GMO-230

Exhibit No.:	
Issues:	*Transition Costs, Iatan 1 Turbine Trip AFUDC, Iatan 2 Budget, Rate Case Expense, Iatan Regulatory Assets, Jeffrey Energy Center FGD Rebuild Project*
Witness:	*Keith A. Majors*
Sponsoring Party:	*MoPSC Staff*
Type of Exhibit:	*Surrebuttal Testimony*
File No.:	*ER-2010-0356*
Date Testimony Prepared:	*January 12, 2011*

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

KEITH A. MAJORS

KCP&L GREATER MISSOURI OPERATIONS COMPANY

FILE NO. ER-2010-0356

Jefferson City, Missouri
January, 2011

** Denotes Highly Confidential Information **

NP

Staff Exhibit No GMO-230
Date 1/18/11 Reporter LMB
File No ER-2010-0356

TABLE OF CONTENTS

OF THE SURREBUTTAL TESTIMONY OF

KEITH A. MAJORS

KCP&L GREATER MISSOURI OPERATIONS COMPANY

FILE NO. ER-2010-0356

SURREBUTTAL TESTIMONY

OF

KEITH A. MAJORS

KCP&L GREATER MISSOURI OPERATIONS COMPANY

FILE NO. ER-2010-0356

Q. Please state your name and business address.

A. Keith A. Majors, Fletcher Daniels Office Building, 615 East 13th Street, Room G8, Kansas City, Missouri, 64106.

Q. Are you the same Keith A. Majors who filed direct and rebuttal testimony on these issues?

A. Yes, I am. I contributed to Staff's Cost of Service Report filed in KCP&L Greater Missouri Operations Company (GMO) rate case designated as File No. ER-2010-0356 on November 17, 2010 and rebuttal testimony filed December 15. I also contributed to Staff's Cost of Service Report filed in this case on November 10, 2010 and rebuttal testimony filed December 8.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my testimony is to respond to positions taken by Kansas City Power & Light Company (KCPL) witnesses Darrin R. Ives relating to acquisition transition cost recovery, Brent Davis on Iatan Unit 1 Turbine Trip Allowance for Funds Used During Construction (AFUDC), Daniel Meyer and Forrest Archibald on Iatan Project Budget and Cost Control, John P. Weisensee concerning rate case expenses and the Iatan Unit 1 and 2 construction accounting regulatory assets, and Terry Hedrick and Leonard Ruzicka on the

Jeffrey Energy Center Flue Gas Desulphurization rebuild project costs in their rebuttal testimony.

EXECUTIVE SUMMARY

Q. Please provide a summary of your surrebuttal testimony.

A. I address KCPL's proposal to recover the costs to integrate its regulated utility operations with the former Aquila, Inc. (Aquila) as a result of Great Plains Energy's (GPE) acquisition of Aquila's Missouri electric properties on July 14, 2008. The Missouri Public Service Commission (Commission) approved this acquisition in its Report and Order (Report and Order) in Case No. EM-2007-0374 (the "Acquisition case"). These costs are referred to as "transition costs." It is Staff's position that KCPL has already recovered transition costs through retained synergies by means of regulatory lag.

I respond to the rebuttal testimony of Brent Davis on the subject of Staff's adjustment of AFUDC incurred for the Iatan Unit 1 turbine trip in the first quarter of 2009. It is Staff's position that KCPL should not recover the incremental AFUDC accrued on the Iatan Unit 1 AQCS project due to the delay caused by the turbine trip.

I respond to the rebuttal testimony of Daniel Meyer and Forrest Archibald concerning the Iatan Project Budget, specifically the July 2009 reforecast and Mr. Meyer's comments on the Staff's November 3, 2010 Construction Audit and Prudence Review report.

I address Mr. Weisensee's rebuttal testimony regarding rate case expenses, and the Iatan 1 and 2 regulatory assets commonly referred to as construction accounting. I will discuss other rate case expense matters.

I also address Terry Hedrick and Leonard Ruzicka regarding adjustments proposed by Staff and addressed in their rebuttal testimony. It is Staff's position that certain costs incurred for the project were inappropriate and unreasonable.

TRANSITION COST RECOVERY

Q. Please summarize Staff's direct and rebuttal testimony concerning this issue.

A. Staff's position is that KCPL and GMO have already recovered all of the transition costs associated with GPE's acquisition of Aquila by the synergies it retained, through KCPL and GMO, through regulatory lag.

Q. Can you summarize Mr. Ives' rebuttal testimony?

A. Mr. Ives offers testimony that the Commission authorized and ordered direct rate recovery in the Report and Order in the acquisition case. He makes several erroneous assumptions concerning that Report and Order, and largely ignores the analysis offered in my direct testimony.

Q. Referring to Mr. Ives's rebuttal testimony on page 2, he uses the term "revisionist history" in reference to the acquisition case. Do you know what he means by this term?

A. I am not entirely sure why Mr. Ives uses this term. In fact, he uses this term several places in his rebuttal testimony.

Revisionist is defined in The American Heritage ® College Dictionary of the English Language, Third Edition, Copyright © 1993 by Houghton Mifflin Company, as follows:

> ... Advocacy of the revision of an accepted, usually long-standing view, theory, or doctrine, especially a revision of a political doctrine or a view concerning history.

Staff is not advocating a revisit or change of the Report and Order in Case No. EM-2007-0374. Staff is not disputing any particular fact in the acquisition case. Staff is not proposing any new theory or doctrine. Staff did review the Commission's Report and Order in that case and particularly relies on paragraphs 13 and 14 on page 284 of that Report and Order:

> **13. Nothing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of the transactions herein involved.**
>
> **14. The Commission reserves the right to consider any ratemaking treatment to be afforded the transactions herein involved in a later proceeding.**

Paragraph 13 states clearly that the Commission has made no findings concerning the value for ratemaking purposes of the transactions referred to in the Report and Order. Paragraph 14 states clearly that the Commission reserves the right to consider the ratemaking treatment of the transactions referred to in the Report and Order in a later proceeding. Paragraphs 13 and 14 refer to transactions authorized by the Commission to allow GPE to acquire Aquila. The ratemaking treatment and valuation, although not specifically enumerated, would include the amortized transition costs that KCPL has included in the cost of service in this case.

Staff does not dispute or disregard Paragraphs 13, 14, or any other portion of the Commission's Report and Order in the acquisition case. Mr. Ives seems to imply that Staff's interpretation of the above paragraphs entails "revisionist history". In reality, Mr. Ives' inexplicable disregard of the facts presented in Staff's Cost of Service report is the "fatal flaw" of his positions presented in direct and rebuttal testimony.

Q. Does KCPL challenge Staff's overall conclusion relating to recovery of transition costs?

A. Mr. Ives has not made any attempt to dispute the fact that KCPL has recovered through retained synergies, an amount greater than transition costs before a single dollar of savings is flowed to ratepayers. Mr. Ives does not dispute the fact that the majority of the acquisition savings has not been reflected in rates and will not be until May 4, 2011, the expected date of any rate increase authorized by the Commission in this case. GMO rates will not change until one month later, June 4, 2011. Mr. Ives did not take issue with Staff's demonstration of the concepts of regulatory lag and how it has significantly benefited KCPL and GMO.

Q. What fact or facts does Mr. Ives accuse Staff of "revising"?

A. Staff, on page 212 of Staff's Cost of Service Report in this case, stated that the Commission did not specify the method KCPL and GMO would recover transition costs. Referring to the aforementioned Paragraphs 13 and 14 of the Commission Report and Order in the acquisition case, the Commission did not appear to specify any value or ratemaking treatment concerning the authorized transactions, which would include transition costs.

Mr. Ives quotes the Commission's Report and Order in the acquisition on page 3 of his rebuttal testimony. The relevant section emphasized by KCPL is on page 241 of the Report and Order:

> **3. Final Conclusions Regarding Transaction and Transition Cost Recovery**
>
> **... If the Commission determines that it will approve the merger when it performs its balancing test (in a later section in this Report and Order), the Commission will authorize KCPL and Aquila to defer transition costs to be amortized over five years.**

At no point does this section or the entirety of paragraph 3 on page 241 mention "rates", "ratemaking", or "cost of service", notwithstanding Footnote 930. In fact, in Paragraph 13 on page 284, the Commission specifically stated that "[n]othing in this order shall be considered a finding by the Commission of the value for ratemaking purposes of the transactions herein involved." Mr. Ives incorrectly concludes the Commission ordered or implied the only recovery of transition costs would occur through a five year amortization through the cost of service. Mr. Ives also ignores Paragraphs 13 and 14 when the Commission did not make a determination of the value for ratemaking of the transition costs.

In fact, Mr. Ives quotes another section of page 241 of the Report and Order:

> **(3) the uncontested recovery of transition costs is appropriate and justified. The Commission further concludes that it is not a detriment to the public interest to deny recovery of the transaction costs associated with the merger and not a detriment to the public interest to allow recovery of transition costs of the merger...**

Again, Mr. Ives incorrectly correlates the Commission's authorization of the deferral and amortization of transition costs with their inclusion in the cost of service. From the section above, the Commission concluded that it was not a detriment to the public interest to allow recovery of transition costs of the merger. However, "recovery" is not defined in this section, but it is referred to in conjunction with "regulatory lag" in Paragraph 321 on page 120 of the Report and Order:

> **321. Since the Applicants have agreed to recover any merger savings through "regulatory lag" as part of the traditional ratemaking process, there is no net detriment to customers...**

The real issue between KCPL and Staff is what "recovery" of a cost can mean, specifically the difference between indirect rate recovery through regulatory lag and direct rate recovery through the cost of service. The Commission did recognize that KCPL could "recover" savings through "regulatory lag". Mr. Ives does not address the benefits KCPL has

reaped from regulatory lag through retained synergies in regards to the recovery of transition costs the Commission authorized.

Mr. Ives, for reasons that are not clearly supported or explained, supports the use of regulatory lag to recover the benefits of the acquisition – integration synergies, but rejects the use of regulatory lag to recover the costs to achieve the synergies – transition costs. The Staff believes that Mr. Ives', and consequently KCPL and GMO's proposal is inconsistent and not adequately supported in testimony.

Again, Paragraphs 13 and 14 on page 241 of the Report and Order specifically state that the Commission has made no ratemaking determination concerning the transactions in that order.

Q. On page 4, Mr. Ives' rebuttal testimony states "[t]he Staff's primary testimony regarding transition costs suggests that transition costs **should** be recovered through the synergy savings retained through regulatory lag" (emphasis added). Is this Staff's position?

A. No. Mr. Ives apparently did not examine Staff's analysis presented in the Cost of Service report. This analysis was elaborated on and explored in my rebuttal testimony in this case. My testimony is that transition costs have already been recovered through regulatory, not that they should be. Because they have been fully recovered, any retained synergy savings over transition costs not reflected in rates have and will continue to accrue to GPE shareholders until rates change.

If customers have to reimburse KCPL and GMO for costs already recovered, KCPL and GMO will reap a wind fall from their customers. If amortized transition costs are included in the cost of service, customers will pay KCPL and GMO for costs that they have already recovered for benefits the customers have waited 34 months to realize.

Q. Mr. Ives refers to page 238 of the acquisition Report and Order on page 4 of his rebuttal testimony. What is your interpretation of the section Mr. Ives referred to?

A. Mr. Ives emphasized an excerpt of page 238 of the Report and Order:

> **(4) because the Applicants have agreed to recover any merger savings through "regulatory lag" as part of the traditional ratemaking process there is no net detriment to customers...**

Mr. Ives does not understand that the Commission recognized that recovery of cost does not have to be explicitly in the cost of service to be recovered. Because no rate change occurred on July 14, 2008, the date of acquisition, any and all savings related to the acquisition of Aquila would accrue to shareholders until those rates changed. The recovery of synergy savings was made by KCPL and GMO because the savings that occurred were still reflected in rates. Ratepayers were paying for costs that were no longer being incurred for the production, transmission, and distribution of electric utility services in excess of the total amount of transition costs.

Q. Mr. Ives states on page 6 of his rebuttal testimony that $163.6 million of cumulative regulated synergies will be returned to ratepayers through the second quarter of 2013. What is your analysis of this statement?

A. Mr. Ives' statement exemplifies how KCPL and GMO, through regulatory lag, have benefited significantly more than ratepayers from the synergies from the acquisition. The following table is a summary of those savings using the figure from Mr. Ives' testimony:

Synergy Benefits through 2013, in Millions		
	Customer Benefit	**Shareholder Benefit**
Regulated Synergies	344.2	
Corporate Synergies		401.0
Retained Regulated Synergies	(180.6)	180.6
Net Benefit Through 2013	**$ 163.6**	**$ 581.6**

The projected net benefit to ratepayers through is $163.6, as Mr. Ives states in his rebuttal testimony. However, Mr. Ives does not mention that KCPL and GMO will benefit from over **half a billion** in synergies through 2013, more than **three and a half** times that of ratepayers.

Q. Mr. Ives used an inflation factor of 3.1% on page 6 of his rebuttal testimony when he refers to his analysis. Does the rate of inflation change over time?

A. Yes, it does. In fact, during the time period from 2009 to 2010, the Consumer Price Index – Urban ("CPI-U") decreased for the first time since 1982, the base year used by the Bureau of Labor Statistics (BLS). The table below is the year to year inflation rate from 2005 through 2009:

Year	Inflation Rate
2005	3.4%
2006	3.2%
2007	2.8%
2008	3.8%
2009	-0.4%
5 Year Average	2.56%
2007-9 Average	2.07%

While Mr. Ives utilized 3.1%, which is the average inflation rate during 2005-7, it is noteworthy that the rate changes from year to year. When Mr. Ives projects that $163.6 million of synergy savings will be returned to ratepayers it must be understood that his and KCPL and GMO's assumptions may change over time.

