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BEFORE THE

ILLINOIS COMMERCE COMMISSION

ILLINOIS POWER COMPANY )  
 ) DOCKET NO.  
 ) 04-0476  
Proposed general increase )  
in natural gas rates. )  
(Tariffs filed on June 25, )  
2004) )

January 20, 2005

Springfield, Illinois

Met, pursuant to notice, at 9:30 a.m.

BEFORE:

MR. MICHAEL WALLACE, Administrative Law Judge

APPEARANCES:

MR. OWEN MacBRIDE  
6600 Sears Tower  
Chicago, Illinois 60606

(Appearing on behalf of Illinois  
Power Company)

MS. JANIS VON QUALEN  
527 East Capitol Avenue  
Springfield, Illinois 62701

(Appearing on behalf of Staff of the  
Illinois Commerce Commission)

SULLIVAN REPORTING CO., by  
Carla Boehl, Reporter, CSR #084-002710

1 APPEARANCES:

(CONT'D.)

2 MR. ERIC ROBERTSON  
3 LUEDERS, ROBERTSON & KONZEN  
4 1939 Delmar  
5 Granite City, Illinois 62040  
6 (Appearing on behalf of Illinois  
7 Industrial Energy Consumers)

8 MR. EDWARD FITZHENRY

9 MR. THOMAS BYRNE

10 1901 Chouteau Avenue

11 St. Louis, Missouri 63103

12 (Appearing on behalf of Central  
13 Illinois Public Service Company d/b/a  
14 AmerenCIPS and Central Illinois Light  
15 Company d/b/a AmerenCILCO)

16 MR. JOSEPH L. LAKSHMANAN  
17 2828 North Monroe  
18 Decatur, Illinois 62526

(Appearing on behalf of Dynegy, Inc.)

19 MR. RICHARD BALOUGH  
20 53 West Jackson Boulevard, Suite 956  
21 Chicago, Illinois 60604

(Appearing on behalf of the Citizens  
22 Utility Board)

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2 PROCEEDINGS

3 JUDGE WALLACE: Pursuant to the direction of  
4 the Illinois Commerce Commission I now call Docket  
5 04-0476. This is the matter of Illinois Power  
6 Company seeking a general increase in gas rates.

7 May I have appearances for the record,  
8 please, starting with the Company?

9 MR. MacBRIDE: Appearing on behalf of Illinois  
10 Power Company, Owen MacBride, 6600 Sears Tower,  
11 Chicago, Illinois 60606.

12 MR. BYRNE: Also appearing on behalf of  
13 Illinois Power Company, Thomas M. Byrne, 1901  
14 Chouteau Avenue, St. Louis, Missouri 63103.

15 JUDGE WALLACE: Staff?

16 MS. VON QUALEN: Janis Von Qualen on behalf of  
17 the Staff of the Illinois Commerce Commission, 527  
18 East Capitol Avenue, Springfield, Illinois 62701.

19 MR. ROBERTSON: Eric Robertson, Lueders,  
20 Robertson and Konzen, P.O. Box 735, 1939 Delmar,  
21 Granite City, Illinois 62040, appearing on behalf of  
22 the Illinois Industrial Energy Consumers.

1           MR. BALOUGH: Richard Balough, B-A-L-O-U-G-H,  
2           53 West Jackson Boulevard, Suite 956, Chicago 60604,  
3           appearing on behalf of the Citizens Utility Board.

4           MR. LAKSHMANAN: Joseph L. Lakshmanan, 2828  
5           North Monroe, Decatur, Illinois 62526 appearing on  
6           behalf of Dynegy, Inc.

7           JUDGE WALLACE: Any other appearances? All  
8           right. Let the record reflect there are no other  
9           appearances at today's hearing.

10                  I want the record to note that we had a  
11           telephone conference call last week wherein a number  
12           of issues were discussed. To the extent possible  
13           all parties were notified and given a call-in  
14           number. I don't believe everyone did call in. So  
15           to the extent that that conference call is an ex  
16           parte communication, I am putting it on the record.  
17           And we discussed certain settlement issues that were  
18           floating about and the waiver of cross of many  
19           witnesses. That's generally a basic summary.

20                  Also I had a telephone call with Janice  
21           Dale from the Attorney General's office. I did not  
22           set up a telephone contact for today's hearing.

1 This is an evidentiary hearing. If people have an  
2 interest, they are supposed to attend. In any  
3 event, Ms. Dale indicated to me that she would be  
4 filing a response to the stipulation stating no  
5 objection. I am not trying to paraphrase how she is  
6 going to say it, but that's the gist of the  
7 conversation.

8 I also had a conversation with Mr. Moore.  
9 Mr. Moore, I guess cross had been waived for his  
10 witness, Ms. Smith. I had reserved some time but I  
11 am going to waive that also. So Mr. Morris wasn't  
12 going to come down here. He did say that he had  
13 reached an agreement with Mr. MacBride to put in a  
14 cross exhibit.

15 MR. MacBRIDE: Yes.

16 JUDGE WALLACE: And he finally did e-mail me a  
17 copy. I guess he was having e-mail problems  
18 yesterday. Someone three-hole punched it for me.  
19 We will mark that, I guess, as BEAR Cross Exhibit 1.  
20 And has everyone seen that?

21 MS. VON QUALEN: I have not.

22 MR. MacBRIDE: It was a Company response to a

1 data request, right?

2 JUDGE WALLACE: Right, it was Company's,  
3 Illinois Power's, response to BEAR Data Request 3-2.  
4 That's how it came through. Do you have a better  
5 copy? Would you rather get a better copy? Can you  
6 hand it to Ms. Von Qualen?

7 MR. MacBRIDE: We had had a discussion with  
8 Mr. Moore about the fact that the copy he originally  
9 sent us had some columns missing, but this one  
10 appears to be complete. So if you would prefer,  
11 which is probably a good idea, the Company can  
12 supply a copy of that that has larger type.

13 JUDGE WALLACE: That would be good.

14 MR. MacBRIDE: It would probably be tomorrow  
15 before we could get that.

16 JUDGE WALLACE: All right. Well, I will hold  
17 off on that until tomorrow.

18 I think that's the three or four things  
19 that I have to bring up at this point. Let's go off  
20 the record.

21 (Whereupon there was  
22 then had an

1                   off-the-record  
2                   discussion.)

3                   JUDGE WALLACE: All right. Let's go back on  
4 the record.

5                   I have been reminded that a petition for  
6 leave to intervene by Dynegy has not been acted  
7 upon. Is there any objection to that? All right.  
8 That petition is granted.

9                   And there may be -- this is rather loose  
10 and sloppy, but if there are other petitions for  
11 leave to intervene filed on behalf of members of  
12 IIEC that haven't been acted upon, are there any  
13 objections to those, assuming they are out there?  
14 All right. Those are granted and we will double  
15 check to see if some have come in.

16                   All right. There are a few witnesses this  
17 morning. Would Mr. Struck, Anderson, Mr. Blackburn,  
18 Mr. Jones and Mr. Lazare, if you are present, please  
19 stand.

20                   (Whereupon the five  
21 witnesses were duly  
22 sworn by Judge

1                   Wallace.)

2                   JUDGE WALLACE:   And if I called you  
3                   Mr. Anderson, I am sorry.  I just got wrapped up.

4                   MS. ANDERSON:   That's all right.

5                   JUDGE WALLACE:   I meant to say Ms. Anderson.

6                   Ms. Von Qualen, do you want to go?

7                   MS. VON QUALEN:   Certainly.  I will call Scott  
8                   Struck.

9                                   SCOTT A. STRUCK

10                   called as a Witness on behalf of Staff of the  
11                   Illinois Commerce Commission, having been first duly  
12                   sworn, was examined and testified as follows:

13                                   DIRECT EXAMINATION

14                   BY MS. VON QUALEN:

15                   Q.   Good morning, Mr. Struck.  Please state  
16                   your name for the record.

17                   A.   My name is Scott A. Struck.

18                   Q.   Who is your employer and what is your  
19                   business address?

20                   A.   I am currently employed as a supervisor in  
21                   the Accounting Department of the Financial Analysis  
22                   Division of the Illinois Commerce Commission.  My

1 business address is 527 East Capitol Avenue,  
2 Springfield, Illinois 62701.

3 Q. Mr. Struck, did you prepare written  
4 exhibits and schedules for submittal in this  
5 proceeding?

6 A. Yes, I did.

7 Q. Do you have before you a document which has  
8 been marked for identification as Staff Exhibit 1.0R  
9 which consists of nine typewritten pages and  
10 Schedules 1.01 through 1.07?

11 A. Yes, I did.

12 Q. Did you prepare those documents for  
13 presentation in this matter?

14 A. Yes, I did.

15 MS. VON QUALEN: Judge Wallace, we filed this  
16 revision on the 18th of January. Would you like  
17 Mr. Struck to go through the changes that he made on  
18 that, or we enumerated them in the cover letter to  
19 the Clerk, is that sufficient?

20 JUDGE WALLACE: Would you please go through  
21 them?

22 MS. VON QUALEN: Certainly.

1           Q. Mr. Struck, could you tell the Court what  
2 changes were made in ICC Staff Exhibit 1.0R?

3           A. On page 1 of Schedule 1.01 in the heading  
4 on Column E, the text "DLH 1.02" has been replaced  
5 with the reference to "DLH 1.03."

6                   Also on page 1 of Schedule 1.01 on line 26,  
7 the text "K" has been replaced with the text "J".

8                   Then also on page 1 of Schedule 1.01 on  
9 line 27, the text "I" has been replaced with the  
10 text "J".

11                   And then on line 28 of Schedule 1.01, page  
12 1, the text "I" has been replaced with "J".

13                   Those are all the changes to the revised  
14 testimony.

15           Q. Do you also have before you a document  
16 which has been marked for identification as ICC  
17 Staff Exhibit 10.0R, the revised rebuttal testimony  
18 of Scott Struck consisting of seven typewritten  
19 pages and Schedules 10.01 through 10.08?

20           A. Yes, I do.

21           Q. Did you prepare those documents for  
22 presentation in this matter?

1           A. Yes, I did.

2           Q. Similarly, the revised rebuttal testimony  
3 was filed on January 18. Mr. Struck, would you go  
4 through the changes that were made on the revised  
5 rebuttal testimony, please?

6           A. On page 1 of Schedule 10.01 on line 27 the  
7 text "and including" was replaced with the text  
8 "excluding".

9                   On page 1 of Schedule 10.01 on line 27 the  
10 text "I" has been replaced with the text "J".

11                   On page 1 of Schedule 10.01 the information  
12 on line 28 was removed.

13                   On page 1 of Schedule 10.02 in Column H the  
14 -\$177,000 amount was moved from line 14 to line 13.

15                   And then on Schedules 10.01 through 10.04  
16 various calculated amounts have been revised to  
17 reflect the effects of the change just identified  
18 above.

19                   And then finally on page 2 of Schedule  
20 10.02 in the heading of Column M, the text "Schedule  
21 12.08" was replaced with "Schedule 10.08".

22                   Those are all the changes to the rebuttal

1 testimony.

2 Q. Mr. Struck, is the information contained in  
3 ICC Exhibits 1.0R and 10.0R with attached schedules  
4 true and correct to the best of your knowledge?

5 A. Yes, it is.

6 Q. If I were to ask you the same questions as  
7 those set forth in that testimony, would your  
8 answers be the same today?

9 A. Yes, they would.

10 MS. VON QUALEN: Judge, I move for admission  
11 into evidence of ICC Staff Exhibits 1.0R with  
12 attached schedules and 10.0R with attached  
13 schedules.

14 JUDGE WALLACE: Are there any objections to  
15 those exhibits?

16 MR. MacBRIDE: No, sir.

17 JUDGE WALLACE: Those two exhibits are  
18 admitted.

19 (Whereupon ICC Staff  
20 Exhibits 1.0R and 10.0R  
21 were admitted into  
22 evidence.)



1 JUDGE WALLACE: Let's go back on the record.

2 Q. All right. Your new Schedule A also takes  
3 into account all the recommended adjustments by  
4 Staff?

5 A. In the stipulation?

6 Q. Are there outstanding adjustments that have  
7 either not been agreed to or have not been  
8 stipulated to?

9 A. There are two.

10 Q. Other than the Hillsboro?

11 A. Other than the Hillsboro adjustments I am  
12 not aware of any other adjustments reflected in  
13 either Appendix A or Appendix B to the stipulation  
14 that are still outstanding. I believe there are  
15 still some rate design issues that may still be  
16 outstanding.

17 Q. Will those rate design issues affect your  
18 Schedule A?

19 A. No, they will not affect my Schedule A or  
20 Schedule B.

21 Q. I guess I should have asked my question a  
22 little better. Between the rounds of testimony

1           there were certain agreements or certain concessions  
2           to certain adjustments and those have been taken  
3           into account in Schedule A?

4           A.    Yes.

5           Q.    And then did you do both an Appendix A and  
6           Appendix B?

7           A.    Yes.

8           Q.    And the difference being as explained in  
9           one of the paragraphs is the inclusion and exclusion  
10          of the Hillsboro storage field issues?

