

BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

January 20, 2011

Jefferson City, Missouri

Volume 17

In the Matter Of the Application)
of Kansas City Power and Light)
Company for Approval to Make)
Certain Changes in Its Charges) File No. ER-2010-0355
for Electric Service to Continue)
Implementation of Its Regulatory)
Plan)

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

RONALD D. PRIDGIN, Presiding
SENIOR REGULATORY LAW JUDGE
TERRY M. JARRETT,
ROBERT S. KENNEY,
COMMISSIONERS

REPORTED BY:
Tracy Taylor, CCR No. 939
Jennifer Leibach, CCR No. 1780
TIGER COURT REPORTING, LLC

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A P P E A R A N C E S

DOUG HEALY, Attorney at Law
Healy & Healy
939 North Boonville Avenue
Springfield, MO 65802
417.864.8800
FOR: MJMEUC

DAVID WOODSMALL, Attorney at Law
STUART CONRAD, Attorney at Law
Finnegan, Conrad & Peterson
428 E. Capitol, Suite 300
Jefferson City, MO 65101
573.635.2700
FOR: AGP/SIEUA/MEUA

CARL J. LUMLEY, Attorney at Law
Curtis, Heinz, Garrett & O'Keefe
130 S. Bemiston, Suite 200
Clayton, MO 63105
314.725.8788
FOR: Dogwood Energy, LLC

TODD J. JACOBS, Attorney at Law
DEAN COOPER, Attorney at Law
3420 Broadway
Kansas City, MO 64111
816.360.5976
FOR: Southern Union Company
d/b/a Missouri Gas Energy

THOMAS R. SCHWARZ, JR., Attorney at Law
Blitz, Bardgett & Deutsch
308 E. High
Jefferson City, MO 65101
573.634.2500
For: Missouri Retailers Association

MARK W. COMLEY, Attorney at Law
Newman, Comley & Ruth, PC
601 Monroe Street, Suite 301
Jefferson City, MO 65102-0537
573.634.2266
FOR: City of Kansas City

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25

MARK W. COMLEY, Attorney at Law
Newman, Comley & Ruth, PC
601 Monroe Street, Suite 301
Jefferson City, MO 65102-0537
573.634.2266
FOR: City of Lee's Summit

MICHAEL TRIPP, Attorney at Law
Smith Lewis, LLP
111 S. 9th Street
Columbia, MO 65201
573.443.3141
FOR: Ameren Missouri

JAMES SWEARENGEN, Attorney at Law
RUSS MITTEN, Attorney at Law
DIANA C. CARTER, Attorney at Law
Brydon, Swearngen & England
312 E. Capitol Avenue
P.O. Box 456
Jefferson City, MO 65102-0456
573.635.0427
FOR: The Empire District Electric Company

ARTHUR PERRY BRUDER, Attorney at Law
1000 Independence Avenue, SW
Washington D.C. 20585
202.586.3409
FOR: U.S. Department of Energy

JAMES FISCHER, Attorney at Law
LARRY DORITY, Attorney at Law
Fischer & DORITY, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
573.636.6758
FOR: Kansas City Power & Light Company

1 HEATHER A. HUMPHREY, Attorney at Law
ROGER STEINER, Attorney at Law
2 Kansas City Power & Light Company
P.O. Box 418679
3 Kansas City, MO 64141-9679
816.556.2314
4 FOR: Kansas City Power & Light Company

5
6 KARL ZOBRIST, Attorney at Law
SUSAN CUNNINGHAM, Attorney at Law
SNR Denton US LLP
7 4520 Main Street, Suite 1100
Kansas City, MO 64111
8 816.460.2400
9 FOR: Kansas City Power & Light Company

10 CHARLES HATFIELD, Attorney at Law
Stinson Morrison Hecker, LLP
11 230 W. McCarty Street
Jefferson City, MO 65101
12 573.636.6263
13 FOR: Kansas City Power & Light Company

14 GLENDA CAFER, Attorney at Law
Cafer Law Office, LLC
15 3321 Southwest Sixth Street
Topeka, KS 66606
16 785.271.9991
17 FOR: Kansas City Power & Light Company

18 MICHAEL AMASH, Attorney at Law
Blake and Uhlig PA
19 753 State Ave., 475
Kansas City, KS 66101
20 913.321.8884
21 FOR: IBEW Locals 412, 1613 and 1464

22 WILLIAM STEINMEIER, Attorney at Law
William D. Steinmeier PC
23 P.O. Box 104595
Jefferson City, MO 65110-4595
24 573.659.8672
25 FOR: The City of St. Joseph, Missouri

1 CAPT. SHAYLA MCNEILL, Attorney at Law
United States Air Force
2 119 Sugar Sand Lane
Santa Rosa Beach, FL 32459
3 312.371.2673
FOR: The Federal Executive Agencies
4

5 SARAH MANGELSDORF, Attorney at Law
P.O. Box 899
6 Jefferson City, MO 63130
573.751.0052
7 FOR: Missouri Department of Natural Resources

8 JOHN R. KINDSCHUH, Attorney at Law
9 Bryan Cave LLP
13220 Metcalf, Suite 320
10 Overland Park, KS 66213
913.338.7700
11 FOR: MIEC and FORD

12 JOHN B. COFFMAN, Attorney at Law
13 John B. Coffman, LLC
871 Tuxedo Boulevard
14 St. Louis, MO 63119
314.395.8002
15 FOR: AARP and Consumers Council of Missouri

16 ROBERT WAGNER
17 FOR: Robert Wagner
18
19
20
21
22
23
24
25

1 STEVE DOTTHEIM, Chief Deputy Counsel
NATHAN WILLIAMS, Deputy Counsel
2 JAIME OTT, Legal Counsel
KEVIN THOMPSON, Chief Staff Counsel
3 JENNIFER HERNANDEZ, Legal Counsel
SARAH KLIETHERMES, Legal Counsel
4 ERIC DEARMONT, Legal Counsel
ANNETTE SLACK, Legal Counsel
5 MEGHAN MCCLOWERY, Legal Counsel
Public Service Commission
6 200 Madison Street
P.O. Box 309
7 Jefferson City, MO 65102
573.751.6514
8 FOR: The Staff of the Missouri Public Service
Commission

9
LEWIS MILLS
10 Office of Public Counsel
200 Madison Street
11 P.O. Box 2230
Jefferson City, MO 65102
12 FOR: Office of Public Counsel

13
14
15
16
17
18
19
20
21
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1 JUDGE PRIDGIN: All right. Good morning.
2 We are on the record. It is about 8:40 on Thursday
3 morning, January 20th, 2011. I'm Ron Pridgin, the
4 Regulatory Law Judge assigned to preside over hearing
5 ER-2010-0355. Let me see how the parties want to
6 proceed.

7 when we ended last night, Mr. Davis was
8 still on the stand, still under cross-examination from
9 Ms. Ott. And I understand because of the weather, she
10 is not available at the moment. And let me inquire of
11 the parties how you wish to proceed in light of her
12 being late. Mr. Dottheim?

13 MR. DOTTHEIM: Judge Pridgin, I believe
14 she is on her way in. I believe she is -- her own car
15 is snowbound in -- in Columbia. She, I believe, has
16 caught a ride with another Commission employee who
17 lives in Columbia and is making her way in.

18 I do not know that literally to be the
19 case. I have tried to reach her on her cell phone. I
20 believe she tried to reach me just within the last
21 five minutes, but before I could pick up the phone,
22 her call dropped off, I think it was her trying to
23 reach me. But I am -- I am not -- I am not certain.

24 An alternative is the next witness is
25 Mr. Bell. I could, on behalf of Staff, do the

1 cross-examination of -- of Mr. Bell if the Commission
2 and -- and the parties would -- would want to proceed.
3 That's -- that's the other possibility that I -- that
4 I see.

5 JUDGE PRIDGIN: Okay. Any comments from
6 counsel whether you want to wait for just a moment to
7 see how -- you know, I have no idea when Ms. Ott will
8 be here. I would assume fairly soon, but we don't
9 know. Or do we want to have Mr. Bell take the stand?

10 MR. FISCHER: Judge, if it's a short
11 delay, we don't have a problem waiting for Ms. Ott to
12 arrive to keep the order of the -- as we had
13 established. However, we'll accommodate whatever the
14 Bench's desire is.

15 JUDGE PRIDGIN: Any other comments from
16 counsel? Let's go off the record until roughly
17 nine o'clock. And hopefully Mr. Dottheim, that will
18 give you an opportunity to be in contact with Ms. Ott
19 to at least get an idea of how close she might be.
20 And if we don't have a better idea by then, I might
21 want to go on with Mr. Bell just to keep going. But
22 if we get an idea maybe by 9:00, we'll know whether to
23 go on with Mr. Bell or Mr. Davis. Any objection from
24 counsel? All right.

25 MR. DOTTHEIM: And I will try to

1 establish contact with her again.

2 JUDGE PRIDGIN: Thank you, Mr. Dottheim.
3 We will stand in recess then until 9:00 a.m. Thank
4 you. We're off the record.

5 (A recess was taken.)

6 JUDGE PRIDGIN: All right. Let's go back
7 on the record briefly. I realize Mr. Mills is gone,
8 but I'll just briefly announce Ms. Ott is apparently
9 here, but is like trying to I guess change into more
10 courtroom appropriate attire. And I think by 9:30 or
11 so she should be ready to go so I plan on going into
12 recess until 9:30 and will resume with Mr. Davis on
13 the stand. Any objections or anything from counsel?
14 All right. We'll stand in recess then until 9:30.

15 (A recess was taken.)

16 JUDGE PRIDGIN: All right. Good morning.
17 We are back on the record. I believe Ms. Ott was
18 still cross-examining Mr. Davis. That's where we left
19 it last night and where I assumed we would pick back
20 up. Is there anything from counsel before she resumes
21 her cross-examination?

22 Okay. Hearing nothing, just to let you
23 know, I'm considering going a little later tonight
24 just because we've -- you know, we've lost about an
25 hour. And I really don't plan to make you stay late

1 on Friday night so people can get back to Kansas City
2 so since we're kind of behind schedule, I'm at least
3 considering going until 6:00 or so this evening, just
4 so you can make plans. Anything else before she
5 resumes her cross?

6 All right. Mr. Davis, you are still
7 under oath, sir. And Ms. Ott, when you are ready.

8 BRENT DAVIS, having been previously sworn, testified
9 as follows:

10 CROSS-EXAMINATION BY MS. OTT:

11 Q. Good morning.

12 A. Good morning.

13 Q. I believe last night before we left I
14 handed you some change orders from LogOn. Did you
15 have a chance to review those?

16 A. Yes.

17 Q. Okay. And you are one of the individuals
18 that approved this change order, LO-01654?

19 A. That's correct.

20 Q. Okay. I'm going to ask you a few
21 questions about this change order. Now, there's a
22 supplement change order to this, correct, attached as
23 the last page?

24 A. Could you point out which page you're
25 talking about?

1 Q. It would be the very last page in -- in
2 the pac-- in the change order that I just described.

3 A. That would be the purchase order.

4 Q. Okay. Maybe you mis-- I'm talking about
5 the supplement documentation. It should be the
6 very -- is your last sheet not the same as mine?

7 A. You're talking about -- oh, this page
8 (indicating)?

9 Q. Let me look to see if you have the same
10 thing I do. Yes. Did you review that page?

11 A. Yes.

12 Q. Can you tell me why there was a need to
13 provide supplemental documentation for this change
14 order?

15 A. It was part of our normal change order
16 documentation process just to add information to the
17 change order.

18 Q. Is it typical to add supplemental
19 documentation three months later from the original
20 change order?

21 A. This was for a services contract. Many
22 of these contracts were let and supplemented as we saw
23 needs arise. If we were pleased with the services
24 they were providing, we would supplement that and
25 increase their PO amount. LogOn was an example of

1 that.

2 Q. Okay. And on that last sheet, the
3 supplement to the change order, under the -- it's in
4 the middle of the second paragraph and it says,
5 LogOn's consulting delivery of service included, one,
6 a detailed assessment, including actionable
7 recommendations followed by implementation,
8 participation.

9 Do you see that?

10 A. Yes.

11 Q. And would this be the assessments that
12 you did not read until after Mr. Hyneman's rebuttal
13 testimony?

14 A. It could have been. It's more probable
15 that some of their staff aug people would make
16 recommendations on the job site on a daily basis. We
17 would act on those recommendations.

18 Q. And would you also agree that the other
19 sections of the supplemental change order to improve
20 functions and processes by measuring effectiveness, to
21 advise, mentor and support personnel and organizations
22 within the construction management division, and
23 perform tasks as a part of the overall project team or
24 as directed by CEP requirements?

25 Did you see that?

1 A. What was your question?

2 Q. I said is that -- is that what is on the
3 document?

4 A. Yes, it is.

5 Q. Okay. Would you agree that KCPL made the
6 decision to hire LogOn to assist with the project
7 management of the construction projects?

8 A. Yes, I would. They provided staff
9 augmentation services.

10 Q. Now, did you approve all change orders
11 for LogOn?

12 A. I don't know about all. I -- I approved
13 many of them. Mr. Bell could have approved some.
14 Probably depending on who was there at the time.

15 Q. Okay. Can you explain how you were
16 authorizing these change orders when you weren't
17 reading the reports that they were producing?

18 A. As I explained yesterday, a lot of what
19 LogOn supplied was staff augmentation services to
20 various functions on the project. They had people in
21 the start-up area, the engineering area, the quality
22 area and the cost control area. So a bulk of these
23 dollars were for functions they were performing on a
24 daily basis helping to manage the project.

25 An example is James Majors in the quality

1 area, he ultimately became our lead quality manager
2 toward the end of the project because he was very good
3 at what he performed.

4 Q. Now, are you familiar with the level of
5 experience of the members of the LogOn Consulting team
6 who worked on the -- on the project?

7 A. I'm familiar with various ones of them,
8 yes.

9 Q. Do you know who John Allen is?

10 A. Yes.

11 Q. Do you know about his experience level?

12 A. Vaguely. John Allen was the lead person
13 of the LogOn group. My interaction with him was less
14 than some of those other individuals that were
15 perform-- performing daily functional duties on the
16 project.

17 Q. Okay. So do you know about his
18 experience level?

19 A. He's got years of experience in the power
20 generation. I'm not keen to what exactly that was.

21 Q. So would you agree that the LogOn team
22 was very highly experienced?

23 A. I would agree they brought some level of
24 expertise, yes.

25 Q. And I believe yesterday you stated that

1 Mr. Churchman was the one that selected LogOn?

2 A. Yes.

3 Q. And do you know why Mr. Churchman
4 selected LogOn?

5 A. Not exactly. I know he had worked with
6 many of the individuals that LogOn supplied in the
7 past.

8 Q. Did he work with them on other
9 construction projects or personally in other
10 capacities?

11 A. I believe on other projects, yes.

12 Q. Do you know anything about Generally
13 Accepted Auditing Standards?

14 A. Generally.

15 Q. Do you know anything particular about how
16 auditors rely on the work of the specialist?

17 A. I don't understand your question.

18 Q. That under those standards, that they
19 state that auditors should rely on the work of a
20 specialist? Are you familiar with that part of the
21 standard?

22 A. I -- I guess not.

23 Q. Okay. Do you know if the Commissioners
24 ordered its auditors to comply with the Generally
25 Accepted Auditing Standards?

1 A. The Missouri auditors?

2 Q. Yes.

3 A. No, I don't know that.

4 Q. Okay. Let's see. Okay. Let's go to
5 page 5 of your surrebuttal. Okay. On line 2 you
6 state that Staff made an allegation about KCPL's
7 back-charge process?

8 A. Excuse me. Which page?

9 Q. Five.

10 A. And what line?

11 Q. Well, I think this page you're discussing
12 the back-charge process; is that correct?

13 A. Yes.

14 Q. And so did Ernst & Young and LogOn
15 Consulting also make a similar allegation about the
16 back-charge process?

17 A. I believe that both of those individuals
18 made some observations that our back-charge process
19 could be enhanced. Our back-charge process was in
20 place very early in the project.

21 Because we were very successful in
22 identifying and mitig-- and mitigating issues during
23 the process of construction, we did not have to
24 utilize that process very much until we got into the
25 startup and commissioning phase, which is when you

1 would identify most back-chargeable items. By the
2 time we got to that phase of the project, our back
3 charge process was enhanced in conjunction with those
4 recommendations and we began utilizing that process.

5 I believe to date -- there's some numbers
6 in here that we've approached 7, 8 million dollars in
7 back charges to our contractors to date utilizing that
8 process. So it's been very successful.

9 Q. So in regards to Staff's allegation,
10 Ernst & Young and LogOn's about the back-charge
11 process, you -- did you agree with those allegations
12 at that time?

13 A. I -- I believe we did. And we acted on
14 those and enhanced our process. And you can suc-- see
15 that success now when it is timely and it is needed.

16 Q. If Burns and McDonnell was late on a
17 drawing for Alstom and that caused Alstom to be
18 delayed, who should pay those costs?

19 A. That's very dependent on the specific
20 situation.

21 Q. If it was Burns and Mac's fault for being
22 late, who should pay those costs?

23 A. Once again, very dependent. I can give
24 you an example if you would like.

25 Q. That's okay. Did KCPL ever charge Burns

1 and Mac back charges for anything?

2 A. We are currently in the process of
3 closing out that contract. That's still an open
4 commercial issue.

5 Q. So you haven't at this point given them
6 any back charges?

7 A. I can't recall at this point whether we
8 have or haven't.

9 Q. Do you know if you plan on --

10 A. I wouldn't want to comment on that at
11 this time.

12 Q. Have you ever administered a back-charge
13 process on a construction project before Iatan?

14 A. Yes. We had back charges associated with
15 the Hawthorn project.

16 Q. Do you know how much was assessed in back
17 charges on that project?

18 A. No, I don't recall.

19 Q. Do you have a date of when you put your
20 back-charge process in effect?

21 A. The original back-charge process was part
22 of our early procurement process. And I don't have an
23 exact date, but that would have been back in the 2006,
24 2007 time frame.

25 Q. Did you amend that process at any point?

1 A. I don't know whether there was a formal
2 amendment. There was some -- some beefing up. I'll
3 give you an example. We added a back-charge manager
4 that is totally looking at warranty and back charges
5 on a continuous basis. So we beefed up the
6 administration of the process.

7 Q. Do you know when that back-charge manager
8 came onto the project?

9 A. Six months to a year ago, somewhere in
10 that range.

11 Q. Now, when you were on that Hawthorn
12 project, did you implement any of those back charges?

13 A. My involvement on the Hawthorn project
14 would have been more from a warranty perspective than
15 back charges. As plant manager, we were involved in
16 various warranty claims after the unit came online.

17 Q. And was that while you were in the
18 operations at Hawthorn?

19 A. Yes. That was after we had been online
20 and in an operating mode while the warranty period was
21 still in effect, which is basically the -- where we're
22 at on the Hawthorn project now.

23 Q. Okay. I was -- in your position in the
24 operations section of the Hawthorn, that's where you
25 were doing and not on the construction side?

1 A. That's correct.

2 Q. Let's go to page 6 of your surrebuttal.

3 Now, on line 6 I won't say the number because it's
4 highly confidential, but --

5 A. I think I already said it.

6 Q. Yeah. What percentage of that number was
7 from the construction related to -- with Kiewit --
8 from the contractor Kiewit?

9 A. I can't answer that question off the top
10 of my head.

11 Q. Do you have an estimate?

12 A. No, I don't. I can't answer that
13 question.

14 Q. Do you think it would be more than
15 50 percent?

16 A. Like I say, I don't have a feel without
17 looking at some documentation.

18 Q. And what documentation would you look at
19 to see that?

20 A. We've got a back-charge log.

21 Q. Okay. And has that log been provided to
22 staff?

23 A. I can't answer that. I don't know.

24 Q. Okay. Okay. On lines 8 through 11 you
25 essentially state that KCPL has done everything

1 reasonable within its power to hold contractors to
2 contractual obligations.

3 Did KCPL ever assess liquidated damages
4 to any contractor on Iatan 1 or 2? Start with
5 Iatan 1.

6 A. I don't believe we have gotten a position
7 on Iatan 1 to assess any liquidated damages.

8 Q. How about Iatan 2?

9 A. None that I'm aware of at this point.

10 Q. Okay. Let's go to page 7, line 3.

11 MS. OTT: This is all marked highly
12 confidential so I guess we need to go in-camera for a
13 second.

14 JUDGE PRIDGIN: All right. If I could
15 get -- excuse me, if I could get counsel to let me
16 know if we need to clear the room or if we're good.
17 All right. Give me just a moment. We'll go
18 in-camera.

19 (REPORTER'S NOTE: At this point, an
20 in-camera session was held, which is contained in
21 volume 18, pages 748 to 749 of the transcript.)

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1 JUDGE PRIDGIN: We are back in public
2 forum.

3 BRENT DAVIS testified as follows:

4 BY MS. OTT:

5 Q. Did LogOn create a new back-charge
6 process when it evaluated the Iatan projects?

7 A. No.

8 Q. Was LogOn's services retained through the
9 end of the project?

10 A. The last LogOn individual left very
11 recently, in the very recent past.

12 Q. Did LogOn draft a revised back-charge
13 process?

14 A. Not that I'm aware of.

15 Q. Do you know how much KCPL paid for LogOn
16 for its work on Iatan 2?

17 A. The total amount, I'd have to refer to
18 the cost portfolio.

19 Q. Do you have an estimate?

20 A. No, I don't.

21 Q. What was the provisional acceptance date
22 for Iatan 1?

23 A. I believe it was April 19th of 2009.

24 Q. Was that the same day as in-service?

25 A. In-service date was April 19th, 2009.

1 Q. What was the provisional acceptance date
2 for Iatan 2?

3 A. In-service or provisional acceptance?

4 Q. Provisional acceptance.

5 A. Provisional acceptance is a contractual
6 term in the Alstom contract. And we declared that on
7 September 23rd of 2010.

8 Q. Okay. And in-service was?

9 A. The in-service date was August 26th of
10 2010.

11 Q. So was April 19th, 2009 the Alstom date
12 for provisional acceptance for Iatan 1?

13 A. No.

14 Q. And what was --

15 A. That was the in-service date for --

16 Q. Okay. What was the provisional
17 acceptance date?

18 A. The provisional acceptance date in the
19 Alstom contract, I cannot remember that date for
20 Unit 1, but it was sometime in the September time
21 frame.

22 Q. Of what --

23 A. 2009.

24 Q. Okay. Now, earlier you had discussed the
25 quarterly meetings. Were the quarterly meetings held

1 only to discuss cost controls?

2 A. Are you referring to the quarterly
3 meetings with Staff?

4 Q. Yes. For the CEP?

5 A. For the CEP quarterly meetings? No, they
6 weren't only to discuss cost. The cost K-Reports were
7 covered during those meetings. We also covered our
8 schedule performance metrics, we gave an up-to-date as
9 of the day we were there project status, which myself,
10 Mr. Churchman or Mr. Bell would -- would provide at
11 those meetings.

12 Q. Would you say the primary focus of those
13 meetings were to discuss cost controls?

14 A. I think the primary function of those
15 meetings was to discuss all aspects of the project.
16 And I think we gave a very thorough update during each
17 one of those meetings.

18 Q. I want to go back because I'm not quite
19 clear and I'm not sure if the record is clear with
20 some questions I had asked you earlier about
21 engineering procurement and construction on specific
22 projects and I want to go through each project to
23 understand if they were the EPC or the prime. La
24 Cygne 1, the SCR?

25 A. I wasn't involved in that project.

1 Q. So you don't know if it was an EPC con--
2 project?

3 A. I believe it was an EPC, but once again,
4 I wasn't involved.

5 Q. And Hawthorn 5?

6 A. Hawthorn 5 would have been a hybrid with
7 a major EPC component and many multiple primes.

8 Q. How about the wind 2 phase at the CEP at
9 Spearville?

10 A. Once again, I wasn't involved, but I
11 would characterize that as an EPC.

12 Q. How about the La Cygne environmental?

13 A. I can't answer that.

14 Q. Okay. How about do you know anything
15 about Plum Point?

16 A. I've got general knowledge.

17 Q. What -- do you know if it was EPC?

18 A. That would be my understanding, but once
19 again, my knowledge is very general.

20 Q. And how about Comanche 3?

21 A. That would have been a hybrid, I would
22 call based on my general knowledge.

23 Q. Do you know what the start date for Plum
24 Point was?

25 A. No, I don't.

1 Q. Is KCPL using Burns and McDonnell on the
2 La Cygne environmental projects?

3 A. I can't answer that question.

4 Q. Do you not know?

5 A. I don't know.

6 Q. Okay. And are you of the opinion that
7 Burns and Mac's work on Iatan 1 and Iatan 2 was of
8 high quality?

9 A. Yes, I am. Burns and Mac -- I believe
10 the way the unit is operating today is very indicative
11 of the quality of the engineering work that went into
12 Iatan 1 and 2.

13 Q. Now, do you remember testifying in Case
14 No. EM-2007-0374, the acquisition case?

15 A. Numbers don't mean anything to me.

16 Q. Okay.

17 A. You're talking about the Aquila/Kansas
18 City Power and Light merger?

19 Q. Acquisition.

20 A. Acquisition. Yes, I believe I remember
21 testifying during that.

22 Q. Okay. And did you read Staff's
23 December 31st, 2009 construction report?

24 A. I read parts of it. I don't know if I
25 could commit any of it to memory.

1 Q. Okay. Do you -- do you remember
2 specifically seeing part of your testimony from that
3 acquisition case within -- contained within that
4 report on the crane accident?

5 A. No, I don't remember seeing it on that
6 report, but --

7 Q. I'm going to hand you a copy of the
8 transcript. And that's -- do you see on line 2 the
9 question is, when you said you didn't believe the
10 crane collapse would affect the Iatan 1 budget, why
11 not?

12 Do you see that question? Can you read
13 what answer you provided?

14 A. Yes, I can. The contractual relationship
15 with Alstom is an -- should be EPC, engineering,
16 procure contract. And their contractual relationship
17 with Maxim, we don't know exactly what it was, but at
18 this point in time we see no responsibility for the
19 crane accident.

20 Q. Okay. And the next question was, No
21 responsibility for whom?

22 And what is your answer?

23 A. For Kansas City Power and Light.

24 Q. And then it says, You mean financial
25 responsibility?

1 A. That's -- yes.

2 Q. And what will it cost to demolish the
3 crane?

4 A. Once again, that's a contract between
5 Marino and Maxim, so I can't answer that question.

6 Q. And the next question is --

7 COMMISSIONER KENNEY: Between who and
8 who? I'm sorry. I didn't hear you.

9 THE WITNESS: Marino and Maxim. They
10 were two subs of Alstom.

11 COMMISSIONER KENNEY: Okay.

12 BY MS. OTT:

13 Q. Then it says, You don't know?

14 And you said, I don't know.

15 And then the last ques--

16 A. We may need to go in-camera. I don't
17 know where you're headed with this, but --

18 Q. I'm just going to go to the next
19 question. I don't --

20 MR. FISCHER: Yeah, Judge. This is an
21 ongoing -- this is an ongoing commercial dispute that
22 is -- contain -- we may discuss sensitive information
23 here.

24 JUDGE PRIDGIN: All right. We'll go in--

25 MS. OTT: I only have to read the next

1 line on here. If that's not HC, then --

2 MR. FISCHER: Okay.

3 BY MS. OTT:

4 Q. And then the next question was, And is it
5 one of the things that you believe is not a
6 responsibility of Great Plains Energy or Kansas City
7 Power and Light?

8 And then your answer is?

9 A. We have no contractual obligation.

10 Q. Thank you. Mr. Davis, do you know
11 anything about Iatan 2 going down recently related to
12 T23 problems?

13 A. No. We have not experienced any outages
14 due to T23 leaks.

15 Q. Did you have any outages recently due to
16 another problem?

17 A. We did have a recent outage back last
18 weekend. We had an outage due to a roof tube leak.
19 It is not a T23 material.

20 Q. And it didn't have anything to do with
21 the boiler?

22 A. The roof tube is part of the boiler, yes.

23 Q. Okay. Just one second.

24 MS. OTT: We need to go in-camera for my
25 last part.

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JUDGE PRIDGIN: Just a moment, please.

(REPORTER'S NOTE: At this point, an
in-camera session was held, which is contained in
volume 18, pages 759 to 760 of the transcript.)

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1 JUDGE PRIDGIN: All right, Ms. Ott.

2 Thank you. That concludes your cross?

3 MS. OTT: Yes.

4 JUDGE PRIDGIN: All right. Thank you.

5 Redirect?

6 MS. OTT: Don't -- we didn't do questions
7 from the Bench yet.

8 JUDGE PRIDGIN: I'm sorry. I thought we
9 had.

10 COMMISSIONER KENNEY: Yeah, don't forget
11 us.

12 JUDGE PRIDGIN: I was thinking this
13 morning I thought we had. My sincere apologies.
14 Commissioner Jarrett?

15 QUESTIONS BY COMMISSIONER JARRETT:

16 Q. Good morning, Mr. Davis.

17 A. Good morning.

18 Q. In your direct testimony you talk a
19 little bit about the strategy of what type of
20 construction plan to use. And I believe Mr. Fischer
21 mentioned it in his -- his opening; the multi-prime
22 system versus the EPS [sic] system. And in your
23 testimony, you indicated you believed the multi-prime
24 was the better approach; is that correct?

25 A. I believe I indicated the multi-prime

1 could be an approach that could be successful. The
2 better part is dependent on very many factors at the
3 time you're making that decision.

4 Q. All right. Well, KCP&L chose the
5 multi-prime approach; is that correct?

6 A. That was our original choice for the
7 balance of plant. Now, once again, remember that the
8 Alstom contract is an EPC and represents much of the
9 work on the site. It was our biggest single project
10 on the site. So it was an EPC.

11 Q. Well, what are the differences between a
12 multi-prime approach and an EPC approach?

13 A. An EPC approach, to start with, it is
14 when one entity is responsible for the entire
15 engineering, procurement and construction for that
16 scope of work. So Alstom had all of the environmental
17 equipment for both units and the boiler. Are you
18 following?

19 Q. Uh-huh.

20 A. When we talk about the multi-prime
21 approach, that was our con-- original contracting
22 strategy for the balance of plant; basically
23 everything else, the turbine island and all the
24 auxiliary equipment that allows us to make electricity
25 from that boiler, the steam that boiler makes.

1 We were going to accomplish that with
2 that multiple-prime approach. We were gearing up to
3 do that. When Kiewit approached us, they had had a
4 project canceled and they approached us about our
5 interest in them performing that balance of plant work
6 for us.

7 I believe some later people that are
8 going to testify, Steve Jones is one, when we had
9 pulsed the market earlier in the project to make that
10 multi-prime or EPC decision for that balance of plant,
11 all those major contractors that would be capable of
12 doing that balance of plant work on an EPC were busy.
13 The market was really overheated. So none of them
14 were available or their interest was very lacking.
15 That had led us to develop this multiple-prime
16 approach.

17 It does have risks involved with it. One
18 of -- some of the major risks are manpower
19 availability. Are you going to be able to get those
20 small contractors, smaller individual disciplined
21 contractors? Are they going to be available to do the
22 work? So there were risks involved in the
23 multiple-prime concept.

24 Whenever Kiewit approached us, their
25 ability -- they approached us because they had had a

1 project cancel. They mitigated many of those risks.
2 They're a nationally recognized construction firm.
3 And we were ultimately able to get to a contract with
4 them on the balance of plant work. So where we had
5 planned on having 8 to 12 contractors perform work, we
6 basically cut that down to 1 for the same scope of
7 work.

8 Q. All right. So I guess if I'm
9 understanding you correctly, you started off with this
10 multi-prime approach where KCP&L directly was managing
11 the contractors and then did you sort of morph-- when
12 Kiewit came in, sort of morph into an EPC approach?

