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THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

February 16, 2011

Jefferson City, Missouri

Volume 40

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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 )

\_\_\_\_\_

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SENIOR REGULATORY LAW JUDGE.  
JEFF DAVIS,  
Commissioners.

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1                   MS. SLACK: Judge Dippell, how did you  
2 want me to proceed with my withdrawal of those  
3 corrections?

4                   JUDGE DIPPELL: I'll get to that right  
5 now. Ms. Slack had an update about our disagreement  
6 about some corrections yesterday to Mr. Warren's  
7 testimony. So Ms. Slack, go ahead.

8                   MS. SLACK: Yes, your Honor. We'd like  
9 to go ahead and withdraw the corrections that  
10 Mr. Warren made to his record yesterday

11                   JUDGE DIPPELL: All right.

12                   MS. SLACK: And leave the recommendation  
13 as it stood.

14                   JUDGE DIPPELL: All right. And so it was  
15 Judge Pridgin's recollection that those items had  
16 been -- that his testimony had, in fact, been offered  
17 and admitted on the last day of the hearing by --  
18 Mr. Williams had offered those. So I believe that  
19 those as they are now, stand admitted so --

20                   MS. SLACK: Thank you, your Honor.

21                   JUDGE DIPPELL: Is there any other  
22 preliminary matters before we start with the next  
23 issue, which is the Jeffrey Energy Center?

24                   MR. FISCHER: We're prepared to go  
25 forward, Judge.

1                   JUDGE DIPPELL: All right. All right. I  
2 think the first witness then is going to be  
3 Mr. Hedrick; is that correct?

4                   MR. FISCHER: Yes.

5                   (GMO Exhibit No. 20-HC, 20-NP, 21-HC and  
6 21-NP were marked for identification.)

7                   (Witness sworn.)

8                   JUDGE DIPPELL: Whenever you're ready,  
9 Mr. Fischer.

10                  MR. FISCHER: Thank you.

11 TERRY HEDRICK, having been sworn, testified as  
12 follows:

13 DIRECT EXAMINATION BY MR. FISCHER:

14                  Q. Please state your name and address for  
15 the record.

16                  A. Terry S. Hedrick, H-e-d-r-i-c-k. Live at  
17 4552 Southwest Gull, G-u-l-l, Point Drive, Lee's  
18 Summit, Missouri.

19                  Q. Are you the same Terry Hedrick that  
20 caused to be filed in this case certain testimony  
21 that's been marked as GMO 20-HC and NP, which is your  
22 direct testimony; and also rebuttal testimony that's  
23 been marked as GMO 21-HC and NP?

24                  A. I am.

25                  Q. Do you have any corrections or updates

1 you need to make to that testimony?

2 A. I do not.

3 Q. If I were to ask you the questions that  
4 are contained in your pre-filed testimony, would your  
5 answers be the same?

6 A. They would.

7 Q. Are they true and accurate to the best of  
8 your knowledge and belief?

9 A. Yes.

10 Q. Did you have any schedules attached to  
11 your testimony?

12 A. I did not.

13 Q. Looks like there may be one, it's a  
14 report. To the best of your knowledge, is the  
15 information contained in the schedules correct?

16 A. There is an in-service report, correct,  
17 to the direct testimony, yes.

18 MR. FISCHER: Judge, with that, I would  
19 move for the admission of GMO 20 and 21, both the HC  
20 and the NP versions, and tender the witness for cross.

21 JUDGE DIPPELL: All right. I'm a little  
22 off this morning. Would there be any objection to  
23 Exhibits GMO 20 and 21? Seeing none then, I will  
24 admit those.

25 (GMO Exhibit Nos. 20-HC, 20-NP, 21-HC and

1 21-NP were received into evidence.)

2 JUDGE DIPPELL: And will there be any  
3 cross-examination from anyone other than Staff? All  
4 right. Ms. Ott.

5 CROSS-EXAMINATION BY MS. OTT:

6 Q. Good morning, Mr. Hedrick.

7 A. Good morning.

8 Q. Could I refer you to page 3 of your  
9 rebuttal testimony. On lines 7 through 9 you state  
10 that there were site visits conducted by GMO staff  
11 members. Who were the staff members that were onsite?

12 A. The 8 percent ownership agreement allows  
13 for committee members. So there was an operations  
14 committee member that would have -- at the time of  
15 this project would have been Max Sherman.

16 Q. And was he the only individual that would  
17 have conducted the onsite visits?

18 A. To my knowledge.

19 Q. Okay. Now, would bankruptcy be a reason  
20 a contractor could not obtain a performance bond?

21 A. The next witness is an expert in that  
22 area, Len Ruzicka, and he can -- that's not my area of  
23 expertise.

24 Q. So you personally don't know if  
25 bankruptcy would be a reason a contractor could not

1 obtain a performance bond?

2 A. Correct.

3 Q. Do you know any reasons why a contractor  
4 could not obtain a performance bond?

5 A. To my knowledge with the construction  
6 background, there could be numerous reasons. But once  
7 again, Len Ruzicka will go into great detail on that.

8 Q. Do you know any reason why a contractor  
9 could not obtain a letter of credit?

10 A. Once again, we have a witness that's  
11 going to fully discuss that.

12 Q. PMSI's original contract was a fixed  
13 price contract; is that correct?

14 A. To my understanding, yes.

15 Q. Okay. Let's go to page 5 of your  
16 rebuttal testimony. And I'm going to try to ask a  
17 question that won't go into highly confidential  
18 information, but if the answer's going to elicit one,  
19 I hope counsel would let me know so we can go  
20 in-camera before you give an answer. Can you just  
21 look over lines 3 through 15 real quick to refresh  
22 your memory?

23 A. I've read lines 3 through 15.

24 Q. Okay. So could you agree with me that  
25 Westar was looking for a new contractor during the

1 project?

2 A. I would agree that Westar did look at  
3 that, yes.

4 Q. Okay. And only one other contractor  
5 expressed interest in performing work on the project?

6 A. To my understanding, they worked with one  
7 contractor to look at that aspect, yes.

8 Q. So did only one contractor express  
9 interest in working on the project or they only --  
10 they only worked with one?

11 A. I don't know.

12 Q. Who was that contractor?

13 A. I believe that was InterFab.

14 MS. OTT: I think we probably need to go  
15 in-camera.

16 JUDGE DIPPELL: All right. Let's go  
17 in-camera. If you give me just one moment. I don't  
18 know if there's anyone in the room -- I don't believe  
19 so -- who cannot be for the in-camera stuff.

