

1 in Hawaii. He was supposed to be in Hawaii because he's a  
2 member of Young President's Organization that I'm a member of,  
3 and we were a sponsoring chapter. I have gone fishing in  
4 Canada with Jerry Jones, but we did it at the expense of  
5 somebody else. He did go to the Caribbean with a subsidiary of  
6 Arkla, Inc., Arkla Air Conditioning Corporation, but that was  
7 at my request. I have never been on any trip with Jones where  
8 he paid the expenses so I'm not beholding to him from any trip  
9 if that's what you're trying to hold out. I may have ended up  
10 in California with him at time where he was there at his  
11 expense and I was there at mine. We were in Florida at the  
12 same time for a security analyst meeting where I was  
13 representing Arkla, but again, I did not make all the trips  
14 that you noted, and I had to be corrected myself.

15 Q. Mr. Ran Ricks testified that he was aware of a trip you  
16 made to London with Jerry Jones in early 1980. Is he mistaken?

17 A. Mr. Ricks is incorrect. I was incorrect also though, so  
18 I can't say much about it.

19 Q. Was he incorrect when he said the purpose of that trip  
20 was related to crude oil?

21 A. Totally wrong. I was not involved in any such trip,  
22 never been to London, England with Jerry Jones even though I  
23 had said erroneously that I thought I was. The time that I  
24 went to London, England and you had the documentation to back  
25 it up was to appear before the London security analysts,

1 European security analysts, and Jones was not involved in that.

2 Q. Before I took your deposition and you made that statement  
3 in your deposition, had you ever told anybody including Ran  
4 Ricks that you had been to London, England with Jerry Jones?

5 A. I wouldn't know Ran Ricks if he walked in that door.  
6 I've probably seen him once or twice in my life. And I have  
7 never talked to Ran Ricks about any of my business.

8 Q. Mr. Nelson, let me show you a conflict of interest policy  
9 that you issued and signed in 1981. It's been marked as  
10 Exhibit 37. Isn't it true that this policy statement that you  
11 issued in 1981 required that every officer of Arkla, quote, to  
12 avoid all actions, involvements and relationships which could  
13 cause or appear to cause a conflict between the personal  
14 interest of the officer or employee and the interest of Arkla?

15 MR. WEIR: Excuse me, Mr. Mars, does that have  
16 the word material in it anywhere?

17 MR. MARS: I don't know. We can check.

18 MR. WEIR: What's the date on this? '81?

19 MR. MARS: Uh-huh. I don't see the word  
20 material in it.

21 MR. WEIR: I don't see it in this one. There  
22 are drafts of this policy in subsequent years that has the word  
23 material in it.

24 BY MR. MARS (CONT.):

25 Q. Isn't that what it says, Mr. Nelson?

1 A. I couldn't read this. If Don couldn't read it with his  
2 glasses, I doubt that I could read it. What are you asking?

3 Q. I just want to make sure I'm reading it correctly. And I  
4 think I've got Don's agreement that I am.

5 MR. WEIR: Well, the best I can read it you are.

6 BY MR. MARS (CONT.):

7 Q. Is it true that you are required to fill out conflict of  
8 interest forms and directors and officers questionnaires on an  
9 annual basis?

10 A. That is correct.

11 Q. Let me show you what has been marked as Exhibit 37 which  
12 is a packet of correspondence and forms relating to the  
13 conflicts of interest and ask you if you can identify the  
14 second page of this exhibit?

15 A. Yes, that's my signature.

16 Q. Can you read your handwriting?

17 A. Yes. I'm quite familiar with the policy and have no  
18 conflicts. I'd remind you, Mr. Mars, and I tried to state it  
19 as clearly as I could, I don't feel that I did have any  
20 conflict. I wasn't doing business with Arkla. I was putting  
21 up my money. There were numerous parties involved in all my  
22 various investments. But most importantly, I was putting up my  
23 money and taking my risks. And as evidenced by the ones that I  
24 told you, some of them lost and some of them made money. So it  
25 was personal.

1 Q. Was it -- is it correct that you issued these conflicts  
2 of interest policies every year from the late 1970s until 1984?

3 A. I think our first one was -- yes, probably late 1970s.

4 Q. And is it correct that you had to fill out conflict of  
5 interest forms every year, and on this particular form you  
6 wrote in in your own handwriting that you were quite familiar  
7 with the policy?

8 A. That is correct.

9 Q. Then why did you testify in your deposition in April when  
10 I asked that Arkla didn't have a conflict of interest policy or  
11 if it did, you didn't remember seeing it?

12 A. To be quite truthful, I had forgotten and it came up  
13 during the time that I was Chairman. In fact, I had approved  
14 it. It was simply one of those things that you just don't  
15 remember.

16 Q. You just forgot?

17 A. Of course I just forgot. I wouldn't have said it  
18 otherwise. I mean, I'd known there were records if, in fact,  
19 we had one. And once I was reminded, I was reminded how it had  
20 developed in the company. And I had signed off on it and  
21 approved it.

22 Q. Mr. Nelson, let me show you what's been marked as Exhibit  
23 51, a conflict of interest policy dated January 1, 1988 signed  
24 by Mr. McLarty and an attached conflict of interest policy that  
25 became effective apparently in February of 1985.

1 MR. SKOKOS: Mr. Mars, would you be kind enough  
2 to show us each exhibit as you approach the witness?

3 MR. MARS: Yes, I thought you had a booklet over  
4 there with them marked.

5 MR. SKOKOS: We just want to make sure we have  
6 the right one.

7 MR. MARS: This is the one.

8 MR. WEIR: '88 policy?

9 MR. MARS: It became effective in February of  
10 '85.

11 MR. WEIR: After.

12 MR. MARS: Right.

13 BY MR. MARS (CONT.):

14 Q. Does it appear from your knowledge of Arkla's internal  
15 documents that this page that I'm showing you was prepared in  
16 February of 1985 less than six weeks after you left Arkla?

17 A. It would appear that's the case.

18 Q. Does it say at the top of this conflict of interest  
19 policy that an employee involved in a business venture whose  
20 fellow investors do business or seek to do business with Arkla  
21 even through a separate entity must disclose that relationship  
22 on Form PR6335?

