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STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

February 15, 2011

Jefferson City, Missouri

Volume 38

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)

NANCY M. DIPPELL
SENIOR REGULATORY LAW JUDGE.

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P R O C E E D I N G S

JUDGE DIPPELL: This is Tuesday, February 15th and we are back in session. I think there's a few technical things to take care of before we get started with our first witness.

I had stated yesterday that the Commissioners did not have questions for the witnesses, Mr. Meyer, Rollison and Hardesty. And so I believe that Mr. Woodsmall would like to get Mr. Meyer's testimony in so that he could be excused and -- and be allowed to leave if that's still the agreement of the parties, if there are no cross-examination questions for him.

MR. WOODSMALL: Your Honor, that's my understanding talking to the various parties, that there would be no cross. So with that, I'd offer Exhibits 1401, Mr. Meyer's direct in the GMO case; and 1402, Mr. Meyer's surrebuttal in the GMO case.

JUDGE DIPPELL: And would there be any objections to Exhibits GMO 1401 and GMO 1402?

Seeing none, then I will admit those exhibits and Mr. Meyer may be excused.

(GMO Exhibit Nos. 1401 and 1402 were marked for identification and received into evidence.)

JUDGE DIPPELL: Are there any other

1 matters of that nature? I believe Ms. -- I talked to
2 Ms. Slack about the issue that she had and she is
3 going to ask her questions of Mr. Rush when he is on
4 the stand and get her witness's testimony in at that
5 time as well.

6 Otherwise, I promised Mr. Lumley that
7 we'd get his -- one of his witnesses out today so we
8 will do what we can to get that far. And if we don't
9 quite make it that far today, we will bump Mr. Rose up
10 in the -- in the order.

11 Seeing no other scheduling issues then, I
12 think we can go ahead and get started with our first
13 witness for the day. I believe that's Mr. Cline.

14 MR. ZOBRIST: Could we have a mini, mini
15 opening?

16 JUDGE DIPPELL: Certainly.

17 MR. ZOBRIST: May it please the
18 Commission. The only reason I think I'd like to give
19 a mini, mini opening is just to kind of set the
20 stage --

21 JUDGE DIPPELL: On this issue.

22 MR. ZOBRIST: -- on this debate. This
23 issue deals with the cost of debt for KCP&L/Greater
24 Missouri Operations Company. And the only two
25 witnesses will be Michael Cline for the company and

1 David Murray for the Staff.

2 And the -- we really are not that far
3 apart in terms of the proposals, but it -- it is not a
4 question of the capital structure. I think both Staff
5 and the company agree on the capital structure. And
6 the question is what methodology should be used to set
7 the cost of debt for GMO.

8 The company's proposal is 6.73 percent,
9 which is based upon an assignment methodology, but
10 only as applies to one issuance. And it's the senior
11 notes that -- of \$500 million that initially had an
12 interest rate of 11.875 percent. These were issued
13 back in 2002.

14 And as -- as the Commission will recall,
15 the pledge of Aquila at that time and then Great
16 Plains after it acquired GMO and indeed with the
17 stipulation of the Commission was that that high cost
18 debt that resulted from Aquila's unregulated
19 operations would not be passed on to ratepayers. So
20 it really mandates some kind of a hypothetical, some
21 type of a process to assign a debt to that instrument.

22 And so that's the 6.73 percent that
23 Mr. Cline has arrived at for the total debt cost based
24 upon a hypothetical cost of 6.26 percent for these
25 \$500 million of senior notes. And in contrast with

1 the overall 6.73 percent of the company, is Staff's
2 6.52 percent based upon using another utility, Empire
3 District Electric Company, as a proxy.

4 And so that's really the philosophical
5 debate here. Is the company's process, whereby it
6 uses all of GMO's actual debt except for the \$500 --
7 \$500 million senior notes to which it applies this
8 assignment methodology that Mr. Cline's going to talk
9 about, or do we go with an entirely separate company,
10 a different company, Empire, and use its cost of debt
11 and -- and impose that upon GMO. That's really the
12 issue here. It's -- it's a philosophical debate.

13 And we believe that the company has the
14 better position since we're only using the assignment
15 methodology for this one issuance and we're not going
16 outside to a completely different company that is
17 reflective of a variety of different circumstances,
18 different issuances at different times in different
19 financial markets.

20 And based upon that, the company would
21 ask that Mr. Cline's figure of 6.73 percent be used in
22 fixing the cost of debt. This is also subject to
23 true-up and I think there will be different numbers
24 there, but we think this methodology that the
25 company's using here should be adopted.

1 JUDGE DIPPELL: Thank you. Would Staff
2 also like to give a opening?

3 MR. DEARMONT: Briefly, Judge. Morning,
4 and may it please the Commission.

5 In this case, Staff recommends using the
6 Empire District Electric Company's embedded cost of
7 long-term debt as a proxy for the long-term debt
8 component embedded in GMO's rate of return. The
9 Company's recommendation is based upon the historical
10 cost of debt issued by a number of GMO's predecessors,
11 including Aquila, Incorporated.

12 As time has passed and utility assets
13 have changed hands, GMO's embedded cost of debt has
14 become less based upon reality and more based upon a
15 capital assignment process that does not reflect the
16 full effect of open market transactions and that is
17 corrupted by Aquila's failed non-regulated operations.

18 The use of Empire's cost of debt as a
19 proxy for GMO's allows the cost of debt embedded in
20 rates to be based upon true third-party open market
21 transactions. So unless there are no questions of me,
22 that concludes my remarks. Thank you, Judge.

23 JUDGE DIPPELL: Thank you. All right
24 then. I think we're ready to go ahead with the first
25 witness.

1 MR. ZOBRIST: Okay. The company will
2 call Michael Cline.

3 (Witness sworn.)

4 JUDGE DIPPELL: Thank you.

5 MICHAEL CLINE, having been sworn, testified as
6 follows:

7 DIRECT EXAMINATION BY MR. ZOBRIST:

8 Q. Morning.

9 A. Good morning.

10 Q. Please state your name.

11 A. Michael Cline.

12 Q. And by whom are you employed?

13 A. Kansas City Power and Light/Great Plains
14 energy.

15 Q. And what is your position there?

16 A. Vice president investor relations and
17 treasurer.

18 Q. And, Mr. Cline, did you prepare rebuttal
19 testimony in the GMO case, docket 0356?

20 A. Yes, I did.

21 Q. Okay. And that has been marked as
22 Exhibit 9; is that correct?

23 A. Yes.

24 Q. Do you have any corrections to that
25 testimony?

1 A. I do not.

2 Q. Okay. And if you were to be asked those
3 questions, would your answers be as depicted in
4 Exhibit 9?

5 A. They would.

6 MR. ZOBRIST: Okay. Your Honor, I offer
7 Exhibit 9 at this time. And that may have already
8 been admitted, but I'm not sure.

9 JUDGE DIPPELL: All right. I do show
10 that that was already admitted, but just to double
11 check, are there any objections to Exhibit GMO No. 9?

12 Seeing none, that is doubly admitted.

13 (GMO Exhibit No. 9 was received into
14 evidence.)

15 MR. ZOBRIST: Thank you. That was at my
16 relief. I wasn't sure if it was. I tender the
17 witness for cross-examination.

18 JUDGE DIPPELL: All right. Is there
19 cross-examination from anyone other than Staff?

20 All right then. Staff.

21 CROSS-EXAMINATION BY MR. DEARMONT:

22 Q. Good morning, Mr. Cline.

23 A. Morning, Mr. Dearmont.

24 Q. Just -- just a few questions for you this
25 morning.

1 A. Sure.

2 Q. Now, in order to determine GMO's cost of
3 long-term debt, you currently use a debt assignment
4 process. Correct?

5 A. For one issue, yes.

6 Q. Okay. And by "one issue," you mean the
7 \$500 million issuance?

8 A. Yes.

9 Q. Okay. And this methodology is the same
10 one that was used by the company in the KCPL case with
11 the exception that GMO replaces the cost of
12 \$500 million issuance issued in 2002 with a lower
13 hypothetical cost. Correct?

14 A. That's correct.

15 Q. Okay. Now, neither Aquila, Incorporated
16 nor GMO have issued any long-term debt since 2002; is
17 that correct?

18 A. That is correct.

19 Q. Now, is it safe to assume that an
20 issuance of this magnitude, \$500 million of other
21 words -- in other words, was tied to a significant
22 need of Aquila, Incorporated?

23 A. I -- I don't know what the use of
24 proceeds was or why -- why they -- they --

25 Q. But that's a fairly substantially

1 issuance, is it not?

2 A. It is, yes.

3 Q. Okay. So an issuance of that nature,
4 could that have been tied to capital expenditure
5 needs, for example?

6 A. It could have.

7 Q. Okay. And, in fact, GMO has a number of
8 records reflecting many -- many of its capital
9 expenditure needs for -- and in the past. Will you
10 agree with that?

11 A. I'm sorry. I didn't understand the
12 question.

13 Q. Let me -- let me try again. In fact, GMO
14 has records reflecting many of its capital expenditure
15 needs over the past few years?

16 A. GMO has made capital expenditures over
17 the last few years, yes.

18 Q. And it has records reflecting those
19 expenditures?

20 A. Yes.

21 Q. Okay. But it's also true that for a
22 certain time period -- for the time period between
23 2002 and 2006, there are no records of the capital
24 expenditures that were -- were expended on the GMO
25 properties. Would you agree with that?

1 A. I don't know.

2 Q. I'll hand you a document.

3 MR. DEARMONT: I should probably go ahead
4 and have this marked if you can tell me what number
5 we're on, Judge.

6 JUDGE DIPPELL: Just one moment. I have
7 GMO 251.

8 BY MR. DEARMONT:

9 Q. Okay, Mr. Cline. Do you recognize this
10 document?

11 A. I do not recognize the document.

12 Q. Okay. Does -- does it appear to be a
13 data request?

14 A. Yes, it does.

15 Q. Okay. Does this document appear to
16 provide GMO's capital expenditures from the period of
17 July 1st, 2002 through the present?

18 A. No. It looks like it only covers the
19 period 2006 through the first two quarters of 2010.

20 Q. Okay. Thank you. And on the first page
21 if you'll look three sections from the bottom,
22 consistent with -- with your response, you would agree
23 that this document indicates that quarterly amounts of
24 capital expenditures made on the GMO properties for
25 periods prior to 2006 are not available. Did I read

1 that accurately?

2 A. That is what that says, yes.

3 MR. DEARMONT: Judge, at this time I
4 would move for admission of GMO Exhibit 251. While I
5 understand that this document was not created by
6 Mr. Cline, attached to it is an affidavit of Mr. Rush
7 and, therefore, I believe it's a self-authenticated
8 document.

9 MR. ZOBRIST: We don't have any
10 objection.

11 JUDGE DIPPELL: All right then. I will
12 admit Exhibit No. 251. Does that response have a DR
13 number attached to it, just for identification?

14 MR. DEARMONT: Yes. It's DR 256 in the
15 GMO case.

16 JUDGE DIPPELL: Thank you.

17 (GMO Exhibit No. 251 was received into
18 evidence.)

19 BY MR. DEARMONT:

20 Q. Now, is it correct that about a third of
21 this 2002 \$500 million issuance is based upon the 2009
22 utility bond index for triple B minus bonds?

23 A. Yes.

24 Q. Okay. You would agree that Aquila's
25 non-regulated business ventures affected its credit

1 rating, wouldn't you?

2 A. Yes.

3 Q. Okay. In fact, at one time Aquila
4 carried an S&P credit rating of triple B?

5 A. I believe that's true. I -- I -- I don't
6 know for sure.

7 Q. Okay. I believe you discussed it in --
8 in your rebuttal. Would you accept that as true?

9 A. I'll -- subject to check, yes.

10 Q. And this credit rating was eventually
11 downgraded by S&P to non-investment grade status.
12 Correct?

13 A. Yes, it was.

14 Q. Okay. On average, triple B minus bonds
15 are more costly than triple B bonds?

16 A. On average, yes.

17 Q. Because they're more risky?

18 A. Yes.

19 Q. Do you know how much the decision to use
20 triple B minus as opposed to triple B debt yields will
21 cost ratepayers if the Commission accepts the
22 company's approach?

23 A. I -- I don't right off the top of my
24 head, no.

25 Q. Okay. If I told you it was over a

1 million dollars, would you accept that? Are you going
2 to make me do math this early in the morning?

3 A. I don't have any way to -- to verify.

4 Q. Okay. Let's look at the year 2009.
5 That's the test year in this case. Correct?

6 A. It is.

7 MR. DEARMONT: I'd like to have another
8 document marked, Judge.

9 JUDGE DIPPELL: That's GMO 252. And
10 Mr. Dearmont, I didn't get copies of 251. Do you
11 have --

12 MR. DEARMONT: Yes. I do have some extra
13 copies here.

14 (GMO Exhibit Nos. 251 and 252 were marked
15 for identification.)

16 BY MR. DEARMONT:

17 Q. Have you had a chance to take a quick
18 look at it?

19 A. Yes. I recognize this document.

20 Q. Okay. And you would agree that this is
21 the company's response to Staff Data Request 159.2?

22 A. Yes.

23 Q. Okay. Were you involved in that -- the
24 preparation of this document?

25 A. I reviewed the document, yes.

1 Q. And this question asked the company to
2 provide the hypothetical embedded cost of debt for GMO
3 if the \$500 million that we are discussing had been
4 based upon triple B plus, triple B and/or triple B
5 minus bond yield; is that correct?

6 A. Yes, it is.

7 Q. Okay. Now, will you flip to the second
8 page for me?

9 A. Yes.

10 Q. And would you agree that this
11 discusses -- line 1 discusses company methodology
12 using triple B minus bonds yields for 2009?

13 A. Yes.

14 Q. Okay. And that bond yield is 6.827?

15 A. That's correct.

16 Q. Okay. And line 2 discusses the company
17 methodology using triple B flat bond yields for 2009?

18 A. Yes, it does.

19 Q. Okay. And that bond yield is 6.081?

20 A. Yes, it is.

21 Q. Okay. Now, what's the difference between
22 those two yields?

23 A. It's about 74 basis points.

24 Q. Okay. Now, that would, in effect then,
25 represent the difference for calendar year 2009

1 between triple B minus and triple B bond yields.

2 Correct?

3 A. Yes, it would, uh-huh.

4 Q. Now, do you have any idea what that
5 74 basis points -- what that's worth in the context of
6 this -- this \$500 million that's contested?

7 A. Because the -- this rate will only apply
8 to that --

9 Q. 163.5 million?

10 A. -- 163.5 right. Yeah, and I -- so I
11 can -- if you give me a moment. It's a little over a
12 million dollars on a pre-tax basis, yes.

13 Q. Thank you very much.

14 MR. DEARMONT: I have no further
15 questions, but I would move for the admission of GMO
16 Exhibit 252. Again, it's accompanied by an affidavit
17 from company witness Tim Rush.

18 JUDGE DIPPELL: would there be any
19 objection to GMO 252?

20 MR. ZOBRIST: No objection.

21 JUDGE DIPPELL: All right then. I will
22 admit that document.

23 (GMO Exhibit No. 252 was received into
24 evidence.)

25 MR. DEARMONT: Thank you, Mr. Cline.

1 THE WITNESS: Thank you.

2 JUDGE DIPPELL: Is there redirect?

3 MR. ZOBRIST: I guess no other questions.
4 I just have a couple of questions.

5 REDIRECT EXAMINATION BY MR. ZOBRIST:

6 Q. Mr. Cline, with regard to the analysis
7 that the company did to assign a -- a cost of debt on
8 this \$163.5 million portion of the \$100 million senior
9 notes, what was the index that the company used?

10 A. We used the -- pardon me, the triple B
11 minus Bloomberg Utility Bond Index.

12 Q. Okay. Is that reflective of the utility
13 bond market?

14 A. In aggregate, yes. It reflects arm's
15 length transactions that a utility and power companies
16 have -- have entered into and the current yields on
17 those securities over the course of a yield old curve
18 from 1 year out to 30 years.

19 Q. And do you happen to have Dr. Hadaway's
20 testimony in front of you that has the schedule of the
21 GMO debt upon which your assignment methodology was
22 based?

23 A. I do.

24 Q. Okay. And if you would turn, please, to
25 schedule SCH 2010-2 of Dr. Hadaway's direct and if you

1 could turn within that to page 13.

2 MR. ZOBRIST: And, Judge, I've got copies
3 of that. I'm just going to ask Mr. Cline to identify
4 the line there that deals with this issuance.

5 JUDGE DIPPELL: All right.

6 THE WITNESS: Page 13, I have it.

7 JUDGE DIPPELL: This is just a page from
8 Mr. Hadaway's testimony?

9 MR. ZOBRIST: Right. You --

10 JUDGE DIPPELL: Just one.

11 MR. ZOBRIST: And, Judge, this is really
12 just for illustrative purposes.

13 BY MR. ZOBRIST:

14 Q. But, Mr. Cline, would you identify in the
15 list of the unsecured notes what issuance Mr. Dearmont
16 was asking you about?

17 A. Sure. It's on line 5, the senior notes
18 due -- there's actually a typo. It should be due
19 2012, 11.875 percent coupon and the other details
20 across with a cost to the company of 6.258 percent.

21 Q. Okay. And in your testimony, what was
22 that rounded up to?

23 JUDGE DIPPELL: And let me just stop you.
24 This document itself is marked HC and I didn't know if
25 that included the numbers.

1 MR. ZOBRIST: I -- I don't think the
2 numbers that we're talking about right here are HC.

3 THE WITNESS: No. This number's fine.

4 JUDGE DIPPELL: Go ahead.

5 BY MR. ZOBRIST:

6 Q. And the 6.258 percent was rounded up to
7 what in your testimony? It was 6.26. Right?

8 A. I would assume so, 6.26.

9 Q. All right. And were any of the other
10 debt issuances in this exhibit subject to the
11 assignment process that Mr. Dearmont asked you about?

12 A. No. This was the only issue that was
13 assigned.

14 MR. ZOBRIST: Judge, that's all I have.

15 JUDGE DIPPELL: Okay. Thank you. I
16 believe that's all for Mr. Cline. You may step down.
17 And I think we can go ahead and go to the next
18 witness, which is for Staff.

19 (Witness sworn.)

20 JUDGE DIPPELL: Thank you.

21 Mr. Dearmont, when you're ready.

22 DAVID MURRAY, having been duly sworn, testified as
23 follows:

24 DIRECT EXAMINATION BY MR. DEARMONT:

25 Q. Good morning. Would you please state

1 your name for the record.

2 A. David Murray.

3 Q. And by whom are you employed and in what
4 capacity?

5 A. I'm employed by the Missouri Public
6 Service Commission. I'm acting manager of the
7 financial analysis department.

8 Q. Are you the same David Murray who
9 prepared and caused to be filed the rate of return
10 portion of the Staff Revenue Requirement Cost of
11 Service Report marked as GMO Exhibit 210?