11          A.    Correct, and those issues are mentioned in  
12          Items 15 and 16 of the stipulation.

13          JUDGE WALLACE:   Okay.   Thank you, Mr. Struck.  
14          Have all the parties received a copy of the  
15          stipulation?

16          MR. LAKSHMANAN:   No, Your Honor.   If someone  
17          has an extra copy, we would appreciate it.

18          MR. LAKSHMANAN:   I now have one, Your Honor.

19          JUDGE WALLACE:   Were you going to object to it?

20          MR. LAKSHMANAN:   No.

21          JUDGE WALLACE:   For the record, are there any  
22          parties that object to the stipulation?   All right.

1 I will accept the stipulation prepared by  
2 Mr. MacBride and Ms. Von Qualen and make this part  
3 of the record. Also in line with that I will grant  
4 the revised motion to submit supplemental testimony  
5 that was filed December 28, assuming there is no  
6 objection to that motion for the record? All right.  
7 That revised motion is also granted.

8 Is there anything else anyone wants to put  
9 in on the stipulation? All right.

10 Thank you, Mr. Struck. You can step down.

11 (Witness excused.)

12 JUDGE WALLACE: According to our schedule,  
13 Ms. Anderson is our next witness. Go ahead.

14 DOTTIE R. ANDERSON  
15 called as a Witness on behalf of Illinois Power  
16 Company, having been first duly sworn, was examined  
17 and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. BYRNE:

20 Q. Ms. Anderson, could you please state your  
21 name.

22 A. Dottie R. Anderson.

1 Q. And by whom are you employed, Ms. Anderson?

2 A. Ameren.

3 Q. And are you the same Dottie R. Anderson  
4 that caused to be filed in this proceeding on  
5 November 30, 2004, a prepared rebuttal testimony  
6 that's been marked IP Exhibit 16.1?

7 A. Yes, I am.

8 Q. And I believe it also has an exhibit  
9 attached to it with your qualifications that's been  
10 marked Exhibit 16.2, is that correct?

11 A. Yes, that's correct.

12 Q. Do you have any corrections to either IP  
13 Exhibit Number 16.1 or 16.2?

14 A. No, I do not.

15 Q. And are you also the same Dottie Anderson  
16 who caused to be filed in this proceeding on January  
17 7, 2005, prepared surrebuttal testimony that has  
18 been marked IP Exhibit Number 16.3?

19 A. Yes, I am.

20 Q. And do you have any corrections to that  
21 prefilled testimony?

22 A. No, I do not.

1           Q. And is the information provided in all  
2 these exhibits, IP Exhibit Number 16.1, 16.2 and  
3 16.3, true and correct to the best of your knowledge  
4 and belief?

5           A. Yes, it is.

6           Q. And if I was to ask you the questions  
7 contained in your prefiled testimony here today when  
8 you are under oath, would your answers be the same?

9           A. Yes.

10          MR. BYRNE: Okay, Your Honor, I would offer IP  
11 Exhibit 16.1, 16.2 and 16.3 and tender Ms. Anderson  
12 for cross examination.

13          JUDGE WALLACE: 16.1, 16.2 and what was the  
14 other one?

15          MR. BYRNE: 16.3.

16          JUDGE WALLACE: Any objection?

17                 IP 16.1, 16.2 and 16.3 are admitted.

18                         (Whereupon IP Exhibits  
19                         16.1, 16.2 and 16.3  
20                         were admitted into  
21                         evidence.)

22          JUDGE WALLACE: Does anyone have cross of

1 Ms. Anderson? Mr. Robertson.

2 MR. ROBERTSON: Thank you.

3

4 CROSS EXAMINATION

5 BY MR. ROBERTSON:

6 Q. Good morning, Ms. Anderson. My name is  
7 Eric Robertson. I represent the Illinois Industrial  
8 Energy Consumers. I am sorry to drag you up here  
9 for this today, but. You hold the position of gas  
10 unbundled services supervisor for Ameren Service  
11 Company, is that correct?

12 A. Yes.

13 Q. What do the duties of that office entail?

14 A. I manage all the large gas transportation  
15 customers for UE, CIPS and CILCO and now IP as well.

16 Q. And in reference to the advanced metering  
17 and communication equipment that you discuss at page  
18 2 of your surrebuttal testimony in 16.3, at what  
19 point in time will a customer or a marketer be given  
20 access to the customer-specific usage information  
21 generated by this equipment?

22 A. They will be given access when they, you

1 know, ask to be put on the same transportation rate  
2 and we install the telemetry. Then they can -- they  
3 just complete an access agreement and we give them a  
4 password and a user ID, and then they can go in via  
5 the internet and view that data on a daily basis.

6 Q. All right. Now, once they sign up for this  
7 service and have the equipment installed, will the  
8 information be available to them on the day of the  
9 usage or the day after?

10 A. It will be about four to six hours after  
11 the previous gas day. We post it to our -- the  
12 application that you can see via the website every  
13 day around 10:30.

14 Q. Now, I am going to display my ignorance a  
15 little bit, but when you say previous gas day, does  
16 a gas day consist of a 24-hour period?

17 A. Yes, it goes from 9:00 to 9:00.

18 Q. So it will be four hours after the end if  
19 the gas day was for the 24 hours on January 1, the  
20 data would be available 4 hours after the end of  
21 that gas day?

22 A. Yes, on January 2, yes, that is correct.

1           Q. Now, would you agree or disagree that  
2 AmerenCILCO and AmerenCIPS do not require daily  
3 balancing for transportation customers?

4           A. AmerenCILCO is monthly balanced.  
5 AmerenCIPS is daily balanced.

6           Q. Is that a critical day or every day of the  
7 year?

8           A. For AmerenCIPS they are balanced every day  
9 of the year.

10          MR. ROBERTSON: I have no other questions.  
11 Thank you.

12          MR. BALOUGH: Your Honor, I have just a couple  
13 questions, if I may.

14          JUDGE WALLACE: Okay, go ahead.

15          MR. BALOUGH: Thank you.

16                                    CROSS EXAMINATION

17          BY MR. BALOUGH:

18           Q. Good morning. My name is Richard Balough  
19 and I represent the Citizens Utility Board and we  
20 generally represent residential customers, and my  
21 focus is on that. You had mentioned in your  
22 testimony and in your cross about the balancing and



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BRIAN W. BLACKBURN

called as a Witness on behalf of Illinois Power Company, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MacBRIDE:

Q. Please state your name and business address for the record.

A. Brian W. Blackburn, 500 South 27th Street, Decatur, Illinois 62521.

Q. Who is your employer, Mr. Blackburn?

A. AmerenIP.

Q. Mr. Blackburn, have you prepared certain testimony and exhibits you wish to offer in this proceeding?

A. Yes.

Q. Do you have before you a document that's been marked for identification as IP Exhibit 8.1 which is captioned Prepared Direct Testimony of

1 Brian W. Blackburn?

2 A. Yes.

3 Q. Does that document consist of 21 pages of  
4 questions and answers in written form?

5 A. Yes.

6 Q. Is IP Exhibit 8.1 the testimony you wish,  
7 the direct testimony you wish, to offer in this  
8 case?

9 A. Yes.

10 Q. Do you also have before you copies of  
11 documents that are marked for identification as IP  
12 Exhibits 8.2, 8.3, 8.4 and 8.5?

13 A. Yes.

14 Q. And are those the exhibits to your direct  
15 testimony?

16 A. Yes.

17 Q. Are they identified and described in your  
18 direct testimony?

19 A. Yes.

20 Q. And were they prepared under your  
21 supervision and direction?

22 A. Yes.

1           Q. Do you have any correction or changes to  
2 any of IP Exhibits 8.1 through 8.5?

3           A. No.

4           Q. You also have before you a document that's  
5 been marked for identification as IP Exhibit 8.6  
6 which is captioned Prepared Rebuttal Testimony of  
7 Brian W. Blackburn?

8           A. Yes.

9           Q. Does that document consist of 31 pages of  
10 questions and answers in written form?

11          A. Yes.

12          Q. Is Exhibit 8.6 the rebuttal testimony you  
13 wish to offer in this case?

14          A. Yes.

15          Q. And with that do you also have documents  
16 that have been marked for identification as IP  
17 Exhibits 8.7 through and including 8.13?

18          A. Yes.

19          Q. Are those the exhibits to your rebuttal  
20 testimony?

21          A. Yes.

22          Q. Is each of those exhibits identified and

1 described within your rebuttal testimony?

2 A. Yes, they are.

3 Q. Were your rebuttal testimony exhibits  
4 prepared under your supervision and direction?

5 A. Yes.

6 Q. And are there any corrections or changes to  
7 any of your rebuttal testimony or exhibits?

8 A. No.

9 Q. Finally, do you have before you a document  
10 that has been marked for identification as IP  
11 Exhibit 8.14 captioned Surrebuttal Testimony of  
12 Brian Blackburn?

13 A. Yes.

14 Q. Does that document consist of ten pages of  
15 questions and answers in written form?

16 A. Yes.

17 Q. And is IP Exhibit 8.14 the surrebuttal  
18 testimony you wish to offer in this docket?

19 A. Yes, it is.

20 Q. Do you have any corrections or changes to  
21 make to that exhibit?

22 A. No.

1           Q.   If I were to ask you the questions that are  
2 shown on your three pieces of written testimony that  
3 you have identified at this hearing today, would you  
4 give the same answers that are shown in those three  
5 pieces of testimony?

6           A.   Yes.

7           MR. MacBRIDE:   We offer Mr. Blackburn's  
8 exhibits, IP Exhibits 8.1 through 8.14, into  
9 evidence and tender Mr. Blackburn for cross  
10 examination.

11          JUDGE WALLACE:   Is there any objection?  
12 Exhibits 8.1 through and including 8.14 are  
13 admitted.

14                               (Whereupon IP Exhibits  
15                               8.1 through 8.14 were  
16                               admitted into  
17                               evidence.)

18          JUDGE WALLACE:   Mr. Robertson, any cross?

19          MR. ROBERTSON:   Yes, sir, thank you.

20                               CROSS EXAMINATION

21          BY MR. ROBERTSON:

22          Q.   Good morning, Mr. Blackburn.

1           A.    Good morning.

2           Q.    Could you turn to page 21 of your rebuttal  
3 testimony which is IP Exhibit 8.6?  Do you have  
4 that?

5           A.    Yes, I do.

6           Q.    At the lines 458 to 463 you respond to a  
7 question to Dr. Rosenberg which says Dr. Rosenberg  
8 states actually having customer-owned gas is an  
9 advantage to IP because it means they have to buy  
10 less of their own gas to fill storage fields.  And  
11 you reply to Dr. Rosenberg's proposition below, is  
12 that correct?

13          A.    Yes.

14          Q.    Now, in your testimony at line 458 you say  
15 that Dr. Rosenberg's statement incorrectly implies  
16 that AmerenIP fills its fields only because it has  
17 to, is that correct?

18          A.    Yes.

19          Q.    Is it your understanding that storage  
20 fields do have to be filled?

21          A.    Storage fields do not have to be filled,  
22 no.

1           Q. In order to operate the storage field do  
2 they have to be filled?

3           A. There has to be gas in storage fields to  
4 operate them.

5           Q. And so IP in order to operate its system  
6 must fill its storage fields?

7           A. It must have some amount of gas in storage  
8 to operate them.

9           Q. Now, the capability of a storage field --  
10 or could the capability of a storage field  
11 deteriorate if it is not filled and emptied on a  
12 regular basis?

13          A. I am sorry, could you repeat the question?

14          Q. Could the capability of a storage field  
15 deteriorate if it is not filled and emptied on a  
16 regular basis?

17          A. That is my understanding, yes.

18          Q. Now, would you agree that the more gas that  
19 is in a storage field, the more pressure the storage  
20 field is under, and so all else equal, the more gas  
21 that can be withdrawn on a given day?

22          A. In general, yes.

1           Q. Does IP use gas from storage fields on  
2 occasion to supplement the amount of gas that they  
3 would otherwise take from interstate pipelines?

4           A. Yes.

5           Q. Can you supplement the gas from an  
6 interstate pipeline with storage gas if there is no  
7 gas in the field?

8           A. No.

9           Q. Are you familiar with the term "working  
10 gas" or "top gas"?

11          A. Yes.

12          Q. Are they the same in the vernacular?

13          A. That is my understanding, yes.

14          Q. Is working gas or top gas part of the  
15 utility's rate base?

16          A. No.

17          Q. Is the amount of working gas stored in a  
18 field finite?

19          A. Yes.

20          Q. If you offered a storage service to  
21 transportation customers, would you agree that part  
22 of the gas, the working gas, would be gas provided

1 by transportation customers, all else equal?

2 A. Yes.

3 Q. So if part of the gas is furnished and paid  
4 for by transportation customers, that would imply  
5 less working gas that would be owned or furnished by  
6 IP, is that correct?