Q. On page 7 of his rebuttal, Mr. Ives claims the customer benefit is understated in his analysis due to the identification of additional synergies. Do you agree with this statement?

A. Yes. However, Mr. Ives identifies that the additional synergies would be reflected in some future test year cost of service. He fails to mention that shareholders receive

the benefit of additional synergies far in advance of customers who must wait until rates change, assuming those savings are reflected in the test year. The current case is the **first** case since the acquisition of Aquila that synergies have been embedded in the test year cost of service.

Q. Mr. Ives states on page 8: "...once returned to ratepayers as reflected in test year cost of service, the synergy savings are perpetual benefits to ratepayers, with no further retention by the Company and its shareholders." How long have ratepayers had to wait to see benefits in the test year cost of service?

A. Ratepayers will have waited nearly three years, (34 months) before any synergies will be reflected in the test year cost of service in a rate case. In the meantime, shareholders have enjoyed the lion's share of synergy savings since the acquisition was completed.

Q. On page 9, Mr. Ives states: "Mr. Majors' position is that it is impossible for the Company to recover transition costs." Is this your position?

A. No, not at all. Staff has supported recovery of transition costs of mergers in the past. Staff does not support recovery when a company has no costs to recover as in this case. What Mr. Ives fails to recognize is that the Company has fully recovered these transition costs already. It would be inappropriate to reflect the transition costs in rates if the Company has already recovered those costs. How could Staff support such a rate proposal—it would be tantamount to double recovery of these costs?

Mr. Ives either does not recognize or simply chooses to ignore the concepts of regulatory lag and recovery of cost I described in my rebuttal testimony, because Mr. Ives doesn't appear to consider them in his direct or rebuttal testimony. It is not my position that it

is impossible for KCPL to recover transition costs; my position is the costs have already been recovered, so there is nothing further to recover.

On July 14, 2008, neither KCPL nor GMO decreased the rates they were charging customers. Customers were still paying for employees that no longer worked for either company, benefits that were no longer being paid, and a wide variety of other costs that were no longer being incurred by the company. When costs are in rates that a utility does not pay, shareholders retain the extra funds that were paid by customers through rates. In 2009, KCPL and GMO retained payroll savings immediately starting July 14, 2008 until September 1, 2009 when rates changed from the 2009 rate case. While some savings were reflected in those rates as explained by Mr. Ives, the Company retained further savings post-September 30, 2008 through the time rates change once again in this case which will not occur until May 2011. As it relates to the current situation, KCPL achieved synergy savings in excess of the costs to achieve those savings before a single dollar of savings were passed on to customers.

Q. Mr. Ives claims that Staff's argument consists of "faulty circular logic". What is your reaction to this accusation?

A. It is hard to know what Mr. Ives is referring to as he doesn't really explain what he means by this statement. Again, Mr. Ives does not recognize the benefits to shareholders provided by regulatory lag. I examined the facts provided by KCPL through discovery. The facts from the information provided by KCPL clearly indicated that KCPL had recovered through retained synergies more than the amount of recoverable transition costs, facts that Mr. Ives chooses to ignore. If the facts did not show that KCPL had already recovered transition costs, then Staff's position would have been different. Staff's standard

was by no means "no recovery of transition costs", as alleged by Mr. Ives on page 9 of his rebuttal testimony. Staff analyzed the data provided by KCPL, and met with Mr. Ives and other company representatives. Based on the data analyzed, Staff came to the conclusion that all transition costs have been recovered through retained synergy savings. This is a fact that Mr. Ives does not seem to address or recognize. There is nothing circular about the fact if you have a cost that has been fully recovered there is nothing more to recover and no additional cost should be in rates.

KCPL makes no attempt to dispute it has recovered transition costs from retained savings, yet in a complete about face, "circular fashion," the Company wants its customers to pay it the transition costs. Staff believes this makes no sense whatsoever.

Q. On page 10, Mr. Ives states concerning corporate retained synergies: "It is inappropriate to view those savings as an offset to costs the Commission said the Company could recover." Do you agree with that statement?

A. It depends on the circumstances; however, in this situation, KCPL and GMO have plenty of retained savings strictly from the regulated synergies that have resulted in full recovery of transition costs.

Mr. Ives seems to imply that Staff is offsetting KCPL's transition costs through corporate retained savings, which is not Staff's position. However, corporate retained synergies are relevant to understanding the complete picture of the costs and benefits of the acquisition of Aquila, which is why I listed them in my analysis in my direct and rebuttal testimony, and have discussed them here. The following chart show on a high level the costs and the benefits relating to the acquisition, both corporate and regulated retained, as well as

the $163.6 million flowed to ratepayers projected through 2013, 5 years after the acquisition as described by Mr. Ives in his rebuttal testimony:

Synergy Benefits through 2013; in Millions		
	Customer Benefit	Shareholder Benefit
Regulated Synergies	344.2	
Corporate Synergies		401.0
Retained Regulated Synergies	(180.6)	180.6
Net Benefit Through 2013	$ 163.6	$ 581.6
Total Recoverable Transition Costs	(51.9)	(6.1)
Total Transaction Costs		(40.2)
Total Benefit Realized Through 2013 With Amortized Transition Costs	$ 111.7	$ 535.3

The amount of synergies retained by KCPL, both total corporate and total regulated less the amount flowed to ratepayers, totals $581.6 million. If the Commission were to authorize KCPL and GMO to amortize transition costs through the cost of service as shown in the above table, the total benefits to shareholders versus that of ratepayers would become more lopsided than it already is. Again, in consideration of page 284 of the Commission's Report and Order in the acquisition case, the Commission has not yet authorized KCPL and GMO to recognize the amortization of transition costs directly in the cost of service for setting rates.

Q. Mr. Ives asserts that because KCPL has not had the chance to demonstrate that synergy savings exceed amortized transition costs, KCPL has not begun the to amortize transition costs. What is Staff's opinion of KCPL's position?

A. Mr. Ives seems to believe that if every succeeding rate case is settled with no mention of transition cost amortization, as was the case with Cases ER-2009-0089 and ER-2009-0090, then KCPL would be allowed to keep the transition cost regulatory asset on its books indefinitely. Certainly, in consideration of the recovery of transition costs KCPL and

GMO have made through retained synergies, keeping an asset on the books that has already been recovered would be inappropriate.

Q. Mr. Ives sites Generally Accepted Accounting Principles (GAAP), specifically SFAS 71, in his defense of KCPL not beginning the amortization of transition costs. What is your evaluation of this argument?

A. Mr. Ives sites Paragraph 9 of SFAS 71. I will repeat Part B. of that paragraph here:

> b. Based on available evidence, the future revenue will be provided to permit recovery of the previously incurred cost rather than to provide for expected levels of similar future costs...

The "future revenue" in this statement is the utility rates KCPL and GMO receive. The "previously incurred cost" is the transition costs. What this statement means is that the revenues KCPL and GMO were receiving, specifically for the costs KCPL and GMO were not incurring after the acquisition, recover the previously incurred transition cost.

I agree with Mr. Ives when he states on page 15 of his rebuttal testimony: "It is clear in this paragraph that in order to have a deferred regulatory asset, the expectation must be that future revenues will return an amount at least equal to the deferred amount." In this case the Commission did refer to recovery on page 238 of the Report and Order:

> **(4) because the Applicants have agreed to recover any merger savings through "regulatory lag" as part of the traditional ratemaking process there is no net detriment to customers...**

Mr. Ives does not make the connection between the recovery the Commission discussed in the Report and Order and the excerpt from SFAS 71.

Q. Did KCPL propose to start the amortization of transition costs in the acquisition case sooner than their current position?

A. Yes. Referring to Lori Wright's Direct Testimony filed April 2, 2007 in Case No. EM-2007-0374, Ms. Wright stated the following concerning transition costs, referred to as "costs to achieve":

> Q. What treatment do the Joint Applicants propose for costs to achieve?
>
> A. As set out in the Joint Application, the Joint Applicants request costs to achieve be allocated to Great Plain's Energy's various regulatory units (Kansas City Power & Light Company, Aquila Networks-MPS, Aquila Networks-L&P and St. Joseph Industrial Steam), booked as a regulatory asset and amortized into cost of service over five (5) years, **beginning on January 1, 2008, or the month immediately following consummation of the Merger, whichever occurs later.** (emphasis added)

Ms. Wright apparently had no issue with SFAS 71 when she proposed the amortization of transition costs without direct rate recovery in the acquisition case. It is noteworthy that Ms. Wright filed this testimony in an acquisition case, not a rate case. When Ms. Wright refers to "cost of service", she does not refer to "rates", nor does she refer to the pending KCPL rate case ER-2007-0291 which was a rate case. If the Commission ordered the amortization of transition costs to begin after the consummation of the acquisition with no change in rates, then the amortization would have begun with no specific recovery in the cost of service in rates.

Q. When should have KCPL and GMO started the amortization of the transition costs?

A. Staff believes the Company should have started the amortization at the time of the effective date of rates in the first rate case after the acquisition as instructed by the Commission the acquisition case.

As detailed in Paragraph 327 on page 122, GPE and Aquila (Applicants) requested amortization beginning with the first rate cases:

327. Applicants request that the Commission allow the surviving entities to defer both transaction and transition costs and to amortize them over a five-year period beginning with the first rate cases post-transaction for Aquila and KCPL subject to "true up" of actual transition and transaction costs in those future rate cases...

September 1, 2009 was the date of the rate increase in Case Nos. ER-2009-0089 and ER-2009-0090. Because KCPL and GMO have not yet started the amortization they are not in compliance with the Commission's July 1, 2008 Order in the acquisition case.

Q. KCPL and GMO, in the acquisition case, claimed that synergies would be realized in the administrative and general (A&G) category of costs. Are KCPL and GMO's A&G costs low compared to other electric utilities in the region?

A. No. Staff examined the 2009 FERC Form 1 documents for KCPL, GMO, Westar, Empire District Electric, and AmerenUE (now Ameren MO) electric utilities. Staff quantified the A&G costs per average number of customers, per megawatt hour sold, and per dollar of electric operating revenue. The following tables summarize the result of that examination:

Administrative & General Expenses per Average Customer

	Empire	GMO	KCPL	Combined KCPL and GMO	Ameren UE MO Basis	Westar
A&G Expenses	28,579,310	66,976,333	142,093,271	209,069,604	243,925,979	82,212,174
Average Number of Customers	168,023	312,030	510,335	822,365	1,187,613	367,763
A&G Cost per Customer	$ 170.09	$ 214.65	$ 278.43	$ 254.23	$ 205.39	$ 223.55

Administrative & General Expenses per Megawatt Hour Sold (MWH)

	Empire	GMO	KCPL	Combined KCPL and GMO	Ameren UE MO Basis	Westar
A&G Expenses	28,579,310	66,976,333	142,093,271	209,069,604	243,925,979	82,212,174
MWH Sold	5,409,839	8,112,391	20,062,162	28,174,553	47,078,720	17,273,734
A&G Cost per MWH Sold	$ 5.28	$ 8.26	$ 7.08	$ 7.42	$ 5.18	$ 4.76

A&G Expenses per Electric Operating Revenue						
	Empire	GMO	KCPL	Combined KCPL and GMO	Ameren UE MO Basis	Westar
A&G Expenses	28,579,310	66,976,333	142,093,271	209,069,604	243,925,979	82,212,174
Total Electric Operating Revenues	433,133,378	646,851,923	1,317,389,133	1,964,241,056	2,630,362,110	1,070,490,601
A&G Cost Per Electric Revenue Dollar	$ 0.07	$ 0.10	$ 0.11	$ 0.11	$ 0.09	$ 0.08

In comparison to Empire District Electric, AmerenUE, and Westar, KCPL and GMO combined have the highest A&G costs per megawatt hour sold, per dollar of electric operating revenue, and per customer. What this analysis shows is that while KCPL has claimed significant savings from the acquisition, its administrative and general costs are the highest in the Kansas and Missouri region. The fact is that KCPL and GMO, while enjoying significant corporate retained benefits, have not flowed a comparable amount of regulated synergy savings to its regulated electric utility operations. This analysis was based on the 2009 FERC Form 1, the same cost period as the test year of the current case. In effect, KCPL and GMO customers are paying in the majority of cases the highest Administrative and General costs in the region for their electric service.

Q. Please summarize your surrebuttal testimony regarding transition costs.

A. Staff has significant evidence, as discussed in my direct and rebuttal testimony, that KCPL and GMO have already recovered transition costs through regulatory lag and retained synergies. Mr. Ives has not made any attempt to dispute the fact that KCPL has already recovered the transition costs for the Aquila acquisition. KCPL witness Darrin R. Ives would have the Commission ignore simple facts and include in the cost of service costs which KCPL has more than recovered, based on the sole fact that synergy savings exceed amortized transition costs. KCPL and GMO are requesting ratepayers, who

are already paying the highest A&G costs in the state, to pay for costs which they have already fully recovered.

IATAN UNIT 1 TURBINE TRIP AFUDC

Q. On pages 60-61, of his rebuttal testimony, KCPL witness Brent Davis describes the Iatan Unit 1 turbine work as being relevant to the project. Does Staff agree that the turbine work was relevant?

A. Yes. Staff does not dispute the relevancy of the turbine work. Staff is not making an adjustment to any of the costs directly related to the turbine work. In fact, Staff is not proposing an adjustment to the AFUDC charged to the actual turbine work.

The issue is that the delay due to the turbine trip increased the AFUDC accrued on the Iatan 1 AQCS. As discussed in Staff's Cost of Service Report for KCPL in Case No. ER-2010-0355 on pages 124-26, and Staff's Cost of Service Report for GMO in Case No. ER-2010-0356 on pages 142-44, I provided additional relevant information concerning the adjustment in the November 3, 2010 Construction Audit and Prudence Review that Mr. Davis addresses. I am not sure whether or not Mr. Davis read or was aware of those sections in Staff's Cost of Service Reports, but he does not address them in his rebuttal testimony.

