

THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

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Jefferson City, Missouri

Volume 32

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.

ROBERT CLAYTON, Chairman
JEFF DAVIS
TERRY M. JARRETT
KEVIN GUNN
ROBERT S. KENNEY,
Commissioners.

REPORTED BY:
LISA M. BANKS, CCR
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

1
2
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4
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6
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12
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15
16
17
18
19
20
21
22
23
24
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
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

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

FOR: Kansas City Power & Light Company

1 KARL ZOBRIST, Attorney at Law
SUSAN CUNNINGHAM, Attorney at Law
2 SNR Denton US LLP
4520 Main Street, Suite 1100
3 Kansas City, MO 64111
816.460.2400
4 FOR: Kansas City Power & Light Company

5
6 CHARLES HATFIELD, Attorney at Law
Stinson Morrison Hecker, LLP
230 W. McCarty Street
7 Jefferson City, MO 65101
573.636.6263
8 FOR: Kansas City Power & Light Company

9
10 GLENDA CAFER, Attorney at Law
Cafer Law Office, LLC
3321 Southwest Sixth Street
11 Topeka, KS 66606
785.271.9991
12 FOR: Kansas City Power & Light Company

13
14 MICHAEL AMASH, Attorney at Law
Blake and Uhlig PA
753 State Ave., 475
15 Kansas City, KS 66101
913.321.8884
16 FOR: IBEW Locals 412, 1613 and 1464

17
18 WILLIAM STEINMEIER, Attorney at Law
William D. Steinmeier PC
P.O. Box 104595
19 Jefferson City, MO 65110-4595
573.659.8672
20 FOR: The City of St. Joseph, Missouri

21
22 CAPT. SHAYLA MCNEILL, Attorney at Law
United States Air Force
119 Sugar Sand Lane
23 Santa Rosa Beach, FL 32459
312.371.2673
24 FOR: The Federal Executive Agencies

25

1 SARAH MANGELSDORF, Attorney at Law
P.O. Box 899
2 Jefferson City, MO 63130
573.751.0052
3 FOR: Missouri Department of Natural Resources

4
5 JOHN R. KINDSCHUH, Attorney at Law
Bryan Cave LLP
13220 Metcalf, Suite 320
6 Overland Park, KS 66213
913.338.7700
7 FOR: MIEC and FORD

8
9 JOHN B. COFFMAN, Attorney at Law
John B. Coffman, LLC
871 Tuxedo Boulevard
10 St. Louis, MO 63119
314.395.8002
11 FOR: AARP and Consumers Council of Missouri

12
13 ROBERT WAGNER
9005 N. Chatham Ave.
Kansas City, MO 64154
14 FOR: Pro Se Intervenors

15
16 STEVE DOTTHEIM, Chief Deputy Counsel
NATHAN WILLIAMS, Deputy Counsel
JAIME OTT, Legal Counsel
17 KEVIN THOMPSON, Chief Staff Counsel
JENNIFER HERNANDEZ, Legal Counsel
18 SARAH KLIETHERMES, Legal Counsel
ERIC DEARMONT, Legal Counsel
19 ANNETTE SLACK, Legal Counsel
MEGHAN MCCLOWERY, Legal Counsel
20 Public Service Commission
200 Madison Street
21 P.O. Box 309
Jefferson City, MO 65102
22 573.751.6514
FOR: The Staff of the Missouri Public Service Commission

23
24
25

1 LEWIS MILLS
Office of Public Counsel
2 200 Madison Street
P.O. Box 2230
3 Jefferson City, MO 65102
FOR: Office of Public Counsel
4
5
6
7
8
9
10
11
12
13
14
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1 JUDGE PRIDGIN: All right. Good morning. We
2 are back on the record. I understand we will be proceeding
3 to off-system sales, and that the parties wish to give mini
4 openings on that issue.

5 Is there anything further from counsel before
6 we go on to those opening statements?

7 All right. I would assume KCP&L would be up
8 first.

9 Mr. Zobrist, when you're ready, sir.

10 MR. ZOBRIST: Thank you, Judge.

11 The issue at this time is whether KCPL's
12 rates should continue to be set at the 25th percentile of
13 non-firm off-system sales margin, as proposed by the company
14 and as previously accepted by the Commission. And we
15 believe that the answer to that question should be yes.

16 Based on the off-system sales margin
17 probability analysis conducted by KCPL witness Michael
18 Schnitzer of the Northbridge Group, the Commission should
19 continue to set rates at the 25th percentile.

20 And this would not only be consistent with
21 the precedent and the decisions made by the Commission
22 previously, but would also recognize the continuing
23 volatility that exists in the energy and capacity markets,
24 and as well as in the natural gas markets.

25 The Staff has accepted Mr. Schnitzer's

1 projection of OSS margins in the report at the 25th
2 percentile. The industrial intervenors suggest that it be
3 set at the 40th percentile.

4 The company will present three witnesses in
5 this regard. Mr. Schnitzer is the director of the
6 Northbridge Group, which is a nationally recognized economic
7 consultant to the energy industry. The Northbridge Group is
8 in Concord, Massachusetts. Mr. Schnitzer will be joining us
9 by telephone, thanks to the consent of the parties.

10 He has testified before the Commission in all
11 other prior rate cases. And he will be subject to
12 cross-examination with regard to the probability levels that
13 are produced by his analysis.

14 His analysis essentially looks at the energy
15 markets and all the inputs, and runs a thousand different
16 scenarios.

17 And based upon that, he provides evidence
18 with regard to the percentile at which KCPL has a reasonable
19 opportunity to achieve off-system sales.

20 And he provides both a 5 percent, meaning
21 there's a 95 percent chance you can hit that level on the
22 low end; and at the 95th percentile level, meaning there's a
23 5 percent chance that you would hit that.

24 But more realistically, for the Commission's
25 purposes, we talk about the 50th percentile, where you have

1 a 50/50 chance of hitting it; or the 25th percentile, where
2 you have a 75 percent chance of hitting it. And the
3 Commission, on prior occasions, has set it at that 25th
4 percentile level.

5 The Commission will also hear from Curtis
6 Blanc, senior director of regulatory affairs. He
7 articulates the policy of why it should be set at the 25
8 percent level, and explains why this is a reasonable risk
9 sharing mechanism with the customers.

10 And the way this works is anything up to the
11 25 percent levels is essentially included or baked into
12 rates. The customers absolutely get that. And if KCPL does
13 not hit the 25 percentile level, it has to make up that
14 difference, because it's already in the rates.

15 Anything over the 25th percentile level from
16 off-system sales are flowed back to customers in the next
17 rate case, plus interest, at rate of LIBOR -- the London
18 Interbank Offered Rate -- plus 32 points. And that interest
19 rate is not part of the company's cost of service. In other
20 words, the company pays for that.

21 So the mechanism as it exists today is
22 asymmetrical. There is no incentive to KCPL. It's
23 essentially on the book up to the 25th percentile level, and
24 anything over is flowed back to ratepayers with interest.

25 Mr. Blanc will also review the history of the

1 off-system sales earning -- earnings over the years, and
2 indicates where it has fallen, typically between the 25th
3 and the 50th percentile.

4 our final witness will be Burton Crawford,
5 senior manager of Energy Resource Management. He presents
6 testimony on three adjustments that the company proposes to
7 the 25th level of the Northbridge analysis.

8 These relate to Southwest Power Pool costs
9 that are incurred as a result of KCPL's participation in the
10 energy imbalance service market.

11 And they relate to SPP line losses, purchases
12 for resale, and something called RNU, which is revenue
13 neutrality uplift, charges or credits that are issued as a
14 result of the imbalances in that EIS market.

15 Staff agrees with two of the adjustments.
16 The industrials disagree with all of them.

17 I think the important thing to remember in
18 approaching this is the risks that the company faces. And
19 even though the prices of natural gas have fallen, there is
20 still volatility within the natural gas market. The dollars
21 may be different, but there still is volatility.

22 And a number of the parties have suggested
23 that the Commission should reconsider what it's done over
24 the past couple of years. And they cite the fall in the
25 natural gas markets. And I think, you know, our witnesses

1 are here to explain why even though margins may have
2 narrowed, the volatility is still there.

3 There's also -- there's also been a
4 suggestion that because Iatan 2 is now a -- is online, that
5 that presents greater opportunities for off-system sales.
6 And while it provides greater opportunities, it also
7 provides greater risk, because as the margins narrow between
8 coal and natural gas, Iatan 2 may be at risk. And so we
9 need to recognize both sides of the occasion [sic], the
10 opportunities as well as risks.

11 That's all we have, Judge. And we'll be --
12 and I've given you the numbers for Mr. Schnitzer.

13 JUDGE PRIDGIN: Yes.

14 MR. ZOBRIST: So at the conclusion of
15 off-system sales, we'll hopefully get him on the line.

16 JUDGE PRIDGIN: All right.

17 MR. ZOBRIST: Thank you.

18 JUDGE PRIDGIN: Mr. Zobrist, thank you.

19 To speed this along, let me ask, what other
20 parties wish to give mini openings on this topic?

21 Mr. Woodsmall, Mr. Dearmont, Mr. Kindschuh.
22 Okay.

23 Mr. Dearmont, when you're ready.

24 MR. DEARMONT: Good morning, and may it
25 please the Commission.

1 This issue is about two broad questions:
2 Should the Commission include OSS revenues at the 25th
3 percentile or the 40th percentile of company witness Michael
4 Schnitzer's OSS model? And should the Commission accept any
5 of company witness Burton Crawford's adjustments to these
6 revenues?

7 I'll defer to the witnesses as to the
8 contested revenue adjustments. But as far as the level of
9 OSS margins is concerned, I have to say that in my mind,
10 this issue is all about expectations.

11 I spent a few hours this last weekend trying
12 to wrap my head around that concept. And in doing so, I
13 came across an interesting quote: Don't lower your level of
14 expectations to meet your performance; raise your level of
15 performance to meet your expectations.

16 In these cases, it's easy to get lost in the
17 annualizations and normalizations and amortizations, and so
18 on and so on and so on.

19 And I think that's in general because here in
20 the state of Missouri we focus on quantifying costs that
21 have occurred in the past in order to develop an educated
22 guess about the costs that are likely to incur -- occur in
23 the future. That's historical test year ratemaking.

24 But this isn't the case with off-system
25 sales. For some reason, a regulatory plan or otherwise,

1 this issue has developed into something quite more
2 forward-looking.

3 In other words, instead of placing normalized
4 levels of KCPL's past off-system sales into the company's
5 cost of service, we now use models that attempt to predict
6 those levels of sales in the future.

7 As you are well aware, both two and three
8 cases ago, the Commission ordered OSS margins to be included
9 at levels, the probability of which the company should have
10 exceeded 75 percent of the time. Although this issue was
11 settled in the company's last rate case, the level that was
12 included in rates was arguably even higher.

13 In conjunction with these levels, the
14 Commission has ordered the company to track margins
15 exceeding any allowed level so that such margins might be
16 considered for inclusion in subsequent rate cases.

17 Now, in looking at the actual -- the actual
18 levels of OSS margins that have occurred over the past few
19 years, we see that the company's sales have been strikingly
20 close to whatever level was allowed in rates. Now, in my
21 mind, there are only two reasons why this could have
22 occurred: one, random chance; two, not random chance.

23 It is possible that off-system sales just
24 were what they were, and that by random chance, an event
25 that had the probability of taking place 25 percent of the

1 time, just so happened to take place every time, every year.

2 Now, on the other hand, it's possible that
3 setting OSS margins at the 25th percentile while utilizing
4 the use of a tracker removed all, or at least, most of the
5 incentive for the company to make additional OSS, and
6 therefore they just didn't make additional sales.

7 Economically speaking, and corporate
8 stewardship aside, there is less motivation for KCPL to make
9 additional sales with the tracker than without it.

10 Now, I am not saying that the use of a
11 tracker is necessarily bad. It can be good for customers;
12 it can be good for ratepayers. But I am saying that the use
13 of a tracker needs to work hand-in-hand with a reasonable
14 and appropriate level of included margins.

15 while this is just a theory, it has an
16 extremely important implication. If this theory is true,
17 you as the Commission can influence KCPL's level of OSS in
18 the future. And in doing so, you can help ratepayers with
19 no detriment to the company.

20 I listened to Mr. Woodsmall's opening on the
21 first day of the hearing. I think he made a number of good
22 points. I especially liked the portion where he made the
23 reference to the Commission setting OSS lines like a Vegas
24 sports book.

25 And in using that reference, I guess what I'm

1 saying is that, this issue presents you with a very unique
2 opportunity. Not only can you move the line on the game,
3 but like a good coach, you can encourage your team to play
4 just a little bit harder.

5 Don't lower your level of expectations to
6 meet your performance; raise your level of performance to
7 meet your expectations.

8 Thank you.

9 JUDGE PRIDGIN: Mr. Dearmont, thank you.

10 Mr. Kindschuh.

11 I'm sorry. Do you have a preference?

12 MR. KINDSCHUH: David, go ahead.

13 JUDGE PRIDGIN: Mr. Woodsmall. Thank you.

14 Okay. And Mr. Woodsmall, could I confirm,
15 you do have the slide up, but you would prefer me not to put
16 the camera on because it contains some highly confidential
17 material?

18 MR. WOODSMALL: There are pieces of this that
19 contains highly confidential material. And rather than go
20 back and forth, if you would, just keep the camera off of
21 that. I don't believe anybody in the room is problematic,
22 so --

23 JUDGE PRIDGIN: Thank you.

24 MR. WOODSMALL: Thank you.

25 Good morning. May it please the Commission.

1 In my opening statement two weeks ago, I
2 mentioned that the parties do a bad job of tying issues
3 together for the Commission.

4 By tying -- trying the case an issue at a
5 time, you rarely see the common threads running through the
6 case. With that in mind, I want to dig a little deeper and
7 show you one of the threads running through this case.

8 Last week you heard KCP&L tell the Commission
9 that they deserve a 25-basis-point increase in their return
10 on equity because of the service that they are providing the
11 ratepayers.

12 In support of this request, KCP&L simply
13 throws out the fact that it won a couple of random awards.
14 Good customer service, however, is more than just keeping
15 the electricity on. Taking care of your customers means
16 that you're doing everything you can to keep their rates
17 low.

18 With that in mind, I'm here to tell you that
19 in this regard, KCP&L is not providing good customer
20 services to their customers.

21 At Page 46 of Staff witness Featherstone's
22 direct testimony, he demonstrates that rates for KCP&L have
23 gone up dramatically in recent years. With the 14-percent
24 increase requested by KCP&L in this case, customer rates
25 will have increased by 41 percent in six years.

1 You would probably guess immediately that
2 this is a result of the recent construction program
3 undertaken at Iatan.

4 while this is partially correct, I want you
5 to realize that there's another reason: KCP&L's failure to
6 fully participate in the wholesale market.

7 It is undisputed that the margins of
8 off-system sales should go to the ratepayers. You will hear
9 testimony that ratepayers provide a return on and of the
10 investment used to provide the generation to make off-system
11 sales.

12 Ratepayers pay the fuel. Ratepayers pay for
13 the transmission lines, the substations, the salaries of the
14 dispatchers. Ratepayers pay for the computers and the
15 telephone lines used to conduct the off-system transactions.

16 In fact, in the regulatory plan, KCP&L has
17 explicitly recognized that these off-system sales margins
18 belong to the ratepayers. Despite this recognition, KCP&L
19 refuses to make the level of off-system sales that comes
20 with providing good customer service.

21 So what happened with KCP&L's performance in
22 the wholesale market? In this chart, I show you that
23 KCP&L's performance has been in a rapid free fall since the
24 2006 case. Given that these wholesale markets -- margins
25 inure to the benefit of ratepayers, it is not surprising

1 that KCP&L's rates have increased rapidly as a result of the
2 company's failure.

3 So how did we get to the dismal level of
4 wholesale performance that we now see?

5 In 2006, KCP&L filed rate cases in Missouri
6 and Kansas. In those two cases, two things happened.
7 First, the Kansas Commission accepted KCP&L's offer to begin
8 using the unused energy allocator to allocate the margins
9 from off-system sales between the two jurisdictions.

10 At the same time, this Commission rejected
11 that allocator because it was inherently flawed. So we have
12 these margins allocated in two different ways by the two
13 states.

14 Second, the Missouri Commission set
15 off-system sales margins at the 25th percentile. As you
16 will see, the effect of these two decisions completely
17 destroyed KCP&L's desire to participate in the wholesale
18 market.

19 First, let's discuss the unused energy
20 allocator. In 2006 -- in the 2006 Kansas rate case, KCP&L
21 developed and proposed the unused energy allocator. It's
22 important to understand that this allocation methodology was
23 a creation of KCP&L. It has never been used in another
24 jurisdiction. In fact, to the best of our knowledge, it's
25 never even been proposed in another jurisdiction.

1 Nevertheless, because it was beneficial in
2 keeping Kansas rates low, the Kansas Commission quickly
3 jumped on the allocation methodology.

4 At the same time, however, the Missouri
5 Commission rejected the allocator as inherently flawed. The
6 net effect of this was that Kansas must now return a
7 dollar-five for every dollar it earns in the wholesale
8 market.

9 Interestingly, KCP&L recently asked the
10 Kansas Commission to free it from its self-made predicament.
11 In a case just decided in November, the Kansas Commission
12 denied KCP&L, and ordered the continuation of the unused
13 energy allocator.

14 The interesting part, however, are the quotes
15 from KCP&L's testimony in which it acknowledged the flawed
16 nature of the proposal it created in 2006.

17 Specifically, KCP&L's witness Larry Loos
18 opines the following: I believe that KCP&L proposed the
19 unused energy allocator without sufficient study of its
20 implications and reasonableness.

21 He continues: Based on the analysis I
22 present here, I believe that the unused energy allocator is
23 not an appropriate method for allocating off-system sales
24 margins.

25 As a result of the unused energy allocator,

1 Mr. Loos reaches the following conclusion. Differences
2 between Kansas and Missouri allocators, quote, "does not
3 make any sense, and serves as an economic disincentive for
4 the company to pursue off-system sales."

5 The bottom line from this discussion is to
6 make you aware of three things. First, a disincentive
7 exists as the result of the difference in allocators used in
8 the two states. Second, this difference was caused by
9 KCP&L's own actions. Third, nothing this Commission does in
10 this case can alleviate this difference.

11 In fact, in a stipulation filed just
12 yesterday, KCP&L agreed to the continuation of the energy
13 allocator in Missouri.

14 So we've talked about the implications that
15 jurisdictional allocations have on KCP&L's willingness to
16 participate in the wholesale market. Let's talk about the
17 2006 Missouri rate case and how it causes KCP&L to stay out
18 of the wholesale market.

19 In 2006, KCP&L asked the Commission to
20 include a lower level of off-system sales margins in rates.
21 KCP&L was concerned about their exposure to the volatility
22 of the wholesale market at a time when it was making large
23 capital expenditures. Ultimately, this Commission agreed
24 and set very low expectations for KCP&L.

25 In the report and order from that case, the

1 Commission made several findings. First, the Commission
2 expressed concern because KCP&L derived 50 percent of its
3 earnings from off-system sales. You can see that's quoted
4 at Page 31 of the report and order.

5 Second, the Commission indicated concern with
6 KCPL's reliance on these off-system sales margins with the
7 large amount of capital expenditures that they were planning
8 over the next five years.

9 Rather than set rates at the 50th percentile,
10 the level at which KCP&L has an equal chance of succeeding,
11 the Commission set rates at the deflated 25th percentile.
12 As I mentioned, this set very low expectations for KCP&L.

13 Ultimately, the Commission noticed that there
14 was, quote, "a fairly substantial chance that KCP&L will
15 meet or exceed the 25th percentile" -- fairly substantial
16 chance. Despite this fairly substantial chance, KCP&L
17 didn't perform in the wholesale market.

18 Much like a child with very low parental
19 expectations, KCP&L failed miserably. In fact, given their
20 disincentive from the use of different allocations, KCP&L
21 only did as much as was required.

22 The Commission's simple reliance on KCP&L's
23 substantial chance of overachieving never materialized.
24 KCP&L's performance deteriorated, and as was demonstrated
25 earlier, its retail rates skyrocketed.

1 As this slide demonstrates, KCP&L only
2 appears to do as much as is expected from this Commission.
3 The good news is, though, that the reasons for using the
4 25th percentile are no longer applicable, and it should be
5 scrapped.

6 As I mentioned earlier, the Commission was
7 initially concerned that off-system sales was such a large
8 part of KCP&L's earnings. As this chart indicates, those
9 margins are now a very small part of KCP&L earnings
10 portfolio.

11 while off-system margins once made up a large
12 part of KCP&L's earnings, as you can see for 2005, given
13 their dismal performance of late, off-system sales now make
14 up only a small part, as you can see there, for 2010. So
15 that rationale for going to the 25th percentile is no longer
16 applicable.

17 Furthermore, KCP&L no longer has the capital
18 expenditure exposure that it once had. KCP&L has finished
19 all the projects from the regulatory plan that they intend
20 to do. Therefore, capital expenses have returned to a level
21 that existed prior to the regulatory plan.

22 while capital expenditures once were almost
23 130 percent of KCP&L's total plant and service, KCP&L's
24 five-year capital expenditures now only represent a more
25 normalized level of 71 percent. Furthermore, with Iatan 2

1 now going into rates, this number should plummet even
2 further.

3 As you can see, then, the reasons for setting
4 rates at the 25th percentile are no longer applicable.

5 For this reason, industrials are proposing a
6 more appropriate level of off-system sales margins to
7 include in rates. This chart shows you that where
8 competing -- shows you where the competing recommendations
9 lie in this case.

10 The industrials assert that in order to get
11 KCP&L to participate in the wholesale market, it is
12 incumbent that the Commission set higher expectations for
13 this utility. Otherwise, KCP&L will continue to flounder
14 with its inferior performance.

15 with the completion of the regulatory plan, a
16 new opportunity has been presented. The reasons for using
17 the 25th percentile are no longer applicable.

18 with this in mind, the industrials have
19 proposed that the Commission set rates using the 40th
20 percentile of off-system sales.

21 As the evidence will show -- let me get that
22 box off of there. With this in mind, the industrials have
23 proposed that the Commission set rates using the 40th
24 percentile of off-system sales.

25 As the evidence will show, the 40th

1 percentile is a very appropriate amount, while still being
2 very conservative. Ultimately, there are six reasons -- six
3 reasons that we present for using the 40th percentile.

4 First, KCP&L has demonstrated an
5 unwillingness to participate in the wholesale market when
6 the Commission sets low expectations. Setting rates at the
7 25th percentile will cause KCP&L to continue to fail.
8 Ultimately, this will result in increased rates for
9 customers.

10 Second, the disincentive for KCP&L to perform
11 in the wholesale market was a function of KCP&L's own
12 actions. Absent KCP&L's unsupported desire to equalize the
13 rates in Missouri and Kansas, both commissions would still
14 be using the same energy allocator for off-system sales.

15 KCP&L developed the unused energy allocator
16 in support of its goal. But because it was detrimental to
17 the Missouri ratepayers and created a disincentive, it was
18 rejected by this Commission.

19 Third, at the 40th percentile, KCP&L still
20 has a much better-than-average chance of succeeding -- 60
21 percent chance. I'd take those odds anytime. Mr. Schnitzer
22 will testify that KCP&L has an equal chance if rates are set
23 at 50th percentile.

24 By setting rates at the 40th percentile, the
25 Commission still gives KCP&L a great chance to succeed. We

1 would say that this is still a low expectation, but
2 definitely a step in the right direction.

3 Fourth, as Mr. Schnitzer's model
4 demonstrates, the single most likely result for KCP&L's
5 performance in the wholesale market for the year that rates
6 will be in effect equates to the 40th percentile.

7 Fifth, because the industrials -- the
8 industrials recommend to utilize the 40th percentile relies
9 upon the Schnitzer model, it shares all the same reliability
10 benefits and concerns as the company's 25th percentile. It
11 is simply a different point on the same probability curve.
12 It has no further risk for the company.

13 Sixth -- and this is the most important one;
14 I want everybody to focus on this one -- KCP&L has proven
15 that it will only respond to higher expectations.

16 And I'll show you what I mean by that. We've
17 seen this chart before. In 2006, the Commission set rates
18 using the 25th percentile. The Commission set the rates.
19 Given the low expectations placed on KCP&L, KCP&L simply met
20 the expectations, as you can see there.

21 In 2007, the Commission again set the rates
22 using the 25th percentile. True to form, KCP&L again simply
23 met expectations.

24 In 2009, however, something changed. The
25 Commission didn't set the rates. In that case, the parties

1 were able to reach a stipulation that settled the entirety
2 of the case. In that stipulation, the parties, including
3 KCP&L, expressly used off-system sales margins of 30
4 million.

5 As is demonstrated by KCP&L's own testimony,
6 30 million doesn't equate to the 25th percentile. Oh, no.
7 KC -- or rather, 30 million equates to the 43rd percentile.
8 Much like the floundering child, KCP&L screams that it could
9 never achieve such lofty expectations -- but they did.

10 Interestingly, KCP&L did that very thing. In
11 2010, the year following the case, KCP&L has demonstrated
12 that it will respond to higher expectations. It achieved --
13 it achieved not only the 30 million, but exceeded it.

14 It would represent a significant step
15 backwards to lower KCP&L's expectations from the 43rd
16 percentile that it achieved last year and now say that you'd
17 be simply satisfied by 25th percentile.

18 Finally, I wish to dispel one notion.
19 Inevitably, KCP&L will portray the movement to the 40th
20 percentile as a loss for them. This is not true.

21 Unlike other disallowances, KCP&L will not
22 experience a loss, unless it continues to refuse to
23 participate in the wholesale market.

24 By setting off-system sales margins at the
25 40th percentile, you are simply encouraging KCP&L to get

1 back to work and participate in the wholesale market.

2 Contrary to KCPL's pleas, there's no lost earnings

3 associated with the Commission's decision.

4 And this is where I want to leave you. To
5 conclude, I want to leave you with these following slides.

6 It is not a coincidence that KCPL's rates have gone up as
7 its performance in the wholesale market has deteriorated.

8 Furthermore, it is not coincidence that
9 KCPL's performance in the wholesale market deteriorated once
10 this Commission lowered its expectations to the 25th
11 percentile. It's time to reverse this slide and raise your
12 expectations for this utility.

13 For all these reasons, the industrials ask
14 you to set off-system sales margins at the 40th percentile.

15 Thank you.

16 JUDGE PRIDGIN: Mr. Woodsmall, thank you.

17 Commissioner Davis?

18 COMMISSIONER DAVIS: Mr. Woodsmall, can I ask
19 a couple of questions?

20 MR. WOODSMALL: Uh-huh. Certainly. Do you
21 have a particular slide --

22 COMMISSIONER DAVIS: And I -- well, I think
23 this -- leave this slide up here -- leave this slide up
24 here. And I don't know if -- maybe I'm not even --
25 necessarily inquiring of you is the right question.

1 But anyway, I don't know if it would be
2 possible for staff or whomever to get kind of an overlay of
3 Mr. Woodsmall's off-system sales margins with spot market
4 power prices where we kind of have an indication -- you
5 understand what I'm looking for, Mr. Woodsmall? I --

6 MR. WOODSMALL: Yeah.

7 COMMISSIONER DAVIS: I'm looking to try to --
8 I'm trying to look up being able to match the -- without
9 talking about highly confidential numbers here -- to be able
10 to match the millions of dollars with -- you know, with
11 power prices that were in and are in effect now.

12 I mean, to basically be able to kind of match
13 and see where -- you know, the progression from '05 through
14 '09, where it appears that we kind of troughed out. And,
15 you know, now things are, it looks like, slowly up on --
16 rising again. I mean --

17 MR. WOODSMALL: The only reason I hesitate
18 is, we certainly have the rates portion. We certainly have
19 the technology to superimpose the two. I hesitate because I
20 don't know -- while we have gas prices historically, I don't
21 know if we have all the wholesale energy prices to plot as
22 you're asking.

23 COMMISSIONER DAVIS: Right.

24 MR. ZOBRIST: You know, Commissioner, I --
25 I -- if you're going to be here for Mr. Schnitzer -- who I

1 think we're going to get --

2 COMMISSIONER DAVIS: Yes.

3 MR. ZOBRIST: -- on the phone here -- I would
4 ask him about that, because --

5 COMMISSIONER DAVIS: All right.

6 MR. ZOBRIST: -- without --

7 COMMISSIONER DAVIS: Well, I'm going to --
8 I'm going to -- I'm going to ask Mr. Schnitzer about that
9 and give everybody kind of an opportunity to respond.

10 MR. WOODSMALL: I can tell you that the
11 market -- wholesale market, the prices have gone down.

12 COMMISSIONER DAVIS: Right.

13 MR. WOODSMALL: No debating that gas prices
14 went down.

15 COMMISSIONER DAVIS: Right.

16 MR. WOODSMALL: They went down. But they
17 have plateaued.

18 COMMISSIONER DAVIS: Right.

19 MR. WOODSMALL: And so we should expect to
20 start seeing off-system sales go back up.

21 COMMISSIONER DAVIS: All right. Well, and I
22 am not sure -- I mean, obviously we know what -- we ought to
23 be able to get good pricing information from SPP. But I'm
24 not sure what bilateral contracts and everything else that
25 KCP&L may have out there on the other side of this.

1 Okay. Second question, Mr. Woodsmall. Is
2 there another way to do this?

3 MR. WOODSMALL: The best way to do it, the
4 typical ratemaking way of doing it, is to set it at the 50th
5 percentile and get rid --

6 COMMISSIONER DAVIS: Right.

7 MR. WOODSMALL: -- of the tracker.

8 COMMISSIONER DAVIS: Okay. And is there
9 another -- I mean, I'm just asking you conceptually -- and
10 maybe this may be a better question for Mr. Meyer or someone
11 else -- is -- is there another way to do this where the
12 Commission could better align the interests of the
13 ratepayers and the Company, and to create that kind of
14 win/win situation?

15 MR. WOODSMALL: I would tell you, typically,
16 there should be. The opportunity does not exist because
17 what you're talking about would basically involve Missouri
18 carrying Kansas along.

19 First, you have -- and I'll explain that.
20 First you have the disincentive caused by the difference in
21 allocations. If you set expectations high enough, though,
22 you could minimize that.

23 COMMISSIONER DAVIS: Uh-huh.

24 MR. WOODSMALL: You could make them overcome
25 that. But the second problem is, what you're talking about

1 is providing Company some incentive, but they have a fuel
2 adjustment clause in Kansas.

3 So any incentive you give them to participate
4 further, in the course of sharing, they're going to turn
5 around and give right back to Kansas -- at least, the Kansas
6 share. So you're fighting a dead weight there in terms of
7 Kansas. Kansas is taking everything from them.

8 COMMISSIONER DAVIS: Okay.

9 MR. WOODSMALL: So you're --

10 COMMISSIONER DAVIS: And I'm mentally trying
11 to -- and there's no way we can account for the fact that --
12 the Kansas fuel adjustment and the energy allocator issues
13 and everything? You're saying that --

14 MR. WOODSMALL: The --

15 COMMISSIONER DAVIS: -- to the best of your
16 knowledge, there is no way?

17 MR. WOODSMALL: The Kansas Commission
18 rejected their request to get rid of the unused energy
19 allocator on November 22nd.

20 COMMISSIONER DAVIS: Uh-huh. Yes.

21 MR. WOODSMALL: That's a done deal.

22 COMMISSIONER DAVIS: Done deal.

23 MR. WOODSMALL: And KCP&L has agreed to the
24 use of the energy allocator going forward. So until they
25 get something fixed, it is guaranteed five cents on every

1 dollar is lost to them. Okay?

2 COMMISSIONER DAVIS: Okay.

3 MR. WOODSMALL: On top of that, anything that
4 they achieve in the market for Kansas's 57, 53 percent -- 48
5 percent, I believe it is -- anything they achieve for Kansas
6 at 48 percent is taken from Kansas -- every dollar.

7 So if you're talking about incenting them,
8 you will be trying to pull them along while Kansas still has
9 them tied down by taking every dollar.

10 COMMISSIONER DAVIS: Uh-huh.

11 MR. WOODSMALL: So until Kansas creates the
12 same incentives, it -- it's kind of a dead weight.

13 COMMISSIONER DAVIS: Okay. Okay.

14 MR. WOODSMALL: And we believe -- if you want
15 to go there, we believe setting it under normal ratemaking
16 at 50th percentile --

17 COMMISSIONER DAVIS: All right.

18 MR. WOODSMALL: -- and Schnitzer says that's
19 an equal chance of succeeding, and they can take everything
20 above that.

21 That's what they did in their glory days, for
22 20 years, when they were undergoing rate reductions, because
23 they were making, as you saw -- huge parts of their earnings
24 were from off-system sales.

25 COMMISSIONER DAVIS: Right.

1 MR. WOODSMALL: So that's the -- that
2 mechanism worked great, and they were making a fortune in
3 those years. And if you want to return back to those days,
4 set it at 50th percentile and get rid of the tracker.

5 COMMISSIONER DAVIS: Well, and I guess,
6 Mr. Woodsmall, here's my concern. I am -- I'm trying to
7 look forward into the future.

8 And we could very well have a day-ahead
9 market in SPP here in the next year or two whereby KCP&L
10 would have to bid all of their load and bid all of their
11 generation into the market.

12 And I'm just not sure how well that old --
13 you know, the model that has been here for 20 years will
14 work in this kind of new MISO-like market that Ameren's
15 already operating in.

16 And so I'm trying to figure out if -- you
17 know, under that set of market conditions, if there -- if
18 there is going to be a day-ahead market, then what is the --
19 what is the best model for us to be using?

20 And maybe that's a better -- I mean, maybe
21 that's a better question for Mr. Meyer. I don't know. I'm
22 just trying to --

23 MR. WOODSMALL: And I have to respond --

24 COMMISSIONER DAVIS: Yeah. Sure.

25 MR. WOODSMALL: -- ignorance, because I don't

1 know how that market will be constructed. I can tell you
2 for a fact that no one does.

3 COMMISSIONER DAVIS: I know. I'm not sure,
4 either.

5 MR. WOODSMALL: But I can tell you for a
6 fact -- you're talking about looking forward --

7 COMMISSIONER DAVIS: Uh-huh.

8 MR. WOODSMALL: -- I don't know how that
9 market will be constructed, but the 25th percentile --

10 COMMISSIONER DAVIS: Uh-huh.

11 MR. WOODSMALL: -- looking backwards is
12 proven to be broken. So that's not the place to go. If you
13 want to look forward, look forward, provide incentives, go
14 to the 40th percentile. 25th percentile is broken, and it's
15 the customer's paying for it.

16 COMMISSIONER DAVIS: And let me ask this:
17 Hypothetically speaking, if we think that power prices are
18 going to continue to increase ever so slightly, like on the
19 graph, from 2009 to 2010, then that supports your argument
20 that we need to be at the 40th percentile or higher.
21 Correct?

22 MR. WOODSMALL: Certainly, because
23 Mr. Schnitzer's model -- the model that we rely upon, as
24 well as the company -- Mr. Schnitzer's model takes a
25 forward-looking price --

1 COMMISSIONER DAVIS: Uh-huh.

2 MR. WOODSMALL: -- and builds volatility into
3 it. So his model incorporates those concerns. So just as
4 the company relies on that model, we are as well.

5 We're just telling you, provide increased
6 expectations by setting it at 40th percentile. We're not
7 saying to reject Schnitzer's model. So those concerns about
8 going-forward energy prices are incorporated and taken into
9 account.

10 COMMISSIONER DAVIS: Okay. Thank you,
11 Mr. Woodsmall.

12 MR. WOODSMALL: Thank you.

13 JUDGE PRIDGIN: Mr. Kindschuh.

14 Thank you.

15 MR. KINDSCHUH: I'll be very brief. My name
16 is John Kindschuh with the Missouri Industrial Energy
17 Consumers, the MIEC.

18 The MIEC is co-sponsoring the testimony of
19 Greg Meyer from BAI, and the MIEC supports and echoes
20 Mr. Woodsmall's opening remarks on this issue.