7 A. That's correct.

8 Q. Are you aware of any stated Illinois  
9 Commerce Commission policy or philosophy that states  
10 that an LDC-owned storage field must be used only  
11 for PGA customers?

12 A. No.

13 Q. In fact, is it not true that there are  
14 LDC's in northern Illinois that do allow  
15 transportation customers to select and pay for  
16 unbundled service service from an LDC?

17 A. I can't speak for the company's tariffs.

18 Q. Would you accept subject to check that  
19 Northern Illinois Gas Company does?

20 A. Yes.

21 Q. Are you aware that the Staff in this case  
22 is arguing for an adjustment to rate base on the

1 grounds that the Hillsboro storage field is not  
2 fully used and useful?

3 A. Yes.

4 Q. And it is my understanding that for several  
5 years at least the Hillsboro field was not operating  
6 at its full capability, is that correct?

7 A. That's my understanding, yes.

8 Q. Nevertheless, IP has been able to serve the  
9 firm sales customers' requirements from that field,  
10 is that correct?

11 A. They have been able to fulfill their  
12 requirements to the firm customers, not necessarily  
13 from that field.

14 Q. But that field is part of the overall  
15 operating system of IP, is that correct?

16 A. That's true.

17 Q. And so even with the reduced level of  
18 storage capability in the field, IP has been able to  
19 meet its system requirements?

20 A. Yes.

21 Q. Now, is it true that the total sendout on  
22 the IP system is declining?

1           A. I believe that's the general trend.

2           Q. Is it true that Mr. Starbody testified in  
3 this case that it had declined by 13 percent since  
4 the mid-1990's?

5           A. Subject to check I would agree with that.

6           Q. Now, is it also -- it is also my  
7 understanding that IP has presented evidence in this  
8 case to suggest that it is in fact increasing the  
9 capacity of the Hillsboro field in response to the  
10 Staff's used and useful adjustment, is that correct?

11          A. It is my understanding that the rated  
12 capacity is increasing, yes.

13          Q. Now, have you presented any studies that  
14 purport to demonstrate that IP would not be able to  
15 adequately and reliably serve its firm sales  
16 customers if IP offered a limited optional storage  
17 service to its transportation customers?

18          A. No.

19          Q. Now, could you please turn to page 23 of  
20 your rebuttal testimony, and I want to talk to you  
21 about your example, the example you give in response  
22 to Dr. Rosenberg's recommendation for limited

1 storage service here. You show there -- I am sorry,  
2 do you show here at your testimony that a  
3 hypothetical transportation customer who has a peak  
4 day usage of 10,000 therms would be able to lower  
5 its MDQ to 7,000 by selecting a BMQ of 4,000 therms?

6 A. Yes.

7 Q. Now, did Dr. Rosenberg specifically  
8 recommend allowing a customer to elect an MDQ lower  
9 than its actual peak day usage?

10 A. No.

11 Q. In your surrebuttal testimony, IP Exhibit  
12 8.14, I believe, at page 10 you state, "I do not  
13 believe Dr. Rosenberg's proposal as originally  
14 presented precludes the behavior I described." Is  
15 that correct?

16 A. Yes, that's correct.

17 Q. And the behavior you have described is the  
18 behavior in your hypothetical example here?

19 A. Yes.

20 Q. And in your rebuttal testimony at page 23,  
21 is that correct?

22 A. Correct.

1           Q. Now, so by behavior you mean that the  
2 customer would artificially lower its MDQ?

3           A. I believe that is a possibility, yes.

4           Q. Now, would you agree that IP is not  
5 required to deliver gas in excess of a customer's  
6 MDQ?

7           A. Under Rate 76, that's true.

8           Q. And would you agree that the Company has --  
9 again, Rate 76 has an excess MDQ charge?

10          A. Yes.

11          Q. So that if a customer were to set his MDQ  
12 at an artificially low level, he would have to pay  
13 -- and below that of his peak usage, he would have  
14 to pay an excess charge, would he not, if he  
15 delivered more than the MDQ?

16          A. With the addition of Dr. Rosenberg's  
17 optional storage service, no, I do not believe that  
18 was what was presented.

19          Q. So you believe that Dr. Rosenberg's storage  
20 service would have his BMQ replace a portion of the  
21 MDQ?

22          A. Yes.

1           Q.   And if that were not in fact what Dr.  
2   Rosenberg recommended, then would your example here  
3   apply?

4           A.   No.

5           Q.   Now, if the BMQ was not a replacement for  
6   the MDQ, would you agree there would be no lost  
7   revenue problem as suggested in your rebuttal  
8   testimony as a result of Dr. Rosenberg's proposal?

9           A.   There would not be lost revenue from SC 76.

10          Q.   On page 25 of your rebuttal testimony, IP  
11   Exhibit 8.6, you state that when Dr. Rosenberg  
12   derived the 22 percent of BMQ injection figure, he  
13   divided IP's injection capability by the peak day  
14   allocator of 649,976 Mcf which excludes SC 76 and SC  
15   90 revenues, is that your testimony?

16          A.   Yes, it is.

17          Q.   Now, on page 26 of your rebuttal you offer  
18   the same criticism with respect to the calculation  
19   of the withdrawal entitlement. That is that Dr.  
20   Rosenberg excluded SC 76 and SC 90 volumes in his  
21   denominator, is that correct?

22          A.   That is correct.

1           Q. Am I correct that when Dr. Rosenberg  
2 derived his recommended charge for the storage  
3 service, he also excluded SC 76 and SC 90 volumes?

4           A. That's my understanding, yes.

5           Q. You did not raise an objection to his  
6 exclusion of the SC 76 and SC 90 volumes from the  
7 denominator in the calculation of the storage charge  
8 in your rebuttal or surrebuttal testimony, is that  
9 correct?

10          A. That's correct.

11          Q. Did Dr. Rosenberg propose a storage service  
12 of any kind for SC 90?

13          A. No.

14          Q. Currently is an SC 76 customer permitted to  
15 place gas in storage today and withdraw it in April?

16          A. No.

17          Q. Is an SC 76 customer permitted to withdraw  
18 storage today, withdraw from storage today to meet  
19 his system peak day demand?

20          A. He is not specifically granted the right to  
21 withdraw from storage, but he can create an  
22 imbalance on the system which may effectively do so.

1           Q. I understand your position is that the  
2 customer may be using storage for balancing, is that  
3 correct?

4           A. The SC 76 customer.

5           Q. Transportation customer?

6           A. Yes.

7           Q. But the other two functions of storage,  
8 peaking and price diversity, as I understand in your  
9 direct testimony are primarily related to bundled  
10 service PGA customers, isn't that correct?

11          A. That's correct.

12          Q. Now, if you take a look at page 27 of your  
13 rebuttal testimony, IP Exhibit 8.6, the first  
14 question and answer that appears on that page, would  
15 you agree that Dr. Rosenberg specifically put a  
16 condition in his proposal that would require the  
17 customer on his storage service to minimize its gas  
18 inventory in storage by October 31 of each year?

19          A. If you mean reducing it to five times the  
20 BMQ, if that means minimizing, then yes.

21          Q. I guess that's what I mean since that's  
22 what he said. And in your rebuttal testimony you

1 appear to suggest that this provision may prevent a  
2 nominating entity from building an inventory prior  
3 to October 31 and withdrawing it in a subsequent  
4 winter season, is that correct?

5 A. Yes.

6 Q. Now, would you agree or disagree that by  
7 requiring a minimum storage on October 31, a  
8 customer on this proposed service would be incented  
9 to build inventory in the winter months, November 1  
10 to March 31?

11 A. Would you please repeat the question? I  
12 didn't follow it.

13 Q. I will try it a different way. Given the  
14 minimum storage requirement on October 31 that we  
15 just discussed, wouldn't the customer on Dr.  
16 Rosenberg's proposed storage service be incented to  
17 build inventory in the winter months and draw it --  
18 I am sorry, build inventory between November --  
19 strike that, between November 1 and March 31 and  
20 draw it down in the non-winter months?

21 A. I don't understand why they would be  
22 incented to do that, no.

1           Q.    Would you agree that LDCs in cold weather  
2           areas such as the state of Illinois normally operate  
3           their storage fields by maximizing their gas storage  
4           on October 31 and drawing it down in the winter  
5           months?

6           A.    Approximately October 31, yes.

7           Q.    On page 27 in IP Exhibit 8.6 you equate Dr.  
8           Rosenberg's recommended charge per BMQ of five cents  
9           per therm to be about 1.6 cents per month, is that  
10          correct?

11          A.    Per MMBtu per month, yes.

12          Q.    I am sorry, I didn't hear his answer.  
13          Could you read it back for me, please?

14          A.    The five cents per therm BMQ charge, I  
15          believe, would be equivalent to 1.6 cents per MMBtu  
16          per month of actual gas, yes.

17          Q.    Now, did you obtain or derive that charge  
18          by dividing the monthly charge by 30 days?

19          A.    Yes.

20          Q.    And so is that only the rate at one hundred  
21          percent load factor?

22          A.    Yes.

1           Q. If we look at the gas prices that you  
2 included on page 27 of your rebuttal testimony, you  
3 note that in seven of the eleven months with  
4 subsequent months listed, the subsequent months' gas  
5 price is more than 1.6 cents per MMBtu greater than  
6 the preceding, is that your testimony?

7           A. Yes.

8           Q. Is it correct to say that your point here  
9 is that the customer could possibly benefit from  
10 storage service?

11          A. Specifically in an arbitrage manner, yes.

12          Q. That would give the customer access to one  
13 of the three features of the storage service you  
14 describe in your direct testimony, is that correct?

15          A. Yes.

16          Q. Is it your position that IP should not be  
17 required to offer a cost-based service that benefits  
18 customers?

19          A. IP provides cost-based services that  
20 provides storage to customers already.

21          Q. It doesn't provide storage service  
22 currently to SC 76 customers, is that correct?

1           A. SC 76 is completely optional. All  
2 customers on SC 76 have the option to take a bundled  
3 rate that includes storage costs as well.

4           Q. Then I take it, it is not your position, in  
5 fact you would favor a cost-based service that  
6 benefits customers?

7           A. I favor the cost-based services that we  
8 have proposed.

9           Q. Well, I take it you believe your services  
10 benefit customers?

11          A. Yes, they do.

12          Q. And, therefore, you would agree that it is  
13 appropriate to offer cost-based services that  
14 benefit customers?

15          A. Yes.

16          Q. Would you agree that IP is a regulated  
17 monopoly in Illinois?

18          A. Yes.

19          Q. Would you agree that the policy of the  
20 Illinois Commerce Commission is to base IP's rates  
21 on cost of service?

22          A. Yes.

1           Q.   And if IP's industrial customers who were  
2           to take Dr. Rosenberg's storage service were able to  
3           benefit from it, wouldn't that make these  
4           industrials more competitive versus other  
5           industrials located elsewhere, all else equal?

6           A.   I don't believe I could speak to the  
7           competitiveness of individual customers.

8           Q.   If a service to be offered by Illinois  
9           Power were in fact cost-based and did provide a  
10          benefit to customers, would that necessarily be a  
11          bad result?

12          A.   Not necessarily, no.

13          Q.   Do you know whether industrial load on the  
14          IP gas system is declining?

15          A.   I don't have specific figures in front of  
16          me that would indicate one way or the other.

17          Q.   In preparing your testimony in this  
18          proceeding, did you review the Commission's last  
19          rate order for IP in a gas case, Docket 93-0183?

20          A.   I believe I did, yes.

21          Q.   Did you review any of the testimony from  
22          that case?

1           A.   No.

2           Q.   Does IP necessarily have to meet the  
3 imbalances of transportation customers or any other  
4 customers from storage?

5           A.   Not necessarily, no.

6           Q.   It could meet it from the diversity of the  
7 system?

8           A.   That is a possibility under certain  
9 circumstances for certain customers on certain  
10 pipelines.

11          Q.   It could meet it through the pipeline  
12 tolerances that IP has, could it not?

13          A.   That is a possibility, yes.

14          Q.   Would you accept subject to check that  
15 Mr. Gudeman, the IP witness on this issue in Docket  
16 93-0183 and IP Exhibit 9.4 at page 7 testified that  
17 he was opposed to proposals by the Citizens Utility  
18 Board to allocate storage costs to transportation  
19 customers because he believed that the imbalances of  
20 those customers could be met from system diversity  
21 or pipeline tolerances?

22          MR. MacBRIDE:   Excuse me, I object to the

1 question, Judge. This testimony is not part of the  
2 record. The witness testified he didn't review it  
3 in preparing his testimony. We don't know the  
4 context of the portion that Mr. Robertson is  
5 paraphrasing. I think it is inappropriate at this  
6 stage of the proceeding to ask the witness to accept  
7 this subject to check with no obvious opportunity to  
8 come back and discuss the context or anything else.

9 MR. ROBERTSON: Well, based on your review -- I  
10 am sorry, I will wait til he rules on the objection.

11 JUDGE WALLACE: Do you wish to respond?

12 MR. ROBERTSON: Well, the witness has said he  
13 has reviewed the order. Let me try to lay a better  
14 foundation for it.