12 A. Yes.

13 Q. Do you have any corrections to that
14 testimony?

15 A. No.

16 Q. And are you the same David Murray that
17 prepared and caused to be filed rebuttal testimony
18 dealing with rate of return marked as GMO Exhibit 235?

19 A. Yes.

20 Q. Do you have any corrections to that
21 testimony?

22 A. No.

23 Q. Are you the same David Murray that
24 prepared and caused to be filed surrebuttal testimony
25 dealing with rate of return marked as GMO Exhibit 236?

1 A. Yes.

2 Q. Any corrections there?

3 A. No.

4 Q. And, Mr. Murray, is the testimony that
5 you have filed in this matter true and accurate to the
6 best of your knowledge, information and belief?

7 A. Yes.

8 Q. And if you were asked the same questions
9 today as was contained in that testimony, would your
10 answers be the same or substantially the same?

11 A. Yes.

12 Q. Okay.

13 MR. DEARMONT: At this time I'd move for
14 the admission of GMO Exhibits 235 and 236, excuse me,
15 representing the rebuttal and surrebuttal testimonies
16 of Staff witness David Murray and tender the witness
17 for cross.

18 JUDGE DIPPELL: would there be any
19 objection to GMO 235 and 236?

20 MR. ZOBRIST: No objection.

21 JUDGE DIPPELL: Then I will admit 235 and
22 236.

23 (GMO Exhibit Nos. 235 and 236 were
24 received into evidence.)

25 JUDGE DIPPELL: And I also show that may

1 have already been admitted.

2 Is there cross-examination from anyone
3 other than the company?

4 MR. WOODSMALL: I have one question.

5 JUDGE DIPPELL: Okay. Mr. woodsmall.

6 CROSS-EXAMINATION BY MR. WOODSMALL:

7 Q. Mr. Murray, if you know can you tell me
8 if Mr. Hadaway listed Empire as a comparable company
9 in his ROE study?

10 A. He had a relatively large group. I --
11 I'd have to look at his testimony. I can check.

12 Yes, he does.

13 Q. And given that Mr. Gorman used the same
14 comparable companies, do you believe that Mr. Gorman
15 had Empire as a comparable company too?

16 A. Yes.

17 MR. WOODSMALL: That's all I had, your
18 Honor.

19 JUDGE DIPPELL: Thank you.

20 Cross-examination from GMO?

21 CROSS-EXAMINATION BY MR. ZOBRIST:

22 Q. Mr. Murray, let me just follow up on a
23 couple points that Mr. woodsmall just made. Then
24 Dr. Hadaway's proxy group there were 31 companies;
25 isn't that true?

1 A. It was rather large. I don't remember an
2 exact number.

3 Q. Okay. And -- and Mr. Gorman agreed with
4 that as Mr. Woodsmall just confirmed with you.
5 Correct?

6 A. Yes.

7 Q. Okay. So if Empire is in there, it was
8 1 of about 30, 31 companies. Correct?

9 A. Yes. Just one of the many.

10 Q. Okay. And am I correct that Mr. Gorman
11 has not opposed the cost of debt proposed by Mr. Cline
12 in this case?

13 A. I believe the cost of debt was proposed
14 by Dr. Hadaway, but that -- that's correct.

15 Q. And Mr. Gorman has accepted the position
16 of the company on the cost of debt issue. Correct?

17 A. Yes.

18 Q. Okay. Now, the -- the figure that you
19 came up with is based upon using Empire District
20 Electric Company as a proxy for GMO; is that true?

21 A. The cost of debt, yes.

22 Q. And the particular number that you came
23 up with for the cost of debt was 6.52 percent?

24 A. Yes.

25 Q. And that's as opposed to the company's

1 proposal of 6.73 percent. Correct?

2 A. Yes.

3 Q. Okay. And in your rebuttal at page 27,
4 you state that Staff does not consider the cost
5 recommended for GMO to be unreasonable; is that true?

6 A. I believe that's true. Let me just turn
7 to that and refer specifically to my language.
8 what -- what page did you say that was?

9 Q. Page 27 of your rebuttal, lines 7 through
10 8.

11 A. That's correct.

12 Q. And then in your surrebuttal at page 20,
13 at line 20 you also stated that, quote, The company's
14 recommended cost of debt for GMO is -- and the word
15 you used was "acceptable;" is that correct?

16 A. I'm sorry. That was surrebuttal?

17 Q. Yes, sir.

18 A. Page 20?

19 Q. Correct.

20 A. Line 20?

21 Q. Correct.

22 A. I -- I have a -- my page 20, line 20 of
23 my surrebuttal, in the case apportion of this debt to
24 the total debt outstanding at GMO is becoming much
25 smaller as time elapses. I'm --

1 Q. I'm sorry. Line 12.

2 A. Line 12, okay.

3 Q. And actually it's 11 to 12. The end of
4 the sentence says, quote, Staff considered the
5 company's recommended cost of debt for GMO to be
6 acceptable.

7 A. Yes.

8 Q. Okay. Now, am I correct that a portion
9 of the \$500 million senior notes cost was evaluated by
10 GMO based upon the Bloomberg average triple B minus
11 utility bond index for 2009, which is the test year in
12 this case?

13 A. That's the data that was provided to me,
14 yes. That's my understanding.

15 Q. And would you agree that the Bloomberg
16 average utility bond indices are reflective of
17 market-based transactions?

18 A. The underlying bonds that -- that make up
19 those averages are yield to maturities for -- for
20 whatever bonds make up that rating category at that
21 given time is my understanding.

22 Q. And -- and -- and the market reflecting
23 the bonds that were bought and sold were bought and
24 sold at arm's length transactions. Correct?

25 A. Yes.

1 Q. As far as you know?

2 A. Yes.

3 Q. Now, did you do an analysis comparing
4 Empire with GMO?

5 A. I wouldn't say I did a specific, you
6 know, kind of like a -- say, for instance, with the
7 criteria that I used for comparable groups where I --
8 you know, a check box type of comparison, but
9 obviously GMO and Empire are regulated -- Empire is
10 regulated almost entirely by Missouri and GMO is
11 regulated entirely by Missouri.

12 so obviously over the years I have gained
13 a -- what I consider a -- a -- a good understanding
14 of -- of the -- of the nature of their operations,
15 what's -- you know, as far as their need for -- or
16 their request and -- and, you know, their -- their
17 reliance on natural gas-fired generation purchase
18 power.

19 I would say as far as out of the -- you
20 know, the four major electric companies in -- in
21 Missouri, they -- both of those companies probably
22 needed a fuel adjustment clause a little bit more than
23 any other because of that volatility of natural gas.

24 I'm also generally aware of the -- you
25 know, the customer base and sizes. So it's -- it's

1 based on my experience over the years of just looking
2 at these -- at these companies in context of cases and
3 just, you know, general knowledge.

4 Q. How many customers does Empire serve,
5 approximately?

6 A. It's -- it's less than -- than GMO. I --
7 I -- I -- it's less than 200,000, I believe.

8 Q. It's about 170,000?

9 A. That sounds correct.

10 Q. And GMO has over 300,000 customers?

11 A. That sounds correct.

12 Q. Staff's report at page 1 says it has
13 312,000 customers; is that true?

14 A. I -- I accept that.

15 Q. What's Empire's generating capacity?

16 A. Empire's generating capacity is -- I'm
17 going to say it's, you know, in the range of 2,000,
18 you know, megawatts, somewhere in that -- in that
19 area.

20 Q. Well, isn't it true that GMO's is about
21 2,000 megawatts and Empire's is about 1,200 to 1,500?

22 A. Okay. So, yeah. I'm sorry, I was
23 flipping the two. Yes, it's smaller. I mean Empire's
24 a smaller company so that -- yeah, that -- that --
25 that sounds correct.

1 Q. How many states does Empire operate in?

2 A. Mainly in Missouri; I mean 90 percent of
3 their revenues. But they have some small part of
4 their operations in Arkansas, Oklahoma, Kansas. The
5 Kansas Corporation, I believe.

6 Q. Okay. So Empire is regulated by four
7 states: Arkansas, the Arkansas Public Service
8 Commission; the Kansas Corporation Commission; and the
9 Oklahoma Corporation Commission; as well as the
10 Missouri Public Service Commission?

11 A. Like I said, I think about 10 percent of
12 their revenues come from those other states.

13 Q. Does Empire own a local gas distribution
14 utility?

15 A. Yes, they do.

16 Q. Okay. Does GMO?

17 A. No.

18 Q. Okay. Does Empire do business at or near
19 any major metropolitan area like GMO does in the
20 Kansas City area?

21 A. I don't want to insult Joplin. Joplin
22 has -- I don't know what the population is, but, you
23 know, I'm -- there's -- there's a difference in the
24 size of Joplin and Kansas City.

25 Q. Is Joplin the only metropolitan area of

1 any size that it serves?

2 A. That's the main area, yes. That's the
3 main and largest city that they serve.

4 Q. Okay. Now, in your testimony that
5 endorsed using Empire as a proxy for GMO's cost of
6 debt, did you conduct any analysis of Empire's average
7 maturity of debt instruments compared to those of GMO?

8 A. No.

9 Q. Did you compare the timing and the amount
10 of the issuances or their terms of conditions with
11 those of GMO?

12 A. No.

13 Q. Did you look at the availability of
14 alternative sources of funding at the time that Empire
15 issued its debt versus that of GMO?

16 A. No.

17 Q. would you agree that because of the
18 unregulated operations of Aquila, with regard to
19 arriving at a cost of debt the Commission will have to
20 use something other than GMO's actual debt?

21 A. It -- it's hypothetical regardless.
22 It's -- their funds have been raised through
23 divestitures over the last, you know, several years.
24 very extraordinary circumstance in this situation.

25 Q. So what we really have here is a

1 philosophical debate whether to use Staff's
2 recommendation of Empire, an entirely different
3 company as a proxy, or to use the assignment process
4 that GMO did with regard to the \$500 million senior
5 notes?

6 A. well, I mean, I know there's focus on the
7 500 million and obviously that's the main area of
8 dispute, but, you know, I think there's -- should be
9 some consideration -- I didn't mention this in my
10 written testimony, but there's about \$1.2 billion of
11 debt issued by Aquila in about a two- or three-year
12 period from 1999 through 2002.

13 So even though those -- those debt
14 assignments -- those weren't made through debt
15 assignments, I can pretty well assure you that MoPub
16 and St. Joe, that that 1.2 billion was not just
17 associated with them. We just have a different animal
18 here, bottom line.

19 Q. Prior to 2002, Aquila or UtiliCorp was
20 investment grade; is that correct?

21 A. I -- it was shortly after Enron filed for
22 bankruptcy that the downgrades started to continue --
23 or started to begin. So I believe Enron filed
24 bankruptcy in December 2001 so it would have been
25 subsequent to that. So I'd say Empire -- I'm thinking

1 as far as my memory of when they started to -- to go
2 below investment grade. So 2002 would sound accurate.

3 MR. ZOBRIST: Nothing further, Judge.

4 JUDGE DIPPELL: Thank you. I don't have
5 any questions for Mr. Murray. Is there any redirect?

6 MR. DEARMONT: Just a few questions,
7 Judge.

8 REDIRECT EXAMINATION BY MR. DEARMONT:

9 Q. Mr. Murray, you discussed with
10 Mr. Zobrist your use of the word "acceptable" on
11 page 20 of your surrebuttal testimony. Do you
12 remember that?

13 A. Yes.

14 Q. Okay. Is your disagreement in this case
15 with -- with the cost of debt or has it been refined
16 down to a disagreement with the process that was used
17 to reach that cost?

18 A. It's -- it's the process. There's --
19 there's -- there's some things that, you know, have to
20 be considered, excuse me, in light of the Report and
21 Order. And when Great Plains Energy acquired the
22 Aquila operations, specifically MoPub and St. Joe, in
23 which the cost of debt or -- it doesn't say
24 specifically the cost of debt, but no higher capital
25 costs will be charged to ratepayers as a result of the

1 acquisition. So I think we need to be very -- very in
2 tuned to that -- that aspect.

3 And so that -- that was part of my review
4 process is not nece-- you know, looking at, okay, that
5 this is their assignment process, does the ultimate
6 result end up in -- you know, in a cost that is -- is
7 higher than the KCPL cost of debt.

8 Q. Do you have any reason to question the
9 reliability of the Bloomberg index itself?

10 A. No.

11 Q. Okay. But from that index, an analyst
12 can or will select bonds that are grouped together by
13 yield; is that correct? In other words, from that
14 index you can -- you can reach yields for triple B
15 bonds or triple B minus bonds or triple B plus bonds?

16 A. Yes. And actually I've had some
17 discussions with Bloomberg. The cost of their
18 terminals is above and beyond what I think the State
19 would allow us to -- to pay to -- to have access to
20 the information. That's why I rely on -- we rely on
21 Great Plains Energy to provide us that data.

22 But it is something that should be very
23 carefully considered when deciding what bond category
24 to use as to the process of Bloomberg. My
25 understanding of the process of Bloomberg is -- is

1 they rely on the major rating agencies to determine,
2 you know, where -- what bonds are going to put in what
3 given category, specifically the notch within that
4 category.

5 So say, for instance, in -- in the
6 situation of -- of, you know, Aquila where they did
7 have a split rating, they had a B double A three from
8 Moody's before they started being downgraded by -- due
9 to the non-regulated failures and they had a triple B
10 from S&P, Bloomberg indicated to me that they would
11 do, you know, some type of blend and -- and -- in
12 deciding where that -- you know, in deciding, you
13 know, what category that bond should -- should fall
14 within. So it very may likely be the triple B rather
15 than the triple B minus.

16 So -- but understanding that process is
17 very important if you're going to use the data to
18 determine what costs to be put into rates.

19 Q. Yeah. I -- I understand. I guess I'm
20 just trying to boil this down and get an understanding
21 about whether or not your issue is with the data that
22 forms the basis of the Bloomberg index or the
23 company's selection of a group of bonds of particular
24 yield to use as a proxy?

25 A. It -- it -- most of this dates back to

1 the assignment process, as we've discussed already.
2 The 500 million was obviously issued in 2002. That
3 \$500 million wasn't sitting in the treasury for the
4 next eight years for purposes of investment in the
5 MoPub and St. Joe properties. And -- and as we've
6 also discussed prior to 2006, we -- we can't even
7 really reconcile because the data's not available what
8 capital expenditures were made.

9 Q. Do you remember discussing with
10 Mr. Zobrist the number of differences between Empire
11 and GMO?

12 A. Yes.

13 Q. Okay. Given those differences, can you
14 just tell me why did you choose Empire as opposed to
15 another regulated entity?

16 A. I -- it's as pure play as you get in --
17 in the electric utility, integrated electric utility
18 world, especially considering a lot of non-regulated
19 activities of many of the other utilities throughout
20 the country. But on top of that, their -- 90 percent
21 of their revenues are generated in Missouri.

22 And like I said, their -- it doesn't
23 really take a real detailed, you know, checkpoint
24 analysis to -- to understand that Empire and Aquila --
25 out of any of the companies that operate in

1 Missouri -- and obviously Empire to a great extent,
2 were the two utilities that -- that needed the
3 legislation to allow the fuel adjustment clause the
4 most because their reliance on purchase power and
5 natural gas-fired generation.

6 I think the base load coal -- I say base
7 load. I shouldn't -- I know the coal generating to --
8 as far as the fuel for -- for their generating sources
9 is about 50 percent for both of them. KCPL and UE you
10 would find much higher. And also nuclear, of course.

11 So as far as, you know -- and size,
12 Empire being smaller. Actually if you accept the --
13 the idea that size would cause a cost to be a little
14 bit higher, then that's actually conservative.

15 MR. DEARMONT: I have no further
16 questions. Thank you.

17 JUDGE DIPPELL: Thank you. Mr. Murray, I
18 believe that concludes your testimony

19 THE WITNESS: Thank you.

20 JUDGE DIPPELL: You may step down.

21 Do we need a short break before the next
22 issue?

23 MR. DEARMONT: That would be nice.

24 JUDGE DIPPELL: Let's go ahead and take a
25 ten-minute break and go off the record until 9:30.

1 we'll go off the record.

2 (A recess was taken.)

3 JUDGE DIPPELL: Okay. We're back on the
4 record and we're about to begin the Crossroads issue
5 and there are some opening statements to be made.
6 Let's begin with GMO.

7 MS. CUNNINGHAM: Thank you, your Honor.
8 May it please the Commission. Crossroads. Wow.
9 Staff contends that GMO should have built five
10 combustion turbines in 2005 instead of the three that
11 were built. Staff has maintained that position since
12 the first case after the three CTs were built. In
13 addition to building the three CTs, the company also
14 entered into a capacity agreement for some very
15 favorably priced base load energy.

16 The company is, frankly, mystified about
17 Staff's refusal to acknowledge that it has been a
18 smart decision to build three CTs and enter into a PPA
19 for base load energy. Particularly considering that
20 in 2004, just one year before the CTs were built,
21 Staff sent a letter to the company indicating that an
22 optimal long-term mixed generation must include base
23 load generation.

24 So now Staff's pinging us for doing
25 precisely what it told us to do, add base load to our

1 long-term resource plan. Staff has gone so far as to
2 impute to us the cost of two turbines that don't
3 exist.

4 Staff's argument seems to focus on the
5 fact that the five CT option produced the lowest net
6 present value. What Staff seems to ignore is that the
7 option chosen by the company was the second lowest NPV
8 and, furthermore, addressed Staff's concerns about
9 including base load into our generation mix.

10 Later on, GMO made the decision to
11 transfer the Crossroads facility, 300 megawatts of
12 combustion turbine, from a non-regulated business to
13 the parent. And then from there, from the parent to
14 the Missouri Public Service Company, the regulated
15 entity.

16 Based on the results of an RFP that was
17 issued in 2007, Crossroads was determined to be the
18 most favorable capacity resource. As part of our
19 agreement in the last GMO rate case, GMO went out
20 again and evaluated capacity alternatives. Crossroads
21 again proved to be the most favorable capacity source.

22 Some of the arguments you have read or
23 will hear today contend that Crossroads is in
24 Mississippi and the company has to buy transmission
25 service to get the energy to MPS. This is true.

1 However, the company has demonstrated that the
2 benefits of having the capacity in Mississippi,
3 including the tradeoff of paying higher transmission
4 costs, are more than offset by lower gas reservation
5 costs.

6 Simply stated, it costs just as much to
7 bring the gas up here to run a local plant as it does
8 to acquire firm transmission to get power up here from
9 Crossroads. It's a wash. In addition, there's the
10 benefit of the lower capital costs for the Crossroads
11 plant.

12 The company urges you to recognize that
13 diversifying its fuel mix as directed by Staff was not
14 only reasonable but prudent and the imputation of
15 phantom turbines to the company is unreasonable.

