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3		3	ON BEHALF OF MONTANA-DAKOTA UTILITIES:
4	Public Service Commission)	4	
5	Montana-Dakota Utilities Co.) Case No. PU-17-295	5	Paul R. Sanderson, Esq.
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15	(Pages 1 to 348)	15	Mitchell D. Armstrong, Esq.
16	Taken Wednesday, May 30, 2018	16	SMITH PORSBORG SCHWEIGERT ARMSTRONG MOLDENHAUER
17	Commencing at 8:30 a.m.	17	& SMITH
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3	8:30 a.m. at the North Dakota State Capitol Building,	3	John M. Schuh, Esq.
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<p>1 PROCEEDINGS, May 30, 2018: 8:30 A.M.</p> <p>2</p> <p>3 THE COURT: All right. Thanks everyone.</p> <p>4 Good morning. I guess this is the day we've all been</p> <p>5 waiting for to see how many people we can squeeze into</p> <p>6 this room and see how warm it can get. It's the end of</p> <p>7 May, beginning of June.</p> <p>8 This is the Public Service Commission hearing</p> <p>9 on the application of MDU to increase rates for natural</p> <p>10 gas service, it's case number PU-17-295. My name is</p> <p>11 Pat Ward, I'm an administrative law judge pursuant to</p> <p>12 temporary appointment designated by the Office of</p> <p>13 Administrative Hearings at the request of the Public</p> <p>14 Service Commission to serve as the hearing officer for</p> <p>15 this hearing.</p> <p>16 This hearing is on the application of MDU for</p> <p>17 permission to increase natural gas rates. The record</p> <p>18 will show it is a little past 8:30 a.m. Central</p> <p>19 Daylight Time, May 30, 2018. The hearing is located in</p> <p>20 the PCS hearing room, 12th floor State Capitol,</p> <p>21 Bismarck, North Dakota, which is the time, date and</p> <p>22 place set by the Notice of Filing and Continued Notice</p> <p>23 of Hearing issued by North Dakota Public Service</p> <p>24 Commission on February 14, 2018.</p> <p>25 The Commission's Notice of Hearing for this</p>	<p>1 THE COURT: Thank you. Ms.</p> <p>2 Jeffcoat-Sacco?</p> <p>3 MS. JEFFCOAT-SACCO: Illona</p> <p>4 Jeffcoat-Sacco, counsel with the Commission on behalf</p> <p>5 of Advisory Staff. And with me is Jerry Lee.</p> <p>6 THE COURT: Now we'll take the</p> <p>7 interveners. First, Mr. Coffman?</p> <p>8 MR. COFFMAN: Good morning. John B.</p> <p>9 Coffman appearing on behalf of AARP. Dave Chider is</p> <p>10 not here today but is serving as local counsel. I'm</p> <p>11 here today with our expert witness, Scott Rubin.</p> <p>12 THE COURT: Thank you. And Andy?</p> <p>13 MAJOR UNSICKER: Good morning,</p> <p>14 commissioners. Major Andrew J. Unsicker on behalf of</p> <p>15 the Federal Executive Agencies.</p> <p>16 THE COURT: Okay. Is there anyone else</p> <p>17 present in the room, other than witnesses for MDU, the</p> <p>18 Staff or the interveners that may want to testify at</p> <p>19 some time in this proceeding that's not here on behalf</p> <p>20 of the one of the parties?</p> <p>21 Okay. We'll check that out as we get later</p> <p>22 into the hearing. And if there is somebody, please</p> <p>23 identify yourself to me maybe during one of the breaks</p> <p>24 or at some point so we don't pass anybody over that</p> <p>25 wants to take a position in this matter.</p>
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<p>1 hearing specified the following issues to be considered</p> <p>2 and determined upon this hearing: Number one, what</p> <p>3 rates and charges are necessary to provide a just and</p> <p>4 reasonable rate of return on MDU's property, used and</p> <p>5 useful for the service and convenience of the public in</p> <p>6 North Dakota. Number two, are MDU's proposed rate</p> <p>7 schedules designed in such a manner that they result in</p> <p>8 a basis of charge to its customers that is just and</p> <p>9 reasonable without discrimination.</p> <p>10 Counsel, please state your appearances for the</p> <p>11 record.</p> <p>12 MR. SANDERSON: Thank you, Judge. My name</p> <p>13 is Paul Sanderson with Evenson Sanderson in Bismarck.</p> <p>14 I'm here on the applicant, Montana-Dakota Utilities.</p> <p>15 At the table with me is Nicole Kivitso, President and</p> <p>16 CEO of Montana-Dakota Utilities, and also Garrett</p> <p>17 Senger, Executive Vice President of regulatory affairs</p> <p>18 and gas supply.</p> <p>19 THE COURT: Okay. Thank you, Mr.</p> <p>20 Anderson.</p> <p>21 Mr. Armstrong.</p> <p>22 MR. ARMSTRONG: Good morning,</p> <p>23 Commissioners. Mitchell Armstrong and John Schuh,</p> <p>24 Special Assistant Attorney General on behalf of</p> <p>25 Advocacy Staff. With us is Victor Schock.</p>	<p>1 Counsel, exhibits and -- let's talk about</p> <p>2 exhibits and stipulations and where we're at on that.</p> <p>3 MR. SANDERSON: If I may, Your Honor, the</p> <p>4 parties in the case have reached a stipulation on a</p> <p>5 joint exhibit list I think should -- it was filed and</p> <p>6 you should have a copy. But at this time we would</p> <p>7 offer MDU Exhibit 1, its application, direct testimony</p> <p>8 exhibits, the statements and the depreciation study.</p> <p>9 We'd offer MDU Exhibit 2, our expert Stephen -- Dr.</p> <p>10 Stephen Gaske's rebuttal testimony; MDU Exhibit 3, Pat</p> <p>11 Darras's rebuttal testimony; MDU Exhibit 4, Jim</p> <p>12 Kaiser's rebuttal testimony; MDU Exhibit 5, Travis</p> <p>13 Jacobson's rebuttal testimony; MDU Exhibit 6, Jordan</p> <p>14 Hatzenbuhler's rebuttal testimony; MDU Exhibit 7,</p> <p>15 Stephanie Bosch's rebuttal testimony.</p> <p>16 And those have been agreed to between the</p> <p>17 parties.</p> <p>18 THE COURT: Okay. So those seven</p> <p>19 exhibits, there's no objection?</p> <p>20 MR. ARMSTRONG: No objection.</p> <p>21 THE COURT: Okay. Those exhibits will be</p> <p>22 received. MDU-1 through MDU-7.</p> <p>23 Mr. Armstrong?</p> <p>24 MR. ARMSTRONG: At this time we would</p> <p>25 offer PCS Exhibits Number 20 through 27, which is the</p>

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<p>1 direct and rebuttal testimony -- surrebuttal testimony 2 of Staff's witnesses. 3 THE COURT: Okay. 4 MR. SANDERSON: No objection. 5 THE COURT: Okay. All right. Those 6 exhibits will be received as well, PCS-20 through 7 PSC-27. 8 And Mr. Cap -- Major Unsicker? 9 MAJOR UNSICKER: Major Unsicker, that's 10 fine. 11 THE COURT: Yes, Major. Go ahead. 12 MAJOR UNSICKER: Yes, sir. We would offer 13 FEA Exhibits 29 and FEA Exhibit 30, which is FEA-29 is 14 the direct testimony of Mike Gorman. And FEA-30 is the 15 surrebuttal testimony of Mike Gorman. 16 THE COURT: Okay. Any objection? 17 MR. SANDERSON: No objection. 18 MR. ARMSTRONG: No objection. 19 THE COURT: Okay. FEA Exhibits 29 and 30 20 are also received. 21 And Mr. Coffman? 22 MR. COFFMAN: Yes. I would like to offer 23 into evidence Exhibits AARP-41 and AARP-42. I don't 24 know if they got corrected, I think originally there 25 was an oversight. AARP-41 should be the direct</p>	<p>1 THE COURT: All right. 2 MS. JEFFCOAT-SACCO: Thank you. 3 THE COURT: Thank you. 4 Counsel, any opening remarks or opening 5 statements? 6 MR. SANDERSON: Yes, Your Honor. I'd like 7 to make an opening statement on behalf of the Company. 8 Commissioners, again, my name is Paul Sanderson 9 on behalf of Montana-Dakota Utilities. We're here 10 today asking you to consider Montana-Dakota's 11 application to increase its rates for natural gas 12 service in North Dakota. The Company is seeking a 13 revenue increase of approximately \$3.5 million with a 14 total increase in rates of about 3.3 percent. 15 The recent passage of the Tax Cuts and Jobs Act 16 in December of 2017 had a significant impact and 17 resulted in a reduction of nearly 40 percent of the 18 original requested rates as filed in July of 2017. And 19 those -- the impact will be explained by Company 20 witnesses. 21 Under Montana-Dakota's proposed rate schedule, 22 residential customers will see an increase of 23 approximately 3.6 percent, which would amount to 24 approximately \$1.82 a month under the proposed rates. 25 The primary reason for this increase is due to</p>
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<p>1 testimony of Scott Rubin. It had been listed as 2 rebuttal. Mr. Rubin does not have rebuttal. So 3 AARP-41 would be his direct testimony. And AARP-42 4 should be his surrebuttal testimony. 5 THE COURT: Okay. 6 MR. SANDERSON: No objection. 7 THE COURT: Mr. Armstrong? 8 MR. ARMSTRONG: No objection. 9 THE COURT: Okay. There being no 10 objection and that change being noted in the record, 11 those exhibits will be received. AARP-41, direct 12 testimony of Scott Rubin, and AARP-42 surrebuttal 13 testimony of Scott Rubin. 14 Anything else for the good of the order? 15 MS. JEFFCOAT-SACCO: Very quickly, there 16 is no AARP-40 then, correct? I'm looking at the 17 list -- 18 MR. COFFMAN: That's correct. 19 THE COURT: At this time, no. 20 MS. JEFFCOAT-SACCO: So when it times to 21 certify the record on appeal, there's no number 40. 22 THE COURT: If something comes up, we 23 could plug something into that. 24 MS. JEFFCOAT-SACCO: No, let's keep it in 25 order.</p>	<p>1 Montana-Dakota's increased investment in distribution 2 facilities to improve safety and reliability in its 3 systems that have occurred since the last rate case. 4 Throughout the course of this proceeding, 5 Montana-Dakota will present evidence to establish that 6 due to its increase investment in recent years, the 7 existing natural gas rates today are not sufficient to 8 fully recover costs of providing gas service to the 9 North Dakota customers, and therefore the current rates 10 are unjust and unreasonable as they exist today. 11 At the outset of this case, I'd like to briefly 12 discuss and think it's important to keep in mind the 13 legal standard that a rate case is governed by in North 14 Dakota. The law requires that rates be just and 15 reasonable. And in consideration of a rate case, you 16 must balance the interest of rate payers and ensuring 17 that there's low cost rates. But that interest must 18 also be balanced with the interest of the Company and 19 the utility, that it remains a strong and viable 20 company to provide safe and reliable service to its 21 customers in North Dakota. And we must keep in mind 22 that everyone in this state benefits from having a 23 strong company which is able to meet the service 24 requirements and needs of its customers. 25 Under the law, a utility has a constitutional</p>

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<p>1 right to such rates as will permit it to earn a fair 2 return on value of property which it employs for the 3 convenience and service of the public which should be 4 equal to investments in other business undertakings of 5 similar risk.</p> <p>6 Now, I'd like to take this opportunity to 7 briefly describe or outline the issues that have arisen 8 or are in dispute between Montana-Dakota, Advocacy 9 Staff, and the Intervenor, AARP and the Federal 10 Executive Agency. The largest amount in dispute in 11 this case between the companies relates to 12 Montana-Dakota's employment compensation program. And 13 that's the incentive compensation or at-risk pay that 14 Montana-Dakota utilizes. Advocacy Staff is request the 15 Commission reduce Montana-Dakota's incentive 16 compensation program by an arbitrary amount of 60 17 percent. This would be an across-the-board 18 disallowance to every single employee that 19 Montana-Dakota has that provides gas operations in this 20 state.</p> <p>21 Now, Montana-Dakota has been utilizing an 22 incentive or at-risk compensation system to compensate 23 its employees for over 20 years, and you'll hear the 24 testimony that this is a critical part of its total 25 rewards philosophy, as will be explained by the Company</p>	<p>1 with every case, this seems to be the most contentious 2 issue, which is a result of the calculations being so 3 subjective amongst the experts. The U.S. Supreme Court 4 has set forth the standard for determining the 5 appropriate rate of return for a public utility, and 6 that is, one, it must be commensurate with the returns 7 of utilities with similar risk. Two, it must be 8 sufficient to maintain the financial integrity of the 9 Company. And three, it must be adequate to allow the 10 Company to attract capital on reasonable terms.</p> <p>11 Montana-Dakota's current return set by this 12 Commission for its natural gas operations is 9.5 13 percent. The Company will present evidence through its 14 expert witness, Dr. Stephen Gaske, that the appropriate 15 rate of return should be increased, and Dr. Gaske 16 proposes a rate of 10.0 percent, similar to what other 17 utility companies -- natural gas utility companies are 18 earning in this country. Obviously, the Advocacy Staff 19 and the Intervenor believe it should be less than 20 that, and you'll hear the testimony on that.</p> <p>21 Another critical issue in this case in dispute 22 involves the current main and service replacement 23 projects. And some of that you've probably seen in the 24 testimony is referred to in Montana-Dakota's 25 Information Application as its Systems Safety and</p>
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<p>1 witnesses.</p> <p>2 Incentive compensation is recognized in the 3 industry as a critical tool in attracting and retaining 4 a highly-skilled work force. And in fact, the evidence 5 will show in this case that at-risk pay is more 6 economical to rate payers than an equivalent cash 7 compensation that would be necessary to maintain 8 employees at the current rate or a competitive rate.</p> <p>9 In essence, what Advocacy Staff is requesting 10 this Commission to do is to step into the shoes of the 11 Company and its management to determine the best way 12 for the Company to compensate its employees. The North 13 Dakota Supreme Court in rate cases has repeatedly held 14 that the Commission is not the financial manager of the 15 Company and should not substitute its judgment for that 16 of the directors of the Company. And in fact, the 17 Court has previously recognized that the overall 18 employment compensation package between a utility and 19 its employees is a matter left to the deference and 20 judgment of management through collective bargaining.</p> <p>21 The evidence will establish that 22 Montana-Dakota's incentive compensation for all 23 employees is a reasonable and prudent company expense.</p> <p>24 The next biggest issue in terms of the amount 25 in dispute is the authorized return on equity. And as</p>	<p>1 Integrity Program. But there's one critical 2 distinction that needs to be made here. This case is 3 based on a future -- our application filed in 2017 was 4 based on a future test year of the year 2018, as 5 authorized under North Dakota law. In 2018, 6 Montana-Dakota is already undertaking numerous projects 7 for replacement of mains and pipeline facilities in a 8 number of towns including Taylor, Fairview, Gladstone, 9 New Salem, Eldridge, Barlow and Cleveland.</p> <p>10 Now, what's critically in dispute with respect 11 to the SSIP is a proposed new recovery mechanism. But 12 what's the critical distinction is these projects in 13 2018 in the towns identified are not part of that SSIP 14 recovery mechanism. They're part of what we're 15 requesting for rate base. And why this is important is 16 many of these projects have already begun, and they're 17 all expected to be completed in 2018. And these 18 projects will be used and useful by Montana-Dakota 19 utilities at the time these rates go into effect and 20 become applicable in this case. And therefore, under 21 the legal doctrine of imminent use, they are 22 appropriately included in the rate base, and these 23 costs should be included in the rate base.</p> <p>24 And that takes us to the bigger issue in 25 dispute is the SSIP recovery mechanism. And</p>

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1 Advocacy -- what Montana-Dakota Utilities is proposing
2 is the adoption of a new SSIP recovery mechanism, and
3 that's what Advocacy and AARP object to in their
4 testimony. It's important in this consideration to
5 realize approximately 25 percent of Montana-Dakota's
6 entire natural gas system is over 50 years old, and
7 some well, well older than that.

8 While Montana-Dakota has continuously been in
9 the process of replacing pipe as necessary, the Company
10 now recognizes the need for continuing safety
11 improvements to an aging gas infrastructure.
12 Montana-Dakota, with this proposal in this case is
13 being proactive about replacing its pipeline
14 infrastructure by implementing its SSIP. It's a
15 risk-based approach focusing on prioritizing safety,
16 asset replacement and mitigating rate impact on
17 customers. The Company's SSIP will help expedite the
18 replacement of Montana-Dakota's aging pipeline system
19 by promoting a timely rate recovery mechanism for the
20 investments it makes in its infrastructure. The
21 proposed SSIP safety recovery mechanism would permit
22 Montana-Dakota to recover specific project costs under
23 that mechanism without the need to file an expensive
24 and full-blown rate case.

25 Montana-Dakota's witnesses will take the time

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1 to explain how these projects are selected and will be
2 included in the SSIP program and also how the proposed
3 funding mechanism, if adopted, will be implemented.
4 However, it's very important to note in this entire
5 discussion that no cost recovered under the SSIP
6 program would be permitted without the approval of the
7 Commission in each and every instance.

8 And this would be a benefit to North Dakota
9 customers. It would be a more gradual rate increase
10 instead of the one-time sticker shock that will come
11 for paying for these increased investments. And the
12 other key benefit, it would avoid these costly rate
13 cases on behalf of the Company and Staff and the
14 Commission.

15 Ensuring pipeline safety is about more than
16 just replacement and cost recovery. It's about working
17 together with the Commission to establish a long-range
18 strategic plan to ensure a safe and reliable gas
19 pipeline system. You're going to see this is exactly
20 why in July of 2013 the National Association of
21 Regulatory Commissioners adopted a resolution entitled
22 Resolution Encouraging Natural Gas Line Investment and
23 the Expedited Replacement of High-Risk Distribution
24 Mains and Service Lines, which urged state commissions
25 to adopt alternative rate recovery mechanisms to

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1 accelerate the replacement of the aging natural gas
2 pipeline system in this country. And this is not a
3 unique or novel concept that Montana-Dakota is
4 proposing in this case. Already over 36 states in this
5 country have adopted a rate recovery mechanism to
6 address the issues with the aging infrastructure.

7 So Montana-Dakota in this case is urging the
8 Commission in this case to take a proactive approach to
9 this critical public safety issue and adopt the
10 Company's proposed SSIP recovery mechanism.

11 Now, there's other -- there's a few other
12 miscellaneous items that I want to briefly touch on
13 that are in dispute between the Company and Advocacy
14 Staff and the Interveners. One is inflation. As
15 indicated, this case was filed in 2017 based on a
16 future test year. Montana-Dakota is seeking a two
17 percent -- roughly two percent inflation on some minor
18 expenses, and they're basing that on the average of six
19 fully recognized publications on inflation. Advocacy
20 Staff is proposing a complete disallowance of any
21 inflation on its operating expenses. There's also an
22 issue with work and vehicle equipment that Advocacy
23 Staff takes an issue with, and Travis Jacobson on
24 behalf of the Company will talk about these issues and
25 explain why Staff has miscalculated the calculations.

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1 Then there's also an issue that Advocacy Staff
2 takes with the use of -- the limited use of the Company
3 airplane for Montana-Dakota's North Dakota gas
4 customer -- or gas operations, the employee housing
5 decisions that it made during the Bakken oil boom, and
6 certain advertising and expenses. Again,
7 Montana-Dakota will advocate and argue that these are
8 again examples of the Staff improperly asking you as
9 commissioners to step into the shoes of the management
10 of the Company to make business decisions with respect
11 to these issues. And it's not appropriate in these
12 cases.

13 The parties are in agreement with the
14 allocation of how the increase and rates should occur
15 between the classes; however, there are some minor
16 disagreements with how the increase should be applied
17 to residential customers. In the last rate case in
18 2015, this Commission adopted a straight fixed variable
19 rate design in which residential customers will simply
20 pay a flat fee service charge. Advocacy Staff is --
21 not -- AARP, excuse me, is requesting that the
22 increases be now added as a volumetric charge.
23 Montana-Dakota takes the position that there's no
24 justification to revert back to the previous rate
25 design that existed and proposes that these increases

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<p>1 continue to be used the straight fixed variable rate 2 design that's a single-service charge.</p> <p>3 In addition, there's a dispute regarding the 4 allocation of cost distribution of mains pursuant to a 5 minimum systems approach that the Company is offering 6 where 25 percent of the allocated costs would be 7 assigned or allocated to customers and 75 percent being 8 allocated to demand. While the Federal Executive 9 Agency agrees with this position, AARP opposes this 10 proposal. But those are the issues with rate design.</p> <p>11 With respect to the witnesses, I just would 12 like to outline the witnesses we expect to call here.</p> <p>13 First, we'll call Nicole Kivitso, the president and CEO 14 of Montana-Dakota, to give an overview of the Company 15 and its application in this case. We intend to call 16 Pat Darras, the vice president of gas operations to 17 talk about the SSIP program and how those projects are 18 selected. We'll call Travis Jacobson, our manager of 19 regulatory affairs to discuss the rate base and revenue 20 requirement issues that are in dispute. We'll call 21 Matt Shoemake, he's a regulatory analyst, and he's 22 going to discuss the customer and projected volumes 23 used in our application. Tammy Nygard is our 24 controller, and she will talk about the Company's 25 capital structure. I've already referenced Dr. Stephen</p>	<p>1 MR. ARMSTRONG: Thank you, Judge.</p> <p>2 Commissioners, I'll be brief because as you just heard 3 we have numerous witnesses to go through. In the room 4 with Staff also are its witness, Karl Pavlovic, Marlon 5 Griffing and Donte Murgace, who you'll hear testimony 6 from later, as well as Victor Schock.</p> <p>7 Overall, I will say that we do not agree with 8 the characterization of Staff's position that was 9 stated in the Company's opening statement. We believe 10 Staff's recommendations completely comply with the law 11 and result in a fair and reasonable rate.</p> <p>12 At the outset, I will note that MDU has the 13 burden to show that its proposed rates are just and 14 reasonable. Staff asserts MDU's requested increase is 15 quite simply too much. We believe the evidence will 16 show that the requested increase includes imprudent or 17 unsupported expenditures and is seeking to recover 18 these from rate payers at an inflated return.</p> <p>19 As you'll see from the pre-filed testimony and 20 as you just heard from Mr. Sanderson, there are many 21 areas in dispute. We do not intend to address every 22 single area through the course of this evidentiary 23 hearing. That's not because we agree with it or are 24 waiving any argument, but there's pre-filed testimony 25 that we believe fully evaluates those issues and you'll</p>
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<p>1 Gaske who will provide testimony regarding the cost of 2 equity and the required rate of return. We'll call Jim 3 Kaiser, the director of human resources for 4 Montana-Dakota who will discuss the employee 5 compensation program and the importance of the 6 incentive and at-risk pay. Jordan Hatzenbuhler is a 7 senior regulatory analyst who will be called to talk 8 about the class cost of service study. And Stephanie 9 Boss, the regulatory affairs manager, will discuss the 10 tariffs that are being proposed to implement this.</p> <p>11 We also have filed the testimony of Earl 12 Robinson, an expert, he did Montana-Dakota's 13 depreciation study. He is -- he'll be available by 14 phone. Nobody -- I'll represent that none of the 15 parties had issues with the depreciation study. So we 16 do not intend to call him. But if the commissioners 17 have any issues they want, we will make him available 18 to testify by phone.</p> <p>19 In closing, Montana-Dakota would like to thank 20 you as commissioners for the opportunity to present its 21 case supporting its increase in natural gas rates. The 22 Company looks forward to the open discussion of these 23 important issues over the course of this hearing. 24 Thank you.</p> <p>25 THE COURT: Mr. Armstrong.</p>	<p>1 have a chance to review that after the hearing if you 2 haven't reviewed it already. But we do rely on that 3 pre-filed testimony and ask you to look at it and 4 consider it carefully.</p> <p>5 In addition to the straight dollars in the 6 requested return, one of the major disagreements is the 7 requested implementation of the System Safety and 8 Integrity Program. We'll call that S-S-I-P, sometimes 9 we call it SSIP. That's what we're talking about when 10 we're using those words. Staff strongly disagrees with 11 this program. MDU has operated an overall safe and 12 reliable system basically forever. Now it wants to 13 change the system for certain items and essentially 14 create a rider that will be subject to less scrutiny 15 but will pass significant costs along to customers. 16 Staff believes that type of implementation is not best 17 decided in this rate case. We believe those projects 18 should be reviewed in a rate case type proceeding with 19 experts, interveners, briefing, parties, evidentiary 20 hearings, and just as we're going to do throughout this 21 hearing, to provide the scrutiny that those major 22 expenditures deserve.</p> <p>23 At the end of this case, we hope you will see 24 that Staff's recommendation provides a sufficient 25 return for the Company that is just and reasonable,</p>

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1 does not pass unsupported expenses on to customers, and
 2 recognizes the importance of the scrutiny of major
 3 projects through a rate case. Thank you.
 4 THE COURT: Thank you, Mr. Armstrong.
 5 Ms. Jeffcoat-Sacco, any opening comments?
 6 MS. JEFFCOAT-SACCO: No, Your Honor.
 7 Thank you.
 8 THE COURT: Mr. Coffman, opening
 9 statement?
 10 MR. COFFMAN: Thank you. May it please
 11 the Commission, Chairman Christmann.
 12 Just briefly, AARP is here on behalf of its
 13 88,000 members in North Dakota. Many of these members
 14 are MDU gas customers. And AARP intervenes in rate
 15 cases because its members have told it that this is a
 16 very high priority for their financial security. Many
 17 older customers live on fixed incomes with little hope
 18 that their income might increase as much as their
 19 energy burden demands. So we do appreciate your
 20 scrutiny of this rate case, and we appreciate that
 21 you're all here today and hope that you keep -- take
 22 with you the knowledge that every dollar matters to
 23 many of the people who will be impacted on the
 24 residential class which we are here concerned with
 25 exclusively.

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1 We also would like to thank you for the local
 2 public hearings that you held in this case. Many of
 3 our members appreciate that opportunity to speak
 4 directly to you, and it's one of the many reasons that
 5 AARP prefers these full rate cases and the thorough
 6 scrutiny that they receive as opposed to the surcharge
 7 mechanisms that utilities often propose.
 8 Tomorrow we'll have the opportunity to put our
 9 witness on the stand, Scott Rubin, who is a nationally
 10 recognized rate design expert with considerable
 11 experience. We have essentially four issues that we
 12 wish to talk about and only two of which I would like
 13 to preview for you now. And these are very big issues
 14 for us.
 15 I'll just mention the SSIP or mechanism that
 16 was discussed by Mr. Sanderson, we oppose this idea
 17 along with the Staff and do not believe that it is
 18 about providing safe and adequate service. We believe
 19 that the current system does a very good job of doing
 20 that. We're not aware of any evidence that shows --
 21 that states that applying additional surcharge to the
 22 bill have any safer systems with regard to any
 23 measurable metric.
 24 We know that the Company is arguing that this
 25 will save rate payers money by reducing the number of

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1 rate cases. Now, the rate case expense for this
 2 thorough review is much less in our minds than the
 3 amount of cost savings that have been found as a result
 4 of this rate case. And one of our many concerns with
 5 the surcharge type paradigm is that you lose the
 6 opportunity to recognize offsetting factors. Now, main
 7 replacements are clearly the major expense that is
 8 increasing for the utility, but there are other factors
 9 and expenses that are going the other direction.
 10 There's also revenue increase that will be recognized
 11 in this case that you wouldn't otherwise be able to
 12 recognize. It would be a mechanism that would allow
 13 for rate increases without recognizes all the other
 14 moving parts in the system, and some of those moving
 15 parts you cannot anticipate.
 16 In this case, originally it was not known that
 17 we would have such a dramatic reduction in the
 18 corporate tax rates. So the TCGA is being recognized
 19 to the benefit of customers in this case. Had we not
 20 had a full rate case and had rates increasing based on
 21 an SSIP mechanism, rate payers -- it would be
 22 questionable whether or not rate payers would see that
 23 benefit. So from our perspective, all relevant factors
 24 full review is the way we like to see rates change.
 25 The other issue that is of great importance to

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1 us is rate design within the residential class. There
 2 is no dispute in the record as to allocating the
 3 revenues. All the parties have recommended that to the
 4 degree that there's a need for an increase that it be
 5 applied to the residential and firm general rate.
 6 What we're talking about with the fixed charge
 7 for distribution rates is within the residential class.
 8 We believe the evidence will show that at least -- or
 9 no more than 75 percent of the costs are customer
 10 related, and that is, you know, the same for every
 11 customer, or fixed. However, the utility is wanting to
 12 continue a straight fixed variable rate design that
 13 would apply 100 percent of the cost to a fixed fee for
 14 the delivery of gas regardless of how much that
 15 customer uses. We believe that a just and reasonable
 16 rate that is actually based on cost and on the cost
 17 study would have some component for usage, some
 18 volumetric component. We believe that putting 100
 19 percent in a flat fixed fee is extreme. It's out of
 20 the mainstream. And we would recommend that the
 21 Commission apply whatever increase comes out of this
 22 case to a volumetric part, because as I said, there is
 23 no dispute. We believe that it's less than 70 percent,
 24 but -- 75 percent, but there's no evidence in the case
 25 that shows that any more than 75 percent of the cost to

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<p>1 delivering gas to the residential customer are customer 2 related.</p> <p>3 So based on those issues, we'll address all of 4 our issues tomorrow through our witness. That's all I 5 have and appreciate being here. Thank you.</p> <p>6 THE COURT: Thank you, Mr. Coffman. Major 7 Unsicker?</p> <p>8 MR. UNSICKER: Thank you, sir. Good 9 morning, commissioners.</p> <p>10 The Federal Executive Agencies represents all 11 federal entities within MDU territory, most notably in 12 this case is Minot Air Force Base.</p> <p>13 MDU filed a class cost of service study in this 14 case, and the Company's proposed class cost of service 15 study reasonably and accurately measures its cost to 16 providing local gas transmission and distribution 17 services to its various retail rate classes. In fact, 18 the Company's cost of service study results show that 19 the Air Force current rate, which is rate 64, is 20 overcollecting its cost of service by \$17,685 at the 21 Company's proposed rate of return.</p> <p>22 The Company's cost of service study also shows 23 the Air Force base rate 65 that it pays for the 24 operation and maintenance of the Air Force base 25 distribution system near Minot, North Dakota is</p>	<p>1 Finally, the money saved by Minot Air Force 2 Base will benefit the local community. In fiscal year 3 2017, the base's economic impact came to \$580 million. 4 Many of these dollars are spent in the Minot community 5 to keep the base running. The amount paid to local 6 schools, including for many airman for off-base 7 education, came to \$9.2 million. Construction 8 expenditures were 46 million. These factors help to 9 sustain the economy and jobs in the Minot area.</p> <p>10 So in closing, the Federal Executive Agencies 11 would ask that it be required to pay fair and 12 reasonable rate in this case. Thank you, 13 Commissioners.</p> <p>14 THE COURT: Thank you, counsel. I guess 15 at this point we'll ask the Commissioners if they have 16 any opening remarks before we get into the witnesses in 17 the hearing. Mr. Kroshus?</p> <p>18 COMMISSIONER KROSHUS: Good morning 19 everyone. Thank you for being here. I'll keep this 20 brief because we have a lot of ground to cover, and 21 it's going to be a busy three days.</p> <p>22 But rate cases, they're really about creating 23 the balance. It's about protecting consumer interest, 24 it's about balancing that with Company needs also while 25 looking at the safety and reliability of the system as</p>
<p>Page 34</p> <p>1 overcollecting its cost of service by \$9,647 at the 2 Company's proposed rate of return. Therefore, the Air 3 Force's current rates result in a total overcollection 4 of \$27,332 per year for the Air Force. Hence, the 5 Company's cost structure suggests that the Air Force 6 Base should receive a reduced rate.</p> <p>7 It is important to note that MDU proposes to 8 collect its requested increase from only two rate 9 classes, the residential and firm general service 10 class. Therefore a system average increase in this 11 case would be inappropriate as it would result in 12 annual bill increase of \$87,000 to Minot Air Force 13 Base.</p> <p>14 Now, you will hear from our expert witness, Mr. 15 Gorman, I believe on Friday to talk about return on 16 equity. The Company's claimed revenue deficiency is 17 based on a requested return on equity of ten percent in 18 this case. We believe that this ten percent return on 19 equity is substantially in excess of current capital 20 market costs. A more reasonable return on equity for 21 MDU would be no more than five percent -- 9.5 percent, 22 I apologize -- and possibly lower. Altering the cost 23 of service to reflect a 9.5 percent return on equity 24 would lower the Company's claimed revenue deficiency by 25 approximately \$555,000.</p>	<p>Page 36</p> <p>1 well and what is the appropriate mechanism for 2 collecting those dollars, that it obviously takes 3 capital to do those types of projects. And really as 4 we go through this, a lot of -- quite a number of my 5 questions will be centered around the mechanism for 6 collecting if it's appropriate, if it's not 7 appropriate.</p> <p>8 But I also recognize from spending a few years 9 in the private sector that attracting capital is also 10 very important. We want healthy companies operating in 11 North Dakota, but we also want households that are 12 doing well at the same time, and we want businesses 13 also to be able to take advantage of low-cost energy. 14 And we're fortunate in North Dakota to have some of the 15 lowest utility rates in the country. So we're very 16 fortunate in that respect.</p> <p>17 And I think some excellent points have been 18 made without question, and everyone has a different 19 interest, slightly different angle, oftentimes 20 depending on who you represent. If you're representing 21 low-income households, every little bit matters. And 22 that was one thing that was really -- really struck me 23 when we had our public hearings. The people that 24 showed up and talked about the \$2.98 that it originally 25 started at. It shouldn't be surprising to any of us</p>

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1 that people will show up because social security checks
2 aren't growing and everything else is going up around
3 them. And this is one of the few opportunities they
4 have to come in and to express their concern with the
5 rising cost of just being able to try and live a normal
6 life. So very understandable. And the public input
7 during the course of this rate case was very beneficial
8 to hear.

9 So really at the end of the day, again, this is
10 about balancing customer interest with company needs
11 and also doing what's right for North Dakota as a
12 whole. So look forward to the witnesses that will be
13 coming across the stand, and I'll save my questions for
14 that point in time. Thanks.

15 THE COURT: Thank you. Commissioner
16 Fedorchak.

17 COMMISSIONER FEDORCHAK: Good morning
18 everybody. It's great to be here. First, I want to
19 say thanks to the parties in particular who are taking
20 time to intervene in this. It's really helpful for us
21 to have third parties involved and bring out additional
22 issues that we need to be looking at and thinking
23 about, and it's a big investment of your time and
24 resources to take part in these types of proceedings.
25 So I wanted to make sure that you understand how much

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1 we appreciate that and value your input. So thank you
2 very much for being here.

3 Secondly, there's -- I think I counted five
4 members in the media, and I'm not sure if you guys
5 understand the rules for how these rate cases work.
6 But once you're in the room, you don't get to leave.
7 So you got three days to cover. Sorry, James. It's
8 the rules.

9 No, thank you to you all for being here, too.
10 And hopefully you are getting a good summary. You have
11 everybody's issues here right at the beginning, and
12 maybe you want to come for the closing and see where
13 everything ends up on Friday afternoon. And that might
14 be the simplest way for you to get what you need from
15 these proceedings because there will be an awful lot of
16 detail covered.

17 Finally, I think it's hard for the public to
18 understand what the Public Service Commission does. I
19 get those kinds of questions a lot when I'm out and
20 about, and especially as we run for office. And so
21 people think really what in the world am I voting for
22 here. And so it's hard to explain a rate case. I
23 mean, you could talk about the rates, but really
24 everything gets involved and it gets so technical, most
25 people just don't have time to care. So I always break

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1 it down like this: If you care about cold beer and hot
2 showers, then you should care about the Public Service
3 Commission. And most people then go, oh, yes, I do
4 care about those things. And when you're talking to
5 kids, I say, if you care about -- well, we try to make
6 sure that when you plug your phone into the wall
7 there's actually power to charge it. And their eyes
8 get huge and they say, thank you, thank you for that.

9 And so, you know, it really does, it's that
10 simple. I mean, this is what all of these volumes of
11 paper is about is safe, reliable, affordable utility
12 service, in this case gas, to citizens of North Dakota.
13 And so I will listen intently to all of your arguments.
14 I do care a lot about the SSIP program and how that
15 mechanism would work. I care a lot about the safety.
16 I want to really dig into those issues and understand
17 both the safety pieces, what's driving it, and the
18 recovery mechanism. And so I appreciate all the time
19 that the witnesses have already spent on that and all
20 the testimony on those regards, not that the other
21 issues aren't important. But for me in terms of
22 customer impact and the long-term needs of the system,
23 that's the biggest issue here. So thanks for your time
24 and look forward to spending the next three days with
25 you all.

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1 THE COURT: Thank you. Chairman
2 Christmann.

3 CHAIRMAN CHRISTMANN: Well, not probably
4 as enticing of a subject as appropriate recovery or
5 rate base, but for people who are new to the Commission
6 and have never been here and are going to be sitting
7 through full days of hearings, just an announcement,
8 there's a women's restroom right out by the elevators
9 where you came up, hopefully everybody was able to get
10 an elevator with only half of them operational. So
11 that's for the ladies. For the gentlemen, in the
12 northeast corner out there, there's a doorway that
13 takes you to a stairway, you can go up or down one
14 floor and there's men's restrooms by the elevators on
15 the uneven-numbered floors.

16 I don't know that we ever have had a rate case
17 or anything else with this much detail in opening
18 comments. You guys covered a lot of ground already.
19 And so I think what is clear from that is that we're
20 going to have a very interesting three days, or however
21 long it ends up taking, to get through all the
22 material. I guess the one thing that I think has not
23 been emphasized enough as we kick this off, because I
24 want to give kudos to my fellow commissioners here and
25 our staff for being on top of things months ago

Page 41	<p>1 already. Mr. Sanderson talked about the need for a 2 fair and reasonable return for the Company. I think 3 anyone who's run for office understands the need for 4 the lowest possible rates for the consumers, as well as 5 the reliable service. 6 But -- and I don't want to jump ahead in the 7 case, but in reading the rebuttal testimony and the 8 surrebuttal testimony as well as listening to the 9 opening comments, it seems like one thing that is 10 pretty much agreed on by everybody is the Tax Cut and 11 Job Act benefits that are being developed into this, 12 whatever the new rates end up being. And they are 13 substantial. And North Dakota, once again, gets left 14 out of a lot of conversations. But in December already 15 this Commission took action to recognize those savings, 16 I think took the appropriate method since we had 17 several rate cases coming, to, instead of just kind of 18 guessing and setting something, account for the money 19 but we will get it back appropriately as we proceed 20 with these rate cases. And although I've seen things 21 coming from all types of publications, including one 22 from the U.S. House of Representatives, that showed 23 North Dakota as being one of a handful of states and 24 not doing anything, I will point out, North Dakota was 25 one of the very first states that took an action to</p>	Page 43	<p>1 I'm required by law to give. If you listen carefully, 2 I won't have to give it to every witness over and over. 3 I'm required by law to advise you of the law 4 regarding perjury in this state. Perjury is a false 5 statement under oath of a material fact made by a 6 person who knows or does not believe the statement to 7 be true at the time it is made. Perjury is a Class C 8 felony. A Class C felony is subject to a maximum 9 penalty of five years in prison, a fine of \$10,000, or 10 in some cases both may be imposed. 11 Having been advised of the penalty for perjury, 12 please raise your right hand so I can administer the 13 oath. 14 15 NICOLE KIVITSO, 16 duly sworn, was examined and testifies as follows: 17 18 THE WITNESS: I do. 19 THE COURT: Thank you. Mr. Sanderson. 20 MR. SANDERSON: Thank you, Your Honor. 21 22 DIRECT EXAMINATION 23 BY MR. SANDERSON: 24 Q. Good morning, Ms. Kivitso. Could you please 25 state your full name and business address for the</p>
Page 42	<p>1 make sure to appropriately get the tax savings money 2 back to the consumers. And I'm proud of this agency 3 for doing that. 4 THE COURT: Okay. Thank you -- 5 CHAIRMAN CHRISTMANN: Oh, and Major, on 6 Memorial Day Weekend, thank you for your service. But 7 would you spell your name please for me? 8 MAJOR UNSICKER: Yes, sir. It's U-n-s, as 9 in Sierra, i-c-k-e-r. 10 CHAIRMAN CHRISTMANN: Thank you, sir. 11 THE COURT: All right. Thanks. The good 12 news is based on our scheduling, we're slightly ahead 13 of schedule at the moment after opening statements and 14 opening comments. We're going to try to keep this on 15 schedule. We've got 16 at least expert witnesses that 16 I can think of to get through in the next three days, 17 and a lot of complicated material but some really good 18 contested issues. I think it's going to be a great 19 hearing. So let's get on with it. 20 Mr. Sanderson, you can call your first witness. 21 MR. SANDERSON: Thank you. Your Honor, 22 Montana-Dakota Utility would call Nicole Kivitso. 23 THE COURT: Ms. Kivitso, I know you've 24 been through this procedure before, and for everyone in 25 the room I'm going to give a perjury admonition that</p>	Page 44	<p>1 record? 2 A. Yes. Nicole Kivitso, 400 North Fourth Street. 3 Q. And whom are you employed by? 4 A. Montana-Dakota Utilities. 5 Q. And what is your position with Montana-Dakota? 6 A. President and CEO. 7 Q. And could you briefly describe your 8 responsibilities in that role? 9 A. Sure. I'm possible for the development, 10 coordination and implementation of strategies for 11 our four operating utilities that operate across eight 12 states. 13 Q. And could you just briefly describe your 14 educational background and work experience for the 15 Commission? 16 A. Sure. I have a bachelor's degree with a major 17 in accounting from Minnesota State University in 18 Moorhead. I have worked for the Company essentially my 19 entire career, which is about 23 years. Started out at 20 our corporate office at MDU Resources, worked there for 21 a majority of my career, and left there as the chief 22 accounting officer and controller, and then came down 23 to the Utility and worked as vice president of 24 operations for a year before assuming my current role 25 about three and a half years ago.</p>

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1 Q. And have you testified in other proceedings
2 before state regulatory bodies?

3 A. I have. I've testified in all eight of our
4 states.

5 Q. And are you familiar with Montana-Dakota's
6 application for a rate increase in this case?

7 A. I am.

8 Q. And could you describe your involvement in this
9 application?

10 A. Yes. I authorized the filing and ultimate --
11 had the ultimate decision to file the rate case.

12 Q. Now, with respect to your testimony here this
13 morning, Ms. Kivitso, have you prepared PowerPoint
14 slides to kind of summarize your testimony?

15 A. Yes, I have.

16 Q. And as we go along, feel free to utilize those
17 slides. But first off, can you just provide a brief
18 overview of Montana-Dakota's application for a natural
19 gas rate increase in this case?

20 A. Sure. I'll turn to my first slide to just give
21 a brief overview on the application. We did file for
22 an increase, that application was filed on July 21st of
23 2017. The increase at that time we were requesting was
24 5.9 million, or 5.4 percent overall, which would be a
25 change in our distribution prices. As was mentioned in

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1 opening statements, we certainly were beneficial to
2 have the Tax Cuts and Jobs Act enacted on December 21st
3 of 2017. That alone decreased our request by 2.3
4 million. So the current request in front of the
5 Commission is 3.6 million, or an overall increase of
6 3.3 percent.

7 Q. Ms. Kivitso, could you just give a general
8 summary of Montana-Dakota's gas operations in North
9 Dakota?

10 A. Yeah, I point your attention to the map in
11 terms of the slide deck here behind us. Really, when
12 you look at our service territory in North Dakota, on
13 an overall bases on the gas side of our business, we
14 serve around 109,000 customers. 94,000 of those are
15 residential communities. We're in about 74 communities
16 and do this with about 562 dedicated employees.

17 Q. And Ms. Kivitso, could you just explain why
18 Montana-Dakota has filed a -- or filed this rate
19 application for gas increases?

20 A. Sure. Again, this slide demonstrates the
21 primary reason for the increase. And it really is
22 investment. When you look at our projected 2018
23 investment, at the end of the year we're anticipating
24 that to be 275 million in total, which represents an
25 increase of around 41 million or 18 percent compared to

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1 the last commission review.

2 What that investment relates to is really the
3 replacement of our aging infrastructure, as was
4 mentioning in opening comment, and then also enhanced
5 reliability. And of course when you add investment to
6 your system, it does increase your operating expenses
7 for things such as depreciation, property taxes, and
8 with labor being a large portion of our operating
9 expenses as well, we did see some wage increases there.

10 Q. And can you summarize some of the major
11 investments the Company has made since its last rate
12 case?

13 A. Sure. On this slide we show a couple pictures
14 of some of the major investments. Included in the case
15 are some new town border stations, distribution mains
16 to support our system. We also have included in the
17 case some looping distribution systems around certain
18 communities as well as an interconnection with the
19 northern border and pipeline in Mandan.

20 Q. And Ms. Kivitso, we've already heard a number
21 of the parties and the commissioners talk about
22 Montana-Dakota's proposed System Safety and Integrity
23 Program, the SSIP. Could you just briefly explain what
24 that is and what prompted the Company to include it in
25 this rate case?

