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 1   STATE OF MISSOURI
                  PUBLIC SERVICE COMMISSION
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 6   TRANSCRIPT OF PROCEEDINGS
                   Evidentiary Hearing
 7   October 26, 2012
                 Jefferson City, Missouri
 8   Volume 18

 9

10   In the Matter of Kansas City)
     Power & Light Company's   )
11   Request for Authority to   ) File No. ER-2012-0174
     Implement a General Rate   )
12   Increase for Electric Service)
13   In the Matter of KCP&L Greater)
     Missouri Operations Company's)
14   Request for Authority to   ) File No. ER-2012-0175
     Implement a General Rate   )
15   Increase for Electric Service)

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19   DANIEL R.E. JORDAN, Presiding
                SENIOR REGULATORY LAW JUDGE
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 1   (Whereupon, the hearing began at 8:35 a.m.)

 2   JUDGE JORDAN: The Commission is calling

 3   the actions in File Nos. ER-2012-0174 and ER-2012-0175.

 4   These are the general rate actions of Kansas City Power &

 5   Light Company and Kansas -- KCPL Greater Missouri

 6   Operations Company.

 7   I'll begin by asking everyone to silence

 8   your cell phones, which I am doing right now. You don't

 9   have to turn them off, just silence them, so as not to

10   distract us from these proceedings.

11   Let's begin by taking entries of

12   appearance. We'll just start here and work our way back

13   with Staff.

14   MS. KLIETHERMES: Thank you, Judge. Sarah

15   Kliethermes, John Borgmeyer, and Nathan Williams for and

16   of the Staff of the Missouri Public Service Commission.

17   JUDGE JORDAN: Thank you.

18   MR. MILLS: Lewis Mills, Office of the

19   Public Counsel. My address is P.O. Box 2230, Jefferson

20   City Missouri, 65102.

21   MR. FISCHER: Greater Missouri Operations

22   Company, Jim Fischer, Roger Steiner, and Karl Zobrist

23   today.

24   JUDGE JORDAN: Okay. Can't quite see who

25   is behind you. I think that accounts for everyone behind

 1   you. Yes, we are. And --

 2   MR. CONRAD: Well, I have it on good

 3   information that I am Stuart Conrad that has previously

 4   entered the appearance in 0174 for Praxair and 0175 for

 5   MEUA.

 6   JUDGE JORDAN: Thank you.

 7   A few preliminary matters before we begin

 8   to take testimony today. I want to mention on the record

 9   that we have -- the parties have agreed to defer the

10   Crossroads issue.

11   Who would like to speak to that?

12   MR. FISCHER: I can, your Honor.

13   JUDGE JORDAN: Do I understand that we

14   won't be taking testimony on Crossroads today, and what is

15   the plan with that issue so far?

16   MR. FISCHER: We're continuing settlement

17   negotiations and would like to resume that discussion and,

18   if necessary, have the Crossroads issue after the

19   regularly-scheduled events on Monday, which I think is --

20   the last issue on Monday is the MEEIA issue. We would do

21   it then, and then, if needed, on Tuesday.

22   JUDGE JORDAN: Okay. And there was an

23   issue with regard to one of the witnesses on Crossroads

24   with regard to Lena Mantle and a medical situation, and

25   this means that we won't require an update on that until

1   Monday. And, judging by the emails that I've received,

2   the parties are fairly flexible as to taking the testimony

3   of Ms. Mantle.

4   I also note for the record that there

5   remain a couple of objections to the stipulation

6   outstanding. One is that of the City of Kansas City which

7   has asked for is its issue on low -- the issue of low-

8   income laterization to be heard on Monday. I haven't

9   heard any objection on that.

10   Also, the parties represented by Mr.

11   Conrad have objected generally to the stipulation, and

12   those parties have filed a response to my order for a

13   proposed scheduling of those issues. That response states

14   that the press of business prevents any detail right now,

15   but we'll work that out later.

16   MR. CONRAD: Judge, I -- if might, I think

17   your order -- because I went over it carefully -- asked

18   for proposed dates.

19   JUDGE JORDAN: That's correct. That's

20   correct. Proposed dates. And that's where we are with

21   that, and that's all we have -- all I have with regard to

22   preliminary issues.

23   Is there anything else we feel needs to be

24   raised before we start taking testimony here this morning?

25   (No response.)

 1   JUDGE JORDAN: I'm not hearing anything.

 2   So, first issue on my schedule has to do

 3   with resource planning at LaCygne and at Montrose. I will

 4   note we have already admitted by stipulation Bruce

 5   Biewald. I hope I'm pronouncing that correctly.

 6   And, with that, we're ready for our first

 7   witness.

 8   MR. FISCHER: Judge, at this time, the

 9   Company would call back to the stand Tim Rush.

10   MR. MILLS: Are we going to do --

11   JUDGE JORDAN: I'm sorry. We need to do

12   the small opening statements first. I'm sorry. I jumped

13   the gun a little bit. I'm sorry. That's my fault.

14   Let's have the opening statements on this

15   issue, if you please, before we take testimony.

16   MR. FISCHER: Judge, the Company would

17   waive its opening on this particular issue.

18   JUDGE JORDAN: Very well. Staff.

19   MS. KLIETHERMES: Staff will, likewise,

20   have no opening on this issue.

21   JUDGE JORDAN: Office of the Public

22   Counsel.

23   MR. MILLS: Good morning. May it please

24   the Commission.

25   As I said in my general opening, while

1   there are no specific dollars at issue with -- with

2   respect to this particular issue in this case, this is

3   likely to be in the next case, the largest issue in the

4   case, probably dwarfing even return equity which we have

5   all come to expect the biggest issue in every case.

6   The Commission has often heard to complain

7   that its rule is frequently that of reaction rather than

8   being proactive, and I think there certainly is some

9   justification for that complaint. The way a lot of

10   regulation works, the Commission simply adjudicates things

11   already happened and comes up with a decision.

12   With the testimony of Mr. Biewald in this

13   case -- and I think the testimony that will adduced this

14   morning -- I think the Commission will see that there is

15   an alternate path here, and the Commission has an

16   opportunity to take some proactive steps with respect to

17   the investments that are expected and planned to take

18   place at the LaCygne and the Montrose plants. And I'm

19   going to talk primarily about LaCygne because, as we

20   mentioned off the record, LaCygne is, by far, the largest

21   expenditure forecast of the two plants.

22   LaCygne is forecasted to cost about $1.2

23   billion. The retrofits are -- and that's billion with a B

24   -- and if you factor that up for what we've come to expect

25   from utility cost overruns, that's likely to be at least a

1   billion-and-a-half dollars by the time the final check is

2   written. And, of course, that is a total company for

3   KCPL. So, approximately half of that would be expected to

4   be foisted on Missouri ratepayers.

5   Now, Missouri does not have a specific path

6   for preapproval. Kansas does. And Kansas has taken a

7   look at the planned LaCygne upgrades and, in fact,

8   pursuant to Kansas's prescriptive and narrow preapproval

9   statute, the Kansas Commission did grant preapproval to

10   the extent that that statute contemplates that. But there

11   is at least three factors I think that the Commission

12   needs to consider that played into the KCC's decision --

13   the Kansas Corporation Commission's decision -- that would

14   lead Missouri to look at that decision skeptically and

15   decline to follow it as a precedent.

16   First, KCPL and Weststar, who are the

17   owners of the LaCygne plant, entered into an agreement

18   with the Kansas State Air Regulatory to do the, um -- to

19   do the retrofits. So, the Kansas Corporation Commission

20   would have to second-guess a sister agency in order to

21   deny preapproval. Second, the Kansas Corporation

22   Commission, according to statute, had an abbreviated

23   schedule and, again, according to statute, had a very

24   rigid statutory criteria to apply to determining whether

25   or not to grant preapproval to the plant expenditures.

 1   And, third, a significant amount of time

 2   has past since the Kansas Corporation Commission evaluated

 3   the question of prudence and trends that looked less

 4   definite. When the KCC looked at them, they have become

 5   to look much more solid and much more even during -- as we

 6   in Missouri have the opportunity to look at the planning

 7   process the KCPL has done and should be continuing to do.

 8   Now, in the Kansas Corporation Commission,

 9   I believe that at least two parties, if not more, argued

10   against preapproval, argued that it was not prudent for

11   KCPL to be spending this much money on an aging coal

12   plant. And, certainly, in Missouri, the Public Counsel

13   has been quite forthcoming about its opposition and its

14   conclusion that it's imprudent to spend this much money on

15   this aging coal plant.

16   So, why would KCPL, in the face of what it

17   appears to be fairly significant opposition, continue to

18   be pursuing a path that will lead it to the possibility of

19   a prudence challenge in a later rate cause? Well, it's

20   because of the growth trap. If you think about what

21   you've heard of return of equity witnesses in this case

22   and, really, in every case about growth, you have experts

23   testifying that they expect and investors expect that

24   utility earnings will grow in something in the

25   neighborhood of 5 percent of the year and in perpetuity.

1   If you think of that, that 5 percent growth, that

2   translates into doubling the size of earnings every 14

3   years because of compounding. It doesn't take 95 percent.

4   It only takes 14 years to double earnings. So, that in

5   and of itself, is a fairly ambitious plan for a utility to

6   expect.

7   But you also have -- in the current

8   environment, you have Company people telling you -- and

9   this is not just for KCPL, it's true for GMO and it's true

10 for Ameren, and probably you're going to hear it coming up

11 in the Empire case -- you have Company people telling you

12 that load growth is flat, or in some cases negative, and

13 at best it's a very very minimal positive growth.

14   So, if you're running a utility and you

15 need growth and earnings to keep up with investors and

16 expectations and you have no growth and revenues, there

17 are really only two options that you can choose. One, you

18 can cut costs; or, second, you can increase rate base.

19   Cutting costs is certainly something that

20 utilities should do and something they failed to do to the

21 extent that they should be doing. But, in any event, it's

22 not something that they can do into perpetuity. You can't

23 continue to cut costs and continue to provide reliable

24 service forever and ever. If you're trying to get to 5

25 percent growth and earnings and you have 1 percent growth

1   in revenues, you can't in perpetuity cut costs to make

2   that come out to be a 5 percent growth in revenues.

3   So, the only option that the utilities have

4   to keep up with the growth that they claim that investors

5   expect is to grow rate base. Now, um -- and, in growing

6   rate base per regulate utility means essentially building

7   -- building infrastructure, and that's why you're seeing

8   so many rate cases and that's why they won't stop.

9   In order to meet investors' expectations in

10   growth, utilities need to keep growing earnings, and with

11   no growth in revenues that means rate increases.

12   Significant rate increases coming frequently and, as long

13   as the Commission buys into the notion that earnings need

14   to grow at the kind of rate that the experts are saying in

15   this case, and even the best estimate in this case is

16   showing that investors expect earnings to grow at a rate

17   that is several multiple-times load growth, so that

18   something other than revenue growth has got to drive

19   earnings growth by a multiplier two or three times what

20   the actual revenue growth is. And, as long as the

21   Commission buys into that in setting return equity, then

22   we are perpetuating this problem of frequent and large

23   rate cases.

24   So, that's the underlying framework that

25   explains why KCPL is pushing forward on what appears to be

 1   an imprudent path to sink one-and-a-half billion dollars

 2   into an old coal plant. I can understand why they're

 3   doing that, but that doesn't make it prudent. The goal

 4   now for all of us, the Commission, the parties that are

 5   here before the Commission that represent the public,

 6   represent customers, they care about the environment, the

 7   goal for all of us should be to have as much information

 8   as early as possible, to have as much transparency around

 9   the planning process looking at the flaws and the

10   shortcomings as well as the solid work that the Company

11   has done to try to figure out exactly what is going on

12   with the planning process.

13   Commission should not want to be forced

14   into a decision in the next rate case worth hundreds of

15   millions of dollars and have the parties arguing generally

16   about what was decided when. It's in the Commission's

17   best interest and the best interest of everyone involved

18   to have all the information on the planning process, all

19   the decision points, have all of that locked down as early

20   as possible so we're not arguing about what data we have

21   and what data we don't have when we get around to deciding

22   whether or not this plant was prudent.

23   Now, the best case scenario -- and I think

24   it is one that is still possible and one that I will

25   certainly argue for as an outgrowth of this case -- is

1   that when KCPL is forced to re-examine and fully document

2   its planning process that they will abandon or postpone

3   the LaCygne projects. The second path outcome from this

4   examination and increased transparency is at least we in

5   Missouri will have sufficient evidence to prove that the

6   decision to proceed with LaCygne was imprudent and to

7   prevent Missouri ratepayers from having to pay for these

8   imprudent investments.

9   Now, Sierra Club witness Bruce Biewald, in

10   his pre-filed testimony, suggested the Commission should

11   embark on an open and transparent examination of KCPL's

12   planning process. And I think that is a fabulous idea.

13   Public Counsel supports that strongly, and I think it's

14   the one avenue we have in Missouri that will achieve one

15   of the two best outcomes that I just talked about, that is

16   to bring the planning process into the light, to question

17   all of the assumptions that are made therein, to bring

18   those an assumptions up-to-date, and to see whether or not

19   this decision was prudent.

20   We're not talking about a formal

21   preapproval process, we're simply talking about a process

22   in which the Commission, and with the help of the parties,

23   will lay out the kinds of information that it will find

24   useful in the future and lays out a path to preserve and

25   create that information as necessary so that the

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1   Commission in the next case has adequate evidence to

2   decide the question of prudence of the LaCygne and

3   Montrose projects.

4   Thank you.

5   JUDGE JORDAN: Got a question or two of

6   clarification.

7   MR. MILLS: Certainly.

8   JUDGE JORDAN: You opened by stating that

9   there were -- there is no money at issue --

10   MR. MILLS: Correct.

11   JUDGE JORDAN: -- as to this issue. Okay.

12   MR. MILLS: The projects are in their early

13 stages. There is not -- there is not a significant rate

14 base addition in this case. There will be in the next

15 case, and that's what I'm laying the groundwork for, is to

16 try to figure out whether or not that significant rate

17 base addition is, in fact, prudent, and the Commission

18 will at least have information in that case to examine

19 that question more fully.

20   JUDGE JORDAN: The tariff sheets that are

21 before the Commission right now that we are talking about

22 today, do they address the resource planning for LaCygne

23 and Montrose?

24   MR. MILLS: As I said, there may be a small

25 incremental amount of money for in terms of, you know, on

1 capitalizing studies and things like that. But the real

2 money is yet to come.

3   JUDGE JORDAN: Okay. So, something in

4 these tariff pages that are before us do address this

5 issue; is that correct?

6   MR. MILLS: That's true, yes.

7   JUDGE JORDAN: Okay.

8   MR. MILLS: There is some small amount of

9 money in this case that has to do with LaCygne and

10 Montrose.

11   JUDGE JORDAN: Because, if there weren't, I

12 don't know why we'd be talking about it.

13   MR. MILLS: Yeah. No. There is some money

14 in this case, and one of the reasons we're talking about

15 it today is because the Commission has, by stipulation,

16 admitted -- already admitted evidence into the record

17 about this issue and we need to fully flush it out.

18   JUDGE JORDAN: That's all I have. Thank

19 you.

20   MR. MILLS: Thank you.

21   JUDGE JORDAN: As you mentioned, yes, there

22 is pre-filed testimony on this issue that has been offered

23 by Kansas City Power & Light. And, so, we will get back

24 to where we were at our full start and begin the taking of

25 evidence on this issue.

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 1                 MR. FISCHER:  Judge, with your permission,

 2    we would -- I would call Tim Rush to the stand.

 3                 JUDGE JORDAN:  Please raise your right

 4    hand.

 5                 (Witness sworn.)

 6                 JUDGE JORDAN:  Please be seated.

 7    TIM RUSH testified as follows:

 8    DIRECT EXAMINATION BY MR. FISCHER:

 9         Q     Please state your name for the record.

10         A     Tim Rush.

11         Q     Are you the same Tim Rush that has

12    previously appeared in this proceeding and caused to be

13    filed certain direct, rebuttal, supplemental direct,

14    surrebuttal in both cases KCPL and GMO?

15         A     I am.

16                 MR. FISCHER:  We have already moved for the

17    admission of the various exhibits that Mr. Rush sponsors,

18    although I think there may be a couple corrections that

19    have come to light and would like to correct those at this

20    time, if that's appropriate.

21                 JUDGE JORDAN:  Please.

22         Q     (By Mr. Fischer)  Mr. Rush, do you have

23    some additional corrections you would like to put in the

24    record today on your testimony?

25         A     I do.  I have two corrections I would like
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 1   to make. The first one is in my direct testimony in ER-

 2   2012-0174 which is the Kansas City Power & Light case. I

 3   think it is Exhibit 40. On page 11, line 3, it reads, "A

 4   refund mechanism shall be established which will allow any

 5   other overcollections." The word "other" should be

 6   deleted.

 7   And, my second change shows up on my

 8   rebuttal testimony in ER-2012-0174 in the Kansas City

 9   Power & Light case, and I believe that is Exhibit 42, and

10   it's found on page 19. At the end of line 4, it

11   references the Missouri Valley Community Action ACAA in

12   the Kansas City -- in the KCP&L territory. It should read

13   "Kansas City" -- pardon me -- the City of Kansas City,

14   Missouri, in the KCP&L territory.

15   Those are the two corrections I would like

16   to make. With that, that's all the corrections.

17   **Q   With those corrections in mind, if I were**

18   **to ask you the same questions that are contained in that**

19   **testimony as corrected, will your answers be the same**

20   **today?**

21   A   Yes, they would.

22   MR. FISCHER: Judge, we've already moved

23   for admission of these exhibits, and I would just tender

24   the witness for cross on the current issue resource

25   planning LaCygne and Montrose.

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 1                    JUDGE JORDAN:  I'm looking at my order of

 2   cross-examination, and I notice that -- excuse me just a

 3   moment.  I notice that MIEC does not appear for notice of

 4   consideration for any issues.  Is that because someone

 5   else, some other party will be doing cross on its

 6   position?

 7                    MR. FISCHER:  Right.

 8                    JUDGE JORDAN:  I just wanted to clear up

 9   that absence.

10                    Cross-examination from Praxair.

11                    MR. CONRAD:  No questions, your Honor.

12                    JUDGE JORDAN:  Okay.  Proceeding on.

13   Cross-examination from the Office of Public Counsel.

14                    MR. MILLS:  Yes.  Thank you.

15   CROSS-EXAMINATION BY MR. MILLS:

16        Q        Good morning, Mr. Rush.

17        A        Good morning.

18        Q        You have a -- well, first of all, let me

19   just clarify.  Your testimony on this issue is restricted

20   to your rebuttal testimony, page 16, beginning on line 11,

21   and running through page 18, line 7; is that correct?

22        A        That's correct.

23        Q        Do you have a copy of that testimony with

24   you?

25        A        I do.
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1   Q   Can I get you to turn to page 16, please?

2   A   I'm there.

3   Q   And the first answer on this topic, you

4   begin by saying that Missouri law does not allow -- and

5   I'm going to skip over part of this -- but Missouri law

6   does not allow for a formal process to be established to

7   facilitate formal meetings and the filing of construction

8   progress reporting. Is that your testimony?

9   A   It does. It is.

10   Q   Okay. And, in that testimony, are you

11   telling the Commission that it would be unlawful for the

12   Commission to establish due process?

13   MR. FISCHER: Calls for legal conclusion.

14   MR. MILLS: His testimony is Missouri law

15   does not require such a thing, and I'm asking him to

16   clarify. I'm not asking his opinion as a lawyer. He's

17   not a lawyer.

18   A   (By the Witness) I think if you read the

19   response on -- I'm sorry.

20   JUDGE JORDAN: The objection is overruled.

21   A   (By the Witness) I think if you read the

22   line 16 in full, it says Missouri law does not allow for

23   the predetermination of prudency for resource investments,

24   is the first statement I have.

25   Q   Uh-huh.

1   A   And that's my linkage. And then or allow

2 for a formal process to establish -- to establish -- to

3 facilitate formal meetings and the filing of construction

4 progress reporting.

5   **Q   And the way I read that sentence is you're**

6 **saying that Missouri law does not allow for A or B. A**

7 **being the predetermination, and B being formal process.**

8 **I'm trying to clarify if that is what your testimony is.**

9   A   That is what the words say. I would say I

10 was -- I would probably recharacterize the latter part to

11 say that there is not one that exists today, a process.

12 But the first part is what I was mainly interested in

13 making sure the Commission was aware. There is no formal

14 -- there is no law that allows for predetermination.

15   **Q   But there is nothing that prohibits the**

16 **Commission from establishing a process to more fully**

17 **investigate the planning processes?**

18   A   You are correct, yes.

19   **Q   Okay. In turning to page 17 of your**

20 **rebuttal testimony, you pose a question at line 7 and the**

21 **answer runs from line 9 to 14. And, as I read that, I**

22 **struggled to understand whether you're answering that**

23 **question yes or no. Is your answer a yes or a no to the**

24 **question being posed?**

25   JUDGE JORDAN: Counsel, while the witness

 1   is reviewing his, would you mind reading what that

 2   question was?

 3   MR. MILLS: I'm sorry. The question is is

 4   it appropriate to address LaCygne and Montrose project

 5   documentation review and prudency in this docket.

 6   **Q   (By Mr. Mills) And the answer does not**

 7   **start with a clear yes or no --**

 8   A   I would say the answer is no --

 9   **Q   Okay.**

10   A   -- in this docket.

11   **Q   Okay. In this docket?**

12   A   Which is --

13   **Q   Okay. Do you have a copy of the testimony**

14   **of Bruce Biewald on this issue?**

15   A   I do.

16   **Q   Could you turn to his surrebuttal**

17   **testimony?**

18   A   I'm sorry. I only have his direct. I do

19   not have his surrebuttal.

20   MR. FISCHER: Can I approach?

21   JUDGE JORDAN: You may.

22   THE WITNESS: Thank you very much.

23   **Q   (By Mr. Mills) Have you reviewed this**

24   **testimony before?**

25   A   I have.

1   Q   Okay. And at page -- at the bottom of the

2   first page, page 1 of his testimony, he talks about

3   Missouri's lack of a preapproval process, correct?

4   A   Yes, he does.

5   Q   And then continuing on to page 2 when he's

6   addressing the preapproval process, he suggests that the

7   Commission could identify the types of information that

8   would be required from the Company to document its project

9   management and its ongoing planning decisions. Do you see

10   that testimony?

11   A   I do.

12   Q   If Public Counsel were to ask the Public

13   Service Commission to open up a case, a separate docket

14   from this one, an ongoing case, to identify what type of

15   information this is and make recommendation of the

16   Commission on the type of information that should be

17   collected on an ongoing basis, would KCPL oppose that

18   request?

19   A   I'm going to start out by saying we do have

20   a planning process in the State of Missouri called the

21   Integrated Resource Planning Process, or IRP often

22   referred to, that allows for looking down the road for

23   plant additions, energy efficiencies programs, demand

24   balancing, both supply and demand. We have done

25   evaluations in that with regard to retiring plants and

1   other things at the request of various parties. That's a

2   process, a planning process.

3   However, with that said, the Company has

4   made several efforts as I talked about in my testimony to

5   come and inform the Staff and the Office of Public Counsel

6   with regard to the status of the LaCygne project in

7   particular. I believe we've also talked about Montrose to

8   make sure that the Staff and parties are aware. We have

9   created an informal process where we provide information

10   to the Staff on a regular basis of reporting.

11   So, with all of that said, we do have a

12   process in place that is somewhat informal with regard to

13   what we're doing with Staff and OPC. We do have a formal

14   process in the IRP that we're right in the middle of that

15   is all focused on planning, and we -- so, we have a number

16   of vehicles. With all of that added together, if the

17   Staff or OPC had an interest in further exploring the

18   status and the progress of the LaCygne or Montrose

19   projects, the Company would not oppose that.

20   **Q   So, you would not oppose a request to the**

21   **Commission to open a formal docket?**

22   A   It's according to how that word was

23   characterized. But if it were such that we could

24   facilitate that, we have no problem.

25   **Q   Okay.**

1   A   The Company in its -- the IRP was recently

2 updated as far as the rules, and one of the things the

3 Company was desirous of is literally a provision in the

4 IRP that would give some prudency understanding. Meaning

5 rather than just acknowledgement of the plan which is one

6 of the attributes that's in the rule, we were interested

7 in approval of the plan. That did not come out, was not a

8 result of the IRP process and the rule making.

9   Q   Okay.

10   MR. MILLS: Judge, that's all the questions

11 I have of this witness.

12   JUDGE JORDAN: Cross-examination.

13 Cross-examination from Staff.

14   MS. KLIETHERMES: No questions.

15   JUDGE JORDAN: I understand. I have no

16 questions for this witness. Redirect.

17   MR. FISCHER: Just briefly, Judge.

18 REDIRECT EXAMINATION BY MR. FISCHER:

19   Q   Mr. Rush, you were asked some questions

20 that elicited a response about the IRP process. Do you

21 recall those?

22   A   Yes, I do.

23   Q   When was the last IRP filing done by Kansas

24 City Power & Light?

25   A   It was either in February or April -- I

1 believe it was April 1st of 2012. So, it's right -- we're

2 right in the middle of this planning process.

3   **Q   Would that have been included a review of**

4 **LaCygne or Montrose in some way?**

5   A   It would have had the inclusion of LaCygne

6 in the entire planning process.

7   **Q   And --**

8   A   So, when you say review, it would have

9 included LaCygne and the continuation of it and the

10 investments associated with it, et cetera.

11   **Q   Would it also have looked at whether the**

12 **retrofit that is going on continues to make economic**

13 **sense?**

14   A   It would have had that included in.

15   **Q   And what is the status of that docket at**

16 **this time, if you know?**

17   A   Well, we're right in the middle of the, I'm

18 going to call it, working with all of the parties. I

19 believe as early as November the 5th, we are to file an

20 agreement of the things that we agree to about issues and

21 how we're going to address those before the Commission.

22   So, we've gone through the filing of both the

23 case, Kansas City Power & Light, and the KCPL Greater

24 Missouri Operations IRPs We are in the -- the parties

25 have reviewed them, and they have made their suggestions

1   for modifications to the studies, and we are right to the

2   stage of responding to in a joint filing -- I believe it's

3   joint -- things that we can agree to, to do moving

4   forward.

5   Q   Do you know if the Staff and the Office of

6   the Public Counsel are active parties in that docket?