21 Thank you.

22 JUDGE PRIDGIN: Mr. Kindschuh, thank you.

23 Anything further before we proceed to
24 evidence?

25 Okay. Mr. Schnitzer will be our first

1 witness.

2 MR. ZOBRIST: Yes, sir.

3 JUDGE PRIDGIN: All right. What I'd like to
4 do is go off the record briefly, so I can contact him. And
5 then we'll go right back on the record. So give me just a
6 moment, please.

7 (A short break was taken.)

8 JUDGE PRIDGIN: All right. We are back on
9 the record. Just let me verify, Mr. Schnitzer, can you hear
10 me all right, sir?

11 MR. SCHNITZER: I can. Thank you.

12 JUDGE PRIDGIN: Very good.

13 We have Mr. Schnitzer by telephone. And
14 Mr. Zobrist is at the podium.

15 Mr. Zobrist, anything before he stands cross?
16 Or excuse me. Let me have him sworn in.

17 Anything else before I swear him in?

18 MR. ZOBRIST: No. No, Your Honor.

19 JUDGE PRIDGIN: All right.

20 Mr. Schnitzer, if I could ask you to raise
21 your right hand to be sworn, please.

22 MR. SCHNITZER: Yes, sir.

23 (Witness sworn.)

24 JUDGE PRIDGIN: Thank you very much.

25 MR. ZOBRIST, when you're ready, sir.

1 MR. ZOBRIST: Okay. Thank you.

2 MICHAEL M. SCHNITZER testifies as follows: via telephone

3 DIRECT EXAMINATION BY MR. ZOBRIST:

4 Q. Mr. Schnitzer, this is Karl Zobrist. Would
5 you please state your full name.

6 A. My name is Michael M. Schnitzer,
7 S-c-h-n-i-t-z-e-r.

8 Q. And by whom are you employed?

9 A. I am employed by the Northbridge Group, Inc.

10 Q. Okay. Now, in the Kansas City Power and
11 Light rate case, Number ER-2010-0356, did you prepare direct
12 testimony, both a highly confidential and a non-proprietary
13 version?

14 A. I did.

15 Q. Do you have any corrections to that
16 testimony?

17 A. I do not.

18 Q. Okay. Now, if I were to ask you those
19 questions, would your answers be the same as depicted in
20 Exhibit 58?

21 A. They would.

22 Q. Okay.

23 MR. ZOBRIST: Your Honor, I offer Exhibit 58,
24 both HC and NP version, at this time.

25 MR. THOMPSON: No objection.

1 JUDGE PRIDGIN: And that's KCPL 58?

2 MR. ZOBRIST: Correct.

3 JUDGE PRIDGIN: Any objections?

4 MR. THOMPSON: No objection.

5 JUDGE PRIDGIN: All right. KCPL 58 NP and HC
6 is admitted.

7 (Wherein; KCP&L Exhibit Nos. KCPL-58 NP and
8 KCPL-58 HC were marked for identification.)

9 (Wherein; KCP&L Exhibit Nos. KCPL-58 NP and
10 KCPL-58 HC were received into evidence.)

11 MR. ZOBRIST: Okay. And Judge, I now tender
12 the witness for cross-examination.

13 JUDGE PRIDGIN: Mr. Zobrist, thank you.

14 Let me ask who will have cross.

15 Mr. Woodsmall, you'll have cross?

16 Staff.

17 Mr. Kindschuh, any cross?

18 MR. KINDSCHUH: No.

19 JUDGE PRIDGIN: I believe going -- we would
20 normally go with least adverse to most adverse, but I don't
21 know if that's true -- if that matches up with the order of
22 cross that's on the list here.

23 Let me inquire of counsel if they have a
24 preference.

25 MR. WOODSMALL: No preference.

1 JUDGE PRIDGIN: All right.

2 Mr. Mills.

3 CROSS-EXAMINATION BY MR. MILLS:

4 Q. Mr. Schnitzer, this is Lewis Mills, Public
5 Counsel for the state of Missouri. Can you hear me okay?

6 A. I can, sir. Thank you. Good morning.

7 Q. I think I just have one question for you.
8 who has a better opportunity to influence the level of
9 off-system sales, KCPL or KCPL's customers?

10 A. Sorry. Your question is, who has the better
11 opportunity to influence --

12 Q. The level of off-system sales revenues, the
13 company or the customers?

14 A. Well, to the extent that either of those
15 parties can -- has influence over it, it would be the
16 company rather than the customers.

17 Q. All right. Do you concede that the company
18 has some ability to influence the level of off-system sales
19 margins?

20 A. Well, only in limited extent. It can't
21 affect the market price that it receives, nor can it affect
22 the level of retail load that it has to serve. So in
23 those --

24 Q. Mr. Schnitzer, the question was, does it have
25 some ability to? Is your answer yes or no?

1 A. I believe I said yes, it does have some. And
2 then I clarified or further explained that answer.

3 MR. MILLS: Thank you. That's all the
4 questions I have.

5 JUDGE PRIDGIN: Mr. Mills, thank you.
6 Staff. Mr. Thompson or Mr. Dearmont.

7 MR. THOMPSON: Thank you, Judge.

8 CROSS-EXAMINATION BY MR. THOMPSON:

9 Q. Mr. Schnitzer, this is Kevin Thompson
10 representing the Staff of the Missouri Public Service
11 Commission. Can you hear me, sir?

12 A. I can. Good morning, sir.

13 Q. Good morning to you, sir.

14 Staff has no disagreement with the number you
15 reached for the 25th percentile. That's your understanding.
16 Correct?

17 A. That is my understanding.

18 Q. Has that number changed since you filed your
19 direct testimony?

20 A. Yes. I believe that there's a -- I've
21 prepared a True-up update, which -- and maybe counsel can
22 help me as to whether that has been distributed to some or
23 all parties -- but I have prepared just within the last
24 couple weeks a True-up update of that number.

25 Q. And that number is highly confidential, is it

1 not?

2 A. Yes. It is.

3 MR. THOMPSON: I wonder if we could go in
4 camera, Judge.

5 JUDGE PRIDGIN: Certainly. One moment,
6 please.

7 (REPORTER'S NOTE: At this time, an in camera
8 session was held, which is at volume 33, page 3306.)

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1 JUDGE PRIDGIN: We are back in public forum.

2 MR. THOMPSON: Thank you, Judge.

3 BY MR. THOMPSON:

4 Q. Now, Mr. Schnitzer, it's true, is it not,
5 that your study dealt only with sales within the SPP
6 thumbprint?

7 A. Well, my study, if you will, assumed that the
8 sales would take place within the SPP footprint.

9 Q. Thank you. And would you agree that natural
10 gas prices are low and constant?

11 A. I would not.

12 Q. Now, there was a firm off-system contract
13 with an entity we refer to as MJMEUC. Are you aware of what
14 I'm talking about?

15 A. I am.

16 Q. Was that -- how was that treated in your
17 study?

18 A. The issue of the existence of the MJMEUC
19 contract would only arise in determining how many megawatt
20 hours were available for sale in the off-system market.

21 And for all of my analyses in this case, I
22 did not -- I assumed that there was no obligation to MJMEUC,
23 and thus all the megawatt hours were --

24 (Telephone interruption.)

25 THE WITNESS: -- percent in the off-system

1 margin calculation.

2 MR. THOMPSON: Thank you. No further
3 questions.

4 JUDGE PRIDGIN: Mr. Thompson, thank you.
5 Mr. Kindschuh, any cross?

6 MR. KINDSCHUH: No.

7 JUDGE PRIDGIN: Mr. Woodsmall.

8 CROSS-EXAMINATION BY MR. WOODSMALL:

9 Q. Good morning, Mr. Schnitzer. Can you hear me
10 okay?

11 A. Sir, good morning.

12 Q. I've got several questions for you. Can you
13 tell me what software your model runs on?

14 A. It's a proprietary piece of software that
15 we've developed internally.

16 Q. Okay. It's not Excel-based at all; is that
17 correct?

18 A. I don't believe it is. I mean, certain
19 reports and the like are -- you know, come out in Excel
20 format. But I think that there's higher level programming
21 language embedded in it.

22 Q. Okay. Is it true that when you run your
23 model, you only model the SPP north region?

24 A. When we run our model, we are --

25 Q. I believe that's a yes or no question, sir.

1 Did you hear the question?

2 A. I did. I'm just thinking about how best to
3 answer.

4 MR. ZOBRIST: Judge, I would just say, if he
5 can't answer entirely yes or no, I think he ought to be able
6 to explain within -- you know, briefly, why it's not a yes
7 or no.

8 MR. WOODSMALL: Well, you can do that on
9 redirect. This simply requires a yes or no or I don't know.

10 JUDGE PRIDGIN: I'll overrule. I agree. I
11 mean, I think he's trying to get to a yes or no question,
12 which certainly entitled to do on cross.

13 THE WITNESS: Well, I -- let me -- let me say
14 yes with a qualification. I'm not sure I --

15 MR. WOODSMALL: Thank you, sir. Thank you.
16 I appreciate your answer.

17 BY MR. WOODSMALL:

18 Q. Moving on. Even though you only modeled the
19 SPP north, would you recognize that, in reality, KCP&L makes
20 off-system sales in other regions, including outside of SPP?

21 MR. ZOBRIST: Let me object to the lack of
22 foundation, and it misstates evidence, because counsel did
23 not permit him to qualify the answer, so we don't really
24 have a yes or a no. And the question is based upon an
25 unqualified yes.

1 MR. WOODSMALL: He gave me a yes. You can
2 clarify this all you want in redirect. I'm asking him
3 now --

4 BY MR. WOODSMALL:

5 Q. Even though you only modeled the SPP north,
6 would you recognize that, in reality, KCP&L makes off-system
7 sales in other regions outside of SPP?

8 MR. ZOBRIST: Same objection.

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

10 BY MR. WOODSMALL:

11 Q. Sir, will you answer?

12 A. Yes. I certainly understand that they may
13 make sales outside the SPP north region.

14 Q. Thank you. And do you attempt to account for
15 the -- any increased revenues or cost of transactions
16 outside of SPP?

17 A. I'm assuming that all their output is sold at
18 SPP north prices in my analysis.

19 Q. So to the extent they make sales outside of
20 SPP, you do not account for any increased revenues or costs
21 associated with those sales; is that correct?

22 A. That is correct. I -- all I do is what I
23 just stated.

24 Q. Thank you. Turning to your testimony on Page
25 7. Do you have that?

1 A. Just one minute, please. Yes. I have that.

2 Q. Figure 2 shows annual gas prices, and it ends
3 in 2009. Can you tell me if there's been a change in the
4 gas price between 2009 and 2010?

5 A. Well, I can look at some data on that. I
6 believe it's continued to go down a little bit, but I don't
7 have a specific number on this chart.

8 I'm sorry. Would you like me to see if I
9 have some data available on that? I'm not sure -- or
10 whether you're just --

11 Q. Well --

12 A. What would you like me to do?

13 Q. Okay. Let's do it this way. In your
14 schedule MMS2010-5, you state that you utilize a natural gas
15 price of five seventy-three. Do you see that?

16 A. Sorry. Could you give me the reference
17 again, please?

18 Q. MMS2010-5.

19 A. Yes.

20 Q. Can you tell me what the gas price is
21 currently for Henry Hub?

22 A. For the same period that corresponds to the
23 five seventy-three?

24 Q. Yes.

25 A. Well, I don't have that exact same period.

1 The five seventy-three -- just to clarify -- was for the
2 period April 11 to March 12. And the current True-up update
3 which we spoke about in camera a moment ago is based on the
4 period May 11th to April 12th.

5 Q. Okay.

6 A. But with that one month difference, the
7 price -- the natural -- Henry Hub natural gas price used in
8 the update -- the True-up update that we just described was
9 \$4.82.

10 Q. And you say you anticipate providing this
11 update in your True-up testimony; is that correct?

12 A. Counsel will have to answer that question,
13 but that's my understanding.

14 Q. Okay. And when you provide that update,
15 would you be able to provide a schedule similar to
16 MMS2010-5?

17 A. I believe we would.

18 Q. Okay.

19 MR. WOODSMALL: Your Honor, I believe I need
20 to go into camera for a little bit.

21 JUDGE PRIDGIN: All right. One moment,
22 please.

23 (REPORTER'S NOTE: At this point, an in
24 camera session was held, which is at Volume 33, pages 3313
25 to 3320.)

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1 JUDGE PRIDGIN: We are back in public forum.

2 BY MR. WOODSMALL:

3 Q. Turning to your schedule -- or your
4 testimony, Schedule MMS2010-4. Please let me know when you
5 have that.

6 A. Yes. I have that.

7 Q. Okay. There you list nine variables that you
8 call, quote, "primary components"; is that correct?

9 A. Yes.

10 Q. And as I understand your testimony, the
11 Company is the source for each of those variables; is that
12 correct? We can walk through them. In fact, let's just --

13 A. In terms of the forecast itself --

14 Q. Okay. That -- and that was my --

15 A. Yes.

16 Q. -- question. We'll get to the other one. So
17 the --

18 A. Yeah.

19 Q. -- the Company provided you -- was the source
20 for the forecast for each of those nine variables; is that
21 correct?

22 A. Yes, sir.

23 Q. Did you make any attempt to independently
24 verify any of those numbers provided by the Company?

25 A. No, we did not, although we obviously made

1 our own analysis of the gas prices in particular.

2 Q. And we'll get --

3 A. So --

4 Q. -- get to -- we'll get to that.

5 A. Okay.

6 Q. So the company provided you energy price,
7 natural gas price, coal price, on and on and on -- nine
8 different variables. And you just accepted those numbers as
9 provided by the company; is that correct?

10 A. Yes, sir.

11 Q. Okay. Can you tell me who at the company
12 provided you each of those nine variables?

13 A. I cannot. You know, those were provided to
14 some of my staff, so I don't know the individuals
15 specifically who provided those data.

16 Q. So you're not able to verify or vouch for the
17 credentials of the person that developed those variables at
18 the company; is that correct?

19 A. That's correct.

20 Q. Okay. And would you agree that the outputs
21 of your model are only as good as the variables provided to
22 you; is that correct?

23 A. Well, I don't think I can answer yes to that.
24 So I think the answer is no. I would say that the range
25 around the mean that we provide is fairly robust. But the

1 data that the Company give us do determine where the mean of
2 that distribution will be.

3 Q. So if the Company gives you a mean of natural
4 gas prices of one dollar, you will have a range, but it --
5 your range still applies to that \$1 gas price; is that
6 correct?

7 A. Yes. Though in that example, you know, we --
8 we're able to, you know, look at the Henry Hub gas price
9 data and make sure that we're talking about the same
10 numbers. But as a general matter, taking another number
11 besides natural gas, what you said is exactly right.

12 Q. Okay. And if the Company gave you an
13 exceedingly high forced outage rate, you would have no
14 ability to verify or correct that; is that correct?

15 A. That's right. We were not asked to undertake
16 that.

17 Q. Okay. And just -- okay. So the company
18 provides you the mean, if you will. You then look at
19 certain other information to prepare a volatility aspect to
20 apply to that mean; is that correct?

21 A. Volatility in correlation with coefficients.
22 Yes.

23 Q. Okay. And just again, for each of the nine
24 variables, they were all provided by the Company; is that
25 correct? The mean of the variable; is that correct?

1 A. Yeah. I should say -- I probably -- I should
2 say median to be more precise. But the median, yes.

3 Q. Okay. And for each of those nine medians
4 provided by the Company, you don't know who at the Company
5 prepared that; is that correct?

6 A. I don't know the specific individual.
7 Mr. Crawford may know the answer to that. But I'm not -- I
8 don't.

9 Q. Okay. Final question, sir. Is there
10 anything statistically significant in your model that would
11 compel a policymaker to select the 25th percentile over any
12 other point on your probability curve?

13 A. No. The choice of --

14 Q. Thank you. That's all I had.

15 MR. WOODSMALL: Thank you, Your Honor. No
16 further questions.

17 JUDGE PRIDGIN: Mr. Woodsmall, thank you.
18 Bench questions. Commissioner Davis?

19 COMMISSIONER DAVIS: All right. Now, we
20 don't have Mr. Schnitzer's true-up testimony, but apparently
21 there's some --

22 MR. WOODSMALL: No one has it, Your Honor.

23 COMMISSIONER DAVIS: -- floating around out
24 there.

25 MR. WOODSMALL: Just within the Company,

1 apparently.

2 COMMISSIONER DAVIS: Oh, it's -- okay. So
3 it's yet to be filed?

4 MR. ZOBRIST: Well, my understanding is that
5 it was provided to staff. But it will be provided to the
6 Commission in True-up testimony.

7 MR. WOODSMALL: And that's problematic,
8 because we asked for a data request for all updates. And
9 the Company has apparently not deemed to provide it to us,
10 even though we're, I guess, the number one opponent on this
11 issue.

12 So it's interesting that you provide it to
13 staff but not to someone who has a data request for it. So
14 I have problems delving into that study. You know, we'll do
15 that on a True-up hearing, I guess.

16 MR. ZOBRIST: My assumption is that would be
17 dealt with at the True-up hearing.

18 COMMISSIONER DAVIS: Okay. All right.

19 Mr. Thompson, you do have -- you and
20 Mr. Dearmont do have the copy of this True-up testimony, the
21 True-up Numbers as of --

22 MR. THOMPSON: whoever it was provided to,
23 sir. It wasn't provided to me or Mr. Dearmont.

24 COMMISSIONER DAVIS: Okay. All right. Okay.
25 I'm -- all right.

1 All right. Judge, can we go in -- can we go
2 in camera?

3 JUDGE PRIDGIN: All right. One moment,
4 please.

5 (REPORTER'S NOTE: At this point, an
6 in-camera session was held, which is in volume 33, pages
7 3327 to 3332.)

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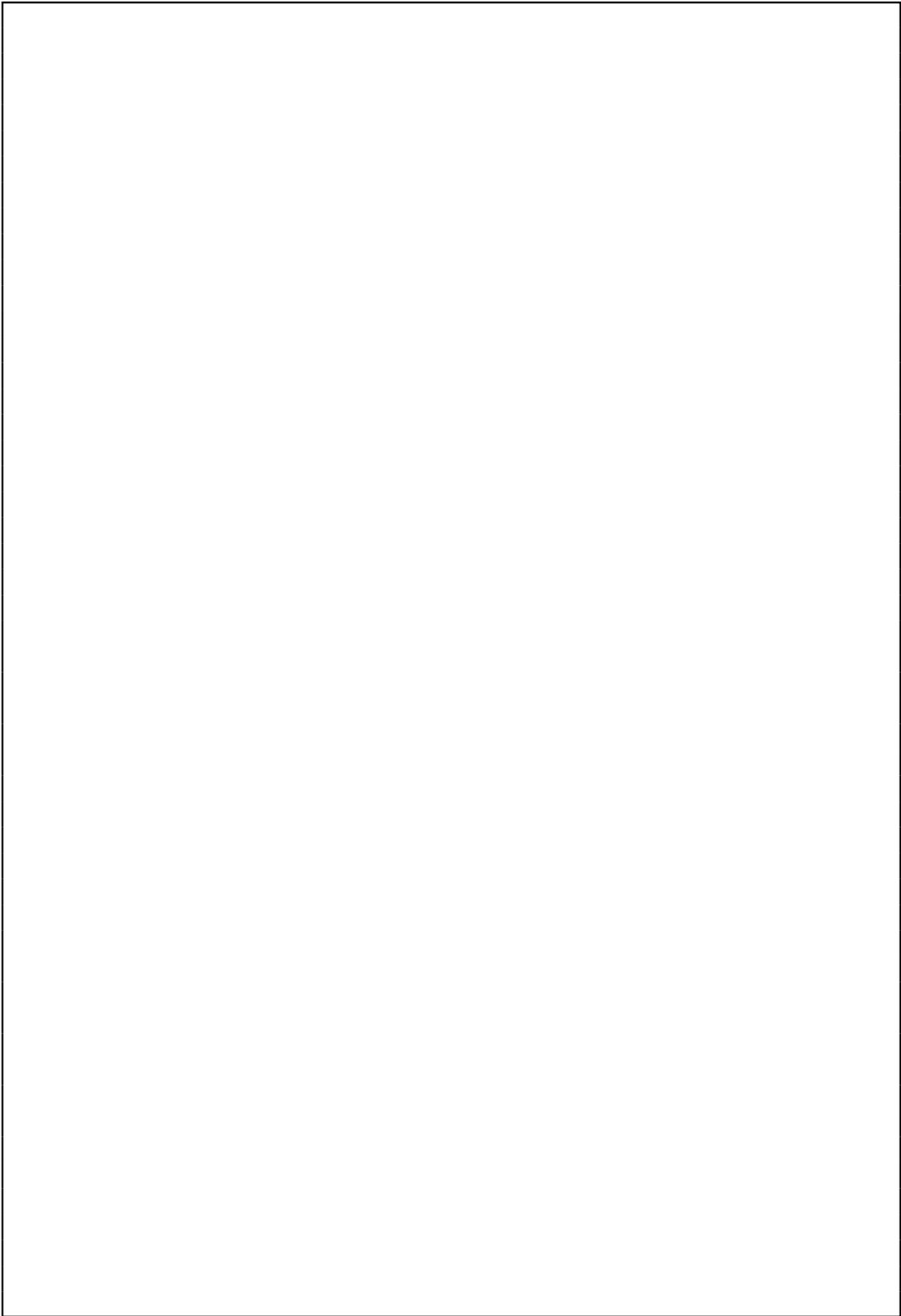
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1 JUDGE PRIDGIN: When you're ready,
2 Commissioner.

3 QUESTIONS BY COMMISSIONER DAVIS:

4 Q. Mr. Schnitzer, I guess this will be my last
5 question. Do you have a knowledge of -- did you testify in
6 the Kansas case for KCP&L?

7 A. I don't believe so.

8 Q. Okay. So you don't have any knowledge of
9 what is going on in terms of how the Kansas Commission
10 treats KCP&L's revenues from off-system sales; is that -- or
11 do you have a knowledge?

12 A. I have a general awareness that the
13 allocation of off-system margins between the jurisdictions
14 is a disputed issue, and perhaps treated differently in the
15 jurisdictions.

16 Q. Okay. So you've got the energy allocator
17 issue. Now, are you aware that Kansas City Power and Light
18 has a fuel adjustment for Kansas?

19 A. I'm not specifically aware of that, but I'll
20 certainly accept that, subject to check.

21 Q. Okay. All right. And you're aware that
22 KCP&L Missouri has signed a stipulation agreeing that they
23 have foregone a fuel adjustment, or even asking for a fuel
24 adjustment mechanism, for approximately five years from the
25 date that the plant Iatan 2 comes in service? Are you aware

1 of that?

2 A. I don't have any specific knowledge of that.

3 No.

4 Q. Okay. Well, assuming that to be the case,
5 that KCP&L has voluntarily agreed to not ask for a fuel
6 adjustment mechanism for KCP&L Missouri, you know, for the
7 next three, four, five years, do you have an opinion as to
8 how that would affect their incentive to make off-system
9 sales?

10 A. I'm not sure that -- I'm not sure that I
11 could offer an opinion. I'm not sure that I know all the
12 facts that would be relevant to that.

13 Q. Okay. But would you agree that the lack of a
14 fuel adjustment is a -- that would be one of the most
15 significant factors, would it not?

16 A. It would certainly be a -- it would certainly
17 be a relevant factor in that. Absolutely.

18 Q. All right. And Mr. Schnitzer, let me ask you
19 this: I mean, have -- setting aside your whole curve for a
20 minute, and whether we place it at the -- the number at
21 the -- the 25th, the 40th, the 50th percentile, can you
22 conceive of any other way of doing this that would more
23 align the interests of the ratepayers and the company?

24 A. Well, there -- there are certainly a number
25 of choices. And my understanding of what has been one of

1 the drivers of the choice of the 25th percentile
2 historically is that the financial integrity of the company
3 during a heavy construction budget was of importance, both
4 to customers and to investors, and that setting that base
5 rate offset at the 25th percentile, together with what I
6 would call as sort of a asymmetric treatment that
7 shareholders would absorb losses below 25 percent and they
8 would have to credit to customers anything above 25
9 percent -- that that asymmetric treatment was an appropriate
10 policy tradeoff to have the financial integrity assurance
11 that came with the 25th percentile.

12 It's possible, obviously, to structure the
13 arrangement so that the shareholder has more incentives on
14 both sides of that, not only for lower sales to earn less,
15 but for greater sales to earn more.

16 And that -- there are a certain set of
17 policies that could shift in that direction if the financial
18 integrity kind of measure was less critical from a policy
19 perspective at this moment.

20 Is that responsive to your question?

21 COMMISSIONER DAVIS: I think that's about as
22 responsive as it gets. So thank you, Mr. Schnitzer.

23 JUDGE PRIDGIN: All right. Let me see if we
24 have any recross.

25 Mr. Mills?

1 Mr. Thompson?

2 MR. THOMPSON: None. Thank you.

3 JUDGE PRIDGIN: Mr. Kindschuh?

4 MR. KINDSCHUH: No, thank you.

5 JUDGE PRIDGIN: Mr. Woodsmall?

6 MR. WOODSMALL: Briefly.

7 RE-CROSS EXAMINATION BY MR. WOODSMALL:

8 Q. Mr. Schnitzer, do you recall a question from
9 Commissioner Davis questioning whether KCP&L loses money
10 when they make off-system sales?

11 A. Yes. I don't think that was his exact
12 question, but I remember a question that was in that subject
13 area.

14 Q. Okay. And you said, no, KCP&L does not lose
15 money from off-system sales; is that correct?

16 A. Well, I believe his question was the more
17 they have to sell, the more they lose, or words to that
18 effect.

19 And my response was to that question, in
20 saying that in ours, we were projecting margins on the
21 assumption that every sale would only take place at a
22 positive margin.

23 Q. Okay. When you gave that answer, did you
24 account for jurisdictional allocations between the states?

25 A. My answer was in the context of company-wide

1 off-system margins.

2 Q. Did your answer account for jurisdictional
3 allocations between the states?

4 A. I don't think that it was -- that
5 consideration was not relevant to my answer.

6 Q. Okay. It was not relevant. Have you read --
7 do you know who Curtis Blanc is?

8 A. I do.

9 Q. Did you read his rebuttal testimony?

10 A. I may have read portions of it. I don't
11 believe I read the whole testimony.

12 Q. Okay. He says at Page 46, Lines 13 through
13 15, Because Missouri and Kansas adopt different allocation
14 methodologies to derive what portion of margins KCP&L's
15 Kansas and Missouri customers should receive, KCP&L
16 presently gives to its customers about 105 percent of its
17 off-system sales margins.

18 Do you have any reason to doubt that
19 statement?

20 A. I do not.

21 Q. Okay. If KCP&L gives to its customers 105
22 percent of its off-system sales margins, would you agree
23 that they lose money when they engage in off-system sales?

24 A. From the shareholder perspective, they end up
25 losing money. From the pot of money available to be

1 distributed -- from the margin available to be distributed
2 to customers, that's -- that was the context of my answer;
3 that number increases with more volume.

4 Q. So every dollar they generate in off-system
5 sales, the shareholders lose a nickel; is that correct?

6 A. Accepting those calculations -- excuse me --
7 every dollar of margin, I believe.

8 Q. Yes. Every dollar of margin KCP&L generates,
9 they -- shareholders lose a nickel; is that correct?

10 A. That's my understanding of his testimony.

11 MR. WOODSMALL: Thank you. No further
12 questions.

13 JUDGE PRIDGIN: Thank you.

14 Redirect?

15 MR. ZOBRIST: Just a couple of questions.

16 REDIRECT EXAMINATION BY MR. ZOBRIST:

17 Q. Mr. Schnitzer, when Mr. Mills asked you about
18 the ability of customers versus the Company to influence the
19 level of off-system sales, you were going to provide an
20 explanation as far as what that ability was. Could you
21 please state what that ability is?

22 A. Yes. What I was -- what I wanted to
23 communicate was that as a relative matter, it's true that
24 the company has more influence than the customers.

25 I didn't want to create the impression that

1 in the range of uncertainties that my testimony describes
2 that much of that, at all, is within the company's control;
3 that, in fact, most of the uncertainty and the variability
4 in the off-system margins that will be realized are well
5 beyond the company's control. And I didn't want to create a
6 misimpression in that respect.

7 Q. Now, Mr. Thompson, counsel for Staff asked
8 you whether you agreed that natural gas prices were low and
9 constant. Why did you not agree with him?

10 A. Well, the -- it was a compound question, if
11 you will. And I certainly don't agree with the constant
12 part of it.

13 Natural gas prices continue to be volatile,
14 and there are a number of measures of that. So I think
15 there's no evidence that I'm aware of that volatility has
16 declined, which is implied by his question.

17 And then, of course, the low part of it is
18 relevant. Prices are low relative to ten or eleven dollars,
19 where they were a couple of years ago. But they're not low
20 relative to \$3 or even below \$3, where they have also been
21 for short periods of time in the last couple years. So
22 that's why I couldn't agree with his statement.

23 Q. Mr. Woodsmall asked you about the model that
24 you ran and whether it only modeled SPP north prices. You
25 stated yes, with a qualification. What is the

1 qualification?

2 A. Yes. The qualification is the way our model
3 actually works is that we project the SPP north market price
4 and then calculate what level of sales would be economic to
5 make against that market price. And so that's really what's
6 going on.

7 We're not modeling, you know, a set of lows
8 or restricting it in that respect. We're asking the
9 question, faced with this market price, hour by hour, what
10 off-system sales can the company make, and what margins can
11 they realize from those market prices?

12 Q. Okay. Thank you. One final question.
13 Mr. Woodsmall referred you to your Schedule MMS2010-4. Do
14 you have that before you?

15 A. I do, sir.

16 Q. On the far right-hand column there is -- it's
17 labeled Source for Volatility and Correlation Estimates. Is
18 this data that is based entirely on KCP&L data, or is this
19 data from other sources?

20 A. With the exception of the hourly Company load
21 data, this -- these data are based from other sources.

22 Q. And is this data that you and your colleagues
23 at Northbridge Group use to analyze the Company data which
24 it presents to you?

25 A. It's the data that we use to construct our

1 analysis of the volatility and uncertainty. Yes.

2 Q. Okay. And what is the purpose of using this
3 data from third-party sources?

4 A. Well, the key purpose of it is to use these
5 data to calibrate the volatility or uncertainty, if you
6 will, in each of these variables, and the extent to which
7 they vary go together, like natural gas and power prices.

8 And that's the -- that's the necessary
9 quantification to try and characterize this uncertainty in
10 this percentile manner in the way that we have. And so we
11 use this historical time series data that we collect to
12 construct those -- the volatility estimates and correlation
13 estimates.

14 MR. ZOBRIST: Just one moment.

15 JUDGE PRIDGIN: Certainly.

16 BY MR. ZOBRIST:

17 Q. Finally, I think Mr. Woodsmall asked you a
18 question about whether there was any statistical
19 significance to uses -- to use the 25th percentile as had
20 been ordered by the Commission in prior cases. And I
21 thought your answer had either a qualification or some
22 additional explanation.

23 Do you recall that question? And if so, can
24 you provide that explanation?

25 A. Yes. I was going to go on to explain that

1 the choice of any particular number is not driven by any
2 statistical imperative, but rather by the policy objectives
3 that -- that I think I then went on to discuss with the
4 Commissioner subsequent to that.

5 And I think the policy considerations are
6 that when you're going to use an asymmetric type of
7 formulation, which we have had recently -- which is the
8 shareholders bear the downside but they don't get to keep
9 the upside -- that when you're going to be in that kind of
10 asymmetric situation, that argues to calibrate, you know, at
11 the lower end of the scale -- the 25th percentile being the
12 Commission's choice.

13 If one is going as a matter of policy to
14 something more symmetric, where the shareholder loses on one
15 side and gains on the other, then you could make other
16 choices. But those are driven by policy considerations, not
17 statistical considerations.

18 MR. ZOBRIST: Okay. Thank you.

19 Commissioner Davis, with regard to your
20 request, when would you like that, and how would you like us
21 to submit that to you and to the parties?

22 COMMISSIONER DAVIS: The question is, you
23 know, how soon -- how soon can we get it? And, you know, is
24 this something that -- is it Mr. -- is it Mr. Crawford or
25 someone else can testify about, or --

1 MR. ZOBRIST: Yeah. Commissioner, I think
2 you actually had two requests. One was for the 33 percent,
3 which I think is a matter of mathematics --

4 COMMISSIONER DAVIS: Right.

5 MR. ZOBRIST: -- and we can get that to you.
6 The other one was regard to your request for a graph. And
7 Part A of that was SPP north day-ahead prices from --

8 COMMISSIONER DAVIS: Right.

9 MR. ZOBRIST: -- an appropriate time in the
10 past, and then the Company has the margin data. And we
11 would supply that.

12 COMMISSIONER DAVIS: Right. So --

13 MR. ZOBRIST: We could provide it at True-up
14 or --

15 COMMISSIONER DAVIS: Yeah. Let's -- okay.
16 Let's -- preferably, file it before True-up, so everyone has
17 an opportunity --

18 MR. ZOBRIST: Right.

19 COMMISSIONER DAVIS: -- to review it.

20 MR. ZOBRIST: Right. Well, and I mean, we'll
21 file it with --

22 COMMISSIONER DAVIS: Right.

23 MR. ZOBRIST: -- the True-up testimony.

24 COMMISSIONER DAVIS: Uh-huh.

25 MR. ZOBRIST: All right. Thank you.

1 COMMISSIONER DAVIS: Thank you.

2 JUDGE PRIDGIN: All right. Mr. Schnitzer,
3 thank you very much, sir. You are -- if there's nothing
4 further.

5 Mr. Mills?

6 MR. MILLS: Judge, maybe this ought to be
7 addressed while Mr. Schnitzer is on the line. But I think
8 the record is at least somewhat unclear because a lot of his
9 answers were given subject to check.

10 And I think it would clarify the record if we
11 had some procedure by which there's a time certain by which
12 Mr. Schnitzer or the Company can inform us if some of the
13 things he agreed to subject to check he no longer agrees to
14 having have checked. So I think we ought to set a deadline
15 for that kind of input.

16 MR. ZOBRIST: How about just doing it at --
17 when he files his True-up direct testimony?

18 MR. WOODSMALL: It would provide -- given
19 that this is the main evidentiary hearing, he should have
20 had it today. We'd like to have it before True-up, because
21 it provides us greater opportunity, if he disputes it, to do
22 discovery. So I want it as soon as possible.

23 MR. MILLS: Yeah. I would think the day
24 after the transcript is available should be plenty.

25 MR. ZOBRIST: We'll do our best if that's the

1 Commission's desire.

2 JUDGE PRIDGIN: Well, if -- that -- I mean,
3 and that's where I will leave it. I mean, if the parties
4 can't resolve their dispute on the timing of confirming the
5 answers that were given subject to check, you'll need to
6 either notify me in the hearing or with a pleading. I mean,
7 otherwise it sounds like the Company is going to endeavor
8 to --

9 MR. WOODSMALL: Well --

10 JUDGE PRIDGIN: -- get the information to the
11 parties.

12 MR. WOODSMALL: And if the Company needs any
13 help trying to figure out how I reached those numbers, I can
14 walk him through it. So --

15 MR. ZOBRIST: Okay. I don't think this is
16 going to be a problem, Judge.

17 JUDGE PRIDGIN: Okay. All right. Thank you.
18 Anything else before I disconnect
19 Mr. Schnitzer's call?

20 All right. Mr. Schnitzer, thank you very
21 much, sir. You are dismissed.

22 THE WITNESS: Thank you very much.

23 (Witness excused.)

24 JUDGE PRIDGIN: And Mr. Mills, thank you,
25 because -- Mr. Mills, thank you.

1 Is the next witness, then, Mr. Blanc or
2 Mr. Crawford?

3 MR. ZOBRIST: Mr. Crawford.

4 JUDGE PRIDGIN: All right.

5 Mr. Crawford, if you'll come forward to be
6 sworn, please. If you'll raise your right hand to be sworn,
7 please, sir.

8 (Witness sworn.)