IATAN PROJECT BUDGET AND COST CONTROL

Q. What KCPL witness rebuttal testimony are you responding to?

A. Witnesses Daniel Meyer and Forrest Archibald, throughout their rebuttal testimony, attempt to address the issue of KCPL's compliance with the cost control feature of the KCPL Experimental Regulatory Plan to identify and explain any cost overruns from the Definitive Estimate for Iatan 1 AQCS and Iatan 2.

Q. What is the issue concerning the testimony of Mr. Meyer and Mr. Archibald?

A. Their testimony ignores the term "cost overruns" and instead refers to "budget variances." Budget variances occur when various budget items differ from actual costs. Budget variances can and do occur on projects that do not experience cost overruns. Cost overruns are created when budget variances reach a certain condition, but not all budget variances are cost overruns. Cost overruns occur when the sum of all negative (increased costs) budget variances exceed the sum of all positive (decreased cost) budget variances plus the contingency level plus the baseline budget. Since KCPL refused to provide the information that supports the contingency levels contained in the Iatan 1 AQCS and Iatan 2 control budget estimate (CBE) or Definitive Estimate as specified in the KCPL Regulatory Plan, no one aside from KCPL can identify which budget variances were provided for in the contingency versus the budget variances that were not considered.

KCPL defined its contingency as an amount that "consists of funds for unforeseeable elements of cost within the defined project scope." (KCPL response to Staff Data Request No. 819, Case No ER-2009-0089).

Q. Can Staff make a detailed analysis of the contingency of Iatan Unit 1 or Iatan Unit 2?

A. No. Staff requested support for the contingency for both Iatan Unit 1 and Iatan Unit 2 control budget estimates in Staff Data Request Nos. 490 and 491 in Case No. ER-2009-0089:

> Question No. : 0490
> Please provide copies of all the documentation supporting the development, review, analysis and approval of the contingency and executive contingency included in the control budget estimate for environmental upgrades at Iatan 1.
>
> Question No. : 0491
> Please provide copies of all the documentation supporting the development, review, analysis and approval of the contingency and

executive contingency included in the control budget estimate for latan 2.

The only response that was not privileged was Schedule 1 attached to this testimony. KCPL has not provided enough documentation to explain the causes to exhaust its contingency versus the items that caused KCPL to experience actual costs in excess of its definitive estimate including the Company's determination of adequate contingency to prevent actual costs exceeding the definitive estimate total.

Instead of addressing the identification and explanation of the cost overruns experienced and continued to be experienced at the latan Construction Project, KCPL witnesses use the documentation used to support new budget amounts, or what they refer to as "cost reforecasts" once KCPL acknowledged that the latan Construction Project costs would exceed its definitive estimates. The documentation for the cost reforecasts were initially called "R&O" items after the Risk & Opportunity table that was developed under David Price's leadership of the latan Construction Project [May 2007 through January 2008]. The latan 1 AQCS had one cost reforecast and was based on R&O documentation. latan 2 had four cost reforecasts.

Q. Has KCPL correlated its reforecast process with standard industry practices?

A. Staff requested support for the term "reforecast" as used in KCPL witness testimonies in Staff Data Request No. 419, Case No. ER-2009-0089. KCPL provided an article attached as Schedule 2. This article also appears as Schedule DFM2010-4 in Daniel Meyer's Direct Testimony in this case. This article was written by Mr. John F. Rowe, P.E, published in The Association for the Advancement of Cost Engineering International Transactions. It is a brief, but informative article that KCPL witnesses Brent Davis and Kenneth Roberts relied on as an "industry source," and that

Mr. Meyer cites as support for the reforecast process. Contrary to the importance KCPL's witnesses place on reforecasts, nowhere in the article does the term "reforecast" appear in accordance with changing a budget number. Mr. Meyer provided this article as authority supporting the practice of reforecasting a project's estimate. The importance of this article is the distinction between how this industry source identifies items in a cost tracking system and how KCPL tracks costs using the CBE, May 2008 and March 2010 reforecasts, and the management internal transfers in the cost portfolio.

The following is the definition Mr. John F. Rowe uses for "Current Budget":

> **Current Budget**
> Taken from the project cost report, it should include all budget transfers/changes that resulted from the evolution of contract scope **up until contract award** and, as discussed, should also include an amount to cover change orders. When bids are received and the contract is awarded, the budget should be re-set to equal the original contract amount plus an initial contingency (C1) by transferring budget to/from allocated and/or project contingency. Ideally, this budget will not be changed again until the contract is completed and excess budget is returned to contingency. (emphasis added)

This is a very different description from what KCPL tracks its costs to in its cost control system, and is not the same concept as "Current Budget" in the "K Reports" given to Staff and attached to Mr. Meyer's rebuttal testimony. In direct contrast to the industry source Mr. Meyer endorses, the KCPL cost control system does not track the December 2006 CBE to the Estimate at Completion (EAC). On page 4 of the attached industry source article cited by Mr. Meyer, a table is shown of a common industry cost system. On the far right column appears an amount referred to as "Contingency Surplus (Deficit)." This amount is the difference between the "Current Budget" and the "Estimate at Completion." In this case, given the definition provided by Mr. Rowe, the Iatan Project CBE

is analogous to "Current Budget." Mr. Rowe states above: "[i]deally, this budget will not be changed again..."

The following is the definition Mr. John F. Rowe uses for "Current Forecast":

> **Current Forecast**
> Before a contract is bid, this will equal the current budget, less the amount included to cover change orders. After contract award, field construction management personnel typically maintain the current forecast as previously discussed. Note that the current forecast should not include any factors to predict the value of unidentified changes, as the CTS will account for these.

Using the definitions above and incorporated into the example in the article, KCPL's May 2008 reforecast, July 2009 reforecast, March 2010 and November 2010 should not have been used for changing budget numbers, rather they should have been used in the EAC as "Current Forecast" numbers. Mr. Rowe defines EAC in the same article:

> **Estimate at Completion (EAC)**
> This number is simply the sum of the current forecast (F) provided by our field construction management staff and Retained Contingency (CR)... The author has used this EAC value as an early warning of contracts that are trending toward exceeding agency contract authorization limits. It often provides a warning several months before an overrun becomes readily apparent, but tends to be unreliable until a contract is at least 25 percent complete, as discussed earlier.

In the subsequent Iatan 2 reforecasts the R&O items were replaced by cost projection folders (CPs). These CP's provided less detailed information than contained in the predecessor R&O to support changing the budget for Iatan 2 (current budget) the last three (3) times. Mr. Archibald verified to Staff numerous times in some of the meetings that he cites in his rebuttal testimony that KCPL did not track actual project costs by R&O or CPs.

When KCPL changed the CBE, to which it tracked actual costs, with R&Os and CPs that cannot be tracked to actual costs, KCPL lost the ability to track the December 2006 Control Budget Estimate to actual costs. This is in direct contrast to the cost control system

advocated by Mr. Meyer's "industry source." Thus, the documentation provided by KCPL cannot identify cost overruns from the CBE since the essential actual cost information is absent to compare to the estimated amount contained in the R&Os and CPs. In addition, after the R&Os and CPs are used to support current budget modifications the new budget line items are modified by internal budget transfers as budget surpluses in certain areas are moved to address budget deficiencies in other areas. These internal budget transfers do not identify these changes by R&O or CP or actuals thus preventing the tracking of their estimated costs against actual costs. This is an essential feature for a cost control function that would identify cost overruns from a budget for identification. Instead, KCPL compares forecasted numbers which cannot be traced to actual costs to estimates at completion.

Another point the industry source makes is that "[d]uring the construction phase, the estimate at completion (EAC) of the contract packages changes more quickly than at any other phase of the project." Again, nowhere in this excerpt or in the entire document provided by Mr. Meyer does his industry source endorse changing the initial budget.

Q. Mr. Meyer on pages 58-59 of his rebuttal testimony disagrees with Staff on the nature of scope changes related to the unit train cars in the July 2009 reforecast. What is your response to Mr. Meyer's explanation of the unit train cars in the July 2009 reforecast?

A. Mr. Meyer's explanation that the budgeted costs for the unit train should and were reallocated into general contingency conflicts with the definition and concept of contingency as defined by The Association for the Advancement of Cost Engineering International *Cost Engineering Terminology*, as attached to his direct testimony. The definition of contingency in that document:

> CONTINGENCY – An amount added to an estimate to allow for items, conditions, or events for which the state, occurrence, and/or effect is

> uncertain and that experience shows will likely result, in aggregate, in additional costs. Typically estimated using statistical analysis or judgment based on past asset or project experience. **Contingency usually excludes; 1) major scope changes such as changes in end product specification, capacities, building sizes, and location of the asset or project (see management reserve),** 2) extraordinary events such as major strikes and natural disasters, 3) management reserves, and 4) escalation and currency effects. Some of the items, conditions, or events for which the state, occurrence, and/or effect is uncertain include, but are not limited to, planning and estimating errors and omissions, minor price fluctuations (other than general escalation), design developments and changes within the scope, and variations in market and environmental conditions. Contingency is generally included in most estimates, and is expected to be expended. (1/04) (emphasis added)

The section in bold conflicts with Mr. Meyer's assessment of the July 2009 reforecast. The unit train is the set of railcars that deliver coal to Iatan Unit 2. KCPL made the decision, as explained in Mr. Meyer's rebuttal testimony, that leasing the railcars was a better option than purchasing the railcars. This is a major scope change as the current capital requirements are, according Mr. Meyer, $39.2 million. The end product specification of Iatan Unit 2 will not include an owned unit train; rather, the trains will be leased as an ongoing operating expense.

Q. Does Staff have a position on the decision to lease the railcars versus buying them?

A. Not at this time.

Q. Mr. Meyer states on page 59 concerning the decision to lease the railcars: "[it] will result in a savings to KCPL's customers in this rate case." Is this an accurate statement?

A. Yes. The Iatan Unit 2 project will have $39.2 million less invested capital in it reducing the total amount to be recovered from ratepayers in rate base. However, the customers will still pay for the leases of the railcars over the life of the plant.

Additionally, by moving the cost of the railcars, a change in scope, to general project contingency, actual cost variances are masked from fully impacting the total forecasted cost of the project, as can be seen in the chart of the July 2009 reforecast in Mr. Meyer's rebuttal testimony. The effect is that the completed Iatan Unit 2 will have less owned equipment, namely the railcars, for the same amount of money.

RATE CASE EXPENSE

Q. Mr. Majors, why has Staff not included any rate case expenses for GMO?

A. Due to significant delays in obtaining invoices, Staff has not been able to review GMO's expenses incurred in the current rate case for prudence or reasonableness.

Q. Did Staff request invoices paid for rate case expenses?

A. Yes. Staff requested all rate case expense invoices in Staff Data Request No. 154 in this case on July 20, 2010. On August 9, 2010, GMO provided the following response to the request for invoices:

> ...To provide all invoices is a voluminous request. If a specific vendor invoice or invoices is required, please advise.

Staff then submitted Staff Data Request No. 154.1 on November 16, 2010, to narrow GMO's review for rate case invoices over $5,000. GMO responded on December 3, 2010. In the response, GMO provided only "face sheets" for a significant amount of legal invoices, which are insufficient and incomplete for the Staff to complete a review for reasonableness and prudence.

Q. What are "face sheets"?

A. Face sheets are essentially cover sheets that vendors attach to invoices for services, and only provide a summary of the services supplied and the lump sum due for said services.

Q. Why are "face sheets" problematic when reviewing rate case expense for reasonableness and prudence?

A. Face sheets are problematic because they make no mention of hourly rates, hours worked and by which vendor employee, a description of the work performed, and any additional expenses incurred by the vendor to complete the service. The Staff cannot even begin a review for reasonableness and prudence from such sheets.

Q. Can you provide an example of what GMO gave Staff as invoice support for in this case for rate case expense?

A. GMO's December 3, 2010, response stated "...see the attached CD for all invoices over $5,000 as requested." Schedule 3 is one example of the documents GMO submitted as the response to the data request. Schedule 3 is a "Check Request". It makes no mention of the hourly rates charged, the number of hours worked, a description of the work done and by whom, or any additional expenses incurred by the vendor to perform the work. Staff would need that information for any review of prudence or reasonableness. Schedule 4 is a "face sheet" submitted for an invoice, but again, the sheet provides no specifics on hourly rates, hours worked, description of the work done, or expenses.

Staff submitted yet another Data Request on December 18, 2010, to obtain copies of the invoices it should have received in August 2010. Staff Data Request No. 154.2 requested a full and complete copy of the invoices which should have been provided in Data Request No. 154.1. Staff received invoice support for rate case expense on December 30, 2010,

over five months after the initial request. At this time, the Staff has not verified if GMO provided a complete response to the third follow-up request.

Q. What amount of rate case expense did GMO propose in its direct case, updated through June 2010?

A. For its 2010 rate case, GMO deferred $1.9 million of rate case expense, for MPS and L&P combined, including costs incurred after the true-up of Case No. ER-2009-0090. GMO requests an amortization of these costs over two years for an annual amortization of approximately $950,000.

Q. What level of rate case expense does KCPL and GMO project through the true-up?

A. The table below is KCPL and GMO's projected rate case expense deferral through the "remainder of this case" from their respective updated workpapers:

Company	Total
KCPL	7,214,541
MPS	2,073,235
L&P	1,744,890
Total 2010 Rate Case	$ 11,032,666

These totals are only for the 2010 rate case. They are significantly higher than the prior rate case expense deferrals:

Company	Total
KCPL	1,045,991
MPS	280,801
L&P	187,412
Total 2008 Rate Case	$ 1,514,203

Staff has spent submitted data requests for invoice support for rate case expenses that have increased **to over seven times the prior cases expenses**, but has not received a significant number of invoices, particularly for legal expenses.