7   A   They are very very active.

8   Q   Do you also know if the Sierra Club or

9   other environmental parties are active?

10   MR. MILLS: Lewis Mills. Object. This has

11 gone on quite a while. I did not actually ask this

12 witness any questions about the IRP planning projects. He

13 interjected that concept into an answer, but that does not

14 make it a proper scope for redirect.

15   JUDGE JORDAN: I'm going to overrule that

16 objection.

17   Q   (By Mr. Fischer) Mr. Rush, does that IRP

18 process also include annual updates or anything that goes

19 beyond the first filing?

20   A   It does.

21   MR. MILLS: Same objection.

22   JUDGE JORDAN: Same ruling.

23   MR. MILLS: Excuse me, Mr. Rush. I have an

24 objection pending. I have the same objection. He's

25 continuing to ask about the IRP process and I never asked

1   Mr. Rush about -- any questions about the IRP.

2   JUDGE JORDAN: You did not object to giving

3   answers to the IRP process as being unresponsive; and,

4   really, I don't know why we're talking about any plannings

5   since I can't tell why it's relevant to the tariffs sheet.

6   Your yes was about procedures that don't exist as far as

7   anyone here knows, so I'm going to overrule the objection.

8   **Q   (By Mr. Fischer) You were asked questions**

9   **if OPC were to ask for an open docket to review these**

10 **matters. Do you recall those?**

11   A   I do.

12   **Q   And I believe you indicated you didn't have**

13 **a problem with that?**

14   A   In general, I don't have a problem with

15 that.

16   **Q   Would that, in some way, do you think,**

17 **duplicate anything that's going on now?**

18   A   Well, it would duplicate a lot of the

19 activities that should happen in the IRP process, and we

20 have offered many times, several times to the Staff to

21 come get involved, and we provide status reports to the

22 Staff, and we work very hard to make sure that folks are

23 informed about it. And we would be happy to meet with the

24 Office of Public Counsel. We've done several times

25 already. We'd be happy to meet and walk through where

1 we're at at the status and the progress, et cetera. To

2 correct -- could I correct?

3   **Q   Yes, please. Correct anything you've**

4 **misstated.**

5   A   It's not something I misstated, but Mr.

6 Mills made a reference in his opening on a comment about

7 the tariffs regarding what's included or not included. I

8 don't know if that's -- there is nothing about LaCygne

9 that's included in these tariffs that are before you at

10 all. I mean, the construction, the planning, and all of

11 that goes into a capital account and gets set aside until

12 that project is done. So, there is nothing on the LaCygne

13 project that's in our tariffs. There is on the Montrose

14 project which I reference in my testimony. I just wanted

15 to make sure it was clear.

16   The other thing I wanted to make clear is the

17 reference to the investment that was made by Mr. Mills,

18 that's the overall project, and half of that is owned by

19 Westar, so only half of that is attributable to Kansas

20 City Power & Light Company. And of that half, only

21 approximately 57 percent of it, I think, something like

22 that, is attributable to Missouri.

23   So, when you get down to the dollars associated

24 with this investment, it's a little over a fourth of the

25 number that Mr. Mills referenced.

 1   MR. MILLS: For the record, I agree with

 2   that, and I appreciate the clarification.

 3   JUDGE JORDAN: And I appreciate you saying

 4   so on the record. Thank you.

 5   **Q   (By Mr. Fischer) Mr. Rush, when would be**

 6   **the next time that you would expect a formal filing?**

 7   **Absent the opening of a specific docket to address it,**

 8   **when would be the next time you would expect a filing with**

 9   **this Commission that might address LaCygne and Montrose in**

 10   **some way?**

 11   A   Well, in the IRP annual update, there will

 12   be information -- when we -- if we can reach an agreement

 13   with all the parties on what we need to file in the annual

 14   update of the IRP, you will see information there that

 15   would describe and provide information on it. And, then,

 16   if we filed a rate case associated with a construction, it

 17   most likely would be in the 2015 time frame when LaCygne

 18   is completed, for LaCygne.

 19   Montrose, there's really no plan, no date that's

 20   set that I'm aware of. Other folks may know and have to

 21   reference. Others -- for example, Mr. Crawford -- may

 22   know that.

 23   **Q   When would the next annual update in IRP be**

 24   **expected?**

 25   A   Well, I believe it is to be sometime in

 1   early 2013. They are looking at some -- because of some

 2   of the information they want, there may be a slight delay

 3   in that, but it would be in 2013.

 4   MR. FISCHER: Judge, that's all I have.

 5   Thank you.

 6   JUDGE JORDAN: Thank you. You may stand

 7   down.

 8   MR. FISCHER: Judge, with your permission,

 9   I would call our next witness on this topic, which is

10   Burton Crawford.

11   (Witness sworn.)

12   BURTON CRAWFORD testified as follows:

13   DIRECT EXAMINATION BY MR. FISCHER:

14   **Q   Please state your name and address for the**

15   **record.**

16   A   Burton Crawford, 1200 Main Street, Kansas

17   City, Missouri.

18   **Q   Are you the same Burton Crawford that**

19   **caused to be filed testimony in both the Kansas City Power**

20   **& Light and the GMO cases?**

21   A   Yes.

22   MR. FISCHER: Judge, we had previously

23   marked the numbers for the various exhibits, and I don't

24   think they're actually on the exhibits, but let me run

25   through the numbers.

 1   Q   (By Mr. Fischer) Did you cause to be filed

 2   direct testimony which I believe has been pre-marked as

 3   KCPL 15 HC and NP?

 4   A   I don't know how they're marked, but yes, I

 5   did.

 6   Q   Okay. And did you also cause to be filed

 7   rebuttal testimony which has now been pre-designated as

 8   KCPL 16?

 9   A   Yes, I did.

10   Q   And certain surrebuttal testimony in the

11   KCPL case 17 HC and NP?

12   A   Correct.

13   Q   And did you also cause to be filed similar

14   testimony in the GMO case, the direct being marked as GMO

15   Exhibit 110 HC and NP and --

16   A   Yes.

17   Q   And did you also cause to be filed rebuttal

18   testimony in that docket, GMO 111 HC and NP?

19   A   Yes.

20   Q   And surrebuttal testimony marked GMO 112 HC

21   and NP?

22   A   Yes.

23   Q   Do you have any corrections that you need

24   to make to any of those pieces of testimony?

25   A   I do not.

 1   **Q   If I were to ask you the questions**

 2   **contained in that testimony today, would your answers be**

 3   **the same?**

 4   A   They would.

 5   **Q   And are they accurate to the best of your**

 6   **knowledge and belief?**

 7   A   They are.

 8   MR. FISCHER: Judge, with that, I would

 9   move for the admission of KCPL Exhibits 15 through 17 and

10   GMO Exhibits 110 through 112, both the HC and the NP

11   versions, and tender the witness for cross.

12   He will be appearing on behalf of the

13   Company, I think, later today on the OSS issue.

14   JUDGE JORDAN: Do I hear any objections to

15   the admission of those exhibits?

16   (No response.)

17   JUDGE JORDAN: I'm not hearing anything, so

18   I would move those documents into the record.

19   MR. FISCHER: We would tender the

20   witness.

21   JUDGE JORDAN: Very good. Very good.

22   Any cross-examination from GMO Industrial,

23   Praxair?

24   MR. CONRAD: No, sir. Thank you.

25   JUDGE JORDAN: Cross-examination for the

 1   Office of Public Counsel?

 2   MR. MILLS: Yes. Thank you.

 3   CROSS-EXAMINATION BY MR. MILLS:

 4   **Q   Mr. Crawford, I'm going to be asking you a**

 5   **number of questions about the testimony of Sierra Club**

 6   **witness Bruce Biewald. Do you have copies of that**

 7   **testimony with you?**

 8   A   I do not.

 9   **Q   First of all, just so the record's clear**

10   **with respect to your own testimony, the only place in**

11   **which you directly address this issue is in your rebuttal**

12   **testimony at page 15; is that correct?**

13   A   In my -- I mentioned it in the direct

14   testimony as well, as a requirement to filing an IEC, we

15   were required to list environmental projects that we might

16   be making.

17   **Q   Okay. And that's in your direct testimony**

18   **at pages 9 and 10, correct? Did I say -- 19 and 20. I'm**

19   **not sure what I said.**

20   A   You said 9 and 10.

21   **Q   I did. I meant to say 19 and 20.**

22   A   Yes, that's correct.

23   **Q   Okay. And that testimony in your pre-filed**

24   **direct testimony is in support of the Company's request**

25   **for energy charge; is that correct?**

1   A   That's correct.

2   Q   Now, with respect to the testimony of Mr.

3   Biewald, in your rebuttal testimony you generally disagree

4   with, as you call it, his key conclusions; is that

5   correct?

6   A   Yes. There was a key conclusion I believe

7   I disagreed with.

8   Q   Okay. So, you really -- with respect to

9   his testimony in your rebuttal testimony, you only pose

10   two questions. One is you disagree with his key

11   conclusions, and the other one is do you disagree with his

12   recommendations. And the bottom line is you disagree with

13   both, correct?

14   A   That's correct.

15   Q   Okay. And what I would like to do in

16   cross-examination is go through -- and I apologize in

17   advance, at some length -- through his testimony to

18   determine what exactly specifically you do disagree with

19   and what it is you agree with. So, if you can turn to his

20   direct testimony beginning at page 3.

21   Mr. Biewald states that the Company estimates the

22   cost of LaCygne projects at $1.23 billion. Do you agree

23   with that?

24   A   Yes.

25   Q   Okay. And then at line 6 and 7 of page 3,

1   **Mr. Biewald testifies the KCPL has an obligation to**

2   **conduct prudent planning with regard to its investments,**

3   **and that obligation is ongoing during the construction**

4   **period. Do you agree with that?**

5   A   I agree.

6   **Q   Okay. On page 3 of his direct testimony at**

7   **lines 19 through 22, Mr. Biewald states that Missouri has**

8   **no formal process in which KCPL has demonstrated or even**

9   **attempted to demonstrate that it is conducting prudent**

10   **planning with regard to its large retrofit investment in**

11   **LaCygne and Montrose. Do you agree with that statement?**

12   A   I disagree with that statement.

13   **Q   And you disagree with that because you**

14   **believe that the IRP process in Missouri is such a**

15   **process; is that correct?**

16   A   Yes, I agree the IRP is a formal process to

17   review the Company's planning process.

18   **Q   Okay. Now, turning to page 4, specifically**

19   **at lines 3 to 5, Mr. Biewald points out that the time line**

20   **for the currently pending Integrated Resource Planning**

21   **process with the Commission decision due sometime in 2013**

22   **is not adequate to verify efficient and prudent decision**

23   **making for retrofit processes that are now underway. Do**

24   **you agree with that statement?**

25   A   I would disagree.

1   Q   Okay. You believe that the Commission will

2   have current and up-to-date information in the -- in the

3   Integrated Resource Planning process to make its decision?

4   A   To make what decision?

5   Q   To make a decision about whether or not it

6   is prudent to proceed with the retrofit projects at

7   LaCygne and Montrose.

8   A   I would say it was current as the time it

9   was filed.

10   Q   And when was it filed?

11   A   April of this year.

12   Q   April of 2012?

13   A   Yes.

14   Q   And over what period of time was the

15   information contained in the filing gathered?

16   A   I couldn't tell you specifically the -- the

17   dates of some of the forecasts that are in there.

18   Q   Necessarily, it all predates April of 20 --

19   2012, correct?

20   A   It predates April of 2012, correct.

21   Q   And some of the forecasts predated by a

22   significant amount of time, correct?

23   A   As I said, I don't know the time frame on

24   every forecast that was in there.

25   Q   Okay. And I'm not asking --

1   A   Whether it was significant or not, predated

2 the April 2012.

3   Q   And my question was not about every

4 forecast, but some of the forecasts predates April 2012 by

5 a significant number of months, correct?

6   A   By a number of months, yes.

7   Q   Now, also on page 4 of his direct

8 testimony, Mr. Biewald testified that the economics of the

9 Montrose units are poor and any incremental investment in

10 Montrose should be examined very close -- carefully in

11 order to determine such investments are prudent, both in

12 terms of construction and planning decisions. Do you

13 agree with that statement?

14   A   Which lines are you on?

15   Q   I'm sorry. That was line 7 through 9.

16   A   I would say that, under some scenarios, the

17 economics of Montrose are poor, but not under all

18 scenarios.

19   Q   Okay. And just so the record is clear,

20 when Mr. Biewald uses the phrase "economics are poor", and

21 you just repeated it, how do you -- what do you mean when

22 you use that phrase?

23   A   I would say, when you're looking at

24 deciding whether to continue operation of the plant or

25 retire the plant, if you reach the conclusion because it

1 was more costly for customers that you would retire the

2 plant, I would say that the economics are poor for

3 continued operation of the plant.

4   **Q   Okay. And just to sort of give the**

5 **Commission a bigger picture, why is it that we're**

6 **discussing LaCygne and Montrose as opposed to, for**

7 **example, Iatan-2 when we're talking about retirements and**

8 **retrofits?**

9   A   Well, the reason that we're talking about

10 Montrose and LaCygne is both of those facilities require,

11 or it's anticipated that they'll require additional

12 environmental investments to continue the life of those

13 plants over the next several years. Whereas, the Iatan

14 has the best available control technology installed, and

15 so it doesn't -- it's not subject to those additional

16 costs.

17   **Q   So, not to put words in your mouth, but is**

18 **it -- the reason that KCPL looked at LaCygne and Montrose**

19 **specifically is because, intuitively, it appeared those**

20 **were more likely for benefits of retirement the more you**

21 **operate?**

22   A   Correct.

23   **Q   So, those particular plants merited a**

24 **closer look?**

25   A   That's correct.

 1   Q   All right. Now, Mr. Biewald recommends --

 2   and this is on page 4, lines 11 to 12 -- that the

 3   Commission insist on prudent and planning -- prudent and

 4   proper planning for the LaCygne and Montrose projects. Do

 5   you see that testimony?

 6   A   I do.

 7   Q   And this, I think, is one of the specific

 8   recommendations that you -- that you disagree with in your

 9   rebuttal testimony at page 15. Is that correct?

10   A   Yes.

11   Q   Okay. And just to flesh that out a little

12   further, is your objection to that statement the fact that

13   it's raised by Mr. Biewald in this case or do you object

14   to the notion that the Commission should insist on prudent

15   and proper planning?

16   A   Yes. As I stated on my testimony, there is

17   no need in the context of this rate case to insist on such

18   a process. It's not an objection to proper and prudent

19   planning on the part of the utility.

20   Q   But you don't disagree that the Commission

21   should insist on prudent and proper planning?

22   A   And they do so through the IRP rules.

23   Q   Now, regarding specifically the LaCygne

24   project, do you agree or disagree with Mr. Biewald's

25   statement on page 4 at lines 14 to 15 that planning issues

1   of this magnitude should be addressed in a public and

2   transparent process with full participation from all

3   interested parties?

4   A   I would agree.

5   Q   Okay. Now, do you agree with Mr. Biewald's

6   statement that investments in LaCygne and Montrose -- I'll

7   change this verb -- but that investments in LaCygne and

8   Montrose should not be recoverable from Missouri customers

9   unless the prudence of making those investments is

10   justified in economic terms in a proper planning analysis

11   subject to ongoing examination?

12   A   You want to point to me where you're at?

13   Q   Oh, I'm sorry. Page 4, line 17 through 19.

14   A   I agree that investments would not be

15   recoverable if they weren't justified.

16   Q   Okay. And justified in economic terms?

17   A   Yes.

18   Q   Okay. And do you -- do you believe that

19   that justification is an ongoing justification, the

20   Company has an obligation to continue to reevaluate

21   projects as they go on to see if they continue to be

22   economically justified?

23   A   I believe the Company needs to -- has an

24   ongoing obligation to evaluate those projects.

25   Q   Okay.

1   A   And is -- is doing so and plans to do so,

2   and is actually currently doing so.

3   **Q   Mr. Biewald also testifies on page 4 of his**

4   **direct testimony at lines 22 through 23 that market**

5   **conditions have changed substantially in the last year or**

6   **two. Do you agree with that?**

7   A   The market in this short term has -- has

8   been different than it has been in recent history.

9   **Q   Okay. And let's talk specifically about**

10 **off-system sales markets. Are not -- in all of your**

11 **economic analyses of retrofitting LaCygne and Montrose,**

12 **does not the ability to sell the output of those plants at**

13 **times in the off-system sales market drive the economics**

14 **of retrofitting rather than retiring?**

15   A   That can be a factor in the analysis, yes.

16   **Q   Did you do any analysis of which it was not**

17 **a factor?**

18   A   We did not.

19   **Q   So, in all your analyses, that was a**

20 **factor?**

21   A   Yes.

22   **Q   In terms of the off-system sales market**

23 **engine in the course of this case, has the Company's**

24 **forecast of its margins dropped throughout the course of**

25 **this case, from the filing of direct, rebuttal,**

 1   surrebuttal, anticipated true up?

 2   A   I believe it has.

 3   Q   **Did it not drop during the entire course of**

 4   **the last case?**

 5   A   I believe it did.

 6   Q   **And the case before that?**

 7   A   I don't -- I don't recall if they've all

 8   been consistently downward throughout the course of the

 9   case.

10   Q   **Do you recall any cases since the**

11   **regulatory plan began in which the Company revised its**

12   **off-system sales margins upward during the course of a**

13   **case?**

14   A   I don't recall the specifics of some of

15   those cases.

16   Q   **Okay. So, at least within the course of**

17   **this case, one of the factors of the analysis has changed**

18   **during the course of this case from the Company's**

19   **perspective and changed in a way that is less favorable in**

20   **terms of retrofitting versus retiring Montrose and**

21   **LaCygne; is that correct? Specifically off-system sales**

22   **margins?**

23   A   In the short term, yes, they have. They

24   have decreased.

25   Q   **Okay.**

1   A   The decision on LaCygne is a much longer

2   term. We're looking out over 20-plus years. And what

3   happens in the short-term market really should have no

4   bearing on that particular decision analysis.

5   **Q   So, it's the Company's opinion in the long**

6   **term that the off-system sales margins will change and**

7   **that they will increase significantly over the long term,**

8   **20 years that you're talking about?**

9   A   I would say that it is different than it

10   has been over the last few months. If gas markets that we

11   were facing in the wholesale market that we faced -- if

12   you look at the gas prices over the last eight or nine

13   months, they are as low as they have been since 1999. You

14   know, we had sub-$2 gas prices in April which, as I

15   understand it, are below the cost of production, and it's

16   not anticipated that you're going to have gas prices that

17   low on an extended period of time.

18   **Q   And my question's about off-system sales**

19   **margins. So, if you want -- you've been talking about gas**

20   **prices. If you want to tie that to off-system sales**

21   **margins, I would have to re-ask the question.**

22   A   Yeah.

23   **Q   But my question -- what you said in the**

24   **short-term off-system sales markets are declining, my**

25   **question is, over the 20-year horizon you just mentioned,**

1   **what is the projection of off-system sales markets?**

2   A   It depends on the scenario. When we're

3   making these decisions, because there is so much

4   uncertainty around them, we look at a number of scenarios.

5   And in the case of LaCygne, in the predetermination case

6   in Kansas, we looked at 64 different views of the world.

7   So, in some of those views, we had low gas prices and some

8   of those views we had high gas prices. And in the high

9   gas price world, generally high gas prices lead to higher

10 wholesale electric market prices, so you would see more

11 off-system sales, contribution to offsets to retail rates

12 in those scenarios than you would in the low gas price

13 scenarios.

14   **Q   And the scenarios that you presented to the**

15 **Kansas Corporation Commission, when were the gas price**

16 **forecasts done that were included in those scenarios?**

17   A   They were done at various points in time.

18 I couldn't -- I couldn't tell you specifically. We

19 actually -- we actually use a series of external-provided

20 load forecasts and combine them to come up with a

21 composite forecast which has been shown over time to be

22 even more accurate than between any single particular

23 forecast of gas prices.

24   **Q   Well --**

25   A   And some of these forecasts may only be

 1 done on an annual basis because they are long-term

 2 forecasts. It's not necessarily something that gets

 3 updated weekly or monthly.

 4   Q   When was the -- when was the preapproval

 5 case filed in Kansas?

 6   A   I believe it was February of 2011, but I'm

 7 --

 8   Q   Okay. So, the case was filed a year and a

 9 half ago?

10   A   Yes.

11   Q   And all of the forecasts that were included

12 in that case would necessarily have predated that filing,

13 correct?

14   A   Correct. They would have.

15   Q   Okay. And some of them, if they were only

16 done on an annual basis, may have predated it by up to a

17 year?

18   A   It's possible.

19   Q   Okay. So, some of the forecasts that you

20 refer to may be at this point as much as two and a half

21 years old?

22   A   It's possible.

23   Q   Okay. Okay. Now, returning to Mr.

24 Biewald's testimony in his specific recommendations on

25 page 4, beginning at line 25 and continuing on to page 5,

1   essentially line 3, I broke that down into four specific

2   recommendations, and I'm going to ask you whether you

3   agree or disagree with each of them.

4   And, first, do you agree or disagree that the

5   Commission should articulate that prudent planning

6   includes an obligation for KCPL to, one, actively seek out

7   relevant information? Do you agree or disagree with that?

8   A   I would disagree that the Commission needs

9   to articulate this in the context of a rate case.

10   Q   Okay. And I assume your answer would be

11   the same if I go through his list here, that you disagree

12   that the Commission needs to articulate any of these. Is

13   that true?

14   A   Led me read through these and make sure.

15   Q   Okay.

16   A   Yeah. I don't see it necessary for the

17   Commission to articulate this in the rate case. There's

18   already an appropriate form for this in the IRP process.

19   Q   Okay. So, let me rephrase the question.

20   Do you believe that -- that prudent planning on KCPL's

21   part includes an obligation to actively seek out relevant

22   information?

23   A   Yes.

24   Q   Do you agree that prudent planning on

25   KCPL's part includes an obligation to continue to monitor

1   and reevaluate the decision as construction proceeds?

2   A   In the context of the LaCygne project, yes.

3   Q   Okay. Do you agree that prudent planning

4   on KCPL's part includes the obligation to conduct rigorous

5   planning analysis?

6   A   I would agree.

7   Q   Do you agree that prudent planning on

8   KCPL's part includes an obligation to thoroughly document

9   and communicate the input methodologies and results of

10   those versus within the State Commission?

11   A   I agree.

12   Q   Do you agree prudent planning on KCPL's

13   part include an obligation to look forward in order to

14   include appropriate considerational reasonably anticipated

15   regulatory requirements?

16   A   I would agree.

17   Q   Okay.

18   A   All things which are already required under

19   the IRP process in Missouri.

20   Q   Now, turning ahead in Mr. Biewald's

21   testimony to page 6, and this is -- I'm going to ask you a

22   question about a specific item within the context of a

23   longer answer that begins on page 5, line 17. But the

24   question I have for you is whether or not you agree that,

25   once construction of a major project such as the LaCygne

1   retrofit is complete, there is no way to truly avoid the

2   costs of a imprudent decision-making. Do you agree with

3   that?

4   A   You want to restate that?

5   Q   Well, once a decision has been made and

6   implemented and the monies are expended, if it is later

7   found to be an imprudent decision, there's no way to

8   completely avoid those costs that have already been spent;

9   is that true?

10   MR. FISCHER: Judge, I think that probably

11   calls for a legal conclusion that is beyond his scope.

12   JUDGE JORDAN: I don't think it does call

13   for a legal conclusion, so I'll overrule that objection.

14   A   (By the Witness) If you're saying the

15   money is spent, yes, the money is spent.

16   Q   There's no way to unspend it, correct?

17   A   Potentially a portion of it, but certainly

18   -- certainly not the majority.

19   Q   Okay. So that -- that the best that a

20   regulatory body such as the Missouri Commission can do is

21   prevent some of those costs from going to ratepayers?

22   A   Yes.

23   Q   Okay. Now, further on in Mr. Biewald's

24   testimony at page 9, he's discussing really that the

25   analysis of the economics of the retrofits, and the

1   question that I'm going to turn to is at the bottom of

2   page 9 and the answer that begins at line 20. And,

3   specifically, at the time that he filed this testimony, he

4   noted that spot prices for natural gas at Henry hub

5   started at 2011 at about $4.50 per MMBtu, declined during

6   calender year 2012 to about $3.00 versus at the end of

7   2011, and that so far during 2012 spot gas prices have

8   dipped to a low of below $2 per MMBtu. Do you agree with

9   those prices at the Henry hub and the chronology that's

10 set forth there?

11   A   I have not checked the numbers, but I don't

12 have any reason to doubt them.

13   Q   Okay. You do recall, I'm sure, that spot

14 prices dipped to below $2 per MMBtu earlier this year?

15   A   Correct.

16   Q   Okay.

17   A   Gas prices change, and they change every

18 day.

19   Q   Is it your understanding generally that

20 over the last few years that most forecasters have, for

21 the long term, decreased their forecasts of future natural

22 gas prices?

23   A   Yes. Generally speaking, those forecasts

24 have come down.

25   Q   Okay. And do you agree that those

1   forecasts for -- well, let me get you to clarify your last

2   answer. Over what period of time were you stating that

3   those forecasts have come down? What period is the

4   forecast that you say that they will come down?

5   A   I'm talking about a 20-year forecast.

6   Q   Okay. Now, you mentioned that in the KCC

7   proceeding that the Company provided 64 different

8   scenarios, correct?

9   A   Correct.

10   Q   And do you know the approximate number of

11   those scenarios in which it was more economic to retire

12   LaCygne and Montrose -- LaCygne and/or Montrose -- than to

13   retrofit them?

14   A   Um, not the and/or part. In terms of the

15   LaCygne decision, I believe it was somewhere around three-

16   quarters of the time it made sense to retrofit the plant

17   and about a quarter of the scenarios it made sense to

18   retire the plant.

19   Q   And, in any of those scenarios, did the

20   Company forecast long-term gas prices to remain at below

21   $5 per MMBtu?

22   A   I believe our low gas price scenario was

23   pretty consistent below $5, but I don't recall the

24   specific numbers in the 20-year forecast.

25   Q   Okay. And how many of those, those

1   scenarios, contemplated that the price of natural gas

2   would remain at or below $6 per MMBtu over the planning

3   horizon?

4   A   I can't tell you how many of the four had

5   that in there.

6   Q   Okay. Would it be a few of them or most of

7   them?