9 JUDGE PRIDGIN: Thank you very much,
10 Mr. Crawford.

11 Mr. Zobrist, when you're ready, sir.

12 MR. ZOBRIST: Judge, Mr. Crawford has already
13 given testimony before the Commission in this case. And I
14 believe that his testimony has already been introduced as
15 direct testimony, both HC and NP, Exhibit 15; rebuttal,
16 Exhibit 16; surrebuttal, 17. The rebuttal and the
17 surrebuttal are confidential.

18 So since we already went through the
19 protocol, I'll simply tender Mr. Crawford for examine --
20 cross-examination at this time.

21 JUDGE PRIDGIN: All right. Mr. Zobrist,
22 thank you.

23 Mr. Mills?

24 MR. MILLS: No questions.

25 JUDGE PRIDGIN: Mr. Thompson, Mr. --

1 Mr. Dearmont. Excuse me.

2 MR. THOMPSON: Just briefly. Thank you, Your
3 Honor.

4 BURTON L. CRAWFORD testifies as follows:

5 CROSS-EXAMINATION BY MR. THOMPSON:

6 Q. Good morning, Mr. Crawford.

7 A. Good morning.

8 Q. Now, Mr. Crawford, you sponsor three
9 different adjustments to the OSS margin level; isn't that
10 correct?

11 A. That's correct.

12 Q. And Staff has a dispute with only one of
13 those; isn't that correct?

14 A. That's my understanding.

15 Q. And that's the SPP line loss charges?

16 A. Uh-huh.

17 Q. And the amount of that adjustment, is that
18 highly confidential?

19 A. I don't think so.

20 Q. Okay. Well, could you state what the amount
21 is?

22 A. From the direct case -- the direct filing?

23 Q. That would be good. And if it's changed from
24 there, I'd like to know what the change number is, too.

25 Thank you, sir.

1 A. During the direct case, the charge was
2 \$1,061,301.

3 Q. And has that number changed, sir?

4 A. Yes. We're anticipating that in True-up that
5 the SPP line loss charge will be \$1,394,624.

6 Q. Thank you. Now, I think you explained that
7 line loss charges are charges that SPP makes to Kansas City
8 Power and Light every time it makes an off-system sale;
9 isn't that correct?

10 A. Yes. It is related to off-system sales
11 activity.

12 Q. And so there's also line loss revenue, is
13 there not?

14 A. That's correct.

15 Q. When other companies in the power pool make
16 off-system sales?

17 A. That's correct.

18 Q. And what happens to that line loss revenue?

19 A. SPP allocates that back to the transmission
20 owners.

21 Q. And do you know how it is accounted for in
22 this case?

23 A. I have netted the revenue against the
24 charges, and included them as an adjustment to the
25 off-system sales margin.

1 Q. Okay. So the figure that you originally
2 filed, the 1.6 million, that is net of line loss revenue?

3 A. No. I believe the question you asked was
4 what were the charges, and that's the charge piece of it.

5 Q. I see.

6 A. The revenue piece is a different number.

7 Q. Well, what is the net number?

8 A. The net number in the case was 264,889.

9 Q. And that was at the time of direct?

10 A. Yes.

11 Q. And what do you anticipate that will change
12 to?

13 A. To \$784,991.

14 Q. Now, as far as you know, it's true, isn't it,
15 that the sales associated with these charges were made
16 outside of the SPP thumbprint?

17 A. That's correct.

18 Q. And it's true, is it not, that these sales
19 would not have been made unless the price being paid
20 exceeded the amount of the charge -- accounted for the
21 amount of the charge?

22 A. Not necessarily in all cases.

23 Q. In other words, the Company would have made
24 sales at a loss?

25 A. Yes. Actually, there are times when we make

1 sales at a loss. And what will happen is during low load
2 periods, when we need to keep coal generation online --
3 because you just don't take a coal plant off and turn it on
4 and off very quickly -- there are times -- and this is true
5 of other utilities as well -- that you will actually sell
6 below your cost during those time periods to keep the unit
7 running, because you need it the next day.

8 So overall, when you look at the whole
9 picture of things, it's better to take a loss in some of
10 those low load early morning hours than shut a unit off and
11 not have it available the next day, and then be subject to,
12 you know, a gas fired combustion turbine capacity or
13 reliance on the spot market.

14 MR. THOMPSON: Thank you for your
15 explanation, sir. No further questions.

16 JUDGE PRIDGIN: Mr. Kindschuh?

17 MR. KINDSCHUH: No, Your Honor. Thank you.

18 JUDGE PRIDGIN: Mr. Woodsmall?

19 MR. WOODSMALL: No questions, Your Honor.

20 JUDGE PRIDGIN: Commissioner Davis?

21 COMMISSIONER DAVIS: No questions.

22 JUDGE PRIDGIN: All right. Thank you.

23 Any redirect?

24 REDIRECT EXAMINATION BY MR. ZOBRIST:

25 Q. Mr. Crawford, you asked for the net amount,

1 the \$785,000 roughly, to be used as an adjustment to
2 whatever figure the Commission sets for off-system sales; is
3 that correct?

4 A. Yeah. That's correct. These transactions
5 get recorded as wholesale transactions, purchases and sales
6 from the market.

7 Q. And if it were not to be included as an
8 adjustment, what is your proposal for the Commission?

9 A. If the Commission were to decide not to
10 include it as an adjustment, it would be very nice to
11 include it in the cost of service itself. Otherwise the
12 charges of about 1.4 million would not be recovered any
13 other way.

14 Q. And what are these -- are these actual
15 dollars we're talking about?

16 A. Yeah. These amounts are based on invoices
17 that we get from SPP on a regular basis. And these numbers
18 are based on the actuals from the past 12 months.

19 Q. And is this based on the Company's
20 participation in the SPP energy imbalance service market?

21 MR. WOODSMALL: Your Honor, I'd object.
22 Maybe counsel could try and tie this back to a question from
23 Mr. Thompson.

24 MR. ZOBRIST: Mr. Thompson was asking a
25 number of questions in-depth about the line loss charges. I

1 simply am trying to identify if those charges were incurred
2 as a result of --

3 MR. WOODSMALL: well, simply asking about
4 line loss charges doesn't entitle you to ask the whole gamut
5 of questions about that. You know, I think it has to be
6 tied back to one of his questions somehow.

7 JUDGE PRIDGIN: I'll overrule. I think
8 that's what he's trying to do. But I'll -- I'm listening.

9 BY MR. ZOBRIST:

10 Q. Okay. Do you recall the question,
11 Mr. Crawford?

12 A. No. Please repeat it.

13 Q. Okay. The question was, as a result of what
14 operations of the company in conjunction with the SPP market
15 were these losses sustained?

16 A. It's through our participation in SPP, as a
17 member of SPP and participation in these markets.

18 Q. And that's a wholesale market. Correct?

19 A. Yes.

20 MR. ZOBRIST: Okay. Nothing further, Judge.

21 JUDGE PRIDGIN: All right. Thank you.

22 Mr. Crawford, thank you very much. You may
23 step down.

24 (Witness excused.)

25 JUDGE PRIDGIN: Mr. Blanc.

1 MR. ZOBRIST: Judge, if I might, I just want
2 to make sure that I entered into evidence Mr. Crawford's
3 testimony. I may have done that a couple days ago, with the
4 consent of the parties, but I can't recall. It's 15, 16 and
5 17.

6 MR. WOODSMALL: Is this his last time taking
7 the stand?

8 MR. ZOBRIST: I think in the KCP&L case.
9 Yes. I believe that's correct.

10 JUDGE PRIDGIN: My notes may be faulty, and I
11 have several pages of them. I'm showing that the GMO 15, 16
12 and 17 --

13 MR. ZOBRIST: Well, this is just the KCPL
14 case, Judge.

15 JUDGE PRIDGIN: -- have been offered. I'm
16 not showing KCP&L 15, 16 and 17.

17 MR. ZOBRIST: Okay. I'll offer those at this
18 time. It's KCP&L Exhibit 15, both HC and NP, direct
19 testimony; Exhibit 16, which is rebuttal; Exhibit 17, which
20 is surrebuttal.

21 JUDGE PRIDGIN: Any objection?

22 Okay. Hearing none, KCPL -- my mistake. I
23 see it now. But I'll -- KCPL 15 HC and NP, 16 and 17 are
24 all admitted. And I did see you had offered and I admitted
25 it earlier.

1 MR. ZOBRIST: Thank you, Judge.

2 JUDGE PRIDGIN: Thank you.

3 I'm sorry. Are we ready for Mr. Blanc?

4 MR. ZOBRIST: Yes, sir.

5 JUDGE PRIDGIN: All right.

6 Come forward to be sworn, please. If you'll
7 raise your right hand to be sworn, please.

8 (Witness sworn.)

9 JUDGE PRIDGIN: Thank you very much, sir.

10 Mr. Zobrist, anything before he stands cross?

11 MR. ZOBRIST: Judge, just to reiterate, I
12 believe Mr. Blanc's prior testimony -- pardon me -- prefiled
13 testimony, Exhibit 7, which is direct testimony both HC and
14 NC -- NP, rebuttal testimony in the form of Exhibit 8, and
15 surrebuttal in the form of Exhibit 9 have been identified.
16 And I think he has one more issue after this.

17 THE WITNESS: I do.

18 JUDGE PRIDGIN: Okay.

19 MR. ZOBRIST: So I have nothing further.

20 Tender the witness for cross-examination.

21 JUDGE PRIDGIN: Mr. Mills?

22 MR. MILLS: No questions.

23 JUDGE PRIDGIN: Mr. Thompson?

24 MR. THOMPSON: Thank you, Judge. Just a few.

25 CURTIS BLANC testifies as follows:

1 CROSS-EXAMINATION BY MR. THOMPSON:

2 Q. Good morning, Mr. Blanc.

3 A. Good morning, Mr. Thompson.

4 Q. Do you have your direct testimony with you?

5 A. I do.

6 Q. Take a look at Page 14, would you?

7 A. I'm there.

8 Q. At Line 1, there's a question: Is it
9 appropriate to use historical data to estimate off-system
10 sales margin when determining a test year revenue
11 requirement? Do you see that question?

12 A. I do.

13 Q. And the answer you give, starting on Line 3
14 is: No, it is not. Correct?

15 A. Correct.

16 Q. How do you know that, Mr. Blanc?

17 A. Basically, following what Mr. Schnitzer has
18 testified to and what this Commission --

19 Q. Thank you.

20 A. -- adopted --

21 Q. So you're --

22 A. -- in the prior cases.

23 Q. -- you're repeating what Mr. Schnitzer said?

24 A. And what this Commission ordered. Yes.

25 MR. THOMPSON: Thank you.

1 JUDGE PRIDGIN: Mr. Thompson, is your
2 microphone on? I'm sorry.

3 MR. THOMPSON: It is on.

4 JUDGE PRIDGIN: All right. Thank you very
5 much.

6 MR. THOMPSON: I could talk louder, Judge, if
7 necessary.

8 JUDGE PRIDGIN: Thank you.

9 BY MR. THOMPSON:

10 Q. Now, you would agree with me, would you not,
11 Mr. Blanc, that the system the Commission has established in
12 the last several cases flows back to ratepayers all of the
13 off-system sales margin that's realized above the amount
14 that is, as Mr. Zobrist said, baked into rates?

15 A. I would say that the mechanism flows back all
16 of the margins, period. It's just there's a different
17 mechanism for flowing back the amount less than the 25th and
18 then greater than the 25th, but it all goes back to
19 customers.

20 Q. You're absolutely right. Thank you for that
21 correction, sir.

22 Could you tell me, how much is being flowed
23 back to ratepayers in this case from the last case?

24 A. Well, it was amortized over ten years, so as
25 far as the last case, it gets a little complicated. But we

1 can talk about the Company's direct filing in this case.

2 The Company asked for \$92 million, as I think
3 it's very clear from our direct case. And there is an
4 amount in addition to that we would have asked for but not
5 for the 25th percentile number. And that's a 20 -- that's a
6 highly confidential number.

7 Q. Well, I mean, that's the amount that's baked
8 into rates. Right? The 25th percentile number?

9 A. That's exactly what I'm saying. Yes.

10 Q. But there should be another amount, which is
11 the amount you realized above the 25th percentile from the
12 last case?

13 A. Yes. That's correct. And like I said,
14 that's amortized over a period of time. But I think it's a
15 highly confidential number. I could --

16 Q. Okay.

17 A. -- share with you --

18 Q. The number is highly confidential. I see.
19 would you agree with me that it's significantly less than
20 the amount that was baked into rates?

21 A. I don't follow your question. I apologize.

22 Q. Well, we've got money in two pots. Would you
23 agree with me?

24 A. That's correct.

25 Q. Pot Number 1 is the amount that goes into

1 base rates?

2 A. Correct, less than the 25th percentile -- or
3 that figure -- the 25th percentile figure.

4 Q. Right. That's pot number one.

5 A. Correct.

6 Q. And then there's a second pot, which is
7 whatever it is you realize in off-system sales margin above
8 that amount?

9 A. That's correct.

10 Q. Okay. So what I'm trying to understand is
11 whether the amount in that second pot is smaller than the
12 amount in the first pot.

13 A. It would be -- we would -- I would like to go
14 into highly confidential -- or in camera to --

15 Q. Absolutely.

16 A. -- describe it.

17 Q. Absolutely.

18 JUDGE PRIDGIN: We'll be going in camera.

19 Just a moment, please.

20 (REPORTER'S NOTE: At this point, an
21 in-camera session was held, which is at volume 33, pages
22 3359 to 3360.)

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JUDGE PRIDGIN: We are in public.

Mr. Thompson, when you're ready.

MR. THOMPSON: I have no further questions.

JUDGE PRIDGIN: Thank you.

MR. THOMPSON: Thank you very much,
Mr. Blanc.

THE WITNESS: Thank you.

JUDGE PRIDGIN: Mr. Kindschuh, any cross?

MR. KINDSCHUH: No questions, Your Honor.

JUDGE PRIDGIN: Mr. Woodsmall?

MR. WOODSMALL: Yes, Your Honor.

First off, I think we need to go -- oops, I'm
sorry -- go in camera, so I can fix something from previous
testimony.

(REPORTER'S NOTE: At this point, an
in-camera session was held, which is volume 33, pages 3362
to 3364.)

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1 JUDGE PRIDGIN: We're back in public forum.

2 MR. WOODSMALL: Thank you, Your Honor.

3 BY MR. WOODSMALL:

4 Q. Mr. Blanc, can you tell me when you started
5 your employment with KCP&L?

6 A. In 2005, I believe.

7 Q. And have you been involved in rate cases in
8 Kansas?

9 A. Yes. I have been.

10 Q. Were you involved in the Kansas 2006 rate
11 case?

12 A. Yes. I was.

13 Q. Is it true that KCP&L proposed the unused
14 energy allocator in Kansas in 2006?

15 A. We proposed it in both states in 2006.

16 Q. Okay. Would you agree that the Kansas
17 Commission adopted the use of the unused energy allocator in
18 the 2006 Kansas case?

19 A. Kansas said yes, Missouri said no.

20 Q. Can you tell me whether the unused energy
21 allocator would allocate more off-system sales to Kansas
22 the -- than the use of the energy allocator?

23 A. It would.

24 Q. Is it true that KCP&L asked the Kansas
25 Commission to change its allocation methodology for

1 off-system sales in the recent KCP&L case there?

2 A. Yes. We did. We were trying to match up the
3 allocation factors. I think that's described in a lot of
4 the testimony.

5 Q. And has the Kansas Commission issued its
6 decision in that case?

7 A. Yes. It did.

8 Q. Is it true that the Kansas Commission
9 rejected KCP&L's attempt to move from the unused energy
10 allocator?

11 A. Yes. They adopted the unused energy
12 allocator. That's true.

13 Q. Over your objection, if you will?

14 A. Yeah. We proposed to align the allocation
15 factors with Missouri.

16 Q. Okay. Are you aware of any other
17 jurisdictions that utilize the unused energy allocator?

18 A. I don't know that one way or the other.

19 Q. Can you tell me who Larry Loos is?

20 A. Yes. He's a consultant with Black & Veatch that
21 was our expert witness on jurisdictional allocators.

22 Q. In Missouri and Kansas?

23 A. Yes.

24 Q. Okay. And you're saying Mr. Loos filed
25 testimony in your Kansas rate proceeding?

1 A. Yes. He did.

2 Q. And that -- he filed testimony on the issue
3 of jurisdictional allocations; is that correct?

4 A. Yes. He did.

5 Q. I'm handing you a copy of his testimony from
6 Kansas.

7 MR. WOODSMALL: May I approach the witness,
8 Your Honor?

9 JUDGE PRIDGIN: You may.

10 BY MR. WOODSMALL:

11 Q. I've flagged two sections. Will you read the
12 highlighted section on Pages 8 and Pages 39 into the record.

13 A. Sorry. Do you want the question as well, or
14 just --

15 Q. Whichever you prefer. I just need the
16 highlighted section.

17 A. On Page 8, Mr. Loos testifies -- the
18 highlighted section that is Lines 1 to 5 -- he says, By
19 that, I mean that for every dollar of off-system sales
20 margin that the Company -- it says, that that the Company
21 makes from selling off-system sales, it costs the Company
22 one dollar and five cents, or a loss of five cents on the
23 dollar. This does not make any sense, and serves as an
24 economic disincentive for the Company to pursue off-system
25 sales.

1 Q. Thank you. And will you read the highlighted
2 section on Page 39?

3 A. From Lines 8 to 13, it says, I believe that
4 KCP&L proposed the unused energy allocator without
5 sufficient study of its implications and reasonableness.

6 Since the unused energy allocator allocates
7 more off-system sales margins -- paren -- (and hence, lower
8 overall costs) -- close paren -- to the Kansas jurisdiction,
9 the other parties may not have devoted the resources to
10 study its reasonableness.

11 Based on the analysis that I present here, I
12 believe that the unused energy allocator is not an
13 appropriate method for allocating off-system sales margins.

14 Q. Thank you. I'm handing you the rebuttal
15 testimony that he filed in that same case. Will you read
16 the sections highlighted on Pages 11 and Page 15?

17 A. On Page 11 there's highlighted language on
18 Lines 1 to 2 that says, Thus, the unused energy allocator
19 has no sound foundation.

20 Q. Now, on Page 15, I believe it is.

21 A. Page 15, Lines 4 through 5, I am unaware of
22 any instance other than the KCP -- other than KCP&L in
23 Kansas of a utility using unused energy to allocate
24 off-system sales margin.

25 Q. Do you have any reason to question any of

1 those statements that you read from Mr. Loos's testimony?

2 A. I do not.

3 Q. And you may have covered this. The Missouri
4 Commission rejected the use of the unused energy allocator;
5 is that correct?

6 A. As we discussed before, in the 2006 cases,
7 Missouri and Kansas, we proposed that in both states. And
8 as I said before, Kansas said yes, Missouri said no.

9 Q. would you agree that because of the
10 difference in allocators for off-system sales between
11 Missouri and Kansas, KCP&L must return a dollar-five for
12 every dollar it makes in the wholesale market?

13 A. That's correct.

14 Q. Okay. Isn't it true that KCP&L has agreed to
15 the continued use of the energy allocator in Missouri?

16 A. Yes. We have.

17 Q. who all at KCP&L was involved in deciding to
18 choose the 25th percentile as an appropriate off-system
19 sales figure in this case?

20 A. In this case, it would have -- it didn't
21 warrant the discussion that it did in the earlier case. We
22 saw it essentially as a logical given that the methodology
23 would continue. But it would have been the regulatory
24 affairs team and senior management.

25 Q. So are you saying that you didn't have

1 discussions on the use of the 25th percentile?

2 A. Well, we did. We discussed that the same
3 factors are there, that we had very limited control over the
4 margins we'll ultimately receive. And because all of the
5 margins go back to customers and there is -- so all the
6 benefit goes back to customers and there's no risk to
7 customers, if it would be appropriate to change how we do
8 it.

9 Q. Okay. And again, can you tell me who all --
10 what individuals were involved in those discussions?

11 A. As I said, it would have been the regulatory
12 affairs group and senior management. I can try and provide
13 names. For regulatory affairs, it would have been myself
14 and Tim Rush primarily. And then from senior management, it
15 would have been our -- what I would describe our senior
16 leadership team -- Mr. Downey; Mr. Bassham, who is our CFO
17 and is now executive vice president; and then over the
18 course of time, Mr. Shay, our new CFO.

19 Q. How do you spell Mr. Shay's name?

20 A. S-h-a-y.

21 Q. Did you do any analysis to determine whether
22 25th percentile was appropriate?

23 A. Yeah. We looked at the risk factors of the
24 five or six variables that affect what kind of margins we'll
25 ultimately receive. We recognize we only --

1 Q. Yes or no question.

2 A. Yes.

3 Q. You did do an analysis?

4 A. Yes.

5 Q. And that's in paper, or is that just a mental
6 analysis that you did?

7 A. It would be a discussion analyzing the
8 factors.

9 Q. Okay. And that's on -- in paper?

10 A. I said a discussion. Yeah. It was a
11 discussion analyzing the factors. And it's reflected in our
12 testimony in the case.

13 Q. And do you know when that was prepared?

14 A. Oh, it would have been in advance of our
15 direct filing. It was a discussion that culminated in the
16 direct testimony.

17 Q. Okay. The fact that the regulatory plan had
18 been completed affect your decision on the use of the 25th
19 percentile?

20 A. I think we would view it as completed with
21 the conclusion of this case, not with the filing of this
22 case. I'm not trying to quibble with you. I'm just saying
23 we didn't view it as completed until the conclusion of this
24 case, so that wouldn't have been a factor.

25 Q. You heard Mr. Schnitzer say earlier that his

1 analysis attempts to project off-system sales for the year
2 following rates going into effect in this case; is that
3 correct?

4 A. Yeah. Forward-looking is entirely the point.
5 Yes.

6 Q. Okay. So your decision to use the 25th
7 percentile applies to the year that rates will be in effect;
8 is that correct?

9 A. Correct.

10 Q. And that's the period after the regulatory
11 plan; is that correct?

12 A. Yes. That's correct.

13 Q. Okay. Did the fact that the regulatory plan
14 had been completed affect your decision on the use of the
15 25th percentile?

16 A. No. And maybe I wasn't clear before. We
17 looked at all of those factors, and the completion of the
18 regulatory plan didn't change those factors.

19 Q. Okay. Thank you. Is it true that the
20 regulatory plan had a definite schedule for the filing of
21 rate cases?

22 A. It did. But there was also a --

23 Q. Thank you.

24 A. -- provision recognizing --

25 Q. That's --

1 A. -- those dates could change.

2 Q. That's all I needed. And ultimately, you
3 ended up filing four rate cases in the period of five years
4 under the regulatory plan; is that correct?

5 A. As contemplated in the regulatory plan. Yes.

6 Q. And that's a yes? Is it?

7 A. Yes.

8 Q. Thank you. When do you anticipate filing
9 your next rate case?

10 A. We don't have a set date for that. I think I
11 was asked that question the first time I was on the stand,
12 and my answer hasn't changed. There are a lot of
13 variables -- what the economy will do, what kind of load
14 growth we'll see, what kind of cost increases we'll see
15 that -- we haven't resolved any of those issues since the
16 last time I was on the stand.

17 MR. WOODSMALL: I'm trying to get organized
18 so we only have to go in camera once, Your Honor.

19 BY MR. WOODSMALL:

20 Q. Okay. Would you agree that rates established
21 in these rate cases include amounts for a return on
22 investment in generating stations?

23 A. I'm sorry. Does it include earning a return
24 on our generating units?

25 Q. Earning a return on the investment in your

1 generating units.

2 A. Yeah. If they're used and useful.

3 Absolutely.

4 Q. Okay. Does it include a return on the
5 investment in transmission facilities?

6 A. Yeah, if they're used and useful. Same
7 answer.

8 Q. Does it include a return on investment in
9 substations?

10 A. Same answer.

11 Q. Okay. Does it include depreciation -- return
12 of, if you will -- on investment in generating stations?

13 A. Sure, consistent with whatever depreciation
14 rates have been established for a particular asset. Yes.

15 Q. Does it include depreciation on the
16 investment in transmission facilities?

17 A. I believe it's the same answer.

18 Q. Does it include a depreciation on investment
19 in substations?

20 A. Same answer.

21 Q. Does it include fuel costs used to generate
22 electricity?

23 A. For KCP&L -- and I'm pausing, because we were
24 talking about GMO and KCP&L, and GMO has a fuel clause.

25 But --

1 Q. KCP&L rates, do they include fuel costs for
2 generating electricity?

3 A. Yes.

4 Q. Does it include amounts for the salaries of
5 your dispatchers?

6 A. Yes.

7 Q. Does it include amounts for salaries of
8 generating station plant personnel?

9 A. Yes. It does.

10 Q. Does it include an amount associated with the
11 cost of computers and telephones used by dispatchers?

12 A. Yes.

13 Q. Are you familiar with the regulatory plan?

14 A. I am.

15 MR. WOODSMALL: May I approach, Your Honor?

16 JUDGE PRIDGIN: You may.

17 BY MR. WOODSMALL:

18 Q. I'll hand you a document and ask you if you
19 can identify it. It's a little dog-eared. It's getting
20 old.

21 A. Yeah. It's the stipulation and agreement we
22 commonly refer to as the regulatory plan.

23 Q. Will you flip to Page 22.

24 A. I'm there.

25 Q. Do you see the provision entitled, I believe

1 it's off-system sales?

2 A. I do.

3 Q. Will you read that provision, please?

4 A. It says, KC -- there are no line numbers. So
5 Page 22, Section J, Off-System Sales: KCPL agrees that
6 off-system energy and capacity sales revenues and related
7 costs will continue to be treated above the line for
8 ratemaking purposes.

9 KCPL specifically agrees not to propose any
10 adjustment that would remove any portion of its off-system
11 sales from its revenue requirement determination in any rate
12 case.

13 And KCPL agrees that it will not argue that
14 these revenues and associated expenses should be excluded
15 from the ratemaking process.

16 Q. Thank you. Do you know how return on equity
17 is established in Missouri rate cases?

18 A. Generally. I'm certainly not the expert
19 witness in that area. That area -- that issue of testimony
20 was tried earlier in the case, and Sam Hadaway is our
21 expert. But I am generally aware.

22 Q. Can you tell me what your understanding is of
23 how return on equity is established in Missouri rate cases?

24 MR. ZOBRIST: Judge, I'm going to object.
25 Even though this is a lawyer, I think that's a legal

1 question. I also think this goes far beyond the direct
2 testimony that we were to address here this morning on
3 off-system sales.

4 MR. WOODSMALL: Well, Your Honor, then I'd
5 move to strike on Page 11 of his direct starting with the
6 question, Does the Company's proposed return on equity
7 adequately address the substantial risk of KCP&L's
8 off-system sales? From Page -- from Line 3 all the way
9 through Line 23.

10 MR. ZOBRIST: Well, now that I understand
11 where Mr. Woodsmall is going, I'll withdraw the --

12 MR. WOODSMALL: I'll take him up on his
13 offer, and I still move to strike his testimony.

14 MR. ZOBRIST: Well, Judge, I just didn't
15 understand the predicate as it related to off-system sales.

16 JUDGE PRIDGIN: The objection is overruled --
17 both Mr. Woodsmall's motion and Mr. Zobrist's objection is
18 overruled.

19 And you can ask your question again,
20 Mr. Woodsmall.

21 MR. WOODSMALL: Thank you.

22 BY MR. WOODSMALL:

23 Q. Do you know how return on equity is
24 established in Missouri rate cases?

25 A. Yeah. As I answered before, I have a general

1 understanding, but I am not the Company's expert on that
2 issue.

3 Q. Can you tell me what your understanding is.

4 A. My understanding is the Commission looks at
5 the risk the Company has before it and the expectation
6 investors will have -- we call it the risk return trade-off.
7 And they try and estimate, determine what they think a
8 reasonable rate of return would be for the company given its
9 level of risk.

10 Q. Okay. And you mentioned a couple times in
11 there, the risk that the Company has before it. Can you
12 tell me how that risk is determined?

13 A. By evaluating all the issues in the case.

14 Q. Would you agree that one of those evaluations
15 relies upon ratings assigned by S&P and Moody's and other
16 rating agencies?

17 A. I guess I'm pausing because I understand the
18 point of the exercise to be in determining a return on
19 equity is what investors would expect, and that's -- they're
20 a distinct group from the creditors that S&P represents.

21 Q. Would you agree that we use comparable
22 companies in assigning an ROE for a company?

23 A. Yeah. The analysis, I think, of all the ROE
24 witnesses looks at comparable companies. Yes.

25 Q. Would you agree that one of the aspects in

1 determining comparable companies, at least by Mr. Hadaway
2 and Mr. Gorman, was the credit ratings of KCP&L and those
3 comparable companies?

4 A. My recollection is they use that to determine
5 whether companies were comparable. I don't know if they
6 went the next step that you're suggesting, that it became a
7 component of their ROE recommendation. But I believe it was
8 a factor in determining whether a company is comparable.

9 Q. Okay. Understood. I agree. And I would
10 clarify my questions consistent with your answer. Would you
11 agree, then, that when Moody's and S&P assigns a risk to a
12 particular company, it likely looks at the risk factors
13 revealed by the company in its public filings?

14 A. I guess you're asking if the credit rating
15 agencies look at our public filings to make their risk
16 assessment?

17 Q. Correct.

18 A. Sure. I think that's certainly something
19 they would look at.

20 Q. Would you agree that KCP&L has revealed to
21 the financial community that it bears risk associated with
22 shortfalls in earned off-system sales margins?

23 A. I'm sorry. Would you repeat the question?
24 That was a lot of words, quickly.

25 Q. In fact, why don't I just give you a section

1 of your 10-K and ask you to read that into the record. Page
2 21 is marked. And it's under the section of Risk Factors,
3 if you want to go back and look. I'll ask you to read that
4 paragraph.

5 A. I guess for the record, this is Form 10-K for
6 fiscal year ended December 31st, 2009. Page 21, the heading
7 wholesale Electricity Sales Affect Revenues, Creating
8 Earnings Volatility.

9 And the paragraph is -- and it's several
10 lines -- The level of Great Plains Energy and KCP&L
11 wholesale sales depend on the wholesale market price,
12 transmission availability, and the availability of
13 generation for wholesale sales, among other factors.

14 A substantial portion of wholesale sales are
15 made in the spot market, and thus the companies have
16 immediate exposure to wholesale price changes.

17 wholesale power prices can be volatile and
18 generally increase in times of high regional demand and high
19 natural gas prices.

20 while an allocated portion of wholesale sales
21 are reflected in GMO's FAC and KCP&L's Kansas ECA, KCP&L'S
22 Missouri rates are set on an estimated amount of wholesale
23 sales.

24 KCP&L will not recover any shortfall in the
25 non-firm wholesale electric sales margin from the level

1 included in Missouri rates, and any amount above the level
2 reflected in Missouri retail rates will be returned to
3 Missouri retail customers in a future case -- rate case.

4 Declines in wholesale market price,
5 availability of generation, transmission constraints in the
6 wholesale markets, or low wholesale demand could reduce the
7 company's wholesale sales.

8 These events could adversely affect Great
9 Plain Energy's and KCP&L's results of operations, financial
10 position and cash flows.

11 Q. would you agree that that simply states that
12 an amount is included in KCP&L's rates?

13 A. It was the same discussion I had with
14 Mr. Thompson. There is an amount that is baked into our
15 rates, and if we don't earn it, we eat it.

16 Q. And there's no discussion in here that that
17 amount is set at the 25th percentile; is that correct?

18 A. No. It doesn't say that.

19 Q. Okay. And, in fact, given that it's a highly
20 confidential amount in your rate cases, wall Street doesn't
21 even know what amount is included in rates; is that correct?

22 A. They would know it's the 25th percentile, and
23 not the mean or median. They would know that. But they
24 wouldn't know the dollar figure. But they would know it's
25 less than the statistically expected outcome.

1 Q. How would they know that? would you agree
2 that the 10-K report that you just read just said "an
3 amount"?

4 A. well, that would assume S&P or an investor
5 only read our 10-K report and not our direct testimony.
6 They read our testimony as well, and they follow our cases
7 very closely.

8 Q. But they don't know what the specific amount
9 is? They don't know the number tied to the 25th percentile?

10 A. No. I tried to answer that. They would know
11 that we're at the 25th percentile, which is less than the
12 statistically likely mean outcome, but they wouldn't know
13 the exact dollar figure.

14 Q. would you agree, from your direct
15 testimony -- if you would turn to that, Page 13. And I'll
16 try and do this without the need to go into camera.

17 Lines 8 through 11 -- well, even going back
18 up to Line 6, you said, By the time of True-up in the case,
19 if forecasted margins decline to "X" amount at the 25th
20 percentile.

21 But in the stipulation and agreement, you
22 included an amount greater than that; is that correct?

23 A. That is correct.

24 Q. So if wall Street was reading your testimony,
25 they would understand -- or if they had these numbers -- in

1 fact, 30 million is not a confidential number in the
2 regulatory -- or in your stipulation?

3 A. I don't recall that or not. But you just
4 said it.

5 Q. Okay. I looked it up this morning, so I felt
6 pretty comfortable with it.

7 From your testimony, there's no indication to
8 wall street that it's set at the 25th percentile, is there?

9 A. What is "it"? I'm sorry. I just don't
10 understand the question. Are we talking about the rates in
11 general, or the 30 million that you mentioned? I just -- I
12 don't -- I'm not sure what you're referring to.

13 Q. Yeah. I'm trying to get by with pronouns to
14 avoid going into --

15 A. Sure.

16 Q. -- camera.

17 MR. WOODSMALL: So, Your Honor, can we go in
18 camera?

19 JUDGE PRIDGIN: Certainly. One moment,
20 please.

21 (REPORTER'S NOTE: At this point, an
22 in-camera session was held, which is at volume 33, pages
23 3384 to 3390.)

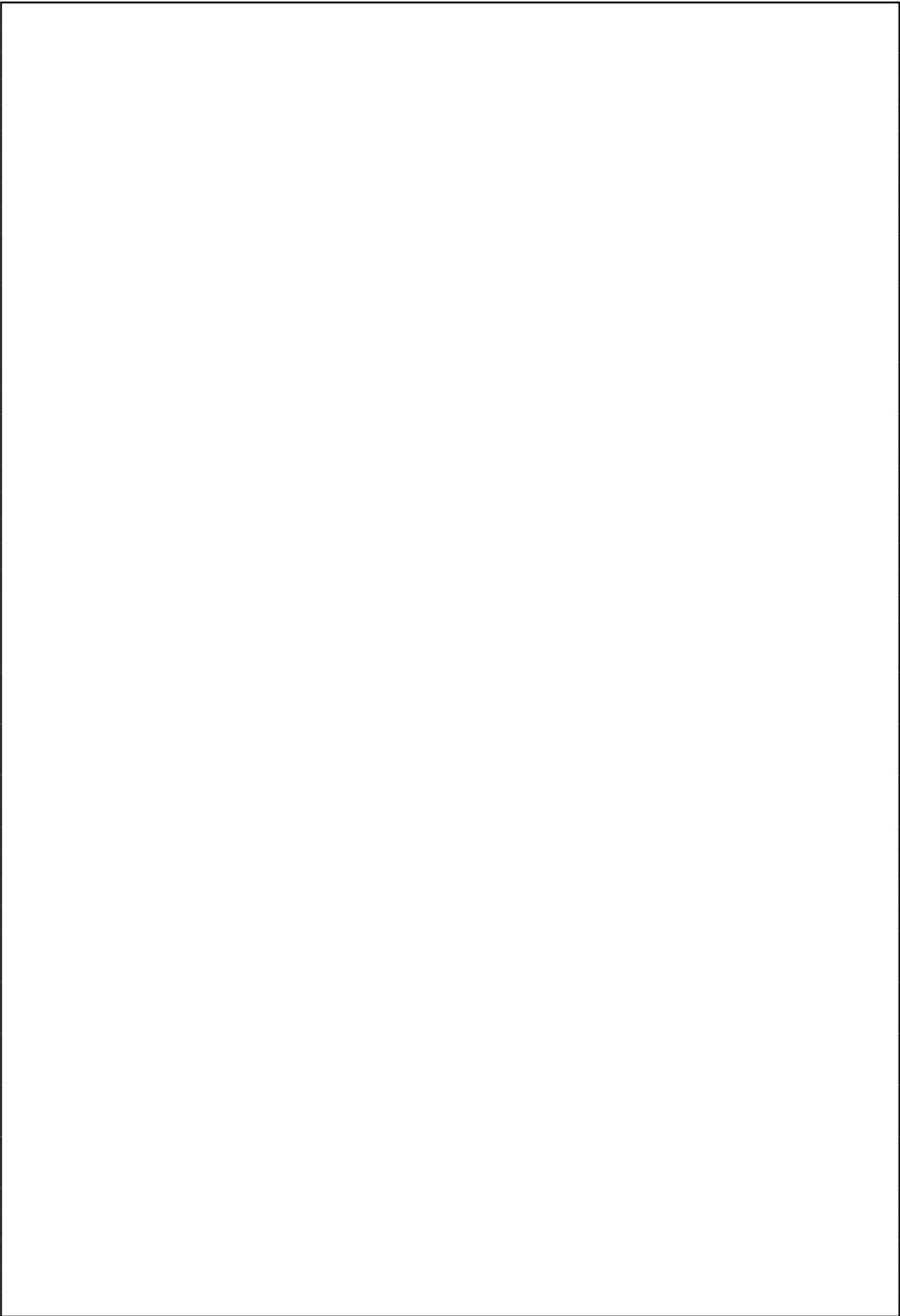
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1 JUDGE PRIDGIN: We are back in public forum.