15 JUDGE WALLACE: Okay.

16 BY MR. ROBERTSON:

17 Q. You testified in your direct and rebuttal  
18 and I think other IP witnesses have testified that  
19 there are no storage costs assigned to SC 76  
20 customers at this time, is that correct?

21 A. That's correct.

22 Q. And I think it was you but it may have been

1 another witness who testified that that decision to  
2 not assign storage costs to transportation customers  
3 was made in Docket Number 93-0183, is that your  
4 understanding?

5 A. I understand that that is consistent with  
6 that proceeding as well, yes.

7 Q. Do you know -- do you know what IP's  
8 position was with regard to the allocation of  
9 storage costs to transportation customers in 93-0183  
10 based on your review of the order?

11 A. I know that no storage costs were allocated  
12 to Rate 76.

13 Q. But the rationale of the company or the  
14 Commission is not something that you are familiar  
15 with?

16 A. No.

17 Q. Would you accept subject to check that in  
18 response to a question that IP witness Gudeman in IP  
19 Exhibit 9.4, page 6 and page 7, in response to a  
20 question from CUB which was "Dr. Blackman has  
21 also" -- I am sorry, in response to a question by a  
22 CUB witness which was, "Dr. Blackman has also

1 included ten percent of winter transportation  
2 deliveries in calculating his storage cost  
3 allocations. Do you agree that some storage costs  
4 should be allocated to customer-owned gas?"

5 In response to that question would you  
6 agree subject to check that Mr. Gudeman testified,  
7 "No, I do not agree. Dr. Blackman stated in his  
8 direct testimony that transportation customers  
9 depend on the Company's storage for daily balancing  
10 needs. He further states that the company can offer  
11 this service, however, only because it has the  
12 operational flexibility afforded by gas storage  
13 facilities."

14 "However, the daily balancing can also be  
15 accomplished through system diversity in the  
16 Company's own pipeline tolerance. Since the Company  
17 is not offering transportation customers access to  
18 storage, they should not be allocated any storage  
19 costs."

20 MR. MacBRIDE: I object again, Judge. First of  
21 all, this is not Mr. Blackburn's prior testimony.  
22 Second, it is my recollection that a number of the

1 transportation and industrial rate design issues in  
2 the last Illinois Power rate case were settled  
3 between Illinois Power and the IIEC, so I can't even  
4 tell you if the testimony that's being quoted even  
5 represented the Company's final position in the  
6 case.

7 JUDGE WALLACE: Do you care to respond?

8 MR. ROBERTSON: Well, I believe that this  
9 didn't relate to IIEC's position. This related to  
10 CUB's position. They didn't reach a settlement with  
11 CUB. And I am giving the question and the answer in  
12 the context it was given. This was the position of  
13 the Company in the 93-0183 case. And I think it is  
14 proper to cross-examine the witness on the Company's  
15 prior inconsistent position taken by the Company.

16 MR. MacBRIDE: I don't think any inconsistency  
17 has been shown, number one. Again, it is not this  
18 witness's testimony. It is 12 years old. And I  
19 just -- it is not either proper impeachment or  
20 proper cross examination generally to simply ask did  
21 this witness say this in a case 12 years ago.

22 JUDGE WALLACE: The objection is sustained.



1 BY MR. BALOUGH:

2 Q. Good morning. Richard Balough on behalf of  
3 the Citizens Utility Board. I wanted to ask you  
4 some questions about the storage. Am I correct that  
5 your testimony --

6 JUDGE WALLACE: Just a minute. You did not  
7 indicate that you had any cross for this witness.

8 MR. BALOUGH: I understand, Your Honor, but I  
9 think I have a total of 40 minutes allocated for all  
10 the witnesses. I am not going to use that 40  
11 minutes on a lot of them.

12 JUDGE WALLACE: Do you have a lot of questions?  
13 I will allow you a few questions, but I don't really  
14 -- you know, the whole point of setting a schedule  
15 is so we can set a schedule.

16 MR. BALOUGH: I understand. I don't have very  
17 many questions.

18 JUDGE WALLACE: All right. Go ahead.

19 BY MR. BALOUGH:

20 Q. Again, let me ask, currently is the storage  
21 facilities, are they allocated to PGA customers?

22 A. The base storage rates are allocated to PGA

1 customers and those customers also transporting  
2 under Rider OT.

3 Q. Mr. Robertson indicated -- questioned you  
4 concerning being able to use option -- or Rate 76 to  
5 be able to use optional storage, is that correct?

6 A. Yes.

7 Q. If optional storage were to be used, would  
8 there be a need then to re-allocate storage costs?

9 A. Yes.

10 Q. Am I correct that the purpose of IP  
11 providing storage is both for, first of all, price  
12 that generally you try to fill storage in summer  
13 when prices are lower and withdraw it in the winter  
14 when prices are higher, is that one purpose?

15 A. I don't think that I would necessarily  
16 agree that prices are typically lower in the summer  
17 or higher in the winter, but it does serve a  
18 diversification function with pricing.

19 Q. And it also serves a deliverability  
20 function, is that correct?

21 A. Correct.

22 Q. And there are limits on a daily basis as to

1           how much can be withdrawn from storage, is that  
2           correct?

3           A.    Correct.

4           Q.    And the limitations would be based on  
5           physical constraints at the storage facility as  
6           well, is that correct?

7           A.    Correct.

8           Q.    So if a transportation Rate 76 customer  
9           wanted to withdraw storage, say, on a critical day,  
10          would that have an impact on the PGA customers?

11          A.    Yes, it potentially would.

12          Q.    Would that be a positive impact or a  
13          negative impact?

14          A.    I don't know that that can be said with  
15          complete certainty, but I would think that it would  
16          be generally negative.

17          JUDGE WALLACE:   It would be what?

18          A.    It would generally be a negative impact on  
19          a PGA customer.

20          Q.    How would -- have you done any studies to  
21          determine how IP would make the PGA customers whole  
22          for this, for any impact of optional storage service

1 for Rate 76?

2 A. No.

3 MR. BALOUGH: That's all I have, Your Honor.

4 Thank you.

5 JUDGE WALLACE: Any redirect?

6 MR. MacBRIDE: Yes, sir.

7 REDIRECT EXAMINATION

8 BY MR. MacBRIDE:

9 Q. Mr. Blackburn, Mr. Robertson asked you if  
10 it is necessary for the Company to make injections  
11 of gas into its storage field and then subsequently  
12 make withdrawals in order to operate the storage  
13 fields properly. Do you recall those questions?

14 A. Yes.

15 Q. Does Illinois Power plan its own injection  
16 and withdrawal schedule each year for each of its  
17 storage fields?

18 A. Yes, it does.

19 Q. Is its overall gas acquisition plan  
20 developed with those injection requirements and  
21 storage withdrawal requirements in mind?

22 A. Yes.

1           Q.   And does Illinois Power need to use or rely  
2           on customer-supplied gas in order to support its  
3           injection and withdrawal plan?

4           A.   No.

5           Q.   Do you think the receipt of  
6           customer-supplied gas into storage would be helpful  
7           or not helpful in enabling Illinois Power to carry  
8           out its storage field injection and withdrawal?

9           A.   I would think it would be generally  
10          unhelpful.

11          Q.   You indicated to Mr. Robertson that  
12          Illinois Power was able to meet its system  
13          requirements even during the period when the  
14          Hillsboro storage field was operating below its  
15          designed levels.  What did Illinois Power do to meet  
16          its system requirements during that period of time?

17          A.   My understanding is that Illinois Power  
18          contracted for additional pipeline capacity and  
19          reserved gas supply.

20          Q.   I think you indicated in response to  
21          Mr. Robertson that the Hillsboro storage field  
22          capacity is being increased.  Do you recall that?

1           A.    Yes.

2           Q.    Would it be more correct to say that the  
3 Hillsboro storage field capacity is being restored  
4 to its original design parameters?

5           A.    I think that's a better characterization,  
6 yes.

7           Q.    Referring to page 23 of your rebuttal, you  
8 have an example in your answer to 49 which you  
9 discussed with Mr. Robertson and my question to you  
10 is, does the fact that Mr. Rosenberg did not  
11 recommend allowing the transportation customer to  
12 reduce its MDQ below its actual peak day usage  
13 change your example?

14          A.    No.

15          Q.    In response to one of Mr. Robertson's  
16 questions you indicated that if in fact under Dr.  
17 Rosenberg's proposal the transportation customer was  
18 not allowed to reduce its MDQ, there would not be a  
19 revenue loss -- strike that. You indicated that if  
20 under Dr. Rosenberg's proposal the customer was not  
21 allowed to reduce its MDQ in connection with  
22 specifying a BMQ, there would not be a revenue loss

1 from Service Classification 76. Do you recall that  
2 answer?

3 A. Yes.

4 Q. Could there potentially be a revenue loss  
5 also to the Company from any other source for that  
6 proposal?

7 A. I believe there could. If a certain amount  
8 of storage capacity had to be set aside for use by  
9 the SC 76 customers under an optional balancing  
10 service, there might be an issue with recovering  
11 those storage costs elsewhere.

12 Q. You indicated in response to one of  
13 Mr. Robertson's questions that Illinois Power is a  
14 regulated monopoly in Illinois. Is Illinois Power a  
15 monopoly in the provision of storage services to  
16 transportation customers?

17 A. No, my understanding is that storage  
18 services are available from interstate pipelines and  
19 other third parties.

20 Q. And those services are available to retail  
21 industrial users?

22 A. Yes, they are.

1           Q. Do you believe Dr. Rosenberg's storage  
2 proposal as presented in his testimony is cost  
3 based?

4           A. No, I don't.

5           Q. Now, Mr. Robertson as well as Mr. Balough  
6 was asking you some questions about impacts of these  
7 proposals on the PGA customers, the supply  
8 customers. Under Illinois Power's proposal in this  
9 case there is a cash-out of monthly and potentially  
10 daily imbalances by transportation customers,  
11 correct?

12          A. Correct.

13          Q. And are there any impacts of that cash-out  
14 on the PGA customers?

15          A. Yes, any excess revenues from those  
16 cash-outs are credited back to the PGA with the  
17 potential of lowering the PGA cost.

18          Q. And what's the theory of that credit back?

19          A. The theory is that it is reimbursing those  
20 service classifications that are paying for the full  
21 cost of storage to recoup some of those costs.

22          Q. And that's because when the industrial

1 customer, the transportation customers creates  
2 imbalances, it effectively is using the Company's  
3 storage, correct?

4 A. Correct.

5 Q. Can a transportation customer today  
6 effectively use Illinois Power's storage for the  
7 peaking and price diversity function by creating a  
8 daily imbalance?

9 A. Yes, they can.

10 MR. MacBRIDE: No further questions.

11 JUDGE WALLACE: Any recross, Mr. Robertson?

12 RE CROSS EXAMINATION

13 BY MR. ROBERTSON:

14 Q. Mr. Blackburn, could you repeat for me your  
15 answer to Mr. MacBride's question about the other  
16 revenue source loss or loss of revenue, the other  
17 source of loss of revenue?

18 A. I believe it is storage -- if an amount of  
19 storage capacity has to be carved out and set aside  
20 for the use of SC 76 customers under an optional  
21 balancing service, it would be unlikely that we  
22 could recover the full cost of storage from the

1 bundled customers going forward.

2 Q. You are recovering it now, right?

3 A. Yes.

4 Q. And your position is transportation  
5 customers are using storage now, is that right?

6 A. They have the potential to.

7 Q. So if we merely formalize what you say the  
8 transportation customers are already doing, how does  
9 that impact the Company adversely? In fact, the  
10 Company will receive a cost-based charge for that,  
11 wouldn't it or couldn't it?

12 A. Please clarify the last part of the  
13 question.

14 Q. Well, I mean, the Company would be  
15 compensated for the use of the storage that it would  
16 be carving out, would it not?

17 A. Not as I understand Dr. Rosenberg's  
18 proposal.

19 Q. No, I mean, assuming that we had a cost, I  
20 know you think his is not cost-based, but assuming  
21 we had a cost-based proposal?

22 A. Yes.

1           Q.   And that would merely be formalizing what  
2 you say is already going on, isn't that true?

3           A.   Potentially.

4           Q.   And the Company is able to operate the  
5 system very well right now?

6           A.   The Company is able to operate the system,  
7 yes.

8           MR. ROBERTSON:   I have no further questions.

9           JUDGE WALLACE:   Mr. Balough, any recross?

10          MR. BALOUGH:   No, Your Honor.   Thank you.

11                           EXAMINATION

12          BY JUDGE WALLACE:

13          Q.   Mr. Blackburn, what is the Company's  
14 definition of a therm?

15          A.   The definition of a therm in the standard  
16 terms and conditions is defined -- would you like me  
17 to read that to you?