16 Thank you.

17 JUDGE DIPPELL: Thank you.

18 Staff.

19 MR. WILLIAMS: Thank you. May it please
20 the Commission. My name's Nathan Williams. And I'm
21 appearing again here before you for the Staff.

22 Basically it's Staff's position that
23 Aquila's ratepayers should not pay for Aquila's
24 mistakes, even though Aquila has changed both its
25 management and its name. The purpose of the Public

1 Service Commission is to protect the public from
2 utilities, including protecting the public from the
3 consequences of utility mismanagement.

4 The issue you're about to hear that
5 KCPL -- KCP&L/Greater Missouri Operations Company has
6 characterized as Crossroads is really about the
7 decision of Aquila's management not to build two
8 additional 105 megawatt combustion turbines when it
9 built three of them in 2005 and the consequences of
10 that decision.

11 It is Staff's position that Aquila's
12 decision not to build the two additional combustion
13 turbines when it built the South Harper in 2005 was
14 imprudent and that its ratepayers should not bear the
15 consequences of that imprudence.

16 From early in the 1980's until they built
17 South Harper in 2005, KCP&L/Greater Missouri
18 Operations Company exclusively relied on purchase
19 power to meet its customers' increasing demands for
20 electricity instead of building generating units. In
21 doing so, in 2000 Aquila entered into a five-year
22 purchase power agreement to take power from the Aries,
23 now Dogwood, generating plant that ended in 2005.
24 That agreement provided for 500 megawatts of capacity
25 in the summer and 320 megawatts in the winter.

1 Needing to replace that capacity in 2005
2 when the purchase power agreement ended, rather than
3 following its 2004 least cost resource plans to build
4 five 105 megawatt combustion turbines, Aquila instead
5 built three 105 megawatt combustion turbines at South
6 Harper, a site designed for up to six 105 megawatt
7 combustion turbines. These three combustion turbines
8 only replaced 315 of the 500 megawatts of generating
9 capacity provided by Aries.

10 In 2005, needing 500 megawatts of peaking
11 capacity to serve its Kansas City service area at the
12 end of its five-year agreement for capacity from
13 Aries, rather than following its least cost plan and
14 building 500 megawatts of combustion turbine
15 generation when it built South Harper, a site designed
16 for up to six 105 megawatt combustion turbines, Aquila
17 instead built 315 megawatts of combustion turbine
18 capacity and purchased power for the remaining
19 200 megawatts of capacity.

20 Since 2005, Staff has consistently taken
21 the position it was imprudent for Aquila to build only
22 three combustion turbines and rely on purchase power
23 agreements for the balance of its power needs. And
24 since then, Staff has included in its cost of service
25 for KCPL/Greater Missouri Operation Company the cost

1 of additional combustion turbines rather than the cost
2 of the purchase power agreements KCPL/Greater Missouri
3 Operations Company used to supply that power.

4 In a change from relying on purchase
5 power to relying on own generation, as it did in its
6 last rate case, KCP&L/Greater Missouri Operations
7 Company is seeking in this case to include in its cost
8 of service the cost on its books of 300 megawatts of
9 capacity from its Crossroads four 75 megawatt
10 combustion turbine station in Mississippi.

11 Regardless of how it is actually
12 obtaining the electricity it delivers to its
13 customers, it is up to the Commission to determine the
14 prudent cost associated with that electricity.

15 In this case, the Commission should
16 include in KCP&L/Greater Missouri Operation Company's
17 cost of service the cost of two 105 megawatt
18 combustion turbines installed at South Harper in 2005
19 instead of the cost based on KCP&L/Greater Missouri
20 Operation Company's 300 megawatts of capacity from
21 Crossroads; not on KCP&L/Greater Missouri Operation
22 Company's cost associated with Crossroads.

23 I'll also say that Crossroads is a
24 peaking facility, not a base load facility. Thank
25 you.

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JUDGE DIPPELL: Thank you.

Mr. Lumley.

MR. WILLIAMS: Oh, I'm sorry. If I may.

JUDGE DIPPELL: You may.

MR. WILLIAMS: There is some more I would like to add.

JUDGE DIPPELL: Okay.

MR. WILLIAMS: I'm sorry. KCPL/Greater Missouri Operations Company's affiliate, Aquila Merchant Services, originally built Crossroads station as a merchant plant in 2002. KCPL/Greater Missouri Operations Company did not transfer the cost of Crossroads onto its regulated books for its Kansas City service area until August of 2008.

Although Great Plains Energy and Aquila valued Crossroads at 51.6 million when it acquired Aquila, without any support it was doing so at the lower of cost of market value as required by the Commission's affiliate transaction Rule 4 CSR 240-20.015, KCPL/Greater Missouri Operations Company moved Crossroads on its regulated books -- onto its regulated books at net plant values of approxima-- approximately 97.6 million for production plant and 3.1 million for transmission plant in August of 2008. These net plant values are now 89.3 million for

1 production plant and 17.9 million for transmission
2 plant as of June 30th of 2010.

3 If the Commission rejects Staff's
4 position, the generation cost of -- if the Commission
5 rejects Staff's position, the generation cost
6 KCPL/Greater Missouri Operation Company seeks to
7 include in its cost of service based on Crossroads
8 should instead be based on the cost of two additional
9 105 megawatt combustion turbines installed in 2005
10 when Aquila decided not to proceed with its least cost
11 resource plan of building five 105 megawatt combustion
12 turbines and instead built three, and with the
13 exception of a long-term 75 megawatt base load
14 purchased power agreement with Nebraska Public Power
15 District, entered into a series of short-term purchase
16 power agreements.

17 The cost the Commission should include
18 for Crossroads and KCPL/Greater Missouri Operation
19 Company's cost of service for S should be based on the
20 51.6 million for both production and transmission
21 facilities at which Great Plains Energy and
22 KCP&L/Greater Missouri Operations Company valued
23 Crossroads when it acquired Aquila in 2007 less
24 accumulated depreciation.

25 Further, the accumulated deferred taxes

1 associated with Crossroads should be an offset to
2 rate-base and the transmission expense for getting
3 energy from Crossroads in Mississippi to the Kansas
4 City area should not be included as an expense in
5 KCP&L/Greater Missouri Operation Company's cost of
6 service. Thank you.

7 JUDGE DIPPELL: Thank you, Mr. Williams.
8 Mr. Lumley.

9 MR. LUMLEY: Good morning.

10 JUDGE DIPPELL: Good morning.

11 MR. LUMLEY: Dogwood Energy joins Staff
12 in opposing the inclusion of Crossroads power plant,
13 located 400 miles away in Mississippi, in the
14 rate-base and operating expenses for purposes of
15 setting GMO's Missouri rates.

16 In support of its position, Dogwood
17 presents the testimony of Robert Janssen and Judah
18 Rose. Mr. Janssen is the senior vice president of
19 Kelson Energy, which owns Dogwood. He's also the
20 president and general manager of Dogwood, which is the
21 owner of the 650 megawatt combined cycle generating
22 facility that's located in GMO's territory in Pleasant
23 Hill, Missouri. Dogwood acquired that plant towards
24 the end of 2006 and since then has made significant
25 improvements to it.

1 Mr. Janssen's responsibilities include
2 the operation of that facility and also representation
3 of Dogwood at the SPP and before commissions like this
4 one and regulatory agencies at the federal level as
5 well. He provides a resume with his rebuttal
6 testimony that describes his background in the
7 electric industry.

8 Mr. Janssen explains that the Dogwood
9 plant is a customer of GMO and buys its retail
10 electric service for purposes of plant start-up and
11 operations of the buildings on the site and,
12 therefore, it has concerns about the proposed rate
13 increases in this case as a customer.

14 And specifically it's concerned about
15 those rates being unduly high as a result of the
16 proposal to include the Crossroads Clarksdale,
17 Mississippi plant in rate-base and operating expense.
18 Moreover, as a source of capacity in the service area,
19 Dogwood's concerned about being improperly disregarded
20 in favor of such a less attractive power source by a
21 regulated monopoly utility.

22 Mr. Williams has explained that Staff
23 opposes GMO's efforts to include the Crossroads plant
24 for rate-making purposes for a variety of reasons,
25 including affiliate transactions, extra transmission

1 costs, higher natural gas prices, distant management
2 and plant location and size.

3 The Dogwood plant represents the real
4 solution that Mr. Fischer mentioned in his opening
5 statement yesterday. It's not hypothetical and it
6 demonstrates that GMO cannot only have appropriate
7 rates, but also actually use a more efficient capacity
8 solution than the Crossroads plant.

9 Dogwood would provide local intermediate
10 capacity that would actually be more valuable to GMO
11 than the distant peaking capacity offered by
12 Crossroads, particularly as we look to a future of
13 coal plant retirements and increasing reliance on
14 intermittent sources such as wind.

15 Mr. Janssen explains that Dogwood has
16 responded to RFPs issued by GMO and made other
17 proposals on its own that are more attractive than
18 Crossroads involving power and asset acquisition
19 options. The Dogwood plant meets Staff's goals
20 because it's steel in the ground and it's located in
21 GMO's territory. Its location proximate to load
22 reduces power losses and allows for reactive power
23 supply. It does not face the transmission
24 restrictions that confront Crossroads.

25 As Mr. Janssen explains, the Dogwood

1 plant has a cheaper natural gas fuel supply and its
2 advantages will continue to grow as plant -- coal
3 plants are retired and wind reliance increases. He
4 provides details regarding Dogwood's proposals in his
5 testimony and also indicates that Dogwood's more than
6 willing to work with GMO to try and make sure that its
7 proposals can be customized to meet its needs.

8 He testifies that these proposals are
9 superior to Crossroads due to the efficiency of the
10 Dogwood plant, lower transmission costs and other
11 advantages, including off-system sales opportunities
12 that Crossroads does not possess. He expressed a
13 serious concern about the degree to which GMO actually
14 considers Dogwood's proposals.

15 GMO then submitted rebuttal testimony
16 attempting to defend its decision to rely on
17 Crossroads. And Mr. Janssen then provides surrebuttal
18 that specifically contradicts their testimony on the
19 issue of natural gas costs. He shows that the
20 comparatively high gas prices and longer and less
21 reliable transmission remain reasons to not include
22 Crossroads in rate-base.

23 In addition to Mr. Janssen's testimony,
24 Dogwood also present Mr. Rose's testimony on a
25 surrebuttal basis. Mr. Rose is the managing director

1 of ICF International and he provides a full
2 explanation of his extensive 30-year career in
3 assessing wholesale power markets and power contracts
4 as well as the background of his company.

5 He explains in detail that contrary to
6 GMO's claims, that proposals made by Dogwood have
7 consistently been more attractive than Crossroads. He
8 provides highly confidential testimony quantifying the
9 advantages of Dogwood over Crossroads and identifies
10 errors in GMO's analysis. He explains that Dogwood is
11 more economical than Crossroads because of the energy
12 cost savings and the process of converting the natural
13 gas to electricity, higher off-system sales revenues
14 and lower transmission costs.

15 And beyond financial advantages, Dogwood
16 will simply be more reliable due to its proximity and
17 efficiency, will have lower emissions and it offers a
18 diversity of supply that Crossroads does not.

19 Mr. Rose testifies that in its
20 evaluations of power supply alternatives, GMO has
21 improperly ignored off-system sales and transmission
22 risks such as the loss of energy over the distance and
23 even constraints on transmission. He shows that GMO's
24 proposal to obtain power from Crossroads is very
25 unusual given the distant location.

1 On average, GMO acquires power from
2 plants within 70 miles. Mr. Rose indicates he's not
3 aware of another example of a peaking power plant that
4 is as far away from utility load as Crossroads at
5 400 miles. Through this testimony, Dogwood shows that
6 it's an available and attractive solution to GMO's
7 capacity needs that should not be ignored in favor of
8 a Mississippi plant and offers a real solution to
9 Staff's capacity concerns.

10 For these reasons, Dogwood urges the
11 Commission not to allow rate increases for GMO that
12 are based on the Crossroads plant. The Commission
13 should provide GMO with an appropriate regulatory
14 incentive and opportunity to actually address its
15 power needs through a resource located near load,
16 such as by means of a regulatory plan.

17 Dogwood encourages the Commission to
18 require that non-affiliated power sources like the
19 Dogwood plant are fairly considered by monopoly
20 companies like GMO in resource planning and
21 acquisition. Thank you.

22 JUDGE DIPPELL: Thank you, Mr. Lumley.
23 All right then. I guess we're ready for our first
24 witness on this issue, which is Mr. Crawford. And he
25 has kindly already gone to the witness stand.

1 Mr. Crawford, I'll swear you in.

2 (Witness sworn.)

3 JUDGE DIPPELL: I guess you were probably
4 sworn in yesterday.

5 And go ahead, Ms. Cunningham.

6 MS. CUNNINGHAM: Thank you.

7 BURTON CRAWFORD, having been sworn, testified as
8 follows:

9 DIRECT EXAMINATION BY MS. CUNNINGHAM:

10 Q. Mr. Crawford, would you please state your
11 full name for the record.

12 A. Burton Crawford.

13 Q. And your business address?

14 A. 1200 Main, Kansas City, Missouri.

15 Q. And as the judge pointed out, you have
16 testified previously in both the KCPL and GMO
17 proceedings; is that correct?

18 A. I have.

19 MS. CUNNINGHAM: And for identification
20 purposes, your Honor, I would note that Mr. Crawford's
21 GMO testimony has been identified as Exhibits 10-HC
22 and NP, GMO 11-HC and NP, and GMO 12-HC and NP. And
23 it's my understanding that it's already been offered
24 and admitted at this time, but for clarification
25 purposes --

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JUDGE DIPPELL: Yes.

MS. CUNNINGHAM: Thank you.

BY MS. CUNNINGHAM:

Q. With regard to your Crossroads-related testimony, do you have any changes to make to that testimony as it was pre-filed?

A. I have a change to my rebuttal testimony. On page 10, the Q and A that starts at line 12 needs to be removed.

Q. So that would be lines 12 through 17 on page 10 of your rebuttal --

A. Correct.

Q. -- need to be removed?

Are there any other changes that you need to make to your testimony at this time?

A. There are not.

Q. With that change, if I were to ask you the same questions today, would your answers be the same?

A. Yes, they would.

MS. CUNNINGHAM: Okay. And as I stated previously, I think it's already been offered and admitted but wanted to note that change for the record.

JUDGE DIPPELL: And just to clarify,

1 would there be any objection to that language being
2 removed from Mr. Crawford's testimony?

3 MR. WILLIAMS: As I understand it, the
4 company's asking that part of the witness's testimony
5 be stricken?

6 JUDGE DIPPELL: Yes.

7 MR. WILLIAMS: I think I'd prefer to
8 inquire of him about it. I intended to conduct some
9 cross on it. So yeah, I would object to it being
10 stricken at this time. It's already been admitted
11 into the record so --

12 JUDGE DIPPELL: All right. Is there --
13 can -- can I just ask for the reason for the removal
14 of that?

15 THE WITNESS: That statement is a
16 holdover from the previous case where Staff had
17 imputed the cost of a 100 megawatt PPA to basically
18 provide enough capacity for the company. In this case
19 they have actually not imputed the 100 megawatt PPA.

20 JUDGE DIPPELL: Okay. And you --

21 MR. WILLIAMS: And if he's saying the
22 statement's incorrect, he can certainly testify that
23 it's incorrect.

24 JUDGE DIPPELL: Okay. For now, I'll
25 allow it to stay as it is, noting his testimony about

1 why it needs to be corrected and let Mr. Williams ask
2 any questions he might have about that.

3 MS. CUNNINGHAM: Okay. At this time I
4 would tender Mr. Crawford for cross-examination.

5 JUDGE DIPPELL: Okay. Is there -- let me
6 just inquire about the order of cross-examination
7 here. I have Dogwood going before Staff on this
8 issue. Is that the preferred order?

9 MR. LUMLEY: I'd prefer to let Staff go
10 first so I don't duplicate their records.

11 MS. CUNNINGHAM: Well, might I inquire?
12 I thought there was a -- a -- an agreement that it
13 would be least adverse to most adverse. Is he
14 suggesting that he's more adverse than Staff?

15 MR. WILLIAMS: Staff has no opposition to
16 going before Dogwood.

17 MR. LUMLEY: We're both taking positions
18 contrary to the company. I'm not sure you can rate it
19 by stars or thumb's up or anything, but I don't care
20 either way. It's not that big a deal, but I think in
21 terms of efficiency, I'd go last.

22 JUDGE DIPPELL: I was going to say, I
23 prefer to go with which would be most efficient. And
24 if that would be Staff going first, I'm going to allow
25 Staff to go first.

1 MR. WILLIAMS: I'm not anticipating
2 extensive cross-examination of this witness.

3 JUDGE DIPPELL: All right. Let's go
4 ahead then. Is there any other cross-examination
5 besides Dogwood and Staff?

6 All right then. I'm going to allow
7 Mr. Williams to go first then.

8 CROSS-EXAMINATION BY MR. WILLIAMS:

9 Q. Good morning, Mr. Crawford.

10 A. Good morning.

11 Q. Crossroads is a peaking facility, is it
12 not?

13 A. That's correct.

14 Q. And that would be the same as two
15 additional combustion turbines, 105 megawatt
16 combustion turbines in terms of the nature of the
17 capacity?

18 A. In terms of the nature, yes. Not -- not
19 the size, but nature.

20 Q. Correct. Turning to your rebuttal
21 testimony on page 10 at lines 12 through 17, Staff did
22 not impute a 100 megawatt capacity contract to
23 KCP&L/Greater Missouri Operations Company in this
24 case, did it?

25 A. I do not believe so.

1 Q. So that was -- that question and answer
2 is incorrect?

3 A. That's correct.

4 Q. Would you turn to page 2 of your
5 surrebuttal testimony, which has been marked for
6 identification as GMO-12? And in response to a
7 question on the prior page, do you not state that GMO
8 completed analyses in 2007 and 2010 that you assert
9 show that Crossroads was the most cost effective
10 alternative for meeting GMO's resource needs?

11 A. Yes.

12 Q. Was there a similar evaluation done in
13 2004?

14 A. Yes, there was.

15 Q. And in 2005?

16 A. I'm not familiar with one in 2005.

17 Q. And what did the evaluation in 2004
18 reflect?

19 A. 2004 -- I'm sorry, 2004 there was not
20 actually an evaluation of Crossroads. It was -- it
21 was an evaluation of adding additional capacity to
22 the -- to the system to replace the Aries contract
23 that was expiring. And so that was -- that was of
24 a -- a different time period.

25 Q. Are you saying the 2004 evaluation didn't

1 reflect that Crossroads was the most cost effective
2 alternative for meeting GMO's -- or Kansas --
3 KCPL/Greater Missouri Operations Company's resource
4 needs in 2004 or '5?

5 A. That's correct.

6 Q. Haven't markets for generating stations
7 such as Crossroads or South Harper changed
8 significantly since the 2004 or 2005 time frame?