23 A. That's correct.

24 Q. That provision wasn't in the conflict of interest policy  
25 when you were there at Arkla, was it?

1 A. I don't think so.

2 Q. Do you know why Mr. McLarty added this provision less  
3 than --

4 MR. WEIR: Your Honor, I object. That calls for  
5 speculation. And Mr. McLarty is going to be here to testify.

6 CHAIRMAN COMPTON: I imagine the answer is no.

7 MR. NELSON: I don't know.

8 BY MR. MARS (CONT.):

9 Q. The minutes of the October 11, 1984 board meeting reflect  
10 that there was some discussion there about your retirement from  
11 Arkla. Is it your recollection that you had been considering  
12 your retirement from Arkla during that time period?

13 A. That would be correct.

14 Q. The minutes also reflect that Jerry Jones proposed a  
15 \$170,000 cash bonus during that board meeting. Do you remember  
16 that?

17 A. No. I don't think Mr. Jones proposed that. As I  
18 remember, Mr. McLarty proposed it and Mr. Jones later moved it.  
19 Mr. McLarty covered the two issues at hand, and then Mr. Jones  
20 moved.

21 MR. MARS: Mr. Chairman, just for your  
22 information, I'm just about through.

23 BY MR. MARS (CONT.):

24 Q. Are the board minutes of the October 11 meeting incorrect  
25 when they say that Mr. Jones offered the following resolution

1 which was duly seconded by Mrs. Jones and approved?

2 A. Well, before that though, next Mr. McLarty asked to be  
3 recognized in order that he might present two items of business  
4 for the board's consideration, namely a bonus for Mr. Nelson in  
5 appreciation for services rendered.

6 Q. So it wasn't Mr. Jones. It was Mr. McLarty?

7 A. It was Mr. McLarty as chairman of the board covered it  
8 first. Then Mr. Jones simply made a recommendation which was  
9 reduced to a resolution at a later date.

10 Q. Let me show you what has been marked as Exhibit 56, some  
11 handwritten notes which are, I think, in the record already by  
12 Allen Warren, an Arkla executive dated 7/25/86.

13 MR. WEIR: After you were gone, I guess.

14 MR. NELSON: I know. I think I've already said  
15 one time that I didn't know what that was all about. I don't  
16 know what this is all about.

17 BY MR. MARS (CONT.):

18 Q. Did you attend a meeting on that day?

19 A. I have no idea. I attended only one meeting and that was  
20 to get the parties together. I couldn't tell you what day I  
21 attended it even. That was in response to the note you said a  
22 minute ago.

23 Q. You're sure you just attended one meeting?

24 A. To my knowledge I attended only one meeting. It is  
25 possible that I would have stepped into a second one if I was

1 requested, but I don't think that I did. I couldn't say for  
2 certain.

3 Q. Have you ever described Jerry Jones' contract as the  
4 strongest contract in the land?

5 A. The strongest contract in the land?

6 Q. Yes. That's the words that appear in this note, and Mr.  
7 Warren's testimony --

8 A. I don't remember --

9 Q. Mr. Warren's testimony --

10 A. I don't remember ever hearing --

11 MR. WEIR: Your Honor, I object. I'm not sure  
12 that there's any foundation laid that that is supposed to  
13 represent Mr. Nelson's --

14 MR. MARS: My question, Mr. Chairman, is only if  
15 he used those words. And Mr. Warren's deposition will be in  
16 evidence to show what Mr. Warren said. But I'm only asking Mr.  
17 Nelson if he ever described Jerry Jones' contract as the  
18 strongest contract in the land?

19 MR. NELSON: I can't imagine me ever used that  
20 wording. That doesn't sound like me.

21 Q. You're sure?

22 A. I'm just saying it doesn't sound like me.

23 Q. Well, whether it sounds like you or not, do you have any  
24 recollection?

25 A. I have no recollection of having said those words.



1 Q. Why were you involved in this meeting or meetings with  
2 Mr. McLarty and Mr. Jerry Jones in 1986?

3 A. I think things had gotten a little tenuous and Mack felt  
4 that I could get the two of them together. I felt that things  
5 could best be served by getting the two of them to sit down  
6 across the table from each other and talk.

7 COMMISSIONER EPLEY: What document are you  
8 referring to that you showed him a minute ago?

9 MR. MARS: That's exhibit -- I think it's 52.  
10 56, Exhibit 56. Allen Warren's note dated 7/25/86.

11 BY MR. MARS (CONT.):

12 Q. Mr. Nelson, let me show you Exhibit 55 which consists of  
13 two pages. The first page you already have on the easel and  
14 the second page is some handwritten notes from Mack McLarty.  
15 Can you identify the second page of Mr. McLarty's stationery as  
16 a personal note that he wrote to you in 1986?

17 A. Yes.

18 Q. Now, at this time you had no business affiliation with  
19 Arkla; is that correct?

20 A. No.

21 Q. And what business affiliation did you have with Arkoma,  
22 if any?

23 A. None -- none with Arkoma that was doing business there.

24 Q. Do you know why Mr. McLarty said to you in this note that  
25 a good prompt resolution of this matter was important to both

1 of us, meaning both you and Mr. McLarty, as well as Jerry  
2 Jones?

3 A. I imagine since I had been the former Chairman and since  
4 the original transaction took place in my tenure, that he  
5 simply felt that I would be interested in seeing them resolve  
6 it amicably, in addition to the fact that they were both  
7 friends.

8 Q. Well, did you have a stake in a resolution of this  
9 problem?

10 A. I don't think I had any stake whatsoever in the  
11 resolution of it.

12 Q. Do you recall where this meeting was that you remember  
13 attending?

14 A. The meeting I remember attending was in the Arkla board  
15 room.

16 Q. Who was there?

17 A. Gosh, I don't remember. I remember that Jerry and Mack  
18 were there. Who else was there, I couldn't say.

19 Q. You don't remember anybody else that was that?

20 A. I didn't pay that much attention. That was so long ago,  
21 I didn't really care who was there. I was there simply because  
22 I had arranged for them to sit down and talk.

23 Q. Well, were you there for any reason other than just being  
24 physically present?

25 A. That was it. Just to get the meeting, to get them

1 together for the first time.