13 A. Let me -- the -- for that balance of
14 plant scope, Burns and Mac performed the engineering
15 work on that balance of plant scope. We did the
16 procurement for the major engineered equipment. "We"
17 being Kansas City Power and Light and Burns and Mac.
18 Burns and Mac specked that equipment. Okay?

19 So you got this big turbine island. We
20 bought the turbine. We bought all the parts and
21 pieces that went into that turbine building, the
22 pumps, the air compressors, the feed water heaters.
23 We had those on order and they were in the process of
24 being delivered while we were making our final
25 determination of whether we would go to contract with

1 Kiewit or go ahead and execute the multiple prime.

2 when we talk about fast track, that's
3 what we were fast tracking. We were paralleling that
4 engineering and procurement effort while we were
5 getting ready to start that construction. All right?

6 Q. Uh-huh.

7 A. When Kiewit got on board and we got to
8 contract with them, it basically met our strategic
9 schedule for the start of that balance of plant
10 construction activity. In fact, we actually started
11 some things early with Kiewit and Kiewit supplied the
12 construction services to build all that. So it wasn't
13 an EPC contract with Kiewit. It was a pure
14 construction contract.

15 Q. Okay. Was one of the factors that went
16 into the determination of whether to go with the
17 multi-prime approach or an EPC approach, the extra
18 cost it would have taken for the EPC approach?

19 A. At -- at that point in time that's
20 difficult to quantify, because we never went out for
21 an RFP for the EPC, but it is our belief that given
22 that overheated market at the time, that any
23 contractors that would have bid on this would have
24 demanded a very big risk premium for a firm price EPC.
25 So the potential for that price to have been excessive

1 was there.

2 COMMISSIONER JARRETT: All right. Thank
3 you, Mr. Davis. I don't have any further questions.

4 JUDGE PRIDGIN: Mr. Jarrett, thank you.

5 Commissioner Kenney?

6 COMMISSIONER KENNEY: Let me make sure I
7 get right up on this thing. I tend to talk too
8 softly.

9 QUESTIONS BY COMMISSIONER KENNEY:

10 Q. So the balance of plant is everything
11 other than the Iatan 2 boiler and the Iatan 1 and 2
12 air quality control system. Right?

13 A. In general, yes.

14 Q. Generally speaking. Okay. I want to
15 refer back to a statement you made yesterday about the
16 control budget estimate.

17 A. Uh-huh.

18 Q. The control budget estimate was created
19 at the time when the engineering was only 25 percent
20 complete. Right?

21 A. That's correct.

22 Q. And I think you said yesterday that you
23 would not have committed or characterized that
24 estimate as the control budget estimate at 20 or
25 25 percent complete. Did I hear you correctly?

1 A. I -- I believe what I said is that I
2 wouldn't have characterized that as a definitive
3 estimate.

4 Q. Okay.

5 A. Our original control budget estimate, we
6 needed to have a budget at that point in the project
7 because we were getting ready to start construction.
8 So even though we were 20, 25 percent complete, it was
9 time to develop that control budget estimate based on
10 the information we had at that time.

11 Q. But you wouldn't have characterized it as
12 the definitive estimate?

13 A. I would not have because, as I said, we
14 still had a lot of that balance of plant, engineering
15 was still in process. It was still being performed as
16 we were starting construction on the foundations and
17 the thing to get Alstom in a position for them to
18 start their work in particularly.

19 By the time we did that May 2008 cost
20 reforecast, we were at that 70, 75 percent engineering
21 complete and we had a much clearer picture of what we
22 were actually going to build on that balance of plant
23 side. So I would have considered that a much more
24 definitive estimate, which that estimate was
25 \$1.901 billion.

1 Q. And what was it at the 25 percent? Was
2 it 1.4 something?

3 A. Was 1.685 at the original control budget
4 estimate. So in May of 2008, we had budgeted 1.901.
5 Our current estimate at completion is 1.948. So we
6 are very close to that reforecast that was done over
7 two years ago now, almost three years ago.

8 Q. So -- and just to make sure that I'm
9 understanding, is it -- and I'm going to paraphrase
10 what you've said and tell me if you agree with me or
11 disagree with me. Is it safe to say then that at
12 20 to 25 percent of the engineering being complete,
13 that it's virtually impossible to have a realistic
14 view of what your ultimate budget's going to be?

15 A. Engineering drives cost directly. And
16 until you get that engineering up to that higher
17 percentage complete, you do not have a clear picture.

18 Q. So why would you ever have a definitive
19 estimate at 20 to 25 percent of the engineering being
20 complete?

21 A. As far as the management of the project,
22 we needed a stake in the ground at that time to start
23 managing to. It was based on the best information we
24 had at that time.

25 Q. But you can be virtually certain that

1 it's going to change significantly at -- from 20 to 25
2 percent through the time when there's 70 to 75 percent
3 of the engineering being complete. Right?

4 A. Yes. We did expect there could be some
5 movement there.

6 Q. So how was the decision made to declare
7 the cost -- the control budget estimate at 20 to 25
8 percent of the engineering being complete as the
9 definitive estimate, if you know?

10 A. I -- I can't answer that because I don't
11 know how the terms were played out at that time.

12 Q. Gotcha. Who would -- who, to your
13 knowledge, would have -- would be in the best position
14 to answer that question?

15 A. I believe Mr. Giles probably has some
16 insight into that.

17 Q. Okay.

18 A. And -- and an added name I would give you
19 is Dan Meyers. When he comes up as the cost expert,
20 he can definitely address that.

21 Q. And were you involved at all in the
22 development of the Comprehensive Energy Plan and the
23 negotiation of those terms?

24 A. No.

25 Q. Okay. And just so I'm clear on the

1 different terms that we're using, the multi-prime
2 system of management is basically just as it sounds,
3 multiple prime contractors?

4 A. Uh-huh.

5 Q. And is -- is that typically a method by
6 which you can be expected to lower the cost of the
7 overall project?

8 A. It -- it really depends on a lot of
9 drivers.

10 Q. Okay.

11 A. It -- you can -- it -- it puts more
12 control in the owner's house.

13 Q. Right.

14 A. You get very -- a great degree of
15 transparency in the cost, schedule, et cetera. But
16 you're also accepting the risk of managing those
17 contractors. And particularly in the turbine
18 building, you would have had an electrical contractor
19 in there, a mechanical contractor, a -- a piping
20 contractor. There would have been very many
21 contractors in there. And if -- I know many of you
22 have never been inside a power plant, but that is an
23 extremely con-- complicated structure.

24 Q. Is -- is the general -- general reason
25 for going with the multiple prime process is that you

1 avoid the premiums that a general contractor would
2 charge you for those things?

3 A. You avoid -- you avoid some risk
4 premiums, but you're accepting that risk of
5 coordinating those contractors.

6 Q. Now, I don't know if I read this in some
7 other testimony or not, but KCP&L had not undertaken a
8 project of this size since Wolf Creek. Right?

9 A. As I've stated in -- previously in my
10 testimony, the Hawthorn 5 project and all the work
11 that was done on that site in the 2000 to 2002 time
12 frame would have approached the complexity of this,
13 although the dollars would not have been as high.

14 Q. So -- well, I guess even if a -- in a
15 multi-prime situation where KCP&L hadn't really
16 undertaken a project of this complexity in quite some
17 time or of this dollar amount at least in quite some
18 time, why would you enter into the multi-prime versus
19 an EPC situation or some other type of contractual
20 situation?

21 A. As I said earlier, I think we -- we had
22 approached the market even before my time on the
23 project. I believe Mr. Jones will testify to that.
24 And because of that overheated market, we could not
25 find interest in -- from those big contractors that

1 could perform this scope of work.

2 Q. So it was driven by market --

3 A. Yes.

4 Q. -- circumstances --

5 A. Yes.

6 Q. -- more or less?

7 Okay. All right. Alstom was -- or is
8 the engineering outfit. Correct?

9 A. Alstom is an engineering -- they
10 engineered, procured and constructed. They did all
11 three phases of the boiler and environmental
12 equipment.

13 Q. And does Burns and McDonnell have the
14 ability to engineer, procure and construct or are they
15 primarily an engineering firm?

16 A. I would characterize them as primarily
17 engineering. I think they have had some affiliations
18 before with construction companies where they would do
19 all three.

20 Q. Okay. I read at some point that
21 relationships between Alstom and Burns and McDonnell
22 were strained. Is that -- is that a fair
23 characterization?

24 A. Early on in the project I would agree
25 with that as a fair characterization. Both

1 organizations had their engineering going on
2 concurrently.

3 Q. Gotcha.

4 A. Both of them were experiencing some of
5 those same market pressures. They were trying to get
6 information out of vendors to do designs that -- and
7 that resulted in an information -- what would I
8 characterize it as? As a backlog or a churn. That
9 strained some relationships.

10 Our executives in that -- and -- and
11 myself got involved in that very early on and we got
12 that problem corrected in early 2007.

13 Q. Okay. All right. Mr. Davis, thanks. I
14 don't have any other questions.

15 A. Thank you.

16 JUDGE PRIDGIN: Commissioner Kenney,
17 thank you. Commissioner Jarrett?

18 COMMISSIONER JARRETT: Yes.

19 QUESTIONS BY COMMISSIONER JARRETT:

20 Q. Sorry, Mr. Davis, I just had a couple of
21 more questions. I wanted to make sure I understand
22 the numbers right. Now, the budget estimate at
23 25 percent engineering was 1.685 billion; is that
24 correct?

25 A. That's correct.

1 Q. Then what was the -- what was the number
2 after the reforecasting?

3 A. The reforecast in 2008 was 1.901, I
4 believe.

5 Q. Now, it is -- is the company's position
6 that that is the definitive estimate?

7 A. That's my position. That 75 -- 70, 75
8 percent engineering complete.

9 Q. Now, didn't Kansas say that the control
10 budget estimate and the one that they use as the
11 definitive was the 1.685 billion. Right? The Kansas
12 Commission in their order?

13 A. I believe so. I did not read that order
14 though.

15 Q. Okay. I think that's all I had. Thank
16 you, sir. I appreciate it.

17 A. Thank you.

18 JUDGE PRIDGIN: Mr. Jarrett, thank you.
19 Any further Bench questions? All right. Any recross
20 based on Bench questions? Mr. Schwarz, Mr. Mills and
21 Ms. Ott, I assume?

22 MS. OTT: No I don't have any.

23 JUDGE PRIDGIN: Okay. Mr. Schwarz.

24 RECROSS-EXAMINATION BY MR. SCHWARZ:

25 Q. Okay. Commissioner Jarrett and you got

1 into a discussion about the labor market at the time
2 that Kiewit made its proposal. Do you recall that?

3 A. Yes.

4 Q. Isn't it true that by the time the
5 December '06 CBE was developed, that -- or when the
6 December '06 CBE was developed, that KCP&L had the
7 Shewmaker report which made those very same
8 representations, that it would be a tight labor market
9 and estimated labor costs? The Shewmaker report was
10 in early '06, was it not?

11 A. Yes. And one of our -- one of our major
12 risks that we had identified at that time was labor
13 availability --

14 Q. Right. And I guess that -- I'm sorry.
15 Go ahead.

16 A. -- and attracting skilled labor.

17 Q. And I guess that was my point. KCP&L in
18 the -- in the CBE had identified and accounted for the
19 same risks that were -- were facing Kiewit; is that
20 correct?

21 A. I'm not sure I understand your comment
22 there.

23 Q. The -- the CBE had identified and -- and
24 taken account of the labor market risks identified by
25 Shewmaker which were the same risks that were facing

1 Kiewit?

2 A. Yes. But I think Kiewit brought
3 some wherewithal that we did not have. They're a
4 nationally recognized contractor. They can attract
5 labor from a much bigger region than local multiple
6 primes can.

7 Q. And we've been talking about the 20,
8 25 percent engineering at the time of the CBE. Is
9 that by dollar value or by number of drawings or how
10 were you measuring that?

11 A. That was our estimate of the percent
12 complete of total engineering based on the entire
13 level of effort at that time.

14 Q. But is -- is that by dollar amount or by
15 number of drawings?

16 A. It would have been by -- by total number
17 of manhours, the estimate that we had at that time.

18 MR. SCHWARZ: Thank you.

19 JUDGE PRIDGIN: Mr. Schwarz, thank you.

20 Mr. Mills?

21 RECROSS-EXAMINATION BY MR. MILLS:

22 Q. Mr. Davis, I want -- I want to try and
23 focus in on some of the questions you got from the
24 Bench about the control budget estimate and the
25 definitive estimate. Is there an industry standard

1 for the percent complete engineering that is necessary
2 to call something a definitive estimate?

3 A. I would refer that question to
4 Mr. Meyers. I think he's the industry expert that
5 could really nail that down for you. But based on our
6 discussions, that 70 to 75 percent is the lowest
7 percentage based on my knowledge that you would say,
8 hey, I've got a clear picture of what I'm building.

9 Q. Okay. And -- but in response to I
10 believe a question from Commissioner Jarrett, you said
11 that it was your position that the control budget
12 estimate was not a definitive estimate; is that
13 correct?

14 A. We experienced growth after that that I
15 believe was a direct result of that engineering
16 percent complete and the pricing pressures, the
17 overheated market that we saw.

18 Q. Do you know what the company's position
19 and -- the company's position in this case is with
20 respect to the control budget estimate being a
21 definitive estimate?

22 A. No. I would refer that to some of the
23 later witnesses.

24 Q. Okay. Okay. Now, do you recall the date
25 in the -- the Comprehensive Energy Plan by which the

1 definitive estimate was supposed to be complete?

2 A. No, I don't.

3 Q. Okay. For purposes of my questions, can
4 you assume that that was to be done by the -- the fall
5 of 2006?

6 A. I do recall when I was part of the team
7 that came here to -- to present that cost document in
8 July of '06, we were working very hard to get the
9 control budget estimate out in the fall.

10 There was a discussion during that
11 meeting with staff and various other individuals
12 about, hey, maybe now's not the time. If you need to
13 get to the Alstom contract, have more information, we
14 ultimately -- we ultimately published that, finished
15 our work on the control budget estimate, got it
16 approved in December of '06. I believe we presented
17 it to staff in either late '06, early '07 and that
18 allowed us to know what the Alstom contract was going
19 to be.

20 Q. And for the purpose of these questions,
21 assume that the -- the Comprehensive Energy Plan
22 agreement required a definitive estimate for the fall
23 of 2006. If that agreement was signed in spring to
24 early summer of 2005, do you know what happened
25 between that point and the point in the fall at which

1 the control budget estimate at only 20 to 25 percent
2 engineering was complete that caused the engineering
3 to be so far behind what was anticipated in 2005?

4 A. I don't believe the engineering was
5 behind what was anticipated in 2005.

6 Q. How could KCPL have agreed to have a
7 definitive estimate in the fall of 2006 in 2005 if
8 that was not what was intended?

9 A. And your -- your question's predating my
10 time on the project so there are others that can
11 probably answer that.

12 Q. Do you believe from -- based on your
13 experience, that it was even possible from the point
14 at which the -- KCPL was in the spring of 2005 to have
15 a definitive estimate ready in the fall of 2006?

16 MR. FISCHER: Your Honor, I think I'm
17 just going to comment that Mr. Meyer is probably the
18 appropriate witness to ask that question since he
19 discusses at length the industry -- the industry
20 standards regarding budget estimates.

21 MR. MILLS: Judge, that's not an
22 objection. If anything, it's coaching the witness.
23 If the witness doesn't know the answer, he can say, I
24 don't know.

25 MR. FISCHER: I'm sorry for the

1 interruption. I was trying to be helpful.

2 JUDGE PRIDGIN: I understand. No, it's
3 not an objection. I agree. If he knows, he can
4 answer. And if not, he can say so.

5 THE WITNESS: Can you repeat the
6 question, Mr. Mills?

7 BY MR. MILLS:

8 Q. Yes. Assume for purposes of this
9 question that KCPL agreed in the Comprehensive Energy
10 Plan signed in the spring of 2005 that it would have a
11 definitive estimate ready in the fall of 2006. From
12 your experience, was that a reasonable commitment to
13 make? would that have been possible to do that?

14 A. I believe we -- I believe we did do that,
15 because our strategic schedule outlined what our key
16 milestones were. All right? Engineering did support
17 those key milestones. We made those -- those
18 foundation release dates to Alstom. All the
19 engineered equipment was on time. We did what we
20 planned to do in fast tracking the engineering on this
21 project and we ultimately had the end result as is
22 pointed out by our schedule and cost performance.

23 Q. So I guess your testimony now is not only
24 was it reasonable for KCP&L to make that commitment,
25 but they did make that commitment?

1 A. I believe we made the commitment to have
2 a control budget estimate that was based on our best
3 information at the time and I believe we met that
4 commitment.

5 Q. Okay. Are you familiar with the
6 Comprehensive Energy Plan agreement?

7 A. I'm generally familiar with it, yes.

8 Q. Does it use the term "control budget
9 estimate" or "definitive estimate"?

10 A. I can't answer that question. That would
11 be for a later witness.

12 Q. Okay. From your experience, do you
13 define those terms differently?

14 A. The control budget estimate is our
15 original budget for this project.

16 Q. Is that a term of art that's used in the
17 construction industry?

18 A. I would suggest asking Mr. Meyers [sic]
19 that question.

20 Q. You don't know?

21 A. I -- I don't know.

22 MR. MILLS: Okay. That's all the
23 questions I have. Thank you.

24 JUDGE PRIDGIN: Mr. Mills, thank you.

25 Excuse me. Ms. Ott, any cross?

1 MS. OTT: No.

2 JUDGE PRIDGIN: Redirect?

3 MR. FISCHER: Thank you, Judge.

4 REDIRECT EXAMINATION BY MR. FISCHER:

5 Q. Mr. Davis, does Mr. Meyer discuss, to
6 your knowledge, the industry classification system for
7 budget estimates in his testimony?

8 A. Yes. I believe he does.

9 Q. In questioning from Commissioner Jarrett
10 you went through the numbers as far as what the 2006
11 CBE was and also what the reforecasted number was. I
12 don't think I heard you say what the final expected
13 cost of Iatan 2 is.

14 A. Our current estimate at completion is
15 1.948.

16 Q. So a little less than \$50 million above
17 the '08 reforecasted number?

18 A. That's correct.

19 Q. Is that about 2 percent?

20 A. Yes.

21 Q. Is it your understanding that Kansas City
22 Power and Light Company agreed to track the costs from
23 the original 2006 CBE, whatever you called it?

24 A. Yes, it is.

25 Q. And in your discussions with the

1 Commissioners you talked about an overheated
2 construction market. What did you mean by that term?

3 A. There was a tremendous -- in that 2005 to
4 2008 time frame, there was a tremendous amount of
5 construction activity and projects in the planning
6 phase that were projected to be built. That stressed
7 the market for basically all the functions of the
8 project; engineering, procurement resources, material,
9 equipment, and construction manpower.

10 Q. And that's what you were facing whenever
11 you were looking at the -- the EPC versus the balance
12 of plant contracting approach?

13 A. That's correct.

14 Q. Now, one question I had was, does an EPC
15 necessarily equate to a fixed price contract?

16 A. Not -- not in -- it could take other
17 final pricing forms other than a fixed price.

18 Q. So even if you had an EPC, you wouldn't
19 necessarily assume you were going to get a fixed
20 price?

21 A. That's correct. In fact, we believe that
22 our EPC fixed price contract with Alstom is one of
23 last ones that was gotten in that time frame.

24 Q. During your early cross-examination I
25 think by Mr. Schwarz, you were talking about the

1 efficiencies of a supercritical coal-fired unit versus
2 a subcritical. Do you recall that discussion?

3 A. Yes, I do.

4 Q. Could you discuss other operational
5 characteristics that are advantageous for a plant like
6 Iatan 2?

7 A. Well, I -- I'd probably characterize that
8 as talking about the performance of the plant. We
9 came online for the first time on July 20th and began
10 making electricity. We completed our in-service
11 criteria, as far as Commission in-service
12 requirements, by August 26th. That greatly exceeded
13 our expectations. That's an indication of how
14 smoothly this plant came online and how quick it got
15 to full power. That August 26th represents about
16 109 days better than what we had projected in our last
17 schedule reforecast.

18 That plant has made over two and a
19 half -- or right at two and a half million megawatt
20 hours since that July 20th date. It is operating at
21 below a 9,000 BTU per kilowatt hour heat rate,
22 which -- which is what it was designed to do. And the
23 operations work force there is well trained and that
24 plant will operate at the level it is today for years
25 to come and be a great asset for the region and Kansas

1 City Power and Light's customers.

2 Q. Do you recall some questions regarding
3 the -- I think it was discussed as Alstom transparency
4 in the Alstom unit 1 settlement agreement?

5 A. Yes.

6 Q. would you elaborate on how the Alstom
7 unit 1 settlement agreement affected the remaining
8 relationships with Alstom?

9 A. I believe that settlement agreement --
10 and I'm talking from a perspective of a guy that was
11 onsite every day. That settlement agreement set the
12 tone for the entire rest of the project. As I said
13 yesterday, there were several commercial disputes that
14 were put to bed with that settlement. You could see
15 Alstom's performance improve from that day forward.

16 Q. Did the Alstom settlement unit 1
17 agreement affect Alstom's remaining schedule concerns
18 or did it affect the schedule after that?

19 A. We did -- as part of that agreement, we
20 adjusted the schedule on unit 1. We needed that from
21 our perspective. We'd added some scope to unit 1
22 outage. It did adjust that schedule, which was
23 jointly agreed to by us and Alstom.

24 Q. Did Alstom remain on schedule after that
25 point?

1 A. Yes, they generally did.

2 Q. You had some questions I think regarding
3 your experience at the Hawthorn 5 rebuild. Do you
4 recall those?

5 A. Yes.

6 Q. would you explain how your experience at
7 Hawthorn 5 on that rebuild project was -- affected
8 your -- your experience at Iatan?

9 A. You know, the -- the Hawthorn experience,
10 as I said earlier, we built a boiler and an entire air
11 quality control system very similar to what we did at
12 Iatan. Many of the project team members at Hawthorn
13 were involved in the Iatan project at various times.
14 I think Kansas City Power and Light was uniquely
15 positioned to have that recent experience from the
16 Hawthorn project with in-house people that could be
17 applied directly to the Iatan project and the Iatan
18 project benefited from that.

19 Q. Did the Hawthorn rebuild project merely
20 include replacing the old plant or did it also involve
21 the construction of environmental equipment?

22 A. We -- we put all new state-of-the-art
23 environmental equipment, a fabric filter, dry scrubber
24 and an SCR on Hawthorn. Technology that's very
25 similar to what was put on at Iatan.

1 Q. Is that similar to the animations that
2 you talked about in the film, the video that we had
3 the opening about?

4 A. Yes. The one major difference is
5 Hawthorn was a dry scrubber and Iatan is a wet
6 scrubber.

7 Q. You also had some questions from Ms. Ott
8 regarding the project execution plan. Do you recall
9 those?

10 A. Yes, I do.

11 Q. Did the fact that the project execution
12 plan was finalized three months after the Ernst &
13 Young recommendations, that you developed that, did
14 that affect the -- or have an impact on the -- on the
15 Iatan project?

16 A. None whatsoever.

17 Q. Did it affect the cost of the plant in
18 any way?

19 A. No.

20 Q. Did the fact that there were no
21 formalized documents at -- until June of '07 have any
22 adverse impact on -- on the Iatan project?

23 A. No adverse impact at all.

24 Q. I believe you made a comment in an answer
25 that there were no open audit findings. Would you

1 expand on what you meant by that term?

2 A. As I said yesterday, during the life of
3 the project, part of our -- part of our management
4 toolbox was audits. We used those extensively. There
5 were many audits performed through the life of the
6 project. Each one of those audits were taken very
7 seriously.

8 A responsible management person was
9 assigned, a management action plan was developed and
10 those action plans were implemented and executed.
11 That was a very important part of our overall
12 management of the project and it led to a more
13 effective execution of the project.

14 Q. You used the term "appropriate processes
15 were in place" in answer to one of her questions. Is
16 that what you were talking about or something else?

17 A. That's correct. And those audits allowed
18 us to refine those projects -- processes and make them
19 even better.

20 Q. You also had some questions from Ms. Ott
21 regarding Schiff Hardin's work, I believe?

22 A. Yes.

23 Q. What did Schiff Hardin do for you from an
24 operational perspective?

25 A. From an operational perspective, Schiff

1 Hardin was very involved in the contracts --
2 development of contracts and in the overall
3 administration and commercial execution of those
4 contracts. They had onsite resources for schedule and
5 cost.

6 Those resources -- most of the disputes
7 you have on a contract are cost or schedule based. I
8 think Schiff Hardin was uniquely positioned in that
9 they provided that full suite of services so that
10 those schedule people knew how to interact with those
11 commercial folks that were helping us with the
12 contracts. That put us in a very good position to
13 manage those contracts.

14 Schiff Hardin did much more than legal
15 work on this project. There were several instances --
16 I'll give you a couple of examples. The crane
17 collapse, the T23 tube situation with Alstom and those
18 settlement agreements that we've talked about earlier,
19 all of those Schiff Hardin was very instrumental in
20 helping us work through those issues and their input
21 was extremely valuable.

22 Q. were Schiff Hardin's efforts important to
23 the success of Iatan?

24 A. Absolutely.

25 Q. And did you have interaction regularly

1 with Schiff Hardin onsite?

2 A. On a daily basis.

3 Q. You also had some questions I think from
4 the Bench and perhaps from Ms. Ott regarding fast
5 track --

6 A. Yes.

7 Q. -- do you recall those?

8 In the audit report that the Staff filed,
9 they indicated that they believe that a major factor
10 that led to KCP&L incurring cost overruns that it --
11 at Iatan was fast tracking. Do you agree with that?

12 A. No, I disagree with that. I think our
13 ability to get up front and get the engineering
14 complete in order to get particularly that engineered
15 equipment on order got us ahead of that overheated
16 market.

17 If you look at our cost reports in the
18 procurement section where we bought all that
19 engineered equipment, we were basically on budget.
20 That was largely due to getting that engineering done
21 and getting out ahead of that overheated market.

22 Q. Was Mr. Elliott aware that the company
23 was fast tracking aspects of the project?

24 A. I believe he was well aware of that, yes.

25 Q. And did you fast track some of the

1 aspects of the Hawthorn 5 project?

2 A. That entire project was fast tracked.

3 Q. Is there anything unreasonable, from your
4 perspective as an operations guy, that -- when you
5 fast track a project?

6 A. No. And in particular, in an overheated
7 market like this, if you can get that engineering done
8 and get that equipment headed your way at a reasonable
9 cost and get it out in front of an overheated market,
10 it's a very prudent thing to do.

11 Q. Was the engineering on the foundations at
12 Iatan on the critical path at one point?

13 A. Yes, it was.

14 Q. Did you fast track that aspect --

15 A. We -- we --

16 Q. -- accelerate it, whatever you call it?

17 A. We accelerated the foundations -- many of
18 the foundations at Hawthorn. And when I say
19 "accelerated," we made those a priority for Burns and
20 Mac to get the engineering done so we could get those
21 engineering packages to Kissick who was our major
22 foundation contractor so they could get those
23 foundations installed to meet that key release date to
24 Alstom of August 15th, 2007 so Alstom could get
25 started on their critical path work.

1 Q. Had you not done that, do you think you
2 would have been able to complete the project within
3 three months of the original targeted in-service date?

4 A. Absolutely not.

5 Q. Do you believe that fast tracking had any
6 adverse impact on the cost of Iatan 2?

7 A. I believe fast tracking saved that
8 project money.

9 Q. Let's talk a little bit about the cost
10 control system that you were asked about by Ms. Ott.
11 She -- she showed you a couple of documents. One of
12 them was a -- a change order on LogIn -- or LogOn
13 Consulting. Do you recall that?

14 A. Yes.

15 Q. Just as a generic matter, what is a
16 change order and how do you use it as an operations
17 guy?

18 A. A change order is basically what it says.
19 It's a change. Any original contract, any original
20 budget line item that had a change involved in it,
21 many of them are incorporated in a change order such
22 as this. Those change orders feed directly into a
23 contract -- a line item in the control budget and can
24 be tracked all the way back to that original control
25 budget estimate amount.

1 Q. would you be the one that might approve
2 change orders onsite?

3 A. I approved -- my signature's on probably
4 a majority of the change orders on both unit 1 and
5 unit 2.

6 Q. And would you occasionally not approve
7 change orders?

8 A. Absolutely. In fact, we -- in the -- in
9 the change notice portion of our process, that's
10 normally where the disapproval comes. But when you
11 get to an executed change order like this, normally I
12 would approve them.

13 Q. would a change order be important in
14 understanding the -- the quantification and -- and
15 reasons for a change?

16 A. Absolutely. To give you an example, we
17 talked earlier about the Kiewit contract. I think
18 Ms. Ott put the recommendation to award letter. If
19 you take that recommendation to award letter and you
20 took all of these change orders that are associated
21 with the Kiewit contract, that would capture much of
22 the change of the -- from the original CBE because
23 within that Kiewit contract is where that engineering
24 progressed from that 25 to 70 percent. And that's
25 also where we experienced much of the price pressures

1 on the -- on the material that went into that balance
2 of plant.

3 Q. well, let's take a look at one of those
4 recommendations to award letters that Ms. Ott showed
5 you. I think it's Exhibit 250. It's an HC document.

6 A. Yes.

7 Q. I don't want to do the numbers. I want
8 to stay in open session, but -- but what would the
9 contract value indicate to you on that -- that -- do
10 you have that -- that recommendation to award letter
11 for the general contract for the balance of plant?

12 A. Yes, I do.

13 Q. Can you just explain to the Commission
14 what information you would get as an operations guy
15 from this recommendation to award letter and how you
16 would use it?

17 A. At the time of -- at the time that the
18 contract was let, the contract value was that number
19 that you see there. That included both unit 1 and
20 unit 2 based on the engineering information that was
21 available at the time. And any change to that as time
22 went on would have been incorporated in one of these
23 change orders.

24 Q. And then there's an indicative estimate
25 here that -- and a variance. what -- what does that

1 information give you?

2 A. That indicative estimate would have
3 indicated the amount that had been included in the
4 control budget estimate back at that point at time.
5 And the variance would have been the amount that we
6 pulled out of contingency to fund that Kiewit contract
7 at that time based on the risks that we viewed that
8 the Kiewit contract had addressed.

9 Q. Then there's a section for the evaluation
10 team, which on this particular one has six different
11 people. What -- what does that show you?

12 A. That means that those six individuals
13 were very key in both reviewing the contract and
14 reviewing this recommendation to award letter.

15 Q. Now, this document goes on for 19 pages.
16 And I don't want to go through all of that, but
17 would -- would you -- would you agree with me that
18 this particular one that she happened to show you is a
19 very significant recommendation to award letter from
20 your project perspective?

21 A. The most significant one in the life of
22 the project.

23 Q. Why -- why is that?

24 A. Because it did represent a change from
25 the multi-prime strategy to a single contractor, a

1 single, sole source contractor. We took that very
2 serious and made sure we did our due diligence in
3 analyzing this decision.

4 Q. Just on a generic basis, are
5 recommendations to award letters and change orders an
6 important part of your cost control system?

7 A. Yes, they are. They are two of the key
8 ingredients. The recommendation to award letter will
9 outline if there was any difference from what the
10 final award was to the budget -- original budgeted
11 amount. And the change orders will tell you what
12 changed over the life of the contract.

13 Q. Based on your cost control system, were
14 you able to tell when you were going over budget?

15 A. Absolutely. And, in fact, that original
16 control bud-- or cost reforecast of 1.901 million done
17 in 2008, we had actually spent considerably less money
18 than that. I don't remember the exact number. But we
19 were able to use our cost control system to
20 effectively forecast those costs once we got to that
21 70 percent engineering complete and that number was
22 very good for the rest of the project.

