

THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Status Conference

September 2, 2010

Jefferson City, Missouri

volume 2

In the Matter of the Application)
of Kansas City Power and Light)
Company for Approval to Make)
Certain Changes in Its Charges) Case Nos. ER-2010-0355 and
for Electric Service to Continue) ER-2010-0356
Implementation of Its Regulatory)
Plan)

RONALD D. PRIDGIN, Presiding
SENIOR REGULATORY LAW JUDGE.

NANCY DIPPELL, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE.

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JUDGE DIPPELL: This is Case Nos. ER-2010-0355 and 0356, both dealing with the application of KCP&L and KCP&L Greater Missouri Operations Company for approval to make changes to its electric service tariffs. I am Nancy Dippell. I'm the regulatory law judge assigned to the GMO case and with me on the bench today is Judge Ron Pridgin, who is assigned to the KCP&L case.

And we're having these joint status conferences to -- we're having them jointly. One thing; we've set the procedural schedule, the hearing -- what parts of the hearings are going to be joint and a lot of the issues are related, so we're having the status jointly.

The purpose of the status conference is to any issues you all are having with each other or with the Commission or whatever, to our attention early. We want things to come to us ahead of time and we don't want to hear them on the eve of the hearing that there is some big issue is going to prohibit you from presenting your case that we're not aware of. So that's really the reason we've come here today.

And I'm going to begin by asking for entries appearance. We have several people on the phone this

1 and I have excused several people from appearing as well. So
2 I'm just going to go down my service list to start with. And
3 you have given a written entry of appearance, you don't need
4 give your address and so forth again. But if you could state
5 who you are and who you're representing, that would be
6 I would ask you to speak into a microphone when -- if there's
7 any discussions later. For the entries of appearance, if you
8 could stand up and speak loudly if you're not next to a
9 microphone, that would be helpful.

10 And for the aid of everyone in the room and
11 the aid of the people on the phone, if you could identify
12 yourselves when speaking, that will also help things. So
13 begin with the Public Service Commission staff.

14 MR. DOTTHEIM: Steven Dottheim, Jaime Ott,
15 Nathan Williams appearing on behalf of the staff of the
16 Public Service Commission.

17 JUDGE DIPPELL: Thank you. Office of Public
18 Counsel?

19 MR. MILLS: On behalf of the Office of Public
20 Counsel and the public, my name is Lewis Mills and my address
21 on the written entry.

22 JUDGE DIPPELL: I have excused Mr. Kaufman
23 for AARP.

24 Ag Processing?

25 MR. WOODSMALL: Thank you, Your Honor.

1 Appearing on behalf of Ag Processing and Sedalia Industrial
2 Energy Users Association in the 0356 case, David Woodsmall.
3 making my -- an appearance on behalf of Praxair and the
4 Energy Users Association in the 0355 case. My written entry
5 been previously entered.

6 JUDGE DIPPELL: Thank you. City of Kansas

7 MR. COMLEY: Thank you, Judge Dippell. The
8 record should reflect the entry of Mark W. Comley of Newman,
9 Comley and Ruth on behalf of the City of Kansas City. And
10 would be with respect to both the 0355 and 0356 case. Also
11 entering my appearance on behalf of the City of Lee's Summit
12 today on behalf of -- in the 0356 case.

13 JUDGE DIPPELL: City of St. Joseph has also
14 excused, Mr. Steinmeier (ph.).

15 Dogwood Energy?

16 MR. LUMLEY: Thank you, Judge. Carl Lumley
17 appearing for Dogwood Energy in both cases.

18 JUDGE DIPPELL: Empire District Electric
19 Company.

20 MR. SWEARENGEN: James C. Swearngen appearing
21 for Empire District Electric Company.

22 JUDGE DIPPELL: Let's see, the Federal
23 Agencies? I believe I told Ms. McNeil -- she was going to
24 to call in, but I told her that she may be excused if she did
25 not do so.

