of the pages  
17 to your schedule?

18 A. My colleague said something about over  
19 200, but I haven't counted.

20 Q. And your proposal is that the tariff now  
21 include each of these 200 resource codes; is that  
22 correct?

23 A. If the commission believes that  
24 entertainment costs for fuel procurement activities  
25 should be included in the FAC, then, yes. If it --

1 the commission determines that airline baggage fees  
2 are an appropriate cost to pass through the FAC,  
3 then, yes, it should be included in the tariff.

4 Q. Well, if the baggage fees are related to a  
5 negotiation effort to obtain a good deal on a coal  
6 contract, that might require somebody getting in an  
7 airplane; correct?

8 A. That may be why those costs are incurred.

9 Q. Well -- and they are incurred in the  
10 resource code related to the subaccount related to,  
11 for example, purchase power or fuel; correct?

12 A. They're recorded in Account 501 that is  
13 called -- it's for steam generation. Again, I don't  
14 believe that's a fuel cost; that's a fuel  
15 procurement cost.

16 Q. Well, we know from the statute that it's  
17 fine for the commission to set an incentive feature  
18 with regard to procurement activities, so isn't it  
19 reasonable to assume that procurement activities  
20 related to fuel and purchase power should also flow  
21 through the fuel adjustment clause?

22 A. No.

23 Q. Well, how can the commission design an  
24 incentive mechanism related to improving the  
25 efficiency of fuel and purchase power procurement

1     **activities if it doesn't consider what those**  
2     **activities are?**

3           A.     By including the cost of those activities  
4     in the FAC, the commission is removing the incentive  
5     for those activities to be done efficiently and  
6     effectively. Now, at that point, the utility is  
7     assured of cost recovery, unless another party can  
8     prove, beyond doubt, that that baggage fee was way  
9     too much, those costs flow through. So there's  
10    nothing to temper the amount spent on fuel  
11    procurement, if those are put in the FAC. The  
12    commission has said that -- and in past orders that  
13    putting something in an FAC reduces the incentive  
14    for efficiency and cost effectiveness. And so I --  
15    if you put the cost of fuel procurement in an FAC,  
16    you are not incentivizing efficiency, and, more  
17    likely, on the other hand, you are allowing -- you  
18    could be very easily allowing excess cost or more  
19    cost than if it -- the costs were retained just in  
20    revenue requirement, like it is now. It's not that  
21    KCPL is not recovering those costs; those costs are  
22    being recovered. And if KCPL management has to look  
23    and say, Well, this is how much -- you know, we can  
24    save some money by not allowing our -- the travelers  
25    to take three bags, then that's management's

1 decision. If they want to pay for all three bags in  
2 a procurement activity, that's management -- KCPL's  
3 management decision.

4 Q. Well, first of all, let me ask you about  
5 your phrase "beyond doubt." The standard to be  
6 applied to whether an expense or a cost is imprudent  
7 is not beyond doubt, is it?

8 A. That may not be the standard, but that's  
9 the practice.

10 Q. Well, that's not the standard. That's not  
11 the standard that the commission applies; it's  
12 whether it is imprudent; correct? It's a prudence  
13 standard?

14 A. That is the legal standard, yes, sir.

15 Q. Let me move on to a question about a  
16 proposal to eliminate all charges, except those that  
17 are categorized as energy. And I'm looking at your  
18 direct testimony at pages 8 through 12. Were you  
19 here in the hearing when Jessica Tucker testified on  
20 behalf of the company?

21 A. Yes.

22 Q. And we were talking about the categories  
23 of costs that were set forth by Southwest Power Pool  
24 as part of its integrated marketplace; correct?

25 A. Yes.

1           **Q.    Okay.  And am I correct that the**  
2           **integrated marketplace that we call IM is the energy**  
3           **market through which KCP&L sells all of its**  
4           **electricity and buys all of its electricity?**

5           A.    I would beg to differ with you.  It is a  
6           financial transaction.  SPP calls on those plants to  
7           run -- to dispatch, and KCPL -- and SPP provides  
8           revenue for KCPL.  That is not purchased power or  
9           off-system sales; those are financial transactions.  
10          Without SPP, those power plants would have been run  
11          to serve the native load.  That would not be  
12          considered purchased power, so that is not -- I do  
13          not use that definition.  I do not say they  
14          purchased from SPP to meet their loads because no  
15          electrons go from KCPL's power plants to SPP  
16          headquarters and then back out to the customers.