9 A. The -- certainly the wholesale energy
10 markets have -- have changed. Price of natural gas
11 has come down making those facilities less -- less --
12 less desirable.

13 Q. What about the prices of the combustion
14 turbines themselves?

15 A. I'm not familiar with the combustion
16 turbine market in that -- that -- that time period. I
17 know there have been changes over the years.
18 Particularly after gas prices spiked and -- and folks
19 rushed out to build combustion turbines, there was
20 quite a demand somewhere in that time period for
21 turbines.

22 Q. Should regulators such as the Missouri
23 Public Service Commission have any concerns when --
24 should they have no concerns with when a company
25 chooses to acquire generating assets from an

1 affiliate?

2 A. I believe that's what the affiliate
3 transaction rules are for, to govern affiliate
4 transactions. So, yes, they should -- they should and
5 do have a concern over affiliate transactions.

6 MR. WILLIAMS: No further questions.

7 JUDGE DIPPELL: Thank you. Mr. Lumley.

8 CROSS-EXAMINATION BY MR. LUMLEY:

9 Q. Mr. Crawford, on page 6 of your rebuttal
10 testimony, line 16, you reference the Nebraska Public
11 Power District contract, 75 megawatts?

12 A. Yes.

13 Q. Is that the same agreement that was being
14 discussed yesterday that expires in 2014?

15 A. That was being discussed yesterday, yes.

16 Q. On page 7 you refer to the -- on line 17
17 specifically, the 12 percent capacity margin required
18 by SPP.

19 A. Uh-huh.

20 Q. would you expect that capacity to --
21 margin increase over time as more wind generation is
22 incorporated?

23 A. Actually, I would -- I would not
24 anticipate it going up.

25 Q. Also, I meant to say at the outset I'm

1 going to strive to not cause you to say something
2 that's highly confidential, but you do have that kind
3 of information in your testimony. If I ask a question
4 that would elicit that kind of response, let me know
5 and I'll kind of save those and we can then deal with
6 that.

7 A. Okay.

8 Q. On page 9 of your rebuttal, you're
9 discussing your company's efforts regarding the
10 non-unanimous stipulation and agreement from the prior
11 rate case; is that correct?

12 A. That's correct.

13 Q. Can you describe the steps that were
14 taken to explore supply sources to generate the
15 stipulation & study?

16 A. We looked at several -- several different
17 options that would be available in the short run,
18 including additional capacity. Not necessarily that
19 it was going to be available from Iatan 2, but
20 capacity from existing -- existing facilities,
21 including Dogwood. And then we also looked at some
22 options that were very quick to build, like gas-fired
23 reciprocating engines.

24 Q. Was there a specific contemporaneous
25 contact with Dogwood in connection with the creation

1 of the stipulation 8 study?

2 A. There was not.

3 Q. Looking at page 31 of your schedule BLC
4 2010-10 --

5 A. I'm sorry. Which page?

6 Q. Thirty-one.

7 A. Okay.

8 Q. Are you with me?

9 A. Yes, I am.

10 Q. In that first paragraph you indicate the
11 number of scenarios where the Dogwood alternative was
12 the lowest cost. Do you see that reference?

13 A. Yes, I do.

14 Q. Are those two numbers highly
15 confidential?

16 A. No.

17 Q. Okay. would you just -- so Dogwood's the
18 lowest cost in 11 out of the 42 scenarios; is that
19 right?

20 A. That's correct.

21 Q. On page 29 of that schedule -- and
22 there's a table 9 at the bottom of that page which is
23 giving the weighted results of multiple year NPVRR.
24 Correct?

25 A. Correct.

1 Q. NPVRR. Does the differential between
2 Crossroads and Dogwood say under the 20-year category,
3 would that -- that figure be highly confidential?

4 A. It would be extremely highly
5 confidential.

6 Q. Okay.

7 A. If there is such a thing.

8 Q. Okay. So we'll come back to that.
9 Without getting into a specific number, are you aware
10 of what the margin of error would be in this study in
11 terms of would you be able to quantify it?

12 A. I would not be able to quantify it.

13 Q. Okay. Does your prior study results
14 Exhibit 9 -- or I'm sorry, your Schedule BLC 2010-9,
15 does that have a similar table to the one we were just
16 looking at on page 29 that kind of lays everything out
17 together on a comparative basis?

18 A. No, it does -- it does not.

19 Q. Okay. On page 10 of your rebuttal --

20 A. It -- if I could.

21 Q. Yeah.

22 A. As -- as close as it comes --

23 Q. Yeah.

24 A. -- is on page 22. Essentially that --
25 that page is describing the results from the top two

1 long-term resource plan alternatives that were
2 analyzed and what the -- kind of the break-even point
3 would be in terms of how much more one option could
4 cost over the other. And that is -- that is highly
5 confidential as well.

6 Q. But that's the page Break-even, dash,
7 Long-term?

8 A. Yes.

9 Q. Okay. Thank you. Referring to page 10
10 of your rebuttal testimony.

11 A. Okay.

12 Q. The questions and answer lines 3 to 7,
13 you indicate that transmission costs were included.
14 Do you see that reference?

15 A. Yes. The transmission costs were
16 included.

17 Q. Can you identify for me where that's
18 explained in your schedule BLC 2010-10?

19 A. Yes. If you look on page 42 of BLC
20 2010-10, there's a table. Table 19 that lists the
21 alternative assumptions. And under the column that
22 says Case, there is a line that says XRoad. That's
23 Crossroads.

24 And if you look over a couple of columns,
25 it talks about incremental annual firm gas and

1 transmission costs. And you will see a number there
2 and a footnote number one, which then if you look
3 under the notes for footnote number one it says,
4 Includes 406K or 406,000 per month annual energy
5 transmission.

6 Q. Thank you. You're aware that there's a
7 special protection service in place for the Crossroads
8 plant relative to SPP?

9 A. Yes, I am.

10 Q. Does your study factor that in?

11 A. No. The study does not factor that in
12 and there are reasons for that.

13 Q. I'll just let you explain instead of
14 waiting for redirect so it's all in one place. Go
15 ahead.

16 A. Thank you. The special protection scheme
17 at the plant is basically in place because there are
18 two transmission lines coming out of the plant. One
19 of them can carry the full load of the plant, the
20 other line cannot carry the full load of the plant.

21 so in the -- the rare circumstance where
22 all four combustion turbines are running -- and last
23 year that never occurred -- all four have to be
24 running and simultaneously one of the -- of the two
25 lines, and it has to be this particular one line, and

1 that's the line that can carry more than the full load
2 of the plant, has to be out of service.

3 The combination of those two events
4 would -- would be extremely rare in terms of -- you
5 know, transmission reliability is usually looked at in
6 terms of, you know, 99 plus percent service. Now, I
7 do not specifically know what the reliability of the
8 Entergy transmission system is. Even if you said it
9 was out 1 percent of the time and these -- these
10 plants actually run less than half a percent of the
11 time so the joint probability is -- is extremely
12 small. It's -- it's noise.

13 And the -- and that special protection
14 scheme essentially was -- was very important to the
15 company because that was what was required to get firm
16 transmission service from the -- from the plant and
17 allowed us to get the full 300 megawatts worth of firm
18 transmission service, which then allows us to count it
19 as a credited capacity.

20 Q. But notwithstanding your explanation of
21 probabilities, SPP wanted that in place?

22 A. Yes, they did.

23 Q. Page 12 of your rebuttal, at the bottom
24 of the page, question and answer starting at line 19.
25 Can you identify the -- the offeror or is that HC?

1 A. Specific RFP responses I would believe
2 should be considered HC.

3 Q. Okay.

4 A. And I couldn't tell you if I -- I knew
5 right off the top of my head.

6 Q. So you don't know as you're here today?

7 A. Correct.

8 Q. Okay. I mean do you have that
9 information with you to refer to to refresh your
10 recollection?

11 A. I don't -- I don't believe so.

12 Q. Okay. Page 14 of your rebuttal, on
13 line 3 you testify that in your view, GMO has complied
14 with the affiliate transaction rule's intended
15 purpose; is that correct?

16 A. That's correct.

17 Q. To your knowledge, did this Commission or
18 the FERC approve the acquisition of Crossroads?

19 A. Not that I'm aware of. The company --
20 the merchant company built it so I'm not sure that
21 there was an acquisition involved.

22 Q. I'm just seeking clarification of your
23 testimony so -- can you explain how Crossroads is
24 actually owned by GMO?

25 A. It is technically owned by

1 the Clarksdale Public Utility through what is similar
2 circumstances to what would be I guess a Chapter 100
3 financing in Missouri. Essentially the municipality
4 was used to -- to float the bonds, which were done at
5 an attractive rate because of their tax exempt status.

6 And the company has an option to a -- I
7 think they call it a bargain purchase option to --
8 to -- to purchase the facility, but to the extent that
9 they did that today, it would lose the advantage of
10 the lower tax exempt financing and costs would go --
11 go up. So wouldn't imagine we're going to be
12 exercising that option.

13 Q. And is it specifically the
14 relationship -- would it be described as an output
15 agreement where GMO has a contract to take all the --
16 all the generation of the plant, has the rights to all
17 the generation of the plant?

18 A. Yes. Yes.

19 Q. So it's not even a lease in the ordinary
20 sense of that word. Correct?

21 A. That would be my limited understanding of
22 it, yes.

23 Q. And do GMO personnel employees operate
24 that plant or are they employee of Clarksdale?

25 A. They're -- they're city employees.

1 They're not KCPL employees.

2 Q. Was your company obligated to take
3 that -- well, let me -- let me back up. GMO's not the
4 original party to the output agreement. Correct?
5 It's a successor party?

6 A. I believe so. The -- the original would
7 have been the Aquila Merchant Services.

8 Q. Which was a separate legal entity?

9 A. Separate affiliate of --

10 Q. Right.

11 A. Yeah.

12 Q. But in terms of corporate status, a
13 separate entity?

14 A. I -- I believe so.

15 Q. Okay. Was there an obligation in the --
16 the merger terms to get to where we are today in terms
17 of now it's GMO as the party to the agreement?

18 A. Are you referring to the KCPL/Aquila --

19 Q. Right.

20 A. -- acquisition? I'm sorry. Can you
21 repeat the question? Was there an obligation?

22 Q. In the -- in the merger agreement was --
23 was that a specified term or was that a separate
24 decision point after the merger?

25 A. The decision to do what?

1 Q. To make GMO the successor party to that
2 contract with Clarksdale.

3 A. That -- that was -- that was done
4 subsequent to the -- subsequent to the acquisition.

5 Q. So it was a free-standing decision made
6 independently of the merger process?

7 A. I believe KCPL was aware of the -- the
8 decision that Aquila had -- had made to want to move
9 those facilities to the MPS books and records.

10 Q. Okay. So at that time the -- the idea
11 was already conceived just not implemented?

12 A. Correct.

13 Q. All right.

14 MR. WILLIAMS: That's all my questions.
15 Thank you.

16 JUDGE DIPPELL: Did you have in-camera
17 questions or --

18 MR. LUMLEY: Oh, I'm sorry. I do. Thank
19 you. But do you want to wait till -- however you want
20 to do it.

21 JUDGE DIPPELL: Yeah, we could -- if --
22 if they will wait, maybe we should do --

23 MR. LUMLEY: Or you know what? Let -- I
24 won't belabor that. Let me just go back to that and
25 do it on a non-HC basis since I only have one kind of

1 boiled down. Thank you for reminding me.

2 JUDGE DIPPELL: Okay.

3 BY MR. LUMLEY:

4 Q. If we could go back to that page 29 of
5 your schedule BLC 2010-10.

6 A. I'm there.

7 Q. If we look at the column 20-year NPVRR.

8 A. Uh-huh.

9 Q. And just for clarity, that stands for net
10 present value revenue requirement; is that right?

11 A. That's correct.

12 Q. If the Commission wanted to compare the
13 results for Crossroads and 300 megawatts from Dogwood,
14 would they compare lines 2 and 3 of Table 9 in that
15 column?

16 A. That's correct.

17 MR. LUMLEY: All right. Thank you very
18 much. That's all I have for sure.

19 JUDGE DIPPELL: Thank you, Mr. Lumley.
20 Is there any redirect? There's no questions from the
21 bench.

22 MS. CUNNINGHAM: Thank you. Just a few
23 questions. Thank you.

24 REDIRECT EXAMINATION BY MS. CUNNINGHAM:

25 Q. Mr. Crawford, in his first series of

1 questions to you, Mr. Williams on behalf of Staff
2 asked you about a resource evaluation that Aquila
3 undertook in 2007, 2010 and 2004. Do you recall those
4 questions?

5 A. Yes, I do.

6 Q. What was the purpose of Aquila's 2004
7 evaluation into its resource needs?

8 A. They were evaluating the replacement of a
9 500 megawatt PPA that was expiring in the summer of
10 2005.

11 Q. And is that related to the Aries plant
12 that we -- that you mentioned previously?

13 A. That's correct.

14 Q. Okay. And what was the purpose of
15 Aquila's 2007 evaluation into its resource needs?

16 A. They were looking at just kind of the
17 standard -- standard part of resource planning,
18 looking at how they were going to fill their resource
19 needs going -- going forward. They had solicited
20 offers for peaking and base and intermediate and PPAs,
21 a whole host of potential resource options.

22 Q. Was that part of an IRP or a part of its
23 own evaluation that it was going to need additional
24 generation at some point?

25 A. It was -- it was a part of its -- its --

1 its own evaluations. The IRP process was basically
2 put on -- on hold during those days. It was still an
3 IRP-type analysis that was done, but it wasn't the --
4 the formal IRP process.

5 Q. And what about the 2010 time frame
6 evaluation into the company's resource needs? What
7 was that -- what was the purpose of that?

8 A. That was per the stipulation and
9 agreement in their previous GMO rate case.

10 Q. And what did the stipulation and
11 agreement require?

12 A. The stipulation and agreement asked the
13 company to do an evaluation of -- of adding capacity
14 to the GMO system.

15 Q. Was the purpose of that study to evaluate
16 prior decisions or to look into making future
17 decisions?

18 A. That's a very good question. I wasn't
19 involved in the stipulation and agreement. And based
20 on the -- the way we had interpreted, it was near term
21 what were the -- what were the options available. So
22 we did look at not including Crossroads in the -- the
23 mix versus including Crossroads.

24 Q. And when we talk about the 2010
25 evaluation, are -- are we talking about the stip 8

1 study?

2 A. That's correct.

3 Q. Okay. Okay. Let's see. Mr. Williams
4 also asked you about affiliate transaction rules and I
5 believe you indicated your understanding that the
6 rules were put in place to protect ratepayers. Do you
7 recall that?

8 A. Yes.

9 Q. Okay. Did MPS acquire Crossroads from an
10 affiliate?

11 A. MPS -- the transfer occurred from the
12 parent company to MPS.

13 Q. And how did the parent get the -- get
14 Crossroads?

15 A. There was a transfer from the affiliate,
16 Aquila Merchant, to the parent company.

17 Q. In your opinion, were the Commission's
18 affiliate transaction rules triggered by either of these?

19 MR. WOODSMALL: Your Honor, I believe
20 this calls for a legal conclusion.

21 MS. CUNNINGHAM: I think if -- if the
22 witness knows and wants to qualify his answer, that's
23 fine. I think he's permitted to offer his opinion.

24 JUDGE DIPPELL: I -- I think there was
25 testimony earlier in -- or in his testimony about

1 whether or not it had complied with various rules so
2 I'll let him give his opinion.

3 THE WITNESS: As was -- Mr. Woodsmall
4 points out, it really is a legal issue and I am not an
5 attorney. But if the transaction would have fallen
6 under the affiliate transaction rules, I feel that it
7 would have met the intent of the rules, which was the
8 transfer would occur at the lower of cost or market.

9 And that was demonstrated through the RFP
10 process to gauge what the market value of those
11 services to GMO would have been. GMO had also looked
12 at some self-build options, which then Crossroads was
13 cheaper than the cost of the -- essentially for GMO to
14 provide that service for itself. So in a sense, it
15 was lower than both the costs or market.

16 BY MS. CUNNINGHAM:

17 Q. In your opinion, if you know and -- and
18 if you don't know, that's -- that's fine. Please feel
19 free to so state. But in your opinion, do the
20 affiliate transaction rules cover transactions or --
21 between a parent and a regulated affiliate?

22 MR. WOODSMALL: Your Honor, same
23 objection. Also, I believe this is getting far afield
24 of any questions asked on any cross.

25 MS. CUNNINGHAM: well --

1 JUDGE DIPPELL: I'll sustain that
2 objection. I -- that's purely a legal question.
3 You're welcome to brief that.

4 MS. CUNNINGHAM: And that's fine,
5 although I would point out that Mr. Woodsmall's own
6 witness, who we all have agreed to waive cross on,
7 addressed the affiliate transactions and was
8 apparently enough of an attorney to opine that the
9 affiliate transaction rules has been violated, as has
10 Staff. So I think it's perfectly acceptable and
11 Mr. Williams opened the door when he asked
12 Mr. Crawford about his understanding of the purpose of
13 the rules.

14 JUDGE DIPPELL: I'm going to sustain the
15 objection.

16 BY MS. CUNNINGHAM:

17 Q. All right. Mr. Crawford, you were asked
18 a question by Mr. Lumley in reference to page 7 of
19 your rebuttal testimony. He asked you if you expected
20 the 12 percent capacity margin to go up if wind
21 generation is added. And you indicated you don't
22 believe that's the case. Can you please explain your
23 answer?

24 A. Yes. The -- the 12 percent capacity
25 margin required by SPP is really a -- for planning

1 purposes. It's not for operational purposes. And
2 it's my understanding that -- that it's roughly based
3 on a -- a loss of load probability of one in ten
4 years, which means essentially you would expect over a
5 ten-year period to not be able to meet some portion of
6 the retail load requirement. It's a reliability
7 measure.

8 I would expect that all other things
9 being equal, that operating reserves could go up in
10 the future as additional wind is going, but not -- not
11 the capacity margin for planning purposes.

12 Q. Okay. Finally, at the end of -- towards
13 the end of his cross-examination of you, Mr. Lumley
14 asked you about the acquisition of Aquila. And he
15 asked you about the company's obligation to continue
16 with utilizing Crossroads. Do you recall those
17 questions?

18 A. I don't recall an obligation to use
19 Crossroads.

20 Q. well, he -- he -- he talked about whether
21 the -- the company was -- was obligated to -- whether
22 utilization of Crossroads was an obligation as part of
23 the merger or whether it was a stand-alone decision
24 made at the time. Do you recall that?