1 The IBEW Local Union? Is anyone present for
2 them? I'm not seeing anyone.

3 MR. BRUDER: -- Interventions, one on 0355,
4 which is mine and 356 which is Miss --

5 JUDGE DIPPELL: I'm sorry. We didn't hear all
6 of that. Is this Mr. Bruder speaking?

7 MR. BRUDER: Yes, it is.

8 JUDGE DIPPELL: Okay. And you said at the end
9 that the latter case was Miss -- who's handling that one?
10 you hear me okay, Mr. Bruder?

11 MR. BRUDER: Yes, I can. Can you hear me now?

12 JUDGE DIPPELL: Now, I can hear you.

13 MR. BRUDER: Okay. 0355 case it will be the
14 Department of Energy, my department.

15 JUDGE DIPPELL: Okay. And for the --

16 MR. BRUDER: 0356 is Ms. McNeil -- or Captain
17 McNeil.

18 JUDGE DIPPELL: Right. Okay. Thank you. And
19 told Miss -- or Captain McNeil that she may be excused.
20 you for clarifying that. But that was with regard to
21 of Energy and federal executive agencies. Correct? You are
22 speaking on behalf of the unions, Mr. Bruder, were you?

23 MR. BRUDER: No.

24 JUDGE DIPPELL: Okay. Thank you. Kansas --
25 KCP&L Greater Missouri Operations Company?

1 MR. FISCHER: On behalf of KCPL Greater
2 Operations Company and Kansas City Power and Light Company,
3 James M. Fischer and Roger Steiner may join us by phone

4 JUDGE DIPPELL: All right. Then we have a
5 of hospital intervenors. Is anyone present for them?

6 Missouri Department of Natural Resources, I've
7 previously excused. Missouri Gas Energy?

8 MR. JACOBS: Todd Jacobs for Missouri Gas
9 in both cases.

10 JUDGE DIPPELL: Missouri Retailers

11 MR. SCHWARZ: Tim Schwarz, Blitz, Bardgett and
12 Deutsch in both cases for Missouri Retailers Association.

13 JUDGE DIPPELL: Mr. Robert Wagner. Union
14 Electric Company?

15 MR. TRIPP: Michael R. Tripp, Smith Lewis for
16 AmerenUE.

17 JUDGE DIPPELL: Okay. And Judge Pridgin, did
18 you have others on your service list that I didn't have on

19 JUDGE PRIDGIN: I'm double checking. I
20 I have Mr. Healy are you here for MJMEUC? I'm sorry.
21 Mr. Healy, are you on the phone?

22 MR. HEALY: Yes, I am. I'm here for MJMEUC,
23 correct.

24 JUDGE PRIDGIN: Thank you. Missouri
25 Energy Consumers? Ford Motor Company? Jackson County,

1 Missouri? I don't see anyone else. Is there anyone else who
2 wishes to enter an appearance?

3 JUDGE DIPPELL: All right. Well, I think as
4 get going with these, this part will take less time once we
5 actually are familiar with who's in what case and so forth.

6 was there anyone who had -- we made provisions
7 in the procedural order for sort of cross-over interventions.
8 And was there anyone in the one case that needed to enter an
9 appearance in the other case or are you just going to leave
10 it as it is and deal with that at the hearing?

11 That HC material will be the major issue when
12 comes hearing time. I'm not seeing anybody jumping up and
13 so we'll assume that that's not an issue unless somebody
14 it to our attention.

15 Also, just with logistics of things because
16 court only allows for eight connections at one time, that
17 includes this room being one connection, if you could let us
18 know if you intend to appear by phone early. If we don't
19 out till the day of the conference then it's really too late
20 make any other arrangements, so.

21 I know in the 356 case we have a current
22 about the public hearing notices and that will be resolved
23 with the local public hearing schedule when that is set. So
24 can stop filing your replies to your responses to your
25 to your responses. I'm hearing you. Or you can keep filing

1 them if you want to.

2 Just to let you know that we have been working
3 on scheduling local public hearings. And if you want to
4 tentatively plan for some dates, they haven't been presented
5 the Commission yet, but right now you can look at November
6 for Nevada in the evening; December 6th for St. Joe in the
7 evening; December 7th for the Kansas City Public Library both
8 noon and in the evening and maybe a listing post during the
9 and Riverside at noon on December 8th; Lee's Summit in the
10 evening on December 8th; and Carrollton at noon on December
11 13th; and Sedalia in the evening on December 13th.