17          **Q.    Well, I carefully avoided the word**  
18          **"purchase power" so we didn't need to get into that**  
19          **definition.**

20          A.    Well, you said "purchased."

21          **Q.    No, I said -- well, I thought I said**  
22          **"bought."  So KCPL sells all of its electricity into**  
23          **the IM and it buys all of its electricity out of the**  
24          **IM; correct?**

25          A.    No.  SPP provides a payment to them, and

1 they provide a payment to KCPL. No electrons go any  
2 different place than when -- before KCPL -- before  
3 the IM mark is started.

4 Q. Okay. I'm not talking about electrons;  
5 I'm talking about this financial market, but why  
6 don't we move on.

7 A. Okay.

8 Q. Within the electricity that is bought and  
9 sold, am I correct that that includes certain  
10 ancillary services?

11 A. There are certain ancillary services that  
12 KCPL provides for SPP and receives from SPP, I will  
13 agree with that.

14 Q. And that's part of this integrated  
15 marketplace; correct?

16 A. Yes.

17 Q. And that includes spinning reserves; is  
18 that correct?

19 A. Yes.

20 Q. And spinning reserves is the extra  
21 generating capacity that is synchronized, uploaded,  
22 and ready to serve load immediately in the event of  
23 a system emergency?

24 A. Yes.

25 Q. Okay. And what's "regulation service"?

1           A.    I don't know the details, but it generally  
2 means to keep the voltage at a level that all --  
3 everybody then uses -- depends on voltages to be  
4 within a certain amount, and there's needs -- I  
5 believe that's what regulating service is, is to  
6 keep that voltage at a proper -- correct range so  
7 that the lightbulbs don't burst and we don't have  
8 brownouts.

9           Q.    And all of the costs that are included in  
10 those definitions of ancillary services today are  
11 included in the company's fuel adjustment clause;  
12 correct?

13          A.    Currently, yes.

14          Q.    And your proposal is to take them all out  
15 except three that are in Account 447 that are  
16 denominated energy and three that are in Account 553  
17 that have that word "energy"; correct?

18          A.    It's 555, but, yes.

19          Q.    I'm sorry. I meant 555. Correct.

20                   Now, is it true that the term "off-system  
21 sales" is not defined or found within -- for fuel  
22 adjustment clause statute?

23          A.    That is correct.

24          Q.    But even though it's not listed there,  
25 public counsel proposal and KCPL has agreed that

1 revenues from off-system sales should be accounted  
2 for in the fuel adjustment clause; correct?

3 A. Yes.

4 Q. And I think you stated in your direct  
5 testimony on page 11 that because it's very  
6 difficult to accurately determine the fuel cost  
7 incurred to make off-system sales, your  
8 recommendation is, let's have all off-system sales  
9 costs and revenues be accounted for in the fuel  
10 adjustment cost; correct?

11 A. The off-system sales of energy and  
12 capacity -- or -- and capacity, if there's any  
13 bilateral contracts, which I -- KCPL might have a  
14 couple very small bilateral contracts.

15 Q. And off-system sales are used as an offset  
16 to produce, generally speaking, rates; correct?

17 A. In the FAC, it's used to offset the FAC  
18 cost, yes.

19 Q. And so in that case, where it's used as an  
20 offset, you're fine with the fact that because this  
21 is very difficult, let's just throw them all in the  
22 FAC and use that as an offset?

23 A. Not all of them; just the revenues from  
24 the energy and capacity.

25 Q. And you're also in agreement with net



1 insurance recoveries, net subrogation recoveries,  
2 and net settlement expenses being included in the  
3 fuel adjustment clause; correct?

4 A. For costs that have flowed through FA --  
5 or tied to costs that have previously flowed through  
6 the FAC, yes.

7 Q. And, again, insurance recoveries,  
8 subrogation recoveries, settlements, that's not  
9 mentioned in the fuel adjustment clause statute, is  
10 it?

11 A. No, it is not.

12 Q. Now, in surrebuttal for the first time,  
13 you brought up the FERC fuel adjustment clause that  
14 is found in the Code of Federal Regulation as the  
15 35.14; correct?

16 A. Yes.

17 Q. And you cite the FERC FAC as support for  
18 public counsel's definition of fuel and purchase  
19 power, including transportation; correct?

20 A. It shows that there is a like requirement  
21 out there for -- that the federal -- that FERC  
22 places on utilities in their wholesale fuel  
23 adjustment clauses, yes.

24 Q. Now in the white paper attached to your  
25 direct testimony as Schedule 5, you don't have any

1 discussion with regard to FERC's fuel adjustment  
2 clause, do you?

3 A. No, I do not.

4 Q. And you did not cite it in your direct  
5 testimony or in your rebuttal testimony, did you?

6 A. No, I did not.

7 Q. And there's no mention in Missouri Statute  
8 386.266 with regard to the federal fuel adjustment  
9 clause; correct?

