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I N D E X

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MARKED                      ADMITTED

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PROCEEDINGS

JUDGE ALBERS: By the authority vested in me by the Illinois Commerce Commission, I now call Docket Numbers 11-0279 and 11-0282. These dockets concern the proposed general increase in gas and electric deliver service rates for Ameren Illinois Company d/b/a Ameren Illinois.

May I have the appearances for the record, please?

MR. TOMC: Your Honor, Matthew R. Tomc and Edward C. Fitzhenry appearing on behalf of the Ameren Illinois Company, St. Louis, Missouri.

MR. FLYNN: Christopher W. Flynn on behalf of the Ameren Illinois Company.

MS. VON QUALEN: Jan Von Qualen, Jim Olivero and John Sagone on behalf of the Staff witnesses of the Illinois Commerce Commission.

MS. MUNSCH: On behalf of the Citizens Utility Board, Kristin Munsch, Julie Soderna and Christy Hicks.

MR. TOWNSEND: On behalf of the Retail Gas Suppliers, the law firm of DLA Piper, L.L.P. (US) by

1 Christopher J. Townsend, Christopher N. Skey and  
2 Michael R. Strong.

3 MR. BOROVIK: On behalf of the People of the  
4 State of Illinois, Michael Borovik and Cathy Yu, 100  
5 West Randolph Street, 11th Floor, Chicago, Illinois  
6 60601.

7 JUDGE ALBERS: And the record will reflect that  
8 there is no one else wishing to enter an appearance.

9 In terms of preliminary matters, the  
10 only thing I am aware of is -- and maybe some of you  
11 have just become aware of it as well -- is Staff's  
12 Motion in Limine filed just earlier this morning.  
13 Mr. Townsend, have you had a chance to even -- did  
14 you even know it was filed?

15 MR. TOWNSEND: I found out it was filed as I  
16 walked in this morning.

17 JUDGE ALBERS: I wouldn't have expected any  
18 more; it was just filed a few minutes ago, so. Given  
19 the -- what day did do we expect to have Mr. Clausen  
20 on the stand?

21 MR. OLIVERO: Mr. Clausen was available Tuesday  
22 afternoon or I think all day Wednesday.

1           JUDGE ALBERS:   Okay.   Maybe to facilitate  
2   addressing this motion we could have RGS file a  
3   response late in the day Monday?

4           MR. TOWNSEND:   Your Honors, if we can have time  
5   yet this morning to perhaps talk to Staff off line,  
6   we would be able to come back to you with a proposal  
7   perhaps as to how we can address this.

8           JUDGE ALBERS:   Fair enough.   It can wait.

9                            Any other preliminary matters then?

10                           (No response.)

11                           Hearing none, we will move on to our  
12   first witness.   Okay, that I believe is Ms. Phipps.  
13   So Ms. Phipps and anyone else in the room testifying  
14   today, please stand and raise your right-hand.

15                           (Whereupon the witnesses were  
16                           duly sworn by Judge Albers.)

17           JUDGE ALBERS:   Thank you.

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ROCHELLE PHIPPS

called as a witness on behalf of the Illinois  
Commerce Commission, having been first duly sworn,  
was examined and testified as follows:

DIRECT EXAMINATION

BY MS. VON QUALEN:

Q. Good morning, Ms. Phipps.

A. Good morning.

Q. Please state your name for the record and  
spell your last name.

A. My name is Rochelle Phipps, P-H-I-P-P-S.

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

A. I am employed by the Illinois Commerce  
Commission, 527 East Capitol Avenue, Springfield,  
Illinois 62701.

Q. Ms. Phipps, what is your position at the  
Commission?

A. I am a senior financial analyst in the  
Finance Department of the Financial Analysis  
Division.

Q. Did you prepare testimony and exhibits to

1 be presented in this matter?

2 A. Yes, I did.

3 Q. Do you have before you a document which has  
4 been identified as ICC Staff Exhibit 7.0, the direct  
5 testimony of Rochelle Phipps?

6 A. Yes, I do.

7 Q. Did you prepare that document for  
8 submission in this proceeding?

9 A. Yes.

10 Q. Do you have any corrections or changes to  
11 ICC Staff Exhibit 7.0?

12 A. Yes, I have two minor corrections on lines  
13 233 and 234. The number 9.975 percent should be 9.75  
14 percent.

15 Q. Would you repeat that, please?

16 A. Sure. On lines 233 and 234 the number  
17 9.975 percent should be 9.75 percent.

18 JUDGE ALBERS: Which of your testimony was  
19 that?

20 THE WITNESS: Exhibit 7, direct testimony.

21 JUDGE ALBERS: Page?

22 THE WITNESS: Page 13 at lines 233 and 234.

1 JUDGE ALBERS: Nine point --

2 THE WITNESS: 75 percent.

3 BY MS. VON QUALEN:

4 Q. Is that the only change?

5 A. Yes.

6 Q. With that change is the testimony true and  
7 correct to the best of your knowledge?

8 A. Yes, it is.

9 Q. And if I were to ask you the same questions  
10 today, would your answers be the same?

11 A. Yes, they would.

12 Q. Do you also have before you a document  
13 which has been identified as ICC Staff Exhibit 24.0,  
14 rebuttal testimony of Rochelle Phipps?

15 A. Yes.

16 Q. Did you prepare that document for  
17 submission in this proceeding?

18 A. Yes, I did.

19 Q. Do you have any changes or corrections to  
20 ICC Staff Exhibit 24.0?

21 A. No, I do not.

22 Q. Is the information contained in ICC Staff

1 Exhibit 24.0 true and correct to the best of your  
2 knowledge?

3 A. Yes, it is.

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

6 A. Yes, they would.

7 MS. VON QUALEN: At this time I would move for  
8 admission into evidence of ICC Staff Exhibit 7.0 with  
9 attached Schedules 7.01 through 7.05, and ICC Staff  
10 Exhibit 24.0 with attached Schedules 24.01 through  
11 24.03 and Attachments 1 through 3.

12 JUDGE ALBERS: Any objection at this time?

13 (No response.)

14 All right. We will rule on the  
15 admissibility following any cross examination. I  
16 believe the only parties with cross is Ameren.

17 MR. TOMC: Yes, Your Honor.

18 JUDGE ALBERS: Go ahead Mr. Tomc.

19 MR. TOMC: Thank you.

20 CROSS EXAMINATION

21 BY MR. TOMC:

22 Q. Good morning, Ms. Phipps.

1           A.    Good morning.

2           Q.    My name is Matt Tomc and I represent the  
3   Company.  I have a few questions for you this  
4   morning.

5                        First, I would direct your attention  
6   to your Schedule 24.01 which is an attachment and  
7   exhibit to your rebuttal testimony.

8           A.    Yes.

9           Q.    Do you have that in front of you?

10          A.    I do.

11          Q.    This document, this schedule, represents  
12   the Commission Staff's recommendation for a capital  
13   structure for Ameren Illinois Company, is that  
14   correct?

15          A.    Yes.

16          Q.    For both gas and electric?

17          A.    That's correct.

18          Q.    And I see the balances listed there, the  
19   common equity balance, for AIC electric delivery  
20   service is listed at 51.86 percent, is that correct?

21          A.    Yes, it is.

22          Q.    And it is the same for gas, is that

1 correct?

2 A. That's correct.

3 Q. I would now turn your attention to your  
4 rebuttal testimony generally starting on page 17 -- I  
5 am sorry, actually page 13. I would like to ask you  
6 a few questions about your position on bank  
7 commitment fees.

8 This issue is a point of contention  
9 between you and Mr. Martin with regard to the upfront  
10 fees paid to banks associated with revolving credit  
11 facilities that provide for short-term debt, is that  
12 correct?

13 A. That's correct.

14 Q. Ameren Illinois Company set up this  
15 revolving credit facility in 2010, would you agree  
16 with that?

17 A. Yes.

18 Q. And the purpose of this facility and  
19 facilities of this type are to provide a source of  
20 liquidity if it is needed for the utility. Would you  
21 agree with that characterization?

22 A. Yes.

1 Q. And why is liquidity something important  
2 for a utility? Do you have an opinion?

3 A. It provides additional cash in the event  
4 that the Company has a shortfall and requires more  
5 cash on hand.

6 Q. Are you familiar with -- I assume you are  
7 familiar with reports generated by rating agencies as  
8 a general matter, is that right?

9 A. Yes, generally.

10 Q. Are rating agencies concerned with  
11 liquidity for the companies that they generate for?

12 A. Yes.

13 Q. Are you familiar with the term  
14 "syndication"?

15 A. Yes, generally.

16 Q. In the context of bank commitment fees,  
17 what is referred to by the term "syndication"?

18 A. I think that "syndication" refers to the  
19 process by which there will be a bank working  
20 directly with somebody seeking a credit facility and  
21 will line up vendors.

22 Q. And by lenders are you referring to other

1 banks?

2 A. Yes.

3 Q. In a credit facility such as the one at  
4 issue in this case, there are several banks that  
5 contribute to the overall credit limit associated  
6 with that facility, would you agree with that?

7 A. Yes.

8 Q. And the amount of commitment from each bank  
9 participating would vary, would you agree with that?

10 A. Yes.

11 Q. Now, if I understand your adjustment  
12 correctly in your testimony to date, it is based upon  
13 application of Section 9-230 of the Public Utilities  
14 Act, is that right?

15 A. That's correct.

16 Q. And your adjustment, as I understand your  
17 testimony, is designed to hold customers harmless for  
18 what you perceive as costs created by virtue of  
19 unregulated or non-utility affiliates with Ameren  
20 Illinois Company, is that a fair characterization?

21 A. Well, my adjustment -- the upfront fees  
22 that we are talking about here increases the amount

1 of the commitment by the lender increases. And since  
2 the three Ameren credit facilities, including the one  
3 for Ameren Illinois, were negotiated at the same  
4 time, then I looked at the Ameren Illinois  
5 facilities, the first annual facility, and I reduced  
6 the 25 basis point commitment fee amount that applied  
7 to commitments under \$50 million, and that's how I  
8 came up with the amount that I allocated to the  
9 Ameren Illinois facility which is \$2 million. And  
10 then specifically to Ameren Illinois Company I  
11 assigned 62 and a half percent of that.

12 Q. Looking at page 17 of your rebuttal  
13 testimony, beginning on line 311, you indicate that  
14 -- you cite Section 9-230 of that, do you see that?

15 A. Yes.

16 Q. And then you indicate that you believe  
17 there is incremental costs due to the Illinois  
18 utilities' affiliation with non-utility and  
19 unregulated companies, is that right?

20 A. That is correct.

21 Q. And your adjustment then is for the purpose  
22 of removing the incremental costs associated with

1 non-utility and unregulated companies, is that right?

2 A. Yes.

3 MR. TOMC: Your Honor, may I approach the  
4 witness?

5 JUDGE ALBERS: Yes.

6 Q. This is an exhibit from Mr. Martin's  
7 testimony. I have not marked it as a cross exhibit;  
8 it is for reference.

9 Are you familiar with this exhibit?

10 A. Yes.

11 Q. And you reviewed it in the preparation of  
12 your testimony, did you not?

13 A. Well, I had a slightly different schedule  
14 when I was preparing my schedule which is a DR  
15 response that, in addition to the commitment to the  
16 Illinois facilities, showed commitment to the Genco  
17 facility and the Missouri facility. This is  
18 essentially an excerpt of the document I looked at.

19 Q. And you are referring to the attachments  
20 that you, I believe, provided with your rebuttal  
21 testimony, Attachment 1 and 2?

22 A. Yes, I am referring to Attachment 2, page

1 2.

2 Q. Looking at Ameren Exhibit 24.1, as we  
3 discussed in a revolving credit facility such as the  
4 one at issue in this case, that there are a number of  
5 participating banks involved?

6 A. Yes.

7 Q. And this exhibit would list a number of  
8 banks, would it not?

9 A. Yes.

10 Q. And it would also list varying levels of  
11 credit commitments to the Ameren Illinois facility,  
12 do you see that?

13 A. Yes.

14 Q. And the corresponding fee?

15 A. Well -- that is correct.

16 Q. And as this credit, generally as this  
17 exhibit shows, as the amount of credit contributed  
18 increases, the fee increases, which I believe you  
19 have noted already today, would you agree with that  
20 characterization?

21 A. Yes.

22 Q. Okay. So at the top of the list is listed

1 J.P. Morgan Bank with a contribution in excess of \$47  
2 million and a fee of \$.42 million, do you see that?

3 A. I see that.

4 Q. And at the bottom of the list is the Hua  
5 Nan Bank, do you see that?

6 A. Yes.

7 Q. And they have contributed \$5.71 million to  
8 the facility and there is an associated fee of \$.01  
9 million?

10 A. That's correct.

11 Q. Now, Mr. Martin in his testimony testified  
12 that, in addition to small lenders, Ameren Illinois  
13 needs larger, more stable lenders capable of more  
14 meaningful commitments to the facility and these  
15 banks require more than 25 points apiece. Is it  
16 correct, Ms. Phipps, that you have offered no opinion  
17 about the need for a mix of large and small credit  
18 commitments to the Ameren Illinois facility?