Q. Does the Staff expect to include any rate case expenses from this rate case?

A. Yes. However, given the significant delay in receiving complete invoices, Staff has not examined the prudence and reasonableness of GMO's rate case expenses. Staff expects to receive invoices through the true-up date in this case, December 31, 2010. Assuming GMO's December 18, 2010 response was complete, and the Staff receives complete invoices through the true-up date, the Staff anticipates it can include an amount for prudent and reasonable rate case expenses incurred.

Q. Other than not receiving invoices, does Staff take any other issue with rate case expense?

A. Yes. KCPL procured legal services from no less than 9 vendors, which GMO charged to Missouri rate case expense. The following table is a list of legal vendors that Staff is aware of:

DUANE MORRIS
FISCHER & DORITY
MORGAN LEWIS & BOCKIUS LLP
POLSINELLI SHALTON FLANIGAN SUELTHAUS PC
SCHIFF HARDIN LLP
SKADDEN ARPS SLATE MEAGHER & FLOM LLP
SONNENSCHEIN NATH & ROSENTHAL LLP
SPENCER FANE BRITT & BROWNE LLP
STINSON MORRISON HECKER LLP

Q. Were any of these vendors charged to GMO rate case expense?

A. Yes.

Q. Did Staff review any legal invoices from these vendors?

A. Schedule 4 is an example of an invoice from Morgan Lewis & Bockius. For reasons described above, the Staff cannot determine the reasonableness and prudence of the incomplete invoices.

Q. Did the Kansas Corporation Commission (KCC) take any issue with KCPL's level of rate case expense in the Kansas companion case to this one?

A. Yes. KCC Docket No. 10-KCPE-415-RTS was KCPL's last rate case in for its Kansas operations. I have attached the relevant section of the KCC order as Schedule 5.

Q. If the KCC does not regulate GMO, why is their order relevant?

A. Several of the vendor invoices KCPL charged to rate case expense were from the same vendors that GMO charged to Missouri rate case expense. As described below, the KCC did not include rate case expense for some of those vendors.

Q. Please describe the rate case expense issue in Kansas.

A. The KCC appeared to have some of the same difficulties Staff has had in obtaining detailed information to make a review of charges by specific consultants and attorneys.

The KCC noted that:

> The attempt to determine rate case expense is hampered by a lack of detailed information in the record...Because that detailed information is not contained in this record, the Commission has considered denying recovery of all rate case expense in this proceeding.

The KCC goes on to state:

> In deciding to take this course, the Commission has concluded that the amount of rate case expense established in this Order for KCPL to recover from its ratepayers will be Interim Rate Relief.

The KCC estimated total rate case expense costs of $7.2 million. Of this amount, $5 million was estimated for legal services alone.

Q. What determination did the KCC eventually make regarding rate case expense?

A. The KCC identified several vendors whose work was not fully documented or duplicative, and excluded them from rate case expense. The Kansas Corporation Commission did not include any expenses for NextSource, The Communication Counsel of America, Duane Morris, and Morgan Lewis & Bockius. The KCC noted the duplicative nature of Ms. Barbara Van Gelder's services, and determined that recovery of those expenses would be unjust and unreasonable. The KCC found the expenses requested for the services of Schiff Hardin "particularly troubling."

The KCC concluded that $4.5 million was an appropriate amount of rate case expense, exclusive of costs for the KCC and Citizens' Utility Ratepayer Board (CURB), $1.7 million less than what KCPL requested.

Q. Has Staff made any conclusions concerning rate case expense?

A. Due to GMO's delay in providing complete invoices, Staff at this time cannot support any level of rate case expense. As I explained in by rebuttal testimony, Staff will update rate case expense through the true-up, provided that GMO submits complete invoices for the Staff to review. At that time, the Staff can complete a thorough review of the invoices received.

IATAN UNIT 1 AND 2 REGULATORY ASSETS

Q. In Mr. Weisensee's rebuttal testimony on pages 1-2, he explains that Staff did not include the Iatan Unit 1 and Iatan Unit 2 regulatory assets. Why did Staff not include these assets or the amortization thereof?

A. I explain Staff's position concerning the Iatan Unit 1 regulatory asset in my rebuttal testimony. Staff's proposed disallowances of the costs of both the Iatan Unit 1 AQCS

project and the Iatan Common Plant essentially remove the need for construction accounting on the plant expenditures not included in rates in the prior case.

I explain Staff's position concerning the Iatan Unit 2 regulatory asset in Staff's Cost of Service Report. I agree with Mr. Weisensee's statement: "Staff will include the Iatan 2 regulatory asset in rate base in the True Up, including annualized amortization expense, subject to Staff's review for reasonableness."

JEFFREY ENERGY CENTER REBUILD PROJECT

Q. Are you the same Keith Majors who prefiled direct testimony in this matter?

A. Yes.

Q. What is the purpose of your surrebuttal testimony?

A. The purpose of my testimony is to rebut GMO witness witnesses Terry Hedrick and Leonard Ruzicka concerning the Jeffrey Energy Center (JEC) Flue Gas Desulphurization (FGD) rebuild project.

Q. Briefly describe your proposed adjustment in that report.

A. Staff proposed an adjustment of $4.8 million to GMO's plant in service relating to the JEC FGD rebuild project. The adjustment removes inappropriate and unreasonable costs related to the project's general contractor – Powerplant Maintenance Specialists, Inc. (PMSI)

Q. Who is the operating partner of JEC?

A. Westar Energy (Westar) is the operating partner of JEC. GMO owns 8% of the three unit plant. Westar operates the power plant, performs maintenance duties, as well as capital additions as needed. For clarity, throughout my surrebuttal testimony, I refer to

Westar, keeping in mind that GMO, as a joint owner, is responsible for 8% of all expenditures.

Q. Did PMSI offer a mechanism to Westar for financial assurance?

A. Yes. Attached as Schedule 6 is a letter from PMSI dated April 12, 2007, approximately one month before the contract between PMSI and Westar was executed. The following appears on page 1:

** _____
_____
_____
_____
_____
_____
_____
_____
_____ **

Q. Did PMSI offer a commitment to Westar regarding scheduling?

A. Yes. The following appears on page 3 of the same document:

** _____
_____
_____
_____
_____ **

Q. What role did Burns & McDonnell perform on the JEC FGD project?

A. Burns & McDonnell was the owner's engineer and provided construction management services. Burns & McDonnell is the author of the monthly reports that are referenced throughout my testimony.

Q. Was PMSI mobilized to the site on the date recommended by Burns & McDonnell?

NP

A. ** _____

_____

_____ **

Q. On page 7 of his rebuttal testimony, Mr. Ruzicka makes the following conclusion: ** _____

_____ ** Do you agree with his conclusion?

A. No. ** _____

_____

_____

_____

_____

_____ ** The following are excerpts from those status reports regarding PMSI delays; the emphasis for each report has been added by Staff:

** _____

- _____
_____
_____
_____
_____

- _____
_____
_____
_____

- _____
_____

NP

[redacted]

NP

- _____
- _____
- _____

_____

_____

_____

Q. _____

_____

A. _____

_____

_____

Q. _____

A. _____

_____

Q. _____

NP

A. _____

_____

_____

_____

_____

_____

Q. _____

_____

A. _____

_____

_____

Q. _____

A. _____

_____

_____

Q. _____

_____

NP

A.

Q.

A.

Q.

A.

Q.

A.

**

NP

Q. According to his rebuttal testimony, Mr. Ruzicka was retained by KCPL "to determine the appropriateness of the awarding of a contract to Powerplant Maintenance Specialists, Inc. ("PMSI")..." Did his review encompass any documents memorializing the risks and circumstances you described?

A. No. Staff requested and obtained all documents reviewed by Mr. Ruzicka.

** _____ **

Q. Please summarize your position on this issue.

A. ** _____ **

Q. Does that conclude your surrebuttal testimony?

A. Yes, it does.

NP

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Electric Service	))))	File No. ER-2010-0356

AFFIDAVIT OF KEITH A. MAJORS

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Keith A. Majors, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 38 pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Keith A. Majors

Subscribed and sworn to before me this 12th day of January, 2011.

D. SUZIE MANKIN
Notary Public - Notary Seal
State of Missouri
Commissioned for Cole County
My Commission Expires: December 08, 2012
Commission Number: 08412071

Notary Public

SCHEDULE 1

HAS BEEN DEEMED

HIGHLY CONFIDENTIAL

IN ITS ENTIRETY

2005 AACE International Transactions

CSC.14

Construction Cost Contingency Tracking System

Mr. John F. Rowe, PE

The author will present an objective, forward-looking cost contingency tracking system (CTS) that uses readily available cost information and a simple spreadsheet format. Using the CTS, project managers can assign contingency to construction contracts, track its consumption and manage a reserve for upcoming work. The paper will discuss the development of rules, using the perceived risk of each construction contract, to assign an initial contingency value to each construction contract. The author will then describe setting up the CTS using this initially assigned contingency value, basic cost information and cost trends from field staff. Once in place, project managers can use the CTS to assess a project's overall budget health and focus on contracts that require special attention. The CTS can also be used to calculate the estimated cost at completion for each contract to provide early warning of overruns. It has been successfully tested on a $1.4 billion rail and highway improvement program.

CONTINGENCY

The Association for Advancement of Cost Engineering defines contingency as, "An amount added to the estimate to allow for changes that experience shows will likely be required"[5]. The value of possible changes, and thus contingency, is proportional to the risk present in a project and this risk drops as the design advances, construction contracts are awarded, and construction is completed. Figure 1 shows a downward sloping channel that represents total project contingency over the life cycle of a project. Typically, the baseline project budget is set at some point in the project life cycle and project managers must live within that contingency budget. Ideally, the baseline budget should not be set until the project manager has a good handle on the remaining project risk and can determine a sufficient value of contingency to include in the budget to cover that risk [1,2]. Although beyond the scope of this paper, much has been written about techniques to initially set the contingency budget including expert opinion, Monte Carlo analysis, and other statistical methods [3,4]. This paper will focus on managing that contingency budget once it has been set, specifically during the construction phase of a capital project. This is accomplished by solving the twin problems of how to assign cost contingency to each construction contract and how to accurately forecast the final cost of these contracts at any given time.

The construction phase is where the rubber meets the road in managing capital projects. The pace quickens, spending accelerates, and an unprepared project team can be left in the dust. During the construction phase, the estimate at completion (EAC) of the contract packages changes more quickly than at any other phase of the project. A project manager must be able to detect potential project contingency shortfalls in order to down-scope or otherwise rebuild contingency. Conversely, if it becomes apparent that excess contingency will remain at the end of the project, project managers should re-deploy that capital to a more productive use as soon as possible.

ASSIGNING CONTINGENCY TO CONSTRUCTION CONTRACTS

By the start of the construction phase, final design should be complete and most, if not all, risk associated with each contract should result from change order growth occurring after contract award. Since the engineer's estimate for a construction contract is only intended to predict the bid price of the contract, contingency must be included in the contract budget to account for change order growth.

Project managers should establish guidelines governing the amount of change order contingency to be assigned to each contract. A survey of past experience with change order growth on completed contracts can provide a good basis for setting these guidelines. Typically, since different types of contracts contain different levels of change order risk, initial contingency guidelines should take the contract type into account. Table 1 shows an example set of guidelines by contract type—the details will vary by project. Using established guidelines, the project team can quickly determine the desired contingency value to assign to each contract as its design is completed. The same guidelines will be used to reset the contingency based on the original contract value once bids are received on each contract. This initial contingency value (C_I) is a key numerical input to the CTS.

Schedule 2 - 1

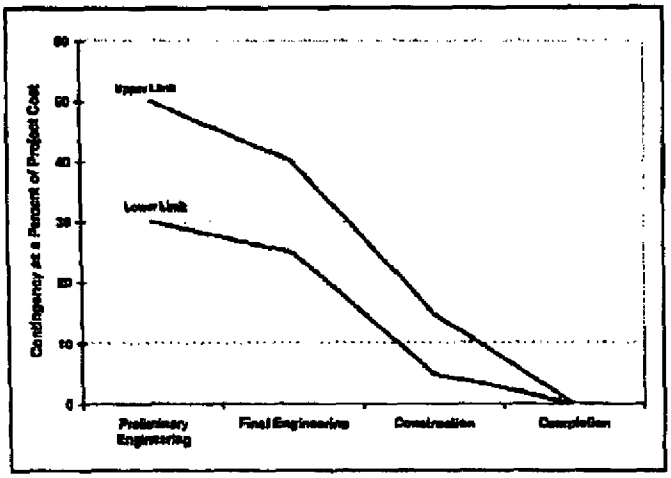

Figure 1—Project Contingency Should Decrease Over the Life of a Project.

Table 1—Example Guidelines for Initial Contingency Assignment.

Contract Type	Initial Change Order Contingency (as a % of Contract Cost)
Procurement Only	5%
Typical Construction	10%
Special Construction:	
Tunnels	15%
Very Small Contracts	20%

ACCURATE CONSTRUCTION CONTRACT FORECASTING

Once construction contracts have been awarded, accurate forecasts are needed to track contingency consumption. The people most able to provide accurate forecast information for each construction contract are those closest to the action. These are typically the resident engineers, project controls engineers, or contract administrators with direct responsibility for day-to-day construction management. Using either spreadsheets or specialized construction management software, the field team should maintain the most thorough contract forecast possible, given the other demands on their time. This forecast should include the original contract amount, approved change orders, pending change orders, and all identified cost issues. A well maintained forecast will change from day to day as issues are identified, negotiations are completed, and costs are agreed upon. This field-generated contract forecast (F) is another important numerical input to the CTS.

