

1           BEFORE THE PUBLIC SERVICE COMMISSION

2                           STATE OF MISSOURI

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4                           TRANSCRIPT OF PROCEEDINGS

5   Status Conference

6   November 4, 2010

7   Jefferson City, Missouri

8   Volume 4

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11 In The Matter Of:

12	The Application of	)	
	Kansas City Power & Light	)	
13	Company For Approval to	)	File Nos. ER-2010-0355
	Make Certain Changes in	)	and ER-2010-0356
14	Its Charges For Electric	)	
	Service To Continue The	)	
15	Implementation of Its	)	
	Regulatory Plan	)	

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20   NANCY DIPPELL, Presiding  
DEPUTY REGULATORY LAW JUDGE

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23 REPORTED BY:

24 NANCY L. SILVA, RPR, CCR

25 TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

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1                   JUDGE DIPPELL: We'll go ahead and go on  
2                   the record. This is Case Nos. ER-2010-0355 and  
3                   ER-2010-356 regarding Kansas City Power and Light  
4                   Company and Kansas City -- or KCP&L Greater Missouri  
5                   Operations Company rate cases, and my name is  
6                   Nancy Dippell. I'm the regulatory law judge assigned  
7                   to the --356 case. Judge Pridgin is handling another  
8                   matter right now, so I'm going to be handling the  
9                   status conference for both of these cases, which we  
10                  have combined for these purposes.

11                  Let's begin with making entries of  
12                  appearance. If you made a written entry, you can  
13                  skip your address. If you'd like, if it's habit, go  
14                  right ahead. I'm going to start over here with  
15                  Mr. Mills, Public Counsel.

16                  MR. MILLS: It is a habit, but I will try  
17                  to break it for this litigation. My name is Lewis  
18                  Mills, and I submitted a written entry on behalf of  
19                  the Office of Public Counsel.

20                  JUDGE DIPPELL: Mr. Dottheim.

21                  MR. DOTTHEIM: Steven Dottheim, Jaime Ott,  
22                  and Nathan Williams appearing on behalf of the Staff  
23                  of the Missouri Public Service Commission, and we've  
24                  made a written entry of appearance.

25                  JUDGE DIPPELL: Thank you.

1                   Mr. Woodsmall.

2                   MR. WOODSMALL: David Woodsmall appearing  
3 on behalf of MEUA and Praxair.

4                   JUDGE DIPPELL: Okay. Keep going down the  
5 line.

6                   MR. STEINER: Roger W. Steiner appearing  
7 on behalf of Kansas City Power and Light Company. I  
8 have entered a written appearance.

9                   MR. FISCHER: James M. Fischer also  
10 appearing on behalf of the Companies, and I have a  
11 written entry of appearance on file.

12                  MR. COOPER: Dean Cooper appearing on  
13 behalf of Southern Union Company doing business as  
14 Missouri Gas Energy.

15                  MR. SWEARENGEN: Jim Swearengen for the  
16 Empire District Electric Company. I have made a  
17 written entry of appearance.

18                  JUDGE DIPPELL: All right. Mr. Wagner, I  
19 know you're on the phone. Would you like to make  
20 your entry of appearance?

21                  MR. WAGNER: This is Robert Wagner. I'm  
22 here on behalf of myself. Do you need my address? I  
23 couldn't hear part of that.

24                  JUDGE DIPPELL: If you could, go ahead and  
25 give it for the court reporter's purposes.

1                   MR. WAGNER: My address is 9005 North  
2 Chatham Avenue, Kansas City, Missouri 64154.

3                   JUDGE DIPPELL: Thank you.

4                   Is there anyone else who's joined us on  
5 the telephone?

6                   (No response.)

7                   JUDGE DIPPELL: And is there anyone -- I  
8 don't see anyone in the back of the room who hasn't  
9 already made an entry of appearance. It appears that  
10 that is everyone with us at this time.

11                   Okay. We have several sort of  
12 housekeeping, procedural motions and so forth come  
13 through since we last met, so I'd just kind of like  
14 to go through those, and then if we have additional  
15 items, we can talk about that.

16                   I'm going to start -- Staff just filed a  
17 Motion for Leave to late file its construction  
18 audit. Does anybody have any objection to that?

19                   (No response.)