2 MR. WOODSMALL: And I believe we are up to --
3 is it 1209, Your Honor?

4 JUDGE PRIDGIN: Let me check. I'm struggling
5 to find your list. I'm going to go ahead and label -- I'm
6 going to take your word for it, 1209, and investigate. We
7 may have to correct it later. But --

8 MR. WOODSMALL: Okay.

9 JUDGE PRIDGIN: Thank you.

10 (Wherein; Industrials Exhibit No. KCPL 1209
11 HC was marked for identification.)

12 JUDGE PRIDGIN: And Mr. Woodsmall, do you
13 have an idea of about how much more cross you have of Mr. --

14 MR. WOODSMALL: Fifteen minutes.

15 JUDGE PRIDGIN: All right. Thank you.

16 MR. WOODSMALL: I'm not going to have any
17 questions to ask you about these, so I don't know if you
18 want to see them.

19 MR. WOODSMALL: Your Honor, I've marked
20 Exhibit 1209. You can see on the back that it's
21 self-authenticating, signed by the company as true and
22 accurate.

23 Move for the admission of Exhibit 1209.

24 JUDGE PRIDGIN: Any objection?

25 Hearing none, KCPL 1209 is admitted.

1 (wherein; Industrials Exhibit No. KCPL 1209
2 HC was received into evidence.)

3 MR. ZOBRIST: Judge, I'd just note, I -- it
4 appears to be highly confidential. So --

5 JUDGE PRIDGIN: Is that still correct?

6 MR. WOODSMALL: Yes. Yes.

7 JUDGE PRIDGIN: Okay. We'll call this 1209
8 HC.

9 MR. WOODSMALL: Thank you. I should have
10 caught that.

11 Mark 1210, Your Honor.

12 (wherein; Industrials Exhibit No. KCPL 1210
13 HC was marked for identification.)

14 MR. WOODSMALL: And this is highly
15 confidential, as well. Again, Your Honor,
16 self-authenticating, signed by Mr. Rush.

17 Move for the admission of 1210.

18 JUDGE PRIDGIN: Any objection?

19 MR. ZOBRIST: No objection.

20 JUDGE PRIDGIN: Hearing none, KCPL 1210 HC is
21 admitted.

22 (wherein; Industrials Exhibit No. KCPL 1210
23 HC was received into evidence.)

24 MR. WOODSMALL: Mark Exhibit 1211, Your
25 Honor. Also highly confidential.

1 (Wherein; Industrials Exhibit No. KCPL 1211
2 HC was marked for identification.)

3 JUDGE PRIDGIN: Thank you.

4 MR. WOODSMALL: 1211 is Data Request 11.3,
5 highly confidential, authenticated by Mr. Rush's signature.

6 Move for the admission of Exhibit 1211.

7 JUDGE PRIDGIN: Okay. Any objection?

8 MR. ZOBRIST: No objection.

9 JUDGE PRIDGIN: KCPL 1211 HC is admitted.

10 (Wherein; Industrials Exhibit No. KCPL 1211
11 HC was received into evidence.)

12 MR. WOODSMALL: Exhibit 1212, highly -- or
13 highly confidential response to 17.1.1(R).

14 (Wherein; Industrials Exhibit No. KCPL 1212
15 HC was marked for identification.)

16 MR. WOODSMALL: Exhibit 12 -- I think I've
17 said it. Exhibit 1212 HC is a response to Data Request
18 17.1.1(R), self-authenticating with Mr. Rush's signature.

19 Move for the admission of 1212.

20 JUDGE PRIDGIN: Any objection?

21 Hearing none, KCPL 1212 HC is admitted.

22 (Wherein; Industrials Exhibit No. 1212 HC was
23 received into evidence.)

24 MR. WOODSMALL: Exhibit 1213, not highly
25 confidential response to 11.1.

1 (Wherein; Industrials Exhibit No. KCPL 1213
2 was marked for identification.)

3 MR. WOODSMALL: Exhibit 1212 [sic], public
4 response to question 11.1, with Mr. Rush's signature.

5 Move for the admission of 1213. I'm sorry.

6 JUDGE PRIDGIN: That's all right. So I have
7 it marked as 1213.

8 Any objections?

9 Hearing none, KCPL 1213 is admitted.

10 (Wherein; Industrials Exhibit No. KCPL 1213
11 was received into evidence.)

12 MR. WOODSMALL: Last one -- well, second to
13 the last one. 1214, public response to 17.1.2(R).

14 (Wherein; Industrials Exhibit No. KCPL 1214
15 was marked for identification.)

16 MR. WOODSMALL: Exhibit 1214, response to
17 17.1.2 (R) with Mr. Rush's signature. Move for its
18 admission.

19 JUDGE PRIDGIN: Any objection?

20 Hearing none, KCPL 1214 is admitted.

21 (Wherein; Industrials Exhibit No. KCPL 1214
22 was received into evidence.)

23 MR. WOODSMALL: Finally, Exhibit 1215, public
24 response to Data Request 17.1.3(R).

25 (Wherein; Industrials Exhibit No. KCPL 1215

1 was marked for identification.)

2 MR. WOODSMALL: Exhibit 1215, response to
3 Data Request 17.1.3(R) with Mr. Rush's signature. Move for
4 its admission.

5 JUDGE PRIDGIN: Any objection?

6 Hearing none, KCPL Number 1215 is admitted.

7 (Wherein; Industrials Exhibit No. KCPL 1215
8 was received into evidence.)

9 MR. WOODSMALL: Let me briefly review -- no
10 further questions, Your Honor.

11 JUDGE PRIDGIN: All right. Thank you.

12 This looks to be a good time to break for
13 lunch. I do want to inquire of the parties about
14 scheduling, how they want to proceed the rest of the day.

15 Is that something that we can do off the
16 record?

17 All right. I believe the parties -- it would
18 probably be better to announce on the record when we'll
19 resume. I think the parties want some extra time at some
20 point in the day to discuss perhaps other issues. Is that
21 something you want built in with lunch?

22 MR. WOODSMALL: I believe what we talked
23 about earlier was getting off-system sales done, and then
24 was it after merger transition costs?

25 MR. STEINER: Right. That's what we were

1 going to do.

2 JUDGE PRIDGIN: So just go -- just a normal
3 lunch break, and then you'll want to break to talk after
4 merger transition costs; is that correct? All right.

5 All right. We will then -- I'm showing the
6 time to be 12:35. Let's come back on the record, then, at
7 1:45. All right. We will resume the hearing at 1:45, then.
8 Thank you. We are off the record.

9 (A short break was taken.)

10 JUDGE PRIDGIN: All right. Good afternoon.
11 We are back from lunch break. I believe we have two bench
12 questions of Mr. Blanc.

13 Is there anything from counsel before we have
14 bench questions?

15 Commissioner Davis?

16 COMMISSIONER DAVIS: Judge, can we go in
17 camera, just -- I mean, I don't anticipate us being in there
18 for more than three to five minutes.

19 JUDGE PRIDGIN: Absolutely.

20 (REPORTER'S NOTE: At this point, and
21 in-camera session was held, which is at volume 33, pages
22 3397 to 3399.)

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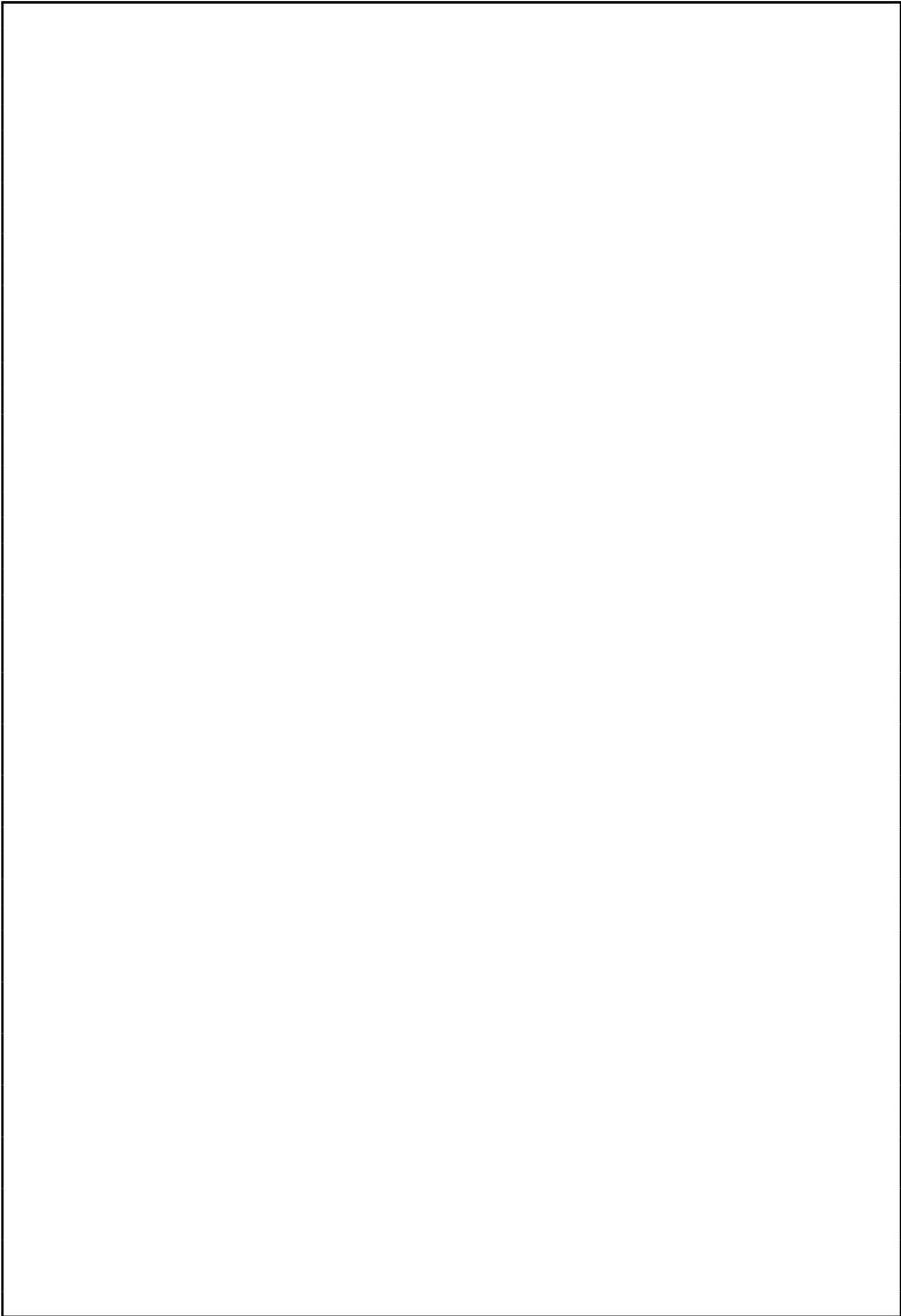
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1 JUDGE PRIDGIN: We are back in public forum.

2 QUESTIONS BY COMMISSIONER DAVIS:

3 Q. All right. Mr. Blanc, on your rebuttal
4 testimony, Page 46, that's not highly confidential.
5 Correct?

6 A. Correct.

7 Q. Okay. KCP&L didn't request any kind of
8 sharing mechanism as part of this case, and that's because
9 you are currently returning 105 percent of your off-system
10 sales margins to your Kansas and Missouri customers; is that
11 correct?

12 A. I guess that's not why we didn't ask for a
13 sharing mechanism. We didn't ask for a sharing mechanism as
14 part of this case because we committed in the regulatory
15 plan -- excuse me -- we committed in the regulatory plan not
16 to ask for that as part of these four cases.

17 Q. Okay. So -- okay. That's part of the
18 regulatory plan, then?

19 A. (Witness nodded.)

20 Q. Okay. Can you refresh for my recollection
21 how we got to this point where Kansas and Missouri have, you
22 know, divergent, I guess, positions on the energy allocator
23 issue?

24 A. I can try. We propose the -- we call it the
25 unused energy allocator. We call it the UE-1. It's been

1 shorthanded for sometime. But that unused energy allocator
2 we proposed in Kansas and Missouri back in our 2006 rate
3 case.

4 And as I recall, the Missouri Commission said
5 no, that wasn't an appropriate way. And then Kansas, I
6 believe that case settled, but with the assumption in the
7 settlement agreement that that allocator, the UE-1, would be
8 used.

9 So at that point, that's where the divergence
10 began. But with the possible clarification -- and it goes
11 to the fuel clause that we have in Kansas. That was a
12 result of our second regulatory plan rate case in Kansas.
13 So it would have been our Kansas 2007 case. And that's when
14 the UE-1 started to matter, for lack of a better term. That
15 was determined to be the factor that would be used for our
16 fuel clause in Kansas.

17 Q. All right. So Mr. Blanc, I mean, I guess,
18 how are -- how are we going to -- how should we reconcile
19 these positions going forward? I mean, can they be
20 reconciled?

21 I mean, I think there's a statute -- and
22 Mr. Mills or somebody else may know the statute better than
23 me; I didn't pull it up -- but, I mean, I think we do have
24 it in our authority to have a joint proceeding with the
25 Kansas Commission. There's five of us and there's three of

1 them. Maybe we could outvote them. I don't know.

2 And -- but how -- how are we to reconcile
3 this going forward? I mean, I'm concerned that this could
4 be an issue that will grow five, ten, fifteen, twenty years
5 out if something is not done.

6 A. And I would agree with exactly that. And
7 some bi-state coordination would seem like the answer,
8 because each state, understandably, chooses the method that
9 allocates more to them. And the unfortunate result of that
10 is it adds up to more than 100 percent.

11 And we see the same thing on the cost side;
12 each state chooses the methodology that allocates the least
13 to them. And so in those cases it typically doesn't add up
14 to 100 percent. So it's a problem the company has to deal
15 with. And a bi -- some kind of bi-state cooperation would
16 seem like a great solution.

17 Q. All right. You said that, Mr. Blanc. I'm
18 going to hold you to it. So anyway -- thank you.

19 COMMISSIONER DAVIS: That's all the questions
20 that I have.

21 JUDGE PRIDGIN: Commissioner Davis, thank
22 you.

23 Any recross based on bench questions?

24 Mr. Mills?

25 Mr. Thompson, Mr. Dearmont?

1 MR. THOMPSON: No, thank you, Judge.

2 MR. WOODSMALL: Just real brief.

3 JUDGE PRIDGIN: Mr. Woodsmall?

4 MR. WOODSMALL: Real briefly.

5 RECROSS EXAMINATION BY MR. WOODSMALL:

6 Q. Do you know, prior to the 2006 Kansas case,
7 isn't it correct that KCP&L was allocating off-system sales
8 margins using the energy allocator in Kansas?

9 A. I don't know that. That was before I came to
10 the company, or about when I came to the company. So I just
11 don't know that.

12 Q. But it was obviously something different than
13 the unused energy allocator?

14 A. Yes. But I don't remember if it was demand,
15 energy, 12CP, 5CP. I just don't know that.

16 MR. WOODSMALL: No further questions.

17 JUDGE PRIDGIN: Redirect?

18 MR. ZOBRIST: I've got a couple questions,
19 Judge. And if I could go into HC just briefly on this one.

20 JUDGE PRIDGIN: One moment, please.

21 MR. ZOBRIST: Thank you.

22 (REPORTER'S NOTE: At this point an in-camera
23 session was held, which is at volume 33, pages 3404 to
24 3411.)

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1 JUDGE PRIDGIN: Let me see if we have any
2 further recross based on bench questions.

3 MR. WOODSMALL: Briefly, Your Honor.

4 JUDGE PRIDGIN: Mr. woodsmall.

5 FURTHER RECROSS EXAMINATION BY MR. WOODSMALL:

6 Q. First off, you mentioned 36 million test year
7 normalized level. Do you recall that question -- or that
8 response?

9 A. Yes. I do.

10 Q. would you agree that 36 million test year
11 normalized level wouldn't include energy from Iatan 2?

12 A. I'm just trying to think when the test year
13 ended versus when it came online. No. It certainly
14 wouldn't for the whole period. If it would, it would be
15 just for a small period.

16 Q. Okay. And you would expect with the addition
17 of Iatan 2 the opportunity for off-system sales increases
18 dramatically, doesn't it?

19 A. Sure. And Schnitzer's analysis reflects
20 that, and that's why his 25th percentile in this case is
21 more than double his 25th percentile in the last case. It
22 reflects that.

23 Q. So \$36 million normalized test year is not
24 appropriate; is that correct? I believe --

25 A. That would be for the Commission to decide.

1 It wouldn't reflect all Iatan's 2 -- all Iatan 2's capacity.

2 That's true.

3 Q. Okay. And then, briefly, you talked about
4 off-system sales being a deduction from rates. Can you
5 recall ever where off-system sales weren't included as a
6 deduction to rates?

7 A. I've only been with the company during the
8 regulatory plan, so that's all I can speak to.

9 Q. And it's always been, in your time, a
10 deduction to rates, hasn't it?

11 A. Yeah. With the 25th percentile we had, it's
12 worked this way each of the four cases.

13 Q. And you're required by the regulatory plan to
14 deduct that from rates, aren't you?

15 A. We're not -- how the 25th percentile
16 mechanism works is not dictated in the regulatory plan. The
17 part you had me read just said we couldn't ask to keep
18 margins. But the methodology, how that happens, isn't
19 specified anywhere.

20 Q. But if you don't keep margins, then those
21 margins obviously go to ratepayers; is that correct?

22 A. Oh, absolutely.

23 MR. WOODSMALL: No further questions.

24 JUDGE PRIDGIN: Thank you.

25 Redirect?

1 MR. ZOBRIST: I think a number of my
2 questions answered through the Commissioner, through
3 Mr. Woodsmall.

4 FURTHER REDIRECT EXAMINATION BY MR. ZOBRIST:

5 Q. Let me ask about Mr. Woodsmall's questions to
6 you about the costs to the company for generation,
7 transmission, substations, and those issues.

8 Are all the costs of those kinds of assets
9 and functions built into the rate proposal, or is there any
10 consideration given for off-system sales margins?

11 A. Sure. For the margins piece, we don't
12 recover the fuel costs associated with generating those
13 margins. The margins are just that. Margin is a synonym
14 for profits, so it's the revenues minus the cost to produce.
15 So those fuel costs aren't in there.

16 Q. Has Staff made an adjustment for those
17 margins?

18 A. Yes. For those fuel costs, I should say --
19 clarify.

20 Q. Correct. Correct.

21 MR. ZOBRIST: Judge, that's all I have.
22 Thank you.

23 JUDGE PRIDGIN: Mr. Zobrist, thank you.

24 Mr. Blanc, thank you very much, sir.

25 Are we on to Mr. Harris?

1 If you'll come forward to be sworn, please,
2 sir. If you'll raise your right hand to be sworn, please.

3 (Witness sworn.)

4 JUDGE PRIDGIN: Thank you very much, sir.
5 Please have a seat.

6 Mr. Thompson, when you're ready, sir.

7 MR. THOMPSON: Thank you, Judge.

8 V. WILLIAM HARRIS testifies as follows:

9 DIRECT EXAMINATION BY MR. THOMPSON:

10 Q. State your name, please.

11 A. V. William Harris.

12 Q. And you've testified already during this
13 proceeding, have you not, Mr. Harris?

14 A. Yes. I have.

15 Q. And your testimony has been received; isn't
16 that correct?

17 A. Yes. 220 and 221, I believe.

18 MR. THOMPSON: Okay. We'll go ahead and
19 tender for cross.

20 THE WITNESS: There is one more correction
21 I'd like to make to my testimony.

22 MR. THOMPSON: Very well.

23 BY MR. THOMPSON:

24 Q. What is that?

25 A. On Page 2 of my rebuttal --

1 Q. That's your KCPL rebuttal?

2 A. Yes.

3 Q. Okay.

4 A. Lines 19 and 20.

5 Q. Uh-huh.

6 A. April should be replaced with August, and
7 March should be replaced with July. Or no, excuse me. 2010
8 should be replaced with 2011. And 2011 should be replaced
9 with 2012. It should read, April 1st, 2011 through
10 March 31st, 2012.

11 Q. Thank you very much. Do you have any further
12 corrections?

13 A. No.

14 MR. THOMPSON: Very well.

15 I'll tender, Judge.

16 JUDGE PRIDGIN: Mr. Thompson, thank you.

17 Cross-examination.

18 Mr. Mills?

19 Mr. Woodsmall?

20 MR. WOODSMALL: Yes. Real briefly.

21 CROSS-EXAMINATION BY MR. WOODSMALL:

22 Q. And I think I know the answer to this,
23 Mr. Harris, so excuse me if I'm just being redundant. From
24 the opening statement, it was my understanding that Staff's
25 position now is 40th percentile; is that correct?

1 A. Staff -- given the two choices, Staff would
2 prefer the 40th percentile. Yes.

3 MR. WOODSMALL: No further questions. Thank
4 you.

5 JUDGE PRIDGIN: All right. Thank you.

6 Mr. Zobrist?

7 MR. ZOBRIST: Thanks, Judge.

8 CROSS-EXAMINATION BY MR. ZOBRIST:

9 Q. Mr. Harris, am I correct that in the Staff
10 report that you included Mr. Schnitzer's projected level of
11 net margin, total company at the 25th percentile?

12 A. Yes.

13 Q. would you please turn to Page 5 of your
14 rebuttal testimony.

15 A. Okay.

16 Q. Now, on Lines 18 through 25, you have six
17 columns. Do you see that, sir?

18 A. Yes.

19 Q. Now, the final column says Margin Percentage.
20 Do you see that?

21 A. Yes.

22 Q. Now, am I correct that that is simply a
23 calculation of the OSS percent of margin versus OS --
24 off-system sales?

25 A. Yes.

1 Q. Okay. This is not related to Mr. Schnitzer's
2 probabilistic analysis with his 40th percentile and 25th
3 percentile?

4 A. No. It's not.

5 Q. Okay. And I believe you did testify on that
6 very same page, on Line 16 and 17, that KCP&L has
7 experienced a fluctuating level of off-system sales costs
8 and resulting margins, as illustrated below; is that
9 correct?

10 A. Yes.

11 Q. And in 2003 and in 2004, the off-system --
12 or, at least, in 2003, the off-system sales margin there --
13 and I realize these numbers are highly confidential -- but
14 that number for 2003 is below the next several years; is
15 that correct?

16 A. Yes.

17 Q. Do you know what the level was for 2002?

18 A. Not right now. I could find that out.

19 Q. Okay. And were you in the hearing room when
20 I asked Mr. Blanc about the adjustment that Staff made to
21 the Company's rate proposal as far as off-system sales
22 margins?

23 A. I'm sorry. What was that again?

24 Q. Were you in the hearing room when I asked
25 Mr. Blanc whether Staff had made an adjustment for fuel

1 costs related to off-system sales margins?

2 A. Yes.

3 Q. Okay. And is he correct that such an
4 adjustment was proposed by Staff in this case?

5 A. Staff was -- did not propose it. Staff did
6 not object to the Company's proposal, and has it included it
7 in its cost of service model at this time -- or in our
8 accounting schedules.

9 Q. And I just have a few questions about the
10 adjustment -- the adjustments that Mr. Crawford proposed to
11 off-system sales. Do you recall that general topic?

12 A. Yes.

13 Q. Okay. Now, am I correct that of the three
14 adjustments proposed by Mr. Crawford, Staff does not
15 disagree with him with regard to the proposed adjustment
16 regarding purchase -- purchases for resale?

17 A. Staff does not disagree with that adjustment.

18 Q. And is it also correct that Staff does not
19 disagree with Mr. Crawford's proposed adjustment for revenue
20 neutrality uplift?

21 A. Staff does not have sufficient data to
22 disagree with that one, either.

23 Q. Okay. Now, am I correct that these two
24 adjustments relate to both credits and charges that the
25 Company has incurred as part of being a market participant

1 in the Southwest Power Pool wholesale market?

2 A. That's my understanding.

3 Q. And that market is known as the energy
4 imbalance service market?

5 A. Yes.

6 Q. Okay. And that is a wholesale market that
7 operates under tariffs approved by the Federal Energy
8 Regulatory Commission?

9 A. Yes.

10 Q. And would you agree, generally, that the
11 ability of a company -- of any company, not just KCP&L to
12 participate in that market is to both buy and sell energy on
13 the wholesale level?

14 A. What was the very first part of the question?

15 Q. That you agree that the energy imbalance
16 service market for SPP offers companies like KCPL and other
17 utilities the opportunity to both buy and sell energy on the
18 wholesale market?

19 A. Yes. It does.

20 Q. Okay. And what benefits does that provide
21 customers of the company -- that ability to participate in
22 the market?

23 A. Well, I'm not sure that I quite understand
24 what it is you're looking for. It --

25 Q. Well, let me phrase it this way. Does it

1 offer a utility like KCP&L an opportunity to participate in
2 a market where it can -- if it's selling energy that it can
3 get as good a price as is available?

4 A. That's -- as good a price as is available
5 through that market.

6 Q. Correct. And if it's buying power, it also
7 has an opportunity to buy power at the lowest possible price
8 available, again in that market?

9 A. In that market. Yes.

10 Q. Okay. And those benefits do accrue to
11 customers; is that true?

12 A. Yes.

13 Q. Okay. Now, with regard to the one adjustment
14 that you disagree with the Company on, that relates to SPP
15 line loss charges; is that correct?

16 A. That's -- yes, that's what it's been called.

17 Q. And as I understand your testimony, you --
18 although you oppose the adjustment, you do not oppose those
19 costs should the Commission see fit not to agree with the
20 company on the adjustment? You're not opposed to those
21 costs being recovered in the company's cost of service?

22 A. Yes.

23 MR. ZOBRIST: No further questions, Judge.

24 JUDGE PRIDGIN: Mr. Zobrist, thank you.

25 Bench questions.

1 Commissioner Davis.

2 COMMISSIONER DAVIS: First of all,
3 Mr. Harris, I just wanted to say that it's good to see you
4 back in the witness stand, and it looks like your back is
5 doing better, and I'm glad to see that you're doing okay.

6 I don't have any questions.

7 THE WITNESS: Thank you, Commissioner Davis.
8 I appreciate that.

9 JUDGE PRIDGIN: Thank you.

10 THE WITNESS: It's good to be back.

11 COMMISSIONER DAVIS: Well, it's good to see
12 you here.

13 JUDGE PRIDGIN: Any redirect?

14 MR. THOMPSON: No redirect. Thank you.

15 JUDGE PRIDGIN: All right.

16 Mr. Harris, thank you very much. You may
17 step down.

18 (Witness excused.)

19 JUDGE PRIDGIN: Going on to Mr. Meyer.

20 Mr. Meyer, if you will raise your right hand
21 to be sworn, please.

22 (Witness sworn.)

23 JUDGE PRIDGIN: Thank you very much, sir.

24 Please have a seat.

25 Mr. Woodsmall, when you're ready.

1 MR. WOODSMALL: Thank you.

2 GREG MEYER testifies as follows:

3 DIRECT EXAMINATION BY MR. WOODSMALL:

4 Q. Good afternoon, sir.

5 A. Can you just give me a minute?

6 Q. Sure. Were you really worried I'd say no?

7 A. I didn't know what you'd say. Okay. I'm
8 ready.

9 Q. Would you state your name for the record.

10 A. Greg Meyer.

11 Q. By whom are you employed?

12 A. Brubaker & Associates.

13 Q. And who are you appearing in this case on
14 behalf of?

15 A. The industrials.

16 Q. Did you cause to be filed in this case what
17 has been marked as Exhibits 1201, your highly confidential
18 and non-proprietary versions of your direct; and 1202, which
19 is just a public version of your surrebuttal?

20 A. Yes.

21 Q. Do you have any changes or corrections to
22 make to that?

23 A. I do not.

24 Q. And if I were to ask you the questions
25 contained therein today, would your answers be substantially

1 the same?

2 A. Yes. They would.

3 MR. WOODSMALL: With that, Your Honor, I'd
4 offer Exhibits 1201 and 1202 into evidence, and tender the
5 witness for cross-examination.

6 JUDGE PRIDGIN: KCPL 1201 and 1202 are
7 offered.

8 Any objections?

9 Hearing none, they are admitted.

10 (Wherein; Industrials Exhibit Nos. KCPL 1201
11 and KCPL 1202 were received into evidence.)

12 JUDGE PRIDGIN: Cross-examination.

13 Mr. Kindschuh?

14 Mr. Mills?

15 Mr. Thompson?

16 Mr. Zobrist?

17 MR. ZOBRIST: Thank you, Judge.

18 CROSS-EXAMINATION BY MR. ZOBRIST:

19 Q. Mr. Meyer, I've got a couple of questions on
20 the SPP adjustments issue. On purchases for resale, you
21 oppose this adjustment, and staff does not oppose the
22 adjustment; is that correct?

23 A. That's my understanding.

24 Q. Do you oppose the costs with regard to
25 purchases for resale be recovered in the cost of service of

1 the Company?

2 A. I think what I'm opposed to is the fact that
3 the -- those costs haven't been sufficiently justified when
4 you take into context the full review of the company's case;
5 that they are included -- that there's benefits associated
6 with those costs that the company hasn't picked up, that
7 you're only taking one side of the costs.

8 Q. So as long as both benefits and detriments,
9 revenue and expenses are taken into consideration, then you
10 don't have an -- any opposition to their being included in
11 the cost of service of the company?

12 A. Yes. I don't think -- I don't think the
13 company has demonstrated that the benefits associated with
14 the annualized fuel expense has accounted for those costs,
15 and therefore have reduced their annualized fuel expense for
16 those benefits associated with the transactions that arise.
17 But you do want to include the costs associated with those
18 transactions as an additional cost.

19 Q. To be recovered in rates?

20 A. Yes.

21 Q. Okay. Now, do you recall Mr. Crawford's
22 discussion about the post-analysis program that's run by the
23 Company with this -- in this regard?

24 A. Yes. I do.

25 Q. Okay. And you stated in your rebuttal --

1 surrebuttal testimony, at Page 6, that you did not have any
2 information to disagree with Mr. Crawford's statements
3 regarding the post-analysis program; is that correct?

4 A. That's correct, because that's just the one
5 side of the concern I have with this adjustment.

6 Q. Now, with regard to the SPP line losses,
7 isn't it true that that calculation includes both the
8 charges and the revenues? Correct?

9 A. There's a revenue stream and an expense
10 stream.

11 Q. Now, I understand you're opposed to the
12 adjustment. Are you opposed to Mr. Crawford's requests that
13 those costs be included and recovered in the Company's
14 revenue requirements?

15 A. I believe the costs are already included in
16 the revenue requirement through the recognition of the
17 off-system sales margins that are sold outside of the SPP
18 footprint.

19 Q. And with regard to the revenue neutrality
20 uplift charges, the RNU, you oppose this adjustment, and
21 staff has not opposed this adjustment; is that correct?

22 A. I think to be clear, I oppose the company's
23 proposal to include it as an offset to off-system sales. I
24 believe that those charges are a result of -- are more of a
25 result of serving native load, and are not related to

1 off-system sales, and therefore they should be included in
2 the base cost of service.

3 Q. And that's what I was going to get at. You
4 do recognize that these net costs are a component of the
5 company's cost of service?

6 A. I would say that they should be put in with
7 the -- to the base case. Yes.

8 MR. ZOBRIST: Okay. Thank you.

9 Judge, I have no further questions.

10 JUDGE PRIDGIN: Mr. Zobrist, thank you.

11 Bench questions? Commissioner Davis?

12 QUESTIONS BY COMMISSIONER DAVIS:

13 Q. Good afternoon, Mr. Meyer.

14 A. Good afternoon.

15 Q. You work for Mr. Brubaker?

16 A. I do.

17 Q. Now, in the past, Mr. Brubaker, in some other
18 Ameren cases that you may be familiar with, has offered some
19 more creative solutions on off-system sales issues.

20 A. I'm aware of those.

21 Q. You're aware of those. Okay. I mean, you're
22 not offering anything creative here. Is that because it's
23 this -- because of the stipulation and it would just be too
24 much work to try to get Mr. Mills and all the other parties
25 to agree, or is it your position that your clients are just

1 better off just going with Schnitzer's curve, or --

2 A. well, let me start with this. KCPL is in a
3 situation where they're -- they've agreed not to seek a fuel
4 adjustment clause for five years, I believe, after Iatan 2
5 came online.

6 This puts them in a unique situation that --
7 where you can't make a comparison to UE, because UE has a
8 fuel adjustment clause.

9 So I think what you have to do is you have to
10 go back to the -- I'll say earlier times, or times when UE
11 did not operate under a fuel adjustment clause. In that
12 instance, off-system sales were set in conjunction with the
13 annualized fuel expense, and were set at a level
14 approximating -- in this case, using the probabilistic model
15 would be -- set at approximately the 50th percentile. If
16 the utility sold more, they kept the profits.

17 If the utility sold less, they ate those, as
18 I think Mr. Zobrist said earlier. It put them -- it put the
19 50th percentile on the hook, so to speak. I think that's
20 what you're -- that's the situation you're facing today.

21 We haven't even gone -- we haven't -- we're
22 not proposing to go that far. We're actually proposing
23 something less than what the company agreed to on a
24 percentile basis from the prior case.

25 You know, they agreed to what we've

1 calculated the 43rd percentile. we're only at the 40th. we
2 want to move those off-system sales up higher because we
3 believe they need to be put, quote, "on the hook."

4 Because as you've seen in the historical
5 analysis, KCPL only sells up to or slightly above the levels
6 that's included in rates. And we believe that's because of
7 the fact that they have to give back and a dollar-five.

8 So that the incentive -- you have to incent
9 them or put them on the hook to take them to a higher level.
10 And that's the 40th percentile in our proposal.

11 Now, you can -- I mean, you -- creatively,
12 put them at the 50th and let them keep everything above it,
13 and don't track it. That's what you would have done in a
14 prior -- in a prior regime without fuel adjustment clauses.

15 Q. And obviously you heard Mr. Blanc's
16 testimony. And what about -- I think he listed two or three
17 factors. I mean, what about the price of natural gas? I
18 mean, how big a factor is that?

19 A. Well, I don't disagree with Mr. Blanc on the
20 fact that it's been our belief, and I think you've even
21 heard it from a former economist yourself, Mr. Proctor, that
22 natural gas is a driver in the off-system sales prices, the
23 market prices. So I don't think that's the one. I think
24 that's a component.

25 I think what you have to look at, too,

1 though, is in this instance, what you've done is you -- KCPL
2 has taken the calculation of off-system sales margins
3 outside of the context of annualizing fuel expense. And
4 I -- that hasn't been done in the past. I mean, it's been
5 done for purposes of its regulatory plan. But historically,
6 those two mechanisms should move in sync with each other.