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1 A. Sure. As we continue to look at our system, as
2 has been mentioned again in opening remarks, we've got
3 2,575 miles of distribution pipe and about 110,000
4 service lines throughout our territory in North Dakota.
5 As again was mentioned, 25 percent of that was
6 installed before 1970. And we really feel like now is
7 the time to take a look at a more proactive approach
8 for replacing that aging infrastructure to enhance the
9 safety of our system.

10 Moving to the next slide, really what we're
11 doing here is responding to the United States Secretary
12 of Transportation's call to action that was placed in
13 2011. As mentioned in opening remarks, 36 other states
14 have a similar mechanism in place, and we have
15 referenced that in an AGA study that has been
16 conducted. On top of that, NARUC has put resolutions
17 together both in 2013 and 2017 encouraging Commissions
18 to work with companies in terms of adoption of safety
19 type mechanisms and trackers. What we base this on is
20 our distribution integrity management plan and program,
21 and we're really focusing our system safety program on
22 early vintage plastic pipe and early vintage steel
23 pipe, and we are prioritizing those projects based on
24 risk.

25 We request to manage this process by

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<p>1 establishing projects to be completed annually, which 2 would enhance the safety of our system and gradually 3 increase customer bills verses it all coming in, in one 4 rate case. 5 Q. Now, the other component of the SSIP is the 6 proposed recovery mechanism. Could you just describe 7 what the SSIP recovery mechanism is and how it will 8 benefit customers? 9 A. Sure. Similar to other tracking mechanisms, 10 our proposed projects would be submitted to the 11 Commission by March of each year with rate recovery 12 beginning in October of that year. Detailed cost 13 information would be provided for each project, and as 14 mentioned, no recovery would occur prior to Commission 15 approval. We would also have a true-up mechanism in 16 March of the following year where we would true up any 17 costs related to the prior year's project. You know, 18 we believe it would be a very transparent process 19 providing opportunity for thorough review of each 20 particular project. 21 We do see some customer benefits here. Of 22 course, I'm going to have Pat focus primarily on the 23 safety, which we believe is the number one benefit to 24 our customers. But the mechanism itself certainly 25 provides benefits as well, and we've talked about the</p>	<p>1 past 20 years, and we believe that if that whole is 2 competitive, if the decision is that incentive pay is 3 not allowed, to replace that with base pay would 4 certainly only increase the cost to our customers 5 because a lot of our other benefits are predicated on 6 base pay, such as a 401k contribution. So to move 7 at-risk pay to base pay we believe would increase the 8 cost for our customers. 9 Q. Another issue that has arisen with Staff is the 10 use of the Company airplane. Can you briefly explain 11 why the use of the Company airplane is important to 12 Montana-Dakota's gas operations? 13 A. Certainly. We do take the use of the Company 14 airplane seriously. I approve every request to use our 15 corporate aircraft. And the reason we do that is 16 because we want to make sure that it really is an 17 economic decision. And so our use of that plane 18 primarily would be for out-of-state trips. For 19 example, our customer call center is in Meridian, 20 Idaho. That call center serves all of our customers 21 across an eight-state territory. If we have a need to 22 get employees to the call center and multiple employees 23 are going to travel, we will compare the cost to fly 24 them on the corporate airplane as compared to a 25 commercial flight for those same five people, hotel</p>
<p>1 gradualism and the reduced costs related to fewer rate 2 cases. 3 When you look at our proposed 2019 investment, 4 what that would result in is a 42-cent per month 5 increase related to this rider mechanism. So again, 6 it's about a \$6 million investment that would occur as 7 part of our System Safety and Integrity Program and 8 that investment would result in a 42-cent per month 9 increase if indeed this mechanism was implemented. 10 Q. Ms. Kivitso, one of the issues that has arisen 11 with Staff is concerns regarding the employee 12 compensation system. As president and CEO of 13 Montana-Dakota Utilities, can you describe why 14 incentive compensation or at-risk pay is important to 15 the Company? 16 A. Yeah, I think certainly as everyone in this 17 room would recognize, attracting and retaining 18 employees is one of my top priorities in my position. 19 And we really do look at, and as supported by Jim 20 Kaiser's testimony, a total rewards package. We're 21 looking at studies that support our salary structure 22 that reflects a combination of base pay, pay at risk, 23 and benefits. And we look at all of that in total to 24 make sure that we are competitive. 25 We've employed this similar philosophy for the</p>	<p>1 stays, and what not. So we really look at the 2 economics before using that plane. 3 Certainly we also look at it for use in 4 industry meetings and/or training. And in most cases, 5 it's going to be more economical if more, you know, 6 several people need to go to a location versus we're 7 not using it for single-travel trips. 8 Q. Now, Montana-Dakota is requesting a rate 9 increase. Can you just explain how the requested rate 10 increase will affect customers and their bills? 11 A. Sure. In terms of the overall increase, I 12 mentioned the 3.3 percent and rate design. It was also 13 covered in opening remarks. But really this slide just 14 shows how that 3.3 percent would be allocated. As 15 previously mentioned, the residential and general 16 service would be seeing the increases with the 17 residential at 3.6 percent and our general service at 18 3.3 percent. 19 When you look at the residential prices, in 20 terms of the basic service charge, we are proposing 21 that this increase goes to the basic service charge. 22 Our current basic service charge is at \$19.60, and this 23 proposed increase would take that to \$21.42. 24 On the bottom half of the slide, you can see 25 really how our customer bills break down. And</p>

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1 currently approximately 61 percent of that bill is
2 still just the pass through on the cost of gas. And so
3 we believe, although with the basic service charge in
4 place, a residential customer still does have and can
5 see benefit by conservation of their use of natural
6 gas. This represents, as previously mentioned, \$1.82
7 per month increase for our residential customers.
8 And then just lastly, you know, when you look
9 at that increase and where we're proposed, you can see
10 on this graph that really our abundant supply of
11 natural gas across the country and even locally here in
12 the Bakken is certainly helping on our customer bills.
13 When you compare back to 2008, you can see even with
14 our proposal, a pretty significant decrease in the
15 overall cost for your average customer over the last
16 ten years.
17 Q. And Ms. Kivitso, as president and CEO of
18 Montana-Dakota, are the rates the Company is requesting
19 in this hearing just and reasonable?
20 A. Yes.
21 Q. Would you like to make a closing statement?
22 A. Sure. I guess I would just like to echo the
23 thanks to all the parties. We've heard that before,
24 but it really does take an effort in working with all
25 of our parties in putting these cases together. So I

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1 want to thank the Commission, the Advocacy Staff and
2 all of our interveners for your interest in this case.
3 Certainly my job is just similar to what the Commission
4 has stated, and that is really striking the balance
5 between all of my interested parties, our customers,
6 our employees, and the shareholders that provide us the
7 capital to invest. And I look forward to the
8 discussion over the next three days.
9 MR. SANDERSON: Your Honor, before I
10 tender this witness, I'd like to offer exhibit MDU-8.
11 They're just a copy of the PowerPoint slides Ms.
12 Kivitso has presented here today.
13 THE COURT: Any objection?
14 MR. ARMSTRONG: No objection.
15 THE COURT: Ms. Jeffcoat-Sacco?
16 MS. JEFFCOAT-SACCO: No, Your Honor.
17 THE COURT: Mr. Coffman? Any objection to
18 the PowerPoint?
19 MR. COFFMAN: No objection.
20 THE COURT: Okay. Major Unsicker?
21 MAJOR UNSICKER: No objection.
22 THE COURT: Okay. Exhibit 8 will be
23 received.
24 MR. SANDERSON: And Your Honor, we'd also
25 offer MDU Exhibit 11, 12 and 9 that Ms. Kivitso

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1 referenced in her presentation. These are the two
2 NARUC resolutions and the AGA report she referenced.
3 THE COURT: Any objection?
4 MR. ARMSTRONG: We don't have any
5 objection to the exhibits. I'm not sure I heard a
6 reference, but . . .
7 MS. JEFFCOAT-SACCO: No, sir.
8 THE COURT: Mr. Coffman.
9 MR. COFFMAN: No objection, assuming that,
10 you know, our competing resolution will be treated the
11 same way.
12 THE COURT: Okay. Major?
13 MAJOR UNSICKER: No objection, sir.
14 THE COURT: Okay.
15 All right. So give me those number again.
16 MR. SANDERSON: Those were MDU Exhibit 9,
17 11 and 12.
18 THE COURT: Okay. So MDU Exhibits 8, 9,
19 11 and 12 will be received without objection.
20 MR. SANDERSON: And with that, Your Honor,
21 we'd tender Ms. Kivitso for cross.
22 THE COURT: Okay. Questions for Ms.
23 Kivitso. Mr. Armstrong?
24 MR. ARMSTRONG: Thank you, Your Honor.
25

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CROSS-EXAMINATION

1 BY MR. ARMSTRONG:
2 Q. Ms. Kivitso, in your direct testimony you
3 mentioned something about having four companies in
4 eight states. What are those companies, and what
5 states do they operate in?
6 A. So we have Cascade Natural Gas that operates in
7 Washington and Oregon, Intermountain Natural Gas
8 operating in Idaho, Great Plains Natural Gas operating
9 in North Dakota and Minnesota, and Montana-Dakota
10 operating in North Dakota, South Dakota, Montana, and
11 Wyoming.
12 Q. And today you're here on behalf of
13 Montana-Dakota, correct?
14 A. That is correct.
15 Q. And those other three companies would be your
16 sister or brother companies all under the realm of MDU
17 Resources, Inc.?
18 A. That is correct.
19 Q. And you're the president or CEO -- and/or COE
20 of all of those companies, correct?
21 A. That is correct.
22 Q. And for all of those company, you would be the
23 person similar to this case the one who authorizes
24 filing of rate increases applications?
25

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<p>1 A. That's correct.</p> <p>2 Q. Am I correct that MDU is concerned with safety</p> <p>3 and reliability in all of those jurisdictions?</p> <p>4 A. That is correct.</p> <p>5 Q. And does MDU provide gas distribution services</p> <p>6 in all of those jurisdictions? Well, excuse me. Do</p> <p>7 all of those companies provide gas distribution</p> <p>8 services --</p> <p>9 A. Yes, they do.</p> <p>10 Q. -- where they serve?</p> <p>11 A. Yes.</p> <p>12 Q. And are all of those companies monopolistic</p> <p>13 publicly regulated utilities where they provide those</p> <p>14 services?</p> <p>15 A. That is correct.</p> <p>16 Q. And how long has Montana-Dakota, specifically</p> <p>17 the Montana-Dakota -- that's how I'll talk about it,</p> <p>18 company we're here today talking about -- been</p> <p>19 providing gas distribution services?</p> <p>20 A. For many years. Many decades.</p> <p>21 Q. Okay. And has it been able to provide a safe</p> <p>22 and reliable service to the people of North Dakota in</p> <p>23 that time?</p> <p>24 A. Yes.</p> <p>25 Q. And regardless of what happens in this rate</p>	<p>1 Q. And which one of these have been completed?</p> <p>2 A. Precisely which ones -- I mean, we've done</p> <p>3 distribution mains, we have border stations that have</p> <p>4 been completed. We have a looping system that's been</p> <p>5 completed. And I believe the interconnection is</p> <p>6 complete as well.</p> <p>7 Q. And mainly what I'm asking, are any of these</p> <p>8 major investments what you're talking about with the</p> <p>9 Systems Safety and Integrity Plan program?</p> <p>10 A. No. Not specifically, no.</p> <p>11 Q. And you're not aware of anybody contesting</p> <p>12 recovery for those investments in this rate case, are</p> <p>13 you?</p> <p>14 A. I am not.</p> <p>15 Q. Would you agree with me that by going through</p> <p>16 the rate case process for the many years Montana-Dakota</p> <p>17 has been in business that it has historically provided</p> <p>18 a safe and reliable system and been able to recover its</p> <p>19 costs?</p> <p>20 A. Yes.</p> <p>21 Q. But now the Company wants to implement the</p> <p>22 SSIP?</p> <p>23 A. Correct. And again, I would echo the fact that</p> <p>24 we have an aging infrastructure. So at some point we</p> <p>25 have to embark on a program to put a replacement</p>
<p>Page 58</p> <p>1 case, you intend to continue to do that; is that</p> <p>2 correct?</p> <p>3 A. That is correct. Although, I would add that we</p> <p>4 have an aging infrastructure. So what we had decades</p> <p>5 ago, as I referenced, when we were serving was</p> <p>6 certainly newer pipe in the ground.</p> <p>7 Q. Are you aware of any of Montana-Dakota's</p> <p>8 replacement or repair projects that have ever been</p> <p>9 denied recovery in a rate case in North Dakota?</p> <p>10 A. I am not aware of any that have been denied.</p> <p>11 Q. Do you still have your slides in front of you?</p> <p>12 A. Yep.</p> <p>13 Q. Could you turn to slide five?</p> <p>14 A. Yes.</p> <p>15 Q. I had a question for you just for</p> <p>16 clarification. When you were testifying, you testified</p> <p>17 that these slides were major investments. Are those</p> <p>18 major investments since the last rate case?</p> <p>19 A. In this case, correct.</p> <p>20 Q. So the new town border station, that's been</p> <p>21 completed; is that correct?</p> <p>22 A. The Mandan one has, yes.</p> <p>23 Q. Okay. So the Man -- okay.</p> <p>24 A. So we have a forecasted test period, so not all</p> <p>25 investment has been completed at this point.</p>	<p>Page 60</p> <p>1 strategy in place to minimize risk.</p> <p>2 Q. And do your other jurisdictions have aging</p> <p>3 infrastructure as well?</p> <p>4 A. They do.</p> <p>5 Q. All your other jurisdictions have early vintage</p> <p>6 steel and plastic pipe as well, correct?</p> <p>7 A. Different versions and -- each system is</p> <p>8 different. So you can't really compare each system to</p> <p>9 the next. But each system has aging infrastructure, I</p> <p>10 would agree with that.</p> <p>11 Q. And you said in your direct that 36 states have</p> <p>12 implemented some sort of recovery mechanism such as</p> <p>13 you're requesting in this case?</p> <p>14 A. That is correct.</p> <p>15 Q. Would it be fair to say that all of those</p> <p>16 states have different level of aging infrastructure as</p> <p>17 well?</p> <p>18 A. And different types of pipe, yep, that would be</p> <p>19 correct.</p> <p>20 Q. Has Montana-Dakota requested SSIP in any of the</p> <p>21 other jurisdictions it operates in?</p> <p>22 A. Yes, we have a -- what I would call a safety</p> <p>23 tracker in the state of Washington. And we have it in</p> <p>24 the state of Minnesota. We will be -- well, we filed</p> <p>25 for it in Idaho. And we also are looking at filing for</p>

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<p>1 it -- we'll file for it in our next Montana case, 2 Wyoming case. We have already filed for it -- or will 3 file for it in Oregon. So we are looking at the 4 mechanism really across our eight-state territory. 5 Q. So when you talk about it being in Washington, 6 that's with Cascade, correct? 7 A. Correct. 8 Q. And if you talk it being Idaho, that's with 9 Intermountain, correct? 10 A. We filed for it in Idaho, correct. 11 Q. And that's through Intermountain, correct? 12 A. Correct. We do not know -- it's pending. 13 Q. Okay. And you filed for it in -- have you 14 filed for it in South Dakota? 15 A. No, not at this time. 16 Q. Have you filed for it in Montana? 17 A. Yes. 18 Q. What's the status of that? 19 A. We just recently had a settlement in Montana. 20 Q. How was SSIP affected by that? 21 MR. SANDERSON: Objection, Your Honor. 22 THE COURT: Sustained. 23 MR. ARMSTRONG: Your Honor, I think she's 24 opened the door through the testimony leading up to it. 25 THE COURT: I disagree.</p>	<p>1 reliability and the depreciation in taxes associated 2 with the increase in investments; is that still the 3 case? 4 A. Correct. 5 Q. And you're talking about the SSIP there, 6 correct? 7 A. Well, that would be all investment. 8 Q. Okay. The SSIP though is not something that's 9 being required of MDU by any law, is it? 10 A. Can you repeat the question? 11 Q. You're not implementing the SSIP because some 12 federal or state law is requiring you? 13 A. That is correct. 14 Q. In fact, it's been done entirely voluntary? 15 A. We have filed for the SSIP I think for the 16 reasons I stated, and that is that we believe our 17 system is only getting older and at some point we need 18 to take a proactive approach based on risk and assess 19 what the right replacement strategy is to remove that 20 aging infrastructure from our system so we can continue 21 to provide safe and reliable service. 22 Q. And it's your testimony the time for that is 23 now through this rate case? 24 A. That is correct. 25 Q. Even if the SSIP mechanism is not approved, MDU</p>
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<p>1 BY MR. ARMSTRONG: 2 Q. You've already said in your testimony that 3 you're waiting for the next Montana rate case to file 4 it again; is that correct? 5 A. We will be filing in the next Montana case for 6 an SSIP, yes. 7 Q. You had a pending rate case in Montana up until 8 recently; is that correct? 9 A. That is correct. 10 Q. Has the Montana Commission recently ruled on 11 your pending rate case in Montana? 12 MR. SANDERSON: Judge, I'm going to object 13 to these pursuant to our previous discussion. 14 THE COURT: Sustained. 15 BY MR. ARMSTRONG: 16 Q. Ms. -- 17 MR. ARMSTRONG: Judge, maybe at the 18 conclusion of my other cross, we can take a break and 19 discuss it as we talked yesterday? 20 THE COURT: Okay. 21 BY MR. ARMSTRONG: 22 Q. Ms. Kivitso, in your direct testimony you 23 indicated that the primary reason for the need for 24 increased rates is an increased investment in 25 distribution facilities to improve system safety and</p>	<p>1 would still strive to provide a safe and reliable 2 system, wouldn't it? 3 A. Yes, we would. But I would say that if we 4 don't have that mechanism, it becomes a balancing act 5 on how long it will take to get that replacement done. 6 So as we've testified, this certainly helps us 7 accelerate that replacement. 8 Q. Because what it does is allow you to recover 9 the cost of it on an annual basis? 10 A. That is correct. 11 Q. So you'll provide a safe system anyway, you 12 just need to recover the cost sooner; is that 13 essentially it? 14 A. I think it provides us some financial stability 15 and also provides us, you know, the ability to do that 16 over a time frame that is shorter than what it would 17 take if indeed we don't have a recovery mechanism in 18 place. 19 Q. And that recovery mechanism would not have as 20 much scrutiny as a rate case, would it? 21 A. The recovery mechanism, in my opinion, as we 22 said, is each project will be completely -- details 23 will be provided, there will be the same level of 24 scrutiny on a regular rate case. I don't see how that 25 would be less scrutiny.</p>

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1 Q. Will there be interveners?

2 A. I think the interveners have the right to

3 intervene if they desire.

4 Q. Will the Commission Staff be able to hire

5 experts and counsel?

6 A. Legally, I would think so. But I guess I'm not

7 maybe the one to answer that for sure.

8 Q. So are you envisioning a mini rate case every

9 year then?

10 A. To me, whether -- how much involvement it takes

11 to analyze the investment would certainly in my mind be

12 less than it would take for a full-blown rate case. So

13 I still believe that a three-day hearing for a

14 full-blown rate case and the costs we'll incur for this

15 hearing will certainly be more than even if you have

16 interveners in your tracker. This case would certainly

17 be more costly than a case predicated just on

18 investment.

19 Q. And you would agree with me that any

20 replacement project should be reasonable and prudent,

21 would you not?

22 A. Correct.

23 Q. And you would agree with me that different

24 subject matter experts often disagree on whether a

25 project is reasonable and prudent?

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1 A. That would probably be fair.

2 Q. Moving on to a different area, Ms. Kivitso.

3 Who do you report to? Like, who do you answer to?

4 A. Dave Goodin, the president and CEO of MDU

5 Resources.

6 Q. And are you paid under the total rewards

7 philosophy as well?

8 A. I am.

9 Q. And is part of your pay based on company

10 earnings?

11 A. Yes.

12 Q. And those are earnings that would go on to the

13 shareholders, correct?

14 A. They are. But again, I think the

15 shareholder -- we need to recognize the importance of

16 shareholder because they are the ones that provide us

17 the capital to invest in our system.

18 Q. So are all employees part of the total rewards

19 system for Montana-Dakota?

20 A. All employees are part of our total rewards

21 system at Montana-Dakota, yes. I would say that our

22 employees goals are different than -- the general

23 employees goals are based on what I deem to be customer

24 benefits. And so those goals are customer service and

25 O&M targets, which in my mind go directly to the

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1 benefit of the customer.

2 Q. So it sounds to me like there's at least two

3 different levels of employees. Some under the total

4 rewards philosophy are based on the O&M goals and

5 customer service, correct?

6 A. All employees we believe -- we put all

7 employees under the total rewards philosophy. So all

8 employees, including myself, have base pay, pay at risk

9 and benefits. And we look at total rewards as whether

10 or not that full package is competitive relative to

11 similar positions elsewhere.

12 Q. Sure.

13 A. Goals are different. All of our employees

14 goals are based on customer service and O&M

15 containment. My goals are based on earnings and ROIC.

16 Q. And what is ROIC?

17 A. Return on invested capital.

18 Q. And are any other employees' total rewards

19 incentives based on returns or return on invested

20 capital?

21 A. The only other ones are the executive team.

22 Q. How many people is that?

23 A. We have nine executives in total at

24 Montana-Dakota, not all are allocated to North Dakota.

25 Q. You mentioned in your direct testimony that the

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1 interested parties in Montana-Dakota are customers,

2 employees and shareholders?

3 A. Correct.

4 Q. Would you agree with me that your shareholders

5 also care about Montana-Dakota providing good customer

6 service?

7 A. I would agree they do care, yes.

8 Q. Would you agree that your shareholders also

9 care about reaching operations and maintenance goals?

10 A. Correct.

11 Q. And are those -- I've seen it referred to in

12 different ways throughout the testimony. Some people

13 say operation and maintenance goals. And some people

14 say operation and maintenance expense goals. Do you

15 know which one is more accurate?

16 A. It's really -- the goal is to basically it

17 would be a target O&M expense. And to meet the goal we

18 have to end the year under that number.

19 Q. And that would increase earnings as well,

20 correct?

21 A. That would help earnings, yes.

22 Q. Would you agree with me that your shareholders

23 care about staying competitive in the industry?

24 A. I would agree.

25 Q. Would you agree with me that your shareholders

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1 want the company to have a strong community focus and
2 attract business?
3 **A. I would agree. And I also agree our customers**
4 **care about all five of those things you just asked me**
5 **about.**
6 Q. I agree as well. Would you also agree with me
7 that your shareholders want to provide safe and
8 reliable service?
9 **A. Correct.**
10 Q. As do customers?
11 **A. Correct.**
12 Q. You talked a bit in your testimony about the
13 use of the private aircraft.
14 **A. Yes.**
15 Q. And you talked about reviewing it. Has MDU
16 provided any documents comparing what commercial
17 flights or anything would be compared to the use of the
18 private aircraft?
19 **A. As part of this case?**
20 Q. Yeah.
21 **A. I am not aware that we have, but that may be a**
22 **question for another witness.**
23 MR. ARMSTRONG: Judge, subject to a
24 discussion outside the room as discussed and
25 potentially an offer of proof, I have no further

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1 questions.
2 THE COURT: All right. Ms.
3 Jeffcoat-Sacco.
4 MS. JEFFCOAT-SACCO: No questions.
5 THE COURT: Okay. Mr. Coffman, questions
6 for Ms. Kivitso?
7 MR. COFFMAN: Yes, I have a few questions.
8 Thank you.
9
10 CROSS-EXAMINATION
11 BY MR. COFFMAN:
12 Q. Good morning.
13 **A. Good morning.**
14 Q. I'm just going to go through your testimony and
15 see if you can help clarify some things for me. I'm
16 looking at page 5 of your direct testimony where you
17 describe on about line 5 that the Montana-Dakota system
18 has a low load factor where peak gas requirements
19 occurring during the winter. Now, by low load factor,
20 do you agree that there is great variation in usage
21 over the year?
22 **A. Yeah, I think we're getting to the whole, you**
23 **know, winter peak, yep.**
24 Q. So that's -- a high load factor would be less
25 variable?

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1 **A. Correct.**
2 Q. So is it also true that you have within the
3 residential class a good diversity among different
4 customers amongst how much different customers use?
5 **A. I would say, you know, usage does vary**
6 **depending on, you know, efficiency of the home, the**
7 **size of the home and all sorts of considerations,**
8 **correct.**
9 Q. And are you familiar with a handout that you
10 provided at the public input meetings in this case?
11 **A. Yes.**
12 Q. I don't think this is part of the exhibits
13 here, but do you recall a slide that showed the low,
14 typical and high-use historical bill comparisons?
15 **A. I do recall it. I certainly don't believe I**
16 **could recite it. But I do recall the slide. I was at**
17 **the public input meetings.**
18 Q. If I refreshed your memory, would it sound
19 correct that a low-use customer at 50 dekatherms would
20 have about \$471 a year where a typical-use customer at
21 91 dekatherms would have about an annual cost of \$636
22 and a high-use customer of 150 dekatherms would be
23 paying about \$873?
24 **A. Okay. That's -- it seems reasonable. The only**
25 **caveat I would provide is I'm not sure if those numbers**

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1 **were based on a proposed increase before the Tax Cuts**
2 **and Jobs Act or what those numbers were predicated on.**
3 **But certainly we've had a change with the Tax Cuts and**
4 **Jobs Act.**
5 Q. Would it help if I showed you a copy of this
6 handout?
7 MR. COFFMAN: Judge, May I approach the
8 witness?
9 THE COURT: Yes, you may.
10 BY MR. COFFMAN:
11 Q. I believe it shows 2008 and 2013, and what are
12 the last bars there?
13 **A. Yeah, so 2008, 2013 current and proposed. So I**
14 **believe this proposed would not have reflected the Tax**
15 **Cuts and Jobs Act.**
16 Q. So it would be somewhat less --
17 **A. Correct.**
18 Q. -- based on that?
19 THE COURT: You want to mark that and
20 introduce it as an exhibit? Or are you fine with the
21 way it is?
22 MR. COFFMAN: I could. Would there be any
23 objection?
24 THE COURT: AARP-45.
25 MR. SANDERSON: No objection. I mean, is

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1 it just the one slide, for the record?
2 THE COURT: Just the one slide?
3 MR. COFFMAN: Sure. I can just -- or the
4 whole thing?
5 THE WITNESS: Do we just want to clarify
6 that that might not line up with what we're currently
7 proposing?
8 MR. COFFMAN: Understood.
9 BY MR. COFFMAN:
10 Q. But do you have -- do you have any knowledge
11 about the number of customers that you would find in a
12 low-use or high-use category? What I'm trying to get
13 to is the variability amongst usage within the
14 residential class.
15 A. So I -- I apologize, but I would not be able to
16 tell you how many customers would represent -- be
17 represented in high use versus low use. I do not have
18 that information in front of me.
19 THE COURT: Before you go any further, Mr.
20 Coffman, let's mark that AARP-45. And we'll call it
21 Handout of Typical Use For Three Levels of Customers
22 Before the Tax Cut.
23 MR. COFFMAN: Right. It would be page 12
24 from the handout at public input hearings.
25 THE COURT: And if you want to offer that,

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1 it's been identified.
2 MR. COFFMAN: I would offer that as
3 AARP-45.
4 THE COURT: Okay. Any objections, Mr.
5 Sanderson?
6 MR. SANDERSON: No objection.
7 THE COURT: Mr. Armstrong?
8 MR. ARMSTRONG: No.
9 THE COURT: Ms. Jeffcoat-Sacco?
10 MS. JEFFCOAT-SACCO: No.
11 THE COURT: Major Unsicker?
12 MAJOR UNSICKER: No.
13 THE COURT: Okay. Exhibit 45 will be
14 received.
15 BY MR. COFFMAN:
16 Q. So the -- I believe you testified that the gas
17 portion of the -- the gas cost portion of the bill now
18 is approximately 61 percent for a typical residential
19 customer?
20 A. That is correct.
21 Q. And we're only here today talking about the
22 other 39 percent?
23 A. That's correct as well.
24 Q. And so when you show the decrease in what a
25 customer pays for their gas bill over time, that's

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1 almost completely related to the lower cost of the
2 commodity, correct?
3 A. Correct.
4 Q. And is it not true that the distribution cost
5 has gone up over the last ten years? Would you have a
6 ballpark of what percentage the distribution portion of
7 the bill has increased up until this rate case since
8 2008?
9 A. I do not have that percentage in front of me.
10 Q. And would you agree with me that the fixed part
11 of the bill has increased more than the volumetric part
12 of the bill?
13 A. That is correct. As referenced in 2015, the
14 Commission had approved a fixed rate structure at that
15 time.
16 Q. And you would agree with me that that more
17 detrimentally impacts low-usage customers than
18 high-usage customers?
19 A. I would agree with that, but I would still
20 contend that there is the ability to manage your bill
21 through the -- you know, conservation and your use of
22 the energy product which still represents 61 percent of
23 the bill.
24 Q. Yes, but you would agree with me that, would
25 you not, that a low-use customer is someone who's

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1 paying less than the average is going to be -- has seen
2 a higher increase in percentage base in their bills
3 than the average or high-use customer over that time
4 period?
5 A. Yeah, if I go back to the design of that,
6 really the --
7 Q. I mean, is that a yes?
8 A. That's a yes.
9 Q. All right.
10 A. But what we need to keep in mind is our cost to
11 serve a low-use customer and a high-use customer is the
12 same. The amount of pipe we put in the ground, the
13 amount of maintenance that takes place on that service
14 line is the same whether they're a low- or high-use
15 customer, and therefore the design of fixed versus
16 variable.
17 Q. I think in answer to Staff questions, you did
18 note that you were not aware of any issues that have
19 ever been raised as far as the prudence of MDU's main
20 replacements; is that -- is that accurate?
21 A. That is accurate.
22 Q. Okay. And so no prudence issues have been
23 raised in this case or any other cases in your tenure
24 at least?
25 A. Well, in this case, I would caveat that we have

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<p>1 the 2018 investment and that discussion between us and 2 Advocacy Staff, as Paul referenced in his opening 3 remarks, that investment was a difference between 4 our -- where we're at from a revenue and where Advocacy 5 Staff was at. 6 Q. Isn't that question less of a prudence 7 question, more of a timing issue? 8 A. Well, they've -- in their testimony they kicked 9 that investment out, so . . . 10 Q. But the basis of that challenge was not 11 prudence? 12 A. I guess I can't answer to that. 13 Q. Okay. 14 A. For sure. 15 Q. Do you believe that MDU has done a good job 16 under your tenure of managing safety risks? 17 A. I believe we have done a good job. I would 18 echo though that we do believe now is the time to 19 implement a mechanism that will provide us the ability 20 to look at proactively replacing our aging 21 infrastructure. Our infrastructure is not getting any 22 younger. 23 Q. Is MDU's natural gas service currently safe and 24 adequate? 25 A. I believe it is, yes.</p>	<p>1 this category, correct. 2 Q. So if you were granted an SSIP surcharge, this 3 prioritization would not change, correct? 4 A. We will continue to focus on this type of pipe 5 for the safety of our system, that is correct, whether 6 we have the mechanism or not. As I described earlier, 7 what the mechanism allows us to do is potentially look 8 at this on a more accelerated basis. 9 Q. Would the level of investment in main 10 replacements that you are currently planning change? 11 Would it increase the amount or just change the timing 12 of the recovery of the cost for those replacements? 13 A. So if we are granted the mechanism, what we 14 testified to is approximately what we would spend. We 15 wouldn't increase the amount if we get the mechanism, 16 if that's what you're asking. If we do not get the 17 mechanism, what we will have to manage throughout our 18 entire system, not just North Dakota, is how we 19 adequately look at safety and reliability across our 20 entire system and the recovery of such investment. And 21 if, for example, we have too much regulatory lag or too 22 much consideration, certainly we're going to have to 23 make decisions, again, and the balancing act of our 24 customers, our employees and our shareholders, and 25 there is a chance that we would take this replacement</p>
Page 78	Page 80
<p>1 Q. Do you have any reason to believe that it would 2 not be safe and adequate without the SSIP surcharge? 3 A. I believe to continue the safety of our system, 4 we need to look at a safety program. And Pat will 5 testify to that as well. We need to continue to look 6 at ways to provide safety into the future. You cannot 7 rest on your laurels just because you have a safe 8 system today. Does not mean that if you don't 9 proactively address the safety of your pipeline into 10 the future that you're going to continue to have a safe 11 system. 12 Q. Well, let me ask you about page 8 under the 13 question that's in the middle of the page there. You 14 talk about your -- you're proposing a structured 15 replacement program, you have early vintage steel, 16 early vintage plastic, low pressure systems and the 17 relocation of inside meters. And are these already -- 18 are these currently priorities for MDU's main 19 replacement program? 20 A. These are -- 21 Q. Or is this a different priority? 22 A. These are priorities today. In fact, the 23 dollars included in the case that we are -- have 24 differences in terms of -- you know, those that Paul 25 mentioned in his opening remarks, include projects in</p>	<p>1 plan out over a longer period of time. 2 Q. The AGA study, which was marked as Exhibit 3 MDU-9, that study lists several different mechanisms 4 from different states and provides some maps. But that 5 particular study doesn't go into the details of those 6 particular mechanisms and analyze them, does it? 7 A. The study does, but what was provided as part 8 of the exhibit does not have all those details. 9 Q. Okay. Does the broader study make any 10 conclusion about whether those states have more safe or 11 more adequate gas service than those states that don't? 12 A. I am not aware of any conclusions drawn such as 13 that. 14 Q. Isn't it true that in some states that have 15 these accelerated surcharges that there have been 16 explosions and other safety incidents? 17 A. In some of the states that have the surcharges, 18 yes, there have been natural gas explosions. In fact, 19 I would say that that is in some cases why there was 20 response to implement a surcharge. And in some states 21 where we have seen natural gas catastrophes and 22 explosions, there have also been incentives actually 23 for the companies -- or incentives have been provided 24 to those companies to accelerate their action on safety 25 improvement.</p>

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1 Q. But what I'm asking is if you are aware of any
2 studies that have analyzed whether such mechanisms have
3 actually increased safety and actually reduced
4 explosions?
5 A. I think the implementation of these mechanisms
6 are relatively new, so I have not seen a study that has
7 said -- certainly if you've got incentive, financial
8 incentive, to increase the safety of your system, I
9 would think your system is more safe. So I would
10 argue -- but I have not seen a study that particularly
11 calls that out that I'm aware of.
12 Q. I mean, that's -- I mean, if your main
13 contention is that this is going to help with safety,
14 wouldn't it be good to have evidence that such
15 mechanisms actually are linked to lower leakage rates
16 or to less safety incidents?
17 A. I guess in my mind, the 36 states that have
18 implemented these mechanisms so far have taken the
19 position that it is the right thing to do to enhance
20 the safety of the system. So if I'm going to provide
21 either a financial incentive, a surcharge, or a
22 mechanism such as the one we're referencing that allows
23 the company to reduce regulatory lag, you are replacing
24 old pipe with newer pipe, and by that very definition
25 you are enhancing the safety of your system.

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1 Q. So --
2 A. So I don't know that a study needs to be
3 conducted to determine that.
4 Q. I assume that you follow other public utility
5 commission cases around the country and follow trends
6 and --
7 A. Certain of those, yes, I do.
8 Q. Would you agree with me that these mechanisms
9 have been far from noncontroversial, that there have
10 been quite a bit of controversial disputes?
11 A. In certain states I would agree with that. But
12 in other states, I think there certainly was -- I guess
13 stepping back in terms of the safety of the natural gas
14 system, in certain states where there has been
15 incidents, I certainly feel the customers have embraced
16 these types of programs.
17 We are fortunate here in North Dakota that we
18 have operated a very safe and reliable system. And I
19 hope we can continue that into the future. But I
20 certainly don't want to be one of those states that
21 have to come in here after the fact and ask for a
22 safety mechanism because I didn't ask for it before we
23 had an accident or incident.
24 Q. Would you agree that where there's been
25 controversy, the controversy has been of a financial

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1 nature. The controversies have generally not been
2 about the projects themselves and whether or not, you
3 know, what the safety priorities have been. The issues
4 have been whether or not the customers are being
5 charged fairly, whether it's a single-issue mechanism
6 or whether or not customers are getting the benefit of
7 a full audit; would that be fair?
8 A. I haven't seen a whole lot in that regard. I
9 mean, in the states where we have that, I haven't seen
10 a whole lot of that.
11 Q. All right. Did you review the resolution from
12 the NASUCA, the National Association of State Utility
13 Consumer Advocates, that was marked as an AARP exhibit?
14 A. I did not specifically read that one, no.
15 Q. But you understand --
16 A. I'm familiar with it, but I didn't read it in
17 its entirety.
18 Q. You're familiar that consumer advocates in many
19 states have raised concerns about single-issue rate
20 pay?
21 A. I am aware of that, yes.
22 Q. And -- and I ask you to hypothesize or
23 speculate. If this mechanism, this SSIP mechanism, had
24 been requested and granted in, say, 2015, would rates
25 now be higher than they would have been -- would be

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1 today?
2 A. If we would have gotten this mechanism in 2015,
3 in general I would say the answer to that would be no.
4 We've been investing in the safety of our system since
5 2015, I'm not sure it would look much different. We
6 would have just potentially had the ability to delay
7 this rate case had we seen recovery on those
8 investments sooner.
9 Q. So customers would have been paying higher
10 rates in 2016, 2017 because they would have had a
11 surcharge on their bill?
12 A. But by the time you get to today's implemented
13 rates, it would have been approximately the same. It
14 just would have been a more gradual increase as
15 suggested in our testimony.
16 Q. Can you say what percentage of this rate
17 case -- what the Company's revenue deficiency proposal
18 is that would have been flowed through an SSIP
19 mechanism had you had one granted in 2015? And how
20 much would not have been part of that mechanism?
21 A. So as part of this case, I think we're looking
22 at around 5 million of investment. And going back in
23 time, I can't tell you the percentage, but I can tell
24 you in 2017, as an example, that number would have been
25 about a \$2.8 million investment, in 2016 about 1.7

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1 million. So I've got each year's total investment that
2 we spent on safety and -- system safety and integrity,
3 which would have correlated with this mechanism had we
4 had it, but I don't know what percentage that
5 represents of the overall increase.
6 Q. Could you speculate whether or not this rate
7 case would needed to have occurred if you'd had an SSIP
8 mechanism granted in 2015?
9 A. I don't want to speculate on that. What I
10 could tell you is there's a potential that we could
11 have delayed that or pushed that out. But I don't want
12 to speculate.
13 Q. And you assert --
14 A. I don't want to speculate with 100 percent
15 certainty.
16 Q. And you've asserted that this saves customers
17 money because some rate cases may be delayed; is that
18 --
19 A. Or avoided.
20 Q. And do you know what the -- could you estimate
21 what the rate case expense is for this current case
22 that would be included in rates?
23 A. I believe in this rate case, we have
24 represented that the approximate cost of this case is
25 350,000. They have averaged between 300 and 500,000 to

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1 do a full-blown rate case.
2 Q. And would you agree with me that that's a
3 pretty small amount compared against the TCGA savings
4 that are being flowed through this case?
5 A. If you compare it to that. But again, if every
6 dollar matters, as suggested by -- you know, we do
7 believe every dollar matters for our customer. So in
8 this case, if we all believe that safety and
9 reliability is in the best interest of all parties,
10 certainly that's what these investments represent. And
11 if we can avoid the costly rate cases, we believe that
12 is the most prudent way to go.
13 Q. Well, if this rate case were avoided, would
14 residential rate payers see the benefit of TCGA today?
15 A. Yes, they would, as referenced by Chairman.
16 We -- each state essentially had called us in and asked
17 for our response to the Tax Cuts and Jobs Act. So most
18 states are handling that as a single issue if you
19 didn't have an open case.
20 Q. On page 14 of your testimony, you reference
21 your witness, Dr. Gaske's, analysis and support of a
22 10.0 return on equity. And I'd just like to ask you,
23 do you believe that a return on equity is a reflection
24 of business risk?
25 A. Yes. That is one component, yes.

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1 Q. And do you believe that business risk and the
2 allowed rate of return should be correlated? In other
3 words, if you are -- if your business is riskier you
4 should receive a higher ROE?
5 A. Correct.
6 Q. And would you agree with me that if the company
7 is granted the benefit of an SSIP surcharge, your
8 business risk will be less and your revenue will be
9 more certain?
10 A. I don't necessarily agree with that philosophy,
11 because our return -- our allowed return is a return on
12 rate base. And whether we've got an SSIP mechanism or
13 not, rolling in that rate base, it's -- that return is
14 what you're allowed to return on your total rate base.
15 So the investment, whether it comes in through a
16 generate rate case or a safety -- system safety
17 tracker, in my mind doesn't really affect the overall
18 return allowed on that ultimate investment in our
19 system.
20 Q. So you believe if investors are looking at MDU
21 they will care one way or the other whether you have an
22 SSIP mechanism?
23 A. I would say perhaps our credit analysts may
24 provide -- that may provide benefit to our credit
25 analysts and rating agencies that look at our debt and

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1 what kind of interest rate makes sense. They may care
2 because it provides a little bit more stability for the
3 Company.
4 Q. And it -- doesn't revenue stability equal less
5 business risk for MDU?
6 A. Potentially, I guess. Maybe there's a minor
7 impact there. But I still -- I go back to your ROE is
8 what you're allowed to earn on your investment. So
9 whether that investment came in through a tracker
10 mechanism or a general case, it's still level of return
11 on the investment in your system.
12 Q. Would you agree with me if MDU's business risk
13 is lessened that the risk to customers is increased? I
14 mean, is it a zero sum game?
15 A. If MDU -- say that one more time. I'm sorry.
16 Q. So if business risk changes, is there a
17 corresponding shift of risk to rate payers? Is it a
18 zero sum game or can MDU's business risk be reduced
19 without a corresponding shift of cost risk to
20 consumers?
21 A. Hmm. If our business risk changes, are you
22 asking if that directly impacts our customers?
23 Q. Yes.
24 A. It kind of depends on what component of
25 business risk. There's all sorts of components,

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1 whether you're a small company, whether you operate in
2 the Bakken, whether you don't. I mean, business risk
3 is comprised of multiple things, so I can't really make
4 a general statement on whether which specific business
5 risks would have a direct impact on our customer.
6 Q. But would you agree with me that business risk
7 -- that risk to your business doesn't just go away,
8 it's mitigated or it's shifted someplace if it's
9 reduced; would that be fair?
10 A. Right. If we have inherent business risk,
11 you're right, it doesn't just go away, it's inherent.
12 Yep.
13 MR. COFFMAN: I'll end there. That's all
14 I have. Thank you very much.
15 THE WITNESS: Okay. Thank you.
16 THE COURT: Major Unsicker, questions for
17 Ms. Kivitso?
18 MAJOR UNSICKER: No questions, Your Honor.
19 THE COURT: Okay. Ms. Jeffcoat-Sacco,
20 questions for Ms. Kivitso?
21
22 CROSS-EXAMINATION
23 BY MS. JEFFCOAT-SACCO:
24 Q. I did have a couple and most of them were
25 covered by Mr. Coffman. But I wanted to follow up just

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1 a little bit because you answered Mr. Armstrong about
2 the financial stability benefit that was coming to the
3 Company if you're granted this SSIP. And the questions
4 that you also talked about I think in that question
5 about how the replacements would then be over a shorter
6 time frame. And I couldn't understand at that time,
7 and I don't know that you got to it with Mr. Coffman,
8 that shorter time frame. Can you explain that a little
9 bit more to me? Because are you saying that your
10 decision of whether or not to perform this upgrade or
11 required maintenance would be different if you were
12 under a SSIP versus a standard rate case?
13 A. So -- in terms of looking at the safety of our
14 system, we have done I believe a great job of
15 prioritizing our risk. I think that's been
16 demonstrated in testimony and rebuttal testimony that's
17 been provided. So I won't belabor that. But we're
18 going to look at the risk of our system and replace
19 pipe that we believe needs to be replaced, whether we
20 have this mechanism or not. I want to make that clear.
21 What we would distinguish is over how many
22 years would we replace that infrastructure, and this is
23 predicated on multiple things. In other words, our
24 capital availability, you know, the timing and amount
25 of crews that are available. But if we do not have a

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1 mechanism that provides for a recovery over a more
2 timely period of time, we may make the decision to
3 instead of look at this over a ten-year period, as an
4 example, look at it over 15. But, again, those
5 decisions are not made in a vacuum, we consider it
6 across our entire footprint and consider other states
7 besides just the state of North Dakota. So those are
8 things we'll take into consideration if we do not have
9 the regulatory mechanism.
10 Q. But if you have a safety issue or a risk, how
11 can you possibly say that you'd make a business
12 decision not to fix it as quickly as you could based on
13 how you would get recovery? I mean, you have an
14 obligation to do the right thing, and you are
15 guaranteed recovery for the right things you do under
16 the regulatory system as it stands today. I have a
17 real problem making that transition from the recovery
18 mechanism to the business decision to maintain a safe
19 and reliable system. I can't -- I mean, how would you
20 make a decision to go from ten years to 15 years if it
21 needed to be done?
22 A. If it needs to be done, we're going to do it.
23 Again, I want to be clear on that. But some -- when
24 you're looking at replacing this kind of amount of pipe
25 as demonstrated here, there are -- you know, there is

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1 some, you know, leeway within that replacement period.
2 Whether you do that over, again, a ten-year period or a
3 little bit longer period, there is some, you know,
4 leeway in that period of time that you do it. We are
5 going to make the investments that we need to make, as
6 we have done for several decades, to maintain the
7 safety of our system. We will do that. It's just a
8 matter of studying what comes out of the studies that
9 we're doing with respect to, for example, the early
10 vintage plastic pipe. You know, what we're doing there
11 is going in and looking at different towns, pulling out
12 samples of pipe. We're going to have -- this is a
13 process that will be fluid as we discover what we have
14 buried in the ground and, you know, what the studies
15 predicate.
16 And what I'm suggesting is if we don't have
17 that regulatory mechanism, perhaps we would adjust that
18 slightly. I'm not talking about a major adjustment to
19 the timetable here. And if there's an immediate need
20 that's immediate this year or next year, we're going to
21 do that.
22 Q. So it sounds to me like you're saying with the
23 recovery mechanism you may be replacing some things
24 that there isn't an immediate need for. And I think
25 that's part of what Advocacy Staff was saying in its

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1 testimony that there could be unreasonable replacements
 2 that haven't been justified. And if you don't get it,
 3 you're going to -- possibly would be stretching it out
 4 and perhaps not be meeting your -- I see this as sort
 5 of a vicious cycle, I'm not hearing any answers to
 6 close it off anywhere. But others can, you know,
 7 others can get to that question in a little more
 8 detail.