2 Q. Do you have any personal knowledge as to whether Jerry  
3 Jones offered to sell Arkoma Production Company to Arkla for 85  
4 million dollars?

5 A. Only in that he told me he did. He said that was one of  
6 the offers or an offer that was made.

7 Q. Did he tell you whether that offer was a cash offer?

8 A. We didn't get into details on it.

9 Q. So you don't know?

10 A. I really don't know what the parameter was.

11 MR. MARS: Mr. Chairman, if I could just have a  
12 minute, I think I'm through.

13 CHAIRMAN COMPTON: Certainly.

14 MR. MARS: Mr. Nelson, thank you.

15 MR. NELSON: Thank you.

16 CHAIRMAN COMPTON: Staff have any questions?

17 MR. GLOVER: Yes, Mr. Chairman.

18 BY MR. GLOVER:

19 Q. Mr. Nelson?

20 A. Yes, sir. Pardon me.

21 Q. It's all right. Sir, are you ready to go here for a  
22 second?

23 A. I'm ready.

24 Q. Okay. Going back to your discussion earlier with Mr.  
25 Mars concerning Exhibit Number 27 and prime acres, do you

- 1 recall discussing that?
- 2 A. Yes, sir, I do.
- 3 Q. It relates to the 100,000 gross acres; right?
- 4 A. That is correct.
- 5 Q. If I remember correctly, your definition was something  
6 along the lines it was acreage that would have a prospect of  
7 finding gas on it?
- 8 A. That is correct.
- 9 Q. And if I remember also correctly, you said something  
10 about it would be more than wildcat acreage?
- 11 A. More than goat pasture.
- 12 Q. Prospect --
- 13 A. More than goat pasture.
- 14 Q. More than goat pasture, okay. So is it the equivalent of  
15 wildcat or is there a range here?
- 16 A. Really, what is wildcat? Wildcat's where you don't have  
17 any proven gas reserves.
- 18 Q. That is what you equate with prime acres?
- 19 A. I think that prime, again, not knowing where the word  
20 came from, whether it came from me or from Billie or Jerry or  
21 somebody in the gas acquisition team, could mean different  
22 things for different people, but it meant acreage that would  
23 have some chance of finding some gas.
- 24 Q. But it doesn't have proven reserves on it?
- 25 A. Oh, I wouldn't think so at all.

1 Q. Did you consider this 100,000 gross acres to be a  
2 valuable consideration?

3 A. I considered it to be an extra consideration. I felt the  
4 valuable considerations were the 15 million dollars and the 10  
5 million dollar drilling fund for three years in a row. Those  
6 were your primary considerations remembering that we just had  
7 50 dollars or so an acre in the land in question and  
8 remembering we were selling only half interest.

9 Q. Well, was the acreage at all important?

10 A. The acreage would have played a role to a degree. And  
11 I'm still assured that the 100,000 acres was there and was  
12 there at every juncture. And I still feel that he met his  
13 obligation. But in terms of what -- how I would rate it, I'd  
14 say that would be more of our icing on the cake. I think the  
15 cake was the money both on the front end and the obligation to  
16 spend money, which was much more important to us at the time  
17 because of our falling drilling budget.

18 Q. I understand that, but, you know, a major concern of  
19 yours, and I'm not disputing that, but I'm just asking if the  
20 100,000 acres, was that some consideration that you considered  
21 important?

22 A. I would say that would have some consideration, but  
23 again, remembering, given its proper time and place, it was  
24 superseded by the five state, five year offer that came into  
25 the gas contract.

1 Q. Well, that 100,000 in gross acres, now, I assume then  
2 that you considered that to have some prospect of finding gas?

3 A. I considered it to have some prospect. And Mr. Jones has  
4 assured me that it was there in the flowing in and out of  
5 acreage in a years time in an active gas acquisition program.  
6 He felt that he had complied with that.

7 Q. But Arkla at the time, prior to its entering into this  
8 contract, did not know what kind of production would come from  
9 this 100,000 acres, did it?

10 A. That is correct. Mr. Glover, I'd note, just again for  
11 the record, that this morning I think a distinct point is since  
12 a hundred eight billion feet were found with only 25 billion or  
13 less found on the property that was actually sold to Jones, the  
14 half interest, we were probably fortunate that the acreage that  
15 Jones ultimately brought to the table wasn't more productive  
16 than it was in terms of ultimate cost to Arkla.

17 Q. I know, but that is after the fact?

18 A. That is correct, but we are after the fact by seven and  
19 eight years right here on every part of this.

20 Q. I understand, but I'm trying to focus on prior. Okay.  
21 Pursuant to the 1982 lease sales, Arkoma had the right to sell  
22 under the 1983 gas purchase contract the gas purchased -- or  
23 excuse -- the gas production from leases it acquired in a five  
24 state, five year period of time; is that correct?

25 A. That is correct.

- 1 Q. Okay. Now, prior to executing the contract, Arkla didn't  
2 have any estimate of how much production might be produced  
3 under that provision, did it?
- 4 A. No.
- 5 Q. And you couldn't have estimated it?
- 6 A. It would be very difficult to.
- 7 Q. In fact, you didn't know --
- 8 A. In fact, you couldn't. It's just not an exact science.  
9 You'd find estimates ranging from one end of the spectrum to  
10 the other.
- 11 Q. But you didn't even know what acreage that was going to  
12 be at that time?
- 13 A. That is correct.
- 14 Q. Okay.
- 15 A. That's the reason it wasn't so important in terms of  
16 measuring up to what was really important in making the  
17 transaction.
- 18 Q. So prior to executing the agreement, Arkla didn't have  
19 any idea how much production it was going to have to buy during  
20 that five state, five year provision, did it?
- 21 A. That is correct.
- 22 Q. Unlimited obligations essentially?
- 23 A. Well, of course, that was the concept that we were  
24 getting involved in in the first place. We didn't just  
25 consider the 10 million a year Jones was willing to spend plus

1 the 15 million money that he paid us as being important. We  
2 thought this would be an active way of promoting gas production  
3 and enhancing our ability to acquire extra gas. So we were  
4 really hoping he'd be very successful.

5 Q. But, again, prior to the execution of the agreement, you  
6 didn't have any idea how much gas Arkoma could produce?