12 Right now, that is the schedule that the
13 and the our assistants have come up and if we get that all
14 confirmed and presented to the Commission and they bless it,
15 then you'll see an order scheduling those soon.

16 Did you have anything else, Judge Pridgin,
17 you wanted to --

18 Okay. Well, this would be your opportunity to
19 ask questions of us. Do you all have any questions and/or
20 reports to be made?

21 Staff?

22 MR. DOTTHEIM: There are a number of discovery
23 items that we broached with the Company because these
24 proceedings are not the only proceedings that we're all
25 with. We haven't had much of an opportunity to visit

1 about these specific items that we were bringing up today.
2 we thought that we would approach it one of two ways; we
3 either go into these matters now or we might ask whether the
4 bench might be amendable to going off the record and giving
5 maybe 45 minutes, something like that, to talk amongst
6 with -- with the other parties being present and whoever's on
7 the phone as far as the other parties being present. So at
8 least we could talk a little bit further about some of these
9 items.

10 I don't know that it's going to result in us
11 raising them with -- with the bench because it seems that
12 of the difficulties that we've gotten into in the past is
13 thinking that we would ultimately resolve matters, which we
14 never resolve and then we bring to the Commission very late
15 the day. But it might benefit matters if we visited amongst
16 ourselves or we can proceed -- proceed forward.

17 There are some other items just to advise the
18 bench of procedurally that we would -- that we'd do which
19 wouldn't take, I don't think, more than 10 minutes as far as
20 for example, in the Commission's order of August 18th, it
21 indicated in ordered item 3, that the Staff may audit the
22 1 Air Quality Control System, AQCS cost from an appropriate
23 period from beyond August 6th, 2010.

24 That will result in the Staff filing
25 reports or testimony regarding the IATAN 1 AQCS, so it can

1 beyond August 6th, 2010. And we can provide dates regarding
2 what date our audit will extend as far as invoices and
3 entries, what have you. We assume those are items of which
4 Commission, the bench, might be interested in on the basis of
5 the orders that the Commission has issued to date.

6 So those are the items that we have to address
7 today.

8 JUDGE DIPPELL: Okay. With regard to the
9 item of discovery issues -- and I should have said this
10 also. Judge Pridgin and I wanted to remind you all of the
11 current discovery procedure or dispute resolution discovery
12 procedure with regard to motions to compel and so forth, and
13 bring those things to our attention so that you can go
14 the process to file motions to compel.

15 we'll still be following that rule, having --
16 I guess what I'm saying is that I don't intend you -- intend
17 you all to come in here for the status conference and that be
18 your discovery conference with regard to issues. We were
19 in hopes that the status conferences would bring you all
20 together so that you could discuss these things with each
21 before, then deciding if you need to go the next step; bring
22 to the judge under the rule.

23 Did I cover that correctly, Judge Pridgin?

24 JUDGE PRIDGIN: I would agree. I mean it's
25 hope that one of the -- one of the results of these status

1 conferences will be that because you're simply just terribly
2 busy that this, will give you and opportunity to monthly,
3 briefly, visit about things like this and say, Hey we seem to
4 have some sort of discovery dispute. We're all here, let's
5 discuss it. And then if you're unable to resolve your
6 obviously, we follow the Commission rules with getting a
7 telephone conference with the judge or perhaps both of us at
8 same time if it's both cases. And then if that doesn't
9 it to go on to the Commission for resolution.

10 MR. DOTTHEIM: The Staff and the Company visit
11 on a weekly basis. The fact that we visit on a weekly basis
12 doesn't necessarily mean, of course, that we ultimately
13 matters. This just offers a further opportunity to address
14 matters. And frankly, we have been waiting for this session
15 be scheduled on the basis of the prior Commission orders, not
16 knowing exactly what the Commission had in mind in using the
17 status hearings for discovery matters in particular.