7 And I can tell you that when I look at some
8 of the assumptions that were built into the Schnitzer model
9 that was given by -- or the -- that was given by
10 Mr. Crawford, there's a big disconnect between the unit
11 availabilities for them to make off-system sales and what's
12 built into the rate -- into the fuel expense -- a large
13 difference.

14 So they're not even synced up on their unit
15 availabilities. And I think that's something that needs to
16 be -- I would argue that we need to perhaps move away from
17 the Schnitzer model in the future and bring these things
18 back so that they're coordinated together.

19 Q. And I guess my question is, okay, how do we
20 find that sweet spot of incenting off-system sales but not
21 necessarily putting them in a situation where, you know,
22 they get to keep every dollar over a certain amount?

23 My concern would be that they would never --
24 they would never want to take those units offline because
25 they're generating additional cash that would accrue to

1 earnings, and you could potentially have a situation where
2 maintenance is being deferred past where it should be so
3 that they can make their quarterly or annual numbers, or
4 exceed those annual numbers.

5 A. Obviously, that's a concern. But I think as
6 you've seen, at least since I've been -- it's going to date
7 me, but you had those same situations when you brought on
8 the nuclear plants and when major units were brought on.
9 KCPL brought Iatan 1 on, I believe, in May of 1980. They
10 made off-system sales.

11 Q. I was eight years old at the time.

12 A. Unfortunately, I was here. But -- so that is
13 a concern. But history would show that they have run
14 their -- that utilities have run their units, continue to
15 maintain them and still made the off-system sales.

16 It -- I think the risk that they would run,
17 if they went down that road, and a catastrophic loss
18 happened to that unit, they would face serious questions and
19 allegations from the Staff or other interested parties that
20 they ran those units into the ground and didn't maintain
21 them properly.

22 And we've had that situation when they
23 thinking of bringing on Wolf Creek. Chris Rogers of the
24 Staff analyzed and saw and made an argument that they did
25 not maintain four of their units at the Hawthorne stations

1 properly because they needed -- they wanted to not use those
2 units as much and justify more at wolf Creek.

3 So it can happen, but I don't believe that
4 it's something that we should spend an inordinate amount of
5 time, because I think that there's so much downside risk
6 that we would hope that they would not make those types of
7 decisions.

8 Q. Okay. Mr. Meyer, thank you. I don't believe
9 I have anything else, but thank you.

10 A. Thank you.

11 JUDGE PRIDGIN: Commissioner Davis, thank
12 you.

13 Any recross based on bench questions?

14 Mr. Mills?

15 MR. MILLS: Just a couple.

16 RECROSS EXAMINATION BY MR. MILLS:

17 Q. And that last one first. If a unit goes down
18 because it's not properly maintained, can the company use
19 that unit to make off-system sales?

20 A. Not if it's down.

21 Q. So would that be another incentive to not
22 drive a unit into the ground so that it doesn't run?

23 A. Yes. I think that's true.

24 Q. Okay. Now, you talked about a disconnect
25 between the levels of unit availability in the fuel model

1 and the Schnitzer model.

2 A. Yes.

3 Q. which way does that disconnect go? which
4 is -- which is -- which shows the units as having a greater
5 availability?

6 A. what's input into the annualized fuel
7 expense -- and I'm using Mr. Crawford's -- the schedule in
8 his testimony is less than what they project for the unit
9 availabilities when they do their off-system sales. So they
10 would -- by having the units down more, they're less
11 available to make off-system sales.

12 Q. So they are less available in the off-system
13 sales model than they are the fuel model?

14 A. Correct.

15 Q. Okay.

16 MR. MILLS: That's all the questions I have.

17 Thank you.

18 JUDGE PRIDGIN: Mr. Mills, thank you.

19 Any further recross?

20 Redirect?

21 REDIRECT EXAMINATION BY MR. WOODSMALL:

22 Q. Mr. Mills covered most of it. One question.
23 You said these units are less available in the Schnitzer
24 model. Do you recall that?

25 A. Yes.

1 Q. By being less available in the Schnitzer
2 model, what does that do to OSS projections?

3 A. Understates them.

4 Q. Thank you.

5 MR. WOODSMALL: No further questions.

6 JUDGE PRIDGIN: All right. Thank you.

7 Mr. Meyer, thank you very much. You may step
8 down.

9 (Witness excused.)

10 JUDGE PRIDGIN: We will be going to merger
11 transition costs now, with Mr. Ives as the first witness; is
12 that correct?

13 MR. STEINER: That's right.

14 MR. MILLS: Judge, I realize we haven't been
15 going very long, but this has gone a lot faster than I
16 anticipated. Can we take a ten-minute recess before we move
17 on to our next issue?

18 MR. THOMPSON: We have to get another team in
19 here -- special teams.

20 JUDGE PRIDGIN: Special teams. All right.
21 Ten minutes. We'll resume at 2:45.

22 (A short break was taken.)

23 JUDGE PRIDGIN: All right. We're back on the
24 record. I understood we are going to be going on to merger
25 transition costs, and that the parties may -- or some of the

1 parties may have mini opening statements on that issue.

2 Let me verify with counsel. As I understood,
3 after this issue was done, the parties indicated earlier
4 they wanted to break and talk, and then perhaps get back
5 with me to see if there -- you know, what the schedule would
6 be for the rest of the hearing.

7 Is that still what the parties would like to
8 do?

9 MS. CUNNINGHAM: Yes. That's correct.

10 JUDGE PRIDGIN: Okay. And that's perfectly
11 fine with me.

12 Anything further before we proceed to mini
13 opening statements on this issue?

14 All right.

15 Ms. Cunningham?

16 MS. CUNNINGHAM: Thank you.

17 JUDGE PRIDGIN: You're welcome.

18 MS. CUNNINGHAM: Thank you, Your Honor.

19 The Commission is here today to give
20 consideration to the proper treatment of the recovery of
21 transition costs, as discussed in the merger report and
22 order in Case No. EM-2007-0374.

23 In the merger report and order, three
24 concepts, or what I might refer to as three buckets of
25 monies, were discussed at length. These concepts, or

1 buckets, are merger transaction costs, merger transition
2 costs, and merger synergy savings.

3 Now, merger transaction costs represent the
4 costs that were incurred in order to consummate the merger
5 between Great Plains Energy and Aquila, which included
6 investment banker fees, legal fees associated with
7 structuring the merger deal, those types of costs.

8 Merger transition costs represent those costs
9 that were incurred in order to integrate Aquila operations
10 in to Great Plains Energy's operations.

11 And then merger synergy savings represent the
12 reduction in costs associated with combining the operations
13 of Great Plains Energy and Aquila.

14 The merger report and order was very clear
15 regarding the treatment of these tree -- three categories of
16 costs. The merger report and order stated that the Company
17 would not be allowed recovery of merger transaction costs.

18 The Company has complied with this provision
19 of the merger report and order, and has not asked for any
20 recovery of these costs in its revenue requirement
21 calculations.

22 with regard to merger transition costs, the
23 merger report and order stated that the company was allowed
24 to defer and amortize over a five-year period the merger
25 transition costs.

1 The Commission stated that it would give
2 consideration to the recovery of merger transition costs in
3 future rate cases, making a determination in two areas.

4 First, there would be an evaluation as to the
5 reasonableness and prudence of the transition costs;
6 secondly, the Commission expected that KCPL and GMO would
7 demonstrate that the merger synergy savings would exceed the
8 level of merger transition cost amortization.

9 In this case, there has been no testimony
10 provided which challenges or even questions the
11 reasonableness or prudence of merger transition costs.

12 In addition, the Company has developed and
13 maintained a synergy tracking model which demonstrates that
14 the merger synergy savings do exceed the amortization of
15 merger transition costs.

16 The Company has fully complied with the
17 requirements that were established in the merger report and
18 order. And as such, the Company requests in this rate case
19 proceeding to provide in its revenue requirement the
20 amortization of transition costs over a five-year period.

21 The Commission in the merger order recognized
22 that the Company's revised merger plan proposed to rely on
23 the natural regulatory lag that occurs between rate cases to
24 retain any portion of synergy savings, and not because the
25 applicants have agreed to recover any merger savings through

1 regulatory lag. As part of the traditional ratemaking
2 process, there's no detriment -- no net detriment to
3 customers.

4 The Company's request in this case complies
5 with the regulatory lag treatment. The companies have
6 acknowledged in testimony the retention of merger savings
7 through regulatory lag, and merger savings reflected in the
8 test year are flowing through to customers in the Company's
9 cases.

10 Finally, as a final point, an issue was
11 raised in the testimony of Ted Robertson about the
12 discontinuation of the deferral of the transition costs.
13 And Mr. Robertson, of course, is with the Office of Public
14 Counsel.

15 Please be advised that the Company agreed to
16 stop the deferral as of 12/31/10, and has in fact done so.

17 Thank you.

18 JUDGE PRIDGIN: Ms. Cunningham, thank you.

19 Does any other party wish a mini opening on
20 this statement?

21 Ms. Slack, when you're ready.

22 MS. SLACK: Good afternoon, Judge.

23 It is the Staff position that KCP&L, and
24 consequently GPE, shareholders have already recovered all
25 the incurred and deferred transition costs through

1 regulatory lag.

2 The Staff believes that the Great Plains
3 Energy, Incorporated has greatly benefitted from the
4 retention of any savings that existed from the
5 acquisition -- Aquila acquisition from both time prior to
6 the closing and since the closing of the acquisition.

7 On April 4th, 2007, Great Plains Energy and
8 Aquila filed an application with the Commission seeking
9 authority for a series of transactions whereby Aquila would
10 become a direct and wholly owned subsidiary of GPE.

11 On July 1st, 2008, in Case No. EM-2007-0374,
12 the Commission approved a series of transactions authorizing
13 GPE to acquire Aquila.

14 On July 14th, 2008, GPE closed that
15 acquisition.

16 The company will argue that their annual
17 synergy savings exceed amortized transition costs, and the
18 taxpayers have sufficiently realized those savings.

19 KCP&L fails to acknowledge that they have
20 benefitted significantly from the regulatory lag and the
21 flow-in savings from acquisition to GPE shareholders.

22 The Staff believes that GPE has greatly
23 benefitted from the retention of any savings that have
24 existed from before the acquisition until the closing of the
25 acquisition.

1 In this case, KCP&L and GMO have received the
2 benefit of any cost savings derived from the acquisition
3 well in advance of those savings being passed on to the
4 customers of those entity -- of those entities.

5 To the extent the savings are retained now by
6 KCP&L and GMO, Great Plains Energy shareholders will
7 directly benefit with higher earnings from those retained
8 savings.

9 JUDGE PRIDGIN: Thank you, Ms. Slack. Thank
10 you very much.

11 Any further opening on this issue?

12 I believe we're ready, then, for Mr. Ives.

13 Come forward to be sworn, please, sir. If
14 you'll raise your right hand to be sworn, please.

15 (Witness sworn.)

16 JUDGE PRIDGIN: Thank you, sir. Please have
17 a seat.

18 Ms. Cunningham, when you're ready.

19 MS. CUNNINGHAM: Thank you.

20 DARRIN IVES testifies as follows:

21 DIRECT EXAMINATION BY MS. CUNNINGHAM:

22 Q. would you please state your name and business
23 address for the record.

24 A. Darrin Ives. I work at 1200 Main, Kansas
25 City, Missouri.

1 Q. By whom are you employed, and in what
2 capacity?

3 A. I'm employed by Kansas City Power and Light,
4 and I'm assistant controller.

5 Q. Are you the same Darrin Ives who prefiled
6 direct, rebuttal and surrebuttal testimony in both the KCP&L
7 and GMO rate cases?

8 A. I am.

9 MS. CUNNINGHAM: And, Your Honor, for
10 identification purposes, I would note that Mr. Ives'
11 testimony has been previously marked as KCPL 35, 36 and 37,
12 and Exhibits in the GMO rate case, 23, 24 and 25.

13 (Wherein; KCP&L's Exhibit Nos. KCPL-35,
14 KCPL-36, KCPL-37, GMO-23, GMO-24 and GMO-25 were marked for
15 identification.)

16 BY MS. CUNNINGHAM:

17 Q. Mr. Ives, do you have any changes to the
18 testimony as it was prefiled?

19 A. I do not.

20 Q. If you were asked today the same questions
21 that appear in that testimony, would your answers be the
22 same?

23 A. They would.

24 Q. And are those answers true and correct?

25 A. They are.

1 MS. CUNNINGHAM: Your Honor, at this time, I
2 would ask for KCPL Exhibits 35, 36, and 37 be admitted into
3 the record; and also, GMO Exhibits 23 and 24.

4 For your purposes, GMO Exhibit 25 not only
5 addresses the issue of the transition cost recovery, but
6 also a crossroads issue that will be addressed in a couple
7 of weeks. So if it's your pleasure, I will refrain from
8 admitting Exhibit 25 at this point.

9 JUDGE PRIDGIN: That's certainly fine with
10 me.

11 MS. CUNNINGHAM: Okay.

12 JUDGE PRIDGIN: Any objection to those
13 exhibits being admitted?

14 MS. SLACK: I'm not exactly sure what
15 exhibits she's referring to. I don't know what they are.

16 MS. CUNNINGHAM: His prefiled testimony --

17 MS. SLACK: Oh, okay.

18 MS. CUNNINGHAM: -- which has been previously
19 marked.

20 MS. SLACK: Oh, okay.

21 MS. CUNNINGHAM: Okay. Yeah.

22 MS. SLACK: Sure. I'm sorry.

23 JUDGE PRIDGIN: No objections?

24 All right. KCPL 35, 36, 37 are admitted.

25 GMO 23 and 24 are admitted.

1 (Wherein; KCP&L Exhibit Nos. KCPL-35, KCPL-36,
2 KCPL-37, GMO-23 and GMO-24 were received into evidence.)

3 MS. CUNNINGHAM: Thank you. And at this
4 time, I would tender Mr. Ives for cross-examination.

5 JUDGE PRIDGIN: Cross-examination.

6 Mr. Mills?

7 Ms. Slack?

8 MS. SLACK: Yes.

9 CROSS-EXAMINATION BY MS. SLACK:

10 Q. Good afternoon. How are you today?

11 A. Good afternoon. I'm fine.

12 Q. Good. Good. I have a --

13 JUDGE PRIDGIN: Could I trouble you to speak
14 into the microphone, so we can pick you up on the Internet
15 broadcast? Thank you.

16 MS. SLACK: Yes.

17 BY MS. SLACK:

18 Q. I have a few questions for you. As it
19 relates to utilities, transaction costs are incurred by
20 combining the integration of operation and combining
21 utilities; is that correct?

22 A. That's correct. It's the cost to do that
23 integration.

24 Q. And the Commission discussed the recovery of
25 the transition costs in its report and order from

1 EM-2007-374; is that correct?

2 A. That's correct.

3 Q. Do you have a copy of your direct testimony
4 with you, handy?

5 A. I do.

6 Q. Okay. If you'll refer to Page 3 of your
7 direct, and Page 3, Lines 19 through 22. And it carries on
8 to Page 4, Lines 1 through 2.

9 A. I have it.

10 Q. You have that? Okay. Would you mind reading
11 Footnote 930 for me, into the record?

12 A. Sure. The Commission stated, The Commission
13 will give consideration to the recovery in future rate
14 cases, making an evaluation as to the reasonableness and
15 prudence.

16 At that time, the Commission will expect that
17 KCPL and Aquila demonstrate that the synergy savings exceed
18 the level of the amortized transition costs included in the
19 test year cost of service expenses in future rate cases.

20 Q. Okay. And as it states there, it says the
21 Commission will give consideration; is that correct? For
22 future rate cases?

23 A. It does.

24 Q. And it will be based on its reasonableness
25 and prudence; is that correct?

1 A. That's correct.

2 Q. Okay. Typically, KCPL recovers its costs by
3 providing utility service through rates; is that correct?

4 A. Could you repeat that?

5 Q. I said, KCPL typically recovers its costs
6 incurred for providing utility services through rates.

7 Correct?

8 A. Correct.

9 Q. And when the costs for providing those
10 utility services are already built into the rates, KCPL does
11 not incur any additional costs?

12 A. Can you repeat that?

13 Q. When the costs from providing those electric
14 utility services are built into the rates, KCPL does not
15 incur any -- or pay any of those additional costs; is that
16 correct?

17 A. Well, that's assuming that the costs are
18 equivalent to what's built in rates.

19 Q. And those costs that are not passed on to the
20 ratepayers are retained by the shareholders. Would that be
21 an accurate assessment?

22 A. Yeah. That's fair.

23 Q. And you said in your direct testimony that
24 you're the assistant comptroller; is that correct?

25 A. Yeah. I'm the assistant controller.

1 Q. And you've been that -- in that position
2 since 2007. Correct?

3 A. That's correct.

4 Q. And you're familiar with the ER Case 2007 --

5 A. The --

6 Q. -- dash 0291. Are you familiar with that
7 rate case?

8 A. That's the rate case you're now talking --
9 you're now referring to the merger case?

10 Q. No, sir. I'm referring to a rate case,
11 ER-2007-0291.

12 A. I'm familiar with those cases.

13 Q. Okay. And are you familiar with the dates of
14 the test year for that case? Was the test year of that case
15 2006?

16 A. I don't have the date exactly.

17 Q. Would it surprise you to tell you -- if I
18 told you that was the date?

19 A. It would not surprise me.

20 Q. Okay. And the up -- the test year up-period
21 for that case was March 31, 2007. Does that --

22 A. That sounds --

23 Q. -- sound about right?

24 A. That sounds right.

25 Q. Okay. And then the True-up for that case

1 then would be September 30th of 2007. would that be
2 correct?

3 A. That sounds right.

4 Q. Okay. And if we keep in mind all these
5 dates, would it be safe to say that the latest date that the
6 updated costs in that case would have been September 30th of
7 2007?

8 A. Correct. That would have been the True-up of
9 costs in that case.

10 Q. And the effective dates for the rates in that
11 case, then, would have been January 1st of 2008; is that
12 correct?

13 A. Yeah. I believe that's right.

14 Q. Okay. And for Aquila, the latest update
15 period for rates in their latest standalone rate case was
16 then December 31st, 2006. would you -- are you familiar
17 with that date?

18 A. I'm not as familiar, but I believe that was
19 the True-up in that Aquila case.

20 Q. And the acquisition date, as we've
21 established, was July 14th, 2008; is that correct?

22 A. That is correct.

23 Q. And between that time, KCP&L and Aquila did
24 not have any change in their rates at that time; is that
25 correct?

1 A. Not as of the date of the merger. That's
2 right.

3 Q. But the customers were paying rates as of the
4 July 14th date based on costs that were the latest and
5 updated through September 30th of 2007, if we follow the
6 previous logic?

7 A. Yeah. I'm not sure on the Aquila side of
8 that date. But the customers were paying the rate in effect
9 at the date of the acquisition.

10 Q. And I'm going to take you back to the merger
11 and the report and order in the merger. And we've discussed
12 that the -- according to the footnote here in the report and
13 order, that the Commission will give consideration to the
14 recovery of future rates based on their reasonableness and
15 prudence.

16 And in this case, the Staff isn't challenging
17 your prudence or reasonableness; is that correct?

18 A. Yeah. That's my understanding.

19 Q. But you were asked -- ordered in that report
20 and order to maintain a tracking order schedule for the
21 adjusted rates between the 2006 base year and the year 2009;
22 is that correct?

23 A. We were asked to maintain a synergy tracking
24 mechanism out of that order. And it does compare a base
25 non-fuel and M Cost from '06 as adjusted to the test year

1 non-fuel and M cost. Yeah.

2 Q. So that's a yes. Correct?

3 A. That's a yes.

4 Q. All right. And according to the Commission
5 order, that tracking method was a cumulative straight
6 tracking method; is that correct?

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

8 Q. The method that was ordered by the Commission
9 was just a straight tracking method that showed a base rate
10 between 2006 compared to 2007 year -- 2009? I'm -- pardon
11 me.

12 A. Yeah. It was to compare that the base year
13 2006, which was the last full year before the announcement
14 of the transaction, to the current year cost, or in this
15 case the test year cost of 2009.

16 And the intent, you know, under the merger
17 order was to do that in order to demonstrate that synergies
18 were achieved that exceeded the amortization that would be
19 requested by the companies.

20 Q. In addition to that tracking method, KCP&L
21 also did a -- an additional tracking method; is that
22 correct?

23 A. We maintained charters and databases
24 internally for the synergy savings that we were tracking.

25 Q. And the charter method that you used and the

1 synergy saving methods that you used to track were much more
2 detailed than what had been required by the Commission
3 order. would you say that's accurate?

4 A. Yeah. They were down to specific identified
5 synergies, so that we could have internal accountability for
6 the results of those.

7 Q. I'm going to ask you a few questions about
8 some database -- some data requests.

9 MS. SLACK: And we'll probably need to go
10 into HC for that.

11 JUDGE PRIDGIN: All right. One moment,
12 please.

13 (REPORTER'S NOTE: At this point, an
14 in-camera session was held, which is at volume 33, pages
15 3451 to 3463.)

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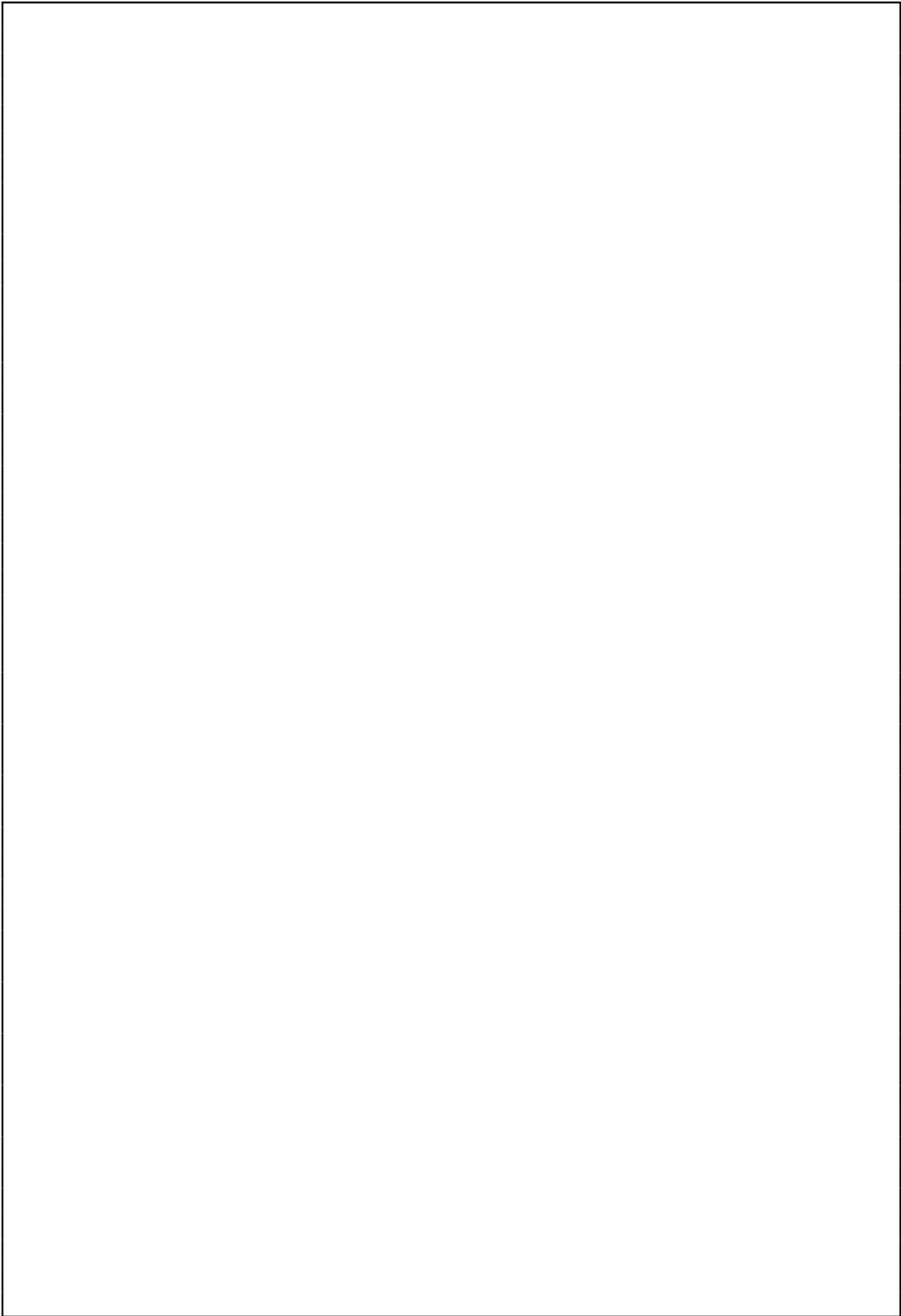
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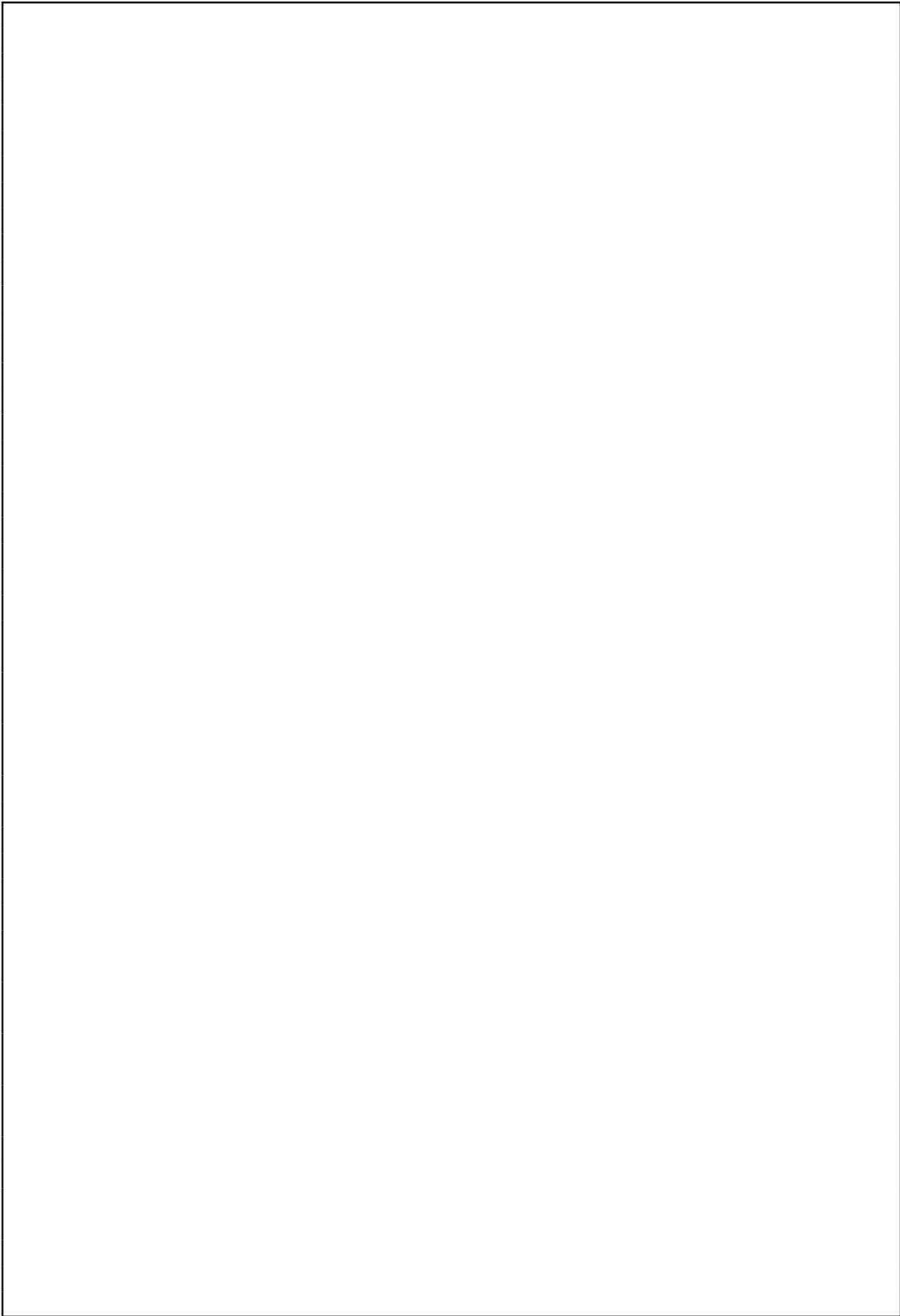
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1 JUDGE PRIDGIN: We're back in public forum.

2 DARRIN IVES testifies as follows:

3 BY MS. SLACK:

4 Q. Attached to the DR form 0146-T -- I'm not
5 going to ask you anything at this point that's highly
6 confidential. What I need from you at this point, if you
7 could read me that charter creation date.

8 A. The charter creation date. Can you point me
9 to where you're looking at that?

10 Q. Yes. It's the one, two, three, four -- fifth
11 line down.

12 A. In the Excel table?

13 Q. On the -- it's the second page, the page
14 right before the last page that we read those numbers off
15 of.

16 A. Okay.

17 Q. Do you see what I'm talking about?

18 A. I'm not seeing a charter creation date on
19 that page.

20 MS. SLACK: May I approach?

21 THE WITNESS: Yeah.

22 JUDGE PRIDGIN: You may.

23 BY MS. SLACK:

24 Q. It's on --

25 A. Oh. Sure. The date is 07/20 of 2010.

1 Q. So as of two years after the acquisition of
2 KCP&L, they're still identifying synergy savings as a
3 result?

4 A. Yeah. I would say the activity has dropped
5 significantly as we're two years in now. But there are
6 occasionally savings that get identified by the operations
7 areas. This is one of them.

8 MS. SLACK: Your Honor, we'll need to go back
9 into HC for a little while.

10 (REPORTER'S NOTE: At this point, an
11 in-camera session was held, which is at volume 33, pages
12 3466 to 3467.)

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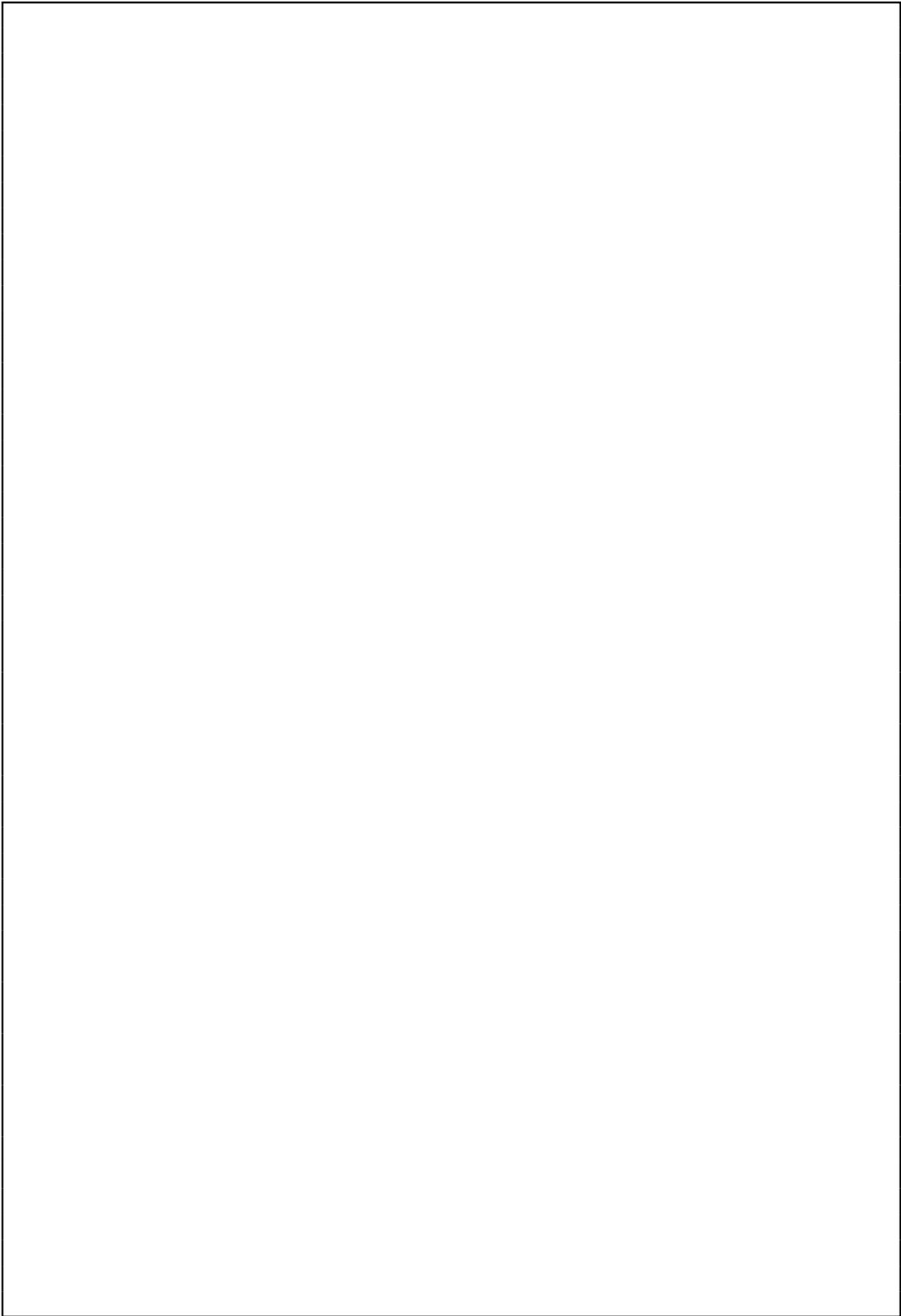
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1 JUDGE PRIDGIN: All right. We're back in
2 public forum.

3 BY MS. SLACK:

4 Q. And as I stated earlier, the Staff is not
5 proposing that you include any of your corporate synergy
6 savings in your cost of service; is that correct?

7 A. That's correct.

8 Q. However, because of the corporate synergy
9 savings and the regulated savings, the company will realize
10 more savings from the acquisition than the ratepayers -- the
11 shareholders will realize more savings than the ratepayers;
12 is that correct?

13 A. It depends over what period we're talking
14 about. Probably.

15 Q. Over that period that we projected into 2013.

16 A. Over the five-year window, if you include
17 corporate and regulated synergies, the company's retention
18 would be higher.

19 Q. Do you know the percentage that it would be
20 higher?

21 A. I don't off the top of my head. I know I put
22 an analysis in my rebuttal testimony that said over the
23 five-year window for regulated savings, customers would get
24 about 50 percent of the regulated, and the Company -- when
25 you consider our amounts -- it would have been addressed in

1 last year's cases.

2 Q. I think -- I think, if I'm not correct, your
3 testimony was more like 46 percent. It wasn't -- the
4 greater percentage wasn't to the ratepayers, the greater
5 percentage was to the shareholders; is that correct?

6 A. I think I gave two different views. I think
7 I gave a view that said if you consider no synergies went
8 back to customers in the last rate case, the number to
9 customers over the window would be about 47.

10 But when you consider the headcount
11 reductions and facilities reductions and insurance costs
12 would have likely gone back to customers last case, the
13 number goes to just above 50 percent retained by the
14 customers.

15 Q. And speaking of that last rate case, isn't it
16 true that a portion of the synergy savings that are created
17 after a significant rate case, such as test year cutoffs and
18 update cutoffs and True-up cutoffs, are also retained by
19 KCP&L?

20 A. Yeah. It was contemplated under the merger
21 order. That's right. We retained under regulatory lag.

22 Q. And were those costs amortized in the test
23 year -- over the test year? They were not; is that correct?

24 A. The costs for what?

25 Q. The synergy savings, the transition costs.

1 A. well, the synergy savings wouldn't be
2 amortized. They'd be retained during the period and then
3 flowed back to customers as they're in the test year. The
4 transition costs, we've not begun amortization, as we're
5 addressing reasonableness and prudence of those in this
6 case.

7 Q. well, we said that staff was not questioning
8 your reasonableness and prudence in this case. Right?

9 A. That's right. But it was a condition placed
10 on the merger order by the Commission that they be
11 evaluated. And that we would also demonstrate synergies in
12 excess of costs.