25 A. Yes.

1 Q. Okay. Aquila had the initial contract
2 with Crossroads; is that right?

3 A. It was Aquila Merchant.

4 Q. And then ultimately to the parent?

5 A. Correct.

6 Q. Am I -- I'm trying to get the time line
7 here. And then from the parent to Missouri Public
8 Service?

9 A. Correct.

10 Q. Is that how it went?

11 At the time of the merger, did KCPL
12 acquire that contract as part of the merger?

13 A. I don't know technically what they
14 acquired in the -- in the merger.

15 Q. Okay. That's fine. I was -- that's
16 fine.

17 MS. CUNNINGHAM: Okay. That's all I
18 have. Thank you.

19 JUDGE DIPPELL: Thank you. Thank you,
20 Mr. Crawford. I believe that concludes your testimony
21 on that issue. And I think we can go to the next
22 witness.

23 MS. CUNNINGHAM: At this time KCPL would
24 call Ed Blunk to the stand.

25 JUDGE DIPPELL: I had Ives.

1 MS. CUNNINGHAM: That -- that's fine. We
2 can do Mr. Ives.

3 JUDGE DIPPELL: I -- that was just the
4 order that was on the thing, but if -- if you prefer
5 to do Mr. Blunk and everyone's okay with that, I don't
6 mind, whichever way you want to do it.

7 MS. CUNNINGHAM: Okay. I'll --
8 Mr. Blunk, please.

9 JUDGE DIPPELL: All right.

10 (Witness sworn.)

11 JUDGE DIPPELL: Thank you. Whenever
12 you're ready then, Ms. Cunningham.

13 WILLIAM EDWARD BLUNK, having been sworn, testified as
14 follows:

15 DIRECT EXAMINATION BY MS. CUNNINGHAM:

16 Q. would you please state your name and
17 business address for the record.

18 A. My name is William Edward Blunk. My
19 business address is 1200 Main, Kansas City, Missouri.

20 Q. And, Mr. Blunk, you previously testified
21 in the KCP&L proceeding; is that right?

22 A. Yes.

23 MS. CUNNINGHAM: Okay. For purposes of
24 GMO and purposes of identification of the record, it's
25 my understanding that Mr. Blunk's testimony has been

1 previously marked as GMO Exhibit 7, both HC and NP,
2 that would be his direct testimony; and GMO Exhibit 8,
3 both HC and NP, which is his rebuttal testimony in the
4 GMO proceeding.

5 BY MS. CUNNINGHAM:

6 Q. Are you the same Edward Blunk that caused
7 to be prepared and prefiled in this case both direct
8 and rebuttal testimony?

9 A. Yes.

10 Q. Okay. Do you have any corrections that
11 need to be made to that testimony?

12 A. No.

13 Q. If I were to ask you the same questions
14 contained in your testimony today, would your answers
15 be the same?

16 A. Yes.

17 Q. Are those answers true and correct?

18 A. Yes.

19 MS. CUNNINGHAM: At this time I would
20 move for the admission of Exhibits GMO 7 and 8 and
21 tender the witness for cross-examination.

22 JUDGE DIPPELL: All right. Would there
23 be any objection? I -- I show 7 has already been
24 admitted, but not 8. So just for clarification, is
25 there any objection to Exhibit GMO 7 and GMO 8?

1 MR. WILLIAMS: Judge, Staff has no
2 objections and no cross.

3 JUDGE DIPPELL: Thank you. Seeing no
4 objections, then I will admit those two pieces of
5 testimony.

6 (GMO Exhibit Nos. 7-HC, 7-NP, 8-HC and
7 8-NP were received into evidence.)

8 JUDGE DIPPELL: Is there other
9 cross-examination?

10 Okay. Well, then let's go ahead with
11 Dogwood.

12 MR. LUMLEY: Thank you, Judge.

13 CROSS-EXAMINATION BY MR. LUMLEY:

14 Q. Sir, would you refer to page 6 of your
15 rebuttal.

16 A. I have that.

17 Q. At the top of the page you're discussing
18 differences in both -- throughout that answer,
19 differences in weather patterns; is that correct?

20 A. Yes.

21 Q. Are you familiar with any statistics
22 regarding when weather would be the same and when it
23 would be different in the two areas?

24 A. I have looked at the temperature weather
25 for the Kansas City, Missouri area and then for also

1 the Clarksdale -- which is technically I guess
2 Greenville, Mississippi is where the weather station
3 is.

4 Q. And what information can you add to that?
5 Can you -- can you quantify these differences in some
6 way?

7 A. While the weather, the temperatures are
8 strongly correlated, they -- they're not 100 percent.
9 So on days when there would be extremes, they are not
10 necessarily the same, meaning just because you have a
11 new high in Kansas City does not necessarily mean
12 you're going to have a new high in Greenville or
13 Clarksville area.

14 Q. And what does "strongly correlated" mean?

15 A. They have a correlation of about 87,
16 90 percent.

17 Q. Of the time; is that --

18 A. Yes. Of the five -- I looked at five
19 years of daily data.

20 Q. Would you agree with me that you haven't
21 factored in transmission costs in your discussion?

22 A. That's true. I did not consider in my
23 numbers because that's more related to what
24 Mr. Crawford testifies on.

25 MR. LUMLEY: Thank you. That's all my

1 questions.

2 JUDGE DIPPELL: Thank you. I have no
3 questions from the bench. Is there any redirect?

4 MS. CUNNINGHAM: No redirect.

5 JUDGE DIPPELL: Thank you very much,
6 Mr. Blunk. Short and sweet.

7 THE WITNESS: Thank you.

8 MS. CUNNINGHAM: At this time we would
9 call Darrin Ives to the stand.

10 (witness sworn.)

11 JUDGE DIPPELL: Thank you. Go ahead.

12 DARRIN IVES, having been sworn, testified as follows:

13 DIRECT EXAMINATION BY MS. CUNNINGHAM:

14 Q. would you please state your name and
15 business address for the record.

16 A. My name is Darrin Ives. My business
17 address is 1200 Main, Kansas City, Missouri.

18 Q. Are you the same Darrin Ives who
19 previously testified in the KCPL and common KCP&L/GMO
20 rate case issues?

21 A. I am.

22 Q. Okay. And for identification purposes,
23 your testimony for GMO has been previously identified
24 as GMO Exhibits 23, 24 and 25.

25 MS. CUNNINGHAM: And, your Honor, my

1 understanding is that GMO Exhibits 23 and 24 have been
2 offered, but not GMO 25.

3 JUDGE DIPPELL: That is what my records
4 show also.

5 BY MS. CUNNINGHAM:

6 Q. Okay. Do you have any changes that you
7 need to make to your testimony today?

8 A. I do not.

9 Q. Okay. If I were to ask you the same
10 questions today, would your answers be the same?

11 A. They would.

12 Q. Are those answers true and correct?

13 A. They are.

14 MS. CUNNINGHAM: Okay. At this time I
15 would move for the admission of GMO Exhibit 25 into
16 the record.

17 JUDGE DIPPELL: would there be any
18 objection to Exhibit 25?

19 Seeing none, then I will admit Exhibit
20 No. GMO 25.

21 (GMO Exhibit No. 25 was received into
22 evidence.)

23 MS. CUNNINGHAM: And I would tender the
24 witness for cross-examination.

25 JUDGE DIPPELL: Thank you. And do I have

1 cross-examination for this witness? No from Staff and
2 yes from Dogwood.

3 so we'll go ahead, Mr. Lumley.

4 CROSS-EXAMINATION BY MR. LUMLEY:

5 Q. sir, if you'd look at page 14 of your
6 surrebuttal.

7 A. I'm there.

8 Q. And the -- your reference to the net book
9 value of \$117 million --

10 A. Yes.

11 Q. -- do you see that?

12 And can you explain how that figure
13 relates to the -- the output contract between GMO and
14 Clarksdale? And I guess specifically what I'm trying
15 to understand is was that amount prepaid as opposed to
16 your paying over time to Clarksdale? How do you tie
17 the two together?

18 A. well, from -- from accounting purposes,
19 the -- the contract's really treated as a capital
20 lease. so it's the value of the assets at the time
21 that the -- the facility was installed. And then
22 that's -- the depreciation effect is net against that
23 for -- for the periods from 2002 to the time of the
24 acquisition in this case.

25 Q. Okay. So would it be fair to say that

1 it's -- it's different than a situation where the
2 company actually builds a plant and spends all that
3 money up front? Here it's an accounting determination
4 of -- of the life of a contract as opposed to a
5 construction expense?

6 A. It's essentially a lease accounting
7 treatment for -- for Crossroads.

8 MR. LUMLEY: All right. Thank you.
9 That's all my questions.

10 JUDGE DIPPELL: All right. Then is --
11 there are no questions from the bench. Is there any
12 redirect?

13 MS. CUNNINGHAM: No redirect.

14 JUDGE DIPPELL: Mr. Ives.

15 THE WITNESS: Thank you.

16 MS. CUNNINGHAM: At this time staff would
17 call -- or Staff. Sorry. Company will call Marvin
18 Rollison to the stand.

19 (Witness sworn.)

20 JUDGE DIPPELL: Thank you. Go ahead,
21 Ms. Cunningham.

22 MARVIN ROLLISON, having been sworn, testified as
23 follows:

24 DIRECT EXAMINATION BY MS. CUNNINGHAM:

25 Q. would you please state your name for the

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record.

A. Marvin L. Rollison.

Q. And your business address?

A. 1200 Main Street, Kansas City, Missouri.

Q. By whom are you employed?

A. Kansas City Power and Light.

Q. What is your position with the company?

A. Vice president of renewables and gas generation.

Q. Mr. Rollison, you haven't testified previously in either the KCPL or these GMO hearings, have you?

A. I have not.

Q. Okay. Are you the same Marvin Rollison who has caused to be prepared and pre-filed in this case rebuttal testimony that's been previously marked as GMO Exhibit 31?

A. I am.

Q. Okay. Do you have any corrections or changes that you need to make to that testimony?

A. I do not.

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

A. They would.

1 Q. Are those answers true and correct?

2 A. They are.

3 MS. CUNNINGHAM: Your Honor, at this time
4 I would move for the admission of GMO Exhibit 31 into
5 the record.

6 JUDGE DIPPELL: And can I just clarify on
7 that? His testimony is labeled direct, but I'm
8 assuming that it is rebuttal. It was filed with
9 rebuttal testimony, but that --

10 MS. CUNNINGHAM: That is correct, yes.
11 Based on the date it was filed, yes.

12 JUDGE DIPPELL: Okay. So is there any
13 objection to GMO 31?

14 Seeing none, we will admit GMO 31 to the
15 record.

16 (GMO Exhibit No. 31 was marked for
17 identification and received into evidence.)

18 MS. CUNNINGHAM: And I would tender
19 Mr. Rollison for cross-examination.

20 JUDGE DIPPELL: Thank you. Is there
21 cross-examination from Staff for Mr. Rollison?

22 MR. WILLIAMS: Yes.

23 JUDGE DIPPELL: Go ahead.

24 CROSS-EXAMINATION BY MR. WILLIAMS:

25 Q. Good morning, Mr. Rollison.

1 A. Good morning.

2 Q. Are you familiar with KCP&L/Greater
3 Missouri Operation Company's generating facilities at
4 all?

5 A. Yes, I am.

6 Q. How many generating stations does
7 KCP&L/Greater Missouri Operations Company have?

8 A. Now, are you wanting to be specific about
9 coal and -- and gas in general or you want me to give
10 you an answer in total?

11 Q. Coal and gas in particular.

12 A. My understanding is there is the Sibley
13 station, there is the Lake Road station, there is
14 South Harper unit and then they own Crossroads.
15 There's Nevada and there's Ralph Green and there's
16 KCI. Those are gas turbine facilities.

17 Q. Does KCPL/Greater Missouri Operations
18 Company also own -- have an interest in Jeffrey?

19 A. Yes. They have an 8 percent interest in
20 Jeffrey as well, yes, that's correct.

21 Q. And do they have an interest in Iatan?

22 A. Yes. I believe they have an 18 percent
23 interest in the Iatan -- Iatan 2 and they also have an
24 interest in Iatan 1, but I forget what the allocation
25 percent is.

1 Q. And Kansas City Power and Light Company,
2 what generating facilities does it own?

3 A. It owns Hawthorn 5; it owns wolf Creek
4 generating station, percentage of that allocation;
5 they have ownership of La Cygne 1 and La Cygne 2.
6 They have Montross units 1, 2 and 3. We own Northeast
7 combustion turbine facilities; Hawthorn 6; Hawthorn 7;
8 Hawthorn 8; Hawthorn 9. We own West Gardner 1, 2, 3
9 and 4 and we also own Osawatomie 1. I think that's
10 it.

11 Q. Isn't it Kansas City Power and Light
12 Company employees that provide the services for
13 KCP&L/Greater Missouri Operations Company?

14 A. That's correct.

15 Q. And of these generating facilities you've
16 just listed for coal and gas, how many of them are --
17 it's Kansas City Power and Light Company employees
18 that run and operate those facilities?

19 A. Yes, it is.

20 Q. All of them?

21 A. All of them.

22 Q. Including Crossroads?

23 A. Except for Crossroads.

24 MR. WILLIAMS: No further questions.

25 JUDGE DIPPELL: Thank you. Mr. Lumley,

1 did you have questions?

2 MR. LUMLEY: Yes. Thank you.

3 CROSS-EXAMINATION BY MR. LUMLEY:

4 Q. Sir, were you present while Mr. Crawford
5 was testifying?

6 A. I was.

7 Q. Did you hear him indicate that the
8 Crossroads plant would be expected to run about a half
9 a percent of the time?

10 A. I heard that, yes.

11 Q. And do you agree with that?

12 A. Yes. To this point, I would agree.

13 Q. And on page 3 of your testimony, you
14 indicate that one aspect of the agreement between GMO
15 and Clarksdale regarding the Crossroads facility is an
16 availability incentive bonus fee; is that correct?

17 A. That's correct.

18 Q. Is there a comparable internal fee paid
19 by GMO to itself somehow related to any of its other
20 plants?

21 A. None that I can think of.

22 Q. And on -- on -- well, starting at the
23 bottom of page 2, the question about the primary
24 specifics of the generation agreement and then
25 carrying on the question on page 3 that you -- your

1 answer carries to page 4 actually, you're -- in that
2 series of two questions and answers, you're trying to
3 describe the opportunities that GMO has to manage the
4 Crossroad plant. Is that a fair characterization?

5 A. That's fair characterization.

6 Q. On page 4 the question starting at
7 line 14, you indicate that you've made several trips
8 in the past several years to Crossroads; is that
9 correct?

10 A. Correct.

11 Q. Can you quantify that for us, please?

12 A. There have been trips where we have gone
13 down to discuss the -- their actual budgets. There
14 have been trips going down to discuss certain things
15 as a result of issues -- certain engineering issues
16 with the plant that we went down to discuss. We also
17 went down to introduce ourselves to the new plant
18 manager as well as the new general manager to
19 establish relationships.

20 we also had a meeting with the -- with
21 the Clarksdale Public Utility Commission to discuss
22 issues relating to the generation, operation and
23 maintenance agreement and making sure that our
24 expectations of the agreement was crystal clear with
25 them and the objectives that they were responsible for

1 operating and maintaining the plant in accordance to
2 the actual operation and maintenance agreement.

3 Q. Okay. So in your answer when you say
4 "several years," how many years do you mean
5 specifically?

6 A. At least two specifically.

7 Q. And when you say "several trips," how
8 many do you mean?

9 A. I can quantify at least six within the --
10 within the two-year period.

11 Q. All right. Thank you.

12 MR. WILLIAMS: That's all my questions.

13 JUDGE DIPPELL: Thank you. There are no
14 questions from the bench. Is there any redirect?

15 MS. CUNNINGHAM: I just have a couple of
16 quick questions. Thank you.

17 REDIRECT EXAMINATION BY MS. CUNNINGHAM:

18 Q. Mr. Rollison, you were asked by Staff
19 attorney Mr. Williams whether KCPL employees operated
20 Crossroads. And I believe your answer was no. Do you
21 recall that question?

22 A. I do.

23 Q. Okay. Why don't KCPL employees operate
24 Crossroads?

25 A. Crossroads is owned and operated by the

1 Clarksdale Public Utility Commission. And with that,
2 they have the responsibility, according to the actual
3 agreement, of maintaining all operations and all
4 maintenance of the plant.

5 Q. Are either Jeffrey or Wolf Creek operated
6 by KCPL employees?

7 A. Jeffrey is not and neither is Wolf Creek,
8 that's correct.

9 Q. Okay. Turning now to page 3 of your
10 rebuttal testimony, Mr. Lumley, Dogwood's attorney,
11 asked you a question about the Q and A starting on
12 line 14. And the question has to do with anything in
13 the agreement that gives GMO managerial control over
14 Crossroads. Do you see that testimony?

15 A. Yes.

16 Q. And he asked you about the -- the quote
17 "availability incentive bonus fee," end quote --

18 A. Yes.

19 Q. -- do you recall that?

20 A. Yes, I do.

21 Q. What's the purpose of that provision?

22 A. It is really just an incentive clause to
23 get the importance of keeping the units maintained and
24 available at all times or as much as possible to allow
25 us to dispatch when -- when we need to. So it really

1 is just an incentive clause for that -- for that
2 purpose.

3 Q. Are there any other metrics the company
4 looks at?

5 A. We have several metrics in our combustion
6 turbine department that we use that quantifies how
7 well the units are being maintained, yes.

8 MS. CUNNINGHAM: All right. That's all I
9 have. Thank you.

10 JUDGE DIPPELL: Thank you very much.
11 Thank you, Mr. Rollison. You may step down.

12 I believe that was all of the company's
13 witnesses on this issue. Correct?

14 MS. CUNNINGHAM: That's correct. I think
15 if you recall earlier this morning, it -- the parties
16 indicated that they did not have cross-examination for
17 Melissa Hardesty.

18 JUDGE DIPPELL: Yes.

19 MS. CUNNINGHAM: And -- on the Crossroads
20 issue. And I would -- want to make sure that GMO 18
21 and 19 have been offered and admitted at this time.

22 JUDGE DIPPELL: And that's
23 Ms. Hardesty's --

24 MS. CUNNINGHAM: Correct.

25 JUDGE DIPPELL: 18 and 19, yes, were

1 admitted yesterday.

2 MS. CUNNINGHAM: And that's all we have.
3 Thank you.

4 JUDGE DIPPELL: All right. Does anyone
5 need a break before we begin with staff witness? All
6 right then. Oh, court reporter. That's the reason I
7 ask.

8 Let's -- let's go off the record for
9 about five minutes then.

10 (A recess was taken.)

11 JUDGE DIPPELL: Okay. We're going to go
12 back on the record. And we've -- I was explaining
13 that we're having a little bit of court reporter
14 difficulties so she has called in some relief and --
15 her technology is having difficulties, I should say.
16 So in between witnesses we'll probably take another
17 break.

18 Let's go ahead then. Ms. Mantle has
19 taken the stand and I'll let Mr. Williams -- is there
20 any direct you need to do?

21 MR. WILLIAMS: Her testimony was admitted
22 into evidence yesterday so I believe we'll just tender
23 the witness.

24 JUDGE DIPPELL: All right. What
25 cross-examination do I have for Ms. Mantle? Just the

1 company? All right then. GMO, go right ahead.