20                   JUDGE DIPPELL: All right. Seeing none,  
21 then that will be granted.

22                   I also had a motion for Ms. Williams to  
23 withdraw as counsel, and I haven't granted that yet.  
24 That's going to be granted.

25                   The Missouri Retailers Association had

1 asked for an extension of time to file some  
2 testimony, and I don't believe the ten days has  
3 passed on that yet either, but do we know at this  
4 time if there's going to be any objection to that?

5 MR. STEINER: Yes, Your Honor. The  
6 Company will object. We're going to be filing  
7 something.

8 JUDGE DIPPELL: Okay. Then we'll just  
9 leave that one pending and let responses come in to  
10 that one.

11 And then Staff had filed a request for a  
12 special master. Do we know if there will be any  
13 objection to that? Mr. Dottheim, do you have  
14 something to add?

15 MR. DOTTHEIM: Yes. I'm sorry, Judge. If  
16 I could go back to the construction audit --

17 JUDGE DIPPELL: Yes.

18 MR. DOTTHEIM: -- and prudence review,  
19 which the Staff filed, I didn't know if you were  
20 going to return to that. The Staff filed that in  
21 entirety --

22 JUDGE DIPPELL: Right.

23 MR. DOTTHEIM: -- highly confidential.  
24 Since there is --

25 JUDGE DIPPELL: Has someone joined us on

1 the phone?

2 MR. LUMLEY: Yes, it's Carl Lumley. Sorry  
3 I had trouble getting in.

4 JUDGE DIPPELL: That's all right. Do you  
5 want to go ahead and make an entry of appearance  
6 quickly, Mr. Lumley?

7 MR. JACKSON: Sure. Carl Lumley appearing  
8 for Dogwood Energy. Thank you.

9 JUDGE DIPPELL: I'm sorry, Mr. Dottheim.

10 MR. DOTTHEIM: Yes. Since -- since --  
11 it's my understanding that the matter as far as the  
12 pro se intervenors' access to highly confidential  
13 matter has not been resolved.

14 I served him with the two Staff  
15 pleadings, which are not highly confidential, and  
16 that is the Motion for Leave to late file and the  
17 cover pleading that accompanied the highly  
18 confidential copy of the construction audit and  
19 prudence review, which also included a request that  
20 the Commission issue an order directing Kansas City  
21 Power and Light Company and KCP&L Greater Missouri  
22 Operations Company to file or submit a copy on some  
23 indication of what -- in the status report via the  
24 Company's deem to be highly confidential and  
25 proprietary (sic).



1                   Because of the pending matter involving  
2                   the pro se intervenors' access to highly confidential  
3                   proprietary matter, I did not serve him with a copy  
4                   of the construction audit and prudence review and,  
5                   similarly, back in August I did not do so because I  
6                   think at the time his applicant (sic) was pending, so  
7                   I have served all other --

8                   JUDGE DIPPELL: All right.

9                   MR. DOTTHEIM: -- intervenors, parties,  
10                  other than the pro se intervenor party.

11                  JUDGE DIPPELL: All right. Well, and I  
12                  didn't get to that request to order KCPL and GMO to  
13                  respond again to the report.

14                  MR. DOTTHEIM: And I apologize.

15                  JUDGE DIPPELL: I guess I should've asked  
16                  if there was going to be any issue with that from the  
17                  Company's perspective.

18                  MR. STEINER: I'm sorry. Judge, which --

19                  JUDGE DIPPELL: On the audit report, Staff  
20                  has filed it as -- the entire thing as HC in hopes of  
21                  getting a response from the Company --

22                  MR. STEINER: Right.

23                  JUDGE DIPPELL: -- with regard to what  
24                  should be redacted and what should not.

25                  MR. STEINER: Right. Yeah, I think -- 45

1 days, I think, is in the pleading. That's fine.

2 We'll make the redactions at that time.

3 JUDGE DIPPELL: Mr. Mills.

4 MR. MILLS: Yeah. With respect to that, I  
5 was thinking of filing something, but since it's come  
6 up on the record, I'll make the motion here and, if  
7 you want me to, I can also do it in writing.

8 I think with respect to at least the  
9 executive summary in the report, which is the very  
10 beginning of the report -- it's only three or four  
11 pages. I think that KCPL and GMO could respond a lot  
12 quicker than 45 days on that.