19 A. That's true. That's really not the basis  
20 for my adjustment. My adjustment is not related to  
21 the reasonableness or to the -- to what types of  
22 commitments make up the credit facility.

1                   My adjustment is -- I recommend my  
2 adjustment in order to make sure that ratepayers  
3 don't pay commitment fees due to Ameren Illinois  
4 non-utility affiliates.

5           Q.    You have offered no opinion as to whether  
6 Ameren Illinois can even obtain an \$800 million  
7 credit facility with both large and small credit  
8 commitments for 25 basis points, is that correct?

9           A.    Well, I don't know what's meant by large  
10 and small credit facilities. But I do not have any  
11 opinion on the combination of commitments that Ameren  
12 Illinois Company might have for its facilities. My  
13 concern is related to Section 9-230 and removing the  
14 costs that are due to the commitment for all three  
15 credit facilities.

16           Q.    With regard to your application of Section  
17 9-230, for a moment I would direct your attention to  
18 Attachment 1 and 2 of your rebuttal testimony.

19           A.    Okay.

20           Q.    Specifically, page 1 of Attachment 1 is  
21 your data request RMP 1.04. Do you see that?

22           A.    Yes.

1 Q. In that data request there is several  
2 requested pieces of information and at the bottom of  
3 that request is Part F. Do you see that?

4 A. Of the DR itself?

5 Q. Of the DR itself.

6 A. Yes.

7 Q. And you request "a comparison of the fees  
8 associated with the Illinois facilities and the fees  
9 associated with the Missouri facility and the Genco  
10 facility"?

11 A. That would be correct.

12 Q. Now, if you turn to page 4 of this  
13 attachment, do you see the information presented?

14 A. On page 4, yes.

15 Q. Was that the comparison that you requested?

16 A. Well, I just requested a comparison, and  
17 that's what this does, so. It shows the fees for the  
18 Illinois facilities and the Missouri facilities and  
19 the Genco facilities.

20 Q. And if you would look at page 2 of your  
21 Attachment 2?

22 A. Yes.

1 Q. Do you see the three separate facilities  
2 listed?

3 A. Yes.

4 Q. And a comparison of the credit commitments  
5 and fees associated with those -- or a comparison of  
6 the credit commitments associated with each of those  
7 facilities?

8 A. Yes.

9 Q. And you requested that, did you not?

10 A. Yes.

11 Q. You would agree that the Missouri facility,  
12 the Illinois facility and the Genco facility are  
13 three separate revolving credit facilities, is that  
14 true?

15 A. Yes, they have the same lenders, but they  
16 have different borrowers. They are separate.

17 Q. To be clear, they are three separate  
18 facilities, is that correct?

19 A. There are three separate facilities that  
20 were negotiated the same date, and all three of them  
21 are included on Ameren Exhibit 24.2 where it shows  
22 Genco upfront fees, Illinois upfront fees and

1 Missouri upfront fees that range from \$3.3 million to  
2 \$5.3 million with the upfront fees calculated down to  
3 the cent.

4 This is almost the same -- this is the  
5 same thing that I saw in the last rate case with  
6 respect to the Ameren Illinois 2009 facility which  
7 showed that the upfront fees were allocated among the  
8 three facilities.

9 MR. TOMC: Your Honor, I am going to move to  
10 strike the last sentence of that answer, and I  
11 believe it goes beyond the scope of the question. I  
12 simply asked if there are three separate facilities.

13 JUDGE ALBERS: Sustained.

14 BY MR. TOMC:

15 Q. I believe you mentioned Ameren Exhibit  
16 24.2?

17 A. Yes.

18 JUDGE ALBERS: Mr. Tomc, is this just for  
19 reference again?

20 BY MR. TOMC: Just for reference, Your Honor.

21 Q. Now, this document you have seen before,  
22 correct?

1           A.    Yes.

2           Q.    And it indicates it is a letter from J.P.  
3 Morgan, is that correct?

4           A.    That's correct.

5           Q.    And the letter is fairly short, but do you  
6 see where it says, "Please find the fee invoice in  
7 connection to the closing of the Genco, Illinois and  
8 Missouri credit facilities?

9           A.    Yes.

10          Q.    And then within the itemized list of fees  
11 are three separate invoiced amounts, three for each  
12 respective facility, do you see that?

13          A.    Yes.

14          Q.    And Ameren Illinois in this proceeding is  
15 not asking for recovery of the Genco upfront fees  
16 listed, are they?

17          A.    No.

18          Q.    And they are not asking for the Missouri  
19 upfront fees, are they?

20          A.    No, but they are asking for recovery of  
21 commitment fees that are based on the aggregate  
22 commitments of those three facilities.

1           MR. TOMC: Your Honor, I am going to move to  
2 strike that portion of her answer as well.

3           JUDGE ALBERS: Granted.

4           BY MR. TOMC:

5           Q. Is Ameren Missouri or the Union Electric  
6 Company a regulated utility, Ms. Phipps?

7           A. I am sorry, will you re-ask the question  
8 again?

9           Q. Is Ameren Missouri, also called the Union  
10 Electric Company, a regulated utility, do you know?

11          A. Yes, I believe so.

12          Q. Ms. Phipps, would it be correct to say that  
13 you conducted no market research to ascertain if a  
14 comparable credit facility could be obtained by  
15 Ameren Illinois for a credit fee, commitment fee,  
16 equal to 25 basis points?

17          A. Excuse me, I am sorry, I want to verify my  
18 last response.

19          MR. TOMC: Objection, Your Honor.

20          JUDGE ALBERS: Wait, wait, wait. Give her a  
21 chance to speak before you object.

22          THE WITNESS: Ameren Missouri is a regulated

1 utility in Missouri. It is not a regulated utility  
2 under the Illinois Public Utilities Act.

3 MR. TOMC: That's fine.

4 JUDGE ALBERS: Okay.

5 BY MR. TOMC:

6 Q. Ms. Phipps, would it be correct to say that  
7 you conducted no market research to ascertain if a  
8 comparable credit facility could be obtained by  
9 Ameren Illinois for a commitment fee equal to 25  
10 basis points?

11 A. That's correct.

12 Q. I would like to ask you a few questions  
13 about your position related to the purchase  
14 accounting adjustment entries associated with the  
15 Illinois Power acquisition.

16 A. Okay.

17 Q. And the point of reference would be  
18 generally page 2 of your rebuttal testimony, I  
19 believe is where you take that up.

20 This issue -- to be clear, what is not  
21 at issue in this case is we are not talking about a  
22 return on any acquisition premium or goodwill as part

1 of rates or rate base, would you agree with that?

2 A. No. To the extent there are any purchase  
3 accounting adjustments included in the common equity  
4 balance, there would a be a return on purchase  
5 accounting.

6 Q. The issue with regard to purchase  
7 accounting in this case is purely an issue of how to  
8 appropriately reverse associated accounting entries  
9 for the purpose of developing a capital structure,  
10 would you agree with that characterization?

11 A. I would agree with that.

12 Q. Now, I understand that you are not a CPA or  
13 an accounting expert, would that be fair?

14 A. That is correct.

15 Q. You do, I would imagine, have a general  
16 understanding of regulatory accounting principles?

17 A. Yes, uh-huh.

18 Q. Is goodwill, is that an intangible asset,  
19 do you know?

20 A. Yes, I believe so.

21 Q. And on the balance sheet it would be listed  
22 on the asset side of the balance sheet, correct?

1           A.    That is correct.

2           Q.    Do you understand what I mean by the term  
3   "original cost of jurisdiction" when I am speaking of  
4   a regulatory jurisdiction?

5           A.    I am not sure.

6           Q.    Let me ask it another way.  In Illinois  
7   when rates are set, they are set based on the value  
8   of plant per book minus depreciation, and that's how  
9   the rate base is developed, would you agree with that  
10  characterization?

11          A.    Generally, yes.

12          Q.    All right.  Do you understand what's meant  
13  by the term "pushdown accounting"?

14          A.    Yes.

15          Q.    And what is pushdown accounting in your  
16  understanding?

17          A.    Pushdown accounting is when the assets of  
18  an acquired company are restated to their fair value  
19  from the acquisition.

20          Q.    And did you review the Statement of  
21  Financial Accounting Standards 141 in your  
22  preparation of this testimony?

1           A.    I don't recall.

2           Q.    Now, just a moment ago you mentioned fair  
3 market value of related adjustments. At the time --  
4 at the time Ameren Corporation acquired Illinois  
5 Power, it was required by virtue of applicable  
6 accounting standards to make entries to adjust book  
7 value of certain assets based upon their fair market  
8 value at the time of the transaction, would you agree  
9 with that?

10          A.    I would agree with that.

11          Q.    Okay. You cited in your rebuttal testimony  
12 Docket 04-0294?

13          A.    Yes.

14          Q.    That would be the docket that took up the  
15 issue of Ameren's proposal to acquire Illinois Power  
16 Company from Dynegy, was that your understanding?

17          A.    Yes.

18          Q.    Did you review that Order in the  
19 preparation of your testimony?

20          A.    Yes, I did.

21          MR. TOMC: Your Honor, may I approach the  
22 witness?

1           JUDGE ALBERS:  Yes.  We can just share a  
2 document.

3                               (Whereupon a document was  
4                               tendered to the witness.)

5           BY MR. TOMC:

6           Q.  Specifically, I would just point you to  
7 page 33.  And do you see where it says Commission  
8 Analysis and Conclusion towards the bottom of the  
9 page?

10          A.  Yes.

11          Q.  And that section continues on to page 34.  
12 Just give you a moment just to review that and  
13 refresh your memory.

14                               (Pause.)

15          A.  Okay.

16          Q.  Did you review that section in preparation  
17 of your testimony?

18          A.  Yes.

19          Q.  On page 33, the last sentence that  
20 continues on to the next page notes that the  
21 Commission adopts the recommendation of Staff witness  
22 Ms. Pearce, that the impact of pushdown accounting

1 should be collapsed into Account 114 Plant  
2 Acquisition and Adjustments?

3 A. Yes, I see that, and I don't have a problem  
4 conceptually with the Account 114 adjustment. My  
5 problem is that I can't verify the numbers in that  
6 Account 114 balance and that there is unexplained  
7 changes in it that the Company hasn't been able to  
8 explain.

9 In addition, there is a missing  
10 retained earnings adjustment that appeared in the  
11 2007 rate case that doesn't appear in this instance  
12 rate case.

13 MR. TOMC: Objection, Your Honor, I move to  
14 strike that answer.

15 JUDGE ALBERS: I thought you might. Granted.

16 BY MR. TOMC:

17 Q. Did you review Ms. Pearce's testimony that  
18 she filed in this proceeding as part of the  
19 development of your testimony?

20 A. I reviewed a piece of her testimony. Yes,  
21 I did.

22 Q. Did you review her direct and rebuttal

1 testimony?

2 A. I don't remember if it was direct or  
3 rebuttal testimony. I read the testimony where she  
4 said that the purchase accounting adjustments to the  
5 balance sheet should be collapsed into Account 114.

6 MR. TOMC: Your Honor, may I approach the  
7 witness with more documents?

8 JUDGE ALBERS: Yes.

9 MR. TOMC: Could that be a standing request?

10 JUDGE ALBERS: Fine.

11 (Whereupon a document was  
12 tendered to the witness.)

13 BY MR. TOMC:

14 Q. Does this document look familiar to you?

15 MS. VON QUALEN: Mr. Tomc, do you have a  
16 reference that you want her to look at?

17 Q. Sure. Page 15, line 325 through 333.

18 Ms. Pearce stated that, "Statement of  
19 Finance Accounting Standard Number 141 provides the  
20 rules and framework for the application of purchase  
21 accounting in a business combination. In the  
22 application of purchase accounting by the acquirer in

1 a business combination, costs of acquired companies  
2 are assigned to the tangible and intangible assets  
3 acquired and liabilities assumed on the basis of  
4 their fair values the date of acquisition. Any  
5 excess of costs over the fair value of the net assets  
6 acquired is reported as goodwill on the books of the  
7 acquirer."

8 Do you disagree with Ms. Pearce's  
9 testimony?

10 A. I don't agree -- I mean, I don't disagree  
11 with what you just read.

12 Q. Thank you. Turning back to the Order for a  
13 moment, specifically I want to direct your attention  
14 to page 34. The first complete paragraph there  
15 indicates that IP is directed to file a copy of the  
16 final accounting entries showing the actual amounts  
17 and including appropriate narrative explanations  
18 describing the basis for the entries with the Clerk  
19 of the Commission and to provide copies, etcetera, do  
20 you see that?