23 Q. Well, from an operations guy perspective,
24 is -- was that cost control system important to you in
25 the field?

1 A. Absolutely. It -- it gave us the tool to
2 know where we stood cost-wise basically on a real-time
3 basis.

4 Q. Back to those change orders, did -- did
5 you participate personally in meetings with the staff
6 engineers on change orders?

7 A. Yes, I did.

8 Q. Would you describe those meetings?

9 A. From the very early stages of the
10 project, Dave Elliott had come sometime in the 2006,
11 early 2007 time period. We had went over our change
12 order process, asked him if he had any input into that
13 process.

14 In general, his feedback was that he
15 thought that would give him what he needed. He put in
16 an ongoing request for any change orders greater than
17 \$50,000 or any -- any reverse charges less than 150 --
18 or I'm sorry, \$50,000. That amounted to over 600
19 change orders that over the life of the project Dave
20 periodically reviewed.

21 We would -- when we was there on his
22 periodic visits, we would sit down, he would ask
23 detailed questions about those change orders that he
24 had reviewed up to that date and make engineering
25 judgments. In his final report he said he saw really

1 no engineering issues with all those change orders
2 that he had reviewed. And as I stated earlier,
3 engineering is a direct driver of cost. As we've
4 talked earlier, 25 percent engineered versus
5 70 percent engineered.

6 Q. Were you the only KCPL person that
7 interacted with Mr. Elliott or were there others?

8 A. No. Depending on the nature of
9 Mr. Elliott's questions, if I couldn't answer them, I
10 would go get the appropriate party and bring them in
11 and we would answer them together.

12 Q. Do you recall going over many of those
13 change orders with Mr. Elliott?

14 A. Many. Hundreds.

15 Q. Did you have similar meetings with the
16 rate case auditors on this -- on the change orders?

17 A. No, I didn't.

18 Q. Why not?

19 A. I can't answer that. I don't know.

20 Q. Were you ever requested to meet with
21 them?

22 A. I have met with the auditors. Not on
23 that specific subject.

24 Q. Okay. Thank you. Did you ever meet with
25 them -- the rate case auditors regarding

1 recommendations to award letters?

2 A. Not that I recall. I -- I do have a
3 recollection of a meeting with Warren Wood when Warren
4 was with the Staff. It was probably prior to this
5 recommendation to award letter written to Kiewit. We
6 had not awarded the contract yet, but we -- Dave Price
7 and I met with Warren and went over basically what our
8 plan was with Kiewit.

9 Q. Mr. Warren Wood was an engineer with the
10 Staff at that time?

11 A. Yes.

12 Q. And I believe he was on the list of
13 attendees at the cost control meeting that we had in
14 2006. Is that your recollection?

15 A. I believe so.

16 Q. But the -- were the Staff auditors at
17 that meeting?

18 A. I can't recall.

19 Q. Okay. Do you recall what Mr. Wood's
20 comments were about your cost over -- your cost
21 control system at that meeting generally?

22 MR. SCHWARZ: Objection, hearsay.

23 MR. FISCHER: I'll withdraw it.

24 BY MR. FISCHER:

25 Q. I recall a discussion with Ms. Ott about

1 ramping up management. Do you recall that?

2 A. Yes.

3 Q. What did that term -- what does that term
4 mean?

5 A. That means bringing on personnel when
6 they are needed. A just-in-time type management for
7 when they're needed to perform various functions on
8 the project.

9 Q. Is that considered a good management
10 practice or why were you discussing that?

11 A. I believe it's a good management practice
12 because it allows you to control your costs of your
13 management folks onsite.

14 Q. I believe you also had a discussion with
15 Ms. Ott regarding the baseline schedule and the CBE.
16 Do you recall that?

17 A. Yes.

18 Q. Would you describe how the baseline
19 schedule and the CBE are related?

20 A. They are directly tied -- the control
21 budget estimate, which was published in December of --
22 of '06, reflects the schedule and the schedule risks
23 that are contained in the original baseline schedule.

24 Q. You also had a discussion today, I
25 believe, regarding the provisional acceptance dates of

1 Iatan 1 and Iatan 2 and their in-service dates?

2 A. Yes.

3 Q. Why is the provisional acceptance date of
4 Iatan 2 and the in-service date different?

5 A. The in-service date is a -- was the day
6 we met all the criteria that was agreed to with the
7 Missouri Public Service Commission Staff. The -- the
8 provisional acceptance date is a contractual date with
9 Alstom where they had to meet basically those same
10 criteria plus some more requirements in order to get
11 to provisional acceptance. So they made that date a
12 month -- basically a month later because of those
13 added criteria.

14 Q. You also had a discussion with Ms. Ott
15 regarding the LogOn personnel. Do you recall that?

16 A. Yes.

17 Q. Is it your understanding that the Staff
18 has substituted LogOn rates for Cushman rates in this
19 case?

20 A. I'm not sure I understand your question.

21 Q. Their hourly rates. Do you recall an
22 adjustment like that?

23 A. Yes, I do. Sorry.

24 Q. Can you tell me did -- did Cushman do the
25 same thing as LogOn?

1 A. No. Cushman was -- he was in the early
2 stages of the project. He helped us develop that
3 project execution plan. His experiences is, in my
4 view, world renowned. And LogOn was more of staff
5 augmentation, providing people to perform specific
6 project functions.

7 Q. You also had a conversation with Ms. Ott
8 regarding back charges. Do you recall that?

9 A. Yes.

10 Q. Was there a process in place to catch
11 issues before back charges were necessary?

12 A. Yes, there was. We watched the -- the
13 construction very closely with both our construction
14 management people and our quality people. There were
15 several occasions that during the construction process
16 we found issues that could have ultimately resulted in
17 back charges that were taken care of as the
18 construction was occurring. So that helped us on both
19 cost and schedule. We didn't have to go back and do
20 massive amounts of rework because those issues were
21 caught in real-time.

22 Q. At one point during your
23 cross-examination yesterday you had a discussion of
24 all the different -- or a number of the different
25 people and their experience on Ia-- on the project.

1 Do you recall that?

2 A. Yes.

3 Q. I don't think you mentioned Bob Bell. Do
4 you have impression of his experience?

5 A. Yes. Bob has -- has -- as I believe was
6 stated yesterday, 25, 30 years of industrial
7 commercial experience, has ran many EPC power jobs all
8 over the world. And he was definitely a added asset
9 to the project team.

10 Q. I think he'll be our next witness too.

11 A. Okay.

12 Q. My last -- my last question -- and I know
13 you're somewhat of a humble man, but do you have any
14 comments about your appraisal?

15 A. I never thought it'd be put in front of a
16 Commission like this.

17 Q. I'll withdraw it if you don't want to
18 answer it.

19 A. I don't want to answer.

20 MR. FISCHER: Thank you.

21 JUDGE PRIDGIN: All right. Mr. Davis,
22 thank you very much. You may step down.

23 And Mr. Bell will be our next witness?

24 This looks to be a convenient time to take a break.

25 Let's take roughly ten minutes. We'll go back on the

1 record at about 11:15.

2 (A recess was taken.)

3 JUDGE PRIDGIN: All right. We are back
4 on the record. I believe Mr. Bell was the next
5 witness. Is there anything from counsel before he
6 takes the stand?

7 MR. FISCHER: We would call Bob Bell.

8 JUDGE PRIDGIN: All right. Come forward
9 to be sworn please. Please raise your right hand to
10 be sworn.

11 (Witness sworn.)

12 (KCP&L Exhibit Nos. 5-NP, 5-HC, 6-NP and
13 6-HC were marked for identification.)

14 JUDGE PRIDGIN: Thank you very much, sir.
15 Mr. Fischer, anything before he stands
16 cross?

17 MR. FISCHER: I have a little bit of
18 direct, your Honor.

19 ROBERT BELL, having been sworn, testified as follows:

20 DIRECT EXAMINATION MR. FISCHER:

21 Q. Please state your name and address for
22 the record.

23 A. My name is Bob Bell. I work for Kansas
24 City Power and Light.

25 Q. Are you the same Bob Bell that caused to

1 be filed in this case direct testimony, both an HC
2 version and an NP version, and then also rebuttal
3 testimony, which for your information has been marked
4 as Exhibit 5 and 6?

5 A. Yes, I am.

6 Q. Do you have any corrections that need to
7 be made to your testimony or any of your exhibits?

8 A. No, sir.

9 Q. If I were to ask you the same questions
10 that are contained in that pre-filed testimony today,
11 would your answers be the same?

12 A. Yes, they would.

13 Q. And are they true and accurate, to the
14 best of your knowledge and belief?

15 A. Yes, sir.

16 MR. FISCHER: Your Honor, then I would
17 tender the witness for cross-examination and at the
18 end, ask that his testimony be admitted.

19 JUDGE PRIDGIN: All right. Mr. Fischer,
20 thank you. You will likely have to remind me and
21 reoffer your exhibit.

22 MR. FISCHER: Maybe I can ask if -- go
23 ahead and request admission.

24 JUDGE PRIDGIN: All right. Exhibits 5
25 and 6 have been offered. Any objections? Hearing

1 none, Exhibits 5 and 6 are admitted. They are both HC
2 and NP, if I'm correct.

3 MR. FISCHER: Yes.

4 JUDGE PRIDGIN: All right. Thank you.

5 (KCP&L Exhibit Nos. 5-NP, 5-HC, 6-NP and
6 6-HC were received into evidence.)

7 JUDGE PRIDGIN: All right.

8 Cross-examination, Mr. Dottheim, you'll have some?

9 MR. DOTTHEIM: Yes.

10 JUDGE PRIDGIN: Mr. Mills?

11 MR. MILLS: I have none

12 JUDGE PRIDGIN: Mr. Schwarz, it's to you,
13 sir.

14 MR. SCHWARTZ: I have some. Thank you.

15 CROSS-EXAMINATION BY MR. SCHWARZ:

16 Q. Morning, sir. Could you turn to page 10
17 of your rebuttal testimony, please?

18 A. Okay.

19 Q. If -- if you look on lines 12 and
20 lines 16, there are two different numbers in reference
21 to the Alstom contract. I don't want to go into
22 highly confidential so can you tell me how the
23 difference between those two numbers was -- how much
24 was unit 1 cost and how much was unit 2 costs?

25 A. No, sir, I cannot. If -- I would need to

1 look at the cost portfolio to get that detail for you.

2 Q. That's fine. Do you know if the -- that
3 difference identified was charged to the contingency
4 amount in the CBE?

5 A. Are you asking me if the difference in
6 the two numbers I'm looking at, that difference would
7 have come from contingency?

8 Q. Right. Was it charged to the
9 \$220 million contingency that was set out in the CBE?

10 A. I believe that would be where it would
11 come from, yes. It would have been accounted for in a
12 reforecast and pulled from contingency.

13 Q. Do you know that or is that --

14 A. Yes, sir.

15 Q. Okay. You have particular experience and
16 expertise in plant start-up; is that correct?

17 A. Yes, sir. That's one of the things I've
18 done quite a bit of.

19 Q. What problems to the start-up and
20 operation of a plant would be caused by the
21 impingement of weld material into the boiler tubes?
22 Is my question at all clear? No. Let me -- let me --
23 let me try it again.

24 Is it -- is it an important factor that
25 all of the welds to boiler tubes be smooth and -- and

1 complete from the perspective of -- of the operation
2 of the plant?

3 A. Yes, sir. I believe that's reasonable.

4 Q. And can you explain to the Commission
5 why?

6 A. well, it's not really particular to the
7 boiler tube. All welds need to be done per
8 specification. And in the specification for doing any
9 weld, it tells you what type rod, for instance, to use
10 and the whole process for cleaning the weld after.

11 And you look at it and make sure there are no burs or
12 anything impeding into the pipe boiler tube or
13 whatever.

14 Q. I guess my question is, why would a bur
15 impinging on the inside of the -- of the tube wall
16 pose a problem to the operation of the plant?

17 A. well, what I would say to that is, is a
18 boiler tube's fairly small size. And if there were
19 some weld material sticking into the boiler tube, it
20 might have some effect on the flow of the water
21 through that particular tube.

22 But we do extensive and we did do
23 extensive tests at Iatan to measure that flow through
24 the tubes and to compensate where some flows may be
25 different, not necessarily from some impingement or

1 whatever reason. We installed orifices in the lines
2 to make sure the flows were even throughout the
3 boiler.

4 Q. It -- it's an important aspect of the --
5 of the construction project?

6 A. Yes, sir. And that's why we check it to
7 make sure it's good.

8 Q. Right. And before the boiler's put in
9 operation, it's necessary to -- to clean the boiler
10 tubes after construction?

11 A. Yes, sir.

12 Q. And that's something that you'd expect
13 whenever you were installing a boiler in a generating
14 plant?

15 A. Yes, sir.

16 Q. In your opinion, would it be commercial--
17 commercially reasonable for a boiler purveyor to turn
18 over to a purchaser a boiler that had boiler tubes
19 with cracks in them?

20 A. No. I don't think any manufacturer or
21 constructor would knowingly turn a boiler over to an
22 owner or a purchaser if those problems existed.

23 Q. Would an owner or a purchaser be obliged
24 to accept a boiler that had boiler tubes with cracks
25 or imperfect welds?

1 A. well, if you knew that the boiler had
2 those issues at the time it was being turned over, no,
3 it would not be reasonable and -- for anyone. And we
4 did not experience such a situation at Iatan.

5 Q. Understood. In the marketplace what
6 would be the effect of a boiler manufacturer, a vendor
7 walking off of a major contract prior to delivery?

8 A. My -- are you asking me if during the
9 construction of a project, a contractor that was on
10 board part of the project were to just walk off the
11 site before he finished his work? Are you asking me
12 what the effect on that company be?

13 Q. On -- on the vendor, yes.

14 A. On the vendor. well, it would be
15 detrimental to their reputation. I mean almost any
16 large company today, their reputation is of prime
17 importance to them. And so, therefore, if they
18 entered into a contract, any company would make every
19 effort whatsoever to complete the work they're
20 committed to.

21 Q. Thank you. Do you know about how many
22 supercritical coal-fired electric generating plants
23 have been built since the technology first arose?

24 A. No. I wouldn't have an exact number for
25 you, but there are quite a few.

1 Q. In the hundreds?

2 A. Yes, sir, I believe that would be
3 reasonable.

4 Q. There has been testimony in various
5 places that the market for coal -- coal-fired plants
6 has been very high worldwide in the last half dozen
7 years. would you agree with that assessment?

8 A. Yes, sir. That's very true.

9 Q. And I -- this is your rebuttal --
10 rebuttal testimony on page 13. You suggest that
11 people of your vintage, and I suspect my vintage as
12 well, would be the only ones who have direct
13 experience from a pure construction standpoint. That
14 was your testimony. Correct?

15 A. Yes. To have extensive long-term
16 experience. Of course in this last boom, some new
17 people have now started to come up to speed on it.

18 Q. And so there are people available at --

19 A. Becoming that way again, yes, sir. This
20 last market has improved for that.

21 MR. SCHWARZ: I think that's all I have.

22 JUDGE PRIDGIN: Mr. Schwarz, thank you.

23 Mr. Dottheim?

24 MR. DOTTHEIM: Yes. Thank you.

25 CROSS-EXAMINATION BY MR. DOTTHEIM:

1 Q. Morning, Mr. Bell.

2 A. Good morning, sir.

3 Q. Mr. Bell, you have attached to your
4 rebuttal testimony a schedule, do you not, that shows
5 your educational and work experience; RNB2010-3?

6 A. That's correct.

7 Q. Okay. And to your direct testimony you
8 have on pages 2 and 3 your education and work history
9 set out, do you not?

10 A. Yes, sir, that's correct.

11 Q. Okay. Is basically the same information
12 replicated in both places?

13 A. Yes, sir. In general, it's a
14 replication. A little more detail in one area than
15 the other.

16 Q. You are not a professional engineer, are
17 you, Mr. Bell?

18 A. No, sir. I took the EIT, which is the
19 written exam for the PE, but I was overseas at the
20 time I was available to take the PE and I didn't
21 return to the states in the time before my EIT had
22 expired and so I never took the final piece of the
23 test.

24 Q. So you are not a professional engineer,
25 are you not?

1 A. No, sir.

2 Q. Okay. You don't hold yourself out as an
3 engineer, do you?

4 A. No, sir. I do not stamp drawings as a
5 PE.

6 Q. Mr. Bell, do you hold any certifications
7 or registrations as a professional?

8 A. I hold certifications from specific
9 classes I've taken in the power industry while at GE,
10 certifications for being expert in this, expert in
11 that, different types of equipment, that type of
12 stuff.

13 Q. Okay. For example, if you could give an
14 example when you say certain types of equipment?

15 A. For instance, the various control systems
16 that GE installed on steam turbines and gas turbines,
17 I'm considered an expert in probably five or six of
18 those control systems and typical things like that.

19 Q. Okay. Have you had any formal training
20 in project management?

21 A. Yes, I have. I've attended numerous
22 classes while at GE and at Black and Veatch on project
23 management.

24 Q. Okay. Have you had any formal training
25 in project cost management?

1 A. Yes, sir. I've had classes on that.

2 Q. Okay. Have you had any formal training
3 in project schedule management?

4 A. Yes, sir.

5 Q. Okay. Are you a project management
6 professional?

7 A. No, sir.

8 Q. Okay. Do you consider yourself an expert
9 on matters of accounting?

10 A. Well, I think it's subjective what an
11 expert is, but I understand accounting.

12 Q. Okay. Do you consider yourself an expert
13 on matters of accounting?

14 A. I would not personally, no.

15 Q. Okay. Do you consider yourself an expert
16 on matters of auditing?

17 A. No, I would not consider myself a
18 professional auditor.

19 Q. Okay. Do you consider yourself an expert
20 in matters of cost accounting?

21 A. No. I would not consider myself a
22 professional cost accountant.

23 Q. Okay. Do you consider yourself an expert
24 in matters of cost engineering?

25 A. No, I would not consider myself an

1 expert.

2 Q. Have you had any formal training in
3 project risk management?

4 A. Yes, sir. Extensive.

5 Q. Okay. I'd like to refer you to your
6 rebuttal testimony, the very last page, your schedule
7 where you have your experience summarized. And I'd
8 like to refer you to the second page where you have
9 9/97 to 1/99, Black and Veatch Power Division. Have
10 developed and managed a Y2K remediation program and
11 sold to nine major utility clients producing record
12 profit margins for the corporation.

13 was Black and Veatch receiving the record
14 profit margins that you were referring to?

15 A. Yes, sir.

16 Q. Okay. Was the nine utility clients that
17 you refer to paying those record profit margins to
18 Black and Veatch?

19 A. Yes, sir.

20 Q. Okay. I'd like to refer you to the next
21 section of that schedule, 9/82 to 9/97 time frame,
22 General Electric International Schenectady, New York.
23 And I'd like to ask you about those -- those projects.
24 Could you identify what was the nature of -- of your
25 involvement with each of those projects?

1 A. well, if -- the ones next to the bullets
2 and -- I was either the construction manager, the
3 start-up manager or senior control specialist or a
4 combination of one, two or three of those on each of
5 those jobs.

6 Q. And none of those -- or are any of those
7 base load, coal-fired power plants?

8 A. I'm not sure the relevance of coal. It's
9 simply the fuel. Some of those are identical or
10 larger than Iatan.

11 Q. Okay. Could you identify which ones
12 those are?

13 A. The Abu Sultan Steam Turbine Power Plant
14 in Egypt, the first one on the list, was 600
15 megawatts. It used gas instead of coal as the fuel,
16 but all the other systems are identical. The Misr
17 Spinning weaving, the next one on there, was also a
18 power plant, again using gas for the boiler.

19 The Yokkaichi combined cycle was what you
20 refer to as HRSG. The fuel is basically the heat
21 coming off of the combustion turbines that you're
22 feeding gas to. You take the heat, same boiler, same
23 systems exactly, you heat the water with the heat
24 coming off the exhaust of the gas turbines. That's
25 the only difference there. You have a little more

1 complexity because of the combustion turbines hooked
2 to it.

3 The TEPCO, again same arrangement, large
4 gas turbines take the heat, heat the boiler, make the
5 steam in the boiler. EPON, similar situation. The
6 PWC combined cycle. Everywhere it says combined cycle
7 from there out basically used the combustion turbines
8 as the heat source to make the steam and then the
9 process is identical to the Iatan plant.

10 Q. Were any of those -- those units
11 coal-fired power plants?

12 A. No, there were not. My coal-fire
13 experience would be in the next section on there.

14 Q. Were any of those projects multi-prime
15 contracting approach?

16 A. Yes, sir.

17 Q. Could you identify which ones?

18 A. The Yokkaichi combined cycle power plant
19 was a multi-prime. The TEPCO also, a Japanese
20 project, was multi-prime. The EPON in Holland was
21 multi-prime. FPL Martin Power Plant, huge plant in
22 Indiantown, Florida was multi-prime. Crockett
23 Cogeneration in California was multi-prime. And that
24 would be it, sir.

25 Q. Okay. The -- how large was the FPL

1 Martin Power Plant in Indiantown, Florida, do you
2 recall?

3 A. About 900 megawatts, I believe.

4 Q. Have you done any comparable studies of
5 the costs of other coal-fired units built in the
6 United States at the same time frame as Iatan 2?

7 A. I have not been directly involved in the
8 cost, but at Black and Veatch we were actively
9 involved in that last progression of builds and so I
10 saw some of the numbers of coal plants that were under
11 construction, but I did not participate in developing
12 the costs.

13 Q. The combined cycle power plants that --
14 that you have listed are just combined cycle power
15 plants. Are those plants comparable to GMO's South
16 Harper Power Plant or the Dogwood Power Plant,
17 formerly the Aries Power Plant?

18 A. I -- I wouldn't know, sir. I'm not
19 familiar with those plants.

20 Q. would it be your testimony that building
21 a power plant outside of the United States is similar
22 to building a power plant inside the United States?

23 A. It would depend specifically on the
24 location. I would say the plants I did in Japan and
25 Holland, very similar because very similar countries,

1 economic scale, that type of thing. Majority of those
2 plants were extremely more difficult due to their
3 locations and labor issues and things of such.

4 Q. Did you have any engineering,
5 procurement, construction, that is EPC contractor
6 experience, in the 2004/2005 time frame in the United
7 States?

8 A. Yes, I did.

9 Q. What experience did you have?

10 A. In the 2004/2005 time frame, I was
11 personally involved in the CTAC projects going on in
12 Iraq with the Army Corps of Engineers for the rebuild.
13 Majority of that work we had bid in that modality to
14 do the work.

15 But I was also involved because I was
16 working at Black and Veatch with the whole -- all of
17 the large EPC projects Black and Veatch were putting
18 together because I was a corporate officer there and I
19 was part of the review of that.

20 Q. Would you say that experience in Iraq
21 was -- would be similar to the experience in the
22 United States?

23 A. I would say very similar. We did the
24 engineering procurement inside the United States.
25 It's just simply the construction was a li-- more

1 difficult than here.

2 Q. I'd like to refer you to pages 8 and 9 of
3 your rebuttal testimony. And there was a question
4 that begins at the bottom of page 8 and continues onto
5 page 9. You rely on Mr. Giles' testimony, do you not?

6 A. Yes, sir. I reference it quite often.

7 Q. Yeah. What is Mr. Giles' experience that
8 causes you to rely on Mr. Giles' testimony?

9 A. Well, Mr. Giles, as I've come to learn,
10 has been involved with the Iatan project since its
11 infancy. He was involved in the S and A and all of
12 the discussions that went into developing the
13 stipulation agreement and he was involved with all the
14 vendors and he had participated in all the senior
15 management meetings.

16 And so he's a key for me when I need to
17 look back and get answers to what was discussed with
18 Staff or what might have been discussed with Alstom
19 potentially. And he can answer a lot of those
20 questions before I have to go to someone else.

21 Q. I'd like to refer you again to your --
22 your rebuttal testimony, excuse me, page 3. And you
23 refer to your experience in the years 1978 to 1982
24 where you worked as a co-op and a field engineer. And
25 you list various responsibilities that -- that -- that

1 you had. where do you have experience in the -- in
2 the construction of any utility plant in that time
3 frame?

4 A. In that particular times frame, 1978 to
5 '82, my experience were mainly in the operations and
6 on go daily testing and maintenance of some very, very
7 large coal-fired power plants. In fact, I believe
8 unit 3 at Paradise was the -- still is the largest
9 coal-fired unit ever built in the United States.

10 Q. But your experience in that time frame
11 does not include experience in the construction of any
12 power plants, does it?

13 A. No, sir. That's when I learned how these
14 coal-fired power plants operate. I work-- learned how
15 each piece of equipment works, its importance, that
16 type of thing. It was basically my beginning. I --
17 all through school I worked during my summers and
18 times off in the plants. And then first couple of
19 years after I graduated, I continued that.

20 Q. Okay. At the bottom of page 3 and
21 continuing on to page 4, you make reference to the
22 time frame the years 1982 to 1988. In that time
23 period how many power plants did you work on during
24 that time period?

25 A. I would reference the earlier resume that

1 was attached for that time period to save people a lot
2 of time or I can compare the two for you, if you like.

3 Q. And the answer to my question is?

4 A. During the time period 1982 to 1988, I
5 was the construction manager, start-up manager or
6 senior control specialist on all of the plants listed
7 on that exhibit.

8 Q. That you've got listed back there?

9 A. Yes, sir.

10 Q. Okay. And when I say "back there," it's
11 the ones that we went through earlier. It's on the
12 second page of -- of your -- your Schedule RNB2010-3?

13 A. Yes, sir. That would be correct.

14 Q. I'd like to refer you to page 9 of your
15 rebuttal testimony. And -- and you indicate, if I
16 understand correctly, about a fixed price contract
17 basis. What -- what is the nature of your power plant
18 construction experience on a fixed price basis?

19 A. I would reference everyone again back to
20 my Schedule RNB2010-3 that was filed as part of my
21 rebuttal testimony. And if you, in particular, look
22 on the last page of that on the period 9/82 to 9/97,
23 as you walk down through there, the six plants in
24 Saudi Arabia and Oman were on an EPC basis. The PWC
25 Combined Cycle Power Plant in Fayetteville, North

1 Carolina was an EPC basis. The Virginia Power
2 Combined Cycle Plant in Richmond, Virginia was EPC.
3 The TVA CT Power Plant was EPC. The WWP, Washington
4 Water Power Plant, was EPC. And the Nevada Power
5 Harry Allen Plant out at Area 51 was also EPC.

6 Q. Regarding your -- your testimony on fast
7 track, what -- what is your experience relative to
8 fast track?

9 A. Well, sir, there's been a lot of
10 questions on this fast track. And I'll give you my
11 experience in the industry. As counsel had observed
12 earlier, I am getting quite old. Initially in the
13 business when I first joined, the -- what people
14 really wanted to do was is they wanted to actually do
15 100 percent of the engineering before they proceeded
16 with a power plant.

17 And the idea there was, is you would know
18 everything before you got started. But that was back
19 in the days when everybody had lots of money and
20 nobody was really in a hurry to get the thing
21 finished, you had all the time in the world.

22 And as this business grew, obviously the
23 economy of the world changed and all of a sudden money
24 was important and people started looking at this
25 contracting modality to determine, well, is there a

1 way we can actually reduce the cost of these power
2 plants. And so this is where this term "fast
3 tracking" first came about.

4 The idea with it is, is if you can begin
5 your large procurements early in the engineering phase
6 before you've completed your design, you have the
7 opportunity to shave at least a year off the total
8 period it takes you to build a power plant.

9 Instead of waiting that entire year to do
10 all the engineering and then get started, because you
11 have everything still to do, you get started at about
12 the -- and it varies and there's no set period of
13 time, but anywhere from 10, 15, 20, 25 percent.

14 As soon as you get the design done of
15 just the large procurement items, which are the long
16 lead items that take all the engineering to build,
17 like your AQCS system, your scrubbers, your baghouse,
18 your Toshiba steam turbines, the sooner you can get
19 those things on order, the quicker you can get them
20 there. And so the whole idea of fast tracking is I
21 can now do this project in a year quicker amount of
22 time instead of waiting on all that engineering.

23 You give up some price certainty, as
24 we've shown, and every contractor does. But in the
25 end, the idea is you've shaved an entire year off the

1 time it would have took you to build this job. And
2 the financials of that show you at the end you
3 actually save the customers money. And it is the way
4 to do it.

5 And by the time the '80s rolled around,
6 mid '80s, late 80s, '90s, everyone wanted to know how
7 can we do these the quickest and most economical. And
8 that's where this fast track method took hold and it
9 remains today. Everyone does them in this manner.

10 No one -- the federal government was the
11 last group that gave up the engineer bid -- they call
12 it complete the design, design, bid, build. The
13 federal government finally gave that up about the Iraq
14 time frame and learned, well, it's just not economical
15 to do that, we're spending way too much money, the
16 market says you can do it quicker, cheaper. And now
17 the federal government does it the same method. So
18 there's no one left doing it the old manner.

19 And I'm sorry if I took too long, but
20 that question's been out there and I wanted to explain
21 to people really where that came from and what it's
22 really about.

23 Q. Mr. Bell, do you have any articles in
24 support of your testimony on fast track?

25 A. I don't have any attached to my

1 testimony. I have read articles on it. I've been
2 involved with it. I'm sure someone could provide that
3 to you if you would like.

4 Q. Mr. Bell, I'd like to refer you to
5 page 29 -- excuse me, page 12 of your rebuttal
6 testimony where you make reference to a supercritical
7 boiler. What -- what is your own experience working
8 with supercritical boilers? I mean how many
9 supercritical boilers have you worked with?

10 A. Well, I would reference the Commission
11 back to Brent Davis's testimony. Supercritical is
12 just a terminology that means -- talks about the
13 temperature and pressure the boiler operates. It has
14 no meaning whatsoever to do with what type of
15 equipment or anything else. It's just a pressure and
16 temperature that you take the steam to. In my past,
17 this would be my first supercritical boiler I've been
18 associated with.

19 Q. I'd like to refer you to page 13 of your
20 rebuttal testimony where you mention your experience
21 with the Tennessee Valley Authority. Does your
22 experience with the Tennessee Valley Authority include
23 the construction in any -- of any coal-fired base load
24 units?

25 A. As I explained earlier, when we asked

1 this question off my attached resume, this was the
2 period of time when I co-oped during college and my
3 first two years after. This is where I learned how to
4 operate and how each of the pieces of equipment worked
5 and when I decided I actually wanted to start build
6 them rather than operate them.

7 Q. Mr. Bell, is this the -- the Iatan
8 construction project, is this the first time that
9 you've worked with Schiff Hardin?

10 A. Yes, it is.

11 Q. Mr. Bell, do you know who developed the
12 budget for the Iatan construction project?

13 A. I joined KCP&L in March 2009. That was
14 long before my time. I would reference that question
15 to Mr. Giles who earlier I testified is the person I
16 go to when I have such questions as he knows all of
17 that history.

18 Q. Okay. Have you developed the
19 construction budget for any power plants?

20 A. Yes, sir, I have.

21 Q. Okay. Have you developed the
22 construction budget for any base load coal-fired power
23 plants?

24 A. If you discard the coal piece, similar --
25 very exact similar plants I have done the budget of

1 but the fuel was gas instead of coal.

2 Q. Do you know what the budget for the Iatan
3 construction project was for construction management?

4 A. I believe it's in my testimony here
5 somewhere in the range of \$94 million, but that's
6 subject to check.

7 Q. Mr. Bell, is there a difference in the
8 consequences of cost overruns for a regulated utility
9 owner versus a non-regulated utility owner?

10 A. Could you please be a little more
11 specific what consequences you're referring to?
12 That's a very subjective --

13 Q. As far as -- as far as cost recovery,
14 bearing the cost.

15 A. I would say there's a very substantial
16 difference between how a regulated utility recovers
17 its cost and how a non-regulated utility recovers its
18 cost.