8   A   Some of them. I couldn't tell you the

9   specific numbers.

10   Q   In terms of the forecast that -- the

11   forecast or range of forecast that the Company believed to

12   be most likely at the time that you filed your KCC, what

13   was the gas price range or the 20-year horizon?

14   A   It started out around $4, and I couldn't

15   tell you what it went to at the end of the 20-year period.

16   Q   You just don't recall?

17   A   No.

18   Q   Okay. In terms of what the Company is

19   currently looking at as it continues its ongoing

20   evaluation of the economics of LaCygne and Montrose, what

21   is the Company's current belief as to the 20-year horizon

22   on gas prices?

23   A   I don't have the numbers on the latest

24   long-term composite forecast.

25   Q   You have no idea what those are?

1   A   I do not have the specific numbers, no.

2   **Q   Can you generally give me an idea of what**

3   **those numbers are?**

4   A   No.

5   **Q   Okay. Now, at page 13 of his testimony,**

6   **Mr. Biewald, at lines 20 and 21, states that the economic**

7   **merits of spending on retrofits for LaCygne would be**

8   **reduced with the declining sales, and here I think he's**

9   **talking about both native load and off-system sales. Do**

10   **you agree with that statement?**

11   A   I would say the economics of the retrofit

12   are reduced when you have lower off-system sales.

13   **Q   And how about lower native load sales?**

14   A   In the -- in the past, we have found that

15   the variability on the load forecast itself is -- is not,

16   um -- I don't believe it would be critical to the

17   decision. Of course, if load all went away, you wouldn't

18   need LaCygne, but the variable of the load forecast

19   itself, I'm not sure how significant that is in that

20   particular decision given expected variability of it.

21   **Q   Okay. And I'm not saying it is, but if the**

22   **expected variability was, say, between 0 percent for the**

23   **20-year planning horizon and 3 percent for the 20-year**

24   **planning horizon, that could have an impact?**

25   A   It potentially could.

1   Q   Okay. Do you recall what the range of

2   variability you are looking at in your horizon -- in your

3   planning horizon for native load growth?

4   A   I do not have those numbers with me.

5   Q   That is not my question. Do you know those

6   numbers?

7   A   No, I'm sorry. I do not know those

8   numbers.

9   Q   At page 15 of Mr. Biewald's testimony, the

10   very first question and answer on that page, in the

11   answer, specifically at lines 3 to 4, Mr. Biewald is

12   referring to the testimony of KCPL witness Terry Vasom

13   (ph) that declining revenue from off-system sales is one

14   of the primary reasons for KCPL's request in this case.

15   Do you agree that dwindling revenues from off-system sales

16   is one of the primary reasons for KCPL's rate increase at

17   this time?

18   A   I believe that's a component of it.

19   Q   Is it one of the primary reasons?

20   A   I haven't investigated all of the reasons

21   for this, but I have no -- no -- no reason to doubt that

22   given the --

23   Q   Now, also on page 15 of his rebuttal

24   testimony, Mr. Biewald states that -- and here is

25   referring to the direct testimony of Mr. Ives -- that low

1   natural gas prices and the slow economic recovery, as well

2   as the addition of Iatan-2, contributed to reduction in

3   demand for further capacity resources such as energy

4   efficiency in the near term. Do you agree with that?

5   A   Yes.

6   Q   Okay. Now, earlier I believe you agreed

7   that in order for KCPL to be conducting a prudent planning

8   process that it must look forward in order to include

9   appropriate consideration of all reasonably-anticipated

10   regulatory requirements. Do you recall that?

11   A   Yes.

12   Q   Okay. With respect to specifically

13   LaCygne, the retrofits, what analysis has the Company done

14   of the potential costs of Environmental Protection Agency

15   rules that may require the installation of cooling towers

16   that was seen?

17   A   We have developed estimates for the cost of

18   the cooling towers, and they're included in the analysis.

19   Q   Okay. So, you have done scenarios in which

20   you included potential additional costs to LaCygne of

21   installing cooling towers?

22   A   Correct, even though there's not a current

23   requirement that we have to have cooling towers. But,

24   given the uncertainty over the issue, and it's not an

25   insignificant course, it was factored into the analysis.

1   Q   Would you agree that there is more reason

2   today to consider that as a possible future cost than

3   there was, say, five or ten years ago? That there is

4   activity at the Federal Environmental Protection Agency

5   that makes that look as though it's a real possibility?

6   A   Yes. Certainly more than 10 years ago.

7   I'm not sure about the discussion five years ago precisely

8   when it became -- looks like it was more likely than not.

9   Q   Even five years ago, there weren't specific

10   rules that were under discussion that would have required

11   cooling towers, correct?

12   A   Those have been under -- just revisions of

13   rules have been under discussion for quite some time. I

14   don't know when they first started.

15   Q   Okay. And with respect to specifically the

16   costs of cooling towers, have you done any sort of

17   analysis to say that, if the company judges that it is

18   quite likely that those costs will need to be incurred in

19   the future, at what point it becomes uneconomic to

20   retrofit LaCygne?

21   A   I believe we did a break-even analysis back

22   at the time of the predetermination -- and I may not have

23   the numbers correct -- but I was thinking it was somewhere

24   in the order of $400 million, given the assumptions at the

25   time. It's kind of a break-even, an additional million

 1   dollars.

 2   Q   So that -- let me see if I can flesh that

 3   out a little more. So, given the Company's best

 4   estimation of all the other forecasts and things likes gas

 5   prices and off-systems sales margins, that the Company

 6   believes that it could spend an additional 4 million --

 7   how much?

 8   A $400 million.

 9   Q   -- $400 million on cooling towers at

10   LaCygne and still have it be an economic investment?

11   A   We have -- we have not done an evaluation

12   specifically on how much more a cooling tower would cost

13   before you would decide to retrofit. What I was referring

14   to is the -- the -- we did look at the investment at

15   LaCygne and another $400 million being spent, if you spend

16   400 million on the current projects, that it became break-

17   even with the decision to retire. So, I guess if you want

18   to, you could look at that as a cooling tower on top of

19   the cooling tower costs that we already had in there.

20   Q   And that $400 million additional was

21   determined on the basis of what particular type of gas

22   price forecast?

23   A   It wasn't in the gas forecast at the time

24   of the predetermined study, and I don't recall if this was

25   an analysis on specifically the base or if it was an

1   expected value or the range of potential gas forecasts.

2   **Q   But, in order to come up with a specific**

3   **$400 million figure, it would have had to have a fairly**

4   **specific gas price forecast, correct?**

5   A   Yes, or range of forecast.

6   **Q   Wouldn't a range of forecast give you a**

7   **range of -- a range rather than a point estimate of $400**

8   **million?**

9   A   Not necessarily, if you were looking at it

10   on an expected value basis.

11   **Q   But an expected value, you would have a**

12   **single expected value basis or future value of expected**

13   **gas prices. Is that what you're saying?**

14   A   No. What I'm saying is is you could be

15   looking at a number of scenarios, in 64 different

16   scenarios, and make a determination at what point the

17   additional capital would be expected value, where present

18   value requirements basis would become break-even.

19   **Q   Now, with respect to other reasonably-**

20   **anticipated regulatory requirements, has KCPL done an**

21   **analysis of possible actions by the Federal EPA with**

22   **respect to coal combustion residues?**

23   A   Yes. We had some costs included for

24   dealing with coal ash issues.

25   **Q   And have you determined -- and just to back**

1   up a little bit -- is it your understanding that the EPA

2   is essentially considering two different paths in terms of

3   how it may enact future regulations for coal ash?

4   A   Yes. Generally.

5   Q   Okay. And I'm going to try to keep it

6   fairly generally, because we can get down to the meats of

7   that and I don't think we need to at this time. The

8   Judge's patience may be wearing thin on me already.

9   But one of those paths, at least, could entail a

10   significant cost of compliance at LaCygne, correct?

11   A   It could, yes.

12   Q   And did the company do an analysis to

13   figure out exactly what the cost would be at LaCygne to

14   comply with those types of future regulations?

15   A   The company has an estimate, yes.

16   Q   Okay. And is that estimate highly

17   confidential?

18   A   I would say that it would be.

19   Q   Okay.

20   A   And --

21   Q   Let me ask a more general question then so

22   we don't have -- because I don't necessarily know the

23   specific number is relevant to the general conclusion.

24   Has the company done an analysis to determine

25   whether or not it would be prudent to proceed with the

1   retrofits at LaCygne that are currently planned if the

2   Company judges that it is likely that both the cooling

3   tower and the coal ash regulations come into place?

4   A   Did we factor that in?

5   Q   Did you do an analysis that shows that it

6   is economic to do all of the retrofits at LaCygne,

7   including the ones that you've currently planned, plus a

8   cooling tower plus coal ash regulations?

9   A   Yes.

10   Q   And was it your determination that it was

11   prudent to do all of those retrofits at LaCygne?

12   A   Yeah. Not only was it our conclusion, it

13   was also the KCC's conclusion in the determined case that

14   was prudent.

15   Q   And, again, based on what gas prices, if

16   you know?

17   A   As I said, we've got three different

18   scenarios for gas prices, and I don't have those numbers.

19   Q   Okay.

20   A   But they predated April, or probably

21   February 2011.

22   Q   Okay. And just in general terms, do you

23   recall with respect to the low base and high gas price

24   forecasts whether the economics of the decision were

25   favorable to retrofit LaCygne under all three?

1   A   Generally speaking, under low -- under low

2   gas price scenarios, there were scenarios where it said it

3   would be more -- models would indicate in an economic

4   perspective that it would be more economic to retire

5   LaCygne.

6   **Q   And those models came to those conclusions**

7   **even without consideration of cooling towers and coal ash**

8   **treatment?**

9   A   That included coal ash treatment and

10 cooling towers.

11   **Q   Okay. And -- but don't you -- you have**

12 **some low gas price scenarios that show that it is economic**

13 **-- more economic to retire LaCygne and Montrose rather**

14 **than retrofit, even without consideration of cooling**

15 **towers and coal ash residue; is that correct?**

16   A   I wouldn't say we've done the analysis that

17 excluded cooling towers and coal ash to look at

18 retirement. You know, I don't know if those were the

19 factors that pushed it -- pushed it over the edge under a

20 particular low gas price scenario or not. Our analysis

21 included all those factors. We've not done an analysis

22 that specifically looked at the retrofit to the exclusion

23 of those other factors.

24   **Q   Okay. And let me back you up a little bit,**

25 **because I wasn't -- I wasn't just asking about the**

1   analyses that you submitted to the KCC. I'm talking about

2   all the analyses that you've done during the planning

3   process leading you to determine to go forward with the

4   LaCygne retrofits. Are you saying that you have never

5   done any analyses that look only at the cost of the

6   currently planned retrofits?

7   A   I don't know that we've isolated that

8   factor just by itself.

9   Q   Okay. And I'm thinking specifically about

10   analyses that you provided to Public Counsel and the

11   Public Service Commission Staff in the early months of

12   2011, but probably a year before you -- well, in the early

13   months of 2011 following a meeting that we had in the fall

14   of 2010.

15   A   Yeah. Those analyses would have included

16   cooling towers and dealing with coal ash issues.

17   Q   How would those issues, just in general

18   terms, be monetized in the present value credit analysis?

19   A   How would they have been monetized? Well,

20   we would have had any capital and 1M cost associated with

21   that in the model and the revenue requirements that would

22   have been associated with that and the time frame they

23   would be installed, and then the present value of that

24   revenue requirements discounted back at average rated,

25   average costs of capital.

1   Q   So, your testimony is that, even back then,

2   you had a monetary estimate of the costs of compliance

3   with projected EPA regulations that was reflected in your

4   analysis?

5   A   Yes. Probably so.

6   MR. MILLS: Judge, I would like to have an

7   exhibit marked. I believe, if my numbers are correct, I'm

8   up to 318, and this would be a highly confidential

9   exhibit.

10   JUDGE JORDAN: We'll be taking testimony on

11 highly confidential matters then.

12   MR. MILLS: I don't know if we will get

13 into the matters that are highly confidential. This was

14 provided to me as -- this was provided to me sometime ago

15 as highly confidential. I don't know whether it still is.

16   JUDGE JORDAN: Okay. We'll take some

17 testimony on it.

18   MR. MILLS: Just to be safe, I'm going to

19 consider it highly confidential until I hear otherwise.

20   Q   (By Mr. Mills) Now, Mr. Crawford, just to

21 sort of set the stage, do you recall meeting with the

22 Public Counsel and the Public Service Commission Staff in

23 the fall of 2010 to talk about the LaCygne planning

24 process?

25   A   I do not. I believe we met in March of

1   2011 to talk about the process and then a follow-up

2   meeting in July of 2011.

3   Q   Okay. And you don't recall a meeting

4   earlier than that?

5   A   I do not.

6   Q   Okay. So, the meetings that you recall

7   were March and July of 2011?

8   A   Yes. I believe the March meeting was

9   subsequent to the filing of the predetermination case in

10 Kansas.

11   Q   Okay. And do you recall any meetings since

12 July of 2011?

13   A   No, not right off.

14   Q   Okay. Turning to what has been marked as

15 Exhibit 318, and I'll represent this to you and you can

16 tell me whether you agree or disagree. This is a part of

17 a series of data requests that the Public Counsel

18 submitted to KCPL in furtherance of Public Counsel's

19 investigation into the planning process about the LaCygne

20 retrofits. Do these appear to be data requests as

21 submitted to KCPL and the responses made thereto?

22   A   It appears to be the case.

23   Q   Okay. And turning specifically to what's

24 labeled as Question No. 109 which appears on page --

25 what's labeled as page 8 of 10 of this document, does the

1   **answer generally indicate that, at least as of January of**

2   **2011, that the Company was unable to provide an estimate**

3   **of the assessment of the likelihood of the outcomes of**

4   **various EPA rules regarding cooling towers?**

5   A   Do you need me to read the DR in response?

6   But there's certainly uncertainties about the likelihood

7   of cooling towers being -- being required.

8   **Q   Okay. And with respect to the data request**

9   **that's labeled No. 107, that asks some questions about**

10   **cool combustion residues, correct?**

11   A   Yes.

12   MR. MILLS: And, Judge, I apologize, but I

13   might -- I don't know about the other parties' copies, but

14   my copy only has every other page shown. I meant to copy

15   two sided, but it appears not to have. Does the bench

16   have pages 6, 8, and 10, and not 7 and 9?

17   JUDGE JORDAN: That's correct. I have 6,

18   8, and 10 only.

19   MR. MILLS: Okay. There should be more to

20   this, but --

21   MS. KLIETHERMES: It appears I have the odd

22   numbers. So, if you want to combine --

23   MR. MILLS: Okay. You have 6, 8, and 10 as

24   well.

25   MS. KLIETHERMES: Oh, I'm sorry. I was

 1   looking at the DR numbers.

 2   MR. MILLS: Okay.

 3   Q   (By Mr. Mills) Well, let me just ask

 4   generally, is it your understanding that when you were

 5   doing analyses at this time, at the very beginning of

 6   2011, that your analyses included actual dollar amounts

 7   for coal combustion residues and cooling towers?

 8   A   If you're talking about the LaCygne

 9   predetermination case, they were the fact or in the

10   analysis?

11   Q   And I'm not. I'm talking about analyses

12   that you would have done at the end of 2011 that were

13   provided to the Missouri Public Counsel and Missouri

14   Commission Staff prior to the filing of the KCC

15   predetermination case.

16   A   I believe they would have consideration of

17   those factors in the analysis.

18   Q   And when you say consideration, do you mean

19   that you would have put them into the present value of

20   revenue requirement at 100 percent of the expected value

21   of the cost of those projects?

22   A   I believe so.

23   Q   Okay. Is that consistent with how you

24   would do possible future environmental regulations in the

25   IRP process?

1   A   Yes.

2   **Q   Okay. So, in the IRP process, if you**

3 **envision that there is a 10 percent likelihood of a future**

4 **environmental regulations that costs a hundred million**

5 **dollars, you would put in a hundred million dollar**

6 **valuation in the present valuation requirement?**

7   A   If it had a 10 percent likelihood, I don't

8 know. I mean, we've had an expectation that cooling

9 towers and low combustion residuals would be a factor, so

10 we've got the full cost what we think a cooling tower is

11 going -- is going -- is going to be, and I believe we've

12 included in all of the different scenarios that we -- that

13 we look at, and not necessarily apply a probability factor

14 to that particular issue, even though it is uncertain.

15   **Q   Okay.**

16   A   There's even -- there's even uncertainty

17 about that issue whether it's a lake -- a lake plant or a

18 river, a river plant, and whether they're going to be

19 required generally to thinking as river plants are

20 probably going to get a requirement before the lake plants

21 will, if ever. But when we're doing the LaCygne analysis,

22 we assume, I guess you could say, a conservative approach

23 that even though it's on a lake that there's, you know, a

24 chance that there's going to be a cooling tower required.

25   **Q   And what -- what is the amount that you've**

1   plugged into your present value government analysis for

2   that cooling tower?

3   A   I couldn't tell you.

4   Q   Okay. And what is the amount that you put

5   into that present value of revenue requirement analysis

6   for the more stringent of the possible future regulations

7   on coal combustion residues?

8   A   I don't believe we've factored in the more

9   stringent. You know, there's uncertainty about the rule

10   itself and when -- what it's going to look like, by costs

11   for closing ponds and dealing with losing the ash.

12   Q   It's your testimony that you have not done

13   an economic analysis that includes the cost of the more

14   stringent of the possible EPA regulations on coal

15   combustion residue?

16   A   I'd say that it's based on an expectation

17   of what would be required. It's possible that it could be

18   more and rules aren't issued. We don't know what it's

19   going to look like. We don't know to what extreme the

20   rules are going to be taken or not taken.

21   Q   Okay. So, just to get right to the point,

22   you have not done a worse-case analysis that takes into

23   account the economic considerations and does the present

24   value of revenue requirement of the benefits of retiring

25   versus retrofitting LaCygne that takes into account the

1   possible impacts of the more stringent path that the EPA

2   may take with coal combustion residues?

3   A   A worse-case on coal combustion residuals,

4   I don't believe.

5   Q   Okay. And -- okay. So, you have no idea

6   were -- if those rules were to be implemented, what that

7   would mean for the future operations of LaCygne?

8   A   We don't know what those rules look like.

9   Q   Okay. And you don't even know, if those

10 rules were to be implemented, whether it would have made

11 economic sense to proceed with the retrofits at LaCygne

12 that are currently planned?

13   A   We don't know how far, how restrictive the

14 rules on coal ash would be. We've made an estimate and

15 have included it.

16   Q   But just to get a yes or no answer to my

17 question, you have not done an economic analysis that

18 shows that the retrofits that you are currently

19 undertaking at LaCygne would be justified if the EPA would

20 take the more stringent path with respect to coal

21 combustion residues?

22   A   No, we do not know what that would -- what

23 that would look like.

24   Q   And, so, you haven't done an analysis that

25 shows that the current retrofits are economical if that

1   **path were to be chosen?**

2   A   We don't know what that path is.

3   **Q   If based on the materials that the EPA has**

4   **already established showing the possible paths that they**

5   **may go down with respect to coal combustion residues, have**

6   **you done an analysis that shows that the current retrofits**

7   **would be economical if the EPA goes down its more**

8   **stringent path?**

9   A   No.

10   **Q   Okay.**

11   MR. MILLS: That's all the questions I

12   have.

13   JUDGE JORDAN: Thank you.

14   Questions from Staff.

15   MS. KLIETHERMES: No. Thank you, Judge.

16   JUDGE JORDAN: No questions from the bench.

17   Redirect.

18   MR. FISCHER: Just briefly.

19   REDIRECT EXAMINATION BY MR. FISCHER:

20   **Q   Mr. Crawford, I believe you were pointed to**

21   **page 4 of Mr. Biewald's testimony at lines 25 through 29**

22   **or so. Do you want to refer to that?**

23   A   Okay.

24   **Q   And that question seems to suggest that --**

25   **or that answer, I guess -- I believe you were asked, Well,**

 1   do you agree with that, and do you recall that?

 2   A   I do.

 3   Q   And did you indicate you didn't agree with

 4   that the way it's stated in that paragraph?

 5   A   Yes. I don't believe the Commission needs

 6   to order us to do these things in the context of this rate

 7   case.

 8   Q   Does the Company do prudent planning or

 9   does the Company feel it has an obligation to do prudent

10   planning to actively seek out relevant information,

11   conduct rigorous planning analysis, continue to monitor

12   and reevaluate the decision as construction proceeds, and

13   to thoroughly document and communicate the input

14   methodology and results of those planning analysis?

15   A   Yes.

16   Q   And how do you do that? What context would

17   you do that?

18   A   You generally file -- follow the Missouri

19   IRP rules.

20   Q   Is that an active process?

21   A   Yes.

22   Q   Do you know if the parties have had calls

23   as recently as this week about that process?

24   A   I believe there were calls this week, yes.

25   Q   I believe you were asked a question about

1   the preapproval case filed in Kansas in February of 2011,

2   and you were asked about the forecast, the age of the

3   forecasts in that case?

4   A   Yes.

5   Q   I believe you said it was probably -- or

6   you suggested it was two and a half years maybe?

7   A   From -- from today. It wouldn't have been

8   as of the time that the filing was made.

9   Q   Do you do more recent forecasts as a part

10   of your planning process than that?

11   A   Yeah. Oh, each time we do it, we update

12   the -- update the long-term forecast available.

13   Q   Would your next annual IRP filing include

14   an updated forecast?

15   A   Yes.

16   Q   And when would that happen, likely?

17   A   In 2013.

18   Q   As a part of your current IRP process, do

19   you know if the Company has sought a statement from the

20   Commission that its current planning process with GMO is

21   reasonable?

22   A   Yes, we have.

23   Q   Do you know if some parties, including

24   Public Counsel, may have opposed that?

25   A   I believe they did.

 1   MR. FISCHER: I think that's all I have,

 2   Judge. Thank you.

 3   JUDGE JORDAN: Thank you. I think this is

 4   a -- you may stand down for now. I think this is a good

 5   time for a break, so let's take 15 minutes. Fifteen

 6   minutes from now.

 7   (A BREAK WAS TAKEN.)

 8   JUDGE JORDAN: We're back on the record.

 9   Is there anything we need to do before we

10   take up the issue of transmission tracker by starting with

11   opening statements? Anything before that?

12   (No response.)

13   JUDGE JORDAN: I'm not seeing anything.

14   So, let us have the opening statement on that subject from

15   Kansas City Power & Light Company and KCP&L GMO.

16   MR. FISCHER: Thank you, Judge. May it

17   please the Commission. The issue that we're hearing this

18   morning is in the list of issues as should the Commission

19   authorize KCPL and GMO to compare their actual

20   transmission expenses with the levels used for setting

21   permanent rates in these cases and to accrue and defer the

22   difference into a regulatory asset. This is the issue

23   that we'll just shorthand. I'm sure the rest of the

24   morning is the transmission tracker issue.

25   The Company's request that the Commission

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1   authorize a use of a transmission tracker mechanism to

2   insure appropriate recovery of transmission costs as a

3   result of charges from SPP and other providers of

4   transmission service. The Companies believe that these

5   transmission expenses are appropriate candidates for a

6   tracker mechanism because they are material, they're

7   expected to change significantly in the near future, and

8   are primarily outside the control of Kansas City Power &

9   Light and GMO.

10   Transmission charges and costs can change

11   significantly from year to year, and such costs are

12   material as one of the components of the costs service.

13   Historically, transmission costs have fluctuated due to

14   load variations, both the native load and the off-system

15   load. However, we're currently experiencing increasing

16   costs for SPP's region transmission upgrade projects and

17   increasing SPP's administrative fees. We expect those

18   costs to continue to increase, and to increase

19   significantly to the Companies.