10 A. Correct.

11 Q. Now, do you have a copy of -- I think it's  
12 one of the schedules to -- I think it's Schedule 1  
13 of your surrebuttal where the federal FAC is set  
14 forth. Do you have that before you?

15 A. Yes.

16 Q. Now, FERC defines "purchase power" as  
17 "purchased economic power" in its regulation;  
18 correct?

19 A. Correct.

20 Q. And when economic power is defined, if you  
21 go over to page 2 of your schedule under Subpart 11,  
22 do you see those three definitions there of economic  
23 power, total cost of the purchase, and total avoided  
24 variable cost?

25 A. Yes.

1 Q. Now, if you go down to that romanette 2  
2 that says "Total cost of the purchase," am I correct  
3 that the sentence -- that is, the second sentence in  
4 that subpart says, "The total cost includes but is  
5 not limited to capacity, reservation charges, energy  
6 charges, adders, and any transmission or wheeling  
7 charges associated with the purchase." Correct?

8 A. That is what it says, yes.

9 Q. Now, public counsel has traditionally  
10 resisted and opposed language proposed by the  
11 utilities that say certain cost items should include  
12 but are not limited to XYZ.

13 A. That is correct.

14 Q. But here you think it's a good idea?

15 A. We took the position that you should  
16 follow the FERC's FAC definition of fuel cost,  
17 because FERC, when it talks about purchase power is  
18 economic purchase power, and that is not how our  
19 Missouri utilities purchase power, because a lot of  
20 times, the bilateral contracts may -- are typically  
21 not economy purchase power; it's for other reasons.  
22 For example, the wind power, that's because Missouri  
23 law requires renewables. So OPC is not recommending  
24 following what the FERC says about purchased power.

25 Q. And, in fact, the point that you're making

1 is that the FERC fuel adjustment clause was  
2 established to deal with wholesale situations, not  
3 fuel adjustment clauses relating to retail provision  
4 electricity; correct?

5 A. That's correct.

6 Q. Now, Ms. Mantle, you've attached as  
7 Schedule 2 to your surrebuttal testimony a Missouri  
8 Public Service Company FERC decision from 1989. Do  
9 you recall that?

10 A. Yes.

11 Q. Now, at that time -- I'll call it MoPub --  
12 we used to call it MoPub -- owned a portion of the  
13 Jeffrey Energy Center in Kansas; correct?

14 A. Yes.

15 Q. Okay. And this decision issued by FERC  
16 back in 1989 related to what was called deficient  
17 tonnage payments; is that correct?

18 A. I believe so.

19 Q. Now, in your surrebuttal on page 7 -- if  
20 you can turn to that, please. You have a listing  
21 beginning on line 1 of uniform system of Account  
22 151; correct?

23 A. Yes.

24 Q. And public counsel's position is those are  
25 the costs -- those fuel stock costs are what should

1 go in the fuel adjustment clause for KCPL, nothing  
2 broader; correct?

3 A. These -- this list of items. It doesn't  
4 necessarily have to flow through 151 first before it  
5 is included in the FAC, yes.

6 Q. And in this case, the words "deficient  
7 tonnage payments," which were permitted to MoPub to  
8 flow through its FAC, those words "deficient tonnage  
9 payments" are not listed here in Account 151 as you  
10 set forth; correct?

11 A. No. But FERC does allow for companies to  
12 come in and get a waiver to request additional or  
13 different costs to be included in their FACs.

14 Q. True. But this was not a waiver request;  
15 this was opposed by staff.

16 A. This is the request -- if I remember  
17 right -- and I am not an attorney, but my  
18 understanding of -- they were asking for some  
19 charges that were from prior periods, and the FERC  
20 said, No. It's sort of like trying to recover lost  
21 revenues. In this case, it was a lost cause. No,  
22 you cannot start recovering that now -- if I  
23 remember reading that opinion right, but I --

24 Q. I think that's the Peabody coal case. I  
25 think that's the third case. But let me ask you to

1 turn to the MoPub decision. It's page 6 of 9.  
2 Again, this is Schedule 2 to your surrebuttal. If  
3 you go to the second full paragraph on page 6 of 9,  
4 it starts out, "The second to the two criteria." Do  
5 you see that paragraph?

6 A. Yes.

7 Q. The second sentence says, "Because  
8 deficient tonnage payments made by a utility under  
9 its existing contracts are billed by the supplier  
10 under the contract is amounts due to -- or due to  
11 shipper pursuant to the contact. We also find that  
12 deficient tonnage payments are part of the 'invoice  
13 price of fuel' listed in Account 151."