13 Q. Correct. But would it be unreasonable for
14 KCP&L and GMO to recover transition costs that they've
15 already recovered due to regulatory lag?

16 Do you think it would be reasonable for KCP&L
17 and GMO to recover those costs that they've already
18 recovered due to regulatory lag?

19 A. I wouldn't --

20 Q. My question is just a yes or no question. Do
21 you think it would be -- would it be unreasonable for KCP&L
22 and GMO and GPE shareholders to recover transition costs
23 that have already been recovered -- assuming they've already
24 been recovered -- recovered through regulatory lag?

25 A. I have to answer that question no, because I

1 don't believe they've been recovered through regulatory lag.

2 Q. Hypothetically, in answering the question the
3 way it was asked -- the question the way it was asked is:
4 would it be unreasonable for KCP&L and GMO to recover costs
5 assuming that they were recovered through regulatory lag?

6 would it be unreasonable for you all -- for
7 KCP&L and GMO to recover those transition costs?

8 A. As that question was stated, the answer would
9 be yes.

10 MS. SLACK: I don't have any further
11 questions.

12 JUDGE PRIDGIN: All right. Thank you.
13 Let's see if we have any bench questions.
14 Commissioner Kenney.

15 COMMISSIONER KENNEY: No questions. Thank
16 you very much.

17 JUDGE PRIDGIN: All right. Thank you,
18 Commissioner.

19 Any redirect?

20 MS. CUNNINGHAM: Just a few questions. Thank
21 you.

22 REDIRECT EXAMINATION BY MS. CUNNINGHAM:

23 Q. Mr. Ives, do you recall that staff counsel's
24 first question to you related to Footnote 930? And I
25 believe she directed you to Page 3 of your direct testimony.

1 A. I do recall.

2 Q. And I believe you read that footnote into the
3 record. Is my memory correct?

4 A. That's correct.

5 Q. Okay. And looking at the language in that
6 footnote, did KCPL demonstrate that synergy savings exceed
7 the level of amortized transition costs in this case?

8 A. We have.

9 Q. Was any testimony filed that indicated any of
10 the transition costs were unreasonable or unprudent?

11 A. There was not.

12 Q. Okay. In fact, did staff counsel just
13 indicate to you that staff did not make a finding that the
14 costs were unreasonable or unprudent?

15 A. That's what she stated.

16 Q. Okay. You were also asked about one of the
17 exhibits, specifically KCPL Exhibit 265. And although this
18 exhibit has been marked HC, I think I can ask you a couple
19 of questions that would not require confidential
20 information, so I will attempt to do that.

21 Do you recall her asking you a number of
22 questions about the table that appears at the back of this
23 exhibit?

24 A. I do.

25 Q. Okay. Do you recall that she asked you about

1 a title -- a column entitled Corporate Synergies?

2 A. I do.

3 Q. Okay. And I believe that in one of her
4 questions, you answered that corporate synergies were not
5 included in the tracker. Am I remembering that correctly?

6 A. That's correct.

7 Q. would you please explain why?

8 A. well, I -- sure. The corporate synergies --
9 and this was talked about a fair amount in the merger case,
10 but they were -- they were related to costs that never were
11 subject to recovery from Missouri ratepayers, primarily a
12 couple different types.

13 They were costs that were retained by Aquila,
14 and not allocated out to the regulatory jurisdictions. And
15 they also were comprised of costs that were charged to other
16 regulatory jurisdictions that were sold or disposed of by
17 Aquila prior to our transaction.

18 Q. And I believe you just alluded to this fact,
19 but was the Commission aware of both the corporate synergy
20 savings and regulated synergy savings at the time of the
21 merger?

22 A. They were. There was testimony in the merger
23 case that talked about 302 million and 305 million being the
24 respective values of those items. So it was pretty clear
25 that they were about the same size.

1 MS. CUNNINGHAM: Your Honor, I believe my
2 witness just indicated some numbers that should have been in
3 camera as HC.

4 JUDGE PRIDGIN: Okay. Do you want to go into
5 camera now --

6 MS. CUNNINGHAM: Or not?

7 JUDGE PRIDGIN: -- Counsel? Do you want to
8 go in camera now, or --

9 MS. CUNNINGHAM: Were those --

10 THE WITNESS: I don't think those are
11 confidential.

12 MS. CUNNINGHAM: The exhibit was marked HC,
13 so I wasn't sure how to treat the numbers. Okay.

14 THE WITNESS: Yeah.

15 MS. CUNNINGHAM: We're fine, then.

16 JUDGE PRIDGIN: Okay. Thank you.

17 BY MS. CUNNINGHAM:

18 Q. She also asked you to read into the record
19 the amount of regulated synergy savings expected to accrue
20 in this case. Do you recall that?

21 And I'm again looking at the table on the
22 last page of KCPL Exhibit 265. Do you remember that?

23 A. She asked me about the regulated synergies
24 that were projected on that table through 2013.

25 Q. And she asked you to read that number into

1 the record?

2 A. She did.

3 Q. Okay. How did the regulatory synergies --
4 how have the regulatory synergies compared to the
5 projections from the merger case?

6 A. The regulatory synergies as compared to the
7 projections are up, both in total. And as I put into my
8 rebuttal testimony, the sharing to customers through
9 regulatory lag is up from what we proposed in the merger
10 case.

11 Q. Okay. Staff counsel asked you a number of
12 questions about savings or synergies that might have
13 occurred prior to merger authorization. Do you remember
14 that?

15 A. I do.

16 Q. Okay. Did the Commission in its merger
17 report and order require the company to track any savings
18 that occurred prior to the Commission authorizing the
19 merger?

20 A. No.

21 Q. And I believe your -- you made a response
22 that talked about regulatory lag. And I believe you stated
23 that at certain time periods, if savings occurred,
24 shareholders would have benefitted from those savings
25 through regulatory lag; is that right?

1 A. That's correct.

2 Q. And what if there were cost increases during
3 that same period of time?

4 A. Shareholders would have paid the burden of
5 that.

6 Q. Okay. Finally, Staff counsel asked you
7 whether it was reasonable or unreasonable for the Company to
8 recover transition costs if they've already recovered them
9 through synergy savings. Do you remember that question?

10 A. I do.

11 Q. In your opinion, has the Company recovered
12 any transition costs yet?

13 A. In my opinion, based on the merger order, we
14 have not.

15 Q. Okay. And what is it about the merger order
16 that makes you have that conclusion?

17 A. The merger order specifically concluded that
18 we should defer and amortize those costs over five years
19 subject to an evaluation by the Commission as to reasonable
20 and prudence and our ability to demonstrate to the
21 Commission that synergies exceeded -- this set of cases is
22 the first set of cases we're having an opportunity to make
23 that demonstration.

24 Q. Is it a good thing or a bad thing for
25 shareholders that we have been able to demonstrate more

1 synergy savings than projected in the merger case?

2 A. For shareholders?

3 Q. Sure.

4 A. It's a good thing.

5 Q. What about ratepayers?

6 A. It's a good thing for ratepayers.

7 MS. CUNNINGHAM: All right. That's all I
8 have. Thank you.

9 JUDGE PRIDGIN: Ms. Cunningham, thank you.

10 Mr. Ives, thank you. You may step down, sir.

11 (Witness excused.)

12 JUDGE PRIDGIN: And we're ready for

13 Mr. Majors.

14 Okay. Mr. Majors, if you'll raise your right
15 hand to be sworn, please.

16 (Witness sworn.)

17 JUDGE PRIDGIN: Thank you very much, sir.

18 Please have a seat.

19 Ms. Slack, when you're ready.

20 KEITH A. MAJORS testifies as follows:

21 DIRECT EXAMINATION BY MS. SLACK:

22 Q. Could you please state your name for the
23 record.

24 A. Keith A. Majors.

25 Q. And would you give your title and address,

1 please.

2 A. Utility regulatory auditor. My address is
3 615 East 13th Street, Kansas City, Missouri 64106.

4 Q. And are you the same Keith Majors who filed
5 direct, rebuttal and surrebuttal testimony on these issues?

6 A. I did.

7 Q. Do you have any changes to make to these
8 testimonies?

9 A. I do not.

10 Q. I believe your testimonies have already been
11 entered as KCP&L 230 -- direct would be 210, 230, 231-HC and
12 231.

13 MS. SLACK: I'd like to make an offer of
14 these into the record, if it's okay with you, Your Honor.

15 JUDGE PRIDGIN: Okay. Both KCP&L 230 --

16 MS. SLACK: 231.

17 JUDGE PRIDGIN: -- 231 both HC and NP are
18 being offered.

19 Any objections?

20 MS. SLACK: And -- are we doing the GMO at
21 this time, Your Honor?

22 JUDGE PRIDGIN: It was my understanding those
23 were going to be -- that you would wait until the GMO
24 hearing to do that. Now, some counsel have offered some GMO
25 exhibits during this hearing, so I guess I'll leave that up

1 to counsel.

2 MS. SLACK: We can go ahead and offer the GMO
3 testimony now, if you don't mind, Your Honor.

4 JUDGE PRIDGIN: You don't have those.

5 MS. SLACK: Okay. That's okay, Your Honor.

6 JUDGE PRIDGIN: Just those two, then? Just
7 the KCP&L 230 and 231?

8 MS. SLACK: Yes, Your Honor.

9 JUDGE PRIDGIN: All right.

10 Any objections?

11 All right. KCPL 230 HC and NP and KCPL 231
12 HC and NP are admitted.

13 (Wherein; Staff Exhibit Nos. KCPL 230 HC,
14 KCPL 230 NP, KCPL 231 HC, and KCPL 231 NP were received into
15 evidence.)

16 BY MS. SLACK:

17 Q. And before we move on, do you have any
18 changes to your testimony, or corrections?

19 A. Not at this time.

20 MS. SLACK: Then I offer Mr. Majors for
21 cross.

22 JUDGE PRIDGIN: All right. Thank you.

23 Cross-examination.

24 Mr. Mills?

25 Ms. Cunningham, when you're ready.

1 MS. CUNNINGHAM: Thank you.

2 CROSS-EXAMINATION BY MS. CUNNINGHAM:

3 Q. Good afternoon, Mr. Majors.

4 A. Good morning.

5 Q. Do you mind just -- before we get started,
6 can I check with you to make sure you've got a copy of your
7 testimony with you?

8 A. Which testimony?

9 Q. KCPL would be fine.

10 A. Rebuttal, surrebuttal?

11 Q. Actually, the merger report and order. Do
12 you have the --

13 A. Well, I have that, but that's not my
14 testimony.

15 Q. Well, yeah. You provided information for
16 that. Do you have all of your KCPL testimony with you?

17 A. Yes.

18 Q. Okay. Do you have a copy of your section
19 with regard to transition costs recovery of the Staff report
20 and order in the KCPL case with you?

21 A. Staff report and order?

22 Q. Or, I'm sorry, the Staff report.

23 A. I do.

24 Q. Okay. And do you happen to have a copy of
25 the merger report and order with you?

1 A. I do.

2 Q. Okay. And I apologize in advance. I may be
3 jumping back and forth between these documents.

4 Mr. Majors, is it my -- is my understanding
5 correct that it's one of your responsibilities for these
6 rate cases that you address the issue of merger transition
7 cost recovery?

8 A. That is one of my responsibilities. Yes.

9 Q. Okay. And --

10 MS. SLACK: Excuse me, Your Honor. If we
11 could just hold on one second, I need to get a copy of the
12 merger report and order. I don't have a copy. I know it
13 should be down here with -- if she's going to ask questions
14 about it, I need to be able to track what she's asking, if
15 you don't mind.

16 JUDGE PRIDGIN: Okay. Are you asking for --
17 you just need a few minutes to go get one?

18 MS. SLACK: It's probably under this desk. I
19 just --

20 JUDGE PRIDGIN: Okay.

21 MS. SLACK: -- need a few seconds to --

22 JUDGE PRIDGIN: All right. Sure.

23 MS. SLACK: -- get my hands on it.

24 JUDGE PRIDGIN: That's fine.

25 MS. CUNNINGHAM: Your Honor, I would submit

1 that I've got an extra copy. I am not indicating that this
2 is a full and complete copy of the 300 pages, but it
3 includes every page that I'll be addressing, if staff
4 counsel would like to utilize this, if this -- if that would
5 help.

6 MS. SLACK: Sure.

7 JUDGE PRIDGIN: Thank you.

8 BY MS. CUNNINGHAM:

9 Q. And just so the record is clear, Mr. Majors,
10 would you confirm for me that the merger case was Case No.
11 EM-2007-0374. Is that right?

12 A. That's correct.

13 Q. Okay. Would you first turn to Page 241 of
14 the merger order.

15 A. Yes.

16 Q. Thank you. In the first paragraph, under
17 Subpart 2 -- it's about the fourth line down -- would you
18 agree with me that the order says, In this instance,
19 establishing a mechanism to allow recovery of the transition
20 costs of the merger would have the same effect of
21 artificially inflating rate base in the same way as allowing
22 recover -- recovery of an acquisition premium?

23 Did I read that correctly?

24 A. You did.

25 Q. And basically, the Commission, in this order,

1 denied KCPL's ability to recover transition costs. would
2 you agree with that?

3 A. I would agree that the Commission did not --
4 did deny the recovery of transition costs through rates.
5 Yes.

6 Q. Okay. And in Subpart 3 in that same
7 paragraph on Page 241 of the merger order, do you see where
8 it says, The uncontested recovery of transition costs is
9 appropriate and justified? Did I read that correctly?

10 A. Yes. You did.

11 Q. Okay. I believe the Commission then further
12 stated, The Commission further concludes that it is not a
13 detriment to the public interest to deny recovery of the
14 transaction -- I'm sorry --

15 The Commission further concludes that it is
16 not a detriment to the public interest to deny recovery of
17 the transition costs associated with the merger, and not a
18 detriment to the public interest to allow recovery of the
19 transition costs of the merger.

20 Is that what the order says?

21 A. Yes. It does.

22 Q. Okay. And then can I have you look at the
23 next paragraph on Page 241. In this paragraph, did the
24 Commission indicate that if it determines it will approve
25 the merger when it performs its balancing test, it will

1 authorize KCP&L and Aquila to defer transition costs to be
2 amortized over five years?

3 A. Yes.

4 Q. Is that --

5 A. That's what it says.

6 Q. Okay. Did the Commission approve the merger?

7 A. Yes. It did.

8 Q. Has the company deferred transition costs?

9 A. Yes. They have.

10 Q. Okay. Are you familiar with Footnote 930 on
11 Page 241?

12 A. I am.

13 Q. Okay. And if you recall, I believe Mr. Ives
14 was asked to read that footnote into the record. Do you
15 recall that?

16 A. He was.

17 Q. Okay. In your opinion, has KCP&L and GMO
18 demonstrated that synergy savings exceed the level of
19 transition costs incurred?

20 A. As it relates to the Commission order model,
21 yes, they have.

22 Q. Okay. Thank you. Okay. And then if you
23 could turn to Page -- let's see here -- 96 of the merger
24 order.

25 A. I'm there.

1 Q. Thank you. Could you look at Paragraph 242
2 for me, please. Would you agree with me that in the first
3 sentence of the quoted language in Paragraph 242 of the
4 merger order that KCPL agreed to recover any merger synergy
5 savings through regulatory lag as part of the traditional
6 ratemaking process? Is that what the order says?

7 A. Are you referring to 242 or 243, or both?

8 Q. Paragraph 242, the first sentence of the
9 quoted language.

10 A. It says, The joint applicants agree to
11 withdraw their request for a specific synergy savings. And
12 it said, Propose to utilize the natural regulatory lag that
13 occurs between rate cases to retain any portions of synergy
14 savings.

15 Q. Okay. Now, if you can turn back to Page 238
16 of the merger order.

17 A. I'm there.

18 Q. Okay. Would you look about the middle of the
19 page with me. And do you see the sentence that starts with,
20 The Commission further determines that substantial and
21 competent evidence and the record as a whole supports the
22 conclusions that -- and then it gives five conclusions? Do
23 you see that?

24 A. I do.

25 Q. Okay. Do you see at Subpart 4 of that

1 paragraph, where the Commission says, Because the applicants
2 have agreed to recover any merger savings through regulatory
3 lag as part of the traditional ratemaking process, there is
4 no net detriment to the customers?

5 Am I reading that correctly?

6 A. You have.

7 Q. Okay. I'm seeing a lot in the merger order
8 that talks about the Commission authorizing the Company to
9 recover its merger synergy savings through regulatory lag.
10 what I'm not seeing is anywhere in the Commission order
11 where it states that transition costs should be recovered
12 through regulatory lag.

13 Can you help me out and point me to a portion
14 of this order where the Commission says that the appropriate
15 vehicle to recover transition costs is through regulatory
16 lag?

17 A. I don't believe there is a specific section
18 that says transition costs should be recovered through
19 regulatory lag. I believe throughout the discussion of
20 regulatory lag there's concepts such as recovery -- recovery
21 of a cost to rates, recovery of -- and retention of costs
22 that are in rates.

23 Q. well, I mean, if you look at Page 241 with
24 regard to the issue of transition cost recovery, doesn't the
25 Commission say that it's authorizing the deferral and

1 amortization of transition costs?

2 A. Yes. It does.

3 Q. Okay. Can I get you to take a look at the
4 Staff report now. Specifically, if I could get you to turn
5 to Page 191. Are you there?

6 A. I am.

7 Q. Okay. Thank you. Starting at Line 1 of Page
8 191 of the Staff report, it states -- you state, Staff
9 believes the Commission in its order regarding the
10 acquisition of Aquila set out a standard that must be met to
11 allow a recovery of the transition costs.

12 This standard was to require KCPL to not only
13 make a showing that savings existed in excess of the
14 transition costs before any recovery and grace would be
15 permitted, but a demonstration that the company has not
16 already benefitted from those savings sufficiently to
17 already recover the transition costs.

18 Did I quote that language correctly?

19 A. You did.

20 Q. Okay. I think we've already addressed the
21 portions of the merger order that talk about how the Company
22 was required to show that savings existed in excess of the
23 transition costs before recovery in rates would be
24 permitted.

25 And as a matter of fact, I believe you stated

1 previously that you agreed that the Company's data shows
2 that synergy savings are in excess of the transition costs;
3 is that right?

4 A. That's correct.

5 Q. Okay. Can you point to me in the merger
6 order where it states that transition costs will be netted
7 against energy savings? I mean, that seems to be your
8 recommendation. Is -- am --

9 A. Yeah. It is.

10 Q. -- am I getting it?

11 A. Yes.

12 Q. Okay.

13 A. And if you refer to 241 on -- Page 241,
14 Footnote 930, I believe it's been read, at least once by
15 Mr. Ives, it says, The Commission will give consideration to
16 the recovery -- transition cost recovery in future rate
17 cases, making an evaluation as to their reasonableness and
18 prudence.

19 Now, when I say -- when I read reasonableness
20 and prudence, if it were to be determined that through
21 regulatory lag synergies were realized by the shareholders
22 far in excess of the transition costs even before one dollar
23 savings were passed on to customers, I believe it would be
24 wholly unreasonable to include those transition costs
25 directly into the cost of service.

1 Q. Now, let me back you up a minute, because I
2 believe one of my first questions to you -- and it was based
3 on a statement by staff counsel to Mr. Ives -- you haven't
4 made a showing -- or you haven't determined or found that
5 the transition costs are unreasonable or imprudent, have
6 you?

7 A. The actual incurring of the costs is not
8 unreasonable and imprudent -- or imprudent. I believe that
9 if you include those costs in an amortized level directly in
10 the cost of service when they've already been recovered
11 fully, I believe that would be unreasonable.

12 Q. Well, so how do you reconcile your position
13 that we have to net these costs with savings when the
14 Commission has specifically said numerous times in its order
15 that the Company was allowed to defer these costs and
16 amortize them? How do you reconcile your position?

17 A. The Commission, on Page 284 of this order,
18 also said -- stated directly they -- at Paragraphs -- in
19 Paragraphs 13 and 14 stated directly they have found no
20 value of ratemaking purposes, and they reserve the right to
21 consider any ratemaking treatment to be -- and I'm reading
22 directly -- for the transactions herein involved in a later
23 proceeding. And this would be a later proceeding, which the
24 value of those transactions are being determined.

25 Q. Did you also recall reading or having you

1 read into the record earlier in the order where the
2 Commission explicitly recognized that synergy savings would
3 be recovered through regulatory lag by the company?

4 A. Yes.

5 Q. Okay. Now, are -- Mr. Majors, are you aware,
6 does GMO's cost of service in this case grant an annual
7 level of transition costs related to the Aquila acquisition
8 of St. Joe Light and Power?

9 A. I believe so. Yes.

10 Q. Okay. Okay.

11 MS. CUNNINGHAM: Nothing further at this
12 time. Thank you.

13 JUDGE PRIDGIN: All right. Thank you.

14 Commissioner Kenney, any questions?

15 COMMISSIONER KENNEY: Just one.

16 QUESTIONS BY COMMISSIONER KENNEY:

17 Q. Could you point me to the paragraph or the
18 page and paragraph in the order that you were just reading
19 from that indicated that we weren't limited in any future
20 proceedings?

21 A. Yes. Yes, sir. It's on Page 284, Paragraphs
22 13 and 14.

23 COMMISSIONER KENNEY: Thank you.

24 I don't have any other questions. Thank you.

25 JUDGE PRIDGIN: Commissioner, thank you.

1 Any recross based on bench questions?

2 MS. CUNNINGHAM: No, thank you.

3 JUDGE PRIDGIN: Redirect?

4 MS. SLACK: Yes. I have a question.

5 REDIRECT EXAMINATION BY MS. SLACK:

6 Q. Mr. Majors, you stated that -- on Footnote
7 930 on Page 241, you said that as it relates to the
8 Commission order that the Company model was okay. How -- as
9 it relates to the charter model, would the -- would that be
10 a difference if we looked at it through the charter model?

11 MS. CUNNINGHAM: Objection. I didn't ask
12 even one question about anything related to the tracker, the
13 charter model. I'm not sure where this is coming from.

14 MS. SLACK: This -- no. He answered the
15 question. He said -- the question posed to him was did he
16 think that the -- let me get to my proper footnote here --
17 the -- he was asked about Footnote 930.

18 And it says, The Commission gives
19 consideration to the recovery in future rate cases, making
20 an evaluation as to their reasonable -- reasonableness and
21 prudence.

22 And he was asked did he think that the
23 method -- that the recovery method used by KCP&L was
24 reasonable and prudent. And he said yes, as it relates to
25 the Commission order.

1 And my question to him is: Is there another
2 method that you're referring to that would show a difference
3 in the synergy savings as they appear to exceed the
4 amortized costs?

5 MS. CUNNINGHAM: And I would renew my
6 objection because I never asked the witness about the method
7 or anything related to methodology.

8 I asked him whether he had made an evaluation
9 or identified anywhere in his testimony that the costs
10 incurred were unreasonable or imprudent. I specifically
11 confined my question to the costs. Nothing was mentioned
12 about tracking or methodology.

13 MS. SLACK: His response was as it relates to
14 the Commission order model. And I'm asking him: Is there
15 another order model that he is speaking of? Is there
16 another model? That's my question.

17 JUDGE PRIDGIN: I'll overrule.

18 THE WITNESS: When evaluating -- specifically
19 this -- on -- or on Footnote 930, the Commission ordered a
20 synergy savings tracking model that compared an adjusted
21 2008 -- or -- I'm sorry -- 2006 base year of costs. And in
22 this case, it is -- it's compared to an adjusted 2009 period
23 of costs.

24 And my testimony is that we have no issue
25 with the -- the synergy savings from that model that the

1 Commission ordered exceeding the amortized transition costs.

2 Now, there's -- now, that's one way of
3 looking at the synergy savings that have materialized due to
4 the acquisition of Aquila.

5 And as Mr. Ives has testified in both his
6 written testimony and here today, there is another way of
7 looking at those savings.

8 The company has created a synergy savings
9 charter database that identifies specific savings, not
10 only -- not on an aggregate basis, as ordered by the
11 Commission, but specific savings by quarter five years post
12 acquisition.

13 And I discussed that analysis -- the analysis
14 I made of that database that Mr. Ives describes in his
15 testimony. And that truly shows the methodology where I
16 came to the conclusion that transition costs have indeed
17 been recovered through regulatory lag over and above --
18 above and beyond the amount of those costs.

19 BY MS. SLACK:

20 Q. Do you believe it was the Commission's intent
21 to allow the Company to recover transition costs if those
22 transition costs were recovered from the retention through
23 savings?

24 A. No. No. I don't. I believe that if there
25 is a cost that's being incurred that has been recovered far

1 above and beyond those costs, that the -- there should not
2 be a double recovery of any kind of costs, specifically in
3 this example, transition-related costs.

4 Q. And when the Commission authorized deferral
5 of transition costs, that did not authorize the recovery in
6 rates of the transition costs, did it?

7 A. I'm sorry. Could you repeat that?

8 Q. When the Commission authorized deferral of
9 transition costs, did -- that did not authorize that
10 those -- that deferral would be realized in rates?

11 A. That's correct. If you go to Page 284, they
12 specifically state that nothing in this order -- this -- the
13 acquisition order -- nothing in this order shall be
14 considered a finding by the Commission of the value for
15 ratemaking purposes of the transitions herein involved.

16 And Paragraph 14 also states, The Commission
17 reserves the right to consider any ratemaking treatment to
18 be for the transactions herein involved in a later
19 proceeding.

20 That would include amortizing transition
21 costs into the cost of service. In my mind, that would be
22 something that was contemplated in the acquisition order.

23 Q. And when you say that you -- you're not
24 questioning the Staff's -- the -- KCP&L's reasonable and
25 prudence in their synergy savings method, does that mean

1 that the way that they have determined the synergy savings
2 versus the amortized costs is the method that details all of
3 the synergy savings that have been realized?

4 A. Really, between the two models, it's two
5 separate ways of looking at the same savings. One is an
6 annualized level, and that's what the Commission ordered.
7 And not that there's anything -- they both look at two
8 different ways of looking at the same -- the same savings
9 related to acquisition.

10 One is on an annualized level. It's
11 comparing the base -- it's always comparing the base to a
12 current year to get an annual level of savings. And it will
13 change over time.

14 And the synergy tracker database tracks
15 actual cost savings five years post acquisition to --
16 between the corporate-related savings and the
17 regulated-related savings, to record the actual benefits of
18 the acquisition.

19 It's two different ways of looking at the
20 same -- same kind of cost savings.

21 Q. And how does regulatory lag affect that?

22 A. Well, the -- July 14th, 2008, no rates
23 changed. For Kansas City Power and Light, the rates were in
24 effect. The rates changed as of January 1st, 2008. And for
25 Aquila and now GMO, I believe it was mid 2007 that those

1 rates changed. I have the --

2 MS. CUNNINGHAM: Your Honor, at this time,
3 I'd like to interject another objection. While it's true
4 that I did talk to this witness about regulatory lag in the
5 context of how synergy merger savings were to be recovered
6 per the merger order, it sounds to me like he's trying to
7 rehabilitate the testimony of Darrin Ives when he was on the
8 stand. I didn't ask him anything about prior time periods.
9 And the types of responses he's given now was not addressed
10 at all by me under cross-examination.

11 JUDGE PRIDGIN: All right. Overruled.

12 THE WITNESS: I believe I was speaking of the
13 effective date of rates of both Aquila and now GMO and
14 Kansas City Power and Light. And I have listed here as --
15 June of 2007 as the effective date of rates. So starting in
16 July 14th of '08, no rates changed.

17 So essentially, the combined companies were
18 receiving in rates costs which they were not paying out.
19 And they were -- they were receiving costs -- those costs in
20 rates specifically until the next effective date of rates,
21 which would have been September 1st, 2009.

22 And at that point, as Mr. Ives pointed out in
23 his testimony -- at that point, we had only reflected
24 certain payroll reductions and some facilities reductions,
25 and I believe some reduced insurance costs. And those were

1 the only synergies that were reflected in the cost of
2 service.

3 And especially in the last case, the test
4 year was -- utilized was 2007, which would -- included no
5 synergies embedded in the test year. This is the first case
6 where synergies will be embedded in test year. And the test
7 year in this case is 2009. And the effective -- the
8 projected effective date of rates for this case is May 4th
9 of 2011.

10 So the regulatory lag benefits the
11 shareholders because they were receiving through the cost of
12 service from July 14th, 2008 costs which they were not
13 incurring or paying out, which would be the very nature of
14 synergies, and then they will not be reflecting the full
15 value of those synergies until May 4th of 2011, which I
16 believe is approximately 33 months.

17 So for 33 months, shareholders will have been
18 retaining significantly -- or substantially all of the
19 synergies related to the acquisition of Aquila.

20 BY MS. SLACK:

21 Q. So do you believe it would be unreasonable
22 for KCP&L and GMO and Greater [sic] Plains to recover
23 transition costs that have already been recovered through
24 regulatory lag?

25 A. It would be unreasonable.

1 MS. SLACK: I have no further questions.

2 JUDGE PRIDGIN: All right. Thank you.

3 Mr. Majors, thank you very much. You may
4 step down.

5 (Witness excused.)

6 JUDGE PRIDGIN: I believe we're going on to
7 Mr. Robertson now.

8 MR. MILLS: Mr. Robertson is here. It's my
9 understanding there are no questions for him on that. We
10 can call him forward if we want to, but it doesn't seem
11 necessary.

12 JUDGE PRIDGIN: If I understood correctly,
13 Mr. Mills, that the parties don't have any
14 cross-examination?

15 MR. MILLS: That was my understanding.

16 MS. CUNNINGHAM: That's correct.

17 JUDGE PRIDGIN: Okay.

18 Commissioner Kenney, did you step out?

19 I see no questions.

20 If there's no cross-examination, I see no
21 reason for him to be called.

22 I don't know if you wanted or needed to offer
23 his testimony.

24 MR. MILLS: I will go ahead and offer his
25 testimony, Judge. It's -- KCPL 401 is Mr. Robertson's

1 direct testimony. KCPL 402 is Mr. Robertson's surrebuttal
2 testimony. And then I can hold off on the GMO testimony.

3 JUDGE PRIDGIN: That would be fine.

4 (Wherein; OPC Exhibit Nos. KCPL 401 and KCPL
5 402 were marked for identification.)

6 MR. MILLS: Okay. So I would like to offer
7 both of those exhibits at this time.

8 JUDGE PRIDGIN: KCPL 401 and KCPL 402 are
9 offered.

10 Any objection?

11 MR. STEINER: Does he have other issues,
12 Lewis?

13 MR. MILLS: None that I think are going to be
14 going to hearing.

15 MR. STEINER: Okay.

16 JUDGE PRIDGIN: Hearing no objections, KCPL
17 401 and KCPL 402 are admitted.

18 (Wherein; OPC Exhibit Nos. KCPL 401 and 402
19 were received into evidence.)

20 JUDGE PRIDGIN: All right. Thank you.

21 Was it -- it was my understanding after we
22 completed this issue that the parties wanted to take a break
23 and talk about where they perceive the hearing going from
24 here. Is that my understanding?

25 MR. STEINER: That's right.

1 JUDGE PRIDGIN: All right. Just -- can this
2 be done off the record?

3 MR. STEINER: Yes. It can.

4 JUDGE PRIDGIN: All right.

5 Anything further before we go off the record?

6 MR. STEINER: Do we want to set a time to get
7 back, say, in a half hour or so?

8 JUDGE PRIDGIN: Let me make sure the court
9 reporter -- we'll go off the record, and I'll announce a
10 time we'll resume here in just a moment.

11 (A short break was taken.)

12 JUDGE PRIDGIN: We can go on the record.
13 Thank you. Thank you for reminding me.

14 MR. WOODSMALL: You're welcome. Your Honor,
15 I'd note that Mr. Morris Brubaker filed rebuttal testimony
16 on the issue of DSM, Exhibit Number 1207. The parties have
17 informed me that they waive cross-examination on him.

18 I would offer 1207, but I recognize that he's
19 still subject to cross-examination on class cost of service.
20 So I'd merely offer it; not expected to be accepted at this
21 point.

22 JUDGE PRIDGIN: KCPL 1207. Is that correct,
23 Mr. woodsmall?

24 MR. WOODSMALL: Yes, Your Honor.

25 JUDGE PRIDGIN: All right. Has been offered.

1 Any objections?

2 Hearing none, KCPL 1207 is admitted.

3 (Wherein; Industrials Exhibit No. KCPL 1207
4 was received into evidence.)

5 JUDGE PRIDGIN: Anything further before we go
6 to mini openings on DSM and low-income weatherization?

7 Mr. Fischer, when you're ready, sir.

8 MR. FISCHER: Thank you, Judge. May it
9 please the Commission.

10 From the Company's perspective, the primary
11 issue related to DSM in this case is to establish a bridge
12 or a temporary framework for going forward on the Company's
13 demand-side management programs until the Commission
14 finalizes its rulemaking related to the Missouri Energy
15 Efficiency Investment Act, or what I'll call MEEIA.

16 with the ending of the KCPL regulatory plan,
17 there is no framework approved for addressing the Company's
18 future investments in DSM programs. KCPL believes that it
19 has complied with the requirements of DM, as well as the
20 integrated resource planning rule regarding DSM programs.

21 The Company's active with many of the parties
22 in this room, including the Staff and MDNR, in addressing
23 the company's IRP, as well as the Customer Program Advisory
24 Group, or CPAG, in addressing and planning the status of the
25 DSM programs for the company.

1 At this time, the Company is continuing its
2 DSM programs contained in its tariffs. However, there needs
3 to be a determination from the Commission regarding how the
4 Company's DSM programs will be treated following the
5 conclusion of the KCPL regulatory plan.

6 Staff has suggested that the existing levels
7 of DSM investments should be mandated by the Commission to
8 continue into the indefinite future, and the existing cost
9 recovery mechanism should be maintained.

10 But from the Company's perspective, the
11 current cost recovery mechanism does not adequately address
12 the policy goals set out in MEEIA. Specifically, the
13 current mechanism does not provide timely recovery or
14 earnings opportunities, nor does it sufficiently encourage
15 the implementation of energy efficiency programs by the
16 utility.

17 Under the existing mechanism that we're
18 dealing with, the Company first funds the DSM programs, and
19 the costs are then placed into a regulatory asset for
20 consideration for recovery in the Company's next rate case.

21 Assuming the DSM costs are determined to be
22 recoverable, then those costs are amortized over a ten-year
23 period without any carrying costs or inclusion in rate base.

24 As a result, the Company's DSM programs,
25 which are intended to reduce the Company's loads, and

1 therefore its revenues, result in expenditures by the
2 Company which do not earn a return on its investment, and
3 are not recovered in rates for ten years.

4 As I mentioned, until the rulemaking is
5 completed, it's important to have a bridge that establishes
6 the framework for the treatment of the company's DSM
7 investments until the MEEIA rulemaking is finalized.

8 For purposes of this case, the company has
9 proposed that the revenue recovery mechanism should be
10 consistent with the recent order approving stipulation and
11 agreement in the AmerenUE rate case, ER-2010-0036.

12 This would change the Company's current
13 amortization period for the DSM regulatory assets from ten
14 years to six years, and include the unamortized balance in
15 rate base for actual expenditures booked to the DSM recovery
16 asset up through the period of December 31, 2010.

17 Mr. John Weisensee, who is already on the
18 stand, and Mr. Tim Rush, are the Company's experts on this
19 issue, and they'll be available to answer your questions.

20 JUDGE PRIDGIN: Mr. Fischer, thank you.

21 Any other party wish a mini opening on this
22 issue?

23 Ms. Mangelsdorf?

24 MS. MANGELSDORF: May it please the
25 Commission.

1 My name is Sarah Mangelsdorf. I'm the
2 assistant attorney general representing the Missouri
3 Department of Natural Resources. Specifically, it's
4 Division of Energy in this rate case.

5 Energy efficiency programs represent good
6 energy policy, especially since lower costs are becoming
7 increasingly significant and important in today's economy.