20 (REPORTER'S NOTE: At this point, an  
21 in-camera session was held, which is contained in  
22 Volume 41, pages 4254 through 4265 of the transcript.)

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1                   JUDGE DIPPELL:  And is there any  
2  redirect?

3                   MR. FISCHER:  Yes.

4  REDIRECT EXAMINATION BY MR. FISCHER:

5           Q.     Mr. Hedrick, was PMSI ever put on notice  
6  of default in regard to the liquidated damages, to  
7  your knowledge?

8           A.     To my knowledge, they were never put on  
9  notice, that is correct.

10          Q.     You were asked questions about DR 258  
11  where it makes a reference to long and costly points  
12  of discussion, arbitration and/or litigation.  Do you  
13  recall those questions?

14          A.     I do recall that.

15          Q.     What's your understanding of why there  
16  would be long and costly points of discussion on that?

17          A.     Any large construction project like this  
18  would have many terms and conditions that would be the  
19  terms for the default.  For example, the contractor  
20  would be allowed to cure, there's many -- many things  
21  that would happen that would -- could greatly extend  
22  the length of the project or the negotiations.  And  
23  once again, that's why Len Ruzicka was brought on  
24  board to go into that in more detail and to pull that  
25  into all the change orders.

1           Q.     You were asked a question about  
2 Exhibit 257 where you discussed that GMO was an  
3 8 percent owner of the project. Do you recall that?

4           A.     I do.

5           Q.     As an 8 percent owner, did GMO have a  
6 significant input into how Westar dealt with PMSI?

7           A.     No, they did not.

8           Q.     Early in your cross-examination you were  
9 asked about whether bankruptcy or other reasons would  
10 impact the ability to get a performance bond. Do you  
11 recall that?

12          A.     I do recall that.

13          Q.     What's your understanding of the reasons  
14 why PMSI was not required to have a performance bond?

15          A.     When they entered into the contract,  
16 there was an owner's engineer, Burns and McDonnell.  
17 They did an evaluation and they recommended to move  
18 forward with PMSI. Any large construction project you  
19 would have some form of surety and you could have a  
20 performance bond to my understanding, you could have a  
21 line of credit. There's many things you could have  
22 for a surety.

23                     And what they looked at was the  
24 difference in the next cost, which is a delta of about  
25 \$30 million. So that was more of an immediate surety

1 that they captured with that evaluation.

2 Q. When you say there was a delta of about  
3 \$30 million for an alternative, are you talking about  
4 an alternative supplier?

5 A. The second supplier, the second low bid.

6 Q. Would you expand on that answer then on  
7 why there was such a large delta?

8 A. Why -- why was there a difference in the  
9 costs?

10 Q. Yes.

11 A. I can talk to background on PMSI. They  
12 had worked quite extensively at Westar. They were --  
13 they were one of their main contractors at the Westar  
14 facility. A large portion of PMSI's work was done at  
15 that facility.

16 MR. FISCHER: That's all I have. Thank  
17 you, Judge.

18 JUDGE DIPPELL: Thank you. Mr. Hedrick,  
19 I think that concludes your testimony.

20 THE WITNESS: Thank you.

21 JUDGE DIPPELL: Appreciate it. You may  
22 step down. Would KCPL like to call its next witness?

23 MR. FISCHER: Yes, please.

24 (GMO Exhibit Nos. 36-HC and 360-NP were  
25 marked for identification.)

1 (Witness sworn.)

2 JUDGE DIPPELL: Thank you.

3 LEONARD RUZICKA, JR. having been sworn, testified as  
4 follows:

5 DIRECT EXAMINATION BY MR. FISCHER:

6 Q. Please state your name and address for  
7 the record.

8 A. Leonard R. Ruzicka, Jr. 1947 Sunny  
9 Drive, Kirkwood, Missouri.

10 Q. By whom and in what capacity are you  
11 employed?

12 A. I was employed by -- my present employer  
13 is Stinson, Morrison, Hecker. I'm a partner in the  
14 construction practice group of Stinson, Morrison,  
15 Hecker.

16 Q. And are you appearing today on behalf of  
17 Kansas City -- KCPL/Greater Missouri Operations  
18 Company?

19 A. Yes, I am.

20 Q. Did you cause to be filed in this  
21 proceeding certain rebuttal testimony that has now  
22 been marked as GMO 36-HC and GMO 36-NP?

23 A. That's correct.

24 Q. Do you have any changes that you need to  
25 make to that testimony?

1 A. No, sir.

2 Q. If I were to ask you the questions that  
3 are contained in that testimony today, would your  
4 answers be the same?

5 A. Yes, they would be.

6 Q. And are they true and accurate to the  
7 best of your knowledge and belief?

8 A. Yes, they are.

9 Q. And there is a schedule attached to your  
10 testimony I think that explains your background. Is  
11 that also accurate as best of your knowledge and  
12 belief?

13 A. Everything but the picture. That appears  
14 to be touched up.

15 Q. Okay. Thank you.

16 MR. FISCHER: Judge, with that, I would  
17 move for the admission of GMO 36-HC and NP and tender  
18 the witness for cross.

19 JUDGE DIPPELL: Is there any objection as  
20 to Exhibit 36-HC? Seeing none, then I will admit it.

21 (GMO Exhibit No. 36-HC and 36-NP were  
22 received into evidence.)

23 JUDGE DIPPELL: Will there be any  
24 cross-examination other than Staff? Seeing none, then  
25 go ahead, Ms. Ott, when you're ready.

1 CROSS-EXAMINATION BY MS. OTT:

2 Q. You stated you work for Stinson,  
3 Morrison, Hecker?

4 A. That's correct.

5 Q. Does your firm perform construction  
6 management services?

7 A. We're a law firm and so as such, no, we  
8 do not.

9 Q. Do you perform project management  
10 services?

11 A. I spent 20 years as the general counsel  
12 and at one point executive vice president of Fru-Con  
13 Construction. And certainly during those 20 years, I  
14 performed all those functions.

15 Q. Does Stinson, Morris perform project  
16 management services?

17 A. No, they do not.

18 Q. Did you respond to an RFP for your  
19 services?

20 A. No, I was just called and contacted.

21 Q. What is your understanding of how KCPL  
22 selected you for this work?

23 A. I had previously done some construction  
24 contract negotiations on a rebuild for -- for a  
25 project for Aquila and also at one point for Westar.