14 Is this correct?

15 A. That is what it says.

16 Q. And so Account 151, when we go back to  
17 your surrebuttal, page 7, line 24, invoice price of  
18 fuel is what FERC is referring to; correct?

19 A. Correct.

20 Q. And within that phrase, they interpreted  
21 that to include deficient tonnage payments, even  
22 though those words are not included in Account 151;  
23 Correct?

24 A. Correct.

25 Q. And recovery was permitted to MoPub, even

1    **though deficient tonnage payments were not listed**  
2    **literally within Account 151; correct?**

3           A.    I cannot -- my recall -- you're saying  
4    I've got the wrong order, so I cannot say what the  
5    final opinion is, but it does say that deficient  
6    tonnage payments are among the cost items listed in  
7    Account 151 on page 6 of 9 of that opinion that you  
8    turned to before.

9           MR. ZOBRIST:   Thank you very much.  
10   Nothing further, Judge.

11           JUDGE PRIDGIN:   Thank you.   Any bench  
12   questions?

13           COMMISSIONER STOLL:   I just want to say  
14   that I believe all of my questions have been asked  
15   and answered, so I thank you for your testimony.

16           JUDGE PRIDGIN:   Redirect?

17           MR. OPITZ:   Yes, Judge.

18                                   EXAMINATION

19   BY MR. OPITZ:

20           **Q.    Ms. Mantle, Mr. Zobrist was asking you**  
21   **about the Schedule 1 of your surrebuttal,**  
22   **particularly, about purchased economic power as**  
23   **defined by FERC.  Do you recall that?**

24           A.    Yes.

25           **Q.    Is public counsel recommending the FERC**

1 **purchased power definition?**

2 A. No.

3 **Q. Why not?**

4 A. Because our utilities purchase power that  
5 is not necessarily economic, but it does provide  
6 other value to the utility and its rate payers and,  
7 in particular, the purchase of wind and KCPL's hydro  
8 is to meet renewable energy standards. The hydro  
9 would be for Kansas' renewable energy standards, but  
10 the wind and some of the hydro, I believe, is  
11 allocated to Missouri customers. That is not  
12 economic; it is a social issue that the legislature  
13 has decided, that those costs be put on the rate  
14 payers, and so, therefore, it's not an economic  
15 bilateral contract.

16 So those -- the terms do not apply with  
17 respect to our Missouri investor-owned utilities.

18 **Q. Mr. Zobrist also asked you about the cost  
19 of ancillary services that are include in the  
20 present FAC. Do you recall that?**

21 A. Yes.

22 **Q. And can you tell me if the company is  
23 proposing to include additional ancillary services  
24 in its request?**

25 A. It's requesting to include costs of all



1 ancillary services.

2 Q. Mr. Zobrist was asking -- and I believe he  
3 referenced witness Tucker and was -- were discussing  
4 the integrated marketplace, and you began to  
5 describe your view that those were financial  
6 transactions. Do you recall that?

7 A. Yes.

8 Q. Can you explain what you mean by  
9 "financial transactions" there?

10 A. SPP provides payment to its members, and  
11 in this case, KCPL, for the amount of generation  
12 that SPP generates -- or SPP dispatches. So SPP  
13 calls Iatan 1 to come online, and SPP then gives  
14 KCPL an amount for each one of those megawatt hours  
15 generated. Those megawatt hours, as megawatt hours  
16 tend to do, go to the closest draw -- the closest  
17 need. It's -- when SPP came online, it's not like  
18 SPP is now purchasing the power and selling it back  
19 to KCPL; it is a financial transaction. The -- just  
20 as KCPL is not buying to meet its customers needs'  
21 from SPP, its plans are generating the -- to meet  
22 the majority. I would say that most of its needs --  
23 it's really hard to tell because of the way KCPL --  
24 they don't do the FERC netting in 668, at least in  
25 what I've seen, so it's hard to see exactly how much

1 they are really purchasing as the commission defines  
2 purchased power and selling, but they are typically  
3 a net seller of electricity; they generate more than  
4 their customers use.

5 Q. Mr. Zobrist was discussing with you  
6 incentives with -- I guess, a reference in the  
7 statute for the FAC that talked about incentives for  
8 fuel procurement. Do you recall?

9 A. Yes.

10 Q. And what is your view on how the  
11 commission can design an incentive mechanism to --  
12 related to cost procurement activities that the  
13 company could follow?