18 JUDGE DIPPELL: Right. So with regard to
19 unless you feel that your matters need to be on the record
20 a recess or whatever, I would be inclined to say we'll just
21 you all talk about that when we conclude here and then if you
22 have issues and you need to go to the step of a discovery
23 conference to let us know as soon as you can about that.

24 MR. DOTTHEIM: Okay. Well --

25 JUDGE DIPPELL: Mr. Fischer, you look like you

1 want to say something?

2 MR. FISCHER: Yes. I was just going to chime
3 in. We did have brief discussions with the staff late last
4 night and this morning regarding some specific discovery
5 which we believe will be resolved rather quickly if we have
6 opportunity to talk among ourselves. There maybe one or two
7 items that we might have to bring back to the Commission or
8 the RLJs to, you know, but I think most if not all will be
9 resolved very quickly based on what I understand the issues
10 Although, it would be helpful from my perspective to have
11 time to visit among the parties to make sure I do understand
12 issues.

13 I was also going to offer to give the
14 a brief status report on the IATAN 2 project. There has been
15 some significant activity at IATAN 2 in the last few months
16 I could briefly summarize that if that would be helpful.

17 JUDGE DIPPELL: Okay. why don't you go ahead
18 and do that Mr. Fischer and then when you're finished there
19 may go back to Staff's report then about the timeline that
20 see with further procedures on the audit and so forth.

21 MR. FISCHER: Okay. As I mentioned there has
22 been significant activity at IATAN 2 in the last several
23 steam blowers that were intended to clean the boiler and the
24 critical piping systems began in April and they were
25 in early June. There's been subsequent restoration of the

1 steam, hot and cold reheat piping and the main steam systems.
2 Those were all completed in June as well.

3 The unit was synchronized to the transmission
4 grid and in-service testing began in July. By the August
5 the unit successfully completed the in-service testing
6 to confirmation by the regulatory staff of the Missouri
7 Commission and also the KCC staff. Preliminary plans have
8 been made to host visits by the respective Commission staff
9 mid-September to observe the unit in operation to review the
10 operational testing records and review the remaining
11 documentation required to support the achievement of the
12 in-service criteria.

13 Late last week the unit executed a controlled
14 shut down to initiate a planned 10-day outage to remove
15 protective screens from the turbines and perform minor
16 maintenance activities. Following the outage, the unit will
17 brought back up to full operation. Overall, I think the
18 Company's perspective -- the start up effort has proceeded
19 The boiler, turbine generator and other major equipment items
20 have performed well.

21 The unit has experienced normal start-up
22 including numerous minor boiler tube leaks. The leaks have
23 repaired within the course of the startup and none of the
24 have impacted the startup operation. KCPL expects to
25 to actively manage the project, work to manage risks until

1 unit is successfully in-service and providing service to our
2 customers.

3 Additionally, KCPL is currently in the final
4 stages of working through the commercial acceptance with key
5 project vendors. And with that, I would try to answer any
6 questions. But that's basically a status report of where we
7 stand at IATAN 2.

8 JUDGE DIPPELL: Okay. Thank you. Mr.
9 do you have a status report from Staff's perspective then?

10 MR. DOTTHEIM: Yes. And in regards to what
11 Mr. Fischer just addressed, the Company declaring that the
12 2 unit had met the Missouri Staff's in-service criteria on
13 August 26th, a week ago today; the Staff expects to receive
14 data results by the end of this week. As Mr. Fischer
15 Staff intends to be on the site mid-month, September 16th and
16 17th to review operation files, log books, review other

17 The Staff may have a determination by the end
18 this month as to whether in the Staff's view the unit has met
19 the Staff's in-service criteria. On the basis of the
20 procedural schedule, which the Commission has accepted, the
21 Staff would be filing IATAN 2 testimony, which would also
22 include in-service testimony on November 3.

23 But prior to that, of course, there is the
24 executive directors report, which the Commission is directed
25 a monthly basis. The first executive directors report was

1 mid-August. The second executive directors report would be
2 filed mid-September. And the next status hearing is
3 for October 7th. So even though the Staff would be filing
4 testimony on in-service on November 3, the Staff would be
5 addressing in-service in the executive directors report and
6 in the next status hearing on October 3.