21 A. Yes.

22 Q. Did you review the final actual accounting

1 entries filed in this proceeding in preparation for  
2 your testimony?

3 A. Yes, I looked at those.

4 MR. TOMC: Your Honor, I will mark this one as  
5 Ameren Cross Exhibit Number 1 -- or I guess we are  
6 probably up to a higher number than that at this  
7 point.

8 JUDGE ALBERS: Let me see here.

9 MR. FITZHENRY: Ten.

10 MR. TOMC: Is 10 the last one?

11 JUDGE ALBERS: This would be 11. Do you agree,  
12 Mr. Fitzhenry?

13 MR. FITZHENRY: Yes.

14 (Whereupon Ameren Cross Exhibit  
15 11 was presented for purposes of  
16 identification as of this date.)

17 BY MR. TOMC:

18 Q. Is this the document you reviewed? If you  
19 don't recall, that's acceptable.

20 A. I don't recall.

21 Q. Let me ask you one follow-up question and  
22 we can move on. If you turn to page 3 of this

1 document, continuing on to page 4 and page 5, there  
2 are a number of entries noted for a number of  
3 accounts. Do you see that? Do these entries  
4 correspond to your review at all?

5 A. Well --

6 MS. VON QUALEN: Mr. Tomc, are you asking her  
7 if she remembers what the entries were?

8 Q. I am asking her if these entries or entries  
9 of this type were part of your review in preparation  
10 of your testimony.

11 A. No. What I reviewed is the Company's  
12 proposed adjustment which was the Account 114 balance  
13 on September 30, 2010, September 31, 2010, December  
14 31, 2011, December 31, 2012.

15 There were -- I had suspicion about  
16 the Company's numbers because there is an account --  
17 although the basis for these purchase accounting  
18 adjustments to the balance sheet are the kind of  
19 purchase accounting adjustments amortized over a  
20 certain period of time and essentially amortized away  
21 until the purchase accounting adjustment equalled the  
22 goodwill balance, there were some inconsistencies and

1 numbers that were not verifiable. For example, the  
2 Account 219 balance would swing between that time  
3 period from positive 5 million to negative 40  
4 something million, and there was no adequate  
5 explanation for that.

6 MR. TOMC: Objection, Your Honor. I would move  
7 to strike the answer starting with "I had the  
8 suspicion." The part before that I believe she  
9 answered the question directly, but the last part was  
10 beyond the scope of the question.

11 JUDGE ALBERS: Granted.

12 (Whereupon Ameren Cross Exhibit  
13 12 was presented for purposes of  
14 identification as of this date.)

15 BY MR. TOMC:

16 Q. I show you what's been marked as Ameren  
17 Cross Exhibit Number 11 -- 12, I apologize. I show  
18 you what's been marked as Ameren Cross Exhibit Number  
19 12.

20 MS. VON QUALEN: Could I have a copy?

21 Q. This is data request AIC-staff 5.04. Do  
22 you see that?

1 A. Yes.

2 Q. Is this your answer?

3 A. Yes.

4 (Whereupon Ameren Cross Exhibit  
5 13 was presented for purposes of  
6 identification as of this date.)

7 Q. I want to show you what has been marked as  
8 Ameren Exhibit Number 13. This is, as you will see,  
9 Ameren request AIC-Staff 7.63?

10 A. Yes.

11 Q. Is this your answer?

12 A. Yes.

13 Q. Ms. Phipps, is it my understanding that you  
14 do not recommend including purchase accounting  
15 adjustments for the purposes of setting rates in this  
16 proceeding?

17 MS. VON QUALEN: Mr. Tomc, are you asking  
18 Ms. Phipps what your understanding is?

19 Q. I am asking what her recommendation is.

20 A. Will you repeat your question, please?

21 Q. Ms. Phipps, you do not recommend including  
22 purchase accounting adjustments for the purpose of

1 setting rates in this proceeding, is that correct?

2 A. That's correct.

3 (Whereupon Ameren Cross Exhibit  
4 14 was presented for purposes of  
5 identification as of this date.)

6 Q. Show you what's been marked as Ameren  
7 Exhibit 14, Ameren Cross Exhibit 14. This is  
8 AIC-Staff Data Request 17.06, is that correct?

9 A. That is correct.

10 Q. And this is your response, is that correct?

11 A. That's correct.

12 Q. Ms. Phipps, I now would like to turn your  
13 attention to your testimony and recommendation  
14 concerning AmerenCILCO's 2008 debt issue at 8.875  
15 percent. I believe the point of reference would be  
16 page 6 of your rebuttal.

17 This also is an adjustment that you  
18 have made based on your understanding of Section  
19 9-230 of the Public Utilities Act, is that right?

20 A. That's correct.

21 Q. And the purpose would be to remove costs  
22 associated -- which you believe are associated with

1 unregulated and non-utility debt, is that right?

2 A. Well, it is adjustment to CILCO's cost of  
3 debt due to its affiliation with non-utility and  
4 unregulated companies.

5 Q. And in this proceeding you have adjusted  
6 your proposal in your rebuttal testimony, is that  
7 right?

8 A. That's correct.

9 Q. Why did you do that?

10 A. Well, the 2005 methodology and the 2009  
11 methodology from Moody's are in principle the same,  
12 but the 2005 methodology, which is the one that  
13 should be used for the CILCO adjustment and separates  
14 low versus medium business risk profiles and provides  
15 a credit metric for each category, is different than  
16 the 2009 methodology in that the 2009 methodology  
17 discloses the weights that rate design places on  
18 those credit metrics.

19 In my ratio adjustment I assigned  
20 those weights to it. And although there is nothing  
21 in any of the Moody's publications that suggest those  
22 weightings changed between 2005 and 2009, those

1 weights were not disclosed in the 2005 methodology.  
2 So I went ahead and performed the same analysis as  
3 the last case without assigning the weights to each  
4 of the credit metrics that I had.

5 Q. Is it correct then to say that you revised  
6 your recommendation based on a review of Moody's  
7 guidance in light of the concerns expressed by  
8 Mr. Martin in his testimony?

9 A. Yes.

10 Q. I have a few questions to ask you about  
11 your analysis and use of Moody's guidance. But just  
12 to ask a basic context question, your process is  
13 basically to develop a hypothetical Moody's analysis  
14 to ascertain what you believe the credit rating of  
15 two -- of AmerenCILCO would be in 2008 as a  
16 stand-alone utility, is that right?

17 A. Not entirely. My analysis evaluates the  
18 credit metrics Moody's publishes for CILCO based on  
19 the credit metrics for a business risk profile that  
20 is in line with the traditional  
21 transmission-distribution utility, instead of the  
22 higher risk a medium risk profile company with its

1 own generating assets such as Ameren.

2 Q. And the point -- do you understand what I  
3 mean by the term "stand-alone"?

4 A. Well, that was the second part that I  
5 wanted to clarify, that I didn't come up with a brand  
6 new credit rating for CILCO based entirely on my own  
7 analysis. I looked at the difference between the  
8 ratings based on the credit metrics and kept  
9 everything else constant and estimated what the  
10 difference in Moody's -- the difference in Moody's  
11 credit rating would be versus its current rating.

12 Q. In developing a rating, the hypothetical  
13 rating for AmerenCILCO, your intention was to at  
14 least replicate what that rating would be if  
15 AmerenCILCO did not have AERG as part of its  
16 corporate structure in 2008, would you agree?

17 A. No, I actually looked at what CILCO's -- I  
18 tried to isolate, ignore the effects, I guess, of  
19 CILCORP and the AERG net account.

20 Q. So both the effects of CILCORP, which was  
21 the parent company of CILCO, and AERG, which was the  
22 unregulated affiliate, a subsidiary of CILCO as well,

1 your analysis was designed to replicate the Moody's  
2 rating of CILCO as though those two affiliates were  
3 not part of the CILCO corporate structure, is that  
4 right?

5 A. Yes. I tried to do that to the best of my  
6 ability because the rating agencies indicated that  
7 those affiliations had a negative impact on CILCO's  
8 rating.

9 Q. And you say that you did that to the best  
10 of your ability, acknowledging that there is no way  
11 to replicate completely what Moody's would have done  
12 had Moody's issued a rating for CILCO and CILCO only  
13 as a stand-alone utility, right?

14 A. That's correct. I used -- but I did use  
15 the Moody's, the publication that describes its  
16 rating methodology, and applied that to my analysis.

17 Q. Moody's issues guidance to those that read  
18 their reports and use their reports, explaining their  
19 methodologies. But ultimately it is Moody's use of  
20 their own guidance in setting their own ratings that  
21 is what affects credit ratings, is that right?

22 A. Well, I think that's correct, and I also

1 think that a credit rating wouldn't be very useful if  
2 it wasn't also to some extent to evaluate what  
3 changes in circumstances a given company would have  
4 on a credit rating.

5 Q. Okay. The result of your analysis, as I  
6 understand it, was essentially you assigned initially  
7 a rating of Aa2 to AmerenCILCO, is that right?

8 MS. VON QUALEN: Do you have a reference for  
9 her?

10 MR. TOMC: Sure. Page 7, there is a table.

11 MS. VON QUALEN: Of her rebuttal testimony?

12 MR. TOMC: Rebuttal testimony, yeah.

13 THE WITNESS: A. No, I did not apply a rate of  
14 Aa2 to CILCO. Like I say, I looked at the difference  
15 between the A1 credit rating that is implied by the  
16 financial metrics for a medium business risk company  
17 versus the Aa2 rating that's implied by the credit  
18 metrics for a low business risk company, and there is  
19 two notches difference between there. So I applied  
20 that to CILCO's standard secured debt rating and  
21 basically raised that two notches.

22 Q. Okay. In 2008 did Illinois Power Company

1 or Central Illinois Public Service Company have the  
2 benefit of an issuer rating of Aa2?

3 A. No.

4 Q. Neither Illinois Power Company nor CIPS in  
5 2008 or today have an unregulated generation  
6 affiliate as part of their corporate structure,  
7 meaning as a subsidiary of them alone, is that  
8 correct?

9 A. Were you referring to CIPS and IP?

10 Q. Yes.

11 A. Yes, that's correct.

12 Q. Okay. And Aa2 in fact would be the highest  
13 issuer rating afforded to a public utility in the  
14 United States rated by Moody's, isn't that correct?

15 A. I don't know that. I know it is a higher  
16 rating than A1.

17 (Whereupon Ameren Cross Exhibit  
18 15 was presented for purposes of  
19 identification as of this date.)

20 Q. I show you what has been marked as Ameren  
21 Cross Exhibit Number 15. This is AIC-Staff Exhibit  
22 Data Request 17.23. Do you see that?

1 A. Yes.

2 Q. And here you provided your response?

3 A. Yes.

4 Q. You were asked about your analysis to  
5 support your recommendation on the interest rates for  
6 the 2008 CILCO issuance?

7 A. Yes.

8 Q. And you responded in part by a quotation  
9 from a rating agency report, is that right?

10 A. Yes.

11 (Whereupon Ameren Cross Exhibit  
12 16 was presented for purposes of  
13 identification as of this date.)

14 Q. I show you what's been marked as Ameren  
15 Cross Exhibit 16. Okay. Do you recognize this  
16 document?

17 A. Yes.

18 Q. You are familiar with it?

19 A. Yes.

20 Q. This is the Moody's report that you cited  
21 in your data request that we just mentioned, is that  
22 right? Cross Exhibit 15?

1           A.    Yes.

2           Q.    And this also was the report that you used  
3   for the basis of your analysis in the last Ameren  
4   Illinois rate case and in this rate case as well, is  
5   that correct?

6           A.    Yes, I think it is spoken of in my  
7   testimony, rebuttal testimony, yes.

8           Q.    This is the January 30, 2009, Moody's  
9   report issued with regard to Central Illinois Light  
10   Company, right?

11          A.    That is correct.

12          Q.    Now I would first like to draw your  
13   attention to page 2 of 5 of this report.

14                   First, actually, I am sorry, let me go  
15   back to page 1.  At the bottom there is a heading  
16   entitled Opinion.  Do you see that?

17          A.    Yes.

18          Q.    And then there is a Ratings Drivers heading  
19   for that?

20          A.    That's correct.

21          Q.    And at the bottom of this page there is a  
22   dash or a bullet point, and it says, "Limited

1 financial flexibility due to expiration of bank  
2 facilities in less than 12 months." Do you see that?

3 A. Yes.

4 Q. Continue on to the next page. There is a  
5 bullet that says "some lingering political and  
6 regulatory uncertainty in Illinois." Do you see  
7 that?

8 A. Yes.

9 Q. In 2008, let me ask you are you familiar,  
10 that would be the year after the rate freeze was  
11 lifted in Illinois, would you agree with that?