14 A. Including fuel procurement cost in the FAC  
15 is not one of the ways to do that, but requiring the  
16 company to absorb more cost or to get more benefits  
17 from cost savings is a much more effective efficient  
18 incentive than including the cost of the fuel  
19 procurement. The costs are a result -- the fuel  
20 costs are a result of the fuel procurement  
21 practices. If they are done -- the cost -- fuel  
22 procurement people do a good job, those costs will  
23 be lower. And we heard Ed Blunk go on yesterday  
24 about how they enter into contracts and they go out  
25 and look. Those types of practices, they are

1 looking for the most efficient -- should be looking  
2 for the most efficient and the most effective  
3 prices.

4           So if the company gets to keep more of the  
5 savings, it's an incentive for them to go out and  
6 look for the best price -- to go out and really  
7 search for what will lower their cost. If the  
8 company in an environment -- let's say the price of  
9 coal is increasing, and they have to increase that,  
10 that will -- the incentive mechanism, raising it  
11 from 95/5 to 95/10 puts more of the increase on the  
12 company so they will do their best to minimize that  
13 increase. So changing the incentive the 95/5 to the  
14 90/10 would change how much the company really does  
15 recover. You can see in my white paper where I  
16 discuss how much -- even if costs go up by  
17 20 percent, the companies are still recovering  
18 99 percent of the fuel cost under 95/5. One percent  
19 is -- OPC does not believe 1 percent is enough to  
20 incentivize the company to make changes to its  
21 practices. And I know 1 percent can be a big  
22 number, but, apparently, on the other end, you know,  
23 it can be a big number either way. So incentivizing  
24 the company by requiring them to absorb more --  
25 getting to keep more is a better incentive.

1           Q.    Mr. Zobrist asked you about a public  
2   counsel past position -- perhaps current position, I  
3   think his question may have been, that costs be  
4   categorized by prime account, subaccount, and  
5   resource codes for cost and revenue descriptions.  
6   Do you recall that?

7           A.    Yes.

8           Q.    And why is it important to have  
9   identification at that level?

10          A.    As my Schedule 2 and 3 -- and I think even  
11   4 attached to my direct testimony shows, KCPL does  
12   keep records at a level that gives much more  
13   definition to what the cost types are. And it's --  
14   I find that that's done in Accounts 501, which is  
15   typically where coal costs are, but not so much in  
16   565, which is transmission. The newer -- where  
17   there's more new cost. But the longer an account  
18   has been around, typically it seems to have more  
19   subaccounts and activity codes. Those activity  
20   codes give us the detail that we need to see.  
21   Without those, we would not have been able to see  
22   that cell phones that KCPL was asking to be -- to  
23   have cell phones included. We would not know that  
24   security services are part of what they're  
25   requesting, meals -- reimbursements. Without that

1 level of activity code -- for one thing, we wouldn't  
2 have been able to see it, and then in the future --  
3 let's -- they've got in their tariff currently  
4 Accounts 501 through 509, and you've shown that  
5 their also asking for 510, but, actually, they're  
6 not asking for 505, but it's -- they don't have any  
7 cost in Accounts 505 now, but because the way the  
8 tariff is written, it says if 501, 505 is allowed,  
9 KCPL can start putting costs in those, and there is  
10 nothing we -- that staff or OPC -- we can't call  
11 that imprudent because the commission has included  
12 it in the tariff. So these broad characterizations  
13 allow the companies to move cost in and out --  
14 particularly in -- without the commission really  
15 knowing what's in those costs or what's in that  
16 account. The activity code gives more definition to  
17 what costs are being included, and so it's important  
18 for staff and OPC to go back and do prudence audits,  
19 which the commission relies on and which the  
20 legislature and Section 386.288 mentions and  
21 requires prudence audits, but there's not good  
22 boundaries put up to know -- to be able to say  
23 prudence or imprudence and better definitions -- and  
24 that's why the tariff sheet has gotten so long.  
25 It's not because I wanted to make the tariffs sheets

1 longer; it's because we found as we went to look at  
2 these, the tariffs did not provide good guidance on  
3 what was included in the FERC and what wasn't, and  
4 that's -- those -- it's evolved to the 11 pages that  
5 they typically are now, just so that we have the  
6 detail so that we can do prudence audits and know  
7 what costs can flow through.

8 Q. Counsel for Ameren Missouri asked you a  
9 line of questions about the price of coal. Do you  
10 recall that?

11 A. Yes.

12 Q. And there was some discussion about  
13 projections and forecasts being wrong. Do you  
14 recall that?

15 A. Yes.

16 Q. Does -- simply because a cost is  
17 uncertain, does that mean that it's volatile?

18 A. No.

19 Q. Do you know if -- related to the coal  
20 costs, do you know if Kansas City Power & Light  
21 hedges its coal costs in long-term contracts?