7 A. None whatsoever, we just had hopes.

8 Q. So prior to the execution of the agreement, you didn't  
9 have any idea within any reasonable degree of certainty how  
10 much Arkla would be obligated to pay for that gas?

11 A. Well, you knew that you'd be buying gas at 102 and 103  
12 price as maximum pricing. That was compatible with what we  
13 were paying since some 90, 95 percent of all the gas we  
14 purchased during that time frame was 103 or 102 pricing, so you  
15 knew that you were building yourself some reserve depending on  
16 how successful he would be.

17 Q. Well, I understand you know what the price was going to  
18 be, but you don't know what the volume was going to be?

19 A. That is correct.

20 Q. All right. Who ultimately pays for the cost of gas?

21 A. Who ultimately pays for it?

22 Q. Yes.

23 A. Well, it depends on where you sell it. If you make an  
24 off system sell, such as those that we were promoting, that  
25 party would pay for it. And that would be to the benefit of



1 your customers on our system because it would help level out  
2 costs and help carry some of your burden of your pipeline. If  
3 you make it to a customer owned system, particularly an  
4 industrial customer such as the Atlas sale or the CLECO sale  
5 that was in existence for awhile, you assured they paid for the  
6 cost of that. In a case where you sell it to a customer on  
7 your system, they pay a cost as approved by the Public Service  
8 Commission.

9 Q. Well, the cost of gas goes through, for the most part,  
10 goes through to the ratepayers; right?

11 A. Well, that's not necessarily true. You have a large  
12 volume of gas that is not necessarily being sold on a cost of  
13 gas basis. For instance, we were under replacement cost  
14 pricing in industrial sales. So the whole concept of cost of  
15 gas went out the window in terms of cost per individual MCF.

16 Q. The bottom line here though is the ratepayers have to  
17 pick up the cost of gas; right?

18 A. They pick up the cost of gas only to the pro rata share  
19 of gas that they buy. It's true only to that degree. Now, in  
20 the case of dealing with the 28,000 acres that Jones bought  
21 half interest in, the ratepayers probably came out better  
22 because we sold half interest in it than they would have had we  
23 retained it all ourselves because at the time Arkla was getting  
24 section 102 price as fair field price. So we were putting gas  
25 that we had produced in at a rate of \$3.32 or 3 per MCF where

1 103 gas was some 50 cents cheaper. So the individual ratepayer  
2 came out cheaper buying the gas from Jones than they would have  
3 buying it from Arkla.

4 Q. Mr. Nelson, going back to the point in time, you know,  
5 back to '82 or '83, you're not denying that the ratepayers had  
6 an unlimited exposure as a result of these unlimited volumes,  
7 are you?

8 A. Well, of course I'm denying it because you find other  
9 markets for it. You don't save it. You're going to sell every  
10 MCF that you buy or can find to the Arkansas market. We serve  
11 five states. We had large volumes of off system sales that  
12 were being generated such as the SONAT sale that started at a  
13 hundred million a day and as of 1985 would have gone to 300  
14 million a day in '87 or '88 had that sale come to fruition.  
15 You had your CLECO sale that was in a 70, 75 million a day  
16 range that went up to about 135 million a day at one point.  
17 You had a lot of things that were extra factors instead of  
18 saying you expose Arkansas ratepayers to it because that's just  
19 not the case.

20 Q. Are you suggesting to me that the Arkansas ratepayers had  
21 no exposure --

22 A. I'm saying that the Arkansas ratepayers were exposed only  
23 to the degree that the cost of gas went into the gas they  
24 consumed.

25 MR. GLOVER: Thank you. I have no further

1 questions.

2 CHAIRMAN COMPTON: Attorney General?

3 MS. STALLCUP: Yes, Your Honor.

4 BY MS. STALLCUP:

5 Q. Mr. Nelson, I want to go back to the discussion that you  
6 had with Mr. Mars about the various gas contracts that were  
7 entered into during this time frame. And I think you noted  
8 that the Conoco gas contract had NGPA pricing of 75 percent  
9 takes; is that correct?

10 A. Mr. Mars noted that. I just didn't disagree because I  
11 didn't know.

12 Q. Okay. You said something as you were going through the  
13 list that AEC here, the gas contract there, that AEC generally  
14 gets the same terms as other contracts in the field; is that  
15 correct?

16 A. Generally, you try to pull everybody the same. You try  
17 to, as much as possible, do the same as you do for other  
18 companies.

19 Q. Now, how much profit does Arkla make on gas say under the  
20 Conoco contract?

21 A. It doesn't make a profit except whatever profit that you  
22 allow in the cost of service in the case of a regular  
23 residential customer.

24 Q. Is that also true for the profit under the AEC contract?

25 A. No, you get it under fair field price, and that was my

1 point a minute ago was that when you introduce company gas into  
2 the system, you get in that case what was Section 102 pricing  
3 which at the time was about \$3.33 per MCF.

4 Q. So Arkla was getting substantially more profit under the  
5 AEC contract for that gas than it was getting for the Conoco  
6 gas; isn't that correct?

7 A. Well, that's not how you -- that's not how you relate the  
8 two. You're talking about apples and oranges. AEC got that  
9 price for any gas it produced that came into Arkansas systems.  
10 It got fair field price of \$3.32 or whatever it happened to be  
11 at the time. At one point in time that's what it was for  
12 Section 102 gas that I was drawing you a comparison of.

13 Q. Okay. And I think you also agreed that the cost assigned  
14 to -- excuse me. The cost at which AEC can sell gas to Arkla  
15 is based on the price of the gas in a particular -- in a given  
16 field or you try to do the same type of contract with AEC that  
17 you do with other producers in the fields?

18 A. Well, what you really try to do is equate the other gas  
19 companies such as a Conoco or an Exxon, all of those in the  
20 same area, you try to equate. My understanding is that you  
21 wouldn't be caught in the same situation with an AEC  
22 necessarily because I think that fair field prices was a  
23 bookkeeping measure and not necessarily a contractual measure.  
24 You can ask Ed Henderson who will be one of your witnesses. He  
25 can tell you much more about it than I can.