9 I do want to go back then very quickly to this
 10 ROE because we have hundreds of pages of testimony
 11 discussing -- maybe not all of it discussing the
 12 concept of risk and whether or not a more stable
 13 regulatory environment which would include more stable
 14 financial recovery for this particular process affects
 15 investor expectations and consequently ROE. I just
 16 heard you answer Mr. Coffman that it did not. Again, I
 17 think you need to explain that a little further to me,
 18 because I'm not seeing that based on the rest of the
 19 testimony I'm reading.

20 A. Yeah, I think one factor within the -- when you
 21 look at return on equity and what's being requested in
 22 the case -- and, you know, I would defer some of this
 23 to our expert witness, Steve Gaske. But as I look at
 24 the ROE that we're requesting, certainly business risk
 25 is a component of that. And -- but that -- of that

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1 component of business risk, it -- you know, a smaller
 2 component of that would be financial risk. So I mean,
 3 there's multiple components that go into assessing what
 4 the right ROE is for a particular -- you know, could
 5 you argue that you get a mechanism such as this? I
 6 mean, this is going to cover a small amount of our
 7 total capital. Certainly it's not going to cover all
 8 the investment that we're putting into the ground. You
 9 know, he's arguing that maybe that would reduce the
 10 overall risk component. I'm not sure it's enough to
 11 affect our overall ROE.

12 And what I'm saying is whether we get the
 13 investment put in the ground as part of a general rate
 14 case, or I guess recovery of the investment we put in
 15 the ground as a general rate case or as part of a
 16 tracker, really what you're looking at is what are you
 17 allowed to earn on the investment that you have in the
 18 ground. That's what I'm saying. Yeah.

19 MS. JEFFCOAT-SACCO: Okay. Those are all
 20 the questions I have. Thank you.

21 THE COURT: Okay. We're going to take a
 22 break here. It's about 10:13. I'd like the attorneys
 23 and the witness and the court reporter back at 10:25 so
 24 we can go over the evidentiary issue. And then the
 25 commissioners, if you would hold off a little longer

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1 until we resolve the evidentiary issue, hopefully we
 2 can have you back by about 10:30.

3 (A break was taken at 10:13 a.m.)

4

5 (Commissioners not present for the
 6 following discussion.)

7 THE COURT: All right. We're basically
 8 off the record -- we're talking to the court reporter
 9 on the record now. I want the attorneys to gather
 10 around for a little sidebar. You can stay on the
 11 witness stand. Just remind you, you're still under
 12 oath.

13 THE WITNESS: Okay. Thank you.

14 THE COURT: Okay. We're back on the
 15 record, but we're not on the video. We're outside the
 16 presence of the commissioners. We've had an issue that
 17 came up --

18 MS. JEFFCOAT-SACCO: We're not on the
 19 Internet?

20 THE COURT: No. We had an issue that came
 21 up, and we discussed it yesterday on a motion in limine
 22 to exclude a settlement agreement in the state of
 23 Montana that addressed return on equity, and it
 24 addressed this SSIP program. And there were
 25 compromises made of those issues. I have ruled based

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1 on the briefing filed by the parties that that
 2 settlement offer is not admissible in evidence in this
 3 proceeding. And I will not be allowing that into
 4 evidence. If Mr. Armstrong would want to make an offer
 5 of proof, that can become part of the overall record
 6 that would go to the courts ultimately if this case
 7 goes on. I'm afraid we might be inserting appealable
 8 record and prefer to try to keep it clean.

9 And so on that basis, I have denied the
 10 admissibility of the exhibit yesterday in the motion in
 11 limine. Now, we did start with Ms. Kivitso to get into
 12 the some of the subject matter of the Montana
 13 settlement agreement. Mr. Armstrong argued that that
 14 opened the door for some additional questions. I'm
 15 going to allow him to pose his questions at this point
 16 that he thinks I'm excluding or denying him under the
 17 sustained objections just so we have that on the record
 18 in case of an appeal. Go ahead, Mr. Armstrong.

19 MR. ARMSTRONG: Thank you.

20 BY MR. ARMSTRONG:

21 Q. Ms. Kivitso, you were the person who authorized
 22 the filing of a rate increase in Montana as well as
 23 North Dakota, correct?

24 A. Correct.

25 Q. And in Montana, you've agreed to defer the SSI

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<p>1 program in that case, correct?</p> <p>2 A. The SSIP program?</p> <p>3 Q. Yes.</p> <p>4 A. In the interest of a settlement, we did.</p> <p>5 Q. Okay. And that was approved by unanimous vote</p> <p>6 by the Montana Commission yesterday; is that correct?</p> <p>7 A. That is correct.</p> <p>8 MR. ARMSTRONG: That's my questions.</p> <p>9 THE COURT: Okay. All right.</p> <p>10 With that, we'll --</p> <p>11 MR. ARMSTRONG: Judge, are you still</p> <p>12 disallowing that?</p> <p>13 THE COURT: Am I allowing that in the --</p> <p>14 MR. ARMSTRONG: Can we have some argument</p> <p>15 on that issue?</p> <p>16 THE COURT: Go ahead, Paul.</p> <p>17 MR. SANDERSON: Well, he can't argue that</p> <p>18 she opened the door when he is asking questions trying</p> <p>19 to get her to open the door. That's ridiculous.</p> <p>20 MR. ARMSTRONG: My questions that opened</p> <p>21 the door were from her direct testimony and the 36</p> <p>22 states have approved it, it's in other states. You</p> <p>23 can't say these 36 states have approved it and then not</p> <p>24 address the other jurisdictions, especially the ones</p> <p>25 Montana-Dakota is operating in that haven't approved</p>	<p>1 because there we get into Rule 408 problem, and I think</p> <p>2 it's a big problem because Rule 408 realizes what Mr.</p> <p>3 Sanderson was talking about. It was remodeled recently</p> <p>4 to get into situations where you attempt to use it to</p> <p>5 impeach by a prior inconsistent statement or something</p> <p>6 like that. And still the rule, I think, is fairly --</p> <p>7 that offers of compromise are not admissible or that</p> <p>8 the elements of that offer of compromise, just by the</p> <p>9 mere fact that it was agreed to for that purpose, is</p> <p>10 not admissible.</p> <p>11 MR. ARMSTRONG: I would just note that</p> <p>12 it's not a settlement anymore, it's an order of the</p> <p>13 Montana Commission.</p> <p>14 THE COURT: I understand that. But I</p> <p>15 believe that -- you want to talk about an order of the</p> <p>16 Montana Commission, I don't have a problem with that.</p> <p>17 I do have a problem with you talking about it as a</p> <p>18 Rule -- as an offer of compromise that they entered</p> <p>19 into.</p> <p>20 MR. ARMSTRONG: I understand.</p> <p>21 MR. SANDERSON: And Judge, to me the</p> <p>22 record's been clear on it. Any additional or trying to</p> <p>23 beat this horse is just cumulative evidence at this</p> <p>24 point. Mr. Armstrong established that it is not part</p> <p>25 of their case in Montana and that Ms. Kivitso said we</p>
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<p>1 it. So I'm not making her open the door. It's part of</p> <p>2 her direct testimony, part of the facts of this case.</p> <p>3 THE COURT: I'm -- I'm fine with your</p> <p>4 discussing with her the fact that they -- that the</p> <p>5 settlement which -- the case in Montana is resolved and</p> <p>6 that they do not -- did not adopt the SSIP in Montana.</p> <p>7 I think you've already got that in the record.</p> <p>8 But as far as using the contents of that</p> <p>9 settlement agreement to somehow prove those same facts</p> <p>10 in this case, either the return of equity, or that the</p> <p>11 SSIP can be delayed, I am not going to allow it for</p> <p>12 that purpose.</p> <p>13 MR. ARMSTRONG: That's -- Your Honor, I'm</p> <p>14 not talking about return on equity right now. But she</p> <p>15 said --</p> <p>16 THE COURT: But that's the next --</p> <p>17 MR. ARMSTRONG: -- numerous times up here</p> <p>18 that they need the SSIP now, they need it now and it's</p> <p>19 for safety and reliability and that's why they need it</p> <p>20 now. But they've just deferred it in Montana.</p> <p>21 THE COURT: I don't have a problem if you</p> <p>22 limit your questions to what's going on in other states</p> <p>23 or that the SSIP was disallowed in Montana. But as far</p> <p>24 as it being part of a settlement agreement between the</p> <p>25 Company and Montana, I'm not going to allow that</p>	<p>1 will request it the next time.</p> <p>2 THE COURT: Yeah, and I think that's</p> <p>3 already come into the record.</p> <p>4 MR. SANDERSON: And it wasn't disallowed,</p> <p>5 it was -- Montana-Dakota pulled it as part of a</p> <p>6 settlement agreement. The Commission didn't disallow</p> <p>7 or rule that we're not going. So continuing to go down</p> <p>8 this road is improper. The record is clear. Mr.</p> <p>9 Armstrong's made his record and he's made his offer of</p> <p>10 proof.</p> <p>11 THE COURT: And I think you've made it</p> <p>12 clear that they don't have it in all states where they</p> <p>13 do business. There's some that have, some that</p> <p>14 haven't. And so this is something they're gradually</p> <p>15 trying to progress in, and I think you've got your</p> <p>16 record good enough on that. I mean, I think you're</p> <p>17 running the risk if we let too much in that maybe then</p> <p>18 he's got a record made that's an appealable error.</p> <p>19 MR. ARMSTRONG: That could be, Your Honor,</p> <p>20 but I do view it -- the Commission is more like a court</p> <p>21 trial, they can consider the weight and admissibility</p> <p>22 of it as decided by counsel. It's not fair to Staff or</p> <p>23 to the Interveners to pretend that all these</p> <p>24 jurisdictions are pushing this through, pushing this</p> <p>25 through and it's necessary now but then leave out what</p>

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1 they've settled in the last month.
 2 THE COURT: I don't think there's any
 3 reason why you can't argue the first part of that, that
 4 some states are adopting it, some aren't. And that's
 5 come out very clearly through Mr. Coffman's cross as
 6 well.
 7 But what I do think is that you can't reference
 8 the fact that they agreed to that or that that's part
 9 of a settlement. You can talk about what they're doing
 10 in Montana. I don't have a problem with that. But I
 11 don't want that to be referenced as a settlement.
 12 MR. ARMSTRONG: I understand. But if
 13 he -- if I'm supposedly beating a dead horse, then I
 14 don't want to hear Montana beat the dead horse of
 15 everything that's going on around the country.
 16 THE COURT: You can ask your questions
 17 when we go come around. We're going to go back around
 18 again. First I'm going to give the commissioners a
 19 chance to ask a few questions when they get back.
 20 MR. SANDERSON: And I didn't ask --
 21 THE COURT: But I do disagree with you in
 22 a sense that I'm the gatekeeper here. The reason I'm
 23 here is to preserve the record and to decide which
 24 evidence gets in, which evidence doesn't, what's
 25 duplicative, what isn't. That's why I'm here.

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1 Otherwise, I'm just a potted plant and they have no
 2 reason to even hire me. So I mean, I -- you know, you
 3 can take up an evidentiary question ultimately, maybe
 4 at the end of the case, but we're not going to take
 5 them piecemeal. That's -- I don't believe that's
 6 appropriate.
 7 MR. SANDERSON: Just as far as the order
 8 of presentation, I mean, as the applicant, you know, I
 9 think under the rules, we get last say on this. So are
 10 we -- are we going to go through --
 11 THE COURT: We're going to go around
 12 again. First I'm going to let the commissioners ask
 13 some questions, then I'm going to go back to you, go
 14 around in the same order, and back again. If there's a
 15 need for sur-surrebuttal at that point -- hopefully
 16 there's not, because now we are fallen behind, we're
 17 still on our first witness. But I think everybody
 18 wanted to score a few runs in the first couple of
 19 innings and try to swing for the fences, and I think
 20 we've done that.
 21 So let's go back on the record and bring the
 22 commissioners back in. We'll go back on the record
 23 when they get here. And on the public video.
 24 (Commissioners present.)
 25 THE COURT: Okay. Back on the record.

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1 It's about 10:37. Ms. Kivitso is on the witness stand,
 2 she's still under oath. For the commissioners'
 3 benefit, we had an evidentiary issue involving a
 4 document and whether the document should be admitted or
 5 not admitted. And I think we've resolved that issue,
 6 and there's going to be some additional questioning.
 7 First, we're going to go to the questioning by
 8 the commissioners and then the attorneys are going to
 9 get one more go round. So I'm not sure which
 10 commissioner wants to start. Commissioner Kroshus?
 11
 12 EXAMINATION
 13 BY COMMISSIONER KROSHUS:
 14 Q. Good morning, Nicole.
 15 A. Good morning.
 16 Q. You're lucky in the sense that everyone else
 17 that has to testify is watching thinking you'll be
 18 done, and they're not.
 19 I want to get -- I want to start with the SSIP,
 20 the Safety System and Integrity Program because that's
 21 really one of the more significant issues in the rate
 22 case for me. Really trying to get a handle on the risk
 23 factor. And just for a -- you know, an opening
 24 question, if you were a consumer or a household --
 25 owner of a residence, should they be concerned?

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1 A. No.
 2 Q. So with that being said, and I assumed that was
 3 the case, can you talk about -- the plastic pipe that
 4 you're talking about, is that -- is that the biggest
 5 issue, or is it equal in terms of that and then the
 6 steel pipe?
 7 A. Well, essentially what we've done is we've --
 8 in the testimony, and Pat can also reference this when
 9 he has the opportunity to testify, but we have
 10 presented basically a risk analysis around our aging
 11 infrastructure. And really what we're looking at is
 12 the likelihood of an event happening and the
 13 consequence. And what's factored into that risk
 14 analysis is all sorts of data points such as the age of
 15 pipe, the type of pipe, leak -- past leak survey. And
 16 Pat would be better to give all the details of that.
 17 But we've essentially compiled all at that data to
 18 develop a risk score then for each of the various
 19 pieces of pipe in our system. And what that has done,
 20 the culmination of all of that data has produced that
 21 what we believe to be our highest risk, which is the
 22 early vintage plastic pipe and the early vintage steel
 23 pipe.
 24 So depending on -- you know, if you're asking
 25 which is the bigger piece, I'm not sure if you're

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<p>1 asking by in terms of replacement dollars, you know, 2 quantifying would it be more to replace one or the 3 other or which is the -- 4 Q. Risk. 5 A. Risk, we really deem them -- I don't have the 6 exact scores in front of me, but since we've 7 prioritized them both at the top, they've got to be 8 very close in terms of risk. 9 Q. Now, Advocacy testimony asserts that the plan 10 lacks detail. Do you agree with that? 11 A. I believe there is a lot of detail in our plan. 12 Q. Now, one thing that was alluded to earlier and 13 it's related to timing, the timing of why now, why not 14 doing it as during the course of business as 15 maintenance, there's always replacement, would you 16 agree? 17 A. Correct. 18 Q. That you're looking at when you're running a 19 company with a lot of infrastructure. So for me, the 20 timing, that's the hardest part for me to get my arms 21 around. Is the plastic pipe in question, is that good 22 for another five years? Another ten years? How would 23 you answer that? 24 A. And that's where I would talk to that we are 25 bringing experts in to help us with that analysis. So</p>	<p>1 what we're doing. We're looking at the risk. We're 2 saying now is the time to start a replacement program 3 where we want to work with the Commission, that you can 4 help us identify and prioritize these projects based on 5 what we believe are in the best interest of the Company 6 and over what time period makes sense. 7 Q. In 1998 as a part of the testimony, and I 8 honestly don't remember which sheet it was on or where 9 I picked it up from, but there was a 1998 report about 10 brittle pipe for pipe put in prior to 1988. So that 11 report was issued 20 years ago. Would you frame it up 12 as the plan, the SSIP plan, in some ways has been under 13 way for a considerable period of time just through -- 14 you've been replacing pipe over the last 20 years, 15 correct? 16 A. For years, yes. 17 Q. So is it safe to assume that that report was 18 certainly taken into account as a part of that 19 replacement project or -- 20 A. Correct. Any industry guidance that's 21 provided, as an example on the Aldyl A, which is a 22 piece of our early vintage plastic pipe replacement 23 program, that came out of an PHMSA report. So, yes, we 24 are monitoring industry action and what's taking place 25 in our industry with respect to concerns that pop up.</p>
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<p>1 on our plastic pipe, and again Pat will be able to 2 provide additional details here, but we are bringing in 3 folks that are experts in the industry to help us 4 analyze that. And we have been given some guidance 5 from them in terms of even if you did nothing, how much 6 longer would this pipe last in the ground. And so 7 we're relying on our own internal experts, but we're 8 also hiring folks to come in and help us with that 9 analysis. 10 In terms of the timing, and maybe just to 11 clarify that, as I mentioned before but I want I want 12 to echo again, if we have an urgent, immediate need 13 from the safety perspective, we are going to replace it 14 now regardless of this mechanism. When I suggested 15 about the timing and looking at how long do you replace 16 this pipe over how long will it last, to your 17 questions, that's where we're relying on our internal 18 experts as well as outside experts to help us with that 19 analysis. Because what we do know is to go in and 20 replace this all today and put it in the next rate case 21 would certainly have massive consumer and customer 22 impacts. 23 And so again, back to my opening statement 24 where we're trying to balance the interests of our 25 employees, our customers and our shareholders, that's</p>	<p>1 And then we identify whether we have them or don't have 2 them in our system. Yes. 3 Q. Have there been any leaks that you can tie to 4 the old pipe? 5 A. We do have leaks throughout our system, yes. 6 Q. But that -- but leaks that would be directly 7 tied to aging infrastructure, not construction 8 techniques, not something outside of now it's old pipe, 9 the joints are failing and -- and I don't want to send 10 a panic wave through because -- 11 A. Right. We do have leaks in our system. Pat 12 can probably better describe exactly where those are, 13 but we do have some in conjunction with some of our 14 older pipe. Again, not to alarm folks, we do a leak 15 survey annually in high consequence areas in that, but 16 yes, leaks have been identified in certain segments of 17 our pipe including the pipe that we're replacing. 18 Q. At a higher rate? 19 A. I'm going to defer that to Pat. 20 Q. Okay. So the pipe stops at the meter; is that 21 a fair statement? 22 A. Correct. 23 Q. So from curb to meter or from main to -- 24 A. That's our jurisdictional pipe, correct. In 25 house is the customer.</p>

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1 Q. Yep. So the problem pipe, if you will, or the
2 high risk infrastructure is outside of the home in most
3 cases?
4 A. Right. Interior pipe is outside of our
5 jurisdiction, so I can't comment on a customer's -- the
6 shape of any individual's customer interior pipe.
7 Q. Do you have some inside meters?
8 A. We do have some inside meters.
9 Q. So the pipe to the inside meter though --
10 A. Would be ours, yep.
11 Q. Do you know offhand what percentage of -- how
12 many shut-off valves is a percent of home -- replace
13 the excess flow valve?
14 A. Yeah, I do not have that exact percentage. We
15 may be able to get that for you. I do consider it at
16 this point to be relatively low because essentially we
17 have only installed that on new services. One of the
18 advantages certainly of this replacement program would
19 be the installation of excess flow valves on any new
20 replacement that we do.
21 Q. Right. That ties into a question that I'll
22 check off.
23 I'm going to jump over to -- there was
24 considerable testimony about the Tax Cut and Jobs Act
25 and how that is impacting utilities across the country,

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1 not only from lowering rates, but also from a credit
2 ratings standpoint for utilities. Has that negatively
3 impacted MDU's ratings?
4 A. It has not. We have seen -- certainly we, like
5 other utilities, have seen the impact on cash flow.
6 This change is affecting our cash flow. But we have
7 not seen any credit rating changes because of that.
8 Q. Now, Fitch and S&P have you rated at triple B
9 plus, correct?
10 A. Correct.
11 Q. And how long have you been rated at triple B
12 plus?
13 A. I don't have the exact timeframe, but for a lot
14 of years.
15 Q. Okay. So Moody's recently -- and it was toward
16 the end of January -- changed the outlook of 25 U.S.
17 regulated utilities primarily impacted by tax reform,
18 and I think for the majority, if all not, they went
19 from -- well, they were downgraded.
20 A. Correct.
21 Q. But just to verify then, you were not included
22 in --
23 A. We were not included in that, no.
24 Q. Okay. How do you -- as I've read through a
25 number of rate cases or rate adjustments across the

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1 country, the average gas utility across the country has
2 lowered customer bills by \$2 or more, typically in a
3 range of 2 to 3 dollars. Your numbers came in
4 differently when we adjusted the interim from -- and I
5 don't have that in front of me. But it was, let's see,
6 from 2.44 it went down to \$1.82. Was that driven by
7 still leaving SSIP into the equation, or how would you
8 explain -- that's a significant difference compared to
9 what most utilities are granting their customers.
10 A. So I think if -- I think what you're asking me
11 is the Tax Cuts and Jobs Act, how it impacted us as it
12 compares to other utilities across the nation impact?
13 Q. Why was it as pronounced for the consumers?
14 A. Yeah, really I think really that comparison is
15 going to be somewhat difficult because, you know, there
16 were two impacts with the Tax Cuts and Jobs Act. One
17 was taking the current rate from 35 to 21. And when
18 you do that, you're really basing it on the revenue
19 requirement. And it's probably hard to compare what
20 kind of revenue requirement we need relative to another
21 utility. The other piece of that change is going to be
22 the -- basically the repricing of your excess
23 deferreds. And really both of those are predicated on
24 the level of investment you have in the state that
25 you're doing business. So if we've got a different

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1 level of investment than another utility, it's pretty
2 hard to do a one-for-one comparison on the impact of
3 the Tax Cuts and Jobs Act. But I do know that we have
4 other witnesses that are going to cover the Tax Cuts
5 and Jobs Act in a little more detail.
6 Q. Okay. First quarter, you had a good first
7 quarter, 45.7 million of terms of earnings in Q1, and
8 that was for the regulated energy portion of your
9 business, correct?
10 A. That would be for the utility, yes.
11 Q. The utility. And that's up from 42.2 million
12 last year, so an increase of 3.5 million. So when
13 people see that, consumers see that, they're going to
14 say, well why are they asking for a rate increase when
15 earnings are up. How would you answer that question?
16 A. I think what we need to consider, and when
17 individuals are looking at either the InView Resources
18 news release or our portion of that new release, the
19 thing that we need to keep in mind is when we're
20 presenting a case in front of a commission, it is for
21 that jurisdiction only. So today what we're here to
22 talk about is North Dakota Gas. What you're looking at
23 is a culmination of our earnings across all of our
24 states. So while we may be at our allowed return in
25 another state, we may not be in this state. And so it

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1 is really hard to look at our overall earnings and
2 compare that to a need in a particular jurisdiction
3 which is only a subset of our total utility.
4 Q. Okay. Fair enough. Do you have any concern
5 with your credit worthiness as a result of tax reform?
6 That was one of the factors or points that was made in
7 a number of articles that I read. Any concern with
8 that?
9 A. It certainly has impacted our cash flow, as I
10 mentioned. At this point in conversations I've had
11 with those that work with our rating agencies, we are
12 not aware of any immediate concerns that they have.
13 But certainly what they will do is monitor our
14 financial metrics. And to the extent that they are
15 deteriorating or that there's indication that because
16 of the reduced cash flow we're not going to be able to
17 meet their -- you know, they have standards that they
18 want you to meet as a regulated utility. So to the
19 extent they see concern or deterioration of those over
20 time, certainly that is something we are very mindful
21 of, and that is one example on, you know, where we're
22 concerned about our credit quality and our debt and
23 equity is -- the credit rating is very important to us.
24 Q. So --
25 A. But at this point, we don't have any indication

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1 from those agencies other than we're going to continue
2 to monitor your metrics.
3 Q. Okay. I don't want to get into sensitive
4 information on this question, but generally speaking
5 have you found it more challenging to deal with capital
6 markets as a result of the Tax Cut and Jobs Act and the
7 fact that you're a regulated utility?
8 A. I would say we have certainly seen the
9 conversation change because it does impact regulated
10 utilities different than it affects our unregulated
11 businesses. So as an example, our corporate stock
12 price, there's conversation around the impact of the
13 regulated utilities around tax reform. There's
14 conversation with our credit rating agencies around tax
15 reform. And in general, regulated utilities, the
16 impact, although very beneficial for our customers, has
17 a different impact for the business. And so, you know,
18 there has been, you know, conversation around that.
19 Q. On -- I believe it was in the Gaske
20 testimony -- and of course, this is -- testimony ages,
21 obviously, and at the time that it was written cited
22 uncertainly in oil pricing slowing customers outside of
23 Bismarck and an increase in late payments. Does that
24 still apply in terms of a slowdown now that oil prices
25 have improved significantly?

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1 A. Are you specifically asking about late payments
2 or other impacts from the Bakken.
3 Q. No, we can take the late payment part and just
4 set that aside.
5 A. Okay.
6 Q. But customer growth and volume, is that still
7 being impacted?
8 A. Our customer growth today is certainly
9 different than it was years ago. And so if you're
10 asking whether or not we're seeing, you know,
11 substantial increases in the Bakken, we are not
12 anymore. And so that growth has certainly slowed. I
13 would say it's more stable today than it was as it was,
14 you know, coming off of the highs of the Bakken boom.
15 Q. Okay. I'm going to go to -- I just want to
16 talk a little bit about households and limited income.
17 What types of savings plans do you promote to a
18 household that -- and the reason I'm asking this is in
19 some of the testimony I think the rationale -- or maybe
20 not rationale, but it was stated that what a customer
21 could do is they could decrease consumption, in effect.
22 But I think if you're a customer that is already
23 struggling financially, you really can't afford to then
24 go out and buy new windows for the house, you may not
25 even be able to afford to put new insulation in the

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1 attic. So they're certainly impacted because they're
2 just in a tough financial position to do a lot about
3 the house that they're probably fortunate to live in.
4 What type of plans, educational initiatives do
5 you present to those people, because again, as I
6 mentioned in my opening commentary, it's tough for some
7 people. Every little bit matters. How do you work
8 with that?
9 A. Yeah, I'd offer up we have two considerations
10 that come into mind here. We've got a balled billing
11 program where you can really look at leveling your
12 bill instead of, as mentioned previously, where
13 obviously generally on the gas side of the business
14 we're peaking in the winter, we have programs where you
15 can balance that bill over the year. We also have low
16 income assistance programs available as well. And, you
17 know, we will work with customers as needed. So . . .
18 Q. Do you expect an uptick in low income
19 assistance need?
20 A. I don't know if I can predict that. I mean,
21 based on this increase, I don't think I would predict a
22 significant increase there. In terms of our bad debt,
23 we have actually seen that come down over the last
24 three years. A piece of that is probably attributed in
25 North Dakota -- I'm talking only North Dakota now -- to

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1 the Bakken and some of the more levelized -- where
2 that's levelized out, out there. But we have actually
3 seen those write offs come down.
4 Q. Okay. Would that be similar to just businesses
5 that came for a short period of time --
6 A. It could be businesses.
7 Q. -- and decided not to stay and left?
8 A. It could be businesses, it could have been
9 residential, correct.
10 Q. Okay. But more stable -- stable business
11 environment. Okay.
12 I think the -- I have more questions related to
13 the timing of the infrastructure, but I think I will
14 wait -- or the infrastructure request, the SSIP, I have
15 still quite a number of questions on that, but I think
16 I will wait for the witness -- the next witness -- or
17 not next one, but -- I will wait on that. And I don't
18 believe I have any other questions at this point.
19 Thanks.
20 THE COURT: Commissioner Fedorchak.
21 COMMISSIONER FEDORCHAK: Typically the
22 Chairman goes next.
23 THE COURT: Okay. Chairman Christmann.
24 CHAIRMAN CHRISTMANN: I only have a few.
25 COMMISSIONER FEDORCHAK: I have my list.

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1
2 EXAMINATION
3 BY CHAIRMAN CHRISTMANN:
4 Q. Refresh me on who is the witness on the total
5 rewards package.
6 A. Jim Kaiser.
7 Q. Okay. Regarding the discussion between
8 building especially the residential rates more toward
9 volumetric or more toward a monthly base flat rate, do
10 you have any statistics on how many meters you have out
11 there that are -- and I don't know what the right term
12 would be -- kind of occasion use things I'm thinking
13 where someone has gas hooked up so they can barbecue in
14 the summer or something like that, or a garage that
15 they only heat rarely over the winter, but for the most
16 part, even in the winter months, either just the base
17 rate or very close to it?
18 A. I do not have that information in front of me.
19 I apologize. I think we'd be able to get it for you
20 though. Limited use meters is what you're asking.
21 Q. I would be very curious about that, because if
22 as we would go to a more volumetric system, if that
23 were the case, those people would be the biggest
24 beneficiaries; am I correct?
25 A. Correct. Those that are using a limited amount

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1 of gas would benefit from more of that volumetric
2 charge. And again, I guess where we're at with rate
3 design is we really believe the cost, regardless of
4 whether you use our service or not, we still had to put
5 a service line in to get to your meter, we have to
6 maintain that service line. So our argument is similar
7 to if you just were to compare it to a cable company.
8 They don't charge you based on how long you watch your
9 TV, they charge you to install the cable to your home.
10 So we really are -- the cost to serve each customer is
11 really the same.
12 Q. Things like cabins and such with a gas meter
13 for barbecuing in the summer, that would not
14 necessarily --
15 A. They wouldn't be sharing their share.
16 Q. -- the fixed income type people?
17 A. Correct.
18 Q. And do you have any statistics -- I think your
19 answer to one of the questions by Mr. Coffman was that
20 usage varies depending on size and efficiency of homes.
21 Which is the bigger factor?
22 A. I would only be speculating. I'm not sure on
23 that.
24 Q. So you have no studies or anything that show
25 that some of the typically newer but certainly larger

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1 homes with all the modern energy efficiencies, how much
2 gas they use in relation to their smaller counterparts
3 that might be older and not have those energy
4 efficiency improvements?
5 A. Yeah, I'm guessing your more efficient larger
6 home is probably in better shaper than your smaller,
7 but that would be speculation. We probably do have
8 data on that. I just don't have that at the top of my
9 head.
10 Q. It seems like in this discussion it would be
11 useful data. I just feel like it must be out there or
12 else all the things we talk about all the time with
13 promoting energy efficiency is all just a guessing
14 game, and if that data isn't out there we're just
15 guessing whether it actually works or not. So if that
16 could be provided, I'd sure be interested.
17 I'm switching now to the SSIP improvements.
18 A. Okay.
19 Q. Are there historic pieces of equipment or types
20 of pipe or anything like that within the gas industry
21 that have just been banned that maybe were used years
22 ago and found to be too dangerous and have all been
23 replaced?
24 A. Well, certainly, you know, the cast iron and
25 bare steel, you know, have been a high priority

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1 essentially across the nation. We don't have that
 2 issue in North Dakota here. But completely 100 percent
 3 banned, I -- I'm not aware. But there's certainly been
 4 studies that suggest, you know, whether certain type of
 5 pipe should be on a replacement program such as bare
 6 steel, cast iron, you know, the PHMSA came out with the
 7 Aldyl A.
 8 Q. And explain why the cast iron and bare steel
 9 isn't an issue here?
 10 A. Because we don't really have that in our -- we
 11 don't have that type of pipe in the system.
 12 Q. Because it was --
 13 A. That was primarily plastic.
 14 Q. -- when North Dakota was settled; is that --
 15 A. Correct. I mean, I think that's --
 16 Q. -- century old?
 17 A. Right.
 18 Q. Okay. So how would you compare, you know,
 19 safety agencies within the government's efforts to see
 20 that those types of pipe are replaced compared to what
 21 we're seeing -- you mention the NARUC resolution to
 22 promote the replacement in kind of a quick manner with
 23 the plastic pipe that we're talking about here?
 24 A. Yeah, I think each state is really looking at
 25 it in terms of its own -- I don't want to call them

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1 issues. But each state is evaluating what kind of
 2 system it has, what risk it has within its system, and,
 3 you know, they're making their decisions based on that.
 4 So similar to how we've evaluated what pipe
 5 we've got in the state, you know, what type of risk we
 6 think it bears and what priority we should put on in
 7 terms of the replacement, each state commission is
 8 going to be looking at, you know, what's being brought
 9 in front of them and evaluating what they deem to be at
 10 risk or not, along with obviously the utilities in that
 11 state.
 12 Q. But would it be fair to say that nationally
 13 where those other types of pipe exist, that there's
 14 been a stronger effort to see that those types of pipe
 15 are replaced than the type that you're talking about
 16 here, or would you say they're comparable as far as
 17 safety risks?
 18 A. I would say, you know, nationally in terms of,
 19 you know, media and what you saw come out first was
 20 probably the bare steel and cast iron, yep.
 21 Q. And you said that if the SSIP program were
 22 adopted that all the projects would not go forward
 23 without PSE approval, correct?
 24 A. Correct.
 25 Q. The projects that are being worked on right now

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1 in New Salem and Fairview and the whole list of towns,
 2 what approval process did they go through?
 3 A. Right now, they are part of this case. So they
 4 would --
 5 Q. But you started construction on them without
 6 any advance approval?
 7 A. Right. And that's because just like we do with
 8 other investments in a general rate case, we make
 9 investments that we believe are prudent and we bring
 10 them before the Commission. In the case of an SSIP
 11 mechanism, we would file those projects with the
 12 Commission in March and then we would not get recovery
 13 on those prior to approval from the Commission. That's
 14 really the way the mechanism works. You know, similar,
 15 we've got mechanisms on the electric side of the
 16 business in the state of North Dakota that are very
 17 similar to what we're suggesting here.
 18 Q. But when you file in March, is it going to be
 19 money that's pretty well already spent though because
 20 you've already bought supplies and hired contractors?
 21 A. Potentially not all the dollars would be spent,
 22 but some of the dollars would be spent. But that goes
 23 back to if I really feel it is a safety need, I have to
 24 proceed. And so we would be proceeding with some of
 25 the projects, you know, certainly in March. We won't

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1 have spent all of the dollars. In fact, it would
 2 probably be very minimum considering the construction
 3 season in the state of North Dakota. But we would
 4 proceed with contractors and getting the worked lined
 5 up if we believe it's the right thing to do from a
 6 safety perspective, yes.
 7 Q. Okay. No other questions. Thank you.
 8 THE WITNESS: Okay. Thank you.
 9 THE COURT: Commissioner Fedorchak.
 10 COMMISSIONER FEDORCHAK: Thank you.
 11
 12 EXAMINATION
 13 BY COMMISSIONER FEDORCHAK:
 14 Q. Thank you, Nicole.
 15 Just following up where Randy left off on the
 16 timing. So you'll file in March, you wouldn't get
 17 recovery until October, but you'd be starting on those
 18 projects that year?
 19 A. Correct.
 20 Q. So if we deem them to not be prudent, you just
 21 wouldn't get the money, or then what?
 22 A. That would be correct, and we'd probably bring
 23 them forward in the next general, whatever rate base
 24 we're at in the general rate case.
 25 Q. Okay. Is the -- the use -- is this tracker,

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1 can it be compared to riders for, say on the electric
 2 side for transmission or generation? And in what way
 3 is it similar and how is it different just in terms of
 4 how it would function?
 5 A. It is very similar to what we have on the
 6 electric side of the business in terms of environmental
 7 and the generation and those types of tracking
 8 mechanisms.
 9 Q. Okay. Is the objection then that in those
 10 cases where we have the transmission, we have the
 11 generation, we have the environmental for all the
 12 electric utilities -- well, maybe not the generation
 13 for all of them. But is the objection that in those
 14 cases we typically do an ADP or have pre-reviewed the
 15 projects before they get added to the rider on a
 16 separate way and that mechanism isn't allowed here in
 17 the tracker you're proposing? Could that be a
 18 difference?
 19 A. That would be a difference, I think you're
 20 right, on our large projects. But we do not bring all
 21 of the dollars forward in the form of an ADP on the
 22 electric side of the business. So, you know, you're
 23 aware, Thunder Spirit we would have brought forward in
 24 an ADP, but not all transmission projects would have
 25 been brought forward. So certain of our projects on

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1 the electric side of the business that we deem to be
 2 large enough, we do bring those forward as part of the
 3 ADP. But not all dollars that go through the tracking
 4 mechanisms on the electric side of our business are
 5 brought forward in an ADP before they're put into those
 6 mechanisms.
 7 Q. Okay. So is there a way that the Company could
 8 provide the big picture, like, here's the whole plan,
 9 this is what we need to do, here's what it's going to
 10 cost, bring that forward through some sort of process
 11 like that and then use a tracker to recover it? Is
 12 that feasible? Or does it have to be this year by year
 13 kind of constantly changing, perhaps less thorough
 14 review of the systematic changes?
 15 A. I think we would be open to bringing forward
 16 our plan over a time period. I think we in general
 17 provided that as part of the testimony here. We talked
 18 about the early vintage plastic pipe and what, if we
 19 were to embark on that project, what the cost of that
 20 would be over the entire life of that project. We
 21 talked about the total project cost as it relates to
 22 the early vintage steel and early vintage plastic as
 23 part of the testimony here.
 24 But, you know, we would be open to, you know,
 25 more dialogue around looking at that plan in its

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1 entirety. I will say that as part of this plan, as I
 2 mentioned earlier, we are going through and working
 3 with other experts in the industry that we've hired to
 4 evaluate the pipe we're pulling out of the ground to
 5 make sure that we are making the right decisions in
 6 terms of what to prioritize first. Some of the data
 7 that comes out of those studies that are going to be
 8 done by GTI and others have the potential of changing
 9 the path and, you know, the outcome of what this, you
 10 know, long period -- or, you know, what the horizon
 11 looks like in terms of that replacement plan. But
 12 certainly as we know it today, you know, what we've
 13 presented in testimony is kind of where we're at with
 14 that plan.
 15 Q. Okay. I do have some more questions like the
 16 percent of the system that's been identified at risk
 17 and the percent of the system that would be replaced
 18 and the percent that's vintage steel and plastic. But
 19 we don't want to take away everything from Matt to have
 20 to do his job. You've done a lot of his job already,
 21 so I think I'm going to save the rest of those
 22 specifics for him. But it is helpful to get your kind
 23 of view on this approach as a whole, because it's a
 24 philosophy.
 25 A. Yep.

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1 Q. So the -- help me to then -- I think my final
 2 question on the specific mechanisms of this tracker as
 3 it relates to the mechanics of it. Help me understand
 4 the -- functionally how the tracker would be different
 5 than if you did this through rate cases? Would you be
 6 looking at every year rate cases? Would you be looking
 7 at doing this in one big after five years of
 8 investment? How would it functionally be different?
 9 A. Yeah, I can't provide 100 percent certainty in
 10 terms of what this would mean in terms of would we be
 11 filing every year, every other year if we don't have
 12 the tracker, but what I know is with the tracker we
 13 would have less rate cases than we would if we don't
 14 have it. And so to do the investment, so as an example
 15 you said five years, would you wait five years and file
 16 for something, you know, at the level of investment we
 17 incur today and implementing this safety program,
 18 certainly waiting five years is not going to produce
 19 the financial results we need, you know, to produce a
 20 strong financial company.
 21 And talking about the credit metrics and some
 22 of the earlier conversation with respect to tax reform,
 23 that lag would just probably be too much for us to
 24 absorb without some sort of detrimental impact on the
 25 financial side of our business. So certainly we

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<p>1 wouldn't be able to wait five years without a 2 mechanism. It's hard for me to predict exactly how 3 many years that would be with the mechanism, because it 4 really depends on what level of other investment we 5 have, how fast our customer growth, because of course 6 that pays for some of this, is occurring in our 7 communities in North Dakota. There's just a lot of 8 variables there.</p> <p>9 Q. And how would you respond to the issues raised 10 by Staff and the AARP about the loss of the opportunity 11 to look at offsetting issues in a tracker versus a rate 12 case? How would the Company address that and assure 13 that you somehow would be able to take that into 14 consideration?</p> <p>15 A. Certainly the biggest one that was referenced 16 is the Tax Cuts and Jobs Act. And something that 17 significant, you know, that has that big of an impact, 18 we are going to come in and address that individually. 19 Smaller offsetting items, to the extent that those 20 accumulate, you know, we'll be in for another general. 21 It's not like implementing a tracker, which represents 22 a pretty small portion of our overall investment, is 23 going to eliminate the need entirely for rate cases. 24 What we're saying is it reduces that and saves our 25 consumer costs over time. But those all would be</p>	<p>1 Q. Okay. All right. Then my final area here is 2 relating to the ROE. How much are you involved in 3 discussions with investors?</p> <p>4 A. On a pretty regular basis.</p> <p>5 Q. Okay. And is it MDU Resources as a whole that 6 is seeking the capital, or do you guys seek it 7 separately? Do you have separate --</p> <p>8 A. So in terms of --</p> <p>9 Q. Equity side.</p> <p>10 A. On the equity side of the business, we are 11 funded through MDU Resources equity. On the debt side 12 of the business that is imbedded at the utility 13 specifically.</p> <p>14 Q. Okay. So how would you characterize the 15 availability of capital for MDU now and the interest by 16 investors in MDU utility?</p> <p>17 A. So I would say the availability of capital 18 that -- you know, the interest rates are -- we're 19 seeing an increase in interest rates on the debt side 20 of the business. I think with in terms of our ability 21 to raise debt, I still feel confident that we have the 22 ability to raise the debt we need to fund the projects 23 in our.</p> <p>24 On the equity side of the business, in terms of 25 our equity analysts, I was just recently at an AGA</p>
<p>Page 130</p> <p>1 factored into an overall general case.</p> <p>2 Q. Okay. I got -- I have two other areas. One 3 just again relating to the AARP's testimony about the 4 100 percent of the cost being allocated to the service 5 charge. Can you really defend that? Is it 100 percent 6 of it appropriately targeted to the -- a basic service 7 charge? Is it any portion related to the usage by the 8 customers from the Company's standpoint?</p> <p>9 A. So I would go back to you know, really the rate 10 design we've implemented, and we do have witnesses that 11 will talk in more detail about the rate design as well, 12 but goes back in terms of again the philosophical 13 argument that we have, which is the cost to serve that 14 customer is the same regardless of usage. And that's 15 really how we've predicated our rate design in this 16 case.</p> <p>17 Q. So you're saying it is 100 percent the same?</p> <p>18 A. 100 percent --</p> <p>19 Q. It's all -- there's nothing that's related to 20 usage, it's all -- it's exactly the same regardless of 21 how much they use, the cost to serve them? The 22 customers?</p> <p>23 A. Correct. Philosophically, the cost to serve 24 the customer is the same regardless of how much gas 25 they use.</p>	<p>Page 132</p> <p>1 industry meeting where some of our investors come and 2 certainly they have the opportunity to pose questions 3 of myself, of Dave Goodin, and a lot of their interest 4 does, you know, come around when they're asking around 5 the utility is the regulatory environments in which you 6 operate, are you at your allowed returns. And so there 7 are a lot of questions around regulatory lag and how 8 far behind are you with respect to your allowed 9 returns, what are you earning in your states. And so 10 there is a lot of interest in terms of our ability to 11 earn at our allowed return. And all of that does 12 factor into, of course, the MDU Resources stock price 13 in total which obviously influences our ability to 14 raise equity in the capital market to fund our 15 projects.</p> <p>16 Q. So are you earning your authorized return 17 state?</p> <p>18 A. In the state of North Dakota, no.</p> <p>19 Q. What is it? What's your return?</p> <p>20 A. I think in 2018 -- in 2018, we projected our 21 ROE with tax reform to be 6.128 without this increase.</p> <p>22 Q. And why -- what would you say are the biggest 23 factors preventing you from earning that return?</p> <p>24 A. The investment that we've incurred since the 25 last rate case.</p>

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1 Q. So your rates are too low?
2 A. Correct.
3 Q. Does that affect your ability to attract
4 investors, that return that you're currently getting?
5 A. Correct. Yes. On an overall basis, I mean,
6 our ability to not be at our allowed return certainly
7 has an impact on MDU Resources in total.
8 Q. Can you speak to specific issues that's created
9 as in higher interest rates or anything like that that
10 might affect customers? Like, why should customers
11 care about this? Is there any benefit to them to you
12 guys being appealing to Wall Street?
13 A. Yes, the benefit to our customers and why they
14 should care about our shareholders and our debt holders
15 is because they are the ones that give us the money to
16 invest in our system so that we can provide safe and
17 reliable service for our customers.
18 Q. And is it -- but you aren't having any trouble
19 attracting that money, and so the difference between a
20 9.5 and 10 percent ROE matters a lot to customers
21 because it's \$500,000 less that they have to pay. How
22 does it -- why should they -- why should we and then
23 therefore the customers, why should that perspective
24 want to allow you a higher return? What benefit would
25 it give them?