22 A. It does enter into contracts for its coal.  
23 I believe they lay -- what they call ladder them.  
24 There's a certain amount for various years, versus  
25 other utilities in the state who enter into a

1 contract for all of theirs from one source. KCPL  
2 has several contracts, and they ladder in the cost,  
3 and that is a hedge. Again, it's fluctuating coal  
4 prices and it also helps -- it then -- if coal  
5 prices do gawn, the company is able to take  
6 advantage of them, too.

7 Q. So if the company -- KCPL has long-term  
8 contracts for coal, it does note the price of coal.  
9 Would you agree with that?

10 A. Yes.

11 Q. Are you aware if KCPL also has long-term  
12 contracts for coal transportation with the  
13 railroads?

14 A. Yes. I believe Ed Blunk was discussing  
15 that yesterday.

16 Q. And so if they have long-term contracts,  
17 would you agree that means they know what the costs  
18 of those long-term contracts is going to be?

19 A. They should.

20 Q. Mr. Lowry discussed with you the  
21 commission's rule that -- I believe it was at  
22 090(2)(c). Do you recall that.

23 A. Yes.

24 Q. And he asked you whether you believe that  
25 the regulation had been applied as you believe in

1     **the past. Do you recall that?**

2           A. He asked if I believe that -- whether that  
3 had been applied to each individual component in the  
4 past, yes.

5           **Q. And I -- regarding that, do you -- what is**  
6 **your view of how that regulation has been applied?**

7           A. What has happened is, utilities have  
8 tended to say all the costs in 501, whatever is  
9 there, except for labor -- internal labor, they pull  
10 that out, and they look at that cost as a total.  
11 Now, when they start adding these other costs,  
12 they -- I have not seen a utility yet that has said,  
13 Here is just the cost of coal and here is how it  
14 fluctuated; here is the cost of procurement; here's  
15 the cost of handling; here is the cost of fly ash,  
16 and justified why each one of those of should be  
17 included in the FAC -- and I don't know if fly ash  
18 is in 501, but, anyway, they take the whole account.  
19 But what that means is, including all of these other  
20 miscellaneous that aren't in particularly one of the  
21 requirements is the magnitude of costs, they may not  
22 have a great magnitude 3-, \$4,000, but every change  
23 to that cost gets passed on to the customers, even  
24 though that cost isn't of great magnitude, even  
25 though if that cost was not included in the FAC, it



1 would not do harm to the company's ROE. But because  
2 it's included with all the rest of these, the  
3 customer ends up having to pay for increases, and,  
4 likewise, some of the degrees crease. But each one  
5 of those customers are now asking -- being asked not  
6 just to pay for the changes in coal and oil and  
7 natural gas, but if we had what KCPL wants, if they  
8 threw a party for their field procurement department  
9 and it's higher than what's in the revenue  
10 requirement in the rate case, the customer would be  
11 required to return -- to pay for that extra cost by  
12 adding in all of these other things the company is  
13 being allowed to pass through to its customers  
14 cost -- a big variety of costs, and I believe that  
15 the commission should know what those costs are and  
16 be able to make a decision based on complete  
17 information put before them.

18 **Q. Counsel for Ameren was discussing with you**  
19 **an example about a car in a garage. Do you recall**  
20 **that?**

21 A. Yes.

22 **Q. And I believe one of the last questions**  
23 **was -- he talked about, you know, if he buys for**  
24 **something that's called a car today, and the name**  
25 **later changes, it still performs the same function.**

1 Do you recall that?

2 A. Yes.

3 Q. With your FAC recommendations, you're not  
4 making any recommendation that the company can't  
5 recover these costs in some way, are you?

6 A. No. These costs are included in revenue  
7 requirement and they can -- they would be recovering  
8 the cost of those, as long as the earnings are  
9 greater than the cost.

10 Q. And so you would agree that companies can  
11 recover costs and that they do so in a rate case?

12 A. Yes.

13 Q. And would you agree that an FAC is an  
14 exception to that normal process?

15 A. Yes. And the legislature put in all kinds  
16 of consumer protections in the statutes, and one of  
17 them is the commission gets to choose whether or not  
18 the company has one, what costs should be included  
19 in it, and what kind of incentive mechanism.

20 Q. Mr. Lowry was asking you about -- and this  
21 was at the beginning of his inquiry -- related to  
22 the change provisions in the current FAC tariffs for  
23 most Ameren Missouri and for KCP&L. Do you recall  
24 that?