2 MS. CUNNINGHAM: Thank you.

3 LENA MANTLE, having been previously sworn, testified
4 as follows:

5 CROSS-EXAMINATION BY MS. CUNNINGHAM:

6 Q. Good morning, Ms. Mantle.

7 A. Good morning.

8 Q. My name is Susan Cunningham and I'm here
9 on behalf of the company on the Crossroads' issue.
10 Could I ask you, do you have a copy of the -- the
11 portion of the Staff report that you sponsored related
12 to the Crossroads' issue?

13 A. Yes, I do.

14 Q. Do you have that handy? Thank you.

15 A. Yes.

16 Q. Could I get to you turn to page 92, the
17 Staff report in the GMO docket?

18 A. Okay.

19 Q. Okay. Toward -- towards that middle
20 section on page 92 of the Staff report, you set out
21 four reasons why Staff did not include the Crossroads
22 power plant in rate-base; is that correct?

23 A. That's correct.

24 Q. And one of the four reasons you
25 identified -- and I think it is number four towards

1 the bottom of the page on line 18 -- the ability of
2 GMO to properly provide managerial oversight on a
3 power plant located in Mississippi several hundred
4 miles from GMO's load center; is that correct? Did I
5 read that correctly?

6 A. Yes.

7 Q. Okay. Now, if I could get you to look at
8 page 2 of your rebuttal testimony. Specifically at
9 lines 4 through 6 you state that Staff does not oppose
10 including the book value of the Crossroads and MPS's
11 rate-base because Crossroads is far away in
12 Mississippi and has more capacity than MPS needs in
13 the short term. Did I read that correctly?

14 A. Yes.

15 Q. So from the time that the Staff report
16 was filed to the time you filed your rebuttal
17 testimony, is it a fair statement that the problem
18 with distance you identified in the report is no
19 longer a problem?

20 A. I don't think these two are exclusive. I
21 did -- what is on page 2 is saying, you know, those
22 aren't -- those aren't the reasons, but that doesn't
23 mean the other ones listed --

24 Q. But -- but just with regard to location.
25 I mean --

1 A. I don't -- I don't think what I was
2 addressing on page 2 of my rebuttal has anything to do
3 with the ability of GMO to properly provide managerial
4 oversight.

5 Q. So do you oppose or not oppose including
6 the book value of Crossroads in rate-base because of
7 its location in Mississippi? I'm just -- I'm just --
8 I'm just trying to reconcile those two pieces of
9 testimony. I'm just asking for your clarification.

10 A. It is far away. That does cause
11 managerial problems. Staff has allowed for other
12 utilities -- plants that are far away to be included
13 if they were at the right price and they also run
14 those plants. So that's the reason for my statement
15 in four and five.

16 Q. Okay. If I could get you to turn to
17 page 9 of your surrebuttal testimony now. Are you
18 there?

19 A. Yes.

20 Q. Thank you. Starting at line 18, is it
21 your testimony that MPS needs base load capacity?

22 A. Yes. That's been Staff's position for
23 many, many years.

24 Q. Okay.

25 MS. CUNNINGHAM: Okay. I have an

1 exhibit.

2 JUDGE DIPPELL: Okay. I believe this is
3 GMO 45.

4 (GMO Exhibit No. 45 was marked for
5 identification.)

6 BY MS. CUNNINGHAM:

7 Q. Ms. Mantle, I've handed you what the
8 court reporter has marked as GMO Exhibit 45. Do you
9 have that letter in front of you?

10 A. Yes, I do.

11 Q. Have you seen this letter before?

12 A. I haven't read it all, but I do believe I
13 have from what I've read.

14 Q. And would you agree with me that this is
15 a letter written by Warren Wood, who at the time was a
16 member of the MPSC Staff, to Denny Williams?

17 A. Yes.

18 Q. And could you tell me who Warren Wood is,
19 please?

20 A. At that time he was manager of the energy
21 department.

22 Q. And at the time who was Denny Williams?

23 A. He was employed by KCPL/Greater Missouri
24 Operations Company, whatever the name of it was at
25 that time. I believe Aquila.

1 Q. Aquila. Thank you. You said that you'd
2 read part of it. You had not read the entire letter.
3 Could I get --

4 A. Not this morning I haven't read the
5 entire letter.

6 Q. Okay. Please feel free to take some time
7 to take a look at the letter because I do have a
8 couple of questions about the contents.

9 A. Okay.

10 Q. First of all, would you agree with me
11 that this letter is dated January 30th, 2004?

12 A. Yes.

13 Q. And in looking at some of the early
14 language in the letter, would I be correct that this
15 appears to be a follow-up letter from Mr. Wood after a
16 meeting between Aquila and Staff?

17 A. Yes.

18 Q. Okay. would you agree with me in the
19 letter that Mr. Wood has indicated that Aquila needs
20 to consider its resource needs over a 20-year period
21 or over the long term and not just a 5-year horizon?

22 A. Yes.

23 Q. Okay. In looking at the first paragraph
24 on page 2 of this letter, would you agree with me that
25 Mr. Wood states that while peaking and intermediate

1 sources of capacity and energy can be appropriate
2 options in a resource plan, that he believes a valid
3 long-term analysis also includes base load generation
4 capacity and energy?

5 A. Okay. Could you read -- is it in the
6 partial paragraph or the first full paragraph?

7 Q. The -- the top paragraph --

8 A. Okay.

9 Q. -- on the page. It may be a partial
10 paragraph.

11 A. I read, Staff understands that purchase
12 power agreements, gas-fired simple- and combined-cycle
13 combustion turbines and other types of peaking and
14 intermediate sources of capacity and energy can be
15 appropriate options in a prudent resource plan. Is
16 that the --

17 Q. Yes.

18 A. -- sentence you read to me?

19 Q. Can you continue reading, please?

20 A. Okay. However, such a conclusion cannot
21 be supported unless the plan is based on a valid
22 long-term analysis that includes base load generation
23 capacity and energy. Resource plans that are not
24 based on a valid analysis of base load generation
25 capacity and energy would not result in reliable

1 service at reasonable rates.

2 Q. So in looking at that paragraph, it
3 appears that Mr. Wood was indicating to Aquila that in
4 addition to looking at peaking and intermediate
5 resource -- generation resources available, the
6 company also needed to look at base load generation;
7 is that right?

8 A. That's correct.

9 Q. Okay. In the next paragraph on that
10 page, does it seem -- does it indicate that an optimal
11 mix of generation sources for Aquila includes base
12 load generation?

13 A. I believe so.

14 Q. Okay. Thank you. Ms. Mantle, can you
15 tell me approximately the dollar difference between
16 the company's preferred resource plan, which includes
17 the three combustion turbines and a base load PPA, and
18 Staff's plan of five CTs?

19 A. Our auditors support those numbers, but I
20 believe at this point in time we have gotten to the
21 point where those two phantom CTs are at a cost less
22 than the PPA. So right now the three South Harper
23 plants plus the two phantom plants would be a little
24 bit cheaper than the three South Harper plants and a
25 PPA.

1 Q. Do you -- any idea what you mean by "a
2 little bit cheaper"?

3 A. No.

4 MS. CUNNINGHAM: Okay. Could I approach
5 the witness?

6 JUDGE DIPPELL: Yes.

7 MS. CUNNINGHAM: I don't need to mark
8 this because it's part of Mr. Featherstone's
9 testimony.

10 MR. WILLIAMS: What is it?

11 BY MS. CUNNINGHAM:

12 Q. I have handed you Schedule 119 that
13 appears in Mr. Featherstone's surrebuttal testimony.
14 Do you have that in front of you?

15 A. Yes.

16 Q. Would you agree with me that the first
17 two bars on this chart reflect the two resource plans
18 at issue; meaning the company's resource plan, which
19 is kind of the gray box, and then the five CT
20 preferred staff plan, which would be the black bar
21 next to it?

22 A. I can't say that I can tell that for sure
23 based on the cryptic legend.

24 Q. Okay. Let me ask you this: If I'm
25 correct and I'm referencing these bars correctly and

1 that the very first bar on this chart references
2 Staff's plan and then the second black bar references
3 the company's, I know it's a little hard to read. Can
4 you tell the order of magnitude of difference between
5 those two? Does it look to be about 15 million? You
6 said that you -- that Staff's preferred plan of five
7 CTs was a little bit less expensive. And I'm -- I'm
8 looking at this chart and I'm thinking it looks about
9 \$15 million less expensive, Staff's plan.

10 A. What I was -- when I was referring to the
11 little bit difference that was in this rate case, this
12 is a 20-year analysis and it shows -- I -- if that is
13 what this is, it shows -- I can agree that maybe it's
14 10 to 15 million, but over 20 years I don't know that
15 I would say that was significant either.

16 Q. Okay. And we're talking about 10 to 15
17 million dollars out of a \$2.6 billion plant; is that
18 right?

19 A. That's what it appears.

20 Q. Collected over 20 years?

21 A. That's what this graph seems to show.

22 Q. And for my purposes, I -- I tried to
23 estimate what I thought the difference was. And I
24 came up with about 15 million. And in doing the math,
25 it looked like about a half percent difference between

1 the company's and Staff. Would you agree with my
2 fumbling calculator math?

3 A. That sounds reasonable.

4 Q. And is it Staff's testimony then that a
5 half percent difference constitutes an imprudent
6 decision?

7 A. I -- just as GMO has suggested, it's more
8 than just the net present value revenue requirement.
9 It is -- it is different, it is lower net PVRR, but it
10 is also steel in the ground that will be there for the
11 customers for 20 years versus the PPA. And I'm not
12 for sure what the second column -- what all it
13 included, how long the PPAs went forward, what was
14 added later, what wasn't. There's a lot in these two
15 columns more, I believe, than just the five -- I -- I
16 don't know if they're -- the only difference is the
17 PPAs for that 100 -- or that 200 megawatts.

18 Q. Okay. But in general, if there was a
19 difference in the analysis between the company and
20 Staff that resulted in a half a percent amount greater
21 in the company's proposal than Staff's, would it be
22 your opinion that that's imprudent?

23 A. Based solely on the numbers, no.

24 Q. Okay. Thank you.

25 MS. CUNNINGHAM: That's all I have.

1 JUDGE DIPPELL: Thank you. There are no
2 questions from the bench. Is there redirect?

3 MS. CUNNINGHAM: Oh, your Honor --

4 JUDGE DIPPELL: I'm sorry.

5 MS. CUNNINGHAM: Could I please offer
6 GMO 45 into the record?

7 JUDGE DIPPELL: Yes. Would there be any
8 objection to GMO 45?

9 Seeing none, then that will be entered
10 into evidence.

11 (GMO Exhibit No. 45 was received into
12 evidence.)

13 (Later during the proceeding, Exhibit No.
14 45 was corrected to be Exhibit No. 46. All references
15 to Exhibit No. 45 are actually Exhibit No. 46.)

16 JUDGE DIPPELL: And does Staff have any
17 redirect? All right then. Ms. Mantle, you may step
18 down.

19 Okay. We have our court reporter here so
20 we're going to take about a 15-minute break to switch
21 court reporters, come back at -- or let's -- let's
22 make it a 12-minute break and come back at quarter
23 after 11:00. Thank you. We'll go off the record.

24 (A recess was taken.)

25 (Change of court reporters.)

1 JUDGE DIPPELL: Let's go ahead and go back
2 on the record.

3 Okay. During our break it was brought to
4 my attention that the last exhibit that I said should
5 be GMO 45 should actually have been marked GMO 46.
6 There was an illustrative exhibit marked during
7 opening that was not offered and entered, so GMO 46
8 should be the January 30, 2004, letter from Warren
9 Wood to Denny Williams, and that is admitted. And I
10 will ask our court reporters to straighten out that
11 marking.

12 (GMO Exhibit No. 46 was marked and admitted.)

13 JUDGE DIPPELL: Then I believe we are
14 ready to go forward with Mr. Hyneman, and he has
15 already taken the stand.

16 Mr. Williams, do you have any direct or
17 any exhibits that need to be entered at this time?

18 MR. WILLIAMS: I believe I do. Has he
19 already been sworn in?

20 JUDGE DIPPELL: Oh. I'm sorry.

21 CHARLES HYNEMAN,
22 produced, sworn, and examined, testified as follows:

23 JUDGE DIPPELL: Thank you.

24 Thank you, Mr. Williams. Go ahead.

25 DIRECT EXAMINATION BY MR. WILLIAMS:

1 Q. What is your name?

2 A. Charles Hyneman.

3 Q. And by whom are you employed?

4 A. Missouri Public Service Commission.

5 Q. And did you prefile in this case testimony
6 that has -- well, let's just start through it --
7 direct testimony that's been marked for
8 identification as GMO 223-HC?

9 A. Yes.

10 Q. And if that were to be your testimony here
11 today, would you have any changes to it?

12 A. No.

13 Q. Did you also prepare and cause to be filed
14 portions of the Staff's report, Revenue Requirement
15 Cost of Service, that's been marked for
16 identification as GMO 210-HC?

17 A. Yes.

18 Q. And the portions for which you are
19 responsible, do they appear in that exhibit at pages
20 103 to 110, 120 to 123, 130 and 149?

21 A. Yes.

22 Q. Do you have any changes to any of those
23 pages in that report?

24 A. No.

25 Q. Did you also prefile rebuttal testimony

1 that's been marked for identification as GMO 224-HC?

2 A. Yes.

3 Q. Do you have any changes or corrections to
4 any of that testimony?

5 A. No.

6 Q. Additionally, did you cause to be prefiled
7 surrebuttal testimony that's been marked for
8 identification as GMO 225-HC?

9 A. Yes.

10 Q. Do you have any changes or corrections to
11 any of that testimony?

12 A. No.

13 Q. And then are the portions of Exhibit GMO
14 210 that you identified earlier in the Staff's
15 Revenue Requirement Cost of Service report, Exhibit
16 223-HC, Exhibit 224-HC, and Exhibit 225-HC, your
17 testimony here today?

18 A. Yes.

19 MR. WILLIAMS: Judge, I offer the
20 identified pages of GMO 210-HC -- I believe the whole
21 exhibit's been admitted before, but I'm going to
22 offer those pages again -- and GMO Exhibits -- or
23 Exhibit Nos. GMO 223, 224, and 225.

24 JUDGE DIPPELL: And I'm sorry. That
25 was -- 210, I believe, has already been admitted;

1 correct?

2 MR. WILLIAMS: I believe it has.

3 JUDGE DIPPELL: Yeah, it has. It was
4 yesterday. Okay. So Exhibits 223, 224 --

5 MR. WILLIAMS: -- and 225.

6 JUDGE DIPPELL: -- and 225, which I'm
7 showing 224 and 225 having been admitted in the
8 previous hearing also but --

9 MR. WILLIAMS: That may be the case.

10 JUDGE DIPPELL: -- I'm just going to go
11 ahead and ask if there's any objections to GMO 223,
12 224, and 225.

13 MS. CUNNINGHAM: No objections.

14 JUDGE DIPPELL: Thank you. We will admit
15 223, 224, and 225.

16 (GMO Exhibit Nos. 223, 224, and 225
17 were admitted.)

18 MR. WILLIAMS: With that I tender the
19 witness for examination.

20 JUDGE DIPPELL: All right. Am I going to
21 have cross-examination from anyone but the Company?

22 (No response.)

23 MS. CUNNINGHAM: I have no cross.

24 JUDGE DIPPELL: You have no cross?

25 Well, I have no questions of this witness;

1 therefore, I guess there's no redirect.

2 So Mr. Hyneman, that was definitely easy.

3 THE WITNESS: Thank you.

4 JUDGE DIPPELL: Thank you. Go ahead and
5 step down.

6 And it looks like Mr. Featherstone is
7 waiting in the wings here.

8 CARY FEATHERSTONE,
9 produced, sworn, and examined, testified as follows:

10 JUDGE DIPPELL: Thank you.

11 Mr. Williams, when you're ready.

12 MR. WILLIAMS: Give me just a moment.

13 Judge, at this time I'd like to have an exhibit
14 marked. It was attached to a motion for leave to
15 late-file as scheduled to the direct testimony of
16 Mr. Featherstone, and since it's already been
17 circulated, I only have a copy for the court
18 reporter.

19 I suggest that it be marked as GMO 215-A
20 since it's associated with Exhibit GMO 215, which is
21 Mr. Featherstone's direct testimony.

22 JUDGE DIPPELL: And we discussed this
23 earlier in that these were the schedules that Staff
24 late-filed and that I allowed, and so we're just
25 going to, for clarity, mark those as 215 -- or mark

1 that schedule as 215-A.

2 what's the schedule number on that,
3 Mr. Williams?

4 MR. WILLIAMS: It would be
5 Mr. Featherstone's direct schedule 4-1, and it is HC.

6 MR. STEINER: Can we just get a quick look
7 at that?

8 MR. WILLIAMS: (Indicated.)

9 JUDGE DIPPELL: Is everyone with us now on
10 what Exhibit 215-A is?

11 MR. STEINER: I think so. You said there
12 was a motion to late-file it because they
13 inadvertently didn't have it in their testimony?

14 JUDGE DIPPELL: Right, and I granted that
15 motion yesterday.

16 (GMO Exhibit No. 215-A was marked for identification.)

17 Okay. All right. Mr. Williams, go ahead.

18 MR. WILLIAMS: Thank you, Judge.

19 DIRECT EXAMINATION BY MR. WILLIAMS:

20 Q. Please state your name.

21 A. Cary G. Featherstone.

22 Q. And Mr. Featherstone, did you cause to be
23 prefiled in this case Staff's cost of service report
24 which has been marked for identification as GMO 210,
25 direct testimony that's marked as GMO 215, rebuttal

1 testimony that's been marked as GMO 216, and
2 surrebuttal testimony that's been marked as GMO 217?

3 A. Yes.

4 Q. And at the time the direct testimony, GMO
5 215, was originally prefiled, was there a schedule
6 that was omitted from that testimony?

7 A. There was.

8 Q. And is that schedule what's been marked
9 for identification now as GMO 215-A?

10 A. Yes.

11 Q. Are there any changes to your direct
12 testimony, which has been marked as GMO 215, as a
13 result of GMO 215-A for clarification?

14 A. I think when I testified before I made
15 those changes.

16 Q. As I recall, at the time there wasn't
17 clarity as to whether or not Schedule 4 was going to
18 be a part of this record or not, so if you would go
19 over those clarifications, corrections on the
20 schedule --

21 A. I'm not sure I know the page that it's
22 on. So page 39, line 3, originally it said "Schedule
23 3," and I identified it at the time, first day of the
24 hearings, as Schedule 4, and now you're -- it's --
25 it's now been changed to Schedule 215.