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1 A. Basically a more financially viable company
2 through our ability to at least earn our authorized
3 returns will add value over time to the Company, thus
4 increasing the stock price and reducing the amount of
5 shares needed to be issued to raise the same amount of
6 capital so that we can put investment in the ground.
7 Q. But would you agree that a 9.5 percent allowed
8 ROE with rates that allow you to achieve that is --
9 does that? That provides you what you need?
10 A. I mean, essentially whether we're walking about
11 10 percent or 9.5 percent, I'm going to defer that to
12 Steve Gaske in terms of our ROE witness. But today
13 with rising interest rates, I believe that, you know,
14 some of the allowed returns in our state have not
15 contemplated the rising interest rate environment that
16 has taken place over the last year.
17 Q. Okay. And does this SSIP -- how does Wall
18 Street view those mechanisms?
19 A. Again, I would probably say that when you're
20 looking at our debt analysts, they do take into
21 consideration, you know, what I would call tracking
22 and -- they look at regulatory mechanisms that we have
23 in place. So weather normalization, decoupling, fixed
24 fee, some of those things. And the more stable you
25 are, there is some value there. But again, I would

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1 come back to that is just one small component in
2 setting the overall ROE for a utility is the, you know,
3 financial and/or business risk of that company.
4 Q. Okay. I think that's it. Thank you.
5 THE COURT: Okay. Counsel, I would like
6 to wrap up with this witness soon. But I'll give you
7 one more go round.
8 Mr. Sanderson, any redirect?
9 MR. SANDERSON: Yeah, briefly, Your Honor.
10
11 REDIRECT EXAMINATION
12 BY MR. SANDERSON:
13 Q. Ms. Kivitso, I want to go back and address some
14 of the concerns about the timing and then the cost of
15 the SSIP, because specifically with respect to the
16 questions by AARP's counsel and then more importantly
17 by the Commission's counsel this fear of are you
18 telling us you're not going to -- the cost of the
19 factor and you're not going to replace this. Your
20 testimony as shown by the slides was you currently have
21 over 2500 miles of pipe in North Dakota, correct?
22 A. Correct.
23 Q. And you're just -- using the round math, you
24 said 25 percent of it is over 50 years old. So roughly
25 650 miles. Could the Company go out today and replace

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1 650 miles of early vintage steel and plastic pipe?
2 A. Well, let's ask Pat Darras that. No, I think
3 to answer your question, certainly that would be a
4 challenge both operationally and more importantly the
5 customer impact of such investment would be quite
6 significant. So the first challenge would be
7 operationally, we certainly could not handle that with
8 our own crews, we would have to hire contractors. And
9 then more importantly is the customer impact of doing
10 that over a one-year time period would be very
11 difficult.
12 Q. And it gets to the point -- and I think the
13 point you were trying to make, Ms. Kivitso, budget and
14 cost are factors that are weighed into this, the whole
15 picture of what prioritizing projects and safety. Is
16 that a fair representation of your statement?
17 A. That is correct.
18 Q. But in addition, you're to -- the recovery
19 mechanism, the SSIP program that Mr. Darras is going to
20 talk about in more detail, that's also trying to
21 prioritize these projects based on risk analysis and
22 other factors as well?
23 A. That is correct.
24 Q. Okay. I want to give you a scenario, Ms.
25 Kivitso to maybe address two of these issues on the

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1 cost to serve and ROE and this issue with the strong
 2 company. Let's take the coldest Sunday night in
 3 January and we have a gas line break. Is it important
 4 to have a strong company out there to serve customers
 5 and have the resources in place to provide quality and
 6 reliable service to North Dakota customers?
 7 **A. It certainly is.**
 8 Q. And take that scenario. You have a gas line
 9 break, you've got to send out your technicians. Is
 10 there a difference in cost to the house that maybe only
 11 uses 70 dekatherms versus a house that uses 110
 12 dekatherms?
 13 **A. No.**
 14 Q. The repair costs that go out to fix that are --
 15 **A. Would be the same.**
 16 Q. Okay. Ms. Kivitso, I have no further
 17 questions. Thank you.
 18 THE WITNESS: Thank you.
 19 THE COURT: Mr. Armstrong.
 20 MR. ARMSTRONG: Thank you.
 21
 22 RE CROSS-EXAMINATION
 23 BY MR. ARMSTRONG:
 24 Q. Ms. Kivitso, I just have a few questions for
 25 you. You're aware that yesterday Montana approved

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1 MDU's requested tariffs and did not include -- or
 2 approved MDU's tariffs and did not approve the
 3 requested SSIP tariff; is that correct?
 4 **A. The SSIP tariff was not a part of the**
 5 **settlement.**
 6 Q. And the SSIP is being deferred in Montana until
 7 the next general rate case?
 8 **A. We will be filing for an SSIP in our next**
 9 **general, yes.**
 10 Q. And in North Dakota, the proposed SSIP you said
 11 it will be filed in March but you won't get recovery
 12 prior to approval, correct?
 13 **A. That is correct.**
 14 Q. And once you get approval though, there is a
 15 return component on to those projects, correct?
 16 **A. Correct.**
 17 Q. Okay. So you will be earning a return on those
 18 before it's ever evaluated in a full rate case?
 19 **A. If the dollars are approved as part of the**
 20 **mechanism.**
 21 Q. And that process to me does sound a lot similar
 22 to what an ADP is; would you agree? An advanced
 23 determination of prudence?
 24 **A. In an ADP we are not earning on the investment**
 25 **once approved. We would get an advanced determination**

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1 of prudence that it's a prudent project, but we're not
 2 going to get recovery on those projects until we roll
 3 that through either a tracker on the electric side of
 4 the business or do a general rate case.
 5 Q. But you're asking here for the projects to be
 6 approved and have a recovery on them, so it's even more
 7 than an ADP?
 8 **A. Similar to our electric trackers in North**
 9 **Dakota, correct.**
 10 Q. But in this case, there is not anything built
 11 into the mechanism for any additional review or similar
 12 to like we have in this rate case, is there?
 13 **A. There is an opportunity to review these**
 14 **projects.**
 15 Q. Right. Is there a filing fee?
 16 **A. I couldn't -- I don't know the answer to that.**
 17 Q. So let me represent to you that I haven't seen
 18 any filing fee that allows Commission to hire staff or
 19 experts. If that's the case, you would agree there's
 20 less scrutiny of that from Commission Staff?
 21 **A. I think the Commission has the opportunity to**
 22 **look at the project similar to what's being done on the**
 23 **electric side of our business for those trackers.**
 24 Q. And for instance, the estimated 2019 SSIP
 25 amount is \$6 million to be added to the rate base; is

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1 that correct?
 2 **A. That's correct.**
 3 Q. And that's something you would want to pass
 4 through that mechanism in that manner?
 5 **A. Correct. I think it's 42 cents per month if**
 6 **implemented.**
 7 Q. It's not a small amount, is it?
 8 **A. 42 cents?**
 9 Q. Yeah.
 10 **A. Per month? I would call that somewhat minimal.**
 11 Q. So if every dollar matters, at some point 42
 12 cents doesn't matter?
 13 **A. Every dollar matters. But again, this is an**
 14 **investment in the safety and reliability of our system,**
 15 **and for 42 cents I would say it would be a good**
 16 **investment in safety.**
 17 MR. ARMSTRONG: That's all the questions I
 18 have. Thank you.
 19 THE COURT: Okay. Mr. Coffman?
 20 MR. COFFMAN: Thank you.
 21
 22 RE CROSS-EXAMINATION
 23 BY MR. COFFMAN:
 24 Q. Ms. Kivitso, you were asked questions by
 25 Chairman Christmann regarding house size and energy

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<p>1 efficiency as it relates to the fixed portion of the 2 bill, I believe. And I guess you said you didn't have 3 data based on that. But isn't it true that the more 4 volumetric your rates are, the more incentive there is 5 for a customer to invest in energy efficiency or to 6 engage in energy conservation? 7 A. And again, I would say that since 61 percent of 8 the bill is based on the cost of gas, there still is 9 incentive to conserve. 10 Q. But that wasn't my question. My question was, 11 if that was -- if the volumetric portion of your rates 12 were greater, would that not provide a greater reward 13 for energy efficiency? 14 A. It would, but for all the other reasons of 15 serving that customer is the same whether they use or 16 don't use gas, we would still argue that the fixed rate 17 is the right way to go. 18 Q. So you just think that's enough? 61 percent is 19 enough to provide an energy efficiency reward to 20 customers? 21 A. I guess we're trying to look at the fairness 22 across all of our customer classes, and to consider 23 that you have some households that have a meter with 24 limited usage is just equally as unfair to those that 25 are using a lot of gas when the cost to serve those</p>	<p>1 that fair? 2 A. You're in which column? Can you say that one 3 more time, please? 4 Q. That would be the fourth column, the customer 5 column. 6 A. Okay. 7 Q. And if you look down at the column to the net 8 distribution cost of service just before the double 9 line, that's about \$20 million. But the total 10 residential cost is \$26.9 million; is that right? 11 A. Correct. That's what it looks like, yep. 12 Q. So those other costs, the difference there are 13 costs that are related either to the demand or energy 14 components. And this is your own study, right? 15 A. Yes, it is. 16 Q. Okay. And other witnesses in this case have 17 taken issue with that and argued that the customer 18 portion is even less. But this is your own -- your own 19 witness says that the cost is not the same to serve 20 every customer; isn't that right? 21 A. I probably would defer this line of questioning 22 to Jordan. 23 Q. Well, how important is the cost of service 24 study in your opinion when setting rates within the 25 residential class?</p>
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<p>1 customers is the same. So you've got to look at the 2 entire customer base, not just one subset of our 3 customers. 4 Q. Your testimony here today is that it cost the 5 same to deliver gas to every customer is the same? 6 A. Our fixed costs are essentially the same to 7 install that service line -- I mean, to a residential 8 customer as an example. 9 Q. Are you familiar with the cost of service study 10 that your company provided in this case? 11 A. Yes. 12 Q. Could I refer you to Exhibit MDU-6, Mr. 13 Hatzenbuhler's rebuttal testimony? Do you have that 14 with you? I just wanted to refer you to page 1 of his 15 exhibits. So that's statement M, as in Montana, page 16 1, the first page after his Q and A. 17 A. Okay. I think I'm there. 18 Q. Okay. On that -- and there, the cost of 19 service is broken down for residential customers into 20 the demand, energy and customer components, correct? 21 A. Correct. 22 Q. Do you see those columns? 23 And the third column, which is the customer 24 charge, that's the cost of the meter and billing and 25 all the costs that are the same for every customer; is</p>	<p>1 A. I think it's a component of getting to the 2 right rate for our residential customers. 3 Q. But if you put everything into a fixed fee for 4 the delivery of cost, aren't you disregarding your own 5 cost study? 6 A. Again, I'll probably defer these questions to 7 Jordan. 8 Q. Okay. I just have one more question, and it 9 relates, I guess, to Commissioner Fedorchak's question 10 about rate cases. And I guess you said that you might 11 be able to delay rate cases perhaps longer than every 12 five years if you had an SSIP in place. Is that what 13 you said, or could you clarify that? 14 A. Yeah, I didn't say longer than five years. I 15 don't want to predict that. To say that we could stay 16 out for five years is -- I want to be clear, that's not 17 what I was intended to say if that's how you were 18 interpreting that. It is hard to predict when rate 19 cases will be necessary. But what I do know is a 20 mechanism such as this does allow us recovery that 21 provides consideration for the fact that whether or not 22 we could delay a potential general rate case. 23 Q. So the benefit to customers in your argument is 24 that, say, \$350,000 of rate case expense might be 25 delayed in the future?</p>

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1 A. Right, 350 to 500 to whatever that number is,
2 yes.

3 Q. But under the SSIP paradigm, wouldn't you have
4 two more rate cases every year, or two cases of some
5 sort, like limited-issue cases?

6 A. Right. And as I mentioned earlier, we believe
7 the cost of such a case would be substantially smaller
8 than a fully blown litigated rate case.

9 Q. Do you have a ballpark estimate of what those
10 cases would cost?

11 A. I do not.

12 Q. And isn't the real financial benefit to the
13 utility a reduction of regulatory lag if you were to be
14 granted an SSIP?

15 A. That would be the financial benefit to the
16 utility and our creditors, correct.

17 Q. And isn't another way to view regulatory lag
18 from a customer's perspective is that it's the
19 incentive to be cost efficient? Doesn't the regulatory
20 lag provide some incentive for the utility to be more
21 cost efficient in the short term?

22 A. As part of a general rate case, all of our --
23 as you have seen by the differences of opinion between
24 us and our interveners, you have seen that expenses are
25 fully scrubbed as part of a general rate case. So I

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1 believe our incentive to operate efficiently is
2 certainly not reduced by changing the way that we would
3 implement a mechanism such as this.

4 Q. I appreciate your perspective on that. But
5 under the SSIP mechanism, rate payers would have more
6 frequent rate increases, correct?

7 A. That would be correct.

8 Q. But they would be smaller?

9 A. That's correct.

10 Q. And there would be -- and there would be
11 pre-approval of projects that are not currently
12 pre-approved; is that right?

13 A. Pre-approved, I don't necessarily agree with
14 pre-approval. We are going to proceed with the
15 projects that we deem necessary, just like we do today.
16 And it's not that we'll get pre-approval necessarily,
17 other than if we get a decision before we actually
18 execute that specific project. But that would be
19 probably more by happenstance because we're going to
20 continue to proceed with these safety projects. So I
21 don't know that I would necessarily call it
22 pre-approval.

23 Q. But does it provide some regulatory certainty
24 that you wouldn't have under the current system?

25 A. To some degree, potentially.

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1 MR. COFFMAN: That's all I have. Thank
2 you very much.

3 THE COURT: Major. I was beginning to
4 think you might be a colonel before we get finished
5 with this.

6 MAJOR UNSICKER: I just have one
7 follow-up.

8

9 RECCROSS-EXAMINATION

10 BY MAJOR UNSICKER:

11 Q. It's the follow-up to Commissioner Fedorchak's
12 questions on ROE. And you said you're generally
13 familiar with other rate cases that go on throughout
14 the country?

15 A. Correct.

16 Q. Are you familiar with the ROEs in those cases?

17 A. I believe Dr. Gaske has testimony with respect
18 to ROE achieved in other cases across the country, yes.

19 Q. Okay.

20 A. I don't know if I've got all the specifics in
21 front of me, perhaps I do.

22 Q. Well, in general over the past ten years would
23 you agree that those ROEs, for both electric and gas,
24 have traditionally been going down on average?

25 A. I would agree, because the interest rate

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1 environment was decreasing over the last ten years and
2 now we're heading into an increasing interest rate
3 environment.

4 MAJOR UNSICKER: That's all I have. Thank
5 you, ma'am.

6 THE COURT: Ms. Jeffcoat-Sacco.

7 MS. JEFFCOAT-SACCO: I have no questions.

8 THE COURT: Okay. Ms. Kivitso, you can
9 step down.

10 THE WITNESS: All right. Thank you.

11 THE COURT: Mr. Sanderson.

12 MR. SANDERSON: Yes, at this time
13 Montana-Dakota would call Pat Darras.

14 THE COURT: Mr. Darras, I'll have you
15 spell your last name for the record.

16 THE WITNESS: D-a-r-r-a-s.

17 THE COURT: And I'll have you raise your
18 right hand. You were here when I gave the perjury
19 admonition?

20 THE WITNESS: Yes.

21

22 PATRICK DARRAS,
23 duly sworn, was examined and testifies as follows:
24

25 THE WITNESS: Yes.

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1 THE COURT: Okay. You may sit down. Mr.
2 Sanderson?

3 MR. SANDERSON: Thank you.

4

5 DIRECT EXAMINATION

6 BY MR. SANDERSON:

7 Q. Good morning, Mr. Darras. Can you please state
8 your full name and business address for the record?

9 A. Patrick Darras, 400 North Fourth Street.

10 Q. And whom are you employed by?

11 A. Montana-Dakota Utilities.

12 Q. And what is your position with Montana-Dakota
13 Utilities?

14 A. I am the vice president of operations and
15 engineering.

16 Q. And could you just briefly describe your
17 responsibilities in that role?

18 A. Yes. I have executive oversight for both the
19 gas and electric operations.

20 Q. And Mr. Darras, could you just provide us a
21 brief overview of your educational background and work
22 experience?

23 A. Yes. I am a graduate of North Dakota State
24 University with a bachelor of science in construction
25 engineering. I've also got a masters in management and

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1 a masters of business administration from the
2 University Of Mary. Been with the Company
3 approximately 16 years, all in the operations side of
4 the business. Started as an engineer, field engineer,
5 and then was moved up into a region superintendant
6 position overseeing just the gas side. Then from there
7 in 2008 was moved into the position of region director
8 where I oversaw the gas and electric operations for the
9 Dakota heartland region. And in 2015 was moved into
10 the position that I currently hold today.

11 Q. And Mr. Darras, are you familiar with MDU's
12 application for a natural gas rate increase in this
13 case?

14 A. Yes, I am.

15 Q. And what was your role in -- general role with
16 respect to this case?

17 A. General role would have been really testifying,
18 I guess, as far as the SSIP program itself.

19 Q. And Mr. Darras, did you submit both pre-filed
20 direct and rebuttal testimony in this proceeding?

21 A. Yes, I did.

22 Q. And if asked the same questions as indicated in
23 your pre-filed testimonies, would your answers remain
24 the same?

25 A. Yes.

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1 Q. In addition, have you prepared some PowerPoint
2 slides regarding your areas of testimony today?

3 A. Yes, I have.

4 Q. And as we go through your questions, if you
5 want to refer to your PowerPoint slides, please do so.
6 But generally, Mr. Darras, can you just describe the
7 challenges in operating a safe and reliable gas system
8 in North Dakota?

9 A. Sure.

10 THE COURT: Is that an exhibit, Paul?

11 MR. SANDERSON: I'll offer it at the end
12 again.

13 THE COURT: Okay.

14 MR. SANDERSON: Certainly, Judge, it's MDU
15 Exhibit Number 10. It's in the exhibit book that the
16 Commission has and we provided to all the attorneys.
17 So instead of turning, if you want to look in your
18 exhibit book.

19 THE COURT: Thanks.

20 MR. SANDERSON: Thank you.

21 BY MR. SANDERSON:

22 Q. So Mr. Darras, just briefly describe the
23 challenges in operating a safe and reliable gas system.

24 A. Sure. When we look at the challenges,
25 obviously there's a lot of different types of

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1 challenges. But the ones that we talk about the most I
2 guess or will be talking about really is the aging
3 infrastructure that we see at Montana-Dakota. It's
4 also across the industry wide, it's not something
5 unique to Montana-Dakota, but we'll get into the
6 details of that as far as we're concerned. Changing
7 regulations, again, that is an industry-wide item. And
8 then unknown attributes, and what I say -- I've got
9 pre-code versus post code on there. When I mention
10 pre-code, I'm referencing the PHMSA 192 part that we
11 have to follow, the safety guidelines. And basically
12 post code would be post when that was implemented,
13 which was in the 1970s. Prior to that, obviously there
14 was different regulations, requirements of operators.
15 So when we say pre-code and unknown attributes, that
16 would be that we truly do not know what is in the
17 ground. We were not required to, and to this day we
18 still do not understand what's in the ground.

19 Q. And Mr. Darras, is that just a problem facing
20 Montana-Dakota, or is that industry wide across the
21 country?

22 A. That is industry wide. Again, I think each
23 operator is unique in how much of the unknown is out
24 there. But, again, it is something that is required of
25 us to report every year to the federal -- to PHMSA

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1 basically in our 7100 report, we have to put how many
2 miles of pipe that are unknown or have unknown
3 attributes. And that is a requirement of all utilities
4 across the United States.

5 And then the last one I do mention is the
6 increasing costs. And again, that's construction
7 costs, material costs, really everything related to the
8 operation of the system.

9 Q. And Mr. Darras, your next slide indicates a
10 typical early vintage steel mechanical fitting. Can
11 you just describe what we're looking at in that picture
12 and why you included that?

13 A. Yeah, I think throughout my testimony, you'll
14 hear me talk about dresser couplings or mechanical
15 fittings. What you see there, if you look at the pipe,
16 it looks pretty good where it's been cleaned off on the
17 lower left-hand side. That is installed in 1937. We
18 just dug that up last year due to a forced main
19 replacement project.

20 But when we talk about the potential for leaks
21 -- and again, this was not leaking pipe -- what I like
22 to point out is the dresser couplings themselves, which
23 are the square items there, you can see really at both
24 T's, the one's in a shadow, but there is five dresser
25 couplings on that picture alone. You got a line going

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1 up to, say, the top right and a line going to the top
2 left and then the line to the bottom, right and left.
3 And each one of those connections was put together back
4 in the 30s, we will say, late 30s with those dresser
5 couplings. So they have been in the system for close
6 to 100 years, let's say 80 years.

7 The way those fittings work, they've got a
8 rubber gasket that basically compresses down on two
9 pieces of pipe. So again, there is the risk, the
10 potential risk, that we see when we're talking about
11 dresser couplings themselves in this older vintage
12 pipe. In this case, this pipe was not leaking, it has
13 been in the system for many years. Is there a risk
14 there? Yes, there is.

15 Q. Mr. Darras, now I want to turn and focus
16 initially on the various projects included in the 20 --
17 the Montana-Dakota's 2018 main and service line
18 replacement that are included in this case. Can you
19 just describe to the commissioners those projects and
20 what's happening?

21 A. Sure. And when we talk about these, again,
22 these are not a part of the SSIP program that we're
23 saying. These are the 18 projects that are in the rate
24 case itself. So basically the towns that we have
25 identified as projects that will go on this year in

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1 2018 are Taylor, Fairview, Gladstone, New Salem,
2 Eldridge, Barlow and Cleveland. And there's really a
3 mix, as you can see after the names of each of those
4 town, on what type of pipe or what type of material is
5 in those systems that we'll be replacing.

6 To date, I believe -- we have signed contracts
7 for all seven of them. To date, we've got crews on the
8 ground in Barlow, Taylor and New Salem.

9 Q. And are some of those contractors doing
10 multiple towns for Montana-Dakota?

11 A. Yes, they are. For those projects, actually
12 the three different towns that they're working are
13 three different contractors and they will be doing
14 multiple towns.

15 Q. And Mr. Darras, as part of this project in
16 these towns, is the Company testing pipe? Or can you
17 describe what's being done as you do these projects?

18 A. Sure. And I've got a later slide that I can
19 get into a little bit more of the early vintage plastic
20 pipe study. We will be taking samples out of these
21 towns and sending those in to a third-party contractor.
22 And again, this is the piece of this, the whole SSIP,
23 which I refer to as the program itself, is fluid. When
24 I look at it from an operational standpoint, it is
25 truly fluid. We are changing this thing on a daily

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1 basis based on what information we get in from the
2 field, from different regulation changes, from
3 different studies that are out there beyond what we do
4 internally.

5 So as part of the plastic pipe that we have
6 slated for this year, the intent is to really take
7 different vintages -- and when I say that, we talk
8 pre-1983, which I'll mention at a different slide, too.
9 But really it's to take that pre-1983, which has been
10 identified in the industry by a higher risk factor, and
11 we're trying to take the lower and the upper limits of
12 that. So one of our towns we'll be studying is in the
13 1971 vintage for most of the pipe. One of the other
14 towns is in that higher limit, which is 1981 pipe. And
15 then the third town that we'll be doing is the unknown,
16 which a majority of the pipe in that system that we
17 show on our GIS is unknown.

18 Q. Now, I want to get into, Mr. Darras, the SSIP
19 program. Can you please explain why the Company,
20 Montana-Dakota, needs and developed and implemented the
21 SSIP program?

22 A. Sure. I think the -- up on the screen, I've
23 got the drivers, or I call them drivers. I would say
24 that one of the -- if you look at it from an industry
25 wide basis, it's probably those top four bullets which

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1 would be the recent fatal accidents that we talk about
 2 or that are known as far as in Allentown, Pennsylvania
 3 and San Bruno, California. The other piece is the
 4 Integrity Management Program, or the IM Program, that
 5 was rolled out and signed into law in 2011. Again, I
 6 say aging infrastructure on the slide there, but that's
 7 really from an industry wide basis. This is not
 8 something unique to Montana-Dakota.

9 And then really just recently, I would say
 10 there has been a large push by federal -- through
 11 federal guidelines really to look at systems on a more
 12 proactive versus reactive approach. Again, this is
 13 industry wide. The one thing I want to point out there
 14 that's out there is an API recommended practice.
 15 Again, it is recommended, it is not to date a code
 16 requirement by PHMSA. They have had many meetings on
 17 that to see if they should move that direction. But
 18 right now they are trusting industry to take the
 19 seriousness of pipeline safety and really look at it
 20 from a proactive approach versus the reactive that has
 21 been more commonly done in the past.

22 So that's really the industry wide side. From
 23 MDU's standpoint, we are really looking at it, or
 24 what's driving it for us is to better understand our
 25 threats. Like I said, we have a large percentage of

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1 our pipe or our system that is unknown to us. That's
 2 why we're doing studies like plastic pipe study. It's
 3 -- going back to the picture that I had on the slide,
 4 those dresser couplings do not show up anywhere on our
 5 maps. We have to dig it up. And when we dig it up, we
 6 get an e-mail from the field basically saying, look at
 7 what we found here. There's five dresser couplings on
 8 there. We didn't know that. We show that it goes four
 9 different directions. What we don't know is how many
 10 dresser couplings are there.

11 The other thing that we've done is just this
 12 more defined systematic approach to identify
 13 replacement projects. Again, I look at this as a more
 14 formalized approach to how we're doing -- how we're
 15 going to replace our pipe going forward. Again, we
 16 have replaced pipe for years. It is something we will
 17 continue to do based on risks. But this is -- for us
 18 to really take it and try and formalize the approach
 19 versus a more, I'm going to say, reactive way of
 20 handling the way we replace pipe in the past.

21 And then the last piece I would just throw in
 22 there is really the funding mechanism to avoid frequent
 23 rate cases. Again, that is a -- there's two different
 24 ways that I look at this, obviously from an operation
 25 standpoint, I am looking at it from a truly system

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1 safety standpoint. But as Nicole's testified, there is
 2 the funding mechanism that, as she has talked about,
 3 how that would help us, I guess, fund some of these
 4 projects.

5 Q. And your focus of your testimony is on the
 6 application of the program and mechanical side of this?

7 A. Correct. The operations side.

8 Q. Yeah. And Mr. Darras, just for the record,
 9 attached to Exhibit -- MDU Exhibit 3, your rebuttal
 10 testimony marked as Exhibit PCD-2-2-2-2-2-2, is a copy
 11 of the SSIP program as revised as of March 15th of this
 12 year, correct?

13 A. Correct.

14 Q. Okay. Now, Mr. Darras, can you explain --
 15 you've talked about PHMSA, but can you explain the
 16 PHMSA Integrity Management Program and how it relates
 17 to what the Company is doing?

18 A. Sure. So the PHMSA IM Program, again, it falls
 19 under part 192 which are the minimum requirements that
 20 are required of all operators to operate a gas system.
 21 Basically that was rolled out in -- or signed into law
 22 in 2011. What I would say is it really followed along
 23 the same path as the transmission side of integrity
 24 management, which was signed into law in 2006.

25 Again, integrity management is growing, as you

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1 can see, that's -- you know, it's ten years and it's
 2 got from transmission and five years later it went into
 3 distribution. So really when I'm talking this program,
 4 we are focused -- or this program just on the
 5 distribution side of things, which is what's called the
 6 IM versus the D-I-M-P or DIMP Program.

7 Really the objective of what PHMSA requires us
 8 to do is to really develop a model, which we call
 9 internally a DIMP model and to better understand our
 10 system and identify those threats. Again, once we've
 11 identified the threats, now we have to put a risk
 12 profile to that and truly determine internally how we
 13 want to go about mitigating that risk or that threat.

14 When you look at it, one thing that is a
 15 requirement that all operators have to follow is the
 16 eight threat categories that I've got up there, which
 17 are corrosion, natural forces, equipment failure,
 18 excavation, incorrect operation, joint failure, outside
 19 force, and other. So each one of those has a risk
 20 score associated with it, and then also the pipe that's
 21 associated with that to come up with a risk ratio,
 22 basically.

23 Q. Okay. And Mr. Darras, using your next couple
 24 slides, can you just explain the Company's SSIP program
 25 and how you intend to implement it and manage it?

<p style="text-align: right;">Page 161</p> <p>1 A. Sure. So from a high-level construction 2 replacement plan, or the SSIP program, is really what 3 we focused on is -- we being internally with our SMEs 4 -- is truly what we're calling the early vintage steel 5 pipe. We have drawn the line at pre-1970 or, as I 6 mentioned earlier, pre-code. And then the early 7 vintage plastic pipe, which I'll talk about, basically 8 it's a pre-1983. And again, this comes from some of 9 the documents that were talked about during Nicole's 10 testimony. And then post 1982. And then also as part 11 of the program, we would look to replace basically all 12 associated fittings with that and then also the inside 13 meter sits that are tied to it.</p> <p>14 In a little more detail on the early vintage 15 steel pipe, what we're looking at is the higher-risk 16 pipe as identified by a couple of different factors. 17 Number one factor is our DIMP model. And again, what 18 you need to realize is this DIMP model changes on a 19 regular basis. We are required by PHMSA to review 20 that, our program, annually. But the DIMP model can 21 changed based on information we get from the field. We 22 have the ability and the expectation to go into that 23 model as we learn of new information that could affect 24 the risk scores. And then really the other big piece 25 to this is the subject matter expert input, and that's</p>	<p style="text-align: right;">Page 163</p> <p>1 nothing required in any of those. They give you more 2 data to basically try and analyze your own system. So 3 that's what we're hoping to do with our study.</p> <p>4 We also will be able to determine the presence 5 of the low-ductile inner wall characteristic. That is 6 the potential for a certain resin that was built, or 7 that was used to make this pipe in the early 70s, '71 8 and '72, that shows the potential for a characteristic 9 of a brittle-like cracking. Basically over time there 10 will be a crack in that pipe. We have not had that in 11 our system to date saying that. There's nothing saying 12 that it can't. And that's what we're trying to 13 determine through this study is if we truly have this 14 low-ductile inner wall characteristic with some of the 15 pipe that we'll be digging up.</p> <p>16 The other thing that we've been told we should 17 be able to get from the study is to determine the 18 remaining life expectancy of this pipe. Again, this 19 was installed, I'm going to say, from that '71 to '83 20 time frame for most of our system. So it's been there 21 a long time already. What we're hoping to get out of 22 it is based on their expertise telling us how many 23 years are left with that. And then obviously the 24 results of this study, then we take that and move it 25 into our model and we'll change and adjust our DIMP</p>
<p style="text-align: right;">Page 162</p> <p>1 our folks in the field that truly understand what 2 they're digging up. As I mentioned with the picture, 3 they know what's in the ground. We bring those type of 4 people when we adjust the model, and really what they 5 do is they look at the data that the model itself puts 6 out based on the risk that we assign to different 7 threats, and they tell us whether they truly feel that 8 that model is giving an accurate picture of our system, 9 and then we adjust that model from there.</p> <p>10 And then if you look at the early vintage 11 plastic pipe, again, I had mentioned the study that 12 we've got in place. Really what we've done is through 13 this -- I mean, I think we've -- I testified or there's 14 documents I know through data requests that show that 15 in order to replace all plastic pipe that's that 16 pre-1982 vintage, we quoted \$148 million. And again 17 what we're trying to do -- we realize from an 18 operational standpoint, like Nicole testified, that 19 would be a huge task if we were going to do it over a 20 year or two. What we're trying to figure out is what 21 is the true risk based on what we see, plus what other 22 groups are seeing. There has been a lot of data 23 research done, a lot of testing done on this through 24 GTI and others, through AGA -- AGA has got a white 25 paper. And again, they're all recommendations, there's</p>	<p style="text-align: right;">Page 164</p> <p>1 model itself accordingly.</p> <p>2 So when you look at the study itself and the 3 projects we picked, I mentioned this earlier so I'll go 4 through it quick. But basically Eldridge is the town 5 that's mainly 1971 pipe. Barlow is the town that we're 6 doing that's mainly 1981 pipe. And then Cleveland has 7 the mainly unknown vintage. Again, we're working with 8 industry groups on the R and D, the AGA and then GTI.</p> <p>9 Q. And Mr. Darras, can you just describe the 10 Company's plans going beyond -- in the future beyond 11 2018 with respect to its SSIP program?</p> <p>12 A. With respect to the plan as it stands with what 13 was submitted -- and again, this is fluid -- is 2019, 14 as it stands today, we would plan to do -- to work on 15 Glen Ullin, which includes both steel pipe and the 16 plastic Aldyl A pipe; the Mandan low pressure system 17 and the Dickinson low pressure system. And then moving 18 on to 2020 through 2022, we would continue with both 19 the Mandan low pressure and the Dickinson low pressure 20 system.</p> <p>21 Q. And Mr. Darras, can you explain why early 22 vintage steel pipe low pressure systems pose a safety 23 risk?</p> <p>24 A. Yeah, I will -- I guess as far as looking at 25 low pressure itself, it -- you need to look at it as a</p>

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1 system as a whole. The pipe itself, if we dig it up,
 2 like I showed in that picture, the pipe itself is
 3 probably going to be in good shape. It's the fittings
 4 that tie it together, it's the location of it.
 5 Generally what you will see in MDU's system anyway, is
 6 this is our oldest vintage pipe in the oldest areas of
 7 town which are downtown, which is a high consequence
 8 area. So, again, these are all factors when we're
 9 looking at how we prioritize projects, that's why we
 10 internally have focused on low pressure and said it's a
 11 higher risk.
 12 There's other things that, from an operational
 13 standpoint, if you do have that leak that you had
 14 mentioned in January, this is an ounce system. If you
 15 have a pound system that's leaking, the public may or
 16 may not, but the public may be able to hear that leak,
 17 smell that leak easier underneath this ground. Low
 18 pressure, it is a slow leak that's going to migrate and
 19 eventually find someplace to come out of that ground.
 20 It may be through a crack in the snow or the ice, it
 21 may be through a crack in a foundation. And again,
 22 when we say where these are located, low pressure is
 23 located mainly in downtown areas of cities. So that's
 24 really the operational threat or the risk that is out
 25 there.

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1 The other piece that I just want to mention is
 2 the potential for cathodic issues. And when I say
 3 that, that's the corrosion issues on low pressure.
 4 Again, these are put together with dresser couplings,
 5 as you saw in that picture. What that does is isolate
 6 two pieces of pipe from each other. There is another
 7 potential failure that could happen with the
 8 cross-examination side of things because you've got an
 9 isolated piece of pipe. We protect it either through
 10 anodes or direct current, our systems, to basically
 11 save that pipe from corroding. So there are systems in
 12 place to protect the pipe. What you don't necessarily
 13 catch immediately is if there is a short which can be
 14 caused from some of these dresser couplings.
 15 And then the last thing I would say is
 16 generally low pressure is larger pipe, it's large
 17 diameter pipe. Again, it's located in downtown areas
 18 for the most part. It's very cumbersome to work
 19 around. If you do have issues, you're tearing up a lot
 20 more space. A lot of it is in back alleys or streets.
 21 Obviously it's not in your boulevards like you see a
 22 lot of your plastic pipe or more current pipe today.
 23 Q. And Mr. Darras, industry wide, is there a lot
 24 of low pressure systems in the country?
 25 A. There is not. Again, it's unique. I would

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1 like to mention, I mean, a lot of the projects that are
 2 out there, we talk cast iron and we talk bare steel.
 3 We've got bare steel, I will correct Nicole on that.
 4 We've got protected bare steel, which means that we are
 5 protecting it from cross-examination. There's a
 6 difference when you put it on the 7100 report. So
 7 basically all of ours, to our knowledge is protected
 8 from corrosion. There is some bare that we tried to
 9 get rid of throughout the years. So ultimately I mean,
 10 it's -- we feel there's that threat there, and that's
 11 what we are trying to eliminate through the program.
 12 Q. And Mr. Darras, from the operational side of
 13 Montana-Dakota's SSIP program, can you explain the
 14 benefits to customers of this program?
 15 A. From the operational side, it's safety. Safety
 16 is truly the number one thing that I want to point out.
 17 It's an improvement. Again, is there a guarantee that
 18 we will never have an incident? No, there's not. As
 19 Mr. Armstrong mentioned earlier, MDU, as far as he
 20 knows, has operated a safe and reliable system in the
 21 past or forever. That's something we're very proud of.
 22 What I want to point out is just because we've operated
 23 a safe system in the past, our past success does not
 24 guarantee anything in the future. So we are doing --
 25 we're implementing programs, something like this, to

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1 try and help us guarantee ourselves that we do not have
 2 that one incident.
 3 Q. And finally, Mr. Darras, Advocacy Staff
 4 expert's cite the January 2017 U.S. Department of
 5 Energy report entitled Natural Gas Infrastructure
 6 Modernization Programs at Local Distribution Companies,
 7 Key Issues and Considerations.
 8 You, do you feel this report supports the
 9 Company's SSIP proposal in this case?
 10 A. I do feel it supports it. When you look at
 11 that, again, there's many different -- many different
 12 programs that are out there across the United States.
 13 Again, I would say some of them are -- many of them are
 14 within the very recent past is when they've been
 15 implemented. Again, when I look through that, you can
 16 go through there and you can see that there may be a
 17 company or two that's looked at low pressure. There
 18 may be a company or two that's getting recovery through
 19 Aldyl A. Again, the majority of them are cast iron. I
 20 will say that. We are fortunate that we don't have
 21 cast iron. We do have bare pipe. So to me, it
 22 supports it because we're not unique. We aren't on
 23 that list, or this isn't the first utility that's tried
 24 to come for some type of a recovery mechanism for low
 25 pressure like we're focusing on, or early vintage

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<p>1 steel.</p> <p>2 The other thing it points out is I don't</p> <p>3 believe -- in my opinion, it does not clarify what</p> <p>4 early vintage truly is. There's no definition for</p> <p>5 that. We are clarifying it that we are calling it</p> <p>6 pre-1970 or pre-code. But early vintage pipe, it could</p> <p>7 be assumed that it's -- or it's cast iron, or it could</p> <p>8 be assumed that it's bare steel, but does that mean</p> <p>9 that if you don't have cast iron or bare steel in your</p> <p>10 system that your system is risk free or that you don't</p> <p>11 have early vintage? The one thing I picked up on is it</p> <p>12 says that there's systems out there that are 800 years</p> <p>13 old. I showed you a picture of a system that we did</p> <p>14 you go up last year that's 80 years old. So I think</p> <p>15 that's why it supports it because there's really no</p> <p>16 guideline on that, in my opinion, that tells you that</p> <p>17 it can only be for cast iron or only be for bare steel.</p> <p>18 MR. SANDERSON: Thank you, Mr. Darras.</p> <p>19 Your Honor, we would offer MDU Exhibit 10, the</p> <p>20 PowerPoint slides of Mr. Darras.</p> <p>21 THE COURT: Any objection?</p> <p>22 MR. ARMSTRONG: No objection.</p> <p>23 MS. JEFFCOAT-SACCO: No.</p> <p>24 THE COURT: Mr. Coffman?</p> <p>25 MR. COFFMAN: No objection.</p>	<p>1 statement of what it is?</p> <p>2 A. The SSIP program that I submitted, yes, is</p> <p>3 generally to look at early vintage steel pipe and early</p> <p>4 vintage plastic pipe.</p> <p>5 Q. And when you talk about the program you</p> <p>6 submitted, that would be Exhibit PCD-2-2-2-2-2 to</p> <p>7 your rebuttal testimony; is that correct?</p> <p>8 A. Yes, that is the North Dakota plan for 2018</p> <p>9 through 2022 which falls under the overall SSIP</p> <p>10 program.</p> <p>11 Q. Say that again. This is the plan that falls</p> <p>12 under the program?</p> <p>13 A. We have -- again, when we look at the SSIP, I</p> <p>14 look at it -- from my position, I look at it across</p> <p>15 MDU. This is the North Dakota plan that falls under</p> <p>16 the SSIP program.</p> <p>17 Q. This is the part of the SSIP we're here to talk</p> <p>18 about this week?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. And you would agree, wouldn't you, that</p> <p>21 there are other factors besides age in determining</p> <p>22 overall integrity of a natural gas system?</p> <p>23 A. Yes, I would.</p> <p>24 Q. And all factors must be considered when</p> <p>25 considering the safety of your customers, not just the</p>
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<p>1 THE COURT: Major?</p> <p>2 MAJOR UNSICKER: No objection.</p> <p>3 THE COURT: All right. Exhibit 10 will be</p> <p>4 received.</p> <p>5 Should we take a break for lunch here?</p> <p>6 MR. ARMSTRONG: That would be my</p> <p>7 preference.</p> <p>8 MR. SANDERSON: Yeah.</p> <p>9 THE COURT: All right. Can we be back in</p> <p>10 45 minutes or so? Everybody back by 1:00 at the</p> <p>11 latest? Okay. We'll be back at 1:00.</p> <p>12 (A break was taken at 12:08 p.m.)</p> <p>13 THE COURT: Okay. We're ready to go back</p> <p>14 on the record here. It's a little after 1:00.</p> <p>15 When we took the break, Mr. Darras, you were on</p> <p>16 the witness stand. You're still under oath. And I</p> <p>17 think we're going to start cross by Mr. Armstrong.</p> <p>18 Go ahead.</p> <p>19 MR. ARMSTRONG: Thank you.</p> <p>20</p> <p>21 CROSS-EXAMINATION</p> <p>22 BY MR. ARMSTRONG:</p> <p>23 Q. Mr. Darras, am I right that the SSIP in general</p> <p>24 is a program of scheduled replacements of early vintage</p> <p>25 steel and plastic pipe? Is that an accurate general</p>	<p>1 age of the pipe?</p> <p>2 A. Yes.</p> <p>3 Q. I assume you would agree that any replacement</p> <p>4 project should be reasonable and prudent?</p> <p>5 A. Yes, I would.</p> <p>6 Q. In the past, MDU has replaced pipe based on</p> <p>7 highest risk through either the DIMP and/or subject</p> <p>8 matter expert recommendations; is that correct?</p> <p>9 A. No, that is not.</p> <p>10 Q. That's not correct?</p> <p>11 A. Highest I would not necessarily agree with.</p> <p>12 Q. Do you have your direct testimony in front of</p> <p>13 you?</p> <p>14 A. Yes, I do.</p> <p>15 Q. And that was filed in July of 2017, correct?</p> <p>16 A. Yes.</p> <p>17 Q. And could you turn to page 24, line 7 through</p> <p>18 9? Isn't what I just asked you exactly what you said</p> <p>19 in that testimony on line 7 through 9?</p> <p>20 A. Yes, it is.</p> <p>21 Q. You disagree with that now?</p> <p>22 A. I disagree that it's -- the DIMP model includes</p> <p>23 a risk score, but it also includes the subject matter</p> <p>24 expert which can basically modify what that highest</p> <p>25 risk is.</p>

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1 Q. And the SSIP, again, includes subject matter
2 experts again, correct?

3 A. Yes, it does.

4 Q. What kind of subject matter experts are we
5 talking about?

6 A. When you -- and again, this changes based on
7 people as they move into different roles. But
8 generally it's our construction supervisor roles that
9 are in that, it's engineering people that are in that,
10 it's some director level. It's really the operation
11 folks that have some type of field experience and then
12 the engineering folks that have some of the design
13 experience or the data research experience.

14 Q. So it's a slew of different areas, or a bunch
15 of different areas?

16 A. Yes.

17 Q. So it would seem to me then that if a bunch of
18 different experts are using or evaluating to figure out
19 what should be included, then in order to review that
20 you would need a bunch of different experts to review
21 that as well, if somebody -- a third party wanted to
22 review that; is that fair?

23 A. Yes, it's generally the same group that -- I
24 mean, the input is from some experts and then the
25 review is by a separate group.

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1 Q. Going back to how projects were replaced in the
2 past, the Company often did that in coordination with
3 city or state street projects to optimize efficiency;
4 is that correct?

5 A. That is correct.

6 Q. Okay. And you would agree that that process
7 was effective?

8 A. For the cost benefit, yes, I would agree that
9 it's effective.

10 Q. For the cost purpose?

11 A. Right, for the -- a cost efficiency, not -- I
12 would not agree that it was the most effective way to
13 look at a system in general.