18          Q.   Yes.

19          A.   "Therm means the volume of gas occupying  
20 100 cubic feet at an absolute pressure of 14.73  
21 pounds per square inch, and at a temperature of 60  
22 degrees Fahrenheit.   Where gas is measured under a

1 pressure greater than 12 inches of water column, the  
2 volume of gas registered by the meter shall be  
3 corrected to an equivalent volume of 14.73 pounds  
4 per square inch by the application of a pressure  
5 correction factor and an adjustment for  
6 super-compressibility. All therms shall be  
7 measured, computed and rounded to the nearest  
8 therm."

9 Q. Now, Mr. Mallinckrodt makes the statement  
10 that this is not a traditional definition of therm.  
11 Do you agree with that?

12 A. No.

13 Q. You do not agree with that?

14 A. I do not agree with Mr. Mallinckrodt's  
15 statement, no.

16 Q. You believe that IP's definition of a therm  
17 is a traditional definition?

18 A. IP's definition of a therm is a  
19 longstanding definition of a therm and therefore  
20 certainly traditional for AmerenIP, any other  
21 operating companies that use a similar definition of  
22 therm.

1 Q. So it is just traditional for IP; it is not  
2 traditional in the gas industry?

3 A. IP and other operating companies.

4 Q. No, let's just talk about IP right now.

5 A. Okay.

6 Q. You are saying it is traditional for IP?

7 A. I am saying it is traditional for IP. It  
8 may not be the dictionary definition of a therm, but  
9 it is the traditional definition for IP.

10 Q. Do you have knowledge of whether this  
11 definition has been used by IP for 25 years?

12 A. It has been the definition since I have  
13 been at Illinois Power which is about 15 years.

14 Q. Mr. Mallinckrodt makes a statement that the  
15 Chicago City Gate price is in Mmbtu's as opposed to  
16 therms?

17 A. Correct.

18 Q. Do you agree with that?

19 A. Yes, I do.

20 Q. And you have agreed to do a conversion, is  
21 that correct?

22 A. Correct.

1           Q. The gas delivered to IP by pipeline  
2 companies, is that measured by the IP definition of  
3 a therm or is some other definition used?

4           A. Typically, gas is delivered from interstate  
5 pipelines using an MMBtu measurement.

6           Q. So then when it is delivered to IP, IP does  
7 a conversion to its volumetric therm?

8           A. Yes, it does.

9           Q. Do you know why IP uses a volumetric therm  
10 as opposed to an MMBtu?

11          A. I would speculate that it is because most  
12 meters measure volumetrically. They do not measure  
13 the heat of the gas flowing through them.

14          Q. And then in response to a question from  
15 Mr. MacBride you mentioned that there are  
16 third-party suppliers that provide storage service?

17          A. That's my understanding, yes.

18          Q. Someone other than an interstate or  
19 intrastate pipeline?

20          A. Yes.

21          Q. Or an LDC?

22          A. Yes.

1           JUDGE WALLACE: All right. Thank you,  
2 Mr. Blackburn. You may step down.

3                           (Witness excused.)

4           MR. MacBRIDE: The next witness is Mr. Jones.

5           JUDGE WALLACE: You may proceed.

6           MR. MacBRIDE: Judge, just so we are not  
7 confused here or everyone else, you may recall back  
8 earlier in the case Mr. Jones had filed direct  
9 testimony and then there was supplemental testimony  
10 was filed to correct an error and basically that  
11 supplemental testimony with exhibits were intended  
12 to completely replace the direct testimony which was  
13 filed at the start of the case. So the original  
14 direct testimony in the case, Exhibits 7.1 through  
15 7.9, will not be offered and identified. So we are  
16 starting Mr. Jones' sequence with the supplemental  
17 testimony which is effectively his testimony.

18           JUDGE WALLACE: And that came in about  
19 September?

20           MR. MacBRIDE: Yes, late August or September.

21

22

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5

LEONARD M. JONES

6

called as a Witness on behalf of Illinois Power

7

Company, having been first duly sworn, was examined

8

and testified as follows:

9

DIRECT EXAMINATION

10

BY MR. MacBRIDE:

11

Q. Would you please state your name and

12

business address for the record.

13

A. Leonard M. Jones, 500 South 27th Street,

14

Decatur, Illinois 62521.

15

Q. Who is your employer, Mr. Jones?

16

A. AmerenIP.

17

Q. Do you have before you a document that has

18

been marked for identification as IP Exhibit 7.10

19

which is captioned Prepared Supplemental Direct

20

Testimony of Leonard M. Jones?

21

A. Yes.

22

Q. Does that document consist of 25 pages of

1 questions and answers in written form?

2 A. Yes.

3 Q. Is IP Exhibit 7.1 the direct testimony you  
4 prepared for this proceeding?

5 A. 7.10.

6 Q. 7.10?

7 A. Yes.

8 Q. And with that testimony you have additional  
9 exhibits before you that have been identified as IP  
10 Exhibits 7.11 through 7.18?

11 A. Yes.

12 Q. Are those the exhibits you prepared to  
13 offer in connection with your direct testimony?

14 A. Yes.

15 Q. Were those exhibits prepared under your  
16 supervision and direction?

17 A. Yes.

18 Q. Are each of those exhibits identified and  
19 described in your prepared supplemental direct  
20 testimony, IP Exhibit 7.10?

21 A. Yes.

22 Q. Do you have any corrections or changes to

1 make to any of IP Exhibits 7.10 through 7.18?

2 A. No.

3 Q. And now do you also have before you a  
4 document that has been marked for identification as  
5 IP Exhibit 7.19 which is captioned Prepared Rebuttal  
6 Testimony of Leonard M. Jones?

7 A. Yes.

8 Q. Does that document consist of 30 pages of  
9 questions and answers?

10 A. Yes.

11 Q. Is IP Exhibit 7.19 the rebuttal testimony  
12 you have prepared to offer in this case?

13 A. Yes.

14 Q. And with that rebuttal testimony do you  
15 also have additional exhibits that have been marked  
16 for identification as IP Exhibits 7.20 through and  
17 including 7.29?

18 A. Yes.

19 Q. Are Exhibits 7.20 through 7.29 the exhibits  
20 you have prepared in connection with your rebuttal  
21 testimony?

22 A. Yes.

1           Q.   And were they prepared under your  
2 supervision and direction?

3           A.   Yes.

4           Q.   And are those exhibits identified and  
5 described in your prepared rebuttal testimony?

6           A.   Yes.

7           Q.   Do you have any changes or corrections to  
8 make to any of your rebuttal testimony or exhibits?

9           A.   No.

10          Q.   And finally do you have before you a  
11 document that's been marked for identification as IP  
12 Exhibit 7.30 which is captioned Prepared Surrebuttal  
13 Testimony of Leonard M. Jones?

14          A.   Yes.

15          Q.   Does that document consist of 16 pages of  
16 questions and answers?

17          A.   Yes.

18          Q.   Is IP Exhibit 7.30 the surrebuttal  
19 testimony which you have prepared for this case?

20          A.   Yes.

21          Q.   Do you also have with that testimony  
22 documents that have been marked as IP Exhibits 7.31

1 and 7.32?

2 A. Yes.

3 Q. Were those exhibits prepared under your  
4 supervision and direction?

5 A. Yes.

6 Q. Are those two exhibits identified and  
7 described in your prepared surrebuttal testimony?

8 A. Yes.

9 Q. And do you have any corrections or changes  
10 to make to any of your surrebuttal exhibits?

11 A. No.

12 Q. If I were to ask you the questions shown in  
13 IP Exhibits 7.10, 7.19 and 7.30 today, those would  
14 be your three pieces of prepared testimony, would  
15 you give the same answers that are shown in those  
16 documents?

17 A. Yes.

18 MR. MacBRIDE: We offer Mr. Jones identified  
19 exhibits, IP Exhibits 7.10 through 7.32 in evidence  
20 and tender Mr. Jones for cross examination.

21 JUDGE WALLACE: Are there any objections? IP  
22 Exhibits 7.10 through and including IP 7.32 are

1 admitted.

2 (Whereupon IP Exhibits 7.10 through  
3 7.32 were admitted into  
4 evidence.)

5 JUDGE WALLACE: And, Mr. Robertson, do you have  
6 any cross?

7 MR. ROBERTSON: Yes, sir.

8 CROSS EXAMINATION

9 BY MR. ROBERTSON:

10 Q. I would like to talk to you about IP  
11 Exhibit 7.11, page 82, Mr. Jones. That's attached  
12 to your rebuttal testimony. Now, I am showing you,  
13 Mr. Jones, a Staff-corrected supplemental response  
14 to IIEC Data Request 1-2 and I want to talk to you  
15 about the last paragraph. This was provided by  
16 Mr. Lazare, and ask you whether you agree with  
17 Mr. Lazare's position that if he were to calculate  
18 recommended class revenues based on the Company's  
19 cost of service study, he would recommend that the  
20 revenues for SC 65 be based solely on the cost of  
21 serving that individual class and the revenues for  
22 SC 76 only reflect the cost for that individual

1 class. Do you see that in the last paragraph of the  
2 response?

3 A. Yes, I see that response.

4 Q. Do you agree with Mr. Lazare's philosophy  
5 on that point?

6 A. No, I do not.

7 Q. And in fact the IP didn't propose -- they  
8 combined the revenues for SC 65 and SC 76, did they  
9 not?

10 A. Correct.

11 MR. ROBERTSON: No further questions.

12 JUDGE WALLACE: Mr. Balough?

13 MR. BALOUGH: No questions, Your Honor.

14 EXAMINATION

15 BY JUDGE WALLACE:

16 Q. Mr. Jones, do the schedules that you  
17 attached to your testimony indicate that IP expects  
18 each customer class to pay its cost of service?

19 A. Correct.

20 Q. Would you agree that that is the same  
21 approach that Mr. Lazare is taking in his schedules  
22 that he has attached?

1           A. Mr. Lazare has taken a cost of service  
2 approach as well.

3           Q. What do you think the significant  
4 difference between you and Mr. Lazare are?

5           A. With respect to this data request, the  
6 Company has proposed to --

7           Q. Actually, I am sorry, I didn't mean to  
8 limit you to this data request. I just meant, you  
9 know, overall. Both of you are saying that the  
10 customer class is expected to pay its cost of  
11 service?

12          A. Correct.

13          Q. Under the rates, either your rate, IP  
14 rates, or Staff rates?

15          A. Correct.

16          Q. And then my other question is, what do you  
17 perceive as the major difference between your  
18 proposal and Staff's approval?

19          A. The Company's proposal has rates that are  
20 linked to its cost of service study that can give  
21 finally-tuned basic signals by rate components such  
22 as the high pressure and low pressure demand charges

1 and the various facilities charges.

2 Q. In any of your schedules can I find the  
3 information on the percentage cost of service under  
4 your proposed rates by customer class?

5 A. Exhibit 7.11.

6 Q. Unfortunately, I don't seem to have that  
7 handy. Okay, 7.11?

8 A. And actually a more current version is  
9 shown in Exhibit 7.20. Page 1 will show the percent  
10 of total delivery service or bundled service.

11 MR. MacBRIDE: Do you have that one, Judge?

12 A. Page 1 shows the total base rate revenue  
13 requirement by class. Page 2 will show the percent  
14 increase, including the cost of gas, that we are  
15 targeting.

16 JUDGE WALLACE: Okay. Thank you.

17 Mr. MacBride, any redirect?

18 MR. MacBRIDE: No, sir.

19 (Witness excused.)

20 JUDGE WALLACE: Okay, Mr. Lazare.

21 MR. MacBRIDE: Judge, could we go off the  
22 record for a minute?

1 JUDGE WALLACE: Let's go off the record.

2 (Whereupon there was  
3 then had an  
4 off-the-record  
5 discussion.)

6 JUDGE WALLACE: Let's go back on the record.

7 Ms. Von Qualen.

8 MS. VON QUALEN: Staff calls Pete Lazare.

9 PETER LAZARE

10 called as a Witness on behalf of Staff of the  
11 Illinois Commerce Commission, having been first duly  
12 sworn, was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MS. VON QUALEN:

15 Q. Good morning. Please state your name for  
16 the record.

17 A. Peter Lazare.

18 Q. Who is your employer and what is your  
19 business address?

20 A. Illinois Commerce Commission, address is  
21 527 East Capitol Avenue, Springfield, Illinois  
22 62701.

1 Q. What is your position at the Commission?

2 A. I am a senior rate analyst.

3 Q. Mr. Lazare, did you prepare written  
4 exhibits and schedules for submittal in this  
5 proceeding?

6 A. Yes, I did.

7 Q. Do you have before you a document which has  
8 been marked for identification as ICC Staff Exhibit  
9 6.0R, Revised Direct Testimony of Peter Lazare,  
10 consisting of 27 typewritten pages and Schedules  
11 6.01 through 6.09?

12 A. Yes.

13 Q. Was that piece of testimony and schedules  
14 prepared by you?

15 A. Yes.

16 Q. And the revised testimony was filed  
17 electronically yesterday, is that correct?

18 A. Yes.

19 Q. Could you tell us what changes were made to  
20 the testimony that was filed on yesterday?

21 A. The changes consisted of first the removal  
22 of a sentence on page 8, lines 170 through 173, and

1 the sentence said, "Further, because the  
2 contribution of average demand is already included  
3 in the average component of the A&E methodology, it  
4 is illogical and unreasonable to develop an excess  
5 component that again accounts for average demand,"  
6 and I deleted that sentence.