1 Q. No. no. It would be your schedule 4.
2 It's been marked for identification No. -- it's
3 Exhibit No. GMO 215-A.

4 A. I see. All right.

5 Q. So the change would be to reflect schedule
6 4 there instead of schedule 3?

7 A. Yes.

8 Q. And that would be the only change as a
9 result of that schedule?

10 A. Yes.

11 MR. WILLIAMS: With that I offer Exhibit
12 GMO 215-A.

13 JUDGE DIPPELL: would there be any
14 objection to Exhibit GMO 215?

15 MS. CUNNINGHAM: No objection.

16 JUDGE DIPPELL: And did you also offer
17 215-A?

18 MR. WILLIAMS: I just offered 215-A. I
19 believe 215 --

20 JUDGE DIPPELL: Okay. I'm sorry. I
21 didn't hear you say "A."

22 You're right. I show that 215, 216, and
23 217 were previously --

24 MR. WILLIAMS: -- admitted.

25 JUDGE DIPPELL: -- admitted in the

1 previous hearing.

2 All right. Is there any objection to
3 215-A?

4 MS. CUNNINGHAM: No objection.

5 JUDGE DIPPELL: In that case I will admit
6 215-A.

7 (GMO Exhibit No. 215-A was admitted.)

8 MR. WILLIAMS: And with that I offer the
9 witness for examination.

10 JUDGE DIPPELL: Okay. Will there be any
11 cross-examination besides the Company?

12 (No response.)

13 JUDGE DIPPELL: In that case, you may go
14 ahead, Ms. Cunningham.

15 MS. CUNNINGHAM: Thank you.

16 Good morning, Mr. Featherstone.

17 THE WITNESS: Good morning.

18 CROSS-EXAMINATION BY MS. CUNNINGHAM:

19 Q. Do you have a copy of your rebuttal
20 testimony with you?

21 A. I do.

22 Q. Could I get you to turn to page 3,
23 please.

24 A. Yes.

25 Q. And I'm aware that this number appears

1 elsewhere in your testimony as well, but under the
2 executive summary section of your testimony on
3 page 3, am I understanding your testimony correctly
4 that with regard to the valuation of Crossroads, you
5 believe that if the Commission decides to allow
6 Crossroads in GMO's rate case then the value should
7 be \$51.6 million? Am I understanding that correctly?

8 A. Yes, that's a good approximation.

9 Q. Okay.

10 (GMO Exhibit No. 47-HC was marked for identification.)

11 BY MS. CUNNINGHAM:

12 Q. Mr. Featherstone, I've handed you what has
13 been marked for identification purposes as GMO 47.

14 Do you see that?

15 A. Yes.

16 Q. would you agree with me that this is
17 DR-0129 issued by Staff in the 2008 GMO rate case?

18 A. Yes.

19 Q. would you agree with me that this DR asks
20 the Company to provide a copy of all analyses,
21 reports, memos, or other documents in the possession
22 of GPE that are related either directly or indirectly
23 to the estimated market value of Aquila Crossroads
24 power plant? Is that what it asks?

25 A. Yes.

1 Q. would you turn to page -- the second page
2 of this document.

3 A. Okay.

4 Q. would you agree with me that under
5 option C, which is identified as Salvage Value -
6 Dismantle and Sell, that the CTs only salvaged
7 proceeds show 51.36 million?

8 A. I would.

9 MS. CUNNINGHAM: That's all I have.

10 JUDGE DIPPELL: All right. Did you want
11 to offer that DR?

12 MS. CUNNINGHAM: Yes, if I could now offer
13 GMO Exhibit 47 into the record.

14 JUDGE DIPPELL: would there be any
15 objection to GMO 47?

16 MR. LUMLEY: Could we have a clarification
17 just for future use? It does indicate on its face
18 it's highly-confidential. Has that classification
19 expired now because of age, or what's the intent?

20 JUDGE DIPPELL: I see. You're correct.
21 It indicates attachments are highly-confidential.

22 MS. CUNNINGHAM: Your Honor, I would
23 request that the cover page is not confidential.

24 JUDGE DIPPELL: Uh-huh.

25 MS. CUNNINGHAM: The number that I read

1 into the record appears numerous times in multiple
2 parties' testimony, so the 51.6 million number in and
3 of itself is not confidential, however, the remainder
4 of the attachments I would request remain HC because
5 it does have market valuations --

6 JUDGE DIPPELL: All right.

7 MS. CUNNINGHAM: -- and other analyses.

8 JUDGE DIPPELL: All right. So I will mark
9 the exhibit as HC, and the record will reflect those
10 portions that are not highly confidential.

11 Is there any objection?

12 MR. WOODSMALL: I guess if I could voir
13 dire the witness real briefly, your Honor.

14 VOIR DIRE EXAMINATION BY MR. WOODSMALL:

15 Q. Mr. Featherstone, were you engaged in
16 preparing the analysis attached to this exhibit?

17 A. No.

18 Q. Can you vouch for the accuracy of the
19 analysis?

20 A. All I know is it was an attachment to a
21 data request that we issued in the last case, and it
22 was -- it's a company response.

23 Q. And you've done no analysis to verify the
24 accuracy of the 51.6 million?

25 A. No.

1 MR. WOODSMALL: Okay. Your Honor, I won't
2 object, but I believe this all goes to the weight of
3 the evidence since there's no one here to verify this
4 information.

5 JUDGE DIPPELL: All right. Are there any
6 other nonobjections to this exhibit?

7 (No response.)

8 JUDGE DIPPELL: Seeing none, I will admit
9 it into evidence.

10 (GMO Exhibit No. 47-HC was admitted.)

11 JUDGE DIPPELL: I don't have any questions
12 for Mr. Featherstone. Is there any redirect?

13 MR. WILLIAMS: Thank you, Judge.

14 REDIRECT EXAMINATION BY MR. WILLIAMS:

15 Q. Mr. Featherstone, what did Staff rely upon
16 for coming up with the \$51.6 million valuation for
17 Crossroads in the event the Commission decides to
18 include Crossroad's costs in cost of service for
19 KCP&L Greater Missouri Operations Company?

20 A. If you turn to page 12 of my rebuttal
21 testimony, there was a joint proxy statement with
22 Aquila and Great Plains Energy that was submitted to
23 the SEC on May 8, 2007, and it was in that regard
24 that the \$51.6 million amount appears.

25 Q. And did Staff find that amount reasonable?

1 A. In relationship to other distressed
2 property that we had seen and certainly in
3 relationship to the Raccoon Creek and Goose Creek
4 transaction that the Aquila merchant made, and I
5 think it was probably the beginning of '06, some time
6 frame within a year or so that the turbine values and
7 the installed costs associated with those
8 transactions, this was not unreasonable.

9 It is on the lower end of the Raccoon
10 Creek, and that's in my testimony, in my direct
11 filing, that identifies the amounts. Those are
12 highly-confidential, but in relationship to the
13 Raccoon Creek and Goose Creek, this is at the lower
14 end of the distressed property transaction.

15 we consider all the turbines that were
16 associated with the Aquila merchant purchase back in
17 2001, which Crossroads is 4 of those 18 turbines --
18 this is at the lower end, so Raccoon Creek and Goose
19 Creek could be, perhaps, a better valuation. Those
20 were identified in my testimony.

21 Q. was there anything related in the SEC
22 filing that caused Staff to find the 56.1 million to
23 be -- I'm sorry -- the 51.6 million to be a
24 reasonable number?

25 A. well, again, I don't think it was

1 unreasonable. It -- it identified distressed
2 property that -- that clearly Crossroads was and may
3 continue to be, but the Crossroads valuation was
4 something that Aquila was struggling with. They had
5 attempted to sell many times that property, and it
6 was the last of the turbines of -- that they were
7 unable to dispose of.

8 MR. WILLIAMS: No further questions.

9 JUDGE DIPPELL: Thank you.

10 Thank you, Mr. Featherstone.

11 And we've already taken care of
12 Mr. Meyer's testimony, so I believe that that
13 concludes Staff witnesses, and we're ready for
14 Dogwood witnesses.

15 I'm looking at how we're moving along
16 today on the schedule. It appears that we will be
17 finished with what was scheduled for today -- well, I
18 guess we still have rate design for Lee's Summit and
19 OSS, so I was getting ahead of myself.

20 I was just going to ask the parties to be
21 thinking about, if we got finished early today if
22 there are any of the issues that we can move up and
23 continue going today. Maybe I'm getting too far
24 ahead of myself.

25 MR. STEINER: We have -- the one issue for

1 wednesday is the Jeffrey issue, and I don't think my
2 witnesses will be available till tomorrow, so I don't
3 think we can move that up.

4 JUDGE DIPPELL: Okay. I'd be happy to
5 take any of Thursday's issues so that we can get out
6 Thursday on time.

7 MR. STEINER: I think Lewis Mills and John
8 Coffman wanted to be at the FAC issues and they can't
9 be here till Thursday. That's the problem there, and
10 I don't know about rate design, but I know there is
11 one witness, Mr. Brubaker, that can't be here till
12 Friday.

13 JUDGE DIPPELL: Okay. In that case we
14 will soldier on, and I may be getting ahead of myself
15 anyway. Start getting excited about these things,
16 and I'll get my hopes crushed.

17 All right. We are ready, then, for
18 Dogwood's first witness. Thank you.

19 ROBERT JANSSEN,
20 produced, sworn, and examined, testified as follows:
21 DIRECT EXAMINATION BY MR. LUMLEY:

22 Q. would you please state your name for the
23 record, sir.

24 A. Robert Janssen.

25 Q. By whom are you employed?

1 A. Kelson Energy.

2 Q. And is Kelson the owner of Dogwood Energy,
3 L.L.C.?

4 A. It is.

5 Q. And what are your positions with those two
6 entities?

7 A. I am senior vice president with Kelson
8 Energy, and I am the president and general manager of
9 Dogwood Energy.

10 Q. And do you have before you three pieces of
11 testimony marked Exhibits 3601, 3601-P, and 3602,
12 which respectively are the public and proprietary
13 versions of the rebuttal testimony you filed in this
14 case and then your surrebuttal testimony?

15 A. I do.

16 Q. And is that, in fact, your testimony in
17 this case?

18 A. It is.

19 Q. Do you have any corrections to your
20 rebuttal?

21 A. I do. I believe that on page 18 it will
22 probably be appropriate for me to make an update
23 based on the date at which KCP&L actually filed their
24 updated IRP. In my testimony I note on lines 15 to
25 16 that it was to be submitted on December 17, 2010,

1 and two days after this testimony was submitted that
2 actually was not. It was delayed for another month
3 to January 18, 2011.

4 Q. Any other corrections?

5 A. No, that's it.

6 Q. If I asked you the questions contained in
7 these testimonies, would your answers be the same as
8 reflected therein?

9 A. They would.

10 Q. And are your answers true and correct to
11 the best of your knowledge and belief?

12 A. They are.

13 MR. LUMLEY: I move for the admission of
14 3601, 3601-P, and 3602 and tender the witness for
15 cross-examination.

16 JUDGE DIPPELL: Can I just clarify? What
17 was the January date that that was updated to?

18 THE WITNESS: I believe it was January 18,
19 2011.

20 JUDGE DIPPELL: would there be any
21 objection to GMO 3601 and 3602?

22 (No response.)

23 JUDGE DIPPELL: Seeing none, then I will
24 admit those.

25 (GMO 3601, 3601-P, and 3602 were admitted.)

1 MS. CUNNINGHAM: I'm sorry. Your Honor,
2 could I ask a brief clarifying question?

3 JUDGE DIPPELL: Yes.

4 MS. CUNNINGHAM: I thought under
5 examination by his attorney he said January 15, and I
6 think he responded to you January 18.

7 THE WITNESS: 18th both times.

8 MS. CUNNINGHAM: Thank you.

9 JUDGE DIPPELL: All right. Then is there
10 cross-examination from anyone other than GMO?

11 (No response.)

12 JUDGE DIPPELL: Seeing none, you may go
13 ahead, Ms. Cunningham.

14 MS. CUNNINGHAM: Thank you.

15 Good morning, Mr. Janssen.

16 THE WITNESS: Good morning.

17 CROSS-EXAMINATION BY MS. CUNNINGHAM:

18 Q. I just have a couple of questions for
19 you. Can you please tell me whether Dogwood has a
20 firm gas transmission contract for the full output of
21 the Dogwood plant?

22 A. It does not. That's not necessary at this
23 point in time.

24 Q. Okay. What type of contract does it
25 have? Does it have a firm transportation contract

1 for a portion, part of it?

2 A. Yes, similar to other facilities we've
3 operated, and we base our gas contracts on what we
4 believe we need at different points in time. I
5 believe we've structured Dogwood at this point in
6 time -- is that we want to make sure we can operate a
7 certain amount of the plant on a firm transport
8 during the winter, so we have 35,000 a day throughout
9 the year on Southern Star, and then we currently are
10 opting to increase that amount up to another 15,000 a
11 day or so on typically non-recallable released
12 capacity during the summer to firm that up during the
13 peak timing of needs for the plant's output.

14 Q. Has Dogwood ever been curtailed for lack
15 of gas supply?

16 A. I'm thinking. That's why I'm quiet here.
17 There -- there are two different issues you're
18 actually asking. You're specifying gas supply.
19 There have been times at which -- very few, but there
20 have been times at which a operational flow order has
21 been issued on Southern Star during very extreme
22 circumstances, where instead of using secondary
23 receipt points we would need to return to a primary
24 receipt point, and in those circumstances supply is
25 often limited, and if we didn't already have supply

1 lined up at the primary, we've had trouble getting
2 gas.

3 Q. So you have been curtailed?

4 A. Very few times we have.

5 Q. And this winter, in fact, you've been
6 curtailed, haven't you --

7 A. This winter --

8 Q. -- on more than one occasion?

9 A. Not to my knowledge, no.

10 Q. Now, GMO doesn't currently own Dogwood,
11 does it?

12 A. No, no portion of it.

13 Q. Okay. But you want GMO to purchase
14 Dogwood, don't you?

15 A. The purpose of my company is to acquire
16 distressed assets, improve them, turn them around and
17 make them viable ongoing concerns, very efficient,
18 and then have parties purchase them, use them long-
19 term, whether it be in a PPA or an outright asset
20 purchase for the load that needs it, so GMO is
21 definitely a viable customer. They are the host
22 utility. They would, in any circumstance in which we
23 look at, would be a primary customer candidate, yes.

24 Q. And in fact, you made an unsolicited offer
25 to GMO April of 2010, didn't you?

1 A. That sounds correct. I think that was the
2 letter where I was updating them on the sale process
3 that we have going on.

4 MS. CUNNINGHAM: Okay. Thank you. That's
5 all I have.

6 JUDGE DIPPELL: Thank you. There are no
7 questions from the bench.

8 Is there any redirect?

9 MR. LUMLEY: No questions.

10 JUDGE DIPPELL: Thank you very much.

11 Thank you, Mr. Janssen.

12 THE WITNESS: Thank you.

13 JUDAH L. ROSE,
14 produced, sworn, and examined, testified as follows:

15 JUDGE DIPPELL: Thank you.

16 Go ahead, Mr. Lumley, when you're ready.

17 DIRECT EXAMINATION BY MR. LUMLEY:

18 Q. would you state your name for the record,
19 please.

20 A. Judah L. Rose.

21 Q. And by whom are you employed?

22 A. ICF International.

23 Q. what's the nature of that firm?

24 A. It's a consulting firm specializing in
25 energy environment and other areas of expertise.

1 Q. What's your position with that firm?

2 A. I'm a managing director.

3 Q. Do you have before you what's been marked
4 in this case as Exhibits 3603 and 3603-HC in the
5 upper right corner?

6 A. Yes, sir.

7 Q. Is that the public and highly-confidential
8 version of your surrebuttal testimony in this case?

9 A. Yes, sir.

10 MR. LUMLEY: Judge, we have -- I believe
11 the witness has one correction -- it's to a HC
12 number --

13 JUDGE DIPPELL: Okay.

14 MR. LUMLEY: -- so I've created an exhibit
15 so we don't have to go into in-camera to make that
16 change.

17 JUDGE DIPPELL: Okay. Will this replace
18 pages in his testimony or --

19 MR. LUMLEY: Correct. Yes. He'll explain
20 that.

21 JUDGE DIPPELL: Okay.

22 BY MR. LUMLEY:

23 Q. Sir, do you have before you what's been
24 marked as Exhibit 3604-HC?

25 A. Yes, sir.

1 Q. And without getting into the specific
2 numbers, can you explain the purpose of this exhibit.

3 A. The purpose of the corrected typo on the
4 schedule -- and it's a single number that changes.
5 It doesn't cascade through them.

6 Q. Does the first page reflect the specific
7 change?

8 A. Yes.

9 Q. And then is the second page a revised
10 version of your schedule with that change made?

11 A. Yes.

12 Q. And does the correct figure already appear
13 in the narrative part of your testimony?

14 A. Yes, sir.

15 Q. With the correction reflected in Exhibit
16 3604-HC, if I asked you the questions set forth in
17 your surrebuttal testimony today, would your answers
18 be the same?

19 A. Yes.

20 Q. And are those answers true and correct to
21 the best of your knowledge, information, and belief?

22 A. Yes.

23 MR. LUMLEY: I would move admission of
24 Exhibits 3603, 3603-HC, and 3604-HC and tender the
25 witness.

1 JUDGE DIPPELL: Let me clarify just a
2 second so I make sure I understand. The change is
3 just to the schedule, JLR-2, the correction?

4 MR. LUMLEY: Right.

5 JUDGE DIPPELL: Okay. And the first page
6 of Exhibit 3604-HC sets out exactly that change, the
7 number change?

8 MR. LUMLEY: Right.

9 JUDGE DIPPELL: And then the following
10 pages are basically a replacement schedule that would
11 have appeared if that number had been correct?

12 MR. LUMLEY: That's right.

13 JUDGE DIPPELL: Okay. Would there be any
14 objection to Exhibits 3603 and 3604?

15 (No response.)

16 JUDGE DIPPELL: Seeing none, then I will
17 admit those exhibits.

18 (Dogwood Exhibit Nos. 3603, 3603-HC and
19 3604-HC were admitted.)

20 JUDGE DIPPELL: And with that, is there
21 any cross-examination for this witness other than the
22 Company?

23 (No response.)

24 JUDGE DIPPELL: Seeing none, go ahead,
25 Ms. Cunningham.

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MS. CUNNINGHAM: Thank you.

Good morning, Mr. Rose.

THE WITNESS: Good morning.

CROSS-EXAMINATION BY MS. CUNNINGHAM:

Q. I'm going to be referring almost exclusively to that page 60 of your testimony. It's the exhibit that you updated. And I think it's now been marked as Exhibit 3604-HC. Do you have a copy of that with you?

A. Yes, ma'am.

Q. Okay. I've got a copy of questions for you that are preliminary and should not reveal any HC information, but after that we'll need to go in-camera.

JUDGE DIPPELL: Okay.