12 A. Yes.

13 Q. And there was also legislation that  
14 affected the Public Utilities Act in 2007, is that  
15 right?

16 A. Yes. And that same -- those same ratings  
17 drivers appear in the CIPS and the IP January 30,  
18 2009, credit rating reports, too.

19 MR. TOMC: Your Honor, I move to strike that  
20 addition.

21 JUDGE ALBERS: Granted.

22

1 BY MR. TOMC:

2 Q. There is execution risk, again on page 2,  
3 in the implementation of new power procurement  
4 procedures in Illinois, do you see that?

5 A. Yes.

6 Q. And also significant environmental capital  
7 expenditures at its generation subsidiary, do you see  
8 that?

9 A. Yes.

10 Q. Now looking down to Recent Events, which is  
11 another heading on this page, the last paragraph, do  
12 you see where the report references a tender offer  
13 for approximately 334 million of bonds outstanding at  
14 CILCORP, CILCORP Incorporated, do you see that?

15 A. Yes.

16 Q. And the analysts note in this report that  
17 consents from over 99 percent of bondholders were  
18 received in September, do you see that?

19 A. Yes. Can I read the whole sentence? "The  
20 consents" --

21 MR. TOMC: Objection, Your Honor, there will be  
22 an opportunity for redirect.

1 MS. VON QUALEN: I believe the witness should  
2 be given an opportunity to at least complete a  
3 sentence that she is being crossed on.

4 JUDGE ALBERS: Let her finish the sentence.

5 THE WITNESS: Yeah, the sentence you are  
6 referring to says, "Consents from over 99 percent of  
7 bondholders were received in September, although the  
8 tender offer has been extended several times since  
9 then, and all the debt remains outstanding at  
10 CILCORP."

11 BY MR. TOMC:

12 Q. Now, if you continue on down the page,  
13 there is a section heading entitled Detailed Ratings  
14 Considerations, do you see that?

15 A. Yes.

16 Q. And again there are bullet points that, you  
17 know, this section continues on to the next page.  
18 There are bullet points followed by paragraphs  
19 explaining what the detailed ratings considerations  
20 are?

21 A. That's correct.

22 Q. And there are a total of four which

1 corresponds to the ratings drivers we already  
2 discussed, would you agree?

3 A. Well, the first one, the very first  
4 detailed rating consideration is not mentioned in  
5 those rating drivers.

6 Q. Okay. Well, several rating considerations  
7 are listed in bullet points and discussed in this  
8 section of the report, are they not? There is four  
9 of them.

10 A. Yeah, with the exception of that first  
11 rating consideration, the other three are mentioned  
12 in the ratings drivers section.

13 Q. And Moody's would consider many factors in  
14 developing their ratings, would you agree?

15 A. Yes.

16 Q. Now, I believe the section that you quote  
17 in your DR in your testimony falls under the heading  
18 Significant Environmental Capital Expenditures at  
19 AERG, do you see that?

20 MS. VON QUALEN: Do you have a page reference?

21 Q. Yeah, it's page 3. It's the fourth bullet  
22 point under the heading Detailed Ratings

1 Considerations.

2 A. Yes, I quoted part of that in my DR  
3 response.

4 Q. Okay. And this is the part of the report  
5 that you relied upon in the development of your  
6 analysis, is that correct?

7 A. Well, not entirely. There is several  
8 quotations from this rating report in my DR response,  
9 some related to CILCORP and some related to AERG.

10 Q. And the context of this particular  
11 paragraph is under the heading Significant  
12 Environmental Capital Expenditures at AERG, is that  
13 right?

14 A. I am sorry, what was your question?

15 Q. The context within this report of this  
16 paragraph is that it falls under the heading  
17 Significant Environmental Capital Expenditures at  
18 AERG?

19 A. Like I said, that is the way the quotation  
20 in my DR response comes from, part of it.

21 Q. Now turning to page 4 of Ameren Cross  
22 Exhibit 16, do you see the section entitled What

1       Could Change the Rating Up?

2             A.    Yes.

3             Q.    And it is a short paragraph.  It says, "The  
4 ratings of CILCO and CILCORP could be raised if the  
5 companies entered into adequate liquidity  
6 arrangements to replace expiring bank credit  
7 facilities."  Do you see that?

8             A.    Yes.

9             Q.    And then it says, "If Ameren is successful  
10 in its pending tender offer for CILCORP debt, which  
11 will change the capital structure of the CILCORP  
12 corporate family considerably."  Do you see that?

13            A.    Yes.

14            Q.    "If the Illinois Power Agency successfully  
15 executes power procurement procedures and continues  
16 to reduce regulatory and political risk in the  
17 state."  Do you see that?

18            A.    Yes.

19            Q.    "And if future distribution rate cases  
20 provide sufficient rate relief"?

21            A.    Yes.

22            Q.    And that's the conclusion of that

1 paragraph?

2 A. That's correct.

3 Q. This section of Moody's report does not  
4 indicate that a divestiture or transfer of AERG would  
5 improve the credit ratings of AmerenCILCO, would you  
6 agree?

7 A. I agree with that.

8 Q. AERG was ultimately transferred away from  
9 AmerenCILCO, would you agree?

10 A. Yes.

11 Q. And that happened after this report that we  
12 are discussing in regards to Ameren Cross Exhibit 16  
13 was issued, would you agree?

14 A. Yes.

15 Q. And it occurred after the last Ameren  
16 Illinois rate case, would you agree?

17 A. Yes.

18 BY MR. TOMC: Your Honor, I will not mark this  
19 exhibit as a cross exhibit because it is part of our  
20 exhibit in the case, offered by Mr. Martin.

21 Q. Now, other than Moody's there are two other  
22 generally recognized credit rating agencies that

1 issue ratings, would you not agree, and that would be  
2 Fitch and S&P?

3 A. Yes. Well, there are many rating agencies.  
4 The basis for my adjustment to the CILCO 2008 debt  
5 was based on credit rating reports that were  
6 published around the time of the debt issuance by  
7 Fitch, S&P and Moody's.

8 Q. So would you agree with me that as a  
9 financial expert for the Commission that Fitch,  
10 Moody's and S&P are three recognized credit rating  
11 agencies in the financial industry?

12 A. Yes.

13 Q. I have, you know, for reference put before  
14 you a copy of Ameren Exhibit 24.6. Do you recognize  
15 this document?

16 A. Yes.

17 Q. And did you review this when you read  
18 Mr. Martin's testimony in preparation for your  
19 testimony?

20 A. Yes.

21 Q. I will direct your attention to the third  
22 paragraph, first sentence, "CILCO downgrade reflects

1 a net production in electric and gas rates required  
2 by the Illinois Commerce Commission's (ICC) April  
3 2010 Rate Order and management's plan to transfer  
4 CILCO non-regulated merchant generating business,  
5 conducted through subsidiary Ameren Energy Resources  
6 Generating Company, to an affiliate that owns  
7 Ameren's other merchant generation assets."

8 Is it correct that Fitch downgraded  
9 CILCO at the time of the issuance of this report?

10 A. Yes.

11 Q. Would you agree that, in light of the  
12 sentence that we just read, that the ratings agency  
13 Fitch was concerned -- strike that.

14 The second sentence in that paragraph  
15 reads, "As a result of the rate reduction and a loss  
16 of electric gross margin on merchant generating  
17 assets, Fitch expects credit metrics to trend  
18 downward and to be comparable to CILCO's BBB- rated  
19 affiliates." Do you see that?

20 A. Yes.

21 Q. Fitch is expressing concern with the effect  
22 of two things, one of which would be the loss of

1 electric gross margin on merchant energy sales, would  
2 you agree with me?

3 A. In that paragraph that's one of the -- one  
4 of the factors that Fitch discusses.

5 Q. I would draw your attention to the table on  
6 page 12 of your testimony, beginning on line 207. On  
7 this table you list the net income of Illinois  
8 regulated -- the net income of CILCORP Illinois  
9 regulated operations, AERG's net income and also the  
10 CILCORP interest expense, is that correct?

11 A. That is correct.

12 Q. And you list four years here?

13 A. That's correct.

14 Q. Would you agree with me that in 2007 AERG's  
15 net income of \$65 million greatly exceeded the  
16 Illinois regulated income of \$9 million?

17 A. That's correct.

18 Q. And it also exceeded the CILCORP interest  
19 expense of 31 million?

20 A. That's correct.

21 Q. And in 2008 AERG net income exceeded  
22 Illinois' regulatory net income by a considerable

1 amount, would you agree?

2 A. Well, if Illinois regulated income in 2008  
3 was 16 million, AERG's net income was 52 million.

4 Q. Would you agree with me that that disparity  
5 in net income is a significant disparity?

6 A. I don't know if it is significant. That's  
7 just --

8 Q. Fair enough.

9 A. It is higher.

10 Q. AERG's net income did exceed the CILCORP  
11 interest expense as well, did it not?

12 A. Yes.

13 Q. Okay. You have also listed years 2006 and  
14 2005. In both of those years AERG's net income is  
15 less than the income in 2008 and 2007, correct?

16 A. Yes.

17 Q. And, in fact, in 2005 it was a negative?

18 A. That's correct.

19 Q. Now, during 2005 and 2006 those are the two  
20 years that preceded the Illinois procurement auction  
21 in 2007, right?

22 A. Yes.

1 Q. And both of those years also coincide with  
2 the time period during the Illinois rate freeze,  
3 would you agree with that?

4 A. Yes.

5 Q. Would Moody's, S&P, Fitch be aware of the  
6 rate freeze in effect in Ameren Illinois prior to  
7 2007?

8 A. Yes.

9 Q. Would they be aware of the market prices at  
10 the time of the 2007 auction for power generally?

11 A. Generally, yes.

12 Q. I would also ask you, neither AmerenCIPS  
13 nor AmerenIP had unregulated generation affiliates  
14 within their respective corporate structures in 2008,  
15 would you agree?

16 A. I would agree.

17 Q. And you did not, in establishing your  
18 adjustment in this case for AmerenCILCO's 2008 debt  
19 issuance, use the ratings attributed to either of  
20 those utilities as a proxy for AmerenCILCO's, is that  
21 correct?

22 A. Are you referring in this case where I

1 looked at the Moody's?

2 Q. Yes.

3 A. That's right, because Moody's rates  
4 companies on the same outlook that I looked at CILCO.

5 Q. So in developing your Section 9-230  
6 analysis, it did not occur to you to use the ratings  
7 given to AmerenIP or AmerenCIPS as a proxy for  
8 AmerenCILCO's credit rating with regard to valuing  
9 the cost of debt associated with the 2008 debt  
10 issuance, is that right?

11 A. Not with respect to the Moody's  
12 methodology, that's correct. S&P rates the companies  
13 on a consolidated basis. So I looked at the  
14 difference between their business risk profiles for  
15 Moody's and I looked at CILCO alone.

16 Q. In 2008 AmerenIP issued debt with an  
17 interest rate of 9.75 percent. Would you agree with  
18 me?

19 A. That's correct.

20 Q. Staff recognizes \$350 million of IP debt  
21 at that rate in your cost of debt analysis, is that  
22 right?

1           A.    That's correct.

2           Q.    And, again, AmerenIP in 2008 had no  
3 unregulated generation subsidiary, would you agree  
4 with me?

5           A.    That's correct.

6           Q.    One last question with regard to this  
7 issue. Ms. Phipps, would you agree with me that  
8 rating agencies examine various factors in evaluating  
9 and developing what they believe is the appropriate  
10 rating of the creditworthiness of a company?

11          A.    Ratings agencies do look at various  
12 factors, yes.

13          Q.    And one of those factors would be the  
14 income associated with the business lines of the  
15 entity that they are rating?

16          A.    Generally I think the rating agencies are  
17 more concerned with cash flows than the net income  
18 per se, but I think they would look at that.

19          Q.    Would you agree that cash flows are by  
20 their nature affected by the relative income of a  
21 business?

22          A.    I would say cash flows include the amount

1 of net income along with other things.

2 Q. Thank you. I have a few questions to ask  
3 you about the AmerenIP 2008 debt issuance. It is my  
4 understanding that your proposal in this case, as  
5 well as the last case, was to disallow essentially 50  
6 million of the \$400 million debt issuance from IP in  
7 2008?

8 A. That is correct.

9 Q. And that debt was issued at 9.75 percent,  
10 is that correct?

11 A. That is correct.

12 Q. And this disallowance is not a disallowance  
13 associated with Section 9-230?

14 A. That is correct.

15 Q. This disallowance is premised upon what you  
16 believe is excessive costs or imprudently procured  
17 debt in excess of what was needed, would you agree  
18 with that characterization?

19 A. My adjustment to the IP debt issuance  
20 doesn't really relate to the costs; it is related to  
21 the fact that IP showed no long term debt.

22 Q. Are you alleging imprudent on the part of

1 the utility in issuing that debt?