20   The direct testimony of John Carlson

21   includes some tables that show just how dramatically the

22   SPP transmission costs allocated to KCPL and GMO have been

23   rising, and projections from SPP show that these expenses

24   will continue to increase through 2017, recede slightly

25   2018, and then increase 2019. I put on the ELMO the table

```
 1   from John's testimony that I thought might be helpful.

 2                   This particular one is projections for

 3   KCPL.  SPP projects that transmission costs allocated to

 4   KCPL will be $18.4 million for the calender year 2012, and

 5   they'll increase in 2015 and peak at over $45.2 million in

 6   2019.  This equates to approximately a 14 percent increase

 7   per year over that particular time frame.

 8                   If we turn to GMO, for GMO, SPP projects

 9   the transmission costs allocated to GMO will be $6.8

10   million for the calender year 2012 and will increase to

11   9.2 in 2014, and peak at over $16.7 million in 2019.  This

12   also equates to about a 14 percent annual increase over

13   that time frame.  These projections reflect both zonal and

14   regional-wide components of the cost of SPP-approved

15   projects, and the increases are primarily driven by the

16   region-wide components.

17                   Darrin Ives' direct testimony includes a

18   schedule that shows how transmission costs have increased

19   significantly in recent years and are projected to grow at

20   an even faster pace in the future.  For KCPL, the total

21   transmission expenses were 17.3 million in the year 2008,

22   and they grew to 27.1 million in 2011.  By the end of this

23   year, they're projected to be 39 million, and in three

24   years they're projected to be nearly $59 million.  He also

25   has similar figures for GMO.
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1   The Company's proposed that transmission

2   costs as defined in the transmission tracker be set in the

3   true-up process of this rate proceeding. The Companies

4   would then track its actual charges on an annual basis

5   against the amount that was determined in the true up with

6   the jurisdictional portion of any excess treated as a

7   regulatory asset which would be found in Account 172, and

8   the jurisdictional portion of any shortfall would be

9   treated as a regulatory liability, which is normally

10   Account 254. The regulatory asset or liability would be

11   included in rate base.

12   In the last KCPL and GMO rate cases, the

13   Company recommended a transmission tracker mechanism, and

14   the Staff supported with modifications the Company's

15   proposed tracker mechanism. However, the issue was

16   withdrawn and was never pursued. In this case, in Staff

17   surrebuttal testimony, Staff witnesses Mark Oligschlaeger

18   and Dan Beck have opposed the transmission tracker, but

19   they've also had suggested conditions that the Commission

20   decided to approve the transmission tracker.

21   The Staff's first condition is that the

22   tracker reflect both transmission revenues and expenses

23   and, thereby, operate as a two-way mechanism tracking both

24   under and over collections at that transmission cost.

25   This condition could potentially be acceptable to the

 1   Companies if it was appropriately limited to the revenue

 2   related to local or what is sometimes called zonal

 3   transmission revenues.

 4   It's unacceptable to the Companies, though,

 5   to include revenues related to regional transmission

 6   facilities. Such regional facilities are paid for by all

 7   SPP members through SPP's cost allocation formulas.

 8   KCPL's Missouri Operation and GMO only pay about 4 percent

 9   each for such regional transmission projects, and it would

10   be inappropriate to include the revenues that the

11   Companies would receive from other SPP members for such

12   projects since they only pay together about 8 percent of

13   the costs. Some mechanics would have to be worked out to

14   address the timing issues between the cost recovered for

15   Missouri customers and the revenues received from SPP

16   based upon the Company's formula rates. And the Company

17   and the Staff have been meeting to talk about those kind

18   of timing issues.

19   The second Staff condition is that KCPL

20   will provide all parties certain information and reports

21   related to transmission expenses and revenues. Now, the

22   second condition is acceptable to the Companies.

23   The third condition is that all rate-making

24   considerations regarding transmission revenue and expense

25   amounts deferred by the Company pursuant to the tracker be

 1   reserved to the next rate case proceeding, including an

 2   examination of the prudence of the revenues and the

 3   expenses. And, so, we would be looking at these again in

 4   the next rate case. And this condition is also acceptable

 5   to the Companies.

 6   I'll discuss the Staff's fourth condition

 7   related to affiliates in just a minute.

 8   The Staff's fifth condition indicates that

 9   nothing in any order authorizing the Company's use of a

10   transmission tracker is intended to amend, modify, alter,

11   or supercede this Commission's order or agreement by the

12   Commission concerning KCPL involvement in SPP or treatment

13   of SPP transmission revenues and expenses. That

14   condition, the fifth condition, is also generally

15   acceptable to the Companies.

16   Staff's sixth condition indicates that the

17   transmission tracker mechanism cease if the Company

18   reports that its earnings are at or in excess of its

19   authorized ROE on a 12-month rolling forward average basis

20   as stated in quarterly earnings surveillance reports to

21   the Commission. Now, the Company's unfamiliar with any

22   other tracker mechanism that has this type of condition.

23   The Company believes the sixth condition is

24   unnecessary since it's the very nature of a tracker that

25   you track the transmission expenses and revenues, and the

1   Company will credit to customers any incremental amount

2   above the level of transmission costs included in rates.

3   Now, for many years, KCPL has filed more

4   detailed annual surveillance reports with Commission Staff

5   rather than a monthly or a quarterly surveillance report.

6   This annual surveillance report takes about a month to

7   prepare. If the Staff's sixth condition was adopted, it

8   would be necessary for KCPL to begin filing surveillance

9   reports more often than it currently is. The Company's

10   willing to file quarterly surveillance reports, but they'd

11   need to be consistent with probably the GMO reports that

12   are being filed and not as detailed as KCPL's current

13   annual filing. Also, different than GMO, KCPL's

14   surveillance reports would need to address the

15   jurisdictional allocations between Missouri and Kansas.

16   Now, going back to Staff's fourth

17   condition. According to Mr. Oligschlaeger's testimony,

18   the purposes of this condition is to require KCPL to pass

19   through SPP transmission revenue requirements to Missouri

20   retail customers calculated on equivalent basis with the

21   Missouri Commission rate-making practices. This condition

22   is a condition that is, apparently, intended by Staff --

23   Staff to have KCPL impute into its tracker mechanisms a

24   level of transmission revenues earned by any transmission

25   affiliate related to Missouri jurisdictional service

 1   territory.

 2   Now, as I understand, the Staffs want to

 3   lower the Federally-transferred charges included in the

 4   transmission expenses to a level that would be consistent

 5   with the ROE and the conditional structure established by

 6   the Missouri Commission on the KCPL rate cases which has

 7   historically been at least on lower than what the forecast

 8   has used to establish transmission rates.

 9   Beck also includes the inclusion of

10   construction work and progress. As I understand the Staff

11   proposal, Staff would make an adjustment to eliminate CWIP

12   from the Federally-approved transmission charges paid by

13   KCPL. Excuse me. This condition was not included in

14   Staff's testimony in the last case, and we believe it's

15   inappropriate and unnecessary. If the Commission adopted

16   such an approach, though, any condition should be limited

17   to only transmission facilities that are constructed by a

18   KCPL affiliate and KCPL and GMO-certificated service area

19   and are subject to regional cost allocation by SPP.

20   In other words, such a condition should be

21   limited to the sellees in KCPL and GMO service area where

22   the Companies have the 8 percent share of regional

23   transmission facilities, and that's what they pay. I

24   should emphasize that whether KCPL, GMO, or some other

25   affiliate or some other entity bills regional facilities

 1   in KCPL's and GMO service areas, Missouri ratepayers only

 2   pay that 8 percent.

 3   In conclusion, the Companies would

 4   respectfully request the Commission implement a

 5   transmission tracker as proposed by the Company including

 6   appropriate conditions. Darrin Ives and John Carlson will

 7   be the Companies' witnesses, and I am confident they'll be

 8   able to answer your questions. Thank you.

 9   JUDGE JORDAN: Thank you, Counselor.

10   I've got a few questions, and they're pretty elementary

11   --

12   MR. FISCHER: Okay. Well, I'll try.

13   JUDGE JORDAN: -- so I hope you can be

14   patient with me. You referred to an Account 182; is that

15   correct?

16   MR. FISCHER: Yes.

17   JUDGE JORDAN: And that discusses deferred

18   recording; is that correct?

19   MR. FISCHER: Yeah. That's where the

20   regulatory assets usually appear.

21   JUDGE JORDAN: Okay. And we're talking

22   about Count 182 in the --

23   MR. FISCHER: Uniformed System of Accounts.

24   JUDGE JORDAN: Okay.

25   MR. FISCHER: Right, uh-huh. And the

1 corresponding regulatory liability count was the 254 I

2 mentioned. That's just how we do the recording of the

3 incremental, either increase or shortfall, depending on

4 whether it was a regulatory asset or regulatory liability.

5   JUDGE JORDAN: Okay. Any other authorities

6 as Commission regulations, for example, that tells when we

7 apply a tracker?

8   MR. FISCHER: There aren't any specific

9 rules that I'm aware of. There's been policies to adopt

10 trackers for things like pensions. We have one more the

11 Companies -- I think Ameren has some for their investment,

12 or their vegetative management programs, and I know there

13 are requests pending in other dockets for a transmission

14 tracker as well.

15   JUDGE JORDAN: And the reason I ask is

16 because the parties as you have all been discussing

17 certain criteria that support or militate against a

18 tracker. I'm just wondering what standard of law to

19 compare those to. Is 1 and 2 going to be the only

20 standard of law I'm going to have?

21   MR. FISCHER: You know, that's really only

22 an accounting account. I think just and reasonable rates

23 is what we're trying to get to here, and that would

24 probably be a legal standard you would look at.

25   JUDGE JORDAN: I agree.

 1   MR. FISCHER: Of course, you recall from my

 2   opening on 82, this is one of the very important

 3   mechanisms that could help the Companies stay out longer

 4   between rate cases.

 5   JUDGE JORDAN: Okay. Between the --

 6   between the -- but between the standard of just and

 7   reasonable rates which is where we're headed, ultimately,

 8   for these tariffs and the standards set forth in Account

 9   182 as adopted by the Commission by regulation, there

10   aren't any other standards --

11   MR. FISCHER: I would think the Commission

12   has often looked at questions like how are the costs

13   increasing or decreasing, volatility, and what's the best

14   way to match the -- for both the Company to get through

15   this kind of a period and make sure the consumers pay the

16   appropriate amount for these -- these costs. I mean,

17   that's often the kind of standard the Commission has

18   looked at in determining that, but the legal standard is

19   probably just --

20   JUDGE JORDAN: Okay. And in past practice,

21   then, you're saying the Commission has looked at something

22   distinctive or different about these costs?

23   MR. FISCHER: Yes.

24   JUDGE JORDAN: I think you mentioned a

25   couple things like not being under the Companies' control

 1   --

 2   MR. FISCHER: Yes.

 3   JUDGE JORDAN: -- unstable, and things like

 4   that?

 5   MR. FISCHER: Yes. Volatile increasing,

 6   changing significantly, outside the control of the

 7   Company. Those are the kinds of things that are typically

 8   felt by regulatory agencies to be appropriate costs to be

 9   tracked, and that's what the Commission has used in the

10   past. You know, there are other mechanisms out there.

11   Off-system sales mechanism is one; there's a tracking

12   aspect to that. There are a lot of trackers out there in

13   various expenses, but this is, as you can see, a very

14   major expense the Company's going to be facing in the next

15   several years that we believe it's very appropriate to

16   have a tracker for.

17   JUDGE JORDAN: Okay. Thank you. Opening

18   statement from Staff.

19   MS. KLIETHERMES: Thank you, Judge. I

20   recognize that is difficult to read, so I have made

21   copies.

22   JUDGE JORDAN: Thank you, Sarah.

23   MS. KLIETHERMES: Mr. Fischer mentioned

24   that in the last case Staff suggested modifications to the

25   Company's request for transmission tracker. In fact, one

 1   of those modifications was the exact recommendation Staff

 2   has made here, to include revenues which we believe is

 3   probably one of the most important points to drive home to

 4   the Commission. The importance of, if you decide against

 5   Staff's recommendation to track expenses, it's imperative

 6   that revenues also be tracked. We'll start with the easy

 7   part.

 8   What KCPL and GMO are requesting is to

 9   track certain -- is to track increases in certain expenses

10   while ignoring decreases in other expenses and ignoring

11   entirely closely-related revenues. That's bad. In

12   general, if you're going to track expenses, you should

13   track revenues. Let's try to work through something a

14   little more complicated.

15   KCPL and GMO are requesting to track and

16   recover increases in bills that they pay back to

17   themselves, which is particularly egregious. I'm not

18   talking about KCPL charges to GMO or GMO charges to KCPL.

19   What I'm talking about are the revenues Mr. Fischer

20   conceded the Company might be willing to include with

21   modifications. These revenues absolutely must be tracked

22   without adjustment. What we're talking about is KCPL's

23   request to bill customers in a future rate case for a

24   check that KCPL writes as itself and refuses to cost as a

25   credit when cashing this check. Samely for a check that

 1   GMO writes to itself and refuses to count as a credit when

 2   it cashes that check. Let's walk through an example that,

 3   I'll grant you, is simplified with made-up numbers, but it

 4   is illustrative of the comment, and this is illustrative

 5   of what is.

 6   Mr. Fischer may have conceded to adopt

 7   language that would reduce this example, but, nonetheless,

 8   it's inclusion in the request is telling of what the

 9   Company's going for here. So, looking at this document,

10   let's say you include 5 million in transmission expense in

11   this case for KCPL, and you have 3 million in transmission

12   revenues in this case for KCPL. Those are those top two

13   boxes. Of that 5 million, let's say that 4 million is

14   expenses that KCPL pass to other entities. One million of

15   that -- and, again, these are just illustrative numbers --

16   would be dollars that KCPL pays back to itself for use of

17   its own transmission facilities, but that all has to be

18   passed through the SPP.

19   So, if you have a look at the revenue side

20   of that, let's say that we come out of this case with 3

21   million included in transmission revenues. Again, for

22   illustrative purposes, that would be 2 million that KCPL

23   receives from entities that aren't itself, but 1 million

24   that it receives back from itself. Under that scenario,

25   KCPL would have net transmission expense built into its

 1   Missouri rates of $2 million.

 2   Now, let's say that KCPL gets a 10 percent

 3   increase, and it's for revenue requirement. If that were

 4   to happen, KCPL would be paying out 5.1 million in

 5   transmission expenses, all those being equal, and KCPL

 6   would be receiving 3.3 million in transmission revenues,

 7   all also being equal. Now, back to that 5.1 million.

 8   Four million of that, again, is non-KCPL But this time,

 9   1.1 million is going back to KCPL. On the revenue side,

10   they're going to see an extra 200,000 coming in, so

11   they've now received 2.2 million from non-KCPL sources but

12   they would be receiving 1.1 million back from themselves.

13   Under that scenario, KCPL would experience net

14   transmission expense of 1.8 million as compared to the 2

15   million built into rates. By my math, 1.8 million is

16   200,000 less than the 2 million that was built into

17   Missouri rates.

18   Under KCPL's request, KCPL would track a

19   regulatory asset of a hundred thousand dollars. That

20   means that KCPL is getting more money but they're going to

21   come back in a future case and ask ratepayers to give them

22   additional money. Now, with Staff's conditions, KCPL

23   would track a regulatory liability of that $200,000.

24   That's not Staff's preferred position. Staff's preferred

25   position is that there be no tracker of anything.

 1   Now, that example just concerns increases

 2   in KCPL's or GMO's revenue requirement of the FERC. But

 3   that's not the only factor that could drive revenue

 4   increases for those utilities. Certainly, it's the most

 5   egregious and the easiest to understand for those of you

 6   who are not like the Commissioners deeply involved in the

 7   SPP and FERC worlds.

 8   Another driver of potential increases

 9   separation of grandfathered increases under which KCPL and

10   GMO provide service other entities. What that refers to

11   right now, both of those utilities have old agreements

12   that predate certain SPP schedules, and they provide

13   transmission service to other entities under those

14   agreements. As those agreements expire, both KCPL and GMO

15   will begin to receive more revenues as those same services

16   are expired under their SPP tariffs. Those increases

17   wouldn't be tracked under KCPL's request.

18   Another driver of potential transmission

19   revenue increases for KCPL and GMO are increases in the

20   level of point-to-point transactions throughout the SPP.

21   On point-to-point transactions, the SPP splits the

22   revenues 50 percent with one-half getting allocated to

23   owners based on megawatt miles of the transmission service

24   actually provided. But the other half of those revenues

25   goes to all transmission owners in SPP based on those

1   proposal of revenue requirement. So, as the SPC sees more

2   point-to-point, that can, say, wind into MISO or any other

3   type of transaction KCPL and GMO can expect to see

4   increases in revenues.

5   KCPL and GMO wants to ignore those

6   increases in revenue. It appears that KCPL also wants to

7   ignore certain decreases and expense. Now, on cross --

8   I'll ask Mr. Ives to correct me if I'm wrong, because on

9   this matter it is important that we get the record

10   straight. But, as I understand it, to the extent that

11   KCPL and GMO currently have grandfathered agreements, I

12   believe that they would be requesting to track the entire

13   amount of expenses incurred when those arrangements would

14   expire and the transactions would begin to be handled

15   under various SPP tariffs. It's my understanding that

16   KCPL and GMO would not be looking to net that expense

17   against the expense that is already built into their

18   Missouri rates to reflect the expense associated with the

19   grandfathered agreements.

20   There's also a question on the GMO side of

21   how to deal with the Crossroads transmission expense,

22   whatever the Commission may decide on that. We would need

23   to define in the tracker how to deal with the transmission

24   expense associated with Crossroads down in Mississippi.

25   There's also an elephant not quite in the

 1 room but certainly beginning to nudge its trunk under the

 2 door, and that's the issue of Transource. Staff has

 3 included a condition to deal with Transource, but KCPL and

 4 GMO did not include similar language in their request. To

 5 be clear on Staff's position, Staff does not recommend

 6 providing KCPL and GMO with the authority to track

 7 transmission expense. We suggest you simply deny that

 8 request.

 9   Mr. Oligschlaeger's testimony was

10 recommended conditions should the Commission decide these

11 utilities need a transmission tracker. Mr. Beck's

12 testimony provided a discussion of some of the dramatic

13 changes in the world of transmission since KCPL and GMO's

14 last rate cases. He also provides Staff recommendation

15 that any tracking mechanism not include carrying costs.

16   If the Commission disagrees with Staff's

17 recommendation to simply reject KCPL and GMO's request for

18 this special accounting authority and does give GMO and

19 KCPL tracking authority, it's important at a minimum to

20 define exactly which accounts and which expenses are being

21 tracked, to also track transmission revenues with clear

22 definition of what accounts and revenues are tracked, to

23 find some way to deal with the Transource, or another GPE

24 affiliate owning transmission whatever entity that may end

25 up being, and to find a way to deal with Crossroads.

1   Now you had a handful of questions for Mr.

2 Fischer, and there's just a few details I would point to.

3 The trackers that we have for pensions, I believe, are

4 specifically authorized by statute. I don't have the

5 number on that, but I believe those are statutorily-

6 authorized. And as to his view that just and reasonable

7 would be the most helpful authority, I don't know that I

8 entirely disagree with that. I would point out that this

9 is extraordinary accounting treatment, this is a request

10 made by the Company on which it's up to them to prove that

11 they need it, not just that it's something they want.

12   I know Mr. Rush, when asked about trackers

13 on his policy cross, responded the trackers are

14 appropriate where an item is large, volatile, and not

15 controllable. I don't know that Staff's position is

16 terribly different than from that, but Mr. Oligschlaeger

17 would certainly be the best person, I feel, in the room to

18 talk to about any questions you may have of that nature.

19   JUDGE JORDAN: Thank you. Did you want to

20 mark your demonstrative exhibit with a number?

21   MS. KLIETHERMES: Judge, I don't believe

22 that would be necessary. I would request that, the extent

23 the Judge could pass that on to Commissioners, I don't

24 know that they would be able to read that on the ELMO, if

25 they wanted to work that way through the exam on the

 1   transcript.

 2   JUDGE JORDAN: I think that's an idea of

 3   briefing what you're referring to. I would like you to

 4   mark this.

 5   MS. KLIETHERMES: Okay. What are we at?

 6   JUDGE JORDAN: I don't have that in front

 7   of me. We'll take a minute to check that out. It can be

 8   at the end of that what you are -- what number you're

 9   planning as well. It doesn't have to be sequential.

10   MS. KLIETHERMES: Yeah. I have no -- I

11   wasn't intending to offer any other exhibits today. Our

12   exhibit list we left on the table is not here this

13   morning, so I believe one of the other attorneys may have

14   absconded with it by accident.

15   JUDGE JORDAN: I'm sure it was an accident.

16   MR. FISCHER: Judge, I don't know if this

17   is helpful or not, I have the pre-marked exhibit, and last

18   mark is 233, but I don't know if they have added anything

19   at the previous hearing.

20   MS. KLIETHERMES: I believe we did on the

21   rate of return portion.

22   JUDGE JORDAN: That sounds right, yes.

23   MS. KLIETHERMES: Would 299 probably be the

24   safest number?

25   JUDGE JORDAN: Oh, I don't mind skipping

 1   numbers. That's fine.

 2   MR. FISCHER: There is a 299 on the GMO

 3   case.

 4   JUDGE JORDAN: Maybe 399.

 5   MR. MILLS: Judge, the 300 series are to

 6   OPC. We won't get to that, so I think you would be safe

 7   to assign 399 if you want to.

 8   JUDGE JORDAN: I appreciate that.

 9   MS. KLIETHERMES: I have nothing further.

10   JUDGE JORDAN: Have you picked No. 299 for

11   that?

12   MS. KLIETHERMES: I believe 399.

13   JUDGE JORDAN: 399? 399. Okay. Thank

14   you.

15   Next opening statement from the Office of

16   Public Counsel.

17   MR. MILLS: Good morning. I will be very

18   brief.

19   Public Counsel is opposed to the

20   transmission tracker both as opposed in this case and even

21   with the conditions proposed by Staff witnesses although,

22   in general, the Staff conditions make a bad idea somewhat

23   less bad. They do not turn it into a good idea, but they

24   do reduce somewhat the damage that it would cause.

25   And the reason we are opposed to it is that

 1   the tracker for these particular expenses is unnecessary.

 2   The general traditional rate making of including certain

 3   costs and base rates and adjusting them when the

 4   relationship between revenues, expenses, and rate base

 5   gets out of whack through the process of complaint cases

 6   or rate cases is perfectly adequate to deal with these

 7   kind of expenses. They are not -- they are neither so

 8   volatile nor so significant nor so far out of the

 9   Company's control that they deserve to be tracked.

10   I think it's telling that the Company is,

11   despite the fact that it's eager to track its expenses, is

12   very reluctant to track associated revenues, and I think

13   it was telling as well that Mr. Fischer did not, in his

14   opening statement, agree with the Staff's sixth condition

15   which is to cease tracking these costs if and when returns

16   hit a sufficient level. I think those -- those are

17   indicative of the general approach that utility companies

18   take to trackers, which is they want to track things that

19   will work to their advantage to be tracked and ignore any

20   other considerations, and that conversely is the exact

21   advantage to traditional rate making in which you've got

22   to look at all of these other factors that you don't need

23   to track.

24   Thank you.

25   JUDGE JORDAN: Thank you. I've got just a

1   brief question for you. Same question that I asked Mr.

2   Fischer and Ms. Kliethermes, standards of law authority on

3   when to decide to track.

4   MR. MILLS: You are correct. 182 has

5   standards what can be deferred to it, and the general

6   proposition is that it is the Company's burden in this

7   case to prove that implementing a tracker such as this

8   would result in just and reasonable rates.

9   There is not a lot of standards around the

10   tracker issue, although both Ms. Kliethermes and Mr.

11   Fischer have referred, I think, to the standards that the

12   Commissions have looked at, which is volatility, the

13   ability of the Company to control -- or inability of the

14   Company to control these kinds of costs, and materiality.

15   And I think in respect to these costs that the very charts

16   that Mr. Fischer showed in his opening show that these

17   costs are not volatile. They are increasing, but they're

18   predicted very closely, they are relatively well-known,

19   which is the antithesis of volatility. They are known but

20   increasing.

21   And the Commission, in fact, rejected

22   Ameren at the time AmerenUE's initial request for a fuel

23   adjustment clause on those very grounds, that the cost

24   that Ameren was looking at were increasing but not

25   volatile. And I think the Commission could very easily

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 1  follow that same path here.

 2                 JUDGE JORDAN:  Thank you.

 3                 MR. MILLS:  Thank you.

 4                 JUDGE JORDAN:  Opening statement from

 5  Missouri Industrial Energy Consumers; and, please,

 6  Counsel, begin by entering your appearance for the Court

 7  Reporter, if you could please.

 8                 MS. VUYLSTEKE:  Sure.  Diana Vuylsteke,

 9  Bryan Cave, LLP, for the Missouri Industrial Energy

10  Consumers.  My business address is 211 North Broadway,

11  Suite 2600, St. Louis, Missouri, 63102.

12                 JUDGE JORDAN:  Thank you.

13                 MS. VUYLSTEKE:  Your Honor, we agree with

14  the comments of Ms. Kliethermes and we agree with the

15  comments of Mr. Mills.  But I would want to emphasize

16  something a little different.  We believe that the tracker

17  is unlawful under the Missouri Supreme Court decision in

18  UCCM, and the reason that the Court held that single issue

19  rate making is unlawful is that you're not considering all

20  relevant factors in setting the rate or approving the

21  cost.

22                 The tracker is established based on past

23  cost.  It's retroactive rate making.  There is a cost that

24  is incurred during a particular time and, whereas under

25  traditional rate making, and that's the type of rate
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1 making the Commission is authorized to do, absent explicit

2 statutory authority. Traditional rate making, you look at

3 declining costs and you look at increasing costs and all

4 other factors to decide what is the right rate. And by

5 establishing a tracker, you allow a particular cost to be

6 accumulated from year to year to year, and then eventually

7 recovered in a rate case.

8   If the utility is doing this over a longer

9 period of time, there is even a greater risk of distortion

10 because it could be there were declining costs. And I

11 think in the example Ms. Kliethermes laid out, it's much

12 more narrow, but I think it demonstrates the larger

13 problem that the Missouri Supreme Court was concerned

14 about in UCCM, which is that you're not looking at the

15 revenues in a way that is balanced and considers all of

16 the factors at play. And, so, I think that it's important

17 to call, you know, that Commission -- that decision again

18 to the Commission's attention.

19   Now, Mr. Fischer mentioned that he views

20 these as a major cost, the Companies views these as a

21 major cost and a cost that is going to increase quite a

22 bit. He says that an advantage of recovering these costs

23 by tracker or using a tracker mechanism to allow future

24 recovery is appropriate because the costs are going to be

25 large and it would keep them from coming in so much or so

1   often for rate cases. I don't know that having special

2   rate recovery in the form of trackers or surcharges has

3   stopped very frequent rate cases.

4   Before we had the fuel adjustment, for

5   example, or some of the trackers that have been put into

6   place, we've had many more -- we had fewer rate cases and

7   we've had basically annual rate cases. So, I don't know

8   that having those special cost recoveries has prevented or

9   minimized the filing of rate cases. But, nevertheless, it