25 A. Yes.

1           Q.    Do you agree with his characterization  
2   that you are requiring a more prescriptive tariff?

3           A.    I'm of the opinion the tariff does need to  
4   be prescriptive in what costs are included and it  
5   needs to be detailed to give that.

6           Q.    In one of your answers to his line of  
7   questioning, you began to mention problems before  
8   you were asked to move on from that, so what are  
9   these problems that you wanted to discuss that led  
10   to your request for this more detailed and  
11   prescriptive tariffs?

12          A.    Well, the very first FAC that was approved  
13   by the commission was for MoPub -- I think at the  
14   time it was called Aquila, though. And I don't know  
15   how many people are aware of it, but those FAC  
16   tariffs went into effect five days, I believe, after  
17   the rest of the tariff -- the rate schedules did,  
18   and Mr. Conrad took to that the appeals court, and  
19   there's all kinds of problems with that. That very  
20   first tariff proposed by Aquila was not very  
21   descriptive, and staff -- I worked with staff --  
22   James Watkins and Matt McGuffey and I worked to get a  
23   better tariff. Now, we didn't do a very good job,  
24   because within a short period of time, there was  
25   disagreement on exactly what the FAC included. The

1 tariff -- the commission's order talked about  
2 off-system sales be included, but the tariff didn't,  
3 and so it was occurrences like this, and that was --  
4 that would have been in 2008. But over time and  
5 experience with working with the utilities, staff  
6 learned that we needed to be more prescriptive.  
7 Because when the company -- when Aquila came in and  
8 said, No, we don't have to include off-system sales,  
9 and we turned to the order and it says, Look, it  
10 says off-system sales should be included, the  
11 company says it's not in the tariff. What does that  
12 lead -- I'm not one for saying, you know, Well, next  
13 time -- I learn from my mistakes and try to do  
14 better in the next instance, so we would try to make  
15 it more prescriptive. And, eventually, we worked to  
16 get all of the tariff sheets for all of the  
17 utilities to use the same type of language. And  
18 there were problems with some utilities including  
19 costs they didn't incur, and the commission ordered  
20 on that, that that -- they should not do that.

21           So it's been my experience, since the FAC  
22 was first granted, Aquila, that these prescriptive  
23 tariffs are needed to be able to administer them.  
24 So when they come in for their FAC rate increase, we  
25 can know whether or not all of those costs or all of

1 those revenues really should be in there. That's  
2 the only way that we have to know what should be  
3 included in the FAC.

4 Q. Counsel for Ameren Missouri also asked you  
5 about some questions at Account 151. Do you recall  
6 those?

7 A. Yes.

8 Q. And Account 151 defines fuel, doesn't it?

9 A. Yes.

10 Q. And is the word "fuel" in the FAC statute?

11 A. Yes.

12 Q. Would adopting your recommendation for the  
13 definition of fuel be consistent with the FERC's  
14 definition of fuel in Account 151?

15 A. Yes.

16 Q. Would that make the FAC more transparent?

17 A. Yes. The FERC audits the utilities and  
18 whether or not they are recording their costs  
19 appropriately in the correct accounts and doing --  
20 you know, I've seen a few of -- or at least one of  
21 those audits and some of those orders. So the FERC  
22 has some oversight that would provide a measure of  
23 FERC oversight over the fuel cost, too, not just our  
24 prudence audits, but, also, some FERC oversight over  
25 what costs are considered fuel.

1           Q.    Counsel for KCPL asked you about -- and I  
2    think you agreed with him -- the -- that prudence is  
3    the legal standard when looking at an FAC.  Do you  
4    recall that?

5           A.    I recall the line of questioning on the  
6    prudence, yes.

7           Q.    And so you had used the words "beyond  
8    doubt."

9           A.    Yes.

10          Q.    Whatever the legal standard might be, is  
11    it your position that the prudence of FAC cost is  
12    something that's difficult to contest?

13          A.    It's very difficult to contest.

14          Q.    Is it something that's even difficult to  
15    identify?

16          A.    Yes.  Because there's different levels of  
17    even prudence.  Something could be most prudent, and  
18    other things could be just, Well, okay, but not be  
19    imprudent.  You can take an action that it's not  
20    bad, but if you had done this other, it would have  
21    been even better, but either are imprudent.  So  
22    imprudence swings you all the way to the other end  
23    to -- and imprudent, it has to be an imprudent  
24    action that resulted in harm to the customers, and  
25    you have to -- the auditor -- whether it's an

1 engineer or accountant -- has to go back and look at  
2 what occurred at that time period and try to  
3 understand how the decision maker made that decision  
4 and has to prove the decision maker made the wrong  
5 decision. That's based on somebody else's decision  
6 in the past. It's almost impossible to prove  
7 imprudence.