1 And so Terry Hedrick and some of the KCPL -- P&L  
2 people knew about my construction expertise.

3 Q. Now, are you providing testimony today as  
4 a lawyer or as a -- as a witness?

5 A. As a witness. Expert witness on  
6 construction matters.

7 Q. Now, you said you worked for 20 years at  
8 Fru-Con Corporation; is that correct?

9 A. That's correct.

10 Q. And also I think on page 2 of your  
11 rebuttal testimony it states that you were retained to  
12 review documents and interview individuals as  
13 necessary to determine the appropriateness of awarding  
14 the con-- PMSI contract; is that correct?

15 A. I'm sorry. What are you reading from?

16 Q. Be page 2 of your rebuttal.

17 A. Oh, I'm sorry. On page 2?

18 Q. Yes.

19 A. That's accurate.

20 Q. Now, on page 3 just to be sure, starting  
21 on line 9 you state, When the spread between the low  
22 and the second low bidder is substantial, it would be  
23 appropriate and reasonable to consider waiving a  
24 bonding requirement, but only after conducting the  
25 same type of due diligence that is conducted by

1 sureties.

2 Is that a correct reading?

3 A. That's what it says, yes.

4 Q. Okay. While at Fru-Con were you involved  
5 in government -- letting government contracts?

6 A. I'm sorry. Would you repeat that  
7 sentence?

8 Q. When you were at Fru-Con, were you  
9 involved in letting government contracts?

10 A. In letting government contracts?

11 Q. Were you involved in government contracts  
12 in any capacity?

13 A. Yes, I was.

14 Q. Okay. And in a -- at Stinson, have you  
15 been involved ever with working with government  
16 contracts?

17 A. Yes, I have.

18 Q. Okay.

19 A. But I -- they're not let. They're  
20 typically public bid solicitations, yes.

21 Q. The RFP process?

22 A. Right.

23 Q. So are you familiar with the regulations  
24 regarding government contracts?

25 A. Federal Acquisition Regulations, I'm very

1 familiar with them.

2 Q. Okay.

3 A. As -- as they apply to  
4 construction-related contracts. In fact, a large part  
5 of my practice is government contracting.

6 Q. Okay.

7 MS. OTT: I'd like to have an exhibit  
8 marked. We'd be at KCPL [sic] 260?

9 JUDGE DIPPELL: 260. And is this  
10 confidential?

11 MS. OTT: No, this is not.

12 (GMO Exhibit No. 260 was marked for  
13 identification.)

14 BY MS. OTT:

15 Q. Now, this is just a portion of the  
16 Federal Acquisition Regulation. I would have given  
17 you the entire document, but it's over 2,000 pages.

18 A. Yes. This is the Federal Acquisition  
19 Regulations on the Miller Act bond, requirement for  
20 federal projects.

21 Q. Now, can you turn to the page that -- at  
22 the bottom that is labeled 9.1-1.

23 A. I'm sorry. Are we still looking at this?

24 Q. Yes. It's the second-to-last page. Now,  
25 under Section 9.104-1, general standards, do you see

1 that? In item -- it states, To be determined  
2 reasonable [sic], a prospective contractor must -- and  
3 then it says, A, have adequate financial resources to  
4 perform the contract or the ability to obtain them; B,  
5 be able to comply with the required or proposed  
6 delivery or performance schedule taking into  
7 consideration all existing commercial and governmental  
8 business commitments; C, have satisfactory performance  
9 record. A prospective contractor shall not be  
10 determined reasonable or non-reasonable solely on the  
11 basis of lack of relevant performance history except  
12 as provided in 9.104-2; and D, have a satisfactory  
13 record of integrity and business ethics.

14 Do you see that?

15 A. That's what this FAR section says, yes.

16 Q. So at least as government contracts are  
17 involved, to be determined a reasonable, responsive  
18 bidder, a contractor must have good performance  
19 record, adequate financial resources, and have a  
20 satisfactory record of integrity and business ethics.  
21 Would that be correct?

22 A. That's what the -- that's what the FAR  
23 requires, yes.

24 Q. And with your experience with the private  
25 industry, would these be basic requirements that could

1 also apply to contractors on construction projects?

2 A. I think we're talking about apples and  
3 oranges. There's a federal statute called the Miller  
4 Act that requires performance bonds and requires  
5 these -- these regulations. This particular project  
6 involves private. And if you want to address what  
7 contractors do and owners do in the private side, we  
8 can address that. There is no leeway in federal  
9 contracting.

10 Q. But my question is, would these be good  
11 standards for the private industry for someone looking  
12 for a contractor to -- to possess those standards?

13 A. Well, as I said in my testimony, it -- it  
14 depends upon facts and circumstances. Certainly over  
15 the last 35 years, I've been on many occasions faced  
16 with the situation or had clients faced with the  
17 situation of awarding when one of these elements  
18 weren't there. And under the facts and circumstances  
19 of one of those elements being there, still prudently  
20 awarding to that contractor.

21 When you -- when you're dealing with  
22 federal government contracting and FARs, there is no  
23 leeway. You do what the federal regulations require.  
24 As a matter of fact, there's a -- what they call a --  
25 a Bulletin E that lists the bonding companies that the

1 contractors have to use. They can't use any bonding  
2 company other than those on Schedule E. So we're  
3 talking about two different issues here.

4 Q. Now, you said there's leeway if -- in  
5 some circumstances where they might not have to have  
6 one of these characteristics?

7 A. On private work, yes, sir -- yes, ma'am.

8 Q. On private work. Is that pertaining to  
9 all of the characteristics or is there one in which  
10 the leeway could apply to?

11 A. If you're dealing with government, you  
12 have no leeway. You follow the federal acquisition  
13 regulations.

14 Q. I -- that's not --

15 A. When you're dealing with the private --  
16 when you're dealing with the private side, you can  
17 take anything into consideration based on the facts  
18 and circumstances.

19 Let's say, for example, you have a  
20 contractor who doesn't meet any of these requirements  
21 but he's a dirt contractor doing the front end work  
22 and he's easily replaceable. Not having a bond, not  
23 having financial resources, not even having experience  
24 wouldn't be that important because he's easy to be  
25 replaced.

1                   So you're going to have to give me some  
2 facts and circumstances for me to make that decision.  
3 But I could -- I could see a prudent owner hiring a  
4 contractor that met none of these requirements.