8 with respect to demand-side management, it is
9 the Department's position that KCPL and GMO should be
10 required to continue their current DSM programs and not
11 suspend those programs for which GMO would incur -- would --
12 I'm sorry -- to continue their current DSM programs and not
13 suspend those programs, which for GMO would occur at the end
14 of the current rate case, and for KCPL would occur at the
15 end of their regulatory plan, which also ends at the
16 conclusion of this rate case.

17 Unfortunately, with the timing of the
18 conclusion of the regulatory plan and the anticipated
19 implementation of rules as a result of the Missouri Energy
20 Efficiency Investment Act, this creates a potentially
21 lengthy period of time in which KCPL and GMO will have no
22 guidance from the Commission with regard to appropriate DSM
23 investment or energy savings targets.

24 This underscores the need to address KCPL's
25 and GMO's continued implementation of their DSM portfolios

1 during the anticipated gap between the end of the current
2 rate case and the establishment of the Missouri Energy
3 Investment Act rules.

4 In addition, if the current level of DSM
5 programs does not meet the Missouri Energy Efficiency
6 Investment Act goal of achieving all cost-effective
7 demand-side savings, KCPL and GMO should not only be
8 directed by this Commission to continue the implementation
9 of their current DSM portfolios, but to also expand their
10 DSM programs toward the goal of achieving all cost-effective
11 demand-side savings during the period between the end of
12 KCPL's and GMO's regulatory plan and the implementation of
13 the Missouri Energy Investment Act rules.

14 Furthermore, in the absence of a cost
15 recovery mechanism proposed by KCPL and GMO, MDNR proposes
16 that DSM program costs be booked in a regulatory asset
17 account, and that the amortization period for the energy
18 efficiency regulatory asset account be reduced from ten
19 years to six years.

20 However, MDNR recommends that the shortening
21 of the amortization period be contingent on KCPL's and GMO's
22 continuation and expansion of their respective DSM
23 portfolios, as required by this Commission.

24 MDNR does not endorse KCPL's proposal that
25 expenses incurred after the 2009 rate case referred to as

1 Vintage 4 in Staff's cost of class service report be
2 amortized for six years rather than for ten years, as that
3 would not be consistent with KCPL's regulatory plan.

4 Finally, as a matter of public policy, it is
5 the responsibility of this Commission to ensure that all
6 cost-effective measures are implemented and that a gap,
7 which is essentially backsliding, for the DSM program does
8 not occur.

9 As I had previously stated, energy efficiency
10 programs represent good energy policy, and therefore it is
11 imperative for this Commission to continue to move energy
12 efficiency programs forward in a consistent manner.

13 Additionally, you will be hearing testimony
14 on low-income weatherization regarding whether KCPL and GMO
15 should continue to fund their respective low-income
16 weatherization programs at the current levels of funding;
17 and if so, whether the funds should continue to be
18 administered under the current procedures, or whether the
19 Commission should order that the funds be deposited into an
20 account with the EIARA to be administered by EIARA and MDNR.

21 It is the Missouri Department of Natural
22 Resources' position that KCPL and GMO should continue their
23 low-income weatherization programs at the current levels of
24 funding. In addition, MDNR is willing to consider whether
25 the weatherization program should be administered by MDNR

1 and EIERA.

2 However, in the past, such a change has
3 traditionally occurred at the request of the companies, and
4 thus far, the Department has not been approached by the
5 parties regarding this approach.

6 Therefore, several issues, including the
7 feasibility, of such a change in program administration and
8 whether there are any significant differences between the
9 federal low-income weatherization program and the Company's
10 current low-income weatherization program would need to be
11 addressed prior to such a change.

12 Thank you.

13 JUDGE PRIDGIN: Ms. Mangelsdorf, thank you.

14 Excuse me. Any other mini openings before we
15 proceed to evidence?

16 MS. HERNANDEZ: I had a short summary, Your
17 Honor.

18 JUDGE PRIDGIN: Ms. Hernandez, when you're
19 ready.

20 MS. HERNANDEZ: Good afternoon. May it
21 please the Commission and Your Honor.

22 I have just a few statements in summary for
23 the Commission to keep in mind as it considers this DSM
24 issue.

25 One, the current effect of Missouri Energy

1 Investment Act -- Energy Efficiency Investment Act, and also
2 the 2005 regulatory plan that KCP&L entered into, along with
3 other parties.

4 In terms of demand-side management programs,
5 in this case, the Company did not recommend any new
6 mechanism besides what it currently has. The Company could
7 have done so, but chose not to do so within its testimony.

8 The statute states that -- let me find the
9 language for you -- the Commission shall permit electric
10 corporations to implement Commission-approved demand-side
11 programs proposed pursuant to this section, with a goal of
12 achieving all cost-effective demand-side savings.

13 Recovery of such programs should not be
14 permitted unless the programs are approved by the
15 Commission, resulting in energy or demand savings and are
16 beneficial to all customers in the customer class in which
17 the programs are proposed.

18 Nothing in the statute requires that rules --
19 Commission rules be implemented before the Company may
20 request certain recovery mechanisms or propose new programs
21 under the statute.

22 Like I mentioned earlier, the Company chose
23 not to do this within this case within their testimony. And
24 it's the Staff's position that the Company, until it shows
25 that its current DSM programs are no longer cost-effective,

1 that it continue the programs that it has in place.

2 In terms of the recovery for the programs the
3 Company is participating in, the company, KCPL, entered into
4 a stipulation and agreement in the 2005 regulatory plan
5 case, which allows ten years' amortization of the costs
6 incurred for its programs.

7 That is a binding contract that was entered
8 into. There's been no indication from parties that entered
9 into that stipulation that they are willing to forego those
10 settlement -- those proposals made in that settlement.

11 So I would lend to the Commission those two
12 points that they should follow the statute, what it says
13 about the cost-effective programs the Company should be
14 incurring and participating in, and also the amortization
15 period that was within the -- that was stipulated to within
16 the 2005 regulatory plan.

17 Thank you.

18 JUDGE PRIDGIN: Thank you.

19 Anything further before this witness is
20 sworn?

21 MS. SLACK: I have just --

22 JUDGE PRIDGIN: Ms. Slack, when you're ready.

23 MS. SLACK: May it please the Commission.

24 I'm here to give a little mini opening on
25 low-income weatherization. There are specific programs that

1 are designed to help low-income customers with energy
2 conservation.

3 Low-income customers often live in houses
4 that are inefficiently -- that have inefficient energy
5 sources and are substandard in insulation and have other
6 deficiencies.

7 Customers benefit from building shell energy
8 conservation measures such as the weatherization or
9 energy-efficient appliances.

10 The low-income weatherization assistance
11 program is administered by Missouri Department of Natural
12 Resources using federal, state and utility funding. The
13 weatherization program is administered locally in the KCPL
14 arena by the community action agencies and other local
15 agencies.

16 The Commission ordered KCP&L -- ordered the
17 KCP&L regulatory plan in the stipulation and agreement, Case
18 No. EO-2005-0329. In this plan, KCP&L agreed to contribute
19 a dollar amount to the weatherization agencies for
20 weatherization of qualifying customers.

21 According to the August 31st, 2010 regulatory
22 plan, customer program expenditures -- the funds have -- in
23 the KCPL region have been utilized to an estimated 96
24 percent.

25 The Staff recommends that the under-utilized

1 low-income weatherization from the regulatory plan be placed
2 in an account called -- named the EIERA.

3 In addition, Staff recommends that KCP&L
4 continue their low-come income -- low-come [sic]
5 weatherization program and its -- at the level that is
6 budgeted for currently.

7 And any money that is not dispersed at the
8 end of each fiscal year, the Staff recommends that that
9 money be -- that is specifically targeted for the low-income
10 weatherization program be deposited in the EIERA.

11 Staff also recommends that funds expended
12 will be placed in a DSM regulatory asset account at this
13 time -- that, at this time, is provided to the
14 weatherization agency or the funds be sent to -- as we
15 stated earlier, be sent -- the remaining of the funds
16 unspent be sent to the EIERA.

17 Thank you.

18 JUDGE PRIDGIN: Thank you.

19 Any other openings before we hear evidence?

20 MR. FISCHER: Judge, I'd like to correct one
21 statement. I think there is an AFUDC rate applied to the
22 DSM programs today, and those could be considered carrying
23 costs. So that's -- I'd like to just correct that.

24 JUDGE PRIDGIN: All right. Thank you.

25 All right. And this is Mr. Weisensee on the

1 stand?

2 MR. FISCHER: Yes.

3 JUDGE PRIDGIN: And if you'll raise your
4 right hand to be sworn, please, sir.

5 (Witness sworn.)

6 JUDGE PRIDGIN: Thank you very much, sir.

7 Please have a seat.

8 And Mr. Fischer, when you're ready.

9 JOHN P. WEISENSEE testifies as follows:

10 DIRECT EXAMINATION BY MR. FISCHER:

11 Q. Please state your name for the record.

12 A. John Weisensee.

13 Q. Mr. Weisensee, are you the same John
14 Weisensee that's already testified in this case and had your
15 direct, rebuttal and surrebuttal, Exhibit 64, 65 and 66,
16 admitted into the record?

17 A. Yes. I am.

18 MR. FISCHER: Judge, with that, I'd tender
19 the witness for cross.

20 JUDGE PRIDGIN: All right. Mr. Fischer,
21 thank you.

22 Cross-examination.

23 Mr. Mills?

24 Ms. Mangelsdorf?

25 All right. Ms. Hernandez?

1 CROSS-EXAMINATION BY MS. HERNANDEZ:

2 Q. Good afternoon.

3 A. Good afternoon.

4 Q. If we can start with your rebuttal testimony
5 at Page 7, Line 18.

6 A. Let me pull that out.

7 Q. Okay. Just let me know when you're there.

8 A. Okay. Okay. I'm there.

9 Q. And do you see there where you state that the
10 staff incorrectly calculated the amount of excess OSS
11 margins on which to base the ten-year amortization?

12 A. Yes. I see that.

13 Q. Is this an incorrect calculation, or is this
14 a different interpretation on how this amount should be
15 calculated?

16 A. I would agree that it's an interpretation
17 issue.

18 Q. Okay. How do you define "incorrect"?

19 A. Well, as I just said, I would say it was an
20 interpretation issue, rather than -- incorrectly calculated
21 would probably be more appropriate.

22 Q. Okay. Thank you. At Page 8, Line 14.

23 A. Okay. I'm there.

24 Q. Are you there, sir? Okay. You state that
25 the staff made two errors in the calculation of the ten-year

1 amortization for excess OSS margins included in vintages 3
2 and 4. How would you define the term "error"?

3 A. There are two points there. On the first
4 point, I would define it as incorrect calculation.

5 Q. So in terms of incorrect calculation, is that
6 your way of stating that you just disagree with the way
7 staff performed its calculation?

8 A. I would say I disagree with the method the
9 staff utilized. And I'd be willing to state that -- similar
10 to the previous question you had, that it's -- it could be
11 related to a different interpretation.

12 Q. Do you recall when new rates from KCP&L's
13 2009 case went into effect?

14 A. Yes. Those rates went into effect September
15 1st of 2009.

16 Q. And can you state the updated test year in
17 this case, when that ended?

18 A. well, the test year in the current case was
19 the year -- the calendar year of 2009. I'm not sure what
20 you mean by the updated test year.

21 Q. The update period, would you agree that's
22 June 2010?

23 A. Oh, the update that's -- as opposed to the
24 True-up? The update of June of 2010? Yes. I would agree
25 with that.

1 Q. would you agree that the period September
2 2009 through June 2010 is a partial year?

3 A. Yes. It's not a full year.

4 Q. Okay. If you can turn to Page 9, Line 6.

5 A. Okay. I'm there.

6 Q. And here you state that KCP&L -- oh, let's
7 see. Okay. I'm just trying to avoid HC, so if there's any
8 point in time that you need to give a number or answer that
9 you feel is HC information, just let us know before you do
10 that, and we can go in camera.

11 A. Okay.

12 Q. You state here that KCP&L exceeded the 30
13 million threshold for off-system sales at the end of May
14 2010. Correct?

15 A. That's what it states on Line 6. Yes.

16 Q. Okay. And then this reflects the nine-month
17 period, September 2009 through May 2010. Correct?

18 A. A partial year. I'd have to calculate if
19 that's nine months. But it's that period of time, yes.

20 Q. If you can work through a hypothetical for
21 me. Assuming that this 30 million was not exceeded until
22 July of 2010 -- well, first, can you -- can you just keep
23 that in mind?

24 A. That the -- exceeded the 30 million in July
25 of 2010? Is that what you said?

1 Q. Correct. Based on that, if this was true,
2 what is the level of off-system sales the Staff should have
3 included in its June 30th, 2010 updated test year filing?

4 A. well, I don't know. How much did it exceed
5 it by?

6 Q. well, was Staff's cutoff June 30th, 2010?

7 A. In this case, yes, that's correct.

8 Q. would you have put any level in this case?

9 A. Okay. If I'm understanding you, you're
10 saying that if the Company exceeded the 30 million threshold
11 in July of 2010 by some certain figure over that --

12 Q. Correct.

13 A. Let's just say it was 32 million, and we were
14 \$2 million over. would that be okay? So your question then
15 would be?

16 Q. would you have included any level in the June
17 30th update? would the Company have included any level?

18 A. well, the --

19 Q. I think -- is that a yes or no question?

20 A. Do you want yes or no on that?

21 Q. Yes, sir.

22 A. No.

23 Q. Do you think Staff should have included a
24 zero dollar amount under this assumption for a level of
25 off-system sales margins it knew with certainty would be a

1 significant positive amount?

2 A. well, do you want a yes or no answer on that,
3 or do you want me to provide some explanation?

4 Q. You can explain.

5 A. well, the idea here is that we're going to be
6 true'ing this case up, and we'll take a look at what the
7 total amount of the excess is during that 12-month period of
8 september of '09 through August of '10. That's the 12-month
9 period in this particular cycle for tracking purposes. If
10 there's an excess, then that should be considered in the
11 case that we do a True-up.

12 Q. So under that assumption, should staff have
13 put zero within KCP&L's revenue requirement?

14 A. well, I assume you're talking about the
15 staff's cutoff case, as opposed to what the case is going to
16 end up being at True-up time. Yes.

17 Q. we'll stay on Page 9 for a moment.

18 A. Okay.

19 Q. On Page -- or I'm sorry -- Line 11, your
20 rebuttal testimony states, This was improper. Actually, the
21 pro rata provision in the 2009 case was intended to apply
22 only to partial years after the first 12-month period. Do
23 you see that language?

24 A. Yes. I do.

25 Q. Okay.

1 MS. HERNANDEZ: Can I approach the witness?

2 JUDGE PRIDGIN: You may.

3 BY MS. HERNANDEZ:

4 Q. I'm going to hand you the stipulation and
5 agreement from the 2009 case.

6 A. Okay.

7 Q. Can you point me to where in the stipulation
8 and agreement it states that language?

9 A. It states what language, now, is that?

10 Q. Your testimony, This was improper as to the
11 pro rata provision in the 2009 case, was intended to apply
12 only to partial years after the first 12-month period.

13 MR. FISCHER: Counsel, I'm sorry. I missed
14 your reference. What page or line?

15 MS. HERNANDEZ: Oh, I'm sorry. It's -- I'm
16 citing his testimony on Page 9, Lines 11 and 12 --

17 MR. FISCHER: Okay. Thank you.

18 MS. HERNANDEZ: -- in his rebuttal.

19 THE WITNESS: It may take a minute. I'll
20 have to see exactly where this particular area is discussed
21 in the stipulation here.

22 MS. HERNANDEZ: That's fine. Take the time
23 that you need to answer the question.

24 THE WITNESS: Okay. Okay. The applicable --
25 the wording is in -- on Page 9, Section 15 of the

1 stipulation and agreement in the last case. And the
2 discussion there is that proration will be used for any
3 partial years.

4 And my interpretation of that for the Company
5 is that the period from August -- or September 1st of 2009
6 through August 31st of 2010 is a full year and there's no
7 need for any proration.

8 I think the idea here was that if there's a
9 stub period after a full year, up until the True-up of the
10 next case, that there be a need for a proration. But
11 there's no need for a proration in this case.

12 And once again, it -- as we True-up this
13 case, it's kind of a moot point, because we will -- if
14 there's an excess during that 12-month period, it's going to
15 be considered in this case.

16 BY MS. HERNANDEZ:

17 Q. As a follow-up, if it's a moot point, why did
18 you file testimony?

19 A. Just to clear up the record that -- and we
20 did make a point -- we not only brought up that -- I not
21 only brought up that point, but I also mentioned that this
22 would -- the Company's position on this and that of the
23 staff would come into alignment once the full period is
24 considered.

25 Q. Are you familiar with the stipulation and

1 agreement of KCP&L's regulatory plan, as far as it relates
2 to DSM costs?

3 A. I am in terms of the accounting recovery and
4 that sort of thing. I'm not familiar with a lot of the
5 details behind those programs.

6 Q. Do you read that stipulation and agreement as
7 allowing DSM costs to be included in KCP&L'S rate base in
8 the four rate cases contemplated by that reg plan?

9 A. I don't have that particular document in
10 front of me. But from what I can recall, the -- there's a
11 provision in that document that states that the Company can
12 earn a return on those deferred costs no greater than the
13 AFUDC rate.

14 It doesn't specifically state whether those
15 costs -- deferred costs can be included in rate base or not
16 be included in rate base. It's a little bit vague in that
17 regard.

18 Q. Is rate base return higher than the AFUDC
19 rate that's stipulated to?

20 A. Well, I wouldn't make a statement that in all
21 cases it is, but generally, I think that's a reasonable
22 statement to make.

23 Q. Are you familiar with the non-unanimous
24 stipulation and agreement Case No. ER-2009-0089?

25 A. I am. The document that you just previously

1 provided me, I'm generally familiar with it.

2 Q. Okay. Can you turn to Page 8 of that
3 document, Paragraph 13, and read that paragraph into the
4 record, please.

5 A. Okay. Section 13 is off-system sales
6 margins, excess over 25th percentile for 2007 and 2008. Is
7 that the section you're referring to?

8 Q. Yes.

9 A. Okay. The signatory parties agree that the
10 \$1,082,974 -- paren -- (Missouri jurisdictional) -- paren
11 out -- excess of 2007 OSS margins over the amount included
12 in rates in Case No. ER-2006-3 -- 0314 and the \$2,947,332 --
13 paren -- (Missouri jurisdictional) -- paren out -- excess of
14 2009 OSS margins over the amount included in rates in Case
15 No. ER-2007-0291, together with interest -- paren --
16 (Missouri jurisdictional) -- paren out -- will be deferred
17 in a regulatory liability account and amortized over ten
18 years beginning with the date new rates become effective in
19 this case -- in this rate case, with one year's amortization
20 included in the cost of service in this case. The
21 unamortized balance will not be included in rate base.

22 Q. Okay. Can you explain why -- so do you agree
23 that the one million number that you just read into the
24 record should be used?

25 A. I agree that at the time of the stipulation

1 and agreement in that case, that was the number that was
2 appropriate for that particular vintage of excess over the
3 25th percentile. I don't think it's appropriate any longer.

4 Q. well, can you explain the support that you
5 have to change the stipulation and agreement and the
6 settlement numbers?

7 A. well, once again, as I said, that was based
8 on the information that was known at that time. Subsequent
9 to that stipulation and agreement, there have been some
10 True-up charges that the Company has been assessed by the
11 Southwest Power Pool that we have used to adjust those
12 amounts.

13 Q. Is it your belief that you can update
14 settlement numbers?

15 A. It's my belief that this was a settlement on
16 a method of calculating and flowing these amounts back to
17 customers. But I believe that if there's adjustments to
18 those years, they should be reflected, whether they be
19 increases or decreases in the amount. And those type of
20 adjustments could go either way.

21 Q. well, wouldn't you agree this was a dollar
22 settlement?

23 A. No. I would agree it was a settlement that
24 established dollars at that particular time, and it's
25 subject to change.

1 Q. Can you direct me to any language that says
2 subject to change?

3 A. In this particular document?

4 Q. Yes, sir.

5 A. No. There's no particular reference to those
6 words in this document.

7 Q. Okay. Thank you. Does the stipulation and
8 agreement before you outline how KCP&L was to treat
9 off-system sales for ratemaking purposes? Oh, I'm sorry.
10 OSS margins.

11 A. Well, there's two paragraphs in this document
12 that deal with that. One is Paragraph 13 -- or section 13,
13 and one is Section 15 that we just talked about. I guess it
14 depends on what particular aspect you're referring to.

15 Q. Does this stipulation and agreement mention
16 the word "LIBOR"?

17 A. This particular -- I don't believe so. Let
18 me double-check. This particular agreement does not use
19 that word.

20 Q. And does this stipulation and agreement
21 specify how OSS margin deferrals would be calculated for
22 ratemaking purposes in the 2010 rate case?

23 A. Would you repeat that question?

24 Q. Sure. Does this -- does the stipulation and
25 agreement before you for the 0089 case specify how OSS

1 margin deferrals would be calculated for ratemaking purposes
2 in this rate case?

3 A. Yes. I would say that Section 15, once
4 again, establishes a tracking mechanism be used in the
5 future, which would include this particular rate case.

6 Q. Do you what the LIBOR rates have averaged
7 during this test year?

8 A. No. I do not.

9 Q. Do you have a close idea?

10 A. No. It would be just a guess at this point.

11 Q. Okay. Are you sponsoring an adjustment on
12 those rates?

13 A. Yes. There is an adjustment. I don't recall
14 the number offhand; I don't have all my work papers in front
15 of me -- that -- it's either R-77 or R-78. I can't
16 remember. But -- where the LIBOR rate is used in helping
17 determine the amount of off-system sales margin plus
18 interest that needs to be returned to ratepayers.

19 MS. HERNANDEZ: May I approach the witness,
20 Your Honor?

21 JUDGE PRIDGIN: You may.

22 BY MS. HERNANDEZ:

23 Q. Okay. I'm going to hand you the LIBOR rates
24 history. If you could review the rates for 2009 and 2010.

25 A. what did you want me to do with these rates,

1 did you say?

2 Q. Just review the 2009 and 2010 --

3 A. Well, there's a lot of numbers here. I'm not
4 sure -- is that the first column?

5 Q. The first column. I'm sorry.

6 A. The first column. Okay.

7 Q. Yeah.

8 A. All right. That's fine. Okay. I've
9 generally looked those over.

10 Q. Okay. Is it your understanding that KCP&L
11 uses a one-month LIBOR on OSS margins?

12 A. Oh, you mean as opposed to some of the other
13 options there?

14 Q. Yes.

15 A. I know it's LIBOR plus 32 basis points. I
16 can't say I know offhand whether it's the one-month or the
17 three-month.

18 Q. From those numbers -- from the particular
19 numbers from the 2009, can you look at those and determine
20 what an approximate average of those numbers would be?

21 A. In the one-month column?

22 Q. Yes, sir.

23 A. Is that what you're asking?

24 Q. Yes, sir.

25 A. Well, without doing the calculation,

1 somewhere around .4 maybe, something like that.

2 Q. And --

3 A. 0.4 maybe.

4 Q. 0.4. And can you look for 2010?

5 A. Just roughly, maybe .3, .33 or something like
6 that.

7 Q. Did you add anything to those averages to
8 calculate your LIBOR rate?

9 A. No. I just took the numbers that I saw right
10 there. You mean to calculate the rate that would be
11 applicable for the off-system sales LIBOR plus 32? Is that
12 what you're referring to?

13 Q. Yes.

14 A. No. I just looked at the rates that were
15 shown on this schedule.

16 Q. So would you agree that an average LIBOR rate
17 in 2010 plus 32 is less than 1 percent?

18 A. Yes. I would agree with that.

19 Q. Okay. Do you know of any stipulation and
20 agreement or Commission order which states or indicates that
21 the regulatory liability for STB costs or the regulatory
22 liability of OSS margins cannot be netted against KCP&L's
23 DSM deferrals?

24 MR. FISCHER: Judge, I think I want to
25 interpose an objection or ask counsel perhaps to explain how

1 off-system sales margins and SDS deferrals relate to the DSM
2 issues.

3 JUDGE PRIDGIN: Ms. Hernandez.

4 MS. HERNANDEZ: It relates to how the Staff
5 calculated DSM deferrals. They're -- these categories are
6 all netted together to come up with the calculation.

7 So if the witness -- if the Company's witness
8 is disagreeing with the calculation and those are a part of
9 the Staff's calculation, it's -- I would argue that it's
10 relevant to --

11 JUDGE PRIDGIN: Is your objection relevance,
12 Mr. Fischer, or --

13 MR. FISCHER: Well, Judge, I guess I'm making
14 it more so that the bench understands why we're going
15 through these. It's my understanding it's because the Staff
16 has kind of made three or four adjustments all in one set of
17 work papers, and it doesn't really relate to DSM.

18 JUDGE PRIDGIN: All right. I'll overrule and
19 let her continue.

20 BY MS. HERNANDEZ:

21 Q. Do you need --

22 A. I'm going to need you --

23 Q. -- do you need me to --

24 A. -- repeat that.

25 Q. -- read that again?

1 A. Yes.

2 Q. Okay.

3 A. All right.

4 Q. Do you know of any stipulation and agreement
5 or Commission order which states or indicates that the
6 regulatory liability for STB costs or the regulatory
7 liability of OSS margins cannot be netted against KCP&L's
8 DSM deferrals?

9 A. I don't know of any order or stipulation that
10 says they can or can't.

11 Q. Okay. Thank you. And a similar question.
12 Do you know of any stipulation and agreement or Commission
13 order which states or even indicates that the regulatory
14 liability for STB costs or the regulatory liability of OSS
15 margins cannot be treated in the same manner as DSM
16 deferrals?

17 A. I guess I don't see the difference between
18 that and the previous question at all. So I guess the
19 answer would be the same.

20 Q. I'm sorry. Just a moment. Oh, netted
21 against -- the first question was netted against, and then
22 the second question says treated in the same manner. Do you
23 see those as the same? If that's so, then --

24 A. Yes. I see them the same. And I guess the
25 answer would be, there's nothing that really says one way or

1 the other on that.

2 Q. Okay. Okay. And then can you explain from a
3 ratemaking fairness standpoint why DSM deferrals, which is a
4 regulatory asset with a ten-year amortization period, should
5 be treated differently from the regulatory liability of STB
6 costs and OSS margins, just from a fairness ratemaking
7 perspective?

8 A. Well, I assume you mean aside from the fact
9 that it makes no sense to combine those, in my opinion. But
10 you're referring to the fact -- in terms of how they should
11 be amortized, what period of time, or what?

12 Q. Just in terms of fairness, why you should
13 treat them differently.

14 A. Well, I'm not sure what differently means.
15 But there have been orders and stipulations that have stated
16 that the off-system sales margins should be returned over
17 ten years and the STB reparations in excess of STB costs
18 should be returned over ten years so that there's consistent
19 years involved.

20 As well as DSM, which is -- has been ten
21 years in the regulatory plan amortization. I guess I don't
22 understand what you mean by differently, I guess.

23 Q. Well, can -- do you have an explanation as to
24 why DSM could earn the AFUDC rate but not STB?

25 A. Yeah. Essentially, that's what was -- has

1 been specified in the various orders amongst the -- for
2 those items.

3 As you mentioned previously, or asked about
4 previously, the 2005 regulatory plan does provide for a
5 carrying cost or return of no more than the AFUDC rate.

6 The STB costs and the OSS margins -- well,
7 the STB costs do not provide for a return at all. The OSS
8 margins do provide for a return of LIBOR plus 32 basis
9 points.

10 Q. which is less than 1 percent, as you stated
11 earlier. Correct?

12 A. In this particular period you looked at,
13 that's correct. I think it was 2010 you asked about.

14 MS. HERNANDEZ: Yes. I believe that's all
15 the questions I have. And I'll just -- if it's okay, I'll
16 just grab the documents I --

17 JUDGE PRIDGIN: Certainly. All right. Thank
18 you.

19 Any redirect?

20 MS. HERNANDEZ: Thank you.

21 THE WITNESS: You bet.

22 MR. FISCHER: Redirect. Yes.

23 REDIRECT EXAMINATION BY MR. FISCHER:

24 Q. Ms. Hernandez asked you about a \$30 million
25 threshold early in the questioning on -- I think she

1 referred you to Page 9, Line 6. would you explain for the
2 judge what this threshold relates to?

3 A. The \$30 million is the settled amount for the
4 tracker -- for the off-system sales tracker in the prior
5 case.

6 Q. Does your testimony on that point have
7 anything to do with DSM issues?

8 A. I don't believe it does. I believe it has to
9 do with off-system sales issues and how those should be --
10 how those excess margins should be flowed back to
11 ratepayers, which, to me, is a completely separate issue
12 from DSM costs.

13 Q. I believe she also asked you a question about
14 DSM accounting and whether DSM costs should be included in
15 rate base. Do you recall that?

16 A. Yes. I do.

17 Q. On a going-forward basis, does it make good
18 public policy to include the amount of DSM costs in rate
19 base?

20 A. Yes. I believe it does. We -- which is the
21 reason why we propose -- we proposed in this particular case
22 that those costs be included in rate base, as they have --
23 as they were included in rate base in the first couple of
24 cases in the regulatory plan rate cases.

25 Q. would that be consistent with the recent

1 Ameren order?

2 A. Yes. It would be consistent with that order.
3 And also, it would be consistent with our sister company,
4 GMO, which also has a rate-base treatment.

5 Q. Ms. Hernandez asked you a lot of questions
6 about excess margins. And since it's not a -- since we're
7 talking about DSM costs, I don't want to spend a lot of
8 time.

9 But did the Commission's order in the 2007
10 rate case, which is the -- I think the 0291 case regarding
11 OSS margins require the OSS margin carrying costs be set at
12 LIBOR plus 32 basis points?

13 A. Yes. It did.

14 Q. Did the Commission's order specifically
15 prohibit inclusion of unamortized excess margins in rate
16 base?

17 A. would you repeat that question?

18 Q. Did the Commission's order specifically
19 prohibit the inclusion of unamortized excess margins in rate
20 base?

21 A. which order are we talking about again?

22 Q. The 2007 rate case order, the one she asked
23 you about.

24 A. My only recollection of that order is --
25 relates to the LIBOR plus 32 basis points.

1 Q. Okay. She also asked you about the '09 case,
2 the 0089 case stip. Did the stipulation -- is -- do you
3 recall that?

4 A. Yes. I do.

5 Q. Did the stipulation in the 2009 case
6 specifically indicate that the interest would be included in
7 the deferred costs that were going to be returned to
8 ratepayers over ten years?

9 A. I believe it did.

10 Q. Okay. Would it be a change to the
11 stipulation in that case to assess a different carrying cost
12 based upon AFUDC rates rather than LIBOR plus 32 basis
13 points?

14 A. I assume you're referring to the 2007
15 stipulation, which --

16 Q. Yes.

17 A. -- which required the LIBOR plus 32 basis
18 points. I believe it was clear in that order, and I believe
19 that's what should be followed no matter what the rate
20 happens to be, whether it's high or whether it's low. That
21 was the requirement.

22 Q. Would it be a change in the provisions of
23 that stipulation to reduce the cost of service for 100
24 percent of your carrying cost value rather than including it
25 in the deferred liability for returning to ratepayers over

1 ten years?

2 A. Yes. It would.

3 Q. And do you address in your testimony a
4 description about the \$450,000 negative margins recorded in
5 early 2009 that was asked about?

6 A. Yes. I included in my testimony some
7 discussion about that. Yes.

8 Q. Let's talk about the STB. What is that?

9 A. That's the -- that refers to the Surface
10 Transportation Board litigation the Company was involved in
11 for several years to try to reduce the freight rates that it
12 has to pay. And we incurred significant legal costs and
13 other costs on that. But we also were able to get
14 reparations at the conclusion of that case. And the
15 reparations exceeded the unamortized costs, and those are to
16 be returned to ratepayers.

17 Q. Did the 2009 stipulation and agreement in the
18 company's last rate case authorize a reduction to cost of
19 service for amortization of the net STB reparations over a
20 ten-year period?

21 A. Yes. It did.

22 Q. Did it also specifically prohibit inclusion
23 of the unamortized SB -- STB regulatory liability in rate
24 base?

25 A. Yes.

1 Q. Did that stipulation authorize any kinds of
2 carrying costs in regulatory liability?

3 A. No. It did not.

4 Q. would it be a change to the provisions of
5 that stipulation to assess an annualized carrying cost using
6 the AFUDC rate?

7 A. Yes. I believe it would.

8 MR. FISCHER: Judge, that's all I have.
9 Thank you.

10 JUDGE PRIDGIN: Mr. Fischer, thank you.

11 Mr. Weisensee, thank you, sir. You may step
12 down.

13 (Witness excused.)

14 JUDGE PRIDGIN: We'll be going to Mr. Rush
15 next; is that correct?

16 MR. FISCHER: Yes.

17 JUDGE PRIDGIN: Thank you.

18 Mr. Rush, if you'll come forward to be sworn,
19 please. If you'll raise your right hand to be sworn.

20 (Witness sworn.)

21 JUDGE PRIDGIN: Thank you very much, sir.

22 Please have a seat.

23 Mr. Fischer, when you're ready.

24 TIM RUSH testifies as follows:

25 DIRECT EXAMINATION BY MR. FISCHER:

1 Q. Please state your name and address for the
2 record.

3 A. Tim Rush. It's 1200 Main, Kansas City,
4 Missouri.

5 Q. Mr. Rush, did you cause to be filed in this
6 case direct testimony -- and I'm talking about the KCPL case
7 right now -- but direct testimony, which is HC and NP and
8 has been marked as KCPL Exhibit 54-HC and 54-NP; and
9 rebuttal testimony, which has been marked as KCPL Exhibit
10 55; and KCPL Exhibit 56, which is your -- I guess that's
11 actually your rate design rebuttal -- we can take care of
12 that later. And did you also cause to be filed surrebuttal
13 testimony --

14 A. I did.

15 Q. -- which has been marked as Exhibit 57 in
16 this case?

17 And in the companion case, the GMO case, did
18 you cause to be filed direct testimony that's been marked as
19 Exhibit GMO 32-HC that addresses renewable energy standards
20 issues?

21 A. And other issues, yes.

22 Q. As well as rebuttal testimony that has been
23 marked as GMO 33?

24 A. Right.

25 Q. And surrebuttal testimony that has been

1 marked as GMO 35?

2 A. Yes.

3 Q. Are there any changes or corrections you need
4 to make any of those documents?

5 A. No. I don't -- do not.

6 Q. If I were to ask you the questions that are
7 contained in those various sets of testimony, not including
8 the rate design which we'll take up later, would your
9 answers be the same?

10 A. They would.

11 Q. Are they true and accurate to the best of
12 your knowledge and belief?

13 A. Yes. They are.

14 (Wherein; KCPL Exhibit Nos. KCPL-54 HC,
15 KCPL-54 NP, KCPL-55, KCPL-57, GMO-32 HC, GMO-32 NP, GMO-33
16 and GMO-35 were marked for identification.)

17 MR. FISCHER: Judge, I'd move for the
18 admission of Exhibit -- Exhibits 32 in the GMO case, 33
19 and -- 33 and 35; and in the KCPL case, 57, 54, and 55.

20 JUDGE PRIDGIN: All right. And that's GMO
21 32-HC and then also KCPL 54-HC and NP; is that correct?

22 MR. FISCHER: Yes. That's correct.

23 JUDGE PRIDGIN: Any objections?

24 MR. MILLS: Judge, I don't know that I will
25 have any objections, but I have not even begun to focus on

1 the issues of the GMO case. So I would like to reserve the
2 right to object at the time we get around to trying those
3 issues in the GMO case. But I have no objection to the KCPL
4 testimony.

5 JUDGE PRIDGIN: Do you still want those
6 offered?

7 MR. FISCHER: It includes the DSM issues --
8 the same issues in both, and I think it's tried as a common
9 issue. But there are certainly other issues --

10 MR. MILLS: I think there are other issues --

11 MR. FISCHER: There are other issues --

12 MR. MILLS: -- to be looked at.

13 MR. FISCHER: Yeah.

14 JUDGE PRIDGIN: All right. Well, if it's
15 agreeable to the parties, I can let the evidence in subject
16 to your having the opportunity to object once the GMO issues
17 are being heard later. And you're not waiving that
18 objection; is that --

19 MR. MILLS: That would be fine.

20 JUDGE PRIDGIN: All right.

21 All right. With that understanding, KCPL 54
22 HC and NP, KCPL 55, KCPL 57; GMO 32 HC, GMO 33, and GMO 35
23 are all admitted with the understanding that Mr. Mills may
24 have a later objection to the GMO exhibits.