7 Excuse me. I said October 3. I believe the
8 next status hearing is scheduled for October 7th. So that's
9 the Staff has at the moment regarding the in-service of IATAN

10 Regarding -- I just might go back at this
11 to the thing -- or item I started with and that was ordered
12 3 in the Commission's August 18th. Orders both in the 0355
13 the 0356 dockets as far as authorizing the Staff to audit
14 1 AQCS costs for an appropriate period beyond August 6th,
15 The Staff had previously ordered a termination of Staff audit
16 activities as of August 6th. So as a consequence, the Staff
17 have not planned to file anything further on IATAN 1 AQCS
18 the Commission authorizing the Staff to audit beyond August
19 2010.

20 The Staff intends to file on November 3, a
21 further report on -- on IATAN 1 reviewing, for example,
22 and journal entries through June 30, 2010. And the Staff
23 intends to involve IATAN 1 in the Staff's true-up audit. And
24 that would involve the Staff reviewing invoices and journal
25 entries to October 31 of 2000. The Staff had previously

1 indicated to the Commission in the proposed procedural order
2 the Staff's July 18th filing of audit scope for IATAN 2, that
3 that the Staff's filing on IATAN 2 and common plant -- the
4 filing on November 3, the Staff would review invoices and
5 journal entries through June 30, 2010 and for the true-up,
6 the -- originally the Commission had ordered the Staff to
7 terminate audit activities as of January 30th, 2011. But the
8 Commission in its order of August 18th, authorized the Staff
9 extend its audit beyond January 30th, 2011 of IATAN 2 and
10 plant.

11 The Staff contends with its true-up direct
12 filing on February 22, 2011, to include a true-up of IATAN 2
13 common plant involving invoices, journal entries to October
14 2010.

15 JUDGE DIPPELL: Thank you, Mr. Dottheim.

16 MR. DOTTHEIM: The -- basically, the other
17 matters that the Staff has to address are of discovery nature
18 and there are other matters, which the Staff is going to
19 in the executive directors report such as -- I think as
20 previously indicated, as actually occurred, a number of Staff,
21 myself among them, attended the IATAN hearings at the Kansas
22 Corporation condition and those are the nature of any
23 items we have.

24 The major -- the major remaining items are of
25 discovery nature.

1 JUDGE DIPPELL: Great. Are there any other
2 status reports as it may be that anyone wants to bring up?
3 Mr. Woodsmall?

4 MR. WOODSMALL: Two things: One, kind of
5 similar to Staff; we have a small discovery dispute. I just
6 the objection last week, so I haven't had a chance to talk to
7 Company, but that will proceed. And I heard your statement
8 earlier that we need to follow proper rules, so I just wanted
9 alert you to that.

10 The bigger thing that I wanted to indicate, we
11 filed a motion for clarification of the prudence audit order,
12 you will, some time back in -- you addressed much of it by
13 allowing Staff to continue their audit, but one of the parts
14 our motion for clarification had to do with the concern about
15 pulling in the transcripts, evidence, briefs and everything
16 that case into this case. That raises questions as this is a
17 contested case, not the same parties. And so that remains
18 outstanding. And I don't know if you're going to address
19 or if I need to elevate that somehow to the Commission's
20 attention. But I just wanted to flag that.

21 JUDGE DIPPELL: No. You're right. We did not
22 address that specifically and we can -- we can take a look at
23 that and figure out what to present to the Commission on that
24 point.

25 MR. WOODSMALL: Okay.

1 JUDGE DIPPELL: On that question.

2 MR. WOODSMALL: Thank you.

3 JUDGE DIPPELL: Is there any -- was there
4 anything else along those lines? There were some other
5 for clarification that we didn't address specifically. Was
6 there anything else outstanding in those that someone needed
7 answer to that we didn't answer specifically? Okay.

8 Mr. Dottheim?

9 MR. DOTTHEIM: Frankly, we can take a look at
10 that again. By the Commission not addressing matters, we
11 thought we have received a response from the Commission. If
12 you're indicating that's not necessarily the case, then --
13 if you're asking if there are items in the -- that those
14 for clarification that -- that the parties that filed them
15 consider to be outstanding, then we need to take a look at
16 and get back with you on that.