13 There's some information in there that I  
14 think would be good to make public just so the public  
15 knows kind of the scope that we're talking about  
16 here. I would suggest that they be ordered to file  
17 within a week, a response, with respect to the  
18 executive summary.

19 JUDGE DIPPELL: Is there a response to  
20 that?

21 MR. STEINER: I haven't had a chance to  
22 look at any of the report. As I recall, that was  
23 just filed early in the morning as I was driving down  
24 here, so I don't know exactly what's in the executive  
25 summary, but I think the customary was 45 days to

1 look at the totality of the report.

2 The executive summary summarizes what's  
3 in the rest of the report, so I don't see any problem  
4 with 45 days. It's -- it's worked in the past.

5 MR. MILLS: And we're not talking about  
6 responding to the report in terms of its merits.  
7 We're talking about responding in terms of whether  
8 those three or four pages contain highly confidential  
9 information, and I think the public would be better  
10 served getting that information out rather than  
11 waiting the 45 days.

12 JUDGE DIPPELL: Okay. Well, I'm not going  
13 to rule on that right now either because I also have  
14 not examined closely even what's in the executive  
15 report, but I will take that motion under advisement  
16 and we'll get something out, hopefully, on next  
17 week's agenda, which is when we are planning to take  
18 up the issue of the special master, which was what we  
19 were getting to next.

20 Is there going to be any objection to  
21 having the Commission appoint a special master as  
22 the -- do I need to allow the full ten days to  
23 respond to the Staff's motion on that?

24 MR. STEINER: I would appreciate that. I  
25 am preparing a written response. We don't have an

1 objection to the concept of a special master, but  
2 there are certain things.

3 For instance, having a special master  
4 having the final say on documents, we believe that  
5 that is a violation of our due process rights, so I  
6 was planning on spelling that out in a written  
7 response, and I would appreciate ten days. We do  
8 have other issues I would address as well as  
9 there's -- 67DR is attached, and I just haven't had a  
10 chance to go through every one of those to provide a  
11 response.

12 JUDGE DIPPELL: Okay. So I forget which  
13 day -- this was filed on a Monday, so we probably  
14 won't get that on next week's agenda then. It'll  
15 probably be the agenda following that, so if you're  
16 wondering when those issues are going to be decided  
17 so --

18 MR. STEINER: And back to Mr. Mills, after  
19 I look at it, Lewis, we may not have an issue. I  
20 just have not seen the document.

21 JUDGE DIPPELL: And if you look at it and  
22 find that you don't have an issue with that, if you  
23 would let the Commission know --

24 MR. STEINER: That's fine.

25 Lewis, you said seven days? Is that what

1 your proposal was?

2 MR. MILLS: That's a suggestion.

3 Something considerably shorter than 45.

4 MR. STEINER: I'll be in touch.

5 JUDGE DIPPELL: Okay.

6 MR. DOTTHEIM: Judge?

7 JUDGE DIPPELL: Yes.

8 MR. DOTTHEIM: I might mention, too, if

9 the Company doesn't have a problem with what

10 Mr. Mills has suggested, since the Staff is scheduled

11 to file its revenue requirement testimony report next

12 Wednesday, the 10th, that might have some impact on

13 what the Staff might file as public information as

14 part of the Staff's filing of its revenue

15 requirement, Kansas Power and Light filing, next

16 Wednesday, November 10.

17 JUDGE DIPPELL: Okay. If you-all could

18 communicate about that, if you can avoid having to

19 file the entire thing as HC, you know, if you --

20 MR. DOTTHEIM: Yeah.

21 JUDGE DIPPELL: I realize that Staff may

22 not have prepared in time for them to have a chance

23 to review it and make that decision but --

24 MR. DOTTHEIM: The -- the -- it is not the

25 Staff's intention to file, to make the November 10

1 filing in entirety as highly confidential. I'm sorry  
2 if I left that impression.

3 I was trying to indicate that there -- in  
4 characterizing the revenue requirement to  
5 termination, there may be some facets in the  
6 November 10 report that the Staff, depending upon the  
7 Company's determination regarding what might, from  
8 its perspective, be possible to treat as public,  
9 would have some impact on what the Staff would file  
10 with the public next Wednesday in its revenue  
11 requirement filing respecting its audit in the  
12 Kansas City Power and Light rate increase case, the  
13 0355 case.