From experience we know that even the best field team will not be able to forecast all the change issues and associated costs until very close to the end of construction. For this reason, to develop an accurate value for the estimate at completion (EAC), we must keep some retained contingency (C_R) in addition to the field-generated Contract Forecast (F). This can be expressed as follows:

$$EAC = F + C_R$$

(equation 1)

Intuitively, the value of retained contingency (C_R) should be based on the initial contingency (C_I) value assigned at contract award and should drop as the contract is completed and risk drops.

AN EMPIRICAL FORMULA FOR RETAINED CONTINGENCY

For simplicity, one could assign retained contingency (C_R) based on the assumption that risk drops linearly as a contract is completed and is inversely related to the percent complete. As an example, at 80 percent complete 20 percent of initial contingency (C_I) would be retained to account for changes that have not yet been identified. Intuitively, this linear assumption seems conservative, as we would expect that more than half of the change issues should have been identified at the 50 percent completion point. In order to test the straight-line assumption and modify it if necessary, the author collected some real world data. Actual cost (A) and contract forecast (F) data were collected over four years, on a monthly basis, for 15 of the largest construction contracts on a light rail expansion program managed by the Valley Transportation Authority in San Jose, California. The contracts studied had a combined value of $257 million and covered a wide array of work including heavy civil and track, tunnel, elevated structure, station finish and overhead contact system construction contracts.

For each monthly Contract Forecast (F) reading, the Value of Changes Forecast (Δ_t) at that time was calculated by subtracting the Original Contract Amount (C_0).

$$\Delta_t = F - C_0$$

(equation 2)

Once each contract is complete, the final contract amount (CF) is known and the final value of changes (Δ_F) can be calculated as follows:

$$\Delta_F = C_F - C_0$$

(equation 3)

The proportion of final changes forecast ($\Delta_{t/F}$) at each point in time can be readily calculated using the final value of changes (DF) as follows:

$$\Delta_{t/F} = \Delta_t / \Delta_F$$

(equation 4)

Figure 2 shows a scatter diagram with a total of 282 monthly coordinates for the proportion of final changes forecast ($\Delta_{t/F}$) on the y-axis (expressed as a percent) and percent complete (P) on the x-

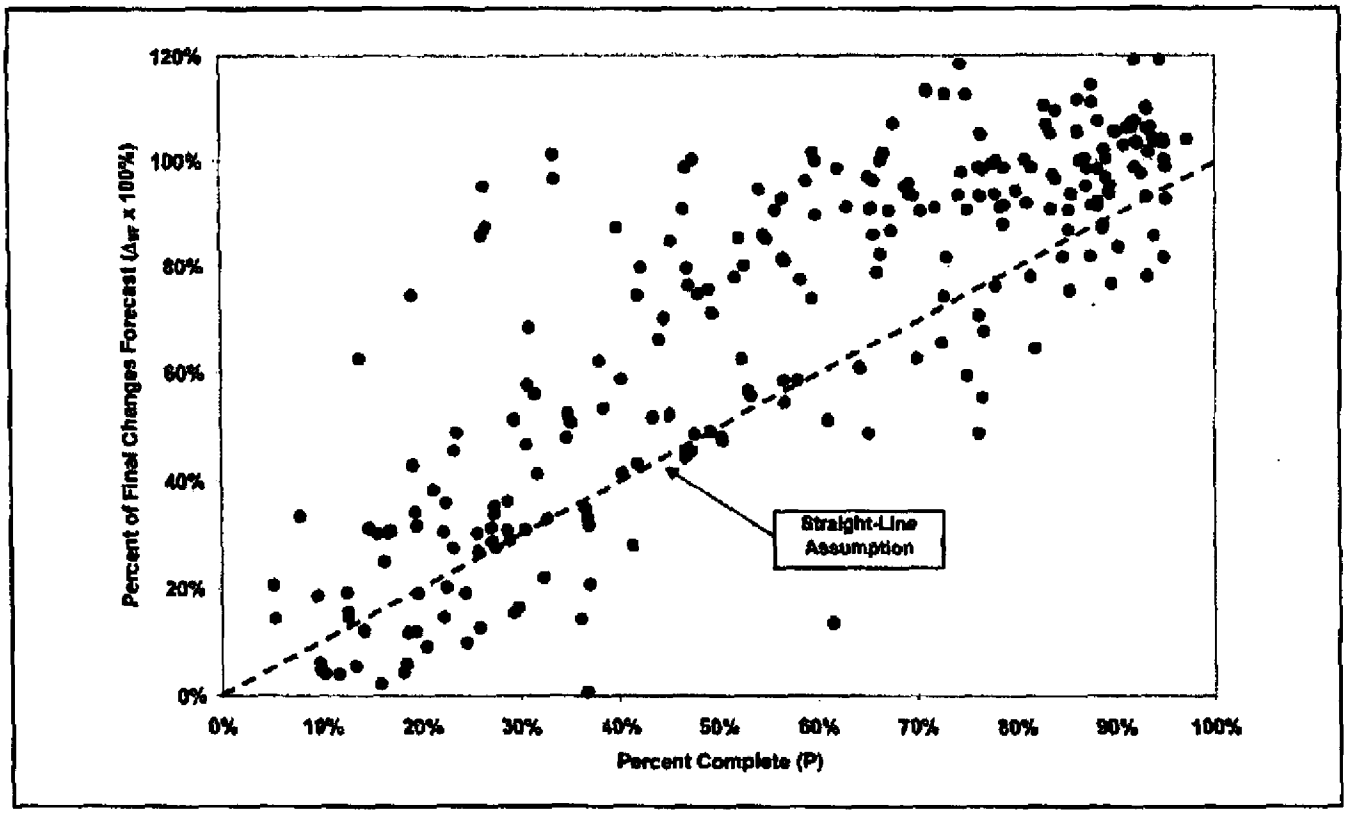

Figure 2—Scatter Diagram of Data with Straight-Line Assumption Superimposed.

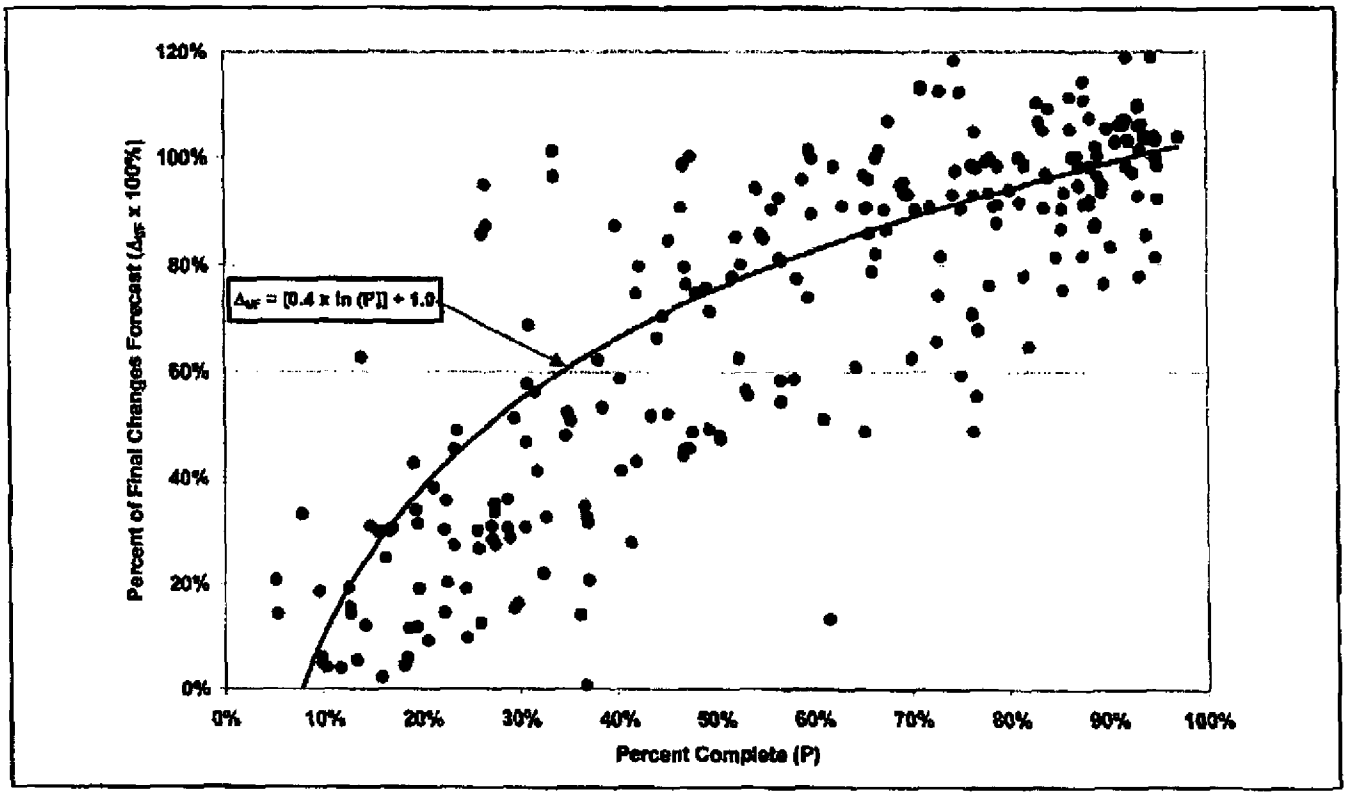

Figure 3—Scatter Diagram from Figure 2 With the Best-Fit Curve and Equation.

axis. (Values for P<5% and P>95% were excluded for clarity.) The dashed line on the graph shows the straight-line assumption we are testing.

Although the data points in our sample don't trace out a perfect curve, it is clear that the straight-line assumption is not accurate and is probably too conservative. In order to find a better solution, the author employed the spreadsheet program's curve-fitting feature. The best-fit curve (R^2=0.46), shown in figure 3, is a natural logarithmic function (ln = $\log_e$) described as follows:

$$\Delta_{I/F} = 0.4 \ln(P) + 1.0$$

(equation 5)

This equation provides a value for the proportion of final changes Forecast ($\Delta_{I/F}$) expected to be included in the contract forecast (F) as a function of percent complete (P). It should be noted that, for values of percent complete (P) less than approximately 25percent, the best-fit curve does not fit the data very well. For this reason, and due to the fact that forecast data can be highly variable in the early stages of contract execution, estimate at complete (EAC) values derived from this equation and the contingency Tracking system (CTS), to be described shortly, should be considered to be unreliable until at least 25 percent completion is reached.

Natural log functions are readily calculated by spreadsheet programs, and table 2 shows the results of this equation for a range of percent complete (P) values. The numerical results generated by this empirical equation seem to be intuitively more accurate than the straight-line assumption, as the proportion of final changes forecast ($\Delta_{I/F}$) rises quickly in the first half of contract completion as cost issues are identified and negotiated, then levels out as completion is reached.

As an example, for a contract that is 50 percent complete, table 2 shows that we can expect that a good contract forecast (F) figure has captured 72 percent of the final changes that will occur on the contract. To account for the 28 percent of changes that have not yet been forecast, we would simply retain 28 percent of the initial contingency (C_I) value in addition to the contract forecast (F) value. Since the value of $\Delta_{I/F}$ derived in our empirical equation is expressed as a decimal, we would subtract it from one to arrive at a value for retained contingency (C_R). Mathematically, retained contingency (C_R) is derived as follows:

$$C_R = (1 - \Delta_{I/F}) \times C_I$$

(equation 6)

Substituting in our empirical equation for $\Delta_{I/F}$:

$$C_R = [1 - (0.4 \ln(P) + 1.0] \times C_I$$

(equation 7)

Simplifying the equation results in the following:

$$C_R = -0.4 \ln(P) \times C_I$$

(equation 8)

Table 2—Values of $\Delta_{I/F}$ Resulting from the Empirical Equation.

Percent Complete (P)	Percent of Final Changes Included in Contract Forecast ($\Delta_{I/F}$ x 100%)
10%	8%
20%	36%
30%	52%
40%	63%
50%	72%
60%	80%
70%	86%
80%	91%
90%	96%
100%	100%

Table 3—An Example CTS for a Simplified Light Rail Project.