19 Q. I'd like to refer you to page 18 of your
20 rebuttal testimony starting at line 12 -- really
21 starting with a question at line 11 where you make
22 reference to oversight groups. What --

23 A. I'm sorry. Are we in my rebuttal
24 testimony?

25 Q. Yes. I'm sorry. Your rebuttal

1 testimony.

2 A. Page 12?

3 Q. I'm sorry. If I said page 12, I meant
4 page 18, line 12, really starting with the question at
5 line 11.

6 A. Yes, sir, I see the question.

7 Q. Okay. What are the oversight groups that
8 you are referring to?

9 A. While at Black and Veatch when I was
10 doing work -- specifically the Afghan program, which
11 was a \$1.4 billion program that we undertook with the
12 federal government, I hired oversight over myself out
13 of Washington, DC, a legal firm there.

14 And I did that because dealing with the
15 federal government and the FAR regulations -- FAR
16 regulations are an interesting thing to get into and
17 you have to be a very skilled, experienced attorney to
18 dissect those far regulations. And so I found it
19 necessary to hire this firm to assist me so that I
20 didn't get outside the rules of FAR.

21 Q. And what does FAR stand for?

22 A. Federal Acquisition Regulations.

23 Q. And what did FAR require?

24 A. Well, FAR basically is the government's
25 handbook about how they are required to do procurement

1 and what the contractors are required to follow in
2 that process.

3 Q. Okay. And the oversight group that you
4 acquired was who or what?

5 A. I would -- I don't recall the name of the
6 company from Washington, DC. I could get that later
7 and give that to you, but it was a -- basically a
8 Washington, DC firm that specialized in dealing with
9 the US government and FAR rules.

10 Q. Okay. Do you recall what their rates
11 were?

12 A. Yes, sir, I recall their rates. Not
13 exactly, but I remember the general range. It was a
14 significant part of my budget.

15 Q. What -- what were their rates as -- as
16 you recall them?

17 A. De-- the typical lawyers were in the
18 500 to 650 dollar range.

19 Q. An hour --

20 A. Yes, sir.

21 Q. -- is what you're saying?

22 And what was the process that you went
23 through to select the group or organization that you
24 chose?

25 A. Well, because FAR regulations are a very

1 specific specialty, I basically went to DC and talked
2 to some firms I'd worked with and asked what -- who
3 they had used and got consensus on the particular firm
4 that I finally wanted. And so I did a sole source
5 justification to the US government for this firm
6 listing the qualifications and why I was sole sourcing
7 them, submitted this. And it was accepted by the US
8 government and so I sole sourced them.

9 Q. Did you look solely within Washington,
10 DC?

11 A. Yes, sir, I did. Because the US
12 government being headquartered there, I wanted someone
13 that could reach out and touch them. If I was in
14 Afghanistan, I wanted someone could go next door and
15 knock on the door and go in and do what I needed done.

16 Q. Okay. Okay. Schiff Hardin is located in
17 Chicago, is it not?

18 A. That's correct.

19 Q. Okay. Kansas City Power & Light Company
20 is located in Kansas City, is it not?

21 A. Yes, sir. In Greater Kansas City area.

22 Q. The Iatan generating facility is in
23 Greater Kansas City area, is it not?

24 A. Yes, sir.

25 Q. Okay. For -- for -- do you know were all

1 oversight groups law firms?

2 A. That I had used --

3 Q. Yes.

4 A. -- in the past?

5 Q. Yes.

6 A. Yes, sir.

7 Q. Now, were there groups or entities that
8 you had not used in the past that were other than law
9 firms?

10 A. Yes. I believe there's -- many firms out
11 there offer themselves up as oversight of particular
12 areas. Everyone has their own specialities. Most are
13 very limited, but there's a lot of companies out
14 there.

15 Q. Do you know who controls the schiff
16 Hardin work scope?

17 A. Yes, sir. I know who's controlled it
18 since my arrival and I don't believe that's any
19 different than before I arrived.

20 Q. And who is that or what entity is that?

21 A. well, the entity's Kansas City Power and
22 Light controls them.

23 Q. what documentation did you review in
24 order to bring yourself up to -- to speed on the Iatan
25 construction project when you joined Kansas City Power

1 and Light?

2 A. Well, the first document I looked at,
3 which is the one I live off of every day, was the
4 schedule. And then the second document was the --
5 what we keep referring to as the K-Report, the cost
6 report. I mean I look at the schedule, I need to know
7 where I'm at and then I need to know where my money
8 is. And those are the two most important ones.

9 Q. Mr. Bell, were you recruited by Kansas
10 City Power and Light?

11 A. Yes, sir. I was recruited by a firm
12 Kansas City Power and Light I assume had engaged to
13 look for someone to fill the position.

14 Q. Mr. Bell, you know who Pegasus Global
15 Holdings, Inc. is, do you not?

16 A. I've heard their name, but I've had no
17 dealings with them.

18 Q. Okay. You were not interviewed by
19 Pegasus Global Holdings, Inc.?

20 A. No, sir.

21 Q. Okay. Do you -- have you met a Dr. Kris
22 Nielsen?

23 A. I did. I met him earlier this month at
24 the same time I had met you out in Kansas at the KCC
25 meetings that were held out there. That was my first

1 time meeting the doctor.

2 MR. DOTTHEIM: If I could have a minute,
3 please.

4 JUDGE PRIDGIN: Certainly.

5 BY MR. DOTTHEIM:

6 Q. Mr. Bell, what's the -- you talk about
7 brownfield sites in your rebuttal testimony, do you
8 not?

9 A. Yes, sir.

10 Q. Okay. What -- what's your brownfield
11 site experience?

12 A. It's significant.

13 Q. Mr. Bell, the -- the fully operational
14 and used-for-service date for Iatan 2, do you know
15 whether that met the summer peak for Kansas City Power
16 and Light in 2010?

17 A. I would not be the person to tell you if
18 that was our peak day. We met the summer that was in
19 the initial schedule. That's all I can tell you.

20 Q. Do you know what date was the fully
21 operational and used-for-service date or what is
22 sometimes referred to as the in-service date for
23 Iatan 2?

24 A. Yes, sir. I was sitting right there when
25 the last clock ticked. It was August 26th.

1 Q. Okay. why was Kansas City Power and
2 Light in a hurry to finish Iatan 2?

3 MR. FISCHER: Objection, assumes facts
4 not in evidence.

5 MR. DOTTHEIM: I believe Mr. Bell
6 indicated that Iatan 2 was fast tracked and so I think
7 the facts are in evidence.

8 JUDGE PRIDGIN: All right. I'll
9 overrule.

10 THE WITNESS: Well, if I could rephrase
11 your question, if you're asking me why do I think
12 Kansas City Power and Light fast tracked their
13 project?

14 BY MR. DOTTHEIM:

15 Q. No. That's not what I asked.

16 A. Okay. Could you please repeat that for
17 me?

18 Q. Thank you, Mr. Bell.

19 MR. DOTTHEIM: No further questions.

20 THE WITNESS: Thank you, sir.

21 JUDGE PRIDGIN: Mr. Dottheim, thank you.

22 Let me see if we have any Bench questions.

23 Commissioner Jarrett?

24 QUESTIONS BY COMMISSIONER JARRETT:

25 Q. Good afternoon, Mr. Bell.

1 A. Good afternoon, sir.

2 Q. I promise you I won't ask you any
3 questions about the FAR. That brings bad memories
4 from my days in the Missouri Natural Guard. I was the
5 JAG attorney and I'm glad I wasn't a fiscal attorney.

6 A. God bless you.

7 Q. I did want to ask you some questions
8 about fast track. And I remember you had some
9 questions from Mr. Dottheim about that.

10 A. Yes, sir.

11 Q. Do you recall that? And I -- you may
12 have -- you may have covered this in your answer, but
13 what are the advantages of fast tracking versus the --
14 the normal -- let me ask this first: Is the
15 definition of fast tracking generally a general one
16 that you do the design and the construction as you go?

17 A. Yes, sir. That's the general concept of
18 the idea, to make the -- what you do is, is you're
19 able to complete the project on something similar to
20 Iatan, you cut about a year off the total time it
21 would have took you to build it.

22 And in the case of Iatan, there were a
23 bunch of additional costs that KCPL was able to save.
24 And I know this because I was at Black and Veatch at
25 the time. By going ahead and getting the engineering

1 up for those major pieces of equipment, the
2 scrubber -- excuse me, the baghouse and particularly
3 the -- the big steam turbine generator from Toshiba
4 and ordering those when they did, they were able to
5 lock in the prices right before the escalation of all
6 the commodities and everything took off. So they
7 actually got that stuff at a significantly lower cost
8 than had they waited until they had finished the
9 engineering and had, of course, a more definite idea
10 of the scope and total cost.

11 So in the end they saved probably a year
12 on what it would have took them to get the plant built
13 and they greatly reduced what the cost of those major
14 pieces of equipment would have been by going ahead and
15 taking advantage of ordering them early.

16 Q. Right. And now -- in saving -- by saving
17 that time, would another advantage be say in financing
18 and construction loans? Since you're -- since you're
19 completing them early, the terms of -- of your
20 construction loans and that type would be shorter,
21 therefore, you would get advantageous terms?

22 A. Oh, absolutely. It -- it goes through
23 the whole chain. The AFUDC, everything, obviously the
24 sooner you can get that plant done, get it into
25 rate-base, the cheaper it is for the customers.

1 Q. Now, you indicated that really is the
2 norm now is the fast tracking type of construction?

3 A. Yes, sir. The federal government was the
4 last holdout. And even now because of their budget
5 cuts and whatever, they've adapted that. Everyone in
6 the industry does these contracts exactly like that.

7 Q. Now -- now, one of the disadvantages of
8 fast tracking, would it be since you're doing sort of
9 the design of -- and the construction simultaneously,
10 you really have to -- have to be a good manager to
11 make sure all of that meshes properly? would that be
12 correct?

13 A. Yes, sir. Absolutely.

14 Q. Okay. I wanted to switch to -- and thank
15 you for your answers on that.

16 I wanted to switch to your direct
17 testimony. You had attached a schedule -- schedule
18 RNB2010-1 I believe to your direct?

19 A. Yes, sir.

20 COMMISSIONER JARRETT: And that is
21 designated highly confidential, so we may have to go
22 in-camera to -- for my questions.

23 JUDGE PRIDGIN: Give me just a moment.
24 Can we have counsel verify we need to clean -- do we
25 need to clear the room of anyone or does everyone have

1 permission to be here? All right. Give me just a
2 moment, please.

3 (REPORTER'S NOTE: At this time, an
4 in-camera session was held, which is contained in
5 volume 18, pages 840 to 848 of the transcript.)

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1 JUDGE PRIDGIN: Commissioner Kenney, when
2 you're ready, sir.

3 ROBERT BELL testified as follows:

4 QUESTIONS BY COMMISSIONER KENNEY:

5 Q. I don't have too many additional
6 questions, Mr. Bell. Thanks for your time. They knew
7 as the engineering progressed towards that 70 or
8 75 percent, the costs would grow. who's "they"?
9 KCP&L?

10 A. KCP&L, the project team.

11 Q. All right. And you would expect that
12 they would know and anticipate that the costs would
13 progress once -- from the time that the project was
14 25 percent engineered until the time the project was
15 75 percent engineered?

16 A. Yes, sir. And I think they noted that in
17 those reports.

18 Q. In which reports?

19 A. The quarterly reports.

20 Q. To our Staff?

21 A. Yes, sir. And to -- those quarterly
22 reports are used by everyone; KCP&L, executive
23 management, they're all communicated. It's our
24 communication tool for the project.

25 Q. Are you familiar with the terms -- and

1 you've heard them discussed here during the hearing --
2 "control budget estimate" and "definitive estimate"?
3 Are you familiar with those terms?

4 A. Every -- honestly, every company in the
5 world that does this type of business has a different
6 terminology for that. Have I heard those particular
7 terms before? Yes. And some -- and they have
8 different meanings to a different company. You can't
9 just open the webster's and find a definition for
10 that.

11 Q. Is there -- somebody made mention earlier
12 of something called an industry classification of
13 budgets, I think that was the phrase I heard. Is that
14 a -- is that a document or a book that you're familiar
15 with?

16 A. I'm vaguely familiar with it. Mr. Meyers
17 later in his testimony, that's kind of where his
18 expertise is. He talks about that kind of stuff.

19 Q. All right. So "control budget estimate"
20 and "definitive estimate" as you've heard those terms
21 used during this hearing, is it your understanding
22 that those are two -- have two distinct meanings?

23 A. I believe. And it's -- I'm not the best
24 witness. Mr. Giles, who was the beginning of that, I
25 think it went back to that section Q that you guys

1 were reading in that S and A. I would have to
2 reference you to that.

3 Q. Did you review that, the com-- the
4 settlement agreement, the comprehensive --

5 A. I have read that, but it was closer to
6 when I arrived. I didn't memorize it, but I did read
7 through that to make sure that I was doing what I was
8 supposed to be doing.

9 Q. And you reference Mister -- is it Giles
10 or Giles?

11 A. Giles is how I pronounce it.

12 Q. Giles. Okay. You've read his testimony?

13 A. Yes, sir.

14 Q. Okay. Well, putting aside whether those
15 are terms that are -- have different meanings and
16 different contexts, you -- as you've heard them used
17 here today, is it your understanding that they have
18 two distinct meanings, "control budget estimate" and
19 the "definitive estimate"?

20 A. I -- I'm a little confused by that. And
21 I assume you are from your question.

22 Q. Me too.

23 A. I believe they're the same thing. Our
24 control budget estimate was the \$1.68 billion and
25 that's what we knew at the 25 percent.

1 Q. Right.

2 A. I believe when I heard you guys read that
3 section Q, that it may -- and this is subject to
4 check. And again Mr. Giles is the better person. But
5 I think it used that term "definitive estimate."
6 That -- I'm -- I'm more familiar with control budget
7 estimate. That definitive estimate doesn't mean much
8 to me.

9 Q. what does control budget estimate mean to
10 you?

11 A. It's the estimate that you have for the
12 project of what you know that you're actually running
13 the project from. I have a control budget estimate
14 that estimates the amount of work I have in my
15 schedule and so I'm controlling the schedule to that
16 control budget.

17 Q. At what point in the engineering would
18 the control budget estimate -- as you understand it,
19 at what point in the engineering would that control
20 budget estimate be set or defined --

21 A. well, see, that's --

22 Q. -- in your experience?

23 A. -- another one of those ambiguities. You
24 can set it anywhere you want to set it. I mean,
25 typically on a fast track project when you begin the

1 procurements for the large items, which is anywhere
2 from 15 percent, 25, 30 percent in there, you would
3 set your original budget estimate. And I would refer
4 to that as the first control budget estimate. That's
5 the first time you put a stake -- stake in the sand,
6 excuse me, and you now know the scope you know and you
7 begin ordering the major procurements. And so that's
8 your first control budget estimate at that time.

9 Q. And that's at 15 to 30 percent?

10 A. 15 to 30 percent typically.

11 Q. And the fact that you said first means
12 that you would anticipate there would be a second?

13 A. Yes, sir.

14 Q. At what point?

15 A. It would depend on the engineering and
16 the type of plant you're doing.

17 Q. Just a typical in your experience?

18 A. Somewhere around, I don't know, 50 to
19 70 percent I would take another look at the scope of
20 work, how much engineering I'd got done, what other
21 procurements were ready to be made. And if it were
22 significant and I'm ready to a schedule update and
23 everything, I'd stick a stake in the sand again and
24 re-estimate it.

25 Q. And would you anticipate having a third?

1 A. Yes.

2 Q. At what point?

3 A. And when I'm 100 percent engineering done
4 and I've had a chance to look at my schedule. It
5 doesn't mean the cost will change at that time. It
6 just means I'm going to do another detailed look at
7 this thing to see if I had missed anything from the
8 25 percent to the 100 percent range.

9 Q. And so in your experience -- what's
10 typical in your understanding is that between that
11 first and third control budget estimates, you expect
12 and anticipate that there are going to be substantial
13 increases?

14 A. Yes, sir.

15 Q. Okay. So you would never call the first
16 control budget estimate, as you're using the term in
17 our discussion now, a definitive estimate, a final
18 estimate?

19 A. I wouldn't in the industry where I've
20 been. I wouldn't call it a definitive estimate
21 because I don't know everything. How could it be
22 definitive?

23 Q. How could it be?

24 COMMISSIONER KENNEY: Okay. I have no
25 other questions. Thanks.

1 THE WITNESS: Yeah.

2 QUESTIONS BY JUDGE PRIDGIN:

3 Q. Mr. Bell, I have a few questions and
4 Commissioner Gunn sends his regards from St. Louis.
5 He was unable to make it because of the weather.

6 COMMISSIONER JARRETT: Sunny St. Louis.

7 BY JUDGE PRIDGIN:

8 Q. But he also sends these questions. And
9 if you're able to do so, please do so, but if you
10 believe another witness is more appropriate to answer
11 these questions, if you could please indicate which
12 witness you think would be better suited to answer the
13 questions.

14 Do you know if the cost control system
15 that KCP&L used for Iatan was specifically developed
16 for Iatan?

17 A. I don't know for sure, but I can tell you
18 it's very similar to ones I've used on every job. So
19 I would say it's -- wasn't developed just for Iatan.
20 I -- looks as someone's just brought it from another
21 job and tailored it to meet the needs of the reporting
22 for Iatan.

23 Q. Because you've used it or -- or seen it
24 used in other projects, do you know if other
25 regulatory bodies have accepted its use?

1 A. I believe so. I had a similar system
2 down at Florida Power and Light which I used on that
3 EPC project and I was there for the regulatory
4 hearings on that and so that plant was accepted into
5 base, so yes.

6 Q. Okay. And in that instance were any
7 costs that were above what I would refer to as the
8 CBE, the control budget estimate, were any costs that
9 were above that automatically disallowed by the
10 Florida Commission?

11 A. No, sir. I'd never heard of that before.

12 Q. Were you aware of part of KCP&L's plan
13 for Iatan to dismantle or take down the smokestack?

14 A. No, sir, I never heard that. And I've
15 looked from the original schedule obviously and the
16 original cost and I've never seen that in the
17 schedule, in the costs or anything. I could be wrong,
18 but I've never seen it and I looked.

19 Q. And had you reviewed any Schiff Hardin
20 invoices?

21 A. Yes, sir, I have.

22 Q. Did -- in reviewing those, did you ever
23 disallow or ask for any sort of breakdown of any time
24 entries from Schiff Hardin?

25 A. No, sir. On the Iatan project, as I've

1 reviewed them, at the project I'm -- basically schiff
2 Hardin is at my direction at the project. And so what
3 they're really doing is what I've told them to do. So
4 when I review what they've done, I already -- I --
5 it's very easy for me to make sure they're doing
6 exactly what I tell them. So I never had any
7 instances. I had some questions a few times, but I
8 never found anything out of line or something that I
9 hadn't asked them to do.

10 Q. All right. All right. I don't believe I
11 have any more questions. Mr. Bell, thank you.

12 JUDGE PRIDGIN: Any further Bench
13 questions? I know we're breaking in the middle of a
14 witness, but we are starting to approach one o'clock
15 and I do want to give people an opportunity for -- for
16 lunch. And we will resume at roughly 1:45. And
17 Mr. Bell will still be on the stand and be available
18 for further recross based on Bench questions and
19 redirect.

20 Is there anything else from the parties
21 before we stand in recess? All right. Hearing
22 nothing further, we will be in recess until 1:45.
23 Thank you. We are off the record.

24 (A recess was taken.)

25 (Change of court reporters.)

1 JUDGE PRIDGIN: All right. We are back
2 on the record. I believe when we adjourned for lunch,
3 the bench had finished its questions for Mr. Bell, and
4 he was to be available to take recross and redirect.
5 Is there anything further from counsel? Mr. Dottheim?

6 MR. DOTTHEIM: Judge, if we might take a
7 procedural item --

8 JUDGE PRIDGIN: All right.

9 MR. DOTTHEIM: -- first. It's my
10 understanding that the company has filed a -- for a
11 protective order, motion to quash the subpoena
12 obtained by the Staff, sought by -- obtained by the
13 Staff for Mr. David McDonald for deposition on Monday
14 next week. And if it hasn't been filed by now, it's
15 my understanding that company will be filing a motion
16 to quash the subpoenas for Ms. Shoemaker and
17 Mr. Bassham to appear as witnesses called by the Staff
18 next Tuesday, and also the subpoena for Mr. McDonald
19 to be called as an adverse witness by the Staff next
20 Tuesday. The Staff would like to ask for oral
21 argument tomorrow morning on the -- on the motions.

22 JUDGE PRIDGIN: I don't know if any
23 Commissioners will -- will be available. I mean, I
24 certainly don't object, and I don't know how any of
25 the other parties feel. That will put us even further

1 behind schedule on a schedule we're already behind,
2 but I mean, let me hear what other parties have to
3 say, I guess.

4 MR. FISCHER: Judge, we would certainly
5 participate in an oral argument; however, I would like
6 to have Commissioners here if that's at all possible.

7 MR. DOTTHEIM: And certainly the -- the
8 Staff would, too. So --

9 JUDGE PRIDGIN: I can certainly circulate
10 an e-mail to the Commissioners and let them know your
11 request and see what we can do to accommodate. That's
12 about the best I can do.

13 MR. DOTTHEIM: Of course.

14 MR. FISCHER: Monday might be a
15 possibility, too. I think the depositions are
16 scheduled for Tuesday; is that correct, Steve?

17 MR. DOTTHEIM: The deposition was
18 scheduled for Monday.

19 MR. FISCHER: Oh, Monday.

20 MR. DOTTHEIM: I believe. And the Staff
21 doesn't make its request for oral argument to
22 inconvenience Commission. Whatever --

23 JUDGE PRIDGIN: Understood.

24 MR. DOTTHEIM: whatever would convenience
25 the Commission is the Staff's desire.

1 JUDGE PRIDGIN: I understand.

2 COMMISSIONER KENNEY: Since we're talking
3 about it, can I inquire?

4 JUDGE PRIDGIN: Absolutely.

5 COMMISSIONER KENNEY: This is the --
6 which witness is this for?

7 MR. DOTTHEIM: This is for Mr. McDonald
8 for the deposition and for --

9 COMMISSIONER KENNEY: The subpoena duces
10 tecum?

11 MR. DOTTHEIM: -- the subpoena --
12 appearance as a witness based upon the deposition, but
13 there are also subpoenas for Ms. Shoemaker and Mr.
14 Bassham to appear as witnesses next Tuesday.

15 COMMISSIONER KENNEY: To appear as
16 witnesses here?

17 MR. DOTTHEIM: Yes, yes.

18 COMMISSIONER KENNEY: Okay. But just
19 with -- and I don't mean to be difficult, but how is
20 it that this subpoena and deposition notice was just
21 sent like a couple of days -- a couple of business
22 days before the trial was going to start? Or put
23 another way, why wasn't he deposed earlier?

24 MR. DOTTHEIM: In -- in part, it was
25 based upon another deposition that occurred last week.

1 Also, too, Commissioner, I -- I won't represent to you
2 that the staff is as efficient as it ideally might be.

3 COMMISSIONER KENNEY: Well, I appreciate
4 that candor, because it puts us in a bad situation
5 because we obviously want a full and completely
6 developed record for the purposes of making decisions
7 that are complete and based upon substantial and
8 competent evidence and that do the ratepayers justice.

9 But, conversely, you know, it seems
10 really untimely. Was this witness a known witness,
11 David McDonald, prior to the deposition that you just
12 referenced? I mean, was his existence known to staff
13 prior to the deposition?

14 MR. DOTTHEIM: Yes.

15 COMMISSIONER KENNEY: And why are they
16 asking for documents going all the way back to a time
17 when he didn't even work there?

18 MR. DOTTHEIM: No, it's not prior to the
19 time that he didn't work there.

20 COMMISSIONER KENNEY: Doesn't it ask for
21 documents going back to 2005 and he didn't start
22 working there until 2009, or did I read that
23 incorrectly? You-guys feel free to chime in.

24 MR. STEINER: Yes, that's how we
25 interpreted it. The document request was all the way

1 back to 2005.

2 COMMISSIONER KENNEY: And Mr. McDonald
3 started working there in 2009?

4 MR. STEINER: That's correct.

5 MR. DOTTHEIM: And the Staff is --
6 subsequently -- the Staff is willing to narrow that
7 document request to the time that Mr. McDonald has
8 been working at the company.

9 COMMISSIONER KENNEY: I apologize for the
10 interruption.

11 MR. STEINER: It's still a long period of
12 time, Your Honor. This close to hearing, it's a large
13 burden for us to get those e-mails and review them for
14 the hearing next week.

15 COMMISSIONER KENNEY: I appreciate that.
16 And, again, that just reinforces what I said. We need
17 to make decisions that are based upon all the
18 information that's available to us, and we need to be
19 able to ensure that the ratepayers have a fully
20 developed record.

21 MR. DOTTHEIM: Commissioner, if I might
22 add something?

23 COMMISSIONER KENNEY: Sure.

24 MR. DOTTHEIM: To put this in context for
25 you -- and I don't know if you're aware of this or not

1 -- sometimes companies raise this objection. This
2 company at this time hasn't, but it's standard
3 procedure for the Staff to submit data requests even
4 throughout the context of a rate case. So --

5 COMMISSIONER KENNEY: So that practice
6 goes both ways of issuing data requests into trial, is
7 that what you're saying?

8 MR. DOTTHEIM: Yes.

9 MR. STEINER: This is more than a data
10 request, and it's Mr. -- the existence of Mr. McDonald
11 as the procurement director has been known since this
12 case began.

13 COMMISSIONER KENNEY: I didn't intend to
14 open this up to -- because we're getting close to
15 arguing on the motion now, and that certainly wasn't
16 my intention.

17 Yeah, I didn't intend to argue the merits
18 of it. I just wanted to ask those couple of questions
19 and express my thoughts about this. I mean, I
20 appreciate your candor about Staff not always being as
21 efficient as Staff would like to be and the fact that
22 data requests and discovery continues into the trial
23 itself. I mean, that's troubling, frankly. It's an
24 unusual practice, and I don't see how you can
25 efficiently litigate a case that way.

1 MR. DOTTHEIM: Commissioner, sometimes --

2 COMMISSIONER KENNEY: But having said
3 that, I mean, I don't know -- I'm not going to rule --
4 Judge, I don't know if you're going to rule on this
5 now or not, but it just seems like you-all should be
6 able to figure -- if you narrow the scope of the
7 document requests and come to some reasonable
8 agreement on the location of the deposition, either --
9 something that's convenient for the witness, too. Is
10 he scheduled to testify in the case itself?

11 MR. STEINER: No, he's not, Your Honor.

12 COMMISSIONER KENNEY: I would think
13 you-all would be able to work this out. That's it.

14 JUDGE PRIDGIN: I'm doing the best I can
15 to poll the Commissioners to see how they would like
16 to proceed, and I'll certainly alert the parties. But
17 I understand time is of the essence for you, as it is
18 for me and the Commissioners as well. I'll certainly
19 let you know something as soon as I find out
20 information from the Commissioners.

21 Anything else before we resume
22 cross-examination of Mr. Bell?

23 COMMISSIONER KENNEY: Sorry about that.

24 JUDGE PRIDGIN: No, not at all. All
25 right. We are ready for recross, then, Mr. Schwarz.

1 MR. SCHWARZ: Thank you, Judge.

2 RE-CROSS-EXAMINATION

3 QUESTIONS BY MR. SCHWARZ:

4 Q. Mr. Bell, you recall some questions from
5 Commissioner Jarrett, and I don't want to go into
6 anything that's HC, but about some site access issues?

7 A. Yes, sir.

8 Q. Thinking back to yesterday, would that be
9 considered perhaps a sequencing problem?

10 A. No, sir, it's not a sequencing problem.
11 It's just one of the issues you have when you have
12 multiple contractors on the site. Somebody's got to
13 finish before somebody else can work in the same spot.

14 Q. So it's a congestion issue?

15 A. It's a congestion issue, yes, sir.

16 Q. Okay. And I believe you got into a
17 discussion with Commissioner Jarrett about the
18 anticipated costs in a controlled budget estimate that
19 was done with, say, 30 percent engineering completed.
20 Do you recall those?

21 A. Yes, sir.

22 Q. The control budget estimate had a
23 contingency of \$220 million, which is about 15, 16
24 percent. That would be expected to cover some of
25 those -- it was planned to cover some of those

1 contingencies, was it not?

2 A. Some of the contingencies, yes, sir. We
3 commonly refer to that in the industry as the known
4 unknowns.

5 MR. SCHWARZ: Thank you. That's all I
6 have, Judge.

7 JUDGE PRIDGIN: Mr. Schwarz, thank you.
8 Mr. Mills?

9 MR. MILLS: I have no questions.

10 JUDGE PRIDGIN: Mr. Dottheim?

11 MR. DOTTHEIM: Thank you.

12 RE-CROSS-EXAMINATION

13 QUESTIONS BY MR. DOTTHEIM:

14 Q. Mr. Bell, Mr. Schwarz asked you about
15 contingency in the control budget estimate.

16 Do you recall the exact amount of the
17 dollar amount of the contingency in the \$1.685 billion
18 controlled budget estimate?

19 A. Did you ask me did I know what part of
20 the 1.685 was contingency?

21 Q. Yes.

22 A. I believe he just said it was 15 to 16
23 percent.

24 Q. well, Mr. Schwarz said that it was 15 to
25 16 percent.

1 Do you know how much of the \$1.685
2 billion is contingency?

3 A. Yes, sir, I believe that's correct. I
4 mean, earlier in the testimony, we referred to the 1.4
5 something, and this 200-something, yes, sir, it is
6 correct.

7 Q. well, I think Mr. Schwarz referred to
8 \$220 million. Do you know whether the \$220 million
9 that
10 Mr. Schwarz referred to is only Iatan 2 or both Iatan
11 2 and Iatan 1?

12 A. I could not swear on a bible. I believe
13 it's Iatan 2, though.

14 Q. Okay. Do you recall whether the Iatan 1
15 contingency is \$25.7 million?

16 A. No, sir. Unfortunately, I had no
17 association with Unit 1.

18 Q. Okay. And I think Mr. Schwarz made
19 reference to engineering being 30 percent complete at
20 the time of the controlled budget estimate.

21 Do you recall whether it was 25 percent
22 complete or 30 percent complete?

23 A. I wasn't here at the time, but just
24 listening to the testimony and my recollection of
25 looking back in the schedules, it was somewhere in the

1 25, 30 percent range, yes, sir.

2 Q. There was a question from Commissioner
3 Gunn this morning about whether the plans for the
4 Iatan station included the removal of the original
5 chimney, if I understood correctly. Do you recall the
6 question?

7 A. Yes, sir, I believe he asked me that
8 question.

9 Q. Have you seen any drawings, renderings of
10 the Iatan station with Iatan 2 that only show one
11 chimney?

12 A. No, sir, I cannot recall having seen
13 anything like that.

14 Q. I'm going to hand to you what I'm going
15 to purport to be a copy of the Iatan construction
16 project, project execution plan.

17 Do you know what the Iatan construction
18 project, project execution plan is?

19 A. Yes, sir, I'm familiar with the purpose
20 of it.

21 Q. Do you recall ever having seen the
22 project execution plan?

23 A. I have referred back to a couple of
24 sections in it for non-related issues, yes, sir.

25 MR. DOTTHEIM: May I approach the

1 witness?