2 A. I don't think that I ever used the word  
3 "imprudent." My argument was that IP issued more  
4 debt than it required, and the Commission agreed with  
5 that.

6 Q. In this proceeding you have changed your  
7 calculation of how that disallowance should be --  
8 should be accounted for in the revenue requirement,  
9 is that right?

10 A. That is correct.

11 Q. One moment.

12 (Pause.)

13 All right. I am going to move on to one  
14 housekeeping item that has to do related to an  
15 exhibit that got into the wrong folder, and I am  
16 going to go back a little bit to the purchase  
17 accounting issues and I have one more cross exhibit  
18 to go through and then I will conclude.

19 (Whereupon Ameren Cross Exhibit  
20 17 was presented for purposes of  
21 identification as of this date.)

22



1 JUDGE ALBERS: Hearing no objection, then  
2 Ameren Cross Exhibits 12, 13, 14 and 17 are admitted.

3 (Whereupon Ameren Cross Exhibits  
4 12, 13, 14 and 17 were admitted  
5 into evidence.)

6 JUDGE ALBERS: I don't believe anyone else  
7 indicated they had cross of Ms. Phipps. Would Staff  
8 like any moments with their witness to discuss the  
9 possibility of redirect?

10 MS. VON QUALEN: Yes.

11 (Whereupon the hearing was in a  
12 short recess.)

13 JUDGE ALBERS: Does Staff have redirect of  
14 Ms. Phipps?

15 MS. VON QUALEN: Yes, I have a few questions.

16 REDIRECT EXAMINATION

17 BY MS. VON QUALEN:

18 Q. Ms. Phipps, do you recall being asked by  
19 Mr. Tomc a couple of questions about the Ameren Cross  
20 Exhibit 13?

21 A. Yes, I do.

22 Q. And you talk about purchase accounting

1 adjustment there?

2 A. Yes, I do.

3 Q. How were you defining purchase accounting  
4 adjustment there?

5 A. Well, as I explained in my direct  
6 testimony, Staff Exhibit 7 on page 5, I subtracted  
7 the entire goodwill balance to avoid including in  
8 rates any purchase accounting adjustments that are  
9 not appropriate for ratemaking purposes.

10 Q. Thank you. And do you recall Mr. Tomc  
11 asking you about Cross Exhibit 16?

12 A. Yes, I do.

13 Q. When was the transfer of AERG announced, do  
14 you know?

15 A. Sometime during 2010.

16 Q. Referring to Mr. Tomc's questions about the  
17 Table 2 on page 7 in your rebuttal testimony?

18 A. Yes.

19 Q. What did you rely on to prepare that table?

20 A. Moody's benchmark referenced in that table  
21 are the benchmarks on page 4 of Ameren Cross Exhibit  
22 16 and also -- which are also referenced in Ameren

1 Cross Exhibit 15.

2 Q. What exactly did you rely upon in Exhibit  
3 16? Was it the Select Key Ratios for Global  
4 Regulated Electric Utilities?

5 A. Yes. And there is various ranges of credit  
6 metrics for different credit ratings and different  
7 levels of business risk.

8 Q. Do you recall Mr. Tomc asking you a series  
9 of questions about the IP bond issuance in October of  
10 2008 at 9.75 percent?

11 A. Yes, I do.

12 Q. And comparing it to the CILCO bond issuance  
13 in December 2008 at 8.75 percent?

14 A. Yes, I remember Mr. Tomc asking me about  
15 the 9.75 percent interest rate for IP bonds versus  
16 the 8.75 percent rating for CILCO's bond.

17 Q. Do you have any explanation of what would  
18 cause those differing interest rates for those bonds?

19 A. Yes, I think there are two main reasons.  
20 One is that the IP issue debt issuance is for ten  
21 years versus five years for CILCO. And the second  
22 factor is that the IP bonds were issued in October

1 2008, just weeks after the Lehman Brothers  
2 bankruptcy, and interest rates were very high.

3 MS. VON QUALEN: Thank you. I have no further  
4 questions.

5 JUDGE ALBERS: Recross?

6 MR. TOMC: No recross, Your Honor.

7 JUDGE ALBERS: Any objection then to --

8 MS. VON QUALEN: Oh, I am sorry, I meant to  
9 move for admission into evidence of Ameren Cross  
10 Exhibit 16 and Ameren Cross Exhibit 15.

11 MR. TOMC: One moment, Your Honor.

12 (Pause.)

13 Your Honor, we have no objection to  
14 the admission of those exhibits.

15 JUDGE ALBERS: Okay. Hearing no objection,  
16 then Ameren Cross Exhibits 15 and 16 are admitted.

17 (Whereupon Ameren Cross Exhibits  
18 15 and 16 were admitted into  
19 evidence.)

20 JUDGE ALBERS: Is there any objection to Staff  
21 Exhibit 7, Schedule 7.01 through 7.05; Exhibit 24  
22 with Schedules 24.01 through 24.03 and Attachments 1

1 through 3?

2 (No response.)

3 Hearing none, then they are admitted.

4 (Whereupon ICC Staff Exhibit 7.0  
5 and 24.0 were admitted into  
6 evidence.)

7 JUDGE ALBERS: All right. Our next witness is  
8 AG/CUB witness Thomas. Who is -- whichever one of  
9 you would like to introduce us to Mr. Thomas?

10 MS. MUNSCHE: Oh, I will, Your Honor. Thank  
11 you.

12 JUDGE ALBERS: For the record you were  
13 previously sworn, correct?

14 THE WITNESS: Yes, I was.

15 MS. MUNSCHE: Thank you, Your Honors.

16 CHRISTOPHER C. THOMAS

17 called as a witness on behalf of AG/CUB, having been  
18 first duly sworn, was examined and testified as  
19 follows:

20 DIRECT EXAMINATION

21 BY MS. MUNSCHE:

22 Q. Good morning. Mr. Thomas, can you please

1 state your name and business address for the record.

2 A. My name is Christopher C. Thomas. My  
3 business address is 309 West Washington Street, Suite  
4 800, Chicago, Illinois 60607.

5 Q. And by whom are you employed?

6 A. The Citizens Utility Board.

7 Q. And do you have before you what has been  
8 marked as a copy of AG/CUB Exhibit 3.0?

9 A. Yes.

10 Q. And I believe there is AG/CUB Exhibit 3.1  
11 which is you are adopting number 2.0, direct  
12 testimony in the case, is that correct?

13 A. That is correct.

14 Q. And that was prepared by you or under your  
15 supervision and control?

16 A. It was.

17 Q. And if we were to ask you those same  
18 questions today, would those be the answers that you  
19 give?

20 A. They would be.

21 Q. And do you have any corrections to make at  
22 this time?



1                   Hearing none, we will take care of  
2 that after cross examination of Mr. Thomas.

3           MS. MUNSCH: I also forgot 3.1, Your Honors.

4           JUDGE ALBERS: Oh, okay. It is understood  
5 then. Mr. Flynn?

6           MR. FLYNN: No objection to that either.

7           JUDGE ALBERS: No objection to that either,  
8 okay.

9           MS. MUNSCH: Mr. Thomas is available for cross  
10 examination.

11          JUDGE ALBERS: I think you are it.

12          MR. FLYNN: All right. Well, I just have a few  
13 minutes.

14                                   CROSS EXAMINATION

15          BY MR. FLYNN:

16          Q. Good morning, Mr. Thomas.

17          A. Good morning, Mr. Flynn.

18          Q. Nice to see you again.

19          A. Always a pleasure.

20          Q. Now, in your testimony you present CUB's --  
21 or AG/CUB's recommendations regarding the return on  
22 equity that Ameren Illinois Company should be

1 authorized for electric and gas operations, is that  
2 right?

3 A. That's correct.

4 Q. And is it correct that to develop your  
5 recommendations what you did is took Mr. Hevert's  
6 analysis on behalf of Ameren Illinois Company and  
7 adjusted some of the inputs?

8 A. Adjusted, corrected, yeah.

9 Q. Your term is corrected some of the inputs?

10 A. Yeah.

11 Q. You did not perform any other analysis on  
12 your own, is that right?

13 A. That's correct.

14 Q. All right. And it is also true that you  
15 did not present any comparison of -- in your  
16 testimony you did not present any comparison of your  
17 recommended ROEs for electric and gas to any market  
18 indicators, is that right?

19 A. Yeah, that's correct.

20 Q. All right. So you didn't compare your  
21 recommended ROEs to government bond yields, for  
22 example?

1           A.    That's correct.

2           Q.    And you didn't compare them to utility bond  
3 yields, is that right?

4           A.    That's right.

5           Q.    And you also didn't compare them to  
6 authorized returns recently awarded to other  
7 utilities, is that correct?

8           A.    That is correct.

9           Q.    Now, one of the criticisms you have of  
10 Mr. Hevert's use of the DCF model relates to reliance  
11 on analysts' forecasts of growth for what you term  
12 the short-term transitioning to long-term growth at  
13 GEP, is that right?

14          A.    That's correct.

15          Q.    And you list some research that you state  
16 indicates that analysts' forecasts focus on the  
17 short-term and tend to be upwardly biased, is that  
18 right?

19          A.    That's right.

20          Q.    And are you familiar with the term that  
21 Mr. Hevert uses, the "global settlement"?

22          A.    Yes.   Generally, yes.

1 Q. Do you know what that is?

2 A. Generally. I don't want to misrepresent  
3 it. It was separation between analysts' projections  
4 and forecasts and there are other business  
5 opportunities, as I understand it. It put a clear  
6 line between the way analysts construct their  
7 forecasts and the way they that they accrued the  
8 business.

9 Q. Is it your understanding that the purpose  
10 of the global settlement was to remove conflicts of  
11 interest from analysts' forecasts?

12 A. Yes.

13 Q. And it is also true that in the articles  
14 you cite much of the periods used by the authors of  
15 those articles occurred before the global settlement,  
16 is that right?

17 A. That's correct.

18 Q. Now, in the multi-stage non-constant growth  
19 DCF model that you correct...

20 A. Yes.

21 Q. ..one component is the third-stage nominal  
22 GEP growth rate, is that right?

1           A.    The long-term steady-state growth rate,  
2    yes, which we talked about.

3           Q.    Yes.  And that occurs ten years out, it  
4    begins, and extends for a long time?

5           A.    Yeah, that's right.

6           Q.    That's the intent?

7           A.    Until the end of time, yes.

8           Q.    Until the end of time.  And you testified  
9    -- well, your specific proposal for the third stage  
10   or steady stage growth rate is 4.825 percent, is that  
11   right?

12          A.    That's correct.

13          Q.    You testified in Docket 10-0467 involving  
14   Commonwealth Edison, is that correct?

15          A.    I did.

16          Q.    And you offered ROE recommendations in that  
17   case, did you not?

18          A.    That's correct.

19          Q.    And you are aware in that case -- well, the  
20   Commission did not accept your recommendation, the  
21   recommended ROEs in -- ROE in Docket 10-0467, is that  
22   right?

1           A.    That's right.

2           Q.    What was your recommended steady-state  
3 growth rate in that case?

4           A.    You know, I can't recall, Mr. Flynn.  The  
5 cases all start to run together at some point.

6           Q.    All right.  Was it around five percent, if  
7 you recall?

8           A.    That seems to be the range of where we have  
9 been in the past, yes.

10          Q.    And the Commission in fact approved a six  
11 percent growth rate for the steady-state, is that  
12 right?

13          A.    That's my understanding.

14          Q.    And the Commission's rationale was that it  
15 was unlikely that the long-term growth rate over that  
16 extended period would be lower than the historical  
17 growth rate, is that right?

18          MS. MUNSCH:  Objection, Mr. Thomas can't  
19 testify as to the Commission's rationale.

20          JUDGE ALBERS:  Well, if you rephrase that  
21 question, that might be a little easier to address.

22          Q.    Did you review the Order after the

1 Commission issued it?

2 A. I have. It's been some time but, yes, I  
3 reviewed it.

4 Q. To the extent that you recall, did the  
5 Commission put forth a rationale for accepting the  
6 six percent long-term growth rate?

7 A. I believe they did. I think the Order  
8 would so read itself.

9 Q. All right. So as you sit here today you do  
10 not have a specific recollection of what the  
11 Commission's rationale was?

12 A. That is correct.

13 MR. FLYNN: All right. Fair enough. That's  
14 all I have. Thank you.

15 JUDGE ALBERS: Did you have any redirect or did  
16 you want to rebut Mr. Townsend?

17 MS. MUNSCH: We are just pausing for a moment  
18 for the record for counsel for RGS to --

19 MR. TOWNSEND: Thank you, Your Honors. In lieu  
20 of cross examination of Mr. Thomas CUB has agreed  
21 with RGS to allow for the admission of a number of  
22 data request responses.