Contract No.	Contract Description	Numerical Inputs: B Current Budget	F Current Forecast	A Actual Costs	C_I Initial Contingency	Calculated Values: P = (A/F) as % Percent Complete	$C_R = -0.4 \ln(P) \times C_I$ Retained Contingency	EAC = F + C_{REM} Estimate at Completion	C_{BD} = B - EAC Contingency Surplus/(Deficit)
A100	Procure Rail, Ties and Special Trackwork	525,000	525,000	525,000	25,000	100.0%	0	525,000	0
A999	Procurement Allocated Contingency	0	0	0	0	0.0%	0	0	0
	Subtotal Procurement	525,000	525,000	525,000	25,000	100.0%	0	525,000	0
C100	Civil, Track & Landscaping	11,000,000	11,325,000	7,830,000	1,000,000	67.4%	157,970	11,482,970	(482,970)
C200	Stations & Park and Ride Facilities	3,300,000	3,125,000	1,000,000	300,000	32.0%	136,732	3,261,732	38,268
C999	Civil Allocated Contingency	25,000	0	0	0	0.0%	0	0	25,000
	Subtotal Construction	14,325,000	14,450,000	8,830,000	1,300,000	59.7%	294,702	14,744,702	(419,702)
S100	Overhead Contact System	1,650,000	1,550,000	50,000	150,000	3.2%	206,039	1,756,039	(106,039)
S200	Combined Communications & Signals	2,300,000	2,000,000	0	300,000	0.0%	300,000	2,300,000	0
S999	Systems Allocated Contingency	25,000	0	0	0	0.0%	0	0	25,000
	Subtotal Systems	3,975,000	3,550,000	50,000	450,000	1.4%	506,039	4,056,039	(81,039)
Z999	Project (Unallocated) Contingency	1,500,000	0			0.0%	0	0	1,500,000
	Subtotal Project Contingency	1,500,000	0	0	0	0.0%	0	0	1,500,000
	TOTAL PROJECT	$20,325,000	$18,525,000	$9,205,000	$1,775,000	49.7%	$800,741	$19,325,741	$999,259

Table 4—Numerical Inputs to the CTS

Numerical Input	Designation	Contract Status / Type	Value to Use
Current Budget	B	Pre-Bid	Current Budget, which should include change order contingency that was developed using the contingency guidelines.
		Active	Current Budget, which was reset at award to equal the Original Contract Value + Initial Contingency (C_I).
		Contingency Line	Current Budget for the contingency line.
Current Forecast	F	Pre-Bid	Set equal to the Current Budget (B) less any change order contingency included in that number.
		Active	Original Contract Amount + Approved/Pending Change Orders + Identified Potential Changes. *(Note: This value should not include any allowance for changes that have not yet been identified.)*
		Contingency Line	Always zero.
Actual/Incurred Costs to Date	A	Pre-Bid	Always zero.
		Active	Use either Actual or Incurred Costs for the contract, depending on what's available from the cost system.
		Contingency Line	Always zero.
Initial Contingency	C_I	Pre-Bid	Change order contingency included in the Current Budget
		Active	Use the contingency guidelines, based on the contract risk type, to develop a percentage factor to apply to the Original Contract Amount.
		Contingency Line	Always zero.

Table 5—Calculated Values Used in the CTS

Calculated Value	Designation	Calculation	Description
Contract Percent Complete	P	A / F	Measure of progress toward contract completion expressed as a percentage.
Retained Contingency	C_R	$-0.4 \ln(P) \times C_I$	This equation was derived empirically. C_R is an allowance for future changes that have not yet been identified. *(For P=0, $C_R = C_I$)*
Estimate at Completion	EAC	$F + C_R$	Contract estimated cost at completion that takes into account all approved/identified changes plus an allowance for future changes.
Contingency Surplus/Deficit	C_{SD}	B - E	A contract's projected impact on project contingency. Negative values (deficit) represent consumption of project contingency while positive values (surplus) indicate contracts that will return contingency back to the project upon completion.

We now have all the prerequisites in place for a construction phase contingency tracking system (CTS).

THE CONTINGENCY TRACKING SYSTEM (CTS)

The contingency tracking system (CTS) was developed to provide an up-to-date snapshot of remaining cost contingency on a large rail and highway expansion program. The goal was to provide an objective measure of remaining contingency that takes into account the latest forecast cost for each component construction contract as well as an allowance for changes that will likely occur but have not yet been identified. The CTS had to be simple to understand so that it would be accepted by a number of project stakeholders, and easily maintained so as not to present a recurring burden to the project controls staff. The CTS focuses on the construction category of project costs since, during the construction phase, this is where the vast majority of risk remains. Table 3 shows the CTS as applied to a simplified project, in this example a small light rail project. At first glance, it looks somewhat complex but as will be shown, it consists of readily available numerical inputs and values derived from these inputs with simple calculations.

The rows of the CTS represent construction contracts and contingency line items that are organized by contract type. In this example, an allocated contingency line is included in each construction category as well as a project contingency line at the bottom. The specifics of how contingency is deployed across the project categories are a matter of preference, but the CTS can be adapted to any scenario.

The contracts in table 3 range in progress from pre-bid (S200), to active (C100, C200, and S100), to completed (A100) in order to demonstrate how the CTS treats each type. Totals for each column are shown by category and at the bottom line. The columns are organized into two groups: numerical inputs and calculated values.

NUMERICAL INPUTS TO THE CTS

The numerical inputs to the CTS should all be readily available information from either the project cost report or forecast reports maintained by field construction management staff. These numerical inputs are as follows and are summarized in table 4 for handy reference:

Current Budget (B)

Taken from the project cost report, it should include all budget transfers/changes that resulted from the evolution of contract scope up until contract award and, as discussed, should also include an amount to cover change orders. When bids are received and the contract is awarded, the budget should be re-set to equal the original contract amount plus an initial contingency (C_I) by transferring budget to/from allocated and/or project contingency. Ideally, this budget will not be changed again until the contract is completed and excess budget is returned to contingency.

Current Forecast (F)

Before a contract is bid, this will equal the current budget, less the amount included to cover change orders. After contract award, field construction management personnel typically maintain the current forecast as previously discussed. Note that the current forecast should not include any factors to predict the value of unidentified changes, as the CTS will account for these.

Actual Costs (A)

Taken from the project cost report. The value of all payments made on a given contract as of the date the CTS is being updated.

Initial Contingency (C_I)

Before a contract is bid, the initial contingency guidelines discussed earlier are typically employed to develop the Initial Contingency (C_I) value based on the engineer's estimate. When bids are received and the contract is awarded, C_I is recalculated using the same guidelines applied to the bid amount. Note that, while the other numerical inputs are updated on a regular basis, initial contingency is a static number that will not change once contract award is made.

CALCULATED VALUES USED IN THE CTS

The CTS takes the numerical inputs described above to derive calculated values that are ultimately used to arrive at the total contingency available after taking construction cost trends into account. These calculated values are as follows and are summarized in table 5 for handy reference:

Contract Percent Complete (P)

There are many ways to ascertain progress toward completion of construction contracts. For simplicity, the CTS relies on Actual Costs (A) and the Current Forecast (F) to generate this number as follows:

$$P = A / F$$

(equation 9)

Retained Contingency (C_R)

This calculation is at the heart of the CTS. It represents a forecast value of change orders that have not yet been identified by the construction management team but that we anticipate from experience will sooner or later be encountered. As derived earlier, this number is a natural log function, calculated as follows:

$$C_R = -0.4 \ln(P) \times C_I$$

(equation 8)

This formula provides invalid results for a zero value of percent complete (P). In this case, the value of initial contingency (C_I) should be used.

Estimate at Completion (EAC)

This number is simply the sum of the current forecast (F) provided by our field construction management staff and Retained Contingency (C_R). The estimate at completion (EAC) is calculated as equation 1 demonstrates.

The author has used this EAC value as an early warning of contracts that are trending toward exceeding agency contract authorization limits. It often provides a warning several months before an overrun becomes readily apparent, but tends to be unreliable until a contract is at least 25 percent complete, as discussed earlier.

Contingency Surplus/Deficit (CS/D)

By comparing the estimate at completion (EAC) to the current budget (B) we can determine whether a given contract is trending towards adding to or depleting project contingency. The contingency surplus/deficit ($C_{S/D}$) is calculated as follows:

$$C_{S/D} = B - F$$

(equation 10)

When the contingency surplus/deficit ($C_{S/D}$) is totaled across all construction contracts, allocated contingency lines and the project contingency line, the resulting value represents a good estimate of contingency available for non-construction project categories (e.g. right-of-way, design, and management).

The "punch line" of our CTS example is shown in the bottom right corner of table 3. This number represents the contingency available for other project risks after construction risks are

covered. In the example, although the budgeted project contingency is $1.5 million, the CTS shows that only about $1.0 million in contingency is actually available for non-construction project risks. The CTS is forecasting that the construction contracts will consume $0.5 million of project contingency to complete.

Note that, in the example project depicted in table 3, the total bottom-line value for retained contingency (C_R) is approximately $0.8 million. Recall, that this is the amount the CTS is adding to the field-generated contract forecasts to account for unidentified changes. Therefore, a project manager who relied solely on the field-generated forecasts to calculate EAC's would think that $1.8 million in contingency was available. If a scope addition valued at $1.25 million was approved, it might lead to a nasty surprise, as construction contracts progressed and additional changes were identified, resulting in an overrun of the project budget.

ADVANTAGES AND LIMITATIONS OF THE CTS

The main advantage of the CTS is its simplicity. It does not require advanced mathematics, statistics, or computer programming abilities to set up and maintain. This simplicity makes it easier to explain to and achieve buy-in from project stakeholders for the results that it generates. The basis for the Retained Contingency (C_R) calculation at the heart of the CTS is a set of real-world data, and the results pass the reasonableness test. The simple spreadsheet format and readily available numerical inputs make maintenance quite easy, which is important because the CTS should be updated on a regular basis in order to spot trends early. Another advantage is that the CTS provides an objective reading of remaining contingency, generated in a consistent manner from month to month. The only subjective input to the CTS is the initial contingency (C_I) value for each contract, and even that results from the application of a pre-determined set of guidelines and is set just one time for the life of the contract. Individual judgment can be applied to the values that result from the CTS, but the objectivity and consistency of the calculation method is important given the high stakes involved in managing project contingency.

As discussed, the retained contingency (C_R) calculation at the heart of the CTS was derived empirically from real world data on a light rail project. That data did not conform perfectly to a smooth curve; hence there is bound to be some inaccuracy in the empirical equation that resulted from it. However, the results shown in table 2 seem to be intuitively more representative of reality than the simplified straight-line alternate assumption. The fact that the data used to derive the calculation came from light rail projects may limit its usefulness in other sectors, e.g. building construction. More study is needed here, with forecast data collection and analysis in other sectors of construction necessary to verify or modify the retained contingency (C_R) calculation as appropriate. Also, as mentioned earlier, the estimate at completion (EAC) calculation can produce inaccurate results on an individual contract basis prior to approximately 25 percent completion due to inconsistent forecast information and poor correlation of the model in the early stages of contract execution.

As with any mathematical system, the CTS is only as good as the data that goes into it. The most important and hardest numerical input to come by is an accurate current forecast (F) for each contract. If reliable current forecast numbers are not available, the CTS will be of limited value. Finally, although simple, the CTS does require that consumers of its output be educated on the assumptions and calculations that underpin it to the point that they can understand and trust its results. There is no purpose in setting up and maintaining the CTS if project stakeholders have no understanding of or faith in it and are unwilling to act on its results.

As stated at the beginning of this paper, contingency is defined as an amount added to the budget to account for changes that inevitably occur. Using pre-established guidelines, we can establish a percentage of the original bid to initially include in our contract budget to account for change order growth. We have seen that, to derive an accurate estimate at completion (EAC) for each construction contract, we must start with a thorough contract forecast and add a retained portion of the initially established change order contingency to account for changes that have not yet been identified. A formula for calculating the retained contingency value was then derived based on a sample of real-world data. By comparing EAC's calculated in this way with the current budget for each contract, we can determine the amount each contract will add to or subtract from project contingency. Finally, by summing these impacts over all contracts and contingency lines, a bottom-line value of project contingency available for non-construction uses can be obtained.

The contingency tracking system (CTS) combines all of these steps into a compact and easily maintainable spreadsheet table. Using the CTS, project managers have a guide to the expected final cost of each contract and the approximate value of project contingency left after accounting for construction risks. This ability to see into the future will serve project managers well as they navigate the many obstacles standing in the way of successful project delivery.

REFERENCES

1. Collins, Jack J. and Rowe, John F. *"Management Challenges Unique to Transit Projects."* 2005 **AACE International Transactions**. (Morgantown, WV, 2005): PM.15.
2. Collins, Jack J. *"Steps to Better Cost Control of Transit Projects."* **American Public Transportation Association 1998 Rapid Transit Conference**, (June 1998).
3. Nassar, Khaled. *"Cost Contingency Analysis for Construction Projects Using Spreadsheet Techniques."* **Cost Engineering**, (September 2002): 26-31.
4. Oswald, Phillip F. **Construction Cost Analysis and Scheduling**. (New Jersey: Prentice Hall, 2001.
5. Woodward, Charles P. and Chen, Mark T. *"Chapter 1 - Cost Estimating Basics"* **Skills and Knowledge of Cost Engineering**. (Morgantown, WV: AACE International, 1999): 1-2.

Mr. John Rowe, PE
Rowe & Associates
908 Forest Ridge Drive
San Jose, CA 9529

E-mail: jfrowe@pacbell.net

Kansas City Power and Light

CHECK REQUEST

Department: Law

Date: 5/14/2009

TOTAL DOLLAR AMOUNT: $ 141,119.77

TO:

Name: Pegasus Global Holdings, Inc

Address-1: Attention: Brenda Pearson

Address-2: 1750 Emerik Road

City: Cle Elum State: WA Zip Code: 98922-

EXPLANATORY INFORMATION:

Attachments (If any)

Special Routing Instructions (If any) Please contact Natasha Woods @ 2715 for pick up

Date Check Needed: 05/15/09 - PLEASE RUSH!

