

GMO-224

Exhibit No.:

Issues: Iatan Construction Project

Witness: Charles R. Hyneman

Sponsoring Party: MoPSC Staff

Type of Exhibit: Rebuttal Testimony

File No.: ER-2010-0356

Date Testimony Prepared: December 15, 2010

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

REBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

KCP&L GREATER MISSOURI OPERATIONS

FILE NO. ER-2010-0356

Jefferson City, Missouri
December 2010

**** Denotes Highly Confidential Information ****

Staff Exhibit No. GMO-224
Date 1/18/11 Reporter LMB
File No. ER-2010-0356

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CHARLES R. HYNEMAN
KCP&L GREATER MISSOURI OPERATIONS
FILE NO. ER-2010-0356**

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1 **GMO WITNESS ROBERTS**

2 Q. At page four of his direct testimony, lines 1-10, GMO witness
3 Kenneth M. Roberts indicates that he and his firm, Schiff Hardin, LLP ("Schiff") are
4 independent of KCPL. Do you agree?

5 A. No. Mr. Roberts states the following:

6 Under my direction, Schiff has reported to KCP&L's Executive
7 Oversight Committee and to senior management from time to time
8 during the course of the planning and construction of KCP&L's CEP
9 Projects. Such reports have been in both oral and written format.

10
11 These reports generally include a summary of Schiff's independent
12 view of the CEP projects' schedule, budget, and procurement status and
13 identification of key issues that have the potential to affect or have
14 affected progress.

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16 These reports also generally include metrics that Schiff has developed
17 to independently verify the CEP Projects' then-current status.

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Direct Testimony of
Charles R. Hyneman

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Typically the work of an independent auditor does not include evaluating or making recommendations to management based on processes and procedures that the auditor helped create or implement on a project. Schiff does not have such independence. Such a difference was noted in the direct testimony of GMO witness William H. Downey, where at the bottom of page 9 and the top of page 10 of his direct testimony, he states:

KCP&L's Internal Audit Department and Schiff serve very different roles, but do complement each other. As an example, Schiff helped develop policies and procedures in use while Internal Audit reviews the project teams' compliance to those policies and procedures. Schiff has also aided KCP&L in the development and negotiation of the contracts for the CEP Projects which are then subject to audit to ensure that the contracts are being administered as intended.

Q. **

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Direct Testimony of
Charles R. Hyneman

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21 Q. What methods were available for KCPL to control contractor performance on
22 the Iatan construction project?

23 A. There are several options available to KCPL to control contractor performance.
24 These options included writing strong and enforceable contract terms and conditions,
25 effectively assess backcharges, effectively assess liquidated damages, and effectively
26 enforcing these contract terms and conditions during the pendency of the project. It is the
27 Staff's position, based on its audit, there is substantial evidence that KCPL has been

Direct Testimony of
Charles R. Hyneman

1 ineffective at managing its Iatan construction contracts and enforcing the terms and conditions
2 of its contracts with major Iatan construction contractors and consultants.

3 This ineffectiveness at managing Iatan construction contractors and consultants has
4 led to significantly higher Iatan Construction Project costs, which the Staff has
5 characterized as being imprudent / unreasonable / inappropriate. In its previously filed
6 Iatan Construction Project Audit and Prudence Review Reports filed with the Commission,
7 the Staff has identified and removed the costs related to imprudent / unreasonable /
8 inappropriate KCPL management decisions from its Iatan Construction Project cost
9 recommendation.

10 Q. What are "back charges" and "liquidated damages"?

11 A. According to *Wideman's Comparative Glossary of Project Management*
12 *Terms*, version 3.1, a "backcharge" is the "cost of corrective action taken by the purchaser,
13 chargeable to the supplier under the terms of the contract." An example would be when one
14 contractor performs project work incorrectly and the owner has to pay different contractor to
15 correct this work. The cost of paying the second contractor to fix the work should be
16 backcharged to the contractor that performed the work incorrectly.

17 As defined by Wideman, "liquidated damages" are:

18 . . . the amount of money set forth in the contract as being the liability
19 of the contractor for failure to complete the work by the contract
20 completion date or adjusted contract completion date. It is an estimate
21 of the damages the owner is likely to incur in the event of late
22 completion by the contractor. Liquidated damages are typically
23 expressed as a daily rate.

24 Q. Are there significant cost risks to KCPL by not having a strong and effective
25 backcharge process on the Iatan Construction Projects?

Direct Testimony of
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Charles R. Hyneman

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Charles R. Hyneman

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Direct Testimony of
Charles R. Hyneman

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Charles R. Hyneman

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GMO WITNESS BELL

Q. ** _____

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Direct Testimony of
Charles R. Hyneman

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11 **GMO WITNESS BLANC**

12 Q. At page 7 of his direct testimony in this case, GMO witness Curtis Blanc,
13 KCPL's Senior Director – Regulatory Affairs states that GMO has removed all officer
14 expenses charged to Iatan 2. He then states that "it is GMO's hope that the removal of these
15 charges from the case will make it easier for the parties and the Commission to focus on the
16 important issues to be decided in this case." Does the Staff agree that inappropriate and
17 excessive costs charged to the Iatan 2 Construction Project by KCPL officers, senior
18 management and executives is not an important issue in this case?

19 A. No. The Staff does not agree with Mr. Blanc's and GMO's position that
20 inappropriate and excessive management costs charged to the Iatan 2 Construction Project are
21 not important. It is not only important, but critical to a project or an organization that the
22 "tone at the top" be a strong tone of strict cost control and prudence, reasonableness and
23 appropriateness in project expenditures and the practice required of all be faithful to the tone.
24 This "tone at the top" sets an example for the rest of KCPL Iatan Construction Project
25 employees and contractors to follow. The Staff has noted previously and has documented

Direct Testimony of
Charles R. Hyneman

1 | examples of inappropriate costs charged to the Iatan Construction project by KCPL
2 | management and executives.

3 | Q. Does this conclude your rebuttal testimony?

4 | A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

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

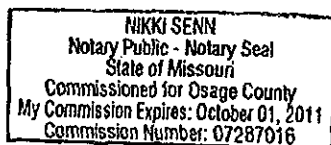
AFFIDAVIT OF CHARLES R. HYNEMAN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Charles R. Hyneman, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Rebuttal Testimony in question and answer form, consisting of 15 pages to be presented in the above case; that the answers in the foregoing Rebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


Charles R. Hyneman

Subscribed and sworn to before me this 15th day of December, 2010.




Notary Public

SCHEDULES 1 - 6

HAVE BEEN DEEMED

HIGHLY CONFIDENTIAL

IN THEIR ENTIRETY

NP