2 JUDGE PRIDGIN: You may.

3 BY MR. DOTTHEIM:

4 Q. would you please take a look at that
5 document.

6 A. Yes, sir.

7 Q. Do you recognize that document?

8 A. Yes, sir. It's the project execution
9 plan for Iatan.

10 Q. It's a copy, is it not?

11 A. Yes, sir.

12 Q. And on the cover, there's a rendering of
13 the Iatan station, is there not?

14 A. Yes, sir, there's a beautiful drawing
15 there.

16 Q. Okay. Is it a rendering of the Iatan
17 station with Iatan 2? Can you tell?

18 A. Yes, sir, I can tell Iatan 2's there.

19 Q. Okay. Does it show one or two chimneys?

20 A. This particular artist's drawing only
21 shows one.

22 Q. Okay. Have you seen any of the Iatan 2
23 status reports that are provided to the -- to the
24 staff?

25 A. Yes, sir, I have. In particular, the one

1 since I arrived.

2 Q. Okay. Okay. I'm going to hand to you
3 what I'm going to purport is the Iatan 2 status report
4 for September 2010.

5 MR. DOTTHEIM: May I approach the
6 witness?

7 JUDGE PRIDGIN: You may.

8 BY MR. DOTTHEIM:

9 Q. Mr. Bell, would you please take a look at
10 the document I just handed to you, which I'll
11 represent is the Iatan status report for September
12 2010.

13 A. Yes, sir.

14 Q. Have you seen that document before?

15 A. I have, yes, sir.

16 Q. Okay. And is there a rendering on the
17 cover page of the Iatan station?

18 A. Yes, sir. It's a color version of the
19 one you handed me earlier. Much better quality.

20 Q. And it shows the Iatan 2 unit?

21 A. Yes, sir.

22 Q. And does it -- does it show one or two
23 chimneys?

24 A. It shows the dual-fuel single chimney,
25 yes, sir, you are correct.

1 Q. It doesn't show the original Iatan 1
2 chimney along with the -- with the dual -- the dual
3 chimney that was built as a result of the Iatan
4 construction project, correct?

5 A. Yes, sir, that's correct.

6 Q. Thank you.

7 A. Yes, sir.

8 MR. DOTTHEIM: If I may have a moment,
9 please.

10 JUDGE PRIDGIN: Certainly.

11 MR. DOTTHEIM: May I approach the
12 witness?

13 JUDGE PRIDGIN: You may.

14 BY MR. DOTTHEIM:

15 Q. Okay. Mr. Bell, Commissioner Jarrett
16 asked you a number of questions about fast track.

17 A. Yes, sir.

18 Q. And you talked about fast tracking with
19 me, and Commissioner Jarrett followed up, and I'm
20 going to hand to you and ask you to read a section and
21 ask you if you agree.

22 I'm going to ask you to take a look at
23 this three-ring binder of the Illinois Institute for
24 Continuing Legal Education, Construction Litigation,
25 2006. And I'm going to ask you to look at a section

1 on fast track written by Lawrence H. Slutzky,
2 S-l-u-t-z-k-y, who's with the law firm of Robbins,
3 Scwartz, S-c-w-a-r-t-z, Robbins, R-o-b-b-i-n-s,
4 Nochoias, N-o-c-h-o-l-a-s, Lifton & Taylor, Ltd., in
5 Chicago.

6 Now -- and there's a section written
7 by Mr. Slutzky -- in fact, there are a couple of
8 sections -- representing the owner. But I would also
9 note that in this publication, Section 9, there is a
10 section, "The Consultant's Role in Construction Claims
11 and Litigation" written by Daniel F. Meyer, President,
12 Meyer Construction Consulting, Inc., M-e-y-e-r, Lake
13 Forest, and Daniel B. Meyer, O'Hagan, O'H-a-g-a-n,
14 Spencer, LLC, Chicago. Mr. Daniel F. Meyer is a
15 witness for Kansas City Power & Light who is scheduled
16 to testify this week.

17 But I'm going to ask you to read this
18 several paragraphs on fast track on page 1-25 and 1-26
19 written by
20 Mr. Lawrence H. Slutzky and ask you if you -- if you
21 agree.

22 A. Should I read these five paragraphs out
23 loud?

24 Q. Yes, please. If you'd first like to read
25 them to yourself, but then if you would read them out

1 loud.

2 A. "'Fast track' is defined as the
3 contemporaneous design and construction of a project.
4 Foundations may be poured by the contractor without
5 plans for the next stage of construction. Design is
6 performed in phases, and construction commences on
7 completion of each design phase. Theoretically,
8 construction time is reduced by the contemporaneous
9 design and construction as well as the ability of the
10 contractor to order long lead items well in advance.
11 Typically, the design and construction
12 responsibilities may merge into a single design-build
13 entity responsible for the entire project. However,
14 in the public sector the duty to publicly bid the
15 various construction packages delays the process.

16 "Although the fast-track process shortens
17 the conventional plan-design-bid-construct process, it
18 increases the risks inherent in construction since
19 cost and quality may be compromised for the sake of
20 saving time. Success of a fast-track project thus
21 requires an experienced design-build team to manage,
22 plan, and schedule design and construction to
23 accomplish expeditious completion while limiting
24 additional expense and maintaining quality.
25 Consequently, the fast track should be used only when

1 the owner's time demands justify the additional risk
2 and expense. Few public projects qualify for the
3 additional risks imposed.

4 "For the owner whose primary need is the
5 immediate completion of a project, fast track may
6 prove the answer. A typical example is the industrial
7 owner who must immediately commence manufacturing a
8 product to maintain market share or to compete in the
9 market. A long design and construction phase could
10 put the owner out of competition.

11 "For the contractor, the fast-track
12 project intensifies the need for supervision and
13 coordination of the workforce, subcontractors, and
14 logistics of ordering materials as well as for
15 maintaining control over the updated or revised
16 drawings. Continual communication with the design
17 professional and monitoring of project progress is
18 indispensable to timely and successful completion of
19 the project.

20 "Since costs in a fast-track project are
21 based on time and materials, cost containment requires
22 proper documentation of labor, material, and overhead
23 expenses. All supporting financial documentation
24 should be maintained and available for the owner's
25 review or audit."

1 Concludes.

2 Q. Mr. Bell, would you have any comment on
3 those paragraphs?

4 A. Well, I would say Mr. Slutzky is much
5 more eloquent in his explanation than I was. He did a
6 fine job of describing this. In most cases, I agree.
7 It keeps referring to public sector projects, which
8 are a little bit different and it's not necessarily
9 pointed at a power project, but I believe it agrees
10 with what I had explained to Mr. Jarrett earlier.

11 So yes, in context, I agree.

12 Q. Thank you. And there is actually in
13 here, too, a short rendering of Mr. Slutzky's
14 background. I'm going to read that into the record
15 and ask you if I read that correctly, okay? If you
16 would just track me.

17 A. Yes, sir.

18 MR. FISCHER: Judge, I'm going to object
19 to that. I think that's pure hearsay.

20 JUDGE PRIDGIN: Mr. Dottheim?

21 MR. DOTTHEIM: Well, I would just attempt
22 to give some -- some context to who Mr. Slutzky is.
23 This is a continuing legal education publication in
24 Illinois. I think the document speaks for itself in
25 its representation of

1 Mr. Slutzky's background.

2 I would also note that Mr. Daniel F.
3 Meyer, who is a witness in this proceeding, is in this
4 publication, and he also has his own -- I won't say
5 biography; that's not quite the right word -- write-up
6 in this -- in this document. So whatever failing Mr.
7 Fischer may be ascribing to the write-up for Mr.
8 Slutzky, I assume he is ascribing to
9 Mr. Meyer, also.

10 MR. FISCHER: I think he's assuming --
11 he's welcome to ask Mr. Meyer anything about his own
12 writings. I don't have the opportunity to ask Mr.
13 Slutzky anything about what he's writing. He can ask
14 my witness if he agrees, but it's pure hearsay to
15 suggest that this person, whoever his background is --
16 who knows? I've never heard of him.

17 JUDGE PRIDGIN: I'll overrule, and I'll
18 let Mr. Dottheim continue.

19 BY MR. DOTTHEIM:

20 Q. "Lorence H. Slutzky (Chapters 1, 4) is a
21 Partner in the Chicago office of Robbins, Schwarz,
22 Nicholas, Lifton & Taylor, Ltd., where he concentrates
23 on counseling and negotiating on behalf of
24 participants in the construction industry and
25 litigating complex construction disputes representing

1 public and private owners, design professionals,
2 contractors, subcontractors, manufacturers and
3 insurers.

4 Mr. Slutzky is an adjunct faculty member
5 at the John Marshall Law School. He speaks nationally
6 and has authored many articles, textbooks and seminar
7 materials. He is an arbitrator for the American
8 Arbitration Association. He is a member of the
9 Illinois and Florida State Bar Associations, the
10 Chicago and American Bar Associations, and the ABA's
11 Forum Committee on the Construction Industry. He is a
12 founder and officer of the Society of Illinois
13 Construction Attorneys, a Fellow of the American
14 College of Construction Lawyers, and board-certified
15 by the examination as a construction specialist by the
16 Florida Bar. Mr. Slutzky received his B.S. from
17 Southern Illinois University, attended the University
18 of Exeter, England, through the Marshall-Wyeth College
19 of Law, and received his J.D. from the John Marshall
20 Law School."

21 MR. FISCHER: Counsel, I'd ask if you can
22 verify any of those statements.

23 BY MR. DOTTHEIM:

24 Q. Mr. Bell, did I read that correctly?

25 A. Yes, sir, I believe you did.

1 MR. DOTTHEIM: Mr. Fischer, other than
2 those statements being in the Illinois Institute for
3 Continuing Legal Education, Springfield, Illinois,
4 published in 2006, no, I personally cannot.

5 Thank you, Mr. Bell. Thank you for your
6 patience.

7 THE WITNESS: Thank you, sir.

8 JUDGE PRIDGIN: Redirect?

9 MR. FISCHER: Oh, thank you, Judge.

10 REDIRECT EXAMINATION

11 QUESTIONS BY MR. FISCHER:

12 Q. Mr. Bell, during cross-examination,
13 Mr. Dottheim was asking you regarding, I think, the
14 difference between gas-fired and coal-fired -- your
15 gas-fired and coal-fired experience. Do you recall
16 that?

17 A. Yes, sir, I do.

18 Q. From a construction manager's
19 perspective, does the fact that a large power plant is
20 gas-fired rather than coal-fired make a significant
21 difference?

22 A. Not from the technical aspects of the
23 project whatsoever. I would say, though, that gas is
24 much cleaner than coal.

25 Q. As far as controlling the cost of the

1 project or getting it done on time, does it really
2 matter what the -- from the construction manager's
3 perspective, what the source of the fuel is?

4 A. Absolutely not on the standard boiler
5 type plant we have up at Iatan, whether it's gas,
6 coal, it's very similar.

7 Q. Mr. Dottheim asked you also about your
8 schedule 3. I think that included your resume. Could
9 you turn to that, page 3.

10 He was asking about the 1982 to 1987
11 experience that's listed there.

12 A. Yes, sir.

13 Q. I believe you indicated that one of those
14 power plants was larger than Iatan; is that right?

15 A. No, sir. It was the power plant that is
16 the TVA Paradise one, the experience from -- in the
17 direct testimony filed 1978 to '82 experience, that
18 Paradise plant.

19 Q. How large is Paradise?

20 A. It is 2,600 megawatts.

21 Q. Okay. I thought you mentioned that there
22 was one in Egypt that was 600 megawatts.

23 A. That's correct.

24 Q. Which one would that be?

25 A. That was the Abu Soltan plant on the

1 coast.

2 Q. If you had to -- I know you probably
3 can't give us a specific, but if you had to estimate
4 the number of megawatts that are listed here on the
5 power plants that you constructed or been a
6 participant in, how large of a number would that be?

7 A. That would be a guess. Somewhere in the
8 neighborhood of 10,000 megawatts. Without adding this
9 up, it's simply a guess on my part.

10 Q. Which one of those plants would be most
11 similar to Iatan, do you think?

12 A. The Abu Soltan plant in Egypt in that
13 period of time would be very similar. Except for the
14 coal, we used gas because Egypt had no coal. They
15 were only in gas, and we used that as the combustible.

16 Q. You mentioned during your
17 cross-examination, I believe, that at one point,
18 whenever you were working for government projects, I
19 believe, you contract with a law firm that had hourly
20 rates of \$500 to \$650 an hour?

21 A. Somewhere in that part, yes.

22 Q. What years would that have been in?

23 A. That was 2005, '6, '7, '8 and '9.

24 Q. And what power plants were you associated
25 with at that time?

1 A. That was the \$1.4 billion project we had
2 with USAID in Afghanistan.

3 Q. And you didn't use a local law firm for
4 that?

5 A. We did look at the local law firms as
6 required by FAR. They like you to use that, but we
7 couldn't find anyone there that actually knew what FAR
8 was, so we had -- we were able to justify going
9 outside.

10 Q. And is it correct that you said you
11 sole-sourced -- was that the one that you sole-sourced
12 with?

13 A. Yes, sir. We ended up sole-sourcing it
14 to a law firm in Washington, D.C.

15 MR. FISCHER: Counsel, could I borrow
16 your September status report for a minute? Thank you.

17 BY MR. FISCHER:

18 Q. Mr. Bell, I'd like to show you the status
19 report, September 2010, that was given to you by
20 counsel. Perhaps I could have that marked as an
21 exhibit. We can make some copies later, but I'd like
22 to have it marked as an exhibit.

23 JUDGE PRIDGIN: I believe that would be
24 69.

25 MR. SCHWARZ: For clarification, is that

1 the entire document or just the cover?

2 MR. FISCHER: It would be the entire
3 document that I'd have marked.

4 MR. SCHWARZ: Okay.

5 (Exhibit No. 69 was marked for
6 identification.)

7 BY MR. FISCHER:

8 Q. I think we had some questions earlier in
9 the hearing about these quarterly status reports. I'd
10 like for you to describe what that is from your
11 perspective.

12 A. Basically, it's a report we create
13 polling all the members of the project team to present
14 a status for us to present to the staff in both
15 Missouri and Kansas to update them on the status of
16 the project, both from a schedule standpoint and from
17 a cost standpoint.

18 Q. What is some of the information that is
19 generally provided in that status report?

20 A. It provides very detailed information of
21 our progress in construction. We list any issues that
22 have come to light. We're very transparent about
23 that. But in particular in the report is what we keep
24 referring to as the K Report. And that's what you can
25 look at every month as it's updated to see if there

1 are any changes in costs from the previous month.

2 Q. And how often was that provided to the
3 staff, or a version of that?

4 A. Well, I know there's quarterly meetings.
5 I'm not sure how the monthly report gets to them, but
6 the quarterly one, I know there's face-to-face
7 usually.

8 Q. And you said that includes the K Report?

9 A. Yes.

10 Q. And what again is the K Report?

11 A. The K Report is the document that shows
12 the individual costs of the different items at the
13 project. It's a fairly detailed document to show
14 where you're at and the different phases of the
15 project. For instance, if you want to know what a
16 particular item listed costs, what we thought the
17 original budget was, what the current forecast is, all
18 of that information is in that document.

19 Q. So you could take a look at whether it's
20 exceeding the control budget estimate?

21 A. Yes, sir, that's what I use it for. I --
22 part of my job and responsibilities to Mr. Downey is
23 to keep the project on budget.

24 Q. Would it also show if it is above the
25 reforecasted budget?

1 A. Yes, it would.

2 Q. And would it show if there's any
3 contingency left or not?

4 A. Yes. The contingency is tracked in there
5 also.

6 Q. Is there a discussion of other issues
7 related to the projects, problems that you might be
8 having?

9 A. Absolutely. It's a totally transparent
10 document. I mean, from a reporting standpoint, it's
11 very critical that we stay fully transparent. So we
12 don't hide anything. Everything that we know as of
13 this report's reported in this document, whether it's
14 good news or bad news.

15 Q. Does it also have schedule information?

16 A. Absolutely.

17 Q. Does it show the critical path?

18 A. Yes, sir.

19 Q. And does it show where things are behind
20 schedule or ahead of schedule?

21 A. Yes, sir. It's a good rendering of the
22 entire plan. It gives safety, statistics. It's a
23 very comprehensive document.

24 Q. Did you attend meetings where those
25 documents were presented to the Staff and other

1 signatory parties?

2 A. I believe I was at one or two meetings.

3 Q. Were those usually well-attended
4 meetings?

5 A. Yes.

6 MR. FISCHER: Judge, with that, I just
7 ask for the admission of the exhibit, and I conclude
8 my redirect. Thank you.

9 JUDGE PRIDGIN: Thank you. 69 has been
10 offered. Any objections?

11 MR. MILLS: Judge, I object.

12 MR. FISCHER: I'm sorry, it's HC.

13 JUDGE PRIDGIN: Thank you. Mr. Mills?

14 MR. MILLS: I object on the basis of
15 foundation. Mr. Fischer asked some general questions
16 about quarterly reports. There's nothing in the
17 record that reveals that this witness has ever seen
18 that report before or he has any involvement in its
19 preparation or any ability to judge its authenticity.
20 So I object on the basis of lack of foundation.

21 JUDGE PRIDGIN: Mr. Fischer?

22 MR. FISCHER: I can lay some foundation
23 if we need that. We certainly have plenty of
24 witnesses here who can give as much foundation as
25 counsel would like.

1 BY MR. FISCHER:

2 Q. Mr. Bell, did you -- do you recall
3 attending the -- the last quarterly report -- status
4 report meeting or have you seen that particular
5 document before?

6 A. I've seen the document. As the lead at
7 the site, I'm responsible for putting the document
8 together. In particular, I write the executive
9 summary, and I'm responsible for everyone at the site
10 doing their part to get it updated and ready for final
11 review.

12 Q. Is it accurate to the best of your
13 knowledge and belief?

14 A. Absolutely.

15 MR. FISCHER: Judge, I move for the
16 admission.

17 MR. MILLS: No further objections.

18 JUDGE PRIDGIN: All right. 69 HC is
19 admitted.

20 (Exhibit No. 69 HC was received into
21 evidence.)

22 JUDGE PRIDGIN: And, Mr. Davis (sic),
23 thank you very much. You may step down.

24 Okay. And we're on Mr. Jones.

25 Mr. Jones, if you'll raise your right hand to be

1 sworn, sir.

2 (The witness was sworn.)

3 JUDGE PRIDGIN: Thank you so much, sir.

4 Mr. Fischer, anything before he stands cross?

5 MR. FISCHER: No, sir.

6 JUDGE PRIDGIN: All right.

7 MR. FISCHER: well, we -- we'll put him
8 in direct.

9 MR. HATFIELD: We have his testimony.

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. HATFIELD:

12 Q. Can you state your name and business
13 address for the record, please.

14 A. My name is Steven Jones. My business
15 address is 233 South Wacker Drive, Chicago, Illinois
16 60606.

17 Q. And are you the same Steven Jones who
18 filed testimony in this case?

19 A. I am.

20 Q. You filed only direct testimony; is that
21 correct?

22 A. That's correct.

23 Q. We've marked as Exhibit 38 your direct
24 testimony. If we went through that testimony here
25 today, would you have any corrections to it?

1 A. I would not.

2 Q. And your direct testimony contains some
3 schedules; is that right?

4 A. That's correct.

5 Q. How many schedules did you include?

6 A. I believe there are four total schedules.

7 I have three with me. I believe there's four.

8 Q. Okay. Schedule 1 is entitled
9 "Comprehensive Energy Plan, Construction Projects Cost
10 Control System"; is that correct?

11 A. That's correct.

12 Q. Schedule 2 is entitled -- sorry -- "Iatan
13 Procurement Team Procurement Model"; is that correct?

14 A. Correct.

15 Q. Consists of only one page?

16 A. Correct.

17 Q. Schedule 3 is entitled "Recommendation to
18 Award Letter for General Contract for Construction
19 Services"; is that correct?

20 A. That's correct.

21 Q. And you said there's a Schedule 4?

22 A. I believe this is it. I believe this is
23 all.

24 Q. So this is all the schedules that you
25 attached to your testimony; is that right?

1 A. That's correct.

2 Q. And are all of these schedules true and
3 accurate and related to your testimony?

4 A. They are.

5 MR. HATFIELD: Judge, we move for the
6 admission of 38. There's an HC version and a public
7 version.

8 JUDGE PRIDGIN: 38 NP and HC have been
9 offered. Any objections? Hearing none, 38 NP and HC
10 are admitted.

11 (Exhibit No. 38 NP and HC were received
12 into evidence.)

13 JUDGE PRIDGIN: Anything further,
14 Mr. Hatfield?

15 MR. HATFIELD: No, Your Honor.

16 JUDGE PRIDGIN: All right. He's ready
17 for cross-examination. Mr. Schwarz?

18 MR. SCHWARZ: Yes.

19 JUDGE PRIDGIN: When you're ready, sir.

20 MR. SCHWARZ: May I approach the witness,
21 please?

22 JUDGE PRIDGIN: You may.

23 CROSS-EXAMINATION

24 QUESTIONS BY MR. SCHWARZ:

25 Q. Good afternoon, sir.

1 A. Good afternoon.

2 Q. I have just handed you a document. would
3 you look at the second page of that document.

4 A. Yes.

5 Q. It indicates a CC to S. Jones. Is that
6 you?

7 A. That is me.

8 Q. Do you recognize this document?

9 A. I do.

10 Q. Could you describe it for the Commission,
11 please.

12 A. This document is part of our notice and
13 notification process. It's a letter that we send to
14 contractors when we have an issue that has arisen in
15 order to understand what their position on the issue
16 is. We formally notify them in writing and ask them
17 for a response in a certain period of time.

18 MR. SCHWARZ: I would ask that it be
19 marked for identification as KCP&L 2603, I think, is
20 the numbers assigned.

21 JUDGE PRIDGIN: That's correct. That's
22 the number I have.

23 (Exhibit No. 2603 was marked for
24 identification.)

25 BY MR. SCHWARZ:

1 Q. would you take the opportunity to review
2 the letter.

3 A. Sure. Okay. I've reviewed it.

4 Q. Thank you. And the letter -- Mr. Davis'
5 letter accurately reflects concerns that KCP&L had at
6 that time?

7 A. It does.

8 MR. SCHWARZ: Thank you. I would move
9 the admission of MRA's Exhibit 2603.

10 JUDGE PRIDGIN: KCP&L 2603 has been
11 offered. Any objections?

12 MR. HATFIELD: I guess I want to reserve
13 an objection, Judge, that it exceeds the scope of
14 direct. I assume there's going to be some cross on it
15 which might clear that up.

16 MR. SCHWARZ: I believe I'm entitled to
17 cross-examine on any issue. I can show him any
18 document. I don't believe there are any restrictions
19 on my examination of Mr. Davis.

20 JUDGE PRIDGIN: with that, I am going to
21 overrule and admit Exhibit 2603.

22 MR. SCHWARZ: Thank you, Judge.

23 (Exhibit No. 2603 was received into
24 evidence.)

25 MR. SCHWARZ: And I don't think I have

1 any further questions of Mr. Jones.

2 JUDGE PRIDGIN: Thank you. Mr. Mills,
3 any cross?

4 MR. MILLS: No cross.

5 JUDGE PRIDGIN: Mr. Dottheim?

6 MR. DOTTHEIM: Yes.

7 CROSS-EXAMINATION

8 QUESTIONS BY MR. DOTTHEIM:

9 Q. Good afternoon, Mr. Jones.

10 A. Good afternoon.

11 Q. Mr. Jones, I'd like to direct you to your
12 direct testimony, page 1. You list your experience,
13 page 1, at Commonwealth Edison, and you indicate you
14 worked your way through the different ranks of the
15 organization, and you list different areas at
16 Commonwealth Edison.

17 Could you indicate what years you were in
18 operation at Commonwealth Edison?

19 A. That would have been very early 1976,
20 1977, maybe a little bit longer than that, but right
21 in that time frame.

22 Q. Can you indicate what you were doing in
23 operations?

24 A. Primarily, working as a support operator
25 to the operations of a power plant, one of their power

1 plants.

2 Q. Okay. And did you hold any job titles in
3 particular? You said support operations?

4 A. Boiler operator.

5 Q. Boiler operator. Could you indicate in
6 what years you worked in maintenance at Commonwealth
7 Edison?

8 A. In maintenance, it would have been from
9 1978 to approximately 19- -- late 1980, early 1981.

10 Q. And can you indicate what you were doing
11 in maintenance?

12 A. In maintenance at that time, I was a --
13 basically, a boilermaker. I was part of the IBEW --
14 they weren't called boilermakers. They were called
15 maintenance mechanics at that time.

16 Q. And can you indicate what years you were
17 in technical services? Was it technical services and
18 engineering?

19 A. At the power plants back in the early
20 '70 -- late '70s, early '80s, technical services and
21 engineering worked together. I worked in a support
22 position in the technical services and engineering at
23 one of the power plants, yes.

24 Q. Okay. And what year or years was that?

25 A. That would have been '82 through '85,

1 '86.

2 Q. And what job titles did you hold at that
3 time?

4 A. At that time, it was operations and
5 maintenance supervisor.

6 Q. And what years did you work in
7 construction procurement?

8 A. Construction procurement would have been
9 '86 through '87, '88, right in that time.

10 Q. And what job titles did you hold?

11 A. Supervisor.

12 Q. Okay. And what did that involve, your
13 work in construction procurement?

14 A. At that time, the individual power plants
15 at ComEd had their own construction groups, and during
16 maintenance outages any contractors that were brought
17 onsite were contracted by that group and then managed
18 by that group.

19 Q. Okay. That brings us up to '86, '87, and
20 you say you ultimately left Commonwealth Edison in
21 2001. What occurred between 1987 and 2001?

22 A. In 1989 or 1990 -- I don't have the exact
23 year -- the company put a team together to redesign
24 the corporate procurement model that they were
25 running. I was part of that team. It was a team of

1 60 individuals, and we worked on that team for three
2 years designing a supply chain.

3 And then in 1993, I moved to the director
4 of procurement for the fossil operations for the --
5 for the company. There were three directors; one was
6 a director of fossil, one was a director of nuclear,
7 one was a director of transmission and distribution.
8 We reported to the vice-president of procurement who
9 worked in the corporate offices. I worked in that
10 position until 1998, of which I was part of the team
11 to divest the fossil fleet into another company.

12 Once the fossil fleet was sold, I moved
13 to our unregulated businesses as the vice-president of
14 operations.

15 Q. Mr. Jones, you're familiar with the Iatan
16 construction project, project execution plan, are you
17 not?

18 A. I am.

19 MR. DOTTHEIM: Okay. At this time, I'd
20 like to have marked as an exhibit the Iatan
21 construction project, project execution plan.

22 JUDGE PRIDGIN: I would show that, then,
23 as I believe Exhibit 251, and that's KCP&L 251.

24 MR. SCHWARZ: Judge, while Mr. Dottheim's
25 distributing that, I would like to --

1 MR. DOTTHEIM: And let me also say it's a
2 highly confidential document, so I'm going to -- I
3 expect -- I think I'm going to be able to first be
4 able to start asking questions without going
5 in-camera, but eventually, I expect I may have to go
6 in-camera.

7 JUDGE PRIDGIN: Okay. Thank you,
8 Mr. Dottheim. I'm sorry, Mr. Schwarz.

9 MR. SCHWARZ: That's all right. I had
10 some concerns about the status of my exhibit, but I'm
11 advised by counsel that it is not HC.

12 JUDGE PRIDGIN: Okay. Thank you.

13 MR. DOTTHEIM: May I approach the bench?

14 JUDGE PRIDGIN: You may.

15 MR. DOTTHEIM: And I would note that I
16 have the document tabbed. I'm going to refer
17 Mr. Jones to various pages. I'm going to -- I have
18 the pages counted, but the pages don't have numbers on
19 them, so I've tabbed the pages, too, hopefully for
20 some ease of identification.

21 JUDGE PRIDGIN: Thank you.

22 (Exhibit No. 251-HC was marked for
23 identification.)

24 BY MR. DOTTHEIM:

25 Q. Mr. Jones, I've handed to you what's been

1 marked as Exhibit 251. Have you had a chance to take
2 a look at Exhibit 251?

3 A. I've seen Exhibit 251.

4 Q. Okay. And I've represented that's the
5 Iatan construction project, project execution plan.
6 Do you recognize what's marked as Exhibit 251?

7 A. I do.

8 Q. Is it the -- is it a copy of the Iatan
9 construction project, project execution plan?

10 A. It appears to be.

11 Q. Okay. Can you describe what this
12 document is, what this document is intended to be as
13 the Iatan construction project, project execution
14 plan?

15 A. What this document is meant to do is
16 provide the guardrails for which the project will
17 manage itself. So it describes the project, it
18 describes all the functions within the project, it
19 describes what those functions are going to do and how
20 they're going to operate, it describes how they'll
21 staff themselves, it describes process and procedures
22 that will need to be used. It's the management plan
23 over all of the project.

24 Q. What were your responsibilities relative
25 to this document?

1 A. Primarily, this was a document that was
2 created by the entire leadership team at the site, but
3 my area of responsibility was -- was primarily the
4 procurement organization.

5 Q. And when you say it was created by the
6 leadership team at the site, who comprised the
7 leadership team?

8 A. At that time in 2007, the project
9 director was Brent Davis. I was the senior director
10 of procurement. Jeffrey Flenor was the director of
11 engineering, Mack Hargis was the construction manager,
12 Tom Chiles was the document control and support
13 services manager, Denise Shoemaker was the compliance
14 manager. I believe the startup manager had not been
15 hired at that time yet. Terry Foster was the project
16 controls manager, and the executive sponsor was Steve
17 Easley.

18 Q. Was there any one person who was
19 responsible for putting this document, the project
20 execution plan, together?

21 A. If I may go back to my -- my last answer,
22 there was one other person --

23 Q. Yes.

24 A. -- that participated, and that was Bob
25 Raymond from Burns & McDonnell also participated. The

1 person at the end, we had worked on this as a group
2 for quite some time, and then in the January/February
3 time frame of 2007, a gentleman by the name of Mike
4 Cushman was brought on to kind of pull it all together
5 into a final single document.

6 Q. Was there an original target date by
7 which the document was intended to be completed?

8 A. I don't recall an original target date.

9 Q. Okay. At the bottom of page 1, it says,
10 "Issued 1 June 2007". Could you indicate what that
11 line means?

12 A. The final version was issued to the
13 entire staff of the site, whoever that was at that
14 moment, at that time. It became the final version.
15 There had been many previous versions dating back to
16 September of '06, maybe even August of '06 when people
17 began working on their individual areas as we were
18 working on budgets and all kinds of different things.
19 It was being developed, but it was finalized on that
20 day.

21 Q. Okay. Has the plan been updated since
22 June 1, 2007?

23 A. I can't speak for recently. It wasn't
24 updated from my last date onsite, which was March of
25 '09. To my knowledge, anyway.

1 Q. I'd like to refer you to what I'm going
2 to call the fifth page, counting the very cover page,
3 and it's the first page I have tabbed. It has down at
4 the -- at the bottom, though, it has a stamp on it of
5 three. So maybe really I shouldn't refer to it by --
6 by that.

7 Is that stamp, or it's a circle down at
8 the bottom, it has the words around the top, "Safety
9 Revolves Around You," and it has a three in it. Is
10 that supposed to signify a page number in there, the
11 bottom right-hand corner?

12 A. That was the logo for the site at that
13 time, and I believe that is an indicator of the actual
14 page number.

15 Q. Okay. Then why don't I refer to that as
16 the -- the third page. And I'd like to refer you to
17 the second paragraph on that page.

18 The one sentence that states, "The PEP is
19 a control document and will be reviewed and revised
20 periodically in accordance with the management of
21 change (MOC) process." Did I read that accurately?

22 A. You did.

23 Q. Okay. PEP, is that an abbreviation for
24 project execution plan?

25 A. It is.

1 Q. And was it intended that the project
2 execution plan was to be revised periodically?

3 A. It was intended to be a living document,
4 so yes, it would require revisions based on potential
5 scope changes, changes in policies or procedures,
6 changes in the way the company does business.
7 whatever changes that may occur within a company the
8 size of KCP&L, it allowed for the flexibility to go
9 back to it, review those sections that might pertain
10 to those changes and revise them to be within
11 governance of those changes.