17 JUDGE DIPPELL: And it may be that Judge
18 and I also need to take another look at those in light of
19 happened since they were filed and make sure that we did, in
20 fact, address or fail to address on purpose the things that
21 that were intended. But I do recall the records issue and
22 that's a very sort of technical procedural issue with what
23 records are coming in and all that's happening and so forth.
24 we do need to address that.

25 MR. DOTTHEIM: Yeah. Because I mean, frankly,

1 in one of the initial orders, I think the Commission
2 for example, depositions to be filed. And I can read that
3 clearly to indicate that the depositions from the 0259 case
4 being directed to be filed in 0355 and 0356. I have that --
5 have not done that of yet and I may have been remiss in not
6 doing that as -- as yet. I can hold off doing that, waiting
7 the Commission to rule on Mr. woodsmall's motion for
8 clarification or I can -- or if I'm reading or if that -- if
9 proper interpretation of the Commission's prior order was
10 literally everything in 0259 -- and I've -- was to be -- or
11 anything that had occurred in 0259 -- because I don't believe
12 that we filed the depositions that occurred in 0259 in 0259.

13 But there were depositions that occurred of
14 KCPL witnesses and the Staff witnesses and again, it's my
15 recollection that they were not filed in 0259. But one could
16 interpret one of the orders of the Commission in 0355 and
17 being that everything in 0259 should be filed in 0355 and

18 JUDGE DIPPELL: Okay. Why don't you hold off
19 for now on doing that Mr. Dottheim until we address that
20 specific question.

21 Is there anything else that you all have
22 questions or concerns about?

23 MR. DOTTHEIM: Yes. I was wondering if we're
24 having problems with the ventilation in the room. The court
25 reporter seems to be on a respirator.

1 JUDGE DIPPELL: She's got one of those funny
2 little court reporting mechanisms. But she's also not
3 well and she's anxious for us to be done.

4 well, I don't have anything else. We'll say
5 that if we go along, if it turns out that these conferences
6 not helping anyone or not scheduled at the right time or
7 whatever, we can take that as we go. They could be
8 or done away with. Or we went ahead and scheduled them right
9 to before the hearing, not knowing whether we'd really need
10 have one close to the hearing.

11 But just keep us in the loop and informed and
12 try to work out your issues among yourselves, but if you
13 come to us and let us know.

14 Mr. Dottheim?

15 MR. DOTTHEIM: Yes. Are you looking for us to
16 after we visit amongst ourselves to report back to you and
17 possibly go back on the record, or if we can't resolve what
18 we're -- what we're going to discuss --

19 JUDGE DIPPELL: I don't believe that that'll
20 necessary today, to go back on the record unless that you
21 that there is some specific reason for that. I -- at this
22 it sounds like you need to have your discussion. If you
23 work it out, then let one or both of us know and we'll set up
24 discovery conference.

25 MR. DOTTHEIM: All right.

1 JUDGE DIPPELL: All right. Then with that
2 said -- one more thing?

3 MR. DOTTHEIM: Yeah. I think we probably
4 broach a matter for you to start thinking of. And if --
5 we either are going to be able to resolve this in the manner
6 proceeding in this manner or the Commission's going to have
7 resolve whether to proceed in this manner or not, and that is
8 the Staff is going -- or has raised the issue with KCPL of
9 Commission appointing an RLJ as a special master to our
10 documents or portions of documents that are asserted to be
11 covered by the attorney/client privilege of work product
12 doctrine.

13 And that -- that is one of the items that we
14 want to discuss with -- with the Company. So from the
15 perspective, we're either going to be able to reach an
16 to approach -- or to request that from the Commission or not
17 reach agreement and Staff will request that.

18 JUDGE DIPPELL: I'm glad you brought that up
19 because that is one of the things that I wanted to also
20 and I'm not trying to pick on the companies here, but in
21 previous cases involving KCPL and GMO, specifically the
22 case and the last set of rate cases, there were a lot of
23 disputes about things being marked confidential and
24 being asserted and so forth and we did need to do that.