1 Q. Okay. Generally speaking though, if say the Stephens  
2 contract in the same field and Conoco contract in the same  
3 field and the Exxon contract in the same field, if all those  
4 other contracts were at NGPA price, then I think based on your  
5 testimony you'd say AEC would generally would get the same  
6 terms as all those other contracts?

7 A. Generally, AEC was treated as AEC from an Arkansas rate  
8 making perspective. Its contract, I'm not certain what it  
9 would read. It might have read exactly the same. But from a  
10 rate making standpoint, it would get fair field price passed  
11 through in a cost of gas adjustment.

12 Q. Isn't it also true then if Conoco was getting say two  
13 dollars an MCF rather than NGPA, Stephens was getting two  
14 dollars an MCF, Exxon was getting two dollars an MCF, isn't it  
15 true that the AEC contract would have a tendency to get the  
16 same price as the other producers?

17 A. No. AEC would get whatever the NGPA 102 price was  
18 regardless of what the other partners in the well would be  
19 getting. Now, it would be through your cost of gas adjustment  
20 clause that you filed on a monthly basis and that we had to  
21 account for quarterly. But again, I think it's a bookkeeping  
22 entry rather than what the contract says. It's my -- my  
23 understanding, always has been, and again, Ed Henderson will be  
24 much more expert on this, but we got whatever 102 was during  
25 that time frame. We got the 102 assignment price that was

1 posted at FERC for company produced gas regardless of what  
2 other partners got, regardless what anybody else was getting  
3 anywhere, it was a total separate thing under the auspices of  
4 fair field price and had nothing to do with contract price.

5 Q. That was later changed by the PSC, wasn't it?

6 A. Well, later, but during my time frame it was that. I  
7 think later they went to venting, but during the time frame we  
8 are talking about, it was 102. Just reminding on fair field  
9 price, there were consecutive filings over a period of years  
10 that raised fair field price through the years. Public Service  
11 Commission raised it, approved the raises.

12 Q. Okay. Now, you previously testified that Stephens had --  
13 but Stephens did have certain low cost contracts in the Aetna  
14 and Cecil Field. And I believe you mentioned that Mr. Stephens  
15 had for years talked to you to try to get the prices in the  
16 contracts raised?

17 A. That is correct. In fact to the tune that I know that  
18 Don Weir and I went in to our board meetings on more than one  
19 occasion with our resignations in our pockets if the board, who  
20 Stephens would spoon feed information, tried to force us to  
21 accept some of the increases he was proposing.

22 Q. To that extent, I want to back up. And Mr. Jones didn't  
23 have -- Mr. Jerry Jones didn't have any low price contracts  
24 with Arkla or -- or let me leave it at that. Didn't have any  
25 low price contracts that he was trying to renegotiate?

1 A. You are asking me a question I couldn't give you the  
2 answer to. You'd have to ask somebody in that area.

3 Q. Didn't the -- well, let me put it this way, Billie Walker  
4 testified yesterday that -- well, he was asked the question if  
5 you had been offered the same deal that Jerry Jones got  
6 together with the drilling investment, the money for the  
7 leases, would you have drilled those same wells for two  
8 dollars? And I believe Mr. Walker answered that he would have  
9 at least had to run the economics. He probably would have done  
10 that.

11 A. That's a terrible hypothetical. I mean, it really  
12 is because this was never offered. The only thing that Mr.  
13 Walker ever offered was to drill wells for NGPA price. He  
14 argued that on a regular basis. We argued that on a regular  
15 basis. This was not just a happenstance thing. Also, of  
16 course, Mr. Walker was very pleased with the agreement that  
17 Jones reached and declined to accept his first right of refusal  
18 on the same agreement.

19 Q. Okay. My question to you, Mr. Nelson, is you knew that  
20 you had something that Stephens Production Company wanted, an  
21 upgrade in their old gas, and you knew that that gave you  
22 leverage in negotiating with him; is that a fair statement?

23 A. Well, it's fair to a degree. I'll go along with your  
24 line of reason until I see where you're going.

25 Q. Thank you. To the extent that you knew that you had this

1 leverage with him on this field, why did Arkla not approach  
2 Stephens Production Company to see if they could better Jerry  
3 Jones' deal and, therefore, save everybody money?

4 A. Well, you've got several problems presented there. First  
5 of all, you don't go taking somebody else's offer and take it  
6 out and shop it. You simply don't do it or you lose all the  
7 credibility in the world. You'd never again be able to make a  
8 major deal with a major gas supplier ever if you did that.  
9 Number two, I'm not sure that you had that much leverage. If  
10 you take Cecil where the gas was selling for 55 cents, those  
11 were well specific. If you drilled a new well, they were  
12 entitled to the 102 or 103 gas. If you take Aetna, the gas was  
13 at 16 cents, but you had an additional problem there because  
14 they could have gone in and we could have possibly forced the  
15 drilling of the gas wells at 16 cents. They would have gone  
16 non-consenting on us. They would have been entitled to -- we  
17 would have been entitled to collect 150 percent of what our  
18 well cost before they got a penny out of it, and with those  
19 wells producing the way they did, they probably would have  
20 never gotten a thing. That's where I always argued. And the  
21 argument that was tossed to me was you probably would have  
22 gotten into unconscionable contract and probably gotten the  
23 entire contract broken on the basis of confiscation of their  
24 gas. So I'm not sure there was that much flexibility. You  
25 know, the argument that nobody's ever succeeded in telling me



1     why it isn't so is if I had had the very negative feelings I  
2     supposedly had toward the Stephens and wanted to just beat them  
3     over the head, why didn't I make them drill all them 16 cent  
4     gas wells and take their gas away from them because that's what  
5     I would have been doing. They never would have gotten any  
6     money. We would have taken all the gas. We would have drained  
7     them and would have gotten our money and run. So it never was  
8     feasible. It never was practical and we never thought about  
9     it. We never would have done it. Never thought of doing it.

10    Q.     Okay. I understand your position that shopping a  
11    proposal would have destroyed your relationship with your  
12    producers. Did you consider putting the development of the  
13    Aetna and Cecil fields up for bids? Why was that not  
14    preferable?