12 Q. But if I understood you correctly, while
13 you were on the site into 2009, the project execution
14 plan was not changed?

15 A. Not that I recall.

16 Q. Are you familiar with the term "mega
17 project?"

18 A. I am.

19 Q. Okay. Do you use the term "mega
20 project?"

21 A. I don't.

22 Q. Okay. Is -- do you use the term "project
23 execution plan" outside the context of the Iatan
24 construction project?

25 A. In my career, I've used it typically on

1 construction projects. It's a traditional use of the
2 language.

3 Q. Is a project execution plan an important
4 document for a construction project such as Iatan?

5 A. Yes.

6 Q. Are there -- for a construction project
7 such as Iatan, are there documents that are more
8 important than a project execution plan?

9 A. For the overall governance of the project
10 so that executives and other people that need to know
11 that have visibility to what the project is doing,
12 because they can't be there everyday, there's no more
13 important document. There are other very, very
14 important documents. You've heard about them over the
15 last few days, which are documents that are signed
16 with the regulators that might have an impact on how
17 we do business, documents that we use to pay invoices,
18 information that we receive from contractors on a
19 daily -- those are all other important documents, but
20 just for different reasons.

21 But there is -- for the governance of the
22 project, there's not a more important document.

23 Q. Were there -- was there one individual or
24 individuals who were responsible for maintaining the
25 document?

1 A. We were -- the whole project leadership
2 team was responsible for maintaining the document at
3 some point in time.

4 Q. Okay. Was there any reason or reasons
5 why the document was not revised periodically as was
6 indicated in the second paragraph on page 3?

7 A. Again, there would only be changes to the
8 document if it was somehow impacted by some other
9 change that occurred either to the condition of the
10 way the project was being managed or some outside
11 force, meaning a procedural change by the company or
12 some other impact that would say review your section,
13 does it need to be changed.

14 Q. So are you indicating that nothing
15 occurred that caused a need for a change in the
16 project execution plan through the time you were
17 onsite in 2009?

18 A. Not that I -- not that I recall. I don't
19 remember any procedural changes, process changes,
20 changes with status of the project that would have
21 impacted, at least the procurement section for sure.

22 Q. I'd like to ask you to turn to the next
23 tab, which is page 22.

24 A. I'm there.

25 Q. Okay. And I'd like to ask you if -- if

1 you authored the two pages that are pages 22, 23,
2 which are entitled "Procurement?"

3 A. I did.

4 Q. I'd like to next ask you to turn to the
5 next tab, which is page 26, and refer you to the three
6 pages that are 26, 27, 28 that are entitled, "Contract
7 Management."

8 A. I'm there.

9 Q. Okay. Do those -- were those -- at the
10 end of page 28, there is a box that says, "This
11 section authored by Jeff Flenor." He is one of the
12 individuals that you identified as being in the
13 leadership team, is he not?

14 A. He is.

15 Q. Okay. And was he responsible for
16 contract management?

17 A. He was.

18 Q. Okay. And was he responsible for writing
19 this section of the project execution plan?

20 A. He was.

21 Q. Did contract management at any time come
22 under your responsibilities?

23 A. Contract administration was under my
24 responsibility, the commercial obligations of the
25 contract, and then when Jeff left in 2007, the -- a

1 couple of the contract managers came to work for me.

2 Q. what was or is the difference between
3 contract administration and contract management?

4 A. Contract management is generally done by
5 either construction or engineering staff, and it's
6 working more directly with the vendors to understand
7 more of the technical information associated with a
8 contract. Contract administration is more of the --
9 what I would call the back office work, which is the
10 invoice processing, developing the background
11 paperwork, what is it that the invoice says, work with
12 the vendors on notice and notification, those kind of
13 commercial -- more commercial in nature administrative
14 duties.

15 Q. when Mr. Flenor left, did contract
16 management come under someone else's charge?

17 A. For a time. I'm trying to remember the
18 gentleman's name. For a time, it was put under George
19 Burnett, I believe, if I got the name right. He
20 subsequently took over for Jeff.

21 Q. And if you recall, did it not stay with
22 Mr. Burnett? Did it -- did contract management come
23 under someone else's responsibility subsequently to
24 Mr. Burnett?

25 A. well, as I said, when Jeff left, a few of

1 the contract managers came to work for me. The rest
2 of the engineering group went to work for George
3 Burnett.

4 Q. Okay. Okay.

5 A. Does that clarify?

6 Q. Yes.

7 A. Okay.

8 Q. So in some manner, it was split

9 between -- between --

10 A. The two of us.

11 Q. Between procurement and Mr. Burnett?

12 A. That's correct.

13 Q. Okay. And what was Mr. Burnett's -- do
14 you recall -- and I'm sorry, you may have already said
15 this -- what was his job title or area of
16 responsibility?

17 A. He would have been the engineering
18 manager.

19 Q. The project execution plan was not
20 revised or modified to update or to reflect that
21 change?

22 A. The only thing that would have been
23 updated was the signature box. The rest pretty much
24 stayed the same. The work that's on here in this
25 arena, as you can see as you read through it, is a

1 very close tie to procurement, work with procurement
2 on assessing the supplier market, work with
3 procurement in developing a negotiation plan, work
4 with procurement in negotiation. So there is a lot of
5 procurement interaction. So none of that work
6 changed.

7 Q. Okay. Okay. I'd next like to ask you to
8 turn to the next tab, which is page 42, and it's the
9 section entitled, "Appendices."

10 A. I'm there.

11 Q. Okay. And on page 42 is shown, is it
12 not, various titles that are indicated in development?
13 There's shown, is there not, a PLT charter in
14 development?

15 A. Yes.

16 Q. Okay. And there is shown various plans
17 that are in development, are there not?

18 A. Yes.

19 Q. Were these various items, do you recall
20 or do you know, were they completed?

21 A. I can't speak to all of them. I know
22 that some of them were.

23 Q. Can you indicate which ones were
24 completed?

25 A. The PLT charter.

1 Q. And do you know who completed or was --
2 was there one person or was there a group?

3 A. It would have been the leadership team
4 under Brent Davis' charter. I'm not sure if Mike
5 Cushman was still there at that time or not, but -- at
6 that time. The procurement plan was completed. The
7 commissioning plan, I know, was completed.

8 Q. Did you complete the procurement plan?

9 A. I did. The commissioning plan.

10 Q. And who completed the commissioning plan?

11 A. Hugh Miller. The project controls
12 plan --

13 Q. And who completed the project controls
14 plan?

15 A. Terry Foster. And I believe the safety
16 management plan was completed by Mike Hermsan as well.
17 Hermsan, H-e-r-m-s-a-n.

18 Q. Do you know whether the document control
19 plan was completed?

20 A. I'm sure that it was based on everything
21 else, but I don't recall seeing it, so I can't be
22 sure.

23 Q. And do you know whether the management
24 change process was completed?

25 A. I'm trying to remember what that actually

1 refers to, and that's why I can't recall it. If that
2 means -- at that time, we were talking about a change
3 in management process. That was completed because
4 that's in the -- that's in the cost control plan.

5 But if it meant like a different
6 department -- because we were still working through
7 departments and org charts and so on -- that's what I
8 don't remember.

9 Q. I'd like to refer you to the next tab,
10 which doesn't -- at least on my copy -- does not have
11 a page number. And it's position roles and
12 responsibilities, and it has your name on it.

13 In fact, the -- there's a similar page
14 for each of the leadership team?

15 A. Uh-huh, that's correct.

16 Q. If you would take a look at those two
17 pages, because I'd like to ask you if those two pages
18 look like they're accurate from your recollection.

19 A. They look complete and accurate.

20 Q. Okay. I'd like to refer you to the next
21 tab, which my copy doesn't have a page number on it,
22 and it's 2007 performance contract, Steve Jones,
23 procurement manager. And does each member of the
24 leadership team have a similar page?

25 A. Sorry, I was on the wrong page. I

1 believe so, yes.

2 Q. Yeah, I'd like for you to take a look at
3 that page.

4 A. Okay. I've reviewed it.

5 Q. Do you recall whether you met the
6 milestones by the target completion dates?

7 A. I don't know that they were all met by
8 the exact dates, but these were all completed, yes.

9 Q. Okay. What was -- and I don't know if we
10 need to go in-camera on -- on this, but what was the
11 purpose of the milestone and the target completion
12 date?

13 JUDGE PRIDGIN: And before you answer,
14 sir, do we need to go in-camera?

15 MR. HATFIELD: I don't think so.

16 JUDGE PRIDGIN: Okay. I'll just count on
17 a party to object. Otherwise, we'll just stay in
18 public.

19 THE WITNESS: These were subprocesses to
20 what was described in the earlier section of the
21 document. As I said earlier, the document was the
22 guide rails. These were the subprocesses that needed
23 to be put in place by the different organizations in
24 order for people to get their job responsibilities and
25 their work done in a proper way and retain the

1 documents and so on.

2 BY MR. DOTTHEIM:

3 Q. Were there -- what were the -- what was
4 the effect, the consequences of the target completion
5 date not being met?

6 A. I'm not sure I understand the question
7 the way it's asked.

8 Q. Did some processes not occur, were some
9 events not met, some schedule not met if the target
10 completion date was not met, the project behind
11 schedule, consequences as far as contract terms not
12 being met if these target -- if these milestone dates
13 were not met by the target for completion?

14 A. In this particular area for procurement,
15 there are no project milestones or project-related
16 construction milestones, would be a better way to say
17 it, that would be impacted. These are effectively
18 internal processes for people to work to. At this
19 time, as of June, we were still hiring staff and
20 bringing people on to run the overall project, so each
21 one of these, depending on when an area was fully
22 staffed -- and I'll take one as an example -- contract
23 administration, you know, at that time in June of
24 2007, we only had one or two people in contract
25 administration because we didn't have a lot of

1 contracts and we didn't have a lot of invoices. So
2 the impact would have been very low versus having ten
3 people a year and a half later and not having a
4 process in place.

5 Q. Is it documented anywhere whether the
6 targets for completion were met by the various
7 individuals on the leadership team, not just yourself,
8 but the other individuals?

9 A. I recall going through the exercise at
10 the time, sir, but I don't remember whether that got
11 documented or not.

12 Q. Do you recall Dave Price?

13 A. I do.

14 Q. Okay. And do you recall his job title?

15 A. Dave Price was hired as the
16 vice-president of construction.

17 Q. And do you recall the approximate time
18 frame that he was employed on the Iatan construction
19 project?

20 A. I'm trying to remember the exact dates.
21 I believe Dave was brought on in April or so of 2007.
22 Yeah, it would be '7. And I believe he left in around
23 the same time, first quarter 2008.

24 Q. And during that time frame, do you recall
25 what Brent Davis' position was on the Iatan

1 construction project?

2 A. Brent was the director of the project.

3 Q. Okay.

4 A. Of the Iatan construction project.

5 Q. Okay. And did Mr. Davis report to Mr.

6 Price? Did Mr. Price report to Mr. Davis?

7 A. Mr. Davis reported to Mr. Price.

8 Q. And where were -- what was your position
9 in the organizational chart, so to speak, relative to
10 Mr. Price and Mr. Davis?

11 A. Brent and I were both at the director
12 level. I reported on a matrix to Brent before Mr.
13 Price came on. When Mr. Price came on, procurement,
14 because of its governance role, was really a corporate
15 function that was supporting the project, not
16 necessarily a project embedded -- we were embedded
17 with the project, but we both reported to Dave at that
18 point.

19 Q. And you were an independent contractor?

20 A. I was.

21 Q. And structurally, where did you function
22 regarding Mr. Steve Easley?

23 A. As I said, I reported to -- I actually
24 had two reports. I reported in what's traditionally
25 known as a matrix organization. I reported to the

1 vice-president of procurement, who is Lora Cheatum.
2 You'll see her name on some of the documents we just
3 went through. And I was direct report to her, and she
4 reported to Bill Downey.

5 Brent was the director of the project.
6 He reported to Steve Easley and Steve Easley reported
7 to Bill Downey. So for the purposes of supporting the
8 project, I reported to Brent to make sure I was
9 accountable to him for my deliverables, getting my
10 procurements done on time, making sure invoices were
11 getting paid appropriately, the contract
12 administration work. I reported to Brent from an
13 operational perspective.

14 From a governance perspective, I reported
15 to Lora on how the monies were being spent, how we
16 were doing the competitive bid process, we were
17 following corporate policies and procedures, those
18 kind of things.

19 Q. And where was Mr. Price in that
20 structure?

21 A. You asked about Mr. Easley. When Mr.
22 Price came in, Mr. Easley was removed from the project
23 as the executive sponsor, and then I reported to Dave
24 operationally. Brent reported to Dave operationally,
25 and then from a governance perspective, I still

1 reported to Lora.

2 Q. And then when Mr. Price left, Mr. Easley
3 came back into the project?

4 A. Mr. Easley came back into the project,
5 and
6 Mr. Downey took a more active role in the project.
7 Structurally, we stayed the same until Mr. Churchman
8 came on.

9 Q. And excuse me, did you function similarly
10 under Mr. Churchman as you did under Mr. Easley after
11 Mr. Churchman was hired?

12 A. The reporting responsibilities stayed the
13 same when Mr. Churchman came on.

14 Q. And did you have the same authority also
15 when Mr. Churchman came, was retained by Kansas City
16 Power & Light, when he was hired by Kansas City Power
17 & Light?

18 A. When Mr. Churchman came on, I had --
19 engineering had moved underneath me as well at that
20 point. Earlier in the year, 2008, George Burnett
21 decided that he wanted to go back to the operations of
22 KCP&L and leave the project, and tentatively Dave
23 Price moved engineering under my command on the
24 project until we could bring a new person on, which we
25 did in June or July of that year.

1 So when Mr. Churchman got hired, I had
2 procurement, contract administration, and management
3 and engineering.

4 Q. Okay. And who was that new person who
5 was brought on?

6 A. Carl Churchman.

7 Q. Carl Churchman. You left the Iatan
8 construction project in 2009?

9 A. I did.

10 Q. Why did you leave the project?

11 A. It was pretty much time for me to leave
12 the project. In February of 2009 -- actually, if I
13 may, I'll -- at the end of 2008, Lora Cheatum and I
14 had began discussing what an exit strategy for me
15 might have been at that time. There was talk about
16 putting the La Cygne project, the wind projects on
17 hold. Iatan Unit 1 was in full throttle, was going to
18 be completing very soon. Iatan 2 was moving along.

19 In February, the company made the
20 decision to put those projects on hold. And when they
21 did, there was going to be no future procurements.
22 Unit 1 was complete, Unit 2 was 75 percent complete,
23 95 percent bought out, and no other major construction
24 projects on the horizon. There was a fully trained
25 staff with management people in place that were fully

1 capable of getting along and keeping the work going at
2 that point, so it was a good time for me to exit the
3 project.

4 Q. You exited the project, but you're now at
5 Schiff Hardin; is that correct?

6 A. That's correct.

7 Q. And at Schiff Hardin, you're working on
8 the Iatan construction project?

9 A. Very, very little since early August of
10 this year -- of last year, sorry.

11 Q. You're working on other projects for
12 Schiff Hardin other than the Iatan construction
13 project?

14 A. I am.

15 Q. Okay. The position of procurement that
16 you were filling at -- as an independent contractor at
17 Kansas City Power & Light, Kansas City Power & Light
18 has filled that position?

19 A. I understand they have, yes.

20 Q. Okay. Do you know who they filled that
21 position with?

22 A. I know the name, I've met the person
23 once, but I don't know much about him.

24 Q. Okay. What is the name of that person?

25 A. David McDonald.

1 Q. Do you know if he's doing procurement
2 work, same type of procurement work that you were
3 doing for Kansas City Power & Light?

4 A. I really don't know what he's doing for
5 KCP&L.

6 Q. Mr. Jones, you've heard the term
7 "reforecasting" before, have you not, as it's used for
8 construction projects?

9 A. I have.

10 Q. Okay. What does that term mean to you?

11 A. Over my experience on -- especially in
12 the construction arena, but primarily just working for
13 owners in general, reforecasting of your budget
14 periodically is a normal operating kind of business
15 practice. Projects are a little different because
16 they can have short or long durations and so you have
17 to -- you have to watch your expenditures a little bit
18 differently than a typical budget for an operation,
19 but it's a pretty traditional way of managing costs of
20 an organization.

21 Q. Reforecasting was done regarding the
22 Iatan project, was it not?

23 A. That's correct.

24 Q. Do you know whether the term
25 "reforecasting" is -- is defined anywhere, a treatise

1 or text or anything like that?

2 A. In the Iatan project documents or in
3 general?

4 Q. I mean, in general as far as in the
5 construction industry is concerned.

6 A. I don't know of it officially being in a
7 manual, document, trade magazine, but it's pretty much
8 traditionally used.

9 Q. Is reforecasting done at -- to your
10 knowledge, at any specific times in a project?

11 A. Again, depending on the -- the life cycle
12 of the project, yes, there are milestones that are
13 created depending, again, on the life cycle of the
14 project. So on a project like Iatan, you would
15 typically have engineering milestones that you would
16 use for your reforecasts, and you would use
17 intermediate steps where you would see -- if you
18 started to see costs to start moving out of control
19 and you didn't have any other reason for it, for
20 example, price increases, inflation, some other --
21 some other reason, you would want to go into -- you
22 would want to reforecast based on what you had to
23 procure for that work.

24 Q. Are there any set industry standards for
25 when a reforecast should be performed, such as a set

1 percent of complete engineering?

2 A. What I'm used to in my experience is 25,
3 50, and 75, and then estimate at completion. That's
4 been my experience in the construction work I've done.

5 MR. DOTTHEIM: May I approach the
6 witness?

7 JUDGE PRIDGIN: You may.

8 BY MR. DOTTHEIM:

9 Q. Mr. Jones, do you recall the GPE
10 acquisition of Aquila case back in 2007, 2008?

11 A. I recall the acquisition. I know very
12 little about the case itself, but I was there at that
13 time.

14 Q. Okay. Do you recall the staff deposed
15 you, I deposed you in that case?

16 A. I do.

17 Q. I'm going to hand to you a copy of your
18 deposition. I'd like to refer you to it.

19 A. Sure.

20 Q. And I'd like to refer you to page 23.

21 And I deposed you in -- it was in Case No.

22 EM-2007-0374, and I deposed you on April 1, 2008, and

23 I asked you:

24 "You mentioned doing a reforecast on a
25 percent complete of engineering. Are there any set

1 percentages complete of engineering when reforecasting
2 is traditionally done?"

3 And you said:

4 "ANSWER: There are not a set of industry
5 standards that I know of. Generally, I have -- I
6 have -- we have used and I have used, a reforecast
7 would be done at 50 percent and somewhere between 60
8 and 70 percent complete, and depending on the project
9 scale, you would do another one at 90 percent. You
10 would do three."

11 A. That's in the range of the numbers I just
12 gave, yeah.

13 Q. Okay. Thank you.

14 Mr. Jones, have you heard the term
15 "definitive estimate" as it relates to a construction
16 project?

17 A. I have.

18 Q. Do you recall whether you have heard
19 people use that term in the context of the Iatan
20 construction project?

21 A. I have.

22 Q. Do you recall how you've heard people use
23 that term in the context of the Iatan construction
24 project?

25 A. I have heard it interchangeably with what

1 I know as the control budget estimate.

2 Q. How have you otherwise heard that term
3 used, "definitive estimate?"

4 A. I've heard it used -- and Mr. Giles will
5 speak to this in more detail -- in discussions with
6 Commission Staff here in Missouri. I've heard it used
7 on -- on other projects. Specifically, it's -- it's a
8 term that I would say would be used when you have
9 enough information to have a finite number to be able
10 to create an estimate.

11 Q. Do you recall me asking you that question
12 in deposition back in the EM-2007-0374 case?

13 A. The Aquila case?

14 Q. Yes, if that --

15 A. I don't recall it.

16 Q. Yeah, if I could direct you to page 40.

17 A. I'm there.

18 Q. Okay.

19 "QUESTION: when you heard people talk
20 about a definitive estimate, do you recall what they
21 were using that term in context to?

22 "ANSWER: I do not recall what. I never
23 saw any documents or could relate it to something
24 associated with the project.

25 "QUESTION: Is that a term that you have

1 otherwise heard in your professional experience?

2 "ANSWER: I've heard it used over my
3 career.

4 "QUESTION: In what context have you
5 heard it used over your career?

6 "ANSWER: In the scoping phase of a
7 project or a special program that a company may have
8 and you develop an estimate that contains all of the
9 costs associated with performing that work, whatever
10 that work might be."

11 A. That's correct.

12 Q. Yes. Did I read that correctly?

13 A. You did.

14 Q. Mr. Jones, you know the term used in the
15 construction project area, the term "change order," do
16 you not?

17 A. I do.

18 Q. What does that term mean to you?

19 A. Change orders are a documentation process
20 that documents any change, commercial, technical, any
21 kind of change in nature to an original contract that
22 you have with any contract or supplier of a good or
23 service. Traditionally, if -- if you buy a pump and
24 you develop a specification for a pump and you say you
25 want a pump that's ten gallons per minute and you

1 order that pump and two months later you determine
2 that you need a 20-gallon per minute pump, you would
3 create a change order if there was a cost or schedule
4 impact in order to document why there was a change to
5 the pump, what created that change, and what's the
6 reason for it and is it needed. And then you would be
7 able to track your costs to it.

8 Q. For the Iatan project, would a vendor
9 just be asked how much money it planned to charge
10 KCP&L and a change order was approved to accommodate
11 the level of expenditure?

12 A. I'm not sure -- the way you asked that,
13 I'm not sure exactly what the question is.

14 Q. Okay. Do you know the change order
15 process that was utilized?

16 A. Very well.

17 Q. Okay. Could you explain the change order
18 process?

19 A. Change order process is when a -- either
20 a vendor-identified change or a KCP&L employee
21 identified change is identified, a change order gets
22 created, a change notice gets created. And when that
23 gets created, it then begins rolling through a series
24 of reviews.

25 The first thing that is asked is what --

1 what the change is and what's required for that
2 change. In some instances, you may get a proposal
3 from the vendor, in some instances you may get a
4 letter, in some instances, it may be a simple letter
5 to the vendor explaining to them that there's a change
6 that's occurring, and they notify you later as to
7 whether there's a cost and schedule impact.

8 Q. would there ever be a request for bids
9 for a change order?

10 A. Yes, there would be.

11 Q. How would there be a determination made
12 if there were a request for bids?

13 A. It would come under a number of
14 categories. The most likely category would be new
15 scope of work. For example, if you have a -- a
16 contractor that is doing site grading, let's say
17 they're doing a lot of clearing of the site,
18 developing roadways and those kind of things, and you
19 decide that you need an extension to a road that's on
20 the site, well, maybe that's a \$50,000 change. And so
21 you may decide, well, for \$50,000, maybe I want to
22 bring another vendor onsite or do I want to use the
23 contractor I already have here that's mobilized.

24 So you would go through a series of
25 questions and answers, but that's the general rule of

1 thumb would be as if it was a complete different scope
2 of work that was not originally intended in the
3 contract.

4 Q. who would be involved in that process?

5 A. Depending on when it was identified, it
6 would be contract managers or engineering or
7 construction staff, as well as procurement.

8 Q. would the decision possibly be based on
9 information regarding plants, events at plants other
10 than Iatan 2, information from plants other than Iatan
11 2 that were being constructed or had been constructed?

12 A. I'm not sure -- information from other
13 plants? I'm not sure what that --

14 Q. Yes, as far as costs of similar items.

15 A. I'm still not sure of the question.

16 Q. All right. Do you know if any change
17 orders were issued based on vendor pricing information
18 without any review regarding that pricing information?

19 A. I don't.

20 Q. Okay.

21 A. The way you're phrasing the question, I
22 don't believe that there are.

23 Q. Okay. what type of review of -- if it
24 wasn't --

25 A. If it wasn't --

1 Q. If it wasn't a new item that required
2 bidding, a request for bids, and a vendor submitted a
3 proposal, what type of review occurred of the pricing
4 that the vendor submitted?

5 A. My apologies. I now understand the
6 question.

7 Q. Okay. And I apologize for being dense.

8 A. In the process, what we would do, we had
9 two estimators, an electrical estimator and a
10 mechanical estimator, that were under KCP&L's
11 management. And when -- when a priced proposal would
12 come in for a change, whatever that might be, and
13 Kiewit is a very good example of it, because Kiewit,
14 all of their change orders went through our
15 estimators. Kiewit would provide a detailed estimate
16 of what the work was and what they believe the cost
17 was under the contract.

18 Our estimators would then take that
19 proposal and that request and they would get with the
20 Burns & Mc engineers, review the design drawings that
21 say the change is required. First, is the change
22 needed, that's always the first question. And then
23 they would perform an estimate on the manhours and the
24 materials that it would take. And if it was
25 reasonable in the estimator's eyes, we would accept

1 the proposal.

2 Q. Estimators reviewed all proposals, all
3 change order proposals as far as pricing is concerned?

4 A. You're using the word "all." We hired
5 the estimators, I believe it was in June of '07, but
6 I'm not exactly positive. So there were some -- my
7 point is, is there were some early change orders that
8 didn't see estimators' eyes, but from the time that we
9 brought them on forward, they saw all change orders.

10 Q. Was the Iatan construction project your
11 first experience with the construction of a new base
12 load generation?

13 A. The Iatan 2 was the first Greenfield
14 project I've been on, yes. All other jobs have been
15 retrofits and so on.

16 Q. Mr. Jones, have you had any formal
17 training in project management?

18 A. Not from a -- not from an industry-type
19 standard. As Mr. Bell explained his career, my career
20 is very similar and parallel. Having worked for a
21 large utility for 25 years, you go through a number of
22 iterations of trainings and certifications and, you
23 know, you get condensed versions of the same programs
24 that are being done. I've had those kind of programs
25 in my career, but not an official certification.

1 Q. Okay. And -- and those programs you
2 refer to, the programs are with -- with who, I mean,
3 with what organizations or training?

4 I mean, is the training within your
5 experience at Commonwealth Edison? Is it at some
6 seminars, conferences, things of that nature? It's
7 not a formal degree is what you're indicating or -- or
8 what are you indicating?

9 A. What I'm indicating is that you go
10 through -- when you work in companies like KCP&L, like
11 ComEd, Exelon, like Ontario Power Generation, other
12 big utilities, formalized training is constant.
13 Everything from CPR and medical emergency services
14 through, depending on your organization and what you
15 do, I mean, I had training on -- on accounting
16 practices at -- within an organization for
17 Sarbanes-Oxley, specific rules to utilities.

18 So you go through contract management,
19 contract administration, sometimes it's outside
20 services that are brought in to formalize the training
21 and do the program in a week or two-week time or after
22 hours or whatever it may be. Other times, it may be
23 more formalized and done by the company internal with
24 their own in-house training staff. So it just
25 depends.

1 Q. Okay. And in that context, have you had
2 training in project management?

3 A. I have.

4 Q. Project cost management?

5 A. I have.

6 Q. Project integration?

7 A. I have.

8 Q. Project schedule management?

9 A. Yeah, I have.

10 Q. Project time management?

11 A. I have.

12 Q. Project quality management?

13 A. I have.

14 Q. Project procurement management?

15 A. I have.

16 Q. Project risk management?

17 A. I have.

18 Q. Okay. Are you a project management
19 professional?

20 A. I'm not certified as a professional.

21 Q. Okay. Do you consider yourself an expert
22 on matters of accounting?

23 A. I know a lot about accounting secondhand,
24 but I'm not an expert.

25 Q. Do you consider yourself an expert on

1 matters of auditing?

2 A. I've had a lot of auditing done, but I'm
3 not an expert.

4 Q. Do you consider yourself an expert on
5 matters of cost accounting?

6 A. I do not consider myself an expert.

7 Q. Okay. Do you consider yourself an expert
8 on matters of cost engineering?

9 A. I'm not a cost engineer.

10 Q. Okay. You're not an engineer, are you?

11 A. I'm not an engineer.

12 Q. Is there an Iatan construction project
13 policy regarding gifts from vendors?

14 A. I don't know that it's specific to Iatan,
15 but there is a corporate policy on gifts from vendors.

16 Q. And that corporate policy, was that GPE,
17 KCP&L?

18 A. I believe it was a combination of GPE and
19 KCP&L, but KCP&L for sure at least.

20 Q. Do you recall what the -- the -- the
21 KCP&L corporate policy was/is on gifts from vendors?

22 A. I can recite in general. I can't recite
23 it verbatim, which is gifts are tolerable, but they
24 need to be nominal in value.

25 Q. Do you recall how nominal is defined?

1 A. I don't recall exactly how it was
2 defined. It's been a couple of years since I've had
3 to review the policy. It's reviewed annually by the
4 staff and letters are sent out by the corporate VP of
5 supply chain to all the suppliers explaining what the
6 company's tolerance is for gifts on an annual basis.
7 I just haven't seen it for a couple years.

8 Q. Okay. Do you recall what gifts are
9 defined as, whether lunches, dinners, sporting events,
10 items of that nature?

11 A. It addresses those kind of situations.

12 JUDGE PRIDGIN: Mr. Dottheim, do you know
13 about how much longer your cross is? We've been going
14 for a couple hours, and it's time for a break.

15 MR. DOTTHEIM: No.

16 JUDGE PRIDGIN: Are you going to be
17 awhile?

18 MR. DOTTHEIM: Maybe 15 minutes.

19 JUDGE PRIDGIN: Okay. Let's just go
20 ahead -- I think now that we've been going for a
21 couple hours or so, let's just go ahead and break for
22 about 15 minutes. We will go off the record and we
23 will come back at ten after 4:00.

24 (A break was held.)

25 JUDGE PRIDGIN: All right. We are back

1 on the record. Before we resume cross, just let me
2 rule from the bench. I've polled the Commissioners,
3 and the Commission would deny the request to have oral
4 argument on the motion to quash. What the Commission
5 will allow is for staff, and for any other party who
6 wishes to respond, to do so by 10 o'clock in the
7 morning. That way it would give the Commission a
8 little bit of time to look at the motion, responses,
9 and then rule on it because an order almost has to be
10 issued tomorrow for it to have any meaning because
11 it's involving people perhaps working all weekend
12 getting documents ready for Monday morning.

13 Is there anything from counsel before we
14 resume cross-examination? All right.

15 I'm sorry to have interrupted you,
16 Mr. Dottheim. You're still cross-examining, and
17 Mr. Jones, you're still under oath, sir.

18 THE WITNESS: Thank you.

19 BY MR. DOTTHEIM:

20 Q. Mr. Jones, I was, I believe, asking you
21 about the Kansas City Power & Light policy regarding
22 gifts from vendors.

23 Do you recall whether part of that policy
24 involved or involves reciprocity as far as what I
25 think you had indicated respecting nominal gifts,

1 items?

2 A. I do not recall if the policy actually
3 calls for reciprocity. I just don't recall if that
4 was an actual statement in the policy.

5 Q. Do you recall whether there was
6 reciprocity as far as an exchange of lunches or
7 dinners or things of that nature with vendors?

8 A. I don't know of anyone that had a
9 reciprocity position at KCP&L.

10 Q. Do you recall whether Schiff Hardin had a
11 role at the Iatan plant site?

12 A. I do.

13 Q. Okay. And -- and what was that role?

14 A. Schiff's role at the site, as I viewed
15 it, was -- was many. The first role was an oversight
16 role where they provided independent review of how the
17 project was working, so to speak, how the project was
18 progressing so that it would be transparent to the
19 executives and it wasn't just coming from the project
20 team as to what was happening on the project.

21 A second role was -- was in support of me
22 in procurement in the development of contracts and
23 contract language. They had legal staff that actually
24 were with Jerry Reynolds in my offices at the site.
25 There were two staff -- legal staff there with us

1 every day to work on contracts, commercial issues,
2 notices, notifications, change orders and so on. Any
3 commercial-type items that would come up, we had staff
4 there for that.