14 JUDGE DIPPELL: All right.

15 And did someone else join us on the  
16 phone or did we lose someone on the phone?  
17 Mr. Wagner, are you still on the phone?

18 MR. WAGNER: I'm still here. I hear some  
19 beeping though.

20 JUDGE DIPPELL: Mr. Lumley, are you still  
21 on the phone?

22 MR. LUMLEY: Yes.

23 JUDGE DIPPELL: Is there anyone else on  
24 the phone?

25 (No response.)

1                   JUDGE DIPPELL: All right. Well, while  
2 we're talking about this request for a special  
3 master, just so that from a case assignment point of  
4 view we have some idea if we're going to appoint a  
5 judge to do that, do we have any idea, like, what  
6 kind of timing turnaround would be necessary and  
7 maybe what the volume of these documents are? I know  
8 we haven't really had a chance to look at the whole  
9 list.

10                   MR. STEINER: That's part of our issue.  
11 It could be very voluminous for certain DRs. When  
12 you say "timing," you mean timing to get ready or  
13 timing for a decision?

14                   JUDGE DIPPELL: Right. When would you  
15 need to know if these things were -- when would a  
16 judge have to be reviewing this and making a decision  
17 and perhaps bringing it to the Commission for further  
18 decision and so forth?

19                   Is there a testimony deadline or a  
20 hearing deadline or discovery, further discovery  
21 deadlines? I'm just trying to get a handle on what  
22 might be required in picking someone, for the  
23 Commission to pick someone to assign.

24                   MR. DOTTHEIM: Certainly from the Staff's  
25 perspective, the sooner it can be processed, the

1 better, from the perspective that the Staff would  
2 have its eye on the remaining filing dates --

3 JUDGE DIPPELL: And I don't have those in  
4 front of me.

5 MR. DOTTHEIM: -- which would be rebuttal  
6 and surrebuttal since the direct filing --

7 MR. STEINER: I believe rebuttal is the  
8 8th of December, and surrebuttal is January 5.

9 JUDGE DIPPELL: Okay.

10 MS. OTT: That's correct.

11 MR. DOTTHEIM: But also from the Staff's  
12 perspective, there is also the opportunity to use the  
13 information, the documents, at the hearings  
14 themselves so --

15 JUDGE DIPPELL: Right.

16 MR. DOTTHEIM: -- depending upon when the  
17 documents -- if the documents are processed by a  
18 special master and depending upon the timing, the  
19 Staff would view that -- that depending upon what's  
20 in the documents, the Staff might use them for cross-  
21 examination.

22 JUDGE DIPPELL: Okay. So we're looking at  
23 a lot of documents, and we need a judge that doesn't  
24 like turkey.

25 MR. DOTTHEIM: Or --



1                   JUDGE DIPPELL: Okay. All right. Well, I  
2 will again encourage -- this is my little rant just  
3 having lived through previous cases: I will  
4 encourage you-all to vigorously go through your  
5 documents and only designate things that are HC that  
6 you truly, truly believe need to be kept confidential  
7 so we can avoid a lot of these disputes.

8                   Okay. Then the next item on the list is  
9 the still-pending motion to compel that Mr. Wagner  
10 filed, and I don't really want to get into too much  
11 argument about that. I would hope -- Judge Pridgen  
12 and I would hope to have something before the  
13 Commission next week to get a ruling on that.

14                   I would like to ask the Company just one  
15 more question about its response to our last order  
16 directing filing, and I'm just having a hard time  
17 with this, but if this is a document that is  
18 available for purchase, why is it marked HR?

19                   MR. STEINER: Because the terms of the  
20 copyright that we bought it under say you can't share  
21 it with anyone.

22                   JUDGE DIPPELL: And does that mean that it  
23 can't -- I mean, I understand you can't make a copy  
24 of it and give it to them --

25                   MR. STEINER: Right.

1 JUDGE DIPPELL: -- but does that mean it's  
2 also not available for him to come to your offices  
3 and look at?

4 MR. STEINER: We could probably arrange  
5 that, if that's something that he's interested in.

6 JUDGE DIPPELL: And if it's something  
7 that's just -- I mean, can I go buy it for \$25?

8 MR. STEINER: It's my understanding the  
9 general public can, that's right.

10 JUDGE DIPPELL: Okay. Well, that just  
11 helps me to understand the legal parameters of this  
12 particular document.