10 is precisely because these are increasing costs and the

11 potential that they would be increased over a period of

12 time were none of the other relevant factors going to be

13 looked at, whether it's from one year or three years or

14 five years, demonstrates to me the very kind of dangers of

15 single issue and retroactive rate making.

16   So, while we have policy reasons that we

17 think that this tracker's inappropriate specifically in

18 this particular case for KCPL, I think the legal reasons

19 are overwhelming. And to your question about, you know,

20 what standards are there governing trackers, you know, we

21 have found very few, but we also think that pointing to a

22 regulation or even a prior Commission decision, if the

23 statutory authority isn't there under the way the Supreme

24 Court has interpreted the statutes that govern the PSC's

25 jurisdiction, then I think that is the most important

 1   question to address.

 2   And that's all I have.

 3   JUDGE JORDAN: Thanks. I want to follow up

 4   on that one a little bit. You refer to statutory

 5   standard, of unreasonable rates and the issues --

 6   single-issue rating. Are you saying Account 182 is

 7   unlawful? We can't defer the recording of expenses and

 8   examine them at a later rate case?

 9   MS. VUYLSTEKE: Your Honor, I frankly have

10   not considered that point, but I do think that, to the

11   extent that a deferral would, you know, would not meet the

12   requirements of UCCM, it could be unlawful. The only

13   issue we're considering here in front of us is the

14   tracker. It could be that, under some circumstances, a

15   deferral might not violate UCCM. You would think the

16   tracker in this case does.

17   JUDGE JORDAN: Okay.

18   MS. VUYLSTEKE: That's all I have.

19   JUDGE JORDAN: That's all I have. Thank

20   you. Opening statement from Praxair.

21   MR. CONRAD: We'll waive, your Honor.

22   Thank you.

23   JUDGE JORDAN: Midwest Energy Consumers

24   Group.

25   MR. WOODSMALL: Thank you, your Honor; and

 1   I would like to mark an exhibit. I believe this is 410.

 2   JUDGE JORDAN: Counsel, these look like

 3   Power Points. Will we be using a Power Point

 4   presentation?

 5   MR. WOODSMALL: We will be.

 6   Good morning, your Honor. I'm here this

 7   morning --

 8   JUDGE JORDAN: Good morning.

 9   MR. WOODSMALL: Excuse me. I'm here this

10   morning to discuss KCP&L and GMO's requests to implement a

11   transmission tracker. In this opening statement, I want

12   to address five points.

13   First, I want to show you how a tracking

14   mechanism works. It's important that you understand

15   exactly how a transmission tracker's going to work so that

16   you can see how it substantially shifts risk and how it

17   violates the concept of retroactive rate making.

18   Second, I want to discuss how rate making

19   in Missouri works, and the careful balancing of risk

20   envisioned by the 1979 UCCM case by Supreme Court Ms.

21   Vuylsteke referred.

22   Third, I will demonstrate how a

23   transmission tracker will reduce the risk that rates will

24   be inadequate, and given KCPL's refusing to consider

25   transmission revenues actually enhances the risks that

1 rates will be excessive. This results in a tipping of the

2 careful balance envisioned by the Supreme Court.

3   Fourth, relying on the same Supreme Court

4 decision, I will show that the transmission tracker

5 violates the Constitutional doctrine of retroactive rate

6 making.

7   Finally, I will demonstrate the

8 transmission costs don't meet the Commission's past

9 criteria for the extraordinary mechanism of a tracker.

10   First, I want to talk about how a

11 transmission tracker works. As envisioned by KCP&L and

12 admitted in the direct testimony of Mr. Ives, a specific

13 amount of transmission costs will be established in this

14 case. It is important to remember that rates must have

15 that specific amount that the Commission is going to set

16 forth. Rates can't be determined without that specific

17 amount.

18   Next, the Company would track its actual

19 transmission costs on an annual basis against this amount,

20 and you're seeing quotes here from Mr. Ives' testimony.

21 If actual transmission costs are higher than the exact

22 amount, then the excess would be booked as a regulatory

23 liability or -- or regulatory asset. I'm sorry. As Mr.

24 Ives admits, this regulatory asset would be amortized to

25 cost of service in the Company's next rate proceeding.

 1   Therefore, future rates are being used to guarantee

 2   recovery of past losses. Future rates are being used to

 3   guarantee recovery of past losses.

 4   The second thing I wanted to talk about was

 5   the careful balancing of risk envisioned by the Missouri

 6   Supreme Court. In 1979, the Missouri Supreme Court was

 7   considering the legality of the fuel adjustment clause.

 8   In its decision, the Supreme Court stated that, quote, the

 9   utilities take the risk that rates filed by them will be

10   inadequate or excessive each time they seek rate approval,

11   unquote.

12   In Missouri, this proper balancing is

13   established through the use of a texture concept with the

14   careful matching of expenses, revenues, and rate base.

15   Here you can visually see the careful balancing of risk.

16   On the left side, you see the possibility that rates are

17   inadequate and you see several steps, several factors that

18   will impact that possibility, including increasing costs,

19   decreasing revenues, and planning growth. Similarly, on

20   the right side, you see the risks that rates will be

21   excessive and factors that will impact that, including

22   increasing transmission revenues, depreciating rate base,

23   increasing customer accounts, increasing usage, and

24   increasing wholesale revenues.

25   Despite what utilities claim, excess rates

 1   are possible. We've seen them, and they'll happen again.

 2   Utilities have the opportunity for windfall profits if it

 3   can decrease costs. Therefore, a well-timed debt

 4   refinancing, employee severance program, warmer weather

 5   can lead to excessive rates. And we've seen two examples

 6   in this case, and I won't go over them again. I talked

 7   about them in my opening statement, but it happened twice

 8   while the rates from the last case were in effect.

 9   Similarly, rates can be -- adequate costs

10   can increase because of a construction cycle or other

11   matters, and rates can be inadequate but, according to the

12   Supreme Court, the utility accepts the risks that rates

13   are inadequate. Careful balancing of risks have

14   historically worked in Missouri. KCPL completed the Wolf

15   Creek plant in 1984; rates were set in 1986. Under the

16   current paradigm, no adjustment mechanisms, no trackers,

17   no AAOs. KCPL went 20 years without a rate case. That's

18   rate stability without any of these adjustment mechanisms.

19   The current utility paradigm works. And, in fact, during

20   that time, there were rate decreases. Bottom line is that

21   utilities understand the careful balancing of risk. They

22   love the possibility of windfall profits and hate the

23   risks that rates will be inadequate.

24   The third thing I wanted to talk about was

25   to demonstrate how the tracker mechanism reduces the

 1   possibility that rates will be inadequate and enhances the

 2   chance that rates will be excessive. As discussed

 3   earlier, a tracker mechanism exactly tracks an incurred

 4   level of expense against the level incurred in cost. The

 5   utility is allowed to collect any difference in future

 6   rates. There is no consideration, however, for other

 7   increasing revenues or decreasing costs which may lead to

 8   over-earnings. Also, because the utility is allowed to

 9   exactly collect the amount of that expense, they have no

10   incentive to minimize these costs. Further, the risk that

11   -- of this cost increasing has been entirely shifted to

12   the ratepayers. Let's try and visualize this again.

13   Here again, we see the careful balancing of

14   risk, factors on each side which will make the possibility

15   of rates are inadequate or rates are excessive. What KCPL

16   wants to do here is remove one of those factors, take it

17   off the scales without any adjustments to the other side,

18   now you shifted the careful balancing that the Supreme

19   Court envisioned to the chance that rates are excessive.

20   As mentioned earlier by Staff and Public

21   Counsel, KCPL does not want to consider any offsetting

22   revenues in its surrebuttal. Staff has asserted that any

23   tracker must include both revenues and expenses. These

24   revenues are naturally expected to arise out of the very

25   expenses that KCP&L wants to track. To-date, KCP&L has

 1   been unwilling to consider these revenues. Let's see what

 2   the consideration of those revenues would do.

 3   Here again, you see the balance. It's

 4   shifted because KCP&L tracker would remove transmission

 5   costs. But if you took away the revenues on the other

 6   side, as Staff wants to do, we bring it back closer to

 7   balance. KCP&L does not want to consider those revenues.

 8   Rather, they want to leave those on the scale and have the

 9   increased chance of excessive rates.

10   The fourth thing I wanted to talk about --

11   and it was mentioned by Ms. Vuylsteke -- was the

12   possibility or the fact that the transmission tracker

13   violates the constitutional doctrine of intense

14   retroactive rate making. It's kind of small, but you can

15   see here language taken from the UCCM decision -- and I

16   have the citation there, 585 SW 2nd 41 -- and this is on

17   page 59, and I want to turn your attention mainly to this

18   provision starting with past expenses.

19   And, there, the Supreme Court said past

20   expenses cannot be used to set future rates to recover for

21   past losses due to imperfect matching of rates with

22   expenses. That's exactly what KCP&L wants to do here.

23   They want a tracker because they're worried about the

24   possibility that current rates won't exactly match current

25   expenses. And when they don't match, they want to use

1   these past expenses to set future rates. The Supreme

2   Court has said that this is a constitutional violation.

3   Retroactive rate making. There is no -- there is no

4   authorization for the Commission to engage in this kind of

5   rate making.

6   Let's move on to the fifth thing that I

7   wanted to talk about, and that is the criteria for

8   granting them an extraordinary mechanism like a tracker.

9   In his testimony, Mr. Dauphinais talks about criteria --

10   and Ms. Vuylsteke talked about this briefly -- but you

11   asked Mr. Fischer about any standards the Commission has

12   used in the past. And while just and reasonable was all

13   fall back, everybody points to the Commission has set

14   forth standards in previous cases. The biggest one,

15   though, is whether the costs are volatile.

16   Mr. Fischer repeatedly discussed in his

17   opening statement the fact that these are expenses that

18   are increasing. They very seldom use the phrase volatile,

19   and here's why. Look at how the Commission defined

20   volatility. Markets in which prices are volatile tend to

21   go up and down in an unpredictable manner. Up and down.

22   As a result, in those circumstances, a fuel adjustment

23   clause may be needed to protect both the utility and

24   ratepayers from inappropriate low or high rates. So, it's

25   not just an analysis as to whether these costs are

1   increasing. The costs are increasing. They can be

2   reflected in rate cases as Mr. Mills explained. They can

3   time another case to meet up with these costs.

4   Adjustment mechanisms and trackers are

5   designed to capture volatile costs, costs going up and

6   down, costs that are necessary to be tracked to protect

7   both the utility and the consumer. We don't have that

8   here. There is no protection for the consumer here. Um,

9   in his testimony, Mr. Dauphinais talks about other

10 criteria used by the Commission, and those are whether the

11 costs are large enough to present a financial threat and

12 whether they can reasonably be managed. Mr. Dauphinais

13 comes to a negative conclusion on all three criteria, and

14 he will be here later and I'd invite you to discuss these

15 matters with him, the application of these criteria to

16 KCP&L transmission costs.

17   That's all I had. If you have any

18 questions.

19   JUDGE JORDAN: Yes, I do. I appreciate you

20 addressing the constitutional challenge to a tracker. And

21 everyone else that I've asked this question of has told me

22 that there is no other authority in terms of statutory

23 regulation other than the just and reasonable standard and

24 Account 182 and its counterpart or -- and its counterpart.

25   Does that mean that every -- your position

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 1   is that every tracker is unconstitutional?

 2   MR. WOODSMALL: My position is every

 3   tracker is unconstitutional. We have in the past, because

 4   of volatility, turned a blind eye to it. For instance,

 5   regarding storm costs. We don't know if the costs are

 6   going to occur, whether they're going to go up or down, so

 7   there is volatility, and the consumers have turned a blind

 8   eye to the implementation of certain trackers in the past.

 9   That said, there is no question in my mind that they are

10   still unlawful.

11   JUDGE JORDAN: And, of course, the

12   Commission is not going to decide an issue that the

13   parties don't present to it or probably not -- doesn't

14   have the power to strike any provision of law as

15   unconstitutional. But doesn't that mean that every

16   accounting authority order is also unconstitutional?

17   MR. WOODSMALL: Accounting authority orders

18   and the USOA are rules promulgated by FERC on the Federal

19   level.

20   JUDGE JORDAN: And adopted by the

21   Commission.

22   MR. WOODSMALL: And adopted by the

23   Commission. The Commission adopted them in total.

24   JUDGE JORDAN: Right.

25   MR. WOODSMALL: But those rules have to be

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 1   applied in a manner consistent with Missouri statutes, and

 2   Missouri constitutional -- Missouri Constitution.  So, to

 3   the extent that those rules, the USOA, conflict with

 4   Missouri constitution, they have to bend and they have to

 5   give way to what the Missouri Supreme Court has said in

 6   this case.

 7               I will note that, in the past, a tracker

 8   mechanism has been established for, oh, pensions, other

 9   post-employment benefits, and that is a statute.  You

10   could make the argument, certainly, that it violates the

11   Constitution because the Supreme Court said retroactive

12   rate making is unconstitutional; but, in this case, you

13   have a tracker for pensions that the General Assembly has

14   told the Commission to implement.  So, you have no -- the

15   Commission, it's been said many times, is a creature of

16   statute.  It can only do what the General Assembly has

17   told it that it can do.

18               And, in this case, there is no statute

19   anywhere which indicates that the General Assembly has

20   told the Commission that they can implement trackers and

21   violate this law against retroactive rate making.

22               JUDGE JORDAN:  Thank you.

23               MR. WOODSMALL:  Thank you.

24               JUDGE JORDAN:  I believe that's the last on

25   my list for opening statements.  Now I'll ask the parties
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 1  whether this is a good time for a lunch break or do

 2  parties prefer to get through the examination of our first

 3  witness.

 4               MR. FISCHER:  We're at your disposal,

 5  Judge.

 6               JUDGE JORDAN:  Well, in that case, let's go

 7  ahead and start with our first witness.

 8               MR. FISCHER:  Company would call Darrin

 9  Ives.

10               JUDGE JORDAN:  Please raise your right

11  hand.

12               (Witness sworn.)

13               JUDGE JORDAN:  Please be seated.

14  DARRIN IVES testified as follows:

15  DIRECT EXAMINATION BY MR. FISCHER:

16      Q      Please state your name for the record.

17      A      Darrin Ives.

18      Q      Are you the same Darrin Ives that appeared

19  earlier in this proceeding and sponsored some testimony

20  that we've already marked?

21      A      Sponsored testimony.  I haven't actually

22  been up yet.

23      Q      Oh, I'm sorry.  Let me go through the

24  questions then.  Would you give your address for the

25  record?
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 1   A   Yes. It's 1200 Main, Kansas City,

 2   Missouri.

 3   **Q   Did you cause to be filed in this**

 4   **proceeding certain testimony in both KCPL and the GMO**

 5   **cases that have been marked as your direct in the KCPL as**

 6   **KCPL 29 rebuttal, KCPL 30 and KCPL 31 as your surrebuttal?**

 7   A   I'm not certain as to the exhibit numbers,

 8   but I did file those sets of testimony.

 9   **Q   Okay. And did you also file direct,**

10   **rebuttal, and surrebuttal in the GMO case which I'll tell**

11   **you has been pre-marked as GMO 123, 124, 125?**

12   A   I did.

13   **Q   Do you have any corrections or additions**

14   **you need to make to those pieces of testimony?**

15   A   I do have one correction. Actually affects

16   both my KCPL and my GMO surrebuttal. For KCPL, the

17   correction is on page 24, line 8. There I refer to an

18   Ameren case number, and I put the wrong case number. The

19   case that I've listed is ER-2012-0166, and that reference

20   should be to ER-2011-0028. That same change seems to be

21   reflected in my GMO surrebuttal on page 25, line 16.

22   That's all I have.

23   **Q   Okay. With those corrections, if I were to**

24   **ask you the questions contained in those pieces of**

25   **testimony today, would your answers be the same?**

 1   A   They would.

 2   **Q   And are they true and accurate to your best**

 3 **knowledge and belief?**

 4   A   They are.

 5   MR. FISCHER: Judge, then I would move for

 6 the admission of those particular exhibits, although Mr.

 7 Ives may be returning for another issue, and I would

 8 tender him for cross.

 9   JUDGE JORDAN: Is there any objection to

10 the admission of those exhibits?

11   MR. MILLS: Judge, I think there was a

12 little side conversation here. Some of Mr. Ives'

13 testimony is subject to at least one of those motions to

14 strike that is still pending. But we don't need to go

15 through that particular testimony again.

16   JUDGE JORDAN: Okay. Other than that, any

17 objections?

18   (No response.)

19   JUDGE JORDAN: Then, pending ruling on

20 motion to strike, I will admit those exhibits into the

21 record.

22   MR. FISCHER: I would tender the witness

23 for cross.

24   JUDGE JORDAN: Then I will ask whether

25 there is any cross for the Missouri Energy User?

 1   MR. CONRAD: No, sir.

 2   JUDGE JORDAN: No cross, I take it?

 3   MR. CONRAD: That's correct.

 4   JUDGE JORDAN: And my list reflects that

 5   the Missouri Investors, GGL, and MREC.

 6   MR. WOODSMALL: No questions, your Honor.

 7   JUDGE JORDAN: Very good.

 8   Any cross-examination from the Office of

 9   Public Counsel?

10   MR. MILLS: No questions.

11   JUDGE JORDAN: Any cross-examination from

12   Staff?

13   MS. KLIETHERMES: Yes. Thank you, Judge.

14   CROSS-EXAMINATION BY MS. KLIETHERMES:

15   **Q   Good morning, Mr. Ives.**

16   A   Good morning.

17   **Q   I'd like to establish -- or confirm, I**

18   **should say -- what items are included and excluded from**

19   **the tracker, so I'll be going through a number of items.**

20   **You should not feel compelled to add in to any given**

21   **question what I'm leaving out, as I suspect I'll get to it**

22   **or I'm confident your counsel will on redirect.**

23   **Are you requesting that every change you see in**

24   **Southwest Power Pool base plan expense be tracked?**

25   A   Yes.

1   Q   What USOA accounts would capture those

2 payments?

3   A   The fees plan expenses are included in

4 accounts within the 565 category.

5   Q   Are there any types of expense booked to

6 those accounts that you're not including in the requested

7 tracker?

8   A   I don't believe so. Certainly not as in

9 regarded to SPP base plan funding or point-to-point

10 charges which are also reflected in Accounts 565.

11   Q   And, for clarity of the record, when you

12 say SPP, is that Southwest Power Pool?

13   A   Yeah. I apologize.

14   Q   I was hoping to convert to referring to SPP

15 here in this next question. Are you requesting that every

16 change you see in SPP point-to-point expense be tracked?

17   A   Yes. Those would be in the 565 accounts as

18 well.

19   Q   And, so, aside from the base plan and

20 point-to-point expenses, are there any other expenses

21 recorded in the 565 accounts?

22   A   I can't answer that with certainty, but not

23 that I'm aware of.

24   Q   Are you requesting that every change you

25 see in SPP network services expense be tracked?

1   A   I don't think we have expense recorded for

2   SPP network services. I think it's -- it's base plan

3   funding, point-to-point, and then we pay administrative

4   fees to SPP. Mr. -- Mr. Carlson might be able to address

5   that more specifically.

6   **Q   To which accounts are the administrative**

7   **fees recorded?**

8   A   I would just point out there is a schedule

9   in the back of my direct testimony that was the costs that

10   we requested to be considered for the tracker. But the

11   accounts that are on that schedule for SPP administrative

12   fees, there are three listed. One account is 56.1400, the

13   second account is 56.1800, and the third account is

14   57.5700.

15   **Q   Are there any expenses recorded to those**

16   **accounts that you're not requesting would be tracked?**

17   A   I believe those accounts are used to pick

18   up those SPP administrative fees. I'm not sure there's

19   anything else in there.

20   **Q   Are you requesting to track expenses**

21   **associated with grandfathered transmission agreements?**

22   A   I do not believe they're included in our

23   schedule, but they would be included in the -- the base

24   year that's set in rates in this case.

25   **Q   What USOA accounts capture those payments?**

 1   A   I do not have that account on the top of my

 2   head.

 3   **Q   Would you agree that to the extent a**

 4   **grandfathered agreement expires and is replaced with some**

 5   **other form of transmission service through the SPP**

 6   **schedules that KCPL and GMO, respectively, would no longer**

 7   **be experiencing that expense associated with the**

 8   **grandfathered agreement?**

 9   A   I would agree that the expense would change

10   in characterization from being incurred under the

11   grandfathered agreement to being incurred under the SPP

12   load. So, we would be incurring expense under the

13   grandfathered agreement that would be reflected in the

14   base rates in this case. If it changed, you know, between

15   rate cases, then the differential would be reflected in

16   what we're incurring under the SPP as compared to what the

17   grandfathered amount on base rates.

18   **Q   I'm sorry. To clarify, did you just say**

19   **the differential would be recorded?**

20   A   Right.

21   **Q   Did you not say that the grandfathered**

22   **agreements would not be tracked?**

23   A   It won't be tracked, but they'll be in the

24   base rates that would -- we would be experiencing. Maybe

25   they -- maybe they -- as I mentioned, I don't have the

1 account in front of me for the grandfathered agreement, so

2 possibly they're a component of the 565. I just don't

3 have that information on my mind.

4   **Q   But, certainly, to the extent that the**

5 **service provided under those agreements would be replaced**

6 **with service provided under SPP schedules, that new**

7 **expense would appear in its entirety in 565, would it not?**

8   A   The new expense would come in in 565.

9   **Q   I'm going to -- oh, I'm sorry. Are there**

10 **any other transmission expenses included in this tracker?**

11   A   There is one more account that is on the

12 schedule in the back of my direct. It's Account 928.003

13 which deals with FERC assessments, or sometimes referred

14 to as Schedule 12 fees.

15   **Q   And is anything else booked to Account**

16 **928.003?**

17   A   I don't know the answer to that, but we

18 would only be including the FERC assessment fees in this

19 tracker.

20   **Q   I'm going to use KCPL as an example here,**

21 **and I think we can assume generally what you're requesting**

22 **for GMO was the same mechanism for KCPL. Where it's not,**

23 **we'll dial in on those differences.**

24   **You incur point-to-point costs through the**

25 **SPP to make off-system sales, correct?**

1   A   We incur point-to-point costs, yes.

2   **Q   For off-system sales?**

3   A   I believe Mr. Carlson might be able to

4 answer this better, but I believe for off-system sales

5 sometimes we incur the transmission on point-to-point and

6 sometimes the customer that's taking the sales incurs a

7 transmission expense.

8   **Q   Do you incur network service fees costs for**

9 **off-system sales?**

10   A   We do make off-system sales through network

11 service.

12   **Q   You incur point-to-point costs through the**

13 **SPP to serve your Missouri customers, correct?**

14   A   Might be -- um, I don't believe that's

15 right. I think our customers are served under network

16 service and SPP. I don't believe we serve them on point-

17 to-point.

18   **Q   Some of the costs that you incurred to**

19 **serve your Missouri customers are related to facilities**

20 **that you own, correct?**

21   A   Yeah. I think there's a little bit of --

22   **Q   I think you answered my question.**

23   A   Okay.

24   **Q   When KCPL incurs charges for the use of**

25 **KCPL facilities, does KCPL received back from revenues**

 1 **same as the expense incurred by KCPL?**

 2   A   I don't believe it's the same amount, but

 3 I'm not certain of the mechanics of that revenue

 4 calculation.

 5   **Q   Would it be a substantially similar amount?**

 6   A   Again, I'm not certain of the mechanics of

 7 that calculation.

 8   **Q   Does the KCPL receive back some amount of**

 9 **revenues of the amount KCPL intends to serve its own**

10 **customers through the SPP?**

11   A   I believe -- I believe that's an accurate

12 statement.

13   **Q   And the same would be true of GMO?**

14   A   Yes.

15   **Q   And, if I understand correctly, you're**

16 **requesting to book to the tracker expenses that KCPL pays**

17 **to the SPP to come back to KCPL, correct?**

18   A   We are requesting to book to the tracker

19 expenses that we incur for point-to-point and base plan

20 funding. SPP administrative fees which, I guess, in part

21 could be considered fees that we pay SPP for

22 administration for transactions that occur with our

23 customers and for FERC assessment charges.

24   I believe -- I mentioned earlier, we serve our

25 customers, I believe, with SPP network service, which

 1   wasn't one of those two base plan or point-to-point

 2   charges that I mentioned.

 3   **Q   I believe a moment ago you agreed with me**

 4   **that some amount of the money that you paid to SPP when**

 5   **KCPL was serving its own customers through its own**

 6   **facilities returns back to revenues to KCPL, correct?**

 7   A   We do get revenues back from SPP.

 8   **Q   Thank you. Is there anything in your**

 9   **tracker language that you have requested that would omit**

10   **those expenses from the tracker?**

11   A   To the extent there are some for

12   administrative fees, there is no language --

13   **Q   Could you answer the question with a yes or**

14   **no?**

15   A   Um, I think -- can you repeat your

16   question, because I thought I answered it at the end.

17   **Q   Is there anything in the tracker language**

18   **you have requested that would omit from the amount to be**

19   **tracked the dollars that KCPL pays to the SPP that are**

20   **later returned to KCPL?**

21   A   There's no language for omission.

22   **Q   And that would be true for GMO as well?**

23   A   Our request is the same for both.

24   **Q   Are there any internal costs that you're**

25   **requesting to track in this tracker?**

1   A   No.   Internal costs are not part of the

2   tracker.

3   Q   **Do you hold that sufficiently clear in the**

4   **tracker language you've requested?**

5   A   I think with the detail in my direct

6   testimony of the accounts that are included, it would be

7   -- it would be apparent that those wouldn't include

8   internal costs.

9   Q   **Is one of the factors driving KCPL's**

10   **transmission and expense increases in other transmission**

11   **owners revenue requirement?**

12   A   Yes, that would be a factor.

13   Q   **Does KCPL expect to experience any**

14   **increases in its FERC revenue requirement in the next**

15   **three years?**

16   A   Yes, I expect we will.

17   Q   **Could KCPL expect to realize some increases**

18   **in revenues through the SPP in the next three years?**

19   A   Revenues or an output from the revenue

20   requirements. So, if the revenue requirement increases,

21   the revenues would go up.

22   Q   **Would those answers be the same for GMO?**

23   A   They would.

24   Q   **You're not proposing to track changes in**

25   **revenues, are you?**

 1   A   I'm not. I'm not proposing to track

 2 increases in the cost that are internally incurred to

 3 support those.

 4   **Q   You're opposed to tracking changes in**

 5 **revenues, aren't you?**

 6   A   Because of that mismatch with the cost that

 7 support those revenues.

 8   **Q   To be very clear, was that statement that**

 9 **you are opposed to tracking changes in revenues, yes or**

10 **no?**

11   A   Yes, with the exception that was outlined

12 in Mr. Fischer's opening that there could be a way under

13 what was presented by Witness Oligschlaeger to acknowledge

14 the revenues that come back related to the costs that are

15 serving Missouri's load. But I have not proposed in my

16 testimony to do that.

17   **Q   And that -- that discussion by Mr. Fischer**

18 **you're referring to referred only to potentially excluding**

19 **those dollars that KCPL pays back to itself and GMO pays**

20 **back to itself, correct?**

21   A   The revenues associated with those dollars,

22 yes.

23   **Q   KCPL receives a portion of the revenues**

24 **derived from all network services transactions throughout**

25 **the SPP, correct?**

1   A   That might be a better question for Mr.

2   Carlson on the mechanics of those SPP calculations, but I

3   believe there is a component that is SPP regionally.

4   **Q   That's true for GMO as well?**

5   A   They're both members of SPP.

6   **Q   On a hypothetical point-to-point**

7   **transaction where a Nebraska utility is shipping energy**

8   **over to somebody in Iowa, KCPL and GMO would each receive**

9   **a share based on their respective load shares in the SPP**

10   **of 50 percent of that transmission account, correct?**

11   A   I believe there's a difference in what they

12   received, whether the power's flowing through the

13   territory or not. Um, that -- the mechanics of that, Mr.

14   Carlson might be able to answer better, or at least to

15   that nuance, but they would at least receive a share. I'm