5           Q.     Do you think PMSI was -- could be  
6 easily -- easily replaced?

7           A.     This is a different set of circumstances.  
8 At the time they were evaluated, PMSI --

9           Q.     I --

10          A.     Let me finish. You asked me a question.

11                   MS. OTT: Well, Judge, I'd like him to  
12 answer my question. It was a yes or no answer.

13                   JUDGE DIPPELL: You can answer her  
14 question either yes or no or you don't know.

15                   THE WITNESS: Why don't you repeat the  
16 question.

17 BY MS. OTT:

18          Q.     Could PMSI be easily replaced?

19          A.     Yes.

20          Q.     When I was handing out documents earlier,  
21 do you have a copy of Data Request 350, which has been  
22 marked as KCPL 257 [sic] in front of you?

23                   MS. OTT: And I'd like to admit it. I'm  
24 not sure if I did that yet, KCPL [sic] 260.

25                   JUDGE DIPPELL: Would there be any

1 objection to GMO 260, which was the copy of the  
2 Federal Acquisition Regulations or portions thereof?

3 MR. FISCHER: No objection.

4 JUDGE DIPPELL: Then I will admit that.

5 (GMO Exhibit No. 260 was received into  
6 evidence.)

7 MS. OTT: And I think we're going to have  
8 to go in-camera. If we can come out, I'll let you  
9 know, but the rest of it may all be in-camera.

10 JUDGE DIPPELL: All right. We'll go out  
11 of the public session and in-camera.

12 (REPORTER'S NOTE: At this point, an  
13 in-camera session was held, which is contained in  
14 Volume 41, pages 4280 through 4327 of the transcript.)

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1                   JUDGE DIPPELL: Go ahead. I apologize  
2 for interrupting.

3 BY MS. OTT:

4           Q.     Now, would cash flow issues be a reason a  
5 contractor could not obtain a performance bond?

6           A.     Cash flow liquidity, yes.

7           Q.     Okay. Would bankruptcy be a reason a  
8 contractor could not obtain a performance bond?

9           A.     I think I asked -- you asked that and I  
10 answered it.

11          Q.     Is it a yes?

12          A.     Yes.

13          Q.     And liquidity reasons would be a reason  
14 they couldn't obtain a performance bond?

15          A.     That's correct.

16          Q.     And would default in the past be a reason  
17 a contractor could not obtain a performance bond?

18          A.     Default or termination? There's a big  
19 difference.

20          Q.     Well, how about default and then we'll go  
21 to termination.

22          A.     No.

23          Q.     Okay. But termination would be a  
24 reason --

25          A.     If it --

1 Q. -- in obtaining a performance bond?

2 A. If we're -- if it were a determination --  
3 termination for default, yes. Defaults, allegations  
4 of defaults are pretty common in the construction  
5 industry.

6 Q. Okay. So --

7 A. Default for cause proven would be a  
8 reason.

9 Q. So would these same issues, bankruptcy,  
10 cash flow issues, liquidity problems and default, be a  
11 reason a contractor could not obtain a letter of  
12 credit?

13 A. Letter of credits are a function of -- of  
14 providing the funds to support the letter of credit.  
15 That's totally different than a bond. But most owners  
16 would not want a letter of credit because a letter of  
17 credit just strains the liquidity of a contractor.

18 Q. Okay. But would those be reasons in  
19 which a contractor could not obtain a letter of  
20 credit?

21 A. Not to my knowledge. I think --

22 Q. So no?

23 A. -- banks issue letters of credit based  
24 on --

25 Q. Thank you. Okay. Going back to your --

1 your due diligence, I believe earlier you stated that  
2 you would look into the directors of a company,  
3 whether or not they were engaged in criminal activity?

4 A. You asked -- I think you asked me if I  
5 were aware of -- I don't recall if you said a  
6 director. It's someone within a company had  
7 allegations, would I be concerned about that. And I  
8 think I would be concerned. Your question --

9 Q. As a surety, would they be concerned --

10 A. Certainly.

11 Q. -- if the directors were engaged in  
12 criminal activity?

13 A. Wait a minute. If the directors. I  
14 thought before you asked me if the principals or  
15 officers. I --

16 Q. And that's -- yes, that's what I'm  
17 referring to here. The principal.

18 A. Let's be clear. Are you talking about  
19 the employees of the corporation or the directors of  
20 the corporation?

21 Q. The employees.

22 A. The employees. I would be concerned and  
23 I would look into that, yes.

24 Q. Would you also be concerned if the CEO of  
25 the corporation was engaged in criminal activity?

1           A.     Would I be concerned? I'd certainly look  
2 into it to see what the nature of it was. If it's  
3 allegations --

4           Q.     I'm going --

5           A.     -- convictions --

6           MS. OTT: I would like to have another  
7 exhibit marked so we'd be at GMO 264?

8           JUDGE DIPPELL: Yes.

9           MS. OTT: If you could take a moment to  
10 kind of review these documents.

11                   (GMO Exhibit No. 264 was marked for  
12 identification.)

13 BY MS. OTT:

14           Q.     Have you looked at these documents?

15           A.     Yes, I have.

16           Q.     On the first page this is an Orange  
17 County District Attorney Press Release dated  
18 September 5th, 2003. And it was -- looks like it was  
19 posted on April 28th, 2005 at 5:37 p.m. The first  
20 page.

21                   Do you see that?

22           A.     Uh-huh. Yes, I do.

23           Q.     Okay. And the first paragraph reads,  
24 Santa Ana, Richard G. Engel --

25           MR. FISCHER: Judge, I'm going to object

1 to reading something into the record that has --  
2 there's no foundation for it, there's no witness that  
3 can sponsor it. It appears to be something that was  
4 taken off the internet on 2/14 of this year. And in  
5 light of the Commission's rulings on lack of  
6 foundation and on cross-examination, I'm going to  
7 object to any reference to this kind of a document be  
8 read into the record.

9 MS. OTT: I can lay the foundation, but  
10 also this is a public record that is available online  
11 from a district attorney's office, as well as the  
12 second sheet which is a summary -- Case Summary, which  
13 is a similar docket to our Case.net system here in  
14 Missouri. If counsel would like, I would pay the  
15 money to have a certified copy sent for later on.

16 MR. FISCHER: Judge, I don't think it's  
17 the kind of thing that this Commission can take  
18 administrative notice of and there's no -- no witness  
19 who can provide foundation for it and I would object  
20 on those grounds.

21 JUDGE DIPPELL: Ms. Ott, you said you --

22 MS. OTT: I'll attempt to lay some  
23 foundation.

24 JUDGE DIPPELL: -- you had more  
25 foundation?

1 BY MS. OTT:

2 Q. So when you're reading this document,  
3 Mr. Ruzicka, does it indicate that Mr. Engel, the  
4 owner of PMSI, located in Costa Mesa, California, is  
5 an individual named here?