DETAIL INFORMATION OF EXPENSE AND NAME OF INDIVIDUAL IF APPLICABLE:

KCPL MO, KCPL KS, and GMO Electric Rate Cases

Invoice numbers 04-2006 and 06-2006

Tax ID - 30-0070644

CR168-05KCPL

**** For Accounting Department Use Only ****

Vendor Number	Loc Code	Acct. Date	Invoice Number

ACCOUNTING DISTRIBUTION:

Line	Dept (3) Char	Account (6) Char	Product (5) Char	Project (5-15) Char	Activity ID (5-6) Char	Category (3) Char
1	662	928011	50010	MSC0154	BP0011	862
Amt.	$30,780.84		Desc.	KCPL MO Rate Case		
2	662	928012	50010	MSC0154	BP0011	862
Amt.	$94,948.50		Desc.	KCPL KS Rate Case		
3	662	928011	50010	REG-MPS	EX054	862
Amt.	$7,695.22		Desc.	GMO Electric Rate Case		

Requester's Signature: Natasha Woods

Authorizations Signature:

Print Requester's Name: Natasha Woods

Print Name: Mark G. English

A/P Approval:

KCPL Form 88 (N002 (Rev 10/01)

SCHEDULE 3 - 1

Kansas City Power and Light

CHECK REQUEST

Department: Law Date: 5/14/2009

TOTAL DOLLAR AMOUNT: $ 2 of 2

TO:

Name:	Pegasus Global Holdings, Inc
Address-1:	Attention: Brenda Pearson
Address-2:	1750 Emerik Road
City:	Cle Elum State: WA Zip Code: 98922-

EXPLANATORY INFORMATION:

Attachments (If any)	
Special Routing Instructions (If any)	Please contact Natasha Woods @ 2715 for pick up
Date Check Needed:	05/15/09 PLEASE RUSH

DETAIL INFORMATION OF EXPENSE AND NAME OF INDIVIDUAL IF APPLICABLE:

KCPL MO, KCPL KS, and GMO Electric Rate Cases

Invoice numbers 04-2006 and 06-2006

**** For Accounting Department Use Only ****

Vendor Number	Loc Code	Acct. Date	Invoice Number

ACCOUNTING DISTRIBUTION:

Line	Dept (3) Char	Account (6) Char	Product (5) Char	Project (5-15) Char	Activity ID (5-6) Char	Category (3) Char
1	662	928012	50010	REG-SJLP	EX055	860
Amt.	$7,695.21		Desc.	GMO Electric Rate Case - St. Joe		
2						
Amt.	$		Desc.			
3						
Amt.	$		Desc.			

Requester's Signature: Natasha Woods Authorizations Signature:

Print Requester's Name: Natasha Woods Print Name: Mark G. English

A/P Approval:

KCPL Form 6911H002 (Rev 10/01)

SCHEDULE 3 - 2

Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: 202.739.3000
Fax: 202.739.3001
Fed Tax ID: 23-0891050
www.morganlewis.com

Morgan Lewis
COUNSELORS AT LAW

0 1 1 1 0 6 6 7

December 17, 2009

Invoice No. 2253213
Account No. 049331-0003

VMS

William G Riggins, General Counsel
Kansas City Power & Light Co
P.O. Box 418679
Kansas City, MO 64141-9679

Summary of Services for the period ended November 30, 2009:

Ok to pay - 2010 rate cases
50% KCPL MO
50% GMO

Re: Iatan Rate Proceeding [redacted]

Fees	$	21,210.00
Total Current Period Charges	**$**	**21,210.00**

Please refer to the table titled "**Detail of Outstanding Invoices**" which lists all other outstanding invoices for the matters referenced on this invoice.

KCPL MO Rate Cases - 2010
KCPL-662/928011/50010/KCPL-EXP/EX060/894 $10,605.00
GMO-662/928011/50010/MPS-EXP/EX061/894 $10,605.00
Approved: MB Danahin

rec'd
12/28/09
ABC

SCHEDULE 4

THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

Before Commissioners: Thomas E. Wright, Chairman
Joseph F. Harkins
Ward Loyd

In the Matter of the Application of Kansas City Power & Light Company to Modify its Tariffs to Continue the Implementation of its Regulatory Plan	))))	Docket No. 10-KCPE-415-RTS

ORDER: 1) ADDRESSING PRUDENCE; 2) APPROVING APPLICATION, IN PART; & 3) RULING ON PENDING REQUESTS

The above captioned matter is before the State Corporation Commission of the State of Kansas (Commission) for consideration and decision. Having examined its files and records, and being fully advised in all matters of record, the Commission makes the following findings of fact and conclusions of law:

I. BACKGROUND

A. General

On December 17, 2009, Kansas City Power & Light Co. (KCPL or the Company) filed the captioned Application for a rate change per K.S.A. 66-117 and K.A.R. 82-1-231. The current docket represents the fourth and final rate case in the series of four rate applications that were contemplated in the Stipulation and Agreement (1025 S&A or Regulatory Plan) that was approved by the Commission in Docket No. 04-KCPE-1025-GIE. The Regulatory Plan represented a collaborative effort and resulted in KCPL committing to make substantial investments in its electric infrastructure over a five-year period.

In the 1025 Docket, KCPL, the Commission, the Staff of the State Corporation Commission of the State of Kansas (Staff), the Citizens' Utility Ratepayer Board (CURB), and

The Commission approves specific adjustments to the Spanos Study as proposed by Dunkel. Otherwise, the Commission adopts the recommendations contained in the Spanos Study. To summarize these decisions, Staff has prepared a list of depreciation rates by account that is attached to this Order as Exhibit III.

13. Rate Case Expense

Several issues have been raised involving rate case expense. First, KCPL has amortized Kansas rate case expense over four years for each of KCPL's three prior rate cases under the Regulatory Plan, beginning with the effective date of new rates in each case. Staff witness Hull recommended a decrease in KCPL's annual cost of service of $370,026 based on a re-amortization of the balance of deferred costs from these prior rate cases. Annual additions or subtractions of rate case costs have created layers within this asset account with each layer amortized separately. Total amortization expense for each rate case varies depending on what layer or layers were included in the expense calculations. Hull proposed the unamortized balance of the Deferred Rate Case Costs as of December 31, 2010, be amortized over a four-year period to ensure KCPL will not collect more than the authorized amount in its cost of service from the amortization period of the various layers of cost.[315] CURB agreed with Staff's proposal but urged this decision be deferred to a later docket reviewing rate case expense for Docket 09-246 and this docket.[316]

KCPL witness Weisensee opposed this approach, noting costs from each case are amortized as a separate "vintage" and will not be completely amortized until December 2011, July 2013, and November 2014. If amortization of one vintage is completed during an interim period between this rate case and KCPL's next case, Weisensee proposed the over-amortization

[315] Hull Direct, pp. 3-4 and Exh. KSH-1.
[316] CURB Proposed Findings, pp. 79-80.

can offset the remaining rate case costs in other vintages, noting Staff's method will lengthen the time for KCPL to recover these costs.[317]

The Commission finds Staff's proposal is reasonable and will ensure that ratepayers are only responsible for rate case expense incurred for these prior cases. The Commission rejects KCPL's proposal to apply over-amortization to remaining rate case costs in other vintages. The Commission adopts Staff's adjustment to re-amortize the balance of the deferred rate case costs and directs that KCPL's annual cost of service be decreased by Staff's adjustment to reflect this re-amortization.

Second, CURB asked the Commission to adjust KCPL's claim for rate case expense costs associated with Docket 09-246. CURB witness Crane asserted KCPL estimated its rate case costs would be approximately $800,000 for the Kansas jurisdiction for Docket 09-246 but now asks to recover $2,314,299 for rate case expense, an increase of almost 200%. Crane recognized issues arose during Docket 09-246 that lead KCPL to engage additional witnesses; issues included costs associated with Iatan Unit 1 environmental upgrades and with Iatan Unit 2, use of budgeted versus actual cost data, and common plant allocations. But in her opinion some hourly rates were excessive. She recommended shareholders be responsible for 50% of rate case expense costs claimed for Docket 09-246, which is still 44% higher than the original estimated costs.[318]

Wiesensee agreed Crane identified those issues resulting in higher than anticipated rate case expense, but he disagreed the costs were excessive. The Iatan-related issues were complex and the procedural schedule in Docket 09-246 was amended to include additional testimony and oral arguments. He noted $2 million of rate case costs were incurred in the final eight months

[317] Weisensee Rebuttal, pp. 33-34.
[318] Crane Direct, pp. 86-87.

before new rates took effect and the month following implementation, with over $500,000 incurred in the final two months.[319] Of the $2.3 million of costs for Docket 09-246, combined costs for the KCC and CURB totaled $746,000.[320]

The Commission concludes KCPL will be allowed to recover rate case expense costs requested for Docket 09-246. Crane recognized the issues to be addressed during proceedings in Docket 09-246 increased in number and complexity, requiring additional expert witnesses to be engaged and further proceedings to be conducted. Although requiring shareholders to share some rate case expenses with ratepayers is appropriate in some situations, the Commission will not require this in Docket 09-246.

Third, CURB opposed KCPL's claim for recovery of certain FERC-jurisdictional costs for rate case expense relating to transmission formula rate cases. These costs involve FERC cases in which KCPL is establishing transmission rates that affect its retail and firm wholesale customers. This annualized cost is allocated to Kansas, Missouri, and full-requirements firm wholesale jurisdictions based on the Energy allocation discussed by Weisensee. FERC does not allow these costs to be deferred and amortized but instead requires the costs to be expensed as incurred.[321] Crane recommended recovery of FERC-jurisdictional costs be denied because the only rationale given for their recovery in Kansas-jurisdictional rates was an inability to recover them elsewhere.[322] Weisensee noted Crane misunderstood his prior testimony in which he discussed FERC's requirement regarding deferral versus expense to illustrate rate case expense is treated differently for FERC rate cases than for Kansas retail rate cases. FERC allows recovery of these costs, but KCPL must annualize them in its Kansas retail rate case similar to any other

[319] Wiesensee Rebuttal, p. 36.
[320] Weisensee Rebuttal, pp. 37-38.
[321] Weisensee Direct, pp. 60-61.
[322] Crane Direct, pp. 88-89.

costs. Kansas retail customers should pay for properly allocated FERC transmission rate case expense incurred to establish transmission rates.[323] The Commission finds KCPL's request to recover FERC transmission rate case costs is proper and approves their recovery.

Last, the Commission must determine what rate case expense costs to pass through to KCPL ratepayers for this rate case. No party recommended a specific adjustment to rate case expense. Staff noted an adjustment for rate case expense could not be reasonably estimated at the time Staff's testimony was filed and stated these costs can be trued-up later in the proceeding. Staff recommended amortizing rate case expense over a four-year period.[324]

Crane expected this last rate case under the Regulatory Plan to have higher costs than the three prior rate cases, but asserted the Company would have taken this into account in estimating rate case expense of $2.1 million, noting no new issues have arisen that were a surprise.[325] During the hearing, CURB opposed allowing any amount above KCPL's initial request for $2.1 million in rate case expense[326] and noted in particular the number of attorneys representing KCPL present during the hearing.[327] Although not proposing an adjustment during the hearing, Crane urged the Commission to share rate case expenses 50/50 between shareholders and ratepayers because both benefit from rate cases.[328] Crane argued CURB should be able to review documentation submitted for rate case expense and proposed rate case expense costs be considered in an abbreviated rate case proceeding to allow discovery and examination of these expenses.[329]

[323] Weisensee Rebuttal, pp. 37-38.
[324] Hull Direct, p. 4.
[325] Crane Direct, p. 85; Tr. Vol. 11, pp. 2564-65 (Crane).
[326] Tr. Vol. 1, p. 117 (Rarrick).
[327] Tr. Vol. 10, pp. 2112-16 (Rarrick).
[328] Tr. Vol. 11, p. 2533 (Crane).
[329] Tr. Vol. 11, pp. 2542-44 (Crane).

Weisensee agreed actual costs could not be incurred until this proceeding was completed. Noting in Docket 09-246 more than $500,000 was recorded on the financial books in the final month before rates went into effect and in the month following, he proposed an allowance of $500,000 be included for late occurring costs in this case.[330] Weisensee understood Staff would not oppose recovery of actual rate case expense costs up to the date of the Order in this case. But he did not oppose CURB and Staff having time to review or audit this expense, noting it would take time.[331]

Determining rate case expense while this proceeding is still being litigated is difficult. Rate case expense costs accumulate as long as a proceeding continues. Yet, the Commission must determine an amount to include in the revenue requirement to compensate KCPL for its expenses incurred in this proceeding. Parties have proposed the Commission take up this issue as part of an abbreviated rate case, but, as explained elsewhere, the Commission has declined KCPL's request to approve an abbreviated rate case.

In Kansas, the general rule is that prudently incurred rate case expenses are among the reasonably necessary expenses a public utility is entitled to recover in a rate-case proceeding. As with all expenses sought to be recovered as part of the revenue requirement, the utility has the burden to establish this expense is known and measurable.[332] The Company also has the burden of proof to establish rate case expenses are reasonable and prudent.[333] The record must contain substantial evidence to support the Commission's decision granting rate case expense.[334]

---

[330] Weisensee Rebuttal, p. 35.
[331] Tr. Vol. 10, pp. 2218-20 (Weisensee).
[332] *Home Telephone Co. v. Kansas Corporation Comm'n*, 31 Kan. App. 2d 1002, 1015, 76 P.3d 1071 (2003).
[333] *Kansas Industrial Consumers v. Kansas Corporation Comm'n*, 36 Kan. App. 2d. 83, 111, 138 P.3d 338 (2006). *E.g., Gulf States Utility Company v. Texas Public Utility Comm'n*, 128 P.U.R. 4th 441, 446 (D. Tex. 1991).
[334] *Home Telephone*, 31 Kan. App. 2d at 1015.