16   not sure if it's 50 percent for that particular

17   hypothetical or not.

18   **Q   Let's talk about a network services**

19   **transaction where KCPL-owned transmission facilities are**

20   **being used to move energy for GMO. GMO would experience**

21   **expense, correct?**

22   A   Can you put that scenario out again? I was

23   -- missed it.

24   **Q   I'm sorry. A network -- pardon me. A**

25   **network services transaction where KCPL-owned transmission**

 1   **facilities are being used to move energy for GMO.   Would**

 2   **GMO experience an expense of some magnitude?**

 3   A   GMO experiences expense for --

 4   **Q   Thank you.**

 5   A   -- the costs of its --

 6   **Q   Would KCPL experience a revenue?**

 7   A   GMO or KCP&L?

 8   **Q   KCPL.**

 9   A   I'm unaware as to whether KCPL receives a

10   revenue such as a network services transaction such as

11   that.

12   **Q   Under your request, the GMO expense would**

13   **be tracked, correct?**

14   A   No.   That was going to be the second part

15   of my answer.   The expense that GMO incurs is the expense

16   for operating the transmission facilities and the O&M and

17   the costs of the investment as an owner.   I don't think

18   they incur an expense for network service as a customer.

19   **Q   And you feel there is sufficient language**

20   **in your tracker language to reflect that?**

21   A   Again, I think the schedule in the back of

22   my testimony, my direct testimony, that shows the accounts

23   that are included would demonstrate there's no internal

24   cost in that.

25   **Q   Does your requested tracker as designed**

1   **give the Commission guidance on what sort of language it**

2   **would need to include in any tracker, possibly GE, a**

3   **Commission subsidiary that is not regulated by any state**

4   **regulatory commission?**

5   A   It does not, because I didn't think that's

6   relevant to this tracker.

7   **Q   Is your requested tracker designed give the**

8   **Commission guidance on what sort of language it would need**

9   **to include in any tracker order to account to transmission**

10   **related to the Crossroads plant?**

11   A   I put no condition in my language for

12   Crossroads.

13   MS. KLIETHERMES: Thank you. I have

14   nothing further.

15   JUDGE JORDAN: I have just one or two

16   questions for you. And, again, these are elementary and

17   rudimentary, and I hope everyone's getting used to that.

18   EXAMINATION OF THE WITNESS BY JUDGE JORDAN:

19   **Q   You heard Mr. Fischer discuss some of the**

20   **standards that have been used in the past for these**

21   **things, references to Account 182 and its counterparts of**

22   **the accounts dealing with deferred revenues and**

23   **liabilities?**

24   A   I did.

25   **Q   And, let's see, I think it was Mr. Mills**

1   that referred to the quality of these amounts, sometimes

2   referred to in the past in Commission orders as

3   materiality. Do you remember that?

4   A   I remember.

5   Q   In regards to materiality, can you tell me

6   whether any of these -- well, let's just take the test

7   here we're talking about to begin with. In comparison

8   with the income of KCPL or GMO, are the amounts that we're

9   talking about, these transmission costs, are they more or

10   less than 5 percent of the respective entity's income?

11   A   In respect to income, they would be more

12   than 5 percent.

13   Q   Okay. Um, I recall from Mr. Fischer's bar

14   graph that the amounts are basically increasing over time.

15   So, is it safe to project that they will remain more than

16   5 percent?

17   A   Yes. It is.

18   Q   Okay.

19   A   And I guess the point I would make on that

20   is from where we are in the test year, over the next four

21   years, I mean, the increases are projected to be in the

22   tens of millions of dollars. They're certainly not

23   insignificant.

24   Q   Okay.

25   JUDGE JORDAN: Recross from the GMO.

 1   MR. WOODSMALL: Yes, briefly, your Honor.

 2   RECROSS-EXAMINATION BY MR. WOODSMALL:

 3   **Q   You asked a question about whether these**

 4   **costs were greater than 5 percent of KCP&L's net income.**

 5   **Do you recall that question?**

 6   A   I do.

 7   **Q   Can you tell me how these costs would**

 8   **compare to KCP&L's revenues?**

 9   A   I don't have those exact numbers in front

10   of me, but they would be less than 5 percent of the

11   revenues.

12   **Q   Okay.**

13   A   If that's the comparison you're looking

14   for.

15   **Q   Yes. Thank you.**

16   MR. WOODSMALL: No further questions.

17   JUDGE JORDAN: Questions from Praxair or

18   MEUA?

19   MR. CONRAD: Nothing, your Honor. Thank

20   you.

21   JUDGE JORDAN: Anything from the Office of

22   the Public Counsel?

23   MR. MILLS: Yeah, just briefly.

24   CROSS-EXAMINATION BY MR. MILLS:

25   **Q   To follow up on the question of Mr.**

 1 **Woodsmall, is revenues or income the appropriate -- is**

 2 **that the denominator to calculate the percent with?**

 3   A   I think people would look at it both ways.

 4 I mean, I think expenses are -- are comparable to

 5 revenues, but the impact of increasing expenses also

 6 impacts income.

 7   **Q   As materiality is defined with respect to**

 8 **Account 182, is it income or revenue?**

 9   A   I don't have those 182 rules in front of

10 me. I'm not sure.

11   MR. MILLS: That's all I have.

12   JUDGE JORDAN: Recross from Staff?

13   MS. KLIETHERMES: Yes.

14 RECROSS-EXAMINATION BY MS. KLIETHERMES:

15   **Q   Are current transmission revenues more than**

16 **5 percent of income?**

17   A   I was able to cheat a little bit on the

18 expenses because I had a sheet in my testimony. I don't

19 have a sheet on revenues. So, I'm not sure I can

20 distinguish that.

21   **Q   Well --**

22   A   I really don't know.

23   **Q   What are current transmission expenses?**

24   A   What I had projected through the test year

25 were $39 million. That was in direct, so I think that's

1   for KCPL, and I think they came in less than that.

2   Q   Okay. And what are current transmission

3   revenues?

4   A   That's the number I said I didn't have with

5   me.

6   Q   Oh, I'm sorry. You don't have the number

7   at all?

8   A   Right.

9   Q   Well, are revenues projected to go up or

10 down, transmission revenues?

11   A   Assuming our revenue requirement's going

12 up, which I think I testified to, they would be projected

13 to go up.

14   Q   So, do you have an expectation as to

15 whether, if they're not now they would be in the near

16 future, equal to or greater than 5 percent of income?

17   A   I don't without knowing my starting point.

18 I don't have that number with me or in my head.

19   Q   All right.

20   MS. KLIETHERMES: Thank you.

21   JUDGE JORDAN: Redirect.

22   MR. FISCHER: Yes, briefly.

23 REDIRECT EXAMINATION BY MR. FISCHER:

24   Q   You've been asked a lot of questions about

25 transmission revenues and tracker mechanism. Would you

1   explain for the Commission and the Judge what transmission

2   revenues you think could appropriately be tracked in a

3   tracker and what could not, what should not?

4   A   Yes.   The -- I'd start with expenses

5   because, as we talked about in my testimony, there are two

6   types of expenses.   There's the expenses that we're

7   incurring from SPP that we've proposed to track, and then

8   there's expense or costs of being a transmission owner

9   which is the rate base investment and the O&M to operate

10 the facilities which is handled in the test year and the

11 true up of the case just as the revenues are.

12   So, to answer the question about what

13 shouldn't -- the, you know, revenues that are a result of

14 increasing formula rates or costs that are increasing past

15 what is included in the rates for cost of service, I don't

16 believe match with the recovery of that cost of service if

17 they're included in the tracker.   But I do think that, for

18 the cost of what we're incurring from SPP to serve our

19 Missouri retail customers, we could identify through SPP

20 billing statements the amount of revenues that are coming

21 back related to those and could make that offset.

22   Q   For regional facilities, what revenues or

23 what -- excuse me -- what costs do Missouri consumers pay

24 through Kansas City Power & Light and GMO?

25   A   Regionally-allocated cost from the SPP

1   whether -- whether we incur them or another entity incurs

2   them are paid for by the utilities that they are load

3   ratio share, which is -- for Missouri purposes is 4

4   percent for KCPL and about 4 percent for GMO.

5   **Q   Where are the other 92 percent paid from?**

6   A   Well, there's about 4 percent that are paid

7   by KCPL related to its Kansas jurisdiction, and the

8   remainder is paid by the other members of SPP based on

9   their load ratio share.

10   **Q   Should those revenues, that 92 percent, be**

11 **included in a Missouri tracker?**

12   A   No. That's -- that's our point, one of our

13 points about revenues. The revenues that are paid by

14 others that aren't -- the costs aren't provided by

15 Missouri customers, the revenues shouldn't be received by

16 Missouri customers.

17   **Q   Would that be a windfall or not to a**

18 **Missouri consumer if they are included?**

19   A   If it were included in all those revenues,

20 I would consider that a windfall or subsidation of the

21 Missouri customers.

22   **Q   The Staff Counsel asked you a lot of**

23 **questions and got down in the weeds on some of the**

24 **accounting in the accounts that would be included in the**

25 **tracker and whether that was appropriately defined in your**

 1 **request. Do you recall that?**

 2   A   I do.

 3   **Q   Is the Company willing to work with the**

 4 **Staff to make sure it's clearly defined if the tracker's**

 5 **approved by the Commission?**

 6   A   Yeah. We would be.

 7   MR. FISCHER: Thank you, Judge. That's all

 8 I have.

 9   JUDGE JORDAN: Thank you. You may stand

10 down for now.

11   MR. IVES: Thank you.

12   JUDGE JORDAN: Well, now we're a little

13 past noon, so I think this is a good time for a lunch

14 break. Let's take one hour, one hour from now, and then

15 we will resume.

16   (Whereupon, a lunch recess was taken at

17 12:05 p.m.)

18   (Whereupon, the record resumed at 1:08

19 p.m.)

20   JUDGE JORDAN: We'll go back on the record.

21   We're ready to resume on the issue of the

22 transmission tracker. Ready for the next witness.

23   MR. FISCHER: Company would call John

24 Carlson to the stand.

25   JUDGE JORDAN: Please raise your right

 1   hand.

 2   (Witness sworn.)

 3   JOHN CARLSON testified as follows:

 4   DIRECT EXAMINATION BY MR. FISCHER:

 5   **Q   Please state your name and address for the**

 6   **record.**

 7   A   John Carlson, 1200 Main Street, Kansas

 8   City, Missouri.

 9   **Q   Are you the same John Carlson that caused**

10   **to be filed in both the Kansas City Power & Light and the**

11   **GMO case direct and rebuttal testimony?**

12   A   Yes, I am.

13   **Q   For your information, in the KCP&L case,**

14   **your direct is KCPL 12, and the rebuttal is KCPL 13; and**

15   **in GMO case, the direct is GMO 108 and rebuttal is GMO**

16   **109. Do you have any corrections or additions you need to**

17   **make today in those testimonies?**

18   A   No, I don't.

19   **Q   If I were to ask you the questions that are**

20   **contained in those written exhibits, would your answers be**

21   **the same today?**

22   A   Yes, they would.

23   **Q   And are they true and accurate to the best**

24   **of your knowledge and belief?**

25   A   Yes, they are.

 1   MR. FISCHER: With that, then, Judge, I

 2   would move the admission of KCPL 12 and 13 and GMO 108 and

 3   109. This is the only issue he appears on, and tender

 4   witness to cross.

 5   JUDGE JORDAN: I'm not hearing any

 6   objection to those exhibits, so they will be admitted into

 7   the record.

 8   Cross-examination from the MECG?

 9   MR. WOODSMALL: None, your Honor.

10   JUDGE JORDAN: Anything from Praxair and GP

11   and MEUA?

12   MR. CONRAD: No, but why don't -- we need

13   to get that cleared up. I represent Praxair in the 174

14   case and the GP and MEUA -- in their collective MEUA -- in

15   the 175 case. So, when you say and your Honor says GMO

16   Industrials, it's a little confusing.

17   JUDGE JORDAN: I'm inclined to agree. But

18   that is how the order of cross was given to me, so that's

19   how I'm going to do it.

20   Anything from the Office of the Public

21   Counsel.

22   MR. MILLS: I have no questions for this

23   witness.

24   JUDGE JORDAN: Anything from Staff?

25   MS. KLIETHERMES: No, your Honor.

1   JUDGE JORDAN: I have no questions for you,

2   which means you may stand down.

3   MR. CARLSON: Thank you.

4   MR. FISCHER: Thank you, Mr. Carlson.

5   JUDGE JORDAN: Next witness.

6   MS. KLIETHERMES: Staff calls Dan Beck who,

7   I believe, has been previously sworn in.

8   JUDGE JORDAN: I appreciate you mentioning

9   that. What I have been doing so far is readministering

10   the oath so I don't have to keep track of who has been

11   sworn and who has not already. If you mention that he's

12   been sworn already, then that's fine.

13   You may be seated.

14   DAN BECK testified as follows:

15   MS. KLIETHERMES: Staff tenders Mr. Beck

16   for cross.

17   JUDGE JORDAN: Any cross-examination from

18   the GMO Industrials?

19   MR. WOODSMALL: Very briefly, your Honor.

20   CROSS-EXAMINATION BY MR. WOODSMALL:

21   **Q   Mr. Beck, were you here when Ms.**

22   **Kliethermes gave Staff's opening statements?**

23   A   Yes, I was.

24   **Q   And she stated the point of your testimony**

25   **was to address, quote, dramatic changes, unquote, in the**

1   transmission world. Do you recall that?

2   A   I do.

3   **Q   Would you agree that that was the point of**

4   **your -- your surrebuttal testimony?**

5   A   She also mentioned that I addressed the

6   carrying cost issue, and I think those will be the two

7   main points of my testimony.

8   **Q   Looking forward, would you agree that the**

9   **Intergy move to MISO could be a dramatic change to GMO's**

10   **transmission expense?**

11   A   Yes.

12   **Q   How would the Intergy move to MISO affect**

13   **GMO's transmission expense?**

14   A   There's actually kind of several ways. The

15   obvious thing is the Crossroads plant. But because of its

16   location in Mississippi and the fact that -- that they

17   have an agreement to go across the Intergy system. But

18   the other possibility would be that there's a seams (ph)

19   agreement regarding Intergy and SPP, and that would be

20   modified. It's my understanding that would be modified as

21   a part of the MISO process. So, there's several --

22   several ways that there could be factors to change the

23   costs.

24   **Q   And is it your understanding that Intergy**

25   **has announced that it intends to move to MISO?**

 1   A   That's my understanding.

 2   MR. WOODSMALL: No further questions, your

 3   Honor.

 4   JUDGE JORDAN: Mr. Conrad, any cross-

 5   examination?

 6   MR. CONRAD: No, sir. Thank you.

 7   JUDGE JORDAN: Cross-examination form the

 8   Office of Public Counsel?

 9   MR. MILLS: No questions.

10   JUDGE JORDAN: Any cross-examination from

11   the Companies?

12   MR. FISCHER: I'll just briefly, Judge.

13   CROSS-EXAMINATION BY MR. FISCHER:

14   **Q   Mr. Beck, do you have your surrebuttal**

15   **testimony starting with the KCPL case?**

16   A   Yes, I do.

17   **Q   Okay. On page 2 of that surrebuttal**

18   **testimony at lines 16 through 17, you state KCPL also**

19   **requested a transmission tracker in its previous rate**

20   **case, Case No. ER-2010-0355, and then you go on to say,**

21   **Based on my understanding of its request, the design of**

22   **the transmission tracker requested by KCPL in the current**

23   **case is identical to the design of the transmission**

24   **tracker requested by KCPL in the previous case with one**

25   **exception. KCPL is now requesting carrying cost be added**

1   to the monthly balance of the tracker. Is that right?

2   A   That's right.

3   Q   **Now, on page 3, lines 5 through 10, you**

4   **also indicate that Staff recommended a transmission**

5   **tracker in that last KCPL rate case. Is that right?**

6   A   Yes, that's correct.

7   Q   **And I believe you were the Staff witness**

8   **that addressed the transmission tracker in that case?**

9   A   I was.

10   Q   **I believe Staff also recommended a similar**

11   **transmission tracker in the companion GMO rate case,**

12   **ER-2010-0356; is that right?**

13   A   That's correct.

14   MR. FISCHER: Judge, I would just like to

15   have a couple exhibits marked. Judge, I'm not sure what

16   the next exhibit number is.

17   JUDGE JORDAN: You can take a moment to

18   look that up. That's fine.

19   MR. FISCHER: Let's make it KCPL Exhibit

20   No. 9 -- or, I'm sorry -- 59, and the next exhibit under

21   GMO's case would be 144 -- 145, I'm sorry.

22   JUDGE JORDAN: Do you have copies of them

23   as well?

24   MR. FISCHER: Sure.

25   MS. KLIETHERMES: Before we get started

 1 discussing this exhibit, I would like to request a

 2 clarification on an item. I believe this is the highly

 3 confidential of the reports, but flipping through it, I

 4 don't see any individual pages denominated HC.

 5   MR. FISCHER: Yes, Counsel. This is just a

 6 portion of that report, and I didn't see anything HC in

 7 it, either.

 8   MS. KLIETHERMES: So, is it correct that

 9 these exhibits would be the non-proprietary despite the HC

10 stamp?

11   MR. FISCHER: Yeah. That's true. They

12 would all be non-proprietory.

13   MS. KLIETHERMES: Thank you.

14   JUDGE JORDAN: Thank you for that

15 clarification. That's very helpful.

16   MR. FISCHER: Ready to proceed?

17   JUDGE JORDAN: I am.

18   MR. FISCHER: Okay.

19   **Q   (By Mr. Fischer) On page 4 of your**

20 **surrebuttal at lines 13 through 14, you refer to the**

21 **Staff's cost of service report in KCPL's last rate case;**

22 **is that right?**

23   A   That's correct.

24   **Q   I have marked and handed you a copy of**

25 **Exhibit 59 which I believe -- do you know what that**

1 exhibit appears to be?

2   A   It's a portion of that Staff report.

3   Q   Is that the portion that relates to the

4 transmission expense tracker issue in that case?

5   A   Excluding the attached exhibits, yes.

6   Q   Okay.

7   A   There were, I believe, three or four extra

8 documents attached.

9   Q   Okay. And, then, we also handed out

10 Exhibit 145 in the GMO case. Would you describe what this

11 appears to be?

12   A   This also appears to be the portion of

13 Staff report that I sponsored.

14   Q   Okay.

15   MR. FISCHER: Judge, I would move for

16 admission of 59 and 145.

17   JUDGE JORDAN: I'm not hearing any

18 objections, so I will admit those documents into the

19 record.

20   Q   (By Mr. Fischer) Why don't we look at the

21 exhibit which is the KCPL cost and service report from the

22 last case. You go to the second page of the exhibit,

23 which is actually the third page of the exhibit, I guess,

24 which is page 150, and go down to Line 13. There it

25 indicates that Staff has completed its review of the

1   Company's transmission expenses and recommends the

2   Commission authorize the Company to use a transmission

3   expense and revenue tracker. Is that correct?

4   A   That's correct reading, yes.

5   Q   And the report then goes on to say Staff

6   recommends the Company be authorized to use a transmission

7   expense tracker due to the historical growth in and

8   current high level of the Company's transmission expenses,

9   the uncertainty and the levels of its future transmission

10   expenses, and because the Company has less control over

11   the level of transmission expenses the SPP assigns to it

12   than the Company has over most of its other expenses. Is

13   that correct?

14   A   That's correct.

15   Q   Mr. Beck, would you agree that transmission

16   expense continues to be growing at this time?

17   A   It certainly has grown since this -- this

18   case, and, you know, all projections are -- seems to be

19   that there's going to be future growth.

20   Q   There continues to be uncertainty, too, in

21   the levels of future transmission expense for both KCPL

22   and GMO, would you agree with that?

23   A   I think there's -- yeah, there's issues out

24   in the horizon that would create uncertainty.

25   Q   Okay. And I believe you included on page

1   150 of that Staff report a table which showed the historic

2   and estimated transmission expenses for KCPL; is that

3   right?

4   A   Yes. For specific account numbers listed.

5   Q   It appears to show that the transmission

6   expenses grew from 3.1 million in 2005 to an estimated 25

7   million in 2010; is that right?

8   A   Yes.

9   Q   And, then, if we turn to what's marked as

10   page 151, the next page of that exhibit, on line 3, it

11   states SPP has also approved a higher level of

12   transmission expenses than normal in the recent past, and

13   Staff expects this trend to continue. Is that correct?

14   A   Yes, that's what it says.

15   Q   Today, do you have -- expect in this case

16   the level of transmission expenses will continue to

17   increase at a faster pace that in the past?

18   A   I'm sorry?

19   Q   Today, do you believe that the level of

20   transmission expenses will increase at a faster pace than

21   in the past?

22   A   Um, I don't know that I could say that.

23   Q   Okay. Do you expect -- do you expect the

24   trend to continue of increasing costs?

25   A   I think there's, you know, the information,

1 all the information that I have is just from the SPP that

2 there is expected growth in some years and then there's

3 also flat periods in future years, for the expenses only.

4   **Q   Okay. If you go down on that exhibit to**

5 **line 4, it indicates that, for example, in April 2010, SPP**

6 **approved 1.4 billion of transmission expenses in its**

7 **priority projects; is that right?**

8   A   That's correct.

9   **Q   And, then, I think it goes on to say that**

10 **Staff does expect additional transmission valued at over**

11 **$1 billion is to be planned by SPP in its new integrated**

12 **transmission planning year '20 -- ITP '20 consisting of**

13 **transmission at or possibly -- I think it should say**

14 **"above", it says "about" -- 345 kB, which is most likely**

15 **to be voted on for approval by the SPP board in January of**

16 **2011. Do you see that?**

17   A   Yes.

18   **Q   Is that right?**

19   A   That was the plan at that time, yes.

20   **Q   Do you know if SPP is going forward with**

21 **its plans to have substantial investments made in**

22 **transmission facilities as Staff expected in that last**

23 **rate case?**

24   A   I do know that they're -- they have moved

25 forward with additional investments than what were defined

1   at that point. I don't know the specifics of what those

2   proposals are these days.

3   **Q   Okay. And, then, on lines 10 through 12 of**

4   **that Staff report, it indicates that transmission project**

5   **cost estimates may also differ significantly from the**

6   **final cost of these projects built, increasing the**

7   **uncertainty of the future level of the Company's**

8   **transmission expenses; is that correct?**

9   A   Yes.

10   **Q   Would you say that statement is still true**

11 **today?**

12   A   I think it follows for most any

13 construction project that you would have in a capital-

14 intensive industry like this.

15   **Q   And, then, on line 17, it indicates that,**

16 **like KCPL Staff proposed, KCPL should track its actual**

17 **transmission expenses on an annual basis. Is that right?**

18 **That's what you're recommending in that case?**

19   A   I'm sorry. What? What line were you at?

20   **Q   I think it was 17. Let's see. Well, let**

21 **me just ask you, that's what you're recommending in that**

22 **case; is that right, generally, if you recall? I don't**

23 **think that reference is the right reference.**

24   A   We were --

25   **Q   It's on the next page. Thank you. No,**

 1   it's on 153. On line 17, KCPL Staff proposes KCPL should

 2   tract its actual transmission expenses on an annual basis.

 3   A   That's what that sentence says, but there's

 4   a follow-on sentence.

 5   Q   Yeah. It says Staff further recommends the

 6   revenues from the two Staff adjustments listed above also

 7   be tracked on an annual basis. Is that right?

 8   A   And then we also talk about the additional

 9   topic of recommendations, yes.

10   Q   Staff recommends these expenses and

11   revenues include only Missouri jurisdictional revenues and

12   expenses; is that right?

13   A   That's correct.

14   Q   Okay. And, then, if you go down to line

15   20, Like KCPL, Staff agrees -- or maybe that should be

16   just proposes -- that KCPL record any annual excess amount

17   above the transmission expense amount included in the

18   revenue requirement used in setting rates and this rate

19   proceeding as a Regulatory Assets Account 182 and any

20   annual shortfall below the transmission expenses amount in

21   rates. And this rate proceeding is Regulatory Liability

22   Count 254. Is that right?

23   A   That's correct.

24   Q   Was Staff's transmission tracker proposal

25   in KCPL's last case similar, to your understanding, of

 1   what KCPL's transmission tracker in this case looks like?

 2   Are they similar in effect? I know there are a few

 3   differences.

 4   A   I think -- I think there's a huge

 5   difference when revenues aren't included.

 6   Q   Okay. And if we looked at the Staff report

 7   and in the GMO case, we would see the Staff recommended a

 8   similar transmission tracker in that case as well, would

 9   you agree?

10   A   That's correct.

11   Q   Um, let's go back to your surrebuttal

12   testimony at page 5, at lines 14 through 17, you indicate

13   that if the Commission approves a transmission tracker in

14   this case you recommend that both transmission costs and

15   transmission revenues be included in the tracker; is that

16   right?

17   A   That's correct.

18   Q   Could you be more specific about which

19   transmission revenues you're recommending or the Staff is

20   recommending to be included in the transmission tracker?

21   A   Um, I don't have a list of accounts, but

22   the simple concept was is that the list of transmission

23   costs, those are various, very specific identified

24   categories, and there are revenues that I believe are

25   directly tied to those same categories. But Mr.

1 Oligschlaeger would probably be a much better witness in

2 addressing some of the specific accounts.

3   **Q   Okay.   I can ask him about that.**

4   **Would you describe your understanding of what is**

5 **known as a zone or a local transmission project?**

6   A   Typically, those are projects that the

7 utility pursues, I guess I would say on its own, that it

8 has more benefit usually to its local control group but

9 also that whole area, and then there's SPP has a whole

10 cost allocation process related to that.

11   **Q   Would you contrast a zonal transmission**

12 **project with what's known as a regional transmission**

13 **project?**

14   A   For -- for the zones -- and I don't

15 remember, I think there's approximately, I don't want to

16 mislead, but I think there's approximately eight zones

17 throughout the whole SPP where regional -- the whole

18 regional projects would be the entire -- the cost part of

19 the cost would be borne by the entire utilities that make

20 up all of SPP.   And, so, that's the significant contrast

21 there.

22   **Q   So, our regional transmission project is**

23 **subject to SPP's cost allocation procedures whereby the**

24 **cost would be shared with all the SPP members, is that**

25 **your understanding?**

 1   A   That's correct.

 2   Q   Is it your understanding that, for regional

 3   transmission projects, KCPL and GMO do not pay 100 percent

 4   of the costs of those SPP transmission projects? They

 5   just pay --

 6   A   They just pay a share.

 7   Q   -- a share, yes. Right. They pay a much

 8   smaller percentage than the costs associated with a

 9   regional transmission project; is that right?

10   A   That's correct.

11   Q   Do you know if the Missouri portion of KCPL

12   and the GMO each would pay about 4 percent of those costs

13   on a regional transmission project?

14   A   That's my general understanding, is 4

15   percent, and that is for case bill that would be a

16   Missouri-only percentage.

17   Q   So, if we're talking about what's under the

18   Commission's jurisdiction, we're talking about 8 percent

19   total with GMO and Missouri's portion, or KCPL's Missouri

20   service area?

21   A   That's -- yes, that's correct.

22   Q   If KCPL bills a regional transmission

23   project at the request of SPP, it would also receive

24   revenues to pay for the other 92 percent of that regional

25   project; is that right?

1   A   That is correct.

2   **Q   Staff wouldn't expect that those revenues**

3 **from the other SPP members for that type of a regional**

4 **project should be included in the transmission tracker,**

5 **would it?**

6   A   I think then the question would be are

7 those costs a part of the rate base and the costs that are

8 being included in the Missouri jurisdictional rate base.

9   **Q   Let's assume they're not.**

10   A   Under that assumption, I think they would

11 not.

12   **Q   If KCPL and GMO customers are only paying 8**

13 **percent of the costs of the project, is there a reason why**

14 **they should get the benefit of 100 percent of the revenues**

15 **of a regional transmission project?**

16   A   The only reason I can think of is the fact

17 that they get to pay for all of the regional projects at

18 the 8 percent level and so, therefore, they're paying for

19 a lot of projects that aren't under their direct control

20 or part of their control area. But I don't think -- I

21 think -- I don't think that reason, you know, provides all

22 the justification needed to bring it into rate base in

23 essence.

24   **Q   So, if it's not a hundred percent rate**

25 **base, it doesn't make sense to get a hundred percent of**

 1   the revenues from those regional projects back; is that

 2   right?

 3   A   That's correct.

 4   Q   Would Staff be willing to consider limiting

 5   the revenues in the transmission trackers to those

 6   revenues KCPL and GMO receives for what is known as zonal

 7   or local transmission projects?

 8   A   Um, I think it would be something the Staff

 9   would consider. I -- it's one of those things that I

10   really would like to have some accounting expertise. I'm

11   an engineer, not an accountant at this point.

12   Q   I can ask Mr. Oligschlaeger, too.

13   Let's turn to page 5 of your surrebuttal.

14   On lines 21 through 23, you state that, even if both KCPL

15   transmission costs and revenues are tracked, some of the

16   transmission costs and revenues within KCPL's existing

17   service territory are likely to be outside of the tracker

18   if Commission approves Transource Missouri since

19   transmission costs and revenues would go to the owner of

20   the transmission assets; is that right?

21   A   That's correct.

22   Q   Transmission revenues associated with any

23   party, any third-party provider of transmission service

24   would not be included in the Missouri jurisdictional

25   transmission tracker. Would that be your expectation?