25 So yes, we will definitely start thinking

1 about that because it has been an issue in the past. I will
2 the companies, since it's mostly your information, that it
3 marked as HC and so forth, please don't come in here with a
4 stack of documents and say this entire stack, every word in
5 stack of documents is highly confidential. Make some attempt
6 redacting it. I don't want to be sitting in here again
7 hearing trying to redact it myself.

8 But definitely those are the kinds of things
9 that you can bring up and Judge Pridgin and I will start
10 discussing whether -- you know, how we would proceed with
11 appointing someone if that becomes necessary to review those
12 kinds of documents.

13 Mr. Fischer?

14 MR. FISCHER: Yes, Judge. I think I'd just
15 to indicate that we -- the companies take your admonitions
16 seriously. And I think in the last rate case we did a much
17 better job in limiting the redactions and working with Judge
18 Harold Stearling whenever there was a concern. I don't think
19 the companies have any problem at all with a special master
20 RLJ working to resolve these issues if necessary. We'll work
21 with whatever the procedures the Commission finds to be most
22 helpful in that process. And we'd like to not have these
23 of disputes of, you know, so.

24 JUDGE DIPPELL: Okay. Would it be helpful to,
25 just at the onset, appoint someone so that when these issues

1 come up, if they come up, you would know who to go to and how
2 handle them?

3 MR. DOTTHEIM: Yes, from the Staff's
4 that would be -- that would be helpful.

5 MR. WOODSMALL: Let me ask: If you appoint a
6 special master, would that be the person we'd go to for our
7 discovery dispute conferences, or do we still go to you or
8 is the overlap between what the presiding officer does and
9 special master?

10 JUDGE DIPPELL: I guess that would be a good
11 question that we would have to work out; whether it would be
12 just someone to deal with confidential -- confidentiality
13 disputes, privileges or confidentiality or whether it would
14 all discovery-type disputes. I'm just sort of thinking out
15 loud. That would be something that we would have to make

16 Mr. Dottheim, anything?

17 MR. DOTTHEIM: One last thing. And since
18 going off the record, it's -- I raise it because the Staff in
19 the past has always, to my knowledge, advised the Commission,
20 you know -- one of the things that the Staff and the Company
21 going to discuss is whether a certain data responses to data
22 requests have been misplaced or lost. And Staff takes very
23 serious when the treatment of highly confidential,
24 information or any information we received. It doesn't have
25 be stamped highly confidential or proprietary under 386.480.

1 the information we receive is not otherwise a document
2 containing public information, we are to protect it.

3 So we may have to deal with this further, but
4 don't want to let this time pass since we're not go back --
5 probably not go back on the record just to alert the bench
6 this is an item that is being discussed between the Company
7 Staff as to whether some information documents have been

8 MR. FISCHER: Judge, could I address that just
9 briefly. And we are going to discuss that matter, but I just
10 want to make it clear that there's a lot of data in these
11 of cases. We filed some in Caseworks, DR responses. We file
12 EIFS and we provide hard copies to some members of the staff.
13 The Company -- based on Mr. Dottheim's remarks, I don't want
14 bench to think that the Company in any way at this point in
15 alleging any inappropriate activity by anyone in this.

16 We're -- it's possible that -- our dispute may
17 be that we didn't provide some hard data that we thought we
18 so that's all we'd like to visit about. I just want to make
19 clear we were not making any allegations regarding loss of
20 at this point that we might bring to the attention of the
21 Commission.

22 JUDGE DIPPELL: Okay. Well, those are exactly
23 the kinds of things that we wanted to know today, that you
24 are having these issues, you're going to try to work them
25 If you can't work them out, we'll be hearing more from you.

1 that is much better than coming in here the night before the
2 hearing and saying we couldn't work these things out, please
3 help us do something about it. So I appreciate you all
4 those issues up. Please do talk and see if you can figure
5 issues out. If not, contact us, let us know.

6 Any last words? All right then, I'm finally
7 going to go off the record. Thank you all.

8 (Off the record.)

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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; the testimony of said witness was taken by me to the best of ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the of the action.

Lisa M. Banks, CCR

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