7 And then there are a series of changes due  
8 to I incorrectly titled the schedules in my  
9 testimony. They did not conform to the numbers, I  
10 should say, to the numbers on the schedules  
11 themselves. So I had to revised on 10 references, I  
12 had to correct the number for the schedule to match  
13 what was actually the number on the schedule itself.

14 MS. VON QUALEN: Judge, would you like me to go  
15 through each of those individually or is that  
16 explanation sufficient?

17 JUDGE WALLACE: That's fine with me unless  
18 someone else wants to point it out.

19 MS. VON QUALEN: Thank you.

20 Q. And, Mr. Lazare, do you also have before  
21 you a document which has been marked for  
22 identification as ICC Staff Exhibit 16.0, Rebuttal

1           Testimony of Peter Lazare, consisting of 14  
2           typewritten pages with attached Schedules 16.01  
3           through 16.04?

4           A.    Yes.

5           Q.    Did you prepare that document for  
6           presentation?

7           A.    Yes.

8           Q.    Is the information contained in ICC Staff  
9           Exhibits 6.0R with attached schedules in ICC Staff  
10          Exhibit 16.0 with attached schedules true and  
11          correct to the best of your knowledge?

12          A.    Yes.

13          Q.    If I were to ask you those same questions  
14          today, would your answers be the same?

15          A.    Yes.

16          MS. VON QUALEN:  Judge, at this time I would  
17          move for admission into evidence of ICC Staff  
18          Exhibit 6.0R with attached schedules and ICC Staff  
19          Exhibit 16.0 with attached schedules.

20          JUDGE WALLACE:  Any objection?  ICC Staff  
21          Exhibit 6.0R and ICC Staff Exhibit 16.0 are  
22          admitted.

1                   (Whereupon ICC Staff  
2                   Exhibits 6.0R and 16.0  
3                   were admitted into  
4                   evidence.)

5                   JUDGE WALLACE: Mr. Robertson, do you wish to  
6                   cross-examine Mr. Lazare?

7                   MR. ROBERTSON: I will be happy to do that.

8                                   CROSS EXAMINATION

9                   BY MR. ROBERTSON:

10                  Q. Good morning, Mr. Lazare. My name is Eric  
11                  Robertson. I represent the Illinois Industrial  
12                  Energy Consumers. And a simple question to start  
13                  out with, you have conducted a cost of service study  
14                  in this case, is that correct?

15                  A. Yes.

16                  Q. And based on your cost of service study  
17                  what is the system rate of return at current rates?

18                  A. Well, the cost study was performed based  
19                  upon proposed rates, so.

20                  Q. All right. What is the significance of  
21                  that?

22                  A. It was basically taking the revenue

1 requirement that the Company had proposed in  
2 rebuttal and developing an allocation of costs and  
3 revenues among the classes based upon that rebuttal  
4 revenue requirement.

5 Q. So your study doesn't develop a system rate  
6 of return at current rates other than what the  
7 Company proposed?

8 A. Right. It doesn't look at the current rate  
9 levels.

10 Q. And does your study produce a system rate  
11 of return at proposed rates?

12 A. It takes a system rate of return and then  
13 based upon that rate of return it develops a set of  
14 revenues for each customer class. So it doesn't  
15 independently develop a system rate of return.

16 Q. Does it independently develop a class rate  
17 of return by customer class?

18 A. Yes.

19 Q. And what is the rate of return developed in  
20 your study for SC 76 at current rates or as you did  
21 it?

22 A. It is after tax is 9.08 percent.

1 Q. All right. And what's the source of that  
2 number in your testimony?

3 A. It is based upon my Schedule 16.01.

4 Q. All right. And what is the -- would you  
5 accept subject to check -- I think this is correct  
6 or let me ask it this way. What is the rate of  
7 return that the Staff is recommending in this case?

8 A. I don't know specifically.

9 Q. I don't know if this has been updated or  
10 not, but my notes show that Staff Exhibit 14.0,  
11 Schedule 14.01, showed a recommended rate of return  
12 at 8.25 percent. Do you accept that subject to  
13 check?

14 A. Yes.

15 Q. Now, your cost of service study is based on  
16 the average and peak method instead of the average  
17 and excess method for allocation of maintenance, is  
18 that correct?

19 A. Yes.

20 Q. Would you agree that most IP customer  
21 classes, setting aside grain drying or asphalt  
22 paving classes, would incur their peak usage when

1 the weather is cold?

2 A. Yes.

3 Q. Would you agree that the coincident peak  
4 method for all -- strike that. Would you agree that  
5 the coincident peak for all IP customer classes  
6 except the grain bin drying and the asphalt paving  
7 classes should be approximately the same or very  
8 close to the non-coincident peak?

9 A. Non-coincident or coincident?

10 Q. Non-coincident.

11 A. Oh, for the individual classes?

12 Q. Yes.

13 A. Yes.

14 Q. Would you agree that the grain drying and  
15 asphalt paving customers form only a small fraction  
16 of the total usage on the IP system?

17 A. Yes.

18 Q. Would you agree that the average and peak  
19 method will allocate more costs to a high load  
20 factor class than the average and excess demand  
21 method, all else being equal?

22 A. Assuming that their peak is a similar time

1 as system peak, yes.

2 Q. Would you agree that in general industrial  
3 customers exhibit higher load factors than the  
4 system average load factor for IP?

5 A. Yes.

6 Q. It is my understanding that you have not  
7 prepared an estimate of how your proposed increases  
8 in transportation rates will impact IP's ability to  
9 attract and retain industrial load, is that correct?

10 A. Yes.

11 Q. Has the Commission to your knowledge ever  
12 accepted the average and peak method for Illinois  
13 Power Company?

14 A. No.

15 Q. The Commission has previously accepted the  
16 average and excess demand method for IP, is that  
17 correct?

18 A. Yes.

19 Q. Would you agree or disagree that if a  
20 customer uses more gas in the non-winter months but  
21 does nothing to increase its peak day usage, the  
22 average and peak method will allocate more costs to

1           that customer, all else equal?

2           A.    Yes.

3           Q.    Now, is it your opinion that the revenue  
4           requirement of each class should be set based on a  
5           cost of serving that individual class?

6           A.    Yes.

7           Q.    And why -- and in your proposal and revenue  
8           allocation study you separated the SC 65 and SC 76  
9           revenues, do you not?

10          A.    Yes.

11          Q.    And it is my understanding that you believe  
12          that is appropriate in this case because it reflects  
13          costs?

14          A.    To the extent that classes can be separate,  
15          identified separately, and they have a specific cost  
16          of being served, then the rates should to the extent  
17          possible reflect those specific costs.

18          Q.    And you will -- in your study you were able  
19          to separate the 65 from 76 and establish an  
20          individual cost for each class, is that correct?

21          A.    Yes.

22          MR. ROBERTSON:   I have no further questions.

1 JUDGE WALLACE: Mr. Balough?

2 MR. BALOUGH: Yes, thank you.

3

4

5

CROSS EXAMINATION

6 BY MR. BALOUGH:

7 Q. Good morning. My name is Richard Balough  
8 and I represent the Citizens Utility Board. I just  
9 had a few questions for you. Do you agree with IP  
10 for the residential customers to go to a flat usage  
11 rate, is that correct?

12 A. Yes.

13 Q. And that was based upon the fact that the  
14 facilities charge is now fully recovered?

15 A. I would just as a general rule, I would  
16 favor a flat charge. Now, the issue did not come  
17 up, you know, if there are any other reasons why the  
18 flat charge was proposed. But if, for example, the  
19 Company did not fully recover customer costs through  
20 the customer charge, I would still support a flat  
21 charge.

22 Q. So as a general philosophy you support flat

1 charges for residential customers?

2 A. Yes.

3 Q. Have you conducted any studies to see what  
4 the impact would be on customers by going to the  
5 flat charge, residential customers?

6 A. No.

7 Q. You also have testimony concerning plastic  
8 pipe versus steel pipe, and I believe in your  
9 testimony you said that by the Company's use of  
10 plastic pipe versus steel pipe, the cost to  
11 residential customers was higher. Did I summarize  
12 your testimony correctly?

13 A. In the proposed allocator that they  
14 presented in their initial filing, yes, that was the  
15 case.

16 Q. And you proposed instead that the pipe be  
17 allocated, not based upon plastic versus steel, but  
18 upon the size of the pipe and the cost based upon  
19 size, is that correct?

20 A. Yes.

21 Q. Can you tell me did you conduct -- what is  
22 the difference in dollar terms between those two

1 different methods to the residential class?

2 A. Well, actually now there are three methods  
3 out there because the Company has presented a  
4 revised analysis, and I think it is in its rebuttal  
5 testimony. So what we have out there is our two  
6 versions that distinguish between plastic and steel  
7 designed by the Company that come up with quite  
8 different results vis-a-vis the residential class,  
9 and mine actually falls somewhere in between. The  
10 Company's original proposal allocated significantly  
11 more to the residential class. My proposal  
12 allocated less, and now the Company's revised  
13 proposal allocates even less to the residential  
14 class.

15 Q. Less than your proposal?

16 A. Yes.

17 Q. Do you know in dollar terms what that is or  
18 where I could find those three comparisons?

19 A. I think that's in Karen Althoff's rebuttal  
20 testimony. I don't know exactly what page it is on.  
21 But she gives, I think, percentage differences, so  
22 she may not give the difference in dollar terms but

1 she will give the difference in terms of the  
2 percentage of services allocated to, for example,  
3 the residential class.

4 Q. At this point are you still standing by  
5 your method or are you going -- are you adopting the  
6 Company's revised steel pipe allocation  
7 differential?

8 A. I am standing by my method.

9 Q. And why is that?

10 A. Because I don't feel that the numbers in  
11 support the Company has provided that distinguish  
12 the cost between steel and plastic are well  
13 supported. I have questions about the basis on  
14 which those numbers were derived. So I don't feel  
15 comfortable supporting an allocator that makes these  
16 kind of distinctions between the cost of plastic and  
17 steel.

18 MR. BALOUGH: That's all the questions I have,  
19 Your Honor.

20 JUDGE WALLACE: All right. Mr. MacBride had  
21 requested that we take a break for lunch so he could  
22 review Mr. Fitzhenry's notes.

1 MR. FITZHENRY: Your Honor --

2 JUDGE WALLACE: Let's go off the record.

3 (Whereupon there was  
4 then had an  
5 off-the-record  
6 discussion.)

7 JUDGE WALLACE: Why don't we go ahead and break  
8 for lunch and come back at 1:00?

9 (Whereupon the hearing  
10 was in recess for lunch  
11 until 1:00 p.m.)

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(Whereupon the proceedings are

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reported by Laurel A.

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Patkes.)

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JUDGE WALLACE: Just for completeness, I had

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raised an issue off the record before we went to

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lunch concerning Mr. Fitzhenry and Mr. Byrne's

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appearance here today, and I will accept Mr.

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MacBride's argument that there is no inherent

15

conflict, and Mr. Byrne and the absent Mr. Fitzhenry

16

can appear here today.

17

MR. MacBRIDE: Thank you.

18

JUDGE WALLACE: We were crossing Mr. Lazare I

19

think.

20

Mr. MacBride?

21

MR. MacBRIDE: Yes. Good afternoon,

22

Mr. Lazare.

1 THE WITNESS: Good afternoon.

2 MR. MacBRIDE: I have just a few questions here  
3 for you.

4

5 CROSS-EXAMINATION

6 BY MR. MacBRIDE:

7 Q. First of all, going back to something from  
8 this morning, you were discussing with Mr. Robertson  
9 your calculation of the system rate of return and  
10 the class rate of return that you calculated based  
11 on Illinois Power's proposed revenue requirement as  
12 it submitted in its rebuttal case, correct?

13 A. Yes.

14 Q. All right. Now, I take it you haven't  
15 calculated or redone your study to calculate rates  
16 of return based on the levels of revenue increase  
17 that would be indicated by the stipulation entered  
18 into by the company and staff, is that correct?

19 A. Yes.

20 Q. And would you agree or accept subject to  
21 check that Illinois Power's rebuttal rate increase  
22 proposal was roughly two times the rate increase

1 that's indicated by the stipulation?

2 A. Yes.

3 Q. Now, would you look at Schedule 6.02 of  
4 your direct testimony, please, and this exhibit  
5 relates to the issue of the use of the steel and  
6 plastic services in developing the services  
7 allocated for that, correct?

8 A. Yes.

9 Q. All right. And on this exhibit you've  
10 calculated for each of the various service pipe  
11 diameter sizes a ratio of the steel cost and the  
12 plastic cost for that diameter size, correct?