25 (Wherein; KCP&L Exhibit Nos. KCPL-54 HC,

1 KCPL-54 NP, KCPL-55, KCPL-57, GMO-32 HC, GMO-33 and GMO-35
2 were received into evidence.)

3 JUDGE PRIDGIN: And I'm sorry. Mr. Rush has
4 been tendered for cross?

5 MR. FISCHER: Yes.

6 JUDGE PRIDGIN: All right.

7 Cross-examination.

8 Mr. Mills?

9 Ms. Mangelsdorf, when you're ready.

10 CROSS-EXAMINATION BY MS. MANGELSDORF:

11 Q. Good evening, Mr. Rush.

12 A. Good evening.

13 Q. Do the companies plan on continuing their DSM
14 programs and its tariffs at their current levels between the
15 end of this rate case and the implementation of the MEEIA
16 rules?

17 A. That's a very tough question right now that's
18 being evaluated by the Company. And I don't -- as -- when
19 you say "at the same level," it's our intent to continue the
20 tariffs, and it's -- we have a lot of issues because of the
21 conclusion of this regulatory plan for KCP&L and what
22 actions will happen, because I don't believe at this time
23 that we have a recovery mechanism to address the
24 expenditures that may be incurred after this -- well, in
25 fact, after the True-up period, which --

1 So starting January 1, 2011, we really do not
2 have a -- in my mind, a recovery mechanism. And so a lot of
3 it is contingent on those kind of elements.

4 Q. So are the companies willing to commit to
5 anything concrete during this period of time?

6 A. Without the certainty of understanding what
7 the recovery mechanism is, I do not believe we are willing
8 to commit to anything.

9 Q. Isn't it true that in -- isn't it true that
10 KCPL and GMO could have proposed in direct testimony but did
11 not propose a cost recovery mechanism?

12 A. I'm going to try to attempt to address that.
13 I believe in the direct testimony, the company indicated
14 that we were hopeful that the MEEIA rules would be farther
15 along. We were working in concert with that, investing our
16 time and efforts in trying to develop rules with the staff
17 and other parties, MDNR one of them.

18 It became apparent that -- and we were
19 hopeful that we would have an understanding of how that may
20 be applied in this case.

21 It became apparent by the time we came to
22 rebuttal testimony that that was not going to happen. And
23 so the Company very specifically in its rebuttal testimony
24 made a request for the accounting treatment for going
25 forward from the -- at the conclusion of this rate case.

1 So I believe that we did file a very specific
2 request and recommendation for accounting treatment
3 regarding DSM costs.

4 I believe that those other parties have made
5 suggestions, some basically being silent, others saying that
6 we should continue on as the way that costs had been
7 incurred and treated before. And that was not acceptable,
8 as we've tried to describe both in the rulemaking process
9 and in testimony in this proceeding.

10 Q. And so you stated earlier that you were
11 willing to continue existing tariffs; is that correct?

12 A. The tariffs are currently existing. We have
13 not filed anything that would terminate those tariffs at
14 this stage.

15 Q. Does this include reopening the Empower
16 tariff to commercial and industrial customers on the Empower
17 wait list?

18 A. We currently have an Empower tariff that has
19 a number of customers on it. They all have various terms.
20 We are currently evaluating whether we would continue that
21 for -- reopening it to new customers. Obviously, a lot of
22 that is contingent on what may come out of this case.

23 Q. So yes or no?

24 A. It's uncertain.

25 Q. Does this also include reopening the Empower

1 tariff to new participants?

2 A. Again, it's uncertain, if you're looking for
3 a yes or no. I think we need to get clarity from the
4 Company's perspective of that, and we have to weigh that
5 with regard to the impact it will have on the Company, with
6 regard to the efforts of the -- for example, the MEEIA
7 rulemaking.

8 If we see a positive impact that may occur,
9 or if we see a lot of negative impact that may occur, some
10 people would indicate and believe that the MEEIA rules may
11 be effective as early as June; others may see that there
12 will be a long, drawn-out litigated through the courts
13 process with the MEEIA rules. I'm really uncertain.

14 So we are in a -- what I tried to address it
15 in my testimony is, we're in a period of a bridge. That
16 bridge being the time of completion of the regulatory plan,
17 between when these rules may become effective to address
18 very specific issues outlined in the legislation.

19 Q. Thank you. So would this also include
20 revising any DSM tariffs to extend the available period for
21 applications through the bridge period when MEEIA rules are
22 fully implemented? Yes or no, please.

23 A. You need to ask me that -- I need to
24 understand it better. Sorry.

25 Q. Okay. So would this also include revising

1 any DSM tariffs to extend the available period for
2 applicants through the bridge period when the MEEIA rules
3 are fully implemented?

4 A. Again, it's contingent on what the MEEIA
5 rules will look like. I -- I --

6 Q. Thank you.

7 A. -- know that they're published, but I don't
8 know -- I think they've been sent -- they have not been
9 published; they've been provided to the Commission.

10 Q. Okay. Thank you. And Mr. Fischer in his
11 opening statement also referred to the CPAG; is that
12 correct?

13 A. That is correct.

14 Q. And is it true that CPAG is due to end with
15 the end of the KCPL regulatory plan?

16 A. I believe the way the CEP plan or the
17 regulatory plan addresses it, CPAG would expire at the
18 conclusion of the regulatory plan, as many other factors.
19 That again is something that we are trying to address here.

20 Q. And is KCPL willing to continue CPAG through
21 the bridge period? Yes or no?

22 A. Yes.

23 Q. Is KCPL willing to agree to extend CPAG or a
24 similar collaborative to GMO through the bridge period?

25 A. Yes.

1 Q. Thank you. That's all I have.

2 A. Okay.

3 JUDGE PRIDGIN: Thank you.

4 Ms. Hernandez?

5 MS. HERNANDEZ: Yes. A few questions.

6 MS. MANGELSDORF: I'm sorry, Your Honor. I

7 also have weatherization. And then I forgot we were --

8 THE WITNESS: Okay.

9 MS. MANGELSDORF: -- putting them both
10 together.

11 THE WITNESS: It's okay.

12 JUDGE PRIDGIN: I'm sorry.

13 MS. MANGELSDORF: If you don't mind --

14 JUDGE PRIDGIN: That's all right.

15 MS. MANGELSDORF: -- can I go back?

16 BY MS. MANGELSDORF:

17 Q. Mr. Rush, what are KCPL's and GMO's plans for
18 low-income weatherization during the interim period between
19 the end of this rate case and the implementation of the
20 MEEIA rules?

21 A. I would say that they're essentially the same
22 as all the other DSM programs that exist today. There's a
23 lot of uncertainty. It's our hope and desire, just as it is
24 with our DSM programs, to be able to continue with them.
25 But I think there needs to be some clarity on the recovery

1 process.

2 The weatherization programs are treated
3 essentially as a DSM program, and it receives essentially --
4 going into a regulatory asset, et cetera, similar to all the
5 other DSM programs.

6 Q. If the low-income weatherization program
7 funds were placed in a regulatory asset account with
8 carrying costs and an amortization period of six years,
9 would the companies be agreeable to that?

10 A. As a bridge period, yes, we would.

11 Q. would the companies be agreeable to expensing
12 funds?

13 A. For weatherization?

14 Q. Yes.

15 A. Yes. We would, if they were treated
16 appropriately in the rate case.

17 Q. And what levels of weatherization would the
18 companies be willing to commit to if they were expensed in
19 this rate case?

20 A. There's a lot of questions with regard to
21 weatherization that I don't have total understanding of.
22 The first one is, I believe there's a lot of federal
23 funds -- monies that have been distributed that may address
24 things differently.

25 You know, there may be funds that you would

1 say you do not want to spend "x" dollars. I don't have a
2 clear understanding of that.

3 If you're asking me for a commitment of
4 dollars, I would assume that we would probably look at the
5 same dollars we may have expended in 2010 as maybe -- to
6 look at as something.

7 But to understand -- we need a clear
8 understanding of where they are. And I know that would be
9 both for the GMO and the KCPL side. There's a -- you know,
10 again, those are things you would address with CPAG and kind
11 of work through in an organization to make sure everybody
12 understands all the elements of it, working with MDNR and
13 others.

14 Q. Thank you.

15 A. Okay.

16 JUDGE PRIDGIN: All right. Thank you.

17 Ms. Hernandez?

18 CROSS-EXAMINATION BY MS. HERNANDEZ:

19 Q. Is it your understanding that MEEIA is a law
20 of the state of Missouri?

21 A. It is a law of the state of Missouri. Yes.

22 Q. Okay. And is it your understanding that KCPL
23 or GMO is required to comply with the law of the state of
24 Missouri?

25 A. I would believe that we are. Yes.

1 Q. And would you agree that you are required to
2 comply with that law whether or not you have -- there are
3 any MEEIA Commission-approved rules in place?

4 A. I think so. Yes.

5 Q. Would you agree that the Company, both KCP&L
6 and GMO, could have suggested recovery mechanisms to the
7 Commission in this case without MEEIA rules being in place?

8 A. I believe we did.

9 Q. You -- okay. Let me ask a different
10 question. You recommended continuing the current programs?
11 Or, I'm sorry --

12 A. No.

13 Q. -- the current recovery?

14 A. No.

15 Q. And -- within your direct testimony, that's
16 not what you proposed?

17 A. In my direct testimony, I proposed the
18 recovery associated with the dollars that had been spent in
19 the case, and I talked about MEEIA and the rulemaking
20 process. I did not talk about the dollars going forward.

21 In my rebuttal -- because my hope was -- what
22 I wrote in my testimony, that we would work out something in
23 the MEEIA process that would help us and guide the utilities
24 as well as the Company in establishing a set of guidelines
25 for recovery.

1 In my rebuttal testimony, I addressed the
2 AmerenUE model, and said it appears to me that the MEEIA
3 rules are not going to come about in a timely manner that
4 would allow the Company to use that as a guidepost.

5 And so I recommended similar treatment as
6 Ameren so that -- I said that, essentially, I wanted to be
7 put on the same level playing field as another utility in
8 the state of Missouri.

9 I also --

10 Q. well -- oh. Are you finished with your
11 answer?

12 A. well, I was going to say, I also suggested
13 that we should -- as kind of a spearheading approach, that
14 we would like to receive rate base recovery for Vintage 4
15 and a recovery over six years for the Vintage 4 dollars.
16 Just to be clear.

17 Q. So if I understood you correctly, you're
18 saying that in your direct testimony you did not state that
19 you weren't requesting any change in your current programs?

20 A. I'm sorry. I don't understand what you're
21 saying.

22 Q. well, I believe from your last answer, I
23 understand that you're stating that your direct -- within
24 your direct testimony --

25 A. we did not address future recovery in my

1 direct testimony.

2 Q. But it's your understanding --

3 A. I believe it shows up on Page --

4 Q. I'm sorry.

5 A. -- for example, 26 of my direct testimony.

6 Q. Is that the language where you're not
7 recommending any change at this time?

8 A. That said that as a state -- as I stated
9 previously, I said the Company is not seeking to change the
10 cost recovery mechanism in its initial filing.

11 It is the Company's hope that by the time the
12 tariff in this case are effective, a rulemaking will be
13 implemented in the state that addresses SB 376.

14 At this writing of this testimony, the staff
15 and other parties are holding workshops, and the Company is
16 taking an active role in the rulemaking process.

17 Again, what I was hopeful of is that during
18 that process, we'd all work together to -- in a timely
19 manner, we would have a conclusion and understand a basis
20 for a rule that would address the recovery for future
21 dollars.

22 Q. But let me go back to my question. I don't
23 think you answered it. Is it your understanding that you
24 could have suggested new mechanisms without that rule being
25 in place?

1 A. I think that we could have. Yes.

2 Q. Okay. Thank you.

3 Is there anywhere in your testimony that you
4 stated that your current programs are no longer cost
5 effective? I'm sorry. Your current DSM programs are no
6 longer cost effective?

7 A. I've never said that they're no longer cost
8 effective. They were not cost effective from the day we
9 started, because -- from the Company's perspective. They
10 were very effective for customers. They are very positive
11 for customers.

12 what -- part of what we did in the regulatory
13 plan is there was a cost that the Company went through -- we
14 took a number of -- in order to enter into the regulatory
15 plan, the Company had to enter into a number of agreements
16 that were not necessarily profitable to the Company, but
17 allowed us the ability to build the power plant and the
18 other expenditures, capital investments we wanted to make.

19 In order to do that, we had to give up
20 something, but we gained something for it. And that's a
21 balancing effect that occurs. And we did that.

22 But when you look at the overall recovery,
23 we've testified before the MEEIA rules -- Mr. Blanc, I
24 believe, was a witness at the MEEIA rules, that got up and
25 talked about the recovery and the need to address the lost

1 revenues.

2 we have filed a number of responses during
3 the MEEIA rules. we've filed responses in our IRP rules. I
4 think it's clear throughout the -- to the Commission that
5 our concern is the recovery of the costs in a timely manner,
6 the recovery of lost revenues in a timely manner, and some
7 mechanism to deal with an incentive to put us on a level
8 playing field with generation.

9 Q. Again, I think we kind of took the road
10 around the question.

11 A. I'm not trying to. I'm sorry.

12 Q. No. I understand. Was there anything in the
13 2005 stipulation and agreement that stated that the DSM
14 programs that the Company agreed to enter -- to participate
15 in or implement, that they were not cost effective?

16 A. That was never addressed.

17 Q. Okay. And is there anything within this case
18 that states that the programs that KCP&L or GMO are now
19 participating in, demand-side management programs, that they
20 are no longer cost effective?

21 A. I think all of the programs that were
22 implemented have passed what's called the TRC test, which
23 would say that there is a very positive impact of moving
24 forward.

25 Q. I --

1 MS. HERNANDEZ: Your Honor --

2 THE WITNESS: So --

3 MS. HERNANDEZ: -- I think that was a yes or
4 no question. I'm just --

5 JUDGE PRIDGIN: All right. Can you ask the
6 question again, please?

7 MS. HERNANDEZ: Can you -- can the court
8 reporter read it back? I -- I don't know if I can phrase it
9 the same way again.

10 (The requested portion of the transcript was
11 read back by the court reporter.)

12 THE WITNESS: The programs that are currently
13 in place are, from my perspective, cost effective to
14 customers and not cost effective to the Company.

15 BY MS. HERNANDEZ:

16 Q. Is there anything in this case, KCP&L or
17 GMO's testimony filed by the company that states that
18 Empower is no longer a cost-effective demand-side management
19 program?

20 A. No.

21 Q. I believe you offered some testimony about
22 changing the amortization period from ten years to six
23 years; is that correct?

24 A. I did.

25 Q. If KCP&L were to receive approval of the

1 Ameren stipulation and agreement DSM cost-recovery -- the
2 changing of the ten to six years, is it the Company's intent
3 to implement programs included in its last adopted preferred
4 resource plan that are not currently being implemented?

5 A. Are you talking about for GMO or KCP&L or
6 both?

7 Q. Both.

8 A. And again, your question is, would we commit
9 to -- are we willing to commit to implement programs that
10 were beyond those addressed -- that we currently have in
11 place, that were addressed in our --

12 Q. Your IRP filings.

13 A. -- IRP filings? We are right in the middle
14 of an evaluation for the GMO side. We filed something in
15 December. I think it would be our full intent to comply
16 with our IRP. And I'm not sure how the scale or timing of
17 that would be addressed. And one of the failures that exist
18 with the IRP is that it does not address revenue recovery.
19 It --

20 Q. I think again that was a yes or no question.

21 A. It all depends.

22 Q. I'm not trying to be disrespectful.

23 A. No. I know. I just don't --

24 Q. If you can't answer it yes or no, it's fine
25 to say, you know, whatever --

1 A. That's what I was trying to do.

2 Q. -- I can't answer it, or --

3 A. It's not a yes or no answer that I can
4 provide.

5 MS. HERNANDEZ: Okay. I think that's all the
6 questions I have, but Ms. Slack may have some for you.

7 JUDGE PRIDGIN: Okay. Ms. Slack, any
8 questions?

9 MS. SLACK: I have just a few questions.

10 MS. HERNANDEZ: Oh, I'm -- I do have some --
11 the amortization questions.

12 THE WITNESS: Okay.

13 MS. HERNANDEZ: I'm sorry.

14 THE WITNESS: All right.

15 MS. HERNANDEZ: It's difficult flipping back
16 and --

17 THE WITNESS: It's a lot of issues.

18 BY MS. HERNANDEZ:

19 Q. Thank you for your patience. Okay. Moving
20 to the recovery questions.

21 Can you look at Page 7, Line 1 of your
22 rebuttal testimony? Do you have that?

23 A. I do. Which testimony? My Missouri -- KCPL
24 or my Missouri GMO?

25 Q. KCPL is fine.

1 A. Page 7?

2 Q. Yes, sir. Line 1.

3 A. I'm there.

4 Q. Can you read that first sentence into the
5 record, please.

6 A. which start -- the answer starts, In both
7 Case Numbers?

8 Q. Yes, sir.

9 A. In both Case Numbers ER-2006-0314 -- paren --
10 (the 2006 case)-- paren -- and ER-2007-0291 -- paren -- (the
11 2007 case) -- paren -- the unamortized balance related to
12 DSM program cost was included in rate base by both KCPL and
13 Staff.

14 You just said the first sentence?

15 Q. If you could continue with that sentence,
16 that would be --

17 A. In both the 2009 case and the current case,
18 Staff omitted the balance from rate base, instead proposing
19 inclusion of an annual return based on applying an AFUDC
20 rate to the unamortized balance for each vintage.

21 Q. And then focusing on the language in the
22 first sentence, the unamortized balance related to DSM
23 program costs was included in rate base, can you explain
24 your support for that -- that Staff included those costs in
25 the rate base?

1 A. I can. Both cases were litigated cases, and
2 so the reconciliation would -- going back to the details of
3 the reconciliation you would see that. I don't have those
4 work -- I mean, I don't have that with me.

5 MS. HERNANDEZ: Can I approach the witness,
6 please?

7 JUDGE PRIDGIN: You may.

8 BY MS. HERNANDEZ:

9 Q. I'll hand you this document. If you could,
10 just state the title of the document, and then read on
11 Page --

12 A. Staff's Cost of Service Report for Kansas
13 City Power and Light Company as of March 31, 2007, Case
14 Nos. -- or Case No. ER-2007-0291.

15 Q. Okay. And then where the sticky note, the
16 flag is, Page 8 --

17 A. Uh-huh.

18 Q. -- that last paragraph that talks about
19 recovery.

20 A. Okay.

21 Q. Can you read that into the record? It
22 continues on to the next page.

23 A. You want me to just read the whole -- that
24 starts, Demand-side management costs-rate base-issue value
25 \$840,000?

1 KCPL is requesting rate base treatment of
2 deferred costs related to DSM costs which are being
3 recovered in rates using a ten-year amortization period.
4 KCPL's proposed rate base treatment is contradictory to the
5 language in KCPL' regulatory plan stipulation and agreement
6 in Case No. EO-2005-0329, which provides for construction
7 accounting using KCPL's existing allowance for funds used
8 during construction -- paren -- (AFUDC) -- paren -- rate for
9 the purpose of capitalizing a return component to the
10 deferred asset balance consistent with what is done in
11 capital projects until they go into service.

12 This treatment is in lieu of rate-based
13 treatment, and was agreed to by KCPL in the regulatory plan
14 stipulation and agreement in Case No. EO-2005-0329.

15 Q. So after reading that language, is it still
16 your position that the Staff recommended the unamortized
17 balance related to DSM costs to be included in rate base?

18 A. well, I'm not sure that this would explain
19 it. This was the Staff's cost of service report for this
20 case. And this was filed in March 2007. It was well before
21 the addressing of reconciliation and a number of other
22 things. So I can't use this as a foundation to say yes or
23 no.

24 Q. okay. So within the '07 case, do you
25 remember Staff changing its position related to the rate

1 base?

2 A. I personally do not. I don't remember the
3 specifics of that. I do remember the first case, but I just
4 don't remember all the details of the second case. We had a
5 number of things going on at one time.

6 Q. Have you and the Staff discussed DSM
7 inclusion in rate base?

8 A. Yes. We have.

9 Q. Have you ever been advised by the Staff it
10 admitted it made an error by including DSM deferrals in the
11 rate base in the ER-2006-0316 --

12 A. Yes.

13 Q. -- rate case?

14 A. Yes. I have.

15 Q. And do you understand that that error was not
16 a methodology, but just an overlook of the number being --

17 A. I've had a lot of various discussions about
18 it, so I -- that could be one of them.

19 Q. So if the Staff stated in 2006 -- in the 2006
20 case that it made an error, it's your belief that the Staff
21 would then continue to do that same rate --

22 A. No.

23 Q. -- the rate base treatment that it --

24 A. No. I think they ought to correct the error.

25 I mean, we just move on. They fix that and go on in a

1 subsequent case. I don't think --

2 Q. So sitting here today, it's your sworn
3 testimony that the Staff included in 2007 case the DSM
4 program costs in rate base? That's your sworn --

5 A. To the best of my belief, yes. I do -- would
6 like to make it clear why I'm asking for rate-base
7 treatment.

8 Q. I didn't --

9 A. Okay.

10 Q. -- ask that question. You can -- I'm sure
11 your counsel will let you do that.

12 A. No problem.

13 MS. HERNANDEZ: All right. I believe I'm
14 finished.

15 Thank you, Mr. Rush.

16 THE WITNESS: Uh-huh. No problem.

17 JUDGE PRIDGIN: Okay. Did Ms. Slack have
18 questions?

19 MS. SLACK: I do, Your Honor. And I know
20 that hour is well spent, so I'll try to be brief.

21 CROSS-EXAMINATION BY MS. SLACK:

22 Q. I just have a few questions for you regarding
23 the low-income weatherization program.

24 A. Okay.

25 Q. Currently, KCP&L is participating in the

1 low-income weatherization in the current -- under the
2 current reg plan. Correct?

3 A. We have been. Yes.

4 Q. And that participation has amounted to, like,
5 96 -- approximately 96 percent of the funds that were
6 allocated and budgeted for being utilized; is that correct?

7 A. Well, I don't know particulars. I think you
8 did, and you had report you referenced. I'm not -- I
9 wasn't aware of the exact dollars or percentages.

10 Q. And then would it be correct to say, given
11 the approximate 96 percent of the funds were allocated, that
12 KCP&L has shown a commitment to participating in the
13 low-come -- income weatherization program?

14 A. Absolutely.

15 Q. And KCP&L's interest in participating in the
16 low-income weatherization program wouldn't be solely based
17 on the Commission order; is that correct?

18 The Commission authorized that KCP&L under
19 reg plan to participate in the low-come -- low-income
20 weatherization program. My question to you is: That's not
21 your only reason for wanting to participate; is that
22 correct?

23 A. We have been a participant in low-income
24 weatherization for probably 15 years, is what I can
25 remember. And so it's always been our desire. I know that

1 in the experimental regulatory plan, or the CEP plan, that
2 we wanted to participate in weatherization, also.

3 It's our desire, just as it is with our DSM
4 programs, to be able to move forward, but we need a
5 regulatory recovery mechanism. And weatherization is
6 treated the same way --

7 Q. Okay.

8 A. -- as low -- the low-income is treated the
9 same way currently as the other DSM programs.

10 Q. And you are aware that other utility programs
11 [sic] also have low-income weatherization programs.
12 Correct?

13 A. You said other utilities?

14 Q. Other utility -- electric utility companies
15 also have low-income weatherization programs?

16 A. I'm generally aware of that. I don't know
17 specific of Empire. But I know Ameren is.

18 Q. And I'm not going to ask you any specifics
19 about that.

20 KCP&L has a specific dollar amount -- and I'm
21 not going to say that dollar amount, because I'm not sure if
22 that's HC -- but it's been set aside under the current reg
23 plan for the low-come -- low-income weatherization; is that
24 correct?

25 A. we did.

1 Q. Right. Under the current reg plan. And
2 that's --

3 A. which --

4 Q. -- at the end of --

5 A. -- is done.

6 Q. Right.

7 A. which is essentially done.

8 Q. Uh-huh. Now, under that program, there was
9 an estimated 96 percent of the funds utilized. There's 4
10 percent of the funds that have not been utilized under that
11 current reg plan.

12 would KCP&L be opposed to moving those 4
13 percent of funds to an EI ERA account for this current --
14 under the current reg plan that's in existence?

15 Not -- and I'm not speaking to anything going
16 forward. I'm speaking about the 4 percent of the funds that
17 haven't been utilized under that current plan.

18 A. we would not be willing to put the money
19 there without further evaluation. And the reason for
20 that --

21 Q. well, I just --

22 A. okay.

23 Q. -- asked if you were willing to do it. And
24 in listening to your testimony, and you were asked this
25 question by Ms. Mangelsdorf, that you are familiar with the

1 cost -- Customer Program Advisory Group, CPAG?

2 A. Yes. I am.

3 Q. And would KCP&L be agreeable, if all things
4 were worked out, to continue the utilization of CPAG to help
5 with the assistance of dispersing the low-income
6 weatherization funds?

7 A. Yes.

8 Q. And as I stated, it's been established that
9 most of the funds in your current reg plan for the
10 low-income weatherization have been utilized. And you also
11 are familiar that out of -- there are other state, local and
12 federal agencies that participate in the low-come [sic]
13 weatherization?

14 A. That's correct. Yes.

15 Q. Right. And based on the fact that 96
16 percent, or approximately -- I'm not going to hold you to
17 that amount -- have been utilized, even with the fact that
18 there are state, local and federal agencies dispersing money
19 to low-income weatherization, wouldn't KCP&L agree that
20 there is a definite need to continue a low-income
21 weatherization program?

22 A. Yes.

23 MS. SLACK: I have no further questions.

24 JUDGE PRIDGIN: All right. Thank you.

25 Redirect?

1 MR. FISCHER: Thank you, Judge. Just
2 briefly.

3 REDIRECT EXAMINATION BY MR. FISCHER:

4 Q. Mr. Rush, you were asked some questions
5 regarding whether the current DSM programs are cost
6 effective. Do you remember those?

7 A. I do.

8 Q. I believe you indicated they were effective
9 for customers, but not for the company?

10 A. That's correct.

11 Q. would you explain why they're not effective
12 for the Company?

13 A. I will try to. The issue that we struggle
14 with every day is that through implementing DSM programs, we
15 are putting cash out the door, we're expending money, and we
16 have to wait for a long period of time before recovery of
17 that occurs.

18 But in addition to that, in addition to this
19 waiting period which does not receive carrying costs and --
20 for KCP&L, we also reduce sales by getting customers to do
21 more energy efficiency things, whether it's through Empower
22 or home performance programs or whatever kind of programs.

23 The customers actually reduce their kilowatt
24 hour consumption. When they reduce their kilowatt hour
25 consumption, something occurs called -- we lose the

1 margins -- that is, the fixed -- the recovery of fixed costs
2 from those -- and they often call it lost revenues. And we
3 lose revenue from the reduction of customers' usage.

4 So what happens is, the regulatory paradigm,
5 in my mind, has always been, the more you sell, the lower
6 your rates can go with customers, because you're recovering
7 your fixed costs and variable costs, et cetera.

8 with energy efficiency, we're actually going
9 against ourselves, and we're trying to reduce the growth,
10 which ends up increasing or causing other customers
11 problems. So we have this issue that affects our earnings
12 called lost revenues.

13 Additionally, we don't receive any incentives
14 or any movement that would encourage us to do this. So
15 we're -- what happens is, we are in a paradigm where we're
16 trying to do something which we think is right, but
17 essentially we're hurting our shareholders for every dollar
18 we spend. Our desire is to get to a recovery mechanism that
19 helps improve that.

20 Q. And why doesn't the current recovery
21 mechanism do that, accomplish that for the company?

22 A. well, the current recovery mechanism for the
23 CEP or for Kansas City Power and Light actually -- it
24 spreads the cost recovery out over ten years, and it limits
25 how many dollars you can earn. You're limited to the AFUDC

1 rate. So it's literally treating it far, far less than the
2 recovery of an investment of a fixed asset, like
3 distribution or generation or something like that.

4 But also, you're losing revenues from it, so
5 you don't recover your lost revenues. So there's a lot of
6 effects that are -- they're very detrimental to us.

7 Number one is, you have a cash position
8 problem, because you're spending money without anything
9 coming in the door to recover that; and number two is,
10 customers' usage is going down, and so you're losing
11 revenues from that that are also detrimental to earnings.

12 Q. You were asked some questions about
13 weatherization programs. How are those treated under the
14 current cost recovery mechanism?

15 A. They're treated the same way as other DSM
16 programs. They're simply put in this regulatory asset. You
17 wait for a long period of time. And at some point, you
18 start recovering those over a ten-year period. That's how
19 it was in the CEP plan, or the regulatory plan.

20 Tomorrow -- or starting January 1, 2010, we
21 really don't have a recovery mechanism agreed to by anybody.
22 We don't have any -- so every dollar we spend today is at
23 risk. It's not in rates. It's -- we don't really have a
24 recovery mechanism. And we're trying in this case to get
25 one established.

1 Q. well, why is it -- or why is or why is it not
2 the current mechanism that's included in the regulatory plan
3 stipulation adequate?

4 A. As I just said, we have lost revenues
5 occurring. We earn less than our -- we don't receive
6 carrying costs. We do not receive lost revenues. We don't
7 have any incentive to move forward.

8 what we have recommended -- or what I
9 recommended, which I think is far less than what I would
10 hope the MEEIA rule would come out, but again, at least puts
11 us on a level playing field with other utilities in the
12 state, is if we would all move to a six-year amortization of
13 the expenditures, meaning we have an agreement that expenses
14 being incurred after this point -- after January 1, 2010 --
15 would have a six-year recovery, we would receive carrying
16 costs, and we would receive rate-base treatment. And that's
17 what I've recommended in my rebuttal. And that's similar to
18 what Ameren has in their case.

19 Q. would that -- that proposal be a permanent
20 solution?

21 A. It is not at all a permanent solution,
22 because what we're trying to do is wait until the MEEIA
23 rules are established.

24 Again, our -- I quote in my testimony, my
25 real long-term desire is to receive contemporaneous recovery

1 of expenses, assurance of recovery of lost revenues, and an
2 incentive that allows us to be on a equal, level playing
3 field with generation and other activities -- other
4 asset-growing businesses.

5 Q. Counsel for DNR asked you about expensing
6 weatherization. Do you recall that conversation?

7 A. I did.

8 Q. would that be better than the current
9 proposal?

10 A. The --

11 Q. I mean -- excuse me -- the current method?

12 A. It would. Yes.

13 Q. why would that be the case?

14 A. Because at least we would have the cash
15 coming in the door. We would also know how much we're
16 spending. If -- I mean, it would put us on a better playing
17 field than our current DSM plans -- or current DSM recovery
18 mechanism that's expiring.

19 Q. Do you understand whether the Commission
20 needs to approve demand-side programs under MEEIA?

21 A. I believe they do. The way you do it, you
22 actually file all of the tariffs -- the way the rule is
23 current structured, we actually would file the tariffs that
24 would become the MEEIA tariffs.

25 And then there's a period of waiting while

1 it's evaluated by Staff and other parties. I believe it's
2 six months, is the current proposal. And within that
3 filing, you would also address your recovery mechanism.

4 Q. Counsel for Staff asked you about placing
5 the -- she -- I think she referenced a 4 percent amount that
6 you haven't spent on weatherization funds into an EIERA
7 fund.

8 A. Right.

9 Q. And I believe you indicated that you weren't
10 willing to do that. Why not?

11 A. Well, I tell you, what we end up doing, we
12 have an organization called CPAG that also worked through
13 the IRP process. And we weigh all the balances of things.
14 We don't physically say, the budget is
15 exactly what is spent for a program. We have a
16 categorization. I believe there is about 12 programs that
17 exist, and each one of them -- some we may ramp up, some we
18 may bring down. But we essentially want to make sure that
19 the funds spent make sense. And we use that organization as
20 an advisory group to get input.

21 So what I was trying to get at is, you know,
22 we may have spent way more money on one program than another
23 and others maybe lower. We would have to balance all those
24 aspects.

25 If there was an attempt to try to have this

1 fixed amount being spent on a program, we would address it.
2 But it's not really been addressed that way for any of the
3 programs.

4 Q. Is KCPL a large enough utility to administer
5 its own program?

6 A. It is, and we do.

7 Q. Is that one of your concerns about
8 transferring money to EIERA?

9 A. It wasn't actually. I wrote about it in my
10 testimony. It was just not -- you know, you're in the cash
11 position, and you're concerned about cash and you're
12 spending money to somebody who is going to essentially
13 administer the cash. And that was our concern.

14 You know, we would be happy to work with the
15 EIERA in trying to look at things, but currently, we're in,
16 in my mind, this bridge period that we don't really have a
17 good clear understanding of our programs. And that's the
18 issue that we're faced with today.

19 Q. Well, let me ask you, if nothing happens in
20 this case, what do you see the future as?

21 A. Scary. I think what -- you know, if we don't
22 get some resolution to addressing the recovery that gives
23 Kansas City Power and Light and GMO some ability to
24 understand going forward, my fear is that, as we have talked
25 about -- we've been very candid about this to all the

1 parties through CPAG at saying, if we don't get a plan to
2 address this, we're going to have to ramp down our programs
3 and reduce them.

4 And whether that's, you know -- if you look
5 at the MEEIA rule, the MEEIA rule doesn't just say all
6 cost-effective programs, it talks about earnings
7 opportunities for the utilities and incentives.

8 There's a whole litany of issues that say,
9 these are the goals of the MEEIA rule. And it's not just
10 simply all cost-effective program. I think it's in concert
11 with a lot of other goals, and you have to balance those.

12 Q. I think counsel for the Staff suggested that
13 KCPL has shown a commitment to weatherization programs. Do
14 you recall that?

15 A. Yes. I did.

16 Q. Have you also shown a commitment to DSM
17 programs?

18 A. Yes. I would -- this is just maybe a
19 prideful thing, but I think KCP&L and now GMO are somewhat
20 the leaders of DSM programs in the state of Missouri.

21 We are aggressive -- we have been very
22 aggressive in trying to implement programs. We have tried
23 to work with things. We've tried things that don't work,
24 we've tried things that have been very successful. We are
25 trying to move forward in understanding this new world.

1 Q. Did you spend more on DSM than was included
2 in the regulatory plan?

3 A. We actually -- yes, we did -- substantially
4 more money.

5 MR. FISCHER: Thank you. That's all I have.

6 JUDGE PRIDGIN: All right, Mr. Fischer.

7 Thank you.

8 Mr. Rush, thank you. You can step down.

9 (Witness excused.)

10 JUDGE PRIDGIN: It's my preference to
11 conclude for the evening, because if we take a dinner break
12 and came back, I don't know that we would accomplish much
13 more before calling it a night. And if you're like me, you
14 probably still have snow to shovel.

15 So I would like to discuss scheduling with
16 counsel. Is that something we can do off the record?

17 MR. STEINER: I think so.

18 JUDGE PRIDGIN: All right. We will go off
19 the record. I do plan on resuming at 8:30 in the morning.
20 So thank you. We're off the record.

21 (The hearing was adjourned until 8:30 a.m. on
22 February 4, 2011.)

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CERTIFICATE OF REPORTER

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

Lisa M. Banks, CCR

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E X H I B I T I N D E X

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KANSAS CITY POWER AND LIGHT COMPANY:

Exhibit No. KCPL-58 NP 3302 3302
Direct Testimony of Michael Schnitzer

Exhibit No. KCPL-58 NP 3302 3302
Direct Testimony of Michael Schnitzer

Exhibit No. KCPL-35 3441 3443
Prefiled direct testimony Darrin Ives

Exhibit No. KCPL-36 3441 3443
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Direct testimony of Tim Rush

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