15    A.     Again, it's not a place where you put them up for bids.  
16    Bids take place in such things as Fort Chaffee where the  
17    Federal government came in and forced the bidding. You know,  
18    if you remember, I was the one that brought that about with the  
19    assistance of Jerry Bumpers by taking Texas Oil and Gas to task  
20    over one dollar per acre leases on Fort Chaffee. When Fort  
21    Chaffee came up for bids, it was put up by the Federal  
22    government. Very seldom do you see bids unless it is something  
23    like that or a sell off of a company's assets. In the case  
24    such as a viable going gas company, I don't remember a bid  
25    situation of that nature. Plus, you had the problem of

1 somebody bringing to you an offer that you either had to accept  
2 or you had to reject or you tried to negotiate the best you  
3 could out of it, which is what Arkla ultimately did.

4 Q. Going to a different line of questioning, during your  
5 tenure at Arkla, was it your practice to enter into -- Arkla's  
6 practice to enter into gas purchase contracts that were backed  
7 up with a promissory note to assure that Arkla would pay the  
8 full amount of the gas contract?

9 A. That Arkla would pay it?

10 Q. [Nodding.]

11 A. I don't remember us involving ourselves in a deal where  
12 we invested the kind of money that we had to back it up with a  
13 promissory note plus the size of Arkla would make that  
14 unnecessary. If I understood your question. If I didn't, ask  
15 it again. I don't remember any. I don't see how that would be  
16 relative.

17 Q. During your tenure with Arkla, did Arkla make a habit of  
18 entering into gas purchase contracts where Arkla would agree to  
19 pay the seller for gas even if the seller could not produce the  
20 gas?

21 A. Not to my knowledge. I mean, that would be the opposite  
22 of take-or-pay. And I don't remember any contract being drawn  
23 in that manner. Plus you had that happen all the time where  
24 you had wells that you started off at one level of productivity  
25 and they'd go dry or stop producing and you'd have to close

1 them down.

2 Q. And in that circumstance did Arkla go ahead and pay for  
3 gas that was not delivered?

4 A. Of course not. That was never done at any time in the  
5 market or in the industry. The opposite, of course, was done  
6 on a regular basis in the industry.

7 MS. STALLCUP: That's all the questions I have.

8 CHAIRMAN COMPTON: Any questions by Arkla?

9 MR. WEIR: Mr. Chairman, could I take a five  
10 minute break and collect my thoughts and try and decide what I  
11 need to ask Mr. Nelson?

12 CHAIRMAN COMPTON: We'll take a ten minute.

13 MR. WEIR: Thank you.

14 CHAIRMAN COMPTON: Get more thought that way.

15 [WHEREUPON the hearing recessed at 3:21 p.m.  
16 and reconvened at 3:38 p.m.]

17 CHAIRMAN COMPTON: Be seated please. We'll  
18 proceed.

19 MR. WEIR: Mr. Chairman, Arkla has no questions  
20 for Mr. Nelson.

21 CHAIRMAN COMPTON: There's been no cross so  
22 there's no redirect. Mr. Nelson, I -- is there any question by  
23 the Commissioners? Judge Enfield?

24 COMMISSIONER EPLEY: I have a couple of  
25 questions I'd like to ask. On the 100,000 prime acres that was

1 referred to, and I think you may have testified that that was  
2 not necessarily the prime consideration in your mind, did Arkla  
3 do any sort of a title examination with regard to any of that?

4 MR. NELSON: They wouldn't have done a title  
5 examination because I think, as was pointed out, it was in the  
6 latter stages of the closing that he had to come up with his  
7 100,000 acres.

8 COMMISSIONER EPLEY: Go ahead.

9 MR. NELSON: Pardon me. A lot of acreage that  
10 Jerry owned, he owned through different entities is my  
11 understanding. And, again, I'm going back to his statements to  
12 me recently that he did at all times have over 100,000 acres  
13 that he could have turned loose. And there again, the  
14 important thing to remember there is that once you've got your  
15 gas contract that's the five state, five year thing, superseded  
16 that by far.

17 COMMISSIONER EPLEY: Okay. But on December the  
18 30th, 31st of 1982, at the time that this was concluded, the  
19 contract documents signed and the board approval, did Arkla  
20 even have a list of any leases?

21 MR. NELSON: I think, unless I'm mistaken, the  
22 list would have been presented at closing, the final closing of  
23 the transaction because he had that long to either have or  
24 obtain the 100,000 acres in question. And, again, remembering  
25 that the prime movers in the overall thing were the concepts of

1 more money to drill since our drilling budget was going like  
2 that and the fact that you had a partner to take up half the  
3 risk and help you develop acreage that you had no immediate  
4 plans to develop, if any plans at all.

5 COMMISSIONER EPLEY: So you were just taking it  
6 on faith basically?

7 MR. NELSON: Taking it on faith, and also I  
8 would point out that the 100,000 acres was something that was  
9 tossed in as an extra. The listing one, two, three, four, had  
10 nothing to do with numerical importance. Had it been that way,  
11 of course, you would have had the amount of money and the three  
12 year drilling agreement as your number one thing.

13 COMMISSIONER EPLEY: Back to the meeting of July  
14 of '83 when the board reconsidered this and vindicated the  
15 transaction so to speak, did I understand you to mean that this  
16 could have been undone? That the Arkoma deal could have been  
17 undone had the board decided?

18 MR. NELSON: It is our opinion that it could  
19 have been undone until the final closing, which didn't take  
20 place until mid to late 1984. That, in fact, there was very  
21 sparse drilling, very limited action, only three wells, I  
22 think, in 1983 and only eleven wells in -- only eight wells in  
23 1984, so only eleven wells had been drilled with the  
24 understanding that the Commission could come up with some  
25 adverse ruling. The Federal court could come up or the SEC,

1 due to our financial involvement, if they had an issue. That  
2 was put away pretty quickly. But the Federal court and the PSC  
3 ongoing investigations made this a slow walk type situation  
4 with everybody understanding that something could unravel so --

5 COMMISSIONER EPLEY: What final closing are you  
6 referring to?

7 MR. NELSON: The final closing between Arkla and  
8 Arkoma. It wasn't done until mid to late 1984. You had to get  
9 all of your companies, the seven or eight that had preferential  
10 rights had to sign off on it before that because they could  
11 have come up and challenged the deal. Until you got all those  
12 preferential right holders to come in and say that this  
13 agreement was okay with them, in theory, you had one of them  
14 that could pick up the Jones offer and take it away from them.  
15 Certainly, in the case of Stephens that stood true.