5 They had other -- three other folks or so
6 that worked in project controls that primarily
7 provided cost schedule support and analysis for -- for
8 the executives as well.

9 Q. Okay. Do you recall the names of the
10 individuals who -- from Schiff Hardin who worked at
11 the plant site?

12 A. Sure. Yes, I do.

13 Q. Could you identify those individuals?

14 A. Sure. In the procurement organization,
15 while Schiff Hardin did have a small office of their
16 own on site, a small trailer of their own on site, in
17 the procurement complex was Carrie Okizaki,
18 O-k-i-z-a-k-i, Mandy Schermer. Those were the two
19 attorneys working with Jerry Reynolds in my offices.
20 And Glenn Blackwell. And then Eric Gould was on site
21 working with project controls. Jim Wilson would come
22 to site occasionally to work on schedule updates and
23 provide analysis of the schedule and any impacts that
24 he saw in the schedule.

25 Dan Meyer and a gentleman that works with

1 Dan, Joe Byce, would have occasionally come to site
2 and work with the cost control group on where we --
3 where the project was in cost and impacts and
4 reforecasts and so on.

5 Q. Was Jim Wilson ever at the plant site?
6 Do you recognize the name Jim Wilson?

7 A. He was.

8 Q. Could you identify who Jim Wilson is?

9 A. Jim Wilson is with -- he has his own
10 company called Wilson & Associates. It's a scheduling
11 consulting company. I call it forensic scheduling.
12 He is able to dismantle a schedule, analyze it, look
13 behind just the hours and the progress and look at the
14 actual work that's going on in the field and develop
15 an analysis of what -- does the schedule really meet
16 what's going on in the field.

17 Q. Does he work with Schiff Hardin?

18 A. I believe he was a subcontract through
19 Schiff Hardin for the project, yes.

20 Q. Do you recognize the name Thomas Maiman,
21 M-a-i-m-a-n?

22 A. Thomas Maiman?

23 Q. Maiman?

24 A. I do.

25 Q. Could you identify him?

1 A. Tom -- Mr. Maiman was on the project very
2 early on. When I got to the site in March of '06, he
3 had been there for a short period of time, and he was
4 there working with John Grimwade and Steve Easley and
5 Bill Downey and others on the project at that point in
6 time.

7 Q. Okay. And could you identify, if you
8 recall, what services Mr. Maiman provided, in what
9 areas he was providing assistance?

10 A. Overall project management, I would say
11 at that point in time. The project was really in its
12 development stage, and I believe he was helping out
13 with project development overall.

14 Q. And was he associated with Schiff Hardin?

15 A. I believe he was a subcontractor through
16 Schiff, yes.

17 Q. You mentioned John Grimwade. Could you
18 identify who Mr. Grimwade was?

19 A. When I arrived at KCP&L in 2006, John
20 was -- and I forget his title. I believe it was
21 director, but director of the CEP projects. I might
22 be mistaken on the exact title, but he was there for a
23 short time when I was there.

24 Q. He did not remain director of the CEP
25 projects?

1 A. He did not.

2 Q. But he continued at Kansas City Power &
3 Light?

4 A. As far as I know, yes.

5 Q. Mr. Jones, did you work on the Pickering
6 return to service at Ontario Power Generation?

7 A. I did.

8 Q. And what was that project?

9 A. Pickering A, return to service, was a --
10 if I may describe briefly Pickering A. Pickering has
11 two buildings that support their power plant
12 operations, and those two buildings each contain four
13 units of nuclear units, Pickering A and Pickering B.
14 So that's the way it's built out. Pickering A had
15 been mothballed -- I may have the dates wrong, but
16 back in the early '90s, maybe the late '80s,
17 mothballed meaning the units were shut down, work was
18 no longer being -- and electricity was no longer being
19 produced.

20 In 1999, 1998, they undertook a
21 restoration of the -- two of the units at the
22 Pickering A site.

23 Q. Okay. And excuse me, you may have said
24 this, was Pickering a nuclear unit?

25 A. Nuclear unit, yes.

1 Q. When you were working at Pickering, was
2 Schiff Hardin working the Pickering project also, do
3 you know?

4 A. They were there, yes.

5 Q. Were you working with Schiff Hardin at
6 the Pickering project?

7 A. When I got to the Pickering project, they
8 were already there, yes. I was there prior to that.
9 I was on their -- what they called their hydro side of
10 the business, which was their fossil fleet, which was
11 three fossil power plants and then 114 hydro-electric
12 plants. And my boss at that time, the VP of supply
13 chain, had brought up Schiff Hardin to do some work on
14 the nuclear site.

15 Q. Was a Mr. Terry Murphy working on the
16 Pickering project?

17 A. He was.

18 Q. Did Mr. Murphy also work on the Iatan
19 construction project?

20 A. He did.

21 Q. Okay. Do you know what time frame
22 that -- that was?

23 A. It was from -- I believe it was late 2005
24 through summer of 2006. He left shortly after I was
25 hired.

1 Q. Do you know if Mr. Maiman also worked on
2 the Pickering return-to-service project?

3 A. Mr. Maiman did.

4 MR. DOTTHEIM: Okay. If I could have a
5 moment, please.

6 JUDGE PRIDGIN: Certainly.

7 BY MR. DOTTHEIM:

8 Q. Mr. Jones, do you know who Pegasus Global
9 Holdings, Inc. is, what that organization is?

10 A. I do.

11 Q. Could you identify that organization?

12 A. Pegasus provides consulting services to
13 many different owners of different businesses on
14 operations of those companies.

15 Q. Okay. And they are -- Dr. Chris Nielsen
16 is providing testimony on behalf of Kansas City Power
17 & Light in this proceeding, is he not?

18 A. He is.

19 Q. Were you interviewed by Pegasus Global
20 Holdings for purposes of their prudence review in this
21 proceeding?

22 A. I don't know if it was for the purposes
23 of this prudence review. I was interviewed by
24 Pegasus.

25 Q. Do you recall whether the interview was

1 an in-person interview?

2 A. Actually, it was -- I believe it was
3 April of 2009. I was on the phone. They were at site
4 with a number of other people in the room. I know
5 Brent was in the room -- Mr. Davis was in the room,
6 and there were others in the room, but I'm not sure
7 who else was there off the top of my head.

8 Q. Do you recall how long the interview
9 took?

10 A. Couple hours, two and a half hours maybe.

11 Q. Do you recall what the interview covered?

12 A. It covered pretty much the life cycle of
13 my time span at the Iatan site and on the CEP
14 projects.

15 Q. Do you recall in general what the subject
16 matter was that the interview inquired into?

17 A. We talked about pretty much everything.
18 we talked about the project execution plan, staffing
19 plans. We talked about contractor performance, change
20 management, notice and notification, commercial -- we
21 talked about very many subjects. It wasn't -- it
22 wasn't brief.

23 Q. Okay. What was your understanding that
24 the purpose of the interview was for, do you recall?

25 A. I had just been invited to a meeting with

1 Pegasus to discuss overall the Iatan project and my
2 experiences on the Iatan project. I don't recall
3 there being an actual topic, like just an interview.

4 Q. Yeah. Did you prepare for the interview?

5 A. I didn't.

6 Q. Was there any follow-up to the interview,
7 do you recall?

8 A. I don't recall that there was.

9 Q. Was there more than one interview?

10 A. I don't recall a second interview after
11 that one. I mean, I have been interviewed by them, I
12 believe, before, a few years earlier, but I might even
13 be wrong about that. I may be giving the wrong
14 vendor. But the one specific one I'm talking to,
15 which was April of 2009, is the one that I recall.

16 Q. The interview that you just referred to
17 that may have occurred before, was that in regards to
18 the Iatan construction project?

19 A. It was in regards to how we were doing
20 procurement back in -- and it was back in 2008, and
21 I'm not sure if it was Pegasus or another company. It
22 was a company that was brought in to do a review of
23 commercial and operations of procurement and how we
24 were operating as an organization. It was somebody --
25 it was independent. It was somebody from outside the

1 company.

2 Q. Were you given any instructions about the
3 interview beforehand?

4 A. Just to be completely open and honest.
5 The first interview Jerry Reynolds was actually in the
6 room,
7 so --

8 Q. And the first interview -- which
9 interview are you referring to when you say the first
10 interview?

11 A. The one in 2008.

12 Q. Were you provided any documents for the
13 interview?

14 A. I provided a few for review.

15 MR. DOTTHEIM: May I approach the
16 witness?

17 JUDGE PRIDGIN: You may.

18 BY MR. DOTTHEIM:

19 Q. Mr. Jones, I'm going to hand to you a
20 copy of Dr. Nielsen rebuttal testimony in this
21 proceeding where he lists the individuals that Pegasus
22 Global Holdings interviewed. And I'm going to -- I've
23 got it turned to page 41 where you're listed.

24 And I'd like for you to just look at that
25 page. And in particular, I'd like to direct you to

1 where he has you identified as senior procurement
2 director.

3 A. Okay.

4 Q. Do you see where I'm referring to?

5 A. I do.

6 Q. And when I look at your direct testimony
7 on page 1 and I look at lines 8 and 9 where you, I
8 think, identify your job title as director of
9 comprehensive energy plan --

10 A. On page 1 of my testimony?

11 Q. Yes.

12 A. Do I have that right?

13 Q. I'm looking at page 8 to 9 -- lines 8 to
14 9.

15 A. Yep, that's correct.

16 Q. Okay. Does he have your title correct?
17 I'm just wondering that -- but I also see that on
18 page -- on page 2, you've got -- you say -- you've got
19 on line 18 that your position was director of CEP
20 procurement of your direct testimony.

21 A. I believe it's a confusing -- I was the
22 senior director of procurement for the CEP projects,
23 and then I was the director of procurement for the
24 Iatan project. It's the matrix organization thing.

25 Q. Okay. It's an inconsequential -- what

1 you're indicating is an inconsequential difference in
2 designation?

3 A. Absolutely.

4 Q. Okay. Mr. Jones, is there any reason
5 that you couldn't appear as contracted by -- here
6 today as -- by Kansas City Power & Light as opposed
7 to -- in this capacity as opposed to appearing as --
8 under contract with Schiff Hardin?

9 A. I'm not sure I --

10 Q. Well, you -- as an independent
11 contractor --

12 A. Okay.

13 Q. -- to KCP&L, you charged one hourly rate,
14 a certain hourly rate, did you not?

15 A. I did.

16 Q. Okay. And as the contractor to Schiff
17 Hardin, Schiff Hardin is charging Kansas City Power &
18 Light for your services a higher hourly rate, are they
19 not?

20 A. They are.

21 Q. Or are you aware?

22 A. I am.

23 Q. Okay. Did you have any discussions with
24 Kansas City Power & Light about continuing for
25 purposes of these pending rate cases as an independent

1 contractor to Kansas City Power & Light?

2 A. I did not.

3 Q. Is there any reason that you can identify
4 why?

5 A. Just as I explained earlier about leaving
6 the project, leaving the project as I was, I wanted to
7 go and pursue other opportunities, projects of a
8 Greenfield site like that. They have a -- they
9 take -- they take a lot out of you. You're working
10 50, 60, sometimes 70 hours a week, longer, at night.
11 It was time to move on.

12 In talking with Lora, we just chose to do
13 it this way. It was my preference because I would no
14 longer have direct ties with KCP&L, and if something
15 came along in the interim and other work that I would
16 get at Schiff, I would work on that.

17 Q. Are you employed by Schiff Hardin at the
18 behest of Kansas City Power & Light?

19 A. I am working as an independent contractor
20 to Schiff Hardin, and I have done work, obviously, up
21 until August of this year, much work for Kansas City
22 Power & Light, but from a substantial amount of work
23 for other clients of Schiff Hardin.

24 MR. DOTTHEIM: If I could have a moment,
25 please.

1 JUDGE PRIDGIN: Certainly.

2 BY MR. DOTTHEIM:

3 Q. Mr. Jones, did you develop the cost for
4 the common facilities at the Iatan construction
5 project?

6 A. I led a team of individuals that
7 developed
8 the -- that portfolio.

9 Q. Did you submit any testimony in this case
10 on that topic?

11 A. I'm getting my cases -- I don't believe I
12 did for this particular case.

13 Q. Do you know who has submitted testimony
14 on the cost for the common facilities at the Iatan
15 construction project for KCP&L?

16 A. For this particular case, I'm not a
17 hundred percent sure, no.

18 Q. Do you know whether the calculation for
19 the common facilities assigns any of the costs
20 overruns to the common facilities?

21 A. The common cost valuation, I do not know
22 how it was booked, so to speak, financially, by the
23 financial folks. The effort that I -- I undertook on
24 behalf of the company was to lead a team of
25 individuals to just develop what those assets of

1 values were worth. Once the product was created,
2 other folks treated it for accounting purposes as they
3 did. So I'm not sure who that would be.

4 MR. DOTTHEIM: A moment, please.

5 BY MR. DOTTHEIM:

6 Q. Mr. Jones, have you got a copy of your
7 deposition still in front of you?

8 A. I do.

9 Q. Okay. I'd like to direct you to page 76.

10 A. I have the page.

11 Q. Okay. I'd like to refer you to pages 76,
12 77, and 79, please.

13 A. I have those pages.

14 Q. And there's a question from me.

15 "QUESTION: Are you familiar with the
16 letter itself?

17 "ANSWER: I am.

18 "QUESTION: That goes out to the vendors.
19 And in the letter it states" -- this is me speaking --
20 "We do not accept gifts of more than nominal value.
21 Did I read that correctly?

22 "ANSWER: You did.

23 "QUESTION: What is meant by gifts of
24 nominal value in the letter?

25 "ANSWER: There's not a definition of

1 'nominal' that I know of in the company documents.

2 "QUESTION: How do you define 'nominal
3 value?'

4 "ANSWER: well, I think the nominal value
5 is simply trinket-type items, maybe an occasional
6 lunch or an occasional dinner, sporting event, but
7 it's not excessive. There's not a dollar value you
8 put on it. I've never been in a company that has put
9 a dollar value on it in the four that I've been with,
10 so it's really discretionary on the individual
11 department manager to manage what nominal means and
12 how far people will or will not go with the gift
13 policy.

14 "QUESTION: How many people come to you
15 looking for guidance as to how to apply that policy?

16 "ANSWER: In procurement, in my area
17 specifically, we hold -- I hold my entire staff,
18 whether it be the buyers, the contract administration,
19 or the commercial team, I hold them to a higher
20 standard, so we have a general zero tolerance, and we
21 also have a reciprocity rule that we apply as well.
22 And so I am -- by my staff, I am -- I'm exclusively
23 asked on every event or every occasion as to whether
24 or not it's an acceptable practice to take something.

25 "QUESTION: When you say you have a zero

1 tolerance, what do you mean by that?

2 "ANSWER: Fundamentally, in order, from
3 my experience in procurement organizations, you're
4 dealing so much with -- you become the gatekeeper for
5 the company's expenditures with the supply base, and
6 so it's easy for people to try to manipulate that. So
7 when I say zero tolerance, that doesn't mean I always
8 say no. What it means is that the staff knows that
9 it's no unless approved, and they will talk to me
10 about, you know, if they have been invited to a dinner
11 or a ball game, you know, they're getting a set of
12 trinkets or whatever it may or may not be.

13 "QUESTION: Have you been asked about
14 tickets to Chiefs games or Royal games in the last
15 years by members of your organization that have been
16 offered by vendors?

17 "ANSWER: I have.

18 "QUESTION: What has been your response?

19 "ANSWER: It's happened no less than a
20 handful of occasions that I recall in the last two
21 years, and my response has been -- has been yes. But,
22 again, we do deploy a reciprocity piece to that as
23 well, so --

24 "QUESTION: And how do you define a
25 handful of cases?

1 "ANSWER: Three or four times, maybe
2 five, but I've got quite a large staff, so I don't
3 recall, but --

4 "QUESTION: Missouri football games,
5 Kansas football games?

6 "ANSWER: I've not heard of any Kansas or
7 Missouri football games.

8 "QUESTION: Dinners?

9 "ANSWER: 2007, I remember one dinner
10 with a vendor. It was a celebration dinner after an
11 award of a contract that we negotiated.

12 "QUESTION: Vacations?

13 "ANSWER: Not heard of. Not heard of
14 vacations.

15 "QUESTION: Golfing events?

16 "ANSWER: Not for my staff, no.

17 "QUESTION: wine?

18 "ANSWER: No, no wine.

19 "QUESTION: How about yourself, sporting
20 events, meals?

21 "ANSWER: The meals part, I've completely
22 done the reciprocity with. I've had with vendors, I
23 believe, two meals and two sporting events in two
24 years.

25 "ANSWER (SIC): what have been the two

1 sporting events?

2 "ANSWER: One baseball game and recently
3 one of the Big 12 basketball games. I have been to a
4 few -- I think two specifically dinners with Burns &
5 McDonnell. In September of last year, October, not
6 sure of the exact time frame, we took the entire --
7 Dave Price and project leadership team took the entire
8 Burns & McDonnell staff out for dinner as well.
9 That's the reciprocity piece.

10 "QUESTION: And the reciprocity is Kansas
11 City Power & Light or GPE?

12 "ANSWER: Absolutely.

13 "QUESTION: Do you ever get questions
14 from other departments at KCP&L or GPE, or do you just
15 -- do you just get questions from your own, from your
16 own staff?

17 "ANSWER: I've gotten questions from the
18 corporate purchasing group, which is under my -- my
19 area of control, but I've gotten questions from them
20 and given advice in the past."

21 Did I read that accurately?

22 A. You did.

23 MR. HATFIELD: Object. It's improper
24 impeachment.

25 JUDGE PRIDGIN: Overruled.

1 MR. DOTTHEIM: Thank you, Mr. Jones.

2 JUDGE PRIDGIN: Other questions,

3 Mr. Dottheim?

4 MR. DOTTHEIM: No.

5 JUDGE PRIDGIN: Bench questions.

6 Commissioner Jarrett?

7 COMMISSIONER JARRETT: Yes.

8 EXAMINATION

9 QUESTIONS BY COMMISSIONER JARRETT:

10 Q. Good afternoon, Mr. Jones.

11 A. Good afternoon, Commissioner.

12 Q. Do you have a copy of your direct

13 testimony there?

14 A. I do, sir.

15 Q. Along with the schedules that were

16 attached?

17 A. I do, sir.

18 Q. Your schedule SJ 2010-1 is labeled a

19 comprehensive energy plan, construction projects cost

20 control system; is that correct?

21 A. It is.

22 Q. Do you know when that was prepared?

23 A. It was prepared over a period of time, I

24 would say three months. I began in March of 2006. We

25 began working on this probably in late April or early

1 May for submittal to the Commission when it was
2 finally finalized. And we worked over at that -- the
3 few people that were on the project team at that time,
4 Brent Davis, myself, Jeff Flenor, Schiff Hardin
5 supported us. We pulled it together after the
6 stipulation and agreement had been signed in support
7 of getting it submitted to the Commission Staff.

8 Q. So about when was it submitted to Staff?

9 A. I don't recall the exact date, but around
10 September 1st, I would believe.

11 Q. Of what year?

12 A. 2006.

13 Q. Okay. I have some questions about this.
14 I note that it's marked highly confidential. Let me
15 say -- let me describe to counsel what I'm going to
16 talk about, and then you can tell me if I'm -- if we
17 need to go in-camera. Specifically, I wanted to look
18 at, I believe, pages 8 and 9 under 3.1, cost control.

19 MR. HATFIELD: There's no need to go into
20 HC for that.

21 BY COMMISSIONER JARRETT:

22 Q. Okay. Have you found that?

23 A. I have, sir.

24 Q. The -- I guess the first heading there is
25 budgeting and forecasting, and then the first sentence

1 to that section is, "The project team will develop a
2 definitive estimate for each project that will be
3 provide" -- I assume that's supposed to be provided --
4 "an analytical baseline" -- should probably say "will
5 provide an analytical baseline for evaluating project
6 costs." The term "definitive estimate," I know you
7 talked about that a little bit with Mr. Dottheim.

8 Could you -- could you give me your
9 definition of "definitive estimate?"

10 A. I can, I hope. I know there's been a lot
11 of discussion about the difference between definitive
12 estimate and control budget estimate. I believe this
13 document helps with that.

14 Back in 2006, we were all trying to
15 interpret -- when I say "we all," the project
16 leadership team and the few staff that we had were
17 trying to interpret how we were going to need to
18 manage the project based on the stipulation and
19 agreement and the things that -- like Exhibit Q that
20 were discussed the other day. And I believe Bob Bell
21 hit the nail on the head this morning and made note
22 that they're interchangeable. The construction
23 industry tends to use control budgets or budgets, and
24 those words are generally what you use.

25 Definitive estimate, at that time, we

1 were using it as -- as an interchangement (sic) --
2 interchangeable with the control budget estimate. And
3 I think, sir, if you -- you might go to page -- in the
4 same document, page 29 of 30.

5 Q. Okay.

6 A. And if you look at B, development of
7 project estimate, one, commitments to Commission, and
8 you read that paragraph, it talks to the definitive
9 estimate by August 1, KCP&L external consultants are
10 refining that. And as it goes on, the last sentence
11 kind of brings it back together.

12 And so from the project leadership team
13 and the project team perspective, we saw them both as
14 one in the same.

15 Q. Yeah. In that last sentence, you talk
16 about there in that paragraph, the project team is
17 currently engaging in two critical steps regarding the
18 cost estimate. One, finalizing the definitive
19 estimate; and two, establishing a controlled budget
20 for detailed tracking of the Iatan budgets costs.

21 A. Yes. So from a budgeting perspective and
22 from a control budget perspective, all of the same
23 numbers that were in the control budget would become,
24 if it needed to be called the definitive estimate for
25 the purposes of the stipulation and agreement, then

1 that's what it would be called. But for our purposes
2 of managing the project, it was the control budget
3 estimate.

4 Q. And in your mind, was it intended to be,
5 here's what the fixed cost of the project is going to
6 be and there's going -- you know, that's it, no cost
7 overruns, nothing?

8 A. No, sir, it was not -- it was never
9 thought to be that at all. In June, July, August time
10 frame of 2006, we really only had two contracts in
11 place and then two other contracts that we had brought
12 in, put out on the street for RFPs and brought back as
13 bids that we knew numbers on. Out of the 130 or so
14 major procurements that we were going to have -- and
15 when I say major, I'm talking about procurements that
16 were going to be over \$5 million. When you have that
17 many contracts and you only have two contracts in
18 place, granted, one very big one and one quite large,
19 we knew that those other estimates were going to take
20 some work.

21 And we tried, by using the contingency,
22 to come up with the best number that we could in order
23 to get that estimate completed for staff and get the
24 control budget estimate done by the end of the year.
25 But we knew at the time, 25 percent completion on

1 engineering, it just -- it doesn't -- you can't be
2 there because there's just too many variables.

3 There's too many things that can happen.

4 Q. Now, to your knowledge, was Staff aware
5 that you had only let very few of the contracts and
6 that only a small portion of the engineering had been
7 done?

8 A. I had not attended the meetings with
9 Staff. Mr. Giles will be the better person to answer
10 as to what -- as we would get bids back, Mr. Giles,
11 being on the EOC and seeing what we were getting,
12 would see these reports and see different things, but
13 I don't know what was shared with Staff. I wasn't
14 part of those meetings.

15 Q. Okay. If you could go back to page 8
16 again. And I read the first sentence there. I want
17 to read the second sentence as well and get your
18 thoughts on that.

19 "This estimate will establish anticipated
20 costs for individual work activities in all
21 procurements." what do you think "anticipated costs"
22 means?

23 A. That would be our internal estimate based
24 on either market knowledge or information that we
25 received from vendors or from our engineer at the

1 time, Burns & McDonnell on similar procurements. We
2 would put a number in as an estimate.

3 Q. And, again, to your mind, is that
4 estimate to be a -- since the word "anticipated" is
5 used, does that mean that the definitive estimate was
6 a -- sort of like a living number, it's going to
7 change as the project goes forward?

8 A. Yes. We felt that the number was going
9 to change. We all, obviously, hoped that it wouldn't.
10 I think if you look at page 16, it will kind of give
11 you a balance of -- of all the different procurements
12 that we were looking at, at the time. There's another
13 part of this same document at the end that does that
14 as well.

15 And we were -- a lot of these, we were
16 trying to get as best -- the best available
17 information we could at the time in order to get an
18 estimate into that control budget estimate for the
19 December 2006 control budget estimate. And like I
20 said, we had the boiler under wraps, and we knew the
21 number there, and we had the turbine generator. But
22 everything below, other than the chimney which we had
23 received bids on and the foundations in Cybil, which
24 we had received bids on, everything else was an
25 unknown. Even though we put a number to it, we didn't

1 have hard numbers back from vendors to say, okay, we
2 can now lock this in with a good level of contingency
3 that will support the final number.

4 Q. I'm looking at -- since you went to page
5 16, I'm looking at page 17. And, Counsel, again, if I
6 get into areas, please tell me, we can go in-camera.

7 About halfway down, there's a subheading
8 B, control budget and then the Number 1, general?

9 A. Yes, sir.

10 Q. And then the first sentence there says,
11 "The Iatan project team will develop a control budget
12 for managing each of the project's costs. The control
13 budget will be established once the definitive
14 estimate is accepted."

15 I thought you had said that those were
16 used interchangeably. Is that --

17 A. When we were writing this, I believe we
18 assumed it needed to be approved.

19 Q. Okay.

20 A. And so that meant by somebody other than
21 the project team.

22 Q. All right. "Because of the nature of the
23 Iatan project, the control budget will not be
24 comprehensive of all committee contract costs as of
25 that time. As KCP&L buys out the work, the contract

1 value and expected cost at completion in the control
2 budget will be modified to reflect these values."

3 And was the control budget, in fact,
4 modified throughout the project?

5 A. Yes. Forrest Archibald can speak more to
6 that in detail. But basically, sir, what that means
7 is that if we had to buy a pump and it was a \$10
8 million pump in our estimate and we sent out the RFPs
9 and we received three or more qualified bids back,
10 evaluated those bids and it came in at \$8 million, we
11 adjusted it down and money would move -- he would
12 handle the money the way he treats it, or if it came
13 in at \$12 million, we would then put that number in
14 the cost portfolio.

15 That's why the recommendation to award
16 letters are quite important because what they do is
17 they take what the estimate was, what the procurement
18 actually became, and if there's a variance, it needs
19 to be explained in the recommendation to award letter
20 as to why there's a variance and whether or not
21 there's a contingency draw on other factors.

22 Q. Let's go back to page 8 again, the last
23 paragraph there on page 8. The first sentence of that
24 paragraph reads: "KCP&L's project cost control system
25 involves continually monitoring the accumulation of

1 actual costs compared to the control budget so as to
2 determine whether the initial assumptions in the
3 project's definition are still valid."

4 Again, does that go to the fact that the
5 original control budget estimate is going to change
6 over time depending on circumstances?

7 A. Yes.

8 Q. And the last sentence there on page 8,
9 "The project team will compile and analyze the actual
10 cost of" -- "the actual cost information and
11 periodically prepare a forecasted cost at completion
12 based on this analysis."

13 Again, does that go to the fact that this
14 is changing and you're going to reforecast your costs
15 or the estimates?

16 A. It does, sir. And as, you know, once
17 again, Forrest and Dan Meyer can tell you from an
18 industry perspective, Forrest can tell you from a
19 project perspective, it was meant to know that we were
20 always going to be -- procurement and costs works very
21 close together because as we do the procurements, we
22 need to get costing information to update their
23 portfolio so that they're always realtime accurate.
24 And that -- what Mr. Vont talked about the other day,
25 the last paragraph of that section and those two

1 together talk about the way the project would
2 reforecast the work based on the milestones we decided
3 on later on.

4 Q. Right. Now, you indicated that KCP&L
5 gave this schedule, gave this report to Staff in
6 approximately September of 2006?

7 A. I believe that's around the time it was,
8 yes.

9 Q. All right. And that was -- was that
10 around the same time that the definitive estimate was
11 given to Staff as well?

12 A. Again, Mr. Giles would be the best person
13 to ask. I don't know what was actually given at that
14 point.

15 Q. Now, as these costs were being tracked
16 and they were, like you say, going up or down
17 depending on circumstances, do you know, were you or
18 anyone from KCP&L having regular meetings with Staff
19 to inform them of -- of the situation?

20 A. As leadership team -- and I believe Brent
21 mentioned that he would be going to the meetings with
22 Mr. Giles. But in any event, the leadership team did
23 get briefed on -- at that time in 2006, we were
24 briefed on things that might have been said at Staff
25 that might affect the project or things that

1 transpired during those meetings, but I really was not
2 part of those.

3 Q. who would have been part of those?

4 A. Mr. Giles primarily at that time and then
5 later Mr. Blanc and, of course, Brent Davis -- I
6 mentioned him earlier -- he was part of them as well,
7 off and on.

8 Q. Okay. And then I want to go to the next
9 page, page 9. The third paragraph down it starts,
10 "The project team will periodically update the
11 forecasted cost contingency usage cash flow and
12 monthly budgets. Such efforts will be conducted and
13 reported not less than quarterly, and the frequency of
14 these reports must take into account the magnitude of
15 the scope of work then under construction."

16 To your knowledge, were these quarterly
17 meetings, quarterly reports done?

18 A. I think you've heard them referred to
19 quite often today with the K Reports and the quarterly
20 reports. We have a copy of the K Reports in them.

21 Q. All right.

22 A. And those were submitted to the
23 Commission, I believe.

24 Q. That was my next question. These were
25 provided to the Commission contemporaneously when they

1 were issued?

2 A. Yes.

3 Q. So if they were quarterly, Staff got them
4 every quarter?

5 A. Yes. And Mr. Giles will be the one to
6 confirm that with, but that's how we understood it as
7 a project team.

8 Q. Okay. And then it goes on there at the
9 end of that paragraph, it talks about the EAC, the
10 estimate at completion.

11 Is that -- we've been talking about there
12 was the reforecasting and then there was like a final
13 estimate done at the end?

14 A. Right.

15 Q. Is that what the EAC is?

16 A. It is. Earlier in my testimony this
17 afternoon, we were talking about when you would do
18 reforecasts traditionally, and I said 25, 50, 75, and
19 then at the end -- or 90 percent, or in my earlier
20 testimony on the rate case. The 90 percent would be
21 an estimate at completion, and now you know your
22 engineering's done, your construction is very high up
23 there in being done, you're really not spending a lot
24 more money with new contracts and procurements, and so
25 it's a manage of finishing out the project than just

1 managing things. So you put an estimate at completion
2 together at that time.

3 COMMISSIONER JARRETT: Thank you,
4 Mr. Jones. I appreciate your testimony.

5 JUDGE PRIDGIN: All right. I have no
6 questions. Any recross based on bench questions?
7 Mr. Schwarz?

8 MR. SCHWARZ: Yes, I do.

9 RECROSS-EXAMINATION

10 QUESTIONS BY MR. SCHWARZ:

11 Q. And it concerns the reliability in your
12 opinion of the controlled budget estimate. Mr. Davis
13 and
14 Mr. Bell have said that there are hundreds of these
15 kind of plants, plants like Iatan 2, supercritical
16 coal plants that have been built.

17 Do you have any reason to doubt that,
18 that there are hundreds of supercritical coal
19 generating plants in the world?

20 A. No. I know that for a fact myself. I've
21 been in the business for 34 years. I would not
22 disagree with that at all.

23 Q. So there's quite a bit of engineering
24 background and knowledge on -- on the construction of
25 these kinds of plants; would you agree?

1 A. well, they're never cookie cutter, but
2 there is baseline engineering that's -- there's
3 boilerplate engineering on many of these plants, yes.