14 Q. Okay. And was that because you say it was a
15 reactive approach instead of proactive?

16 A. Yes.

17 Q. And now you want to change that process at
18 least with regards to early vintage steel and plastic
19 pipe through this SSIP program?

20 A. Want to make it more structural, formalized,
21 yes.

22 Q. And accelerate recovery and replacement?

23 A. That piece is I think -- that's where -- the
24 acceleration is one piece. The recovery I'm going to
25 say that's the piece where it falls away from

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1 operations.

2 Q. Okay. But you would agree with me that if
3 you're not worried about recovery then, you could do
4 these projects whenever -- you could do this SSIP
5 without having the mechanism?

6 A. From an operational standpoint? Yes.

7 Q. You would just have to get the recovery later
8 in a rate case?

9 A. Correct.

10 Q. And by doing the SSIP, it does remove some of
11 the efficiencies -- cost efficiencies of having it tied
12 in with replacement of street and road projects,
13 doesn't it?

14 A. I think it -- yes, I would say it could. But
15 it does not remove all. There are projects that go on
16 that, again, when you look at the plan that was
17 submitted with my rebuttal, it talks about one of the
18 ways that you can change based on the highest risk and
19 make that a higher risk and change the schedule is
20 based on availability or state street projects, city
21 street projects. You can move that up or back based on
22 a proposed project.

23 Q. And help me out here, because that's one of
24 the, I guess between you and me and everybody else in
25 the room, one of the hard parts I'm having with

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1 following this SSIP and what you say in your testimony
2 is frankly how fluid it is. It's kind of hard to pin
3 down exactly what it is because it keeps being changed
4 and updated and evaluated; is that fair?

5 A. That is correct.

6 Q. Okay. And in fact, the PCD-2-2-2-2-2
7 attached to your rebuttal testimony was actually
8 originally created in January 4th of 2018; is that
9 correct?

10 A. That is correct.

11 Q. And then it was updated with minor grammatical
12 changes in March of 2018? If you look at page 3 of 18
13 I think is the errata sheet?

14 A. Yes, that's correct.

15 Q. And that's actually nearly six months after it
16 was requested in the Company's application for a rate
17 increase in this case?

18 A. And I think -- yes, it is.

19 Q. So at the time you filed the rate case asking
20 for this program, this document didn't even exist?

21 A. That is correct.

22 Q. And this document didn't even exist until after
23 Advocacy Staff's witnesses provided their direct
24 testimony; is that correct?

25 A. That, I don't know.

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1 Q. Was it ever -- do you know if it was ever
2 provided to Advocacy Staff until it was provided in
3 your rebuttal testimony?
4 A. I don't believe it was, no.
5 Q. And so have -- now I want to talk to you about
6 the 2018 projects, okay?
7 A. Okay.
8 Q. Have those projects remained the same since the
9 application was submitted, or has there been some
10 change to those projects?
11 A. I would say overall they've remained the same.
12 And when I say that, the towns have stayed the same.
13 Q. Okay.
14 A. Depending on what is dug up or what is found in
15 the specific projects, we leave -- I leave those
16 decisions to the project manager on site.
17 Q. Okay. But in this case -- so you're
18 anticipating that -- what do you mean by that? I mean,
19 could these projects become smaller?
20 A. They could.
21 Q. Could they become bigger?
22 A. They could.
23 Q. Is it still the Company's position that it's
24 basically the 5.6 million for these 2018 projects?
25 A. Yes, it is.

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1 Q. But we really don't know whether it's going to
2 be that or less or more?
3 A. We don't know. It's not going to be exactly
4 5.5 million. We did go out for contracts. We have
5 signed contracts that were bid on a unit cost basis.
6 So, again, if that footage changes based on what is
7 found in the ground when they get there, then it could
8 change. But, yes, the goal of the program is to do the
9 5.5 million.
10 Q. And I'll come back to some of those projects in
11 a little bit more detail in a bit, but could you just
12 identify for me what the 2018 projects are that we're
13 dealing with as we sit here today? Are they what's
14 listed in PCD-2-2-2-2-2-2?
15 A. Yes, they are the seven towns that are listed.
16 Q. And so if I'm looking at page 9 of
17 PCD-2-2-2-2-2-2, that's got six towns on it. Okay. I
18 see. So it would actually be page 10 of
19 PCD-2-2-2-2-2-2 would identify the 2018 projects; is
20 that correct?
21 A. A combination of 9 and 10, yep. On page 10,
22 it's the steel, early vintage steel. And on page 9
23 it's your early vintage plastic, which a couple of
24 those towns are on both pages. And I can touch on it
25 on my --

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1 Q. Okay. So those are the projects --
2 A. -- slide.
3 Q. It's slide number four, correct?
4 A. Yeah, it shows 18 up there, but I think they're
5 combined.
6 Q. I think they're duplicated.
7 Okay. So those are the projects we're dealing
8 with for 2018?
9 A. Yes.
10 Q. Okay. And on page 9 of PCD-2-2-2-2-2-2, at
11 least for the early vintage plastic pipe replacement,
12 it indicates that a study will be performed on the
13 projects; is that correct?
14 A. That's correct.
15 Q. Has there been a study performed on the
16 projects proposed for 2018?
17 A. Has it been performed? No, it has not. It's
18 in the works.
19 Q. Okay. But you've already signed the contracts,
20 you've already agreed to go forward with them, but you
21 haven't performed the study that's identified in the
22 plan?
23 A. Correct. The study itself, I would say, is
24 even fluid based on information that we're getting
25 back.

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1 Q. I thought the study was to determine which
2 projects to do?
3 A. The study is to determine whether we need to
4 continue to do the \$168 million worth of work.
5 Q. So how --
6 A. Do we need -- the study is there to help us
7 with the future. In order to perform the study, we
8 need to do the work that we're doing in 2018.
9 Q. So what helped you pick the 2018 projects then?
10 A. It's explained in here. Basically the initial
11 test candidates were selected from the pre-1983 early
12 vintage pipe category due to the higher risks that were
13 calculated by MDU's DIMP model.
14 Q. So it's solely based by the DIMP then?
15 A. No, it's not. The SME project selection was
16 based off the upper and lower ends of this identified
17 range of years from '71 to '82.
18 Q. Okay. So it's the DIMP model plus subject
19 matter plus age?
20 A. Yes.
21 Q. Okay. So there's no -- is there some
22 documentation explaining how these projects were
23 selected as a result of that?
24 A. We could -- I could probably get documentation.
25 I don't know that there's specific documentation. This

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1 is the result of several meetings that were held by the
2 SME group and the DIMP group.
3 Q. And so those projects anyway are under way,
4 those 2018 projects?
5 A. Yes, they are. Some of them are.
6 Q. But contractors have been hired for all of
7 them?
8 A. Yes, they have.
9 Q. So I assume the contractor will have to
10 complete one job then move on to the next one?
11 A. Correct.
12 Q. Who are the contractors?
13 A. I have it in one of my files. I can get that
14 for you. Q3 is one, I know. I believe InfraSource is
15 another one.
16 Q. Let me just ask you this. Are any of the
17 contractors part of MDU Resources group other
18 companies?
19 A. I don't believe so. Saying that, we do hire
20 contractors that are part of construction services, but
21 I don't believe any of them are from the North Dakota
22 group.
23 Q. Do you know if MDU has provided the
24 documentation to Advocacy Staff that supports the 2018
25 replacement projects?

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1 A. Which type of documentation?
2 Q. The documentation you were just talking about
3 that you could go get.
4 A. Are you -- the cost piece or are we talking
5 prudence?
6 Q. Why you're doing those projects now.
7 A. I don't believe they have. They have access to
8 our DIMP model, which helps -- doesn't necessarily give
9 the authority for us to do it, but the DIMP model does
10 kick out a risk score or risk ratio which then
11 internally we take that risk ratio and decide how we're
12 going to mitigate the risk.
13 Q. Let me ask you this. If we haven't been able
14 to obtain those documents in this rate case, how are we
15 going to evaluate these projects going forward under
16 the mechanism if we can't even get the information in a
17 rate case?
18 A. The information is available, and if asked, we
19 can provide that. We did provide the most current DIMP
20 model information for this rate case. We had pipeline
21 safety staff in our office and we went through that.
22 Again, the DIMP model is fluid. When we talk the fluid
23 piece of pipeline safety, that changes, and it could
24 change this afternoon while I'm sitting here based on
25 some information we get back from the field. That is

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1 open to anybody, and we did provide the specifics of
2 the DIMP model. But the specifics of a DIMP model
3 doesn't necessarily provide the specifics for Taylor,
4 North Dakota.
5 Q. Is there an end date for this proposed SSIP
6 mechanism?
7 A. There is not.
8 Q. This is something that if it goes into effect
9 could last forever?
10 A. Not -- it could, based on risks. I guess right
11 now what we've identified as early vintage steel pipe,
12 early vintage plastic pipe, we do have two accelerated
13 actions. The way they are written today in the DIMP
14 model is that they are our performance metrics, meaning
15 that in order for that accelerated action to go away
16 from the DIMP model, all EVSP and EVPP needs to be
17 removed from the system.
18 Q. That's, if I understood you correctly, \$148
19 million worth of replacement?
20 A. In today's dollars. That's just for the --
21 that's just for the Aldyl A, the plastic pipe pre '83.
22 Q. Oh, that's just the plastic?
23 A. That's just the plastic pipe.
24 Q. So it's even more for the steel?
25 A. Yes, it's another I think what we quoted was

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1 48.5 million remove all low pressure early vintage
2 steel. That does not account for the early vintage
3 steel of all other pressure systems that are out there.
4 I think that helps show the magnitude of the need to
5 start an integrity project recovery system, however we
6 want to call it, to start removing this riskier pipe
7 than what's put in the ground today.
8 Q. And all of that would be recovered on an annual
9 basis not subject to a rate case review?
10 A. Right now what's proposed is to recover it
11 through this mechanism for early vintage steel and
12 early vintage plastic only.
13 MR. ARMSTRONG: That's all the questions I
14 have. Thank you.
15 THE COURT: Okay. Mr. Coffman, you're
16 next.
17 MR. COFFMAN: Yeah, just a couple.
18
19 CROSS-EXAMINATION
20 BY MR. COFFMAN:
21 Q. Good afternoon, Mr. Darras.
22 A. Good afternoon.
23 Q. Just following up on that last line of
24 questions. What kind of assurances if this SSIP
25 surcharge is approved, what assurances can you give

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<p>1 AARP that the parameters will limit this program to 2 only projects that you've described, I guess, in your 3 rebuttal testimony? 4 A. I guess the way I would look at that, and I can 5 reword it if you want, but I guess the way I would look 6 at it is the assurance I can give you is that it will 7 be reviewed by the Commission. 8 Q. And so there's nothing in your -- the proposed 9 plan that's attached to your testimony that limits 10 where this SSIP program may go in the future, right? 11 A. Other than it limits it to early vintage steel 12 pipe and early vintage plastic pipe, meaning pre '70 13 steel and pre '83 plastic. 14 Q. Okay. And that -- is there anything in the 15 tariff that limits this program to only those 16 particular projects? 17 A. I don't know that I know that answer. 18 Q. Is there anything in your testimony about the 19 way you would operationally approach main replacements 20 that you would do differently if the Commission did not 21 approve an SSIP mechanism? Operationally. 22 A. Today I would say probably not, because I'm 23 fairly comfortable with the way the plan stands today. 24 But that could change tomorrow based on an unfortunate 25 incident or something. So today's plan as submitted,</p>	<p>1 So that would not necessarily be a good example for 2 what you're looking at here in terms of replacing old 3 vintage pipe; is that correct? Or do you have a 4 concern with installation techniques on some of the 5 older infrastructure that's in place right now? 6 A. I think installation techniques are a -- again, 7 is it a risk that's out there? Yes. Is the pipeline 8 safety group trying to be more proactive in oversight 9 of installation methods? Yes, they are. Quality 10 control is a hot button right now in the industry, and 11 how do you control the installation practices. 12 Prior to some of this, I think that's the -- 13 that's how -- how do you truly assign a risk to a piece 14 of pipe? How do our SMEs that I mentioned earlier 15 today, how do they truly assign a risk on the 16 installation practice from, say, 1930? And again, 17 that's where I go to the picture that was on my slides. 18 We could have dug that up and it could have been 19 welded. In this case, it was not. It was used with 20 couplings. Welding was a procedure back then. So 21 that's the unknown attribute that we have there. And 22 that's where I think if you look at a transmission side 23 of things or the high pressure where we don't as MDU do 24 not operate a lot of transmission, that, even though 25 it's a risk for the industry, a higher risk because</p>
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<p>1 yes, it would stay the same. 2 Q. Okay. 3 MR. COFFMAN: Thank you, that's all I 4 have. 5 THE COURT: Major? 6 MAJOR UNSICKER: No questions, sir. 7 THE COURT: Okay. Commissioners. 8 Commissioner Kroshus. 9 10 EXAMINATION 11 BY COMMISSIONER KROSHUS: 12 Q. You list two towns where there were accidents, 13 one is Allentown, Pennsylvania, that was related to old 14 vintage steel pipe; is that correct? 15 A. Correct. 16 Q. You also list San Bruno, California. What was 17 that related to? 18 A. I believe it was high pressure old vintage or 19 older vintage. I can't remember the exact vintage on 20 that or when that happened. Again, it was one of the 21 ones that brought it to -- pipeline safety to the 22 attention, I think, or to the forefront of a lot of 23 regulations that are out there. 24 Q. Okay. Based on the information I read, San 25 Bruno was a 30-inch main that was improperly installed.</p>	<p>1 there's more of it out there, for MDU that's not a 2 high -- our highest risk just because we do not have as 3 much transmission. We do have some. And fortunately 4 some of what we do have, we have records and we have 5 installation practices that are there. 6 So that's really the balancing act the way I 7 see it is trying to -- again, when asked the questions 8 of does this go on forever, pipeline safety goes on 9 forever. And does this program go on forever? What 10 we're looking at today, we're focused on just the early 11 vintage steel and early vintage plastic. And we call 12 out specifically low pressure because today our SMEs 13 feel that that is a higher risk than some of the higher 14 pressures, say 40 pounds or 60 pounds, based on the 15 information we currently have, what's in our database. 16 That could change tomorrow. 17 And that's really where we're trying to -- when 18 I say that it's fluid, it truly is a fluid program. 19 The intent of the program is to begin an accelerated 20 removal of all older vintage high risk pipe. It 21 doesn't have to be the highest. And that's the piece 22 where I called myself out is we may say highest, but if 23 something showed -- if our DIMP model kicks out the 24 highest number out of our entire system and an SME 25 agrees with that, that that could be the highest,</p>

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1 there's no regulation that tells us that we have to get
2 that pipe out of the ground today or if we can wait ten
3 years. And that's where when I sit in this seat, I
4 really struggle. Is it prudent to let it sit there for
5 ten years since it's the highest risk on our pipe, but
6 it's less risky than a cast iron pipe in New York or
7 Pennsylvania. If we have that incident, one incident
8 is too many for us. Like everything we've been talking
9 about, shareholder, everything, customers, that one
10 incident takes all that away. And that is the burden
11 that I feel, that the folks underneath me feel when we
12 look at these programs.

13 How do we weigh everything? How do we weigh
14 the cost? How do we weigh the customer, the
15 shareholder and yet try to eventually get this pipe
16 that we feel is a risk out of the system? And again,
17 it's -- it's a true -- it's a true statement that it's
18 not just me, it's the industry as a whole, to try and
19 figure this out. PHMSA is not going to tell us when to
20 remove it, the state is not going to tell us when to
21 remove it. But they will tell us if we were wrong
22 after the fact and that we should have been more
23 aggressive or less aggressive. And that's truly the
24 struggle that we feel. And like I say, this -- the
25 program as -- from the operational side, as proposed,

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1 changes daily. And we, being myself and the folks that
2 work on the operations design of these systems, truly
3 feel that we need to start a replacement program.

4 Q. Okay. So on the San Bruno part, and I could be
5 wrong, but based on what I've read, not an applicable
6 example. Pipeline safety, yes. Proper install, yes.
7 But it doesn't seem like it's a material issue.

8 A. Installation issue is -- now that you've
9 reminded me, I have more recollection of that. But,
10 yes, it's an installation issue. Again, I do not
11 remember the vintage on that. I think, you know, there
12 are -- there are systems, there are programs, there are
13 procedures in place, for instance, the OQ Program
14 that's out there that's been rolled out now for
15 approximately ten years I would say. Again, that was
16 to qualify employees to before they can work on pipe on
17 gas systems they have to be qualified. The big push
18 now is even though they're qualified and can pass a
19 test to do it, is anybody checking that they truly did
20 that right before it was pressurized and put in the
21 system. And there's other checks, too. I mean, you
22 have pressure checks, all systems, lines, have to be
23 pressure tested before they are put into service. But
24 the pressure test that's put on there for an hour or
25 eight hours may not immediately show that defect that

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1 ultimately is a result of a bad weld or a bad fusion in
2 plastic pipe. Something like that, that shows up over
3 time.

4 Q. And just for those, well, in the room and
5 listening, my observation certainly isn't to diminish
6 what happened in Allentown where five people perished.
7 So that was a significant -- was significant and
8 obviously a tragedy.

9 How many times have you sent -- can you -- I
10 think you answered this, but I may have been writing
11 another note at the time. How many times have you sent
12 pipe to a lab for testing that you've pulled from the
13 ground? How often does that happen?

14 A. In the past I would say not very often. We do
15 more on a reactive approach. So if a piece of pipe is
16 pulled out of the ground due to an incident or a dig-in
17 or some type of a leak, then we would. We would send
18 it in. But, again, that was to determine what could or
19 may have caused that individual leak. We have not had
20 a formal program where we've send it in on a broad
21 basis based on using sampling from areas like we plan
22 to do with this.

23 Q. Okay. Would it be fair then to characterize
24 the SSIP plan as being based more on anecdotal
25 information from around the country rather than

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1 specific information that's been garnered from your
2 system?

3 A. Yes, I would say that's fair today. And again,
4 our hope is as we get more information we are able to
5 make it more specific to our system.

6 Q. Okay. Is it possible then that after the 5
7 million, 5.5, is spent on the projects mentioned, the
8 replacements projects, if I have the right number for
9 that?

10 A. Yes.

11 Q. Is it possible that you may send the pipe to
12 the lab, have it studied, have it looked at, and
13 through visual and actual lab testing determine that
14 this isn't as pressing as you think it is and that the
15 rest of the money would not have to be spent? And
16 really we're talking about timing --

17 A. Sure.

18 Q. -- of this. And you know, I'm not thinking,
19 wow, maybe it's good for another 20 or 30 years. I
20 think that's highly doubtful. However, at what point
21 do we impact rate payers? And also, of course, at
22 what -- how is that metered out so it doesn't hit all
23 at once? So we have to balance that out. But that's
24 why I ask the question.

25 A. Yeah, and I do -- as I mentioned in my slide

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1 presentation, we do hope to get an expected remaining
 2 life expectancy. I will say that I have not been privy
 3 to those conversations, but folks that are working on
 4 this and working through the plastic study, in their
 5 initial conversations, early conversations with GTI,
 6 they say -- this is based on their research -- that the
 7 northern colder climates are better for Aldyl A. That
 8 does not necessarily mean that all of our Aldyl A is
 9 good. But the other thing that early on is what I've
 10 been told through their conversations is the life
 11 expectancy could be 30 to 50 years remaining. So,
 12 again, that's more than what you were -- you mentioned
 13 as a potential.

14 The caution thing I want to throw out there is,
 15 again, at the current rate that we have in that five
 16 and a half million, approximately -- and again, this is
 17 moving, but I believe we figured 800,000 of that 500
 18 million was going towards plastic pipe. If you do the
 19 simple math on 148 million, this is 165-year project.
 20 So whether they tell us 30 or 50, we've missed the
 21 boat. If they tell us ten, we really missed the boat.

22 And again, that's just one example why we need
 23 to start accelerating these replacement programs. More
 24 power to us if they come back and give us 50 years.
 25 Great. That's a yahoo for us. But now we need to come

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1 up with a program internally saying, okay, now, how
 2 much do we need to do to get it out of the ground in
 3 the next 50 years? And is there one location in
 4 Jamestown that to us is a higher risk than Walhalla?
 5 And that's really the managing part of this.

6 So again, it could come back that it's longer
 7 than what we expected, or it could come back shorter.
 8 We are hoping, for everybody's benefit, that they tell
 9 us it's still got 50 years left. That gives us 50
 10 years to replace this. But there's no guarantee that
 11 they're going to do that. If it comes back with the
 12 LDIW, that raises a whole new risk for us, and we have
 13 to accelerate it.

14 Q. So let's say it is 50 years, you would start
 15 replacing infrastructure that still has 50 years of
 16 life left on it?

17 A. I think it would have to be looked at to how do
 18 you get it. Because, again, in today's world, to
 19 ultimately remove all of that pipe, we can't do it --
 20 we can't wait 40 years and then do it the last 10. We
 21 could. But I'm -- the 168 estimate that's out there is
 22 today's dollars. So how much is that in 40 years?

23 So that's the -- again, that's the struggle I
 24 have. That's the struggle I believe commissions across
 25 the country have is how do you -- how do we balance

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1 this? How do we balance it with everybody's interests?
 2 I mean, again, we could get a report saying that it's
 3 50 years and that pipe could stay in the ground for
 4 100. We don't know that. But it could. But if we get
 5 a report telling us 50 years, we better, as a prudent
 6 operator, have that pipe out of the ground in 50 years.

7 Q. And then what would the lifespan of the new
 8 infrastructure be?

9 A. I don't think that's proven yet. There's a lot
 10 of speculation.

11 Q. Please tell me more than 50 years.

12 A. Yeah, I mean, if Aldyl A is a high risk in the
 13 industry, and it's lasted -- and ours has been in the
 14 ground for close to that and they're saying we got a
 15 potential for 30 or 40. The newer poly pipe, it's so
 16 new and they continue to make advances on it, I think
 17 we would be wrong to even make a guess at that.
 18 It's -- it's truly an amazing -- it's truly an amazing
 19 material. Again, until we get to that, I don't think
 20 we're going to see it in our lifetime. It will be
 21 around longer than us, the stuff that's there today, in
 22 my opinion, the stuff we're putting in the ground
 23 today.

24 Q. I'll admit the timing just is really a
 25 challenge for me in terms of -- you know, I realize it

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1 takes time to get through all of the existing
 2 infrastructure, but if you still have infrastructure in
 3 the ground that has 30 to 50 years of life expectancy
 4 left in it and tell consumers that they're going to
 5 start paying for that now, I would have to see more
 6 information in terms of just what type of a bottleneck
 7 are you talking about in terms of available labor, and
 8 this would have to be projected out, the state's going
 9 to change a lot between now and 30 or especially 50
 10 years from now.

11 Well, one final question that I believe I
 12 indicated I would ask when you came up on the stand.
 13 The leak frequency of the old vintage pipe versus the
 14 balance of the system, is it higher or is it the same?
 15 What -- where is that at right now currently today?

16 A. The leak frequency on older vintage pipe is the
 17 majority -- I don't know that I can put it in a
 18 percentage -- versus newer pipe. Now, saying that,
 19 it's what type of leak? Excavation damage is ours and
 20 the industry's number one risk. So that, again, is
 21 considered a leak. So that's the one disadvantage you
 22 maybe have for a plastic pipe, today's plastic pipe, is
 23 if you hit it with a piece of equipment you're going to
 24 have a gas hazardous leak, whereas you can hit a piece
 25 of steel with that same piece of equipment and even

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1 though you have to repair it, it may not leak. So
 2 again, these are all factors that go into leaks.
 3 But overall from a general perspective, our
 4 leaks -- we do not have leaks on newer systems. I
 5 can -- I can't say never, because we do have perhaps an
 6 installation piece that -- it's not necessarily a leak,
 7 it doesn't pass a pressure test or something like that,
 8 or we may have a -- and I can't -- nothing comes to
 9 mind as far as leaks on newer systems, other than
 10 excavation damages. Now saying that, it's not that it
 11 can't happen.
 12 Q. But in terms of material integrity, which is
 13 really what appears to be what is driving SSIP?
 14 A. Right.
 15 Q. You don't have anything specific that you can
 16 offer in that regard?
 17 A. Nothing specific. I mean, we have material
 18 failures, and it's not necessarily in the pipe itself.
 19 You may have fitting failures that are then sent in, or
 20 we send them into the manufacturer to see. And again,
 21 these are usually industry wide. It's not specific.
 22 It could be. We've had in the past a batch of material
 23 that comes from the manufacturer and they'll send out a
 24 recall. So, again, in today's world, it's easy -- we
 25 track that. So we know where that batch of pipe is in

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1 the ground relatively speaking. We don't know exactly
 2 which foot it's on, but we generally know which project
 3 it's at and which main, so we can track that and get it
 4 out of the ground if it's installed. So you do have
 5 that. But you don't -- there's nothing specific that
 6 I'm aware of today that's out there.
 7 Q. Actually, one last thing real quick. If the
 8 \$5.5 million was viewed as a pilot project, would you
 9 think -- agree that it would be prudent to do that
 10 first before making a determination on next steps and a
 11 long-term strategy, because it just seems like there's
 12 too much information missing. There's no pipe testing,
 13 there aren't any diagnostics to look at to know what
 14 the life -- remaining life span is. And that's really
 15 what is driving the SSIP program. But to me, it's not
 16 a small unknown, even though you say 30 to 50, that's a
 17 broad range.
 18 A. I think it's -- I'd like to just explain that
 19 that's one piece of the SSIP program. The other piece
 20 is the early vintage steel pipe. So we're not planning
 21 on testing any type of a test or study for the early
 22 vintage steel pipe. We feel that we truly have the
 23 information we need -- it's getting better as we gather
 24 more information from the field.
 25 So, for instance, pipeline inspection reports.

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1 Every time an operator is somewhere out in the field,
 2 if they expose that pipe, it's a requirement that they
 3 get us the information, whatever information is
 4 available, on that pipe. This is both regulatory
 5 driven, some of it is code, plus we've gone beyond that
 6 and said what other information we can gather. We take
 7 that data -- and, again, that's the pieces that can
 8 change this DIMP model daily, because then we take from
 9 our field, put it into our DIMP model, and that spits
 10 out that piece of the risk.
 11 So again, our early vintage steel pipe, and
 12 more specifically low pressure, is where we are focused
 13 a majority of this. When I mentioned the 800,000,
 14 again, that's all that's in the 5.5 million for the
 15 plastic. And basically that's going to cover the cost
 16 of the study this year in 2018. It covers the cost of
 17 the study plus the replacement of that pipe that we
 18 will be testing, just the plastic. The other 4.7 is
 19 going towards early vintage steel pipe, which our DIMP
 20 model justifies along with our SMEs.
 21 COMMISSIONER KROSHUS: Okay. All right.
 22 Thank you, Pat.
 23 THE WITNESS: Yes.
 24 THE COURT: Chairman Christmann.
 25

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EXAMINATION

1 BY CHAIRMAN CHRISTMANN:
 2 Q. New replacement distribution pipe, is it pretty
 3 much all poly now, or do you still use any amount of
 4 steel?
 5 A. It depends on the pressure system. The
 6 majority of it of what we operate as far as a
 7 distribution system is the poly pipe.
 8 Q. But do you still use steel?
 9 A. We do, yes, for higher pressures.
 10 Q. And so when we look at the guidelines that
 11 would be in place for the SSIP, the pre-1970 steel and
 12 pre-1983 plastic, how many -- roughly, how many
 13 generations of each have there been? What would be --
 14 I'm wondering what the next category of each is, that
 15 they make, say, a type of steel then that was used from
 16 '71 until the mid-80s and then evolved it to something
 17 better?
 18 A. Yeah, it's evolved into something better.
 19 Steel has. Plastic has come a long way recently. Like
 20 I say, I don't know -- they can continue to improve it,
 21 but it's basically the resins and the manufacturing
 22 process. Steel for the most part is steel, other than
 23 the seams on steel have changed. There's seamless pipe
 24 out there. There's the ERW, electro resistance welded
 25

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1 pipe that was out there. And this is going back years
 2 where it's become obsolete in the industry and even
 3 recommended that it can't be installed today. Now
 4 saying that, is it in systems? That's the unknown
 5 piece.

6 The other piece I just wanted to clarify real
 7 quick is the installation practices today to install
 8 steel pipe are way higher standards than they were in
 9 the past. And when I say that, a welder that installed
 10 pipe in 1960 did not have the advantage, not to say
 11 that he wasn't a good welder or she wasn't a good
 12 welder, but the fact was they didn't have the X-ray,
 13 they didn't have the penetration tests, the things that
 14 are available and required today, quite frankly,
 15 especially on transmission to have -- to have that
 16 secondary proof. Before it was the person looked at it
 17 and said, yeah, that looks like a nice weld, right.
 18 But what you didn't know was what was happening inside.
 19 And that's the technology that is there today.

20 Q. There are multiple generations of improved poly
 21 pipe since 1983?

22 A. Yes, there is.

23 Q. Is each one safer than the previous one?

24 A. I would hope that it's making improvements each
 25 year, but I don't know that for a fact.

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1 Q. And what happened from 1969 to 1970? Why this
 2 cut off on the steel pipe? You said steel is kind of
 3 steel, so why are we concerned about 1969 steel pipe,
 4 but this program is not addressing 1970 and 1971 steel?

5 A. Right. Where we as a company decided to draw
 6 the line was what we call pre-code and code. So the
 7 code came out in 1970. And the code is when I
 8 reference that it's PHMSA's part 192, which was a
 9 regulation basically that started putting in some of
 10 these installation practices that I'm talking about
 11 that are way better than they were. I mean, it's a
 12 fact, 1969 didn't have to -- that's the grandfather
 13 clause that you maybe heard about is that if it was
 14 installed prior to code, we just -- we could assume
 15 that that pipe was okay and it didn't have to meet this
 16 newer standard. That's the piece where PHMSA right now
 17 is debating do they rid themselves of this grandfather
 18 clause. And if it truly was documented as
 19 grandfathered it's going to need to come out.

20 Q. Is it safe to say then especially with the poly
 21 which has multiple generations and each are hopefully
 22 safer than the previous, if you were granted enough
 23 recovery to do all of this that then there would just
 24 be something else, whatever was the next generation
 25 after 1983 is less safe than the rest of it, and so

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1 this would be a never-ending thing. There's always
 2 going to be some way to invest more to achieve some
 3 higher level of safety; is that correct?

4 A. I would agree with that. I think, again,
 5 pipeline safety to me is -- it's ongoing. There is no
 6 end to it. There's always something new coming up. So
 7 and again, it's -- you know, I said the drivers are
 8 regulations or an incident. Again, I would love to say
 9 that the plastic pipe made today is bullet proof, but
 10 if we have one incident anywhere in the country with
 11 that pipe tomorrow, there's going to be some type of an
 12 advisory bulletin that's going to come from PHMSA to
 13 the industry saying we got an issue, what are we going
 14 to do with it.

15 Q. Tell me -- and I lost the page, but I had
 16 your -- the photograph marked. Is this something out
 17 of a textbook, or is this one of your projects you're
 18 working on?

19 A. It's --

20 Q. The slide isn't numbered here, but . . .

21 A. Yeah, and actually that is a -- I don't
 22 believe -- I believe it came from one of our towns in
 23 Montana. It is our system. It is our folks' feet that
 24 you see there. So it's not out of a textbook.

25 Q. This might be similar to what we're seeing in

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1 the towns you're at, whichever ones you started work
 2 already?

3 A. Yes. What we do know is that that's the
 4 vintage that I called out was 1937. And that pipe, I
 5 think, I believe one piece of that picture is 1948.
 6 The dresser couplings are standard across our system,
 7 so there could be some right outside in the streets
 8 here. And again, there's different types of dressers.
 9 The pressure class could be different. That wasn't low
 10 pressure, it was a medium pressure line.

11 Q. So as you get to something like this in these
 12 towns now, are you boring this in, or is everything
 13 being dug up to replace it?

14 A. A little of both.

15 Q. Okay. Were you -- is the old infrastructure
 16 being removed, or can some of this be abandoned in
 17 place?

18 A. The majority will be abandoned in place.

19 Q. And so what you're removing is either just
 20 what's in the way of something else or enough to get
 21 the samplings for doing the testing; is that correct?

22 A. Correct, yes. As far as the early vintage
 23 plastic pipe, we're removing more of that just to do
 24 the sampling. The steel, normally is not -- it's not
 25 required by code, but there could be certain

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1 ordinances, cities, that require us to do that if it's
 2 in right away, then we'd have to remove it. For the
 3 most part we don't see that. But it could happen.
 4 Q. Okay. And now I'm kind of to the point I got
 5 to skip my questions because Commissioner Kroshus has
 6 asked about the long range future and getting to it.
 7 But in these towns where you started work
 8 already, would you be aware of a construction project
 9 that's scheduled for this fall in that town to replace
 10 a water main or something and you're going to do this
 11 now and this fall it's going to be dug back up? And if
 12 the answer is yes, what about next year or 2020?
 13 A. The answer is yes, for some. We hope to be
 14 involved -- the larger cities, Bismarck for instance,
 15 has a planning and zoning commission that does a very
 16 good job of knowing longer term. And when I say that,
 17 two to five years, what they plan for street projects.
 18 We would plan this overall project around information
 19 we get from them. When you go to a Taylor, it's really
 20 driven by state funding, for one thing. There is a
 21 project going on in Glen Ullin this year. There was a
 22 project in New Salem last year. Again, these are
 23 things that we hope to pick up on. And in some cases
 24 we normally know. If we know soon enough, that's the
 25 SME part of what drives the proposed plan where we may

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1 take a Taylor, even though it was scheduled for 2019,
 2 and move it to 2022 because Taylor's told us they're
 3 going to have this large street project in 2022.
 4 Q. Okay. So if you do this testing on this
 5 plastic when you get done with the 2018 projects and it
 6 turns out that much of this is worse than expected and
 7 very dangerous, okay, that's one thing. If it turns
 8 out that it's good for another 20 or 30 or 50 years,
 9 you had indicated it would take even longer than that
 10 at this pace to replace it all. But in any -- in any
 11 scenario where it's, say, decades out, isn't there the
 12 likelihood that some of these towns will look much
 13 different and have tracks of it that are probably
 14 uninhabited by the time you get several decades out and
 15 that most all these streets will be dug up for
 16 something or another in the next several decades? And
 17 so if we're talking about that long-term issue, isn't
 18 the solution more to wait and do things as projects are
 19 done in those communities?
 20 A. Again, I think it -- it's both. The caution is
 21 that even though we could get a report back that tells
 22 us 30 years, okay, and then let's go 25 years down the
 23 road and now all of a sudden we're five years away, we
 24 need to do this and Taylor has a street project. What
 25 if we have an incident in two years from that point

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1 instead of the three years where the project was
 2 planned? Is that -- is that our bad? Is that --
 3 should we have done something more proactive? Should
 4 we have done it 20 years from now instead of 25? And
 5 again, that's the piece I really want to get out there
 6 is that there is no exact science to this.
 7 And what I would say is, my personal opinion is
 8 if we get that report back and it tells us there's 30
 9 years left in Aldyl A, we will take a pause to the
 10 Aldyl A. The intent from my standpoint would be, as
 11 Nicole testified, whether we get the rider piece of
 12 this or not, we're committed to the pipeline safety
 13 piece of it. We've got 6 million is what we're
 14 proposing or what's in there, but I look at it as the
 15 800,000 that we talked about that's in 2018 projects.
 16 From my operational standpoint, 800,000 now goes to
 17 that low pressure, and we can wrap that part of the
 18 project up quicker than we had proposed. An extra
 19 800,000 goes a long way, it really does. And that's
 20 where we would shuffle that based on the information we
 21 get back.
 22 Q. Well, that answer -- one of the early stages of
 23 that answer then begs me to ask one more question. So
 24 if we approve this, regarding the, well, what if
 25 something happens a couple years before it gets

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1 repaired, what if something happens to some 1984 era
 2 plastic and you know that there's been generations of
 3 improvements since then and we didn't even address it
 4 here today? Isn't that same question applicable for
 5 anything?
 6 A. It is. I mean, I think we -- obviously, God
 7 forbid that we would have an incident, but if it was
 8 '84, again, the struggle we have in my role is just
 9 because it was installed in '84, is that '84 material?
 10 When was it manufactured? So maybe it still does fall
 11 under the pre '81 that we're talking. We don't know --
 12 again, I don't know and the folks that are working on
 13 this project have no idea how much inventory we had in
 14 each one of our warehouses, for instance, in '81. You
 15 know, the code again addresses it recently that you
 16 have to keep this protected, the newer poly pipe. Back
 17 then, it wasn't that. So it could sit out in a yard
 18 for years. And when you finally got it or had wanted
 19 to install it, it was there and you used it up. You
 20 know, so, again, that's a piece of the puzzle that we
 21 have to consider.
 22 CHAIRMAN CHRISTMANN: Okay. No other
 23 questions. Thank you.
 24 THE COURT: Commissioner Fedorchak.
 25 COMMISSIONER FEDORCHAK: Okay. Thanks,

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1 Pat.

2

3 EXAMINATION

4 BY COMMISSIONER FEDORCHAK:

5 Q. Just to -- we're going to backtrack a little

6 bit, but not too terribly much, I don't think. I just

7 want to clarify some things for my own understanding to

8 make sure I'm following this right.

9 The early vintage plastic pipe, you've got this

10 study going on?

11 A. Yes.

12 Q. When does that study -- when do you expect the

13 results of that study?

14 A. It will be later this year. Again, it's tied

15 to the projects that are up on the board.

16 Q. So essentially the projects included in this --

17 in the base rates for this case are the study?

18 A. The initial -- and I think that's what's in

19 there anyway is the -- it's the initial participants of

20 this study. We could find that, for instance, an

21 example would be Taylor has a higher -- or let's say a

22 lower life expectancy than Walhalla. If that's the

23 case, we would probably do more sampling in the Taylor,

24 Richardton area next year. And again, that's the

25 fluidity of this. We want to -- we want to be able to

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1 take the data we're getting back and truly make our

2 best decision on where we should focus future studies

3 or future dollars spent.

4 Q. So I don't even see Walhalla listed here.

5 A. Walhalla would be in the Cleveland, Barlow,

6 Eldridge district.

7 Q. Oh, okay.

8 A. And again, we're not going that far north with

9 this study, but it would be in the longer term. We

10 know there's Aldyl A in Walhalla.

11 Q. Okay. So is there an end point to this study,

12 or are you just talking about this generally like

13 you're constantly going to be looking and evaluating

14 it? I mean, what's the end point of this study?

15 A. Yes, there's an end point this year. We hope

16 to get a lot of data back. And again, what they're

17 still working on today -- and when I say "they," it's

18 the folks in our engineering group that are working

19 with GTI, and they're working with AGA, is they're

20 trying to really get GTI's information from them and

21 their recommendations on how to do this study.

22 For instance, I heard the other day was that

23 originally GTI told us in order to get an 80 percent

24 confidence factor on their samples, they needed to do

25 22 samples per town. Since these are smaller towns,

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1 they've recently told us that 22 samples needs to go up

2 to 35.

3 Q. Why does the size of the town matter?

4 A. The size of the town, because you can't get --

5 what they're saying is based on length.

6 Q. Okay. It's got a percentage of the whole

7 system?

8 A. They base it on footage, and there's not enough

9 feet of pipe in that small town of Taylor to get what

10 they consider an 80 percent confidence level with their

11 sampling. So that's the changing piece. So what I

12 could see -- the intent is to finish this study this

13 year, but it could be driven -- it could drive us a

14 different direction next year. We don't intend to do

15 that, but, again, it will evolve, I think, into trying

16 to verify what's found in the study this year.

17 Q. But this -- it would be -- would it or would it

18 not be accurate to view this as the study on the EVPP?

19 A. Yeah. And actually if you -- the study itself

20 is in my exhibit, the rebuttal testimony 2.5 talks

21 about a little different. PCD-2-2-2-2-2, and then

22 page 9.

23 So if you look at that, again, this is the

24 study that is out there, but this is the piece that's

25 changing. And this is where when I talk to the folks

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1 that are working on the study itself, we still plan to

2 do the bend-back test, we still plan to do long term

3 hydrostatic stress-rupture tests. What we don't know

4 is how many of those samples we will need to take to

5 truly get an effective --

6 Q. I'm not finding page 9.

7 A. Page 9 of 18.

8 Q. Oh, up on top. Okay. Sorry.

9 A. Yeah.

10 Q. Okay. So now I'm with you.

11 Okay. So I'm sorry. Repeat yourself. I was

12 flipping. What was your point you were going to make

13 on that?

14 A. So, again, with the study, it's -- we still

15 plan, if you look at the two black bullets there, the

16 bend-back test and the long term hydrostatic, we still

17 plan to do those with the study this year, but that's

18 the changing piece to this as we're getting more

19 information from GTI or GTI is getting more information

20 from us. For instance, where do we operate? When do

21 we think it was installed? If we know that, we can

22 tell them, and then they try and determine, and that's

23 where they're changing the number of samples needed to

24 truly get a confidence level. They shoot for this 80

25 percent confidence level.

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1 Q. Okay. So the study is going to direct your
2 future decisions on how and what time frame and how you
3 prioritize the risk of this EVPPP?

4 A. Yes.

5 Q. And so until you have the results of this
6 study, can you confidently say, I mean, can you even
7 guess what you're going to be doing next?

8 A. I can confidently say what we do in the next
9 phase, the early vintage steel pipe, and those lines
10 that fall underneath that.

11 Q. Okay. So can you set this aside until the
12 study is done and start focusing on this? Why wouldn't
13 you think that would be more prudent to just focus on
14 the stuff you know? You've identified you're confident
15 in the way you're approaching the steel replacement,
16 correct?

17 A. Yeah, I think we could. And I mean, that's
18 really where -- how you -- how commissions or how
19 regulatory agencies, whoever's done this, how they've
20 structured these replacement or these riders has always
21 been different. I think we would be open to any of
22 that. I would, personally. I mean, our design group I
23 think would be, with guidance.

24 Again, when I look at it and you say how did
25 you -- or we got questioned, I did, through data

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1 requests -- how did you determine \$6 million, and then
2 how did you determine the projects that fall under the
3 6 million? Again, I looked at it -- and this is me
4 personally -- is we need to start an accelerated
5 program. Is \$6 million enough in my operations eyes?
6 No. Okay. In order to eliminate risk in MDU's system,
7 6 million really doesn't get to where we need to be.
8 Okay. It does not help me sleep well at night knowing
9 that we're not going to have that one incident because
10 we've got \$6 million to put toward pipelines in North
11 Dakota.

12 So my operational mind says we would love to
13 have more. But we have to -- the other part of me says
14 we know we have to take all these other considerations
15 into account. So we can take 800,000 or we can -- the
16 Commission could recommend that we take this 800,000
17 that was going to this study away, but what that does
18 then is take what we consider a risk, which is our
19 early vintage steel pipe and low pressure, and it drags
20 that out longer.

21 Q. So the study -- the 800,000 for the study of
22 the plastic -- no?

23 A. Not necessarily just the study. It's the
24 replacement of all the pipe in those old systems. So
25 all of our plastic pipe that is scheduled for 2018

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1 projects is come to roughly \$800,000 including the
2 study.

3 Q. Okay. Yep. All right. Well, personally, I
4 think the study is vital. So I don't know why we would
5 take that away. That's the baseline for getting a
6 handle on what the needs are and how safe or not the
7 pipe is. So the study seems like a must.

8 The question is the, you know, taking a leap to
9 give you guys this new tracker to ongoing -- you know,
10 without a plan for how that plastic is going to be
11 replaced or what the priorities are or what we're
12 looking at in terms of cost. So if we separate that
13 off and focus on the steel, what's -- how much is
14 this -- what's your -- what's the dollar figure on the
15 steel that you're looking at? Was it 45-ish? Was that
16 all steel or just the low pressure steel?

17 A. That was just low pressure steel.

18 Q. And are you looking at replacing all the steel?
19 Vintage steel, I should say, not all the steel.
20 Vintage steel? Or is that the vintage steel, the low
21 pressure stuff?

22 A. The DIMP model will drive that.

23 Q. Okay.

24 A. So it could drive us there eventually. There's
25 numerous risks that we feel are a result -- are because

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1 of a low pressure system that don't exist in a medium
2 pressure system or a high pressure system with us.
3 This is our system, this is our SMEs that look at that.
4 So will ultimately all of the pre '70 or early vintage
5 steel, what we're calling it, have to be replaced? I
6 think it's too early to tell. I mean, again,
7 regulations, new data coming in will really drive that,
8 just like this study would drive it on our plastic
9 pipe.

10 Q. Okay. So let me go to then the triggers for
11 this. Can you just tick off again what they list them?
12 There was a PHMSA bulletin, there's some issues on the
13 plastic pipe. What have they said -- what have those
14 triggers been outside the incidents? Like the official
15 actions by PHMSA, HA, et cetera?