6 A. Why don't you just read the document into  
7 the record? I'm not in a position to testify as to  
8 this document. It's just -- it's just an allegation.

9 Q. I'm saying it's an allegation, but your  
10 counsel has asked for me to lay some foundation so --  
11 you can read a document and tell me what it says.

12 A. Why don't you read the document and I'll  
13 tell you if it's -- if you're reading yours  
14 accurately? Let's do it that way.

15 MS. OTT: I believe his counsel has said  
16 otherwise.

17 MR. FISCHER: Judge, I'm still going to  
18 object to reading it into the record unless this  
19 witness can provide a foundation. He's indicated I  
20 don't think -- that he cannot. He doesn't know  
21 anything about this. It's improper to read something  
22 like this into the record if it's -- if it can't be --  
23 lay a foundation for it.

24 JUDGE DIPPELL: I have to agree with  
25 that, Ms. Ott. If this witness doesn't have any

1 knowledge of this document, then I'm not sure how you  
2 can lay a foundation with him. If this is some sort  
3 of public record that can have notice taken of it or  
4 whatever, I would allow you to offer it in that  
5 manner.

6 MS. OTT: I mean, it's a public press  
7 release from the district attorney of Orange County.

8 JUDGE DIPPELL: Well, as far as I know,  
9 press releases are not typically public record that  
10 the Commission can take administrative notice of.

11 MS. OTT: Well, I do know earlier in  
12 these proceedings there were newspaper articles that  
13 were similarly admitted into evidence with no  
14 foundation laid so --

15 MR. FISCHER: Judge, whenever I Google  
16 James M. Fischer, I come up with about 50 James M.  
17 Fischers. We have no idea who this person is.  
18 There's just no lack -- there's a lack of foundation  
19 and we'd object.

20 MS. OTT: Well, I do think it  
21 indicates --

22 JUDGE DIPPELL: I'm going to sustain the  
23 objection. Like I say, if there is some court  
24 document or other official business record or public  
25 document that the Commission can take official notice

1 of, I will be happy to do so.

2 MS. OTT: Well, the second portion, the  
3 Case Summary, we can get the official court document  
4 and admit it as a late-filed exhibit. At this time we  
5 only have the -- the online version without the  
6 certified copy from the court.

7 MR. FISCHER: Judge, we would object to  
8 that as well. This -- this issue has been teed up for  
9 many months. It could have been included in rebuttal,  
10 surrebuttal testimony and it was not. And we would  
11 object to reserving any kind of a late-filed exhibit  
12 or some kind of a certification of a document which is  
13 not -- not included in the record at this point that's  
14 being now produced for cross-examination.

15 MS. OTT: Well, Mr. Ruzicka did indicate  
16 that he would be interested in criminal activity from  
17 a CEO of a corporation. This press release obviously  
18 states Richard G. Engel, the name signed on every  
19 document related to PMSI. And it also identifies him  
20 as the owner -- the CEO of Powerplant Maintenance  
21 Specialists, Inc., in Costa Mesa, California. The  
22 other documents have indicated that it was in Costa  
23 Mesa, California. And if somebody was doing due  
24 diligence, this was something if I was able to find --

25 JUDGE DIPPELL: Perhaps you can question

1 him about what he knows about this, but I have to  
2 sustain the objection.

3 BY MS. OTT:

4 Q. So were you aware?

5 A. No, I wasn't.

6 Q. So then hypothetically if the CEO of a  
7 corporation was charged with felonies, is that  
8 something --

9 A. Was charged with felonies or -- or was  
10 found guilty of felonies?

11 Q. Charged with a felony tax evasion.

12 A. That would be certainly something that  
13 you would look at as part of the due diligence.

14 Q. Okay. Let's go to -- now, in your work  
15 for KCPL, did you follow any authoritative standards  
16 as -- such as the Generally Accepted Auditing  
17 Standards or the Government Auditing Standards?

18 A. In my work in this recent testimony or  
19 the --

20 Q. Yes. In reviewing the PMSI work?

21 A. I don't -- I didn't follow any auditing  
22 standards, no.

23 Q. Okay.

24 A. I -- I -- having reviewed the Jefferson  
25 Wells' report and Mr. Majors' report, I think that

1 following auditing standards comes up with some pretty  
2 wild assumptions and conclusions.

3 MS. OTT: I think we need to go back  
4 in-camera.

5 JUDGE DIPPELL: All right.

6 (REPORTER'S NOTE: At this point, an  
7 in-camera session was held, which is contained in  
8 Volume 41, pages 4338 through 4339 of the transcript.)

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1 JUDGE DIPPELL: Mr. Fischer, do you have  
2 redirect?

3 MR. FISCHER: I do, Judge. But we've  
4 been going for a couple hours and I can use a break  
5 first.

6 JUDGE DIPPELL: That sounds like a good  
7 idea. I should have thought of that myself. So let's  
8 go ahead. Let's take about a -- let's take a little  
9 less than 15 minutes, come back at 20 till. We can go  
10 off the record.

11 (A recess was taken.)

12 JUDGE DIPPELL: Okay. We're back on the  
13 record. I apologize for the break being a little  
14 longer than I had originally said.

15 Mr. Fischer, you had redirect?

16 MR. FISCHER: I do, Judge. Initially I  
17 think I can do some redirect in public session, but we  
18 dealt with so many documents confidentially maybe I'll  
19 have to go into in-camera.

20 JUDGE DIPPELL: All right. That's fine.

21 MR. FISCHER: Let me try to go through  
22 the public ones.

23 REDIRECT EXAMINATION BY MR. FISCHER:

24 Q. You were asked a question regarding  
25 whether you had responded to an RFP I think for this

1 engagement with the company. Do you recall that?

2 A. Yes.

3 Q. And you indicated that you had not; is  
4 that true?

5 A. That's correct.

6 Q. I believe you were also asked about your  
7 background a little bit. Fru-Con, what is Fru-Con?

8 A. Fru-Con is a large construction,  
9 engineering and real estate development company out of  
10 St. Louis, Washington, DC and Denver.

11 Q. What was -- what was your role at that  
12 company?

13 A. I was always general counsel for 20 years  
14 and I -- by the time I left, I was executive vice  
15 president.

16 Q. Did you have the occasion to hire law  
17 firms in that capacity, construction law firms?

18 A. All too often. All too often.

19 Q. Did you always use RFPs to hire those law  
20 firms?

21 A. I never used an RFP.

22 Q. In 20 years?

23 A. In 20 years I never used an RFP.

24 Q. And this would be to hire specialized  
25 construction law firms?

1           A.     That's correct.

2           Q.     You were asked a question I believe about  
3 whether PMSI could have been easily replaced. Do you  
4 recall that question?