1                   For the record RGS Cross Exhibit 9 is  
2 CUB's response to RGS Data Request 3.01;

3                   RGS Cross Exhibit 10 is CUB's response  
4 to RGS Data Request 4.01;

5                   RGS Cross Exhibit 11 is a group  
6 exhibit.

7                   I will walk through the data request  
8 responses that are included in here, if you would  
9 like, Your Honors, for the record. I think it is  
10 CUB's response to RGS Data Request 1.01 including the  
11 first and second supplemental responses, 1.02, 1.03,  
12 1.04, 1.05, 1.07, 1.14 including the first and second  
13 supplemental responses.

14                 JUDGE YODER: First and second?

15                 MR. TOWNSEND: First and second.

16                   1.18 including the supplemental  
17 response per the Administrative Law Judge's ruling;  
18 1.9, including supplemental responses, I am sorry,  
19 the first and second supplemental response. I am  
20 sorry, 1.19.

21                 JUDGE YODER: Again, you said first and second?

22                 MR. TOWNSEND: First and second supplemental

1 responses.

2 1.20 including the supplemental  
3 response per the Administrative Law Judge's ruling;

4 1.21 including the supplemental  
5 response per the Administrative Law Judge's ruling;

6 1.28, 1.29 including the supplemental  
7 response per the Administrative Law Judge's ruling;

8 1.30, 1.32, 2.03, 2.07 and 2.08.

9 We also have RGS Cross Exhibit 12  
10 Confidential which is CUB's response to RGS Data  
11 Request 1.25 including the first, second and third  
12 supplemental response.

13 JUDGE ALBERS: Do you have a redacted version?

14 MR. TOWNSEND: We will provide you with a  
15 redacted version, Your Honor.

16 JUDGE ALBERS: Use the black marker sparingly.

17 MR. TOWNSEND: I think the redacted version  
18 just would not include the attachment.

19 And then we would request leave to  
20 file the response to RGS Data Request 1.08 with all  
21 supplemental responses. There is an issue as to  
22 whether CUB did attach some confidential -- some

1 documents that it labeled as confidential. If we  
2 will challenge the confidentiality of those, we will  
3 file a motion with the late-filed exhibit.

4 JUDGE ALBERS: Was that --

5 MR. TOWNSEND: It is RGS 1.08.

6 JUDGE ALBERS: Would that be Cross Exhibit 13?

7 MR. TOWNSEND: I am sorry, Cross Exhibit 13.

8 MS. MUNSCHE: I'll only note that I think there  
9 is discussion about that, the initial exhibits and  
10 attachments 1.08. So if we have to have any  
11 additional discussion, we can do that here this  
12 afternoon, so.

13 MR. TOWNSEND: I don't think it's with regard  
14 to the admission. It is just with regards to the  
15 confidentiality of the attachments, is that right, or  
16 the attachments entirely?

17 MS. MUNSCHE: I believe that at this point it is  
18 the possibility the attachment entirely, but we can  
19 discuss that further this afternoon. Subject to that  
20 provision, I don't know that we have a problem. I  
21 just would want to check back with my client in  
22 Chicago.

1           MR. TOWNSEND: You can reserve ruling entirely  
2 on Cross Exhibit 13.

3           JUDGE ALBERS: Yeah, just to be safe.

4                        So any objections then to RGS Cross  
5 Exhibits 9 through 12?

6           MS. MUNSCH: No.

7           JUDGE ALBERS: Those are all admitted.

8                                (Whereupon RGS Cross Exhibits 9,  
9                                10, 11 and 12 were marked and  
10                                admitted into evidence.)

11           JUDGE ALBERS: And with regard to RGS 13, we  
12 will just hold off on that and rule on that. We will  
13 just throw it away if there is no need to admit it.

14                        Did you have any redirect for  
15 Mr. Thomas as regarding Mr. Flynn's questions?

16           MS. MUNSCH: No, Your Honor.

17           JUDGE ALBERS: Any objection then to AG/CUB  
18 Exhibit 3.0, 3.1 and 6.0?

19                                (No response.)

20                        Hearing none, then they are admitted.

21                                (Whereupon AG/CUB Exhibits 3.0,  
22                                3.1 and 6.0 were admitted into

1 evidence.)

2 MR. TOWNSEND: I am sorry, did you rule on the  
3 admission of 9 through 12? You did?

4 JUDGE ALBERS: Yes, they are admitted, just to  
5 be clear.

6 JUDGE YODER: I think you are done.

7 JUDGE ALBERS: Off the record for a minute.

8 (Whereupon there was then had an  
9 off-the-record discussion.)

10 JUDGE YODER: We are back on. I think we are  
11 still waiting for Mr. Robertson to enter his  
12 appearance. So we can put that in and hear from  
13 Mr. Gorman.

14 MR. E. ROBERTSON: Eric Robertson, Lueders,  
15 Robertson and Konzen, P.O. Box 735, 1939 Delmar  
16 Avenue, Granite City, Illinois 62040, on behalf of  
17 the Illinois Industrial Energy Consumers.

18 JUDGE ALBERS: Mr. Borovik?

19 MR. BOROVIK: Thank you, Your Honors. At this  
20 time AG/CUB would like to admit certain testimony of  
21 Scott J. Rubin:

22 The direct testimony of Scott J. Rubin

1 marked AG/CUB Exhibit 2.0, as well as AG/CUB Exhibit  
2 2.1 through 2.4 filed on e-Docket June 29, 2011;

3 The rebuttal testimony of Scott J.  
4 Rubin marked as AG/CUB Exhibit 5.0 as well as AG/CUB  
5 Exhibit 5.1 and 5.2 filed on e-Docket August 23,  
6 2011;

7 As well as the affidavit of Scott J.  
8 Rubin marked as AG/CUB Exhibit 5.3 that will be filed  
9 on e-Docket today but no later -- either today or no  
10 later than Monday.

11 At this time AG/CUB moves for  
12 admission into the record of AG/CUB Exhibit 2.0,  
13 AG/CUB Exhibit 2.1 through 2.4, AG/CUB Exhibit 5.0,  
14 AG/CUB Exhibit 5.1 and 5.2, and AG/CUB Exhibit 5.3.

15 JUDGE ALBERS: Any objection?

16 (No response.)

17 Hearing none, then those identified  
18 exhibits are admitted.

19 (Whereupon AG/CUB Exhibits 2.0,  
20 2.1 through 2.4, 5.0, 5.1, 5.2,  
21 and 5.3 were admitted into  
22 evidence.)

1           JUDGE ALBERS: I understand there is no cross  
2 examination for Mr. Rubin. However, Mr. Robertson  
3 does have some cross exhibits that he and Mr. Borovik  
4 have agreed to.

5           MR. E. ROBERTSON: Yes. Your Honor, pursuant  
6 to -- I believe with Staff, in lieu of crossing Staff  
7 witness Rockrohr we agreed to the admission of  
8 certain data request responses from Mr. Rockrohr.

9           JUDGE ALBERS: Did you have any cross-exam for  
10 Mr. Rubin, though?

11          MR. E. ROBERTSON: Oh, no, I have no cross. I  
12 am sorry, I misunderstood.

13          JUDGE ALBERS: My fault.

14                   All right. Turning to Mr. Rockrohr's  
15 previously admitted testimony, Mr. Robertson has some  
16 exhibits.

17          MR. E. ROBERTSON: Just for the sake of making  
18 sure I get everything in, pursuant to a prior  
19 agreement with the Staff and in lieu of cross  
20 examination of Mr. Rockrohr, we are proposing the  
21 admission of certain data responses into the record  
22 from Mr. Rockrohr to IIEC data requests.

1 I will mark these as IIEC Cross  
2 Exhibit Number 5. It consists of five pages, and it  
3 includes Mr. Rockrohr's response to IIEC's Data  
4 Request 3.01, 3.02, 3.03, 3.04 and 3.05, and I would  
5 move the admission of IIEC Cross Exhibit Number 5.

6 JUDGE ALBERS: Any objection?

7 (No response.)

8 Hearing none, then IIEC Cross Exhibit  
9 5 is admitted.

10 (Whereupon IIEC Cross Exhibit 5  
11 was marked and admitted into  
12 evidence.)

13 JUDGE ALBERS: Is there anything further?

14 MR. E. ROBERTSON: No, sir.

15 JUDGE ALBERS: All right. Thank you.

16 Turning then to -- oh, he is here.  
17 Hello, Mr. Townsend. I guess did you have just a  
18 brief scheduling type suggestion regarding the Motion  
19 in Limine?

20 MR. TOWNSEND: No, I think that I am prepared  
21 to go ahead and argue the motion, if you would like.  
22 I don't know if you have had a chance to read the

1 motion yet.

2 JUDGE ALBERS: Sorry. Right after lunch?

3 MR. TOWNSEND: Can we go off the record for  
4 just a moment?

5 JUDGE ALBERS: Sure.

6 (Whereupon there was then had an  
7 off-the-record discussion.)

8 JUDGE YODER: Back on the record.

9 MR. FLYNN: Judge, Ameren as reviewed the  
10 Staff's motion. And before Mr. Townsend responds,  
11 Ameren would like to join in that motion. This is a  
12 case about Ameren's tariffs. And we agree with  
13 Staff, allowing RGS to cross-examine Mr. Clausen  
14 about matters beyond the scope of his testimony  
15 denies us our due process rights in this proceeding.

16 There is a schedule set for the  
17 submission of direct and rebuttal testimony by  
18 parties who wish to comment on our tariffs or provide  
19 evidence about it. Allowing cross beyond the scope  
20 of Mr. Clausen's testimony now, whether it is  
21 friendly or adverse, simply elicits additional direct  
22 testimony that we have not had an opportunity to take

1 discovery about, that we have not had an opportunity  
2 to respond to.

3 I don't know what Mr. Clausen will  
4 say. I don't know whether we would have any problem  
5 with it. But not knowing defeats the entire purpose  
6 of having a schedule and a discovery procedure.

7 If RGS had wished to call Mr. Clausen  
8 as a witness, they could have done so. There are  
9 procedures for that under the Commission's rules,  
10 whether they are calling him on an adverse basis or  
11 not, and there are ways in which RGS could have  
12 elicited testimony from Mr. Clausen and put it in the  
13 record in a timely manner that would have allowed us  
14 to exercise our discovery rights as the party with  
15 the burden of proof in this case to submit responsive  
16 testimony.

17 It is completely inappropriate to at  
18 this stage of the proceeding ask for cross  
19 examination of a witness beyond the scope of his  
20 testimony to address an issue that the witness  
21 doesn't address.

22 That is our statement. Thank you.

1           JUDGE ALBERS:   Okay, thank you.   Mr. Townsend?

2           MR. TOWNSEND:   Thank you, Your Honors.

3                        The Commission has a policy of  
4   attempting to receive information within the record  
5   that is relevant to helping the Commission reach a  
6   decision in the case.   In this case now we have what  
7   is clearly relevant inquiry in denying to the Retail  
8   Gas Suppliers, if you were to grant the motion that  
9   has been filed by Staff and joined by the Company.

10                      We have complied with every deadline  
11   that the Commission has established in this  
12   proceeding.   We have complied with all the rules with  
13   regards to identifying who it is that we would like  
14   to have cross examination of.

15                      It really is a little bit troubling in  
16   terms of the timing of this motion, both from the  
17   Staff's standpoint as well as from the Company's  
18   standpoint that now, after the testimony has been  
19   admitted into the record that references the Office  
20   of Retail Market Development, only then do they  
21   object to the scheduling of cross examination, an  
22   hour's worth of cross examination that we had

1 reserved for Mr. Clausen, and that certainly  
2 prejudices us. So we question whether or not this  
3 motion is timely.

4 We ask you to deny the motion and the  
5 joinder of the motions as being untimely, because  
6 that clearly has been out there since September 2 as  
7 is recognized in the Staff's motion itself.

8 Secondly, going to the substance of  
9 the motion, it certainly is not the intention of RGS  
10 to have friendly cross examination. The cross  
11 examination of Mr. Clausen is intended to underline  
12 the positions that have been advanced by both Staff  
13 and by the Company.

14 Staff has argued that absolutely no  
15 progress should be made on the advancing of a mass  
16 market gas choice program for Ameren until the  
17 Commission receives a report from the Office of  
18 Retail Market Development. Now, they don't know when  
19 that report is going to occur. It may occur this  
20 next year; it may occur a year later. But they have  
21 said stop everything and wait until you hear from  
22 Torsten, until you hear from the Office of Retail

1 Market Development, suggesting that the Office of  
2 Retail Market Development is the expert for expanding  
3 gas choice, and suggesting that essentially the ICC,  
4 that the Commissioners themselves and the Chairman,  
5 should seize their authority and wait to decide what  
6 Torsten has decided with regards to these issues.

7           The Company had the opportunity to  
8 file surrebuttal testimony in response to that and  
9 actually cited Staff's testimony as one of the  
10 reasons why they weren't yet embracing the idea of  
11 moving forward, and we were able to have some limited  
12 cross examination with regards to that. So those  
13 issues are already in the record.