13 A. Yes.

14 Q. All right. And first of all, what are the  
15 units for the columns labeled steel and plastic?

16 A. The steel is I think in dollars per linear  
17 foot.

18 Q. Okay. Of the length of the service?

19 A. And plastic, yes.

20 Q. Per linear foot of the length of the  
21 service?

22 A. Right.

1           Q. All right. And is it your understanding  
2           that the figures for steel and for plastic include  
3           both the material and the labor for installation?

4           A. Yes.

5           Q. All right. Now, you've calculated the  
6           ratio in the fourth column on this exhibit and  
7           that's simply the value for steel divided by the  
8           value of plastic, correct?

9           A. Yes.

10          Q. Now, in developing your services allocator,  
11          do you use this ratio of steel to plastic in your  
12          other exhibits?

13          A. For developing my allocator?

14          Q. Yes.

15          A. No.

16          Q. All right. Now, would you now look at  
17          Schedule 6.04, Page 3, and this page or this  
18          schedule are again part of the development of your  
19          services allocator, correct?

20          A. Yes.

21          Q. And in this page, you have taken the unit  
22          steel cost for each of the diameter sizes and the

1 unit plastic cost for each of the service diameter  
2 sizes and you've simply calculated the arithmetic  
3 average of those two numbers, correct?

4 A. Yes.

5 Q. You haven't weighted the steel or the  
6 plastic in any way in that calculation, correct?

7 A. Well, in the sense that I weighted it on  
8 50/50 by calculating the average.

9 Q. But you didn't weight them, for example, in  
10 terms of the number of steel services versus the  
11 number of plastic services on the system?

12 A. No.

13 Q. All right. Then in the fourth column, I'm  
14 sorry, the fifth column of Page 3 of Schedule 6.04,  
15 you've calculated a size cost weight for each of  
16 these averages for the various diameter sizes and  
17 that size cost weight or weighting is developed  
18 using the one-inch diameter as the baseline,  
19 correct?

20 A. Actually, the less than one inch.

21 Q. Okay. All right. So the other weightings  
22 are the ratios of the average for the various sizes

1 to the average for the less than one-inch pipe size,  
2 correct?

3 A. Yes.

4 Q. Then if you move to Page 4 of your Schedule  
5 6.04, you use the size cost weighting for each  
6 diameter size in the second column of this exhibit,  
7 correct?

8 A. Yes.

9 Q. Now, could you just walk through for us and  
10 explain how you developed the, starting with the  
11 size cost weighting, how you get to the staff  
12 services allocated as shown on the bottom row of  
13 Page 4?

14 A. Well, basically for each class you have a  
15 breakdown of services by different diameters, and  
16 for each diameter I basically applied the  
17 appropriate weighting to get an overall weighting by  
18 size of services for each class.

19 And so, for example, those classes that  
20 are less than one inch, the weighting of one is  
21 applied, and then as you get let's say up to four  
22 inches, each linear foot is weighted multiplied

1 times 5.3 to get the weighting for the relative cost  
2 of a larger size, so each of those weighted numbers  
3 are added up to get a total for each class.

4 And then when you get a total for each  
5 class, we then multiply it times average length  
6 weighting to get class totals which will then  
7 provide the basis for the allocation.

8 Q. The average length is the average length of  
9 service pipe for each of these classes, is that  
10 correct?

11 A. Yes.

12 Q. For example, you're indicating here that  
13 the average length of service pipe for the SC 76  
14 customers, for example, is 183 feet, is that  
15 correct?

16 A. Yes.

17 Q. Now, would you look at Schedule 6.03,  
18 please?

19 On this schedule you show various data  
20 relating to the plastic distribution pipe and the  
21 steel distribution pipe, correct?

22 A. Yes.

1           Q. That includes diameter, linear feet, gross  
2 plant balance, correct?

3           A. Yes.

4           Q. And this is where you use the linear feet  
5 and the gross plant balance to calculate unit cost  
6 for each diameter, correct?

7           A. Yes.

8           Q. Did you indicate your source for this  
9 Schedule 6.03 as the company response to data  
10 request IIEC 1-33, correct?

11          A. Yes.

12          MR. MacBRIDE: Let me ask the reporter to mark  
13 this as IP Cross Exhibit No. 1, please.

14                           (Whereupon IP Cross  
15                           Exhibit 1 was  
16                           marked for  
17                           identification as of  
18                           this date.)

19          Q. Mr. Lazare, the document I've handed you is  
20 a copy of the company's response to IIEC data  
21 request 1-33, is that correct?

22          A. Yes.

1           Q. Is this the data request response you used  
2 as your source for Schedule 6.03?

3           A. Yes.

4           Q. And, in fact, the second page of the  
5 document shows the diameter, the linear feet, and  
6 the gross plant balance information that you have on  
7 your Schedule 6.03, correct?

8           A. Yes.

9           Q. Now, Mr. Lazare, do you by chance have a  
10 copy of company witness Althoff's rebuttal with you?

11          A. Yes. I'm not sure if this is the most  
12 current version though.

13          Q. I believe there's only one version of her  
14 rebuttal.

15                 Could you look at Pages 16 and 17 of  
16 her rebuttal, and look particularly at her answer to  
17 question 29. Do you see that?

18          A. Yes.

19          Q. All right. And I think you've touched on  
20 this briefly this morning, but here  
21 Ms. Althoff has presented what she depicts as the  
22 allocation of the services or the services allocator

1 to the various service classifications based on your  
2 proposal and the revised company proposal, correct?

3 A. Yes.

4 Q. My question is do you agree with the  
5 numbers that she's reported here?

6 A. Well, subject to check, I'll agree to it.

7 Q. Now, Mr. Lazare, in your testimony in this  
8 case, you've raised some issues concerning I guess  
9 what I'll call the form of the cost of service model  
10 that the company used and supplied in this case, is  
11 that correct?

12 A. Yes.

13 Q. All right. And among other things you were  
14 concerned about the fact that the version that was  
15 originally supplied with the filing had some hidden  
16 formulas or some formulas that couldn't be examined,  
17 is that correct?

18 A. Yes.

19 Q. Is it your understanding that Code Part 285  
20 governs the standard filing requirements to be made  
21 by a utility in submitting a rate case to this  
22 Commission?

1 A. Yes.

2 Q. And Part 285 addresses, among many other  
3 things, requirements with respect to supplying a  
4 cost of service study?

5 A. Yes.

6 Q. Are you contending that the company  
7 violated any of the specific requirements of Part  
8 285 with respect to the cost of service study  
9 supplied in this case?

10 A. No.

11 Q. Is it your understanding that the company  
12 uses a cost of service model that is provided by a  
13 company called MAC?

14 A. Yes.

15 Q. And are you aware that Illinois Power also  
16 uses an electric cost of service study model as  
17 supplied by MAC?

18 A. Yes.

19 Q. And, in fact, the company has used that  
20 model in prior cases, the electric model, correct?

21 A. Yes.

22 Q. And you've worked with that in prior cases,

1 haven't you?

2 A. Yes.

3 Q. And, in fact, Illinois Power used the MAC  
4 electric cost of service model in its last delivery  
5 service case, Docket 01-0432, is that correct?

6 A. Yes.

7 Q. And in that case, staff signed a  
8 confidentiality agreement to get access to the full  
9 MAC model, correct?

10 A. Yes.

11 Q. And you were staff cost of service witness  
12 in that case, weren't you?

13 A. Yes.

14 Q. And in your filed testimony in that case,  
15 direct and rebuttal, you didn't raise any concerns  
16 about the access that was provided and the form of  
17 the model that was provided by the company in that  
18 case, did you?

19 A. Not in my testimony.

20 Q. Now, would you agree that subsequent to  
21 Illinois Power's last DST case in Docket 01-0432,  
22 the Commission engaged in a rulemaking which

1           resulted in a number of changes to Code Part 285?

2           A.    Yes.

3           Q.    And, in fact, would you agree or accept  
4           subject to check that the Commission issued its  
5           second notice order adopting revised Code Part 285  
6           on March 26, 2003?

7           A.    Yes.

8           Q.    And did you participate in that rulemaking  
9           on behalf of staff?

10          A.    Yes.

11          Q.    And that rulemaking then gave you the  
12          opportunity to raise any issues or make any  
13          recommended changes to Part 285 that you might have  
14          had that emanated from your use of the MAC cost of  
15          service model in the delivery service case.  Is that  
16          fair to say?

17          A.    Yes.

18          MR. MacBRIDE:  Thank you.  That's all the  
19          questions we have for Mr. Lazare.

20          JUDGE WALLACE:  Any redirect?

21          MS. VON QUALEN:  I'd like a few minutes if I  
22          could.

1 JUDGE WALLACE: All right.

2 (Whereupon a short  
3 recess was taken  
4 at this time.)

5 JUDGE WALLACE: Back on the record.

6 Any redirect?

7 MS. VON QUALEN: Yes, I have a question.

8 REDIRECT EXAMINATION

9 BY MS. VON QUALEN:

10 Q. Mr. Lazare, Mr. MacBride questioned you  
11 about your concern regarding the transparency of the  
12 cost of service study.

13 Why are you raising that concern now?

14 A. Just as an analyst who examines various  
15 company studies at different points in time, certain  
16 conclusions don't come to me all at once and  
17 instantly, and when it comes to the company's way of  
18 doing the cost of service, the issues and problems  
19 that have arisen in the past, at a certain point in  
20 time, they come to the realization that this is not  
21 a good way to go in the future.

22 And so it was just a realization after

1           having multiple exposures to the company's study  
2           that at a certain point in time you come to the  
3           conclusion that this is not a good way to go forward  
4           in the future.

5                        So that is why in looking at the  
6           company study in this case and examining a study  
7           with hidden formulas and realizing I'd have to go  
8           back and request another version of the study and  
9           thinking that maybe for other parties in the case  
10          who may not have the same opportunity to review  
11          that, this might make it more difficult for them,  
12          and I think in the objective of having a transparent  
13          and open regulatory process, it's essential to me to  
14          have the foundation for your ratemaking to be easily  
15          visible and verifiable by all parties in the case.

16                       MS. VON QUALEN: I have no further questions.

17                       JUDGE WALLACE: Recross?

18                       MR. MacBRIDE: No.

19                                       EXAMINATION

20                       BY JUDGE WALLACE:

21                       Q. Mr. Lazare, it's I guess essentially your  
22           Schedule 16.01, but is this chart supposed to show

1           that each customer class is expected to pay its cost  
2           of service under the proposed rates?

3           A.   Actually, it's every class except for the  
4           special contract class which is --

5           Q.   Special?

6           A.   Very special.  I'm receiving gas under  
7           contract with a company that extends before and  
8           after the case so there's no opportunity to reopen  
9           that contract in this proceeding.

10          Q.   But for other classes, other rates, you're  
11          showing that each class is paying its cost of  
12          service?

13          A.   Yes.

14          Q.   And you have a schedule or a chart that  
15          shows the percentage or the portion of cost of  
16          service by customer class?

17          A.   If you go down to after tax rate of return,  
18          you'll see that the overall rate of return for the  
19          company is 9.12 percent, and the special contract  
20          actually earns more than its share under its current  
21          contract, so then you can see that all the returns  
22          for each of the other classes are set at 9.08

1           percent in order to produce the overall revenue  
2           requirement.

3           Q.   Now, you differ from Mr. Jones in the  
4           percentage, right, allocated to each class?

5           A.   Yes.

6           Q.   And is that accounted for by the differing  
7           uses or your use of the cost of service study that  
8           you developed and the one  
9           Mr. Jones used for Illinois Power?

10          A.   The allocations contained within my cost  
11          study don't match up exactly with the company's  
12          allocations, so you end up with different revenues  
13          allocated to each class.

14          Q.   Different percentages?

15          A.   Well, different actual dollar amounts.

16          Q.   Okay.  You've allocated it looks to me  
17          like, if that's what that 9.08 is, you've allocated  
18          9.08 to each of these classes?

19          A.   No.  What I've done is I'm saying based  
20          upon the amount allocated to each class, they each  
21          earn that return.

22                   Now, if you want to see what's

1 allocated to each class, you go to Schedule 16.02,  
2 Page 1 of 2 which shows these are the current  
3 allocation of base rates. These are my proposed in  
4 the second column.

5 And if you go to Page 2 of 2, you can  
6 see the comparison of what the company is proposing  
7 and what I'm proposing in each class.

8 Q. All right. Look at Page 1 then of that  
9 schedule.

10 The percent increase, that's simply the  
11 percent increase over current rates, right?

12 A. Current base rates.

13 Q. But that doesn't really answer the question  
14 of what percentage cost of service or if you can  
15 find by customer class the percentage cost of  
16 service?

17 A. Oh, well, to see like the residential, you  
18 would have to take the 99,599, divide that by the  
19 total of 144,969 and you'd say the residential are  
20 responsible for just over two-thirds of the overall  
21 revenue requirement.

22 Q. They would be responsible for two-thirds of

1 the overall revenue requirement, but then what's  
2 their -- you're saying that's their portion of the  
3 cost of service?