5           A.     Yes.

6           Q.     Could they have been replaced at the same  
7 cost?

8           A.     Well, I was given the right to either say  
9 yes or no. And so I said yes, but like all questions  
10 like that, it depends. They could always be replaced.  
11 Certainly at the front end it would have been easier  
12 than later on.

13                     And at the time that they were actually  
14 considering -- Westar was considering replacing them  
15 in June of 2008, that would have been a very difficult  
16 time, imprudent time to replace them because they had  
17 already completed the rebuild of unit 1. And so the  
18 completion work of unit 2 and 3 would have just been  
19 a -- a -- the same type of scope of work and you  
20 certainly want somebody who's already done Unit 1 to  
21 do 2 and 3. So at that point it would have been very  
22 costly to replace PMSI.

23           Q.     It could have been costly -- would it  
24 have been prudent to replace PMSI with another  
25 contractor under the circumstances that existed?

1           A.     In June of 2008?

2           Q.     Yes.

3           A.     It would have been imprudent under -- for  
4 a number of different reasons.

5           Q.     Why would that be true?

6           A.     Well, the first reason is I could not see  
7 that there was any basis for defaulting PMSI -- PMSI  
8 at that point in time.  If you read through the  
9 22 change orders, you'll see there was a substantial  
10 change in the scope of work on those change orders  
11 that were issued starting in January of 2008 and  
12 issued right up through May of 2008 that were -- as I  
13 previously testified, a whole host of PCOs, pending  
14 change orders; field work authorizations that were  
15 outstanding and priced.

16                         So in order to replace a contractor, you  
17 would have had to terminate PMSI for Westar's  
18 convenience and paid them in full for whatever he owed  
19 them and then started with another contractor.  And  
20 most contractors are very reluctant to pick up other  
21 contractor's work and move forward with it.  They  
22 certainly won't do it on a lump sum basis.  And if  
23 they do it on a cost plus basis, it's going to be very  
24 costly because they're going to have to review and  
25 analyze the work in place and start all over again.

1 So it just made absolutely no sense to even consider  
2 it.

3 Q. Staff counsel referred you to  
4 Exhibit 261, which I believe was your work papers, and  
5 asked you whether there was a reference to bankruptcy  
6 there. Do you recall that conversation?

7 A. Yes, I do.

8 Q. Did other work papers have references to  
9 bankruptcy that you referred -- that you reviewed?

10 A. Yes. The Jefferson Wells' work papers,  
11 which I think Ms. Ott gave me as a separate exhibit,  
12 referenced those -- that bankruptcy and referenced  
13 that -- that obligation to the IRS.

14 MR. FISCHER: Judge, just to be safe,  
15 perhaps we should go in-camera for the next series.

16 JUDGE DIPPELL: All right.

17 MR. FISCHER: Ms. Ott asked --

18 JUDGE DIPPELL: Just one moment,

19 Mr. Fischer. Let me --

20 MR. FISCHER: I'm sorry. I got ahead of  
21 myself.

22 JUDGE DIPPELL: -- get my technology set  
23 here. Okay. Now go ahead.

24 (REPORTER'S NOTE: At this point, an  
25 in-camera session was held, which is contained in

1 Volume 41, pages 4346 through 4358 of the transcript.)

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1                   JUDGE DIPPELL: That concludes redirect  
2 and, therefore, I believe your testimony is finished,  
3 sir. Thank you.

4                   THE WITNESS: Thank you.

5                   JUDGE DIPPELL: And with that, I think  
6 that we are finished with the company's witnesses and  
7 it's a little after noon and so we will take a lunch  
8 break. How long would counsel prefer?

9                   MR. FISCHER: Judge, a little longer  
10 break today would be helpful to me.

11                  JUDGE DIPPELL: Can I just ask do you --  
12 how long do you expect Mr. Majors' cross to take?

13                  MR. FISCHER: It won't take that long,  
14 but I'm sure it will be 45 minutes or so.

15                  JUDGE DIPPELL: Okay. And with his  
16 testimony, we'll be finishing for the day.

17                  MR. FISCHER: Yes.

18                  JUDGE DIPPELL: That's my understanding  
19 from yesterday's schedule.

20                  JUDGE DIPPELL: All right. Then let's --  
21 is 1:30 or would you rather come back at 2:00?

22                  MR. FISCHER: 1:30 is fine.

23                  JUDGE DIPPELL: Let's break until 1:30.  
24 We can go off the record. Thank you.

25                               (A recess was taken.)

1 (Witness sworn.)

2 JUDGE DIPPELL: Thank you. Go ahead and  
3 be seated. And I think actually -- you've already  
4 testified in this hearing this week, haven't you?

5 THE WITNESS: I have.

6 JUDGE DIPPELL: All right. I thought so.  
7 So okay. Sorry. Go ahead, Ms. Ott.

8 MS. OTT: I have a quick question. Has  
9 the Staff's cost of service report been offered yet?

10 MR. FISCHER: I believe it has.

11 JUDGE DIPPELL: Is that 210 or what is  
12 the number on that?

13 MS. OTT: Yeah, that would be 210. Okay.

14 MR. FISCHER: Maybe that was just the  
15 KCPL one.

16 JUDGE DIPPELL: Let me double check.

17 MS. OTT: I have it as GMO 210.

18 JUDGE DIPPELL: I have the cost of  
19 service report, yes, on Monday and maybe before that.  
20 And I have -- but I have the rate design report has  
21 not been so -- so when we get to that.

22 KEITH MAJORS, having been sworn, testified as follows:

23 DIRECT EXAMINATION BY MS. OTT:

24 Q. Can you please state your name for the  
25 record.

1 A. Keith A. Majors.

2 Q. Whom are you employed, in what capacity?

3 A. I'm employed by the Missouri Public  
4 Service Commission as a utility regulatory auditor.

5 Q. And I believe the sections of your  
6 testimony that you've -- you've provided in this case  
7 have already been admitted into evidence.

8 A. I -- I believe so, they have.

9 Q. Now, in regards to the Staff's cost of  
10 service report, did you have any changes to make?

11 A. I had some corrections, yes.

12 Q. Okay. What corrections did you have?

13 A. On -- and they would be highly  
14 confidential.

15 MS. OTT: Okay. So we probably need to  
16 go in-camera for his changes.

17 JUDGE DIPPELL: Okay. Give me just one  
18 moment.

19 (REPORTER'S NOTE: At this point, an  
20 in-camera session was held, which is contained in  
21 Volume 41, pages 4362 through 4364 of the transcript.)