13 Is there anything else that needs to be  
14 brought up about the Motion to Compel at this time?

15 Mr. Wagner, did you have anything  
16 additional?

17 MR. WAGNER: I do not have anything  
18 additional. I contacted IUS and received a reply  
19 today, and it is a duplication -- a limitation of  
20 duplication on the copyright. It would prevent them  
21 from duplicating it.

22 I don't -- you know, it's marked "highly  
23 confidential," that it would allow them to duplicate  
24 it for attorneys, but not necessarily a post-day  
25 intervenor, but I think being able to visit it at the

1 Company's office would be satisfactory.

2 JUDGE DIPPELL: Okay

3 MR. STEINER: I just need to look at the  
4 terms of the copyright to make sure that's allowable  
5 but --

6 JUDGE DIPPELL: Can I encourage you to,  
7 perhaps, do that ASAP and contact Mr. Wagner if that  
8 is agreeable --

9 MR. STEINER: Sure.

10 JUDGE DIPPELL: -- maybe tomorrow --

11 MR. STEINER: I'll contact him tomorrow.

12 JUDGE DIPPELL: -- and let him know?

13 And you-all can maybe work that out. The  
14 Commission will still rule on the motion, but if you  
15 guys can work that out, that would be great.

16 Was there anything else on that?

17 (No response.)

18 JUDGE DIPPELL: Not hearing or seeing  
19 anything, are there any other pending items, then,  
20 that need to be brought to the Commission's attention  
21 at this time?

22 MR. WOODSMALL: We still have my  
23 outstanding motion for clarification from several  
24 months ago.

25 JUDGE DIPPELL: Okay. I'm hoping to get

1           that along with the other cleanup documents.

2                    Any other?

3                    MR. WAGNER:  Your Honor, this is Robert  
4           Wagner.

5                    JUDGE DIPPELL:  Yes.

6                    MR. WAGNER:  I'm looking at the  
7           Attachment A of the procedural schedule.  I notice  
8           there's -- on November 18 -- there's a preliminary  
9           reconciliation amongst the parties, and November 22  
10          is a prehearing, slash, settlement conference.  I was  
11          wondering if I could get details on that.

12                   JUDGE DIPPELL:  The reconciliation I'm not  
13          as familiar with, so I will let you discuss that with  
14          some of the other parties who go through this so they  
15          can kind of explain to you what is involved in that.

16                    But with regard to the settlement  
17          conference, we usually have a big settlement  
18          conference where the parties all come together and  
19          try to work out each of their issues.  It usually  
20          takes place over the course of a week, and there are  
21          breakout sessions for each issue and so forth, and  
22          that is all sort of arranged and handled through the  
23          Staff.

24                    In fact, I don't believe, unless you-all  
25          think it's necessary, we won't be going on the record

1 for the settlement conference, unless, again,  
2 someone requests that. I don't believe we  
3 planned at this time to have a court reporter  
4 and go on the record there.

5 So I will maybe let staff give you  
6 little better details about how that works and  
7 figure out where or how you might want to be  
8 involved in that, but that's sort of a general  
9 overview. Is that helpful?

10 MR. WAGNER: Yes. Thank you.

11 JUDGE DIPPELL: And I'll let -- if  
12 you don't mind, I'll wait until we go off the  
13 record and then maybe you can discuss with the  
14 parties about the reconciliation and the actual  
15 how, when, and what of the settlement conference  
16 at that time.

17 Are there any other questions?

18 (No response.)

19 JUDGE DIPPELL: All right. Then if  
20 there's nothing further, look for a couple of  
21 cleanup orders and the orders from the  
22 Commission on the other items, and I'll look for  
23 responses and objections and so forth.

24 We can go ahead and go off the  
25 record. Thank you.

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(The hearing concluded.)

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CERTIFICATE

I, Nancy L. Silva, a Certified Court Reporter, CCR No. 890, the officer before whom the foregoing hearing was taken, do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn by me; that the testimony of said witness was taken by me to the best of my 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 hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

\_\_\_\_\_  
Nancy L. Silva, RPR, CCR