8 Q. And since there was some discussion about  
9 a car example, you've, in the past, had an example  
10 related to a car to describe the difficulty of a  
11 prudence audit.

12 A. Yes.

13 Q. And one of the -- I think the premise was  
14 that if an employee were to take a trip to Las  
15 Vegas, that you might be able to see that was  
16 imprudent?

17 A. Yes. I remember that example. It was in  
18 a commission order.

19 Q. And -- but -- but that's a clear case, so  
20 prudence isn't always a clear-cut case; right?

21 A. That could be clear cut, but whether or  
22 not -- and let's say it was decided it was prudent.  
23 But it's not clear-cut, you know whether he used  
24 more gas because he drove 80 miles per hour the  
25 whole way there. That's impossible to tell. You

1 know, it's hard to say, Well what he spent on meals  
2 is imprudent. Well, who gets to decide that, Well,  
3 he should have a healthy meal that costs \$20, versus  
4 going to McDonald's for ten? Imprudent? No, he's  
5 eating; he's got to eat. But -- so that -- it's  
6 that gray area that -- you know, that you could have  
7 had it cheaper, but was it imprudent to do it the  
8 way you did? Not necessary.

9 **Q. And so that goes to the inherent**  
10 **difficulty of conducting a prudence audit? Would**  
11 **you agree?**

12 A. I agree.

13 **Q. And do you believe that prudence audits**  
14 **are a -- in and of themselves are a sufficient**  
15 **protection for customers?**

16 A. No. It's shown that they have not been.  
17 In any direct testimony, I talk about how GMO  
18 allowed -- and I don't think it was on purpose; I  
19 think it was an accident -- allowed transmission  
20 costs for crossroads to flow through the FAC, even  
21 though they weren't supposed to. If I remember  
22 correctly, the staff did two prudence audits during  
23 the time that was incorrectly flowing through the  
24 FAC and did not find that. Do I fault staff? No.  
25 There's so much to look at in a prudence audit, and



1 it's hard to find these things. It wasn't found  
2 until an auditor in -- a staff auditor in this rate  
3 case dug into the transmission cost of the FAC.

4 Now, I will say GMO refunded all of that  
5 money. They did the right thing. But, you know, as  
6 far as the prudence audits, the auditors collect --  
7 conducting the prudence audits couldn't have found  
8 that.

9 There was recently -- in Ameren -- it was  
10 a small amount, but -- and I discovered it through  
11 some discussion -- phone call with the utility. It  
12 was a revenue that should have been provided since  
13 2011, and they discovered they had not been flowing  
14 through that. Now, Ameren did the right thing and  
15 they made an adjustment in August of 2016 for that.  
16 There had been numerous Ameren prudence audits  
17 during that time. It was a very small amount. I  
18 can see why an audit would not catch that. Given  
19 resources, you can't look at every little thing.

20 So prudence audits, if they catch  
21 something, that's great, but they -- and, again, no  
22 fault to the staff or OPC. We do the best we can  
23 with the resources we're given and the information,  
24 because the utilities hold all of the information.  
25 So, you know, prudence audits are not effective

1 tools.

2 MR. OPITZ: That's all of the questions I  
3 have, Judge. Thank you.

4 JUDGE PRIDGIN: Thank you.

5 Ms. Mantle, thank you very much. You may  
6 step down.

7 And let me verify with counsel -- I  
8 believe that's the last witness for the day. And  
9 unless counsel has anything else on the record, I'd  
10 like to go off the record to kind of discuss where  
11 the parties envision the case going from here and  
12 when -- you know, when you think you would need  
13 hearing dates and on what issues, et cetera.

14 So is there anything -- number one, is  
15 counsel comfortable doing that off the record?

16 MR. STEINER: Yes.

17 JUDGE PRIDGIN: Okay. Anything else we  
18 need to discuss before we go off the record?

19 All right. Hearing nothing, we will  
20 adjourn for the day and go off the record.

21 Thank you. We're off the record.

22 (The deposition was adjourned at  
23 12:18 p.m., with the time and location of the  
24 continuation to be agreed upon by all parties.)

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C E R T I F I C A T E

I, Lisa D. Ballalatak, a Certified Court Reporter for the State of Missouri, do hereby certify that I appeared at the time and place first hereinbefore set forth, that I took down in shorthand the entire proceedings had at said time and place, and that the foregoing constitutes a true, correct, and complete transcript of my said shorthand notes.

Witness my hand and seal this 11th day of February 2017



Lisa D. Ballalatak  
Certified Court Reporter  
State of Missouri

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