16 A. Yeah, I think -- the way I showed it in the
17 slide anyway, it was the recent fatal incidents. It's
18 the PHMSA IM program which was in 2011. It was the
19 call to action that Nicole mentioned. It's, generally
20 speaking, an aging infrastructure. And that's where I
21 push -- I think each one of us in here knows a little
22 bit more about aging infrastructure today, but what is
23 truly aging infrastructure? Is it cast iron in
24 Pennsylvania, or is it 1930s vintage steel here?

25 Q. Right. I guess what I'm looking for more

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1 specifically are the bulletin type items, not the
2 general drivers. Like, just can you list off the --
3 there was a PHMSA bulletin I've seen these in various
4 places in the testimony. I want a list.

5 A. Yeah, there's two bulletins from the NCSG for
6 Aldyl A, that are specific for just Aldyl A, and they
7 are in our documentation somewhere. One was in '98, I
8 believe. The other one was 2001, I'm not sure, shortly
9 after that. And then the other thing that we
10 reference, and we're trying to get more information
11 from, AGA's got a white paper out, it's a fairly
12 extensive study on Aldyl A. And we're also going with
13 some of the documentation or the data that's out there
14 through these -- through GTI and their consortium.

15 Q. Is there anything on the vintage steel? Any
16 bulletins, advisories, that type of industry practices?

17 A. No, not to my knowledge. Not specific to the
18 vintage steel.

19 Q. Okay. So to change from your past approach,
20 which has been more you characterize as reactive to
21 this more proactive, do you think that the staff and
22 interveners are appropriately recognizing this changing
23 environment, or what are they missing? Why -- the --
24 you take a dramatic change from sort of business as
25 usual to now we need to start a more deliberate

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1 replacement program. So -- and there's been resistance
2 to this. So what's everybody missing?

3 A. I don't know that they're missing anything. I
4 would just say it's a changing environment for pipeline
5 safety. I don't think anybody missed anything. It's
6 just that there wasn't even a PHMSA integrity
7 management program required until five years ago, six
8 years ago.

9 Q. Okay. And so now the Company is trying to
10 adapt to this changing environment?

11 A. Right. You got a DIMP model that was not
12 required until recently, and now this data that's in
13 that DIMP model that drives your -- spits out where
14 your risks are, that -- it's new data. So even though
15 the pipe's been out there for 100 years, the data is
16 what's driving these programs.

17 Q. Okay. Can you -- can the Company do anything
18 about the fluidity of this? You've been criticized for
19 having too much fluidity. Is any of that within your
20 control?

21 A. Yes, I think it is. I mean, we can define
22 parameters around it. You know, the question's been
23 thrown out there how many years. I think we can define
24 that. And again, this is from a program perspective.
25 From an operational perspective, I'm very cautious,

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1 Commissioner, to say that that's not going to continue
2 to be fluid. So what those parameters are, be it cost,
3 be it -- it's so difficult to try and put all
4 encompassing, I don't know, barriers around this, other
5 than time. I mean, there could be a time
6 consideration. I think -- and again, that's where I'm
7 saying, we would be open -- I would be open to some of
8 those parameter discussions anyway and then . . .

9 Q. Okay. Would you be able to provide a leak
10 history to us, even if it needed to be for some reason
11 confidential?

12 A. Yes, we do provide -- we provide leak history.
13 It's out there. PHMSA 7100 reports are provided --
14 they're general documents. Actually they're fairly
15 general, it's broke out by some of the threats that I
16 saw, so it's corrosion, it's a hazardous leak versus
17 not. So I've got all that.

18 Q. Does it specify the type of pipe? It must.

19 A. Yes.

20 Q. So you could quantify the leaks on the Aldyl A
21 and vintage steel? Or don't you know where even all
22 that vintage steel is?

23 A. Well, that's the unknown piece. That's the
24 unknown parameter that I talk about, or attribute. Our
25 system might call it out as plastic, but we don't know

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1 is it Aldyl A, or is it a different -- or what year was
2 it installed. That's the new data that's coming in
3 that we're trying to -- for instance, we dug up a piece
4 of Aldyl A a month ago due to an unfortunate incident.
5 The data on that piece of pipe is clear as a bell. We
6 know what we had at that specific location. So we've
7 got that now, and now we put that into our DIMP model
8 and we give that to our experts. But in order to know
9 this, we don't know if that's the same piece of pipe
10 about a block away in Eldridge.

11 Q. So what could you give us to help determine --
12 to help quantify the -- to Commission Kroshus's points,
13 the leak history on the vintage steel and vintage
14 plastic? And if not, like, immediately, something that
15 you can file?

16 A. And what we can give you, and I'm just
17 verifying what's on here. Basically, we can give you
18 the cause of the leak, which is the corrosion, natural
19 force, excavation, for instance. We can say whether
20 it's on mains or services. And I think we could give
21 you more detail than what's on the 7100. Again, that's
22 high level. That's just by the year.

23 Q. And is that something that your computer can
24 just generate, doesn't require a bunch of manual entry
25 or --

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1 A. Yes, we have a very -- a lot of information on
2 leaks in our leak repair -- leak management system. So
3 we could get into the specifics of what you're looking
4 for and try and do our best.

5 Q. Okay. Is that something that you want us to
6 put together, or do you have enough specifics on what
7 we're looking for based on the discussion today to put
8 together some?

9 A. If you can just repeat that?

10 Q. I think we should get it, you know -- how many
11 years back do you go?

12 A. I don't have that off the top of my head. I
13 mean, since PHMSA was --

14 Q. Well, we always -- in pipeline citing we always
15 do ten years, so I don't know if that's an outrageously
16 huge amount of data? Or five years or something?

17 A. It's going to be a lot. We should be able to
18 give -- again, it's how much detail.

19 Q. Yeah. We're interested in the type of pipe,
20 the -- to the extent that you have the type of pipe,
21 the number of leaks, cost, causes. It doesn't have to
22 be each leak, a separate line item, just summarized.

23 A. Okay.

24 Q. All right. And so then from your
25 perspective -- actually, you already talked about that.

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1 So it seems to me that this kind of comes down
2 to a judgment call on urgency. How urgent is it to
3 develop a mechanism to -- a separate mechanism to
4 replace your system?

5 A. I think the urgency is here for me. That's why
6 we're -- that's why we've got projects in 2018. That's
7 why we've continuously done projects going back. So
8 the sense of urgency is here for me. The recovery of
9 that, again, I think Nicole touched on that piece of
10 it. The system safety piece of it, like I say, my
11 personal opinion is the urgency is here today.

12 Q. So -- and the recovery piece, I guess we'll
13 have to get more into that because I see the Company's
14 in a bit of a box here because you can't say that
15 you're not going to do -- keep the system safe, and
16 you're saying you're going to keep the system safe and
17 do what you're doing already. So why do you need the
18 recovery mechanism then?

19 A. My opinion is the recovery mechanism is, again,
20 so I'm not coming in here annually or every two years
21 trying to explain the prudence and why the system is --
22 why our program is changing. Again, it's the recent --

23 Q. So the safety will be the same either way, it's
24 just a matter of the Commission's tolerance for rate
25 cases?

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1 A. And --

2 Q. Either way, you guys will operate a
3 proactive -- you're going to operate a proactive --
4 because you have to and PHMSA is requiring it?

5 A. Yes.

6 Q. So it's our appetite for rate cases?

7 A. And cost savings associated with those rate
8 cases.

9 Q. Yep. Okay I think that completes my question.
10 Thanks, Pat.

11 THE COURT: Commissioner Kroshus had one
12 more question.

13
14 EXAMINATION
15 BY COMMISSIONER KROSHUS:

16 Q. When I believe it was Commissioner Christmann
17 was asking about the plastic varying in terms of
18 improvements or in theory getting better with age, what
19 were the controls back when it was first going in, in
20 terms of keeping it out of the sunlight? Could it be
21 stacked and left outside in the elements for a long
22 period of time? And would that impact the long-term
23 integrity of that pipe?

24 A. I don't know specifically on that. I do know
25 that the recent -- I mean, it was just changed last

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1 year. Again, that's one of those regulations that
2 changes to where it's actually they extended the period
3 for certain types of plastic pipe where you can keep it
4 out and it can be exposed longer than what the previous
5 two year's regulation was.

6 Q. Right.

7 A. So to speak to it back then, I mean, I just
8 don't know. In '71, I mean, I'm assuming, you know,
9 that was you're talking some of that is pre-code even,
10 so there was probably no guidance on the early, early
11 vintage, the '69, '70 vintage.

12 Q. Could it potentially be an unknown variable or
13 a small variable, large variable?

14 A. It probably was dependent on your inventory
15 turnover and how quickly some locations were able to
16 turn it over. I don't know personally that there was a
17 requirement out there in the early, early vintage.

18 Q. Do you think you'll get a good cross section of
19 how pipe may have been handled between the one, two,
20 three, four, five, six -- the seven different towns
21 where some was possibly handled in a better manner than
22 other pipe that was put into the ground? I'm just --
23 what I'm trying to get at is how consistent will the
24 results be if the tests are implemented?

25 A. The unfortunate thing at MDU is we did the east

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1 expansion, that all happened within a two or three-year
2 time period. The good news is that it should have all
3 been pretty much the same type of material. The bad
4 news is it was Aldyl A and it was early 70s. So I
5 think when you look and you talk if we're going to take
6 samples from Eldridge, Barlow, you know, the eastern
7 cities, that should pretty much all be from that same
8 vintage, same time frame for the most part. It's when
9 you get out to some of the western parts where it was
10 just that was the plastic to be used or the poly to be
11 used where you could have difference because there
12 wasn't a large expansion going on like there was in the
13 east.
14 Q. Okay. All right. Thank you.
15 THE COURT: Mr. Sanderson?
16 MR. SANDERSON: Thank you.
17
18 REDIRECT EXAMINATION
19 BY MR. SANDERSON:
20 Q. Mr. Darras, I just want to respond to
21 Commissioner Fedorchak's request for additional data.
22 Is that something you think we can -- you'd be able to
23 put together in the next two days before this case is
24 over, the leak history and study?
25 A. I believe so.

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1 Q. Okay.
2 MR. SANDERSON: What I would propose,
3 Judge, is that we'll try to put that information
4 together as quickly as possible, mark it as an exhibit,
5 and maybe towards the end of the case on Friday, I'd
6 recall Mr. Darras with that exhibit to introduce that.
7 THE COURT: Okay. Okay by me. Counsel,
8 any objections?
9 MR. ARMSTRONG: No, not at this time. I
10 mean . . .
11 THE COURT: Okay. It makes sense.
12 MR. SANDERSON: Okay.
13 THE COURT: Go ahead.
14 MR. SANDERSON: Thank you.
15 BY MR. SANDERSON:
16 Q. Now, I want to follow up and ask you some
17 questions with respect to counsel and specifically
18 Advocacy Staff's counsel's questions that somehow we
19 have not -- the Company has not provided information or
20 we've been hiding information on this. You personally
21 received data requests from Advocacy Staff and the
22 interveners in this case?
23 A. Yes.
24 Q. And did you respond to each and every data
25 request that was sent to the Company?

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1 A. Personally, I did not.
2 Q. I mean, but the --
3 A. Through our group, yes.
4 Q. Yeah. You haven't hidden any data or
5 information regarding the SSIP program?
6 A. No, I have not.
7 Q. Okay. And in fact, you were part -- I think it
8 was commission staff came up to look at the DIMP model
9 or go through that; is that correct?
10 A. Yes, they did. And I think the intent of that
11 meeting, and it was called by us, was because of the
12 numerous data requests that we were getting for
13 information that we felt we could be open and show them
14 on a monitor. We pulled up our DIMP model, we pulled
15 up our leak management system and actually showed them
16 to try and answer some of the specifics they were
17 getting into. For instance, they'd ask us a risk ratio
18 score for a piece of pipe in Taylor, can we show them
19 that. We did our best to say that we can't -- we can
20 do it here, but we can't do it in a data request. We
21 can't tell you what one piece of pipe or one block of
22 pipe's risk ratio is.
23 Q. And so throughout this case, you've been
24 willing to share and provide any information requested?
25 A. Yes.

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1 Q. And as you move forward with Commission, you
2 intend to, on behalf of the Company, continue to
3 respond to any request for information that will be
4 given to you or the Company?
5 A. Yes.
6 Q. Okay. Just on the DIMP model computer
7 generation, could you just kind of take us through how
8 long that takes to run the DIMP model that you've been
9 discussing?
10 A. The most recent one, and I haven't personally
11 done that, but what I was told is just to rerun the
12 model, which we did in the early part of this year,
13 with the new risk scores, just for North Dakota system
14 took two weeks.
15 Q. So the computer program itself takes two weeks
16 to run this whole model analyzing all the different
17 factors?
18 A. To give us the input.
19 Q. Okay. I think we need to clarify some issues
20 regarding the study and the 2018. Could you go to that
21 slide where you have early vintage plastic pipe study
22 project selection. And just to be clear, the 2018
23 projects, the roughly 5.6 million, only 800,000 of that
24 is to replace plastic pipe, which also includes some
25 costs to do the studies, correct?

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1 **A. Roughly 800,000.**
2 Q. And so that's roughly. I don't want the focus
3 to be on this plastic, that's only 15 percent of the
4 cost of the 2018 projects?
5 **A. Correct.**
6 Q. The other 85 percent of the 2018 projects is
7 early vintage steel pipe, correct?
8 **A. Correct.**
9 Q. Okay. Now, you talked about the testing
10 mechanism. And you specifically, as part of your 2018
11 project, identified three towns in this project,
12 Cleveland, Barlow and Eldridge where, you know, you're
13 expecting different vintage pipes that you want to
14 test, correct?
15 **A. Yes.**
16 Q. And in your report, you talk about doing the
17 bend-back testing, which that's kind of the brittleness
18 of the walls, that's one part of the testing. And the
19 other part is the long term hydrostatic stress-rupture
20 test, and that's intended to calculate the remaining
21 life of that pipe in those towns, correct?
22 **A. Correct.**
23 Q. And your plan with respect to those three in
24 this study process is to take approximately 35 samples
25 in each of those three towns?

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1 **A. Yes, the way I understand it today, yes.**
2 Q. And then submit it for those testings?
3 **A. Correct.**
4 Q. Now, one thing that I want to make perfectly
5 clear is these towns weren't just pulled out of thin
6 air. Your DIMP model -- a previous version of your
7 DIMP model had identified Barlow, Eldridge and
8 Cleveland as a potential risk ratio?
9 **A. Yeah. Every town's got a risk ratio. So,**
10 **again, they were identified. Were they the highest?**
11 **No. Were they the lowest? No. They fell somewhere in**
12 **between.**
13 Q. And you have in your SSIP that's marked
14 PCD-2-2-2-2-2, on page 9 and 10, you have those risk
15 scores identified with respect to those towns, correct?
16 **A. The risk scores identified with the most recent**
17 **DIMP model.**
18 Q. And so I just want to make it clear, I mean,
19 these weren't -- prior to 2018, these weren't pulled
20 out of thin air. Your models you'd been running up to
21 that point identified these towns, and then you further
22 identified specific areas to study as part of these
23 projects?
24 **A. Yes.**
25 Q. Okay. Now, more importantly, if you could go

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1 to your next slide, Mr. Darras? And this --
2 specifically, I want to ask you questions following up
3 on Commissioner Kroshus and Commissioner Fedorchak's
4 questions as to plastic pipe and why now and do we have
5 to do this. Part of your SSIP has taken the next three
6 years' projects, correct?
7 **A. Correct.**
8 Q. And what is the focus of the next three or four
9 years of the SSIP model, and what type of projects are
10 you focusing on?
11 **A. Early vintage steel pipe and early vintage**
12 **plastic.**
13 Q. Okay. Now, the man -- like the Mandan low
14 pressure that you're targeting and Dickinson low
15 pressure in 2019 and 2020 through 2022, the majority of
16 that is the early steel -- early vintage steel low
17 pressure pipe?
18 **A. Correct.**
19 Q. Okay. And there may be some components of
20 plastic pipe that as long as you're doing the project,
21 you'll replace those as well?
22 **A. Yes.**
23 Q. But the focus of the Company's SSIP moving
24 forward in the next four years is certainly low --
25 early vintage steel pipe?

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1 **A. Yes.**
2 Q. Now, we're still -- as part of the 2018, we're
3 still studying the early vintage plastic pipe, but
4 those aren't the focus moving forward in the next four
5 years?
6 **A. Right.**
7 Q. Now, obviously I think you made clear, Mr.
8 Darras, if the study results from Cleveland, Barlow and
9 Eldridge come back with somehow an alarming study, this
10 could all change; is that what you're saying?
11 **A. Yes, it is.**
12 Q. Okay. But I just wanted you to make it clear
13 that the focus moving forward with respect to the SSIP
14 and the recovery mechanism is the steel pipe that you
15 know has issues today and needs to get out of the
16 ground?
17 **A. Yes, it is.**
18 Q. Okay. One of the things, Mr. Darras, that
19 really was not covered in detail, but with respect to
20 that low pressure, could you just talk about inside
21 meters and how that also plays a safety concern with
22 respect to those systems?
23 **A. Sure. The low pressure -- or the inside meter**
24 **sets, we have had, again, a nonformal program to remove**
25 **those from our -- anywhere where we have access to the**

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1 facility. For instance, if it's in a home and we are
2 there for another reason, we try and get that out
3 working through the details with the customer.
4 The reason we're calling it out with the low
5 pressure is that they are tied ultimately to the low
6 pressure system. So, again, as a piece of removing the
7 low pressure, we will also formalize the program to
8 remove the inside meter. And there's an array of
9 reasons why we feel that there's a risk with the inside
10 meter set. That is a -- again, is there -- going back
11 to the Commissioner's question -- is there a specific
12 requirement that all inside meter systems be removed?
13 No, there's not. But are there cases where they've
14 been removed in recoveries like this? Yes, they are.
15 Specific actually in the one -- the one example that's
16 in the exhibit.
17 Q. Okay. And finally, Mr. Darras, a lot of the
18 questions you got, especially from the Commission,
19 focused on the timing of these projects and, you know,
20 looking at these various components. Do you believe
21 it's prudent as the vice president of Montana-Dakota in
22 charge of the gas operations to start the project now,
23 or should we kick this safety issue down the road and
24 let future generations deal with this?
25 A. I feel it's prudent to start the project now.

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1 Q. Mr. Darras, I have no further questions. Thank
2 you?
3 THE COURT: Okay. Mr. Armstrong,
4 questions for Mr. Darras?
5 MR. ARMSTRONG: Mr. Darras, I did not
6 think I have any for you, except I think I do have one.
7
8 RECCROSS-EXAMINATION
9 BY MR. ARMSTRONG:
10 Q. I thought the early vintage steel was coming
11 out of the ground was because it was pre-code; is that
12 correct?
13 A. Pre-code in early vintage in our definition is
14 what we call the same, I guess, because it's pre '70,
15 which is pre-code and what -- where we're drawing the
16 line.
17 Q. If I understood your testimony before, just a
18 couple minutes ago, it wasn't coming out of the ground
19 because you know it has issues and it needs to come out
20 of the ground, it was because it was pre-code and
21 you're not sure exactly what it is?
22 A. That is one variable to it.
23 Q. Okay. I mean, you can't go in there and say
24 this pipe right here has issues because of its cracking
25 or anything like that; is that correct?

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1 A. That it's --
2 Q. You can't go in there and say we know the pipe
3 in -- well, let's just use Gladstone. You don't know
4 that there's anything necessarily inherently wrong or
5 unsafe with the pipe in Gladstone; is that true?
6 A. Again, that's a general statement. I don't
7 know what piece of pipe. For each piece of pipe, if
8 we're talking the town of Gladstone, most likely we've
9 got some data on this piece of pipe and there could be
10 one five feet away that we don't have the same data.
11 To say a piece of pipe --
12 Q. It seems a little overbroad then to say you
13 know it has issues and needs to come out of the ground?
14 A. And if I said I know it has issues, I guess I
15 would -- I would assume it has issues and I would say
16 that what we do know is what the data that we have
17 available. What I can say is that my experience in the
18 field, and I think if you were to bring any of those
19 SME experts in this room, if we were to dig up that
20 piece of pipe of a certain vintage at a T, we do know,
21 even though we don't on paper, we know what we're going
22 to dig up.
23 MR. ARMSTRONG: Thank you. No further
24 questions.
25 THE COURT: Mr. Coffman?

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1 MR. COFFMAN: No questions, Your Honor.
2 THE COURT: Major?
3 MAJOR UNSICKER: No questions, sir.
4 THE COURT: Ms. Jeffcoat-Sacco.
5
6 RECCROSS-EXAMINATION
7 BY MS. MS. JEFFCOAT-SACCO:
8 Q. Yeah, I just wanted to sure up this number. Is
9 it five and a half -- well, I should start with this.
10 If the Commission were to approve the concept of the
11 plan and this proactive safety maintenance or
12 replacement -- and/or replacement but not the recovery
13 mechanism, is the number five and a half million or six
14 million, which I heard on previous cross, or what?
15 A. The five and a half million is what is in the
16 rate case that's filed.
17 Q. What was the 6 million discussion about then
18 with Mr. Armstrong earlier? Or was that an
19 oversimplification?
20 A. The 6 million is the proposed span for the SSIP
21 going forward into 2019. 2019 and forward.
22 Q. Okay. Would the Company be willing to request
23 legislation to create an application fee for the review
24 of the filings if there were a recovery mechanism?
25 Similar to someone previously referenced the electric

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1 recovery mechanisms for transmission and environment
 2 investment. So -- and they include a fee that the
 3 Staff and the Commission can use to process the case
 4 and do the analysis. So would MDU be willing to
 5 propose similar legislation for this purpose with a fee
 6 that was then available for reviewing the prudence of
 7 the projects?
 8 A. I don't know if I'm the best one to speak to
 9 that. I guess my personal opinion is I don't see an
 10 issue where we wouldn't. But I think there could be
 11 others that may agree or disagree with that.
 12 MS. JEFFCOAT-SACCO: That's all I have.
 13 Thanks.
 14 THE COURT: Okay. Let's take ten
 15 minutes -- you have another one?
 16 COMMISSIONER KROSHUS: I have another one.
 17 THE COURT: Okay.
 18
 19 EXAMINATION
 20 BY COMMISSIONER KROSHUS:
 21 Q. Okay. So \$800,000 on the testing for the
 22 plastic pipe, 800,000 to do the plastic, would 800,000
 23 also be adequate to do -- evaluate the steel?
 24 A. I would say no. And again, I want to try
 25 and -- I want to clarify the 800,000. The 800,000 is

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1 to remove the entire Aldyl A system in three of the
 2 towns, I believe, and then it's to take samples in some
 3 of these other towns. So, again, the study is for the
 4 removal of that pipe plus samples from this. So it's
 5 not -- even though the 800,000 is being spent, it's not
 6 just the study, it's the replacement, the capital side
 7 of the replacement, too.
 8 So again, we're working through the details
 9 with GTI on how much this will truly cost. The early
 10 indication is that we can still do what was planned
 11 with these towns and that study can be a piece of that
 12 800,000 is what I'm saying. And again, it's -- we know
 13 there's a study needed. But I just want to confirm
 14 that this -- if you roll it all together, it's all
 15 piece of -- a part of this study. But it's not costing
 16 us to work with this third party contractor \$800,000 to
 17 do that study.
 18 Q. Right. Right. But the same would hold true on
 19 the steel side of it as well, the 4.7 million, only a
 20 smaller part of that is the actual study?
 21 A. And I think to study steel, I don't know where
 22 we would start to study it. And again, because when
 23 you dig up the samples, for instance, like with the
 24 picture, the steel's not the problem. It's the
 25 connections. It's the potential for the coding that's

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1 around that. Is there a bad coding that's causing the
 2 corrosion, potential corrosion pit. So what are you
 3 truly -- what are you sending in? If we're going to
 4 send up a piece of pipe, I feel that's not prudent,
 5 because I feel the piece of pipe itself we're not going
 6 to get anything back that's going to tell us one way or
 7 the other. It's the construction of that pipe.
 8 Q. Okay.
 9 THE COURT: Okay. Ten-minute break.
 10 We'll be back at ten to three. If we need to, can we
 11 go until 5:30 or 6:00 tonight?
 12 (A break was taken at 2:40 p.m.)
 13 THE COURT: Okay. Come to order
 14 everybody. We're going to go back on the record. We
 15 can start with two commissioners.
 16 We're looking at about 2:54 back on the record.
 17 Mr. Sanderson, call your next witness.
 18 MR. SANDERSON: Thank you, Your Honor.
 19 Montana-Dakota would call Travis Jacobson.
 20 THE COURT: Mr. Jacobson, can you spell
 21 your last name for the record, please?
 22 THE WITNESS: J-a-c-o-b-s-o-n.
 23 THE COURT: Okay. And I'll have you raise
 24 your right hand.
 25

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1 TRAVIS JACOBSON,
 2 duly sworn, was examined and testifies as follows:
 3 THE WITNESS: I do.
 4 THE COURT: Thank you. Okay. Mr.
 5 Sanderson?
 6 MR. SANDERSON: Thank you.
 7
 8 DIRECT EXAMINATION
 9 BY MR. SANDERSON:
 10 Q. Good afternoon, Mr. Jacobson. Could you please
 11 state your full name and business address for the
 12 record?
 13 A. Travis R. Jacobson, 400 North Fourth Street in
 14 Bismarck, North Dakota.
 15 Q. And whom are you employed by?
 16 A. Montana-Dakota.
 17 Q. And what is your position with the Company?
 18 A. I'm a manager in the regulatory affairs
 19 department.
 20 Q. And could you briefly describe what your
 21 responsibilities are in that role?
 22 A. I work primarily on the revenue requirement and
 23 rate case type settings, as well as the PGA, the cost
 24 of gas, and the fuel clause filings.
 25 Q. And before we get into your testimony, Mr.

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<p>1 Jacobson, could you just give a brief background on 2 your education and work experience? 3 A. Yes, I have a bachelor's of science in 4 accounting, and I've work for Montana-Dakota for a 5 little over 20 years in financial reporting as well as 6 financial planning and more recently in the regulatory 7 affairs department. 8 Q. And Mr. Jacobson, have you testified in other 9 proceedings before state regulatory bodies? 10 A. Yes, I have. 11 Q. And you're familiar with Montana-Dakota's 12 application for a rate increase in the present case? 13 A. I am. 14 Q. And just briefly describe your involvement with 15 that application. 16 A. My work was primarily related to the 17 development of the revenue requirement in this case. 18 Q. And Mr. Jacobson, did you submit pre-filed 19 direct and rebuttal testimony in this proceeding? 20 A. I did. 21 Q. And if asked those same questions in your 22 pre-filed testimony, would your answers remain the 23 same? 24 A. Yes, they would. 25 Q. Okay. And Mr. Jacobson, you've also prepared</p>	<p>1 Subsequent to that, the tax reform in late 2 December caused us to reevaluate that request, and I 3 know it was brought up before, but \$2.3 million was the 4 savings projected, and that is about 40 percent less 5 than our original request. 6 There was a mention of a credit metrics. And 7 just to kind of point out in this particular slide, the 8 income taxes plant ARAM and the non-plant, those are 9 non-cash savings to the customer. And those are really 10 what is driving, in part, the lower cash flow. You 11 have to take those, gross them up, and so we collect 12 less revenue, but we don't pay any less actual cash 13 taxes for related to those. 14 Q. And Mr. Jacobson, could you briefly explain 15 what rate base is and how the Company developed its 16 rate base for this case? 17 A. Rate base just in general is the investment net 18 of deferred taxes as well as any customer advances. 19 And that is really the level of investment on a net 20 basis that is shareholder contributed, and that is the 21 piece that we try to earn a rate of return on, which is 22 really the shareholders' reward, if you will, for their 23 investment in Montana-Dakota. 24 Q. And did the Company request interim rates as 25 part of this case?</p>
<p>1 PowerPoint slides regarding your testimony? 2 A. Correct. 3 Q. And as we move along, feel free to use those as 4 we proceed here. 5 Can you briefly summarize how the Company 6 determined its revenue requirements for the present 7 case? 8 A. Yes. We started with a 2016 base year. And 9 from that base year, we, about a year ago, developed 10 our 2017 projections. And based on those 2017 11 projections, which we analyzed over 90-plus percent of 12 the entire expense group. And of that, we went 13 through, made any known changes, any changes in 14 business processes or things that we're aware of. And 15 from that, we used that as a benchmark to get to 2018, 16 a projected test period, and that's the test period in 17 this case. 18 Q. Okay. Can you briefly summarize the Company's 19 projected revenues and expenses? For this case? 20 A. As you'll see on the screen, so our operating 21 revenues, we built in growth for customers based on 22 customer usage. And then we analyzed the O&M 23 depreciation and all other components to get to a 24 revenue requirement at the time we filed of just under 25 \$5.9 million.</p>	<p>1 A. Yep. Just before we get to that, we also -- on 2 the rate base, we also had an adjustment for the tax 3 impact as well. And that was primarily the bonus tax 4 depreciation. We had intended to utilize bonus tax 5 depreciation in 2018. That's another cash piece of it. 6 The elimination of that you can see on the screen is 7 what we would have intended to have is \$1.4 million of 8 additional cash. And it also raises the rate base 9 because there's lower rate, tax rate, as well as the 10 lower bonus tax depreciation, so your deferreds which 11 deduct your rate base. 12 So getting to the interim request, we did 13 request interim at the time of filing, and we -- we 14 implemented the 60 days afterwards in the amount of 15 \$4.6 million in September of 2017. The tax act also 16 affected that. And so we filed that and were granted 17 approval to reduce that by about a million nine, and 18 that reduction then went into effect in February of 19 2018. 20 Our intent with the conclusion of this rate 21 case would be to submit a refund plan in order to 22 address the revenue that was collected in 2017 and '18. 23 This will be a little bit unique in that in 2017 we are 24 taxed at the 35 percent federal tax rate whereas in 25 2018 we'll be taxed at a 21 percent tax rate. So it</p>

<p style="text-align: right;">Page 245</p> <p>1 will be a little bit more complicated in terms of a 2 refund plan than what we've seen in the last gas case, 3 for instance, should there need to be a refund. 4 Q. And Mr. Jacobson, there's already been a bit of 5 testimony from other witnesses as to the issues with 6 Staff and the interveners regarding the revenue 7 requirement in this case. Can you briefly identify 8 those issues in dispute for the Commission? 9 A. Yes. What I have on the screen now is -- I'll 10 just say that it's based on my high-level analysis 11 comparing the Advocacy Staff revenue requirement -- 12 you'll see that on the bottom of 1.3 million -- 13 reconciling from our \$3.6 million. So what I did is I 14 incorporated both the rate base and income statement 15 effects of the two sides. The one additional piece, 16 the nonplant excess deferred taxes, you'll see a 17 \$200,000. The issue there is really a philosophical 18 difference between our Company proposal of ten years to 19 amortize our excess deferrals. And our ten year was 20 based on the life of those assets that created the 21 deferred income tax whereas Staff recommended a shorter 22 period primarily to reduce the rate base in a much more 23 expedient manner. 24 Q. Now, Mr. Jacobson, the biggest amount in 25 dispute between Montana-Dakota and Advocacy Staff</p>	<p style="text-align: right;">Page 247</p> <p>1 sound and quality customer service. And a few things 2 that they can do to control O&M, they can be very well 3 versed in our tariffs and able to answer those 4 questions and get on to the next customer. That 5 reduces the number of agents we need. And, you know, 6 alternatively, servicemen in our local communities, a 7 lot of these guys are not only on the job, but off the 8 job very involved in their communities, and that level 9 of customer service does not go unnoticed. 10 One of the issues that I have with the 11 adjustment of the 60 percent disallowance, there was an 12 associated payroll tax adjustment, and as the salaries 13 climbed, the percentage of payroll tax decreases. So 14 that adjustment is overstated as well. 15 Q. Now, I want to move on to the next area. The 16 Advocacy Staff request that the Commission reject all 17 of the proposed cost for the 2018 main projects that 18 Mr. Darras explained. Do you agree that those should 19 be removed from the 2018 case? 20 A. I do not. And I think Pat talked about it, 21 Nicole talked about it. These are projects that are 22 currently under way. They've all been contracted for. 23 And in some cases, the dirt is actually moving on 24 those. \$5.6 million is what is the level of those 25 projects. And, you know, in 2017 in our list of</p>
<p style="text-align: right;">Page 246</p> <p>1 involves Montana-Dakota's incentive or at-risk pay 2 compensation. Do you agree that the Company's 3 incentive compensation request should be reduced 60 4 percent as Advocacy Staff is proposing? 5 A. I certainly do not. The -- I know Nicole 6 covered this a little bit, so I won't spend a lot of 7 time. But there was a disallowance 60 percent, and 8 this again, it's for all employees. It is just one 9 component of our -- of our total rewards. I put a 10 little graph on there, you know, it's a piece of the 11 pie, if you will. There are many options. There are 12 companies out there that have more generous benefits. 13 There are those that have a higher base wage and less 14 benefits. Ours happens to encompass three components. 15 Just as an example, you know, we've got a 16 customer service agent which is eligible for a six 17 percent bonus assuming we meet all of our targets. And 18 to pull that piece out, it would need to be replaced 19 with something in order to attract and retain those 20 workers. In terms of is it beneficial to the customer, 21 you know, these customer service agents get calls for 22 all of our Montana-Dakota jurisdictions. So they need 23 to be aware of the tariffs in each and every 24 jurisdiction, both gas and electric in those areas we 25 serve. I would argue it's critical that they provide</p>	<p style="text-align: right;">Page 248</p> <p>1 capital additions, we didn't classify some of the 2 replacement projects as SSIP. For instance, in 3 Richardton, we did Richardton last year. There was 4 some street work on 13th Street in Bismarck, we timed 5 our replacement program with that. Those are both in 6 2017 revenue requirement, and there has never been an 7 issue with those given they're similar projects. 8 One of the things, the reason that we were a 9 little bit more deliberate in 2018 on our capital 10 additions list is as a part of the mechanism, we had 11 indicated we would propose to true up the actual spend 12 of 2017. You know, Pat had mentioned that some of 13 these projects are coming in a little bit less. If we 14 don't spend those dollars, through that mechanism we 15 have proposed to true up those. And hence on our 16 capital additions list, we wanted to make sure that we 17 could go back to those numbers and determine the 18 revenue requirement associated. 19 Q. The next issue I want to talk to you about, Mr. 20 Jacobson, is Advocacy Staff is also challenging the 21 Company's proposal to include a portion of inflation on 22 its operating expenses. Can you explain that 23 inflation -- or the inflation included by the Company 24 in its application and why it is appropriate in this 25 case?</p>

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1 A. As I mentioned, we filed the case a year ago,
 2 and in that case we analyzed 2017 information to the
 3 extent possible. And then for 2017 to get to our
 4 projected, and again it's a projected period, we used
 5 an inflation factor in several categories. For
 6 instance, subcontract labor, we went in and we analyzed
 7 the information that we had for 2017, and based on our
 8 analysis, we didn't see there was any reason to move
 9 those up. There were some subcontract labor costs that
 10 had gone away in 2017. We were seeing that. So we
 11 only adjusted 2018.

12 Many of these, you know, materials, for
 13 instance, there's thousands of individual purchases of
 14 small items for our crews to do their work. We didn't
 15 include any kind of an inflation for 2017 on that one
 16 either. We did in 2018. It's consistent with all of
 17 the rate cases that I've been involved in, and it is
 18 a -- it's a practice that's been accepted. We used an
 19 adjustment based on the average of six published
 20 indexes. And they all had a very tight range, which
 21 gives us confidence that it's -- it makes sense, it's
 22 what is expected. And again, we're on a projected test
 23 period and to get those dollars out that far, it's a
 24 reasonable estimate and, again, consistent with past
 25 practice.

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1 Q. Mr. Jacobson, another issue that's in dispute
 2 in this case was the Company's inclusion of vehicle and
 3 work expense. Could you just explain the dispute and
 4 Advocacy Staff's disagreement with our proposal?

5 A. Yes. In our initial capital budget,
 6 Montana-Dakota had included -- and I don't have the
 7 numbers right in front of me -- a level of vehicles for
 8 replacement as well as work equipment. Through the
 9 data request process, we were asked questions about the
 10 vehicles and we reanalyzed what our budget dollars
 11 were, and we did refine those numbers. So in general,
 12 the adjustment by Advocacy Staff was a reduction to our
 13 vehicle and work expense. And in general, I don't
 14 disagree with the adjustment, except for there were
 15 some categories where the level of our vehicle and
 16 equipment capital additions increased, but they
 17 didn't take -- they only took the decreases. So
 18 there's six categories, they picked four of them that
 19 decreased. And the two that increased they didn't
 20 take.

21 I'll -- associated with that, they recommended
 22 a decrease in depreciation. Our practice long
 23 standing, we've not changed any kind of practice, what
 24 we do for vehicles and work to more appropriately tie
 25 in the use of that cost of the use of the vehicle to

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1 the type of work they're doing, we put all of the
 2 depreciation as well as tires, fuel, oil changes, et
 3 cetera, on those vehicles into a clearing account and
 4 come up with a per-unit charge. So for 25 cents a mile
 5 whenever a serviceman is going -- if he's going out to
 6 read a meter, fix a service, change a meter, they
 7 record all that, and then that follows the expense.

8 So we recorded a decrease in depreciation of
 9 38,000. We didn't have it in depreciation. So it's an
 10 error. There's also an additional adjustment to O&M.
 11 And while I don't necessarily agree with the method of
 12 the adjustment, I'm not terribly opposed to the amount
 13 of the adjustment.

14 Q. The next issue I want to address with you, Mr.
 15 Jacobson, is the dispute over Montana-Dakota's
 16 inclusion of future source charges related to the
 17 Company airplane. Can you explain those costs and why
 18 they are appropriate in this rate case?

19 A. Yes. As many of you are aware, Montana-Dakota
 20 has access to an airplane. And we record a certain
 21 amount of that on our books and records. We've had the
 22 aircraft for decades. And for the purposes of this
 23 case, we didn't request to add any additional capital.
 24 The expenses were trued up to what we anticipate they
 25 are for our expense.

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1 You know, the customers in North Dakota pay
 2 for -- they do not pay for trips if we take the plane
 3 to South Dakota, for instance. So they're charged the
 4 appropriate amount. If there's training, which was
 5 brought up, then they would maybe pay a portion of
 6 that.

7 So with the -- the recommendation was to remove
 8 all of the expense and the rate base from our request.
 9 However, there was no consideration for alternative
 10 travel. If we take a company plane, generally
 11 speaking, Nicole's reviewing those, it has to be
 12 beneficial from a cost perspective. There's a few
 13 other items that are also important that may not fall
 14 into that. One of them is if we go on a trip, Bismarck
 15 is not the best place to get in and out of if you're
 16 going on air. So oftentimes there's additional travel
 17 costs, meals, lodging, et cetera, in addition to the
 18 commercial airfare prices.

19 The -- one issue that I have in removal of the
 20 rate base, the investment was taken out. However, the
 21 associated accumulated reserve was not taken out nor
 22 were deferred taxes. Those happened to be both rate
 23 base deducts. So in sum, the adjustment is certainly
 24 overstated.

25 The other item in the surrebuttal, there wasn't

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1 an agreement to a recommended adjustment, which I had
2 indicated was doubled. In making that adjustment, the
3 original testimony had a reduction of nearly 13,000.
4 The surrebuttal had an increase of 13,000. So even
5 with the errors that have been identified, the
6 adjustment for the rate base -- or for the aircraft is
7 \$110,000.

8 Q. Mr. Jacobson, the next issue I'd like you to
9 address is Staff is also seeking a disallowance of
10 losses on certain manufactured home in the Bakken. Can
11 you refresh the Commission's recollection on why
12 Montana-Dakota had manufactured homes and why they're
13 appropriate to include in this case?

14 A. Yes. We had to have employees. And our
15 biggest barrier in the Bakken period was lack of
16 housing. We actually had folks that came up,
17 interviewed, accepted the job, got here, and found out
18 they couldn't get housing or certainly they couldn't
19 get housing. If it was available, it wasn't affordable
20 based on our salaries. We did a number of different
21 incentives, if you will, to try to get employees. The
22 fact is the housing wasn't available. We used housing
23 from the initial period when it was placed in service
24 until the housing became available.

25 We also at that same time in the same region,

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1 we had two office buildings that we sold and realized
2 significant gains on those office buildings. We put
3 those gains in our rate base as well and amortizing
4 them back to the customer. Ironically, those weren't
5 pulled out. But these housing units, we are recovering
6 those in our electric jurisdiction right now, and
7 they're the same housing units. We had a lot of folks
8 that were servicemen for gas and electric, and we're
9 recovering it, it's the same units, in our electric
10 rates today.

11 Q. Now, the next issue I'd like you to address,
12 Mr. Jacobson, is this Advocacy Staff's seeking a
13 disallowance of the Company's advertising expense and
14 Company dues. Can you explain to the Commission what
15 those costs are and why they're appropriate in this
16 case?

17 A. Right. We belong to a number of -- a number of
18 industry groups, and each of those we pay a membership
19 fee. One of the bigger ones is the AGA, American Gas
20 Association. They have, you know, obviously a lot of
21 national pull.

22 We also -- I listed kind of the three biggest
23 ones that were excluded -- recommended for exclusion by
24 Advocacy Staff. Consortium for Energy Efficiency,
25 Energy Solution, both are proactive groups regarding

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1 conservation. And conservation is, you know, something
2 obviously we talk a lot about. We don't have a formal
3 conservation program in North Dakota, but we do believe
4 those are good groups to belong to.

5 Utility Solid Waste Activities Group, they help
6 us with a lot of environmental issues. PCBs on the gas
7 system, I guess is one of the bigger areas where
8 they're -- and they're very knowledgeable.

9 A couple of the others were chamber of
10 commerce. One of them was the Cavalier Chamber of
11 Commerce, for instance, disallowance of \$160.
12 Ironically, the line above that is Carrington, but
13 there was no disallowance of that one. Each of the
14 membership dues that we had, it was listed and provided.

15 On the advertising side, you know, I guess
16 right off the top, we removed all of the promotional
17 advertising. And, you know, any charitable donations
18 and those type of situations, those are all recorded
19 below the line and were never included in the case.
20 This -- the way we requested this, it's very consistent
21 with what we've done in the past in both electric and
22 gas cases, and we provided a list of the types of
23 charges as well as each individual charge. And, you
24 know, those are the main categories. Call Before you
25 Dig and the kid's safety certainly are the lion's share

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1 of those as well as the telephone directories. And it
2 was a recommendation to remove 50 percent of each and
3 every adjustment -- or each and every advertising
4 expense that we had, including Call Before you Dig.

5 Q. Now, Mr. Jacobson, I want to move to the
6 Company's revenue requirements supporting the SSIP
7 program, and that's rate 94. Could you describe that?

8 A. Yes. So included as an exhibit to my
9 testimony, I had included a revenue requirement
10 analysis very similar to what we did on the
11 transmission. We had a couple of transmission projects
12 that we included, Little Muddy and the Kenmare line.
13 Very similar. We put in our asset, any deferred taxes,
14 depreciation, return on that, interest costs, et
15 cetera. At this point, there is no -- we would have
16 the tariff with a zero rate. So it would not show up
17 on the bill. We talked a little bit about the time
18 line. Our intention would be to file in March of 2019
19 for the projects that would be done in that year with
20 the anticipation to request rates in October. The
21 dates of those are not necessarily inconsequential in
22 March. Generally we've got a lot of the bids back,
23 we're getting ready to send out the contract
24 acceptance. And as you know, the season starts later,
25 and by October most of those projects would be getting

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1 ready to be placed in service. We generally don't put
2 a lot of them in service early in the year. So it's
3 good timing on that.

4 I mentioned that the 2018, we identify those
5 separately in our capital additions list so that we
6 could true up that spend in 2018 on the go-forward
7 basis each year we would file, the following year we
8 would true those up to the actual expenses.

9 Q. Mr. Jacobson, on this SSIP funding mechanism, a
10 question was asked of Mr. Darras, and I believe he said
11 he wouldn't be the appropriate witness regarding a
12 filing fee. Would the Company, Montana-Dakota, support
13 a filing fee to address the concerns by Staff to allow
14 them to investigate and ferret out the issues with the
15 SSIP programs?

16 A. I think the answer to that is yes, we would.
17 Currently in our other -- we have an environmental
18 generation renewable and transmission, there are filing
19 fees associated, and we'd be open to including a filing
20 fee if there was a request to do that of a set amount
21 within the tariff itself.

22 Q. The other issue, there was a question raised
23 during cross-examination to Ms. Kivits of, you know,
24 if an SSIP recovery mechanism was implemented, how
25 could other savings be recognized or investment? How

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1 would you respond to that question?

2 A. Yeah, I believe that was Mr. Coffman that
3 mentioned that. So there's a lot of things that change
4 between rate cases. I think everybody would agree to
5 that. The one thing that doesn't change, each and
6 every year, Montana-Dakota provides a -- an annual
7 report, and our earnings are shown in that annual
8 report. If there are savings that are significant
9 enough to move those returns above the allowed return,
10 certainly the Commission has the authority to
11 investigate that.

12 Q. And finally, Mr. Jacobson, I want to ask
13 briefly, as part of the application, the Company's
14 proposed a change to rate 88, cost of gas and rate 99,
15 cost of propane. Could you just briefly explain those
16 changes?