16 COMMISSIONER EPLEY: I think you've already  
17 answered one of my questions that the Attorney General asked  
18 about the possibility of putting this out for bids. I think  
19 you said that wouldn't have been done because of losing  
20 credibility on Arkla's part?

21 MR. NELSON: You absolutely couldn't do it.  
22 That was never done to my knowledge in all my 21 years in the  
23 gas industry. That would absolutely destroy you  
24 credibility-wise. When somebody brought a deal to you and made  
25 an offer, you were either to accept it, reject it or fine tune

1 it and work out an agreement that was acceptable to both  
2 parties. You never took it and shopped it. You would never  
3 think of putting that acreage up for bids. It just simply  
4 wasn't ethical. It couldn't be done.

5 COMMISSIONER EPLEY: And as far as Arkla  
6 developing this acreage itself?

7 MR. NELSON: Well, it's to the -- of course,  
8 that could have been considered at some point, but the Aetna  
9 and Cecil Fields were not on our priority list. No proposal  
10 was made for the development of those areas. You know, the  
11 general consensus was, regardless of what people are  
12 remembering now in a political year, Aetna and Cecil have been  
13 well drilled over the past 30 years prior to that time. There  
14 were actually sections that had never been drilled because it  
15 was the consensus or feeling that they could have been drained  
16 by an offsetting section. Yet on the other hand, you could go  
17 in and drill and you might find gas. It was all so up in the  
18 air that nobody was proposing Aetna and Cecil for future  
19 drilling in our company. The one exception which you will find  
20 in your file is a memo from Leonard Jordan which was relative  
21 to only one well that they were talking about in that instance.  
22 That has been parlayed in the press as something that was all  
23 encompassing and it was never that. Aetna and Cecil,  
24 regardless of what others say today, was not that well thought  
25 of in terms of what remained. And I'll give you the best

1 example I can. When Jones made his deal, our people felt there  
2 was something in the range of 20 to 25 billion feet potentially  
3 remaining. That could have been 10 billion or 35, 40 billion,  
4 but they said 20 to 25 billion. The end result of all the  
5 drilling in the Aetna and Cecil Fields in the Arkoma acreage  
6 and the 28,000 acres in question produced less the 25 billion  
7 feet.

8           Something this Commission might not be aware of is that  
9 by an intervenor in the Federal court case, they actually came  
10 up with a clause that would force Arkoma to pay Arkla back  
11 money. If it reached a 25 billion foot level, they'd get five  
12 percent of the money; at 30 percent, they would get 10 percent,  
13 at 35 -- at 30 billion they'd get 10 percent; and at 35 billion  
14 they'd get 15 percent of the money back, Arkla would, for its  
15 customers. So in realty, nobody can say that all the gas that  
16 Arkla ultimately ended up with came off that acreage because,  
17 in fact, 83 billion of it -- 83 billion of the 108 billion came  
18 from acreage outside that Jerry Jones brought to the table or  
19 that was developed outside the original 28,000 acres.

20           COMMISSIONER EPLEY: Thank you.

21           CHAIRMAN COMPTON: If there's nothing further,  
22 Mr. Nelson, thank you very much for your attendance and you're  
23 excused.

24           [WHEREUPON, the witness withdrew. ]

25           CHAIRMAN COMPTON: Mr. Mars, can you give us



1 some idea about the remainder of the afternoon?

2 MR. MARS: I think the Attorney General would  
3 like to make a statement at this point, Mr. Chairman.

4 MS. STALLCUP: If I could, Your Honor. The  
5 parties have conferred among themselves, and we feel like after  
6 opening statements and what has transpired we better understand  
7 each other's cases. And we believe that there may be a  
8 possibility of resolving the 1986 portion of this case. What  
9 we would ask the Commission to do is to grant us a recess until  
10 Friday morning in order to discover whether that is possible.

11 CHAIRMAN COMPTON: We don't live here.

12 MS. STALLCUP: I understand that, Your Honor. I  
13 think, certainly, if we were successful in doing this, it would  
14 certainly greatly expedite the hearing of this case and would,  
15 you know, certainly make it go quicker. Let you all get home  
16 quicker.

17 CHAIRMAN COMPTON: What sayeth Arkla?

18 MR. KEITHLEY: Your Honor, we have discussed  
19 with the Staff and the Attorney General and Intervenors the  
20 differences with respect to '86. They are not major in terms  
21 of dollars and should be, could be resolvable. We have not had  
22 -- since opening statements, things seem to have been a blur,  
23 and we have not had sufficient opportunity to develop those  
24 thoughts to determine whether '86 is resolvable. I think, Your  
25 Honor, what -- from our perspective, if we had -- if we have

1 the opportunity to hear from the other parties what their  
2 thoughts are and to consider what it is they are suggesting to  
3 us, that we'll be in a position to respond rather promptly and  
4 can determine whether or not we can get the '86 issues out.  
5 If, Your Honor, has noted from the schedule, a number of the  
6 witnesses are related to '86, and if we were to approach the  
7 Commission with a proposal on '86, it would probably greatly  
8 expedite those witnesses, if not eliminate the need for those  
9 witnesses entirely.

10 CHAIRMAN COMPTON: Okay. Mr. Glover.

11 MR. GLOVER: Yes, Mr. Chairman.

12 CHAIRMAN COMPTON: What's your opinion on this  
13 recess?

14 MR. GLOVER: Mr. Chairman, I think as Mr.  
15 Keithley has already alluded, there have been some discussions  
16 with the Staff and the Attorney General's office, as well as  
17 Mr. Mars and the Intervenors. I think that at this stage it  
18 would be very useful for us to take this opportunity to see if  
19 we can arrive at some sort of mutual resolution. I think there  
20 is indeed indications that we'd agree that it's worth the time.  
21 I can not promise that they will result though.