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1 MS. OTT: Okay. I can tender Mr. Majors  
2 for cross-examination.

3 JUDGE DIPPELL: Okay. Let me just ask  
4 very quickly then, would there be any objection to  
5 those corrections since his testimony -- since that  
6 testimony has already been entered into the record?

7 MR. FISCHER: No objection.

8 JUDGE DIPPELL: All right. Then that  
9 testimony is corrected as the witness has testified.

10 Let's see. I don't know if we have  
11 anyone here to ask if there's any other  
12 cross-examination so we'll just go forward with the  
13 company.

14 CROSS-EXAMINATION BY MR. FISCHER:

15 Q. Good afternoon, Mr. Majors.

16 A. Good afternoon.

17 Q. I've just got a few questions. And why  
18 don't we begin where you made your first correction on  
19 page 44.

20 A. Sure.

21 Q. I'd like to refer you there right below  
22 the number that you corrected where it says that Burns  
23 and McDonnell was contracted to provide engineering  
24 and construction management services for the JEC  
25 rebuild project.

1 Do you see that?

2 A. I do.

3 Q. You also indicate on the next sentence  
4 there that Burns and Mac produced monthly status  
5 reports concerning the status of the project's  
6 scheduling and budget; is that right?

7 A. That's correct.

8 Q. And I take it you reviewed those Burns  
9 and Mac reports; is that right?

10 A. I did.

11 Q. I'd like to show you one of those.

12 MR. FISCHER: If I may approach.

13 JUDGE DIPPELL: Yes.

14 MR. FISCHER: Is that the highlighted  
15 one? Judge, I don't think we need to make it an  
16 exhibit. I just want him to read a reference out of  
17 it.

18 JUDGE DIPPELL: All right.

19 BY MR. FISCHER:

20 Q. Mr. Majors, I've highlighted a portion of  
21 that document. Could you read 1-1, the highlighted  
22 portion into the record?

23 A. A very important milestone was reached  
24 during May with the award of the general construction,  
25 paren, S203, end paren, contract to PMSI on May 17th.

1 PMSI will be mobilizing to the site in early June.

2 Q. Okay. Thank you. Now I'd like to refer  
3 you to your surrebuttal testimony, page 33 at lines  
4 1 and 2. I believe you said at that portion that in  
5 January 200-- in the January 2007 report Burns and  
6 McDonnell listed the April 1st, 2007 as the initial  
7 mobilization date and that PMSI did not mobilize until  
8 June, two months later than recommended; is that  
9 right?

10 A. Yes. That's correct.

11 Q. Would it be correct to conclude that  
12 Burns and McDonnell's January 2007 report was -- was  
13 incorrect?

14 A. No. The -- on the -- I don't have the  
15 January 2007 report in front of me, but I -- if I can  
16 recall correctly, that was the target date of  
17 April 1st, 2007 as the initial -- the target date for  
18 the initial mobilization of PMSI.

19 Q. So the Burns and McDonnell simply  
20 reported when a particular event did or did not  
21 happen. Right? I mean --

22 A. Well, this was a -- this was the target  
23 date. I mean January 2007 they wouldn't have known  
24 facts that happened in May and June.

25 Q. And they -- those reports didn't give any

1 reasons why an event did or did not happen; is that  
2 right? They just --

3 A. It depend on -- would depend on the  
4 event.

5 Q. In this particular event it did not; is  
6 that correct?

7 A. I don't know. I don't have that report  
8 in front of me.

9 Q. Okay. Let's look at the February and the  
10 March progress reports.

11 MR. FISCHER: Counsel, I've just got one  
12 copy of these, but I'd like to have him read into the  
13 record two passages.

14 BY MR. FISCHER:

15 Q. Mr. Majors, could you do me a favor and  
16 read into the record from the February 2008 report the  
17 highlighted sentences there?

18 A. Sure. Weather conditions continue to be  
19 a concern. High winds and ice, slash, snow hampered  
20 progress in February. Conditions in March have begun  
21 to improve significantly.

22 Q. And I'd also ask you to read from the  
23 March '08 report the same highlighted last section  
24 there.

25 A. Weather conditions continue to be a

1 concern. Ice and snow have decreased in March;  
2 however, high winds continue to be experienced during  
3 the day and night.

4 Q. Thank you. Could the weather impact  
5 PMSI's performance, in your opinion?

6 A. That's a possibility, yes.

7 Q. Was that quantified in those BSM reports?

8 A. BSM?

9 Q. I'm sorry, Burns and McDonnell -- Burns  
10 and McDonnell reports?

11 A. I don't -- It could have. I don't know.

12 Q. Wasn't Burns and McDonnell the owner's  
13 engineer in this -- for that project?

14 A. Yes, they were.

15 Q. Did Burns and McDonnell ever recommend  
16 that Westar ever issue a notice of default to PMSI due  
17 to PMSI's schedule of performance?

18 A. Not that I'm aware of.

19 Q. So there was no notice of default?

20 A. I don't know.

21 Q. You didn't investigate that?

22 A. I don't know if Burns and McDonnell  
23 recommended to Westar that they default on the PMSI  
24 contract.

25 Q. I'm sorry. Do you know, did Westar ever

1 issued a notice of default?

2 A. I don't know.

3 Q. Did you investigate that?

4 A. I examined several documents that were  
5 provided by GMO relating to the contract signed with  
6 PMSI. And there were a multitude of documents I did  
7 review, but a notice of default was not one of them.

8 Q. So you don't recall ever seeing a notice  
9 of default?

10 A. No, I don't.

11 Q. Do you know if Westar ever put PMSI on  
12 notice of being in default due to delays in its work  
13 that were PMSI's responsibility?

14 A. I'm not aware of any.

15 Q. Okay. Doesn't the contract that Westar  
16 has require notice of default be given to PMSI?

17 A. I reviewed the contract, but I don't  
18 recall that specific section.

19 Q. Okay. I'd like to show you that  
20 contract, if I might.

21 MR. FISCHER: Judge, can I approach?

22 JUDGE DIPPELL: Yes.

23 BY MR. FISCHER:

24 Q. I'd like to ask you to just read into the  
25 record a portion that's highlighted under the

1 Termination in Events of Default and I'm going to ask  
2 you to read the B-1 section.

3 A. I'm sorry. BI?

4 Q. Yeah, the highlighted portions there.

5 A. Okay. The following events shall be  
6 deemed to be events of default by contractor under  
7 this contract. And upon the occurrence of any such  
8 event, company shall have the right to terminate this  
9 contract without further notice to contractor.