4 Q. And Burns & McDonnell has specifically
5 got experience in this area; is that correct?

6 A. I do not know how much experience has --
7 Burns & McDonnell has in supercritical boilers. I
8 know that they have engineering experience on new
9 power plants.

10 Q. That's fine. And certainly, Kansas City
11 Power & Light proposed great confidence in Burns &
12 McDonnell in this project; is that correct?

13 A. They selected them as their engineer, so
14 I would say that's correct.

15 Q. And at the time that the final control
16 budget estimate was generated, Burns & McDonnell had
17 done a Monte Carlo analysis of the project. Do you
18 recall that?

19 A. I've heard that, yes.

20 Q. And they had done a top-down and
21 bottom-up cost estimate on the project?

22 A. They had.

23 Q. And Burns & McDonnell said that there was
24 a 95 percent probability that the project would come
25 in at \$1.685 billion; is that correct?

1 A. I don't recall Burns & McDonnell saying
2 that.

3 Q. But -- well, the -- if Burns & McDonnell
4 said that in the CBE, then that would be their
5 representation; is that correct? I don't have a copy
6 of the CBE with me. My recollection is that they said
7 95 percent probability that it would come in at 1.685
8 billion.

9 If that's the case, would you say that
10 Burns & McDonnell was pretty comfortable with the
11 estimate, the control budget estimate?

12 MR. HATFIELD: Judge, I'd just like to
13 object. We've already crossed generally, and now I
14 think we're limited to questions from the bench, and I
15 think counsel's exceeding the scope of questions from
16 the bench.

17 JUDGE PRIDGIN: Mr. Schwarz?

18 MR. SCHWARZ: Well, Mr. Jones, in
19 answering Commissioner Jarrett's questions, went
20 through the items on page 16 and has basically said
21 that he didn't have much confidence in a control
22 budget estimate that was generated when there was only
23 25 or 30 percent of the engineering completed. I
24 think I'm entitled to point out that that is at odds
25 with the position that Burns & McDonnell provided to

1 the company and which the company has apparently
2 adopted in adopting the CBE.

3 JUDGE PRIDGIN: I'll overrule.

4 BY MR. SCHWARZ:

5 Q. So if Burns & McDonnell was comfortable
6 suggesting that the 1.685 billion was 95 percent
7 probable to be adequate for the project, that would
8 reflect considerable confidence in the CBE, would it
9 not?

10 MR. HATFIELD: Object that it calls for
11 speculation on what Burns & McDonnell thought.

12 JUDGE PRIDGIN: I'll sustain that.

13 BY MR. SCHWARZ:

14 Q. The representation by Burns & McDonnell
15 in their CBE report that they were 95 percent -- there
16 was a 95 percent probability it could come in at 1.685
17 billion is Burns & McDonnell's representation, is it
18 not?

19 A. You're referring to a CBE report, and I
20 don't know what that is, and so I've never seen it.

21 Q. You've never seen the CBE?

22 A. You're referring to a report?

23 Q. No. The CBE -- if I said report, I
24 apologize. Burns & McDonnell represented in the CBE
25 that it was 95 percent probable, subject to check.

1 And that would -- that is Burns &
2 McDonnell's representation of their confidence, is it
3 not?

4 A. And I'm not -- I'm trying to understand.
5 The control budget estimate was completed by Kansas
6 City Power & Light personnel. It wasn't generated by
7 Burns & McDonnell. And so when it was submitted to
8 the executive oversight committee in December for
9 approval as the control budget estimate, it was done
10 by Terry Foster and people like Forrest Archibald and
11 Brent Davis and others.

12 And this is where I'm getting confused on
13 the 95 percent number of the CBE.

14 MR. SCHWARZ: I withdraw the question.
15 Nothing further.

16 JUDGE PRIDGIN: Mr. Mills?

17 RE CROSS-EXAMINATION

18 QUESTIONS BY MR. MILLS:

19 Q. Mr. Jones, let me sort of go through
20 the -- the cost control assistance document and see if
21 I can maybe pin this down a little better because I
22 think there's
23 still -- at least in my mind, there's some confusion
24 between the control budget estimate and the definitive
25 estimate.

1 Page 8 of 30, the language that
2 Commissioner Jarrett had you look at, the last
3 sentence in the first paragraph under 3.1 says, "The
4 definitive estimate will be used to establish each
5 project's control budget."

6 Does that not imply that there are two
7 stages, that first you have a definitive estimate and
8 then you have a control budget?

9 A. Well, if I may, this document is for all
10 of the CEP projects. And what it's meant to be is
11 scaleable to the project, so it's not built for just
12 Iatan. It takes into consideration the wind projects
13 and La Cygne. And so when it talks about that and
14 says for each project's control budget, if there were
15 three projects going on at the same time, then it
16 would be -- the definitive estimate would -- there
17 would be a control budget estimate for each one of
18 those projects. So that's what that means.

19 Q. So let's focus just on Iatan.

20 A. Okay.

21 Q. Does that sentence not indicate that a
22 definitive estimate would come first in time and then
23 be used to establish Iatan's control budget?

24 A. I don't believe that that's -- that's
25 what it's meant to say.

1 Q. Okay. Let's -- let's move on. Let's
2 look at page 29 of 30 and the paragraph that
3 Commissioner Jarrett had you look at. It's paragraph
4 B-1 on that page, and the last sentence talks about
5 two critical steps, the first being the definitive
6 estimate, and the second being the control budget for
7 Iatan project's costs.

8 Does that sentence not indicate that
9 those are two separate steps?

10 A. Again, I believe that was for finalizing
11 the definitive estimate for the Commission. Because,
12 again, the section is commitments to the Commission.
13 And then establishing based on that number, that
14 becomes the control budget estimate. And so in
15 December of 2006, our commitment to Commission was to
16 give them a definitive estimate. We gave it to them
17 in December of 2006. And that established the control
18 budget that we would then be monitored to for the rest
19 of the project's life cycle.

20 Q. Okay. Well, let's go back to that. So
21 on page 29 of 30 at the beginning of that paragraph we
22 were just looking at, does it -- do you agree that
23 KCP&L had at that point committed to establishing a
24 definitive estimate by August 1st, 2006?

25 A. I agree with that, yes.

1 Q. Was that commitment met?

2 A. You'd have to ask Mr. Giles as to what
3 was submitted on August 1st or if there was an
4 extension given. I don't know if it was actually met.
5 I know the control budget estimate was established in
6 December.

7 Q. Okay. Did you see anything that was
8 referred -- that you would have considered a
9 definitive estimate on or before August 1st, 2006?

10 A. No.

11 Q. Okay. Did you -- have you ever seen a
12 document that's -- that's titled "Definitive
13 Estimate?"

14 A. Not that I recall.

15 Q. So regardless of what this cost control
16 document says, in your mind, the definitive estimate
17 and the control budget estimate are one in the same?

18 A. That's correct.

19 Q. Okay. To your knowledge, when was the
20 control budget estimate or the definitive estimate
21 shared with the Staff and the other parties to the
22 CEP?

23 A. You would have to ask Mr. Giles when it
24 was shared with Staff and other partners in the CEP.

25 Q. When did you sign off on it?

1 A. The project completed the control budget
2 estimate in December of 2006.

3 Q. Okay. And when did KCP&L Great Plains
4 Management approve or okay that?

5 A. I'm not sure when they -- their board
6 signed off on that number.

7 MR. MILLS: Okay. That's all I have.
8 Thank you.

9 JUDGE PRIDGIN: Mr. Mills, thank you.
10 Mr. Dottheim?

11 MR. DOTTHEIM: No questions.

12 JUDGE PRIDGIN: Thank you. Mr. Fischer,
13 redirect?

14 MR. FISCHER: Yes.

15 MR. HATFIELD: Judge, you know how much I
16 enjoy that ELMO, so I'm going to move up here.

17 JUDGE PRIDGIN: Help yourself.

18 REDIRECT EXAMINATION

19 QUESTIONS BY MR. HATFIELD:

20 Q. Mr. Jones, thank you. We've covered --
21 touched on several topics, so I'm going to kind of go
22 backwards and go in reverse order, I think.

23 A. Okay.

24 Q. You were just having a little discussion
25 with Mr. Mills about control budget estimates and

1 definitive estimates, and you mentioned the board
2 signing off on a number.

3 So let me ask you this: The document you
4 were just reading from page 29, which is SJ 2010-1,
5 talks about the project team is currently engaged in
6 two critical steps, finalizing the definitive
7 estimate. So was it the project team that was doing
8 that?

9 A. We were finalizing the numbers to give to
10 regulatory for the -- the definitive estimate that's
11 mentioned.

12 Q. And then when that definitive estimate
13 was developed, did someone internally at KCP&L need to
14 look at that and adopt it?

15 A. It would have to be vetted through the
16 executives, and with that large of a number, through,
17 I'm sure, the board of directors.

18 Q. So did someone up above the project team
19 have the authority to alter the definitive estimate,
20 if they chose to do that?

21 A. If they chose to do that, sure.

22 Q. And so once that process was completed,
23 then what would happen?

24 A. That would become our control budget.

25 Q. All right. So first the project team's

1 going to develop a definitive estimate; is that right?

2 A. That's right.

3 Q. And then once it's approved, which might
4 take some period of time; is that right?

5 A. Yes.

6 Q. That would become the control budget
7 estimate?

8 A. That's correct.

9 Q. Now, regardless of how that process went,
10 there was a control budget estimate. I think we all
11 agree on that, right?

12 A. I think we all agree on that.

13 Q. December 2006?

14 A. That's right.

15 Q. Let me go back to some of the questions
16 Commissioner Jarrett asked you about. I think at one
17 point you mentioned that you thought this cost control
18 system was presented to Staff in September of 2006.

19 If Mr. Giles' testimony says July of
20 2006, would you defer to him on that?

21 A. I would.

22 Q. All right. And why is that again?

23 A. Why would I defer to Mr. Giles?

24 Q. Yes.

25 A. Again, we had worked on this, and it's

1 just -- it's a timing issue. I couldn't recall
2 exactly. It's five years ago, so I just didn't recall
3 exactly when it was. I just know that we were pulling
4 it together very quickly.

5 Q. Let's -- let me, to kind of shed a little
6 light on the discussion you were having with
7 Commissioner Jarrett about the document, in SJ 2010-1,
8 which is Schedule 1, let's -- let's start up at the
9 front for just a minute. The first section is
10 entitled "Overview." I'm looking at page 3 of 30; is
11 that right?

12 A. Yes.

13 Q. Entitled "Overview?"

14 A. I'm there.

15 Q. Let's go to Page 4 of 30. Project
16 controls?

17 A. Correct.

18 Q. And there's a definition there -- I'm
19 sorry. Let me ask that as a question. I see it -- a
20 word in bold, "Control Budget."

21 And what is the purpose of the sentence
22 that begins, "A control budget is?" what's the
23 purpose of that?

24 A. That particular sentence is meant to
25 include all the contingency and develop the estimate

1 for the project that the project will be maintained to

2 --

3 Q. Okay.

4 A. -- held to.

5 Q. And so it says, "A control budget is a
6 tool that details the expected costs of the work on
7 the project and includes appropriate contingency."

8 So, was such a thing, in fact, developed
9 for the Iatan project?

10 A. It was.

11 Q. And then it says, "The control budget is
12 balanced against the authorized expenditures from the
13 board of directors."

14 Did that, in fact, happen?

15 A. I believe it did.

16 Q. Now, then it talks about a baseline
17 schedule. Was a baseline schedule, in fact,
18 developed?

19 A. It was.

20 Q. And then the last sentence of that
21 paragraph says, "Once established, virtually all
22 critical project reporting information related to
23 either budget or schedule will emanate from the
24 control budget and the baseline schedule."

25 That's what was written in 2006. Did

1 that, in fact, happen on this project?

2 A. It did.

3 Q. All right. Now, the next paragraph talks
4 about project controls reporting. Do you see where
5 that is?

6 A. I do.

7 Q. And I'm not going to walk through it all,
8 but are you familiar with that paragraph?

9 A. I am.

10 Q. Did you assist in writing that paragraph?

11 A. I did.

12 Q. Was that paragraph, in fact, implemented
13 on the Iatan project?

14 A. It was.

15 Q. And read me the last sentence, please, of
16 that project.

17 A. "The projects will maintain for review by
18 appropriate parties, including the applicable state
19 regulatory authorities, all necessary documents
20 indicating progress, decision-making, expenditures and
21 variances as they occur."

22 Q. Did the projects, the Iatan projects, in
23 fact, maintain all necessary documents indicating
24 progress, decision-making, expenditures, and variances
25 and make them available to the appropriate parties,

1 including state regulatory authorities?

2 A. I believe the project did.

3 Q. All right. Now, if you'll go with me to
4 Page 5, where we end the overview section, I believe,
5 the last paragraph there in the overview section says,
6 "These tools comprise the foundation for project
7 reporting at all levels and serve to reinforce KCP&L's
8 commitment to the public to maintain a high level of
9 transparency concerning these critical projects."

10 Do you see that sentence?

11 A. I do.

12 Q. Let me ask you two questions about that.
13 Number one, in your experience on these projects, did
14 KCP&L, in fact, have a high level of commitment to
15 maintain a high level of transparency?

16 A. I believe we did.

17 Q. Next sentence, "The project represents a
18 major undertaking, and KCP&L is acutely aware that
19 their success requires the trust of the public, its
20 partners, and state regulatory agencies throughout the
21 construction process."

22 Do you agree that that was the philosophy
23 of KCP&L in approaching these projects?

24 A. I believe it was.

25 Q. And then it says, "The following

1 describes the controls that KCP&L will place around
2 the CEP projects to ensure fidelity to KCP&L
3 stewardship of that trust."

4 Do you see that?

5 A. I do.

6 Q. And does this document, in fact, describe
7 the controls that were put in place to ensure fidelity
8 to the stewardship of the public trust?

9 A. I believe it does.

10 Q. All right. Now, on -- we talked a little
11 bit about reforecasting.

12 MR. DOTTHEIM: Judge, I think I'm going
13 to object. I think this is beyond the scope of -- of
14 any of the cross. If Mr. Hatfield wants to take
15 Mr. Jones through his direct testimony and have him
16 recite it back into the record of the Commission, I do
17 believe that's -- that's beyond the scope. I guess
18 we're fortunate that Mr. Jones only has direct
19 testimony and not rebuttal and surrebuttal or else we
20 might be here all night.

21 MR. HATFIELD: Won't be my fault.

22 MR. DOTTHEIM: I do believe -- I think it
23 would be -- I do believe that Mr. -- Mr. Hatfield
24 is -- is going beyond the scope of -- of the cross
25 that has occurred.

1 JUDGE PRIDGIN: Mr. Hatfield?

2 MR. HATFIELD: I actually haven't asked a
3 question yet, Judge. He was finishing answering my
4 last one and I was preparing to ask one when the
5 objection was lodged.

6 JUDGE PRIDGIN: Okay. I'll sustain and
7 certainly just expect that you'll try to limit your
8 redirect to anything raised on cross.

9 MR. HATFIELD: Of course. Thank you.

10 BY MR. HATFIELD:

11 Q. Now, Commissioner Jarrett asked you about
12 reforecasts. Did you, in fact, on the project
13 periodically prepare forecasted costs?

14 A. Yes.

15 Q. All right. And Commissioner Jarrett
16 asked you about quarterly reports and whether those
17 quarterly reports were, in fact, provided. Do you
18 remember that?

19 A. I do.

20 MR. HATFIELD: May I approach, Judge?

21 JUDGE PRIDGIN: You may.

22 BY MR. HATFIELD:

23 Q. Previously in another cross, KCP&L
24 Exhibit 69 HC was marked. Let me show you that
25 document.

1 And if you know, can you tell me, is that
2 an example of the quarterly reports that were prepared
3 and provided?

4 A. It is.

5 Q. Okay. Thank you. Now, in addition to
6 quarterly reports, were there monthly reports, do you
7 know?

8 A. There were.

9 Q. And were those also provided to Staff?

10 A. I do not know. I believe they were, but
11 I'm not a hundred percent positive.

12 Q. Who should the Commission ask about that
13 if they want to know about monthly reports?

14 A. Mr. Giles.

15 Q. All right. Now, on cross-examination
16 from various counsel, let's start -- let's do it in
17 order, I guess.

18 Mr. Schwarz asked you about exhibit, I
19 think it was 2603 is what I have. Do you still have
20 that in front of you?

21 A. Is that this notification letter?

22 Q. Yes, sir.

23 A. I do.

24 Q. And this was in July of 2007; is that
25 right?

1 A. It is.

2 Q. And just generally, can you give us some
3 context of what was going on when this letter was
4 written?

5 A. This is a typical notice or notification
6 that we would send to a supplier that is letting them
7 know that we believe that we have a problem with that
8 supplier. In this particular case, we were working
9 with Burns & McDonnell as our owner's engineer, and we
10 were simply trying to get a list of engineered
11 drawings that they would need to create over the
12 project's lifecycle. And we were letting them know
13 that we were trying to get metrics associated with how
14 they were doing in performance on getting the hours
15 and the drawings complete.

16 It became a bit of an issue for us
17 because Burns & McDonnell works in what's called a
18 virtual model or a 3-D model. In working in that
19 model, they have engineers spending time developing
20 drawings, and out of that model will come a drawing at
21 the end of the day. And so this was just a simple
22 letter that said, you know, we're trying to get
23 metrics to manage you, to understand that the manhours
24 associated with the work is going towards the
25 appropriate engineering that needs to be done on the

1 project, and that's what the use of the letter was
2 for.

3 Q. So is the -- was the failure to provide
4 drawings, in your experience, did it provide any
5 significant delays or problems with the project?

6 MR. SCHWARZ: I'm going to object. I
7 don't think I inquired at all about the nature of the
8 problems. I had him identify the letter.

9 MR. HATFIELD: He admitted it into
10 evidence.

11 JUDGE PRIDGIN: And that was 2603?

12 MR. HATFIELD: Yes, sir.

13 JUDGE PRIDGIN: All right. I'll
14 overrule.

15 THE WITNESS: Could you repeat, please?
16 I'm sorry.

17 BY MR. HATFIELD:

18 Q. Did the issues addressed here cause any
19 significant problems with the management of the
20 project?

21 A. No. Once again, this was literally meant
22 to understand how we could better manage using data,
23 the work Burns & Mc was doing in their home office and
24 at the work site.

25 Q. All right. Have you ever met somebody

1 named Walter Drabinski?

2 A. I have.

3 Q. Did he ever ask you about this letter?

4 A. Not that I recall.

5 Q. All right. Now, Mr. Dottheim showed you
6 the project execution plan. I have forgotten my
7 exhibit number on that.

8 MR. DOTTHEIM: 251.

9 MR. HATFIELD: I'm being advised 251, 251
10 HC.

11 BY MR. HATFIELD:

12 Q. Let's get to one thing to make sure we
13 get it cleared up. Can you go to page 1 down there?
14 See, there are numbers at the bottom?

15 A. The page 1 on the logo?

16 Q. Yes, sir.

17 A. Yep.

18 Q. Now, there's a drawing in the middle of
19 page 1, isn't there?

20 A. There is.

21 Q. How many chimneys?

22 A. There's two.

23 Q. And there are two chimneys there today,
24 right?

25 A. There are.

1 Q. Now, on the PEP, is there a section of
2 the PEP that discussed cost controls?

3 A. Let me look at the index. Page 37 has a
4 12.1 under project controls.

5 Q. All right. So when Mr. Dottheim was
6 asking you about the PEP, I think you -- let me get
7 time frame again.

8 PEP was issued in June of 2007; is that
9 right?

10 A. That's correct.

11 Q. So how -- chronologically, how does the
12 document we've looked at earlier, you talked about
13 with Commissioner Jarrett, SJ 2010-1, relate to the
14 PEP? Which came first?

15 A. The cost control system -- the
16 comprehensive energy plan, cost control system came
17 first.

18 Q. All right. And why? Why was it
19 developed first?

20 A. It was developed because of our
21 commitment to the Missouri Commission Staff on the
22 stipulation and agreement.

23 Q. All right. And does exhibit -- is SJ
24 2010-1, is that cost control system the same as the
25 cost control system in the PEP?

1 A. I'm sure there are tenets of it that are
2 the same and some things that Forrest does in his
3 day-to-day are different, but in general, I'm sure
4 it's very much the same. I mean, these are more of
5 the work -- again, this is the guardrails document.
6 This is what cost control will do based on the work
7 that they have to do in their -- in their area on the
8 project.

9 Q. All right. Mr. Dottheim asked you a
10 little bit about -- he talked to you in your
11 deposition about some discussion of reforecasting. I
12 think you said, in your experience, there would be
13 three reforecasts.

14 How many reforecasts were there on this
15 project?

16 A. There was the 2008 reforecast, and then I
17 know that there was another one after that, at least
18 one other one after that, maybe two, or the last one
19 would be at this point, I would guess, would be the
20 estimate to complete.

21 Q. Okay. And let me -- just to make sure we
22 understand what you were discussing with Commissioner
23 Jarrett there and with Mr. Dottheim, let me show
24 you -- and this is Schedule FAC for Forrest Archibald,
25 2010-2.

1 It's just the cover page, but generally,
2 have you seen a document like that?

3 A. I have. It was produced monthly for the
4 executives.

5 Q. Now -- well, now, let's back up.

6 A. I'm sorry, that was a cost report. I was
7 reading the title at the bottom.

8 Q. So let's clarify, then, again. What is
9 this?

10 A. This is the Unit 1 and Unit 2 cost
11 reforecast of 2008.

12 Q. Okay. And what was -- do you know what
13 was done with this document?

14 A. It was a document that went to the
15 executive oversight committee for review and approval.

16 Q. And generally in this reforecasting
17 process, what was included in a reforecast?

18 A. As far as the work of the -- the actual
19 work of the reforecast or the development of the
20 reforecast?

21 Q. Well, what -- let me just show you here
22 what's labeled as an introduction and ask you to
23 review that. This is FAC 22-2, cost summary, Iatan 2
24 cost per kilowatt, process, reforecast components,
25 assumption, estimated changes by category, contingency

1 analysis, risks, communication plan.

2 Is this the standard list of items that
3 are discussed in a reforecast?

4 A. For the executives, this is essentially
5 the agenda for that day.

6 Q. All right. So when it says estimate
7 changes by category, what does that mean?

8 A. We had categorized the different
9 procurements that had been done on the project and the
10 new estimates that we would be doing would be in this
11 area.

12 Q. Okay. So now in this -- let me make sure
13 I'm on the right -- not on pages we need to worry
14 about. So in this particular one, still on
15 FAC 2010-2, we have here estimated changes by
16 category.

17 And does something like that appear in
18 each reforecast that was done?

19 A. It does.

20 Q. So here we have estimated changes by
21 category, price, design maturation, scope, design
22 maturation, schedule, and then we have optimization,
23 operation, and construction, we have
24 regulatory/external permit. Looks like that's it.

25 So what was generally described in these

1 estimated changes by category?

2 A. This was part of the analysis that was
3 done where on each one of the changes orders, these
4 categories show as a check box for the person that's
5 generating the change order to check and determine
6 what was the cause of the change order. And so what
7 we try to do is mirror the change orders to say on the
8 reforecast, here's the work that we believe is going
9 to come down and here's the categories that it fits
10 in.

11 Q. So are we saying that this captures from
12 the change orders the reasons for the changes?

13 A. It does.

14 Q. And when we say "changes," we mean
15 changes against the original control budget estimate?

16 A. Contracts.

17 Q. Against the contracts?

18 A. Correct.

19 Q. Okay. And then I see here on this
20 particular one, there's a pie chart, estimated
21 changes, and it assigns percentages; is that right?

22 A. That's correct.

23 Q. And is that -- is a document like that,
24 that assigns percentages to each category of changes
25 to the contracts, does that type of pie chart appear

1 in each and every reforecast that was done?

2 A. I know it did in this one. I didn't see
3 the 2010, so I'm not sure.

4 Q. Okay. In the '08 one, it was there?

5 A. Yes.

6 Q. And do you know, were the reforecasts
7 provided to staff?

8 A. I believe they were.

9 Q. Staff --

10 A. Mr. Giles can confirm it.

11 Q. -- of the Missouri Public Service
12 Commission?

13 All right. Now, you talked about the
14 change orders, checking a box, and I know Mr. Dottheim
15 went through some change order questions with you.

16 Is there a change order as one of your
17 schedules? I don't think so.

18 A. In the comprehensive energy plan, cost
19 control schedule, SJ 2010, there's a sample change
20 order on Page 26.

21 Q. Page 26 of SJ 2010-1, right? All right.
22 So we're talking about -- is that what we're talking
23 about, change order documentation form?

24 A. Yes. The form that's actually being used
25 is much more detailed than this one, but this was a

1 sample that we used in 2006.

2 Q. Okay. So, yeah, this is -- well, you
3 just explained it.

4 okay. So tell me what you were just
5 talking about in terms of where on the change order we
6 would identify the reasons.

7 A. Well, this one -- again, this was an
8 early one from 2006.

9 Q. Right.

10 A. This one doesn't show the reason code
11 box.

12 Q. Okay.

13 A. But under where it says product type and
14 it says director service labor, on the form that's
15 currently there, it will say reason code, and then
16 you've got to check the box of the reason, whatever
17 reason code you need to use.

18 Q. And do you know generally, can you recite
19 some of the reason codes that you would use?

20 A. Some of the ones you went through just a
21 minute ago, price, schedule optimization, design
22 maturity, those kind of things.

23 Q. And by the way, we use this term, maybe
24 everybody else knows what it means, but design
25 maturity, can we take that down to layman's terms?

1 A. The example I gave earlier, which was in
2 December when you specify a job, you buy a pump and
3 you want a ten-gallon pump --

4 Q. Right.

5 A. -- and it's going to pump ten gallons an
6 hour. And in June or July, conditions change and you
7 realize you need a 20-gallon per hour pump. Well,
8 that's a change.

9 Q. So you have to change the design?

10 A. Yes. So the design matured that says we
11 need more water than we needed back in December for
12 some reason. There's a reason you need more water.

13 Q. So we've changed -- when we're saying
14 design, we're referring to the design of the project,
15 then?

16 A. Yes, of that particular system within the
17 project.

18 Q. All right. Let me just ask real quickly
19 on the -- you went through an example of change orders
20 with Mr. Dottheim, and I think you discussed the
21 estimator's involvement?

22 A. That's correct.

23 Q. Were those the only people that were
24 involved in reviewing change orders?

25 A. Oh, no, quite to the contrary. It's a

1 robust and yet very thorough process. Many people
2 review a change order. When a change order gets
3 created on the Iatan project, a form similar to this
4 form that you're looking at here is filled out by the
5 engineer or whoever identifies the change. And they
6 say what is the issue, what's the modifications, what
7 changed, the analysis, what happened, why was there a
8 change? And then what's their recommendation?

9 with that, it gets put into a system that
10 then starts the routing process, including it goes
11 through engineering, it goes through construction
12 management, so the whole project leadership team sees
13 it at the end of the day. So the engineering manager
14 sees it and needs to review it and authorize it, it
15 goes through the construction manager has
16 to -- receives it, reviews it, you know, agrees or
17 disagrees with it, you know, may have a conversation
18 with that engineer or that construction person.

19 It goes through the procurement director,
20 it goes through cost control, Forrest's group sees it.
21 It goes through the scheduling department. It goes to
22 the estimating -- if at that point it's been sort of
23 approved, because it's not approved yet, the
24 estimators will then review it for accuracy when it
25 comes to, is it valid, is it worth the dollars, is it

1 too high or too low? The estimators then review it.

2 And then it goes through a final set
3 of -- of Staff, including Brent mentioned that he
4 signs many of them, Bob Bell signs many of them now.
5 But there's two KCP&L signatures and a vendor
6 signature at the end of the day. So it goes through
7 many hands over the course of not many -- not many
8 hours, but days before you can approve a change order
9 sometimes.

10 Q. All right. And then finally,
11 Mr. Dottheim, I think, asked you about whether you had
12 been interviewed by Pegasus. Do you recall that?

13 A. I do.

14 Q. Were you ever interviewed by Mr. Hyneman
15 of the PSC Staff?

16 A. You know, I don't know specifically if it
17 was Mr. Hyneman. I did sit in one meeting with PSC
18 Staff with Brent back in early 2007, but I'm not
19 exactly sure of the names of the folks.

20 Q. Well, that might speed it up a little
21 bit. Have you ever been interviewed by anybody on the
22 PSC Staff?

23 A. Interview? We gave a presentation on
24 change management to the lead engineer at the time and
25 another person, I think Wood or Ward and those -- Dave

1 Elliott and either a gentleman by the name of Ward or
2 wood, and we went through all the processes that we
3 had in place in April of 2007 or May of 2007 to lay
4 out, this is how we're going to be managing the
5 project based on what had been submitted as the cost
6 control system. And we were going to go through -- we
7 went through change management, how we were going to
8 document every change on the project, the due
9 diligence we were going to put into it.

10 In fact, we even came up with the
11 justification -- the support documentation for change
12 orders to even make more crystal clear the change
13 orders over \$50,000, I believe, at Dave's request, Mr.
14 Elliott's request at some point. So we -- that's the
15 one I remember. It was early on, on the project.

16 MR. HATFIELD: Thank you. No further
17 questions, Judge.

18 JUDGE PRIDGIN: Mr. Hatfield, thank you.
19 Mr. Jones, you may step down. Thank you very much.

20 All right. I would like to adjourn for
21 the evening, and before I do, I guess, probably give
22 parties sort of a report or fair warning, too. In my
23 view, we're sliding behind schedule quite a bit
24 already. And I have no intent of keeping people late
25 tomorrow night with it being a Friday and a lot of

1 people trying to get back to Kansas City. But unless
2 the pace picks up pretty quickly, I'm counting 15
3 Iatan witnesses and five days allotted, and by my
4 math, that's getting through three witnesses a day,
5 and at this pace we're only getting through two. So
6 we're continuing to slide behind.

7 So unless, like I said, the pace starts
8 to pick up, I want to give parties notice that
9 starting next week, we may be spending some evenings
10 together to try to catch up. Is there anything
11 further from counsel before we adjourn for the
12 evening? Mr. Dottheim?

13 MR. DOTTHEIM: Judge, in the first Iatan
14 case, we had a Saturday hearing. In fact -- in fact,
15 I had a -- the interest synchronization issue, we had
16 two issues on a Saturday. We started the rate design
17 issue, I think it was at 10:00, and then we started
18 the tax issue, which I had at 2:00, and we finished
19 just -- just short of 10:00 p.m.

20 JUDGE PRIDGIN: All right. Anything's on
21 the table.

22 MR. FISCHER: Judge, I would also like to
23 talk about schedules just a little bit in terms of
24 witnesses. I think we've committed to take
25 Mr. Drabinski on Monday.

1 JUDGE PRIDGIN: I recall that, yes.

2 MR. FISCHER: And if I look at the
3 schedule, we've got Mr. Giles tomorrow, Mr. Downey and
4 Mr. Roberts. My out-of-town expert, Mr. Nielsen has
5 scheduled a flight. He needs to leave here by 1:00
6 tomorrow. I don't think it's likely we're going to
7 get to him, but I wanted to alert folks that he is
8 planning to leave at 1:00 tomorrow, and we can take
9 him after Mr. Drabinski or wherever it's convenient
10 for people after next week -- after he comes back next
11 week.

12 JUDGE PRIDGIN: Okay. All right.
13 Anything further from counsel?

14 All right. We will then adjourn for the
15 evening. We'll resume at 8:30 in the morning. Thank
16 you very much. We are off the record.

17 (Hearing adjourned for the day at 5:55
18 p.m.)

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I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Tracy Thorpe Taylor, CCR

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CERTIFICATE OF REPORTER

I, JENNIFER L. LEIBACH, Registered Professional Reporter, Certified Court Reporter, CCR #1780, and Certified Realtime Reporter, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Jennifer Leibach, RPR, CCR

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I N D E X

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