4 A. Yes.

5 Q. Okay. Mr. Jones on his Exhibit 7.20... Do  
6 you have that or are you familiar with that?

7 A. Okay. What page number?

8 Q. Page 1. Just, for example, looking out at  
9 the proposed revenue, are your percentages in the  
10 same ballpark as those?

11 A. Mine is actually slightly less.

12 Q. Your residential would be --

13 A. \$99 million, 99.6 million. There's is 100.  
14 --

15 Q. And then your percentage you said, were you  
16 just roughly giving the percentage as 66 percent?

17 A. Yeah. Mine would be roughly like 68, 67  
18 percent, maybe 68. It's just a rough estimate, but  
19 I did not perform a calculation to get the percent  
20 of the total.

21 Q. Okay. Now, I think Mr. MacBride asked you  
22 about the stipulation. When you take into account

1 all the conditions from that stipulation, does that  
2 change any of your -- it will change your schedules,  
3 right?

4 A. Yes.

5 Q. But it won't change your percentages?

6 A. Under my proposal, no. My proposal is to  
7 set the final rates in the simplest, most  
8 transparent manner possible, and to me, I would just  
9 take my rebuttal revenue allocations and rate design  
10 and just prorate them down until they produced the  
11 level of revenues matched by the stipulation.

12 JUDGE WALLACE: Okay. Thanks, Mr. Lazare.  
13 That's all the questions I have.

14 (Witness excused.)

15 JUDGE WALLACE: Mr. Balough, you have exhibits  
16 you want to move?

17 MR. BALOUGH: Yes, Your Honor.

18 First of all, we have CUB Exhibit 1.0  
19 which is entitled "Direct Testimony of Christopher  
20 C. Thomas on behalf of the Citizens Utility Board"  
21 which has been prefiled and also CUB Exhibit 2.0  
22 which is titled "The Rebuttal Testimony of

1 Christopher C. Thomas on behalf of Citizens Utility  
2 Board," and we have filed on e-docket the affidavit.

3 So I would offer those two, and I would  
4 also then offer the joint exhibits. You want me to  
5 do them all at once?

6 JUDGE WALLACE: Yeah, go ahead.

7 MR. BALOUGH: Okay. Then we also, the Attorney  
8 General for the State of Illinois along with the  
9 Citizens Utility Board filed AG/CUB Exhibit 1.0  
10 which is the direct testimony of David J. Effron  
11 (E-f-f-r-o-n), and there is an AG CUB Exhibit 1.1  
12 which is his exhibits to that testimony and also AG  
13 CUB Exhibit 1.3 which is entitled "The Rebuttal  
14 Testimony of David J. Effron on behalf of the People  
15 of the State of Illinois and the Citizens Utility  
16 Board." Also, AG/CUB Exhibit 1.4 which is two pages  
17 of exhibits.

18 Your Honor, at this time on behalf of  
19 CUB, I would offer CUB Exhibit 1.0 and 2.0, and  
20 jointly on behalf of the Attorney General and CUB,  
21 we would offer 1.0, 1.1, 1.3 and 1.4.

22 JUDGE WALLACE: All right.

1 All right. Are there any objections?

2 CUB Exhibits 1.0 and 2.0 are admitted.

3 AG/CUB Exhibits 1.0, 1.1, 1.3 and 1.4 are admitted.

4 (Whereupon CUB Exhibits  
5 1.0 and 2.0 and AG/CUB  
6 Exhibits 1.0, 1.1, 1.3  
7 and 1.4 were admitted  
8 into evidence at this  
9 time.)

10 JUDGE WALLACE: All right. Ms. Von Qualen, do  
11 you want to run through the staff exhibits?

12 MS. VON QUALEN: Shall I go through my exhibits  
13 now?

14 JUDGE WALLACE: Yes, please.

15 MS. VON QUALEN: Your Honor, I would move for  
16 the admission of ICC Staff Exhibit 2.0 titled "The  
17 Direct Testimony of Burma C. Jones" with attached  
18 Schedules 2.01 through 2.03 and also the rebuttal  
19 testimony of Burma C. Jones, ICC Staff Exhibit 11.0  
20 with Schedules 11.01 through 11.03.

21 I would also move for the admission of  
22 ICC Staff Exhibit 3.0, the direct testimony of

1 Bonita Pierce with attached Schedules 3.01 through  
2 3.07 as well as the rebuttal testimony of Bonita A.  
3 Pierce, ICC Staff Exhibit 12.0 with attached  
4 Schedules 12.01 through 12.07.

5 I would also move for admission into  
6 evidence the direct testimony of Janis Freetly, ICC  
7 Staff Exhibit 4.0 with attached Schedules 4.01  
8 through 4.11 as well as the rebuttal testimony of  
9 Janis Freetly, ICC Staff Exhibit 14.0 with attached  
10 Schedules 14.01 through 14.05.

11 And I would move for the admission into  
12 evidence of the direct testimony of Michael McNally,  
13 ICC Staff Exhibit 5.0, and the rebuttal testimony of  
14 Michael McNally, ICC Staff Exhibit 15.0 with  
15 attached Schedules 15.1 through 15.3.

16 I move for admission into evidence of  
17 the direct testimony of Eric Lounsberry, ICC Staff  
18 Exhibit 7.0 with attached Schedules 7.01 through  
19 7.08, and I also move for admission into evidence  
20 the revised rebuttal testimony of Eric Lounsberry,  
21 ICC Staff Exhibit 17.0 R with attached Schedules  
22 17.01 R through 17.03 R.

1                   I move for admission into evidence the  
2           direct testimony of Dianna Hathhorn, ICC Staff  
3           Exhibit 9.0 with attached Schedules 9.01 through  
4           9.03 and the rebuttal testimony of Diana Hathhorn,  
5           ICC Staff Exhibit 13.0.

6                   JUDGE WALLACE:   Was her direct 9.0?

7                   MS. VON QUALEN:   Yes, it was.

8                   That's it.   I move for admission of all  
9           those exhibits.

10                  JUDGE WALLACE:   It seems like we're missing  
11           somebody.

12                  MS. VON QUALEN:   There's Charlie Iannello who I  
13           thought we would put on tomorrow if we're going to  
14           put him on or I'll read it into the record tomorrow,  
15           and we did Peter Lazare's today.

16                  MR. MacBRIDE:   I'm sorry.   When was  
17           Mr. Lounsberry's revised rebuttal testimony  
18           circulated?   I don't seem to have it.

19                  MS. VON QUALEN:   That was circulated on -- I  
20           have January 4 on his affidavit.

21                  MR. MacBRIDE:   Do you have something that shows  
22           the changes?

1           MS. VON QUALEN: I do, but I don't believe I  
2 have them with me. The changes would have been on  
3 the cover letter that was sent out with the filing.

4           MR. MacBRIDE: For whatever reason, I don't  
5 have it, and I don't have any recollection of ever  
6 seeing it, so this is news to me.

7           JUDGE WALLACE: We could, if you want to look  
8 at this tomorrow, we could put Eric's on tomorrow.

9           MS. VON QUALEN: We could hold off on ruling on  
10 that one till tomorrow and I can get you a copy of  
11 it.

12          MR. MacBRIDE: That would be fine.

13          JUDGE WALLACE: Actually, I did have one  
14 question about Eric Lounsberry's testimony, Kevin  
15 Shipp and Hood and Kemppainen.

16                 There was certain information in there  
17 that they were keeping confidential. Is that  
18 information actually confidential and why.

19          MR. MacBRIDE: Some is and some isn't.  
20 There is various, for example, pricing and contract  
21 information certainly in Mr. Shipp's testimony and  
22 some of it is also repeated or used in Mr.

1 Lounsberry's testimony that would be confidential.

2 I think a large part of what you're  
3 referring to in Mr. Lounsberry's testimony, there  
4 are fairly extensive quotes from various reports,  
5 some which were prepared for Illinois Power by third  
6 parties, and then, correspondingly, when the  
7 Illinois Power witnesses respond to that and have  
8 occasion to quote the same material, they designate  
9 it as confidential as well.

10 I think what happened is this. Early  
11 in the case before Mr. Lounsberry's direct testimony  
12 was filed, he data requested a lot of these reports  
13 from the company and many of them do contain some  
14 confidential information, either specific data or  
15 they may refer to some proprietary analytic process  
16 used by the company that prepared the report, the  
17 third party consultant.

18 And rather than take the time and delay  
19 our response to the data request to go through each  
20 of these reports and actually mark as confidential  
21 the specific information that would be deemed  
22 confidential either by Illinois Power or by the

1           third party consultant, we provided the reports to  
2           staff with the understanding that they would be  
3           treated as confidential in their entirety.

4                        You know, Mr. Lounsberry then  
5           appropriately followed up on that but whenever he  
6           quoted from one of the reports, he designated it as  
7           confidential.

8                        So we could, I mean, I think this is  
9           all on the company in the sense that everything  
10          ultimately here that's been designated confidential  
11          is data that came from the company. It's not Mr.  
12          Lounsberry's data.

13                        We can go back through Mr. Lounsberry's  
14          testimony and advise staff of portions that really  
15          don't have to be redacted or treated as proprietary  
16          if you'd like to have us do that.

17                        JUDGE WALLACE: I wouldn't mind because I  
18          wasn't sure that the information that both Eric and  
19          I think Kevin were saying was proprietary.

20                        If it is proprietary, that's fine. It  
21          didn't appear to me that those particular items  
22          would be, but maybe we could come to something on

1           that.

2                       Okay.   Hearing no objection, ICC Staff  
3   Exhibits 2.0, 11.0, 3.0, 12.0, 4.0, 14.0, 5.0, 15.0,  
4   7.0, 9.0 and 13.0 are admitted.

5                               (Whereupon ICC Staff  
6                               Exhibits 2.0, 11.0,  
7                               3.0, 12.0, 4.0, 14.0,  
8                               5.0,                       15.0,  
9                               7.0, 17.0R, 9.0 and  
10                              13.0 were admitted into  
11                              evidence at this  
12                              time.)

13                    JUDGE WALLACE:   And we'll get a copy of the  
14   revised rebuttal testimony of Eric Lounsberry and  
15   Charlie Iannello tomorrow.

16                    MR. MacBRIDE:   You want me to go through the  
17   company affidavits?

18                    JUDGE WALLACE:   Yes.

19                    MR. MacBRIDE:   Judge, pursuant to an e-mail  
20   exchange you and I had earlier in the week, we  
21   haven't filed the company witness affidavits on the  
22   e-docket.   I brought them but if you prefer, we can

1 file them on e-docket or I can just give them to the  
2 reporter here.

3 JUDGE WALLACE: Do you want to file them on  
4 e-docket?

5 MR. MacBRIDE: I'm just doing what you told me  
6 to do which is bring them to the hearing.

7 JUDGE WALLACE: Okay. Just hand them to the  
8 court reporter then. I forgot what I told you to  
9 do.

10 MR. MacBRIDE: These were e-mailed to the  
11 service list and yourself yesterday.

12 MS. VON QUALEN: It is my understanding that  
13 you're not going to put the revised testimonies in  
14 today because staff has not had an opportunity to  
15 review the revisions?

16 MR. MacBRIDE: Okay. If you don't want me to,  
17 that's fine. We can wait till tomorrow. I mean,  
18 there's no point in going through all of these. We  
19 might as well do them at all at once.

20 JUDGE WALLACE: Okay.

21 (Whereupon IP Exhibits

22 1.4, 2.69, 3.23, 4.7,



1 IP Exhibit 9.5.

2 Affidavit of Michael Adams marked as IP  
3 Exhibit 10.12.

4 Affidavit of Ronald White marked as IP  
5 Exhibit 11.4, affidavit of Gene Eagle marked as IP  
6 Exhibit 12.11.

7 Affidavit of Kevin Shipp marked as IP  
8 Exhibit 13.12.

9 Affidavit of Curtis Kemppainen marked  
10 as IP Exhibit 14.5.

11 Affidavit of Wayne Hood marked as IP  
12 Exhibit 14.6.

13 Affidavit of Chris Olsen marked as IP  
14 Exhibit 15.5.

15 Affidavit of Timothy Hower marked as IP  
16 Exhibit 17.7.

17 Affidavit of Charles Mannix marked as  
18 IP Exhibit 18.5.

19 Affidavit of Robert Porter marked as IP  
20 Exhibit 19.3, and affidavit of Lee Nickloy marked as  
21 IP Exhibit 20.2.

22 JUDGE WALLACE: Does anybody have anything else

1 today?

2 MR. MacBRIDE: Yes. We offer IP  
3 Cross-Examination Exhibit No. 1 into evidence.

4 JUDGE WALLACE: Does anyone have any objection  
5 to IP Cross Exhibit 1?

6 All right. IP Cross Exhibit 1 is  
7 admitted.

8 MR. MacBRIDE: Thank you.

9 (Whereupon IP Cross  
10 Exhibit 1 was admitted  
11 into evidence at this  
12 time.)

13 JUDGE WALLACE: All right. If there's nothing  
14 else today, we'll adjourn until  
15 10 o'clock tomorrow.

16 (Whereupon the hearing was  
17 continued to January 21, 2004 at  
18 10:00 a.m.)

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