22 CHAIRMAN COMPTON: Mr. Mars?

23 MR. MARS: Mr. Chairman, I would just echo what  
24 the other parties have already said and add that we've set up  
25 the schedule of our witnesses chronologically, and we are now

1 at a breaking point where the bulk of the testimony is going to  
2 concern the '86 transaction. And it's going to be long and  
3 tedious, and if the case could be resolved in a way that's in  
4 the best interest of our clients, then we're certainly willing  
5 to discuss that. And it certainly -- I would certainly agree  
6 with everyone that it would shorten this trial considerably if  
7 we were able to resolve it.

8 CHAIRMAN COMPTON: Do you have another -- is  
9 there any other live witness this afternoon that doesn't relate  
10 to the '86 transaction?

11 MR. MARS: No, I don't think so, Mr. Chairman.  
12 I think, in fact, although there is some overlap on some of the  
13 witnesses who were present during both time periods, with maybe  
14 one exception, everything is '86 from here on.

15 CHAIRMAN COMPTON: The proposal that we adjourn  
16 today until Friday, would -- would it work just as well for  
17 everybody to adjourn, if we do it, to adjourn til Monday? Do  
18 you think that might perhaps be better to give everybody enough  
19 time?

20 MR. KEITHLEY: Your Honor, we would not object  
21 to that. It's entirely within the call of the Commission. I  
22 realize you're not from town, and I don't want to interfere  
23 with your schedule.

24 CHAIRMAN COMPTON: Well, you know, we've got --  
25 Judge Enfield has to drive to Bentonville. And I've got to

1 drive to El Dorado. And Commissioner Epley is Magnolia. We  
2 hardly want to drive and turn around and come back to be here  
3 Friday morning. It just seems to me if we are going to take an  
4 adjournment, we ought to take a long one taking into  
5 consideration our travel problem. During that period of time,  
6 if you all can meet, and I'm sure you will, in good faith, and  
7 I'm sure you will, work on the 1986 issue. Any way that that  
8 can be reduced would certainly be appreciated by the  
9 Commission. And also work on any other problems that we have  
10 about the pieces of paper and so forth so that when we come  
11 back here Monday, we'll, you know, everybody will be -- you all  
12 can tell us Monday morning this is what we have left, and we'll  
13 go from there.

14 Is that -- does that strike everybody all right?

15 MR. MARS: Mr. Chairman, I want to make clear I  
16 didn't mislead you about what the rest of our witnesses will be  
17 testifying about. Even if we are able to resolve the '86  
18 issues, we're still going to have to put on the rest of our  
19 case as far as it concerns '83 including our experts.

20 CHAIRMAN COMPTON: I understand, Mr. Mars.  
21 Nobody is restricting you to anything, and the only thing it's  
22 hoped for is that the '86 issues are resolved by agreement and  
23 with the approval of the Commission. Then we don't have to  
24 hear that testimony or see those documents. But that would not  
25 affect the remainder of the Intervenors testimony and the Arkla

1 testimony with reference to the 1983 contract, '82 contract.

2 Well, it's -- it's all right. I think it's -- taking  
3 into consideration everybody's posture and travel and the fact  
4 that we've -- I think we had a productive three days and great  
5 cooperation of counsel, which is much appreciated, and it's  
6 moved along. Judge Enfield use to do a lot more than this in  
7 three days, but I'm new at it so -- but anyway, we'll adjourn  
8 and let's say because, again, of travel time and the option of  
9 driving up rather than coming up, we will adjourn until 9:00  
10 a.m. Monday.

11 So without -- unless there are further matters, we'll  
12 stand adjourned until 9:00 a.m. Monday morning.

13 [WHEREUPON, the hearing adjourned at 3:53 p.m.]

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C E R T I F I C A T E

STATE OF ARKANSAS\*

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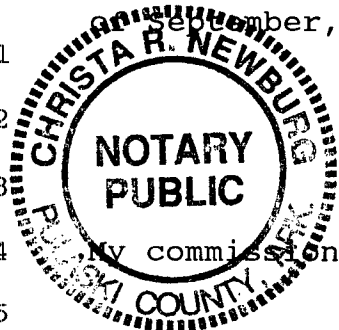
COUNTY OF PULASKI\*

RE: PURCHASING PRACTICES OF ARKLA, INC., DOCKET NO. 90-036-U

I, CHRISTA R. NEWBURG, Certified Court Reporter, a Notary Public in and for Pulaski County, Arkansas do hereby certify that the facts stated by me in the caption of the foregoing matter are true; and that the foregoing matter was transcribed by me, or under my supervision, from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

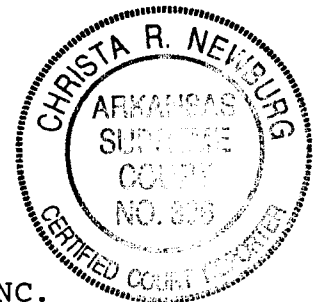
I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 20th day of September, 1990.



*Christa R. Newburg*  
\_\_\_\_\_  
Christa R. Newburg, RPR, CSR, CCR,  
Certificate No. 309, Notary Public in and for  
Pulaski County, Arkansas

My commission expires September 23, 1996.



C E R T I F I C A T E

STATE OF ARKANSAS\*

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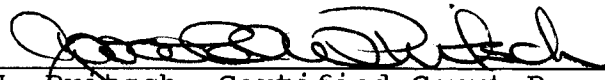
COUNTY OF GARLAND\*

RE: PURCHASING PRACTICES OF ARKLA, INC., DOCKET NO. 90-036-U

I, GAROLD W. PRITSCH, Certified Court Reporter, a Notary Public in and for Garland County, Arkansas do hereby certify that the facts stated by me in the caption of the foregoing matter are true; and that the foregoing matter was transcribed by me, or under my supervision, from my machine shorthand notes taken at the time and place set out on the caption hereto, the witness having been duly cautioned and sworn, or affirmed, to tell the truth, the whole truth, and nothing but the truth.

I FURTHER CERTIFY that I am neither counsel for, related to, nor employed by any of the parties to the action in which this proceeding was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties hereto, nor financially interested, or otherwise, in the outcome of this action.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 20th day of September, 1990.



Garold W. Pritsch, Certified Court Reporter -  
LS Certificate No. 329, Notary Public in and for  
Garland County, Arkansas

My commission expires February 27, 2000.