```
 1       A       That would be my expectation.

 2       Q       And that would be true for transmission

 3  companies that were non-affiliates as well as for some

 4  affiliate company of KCPL and GMO; is that right?

 5       A       That's correct.

 6       Q       Then, on page 6 of your surrebuttal, at

 7  lines 3 through 6, you indicate that if the Commission

 8  grants the transmission tracker in the current case, Staff

 9  proposes that reporting requirements be a condition of

10  that approval.  Is that right?

11       A       Could you give me that again?

12       Q       Yeah.  Page 6 at lines 3 through 6, I

13  think.

14       A       Yes.  Yes, with the caveat that those

15  reporting requirements from the ones defined in Mark

16  Oligschlaeger's testimony.

17       Q       Okay.  And is it your understanding that

18  the Company's not opposed to that condition?

19       A       My understanding is the Company's opposed

20  to some of those conditions and not opposed to others.

21       Q       And do you know about the reporting

22  requirement one?

23       A       Oh, the reporting requirement specifically,

24  I believe, was No. 2, and I believe the Company was not

25  opposed.
```

1   Q   Then, on page 3 of your surrebuttal

2   testimony beginning at line 20, you discussed changes

3   regarding transmissions that you filed your surrebuttal in

4   the last KCPL rate case on January 25, 2011; is that

5   right?

6   A   That's correct.

7   Q   And you first mentioned the FERC's Order

8   1,002 and the continued development of SPP day-ahead

9   market; is that right?

10   A   Yes.

11   Q   Would you agree that those items,

12   particularly the continuing development of SPP's day-ahead

13   market, introduces additional uncertainties related to the

14   expected levels of KCPL and GMO's transmission expenses?

15   A   And revenues, too, yes.

16   Q   And you also mention that Great Plains

17   Energy and American Electric Power form Transource

18   Elementary with GPE owning 13.5 percent of Transource; is

19   that right?

20   A   That's my understanding, yes.

21   Q   And I believe you go on to explain an

22   application that's pending in front of the Commission for

23   GMO and KCPL to transfer certain electric transmission

24   property to Transource; is that right?

25   A   Yes.

 1   Q   Is that the primary reason that you've

 2   changed your position in this case to now oppose a

 3   transmission tracker from the last case when you supported

 4   the development of a transmission tracker?

 5   A   In some ways, the FERC Order 1,000, in my

 6   mind, is really a primary driver for the creation of

 7   entities like Transource. So, I guess maybe there's a

 8   chicken and egg type of thing there, but I kind of see

 9   that whole relationship of what took place in FERC Order

10   1,000 and then the development of entities like Transource

11   as being a significant change.

12   Q   Do you expect, because of FERC Order 1,000,

13   that you will see more entities providing transmission

14   service on an unregulated basis, or an outside-of-state

15   jurisdiction?

16   A   I think there's going to be new entities

17   created. The only thing I'm hesitant about is when you

18   said "more". I know there's other entities that may go

19   out of existence, and so I'm not sure how that, you know,

20   whether that would be a zero sub-gain. I expect there

21   would be additional entities before it's all over.

22   Q   Is that the primary reason that you're

23   going to see unregulated transmission providers coming

24   into existence? Is that the reason you're not supporting

25   the transmission tracker in this case when you did in the

1 **last one?**

2   A   Um, again, in the last one, we supported a

3 transmission tracker that included revenues, and we still

4 continue to feel that way about the revenues. But --

5   **Q   And you are willing to limit that to the**

6 **zone, perhaps?**

7   A   I think there's other -- you know, the

8 point-to-point revenues. There's other revenues in

9 addition to that, but -- but in terms of, you know, the

10 primary drivers, I think -- I think that this -- that

11 whole change in relationship is significant.

12   **Q   And that's the primary reason --**

13   A   I think it is. I mean, I -- I think that

14 we, as a Staff, continue to evolve and learn, and I'll be

15 honest, I have been less involved in this arena in the

16 last couple of years. I was more involved at the time

17 that I gave this testimony, um, and that's just a matter

18 of workload --

19   **Q   Sure.**

20   A   -- and what.

21   **Q   Was it the decision of the Staff rather**

22 **than your own personal decision to change your position in**

23 **this case?**

24   A   I think it was --

25   MS. KLIETHERMES: I'm going to object his

1 characterizing the witness of having changed his position,

2 and that's simply not supported by the evidence in this

3 matter. If he would like to rephrase his question --

4   MR. FISCHER: I will try to rephrase. I

5 don't mean to be offensive here.

6   **Q   (By Mr. Fischer) Was it your personal**

7 **decision to change the position in your testimony to --**

8 **from the time that you supported a tracker with**

9 **modifications in the last case? Is that true, that that**

10 **was your position at that time?**

11   A   Heavy emphasis on a tracker. Not the

12 tracker but, yes, I support a tracker with modifications.

13   **Q   And, in this case, is it correct that**

14 **you're opposing a tracker, although you do -- although Mr.**

15 **Oligschlaeger talks about possible conditions; is that**

16 **right?**

17   A   And, of course, I have also entered in

18 testimony on the carrying cost issue, but yes.

19   **Q   Yeah. So, was that an overall Staff**

20 **position or did you personally make that decision to**

21 **change that nuance?**

22   A   It was -- it was an overall Staff decision,

23 but I was involved in that decision and I agreed with it.

24   **Q   Okay.**

25   MR. FISCHER: Thank you, Mr. Beck. I

 1   appreciate your patience.

 2   JUDGE JORDAN: I have no questions.

 3   Redirect?

 4   MS. KLIETHERMES: Yes, Judge, briefly.

 5   REDIRECT EXAMINATION BY MS. KLIETHERMES:

 6   **Q   I think in your last answer this may have**

 7   **been somewhat obvious, but what is different about Staff's**

 8   **recommendation in last case versus this case?**

 9   A   In -- in this case, first, our

10   recommendation is that the Commission should just simply

11   reject the case proposal. But if the Commission does want

12   to include a transmission tracker, we feel that the

13   transmission tracker should have both revenue and expenses

14   dealt with, and then we have a specific list of conditions

15   that include affiliates, and then there's a real small

16   issue of we do not believe the carrying costs need to be

17   included.

18   **Q   And you mentioned the carrying costs. Did**

19   **KCPL request or GMO request carrying costs in the last**

20   **tracker?**

21   A   They did not.

22   **Q   Mr. Fischer walked you through a table on**

23   **page -- was it 150 -- of Exhibit 59? Is that the right**

24   **page?**

25   A   Yes.

1   Q   Now -- and these numbers aren't highly

2   confidential, are they? If I'm looking at the estimate

3   for the year 2010, that says 25,000. Does it not?

4   A   I believe that would be 25 million, yes.

5   Q   Thank you. And did I read Mr. Ives' chart

6   correctly this morning that the actual incurred expenses

7   in the year 2010 were less than 5 million?

8   A   I honestly don't recall what his chart

9   showed.

10   MS. KLIETHERMES: Do you have that copy?

11   MR. FISCHER: Counsel, that was just SPP

12   cost. Mr. Ives is in his schedule attached to his

13   testimony.

14   MS. KLIETHERMES: Thank you for that

15   clarification.

16   Q   (By Ms. Kliethermes) To your knowledge,

17   have transmission expenses grown at the rate that was

18   projected, that it was projected they would grow at the

19   time you made that chart?

20   A   I saw some numbers -- it's been a while ago

21   -- that the 2010 number didn't come in as high as I had

22   put in that testimony. But that's -- that's kind of the

23   extent of my knowledge.

24   Q   To your knowledge, have revenues also

25   grown?

 1   A   That -- that's my general understanding,

 2   yes.

 3   **Q   To your knowledge, are revenues expected to**

 4   **grow?**

 5   A   That -- yes, I think that given the formula

 6   relationship they will continue to grow, if as expenses

 7   grow.

 8   **Q   Mr. Fischer walked you through some**

 9   **language on page 153, about line 17 in sequence, and**

10   **discussed Staff's recommendation in the last case to track**

11   **transmission expenses, and then I believe you pointed out**

12   **Staff's recommendation to also track revenues. In your**

13   **view, would it have been at all appropriate to track**

14   **expenses without tracking revenues?**

15   A   No. I do not believe that would be

16   appropriate.

17   **Q   And, in this case, do you believe it is at**

18   **all appropriate to track expenses but not track revenues?**

19   A   No I do not.

20   **Q   And, finally, Mr. Fischer tried to discuss**

21   **with you -- I think there was some confusion on both parts**

22   **of that conversation -- the discussion of whether or not**

23   **the tracking of revenues would be limited to zonal**

24   **revenues. Do you recall that discussion?**

25   A   I do.

1   Q   Is it your position that the tracker should

2   reflect the Missouri jurisdictional share of all revenues?

3   A   That's correct.

4   MS. KLIETHERMES: Thank you, Judge.

5   Nothing further.

6   JUDGE JORDAN: And that concludes the

7   examination of this witness. You may stand down.

8   MS. KLIETHERMES: Staff calls Mr. Mark

9   Oligschlaeger.

10   JUDGE JORDAN: Please raise your right

11 hand.

12   (Witness sworn.)

13 MARK OLIGSCHLAEGER testified as follows:

14 DIRECT EXAMINATION BY MS. KLIETHERMES:

15   Q   Good afternoon, Mr. Oligschlaeger. Could

16 you please spell your name for the Court Reporter?

17   A   Sure. O-l-i-g-s-c-h-l-a-e-g-e-r.

18   Q   And what is your business address?

19   A   My business address is Post Office Box 360,

20 200 Madison Street, Jefferson City, Missouri, 65102.

21   Q   And did you prepare in the KCPL matter

22 rebuttal testimony, both NP and HC, given as Exhibits Nos.

23 229 and 230?

24   A   Yes, I did.

25   Q   And did you prepare in the KCPL matter

 1   surrebuttal testimony given as Exhibit 252?

 2   A   I did.

 3   Q   And, in the GMO matter, surrebuttal

 4   testimony only given as Exhibit 3008?

 5   A   I did.

 6   Q   And if I were to ask you the same questions

 7   contained in that rebuttal, in any of those testimonies,

 8   would your answers be true and accurate to the best of

 9   your knowledge?

10   A   Yes.

11   MS. KLIETHERMES: Judge, I tender this

12   witness for cross. Oh, I'm sorry.

13   Q   (By Ms. Kliethermes) Do you have any

14   changes or corrections to any of that testimony?

15   A   I do not.

16   MS. KLIETHERMES: Thank you.

17   JUDGE JORDAN: Mr. Woodsmall, cross.

18   CROSS-EXAMINATION BY MR. WOODSMALL:

19   Q   Good afternoon, Mr. Oligschlaeger.

20   A   Good afternoon.

21   Q   Would you agree, under KCPL tracking

22   mechanism, they are attempting to compare costs that are

23   incurred with costs that are actually in rates?

24   A   Yes.

25   Q   And would you agree that if costs that are

1   incurred don't -- don't exactly match the costs that are

2   in rates, either regulatory asset or regulatory liability

3   would be created; is that correct?

4   A   Under that proposed approach, yes.

5   Q   And that regulatory asset or regulatory

6   liability would then be reflected in future rates; is that

7   correct?

8   A   Well, I expect the Company would request

9   that it be reflected in future rates.

10   Q   Okay. And if it was amortized, it would be

11   reflected in future rates, if it was authorized by the

12   Commission to be amortized and be reflected in future

13   rates; is that correct?

14   A   Yes.

15   MR. WOODSMALL: No further questions, your

16   Honor.

17   JUDGE JORDAN: I see Mr. Conrad is absent.

18   Questions from the Office of the Public

19   Counsel.

20   MR. MILLS: No questions.

21   JUDGE JORDAN: Anything from the Companies?

22   MR. FISCHER: Yes, Judge. Just briefly.

23   CROSS-EXAMINATION BY MR. FISCHER:

24   Q   Mr. Oligschlaeger, I'd like to visit with

25   you about the Staff's conditions that are shown on page 7

1   of your KCPL surrebuttal. As I understand your testimony,

2   Staff's supporting these conditions if the Commission

3   would decide to authorize KCPL and GMO to have a

4   transmission tracker; is that right?

5   A   That's correct.

6   Q   And I think you've included identical

7   conditions in the surrebuttal of your GMO case; is that

8   right?

9   A   Yes.

10   Q   So, if we talk about these conditions in

11   the KCPL case, they would be actually equally applicable

12   to GMO, right?

13   A   I believe so.

14   Q   Your first condition is that the tracker

15   reflect both transmission revenues and expenses and,

16   thereby, operate as a two-way mechanism. Is that right?

17   A   Yes.

18   Q   I asked Mr. Beck, but I would also like to

19   ask you, would you be more specific about which

20   transmission revenues that the Staff believes should be

21   included in the transmission tracker?

22   A   In general terms, all revenues it would

23   receive through SPP, relating to transmission services.

24   Q   Is that true even if the regional projects

25   are not in the Company's rate base?

 1   A   Well, that would -- the revenues to be

 2   received by the regulated entities KCPL and GMO. That's

 3   what we would be interested in. Is your question is it

 4   possible that those facilities may not be in those

 5   Companies' rate bases?

 6   **Q   Well, let's assume that KCPL customers are**

 7   **only paying 8 percent of those -- of the regional**

 8   **projects. Can you assume that?**

 9   A   Sure.

10   **Q   If we assume that is there, is it Staff's**

11   **position that 100 percent of the revenues that the**

12   **Companies received from those regional transmission**

13   **projects should be included in the tracker?**

14   A   I believe, as stated in my testimony, yes.

15   **Q   Would that have Staff be willing to**

16   **limiting the revenues of the transmission trackers to**

17   **those revenues that KCPL and GMO receive or the zonal or**

18   **local transmission projects?**

19   A   I think, in general, we would be willing to

20   discuss this topic further with the Company or other

21   interested parties, yes.

22   **Q   Let's discuss your Condition 4. Are you**

23   **suggesting that the Commission order KCPL and GMO to**

24   **include in the transmission tracker transmission charges**

25   **that are less than the transmission charges that are**

 1   tariffed and approved by the FERC and actually paid by

 2   KCPL and GMO?

 3   A   I believe under certain conditions, yes.

 4   Q   On page 10 of your surrebuttal testimony at

 5   lines 13 through 16, you state in recent years FERC has

 6   adopted a number of rate-making policies that would have

 7   the probable impact of increasing revenue requirements

 8   associated with these transmission projects above the

 9   level that would be normally established under these

10   commission rate-making policies. Is that right?

11   A   Yes.

12   Q   Are you suggesting there that if the

13   transmission service was under the Commission's

14   jurisdiction that you believe this Commission would

15   approve transmission service rates at a lower level than

16   the FERC-approved transmission tariffs?

17   A   In general terms, I believe that's

18   accurate.

19   Q   Has the Commission indicated that in any

20   way in any order that you've read?

21   A   Not directly. I believe the Commission has

22   approved a condition in an Ameren application to join MISO

23   which, I believe, follows along the same lines as what

24   we're suggesting here.

25   Q   But you haven't seen an order specifically

 1   that said, if we were setting transmission rates, we would

 2   use a different rate of return or a different capital

 3   structure?

 4   A   I don't believe language along those lines,

 5   no.

 6   Q   So, is it correct you're speculating a

 7   little bit about what the rate-making practices for the

 8   Missouri Commission would be if they had transmission

 9   service in their jurisdiction?

10   A   Can you repeat that again, please?

11   Q   I was just asking, it seems like you're

12   speculating a little bit about what the Commission's rate-

13   making practices would be if they had transmission service

14   and they were studying transmission rates.

15   A   Speculation, but based upon knowledge of at

16   least some of the rate-making policies recently

17   implemented by FERC, which I don't believe this Commission

18   has adopted.

19   Q   And they haven't addressed, either, right?

20   A   In a rate proceeding?

21   Q   Yes.

22   A   I'm not aware they have.

23   Q   Okay. On the next line, you state the

24   purpose of this condition is to require KCPL to pass

25   through SPP transmission revenue requirements to Missouri

1   retail customers calculated on the equivalent basis with

2   Missouri Commission rate-making practices, right?

3   A   Yes.

4   Q   Staff has expressed a view that the

5   Missouri Commission rate-making practices rather than the

6   FERC rate-making practices are appropriate?

7   A   Yes.

8   Q   So, you're saying there that you believe

9   Missouri has the appropriate rate making, FERC does not?

10   A   Uh, yes, for certain items. Yes.

11   Q   Are you suggesting to the Commission that

12   it should substitute its judgment regarding state rate-

13   making principles and compute the revenue requirement

14   affecting of those state rate-making principles into the

15   transmission tracker, rather than including the costs that

16   are approved by the FERC in the FERC transmission tariffs?

17   A   Yes. In the case, again, that it is an

18   unregulated affiliate of KCPL and GMO that is actually

19   incurring the costs and passing through the charges to the

20   other SPP members.

21   Q   Okay. If it was not a regulated affiliate

22   -- or an unregulated affiliate, if it was just a third

23   party not associated with the Companies, you wouldn't have

24   that position?

25   A   This condition is specific to an affiliate

1   of GPE.

2   Q   So, are you effectively trying to compute

3   the profits of the affiliate back to the regulated utility

4   to lower the cost to the customers?

5   A   I don't believe we're trying to impute

6   profits from the unregulated affiliate to the utility.

7   That's not the intent here.

8   Q   Okay. Does Staff want to lower the

9   Federally-approved transmission charges included in KCPL

10 and GMO's transmission expenses to a level that would be

11 consistent with the ROE and capital structures established

12 by the Missouri Commission in KCPL and GMO rate cases?

13   A   That would be one of the items we are

14 interested in doing, yes.

15   Q   Does Staff want to eliminate the revenue

16 requirement impact of construction work in progress from

17 the FERC-approved transmission charges?

18   A   If that is allowed in the FERC-approved

19 charges, yes.

20   Q   Would Staff be willing to consider limiting

21 this condition only to facilities that are constructed by

22 KCPL or GMO affiliates in KCPL and GMO service territory

23 and that are subject to regional cost allocation by the

24 SPP?

25   A   I believe so. I believe that's the intent.

1   Q   So, in other words, such a condition would

2   be limited to facilities in KCPL and GMO service areas

3   built by a transmission affiliate where KCPL and GMO would

4   be paying the 8 percent allocated share of those regional

5   facilities, right?

6   A   Yes.

7   Q   Okay. Under your sixth condition, you say

8   that deferral resulting from the transmission tracker

9   mechanism cease under certain circumstances depending upon

10 KCPL's reported return on equity level; is that right?

11   A   Yes.

12   Q   On page 11 of your surrebuttal, at one

13 point you state Staff recommends that, if the Commission

14 reports -- if the Company reports it is earning at or in

15 excess of its authorized ROE on a 12-month rolling forward

16 average basis in quarterly earnings surveillance

17 reporting, any tracker deferrals of under-collections and

18 net transmission costs should cease from that point

19 forward and only resume on perspective basis if this

20 surveillance reporting shows it is now earning below its

21 operating ROE; is that right?

22   A   You read it correctly.

23   Q   Okay. KCPL and GMO and other utilities

24 have trackers that are approved by the Commission at the

25 present time; is that right?

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 1          A      Yes.

 2          Q      Are you familiar with any tracker approved

 3   by the Missouri Commission which automatically ceases if

 4   the Public Utility's surveillance reports show earnings

 5   more than they are authorized ROE?

 6          A      No.  This is a condition we have only

 7   proposed for this -- in this case for a transmission

 8   tracker, and actually also in the Ameren case if the

 9   Commission were to approve a tracker in that proceeding as

10   well.

11          Q      You propose the Ameren case, too?

12          A      Yes.

13          Q      Is it your opinion KCPL gives annual

14   reports to the Staff?

15          A      Yes.

16          Q      Those annual KCPL surveillance reports are

17   more detailed, aren't they, than other companies' detailed

18   reports?

19          A      It's been a while since I looked at the

20   surveillance reports.  It's my general understanding that

21   would be accurate.

22          Q      And that practice has been going on since

23   roughly the Wolf Creek rate case in 1986 or so?

24          A      Sometime in the 1980s.

25          Q      So, more than 20 years?
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 1   A   Yes.

 2   **Q   If the Commission adopted Staff's sixth**

 3   **condition, wouldn't you agree that KCPL would need to**

 4   **change the annual surveillance reporting service that's**

 5   **been in effect for two decades?**

 6   A   Um, whether it would need to change it or

 7   not, um, if they were to start produce -- KCPL was to

 8   start producing quarterly reports, certainly we could

 9   discuss either modification or potentially even

10   elimination of the annual reporting. Now, that annual

11   reporting may be, in part, set in place through

12   stipulation agreement with other parties. I'm not sure.

13   So, it may be more complicated than simply talking about

14   it. But we would certainly be willing to discuss it.

15   **Q   Goes back 20 years, might be hard to find**

16   **the right parties, too.**

17   A   That's true.

18   **Q   And those annual reporting requirements,**

19   **they have a jurisdictional allocation feature to them as**

20   **well, right?**

21   A   I believe so.

22   MR. FISCHER: That's all the questions I

23   have, Judge.

24   JUDGE JORDAN: There are no questions from

25   the bench.

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 1              Redirect?

 2              MS. KLIETHERMES:  Yes, briefly.

 3    REDIRECT EXAMINATION BY MS. KLIETHERMES:

 4         Q      Mr. Fischer discussed with you the prospect

 5    of limiting the revenues that would be tracked to zonal

 6    projects or projects in which KCPL or GMO has more than 8

 7    percent involvement.  Do you recall that conversation?

 8         A      Generally.

 9         Q      Would limiting the revenues track to a

10    subset of revenues while including all transmission

11    expense for tracking present a possibility of a windfall

12    to KCPL or GMO?

13         A      If all of the related revenues associated

14    with the transmission expenses being included in the

15    tracker are also not included, yes, that could result in a

16    windfall.

17         Q      You were asked about tracking costs that

18    might be less than what those costs are authorized by

19    FERC.  I don't think I said that in an intelligible way.

20    Let me restate that.

21         You were asked about tracking costs at a level

22    less than the FERC-authorized rate.  Do you recall that?

23         A      Yes.

24         Q      To your knowledge, does FERC have any

25    requirements that State regulators authorize any sort of
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 1   special accounting authority for recognition of FERC

 2   costs?

 3   A   I'm not aware of any such thing.

 4   Q   If there were such a thing, would you

 5   expect to be aware of it?

 6   A   Yes.

 7   Q   Have you expressed any position on the

 8   appropriateness of FERC rate making for items under FERC's

 9   jurisdiction?

10   A   I -- my intent was to express only an

11   opinion on the appropriateness of certain FERC rate-making

12   practices as they may play into the retail rates charged

13   in this state, the Missouri jurisdictional customers.

14   Q   To your knowledge, would imputation of

15   revenues in a Missouri jurisdiction affect in any way the

16   authority of the FERC or the rate set by the FERC?

17   A   To my knowledge, no.

18   Q   To your knowledge, the discussion that you

19   had with Mr. Fischer about quarterly reporting, do you

20   know if other utilities' quarterly reporting is pursuant

21   to the Commission's FAC or fuel adjustment clause rules?

22   A   Certainly for those companies that operate

23   under a FAC, they are required to do certain quarterly

24   surveillance reporting.

25   Q   And was your intent to -- to supplement or

 1   **supplant KCPL's current practices of annual reporting?**

 2   A   Well, my intent was, strictly speaking, to

 3   supplement it. We were not making a recommendation that

 4   the annual reporting be eliminated. If KCPL would be

 5   interested in that, within the constraints of prior

 6   agreements, that could be discussed.

 7   MS. KLIETHERMES: That's all I have. Thank

 8   you.

 9   JUDGE JORDAN: Then this witness may stand

10   down. Next witness.

11   MR. WOODSMALL: Your Honor, MECG would call

12   Jim Dauphinais to the stand. He has not appeared yet.

13   JUDGE JORDAN: Thank you.

14   (Witness sworn.)

15   JAMES R. DAUPHINAIS testified as follows:

16   DIRECT EXAMINATION BY MR. WOODSMALL:

17   **Q   Would you state your name for the record,**

18   **please?**

19   A   James R. Dauphinais, D-a-u-p-h-i-n-a-i-s.