10 And subsection I says, Contractor shall  
11 fail to comply with any term, provision or covenant of  
12 this contract and shall not take effective action to  
13 cure such failure within seven days after written  
14 notice of such failure to contractor.

15 Q. Would you interpret that to mean they  
16 need to give seven days notice of a default?

17 A. I would say that their rights of default  
18 would -- they would have to put in a notice --

19 Q. Okay.

20 A. -- within seven days of that act of  
21 default, yes.

22 Q. But again, you didn't see any notice of  
23 default at all in this case?

24 A. I'm not aware of any specific notice of  
25 default, no.

1 Q. Did you review change orders issued by  
2 Westar to PMSI?

3 A. I did.

4 Q. Do you recall about how many of them  
5 there were?

6 A. I think the -- the number was 21. There  
7 might have been 22, but it might not -- it might not  
8 have been approved. I can't recall. It was either 21  
9 or 22.

10 Q. Do you remember approximately how many  
11 dollars were involved in those change orders? Isn't  
12 that what you corrected on the record or was that  
13 something different?

14 A. What I corrected on the record was  
15 that -- the number that I corrected to was the number  
16 appearing on the last cost report. I think it was  
17 August 2009. That was created by Burns and McDonnell  
18 for the FUD rebuild project. And it was listed in  
19 that cost report as the payments under the total lump  
20 sum -- the payments under the lump sum contract. I'm  
21 sorry. What was your -- was there a question?

22 (REPORTER'S NOTE: At this point, an  
23 in-camera session was held, which is contained in  
24 Volume 41, pages 4373 through 4381 of the transcript.)

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1                   MS. OTT: In regards to my inquiry of  
2 Mr. Ruzicka earlier, I'd now ask that the Commission  
3 take official notice of the United States District  
4 Court, Central District of California versus Richard  
5 G. Engel, Case No. 2-05CV05422. I have a copy of the  
6 document from Westlaw. I will provide a late-filed  
7 exhibit when I can get my Pacer password to use.

8                   JUDGE DIPPELL: Is this an actual court  
9 decision?

10                  MS. OTT: There has been a judgment made  
11 in the case. So I'm just asking the Commission to  
12 take official notice.

13                  JUDGE DIPPELL: Mr. Fischer?

14                  MR. FISCHER: Judge, I don't have a  
15 problem if she cites to the final judgment. Anything  
16 in this document though I think would not be  
17 appropriate to take judicial notice of.

18                  JUDGE DIPPELL: Okay.

19                  MS. OTT: It indicates on the second page  
20 that on June 2nd, 2008, that there was a judgment  
21 issued. And I will provide an official copy of that  
22 as a late-filed exhibit to go along with the official  
23 notice, but --

24                  JUDGE DIPPELL: Okay. In that case, I  
25 will take official notice of the judgment in this case

1 and Ms. Ott will provide it as a late-filed exhibit.  
2 I will, in a manner similar to the other late-filed  
3 document, give counsel an opportunity to object after  
4 that is filed. And I will go ahead and reserve a  
5 number for that as GMO 265.

6 Was there anything else, Ms. Ott?

7 MS. OTT: No. Thank you.

8 JUDGE DIPPELL: And, Mr. Fischer, did you  
9 have anything else?

10 MR. FISCHER: Not on this issue, Judge.

11 JUDGE DIPPELL: Okay.

12 MR. FISCHER: Or are you asking if I had  
13 a follow-up to that question?

14 JUDGE DIPPELL: On that issue and then  
15 I'll ask -- if -- if not, we'll let the witness step  
16 down and I believe we are --

17 MR. FISCHER: Mr. Majors, would you take  
18 a look at that -- those change orders you just  
19 referred to?

20 THE WITNESS: Yes.

21 JUDGE DIPPELL: I'm sorry, Mr. Fischer.

22 MR. FISCHER: Yes.

23 JUDGE DIPPELL: We finished with  
24 redirect.

25 MR. FISCHER: I know. I guess that's

1 what I was inquiring about when whether you were  
2 asking whether I had anything more. I do have  
3 something more.

4 JUDGE DIPPELL: No. I'm sorry. I was  
5 not, in fact, giving you a second chance.

6 MR. FISCHER: No, I do not have anything  
7 else on this issue and I think this is the last issue  
8 for the day.

9 JUDGE DIPPELL: I believe so. The  
10 witness can step down.

11 And then is there anything else for the  
12 hearing for today?

13 MR. FISCHER: Not that I have. Thank  
14 you.

15 JUDGE DIPPELL: All right. Timing for  
16 starting tomorrow? Shall we start at 8:30? It looks  
17 like a busy day.

18 MR. FISCHER: That would be great. I  
19 understand that Mr. Kind may not be available until  
20 the afternoon is what he told me so --

21 JUDGE DIPPELL: Okay. We will adjourn  
22 for the day and resume again tomorrow at 8:30. Thank  
23 you.

24 (WHEREUPON, the hearing was adjourned  
25 until 8:30 a.m. February 17, 2011.)

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## I N D E X

## KCP&amp;L EVIDENCE:

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Cross-Examination by Ms. Ott (In-camera)	4254
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Cross-Examination by Mr. Fischer	4365
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6	GMO Exhibit No. 20-NP		
7	Direct Testimony of Terry Hedrick, Non-Proprietary	4249	4250
8	GMO Exhibit No. 21-HC		
9	Rebuttal Testimony of Terry Hedrick, Highly Confidential	4249	4250
10	GMO Exhibit No. 21-NP		
11	Rebuttal Testimony of Terry Hedrick, Non-Proprietary	4249	4250
12	GMO Exhibit NO. 36-HC		
13	Rebuttal Testimony of Leonard Ruzicka, Jr., Highly Confidential	4268	4270
14	GMO Exhibit No. 36-NP		
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24	Question No. 0346.1 and Response, Highly Confidential	4263	4264
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5	GMO Exhibit No. 261-HC Letter dated 4/12/07 and attachments, 6 Highly Confidential	4285	4291
7	GMO Exhibit No. 262-HC Question No. 0350S, 8 Highly Confidential	4305	4313
9	GMO Exhibit No. 263-HC Addendum No. 1 to Contract, 10 Highly Confidential	4317	4319
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