14           But it is important to note that it is  
15 Staff and the Company, not RGS or some other party,  
16 that's put the Office of Retail Market Development in  
17 its position on expanding customer choice and its  
18 position with regards to this report, with regards to  
19 its intended scope and the process that it is going  
20 to use in order to be able to develop this report.  
21 They put it at issue, not us. We have the right to  
22 explore the basis for them putting that at you issue.

1                                   The Office of Retail Market  
2       Development has provided testimony in this case, and  
3       Staff has chosen to present the director of the  
4       Office of Retail Market Development as a witness in  
5       this case. We made it clear that we intended to  
6       cross-examine that witness again on September 2.  
7       Staff chose not to have this witness, the director of  
8       the Office of Retail Market Development testify on  
9       this issue, about what that report is, about whether  
10      the Commission should hold off until he is done in  
11      filing -- with proceeding with that report and  
12      talking about what he envisions or what the office  
13      envisions is going to be the process and the  
14      substance of this report.

15                                   That's a legitimate line of  
16      questioning. Why is it that you aren't testifying  
17      about that is a legitimate question, as to why is it  
18      that his scope was limited.

19                                   Certainly, if RGS had decided to  
20      subpoena the director of the Office of Retail Market  
21      Development, that subpoena would have been granted  
22      because there are issues that he has knowledge of

1 that are relevant to issues that Staff has put  
2 forward in this case. So to suggest that it is not  
3 relevant somehow is not appropriate. It is relevant  
4 to an issue that Staff itself decided to put forward.

5                   Again, given the timing of this now,  
6 given that we have the testimony of Dr. Rearden and  
7 from the Company as well with regards to the Office  
8 of Retail Market Development, if this motion is  
9 granted and if we are denied the opportunity to  
10 cross-examine Mr. Clausen, we would request that the  
11 testimony of those witnesses on those issues of the  
12 Office of Retail Market Development report be  
13 stricken from the record.

14                   Thank you, Your Honors.

15                   JUDGE ALBERS: Ms. Von Qualen, do you have a  
16 reply?

17                   MS. VON QUALEN: Briefly.

18                   I believe Mr. Townsend has overstepped  
19 what is actually in the record. Dr. Rearden simply  
20 testified that there is insufficient empirical  
21 support for RGS's proposal. From Mr. Townsend's  
22 argument one would think that Dr. Rearden went

1 through what ORMD will do with this report and  
2 started making statements about what would happen  
3 with that. Dr. Rearden simply referenced the  
4 statutory requirement that a report be filed and the  
5 fact that there is not sufficient evidence in this  
6 docket to form an opinion about their proposal. And  
7 he suggested that the proposal would be better looked  
8 at when the Commission has a full view of what's  
9 happening with the gas retail market.

10 The ORMD is not an issue in this  
11 docket whatsoever. And Mr. Clausen did not testify  
12 about it. Dr. Rearden simply referenced it as  
13 another option for how this can be explored.

14 So I don't think it is relevant to  
15 cross-examine Mr. Clausen about whatever he is going  
16 to do about that report.

17 MR. TOWNSEND: If I may, Your Honor?

18 JUDGE ALBERS: Actually, Mr. Flynn, did you  
19 have anything to join in on this?

20 MR. FLYNN: I did, a couple of points. One is  
21 a fundamental rule of procedure is the cross  
22 examination is limited to the scope of a witness'

1 testimony. And simply by saying why didn't you  
2 testify about something else doesn't open the door to  
3 then ask the witness about whatever he wanted to ask  
4 him about. Cross is limited by the scope of direct.

5           And, secondly, Mr. Townsend, I think I  
6 hear him to suggest that, well, maybe what he is  
7 doing is wrong but we should have pointed it out  
8 earlier and now he is prejudiced because he is not  
9 going to be allowed to violate a fundamental rule of  
10 procedure. That has to fall on deaf ears. It really  
11 does.

12           Third, I don't think that the Company  
13 should be expected to read RGS's mind as to -- you  
14 know, they put down 60 minutes for Mr. Clausen, fine.  
15 But that doesn't mean that if someone doesn't scream  
16 at that first instant that somehow the rules of  
17 procedure no longer apply. This is an attempt to  
18 elicit additional direct testimony on cross  
19 examination from a witness who didn't testify on the  
20 subject at all.

21           Thank you.

22           MR. TOWNSEND: If I may, Your Honors.

1                   To go to Staff's point about what it  
2 was that Dr. Rearden actually testified to, he looked  
3 to his testimony to see what he testified about. He  
4 said that the Office of Retail Market Development  
5 must gather input from all interested parties. This  
6 avenue presents a better opportunity for ARGs to  
7 advance their ideas to improve retail gas markets to  
8 the Commission. He is saying that you should ignore  
9 any path; you should go down this avenue.

10                   We have no idea what that avenue looks  
11 like. We have a director that gets to define what  
12 that avenue is going to look like, who is a witness  
13 in this case. And if he wasn't a witness in this  
14 case, then we would have had an opportunity to have  
15 subpoenaed him and said you have to come because this  
16 is at issue in this case.

17                   The rules of procedure before the  
18 Commission, as you know, Your Honors, are not strict  
19 rules. The rules within the courts as to what it is  
20 that you can cross-examine an expert witness about  
21 are much more lenient than they are with regards to  
22 fact witnesses.



1 interested in being able to advance the gas issues  
2 within this case and in particular the mass market  
3 choice issues for the gas side of Ameren's process.

4 JUDGE ALBERS: I was wondering, depending on  
5 which way the motion went, if we need to have you  
6 come back at all, so --

7 MR. TOWNSEND: Not from our perspective at all.

8 JUDGE ALBERS: I think we will still leave the  
9 record open generally but just -- okay.

10 All right. Thank you.

11 MR. TOWNSEND: Thanks.

12 JUDGE ALBERS: Good luck on your flight.

13 (Whereupon the witness was duly  
14 sworn by Judge Albers.)

15 JUDGE ALBERS: Thank you, sir.

16 Mr. Robertson, if you would like to --

17 MR. E. ROBERTSON: Yes, Your Honor, we would  
18 call Mr. Robert R. Stephens.

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ROBERT R. STEPHENS

called as a witness on behalf of the Illinois Industrial Energy Consumers, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. E. ROBERTSON:

Q. Mr. Stephens, would you identify yourself for the record, please.

A. Robert R. Stephens.

Q. And on whose behalf are you testifying today?

A. Illinois Industrial Energy Consumers or IIEC.

Q. And I show you now what has been previously marked as IIEC Exhibit 1.0 -- lost my exhibit list. Have you guys got yours? Thank you.

Marked as the direct testimony of IIEC witness Robert R. Stephens and filed on e-Docket on June 29, 2011. Was that document prepared under your supervision and at your direction?

A. Yes.

Q. And does it contain 36 pages of questions

1 and answers and an Appendix A?

2 A. Yes.

3 Q. And is the information contained in there  
4 true and correct to the best of your information and  
5 belief?

6 A. Yes.

7 Q. I also show you IIEC Exhibits 1.1, 1.2,  
8 1.3, 1.4 and 1.5 filed on e-Docket on June 29, 2011.  
9 Are these exhibits the exhibits that are referenced  
10 in your direct testimony?

11 A. Yes.

12 Q. Were they prepared under your supervision  
13 and direction?

14 A. Yes.

15 Q. Is the information contained therein true  
16 and correct to the best of your information and  
17 belief?

18 A. Yes.

19 Q. I show you now what has been previously  
20 marked as IIEC Exhibit 2 -- I am sorry, 5.0 marked  
21 rebuttal testimony of IIEC witness Robert R. Stephens  
22 filed on e-Docket on August 23, 2011. Do you have

1 that document before you?

2 A. Yes.

3 Q. Does it consist of 39 pages of questions  
4 and answers?

5 A. Yes.

6 Q. And an appendix -- oh, no appendix. Is the  
7 information contained therein true and correct to the  
8 best of your information and belief?

9 A. Yes.

10 Q. If I were to ask you the questions that are  
11 contained, not only in IIEC Exhibit 5.0, but also  
12 IIEC Exhibit 1.0, would your answers be the same as  
13 are contained therein?

14 A. Yes.

15 Q. I also show you what has been previously  
16 marked as IIEC Exhibit 5.1, 5.2 and 5.3 filed on  
17 e-Docket on August 23, 2011. Are these the exhibits  
18 that are referenced in your rebuttal testimony?

19 A. Yes.

20 Q. Were they prepared under your supervision  
21 and at your direction?

22 A. Yes.

1 Q. Is the information contained therein true  
2 and correct to the best of your information and  
3 belief?

4 A. Yes.

5 MR. E. ROBERTSON: Your Honor, I would move the  
6 admission of IIEC Exhibits 2.0, through and  
7 including -- I'm sorry, IIEC 1.0 through and  
8 including IIEC Exhibit 1.5, and IIEC Exhibit 5.0  
9 through and including IIEC Exhibit 5.3, and tender  
10 the witness for cross examination.

11 JUDGE ALBERS: Any objection at this time?

12 (No response.)

13 We will go ahead and take up the  
14 admission following cross examination.

15 Ms. Von Qualen?

16 MS. VON QUALEN: Yes, thank you.

17 CROSS EXAMINATION

18 BY MS. VON QUALEN:

19 Q. Good morning, Mr. Stephens.

20 A. Good morning.

21 Q. My name is Jan Von Qualen. I represent the  
22 Staff witnesses. Just a few questions for you.



1 tendered to the witness.)

2 BY MS. VON QUALEN:

3 Q. Do you recognize that as your rebuttal  
4 testimony from Docket 07-0165?

5 A. I have no reason to doubt that it is.

6 Q. Now, if you would refer to your testimony  
7 beginning after the question on line 98?

8 A. Are you referring to my testimony in  
9 07-0165?

10 Q. Yes.

11 A. I have read it.

12 Q. Would you agree with me that in that docket  
13 that you testified that you thought the Commission  
14 should stick to the establishment of cost-based rates  
15 to the fullest extent possible?

16 A. Yes, that's one of my sentences.

17 Q. And also that any deviation from a cost  
18 basis in that case should be directly attributable to  
19 events that provide compelling justifications for  
20 temporary excursions in costs?

21 A. Yes, that statement is also there.

22 Q. Is that still your opinion today?

1           A.    Yes.

2           Q.    Turning to -- let me ask you this.  If the  
3 Commission should decide to deviate from its delivery  
4 service ratemaking principles, do you believe it  
5 should expressly and clearly state that any departure  
6 from its previous consistent adherence to cost  
7 causation principles is not intended to be permanent  
8 or precedential?

9           A.    Yes.

10          Q.    That was your opinion when you filed this  
11 rebuttal testimony in 07-0165?

12          A.    Yes.

13          Q.    And it is still your opinion today?

14          A.    Yes.

15          Q.    Do you believe the Commission should  
16 specify a sunset date for any subsidy that arises?

17          A.    Are you referring now to my testimony in  
18 the prior case or are you speaking generally?

19          Q.    I am sorry?

20          A.    Are you referring now to my testimony from  
21 the 07 case or are you speaking generally.

22          Q.    With the 07 case first.

1           A.    Yes, I said that, that it makes --

2           Q.    And you agree that --

3           A.    I am sorry.

4           Q.    Go ahead.

5           A.    I make specific reference to the  
6   transitional subsidy in that case.

7           Q.    Okay.  But is that your opinion generally  
8   for subsidies?

9           A.    I don't know that it is always critical for  
10   the Commission to specify a sunset date in terms of a  
11   date certain, but I definitely think that the  
12   Commission should pursue cost-based rates to the  
13   fullest extent possible.  And to the extent there is  
14   a need for subsidies to occur, they should be  
15   temporary.

16          Q.    Thank you.  To the extent the Commission  
17   were to depart from its delivery service ratemaking  
18   principles in this case to address rate increases, do  
19   you believe it should do so only for the most  
20   compelling circumstances?

21          A.    Yes.

22          Q.    And as narrowly as possible?

1           A.    What do you mean by as narrowly?

2           Q.    With as little departure as possible?

3           A.    Consistent with other rate design criteria,  
4 I believe that would be correct.

5           Q.    And also for the shortest possible period  
6 of time?

7           A.    Again, consistent with other rate design  
8 criteria, I believe that would be correct as well.

9           Q.    Thank you.  Now if you would look at page  
10 26 of your direct testimony in this docket, I am  
11 looking at your testimony beginning with the line  
12 528.

13          A.    Should I review the entire question and  
14 answer?

15          Q.    If that's what you prefer.  I am just going  
16 to ask you about the first couple of lines of your  
17 answer.

18          A.    Okay.

19          Q.    What impact do you believe Ameren's level  
20 of invested capital has had on PURA tax levels during  
21 the years 2001 through 2010?