20   **Q   And by whom are you employed and in what**

21   **capacity?**

22   A   I'm employed by Brubaker Associates, Inc.,

23   as a consultant in energy economic and regulatory matters.

24   **Q   Did you cause to be filed what has been**

25   **marked as Exhibits 404 and 405, your direct and**

1   surrebuttal testimony in the KCP&L case, and 429 and 430,

2   direct and supplemental testimony in the GMO case?

3   A   Yes.

4   Q   Do you have any changes to make to that

5   testimony?

6   A   I have clarifications to Exhibit 404 and

7   Exhibit 429.

8   Q   Please proceed.

9   A   In Exhibit 404 which is my direct testimony

10   for KCPL, page 7, line 10, between the words "not" and

11   "need", insert the words "have a pressing". On line 13,

12   once again between the words "not" and "need", insert the

13   words "have a pressing". Those are my only clarifications

14   for Exhibit 404.

15   For Exhibit 429 which is my direct testimony in

16   regard to GMO, page 8, line 16, between the words "not"

17   and "need", insert the words "have a pressing". Line 19

18   between the words "not" and "need", insert the words "have

19   a pressing". And those are all my clarifications to

20   Exhibit 429.

21   Q   With those clarifications, if I were to ask

22   you the same questions here today, would your answers be

23   the same?

24   A   Yes, they would.

25   Q   And are those answers correct to the best

 1   **of your knowledge, information, and belief?**

 2   A   Yes.

 3   MR. WOODSMALL: Your Honor, this is the

 4   only time Mr. Dauphhinais is taking the stand, so I would

 5   move for the admission of Exhibits 404 and 405 in the KCPL

 6   case, 429 and 430 in the GMO case.

 7   JUDGE JORDAN: I'm not hearing any

 8   objections, so I'll enter those exhibits into the record.

 9   MR. WOODSMALL: Thank you. Tender the

10   witness for cross-examination.

11   JUDGE JORDAN: Seems Mr. Conrad is not

12   present in the room, so I will go to the Office of Public

13   Counsel.

14   MR. MILLS: No questions.

15   JUDGE JORDAN: Staff.

16   MS. KLIETHERMES: No questions.

17   JUDGE JORDAN: The Applicants?

18   MR. FISCHER: No. Thank you, Judge

19   JUDGE JORDAN: I have no questions for you.

20   So, that will conclude your examination. You may stand

21   down.

22   MR. DAUPHINAIS: Thank you.

23   MR. WOODSMALL: I believe we're completed

24   this issue then.

25   JUDGE JORDAN: We are, according to my

 1   witnesses. Anybody have anything?

 2   MS. KLIETHERMES: Yes, Judge. If I recall

 3   correctly, I neglected to offer the testimonies for Mrs.

 4   Beck and Oligschlaeger. I would like to do so at this

 5   time.

 6   JUDGE JORDAN: I remember to one of those

 7   sets of examinations.

 8   Anything else?

 9   MS. KLIETHERMES: No, your Honor.

10   JUDGE JORDAN: Those exhibits will be

11   admitted into the record.

12   UNIDENTIFIED PERSON: Can we take a short

13   break to rearrange counsel table?

14   JUDGE JORDAN: Certainly, you may, and

15   we'll break for 15 minutes.

16   (A BREAK WAS TAKEN.)

17   JUDGE JORDAN: We're back on the record.

18   Before we continue, I want to mention to

19   each of the parties the filing of a non-unanimous

20   stipulation and agreement regarding low income withdrawal

21   examination and withdrawal of objection and a withdrawal

22   of the request for hearing. As I read that document in

23   both cases that are the subject of this evidentiary

24   hearing, and the parties to that stipulation have asked

25   that that issue be taken off of Monday's hearing schedule.

 1   I intend to do so, and before -- anyone who wishes to

 2   object may do so before the end of this day.

 3   Anything else before we resume with our

 4   case and take opening statements on the issue of OSC

 5   margins?

 6   (No response.)

 7   JUDGE JORDAN: I'm not hearing anything, so

 8   we'll proceed with the opening statements on that topic,

 9   and the first will be from Kansas City Power & Light

10   Company and KCP&L Greater Missouri Operations Company.

11   MR. ZOBRIST: Judge, this issue only

12   pertains to GMO, and I do not have an opening statements.

13   The very brief issues relating to negative off-systems

14   operations by Company, our only witness was Burton

15   Crawford who was previously sworn this morning

16   JUDGE JORDAN: Opening statement from

17   Staff?

18   MR. BORGMEYER: Yes.

19   JUDGE JORDAN: What exhibit number will you

20   attach to this?

21   MR. BORGMEYER: Your Honor, this is -- this

22   is all pre-filed testimony, but if you would like it in

23   the record, I believe we're -- I believe Exhibit No. 398

24   would be appropriate.

25   JUDGE JORDAN: Yes, I believe it is

 1   pre-filed. It is my excerpts numbered, because of making

 2   an easier reference in filing briefs.

 3   MR. ZOBRIST: This is an HC exhibit.

 4   JUDGE JORDAN: I noted that an asterisk in

 5   the text indicate highly confidential informations.

 6   MR. ZOBRIST: Yes, and all of these are

 7   highly confidential. All the sheets in here.

 8   JUDGE JORDAN: Will this be for both

 9   witnesses that you have scheduled? I'm just trying to

10   figure out when we're going to go in camera and when not.

11   MR. BORGMEYER: I'm not anticipating saying

12   anything that needs to be in camera. I'm not going to

13   refer to any specific numbers on this chart.

14   JUDGE JORDAN: Okay.

15   MR. BORGMEYER: My understanding is I can

16   just talk about some of the general trends that this chart

17   shows without needing to go in camera to do that.

18   JUDGE JORDAN: Well, that's fine by me.

19   I'm seeing nods from counsel for the Applicants, and

20   that's fine by me. I appreciate that preference.

21   MR. ZOBRIST: Do we have a number for this

22   HC exhibit number, Judge?

23   JUDGE JORDAN: 398, was it, Counsel?

24   MR. BORGMEYER: That's correct.

25   Good afternoon, Judge. May it please the

 1   Commission?

 2   JUDGE JORDAN: Yes.

 3   MR. BORGMEYER: Staff is concerned about

 4   the consistent negative margins that GMO is experiencing.

 5   In its pre-file testimony, Staff witness William Harris

 6   created a couple of charts that I think show exactly what

 7   Staff is concerned about in this matter. And these charts

 8   are all HC, and I don't intend to state any of the numbers

 9   from the charts or show them on the big board or anything.

10   But before -- before I discuss these

11   charts, I do want to just mention a couple of important

12   dates. In 2007, Aquila/GMO received a fuel adjustment

13   clause. And, in 2008, Great Plains Energy acquired

14   Aquila.

15   Now, your Honor, I would direct your

16   attention and the Commission's attention to the first

17   chart that's in the little packet I handed around. And

18   this chart shows actual off-system sales and off-system

19   sales margin for Aquila/GMO from 2002 to March 2012.

20   And I just want to direct your attention to the years 2008

21   and 2009. You see a very dramatic shift from positive

22   margins to negative margins, and that's what Staff's

23   concerned about in this matter.

24   If you can turn the page to the next chart,

25   this chart shows off-system sales between KCPL and

1 GMO/Aquila. And, again, if you can look down to the 2007

2 to 2008 time frame, you can see that, before the

3 acquisition, KCPL was selling relatively little power to

4 GMO. And you can see how that number changed after the

5 acquisition. Excuse me.

6   Now, the Company testified in this case

7 that GMO's negative margin is driven by purchase for

8 resale, and those are transactions made when GMO purchases

9 power to serve native load, then sells off the excess as

10 opposed to selling the excess from GMO-owned generation.

11 But, in a surrebuttal testimony, Mr. Harris points to a

12 couple of important facts that I want to point out on that

13 point.

14   In August 2010, the Iatan-2 generation

15 plant went into service, and GMO owns 18 percent of

16 Iatan-2. Since Iatan-2 went into service, GMO has seen

17 four months where GMO's generation cost to produce

18 off-system sales has been greater than the off-system sale

19 cost attributable to purchase power, and the next chart in

20 that packet shows those four months.

21   And, so, you can see the off-system sales

22 level, you can see the generation cost, and you can see

23 that that cost is greater than the purchase power cost.

24 And what's important here is that out of those four months

25 show a negative margin and the four month-total also shows

 1   a negative margin.

 2   And the final chart in this packet puts a

 3   finer point on that. This chart shows off-system sales

 4   revenue, the cost of those sales, and the net margin

 5   realized from those sales and the data as broken out three

 6   years before the acquisition. And there in the middle,

 7   you can see the year of acquisition 2008, and then you can

 8   see the three years after the acquisition, and on the far

 9   right column Mr. Harris shows the percentage of total

10   off-system sales cost attributable to purchase power.

11   And you can see I've marked on there, you

12   can see that Aquila had a fairly high percentage of

13   purchase power, higher than GMOs. And, yet, Aquila had

14   positive off-system sales margin. GMO had negative. And

15   Mr. Crawford doesn't explain why if purchase power costs

16   are driving these negative off-system sales margins that

17   Aquila didn't have the same problem.

18   Now, as Mr. Harris points out, Ameren

19   Missouri, KCP&L, KCPL, and the Empire District Electric

20   Company are not experiencing consistent negative margins,

21   only GMO has that problem, and that's why Staff's

22   concerned about this.

23   If you have any questions, I'd be glad to

24   try to answer them, but we have Mr. Harris here and I

25   think he'd probably be the best one to explain his charts

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 1   for you.

 2   JUDGE JORDAN: I have no questions for you.

 3   MR. BORGMEYER: Thank you.

 4   JUDGE JORDAN: Office of Public Counsel,

 5   anything?

 6   MR. MILLS: I would waive opening on this

 7   issue.

 8   MR. BORGMEYER: Missouri Industrial Energy

 9   Consumers? Not with us.

10   Mr. Conrad?

11   MR. CONRAD: We'll waive, Judge. Thank

12   you.

13   JUDGE JORDAN: And Mr. Woodsmall is also

14   not with us.

15   Well, then, I guess we will take our first

16   witness.

17   MR. ZOBRIST: The Company will call Burton

18   Crawford to the stand., actually recall Mr. Crawford to

19   the stand.

20   JUDGE JORDAN: You may recall that I have

21   administered the oath to him already.

22   MR. ZOBRIST: Judge, for the record, Mr.

23   Crawford's direct rebuttal exhibits 110, 111, and 112 have

24   been previously admitted into evidence. I believe this

25   issue is discussed in his rebuttal and, perhaps, his

 1   surrebuttal.

 2   I should also state for the record that Mr.

 3   Blunk provided surrebuttal testimony on this issue as

 4   well, but, of course, he's already testified and has been

 5   excused.

 6   JUDGE JORDAN: Correct.

 7   MR. ZOBRIST: And the preliminaries have

 8   been gone through with Mr. Crawford, so I'm prepared to

 9   tender him for cross-examination at this time.

10   JUDGE JORDAN: Very well.

11   Mr. Conrad, any cross?

12   MR. CONRAD: No, sir. Thank you.

13   JUDGE JORDAN: Office of the Public

14   Counsel, any cross?

15   MR. MILLS: No questions. Thank you.

16   JUDGE JORDAN: Staff, any?

17   MR. BORGMEYER: No, Judge.

18   JUDGE JORDAN: Very well. You may stand

19   down. I have no questions for you.

20   Next witness.

21   MR. BORGMEYER: Staff calls William Harris.

22   (Witness sworn.)

23   WILLIAM HARRIS testified as follows:

24   DIRECT EXAMINATION BY MR. BORGMEYER:

25   **Q   Good afternoon, Mr. Harris.**

 1   A   Good afternoon.

 2   Q   Would you please spell your name for the

 3   Court Reporter, please?

 4   A   Yes. V. William, W-i-l-l-i-a-m, Harris,

 5   H-a-r-r-i-s.

 6   Q   And are you the same William Harris who

 7   filed in the KCP&L matter sections of the cost of service

 8   report appendices and accounting schedules which are

 9   marked as Exhibit Nos. 200 to 208, and also rebuttal

10   testimony marked as Exhibit 216 and 217, and surrebuttal

11   testimony marked as 239 and 240, and in the GMO case

12   sections of the cost of service report appendices and

13   accounting schedules listed as Exhibits 258 to 264, also

14   rebuttal testimony marked 274, 275, and surrebuttal

15   testimony marked 295 and 296?

16   A   Yes, I am.

17   Q   Do you have any corrections to any of that

18   testimony?

19   A   No, I do not.

20   Q   If I asked you the same questions today,

21   would the answers be the same as in that -- that direct,

22   or in that pre-filed testimony?

23   A   It would.

24   Q   Would those answers be true and correct to

25   the best of your knowledge and belief?

 1   A   Yes.

 2   MR. BORGMEYER: With that, Judge, I would

 3   offer those exhibits into the record and tender this

 4   witness for cross.

 5   MR. ZOBRIST: No objection.

 6   MR. CONRAD: No objection.

 7   JUDGE JORDAN: Hearing no objection, those

 8   exhibits will be entered into evidence.

 9   Cross-examination from Mr. Conrad.

10   MR. CONRAD: No, sir. No questions. Thank

11   you.

12   JUDGE JORDAN: From the Office of the

13   Public Counsel?

14   MR. MILLS: No questions.

15   JUDGE JORDAN: From the Companies.

16   MR. ZOBRIST: Just a few, your Honor.

17   CROSS-EXAMINATION BY MR. ZOBRIST:

18   Q   **Mr. Harris, am I correct that in the Staff**

19   **report beginning at pages 106 and going on for a few**

20   **pages, you expressed concern regarding the decrease in GMO**

21   **off-system sales and margins since Great Plains Energy**

22   **acquired Aquila in 2008? Is that correct?**

23   A   I would have to check those specific page

24   numbers, but 106 through 108?

25   Q   **I think that's about right. 106 through,**

 1   actually, page 109.

 2   A   Yes.

 3   Q   And am I correct that neither you nor any

 4   other Staff member recommended a monetary adjustment based

 5   upon the concerns that you have raised in this Staff

 6   report?

 7   A   That's correct.

 8   Q   Did you conduct an investigation regarding

 9   any differences in the off-systems sales practices of

10   Aquila versus those of GMO after it was acquired by Great

11   Plains Energy?

12   A   Um, I've looked at -- and through the DR

13   responses that we submitted in this case as well as in

14   prior cases, KCPL, GMO practices off-systems sales

15   practices as a general review.

16   Q   Okay. In what -- so, do you know what the

17   differences were in practices pre-acquisition versus post-

18   acquisition between the two companies?

19   A   I did not have the same review with Aquila.

20   I've only reviewed the practices of KCPL and GMO,

21   practices that have been in response to the DRs in the

22   KCPL-GMO rate cases.

23   Q   All right. So, if I understand what you're

24   saying is you cannot advise the Judge or the Commission

25   today what specific differences there are between the pre-

1   and post-acquisition practices of GMO/Aquila regarding the

2   use of network integrated transmission service?

3   A   No, not specifically.

4   Q   And, just to clarify, Mr. Harris, what I

5   was asking about -- because GMO is really the new name for

6   the Missouri Properties of Aquila, is a GPE acquisition?

7   A   Uh-huh.

8   Q   My question is just to confirm that you

9   cannot describe in any detail the practices that Aquila

10   followed with regard to the use of network integrated

11   transmission services versus those that GMO has adopted

12   and practiced since the time that it was acquired by Great

13   Plains Energy. Is that correct?

14   A   That is correct.

15   Q   In your preparation for your testimony

16   today, did you read the surrebuttal testimony that Mr.

17   Blunk filed in the GMO case?

18   A   Yes.

19   Q   Do you have any reason to disagree with Mr.

20   Blunk's observations on page 8? It's highly confidential

21   testimony, but my question is do you disagree with the

22   explanation that Mr. Blunk gave at page 8 of his

23   surrebuttal?

24   A   That's in the GMO case?

25   Q   Correct.

1   A   Um, I don't believe I have Mr. Blunk's GMO

2 rebuttal testimony with me.

3   **Q   I'm sorry. It's his surrebuttal testimony**

4 **at page 8.**

5   A   Okay. Um, no. I don't. I don't know

6 whether I do or not. I don't have that testimony.

7   MR. ZOBRIST: Can I approach the witness?

8   JUDGE JORDAN: You may.

9   MR. ZOBRIST: May I have a moment, your

10 Honor?

11   JUDGE JORDAN: You may.

12   MR. BORGMEYER: We may be able to get a

13 copy up here.

14   MR. ZOBRIST: Oh, all right.

15   MR. BORGMEYER: I think we got it here,

16 surrebuttal.

17   MR. ZOBRIST: It's surrebuttal, page 8.

18   JUDGE JORDAN: And while the parties are

19 coordinating the testimony, I will just remind you, if the

20 question is yes or no on this highly-confidential

21 information, keep it yes or no. We don't want the highly-

22 confidential information to get out. So, I ask you to

23 limit your comments.

24   THE WITNESS: Pardon me?

25   JUDGE JORDAN: I'll ask you to limit your

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 1   comments.

 2   THE WITNESS: Okay.

 3   JUDGE JORDAN: Thank you.

 4   MR. ZOBRIST: May I approach the witness,

 5   Judge?

 6   JUDGE JORDAN: You may.

 7   **Q   (By Mr. Zobrist) Okay. Mr. Harris, I'm**

 8   **showing you a copy of Mr. Blunk's surrebuttal which has**

 9   **been admitted into evidence. I apologize, I don't have**

10   **the number.**

11   A   Okay.

12   **Q   My question is whether you have a basis to**

13   **disagree with what Mr. Blunk's set forth on page 8 of his**

14   **surrebuttal testimony in the GMO case.**

15   A   Okay. So, you would be talking about all

16   three question and answers here?

17   **Q   Yes, that's right. But, particularly, the**

18   **two that were in highly-confidential testimony.**

19   A   Okay. Take me just a moment to review it.

20   **Q   It really begins on line 6 and goes to line**

21   **17.**

22   A   Okay.

23   **Q   My question is do you have a basis to agree**

24   **with Mr. Blunk's explanation there?**

25   A   No.

 1   Q   Okay.

 2   MR. BORGMEYER: You might want to just hold

 3   on to that. I might have just a bit of recross on that,

 4   if that's okay.

 5   Q   (By Mr. Zobrist) Mr. Harris, let me just

 6   ask you a couple of questions about your surrebuttal, page

 7   4, line 16 and 17. You stated there that GMO is similarly

 8   sized to Empire in terms of customer's rate base and

 9   revenues. Do you recall that?

10   A   Yes.

11   Q   Okay. Do you know how many electric

12   customers Empire has?

13   A   Yes.

14   Q   How many?

15   A   Um, approximately a hundred sixty-six

16   thousand, but I need to look at my information here to be

17   specific. Um, 166,477.

18   Q   Okay. Would you agree that the Staff

19   report at page 2 states that GMO serves approximately

20   312,000 customers?

21   A   Yes.

22   Q   And do you know what GMO's total generation

23   of base load and peak and capacity is?

24   A   Yes. Um, it is -- oh, sorry. You did say

25   GMO's, right?

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1         Q      Right.  I've got a number.  Is it about

2   2100 megawatts?

3         A      That sounds about right.

4         Q      Okay.  And is Empire, at least according to

5   its latest 10-K 1,392 megawatts?

6         A      Yes.

7         Q      And is it true that the largest urban area

8   that Empire serves is Joplin?

9         A      Yes.  I believe that's true.

10        Q      And GMO serves significant parts of the

11  Kansas City Metropolitan area, plus the city of St.

12  Joseph?

13        A      Yes.

14        Q      And were you aware that the Commission in

15  GMO's 2010 rate case noted that there were substantial

16  differences between Empire and GMO?

17        A      I'm sorry.  Would you repeat, please?

18        Q      Yes, sir.  Were you aware that in GMO's

19  last rate case that the Commission, in its report, had

20  ordered, noted that there were substantial differences

21  between Empire and GMO?

22        A      Yes.

23        Q      Okay.

24               MR. ZOBRIST:  No further questions, Judge.

25               JUDGE JORDAN:  I have no questions for you.
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 1                    Any redirect?

 2                    MR. BORGMEYER:  Just briefly, your Honor.

 3     Just briefly.

 4     REDIRECT EXAMINATION BY MR. BORGMEYER:

 5          Q      Mr. Harris, this is marked highly

 6     confidential, and I'm going to try to phrase a couple

 7     questions in a way that doesn't violate that

 8     confidentiality.

 9          You were directed to response lines 7 through 13

10     on this sheet?  Do you remember that questioning?

11          A      On 7 through 13 on Mr. Blunk's testimony?

12          Q      Yes.  Mr. Blunk's surrebuttal testimony,

13     you were asked by Mr. --

14          A      Yes.

15          Q      And in those lines, it makes reference to

16     the open access transmission tariff?  Do you see where it

17     says that?

18          A      Yes.

19          Q      To the best of your knowledge, does that

20     tariff apply to all Missouri utilities?

21          A      To the best of my knowledge, it does.

22          Q      And to the best of your knowledge, are all

23     Missouri utilities complying with that tariff?

24          A      As far as I know, they are, yes.

25                    MR. BORGMEYER:  I have nothing further.
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 1                    JUDGE JORDAN:  Then that concludes the

 2   examination of this witness.  You may stand down for

 3   today.

 4                    MR. ZOBRIST:  Judge, may I just retrieve

 5   that surrebuttal?

 6                    JUDGE JORDAN:  Sure.

 7                    MR. ZOBRIST:  Thank you.

 8                    JUDGE JORDAN:  I have a couple of

 9   concluding matters.

10                    Well, first -- and the parties may correct

11   me on this -- I want to go over what the issues are right

12   now for Monday as we reconvene.  As I understand it, we

13   will rate design and class call of service for both KCPL

14   and GMO the efication (ph) and Missouri issues, whether as

15   I stated subjects of stipulation.  I'm not planning on

16   taking evidence on that.

17                    The parties also ask to address Crossroads

18   issues the last issue on Monday.  Is that correct?

19                    MR. ZOBRIST:  That's my understanding,

20   Judge.

21                    JUDGE JORDAN:  There still remains the

22   availability of witness Lena Mantle.

23                    MS. KLIETHERMES:  Yes, Judge.

24                    JUDGE JORDAN:  Okay.  Then we may have to

25   take her testimony at some later date.
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 1   MS. KLIETHERMES: And I believe -- and I

 2   haven't confirmed it recently -- she might available

 3   telephonically. She's in the State of Louisiana.

 4   JUDGE JORDAN: Okay. We can work on that.

 5   So, that's not Louisiana, Missouri, but State of

 6   Louisiana?

 7   MS. KLIETHERMES: Apparently there is an

 8   issue of transmitting her testimony here.

 9   JUDGE JORDAN: Well, I'll look for an

10   update as things progress.

11   The other issue has to do with the hearing

12   on other issues that were the subject of the stipulation

13   entered in generally as to our issues. We need to file

14   Conrad's clients, and we will need to schedule hearing

15   dates for those.

16   I will probably issue an order asking Staff

17   to coordinate a schedule for that and, of course, other

18   parties will have a chance to object or to file --

19   pre-file a proposed schedule of their own. Right now, I

20   think I can tell you that next week is generally not

21   available for those issues. The first full week of

22   November, I am reserving this hearing room for the hearing

23   on those issues.

24   MR. CONRAD: Judge, if it helps any, I

25   don't know what the final status of this is. We have been

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 1   circulating some language that might solve that issue, and

 2   if that -- if that comes to pass, then that might go away.

 3                   JUDGE JORDAN:  Well, I appreciate the

 4   parties continued efforts in that regard, and certainly --

 5                   MR. CONRAD:  I don't know at this point.

 6   It hasn't happened yet.

 7                   JUDGE JORDAN:  Right; and if the parties

 8   are able to reach an agreement on these issues before that

 9   schedule is due, then certainly I will let them have that

10   placed in the file, make that filing in lieu of proposed

11   schedule.

12                   What else can we do before we go off the

13   record for today and for the week?

14                   MR. CONRAD:  We should probably know that

15   by Monday.

16                   JUDGE JORDAN:  Thank you.  Anything else

17   before we go off the record?

18                   MS. KLIETHERMES:  Just for clarification,

19   did you specify when that schedule will be due?

20                   JUDGE JORDAN:  I haven't decided, but I am

21   thinking -- I'm looking at next Thursday.

22                   MS. KLIETHERMES:  Okay.  Thank you.

23                   JUDGE JORDAN:  Anything else before we

24   adjourn for this week?

25                   (No response.)
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1   JUDGE JORDAN: I'm not hearing anything, so

2   we will go off the record and stand adjourned. Thank you

3   very much. Have a good weekend.

4   MR. BORGMEYER: Thank you, Judge. You,

5   too.

6   (WHEREUPON, the hearing adjourned at 3:05

7   p.m.)

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 1                    C E R T I F I C A T E

 2   STATE OF MISSOURI         )

                              ) ss.

 3   COUNTY OF COLE            )

 4                  I, Pamela S. Gentry, Certified Shorthand

 5   Reporter with the firm of Midwest Litigation Services, do

 6   hereby certify that I was personally present at the

 7   proceedings had in the above-entitled cause at the time

 8   and place set forth in the caption sheet thereof; that I

 9   then and there took down in Stenotype the proceedings had;

10   and that the foregoing is a full, true and correct

11   transcript of such Stenotype notes so made at such time

12   and place.

13                  Given at my office in the City of

14   Jefferson, County of Cole, State of Missouri.

15

16

17        _____

                 Pamela S. Gentry, CCR #426

18

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