The Commission has a long-standing policy of including fair and reasonable rate case expenses that are prudently incurred in costs to be borne by ratepayers.[335] But to recover rate case expense costs, the Commission has required a company to provide actual documentation of expenses incurred rather than relying on estimates.[336] The Commission must weigh competing policies in determining the recovery of appropriate and reasonable rate case expenses. The Kansas Court of Appeals, reviewing this decision, noted, "Rate case expenditures involve some degree of management choice and discretion whether to incur the expenses."[337]

Elsewhere in this Order, the Commission has relied upon the Kansas Supreme Court's definition of prudence as "carefulness, precaution, attentiveness and good judgment."[338] In making its review here, the Commission, like a trial court reviewing attorney fees, should be considered an expert in making this decision and will draw from its knowledge and expertise in evaluating the value of services rendered in this proceeding.[339]

The attempt to determine rate case expense is hampered by a lack of detailed information in the record. Frequently, when a tribunal is called upon to review whether expenses incurred in a proceeding are reasonable, information is provided about the time and amount of services rendered, the general nature and character of the services revealed by the invoices, whether attorneys or consultants presented testimony or other tangible work product that was made a part of the record, the nature and importance of this litigation, and the degree of professional ability,

---

[335] *In the Matter of the Application of Westar Energy, Inc.*, Docket No. 05-WSEE-981-RTS, Order on Reconsideration, issued February 13, 2006, ¶ 93. See *Driscoll v. Edison Light & Power Co.*, 307 U.S. 104, 120-21 (1939) ("[T]he utility should be allowed its fair and proper expenses for presenting its side to the commission.").
[336] *In the Matter of an Audit and General Rate Investigation of Rural Telephone Company*, KCC Docket 01-RRLT-083-AUD, Order Setting Revenue Requirements, issued June 26, 2001, ¶ 70.
[337] 36 Kan. App. 2d. at 111, *quoting Citizens Utility Board v. ICC*, 166 Ill. 2d 111, 129-30, 651 N.E.2d 1089 (1995).
[338] *Kansas Gas & Electric v. Kansas Corporation Comm'n*, 239 Kan. 483, 495, 720 P.2d 1063 (1986).
[339] *Westar Energy v. Wittig*, ___ Kan. App. 2d ___, ___, 235 P.3d 515, 533 (2010); *Johnson v. Westhoff Sand Co.*, 281 Kan. 930, 940, 135 P.3d 1127 (2006).

skill, and experience called for and used during the course of the proceeding.[340] KCPL and its experienced team of attorneys know these requirements and should have provided this information for the Commission's review. Because that detailed information is not contained in this record, the Commission has considered denying recovery of all rate case expense in this proceeding. Upon reflection, however, the Commission has concluded such a ruling would be improper.[341] Instead, the Commission will exercise its judgment to determine an amount of rate case expense that is prudent, just, and reasonable that KCPL will be allowed to recover from ratepayers as part of this proceeding.[342]

To address this issue, the Commission reviewed KCPL's responses to Data Requests 554 and 555 inquiring about rate case expenses; these responses are made a part of the administrative record of this proceeding. KCPL submitted summarized total expenses to September 30, 2010, and estimated expenses until the end of this proceeding. The documentation to support these estimates contains very little detailed information that would enable the Commission to make an individualized review of charges by specific consultants and attorneys.[343] In fact, documentation presented for some vendors, including law firms, provides nothing by which to determine total hours, hourly rates, subject matter addressed, etc. Therefore, the Commission must rely upon its expertise in reviewing rate case expense costs to determine what expenses were prudent and are just and reasonable to recover from ratepayers.

---

[340] *E.g., In re Union Electric Co.*, 2010 WL 1178770, at 7, *citing State ex rel. GS Technologies Operating Co., Inc. v. Public Service Comm'n*, 116 S.W.3d 680, 693 (Mo App. 2003). See *Westar Energy*, 235 P.3d at 529, *citing* Kansas Rules of Professional Conduct (KRPC) 1.5(a) (2009 Kan. Ct. R. Annot. 460).

[341] *Columbus Telephone Co. v. Kansas Corporation* Comm'n, 31 Kan. App. 2d 828, 835, 75 P.3d 257 (2003).

[342] *In re Petition of PNM Gas Services*, 129 N.M. 1, 25-27 (NM Sup. 2000) (Commission should reduce fees to a reasonable and prudent amount rather than completely deny excessive rate case expense.). See also, *Sheila A. v. Whiteman*, 259 Kan. 549, 565, 913 P.2d 181 (1996) (trial court erred in denying plaintiffs' entire claim for expenses in lengthy class action suit).

[343] *Westar Energy*, 235 P.3d at 529-30.

In deciding to take this course, the Commission has concluded that the amount of rate case expense established in this Order for KCPL to recover from its ratepayers will be Interim Rate Relief.[344] By allowing recovery of an amount through Interim Rate Relief, KCPL will recover rate case expense costs the Commission has determined are prudent as well as just and reasonable. But if parties contest this amount, further proceedings to evaluate rate case expense will occur in a separate docket. Several reasons support using Interim Rate Relief to recover rate case expense costs here. First, because a detailed record is not available, the Commission is not able to evaluate specific amounts that should be allowed for each consultant or attorney. Second, prior rate cases under the Regulatory Plan, such as Docket 09-246, have illustrated the difficulty in accurately predicting rate case expense while the proceeding is ongoing. Third, an Order must issue by November 22, 2010; time does not allow scheduling of discovery, briefing, and argument about rate case expense between filing of post-hearing briefs and the Order date. Fourth, by using Interim Rate Relief, the Commission will set rates that include rate case expense found to be prudent, just, and reasonable, but this decision is subject to challenge. Finally, this Order will set a specific amount of rate case expense for this docket, cutting off conjecture about future costs that are not known or measurable at this time.[345]

In response to DRs 554 and 555, KCPL estimated total rate case expense will be $8,319,363.[346] This includes estimated costs for the KCC and CURB totaling $1,169,712. KCPL has no control over costs incurred by the KCC and CURB and these charges will be removed in considering KCPL's rate case expense. Thus, the estimated rate case expense for KCPL costs only is $7,149,711.

---

[344] *In re Wolf Creek Nuclear Generating Facility*, Final Order, Docket No. 84-KG&E-197-RTS, pp. 105-06.
[345] *Columbus Telephone*, 31 Kan. App. 2d at 835.
[346] The Commission will round up cents to the next dollar.

In setting the rate case expense, the Commission has balanced the interests of all concerned parties, including investors vs ratepayers, present ratepayers vs future ratepayers, and the public interest.[347] The Commission has also taken into account its knowledge and experience in determining appropriate expenses to be included in a utility's revenue requirements.[348] As discussed below, the Commission concludes an appropriate amount of rate case expense for KCPL to recover from its ratepayers in this rate case for KCPL costs only is $4,500,000. Costs for the KCC and CURB will be added to that amount for the total rate case expense costs. This cost will be amortized over four years. The Commission addresses reasons for its decision.

The Commission has reviewed estimates from the numerous expert consultants KCPL used in this case. The Commission finds that generally KCPL's decisions regarding use of consultants were prudent. To the extent these consultants conducted studies or otherwise provided information that is in the administrative record of this proceeding and did not duplicate work of other witnesses, these costs are considered prudent, just and reasonable. The following consultants provided helpful information: Black & Veatch Corporation (witness Loos); Financo, Inc. (witness Hadaway); Gannett Fleming, Inc. (witness Spanos); Management Applications Consulting, Inc. (witness Normand); Pegasus Global Holdings, Inc. (witness Nielsen); Siemens Energy, Inc. (Line Loss Study); Tower Watson (Pension Study); Kuhn & Wittenborn, Inc. (Notice of Public Hearing); and Xcellence, Inc. (Copying). The estimated expenses for housing attorneys, consultants, and KCPL employees during the Evidentiary Hearing were high considering the Company's proximity to the Commission's offices. The Commission concludes the shareholders should have some responsibility for paying housing costs.

[347] *Kansas Gas & Electric*, 239 Kan. at 489.
[348] *Home Telephone*, 31 Kan. App. 2d at 1015.

The Commission could not determine what Nextsource, Inc., did for KCPL during this rate case. Nextsource is described as providing "Internal staffing – regulatory research/processing" but KCPL does not explain why its own employees could not do this work. The Commission finds the record does not support including costs for Nextsource as rate case expense to be recovered from ratepayers. Nor will the Commission allow KCPL to recover the expense for The Communication Counsel of America, Inc., which trained KCPL witnesses. Although witness preparation is important for an evidentiary hearing of this significance, such preparation is routinely part of the services counsel performs before a hearing. The Commission is permitted to disallow duplicative expenses.[349] KCPL hired numerous capable attorneys to litigate this proceeding. While KCPL's management may have seen an advantage in providing certain witnesses with additional witness training, the Commission finds these services duplicate attorney preparation for an evidentiary hearing and will not allow these costs to be recovered as rate case expense.

KCPL estimated rate case expense attributable to legal services only exceeds $5 million in this case. Based upon its experience in rate case proceedings, the Commission finds this amount excessive, even accounting for the complex issues considered in this proceeding. In considering attorney fees, the Commission was particularly struck by the lack of detail defining services performed by the numerous attorneys that made no appearance in this proceeding. Information was not provided that would have allowed the Commission to determine an appropriate hourly rate or number of hours expended by attorneys involved in this case. Invoices from some firms reflected charges for multiple attorneys working on multiple projects for KCPL with a portion attributed to this proceeding but no explanation about how that amount was determined.

[349] *Sheila A.*, 259 Kan. at 568-69.

The Commission found estimated charges for some legal services particularly disconcerting. For example, KCPL requested recovery in rate case expense of costs for Duane Morris, estimated at $395,593. This firm was described as providing "2010 Rate Case legal research." The Commission did not find any record of an attorney from this law firm participating in this proceeding. This firm may have advised management during this proceeding, but it was not an active participant in the docket. The Commission finds allowing expenses for this law firm to be recovered from ratepayers would be unjust and unreasonable.

Nor will the Commission approve recovery of costs for Morgan Lewis & Bockius as rate case expense. One attorney from this firm, Barbara Van Gelder, appeared during the first week of the three-week hearing and cross-examined Staff's expert witness on prudence, Walter Drabinski. Other attorneys were present throughout this entire hearing, including two former KCC General Counsels, one former KCC Assistant General Counsel, and KCPL's in-house counsel. Apparently Van Gelder was hired specifically to cross-examine Drabinski. KCPL is free to decide how it will present its case, but this firm's involvement clearly duplicated work being performed by other very capable attorneys. Allowing expenses for Morgan Lewis to be recovered from ratepayers in rate case expense would be unjust and unreasonable.

The Commission is also concerned that, based upon review of a small number of invoices, that errors exist in KCPL's estimate of costs. The Commission found two errors in listing costs for legal services. Invoices for Sonnenschein Nath & Rosenthal to 9/30/2010 totaled $56,444, which is $942 less than the amount shown in KCPL's list of cumulative rate case expense; also, invoices for Schiff Hardin to 9/30/2010 totaled $371,306, which is $19,322 less than reflected in KCPL's cumulative rate case expense estimate. Although this is not a

significant amount, the Commission is concerned other errors are contained in KCPL's statement of rate case expense.

The Commission finds expenses requested for Schiff Hardin particularly troubling. This firm served KCPL in several roles. One attorney from Schiff Hardin, Kenneth M. Roberts, testified at the hearing about advice this firm gave KCPL's management related to construction projects, suggesting the firm acted as a consultant. But a significant number of exhibits in the record reflect deleted material based upon KCPL's attorney/client privilege with Schiff Hardin. No attorney from Schiff Hardin entered an appearance in this proceeding, but Roberts and at least one other attorney were present during the first week of the hearing.[350] Schiff Hardin invoices confirm the hourly rates for its attorneys exceed those for experienced attorneys in the Kansas City metropolitan area. Roberts testified his hourly rate was $550.[351] Recently, the local hourly rate for an experienced attorney in the Kansas City metropolitan area with specialized expertise was determined to be $295.[352] The highest hourly rate for the most experienced attorney representing KCPL from the Kansas City metropolitan area in this proceeding is $390. Unfortunately, the record is not adequate to allow the Commission to consider whether adopting a "fee customarily charged in the locality for similar legal services" is appropriate for this case, as allowed in KRPC 1.5(a)(3), and, if appropriate, to determine that rate.[353]

The Commission recognizes that this case was complex with prudence issues concerning construction of a major generation facility. Even though the issues were complex, the Commission finds it unreasonable to require ratepayers to be responsible for the entire rate case expense costs being sought by KCPL. The Commission is particularly concerned about

---

[350] Tr. Vol. 5, p. 1109 (Roberts).
[351] Tr. Vol. 5, p. 1120 (Roberts).
[352] *Westar Energy*, 235 P.3d at 531.
[353] 235 P.3d at 531.

requiring ratepayers to pay such high legal costs when no opportunity is available to review the services rendered to evaluate whether law firms adjusted charges for duplication of services of multiple attorneys when setting their fees. The Commission, in reviewing rate case expense costs, can use its knowledge and experience from other rate cases to set an appropriate amount to be recovered from ratepayers. Taking all factors into account, the Commission concludes that $4,500,000 is an appropriate amount for KCPL costs only to include as rate case expense costs that will be recovered from ratepayers. The rate case expense costs for the KCC and CURB will be added to this amount, resulting in a total rate case expense of $5,669,712.

Finally, the Commission addresses CURB's request for an opportunity to review and challenge rate case expense costs exceeding KCPL's initial estimated amount of $2.1 million. Following the end of the evidentiary hearing, the Commission considered the problems faced in setting a schedule to allow discovery and review by the parties before the deadline to issue the Order on November 22, 2010. The Commission was unable to fashion a schedule that allowed a detailed review and still permitted a decision on rate case expense to be included in this Order. The Commission concluded its obligation to include a reasonable and prudent amount of rate case expense outweighed a decision that would effectively deny recovery of any rate case expense in this Order. Having made this decision, the Commission exercised its discretion to set reasonable and prudent rate case expense costs but designated them as Interim Rate Relief. If parties seek to challenge the amount of rate case expense approved in this Order, a subsequent proceeding will allow full review of this issue. If that challenge is successful and establishes the rate case expense costs approved in this Order were not prudent, just or reasonable, the Commission will establish a new amount of rate case expense for this docket that will be included as an adjustment in a future KCPL rate case.

SCHEDULES 6 - 8

HAVE BEEN DEEMED

HIGHLY CONFIDENTIAL

IN THEIR ENTIRETY