17 A. Yes. Each month we prepare based on most
18 recent estimates by the 8th of each month we submit our
19 PGA, our cost of gas filing. And our current tariff,
20 which was established really not all that long ago,
21 moving from an annual tariff to a monthly tariff, was
22 set at 10 cents. At that time, we didn't really have a
23 good magnitude of what would constitute a significant
24 change. What we would request is to move that from 10
25 cents to 25.

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1 What we expect to avoid is it will be a little
2 more transparent for the customer if they have fewer
3 rate changes. Certainly the rate changes and they end
4 up with more lines on their bill. We expect the number
5 of filings to reduce by about 50 percent, and it would
6 be a little bit -- it would save both an administrative
7 burden on our end as well as cost.

8 Q. And with respect to that rate 88, the customer
9 would pay the same amount, correct?

10 A. Correct. So the mechanism continues the same
11 as it is today in terms of we would still file. Any
12 difference is deferred no different than it is today.
13 The customer will pay that same amount.

14 Q. Mr. Jacobson, I have no further questions at
15 this time.

16 MR. SANDERSON: But we would offer MDU
17 Exhibit 13, the PowerPoint slides of Mr. Jacobson used
18 in his direct.

19 THE COURT: Any objection.
20 MR. ARMSTRONG: No objection.
21 THE COURT: Mr. Coffman?
22 MR. COFFMAN: No objection.
23 MAJOR UNSICKER: No objection.
24 MS. JEFFCOAT-SACCO: No objection.
25 THE COURT: It is received. Mr.

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1 Armstrong.

2

3 CROSS-EXAMINATION

4 BY MR. ARMSTRONG:

5 Q. Mr. Jacobson, could you keep your slides right
6 out in front of you, please?

7 A. Yes.

8 Q. I want to touch on a few things in there right
9 away. And that's slide number five, if you could put
10 it up on the screen?

11 A. Got it.

12 Q. So at the bottom of that slide -- and we'll go
13 through some of these items in a little bit. But at
14 the bottom of that slide, you have -- that's 1,329,000
15 PFC Staff Position, correct?

16 A. Correct.

17 Q. And where do you come up with that number?

18 A. The 1,329,000?

19 Q. Yeah.

20 A. From the surrebuttal testimony.

21 Q. I thought Mgrace's testimony was 867,000?

22 A. The 867 does not account for the reduction in
23 revenue. So what we're interested here today is what
24 the impact to the customer is, so the amount that needs
25 to be collected from customers. If you would look at

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<p>1 his exhibit, the top line is a million three. There's 2 an additional revenue adjustment. 3 Q. And what's that adjustment for? 4 A. That is related to the aircraft. 5 Q. Thank you. I just want to make sure we're 6 talking apples to apples. 7 A. Okay. 8 Q. So you talked a bit about the incentive 9 compensation reduction recommended by Staff? 10 A. Correct. 11 Q. And you're aware that Staff hasn't said you're 12 playing your employees too much, correct? 13 A. If you remove 60 percent of the incentive, that 14 would reduce the revenue requirement. 15 Q. How much of the incentive compensation is being 16 paid by shareholders, is being recommended to be paid 17 by shareholders, or be borne by shareholders? 18 A. You know, I think Ms. Kivitso talked about 19 that. The overall is -- the investment is the 20 shareholders and the expenses are essentially paid by 21 the customers. 22 Q. So would that be the shareholders are being 23 asked to pay zero dollars? 24 A. The shareholder invests money to earn a return 25 on it.</p>	<p>1 Q. 100 percent of the incentive compensation? 2 A. 100 percent of the increase over our target. 3 Q. 100 percent of the earnings would be borne by 4 the shareholder? I don't understand what you mean by 5 that. 6 A. 100 percent of the expense associated with -- 7 so if our target was X and we earn over that, so that 8 incentive piece goes higher than target, all of that is 9 borne by the shareholder. 10 Q. Back up a second here. The incentive 11 compensation, correct, there is -- well, basically 12 there's two different tiers of incentive compensation, 13 one for the executives and one for everybody below the 14 executives; is that fair? 15 A. I think that's reasonable. 16 Q. And you heard Ms. Kivitso testify that her, 17 along with the executive team, are partially -- one of 18 their criteria is additional earnings for the Company, 19 correct? 20 A. Correct. 21 Q. And none of that is being paid by the 22 shareholder. None of that incentive compensation is 23 being paid by the shareholder under your requested rate 24 increase? 25 A. If they earn the return on the rate base that's</p>
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<p>1 Q. And the incentive compensation is at least 2 partially designed to increase earnings, correct? 3 A. I believe Ms. Kivitso said that there was a 4 part of the incentive that was tied to earnings. 5 Q. Okay. And who do those earnings go to? 6 A. The shareholder receives the earnings. 7 Q. And -- but the rate payer pays for the 8 incentive associated with earning the shareholder 9 more -- or making more earnings for the shareholder 10 under what's proposed? 11 A. Can you repeat that? 12 Q. Yeah. You're not asking the shareholder to 13 bear any of the incentive compensation based on paying 14 for the additional earnings made to the shareholder? 15 A. So again, if I go back to a revenue 16 requirements model, it's I have a rate base, and what 17 we do is we figure out what's the return, what are the 18 earnings that are needed on that. I add expenses to 19 that to come up with my total revenue requirement. 20 Q. I understand you might disagree with the 21 concept. But in your rate case, you're not asking the 22 shareholder to bear any of those expenses, correct? 23 A. To the extent that earnings are higher than 24 what our target is, 100 percent of that would be borne 25 by the shareholder.</p>	<p>1 established in this case, the expense for that would be 2 recovered from the customer. 3 Q. And then for the other employees, it's customer 4 satisfaction and then operation and maintenance expense 5 goals, correct? 6 A. Correct. 7 Q. And if the operation and maintenance expense 8 goals are met, that means there's additional earnings, 9 correct? 10 A. It would mean -- if you met them exactly, there 11 would be no additional earnings. 12 Q. Right. But that's what the incentive is for is 13 to come in less, correct? 14 A. Correct. 15 Q. So if you come in less, that means there's 16 additional earnings, correct? 17 A. Correct. 18 Q. Moving on to the private aircraft. Has the 19 Company produced any evidence in this case of what the 20 commercial aircraft would cost versus a private 21 aircraft? 22 A. We have provided any and all information 23 surrounding the plane that we were requested. 24 Q. Okay. So have you provided any information on 25 what the commercial flights would cost?</p>

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1 A. I'm not aware that we have established a
2 specific comparison between when a company plane was
3 flown versus a commercial aircraft at that same time.
4 Q. And you know that's one of the issues we raised
5 in our testimony, correct?
6 A. I -- yes, in reading the surrebuttal, I did see
7 that.
8 Q. And even with that, we still don't have that
9 information being presented as evidence today, correct?
10 A. Well, again, what we did is we included the
11 plane.
12 Q. Just that it exists?
13 A. The plane? It's -- yeah, it's out there.
14 Q. No, the comparison between what it costs to fly
15 your employees private versus flying them commercially.
16 A. I assume someone could do that. I have not --
17 Q. I assume if every time it's used there's a
18 comparison that's cheaper, somehow there should be
19 something that shows that somewhere.
20 A. There is an analysis done at the time of the
21 flight. I would say it's probably -- and Ms. Kivitso
22 would be a better one to ask exactly how that works.
23 I'm not sure that we have a transaction history of
24 comparing all the documents.
25 Q. Wouldn't that be part of trying to make sure

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1 you're reaching the lowest cost?
2 A. Maintaining the documents? I would argue that
3 if you were to just do a quick analysis, you would know
4 the answer to that.
5 Q. I thought -- well, I guess I'll save that for
6 argument.
7 So then with the aircraft, I know Ms. Kivitso
8 testified earlier about call center flights. You
9 recall that testimony?
10 A. I do.
11 Q. And you filed surrebuttal -- or rebuttal on
12 that issue, and I notice you did not list call center
13 flights. Is there a reason for that?
14 A. No. I just -- it was not something I thought
15 of at that particular point in time.
16 Q. The things you mentioned were debt and equity
17 analyst meetings?
18 A. Correct.
19 Q. And board of director meetings?
20 A. Correct.
21 Q. Which board of director meetings would those
22 be?
23 A. It would be the MDU Resources board of
24 directors.
25 Q. And where are those meetings held?

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1 A. I guess they've been in different areas. I'm
2 not sure exactly where they're held each year.
3 Q. And those -- so the -- as I understand your
4 testimony, you're asking the rate payer to pay for
5 private aircraft to fly to debt and equity analyst
6 meetings and board of director meeting, correct?
7 A. Those are two instances, yes.
8 Q. Correct me if I'm wrong, but those sound like
9 shareholder -- more shareholder issues than rate payer
10 issues to me.
11 A. I would disagree. And so just probably an easy
12 example is based on those analyst meetings, they talked
13 about credit metrics, about credit ratings.
14 Maintaining a strong credit rating certainly is a
15 positive for our customers.
16 Q. Positive for your shareholders too, correct?
17 A. It is, absolutely.
18 Q. But you're asking for all those costs to be
19 borne by the customer?
20 A. We're doing those for the customer, yes.
21 Q. Okay. Moving now to inflation. I understand
22 you used a 2018 test year, correct?
23 A. That's correct.
24 Q. Would you agree with me that we're almost
25 halfway through 2018?

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1 A. We'd be close.
2 Q. Okay. Thank you. Would you agree with me that
3 once we're well into the test year, we should try to
4 identify the known and measurable cost increases versus
5 using an estimate and passing along on every item?
6 A. To the extent that we had that information
7 available, we did do some of that prior to our
8 rebuttal.
9 Q. You would agree with me that Mr. Mgrace has
10 accepted those cost increases where they have been
11 identified and are known and measurable, correct?
12 A. I would agree with that.
13 Q. The ones he's still contesting are what are
14 just based on a straight across the board 2.2 percent
15 increase, whether they've actually occurred or not?
16 A. That's correct.
17 Q. Moving on now to the housing. Am I correct
18 that's in the Watford City area?
19 A. Watford City, Williston, Dickinson.
20 Q. Could you turn to your slide on there, it's
21 slide 12? I guess starting off, how much is the loss
22 on this housing that you're asking rate payers to be
23 responsible for?
24 A. Just under \$800,000.
25 Q. Is it 774,000?

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1 A. That sounds correct.
2 Q. And so you're asking the rate payers to be
3 responsible for that entire loss, correct?
4 A. Correct.
5 Q. And these were manufactured houses the Company
6 bought during the boom?
7 A. We bought those during 2011, '10, '11, through
8 2014.
9 Q. And part of that was the market caused the
10 housing prices to go up in the area, correct?
11 A. There wasn't housing available, so that's why
12 we bought them.
13 Q. Based on the housing market? Being a lack of a
14 market I guess would be more accurate.
15 A. We needed employees. So one of the things that
16 we saw was the employees that we had could go work in
17 the oil field and make a whole lot more money. We had
18 significant turnover. We had to have something to
19 house those individuals.
20 Q. Okay. And then you sold them when?
21 A. '15, '16.
22 Q. So you owned them for roughly three to four
23 years?
24 A. Round numbers.
25 Q. And then lost \$774,000 on those sales?

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1 A. That's correct.
2 Q. And you talk in your slide here about the gain
3 on the sale of buildings. What buildings were sold?
4 A. So there was an office in Williston and an
5 office in Watford City.
6 Q. What were those offices used for?
7 A. They were the district offices, I believe.
8 Q. And do you still have district offices in
9 Watford City and Williston?
10 A. We do.
11 Q. So those were sold so that Montana-Dakota could
12 move into new facilities?
13 A. That's correct.
14 Q. And those buildings had been part of what
15 customers were paying for, for years, correct?
16 A. They were.
17 Q. I mean, before 2012, the customers weren't
18 paying for housing, were they?
19 A. Say that again.
20 Q. The buildings you had in Watford City and
21 Williston are the types of buildings the Company has
22 used to maintain and have a business in those areas for
23 years and years?
24 A. Yes.
25 Q. The Company has not historically paid for

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1 housing?
2 A. And typically on those gains on the sales
3 though, those would go below the line.
4 Q. Okay.
5 A. And we chose not to because it was in -- they
6 were significant gains and that's why they were
7 included as a reduction for the customer.
8 Q. And those were buildings the customer had paid
9 for though, correct?
10 A. Yes. And prior to the Bakken, there wasn't a
11 necessary -- a necessity to have housing for employees.
12 They were able to find their own housing, as they are
13 now.
14 Q. In your rebuttal -- I'm moving on to
15 advertising now.
16 In your rebuttal, you indicated that the
17 advertising expenses were necessary to retain a strong
18 community focus and attract business; is that correct?
19 A. I don't have it in front of me, but that sounds
20 correct.
21 Q. And that's something you're asking the customer
22 to pay for, those advertising expenses?
23 A. Yes.
24 Q. And why does it -- why does community -- let me
25 ask you this. Does having a strong community focus and

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1 attracting business also benefit the shareholder?
2 A. It does.
3 Q. And yet it's all being passed along to the
4 customer?
5 A. Again, it's in the customer's locations and so
6 on and so forth. It's a cost of doing business.
7 Q. So if you attract more business, does that
8 necessarily mean every customer's bill goes down?
9 A. I guess when -- if we were to grow our system
10 and grow businesses, it would certainly reduce the need
11 for any changes in revenue from existing customers. So
12 it has the potential to increase the revenue therefore
13 reducing the amount borne by the customers.
14 Q. You would agree with me that if you get an
15 additional customer, that doesn't mean the neighbor
16 next door's bill goes down by some level; is that
17 correct?
18 A. Probably not the next day it wouldn't.
19 Q. But the Company earnings go up?
20 A. Potentially. Depends on the customer.
21 Q. Well, you make money on most of your customers,
22 don't you?
23 A. We try to.
24 Q. Now, with respect to the nonplant and its
25 amortization, you've got that amortized over ten years,

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1 correct?
2 **A. That's correct.**
3 Q. And that allows the Company to receive a return
4 by whatever rate is authorized over those ten years,
5 correct?
6 **A. On the amount that would be included in rate**
7 **base, I would agree.**
8 Q. And then if that's amortized sooner, the
9 customer still pays back that amount quicker, but the
10 return is less; is that correct?
11 **A. I agree.**
12 MR. ARMSTRONG: No further questions.
13 Thank you.
14 THE COURT: Mr. Coffman.
15 MR. COFFMAN: No questions.
16 THE COURT: Major?
17 MAJOR UNSICKER: No questions, sir.
18 THE COURT: Illona?
19 MS. JEFFCOAT-SACCO: No questions.
20 THE COURT: Okay. Commissioners.
21 Commissioner Kroshus?
22 COMMISSIONER KROSHUS: Only a few
23 questions.
24
25 EXAMINATION

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1 BY COMMISSIONER KROSHUS:
2 Q. In the board meetings are there ever any
3 invited guests that attend those? Potential?
4 **A. I'm not sure. I don't know the answer to that.**
5 Q. On the housing part, did that help drive
6 savings in other areas? I mean, I know that's
7 difficult to quantify because hotel rates were
8 extremely high if you had to put someone up in a hotel
9 room. But overall -- and I know this is very
10 general -- did it help the bottom line by having the
11 housing during that time period available?
12 **A. I'm not sure I would say it helped the bottom**
13 **line. I do know that there was a facility where some**
14 **of our folks who went to, you know, the Williston and**
15 **Watford City, where they were able to use one of the**
16 **housing units almost like a bunk house, if you will,**
17 **because the hotels were expensive. But I guess I'm not**
18 **aware of -- there may possibly be savings that I'm not**
19 **aware of.**
20 Q. Would expenses have been higher without that,
21 the housing?
22 **A. Well, I think the alternative -- I mean, we had**
23 **to have people, right. So you could have trucked them**
24 **in from Bismarck or something. Certainly that would**
25 **have been more expensive. So the option to not have**

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1 housing was -- would have been logistical issue for us
2 to get the folks that were needed to do the job.
3 Q. Would it be fair to say that it was not an
4 ideal situation, but it was the lesser of the two
5 evils?
6 **A. I would agree with that entirely.**
7 Q. Okay. On the incentive compensation, you had
8 mentioned targets which I'm assuming would be some
9 percentage that you expect to pay which would not be
10 the entire amount that might be expensed through the
11 year, but then there is a rollback or an adjustment at
12 the end. I don't know how -- I can only relate to my
13 own experience in terms of when that dropped back but
14 then accruals were made along the way.
15 Without getting into specifics of the plan, how
16 much does that vary from year to year?
17 **A. A couple years ago it was zero. And we have**
18 **paid out over plan. I guess I'm not sure I know the**
19 **exact percentage over plan. But it does vary somewhat.**
20 Q. When you say you paid out zero, zero in terms
21 of incentives earned?
22 **A. Correct.**
23 Q. Okay. And then other years have been
24 potentially paid out in a greater amount than -- so it
25 varies greatly, or it can vary greatly?

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1 **A. It can.**
2 Q. Okay. And I have to ask this part. On the --
3 part of the advertising is for Call Before you Dig,
4 811?
5 **A. Correct.**
6 Q. What percent?
7 **A. When I look at the Call Before you Dig and the**
8 **kids safety, just the combination of those two I**
9 **believe is well over 50 percent of all of our**
10 **advertising.**
11 Q. Okay. The Call Before you Dig conceivably
12 saves the Company money because you don't have line
13 strikes or you're not trying to chase someone down to
14 pay for hitting a line?
15 **A. It is. It's an awareness for everyone.**
16 Q. Is there -- is the pay -- the pay plan for the
17 utility division consistent with MDU Resources as a
18 whole? Or is it completely different?
19 **A. The -- like, setting the base wages and**
20 **benefits and such?**
21 Q. Well, what I'm getting at is being competitive
22 in terms of being able to find and attract talent. And
23 I understand the consequences of not having a
24 competitive pay plan. And I think it's been alluded to
25 several times that trying to retain employees. Good

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<p>1 talent is hard to find. So would you say that the pay 2 plan for the utility division is, generally speaking, 3 similar to if you work for another part of MDU 4 Resources? And I realize the jobs are different, 5 but -- or is it, no, totally different? 6 A. You know, Jim maybe can expand. So each of the 7 types of employees, an accountant may be very similar 8 if you work at the utility versus resources. You know, 9 it's -- they're very similar type duties. Obviously a 10 lineman on the Montana-Dakota side would -- there 11 wouldn't be a commensurate position at MDU Resources. 12 So each of the positions is analyzed based on the 13 duties. So I think there are some similarities. But I 14 certainly think there are some difference as well. 15 Q. Same benefits? Same 401k plan? 16 A. Generally I think the benefits are similar. I 17 do think there are some difference as well. 18 Q. Okay. I don't have any other questions. I've 19 taken note of the testimony from a number of 20 contributors, and I think it's pretty straightforward 21 outside of making the difficult decision of what to do 22 with each item that's been identified as a discrepancy 23 or a difference of opinion. But I don't have any other 24 questions. Thank you. 25 THE COURT: Chairman Christmann.</p>	<p>1 advertising and industry dues were 74,000, but I don't 2 know when you say that it's 40 or 50 percent of the 3 advertising costs, I don't know if advertising is half 4 of that total or is much more or much less than 5 industry dues? 6 A. Of the recommended disallowance? 7 Q. Of the -- 8 A. That -- 9 Q. Right. The reconciliation shows 74,000 for 10 advertising and dues. How much of that is advertising? 11 How much is dues? 12 A. I believe dues is about 7,000. And the 13 remainder would be advertising. 14 Q. So mostly advertising? 15 A. Yes. 16 Q. And 40 or 50 percent of that is 811 and kids 17 safety? 18 A. Correct. 19 CHAIRMAN CHRISTMANN: Okay. No other 20 questions. Thank you. 21 THE COURT: Commissioner Fedorchak. 22 23 EXAMINATION 24 BY COMMISSIONER FEDORCHAK: 25 Q. Thank you, Travis. Who pays for the cost of</p>
<p>1 2 EXAMINATION 3 BY CHAIRMAN CHRISTMANN: 4 Q. My page numbers never match with what's up 5 there, but the reconciliation page. Almost tied for 6 the biggest difference is the ROE. And it almost 7 hasn't been discussed by you. Was that because someone 8 else is -- 9 A. Yes, we have Dr. Gaske. And I built my revenue 10 requirement based on his recommendation. 11 Q. That's what I figured. Just clarifying a few 12 things so I don't go back later regretting that I 13 didn't ask them. 14 On vehicles and work equipment, work equipment 15 is like backhoes and trenchers and things like that, I 16 presume? 17 A. Correct. 18 Q. Okay. And on the industry dues and 19 advertising, you told Commissioner Kroshus that the 20 Call Before you Dig -- he asked about Call Before you 21 Dig, and then you lumped it in with the kids safety 22 program and said, I can't remember whether it was 40 or 23 50 percent of the advertising cost, right? 24 A. Correct. 25 Q. And how -- what -- on the previous page,</p>	<p>1 the -- what do you guys call it, the at-risk pay for 2 MDU Resources employees? 3 A. Montana-Dakota receives an allocation of MDU 4 Resources costs, certain costs from there. So -- 5 Q. No, I mean when -- when employees of MDU 6 Resources receive their at-risk pay, who pays for that? 7 I mean, I'm sure you get a share of whatever, but who 8 else pays for that? 9 A. The shareholder would for any of the 10 nonregulated business. 11 Q. So why don't the shareholders share the share 12 in the cost of the pay -- the at-risk pay that is 13 targeted toward improving earnings on the utility side? 14 A. And I guess maybe I'll reclarify my prior 15 comment, the shareholder. To the extent that there's 16 an incentive on a Knife River business, the customer is 17 going to end up paying that. The customer pays 100 18 percent of their revenue and bears 100 percent of their 19 cost. It's their margin is what the shareholder gets. 20 So if there's an incentive for a nonregulated business, 21 I would argue that the customer pays for that. 22 Q. So on the utilities side, why doesn't the 23 shareholder share in the cost of at least -- I'm not 24 saying do 100 percent, but we've established that the 25 primary goal for the at-risk pay is reducing O&M which</p>

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1 increases earnings, and then just increasing earnings
2 in general for the executive team. Why is it not
3 appropriate for shareholders to share in some of the
4 costs of the money that is used to incentivize
5 employees to make them more money?
6 **A. Here's the way I look at it. If I'm an**
7 **investor and I want to go in and invest in a utility**
8 **and they -- I expect that they're going to earn a 10**
9 **percent return. That 10 percent return is the return**
10 **on the investment of that -- that the shareholder has**
11 **made, and it covers all of the expenses. If I take and**
12 **carve out a portion of expenses and say I can earn 10**
13 **percent except for these pieces, I'm not going to earn**
14 **10 percent on my investment.**
15 **So I guess a couple ways to look at it, you**
16 **either have to start looking at I'm going to invest in**
17 **a utility that's going to earn nine percent, their**
18 **authorized is nine and a half, so I know they're going**
19 **to be stuck with \$500,000 of incentive or other types**
20 **of costs that they can't recover. But if I'm going in,**
21 **and Dr. Gaske will talk, the ten percent is the right**
22 **to attract investors, then every dollar that I don't**
23 **recover, then -- it doesn't -- it lowers the return;**
24 **therefore you're not earning your allowed return.**
25 **Q. Do -- I mean, it's not a guaranteed return,**

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1 it's an authorized return?
2 **A. It's an authorized return, correct.**
3 **Q. And so the investors understand that, that it's**
4 **not guaranteed, it's authorized?**
5 **A. I would agree.**
6 **Q. And could not the Company have more wiggle room**
7 **to earn -- I mean, if you took off a portion of the**
8 **costs for the pay increase put -- took it off the**
9 **bottom line, you could still earn more and make --**
10 **allow them to meet your 9.5 percent return?**
11 **A. But what would you earn it on? You know, we**
12 **have a regulated business, we don't change rates --**
13 **Q. Sometimes do you earn more than your allowed**
14 **earnings? Sometimes do you earn more?**
15 **A. There have been years that we have earned --**
16 **Q. And how does that happen then?**
17 **A. Generally -- so if you go into the early**
18 **Bakken, customer growth happened really quickly until**
19 **such time as our transmission facilities were tapped**
20 **out, our mains and services were no longer able to**
21 **deliver the pressure to our customers, we needed to**
22 **expand. So there are times when that can happen, but**
23 **it's more outside factors. Montana-Dakota I think**
24 **strives day in and day out to be the most efficient**
25 **with our costs. We make prudent investments when**

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1 **they're needed and raise rates only when the**
2 **alternative is that we're significantly under earning.**
3 **Q. All right. You mentioned that the profits from**
4 **the sale of some facilities in the past have gone below**
5 **the line. So to shareholders, correct? That's what**
6 **below the line is?**
7 **A. Correct.**
8 **Q. So has that been kind of norm when there's a**
9 **profit? A gain on a profit sold, that gain typically**
10 **goes to the shareholders?**
11 **A. So for -- typically for buildings, if there's a**
12 **gain or a loss, that goes below the line. Others, you**
13 **know, for -- gas mains, if they're not fully**
14 **depreciated, it comes -- it just remains in compliant,**
15 **that's the -- but typically a building, the gain on a**
16 **sale of a building, would go below the line for typical**
17 **accounting in our Montana-Dakota service charge.**
18 **Q. And you said the loss too. So in this case the**
19 **loss -- you put the gain and the loss -- you put them**
20 **both to customers?**
21 **A. Correct.**
22 **Q. Did you do that because you wanted to do the**
23 **gain? You wanted to give the gain to the customers, so**
24 **you had to do the loss too? Or why didn't the gain and**
25 **the loss both go to the shareholder this time?**

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1 **A. We actually had the gain a couple years prior**
2 **to the loss. So that was put in, in -- as a good-faith**
3 **measure because we were seeing our rate base increase,**
4 **you know, there was a lot of things happening. And**
5 **they were significant. They were significant.**
6 **Q. Okay. And so is the loss more or less than the**
7 **gain?**
8 **A. The loss is a little bit more. Or is more, I**
9 **would say.**
10 **Q. Okay. So how come in this case the loss didn't**
11 **go to the shareholders? We'll leave the gain, you**
12 **know, that's already been taken care of. So why did**
13 **you decide to have the loss be covered by customers in**
14 **this case?**
15 **A. And so in our electric -- most recent electric**
16 **case, we did the same. This is the exact same**
17 **treatment that we have proposed in this case to what we**
18 **currently have on the electric side.**
19 **Q. Okay.**
20 **A. Again, it was a -- we didn't do this but for**
21 **lack of other options. And we recognize it's**
22 **significant. And it was the -- really the only option**
23 **we had at the time was to get these and to get the**
24 **employees -- they were 1 00 percent to serve our**
25 **customers. And again, it's consistent with what we're**

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1 doing on the electric side. And the -- in fact,
2 they're the same units.

3 Q. Yep. I get all that. And I do understand the
4 situation that was occurring out there at those times.
5 I have family members in Williston. So it was crazy.
6 But I guess if the policy in the past has been
7 for gains and losses to be borne by the shareholders,
8 why did you change? Is there something, some reason
9 why this case should be covered by the customers?

10 A. And I guess I would just say, you know, the
11 significance of it, the reason behind it was it was
12 very short term in nature and the significance of it.
13 And it was an -- it was our -- it was really our option
14 to serve customers. So we did it 100 percent to serve
15 customers.

16 Q. Okay. All right. And then my last question, I
17 think, were you -- do you have thoughts on the recovery
18 mechanism, the tracker, versus rate case that you want
19 to add to the mix on the SSIP? Anything that hasn't
20 been covered already?

21 A. There's not much that hasn't been.

22 Q. Okay. I agree. We did talk at length about
23 that.

24 A. You know, I think our experience with the
25 trackers that we currently have. You know, the

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1 electric we have four different ones in environmental.
2 You know, similar to the pipeline replacement, it's
3 very specific to environmental projects that qualify in
4 certain ways. We have a transmission tracker. We did
5 include transmission assets. Again, we proposed them,
6 we brought them in. We certainly haven't heard
7 negative comments about them. And so it's a method
8 that has -- I guess, I feel has proven itself in North
9 Dakota.

10 Q. Do you have ideas for ways -- or could you see
11 working on some tools to provide more clarity and
12 certainty to that process?

13 A. Yeah. We certainly would. I think Pat, you
14 know, mentioned that we would have the projects -- you
15 know, I mentioned the timing of that. You know, in
16 March generally what we've done is we went out for bids
17 and gotten some feedback, maybe even have awarded
18 contracts by that time. So with that, you know, we
19 would see the feet of pipe that they're expecting to
20 include, the cost, that the whole bid process would be
21 available for those. So in terms of the setting the
22 revenue requirement on that, we certainly feel very
23 comfortable that we would have all the information
24 necessary to satisfy the customer.

25 Q. And you mentioned that there were some errors

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1 in the calculations of some of Staff's adjustments. Do
2 you have a document that corrects those errors?

3 A. I've just pointed out the errors themselves.

4 Q. Uh-huh.

5 A. I think my slide deck, and there's an appendix
6 to it that does have some additional --

7 Q. But not by dollar amounts?

8 A. On the vehicles and work, I would argue that
9 the 38,000 is truly an error.

10 Q. Okay. It seems like there was a couple others
11 that you mentioned being off, like --

12 A. On the vehicles and work, the -- you know, we
13 did provide a refinement, and I actually have --

14 Q. Okay. As long as it's someplace.

15 A. It's in the appendix to my testimony.

16 Q. All right. I think that's it, Travis. Thank
17 you.

18 THE COURT: Okay. Counsel, Mr. Sanderson?
19 MR. SANDERSON: Thank you, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. SANDERSON:

22 Q. Mr. Jacobson, I just want to follow up and try
23 to clarify a couple of the issues. And I want to start
24 with the incentive compensation piece that you were
25

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1 asked questions on. And one of the things you said is
2 that a shareholder can end up paying for the incentive
3 compensation if the incentive compensation is above the
4 target. Can you just explain by what you meant by that
5 and give an example of how that may occur?

6 A. So in this case, what we did is we determined
7 what the average incentive compensation target is. So
8 if there are earnings, we had mentioned if you reduce
9 O&M increases its earnings, let's say that's the only
10 thing, rather than 100 percent payout of the target, it
11 went to 102 percent. That affects earnings as well.
12 And that two percent then would be -- that the customer
13 would not be responsible for any of that.

14 Q. And you also mentioned that in the last three
15 years there was a year that Montana-Dakota did not pay
16 any incentive compensation?

17 A. That's correct.

18 Q. Okay. And that would be a situation where the
19 customers were not -- rate payers would not be paying
20 those expenses?

21 A. That's correct.

22 Q. Okay. Can you just talk about -- a lot of
23 these questions are directed at somehow trying to pit
24 the shareholder against the rate payer. In this total
25 rewards package, the Company needs to be competitive

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1 and the shareholder pays, it may improve earnings, but
2 doesn't that also benefit the rate payer? Can you just
3 expand on that?

4 **A. Absolutely. To the extent Montana-Dakota is a**
5 **strong company, has earnings that are strong, there --**
6 **it reduces the need for future rate changes, rate**
7 **increases. And the customer will always benefit from a**
8 **strong company. And I think we've talked about that**
9 **before. And I think it was brought up in a different**
10 **setting where the power lines southeast of town went**
11 **down, and at that time Montana-Dakota had the financial**
12 **ability to go in and put those up. It happened to be**
13 **in the winter. And those customers were concerned**
14 **about getting electricity, not necessarily about the**
15 **cost of that -- of their bill at that particular point**
16 **in time.**

17 **So a strong company and strong earnings are a**
18 **benefit to the customer as well.**

19 Q. I next want to just touch on the housing
20 situation that was felt. And did you say the housing
21 at issue was purchased in 2010, 2011 all in the Bakken
22 region?

23 **A. That's correct.**

24 Q. And I believe you said these are not -- not
25 only similar to the electric case, but the exact same

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1 housing units that the Company is treating in this case
2 as it did in its last electric case?

3 **A. That's absolutely correct.**

4 Q. Okay. And the accounting treatment in this
5 case would be consistent -- the accounting treatment to
6 the North Dakota Natural Gas customers in this case
7 would be completely consistent with what was being done
8 and how they -- the North Dakota Electric customers
9 were treated with respect to the same housing units?

10 **A. That's correct.**

11 Q. Okay. Now, let's go back to 2010, 2011, that
12 time frame. And I -- Commissioner Kroshus mentioned
13 this was a difficult time. But going back to that, it
14 was a situation where Montana-Dakota's management
15 determined that it was necessary to purchase these
16 housing units to provide safe and -- to provide a safe
17 and reliable system that benefited customers?

18 **A. That's true.**

19 Q. And certainly from your experience and the
20 research you did in preparing this, was Montana-Dakota
21 the only company that was faced with this housing
22 crunch and put into this situation?

23 **A. No. You know, a lot of the cities couldn't get**
24 **teachers because they didn't have the housing. There**
25 **were several cities that went out and actually**

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1 **purchased housing on their own behalf for employees for**
2 **the same reasons we did.**

3 Q. Now, finally, Mr. Jacobson, I want to touch on
4 this little piece of inflation, the 2.2 percent that
5 Advocacy Staff is taking issue with in this case. This
6 is applied only to a small group of expenses that was
7 done for purposes of calculating a future rate year
8 when at the time filed were not known and measurable?

9 **A. That's correct.**

10 Q. Okay. And in fact, through data and other
11 things, like insurance or health insurance or benefits
12 or large expenses, you -- that we knew, we used the
13 actual numbers; is that correct?

14 **A. Yes.**

15 Q. Now, you talked about these -- some of these
16 are, you know, expenses or equipment or the day-to-day
17 tools that are -- thousands of employees are using?

18 **A. That's correct.**

19 Q. And so to go true this up actually, it would
20 just be tens of thousands of documents to try to come
21 up with an actual number on this?

22 **A. It would be a process that would be similar to**
23 **what we undertook in order to file the case initially.**

24 Q. Now, you were asked, well, we're halfway
25 through the year, you know, we should be able to know.

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1 Have you looked at what the expenses compared to
2 inflation on some of these issues are and how they
3 compare to the 2.2 percent that the Company has asked
4 for?

5 **A. So we have looked at our actual results, and**
6 **they came in very -- very close to what our projected**
7 **2017 numbers were. And, you know, we are seeing our**
8 **expense trends are reasonably in line with our**
9 **projections.**

10 Q. Okay. And again, this is -- the 2.2 percent
11 was an average of six nationally published
12 organizations on projecting inflation?

13 **A. That's correct.**

14 Q. Mr. Jacobson, I have no further questions.
15 Thank you.

16 THE COURT: Mr. Armstrong, recross?
17 MR. ARMSTRONG: Thank you.

18
19 RECCROSS-EXAMINATION
20 BY MR. ARMSTRONG:

21 Q. So as I understand your testimony, it's just
22 easier to pass the cost along to the customer than to
23 figure out what it actually is for the inflation?

24 **A. Say that one more time.**

25 Q. You just said it would take too much work to

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1 figure out what it actually is so you're just going to
2 apply the 2.2 percent to the customer.
3 **A. And again, at the time we built the case we**
4 **didn't have the benefit of the actual expenses. And we**
5 **are very consistent with 2017. We do feel our**
6 **projections still hold.**
7 Q. But even though you could verify it, you
8 haven't done that?
9 **A. We have not verified.**
10 Q. And so let me ask you a couple questions to
11 clarify. If I understood you correctly, you said
12 normally a sale for a profit on a building would be
13 passed through to the shareholders; is that correct?
14 **A. It goes below the line, correct.**
15 Q. Okay. But in this case, you're saying you're
16 passing that building along -- the gain on those
17 buildings along to the rate payers?
18 **A. Correct. It was included as a deduction to the**
19 **rate payers in an amortization over time.**
20 Q. And actually, you want to pass the housing loss
21 on to the rate payers as well?
22 **A. That's correct.**
23 Q. And the housing loss is more than the gain on
24 the buildings you're talking about, correct?
25 **A. That's correct.**

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1 Q. How much more?
2 **A. And we've been amortizing the gain for a while,**
3 **so I don't have that in front of me. So 350,000 versus**
4 **750 or 774.**
5 Q. So the gain was --
6 **A. A little bit more than double.**
7 Q. Yeah, so --
8 **A. Again, so if you go back in time, the decision**
9 **for the gain on the sale of the buildings was made well**
10 **in advance of any housing decisions.**
11 Q. You could probably predict you were going to
12 lose money on those houses, correct?
13 **A. I didn't predict it. I had no idea of knowing.**
14 Q. How many manufactured houses were there?
15 **A. Right off the top of my head, I don't have an**
16 **exact number. There were about 50.**
17 Q. And I assume you had to buy them at a premium?
18 **A. I'm not sure what the purchase price was**
19 **compared to what they would have been absent. I don't**
20 **know.**
21 Q. But we do know they ended up selling for -- and
22 it's actually not the total was wasn't even 774,000,
23 that's just the amount you're putting for the guess in
24 this case, correct?
25 **A. That's correct.**

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1 Q. How much was the amount in the electric case?
2 **A. It would have been a little bit more than 50**
3 **percent.**
4 Q. Okay. So we're really talking about a loss of
5 a million and a half?
6 **A. Potentially.**
7 Q. And then the gain would also be a little bit
8 more than half, correct?
9 **A. I'm not sure the allocation of the gain. I**
10 **assume it would be similar.**
11 Q. Okay. So we're not just talking 350,000,
12 because you said now with the electric settlement,
13 you've also passed those costs along to the customers
14 in the electric part, correct?
15 **A. The loss on the sale of the manufactured homes?**
16 Q. Yes.
17 **A. It's being recovered currently through the**
18 **electric.**
19 Q. And you talked about that as part of a
20 settlement, and I apologize, but I wasn't able to pull
21 up the settlement quickly. But the settlement in the
22 electric case was actually a black-box settlement,
23 right?
24 **A. It was not part of a settlement. We filed for**
25 **that. And I guess I'm not sure I would say that there**

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1 **was anything in the settlement.**
2 Q. Right. Was there anything in the Commission
3 order about the houses?
4 **A. Our initial filing included the treatment of**
5 **it, and it certainly would have been available for**
6 **anyone to look at.**
7 Q. Okay. And that's case number PU-16-666,
8 correct?
9 **A. I would agree.**
10 Q. And you filed for this recovery for the houses
11 in that case as well, correct?
12 **A. Recovery, yes.**
13 Q. And we reached a settlement before hearing in
14 that case, correct?
15 **A. There was a settlement in that case.**
16 Q. And you agree with me, the settlement did not
17 discuss the houses?
18 **A. I think I -- that is correct.**
19 Q. Okay. And you agree with me the Commission's
20 order didn't discuss the houses?
21 **A. I don't remember seeing it.**
22 Q. It just happens to be the Company's applied it
23 since the order?
24 **A. That, I would disagree with.**
25 MR. ARMSTRONG: Okay. That's all the

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1 questions I have.
2 THE COURT: Okay. Mr. Coffman.
3 MR. COFFMAN: Mr. Armstrong just asked my
4 questions. I'm good. No questions.
5 THE COURT: Okay. Major.
6 MAJOR UNSICKER: No questions, sir.
7 THE COURT: Okay. Ms. Jeffcoat-Sacco.
8 MS. JEFFCOAT-SACCO: One question.
9
10 RECCROSS-EXAMINATION
11 BY MS. JEFFCOAT-SACCO:
12 Q. Where is it written that the gain on the sale
13 of an asset bought and paid for by shareholders goes
14 below the line? Where is that precedent? Because it
15 sort of sounds backwards to me. But I'm open to
16 looking it up if you tell me where to look.
17 A. I'll be honest, I don't know the answer. The
18 accounting treatment would be to, I believe, FERC
19 accounts 42.10 and 11. I'm sorry, 42.11 and 12, which
20 happen to be below the line. FERC accounts.
21 Q. What were the numbers?
22 A. 42.11 and 42.12.
23 Q. Are you familiar with any of the North Dakota
24 cases litigating gains on sales of utility assets?
25 A. No, I'm not.

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1 Q. Okay. That's all I have. Thanks.
2 THE COURT: Okay. Let's call your next
3 witness.
4 MR. SANDERSON: Thank you. At this time
5 Montana-Dakota would call Matthew Shoemaker.
6 THE COURT: Mr. Shoemaker, would you spell
7 your first and last name for the record?
8 THE WITNESS: Yes, sir. M-a-t-t-h-e-w,
9 S-h-o-e-m-a-k-e. There's no r.
10 THE COURT: Oh, okay. Shoemaker.
11 THE WITNESS: Yes, sir.
12 THE COURT: Okay. Raise your right hand,
13 please.
14
15 MATTHEW SHOEMAKE,
16 duly sworn, was examined and testifies as follows:
17
18 THE WITNESS: Yes, sir.
19 THE COURT: Okay. Thank you. Mr.
20 Sanderson.
21
22 DIRECT EXAMINATION
23 BY MR. SANDERSON:
24 Q. Good afternoon, Mr. Shoemaker. Could you please
25 state your full name and business address for the

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1 record?
2 A. Yes, sir. Matthew Shoemaker, and I work at 400
3 North Fourth Street, Bismarck, North Dakota.
4 Q. And whom are you employed by?
5 A. Montana-Dakota Utilities.
6 Q. And what is your position with Montana-Dakota?
7 A. I am a regulatory analyst in the regulatory
8 affairs department.
9 Q. You can -- can you briefly describe your
10 responsibilities in that role?
11 A. Yes, sir. I assist in the preparation of
12 numerous monthly filings to the Commission, the
13 purchase gas cost adjustments, the PGA; the fuel cost
14 adjustment, FCA; I also help prepare the weather
15 normalized volumes for various cases and various other
16 things for the department.
17 Q. And could you just provide a brief history of
18 your educational background and work experience?
19 A. Yes, sir. I have a bachelor's of science
20 degree in economics from and Texas A&M. I also have an
21 associates degree in business administration from the
22 college. I have been in my current capacity with MDU
23 for two years. And before that, I was a quality
24 control analyst for Knife River for eight years.
25 Q. And Mr. Shoemaker, are you familiar with

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1 Montana-Dakota's application in this proceeding?
2 A. Yes, sir.
3 Q. And could you just briefly describe your
4 involvement with this application?
5 A. Yes, sir. I helped prepare and come up with
6 the billing determinates that were used for the
7 normalized volumes.
8 Q. And in this case, did you file pre-filed direct
9 testimony?
10 A. Yes, sir.
11 Q. And if asked the same questions as indicated in
12 your pre-filed testimony, would your answers remain the
13 same?
14 A. Yes, sir.
15 Q. I want to then get into your testimony. Can
16 you briefly explain how the Company calculates its
17 customer accounts used in this rate case?
18 A. Yes, sir. What the Company does is we use
19 information from our Customer Care and Billing System,
20 CC&B. We extract data from that, and we look at
21 monthly customers that get billed and we bill the
22 customer accounts based upon that.
23 Q. And can you also explain the Company's
24 development of the normalized volumes used in this rate
25 case?

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1 A. Yes, sir. The normalized volumes are --
2 they're done at a class level. So we break each
3 customer class out and analyze them individually. The
4 process of whether normalizing volumes is to account
5 for abnormal weather in the year. So what we use is
6 historical data, particularly monthly customer
7 accounts, monthly gas volumes that get billed, and any
8 weather. What we do at that point is we look at each
9 individual class and determine whether a class or a
10 customer subset is heat sensitive. If they are
11 determined to be heat sensitive, we run a 36-month
12 linear regression, OLS or ordinary least squares. Then
13 we get the parameters that are output from that and
14 then we apply those to a normal weather based on 30
15 years.

16 Q. Okay. And can you explain how interruptible
17 and transportation class customers and volumes were
18 determined in this case?

19 A. Yes, sir. The interruptible and transport
20 customers were developed in the same manner as other
21 classes for customers. The volumes were developed a
22 little bit differently because the classes had such a
23 small number of customers, we were able to look at
24 those one by one in some cases, or we did -- we did
25 customer classes by district. So -- and if we go back

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1 and say -- or if we look at a customer class or
2 individual customer and decided they were heat
3 sensitive, which built them into a linear regression
4 model. If they were not, we would use a three or
5 two-year average depending on how much data they had
6 available.

7 Q. And finally Mr. Shoemake, can you explain how
8 the projected growth rates the Company used in this
9 case were calculated?

10 A. Yes, sir. We looked at customer growth over
11 three years originally, but what we saw was there was
12 a -- we were realizing the tail end of that Bakken
13 boom. So there was a diminishing amount of growth. So
14 we determined to use two percent growth rate. But we
15 only applied the two-year average growth rate to the
16 residential customers. All the interruptible transport
17 customers and their volumes were left.

18 Q. And Mr. Shoemake, I have no further questions.
19 Thank you.

20 THE COURT: Mr. Armstrong.
21 MR. ARMSTRONG: No questions.
22 THE COURT: Mr. Coffman? Not in the room.
23 Major.
24 MAJOR UNSICKER: No questions, sir.
25 THE COURT: Illona.

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1
2 CROSS-EXAMINATION
3 BY MS. JEFFCOAT-SACCO:
4 Q. We were a little concerned with this using the
5 two-year average, although I understand that you've got
6 this anomaly going on with Bakken boom and bust. But
7 everything I hear it's turned around again. Maybe you
8 need those houses again. I just heard a news story the
9 other night about not enough housing in Williston and
10 not being able to ramp up fast enough.