22          A.    I think it has formed the basis for the

1 vast majority of their tax burden during that time  
2 period.

3 Q. And looking at page 33 of your testimony,  
4 do you see where you reference -- that comment at the  
5 bottom of the page where you reference Commonwealth  
6 Edison?

7 A. Yes.

8 Q. In Docket 10-0467. Isn't it true that the  
9 Commission in its 10-0467 Order approved a separate  
10 volumetric charge for the recovery of the Illinois  
11 Electricity Distribution Tax?

12 A. I want to be careful on how I answer this  
13 because I want to make sure terms aren't messed up.  
14 It was a separate volumetric charge in that a line  
15 item charge within base rates was created for those  
16 classes. Actually, it may have been for all classes,  
17 even those which formerly had per kilowatt hour  
18 charges. They did not set up a separate charge in  
19 terms of a separate rider or charge for the tax  
20 outside of base rates.

21 Q. Was it included within base rates?

22 A. Yes.

1           Q.    Isn't it true that Ameren recovers the  
2           distribution tax in a charge to be applicable to each  
3           kilowatt hour delivered to customers taking the  
4           service under each applicable rate?

5           A.    That's true under present rates, yes.

6           Q.    So would you agree that both utilities  
7           recover the distribution tax from the ratepayer  
8           through a separate volumetric charge?

9           A.    I am not crystal clear on whether the  
10          charge is separate in the case of ComEd customers who  
11          are charged for delivery service on a kilowatt hour  
12          basis.  However, for all other customers, including  
13          all Ameren customers, I believe that to be the case.

14          Q.    So you are not entirely sure about the  
15          answer to that question?

16          A.    I am entirely sure, but there may be some  
17          customer classes where it is not true.  Customer  
18          classes in the ComEd territory that don't have demand  
19          meters have always been charged for delivery service  
20          on a per kilowatt hour basis, and the distribution  
21          tax or PURA tax has always been collected through  
22          those charges from those customer classes.  It is

1 those customers that I am not 100 percent sure have a  
2 separate charge for distribution tax, although I  
3 suspect they do.

4 MS. VON QUALEN: Thank you. I have no further  
5 questions.

6 JUDGE ALBERS: Mr. Robertson, redirect?

7 MR. E. ROBERTSON: May I have just a minute?

8 JUDGE ALBERS: Go ahead.

9 (Whereupon the hearing was in a  
10 short recess.)

11 JUDGE YODER: Back on the record.

12 Mr. Robertson?

13 REDIRECT EXAMINATION

14 BY MR. E. ROBERTSON:

15 Q. Mr. Stephens, Ms. Von Qualen had asked you  
16 about your position on rate moderation and cost-based  
17 rates, and in your responses you indicated that there  
18 are other rate design criteria to be considered in  
19 the context of determining the appropriateness of  
20 rate moderation. Would you identify those other  
21 criteria?

22 A. Yes. As the discussion went, I pointed out

1 that I thought rates should follow cost of service to  
2 the maximum extent possible consistent with other  
3 rate design criteria. Those criteria are primarily  
4 continuity, moderation and avoidance of rate shock.  
5 And I believe that to be the case today as well.

6 Q. Also, does Ameren recover a PURA tax  
7 through its Tax Addition Rider?

8 A. Yes, in Ameren's case, unlike Commonwealth  
9 Edison Company, it collects currently taxes outside  
10 of base rates through a separate rider. In the case  
11 of ComEd it is through base rates.

12 MR. E. ROBERTSON: I have nothing further.

13 JUDGE ALBERS: Any recross?

14 MS. VON QUALEN: No.

15 JUDGE ALBERS: Any objection then to IIEC  
16 Exhibits 1.0 through 1.5, 5.0 through 5.3?

17 (No response.)

18 Hearing none, they are admitted.

19 (Whereupon IIEC Exhibits 1.0,  
20 1.1, 1.2, 1.3, 1.4, 1.5, 5.0,  
21 5.1, 5.2 and 5.3 were admitted  
22 into evidence.)

1           JUDGE ALBERS:  Aside from Mr. Clausen, I think  
2           the only other witness -- can we get Mr. Struck's  
3           testimony in today?

4           MR. OLIVERO:  Your Honor, that was the one last  
5           piece.  If we could do that before we break for  
6           lunch, that would be great.

7           JUDGE ALBERS:  All right.  Go ahead,  
8           Mr. Olivero.

9           MR. OLIVERO:  Thank you, Your Honor.  
10                            Your Honor, Staff would move for  
11           admission into the record of ICC Staff Exhibit 1.0  
12           which is the direct testimony of Scott Struck which  
13           consists of a cover page, a table of contents, nine  
14           pages of narrative testimony and Schedules 1.01  
15           through 1.07.

16                           Staff also moves for admission into  
17           the record of ICC Staff Exhibit 19.0 which is the  
18           rebuttal testimony of Scott Struck which consists of  
19           a cover page, a table of contents, eight pages of  
20           narrative testimony and Schedules 19.01 through  
21           19.07.

22                           And, finally, Staff would move for

1 admission into the record of ICC Staff Exhibit 19.1  
2 which is the affidavit of Scott Struck, and I  
3 anticipate this will be one of the affidavits that we  
4 will file yet today, but there might be an outside  
5 chance they won't get filed until Monday, so.

6 JUDGE ALBERS: Okay. Any objection?

7 (No response.)

8 Hearing none, the identified exhibits  
9 and attachments are admitted.

10 (Whereupon ICC Staff Exhibits  
11 1.0, 19.0 and 19.1 were admitted  
12 into evidence.)

13 MR. OLIVERO: One other thing, I think we had  
14 some cross exhibits that I thought we said we would  
15 get filed by the end of this week that they may not  
16 get filed until Monday as we will. We were checking  
17 with a couple of witnesses just to make sure.

18 JUDGE ALBERS: 12 and 13?

19 MR. OLIVERO: And maybe 14.

20 MR. FITZHENRY: You mean filed on e-Docket?

21 MR. OLIVERO: Yes.

22 MR. FITZHENRY: That's likely the case with the

1 cross examination exhibits that were used in  
2 Ms. Phipps' cross examination. They may or may not  
3 get on e-Docket by the end of the day.

4 JUDGE ALBERS: I just want to make sure we knew  
5 which cross exhibits, Mr. Olivero, you were referring  
6 to.

7 MR. OLIVERO: It was 11, 12 and 13 but I --

8 JUDGE ALBERS: I didn't remember there being a  
9 14.

10 MR. OLIVERO: That was wrong.

11 JUDGE ALBERS: That's fine. I just wanted to  
12 make sure I wasn't forgetting something. That's  
13 fine.

14 And I think the only thing left then  
15 is to determine a tentative date for our -- a date  
16 for continuing this hearing to do Mr. Clausen in the  
17 event it is needed. I will just throw out as a  
18 reminder the Initial Briefs are due October 11 and  
19 Reply Briefs and the optional Suggested Orders are  
20 due October 25.

21 And as noted off the record  
22 previously, the outline that we asked for is due

1 September 27, and I think --

2 MR. SKEY: Your Honors?

3 JUDGE ALBERS: Go ahead, Mr. Skey.

4 MR. SKEY: There is one other outstanding  
5 matter which was RGS Cross Exhibit Number 13 which  
6 was the last cross exhibit we had introduced in lieu  
7 of Mr. Thomas' testimony.

8 I guess it was my understanding that  
9 if CUB had a further objection, they were going to  
10 express that. But, frankly, I think CUB's counsel  
11 has left town or at least left the room. And I am  
12 not suggesting that indicates a waiver on their part;  
13 I am just indicating that I don't think that issue  
14 was resolved yet.

15 JUDGE ALBERS: Oh, I agree. I have got in my  
16 notes that the two of you were going to be -- the two  
17 parties were going to be discussing amongst  
18 themselves the finer details they get resolved and  
19 then they will offer that at a later time.

20 MR. SKEY: That would be great. I just want to  
21 make sure that is still on the radar screen. And  
22 perhaps what we could do is report back to Your Honors

1 whenever this hearing is scheduled. And in the event  
2 the ruling turns out that the hearing won't be  
3 scheduled or won't be necessary, then we can  
4 obviously advise you through e-mail or give you a  
5 call.

6 JUDGE ALBERS: Sure, that's fine. And then  
7 also while we are on the topic of the RGS cross  
8 exhibits, we still need a public version of RGS Cross  
9 Exhibit 12.

10 MR. SKEY: Correct. And would you like a hard  
11 copy or would you just like that filed on e-Docket?

12 JUDGE ALBERS: Well, as long as the Clerk's  
13 Office is happy, I am happy. So if you need any, you  
14 know --

15 MR. SKEY: How about we do both? We will get  
16 you hard copies and we will also make sure the filing  
17 is made.

18 JUDGE ALBERS: Just e-mail it to me. If you  
19 are going to file it electronically with the Clerk's  
20 Office, just e-mail it to us, too.

21 MR. E. ROBERTSON: One point, are you  
22 requesting that parties file their cross exhibits

1 electronically with the Clerk's Office or was it  
2 sufficient to give the court reporter copies?

3 JUDGE ALBERS: That was fine. If you have  
4 already given them to Carla, that's fine.

5 MR. SKEY: I am sorry, so just a clarification  
6 to follow up on Mr. Robertson's question, to the  
7 extent that we presented our cross exhibits to the  
8 court reporter, you don't need those filed on  
9 e-Docket?

10 JUDGE ALBERS: No.

11 MR. SKEY: Thank you. Appreciate the  
12 clarification.

13 JUDGE ALBERS: Okay. I think then we are safe  
14 to discuss a continuation date. Is 1:30 next Tuesday  
15 okay with everyone?

16 MR. FITZHENRY: Yes.

17 MR. OLIVERO: Yes.

18 JUDGE ALBERS: Okay. Anything else for the  
19 record then?

20 MR. SKEY: I guess just on that point, Your  
21 Honor, are you anticipating issuing an Order with  
22 respect to Staff's Motion in Limine prior to that

1 hearing?

2 JUDGE ALBERS: Yes, we hope to do so sometime  
3 Monday, right?

4 JUDGE YODER: Yes.

5 JUDGE ALBERS: Monday afternoon at the latest  
6 and that way -- off the record for a minute.

7 (Whereupon there was then had an  
8 off-the-record discussion.)

9 JUDGE ALBERS: Back on the record.

10 Just for the sake of avoiding any  
11 ambiguity in the future, Mr. Olivero is going to make  
12 a motion regarding Mr. Clausen.

13 MR. OLIVERO: Torsten's direct and rebuttal  
14 testimony and an affidavit.

15 JUDGE ALBERS: So go ahead and make that  
16 motion.

17 MR. OLIVERO: Your Honor, we would make a  
18 motion for the admission into the record of ICC Staff  
19 Exhibit 16.0 which is the direct testimony of Torsten  
20 Clausen. Staff would also move for admission into  
21 the record of ICC Staff Exhibit 32.0, the rebuttal  
22 testimony of Torsten Clausen and, finally, we would

1 move for admission into the record of ICC Staff  
2 Exhibit 32.1 which is the affidavit of Torsten  
3 Clausen.

4 JUDGE ALBERS: We will not rule on that motion  
5 for admission pending the outcome of the Motion in  
6 Limine filed this morning.

7 And also it is my understanding, based  
8 on the off-the-record discussion that if the Motion  
9 in Limine is granted, RGS would have no questions for  
10 Mr. Clausen. Is that a fair characterization? Is  
11 that accurate?

12 MR. SKEY: It is, Your Honor.

13 JUDGE ALBERS: Thank you, Mr. Skey.

14 Okay. With that then I think it is  
15 safe to continue -- no.

16 JUDGE YODER: Go ahead.

17 JUDGE ALBERS: To continue this matter to  
18 Tuesday.

19 All right. Just to be safe, I believe  
20 there was no objection to Mr. Struck's testimony and  
21 so that is admitted.

22 JUDGE YODER: Just one clarification on Staff's

1 exhibit list.

2 MR. OLIVERO: Yes.

3 JUDGE YODER: In his 19.0 rebuttal, Schedule  
4 19.03, it says AIC-E. Should that be ERZ-1 through 3  
5 instead of AIC? I am not sure if I --

6 MR. OLIVERO: I would have to check.

7 JUDGE YODER: They are all ERZ and GRZ so I --  
8 oh, I have got it. It says 19.03 ERZ instead of AIC,  
9 so.

10 MR. OLIVERO: Yeah, ERZ.

11 JUDGE YODER: Thank you.

12 JUDGE ALBERS: All right. Nothing further  
13 then, this matter is continued to next Tuesday at  
14 1:30.

15 (Whereupon the hearing in this  
16 matter was continued until  
17 September 20, 2011, at 1:30 p.m.  
18 in Springfield, Illinois.)

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