11 So tell me why this two-year average, which
12 pretty much is flat, I think, is something that we
13 should rely on as of projections for '18 and forward.

14 A. Yes, ma'am. I would argue that there would
15 probably be a little bit of a lag in the customer
16 growth. So anything that we're -- that you've been
17 hearing about a boom out in that area again, you
18 probably wouldn't realize customer growth for a couple
19 of months. That might be at the tail end of '18,
20 something we might not realize until 2019.

21 So like I said before, whenever we analyze the
22 three-year growth, that first year, there was a much
23 larger growth. But then over time, it just completely
24 diminished. So if we would have utilized that
25 three-year average growth rate, it would have -- we

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1 would have ended up with more customers projected.
2 MS. JEFFCOAT-SACCO: That's all I have.
3 Thanks.
4 THE COURT: Mr. Coffman, you stepped out
5 of the room. Do you have any questions for this
6 witness?
7 MR. COFFMAN: Yeah, just one.
8
9 CROSS-EXAMINATION
10 BY MR. COFFMAN:
11 Q. With the occasional booms or spurts in growth,
12 customer growth, would that -- that type of a change in
13 the factors, would that be taken into account in any of
14 the SSIP surcharge increases on an annual basis?
15 A. I wouldn't be able to comment to that, sir.
16 MR. COFFMAN: All right. Thank you.
17 That's all.
18 THE COURT: Okay. Questions from the
19 commissioners. Commissioner Kroshus.
20
21 EXAMINATION
22 BY COMMISSIONER KROSHUS:
23 Q. How does the current, the projected growth
24 rate, how would you say that compares to the rest of
25 the country?

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1 A. I couldn't really comment on that. I would --
2 I would say that due to the nature of the area and with
3 respect to the oil industry, I think that North Dakota
4 might be a little bit more susceptible to any growth
5 that we see. As has been noted throughout the day at
6 different times, oil prices are coming back. I don't
7 know how soon that North Dakota would realize that.
8 And like I say, if it was realized, it would probably
9 be later if the oil prices continued to rise or stay at
10 the same level. But I would believe that North Dakota
11 would probably be more susceptible than the rest of the
12 country to that.

13 Q. Do you think as susceptible though, because
14 when you look back at what happened during the last --
15 well, the oil boom itself when it really took off, and
16 it was driven by a number of factors, oil prices were
17 extremely good, but producers also had to secure lease
18 holds. So we had a lot of drilling rigs operating in
19 the state, and I think it was in part due to pricing
20 and in part due to securing lease holds. But that was
21 really a unique period of time. And now I think
22 there's a significant amount of stability in the
23 Bakken, significantly more, because there are more gas
24 plants, there are more value-added components that have
25 been put in place, there are more wells which require

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1 more maintenance, which is an essentially permanent
2 job. It's not going to go away if oil prices go to 30,
3 the well is still pumping, or producing, I should say.

4 So I guess I'm just wondering if the possible
5 downturn or the Bakken factor is being overweighted
6 because really when you compare North Dakota to the
7 rest of the country, it's not a bad place to do
8 business in, would you agree?

9 A. Yes, sir, I would agree.

10 Q. Okay. So I know there can be some ups and
11 downs, but in a normalized situation I would rather
12 live here than -- well, I'd rather live here than
13 anywhere else, so that's why I'm here.

14 A. Yes, sir.

15 Q. Despite January.

16 Then one final thing. On the growth as well,
17 you said a lot of the -- there's going to be a lag, but
18 a lot of that infrastructure is available in
19 subdivisions, for example, the lines have been laid.
20 But the homes may not have been built, so you can't
21 obviously just generate a customer because the line's
22 going up to the curb but there's no house on the lot
23 yet. But that, as things start to take off again, that
24 should be an opportunity as well, don't you think?

25 A. Yes, sir, I do.

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1 COMMISSIONER KROSHUS: Okay. No other
2 questions. Thank you.

3 THE COURT: Chairman Christmann.

4

5 EXAMINATION

6 BY CHAIRMAN CHRISTMAN:

7 Q. Is this your first time testifying here?

8 A. Yes, sir.

9 Q. Good job. Thank you. I have no other
10 questions.

11 MR. SANDERSON: That's what we call a
12 softball.

13 THE COURT: Commissioner Fedorchak.

14

15 EXAMINATION

16 BY COMMISSIONER FEDORCHAK:

17 Q. Okay. So just kind of following up with
18 Illona, what Illona was talking about. So your
19 customer levels are basically an average from 2014, '15
20 and '16. Did I get that correctly?

21 A. Yes, ma'am, that's correct.

22 Q. And the downturn really started -- I mean,
23 those are the years where things really went flat?

24 A. Yes, ma'am.

25 Q. Haven't you already seen those turn around? I

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1 mean, how come you're not using 2017 and 20 -- you
2 know, some of the more recent numbers, to have the
3 first half of 2018 to at least check those projects?

4 A. Yes, ma'am. So the customer growth that we
5 used was a very small rate, it was for residential, it
6 was 1.4 percent growth year to year. So of the 9,000
7 residential customers, you're talking another couple
8 thousand. But whenever we look at 2017 that we just
9 finished up, the numbers are about in line with what we
10 projected, they're not that different.

11 Q. Okay. All right. That's all. Thank you.

12 A. Thank you, ma'am.

13 MR. SANDERSON: Nothing further, Your
14 Honor.

15 THE COURT: Mr. Armstrong.

16 MR. ARMSTRONG: Nothing, thank you.

17 THE COURT: Ms. Jeffcoat-Sacco.

18 MS. JEFFCOAT-SACCO: Nothing.

19 THE COURT: Mr. Coffman.

20 MR. COFFMAN: No more. Thank you.

21 THE COURT: Major?

22 MAJOR UNSICKER: Nothing, sir.

23 THE COURT: Okay. You may step down.

24 MR. SANDERSON: Montana-Dakota would call
25 Tammy Nygard.

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<p>1 THE COURT: All right. Just to be safe, 2 Ms. Nygard, I'm going to have you spell your first and 3 last name. 4 THE WITNESS: Tammy, T-a-m-m-y; Nygard, 5 N-y-g-a-r-d. 6 THE COURT: Just one a? 7 THE WITNESS: Just one a. 8 THE COURT: Thank you. Raise your right 9 hand, please. 10 11 TAMMY NYGARD, 12 duly sworn, was examined and testifies as follows: 13 14 THE WITNESS: I do. 15 THE COURT: Thank you. Mr. Sanderson? 16 MR. SANDERSON: Thank you. 17 18 DIRECT EXAMINATION 19 BY MR. SANDERSON: 20 Q. Good afternoon, Ms. Nygard. Could you please 21 state your full name and business address? 22 A. Tammy Nygard, 400 North Fourth Street, 23 Bismarck, North Dakota. 24 Q. And whom are you employed by? 25 A. Montana-Dakota Utilities.</p>	<p>1 A. Yes, I am. 2 Q. And could you just briefly your role in the 3 application? 4 A. Yes. I am responsible for presenting Statement 5 D, which is the capital structure and associated costs. 6 Q. And in this case, you filed pre-filed 7 testimony? 8 A. Yes, I did. 9 Q. And if asked the same questions in your 10 pre-filed testimony, would your answers remain the 11 same? 12 A. Yes, they would. 13 Q. And can you briefly summarize the Company's 14 capital structure? 15 A. Yes. The projected capital structure in this 16 case, the ratio is about 43 percent long-term debt, 6 17 percent short term debt and 51 percent common equity. 18 The average embedded cost of the long-term debt is 19 5.282 percent, which has dropped 67 basis points from 20 the last North Dakota gas rate case when the percent 21 was 5.969 percent. 22 Q. And Ms. Nygard, has the Company made recent 23 changes to its capital structure? 24 A. Yes, it has. On April 1st of 2017 25 Montana-Dakota redeemed all preferred stock issued and</p>
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<p>1 Q. And what is your position with the Company? 2 A. I am controller of MDU Utilities Group, which 3 includes Montana-Dakota Utilities, Great Plains Natural 4 Gas, Cascade Natural Gas, and Intermountain Gas. 5 Q. And could you briefly describe your 6 responsibilities as controller? 7 A. Yes. I provide leadership and management for 8 our accounting and financial forecasting and planning 9 functions. This includes the analysis of reporting -- 10 analysis and reporting of all financial transactions. 11 Q. And could you briefly describe your educational 12 background and work experience? 13 A. Yes. I have a bachelor of science degree from 14 the University of Mary with majors in accounting and 15 computer information systems. I've been with the 16 Company for over 16 years. Started at Montana-Dakota 17 as a financial analyst and then went to Cascade Natural 18 Gas as director of accounting and financing, and now in 19 my current role as controller of MDU Utilities Group. 20 Q. And you've filed testimony in other proceedings 21 before state regulatory bodies? 22 A. I have. 23 Q. Okay. And are you familiar with 24 Montana-Dakota's application for natural gas rate 25 increase in this case?</p>	<p>1 outstanding. The redemption of this preferred stock 2 reduces the administrative burden of those associated 3 costs as well as reduces the overall cost of capital 4 that was replaced with lower cost long-term debt. 5 Q. And can you just briefly explain how the 6 Company finances its gas utility operations and 7 determines the amount of common equity debt and 8 preferred stock to be included in its capital 9 structure? 10 A. Yes. Through our financial planning process, 11 we determine the amount of financing required to 12 support the cost associated with providing safe and 13 reliable service. We target 50 percent common equity 14 ratio. And our capital expenditure investments are 15 financed through a mixture of internally generated 16 funds, use of our short-term credit line, as well as 17 issuance of debt and equity. 18 Q. And you indicated you sponsored Statement D of 19 the application. Can you just briefly summarize 20 Statement D? 21 A. Yes. Statement D is the average utility 22 capital structure for the 12-month period ending 23 December 31, 2016, as well as projected 2017 and 2018. 24 It also shows the associated cost of debt as well as 25 the common equity as supported by Dr. Gaske in this</p>

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1 case. And those two pieces serve as the basis for the
 2 overall rate of return in this case of 7.542 percent.
 3 Q. Ms. Nygard, I have no further questions. Thank
 4 you.
 5 THE COURT: Mr. Armstrong.
 6 MR. ARMSTRONG: No questions.
 7 THE COURT: Mr. Coffman?
 8 MR. COFFMAN: No questions.
 9 THE COURT: Major?
 10 MAJOR UNSICKER: No questions, sir.
 11 THE COURT: Ms. Jeffcoat-Sacco.
 12 MS. JEFFCOAT-SACCO: No questions.
 13 THE COURT: Mr. Kroshus?
 14 COMMISSIONER KROSHUS: No questions.
 15 THE COURT: Chairman.
 16 CHAIRMAN CHRISTMANN: I'm good as well.
 17 THE COURT: Ms. Fedorchak.
 18 COMMISSIONER FEDORCHAK: None for me
 19 either.
 20 THE COURT: You got off easy.
 21 Okay. Next witness.
 22 MR. SANDERSON: Thank you. At this time
 23 Montana-Dakota would call Jim Kaiser.
 24 THE COURT: Jim, please spell your last
 25 name for the record, please.

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1 THE WITNESS: Kaiser, K-a-i-s-e-r.
 2 THE COURT: Okay. Raise your right hand.
 3
 4 JIM KAISER,
 5 duly sworn, was examined and testifies as follows:
 6
 7 THE WITNESS: I do.
 8 THE COURT: Thank you.
 9 Mr. Sanderson.
 10 MR. SANDERSON: Thank you.
 11
 12 DIRECT EXAMINATION
 13 BY MR. SANDERSON:
 14 Q. Mr. Kaiser, could you please state your full
 15 name and business address?
 16 A. My name is Jim Kaiser, and my business address
 17 is 400 North Fourth Street in Bismarck.
 18 Q. And whom are you employed by and what is your
 19 position there?
 20 A. I'm employed by Montana-Dakota Utilities, and
 21 -- actually I'm employed by MDU Resources, but my time
 22 is devoted to Montana-Dakota as director of HR.
 23 Q. And could you briefly describe your
 24 responsibilities as director of human resources?
 25 A. Sure. I'm responsible for basically the human

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1 resources strategy, the compliance and delivery of all
 2 the HR services for Montana-Dakota. This also includes
 3 compensation programs, the benefit programs, talent
 4 acquisition, talent development, and also the retention
 5 of that talent, along with the labor and employee
 6 relations programs.
 7 Q. And Mr. Kaiser, could you just provide a brief
 8 overview of your educational background and your work
 9 experience?
 10 A. Sure. I have a bachelor's degree in management
 11 from the University of North Dakota. I have 36 years
 12 of human resource experience in three different
 13 regional utilities. I've been with Montana-Dakota for
 14 16 years, and I've been in my current role as director
 15 of human resources since 2013.
 16 Q. And are you familiar with Montana-Dakota's
 17 application in this proceeding?
 18 A. I am.
 19 Q. And could you briefly describe your role in the
 20 application?
 21 A. I'm here to talk about incentive compensation.
 22 In my role, I am responsible for the compensation
 23 programs for the utility.
 24 Q. And in the present case, did you submit
 25 pre-filed rebuttal testimony in this proceeding?

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1 A. I did.
 2 Q. And if asked the same questions as indicated in
 3 your pre-filed testimony, would your answers remain the
 4 same?
 5 A. Yes.
 6 Q. Now, can you briefly describe the Company's --
 7 Montana-Dakota's employee compensation system?
 8 A. Yes. The -- Montana-Dakota has a total rewards
 9 philosophy that we outline the different components of
 10 our compensation programs that we use to compensate our
 11 employees. Those three different components are base
 12 pay, incentive compensation or the pay that's at risk,
 13 and the employee benefit programs. We participate in
 14 numerous salary surveys, we -- and analyze those
 15 results. We use outside consultants, and we help use
 16 all those resources to help us establish competitive
 17 total rewards in those three components, again, base
 18 pay, incentive compensation and benefits.
 19 Our goal is really to be competitive in the
 20 labor market so that we can attract and that we can
 21 retain a highly skilled work force. We have a
 22 philosophy, and we've -- you've heard from others that
 23 have testified, this philosophy has been in place for
 24 20 plus years, that we believe it's effective for the
 25 customer, it's effective for the organization to have a

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1 portion of an employee's targeted total cash
2 compensation, again cash compensation is base pay and
3 incentive comp, to have some of that at risk.

4 Compensation budgets are established, assuming
5 a satisfactory employee performance. If an employee's
6 performance doesn't meet the results, then they don't
7 receive a portion of that compensation. Also, if the
8 incentive plan goals are not met in customer service or
9 in the O&M expenses, the employee loses a portion of
10 their total compensation as well.

11 Q. And Mr. Kaiser, as director of the Company's
12 human resources, do you believe Montana-Dakota's
13 incentive plan -- employee incentive compensation plan
14 and incentives are an appropriate part of the total
15 employee compensation package?

16 A. Yes, I do. Again, we believe that having those
17 incentive compensation programs with those metrics in
18 place help employees be more aware and engaged in cost
19 awareness and the overall efficient operation of our
20 business. We believe that every employee can impact
21 these metrics, and that's the reason why we have every
22 employee in our organization eligible for incentive
23 compensation.

24 In other words, every employee does have some
25 pay at risk. When the goal -- when the goals are not

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1 met, then the customers don't have to pay that portion
2 of the compensation plan.

3 Q. And can you explain how Montana-Dakota's
4 incentive plan assists in recruiting and retaining
5 highly qualified employees?

6 A. Yes. Well, we've talked about it a lot here,
7 the challenges that we've had in the Bakken and some
8 have referenced the fact that the Bakken, you know,
9 that there may be some ramping up of the work force.
10 And as recent as last week, we saw articles in the
11 Bismarck Tribune about the challenges that employers
12 are having in western North Dakota, and recruitment is
13 at the forefront of some of their concerns.

14 Employers are looking for individuals that have
15 experience and they have training, and that fits very
16 well with the work force that we have at
17 Montana-Dakota. We're a prime target if we're not
18 going to be competitive in our total rewards strategy.
19 I see it in my work on a regular basis. When we're
20 making job offers, if we don't have a package that is
21 competitive, we aren't going to be able to get that
22 employee to come to work for us.

23 So in my experience in working with
24 compensation programs, an example is some companies
25 only have one component to their total cash

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1 compensation, and that's basically the base pay
2 program. Other companies, and really in the utility
3 industry, it's very common practice -- it's most common
4 that employers would have the two components which are
5 the base pay and the pay at risk or variable pay and
6 incentive comp.

7 Today it's Montana-Dakota's incentive
8 compensation programs that keeps our total rewards
9 package in a competitive level. Without that
10 opportunity for incentive comp, our total compensation
11 would not be competitive, which is going to have an
12 impact on the acceptance of job offers and, more
13 importantly, the retention of our highly skilled work
14 force that we have today.

15 Q. And Mr. Kaiser, what alternative means are
16 available to maintain adequate compensation without the
17 use of incentive or at-risk pay?

18 A. Well, as far as alternatives, we are very
19 deliberate and we do participate in a lot of market
20 studies, and we compare both the base pay, the total of
21 the base pay and an incentive compensation opportunity
22 to our competitors in the labor market. And so really,
23 the alternative would be to add that incentive
24 compensation to be competitive to our base wages.

25 Q. Do you believe that adding -- going straight to

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1 a base pay system without incentives is in the best
2 interest of rate payers?

3 A. No, I do not, because if we would put that --
4 those dollars -- if we take the dollars from the
5 incentive compensation and put those -- if we would --
6 if we'd move away from that, then really the
7 alternative is to put it into base wage. And when we
8 put that into base wage, there's an incremental cost.
9 And I think you've heard from others testifying today,
10 the main source of the incremental cost really comes in
11 the form of the 401k contributions, and that would be
12 about another half percent in incremental costs right
13 off the bat.

14 Q. Now, Mr. Kaiser, what procedures does the
15 Company utilize to ensure it is not paying more than
16 the minimum necessary to attract and retain a qualified
17 work force?

18 A. Again, we participate in many outside surveys,
19 from reputable consulting firms. We also contract with
20 an independent consultant. We last did this in 2013.
21 We had a consultant come in, do a thorough review. I
22 believe that was submitted as an exhibit. And now
23 we're under way with another compensation study this
24 year, we're renewing that study. So we really do a
25 look -- a review of all those components of our total

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<p>1 rewards philosophy to be sure that we are competitive 2 in that marketplace. 3 Q. Now, Advocacy Staff has asserted that rate 4 payers should not be required to pay incentive 5 compensation costs because they don't provide any 6 benefit to rate payers. Do you agree with Staff's 7 assertion? 8 A. No, I don't agree with that. 9 Q. And could you explain why you believe the total 10 rewards package or how that does benefit North Dakota 11 rate payers? 12 A. Our approach to compensation is really with the 13 total reward philosophy that we have, it's cost 14 effective for the Company, but it's also beneficial to 15 the rate payers, because as I said earlier, it engages 16 our work force in those important goals. And those 17 goals of customer service and certainly the goals of 18 O&M costs are things that benefit our customers. 19 If we are not competitive in our total rewards 20 package, we're not going to have the work force that we 21 need to provide that reliable and safe customer 22 service. And by having a competitive total rewards 23 package, we retain those highly skilled technical and 24 professional individuals that we need to have to serve 25 our customers.</p>	<p>1 Q. As I understand that, is that 50 percent, 50 2 percent? 3 A. It's 50 percent, 50 percent, yes. 4 Q. So 50 percent is customer service and 50 5 percent is O&M goals for 99 percent of your employees? 6 A. Yes. 7 Q. And that O&M goals relates with coming in with 8 lower expenses than some sort of set number? 9 A. Yes. 10 Q. And then for I think you're moving on to 11 executive level employees? 12 A. That's correct. 13 Q. Can you explain that, please? 14 A. So the executive level employees, and I believe 15 Nicole referred that there are nine in the executive 16 incentive plan. And with that executive incentive 17 compensation plan, that is measured on 50 percent on 18 earnings and 50 percent on ROIC. And the thought 19 process there is that the executive team is in a 20 position that they have the ability to control and they 21 have the ability to drive the outcomes of the business 22 in a much better position to do that, that's why 23 they've got more of the financial metrics. 24 Q. So the ROIC and the earnings -- and I forgot 25 what the acronym --</p>
Page 322	Page 324
<p>1 Q. Mr. Kaiser, I have no further questions. Thank 2 you. 3 THE COURT: Mr. Armstrong? 4 MR. ARMSTRONG: Thank you. 5 6 CROSS-EXAMINATION 7 BY MR. ARMSTRONG: 8 Q. Mr. Kaiser, you do understand that it's not 9 Staff's position to take out all of the incentive pay. 10 You're aware of that, correct? 11 A. I'm aware that the Staff is -- has 12 categorically said 60 percent of incentive comp would 13 be disallowed. 14 Q. And can you tell me on the incentive comp what 15 the goals are for the executive level and then for the 16 other level? 17 A. Certainly. For 99 percent of our employees, 18 the goals are customer service goals and meeting -- 19 being in the top 35 and a select group of utilities, 20 and that's through J.D. Powers and Associates. That's 21 one of the metrics. And then the other metric is our 22 O&M and coming in under our O&M goal. And again, 23 that's 99 percent of the employees. The other -- 24 Q. We'll get to the other. 25 A. Okay.</p>	<p>1 A. Return on invested capital. 2 Q. Return on invested capital. I mean, those are 3 all things about how the Company is performing, like 4 its bottom line, correct? 5 A. That's correct. 6 Q. So the executive level is almost 100 percent, 7 you know, earnings or making money type of incentive 8 compensation? 9 A. Well, the earnings is 50 percent, the return on 10 the investment -- 11 Q. That's getting a higher return? 12 A. Right. 13 Q. Okay. And then with the 99 percent other 14 employees, there's the 50 percent customer service and 15 50 percent for the O&M expense goals? 16 A. That's correct. 17 Q. Now, in your rebuttal testimony, you talked 18 about a -- well, let me back up one second. Has it 19 always been the Company's goal to pay market level for 20 its employees? 21 A. Yes, it has. 22 Q. And in your rebuttal testimony, you talked 23 about a change in the incentive plan, and I'm assuming 24 you didn't identify executive or the other -- is there 25 a name or the other 99 percent, or --</p>

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1 **A. The employee incentive plan.**
2 Q. So that's just -- okay. So that's employee
3 incentive, and the other one would be the executive --
4 **A. Executive incentive plan.**
5 Q. So in your rebuttal testimony you talked about
6 a change in 2017 to the employee incentive plan,
7 correct?
8 **A. That is correct.**
9 Q. And that change was to remove customer earnings
10 as a portion of the regular employee incentive plan,
11 correct?
12 **A. That -- previously that was a metrics in the**
13 **plan, and that was removed.**
14 Q. When that was a metric in the plan, what was
15 the breakdown between that and customer service and O&M
16 expense goals?
17 **A. I believe it was one-third, one-third,**
18 **one-third.**
19 Q. So now the Company -- the earnings would be
20 more by meeting the O&M expense goal, correct? You
21 would agree with that? The Company earnings would be
22 more by meeting an O&M expense goal?
23 **A. I've -- our goals are really to -- I don't**
24 **agree with that. Our goals are really focused -- to**
25 **focus our employees on the metrics of serving our**

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1 **customer and also to operate the utility in an**
2 **efficient manner. And every employee, whether it's a**
3 **service technician and how they approach their job, or**
4 **the manager, has the opportunity to expend and impact**
5 **the budget.**
6 Q. Would you agree with me in general that if
7 expenses are lower, then earnings are more?
8 **A. It would contribute to earnings by having lower**
9 **O&M.**
10 Q. Thank you. So when you removed the Company
11 earnings as a specified part of the employee incentive
12 plan, did incentive compensation go down?
13 **A. The target percentage that we --**
14 Q. No, the overall Company incentive compensation,
15 did it go down by removing Company earnings from the
16 plan?
17 **A. This -- in 2017 was the first year of our plan,**
18 **and, no, it -- I need to understand your question.**
19 **Would you repeat it again, please?**
20 Q. So before 2017, you were trying to pay
21 employees at market level, correct?
22 **A. That's correct.**
23 Q. And after you were trying to pay employees at
24 market level?
25 **A. That's correct.**

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1 Q. And that includes whatever incentive plan they
2 may be under, correct?
3 **A. Umm-hmm.**
4 Q. And before 2017, you had customer service, O&M
5 expense goal and Company earnings, correct?
6 **A. Yes.**
7 Q. And you paid incentives based on that, correct?
8 **A. Yes.**
9 Q. And after 2017, you took out Company earnings
10 and put a greater share on customer service and O&M
11 expense goal?
12 **A. That is correct.**
13 Q. Did it change the amount of incentive
14 compensation that was paid out? Did it lower it?
15 **A. I can't answer that question, because there are**
16 **other factors that have an impact on the -- in the way**
17 **the plan is designed, what the payout percentage would**
18 **be.**
19 Q. I'm looking at the Company's work papers. Were
20 you involved at all in preparing those?
21 **A. I was not.**
22 Q. Okay. And I don't know if the companies are
23 like that, but I've got -- I guess it's the summary of
24 O&M, and it's the first page after the summary of O&M,
25 and it says, "for the 12 months ending in December 31,

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1 2016, incentive comp was \$741,346. And the projected
2 for '17 was \$794,431."
3 Does that sound right to you what has actually
4 occurred?
5 **A. I -- my -- and I'm not an accountant or I**
6 **didn't prepare these financial papers, but my**
7 **understanding would be is that when this case was**
8 **prepared, we had the history from 2016. And when the**
9 **case was built, it was built on the target percentages**
10 **being paid out for the incentive compensation plans,**
11 **which would be a higher number because our payouts were**
12 **not at target, I believe, in 2016.**
13 Q. And as I understand it, you've said that if the
14 shareholders are responsible for any portion of
15 incentive compensation, then we should just convert it
16 to base wages to be market level; is that -- am I
17 understanding that correctly?
18 **A. Repeat your question for me, please.**
19 Q. I think you said something about, we have
20 incentive plan because wages are expenses, but we could
21 just convert it all to base wages and then we wouldn't
22 even be having this discussion about incentives.
23 **A. In my rebuttal testimony, I provided a response**
24 **that what was the alternative to incentive**
25 **compensation, and that would be to have a competitive**

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1 total cash comp program, the only viable alternative
 2 that I saw would be to put it into base wages.
 3 Q. And that's really the only alternative if you
 4 want rate payers to pay for it all?
 5 A. Rate payers are -- you know, as Travis
 6 illustrated in his example, the customer are paying for
 7 the wages in a manufacturing or construction type
 8 business. In a utility business I think it's common
 9 practice that the customers would be paying the cash
 10 compensation. That's a cost of delivering the service.
 11 I think Travis also said that if our incentive
 12 compensation plans would pay out above the target, at
 13 that point in time, those things are borne by the
 14 shareholder.
 15 Q. I guess we'll just have to rely on Mr.
 16 Jacobson's testimony for that then, huh?
 17 Those employee compensation would be paid by
 18 the shareholder?
 19 A. That -- yes, that's how the -- based on the
 20 case, yes.
 21 Q. Can you identify for me anywhere in this case
 22 where you're asking the shareholder to pay for any of
 23 the compensation?
 24 A. My understanding of how this case was prepared
 25 was that the revenue requirements were established

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1 based on a target incentive compensation opportunity.
 2 Anything that's paid out above target, so above what's
 3 a market competitive wage, that is 100 percent borne by
 4 the shareholder.
 5 Q. But part of determining what a market
 6 competitive wage is, is part of that pay is to increase
 7 earnings, correct?
 8 A. I'm talking about our compensation total reward
 9 philosophy. I think -- I'm not sure I understand your
 10 question.
 11 Q. Let me ask this. Is the Company still paying
 12 retention bonuses?
 13 A. Is -- we do not pay retention bonuses today.
 14 Q. You did at some point, correct?
 15 A. Yes. We would have paid -- in very limited
 16 circumstances we would have paid retention bonuses.
 17 I'm not sure if we called them retention bonuses, but
 18 they were to get people to take assignments in
 19 hard-to-fill locations such as Williston.
 20 Q. You called them retention incentives, correct?
 21 A. I'm not sure what's reflected in the case, sir.
 22 I need to see that.
 23 Q. Anyway, as we sit here today, you're no longer
 24 having to pay any retention bonuses or incentives to
 25 any employees to keep them employed at MDU?

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1 A. We do not pay them today, and any retention
 2 bonuses that we paid in the past -- I'm going to back
 3 up. I think I know what you're referencing. And what
 4 we called the retention bonuses, back in -- and I think
 5 those came to an end back in 2015, basically those were
 6 our location allowances. We -- we didn't increase
 7 employees' base wages, we didn't -- some companies
 8 would call it a location allowance, I think it's
 9 commonplace still in that area. We called them a
 10 retention bonus. And those were phased out. And those
 11 were in place to cover some of the higher costs in
 12 those communities of just in living in those
 13 communities.
 14 MR. ARMSTRONG: Thank you. I have no
 15 further questions.
 16 THE COURT: Mr. Coffman?
 17
 18 CROSS-EXAMINATION
 19 BY MR. COFFMAN:
 20 Q. Good afternoon.
 21 A. Good afternoon.
 22 Q. John Coffman for AARP. I wanted to ask in your
 23 survey, are there other utilities that place safety as
 24 a criteria for incentive compensation?
 25 A. In the past, I have seen that as a metric. And

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1 frankly, OSHA has really frowned upon safety as being a
 2 metric in incentive compensation plans. So we have
 3 moved away from that in the utility.
 4 Q. Did it used to be an incentive criteria?
 5 A. It was a metric at the utility until probably
 6 seven or eight years ago. And it was -- but we had
 7 more goals as part of the incentive plan at that point
 8 in time.
 9 Q. What about other criteria that might be safety
 10 related for customers, say leakage rates or incidents?
 11 Has that ever been considered as a criteria for
 12 incentive comp?
 13 A. It hasn't been brought to my attention, so I'm
 14 not aware of that being considered.
 15 Q. Okay. Can you explain the rational for why top
 16 executives would not have a component of customer
 17 service as part of their incentive package?
 18 A. I think it's really -- that's focused with all
 19 the other employees. I mean, I'm not responsible for
 20 all the design of the executive incentive compensation
 21 program. But I think the thought process is that going
 22 back to having a healthy business, they are focused on
 23 that they have the ability to control a lot of the
 24 outcomes in the business, and so that's -- and they're
 25 contributing to multiple lines of business.

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1 Q. Don't their decisions have an impact on
2 customer service and safety and all the other criteria?
3 **A. Certainly they would.**
4 MR. COFFMAN: Okay. That's all I have.
5 THE COURT: Okay. Major?
6 MAJOR UNSICKER: No questions, sir.
7 THE COURT: Ms. Jeffcoat-Sacco.
8 MS. JEFFCOAT-SACCO: I have a few.
9
10 CROSS-EXAMINATION
11 BY MS. JEFFCOAT-SACCO:
12 Q. The work papers that Mitch was referring to
13 that had the 2016 and the 2017 payouts, those are in
14 the application filed work papers as opposed to data
15 requests? I just want to confirm from someone here so
16 we can look them up. Were they data request responses
17 work papers?
18 **A. I believe they were the work papers.**
19 Q. Okay. We were hoping that maybe we could get
20 one or two more years. Could we get, like, 2015 and
21 possibly 2014? Would that be possible? The numbers?
22 **A. That wouldn't be -- that wouldn't be something**
23 **that I would provide, but I don't see a reason why we**
24 **couldn't provide that information.**
25 Q. Oh, well, whoever provided this.

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1 **A. Right.**
2 Q. If we could get one or two more years maybe
3 before Friday, that would be helpful.
4 And then the payout in 2017, was that after the
5 change -- like, did the change -- was the change
6 applied for 2017 and then the payout was 50,000 more?
7 **A. The change was applied for 2017.**
8 Q. '17. Okay.
9 **A. But I believe when that case -- when the**
10 **revenue requirement was established, it was established**
11 **based on target. We didn't know the actual results for**
12 **the year.**
13 Q. Right. I understood that.
14 **A. Okay. I'm sorry.**
15 Q. And then I just wanted a little more
16 explanation since at the state we don't have incentive
17 pay. And so when we talk about incentive, I see it as
18 a carrot, and when we talk about at risk, I see it as a
19 stick. Okay. So if I were to get a job offer from
20 MDU, would the number that I am offered be that full
21 amount that's subject to being lost if I don't make the
22 target, or is it some lesser amount that's subject to
23 growing if I do meet the target? Or is there some
24 combination? Can you just explain how it works?
25 **A. Yeah. So if you were to be offered a position**

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1 **at Montana-Dakota, your job offer would contain a base**
2 **pay offer. It would contain information on what your**
3 **incentive compensation eligibility is and what that**
4 **target payout percentage is, along with a brochure that**
5 **you would have that would go through all the employee**
6 **benefits. And I can guarantee you -- again, this is an**
7 **example of the mix of total rewards, different**
8 **companies have different philosophies. The State of**
9 **North Dakota has a fully paid medical plan, which is**
10 **attractive to many. That isn't the case at the**
11 **utility. That isn't the same philosophy.**
12 Q. Not anymore anyway.
13 **A. Right.**
14 Q. But, okay. So the total amount that's
15 considered incentive and/or at risk, is that -- okay.
16 There's not like two components? I mean, there's a
17 base pay. But as far as a motivating pay, it's one
18 component? You -- with a chance to earn it?
19 **A. You have the chance to earn it. You have the**
20 **chance to actually earn, you know, more than that**
21 **amount in some cases.**
22 Q. Right. I was just trying to find out if
23 there's a chance of losing some of that other number?
24 **A. Base pay -- base pay is not at risk.**
25 MS. JEFFCOAT-SACCO: That's all I have.

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1 Thank you.
2 THE COURT: Okay. Commissioners.
3 Commissioner Kroshus.
4
5 EXAMINATION
6 BY COMMISSIONER KROSHUS:
7 Q. Okay. I don't want to get -- I don't want to
8 lose sight of what we're -- well, at least what I'm
9 really looking at, and that is are you competitive in
10 terms of market conditions for attracting talent? Are
11 you too generous? Because I just don't want to get --
12 personally, I don't want to get too far into the style
13 of how you're compensating employees. To me it's more
14 about market value. So with that being said, how is
15 turnover today compared to turnover two years ago?
16 Five years ago? And if you just have to tell me
17 anecdotally, that's fine as well.
18 **A. Actually, I have those numbers. As far as our**
19 **turnover, numbers have improved to some extent. We're**
20 **pretty much consistent with the industry norms right**
21 **now, so that's a good thing. We're at about eight**
22 **percent for last year was our turnover. The year prior**
23 **to that was ten percent, and the year prior to that was**
24 **14 percent. So we -- we are doing much better with**
25 **turnover. And that's the way we hope to keep it.**

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1 Q. Sure. Would you attribute that to just what
2 most businesses and entities operating in North Dakota
3 are experiencing with less volatility out in the
4 western part of the state?

5 A. There would be -- there's not just one factor
6 that impacts it. I mean, certainly work culture
7 affects it. Certainly total rewards would affect
8 retention. But there's no question the Bakken slow
9 down, you see the numbers at 14 percent, we had higher
10 turnover at that point in time.

11 Q. When you say compared to industry, you're
12 talking compared to other utilities?

13 A. That's correct.

14 Q. Okay. How about compared to just North Dakota
15 as a whole?

16 A. I would be -- I would be guessing if I would --
17 if I would state that number. I don't know what that
18 would be.

19 Q. But eight percent, that's --

20 A. Yeah, I'd say --

21 Q. It's not a bad number.

22 A. No, that's right.

23 Q. So really when I'm looking at the present and
24 projected market requirements for compensation, how you
25 get there I think is really -- it ties into the overall

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1 question of the incentive pay on what to allow, what
2 not to allow.

3 A. Umm-hmm.

4 Q. Would you say based on the improvement that the
5 improvement and turnover has been driven by the new
6 plan design or just more related to market conditions?

7 A. That would be -- that would be a bit
8 speculative on my part. Certainly having a good total
9 rewards package is important, as I see when I'm making
10 job offers to individuals or my team is. I mean, they
11 are -- it is a competitive labor market out there. And
12 so I want to be sure I answer your question. Is it --
13 is turnover lower? Repeat your question for me,
14 please.

15 Q. Well, let me break it down. Would you say that
16 it appears to be working or the jury's still out?

17 A. The change in plan design, I'm not sure that
18 that impacts our ability to retain. The fact that we
19 do offer incentive compensation is what really helps us
20 be competitive, because if we don't -- because, again,
21 we look at total cash compensation. And total cash has
22 two components, the base pay and the variable pay and
23 the pay at risk. And we do market studies, our outside
24 consultant has looked at those things, the feedback we
25 get is as outlined in the exhibit, we take actually a

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1 conservative approach to compensation.

2 Q. Okay. Do you go on investor calls and explain
3 the impact or how the new comp plan, the new incentive
4 pay -- or maybe I shouldn't call it new -- but the
5 incentive pay model is driving results? Do you ever
6 explain that?

7 A. That's not a part of my role.

8 Q. Not a part of your role. Okay.

9 No other questions for me.

10 THE COURT: Chairman Christmann.

11

12 EXAMINATION

13 BY CHAIRMAN CHRISTMANN:

14 Q. I think we're asking the same thing, but I'm
15 still I'm not sure I understood your explanation to
16 Illona. The three components are base pay, incentive
17 pay and benefits, correct?

18 A. That's correct.

19 Q. And incentive pay and at-risk pay, is that the
20 same thing?

21 A. That is the same thing, because if we don't --

22 Q. So if I was hired on there, the base pay I
23 would get regardless. I'd either get terminated or I'd
24 get that pay?

25 A. That's correct.

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1 Q. And so the at-risk pay, that really isn't a
2 real thing, it's more of an incentive pay. If you meet
3 certain goals, you get it, but nothing gets taken away
4 out of your base pay?

5 A. Nothing gets taken away. What's at risk is
6 because --

7 Q. Your bonus.

8 A. Your bonus, and that is part of your offer.

9 Q. Okay. I think Ms. Kivitsso said there was
10 something like 562 employees. If you had to estimate
11 the total, I'm going to call it compensation, if that's
12 the right word, the total of base pay for those 562
13 people, incentive pay, and benefits, about what
14 percentage would you say is base pay and what
15 percentage is benefits and what percentage is incentive
16 pay?

17 A. This is a bit speculative, but the -- about
18 eight -- I think it's about 8.4 percent would be
19 incentive comp.

20 Q. 8.4?

21 A. 8.4. You have the numbers there, so we could
22 easily calculate the percentage without that in front
23 of me for the benefits. But I assume that's a line
24 item that's separate from -- and then the remainder of
25 that number would be base wages.

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1 Q. Okay. But --

2 A. Is there a line item on the work papers you're

3 looking at?

4 Q. I'm not even on that page right now. But the

5 8.4 is plenty close, even if it's 7 or 8 or 9 or

6 somewhere in there. Close enough for the purpose of my

7 question, maybe not for the ultimate answer.

8 A. Okay.

9 Q. I sensed a bit of criticism from someone

10 earlier that Staff's recommendation of only allowing 40

11 percent, of reducing it by 60 percent, was arbitrary.

12 So whatever the total dollars that is budgeted to come

13 up with that 8.4 percent, is that arbitrary? How is it

14 determined that that was the correct amount for

15 incentive pays?

16 A. I believe Travis testified to that, that that

17 8.4 percent is basically taking every employee that's

18 eligible for the plan and placing their target

19 incentive opportunity, and then calculating that off of

20 their base wages to come up with a total amount. And

21 so whatever that dollar amount is, divide that by the

22 total payroll and that is your percentage.

23 Q. But if someone's potential incentive plan,

24 let's say they exactly met all their goals and got a --

25 and maximized their incentive plan, and let's say that

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1 were \$10,000.

2 A. Okay.

3 Q. Why not \$11,000?

4 A. Oh, how do we establish the targets?

5 Q. You could do even better.

6 A. That's a very good question. Those targets --

7 really, I talked earlier about the surveys that we

8 participate in, and most of the market studies that you

9 do, they list a -- they list a median base pay and they

10 list a median incentive opportunity. And that's what

11 we're looking at, and that's how we establish the

12 target for each of those positions.

13 Q. I think in some other subject matter we've

14 heard or did I read it earlier that, regarding ROE,

15 that MDU probably has -- is more at risk than some

16 other gas companies it could be compared to. So

17 wouldn't the -- because of that, the environment that

18 you operate in, wouldn't that suggest that your

19 incentive package might need to be different than the

20 other companies that you participate in the surveys

21 with?

22 A. When we set our establish -- I guess to answer

23 that, I -- no, I don't think that's the case. And

24 what's important -- again, you're trying it attract

25 talent and retain talent. And what's important is that

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1 we are aware of what the labor market is paying and

2 what's competitive, and that we're able to maintain a

3 competitive level of compensation or offer that in our

4 total rewards package.

5 So factors relating to, again, the 99 percent

6 of the employees that are covered under the employee

7 incentive plan, I think being market competitive is

8 most important for those individuals. For the

9 executives, one could argue what's important there.

10 Q. And I recognize that you said the 8.4 percent

11 was an estimate.

12 A. Right.

13 Q. But let's just use that as the base, assuming

14 that that is exactly what it is. Do you believe if it

15 was 10.4 percent that was allowed that you would have

16 even better performance and better retention?

17 A. Again, it seems a bit speculative to me because

18 the way we're establishing, you know, we're

19 establishing -- the way we've built this case is based

20 on market competitive compensation. So it's market

21 competitive base pay, it's market competitive incentive

22 compensation, it's market competitive benefits. And

23 our total rewards philosophy is not to be at the 75th

24 percentile of the labor market, it is to be at the

25 median of the market. And so that's our objective. So

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1 I'm not sure if the labor market is saying 8.4 is

2 appropriate why we would -- that's not consistent with

3 our philosophy to set it at something higher.

4 CHAIRMAN CHRISTMANN: Okay. No other

5 questions. Thank you.

6 THE COURT: Commissioner Fedorchak.

7 COMMISSIONER FEDORCHAK: I don't have any

8 questions. Thank you.

9 THE COURT: Counsel, any follow up?

10 MR. SANDERSON: Yeah, just briefly.

11

12 REDIRECT EXAMINATION

13 BY MR. SANDERSON:

14 Q. Mr. Kaiser, I wanted to follow up, and you had

15 mentioned, you know, being comparable to the industry

16 standard. And in your filed testimony, you talked

17 about a 2017 American Gas Association compensation

18 survey. And they surveyed the employee compensation

19 programs of various utilities in different parts of the

20 country, correct?

21 A. That's correct.

22 Q. And I think in your testimony, it showed that

23 13 of the 15 public utilities that reported in the

24 north central region provide incentive compensation?

25 A. That's true.

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1 Q. Okay. And then to Commissioner Kroshus's
2 questions on how do we know you're in the market or
3 what are you doing to check to make sure you're there,
4 is this -- when you said you had third party review,
5 would that be the 2013 Aon Hewitt survey, a third party
6 independent survey of our employee compensation
7 program?
8 A. Yes, that's the study.
9 Q. And is that something that Montana-Dakota does
10 on a regular basis?
11 A. Yes.
12 Q. And currently in 2018, they're doing another --
13 five years later doing another, you know, complete
14 review of our system to make -- or our employee
15 compensation system to make sure it's competitive in
16 the market?
17 A. That's correct.
18 Q. Okay. And then finally, Mr. Kaiser, there was
19 some talk about the targets and the 8.4 and the past
20 history. Am I correct that in -- I think you
21 mentioned, in 2015 the Company did not meet its
22 thresholds and zero incentive bonuses were paid?
23 A. That is correct.
24 Q. Okay. And in 2016, the level of bonuses was
25 under the target -- some bonuses were paid but it was

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1 under the target in 2016?
2 A. Yes.
3 Q. And then last year in 2017, bonus were paid,
4 but they were above the projected target line used in
5 this case?
6 A. Yes, they were.
7 Q. Okay. So in the three years we have a
8 situation where no bonuses were paid, below target and
9 above target?
10 A. That's correct.
11 Q. And does that kind of indicate to you that your
12 target range is probably appropriate and certainly for
13 projecting a 2018 test year?
14 A. It does.
15 MR. SANDERSON: I have no further
16 questions.
17 THE COURT: Mr. Armstrong.
18
19 RE-CROSS-EXAMINATION
20 BY MR. ARMSTRONG:
21 Q. That would also indicate to you that removing
22 the earnings portion didn't really have any effect on
23 the amount paid, wouldn't it?
24 A. It would -- the earnings -- I'm not sure I can
25 draw that correlation. I -- I'm sorry.

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1 MR. ARMSTRONG: Nothing further.
2 THE COURT: Mr. Coffman.
3 MR. COFFMAN: No more questions.
4 THE COURT: Major.
5 MAJOR UNSICKER: No questions, sir.
6 THE COURT: Ms. Jeffcoat-Sacco.
7 MS. JEFFCOAT-SACCO: No questions.
8 Thanks.
9 THE COURT: Okay. We're going to adjourn
10 here for today. We'll go off the record.
11
12 (The hearing was adjourned at 5:19 p.m.)
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1 REPORTER'S CERTIFICATE
2
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4 I, Christa A. Reeser, a Registered Professional
5 Reporter, Certified Realtime Reporter, and Certified
6 Realtime Captioner, do hereby certify that the
7 foregoing pages of typewritten material constitutes an
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