BY MS. CUNNINGHAM:

Q. So looking at that, page 60 of your surrebuttal testimony, it's been marked as Schedule JLR-2; is that right?

A. Yes, ma'am.

Q. And it's my understanding that this schedule purports to compare the cost of Crossroads versus Dogwood in dollars per kilowatt year. Am I understanding this schedule correctly?

A. Yes, ma'am.

1 Q. Okay. And in order to come up with your
2 cost per kilowatt year, you've got a number of fixed
3 costs that you identify such as bid price, heat rate,
4 fixed O&M charges; is that right?

5 A. Yes, with the exception of the heat rate
6 I wouldn't consider a fixed cost. It's a fixed
7 parameter, but two of the three were fixed costs.

8 Q And farther down on your schedule you also
9 look at gas prices; is that right?

10 A. Yes, ma'am.

11 Q. And the average energy price?

12 A. Yes, ma'am.

13 Q. And capacity factor?

14 A. Yes, ma'am.

15 MS. CUNNINGHAM: Okay. At this point I
16 think we need to go in-camera.

17 JUDGE DIPPELL: All right. Let me make
18 sure we are in-camera.

19 MR. LUMLEY: Clarify exhibits.

20 JUDGE DIPPELL: Okay. We're in-camera.

21 MR. LUMLEY: The HC information is
22 partially GMO information and it's partially Dogwood
23 information, so GMO folks that aren't entitled to see
24 that need to leave the room as well. It's not just
25 GMO information that's protected.

1 JUDGE DIPPELL: Okay. I'll ask the
2 attorneys to help me, please, who may stay and who
3 may go -- or must go.

4 MR. LUMLEY: I'm not sure if
5 Mr. Crawford's entitled to stay or not.

6 MS. CUNNINGHAM: We've received specific
7 permission for Mr. Crawford to see the HC testimony
8 of Mr. Rose, and I believe we inquired of Mr. Lumley
9 and he gave his assent.

10 MR. STEINER: That's correct.

11 MR. LUMLEY: Remind me. After we created
12 the two versions?

13 MR. STEINER: Yeah, you created a version
14 for him to look at.

15 MR. LUMLEY: Right.

16 MR. STEINER: Is this not part of it?

17 MR. LUMLEY: There would be a difference
18 between this and that version. This is the complete
19 version. I created two versions, one that pulled out
20 the Dogwood information so that your witness could
21 see what we were saying about your information.

22 MR. STEINER: I thought he got to see the
23 whole thing. He doesn't see the Dogwood
24 information?

25 MR. LUMLEY: Correct.

1 MR. STEINER: Okay. All right. So he can
2 come back, then, when we're talking about KCP&L
3 information?

4 MS. CUNNINGHAM: Yes.

5 MR. STEINER: Susan, will you let us
6 know?

7 MS. CUNNINGHAM: Well, yeah, I'm just --
8 I'm going down the list. I've got one clarifying
9 Dogwood question. Then it will be Crossroads and
10 then it will be Dogwood again. I don't know that
11 Burton needs to be here.

12 MR. STEINER: Okay. All right.

13 JUDGE DIPPELL: I was just going to say,
14 if you can group the Dogwood-only questions together
15 then, you know, we can notify the people who left the
16 room that are able to return.

17 MS. CUNNINGHAM: If I need Mr. Crawford,
18 I'll send out a cry for help. Thank you.

19 JUDGE DIPPELL: Okay. Go ahead with your
20 questions.

21 (REPORTER'S NOTE: At this point an
22 in-camera session was held, which is contained in
23 volume 39, pages 4122 to 4140 of the transcript.)
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1 MS. CUNNINGHAM: Then, your Honor, at
2 this time I would ask the Commission to take
3 administrative notice generally of Entergy's tariffs.

4 JUDGE DIPPELL: And let me ask a question
5 about that first as I have jotted down these very
6 questions, because I'm not familiar with the process
7 of Entergy and how they file tariffs and so forth.
8 Are their tariffs -- what's the governing authority
9 for Entergy tariffs? Is that FERC?

10 MS. CUNNINGHAM: Yeah, it's the FERC.
11 Yes.

12 JUDGE DIPPELL: So Entergy files tariffs
13 with FERC much in the same way that GMO would file
14 tariffs before the Public Service Commission?

15 MS. CUNNINGHAM: Correct.

16 JUDGE DIPPELL: Do those tariffs have a
17 similar force and effect of law --

18 MS. CUNNINGHAM: Yes.

19 JUDGE DIPPELL: And I'm asking all counsel
20 to speak up as -- as a KCP&L or GMO tariff would have
21 before the Commission?

22 MS. CUNNINGHAM: Yes.

23 MR. WOODSMALL: We're getting citations
24 that it's yes, but I would ask if you're going to put
25 that question out there, not merely rely upon such

1 statements but have them provide some legal basis for
2 that, that these tariffs have force and effect of
3 law.

4 JUDGE DIPPELL: well, I'm --

5 MS. CUNNINGHAM: The rate doctrine.

6 MR. WOODSMALL: well --

7 JUDGE DIPPELL: I'm asking all counsel for
8 their opinion on that. You're saying that that
9 is questionable.

10 MR. WOODSMALL: I don't know.

11 MR. STEINER: You're saying the FERC
12 tariff doesn't have the force and effect of law.

13 MR. WOODSMALL: well, I don't know if this
14 is a FERC tariff. I don't know if --

15 MR. STEINER: Just asking for
16 administrative notice of Entergy's tariffs filed at
17 FERC.

18 MR. WOODSMALL: It goes beyond --

19 MR. STEINER: Asking administrative notice
20 on that.

21 MR. WOODSMALL: It goes beyond
22 administrative notice. It then goes to the -- how do
23 you interpret that tariff? As Mr. Rose has pointed
24 out, there are other aspects of this tariff that must
25 be included, and he raised questions about \$50

1 million.

2 Merely taking administrative notice of a
3 document doesn't clear up which charges are
4 applicable, which charges all need to be included, so
5 we're just take-- we would -- he's asking you to take
6 administrative notice of a document, you know, just
7 out of the clear blue sky.

8 MS. CUNNINGHAM: Well, it's not out of the
9 clear blue sky, because the witness has indicated
10 that he himself has relied on Entergy's tariffs. I
11 think also Mr. Woodsmall's most recent points really
12 are issues for a brief.

13 JUDGE DIPPELL: Okay. So now that I've
14 asked my preliminary questions, let me ask the big
15 question: would there be any objection to the
16 Commission taking official notice of the tariff of
17 Entergy on file with FERC?

18 MR. WOODSMALL: Yes, continuing objection.

19 JUDGE DIPPELL: For the reasons you
20 previously stated?

21 MR. WOODSMALL: Yes.

22 JUDGE DIPPELL: Okay. I'm going to
23 overrule that objection and take official notice of
24 the FERC tariff, because I do not have ready access
25 to that or know about how to go about looking that

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up.

I will ask Ms. Cunningham to provide that document as an exhibit. I'm going to go ahead and mark it as GMO 49 just for clarity.

MR. WOODSMALL: Let me ask this: Doesn't that get us back to the same point? You're taking official notice and asking Ms. Cunningham to provide it without any verification.

JUDGE DIPPELL: And if you'll let me continue, Mr. Woodsmall, I'm about to get to the part where I'm going to ask, then -- after we receive that, I'm going to ask for objections to that document, at which time you can verify or argue about whether or not it is, in fact, what it is purported to be, and that is the tariff of Entergy.

Now, there are different tariffs for different time periods, as we have heard, and so I want to get clear about which tariff is the relevant one to be looking at, and I would assume that that is the one where we're arguing about what number is on the tariff, and that is the tariff that the witness would have used to make his arguments in his testimony, so that is the tariff that I want the Commission to be able to consider so that they can compare the number on the tariff with the number that

1 he is discussing and any of its relevant counterparts
2 that the other parties believe should be included.
3 So does that --

4 MR. WOODSMALL: Are we going to bring the
5 witness back to do that, or how do we know, as you
6 say, the relevant number? You've seen tariffs
7 before. There's going to be a million numbers. How
8 do we know which one is the relevant number or
9 numbers? You know, as he's mentioned, he wonders
10 where the \$50 million figure is, so we need some
11 witness, someone with expertise, to tell us what are
12 those relevant numbers, and merely taking official
13 notice of a tariff won't tell us what those relevant
14 numbers are.

15 MS. CUNNINGHAM: For that matter, if this
16 is simply a matter of authenticating, I can re-call
17 Mr. Crawford to the stand and he can authenticate and
18 verify the transmission rate that we pay for firm
19 point-to-point service in Entergy. He's available
20 today. I can bring him back up, if that would help.

21 I mean, I'm happy to supply the entire
22 tariff. I think it's an important issue to know what
23 we actually pay so that the Commission can see the
24 relative value of Crossroads versus Dogwood and, you
25 know, if Mr. Rose is not able to show us that the

1 tariff that he looked at and/or authenticate the rate
2 that we're paying, I'm happy to bring Mr. Crawford
3 back in.

4 JUDGE DIPPELL: My point in taking
5 official notice of the tariff was not to allow the
6 Company to add additional rebuttal or testimony to
7 this witness' statement but merely there is an
8 official legal document out there that can provide
9 the answer to this dilemma which has been presented
10 to the Commission, and that is what is Entergy's
11 rate?

12 We can, I hope, assume that the Company
13 is paying that rate. It may have some qualifiers and
14 I, again, am hoping that that information is already
15 provided in the testimony that has been taken and
16 could therefore be briefed as to what evidence is
17 relevant to those particular numbers.

18 Am I wrong about that, Mr. Woodsmall?
19 You're looking --

20 MR. WOODSMALL: Let me -- let me try and
21 make this easier. I don't have any problems with
22 taking official notice of it so long as it is
23 recognized that there's no evidence from an expert as
24 to which rates in that tariff would be applicable to
25 the transmission of energy from Crossroads to GMO.

1 Take official notice of it. It is a document but --

2 JUDGE DIPPELL: Are you saying that if the
3 Commission has a tariff in front of it, it is not
4 able on its own to interpret the rates applicable to
5 KCPL or GMO in this case?

6 MR. WOODSMALL: Certainly if the
7 Commission was looking at its own tariffs, the
8 Commission has that expertise. Mr. Rose has
9 testified that he has concerns that there are
10 charges, \$50 million, he mentioned, that aren't
11 covered, so I'm worried that we're going to be put in
12 a position of picking and choosing numbers without
13 any expert to tell us that is the right number. He's
14 raised concerns that --

15 JUDGE DIPPELL: And you're right. He's
16 raised those concerns, so that concern is before the
17 Commission, and they will have to take that concern
18 into account.

19 MR. WOODSMALL: So with that, I have no
20 problems with the official notice. You're right.

21 MS. CUNNINGHAM: Your Honor, I would just
22 add that he has expressed these concerns in
23 surrebuttal testimony. This is the same issue that
24 Dogwood raised in the last rate case, and yet again
25 he has -- the Company has chosen to put its case in

1 chief in surrebuttal testimony not allowing us the
2 chance through ordinary channels, like responsive
3 testimony, to respond to this document, so I am
4 forced to try to get these issues out in cross-
5 examination when, frankly, I'm not sure this
6 testimony's even appropriate because it could've been
7 put in the direct case.

8 JUDGE DIPPELL: And those were objections
9 to make before the testimony was entered into
10 evidence.

11 MS. CUNNINGHAM: But we did so last time
12 and did not prevail, so we chose not to this time.

13 MR. LUMLEY: Well, just to clarify, you
14 chose not to this time because you couldn't. Your
15 company, your client, chose not to address this issue
16 at all in its direct testimony. It didn't address
17 this issue at all until it's rebuttal testimony, and
18 then we responded.

19 JUDGE DIPPELL: Okay. Well, I don't think
20 we need to argue about who said what when with regard
21 to the testimony that's already been entered into the
22 evidence, so you can -- again, those are -- I'm not
23 even sure those are appropriate arguments for your
24 briefs but, in any event, I'm overruling any
25 objections that remain on the taking official

1 notice. I'm going to take official notice. I just
2 want to make sure that we take official notice of the
3 correct tariff.

4 MS. CUNNINGHAM: And I believe you
5 indicated that you would like the Company to make a
6 filing, like a late-file exhibit and --

7 JUDGE DIPPELL: Yes, ma'am.

8 MS. CUNNINGHAM: -- identify it as GMO 49.
9 And what I would plan to do is file the
10 tariff that's currently in effect, the most recent --
11 the most recently-filed tariff with FERC that's
12 currently in effect for Entergy.

13 JUDGE DIPPELL: And I would then allow the
14 other parties to make any objections that -- if they
15 disagree that that is, in fact, what that's supposed
16 to be at that time. How soon do you think that you
17 could provide that?

18 MS. CUNNINGHAM: Within a week. Within a
19 short time period.

20 JUDGE DIPPELL: Okay. Okay. So at this
21 point we will do that as a late-filed exhibit. I
22 will reserve GMO 49, that number, for that document.
23 When it comes in, I will give the parties ten days to
24 file any objections. If -- if it should come in
25 before the end of the hearing, then we can maybe deal

1 with it sooner than that.

2 Okay. Now, to the best of everyone's
3 recollection, can I make the arguments about that
4 exhibit public when the transcript comes out now that
5 we've done this all in-camera?

6 MS. CUNNINGHAM: Yes.

7 JUDGE DIPPELL: Okay. I will instruct the
8 court reporter to make those portions of the
9 transcript where we were just talking about the
10 official notice of GMO 49 public instead of in-camera
11 when the transcript is --

12 MR. WILLIAMS: I may not need to ask this,
13 but I'm going to anyway. If I understand correctly,
14 you're taking official notice of the tariff that's to
15 be filed as GMO 49 but taking other objections to
16 it? In other words, nobody should be objecting based
17 on whether or not the Commission can take official
18 notice?

19 JUDGE DIPPELL: Exactly. It should be
20 objections based on whether that document is the
21 correct document.

22 (REPORTER'S NOTE: At this point an in-camera
23 session was held, which is contained in Volume 39,
24 pages 4151 to 4151 of the transcript.)

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1 JUDGE DIPPELL: Okay. We are back in the
2 public session, and if somebody wanted to let the
3 people who went out know that. I think somebody
4 already went out.

5 JUDGE DIPPELL: Okay. We had quite a
6 lengthy discussion there, and I've kind of lost track
7 myself here where we are, so Ms. Cunningham said that
8 she has finished her cross-examination; is that
9 correct?

10 MS. CUNNINGHAM: Yes. Thank you.

11 JUDGE DIPPELL: All right then. I asked
12 some questions, but they were of the attorneys, so I
13 guess I don't have any additional evidentiary
14 questions for the witness.

15 Is there any redirect from Dogwood?

16 MR. LUMLEY: No, your Honor.

17 JUDGE DIPPELL: All right. Then Mr. Rose,
18 you are finished. You may be excused. I apologize
19 you had to sit through our technical evidentiary
20 arguments.

21 THE WITNESS: No problem.

22 JUDGE DIPPELL: All right. It is after
23 12:30, so I would -- and I believe that that is the
24 end of the Crossroads witnesses so -- Mr. Williams,
25 it looks like you have something to say.

1 MR. WILLIAMS: well, I believe there's
2 testimony on unsettled issues that has not yet been
3 offered, and I know at least one witness for Staff
4 that I have that testimony, and I'd like to offer
5 that testimony at this time.

6 JUDGE DIPPELL: All right.

7 MR. WILLIAMS: It would be -- and I'm not
8 representing this would be all of it, but the
9 rebuttal and surrebuttal testimony of Karen Lyons,
10 which has been marked for identification as Exhibits
11 GMO 227 and 228. I offer those at this time.

12 JUDGE DIPPELL: Okay. And let me catch up
13 with you here. Okay, I've had an offer of testimony
14 of Karen Lyons, GMO 227 and 228. would there be any
15 objection to that testimony?

16 MS. CUNNINGHAM: No objections.

17 MR. WILLIAMS: And I'll note both are
18 highly-confidential.

19 JUDGE DIPPELL: All right. Then seeing no
20 objection, I will admit Exhibits 227 and 228.

21 (GMO Exhibit Nos. 227-HC and 228-HC were admitted.)

22 JUDGE DIPPELL: Is there other testimony,
23 Mr. Williams?

24 MR. WILLIAMS: Not at this time. There
25 probably will be later.

1 JUDGE DIPPELL: Did anyone else have any
2 housekeeping or other matters to take up before we
3 take a lunch break?

4 (No response.)

5 JUDGE DIPPELL: Okay. Then let's take a
6 break until 1:45, and we can go off the record.

7 (A lunch break was taken.)

8 JUDGE DIPPELL: We're back on the record
9 And we finished the Crossroads issue, and we're ready
10 to go to the next issue, which is Lee's Summit rate
11 design, and Mr. Comley, are you representing Lee's
12 Summit in this?

13 MR. COMLEY: I am.

14 JUDGE DIPPELL: Will you be having an
15 opening statement on this issue?

16 MR. COMLEY: In the interest of time, I
17 think the opening statement we had on the 18th would
18 be just fine.

19 JUDGE DIPPELL: Okay. And did the Company
20 have an opening statement on this issue?

21 MS. CUNNINGHAM: No, Your Honor.

22 JUDGE DIPPELL: Did anyone else have an
23 opening statement on the rate design issue?

24 (No response.)

25 JUDGE DIPPELL: Then I also have Ms. Slack

1 here, and she would like to ask some questions
2 regarding the low-income --

3 MS. SLACK: -- weatherization.

4 JUDGE DIPPELL: -- weatherization of
5 Mr. Rush when he was on the stand, and I believe you
6 also have some exhibits that you'd like to offer at
7 that time, too, from your witness.

8 MS. SLACK: Right.

9 JUDGE DIPPELL: So we will also plan to
10 handle that along with this.

11 And I'm sorry. The Company said it
12 didn't have an opening either?

13 MS. CUNNINGHAM: No, thank you.

14 JUDGE DIPPELL: All right. Then let's go
15 ahead and ask Mr. Rush to come back to the stand.

16 You were sworn previously in this matter.

17 MR. RUSH: Yes.

18 JUDGE DIPPELL: And you remain under oath,
19 and I will ask you to give truthful answers.

20 THE WITNESS: I'll do so.

21 JUDGE DIPPELL: All right then. Is there
22 any direct that needs to took place at this point?

23 MS. CUNNINGHAM: Your Honor, I'm getting
24 the information on the exhibit number that has been
25 assigned to his rate design testimony, but his rate

1 design testimony in GMO has not been admitted into
2 the record yet. Give me one moment and I'll get the
3 exhibit number.

4 JUDGE DIPPELL: Okay.

5 MS. CUNNINGHAM: Should I just go through
6 some preliminary questions?

7 JUDGE DIPPELL: Yes. Go ahead.

8 MS. CUNNINGHAM: All right.

9 DIRECT EXAMINATION BY MS. CUNNINGHAM:

10 Q. Good afternoon. Would you please state
11 your name for the record.

12 A. Tim Rush.

13 Q. Are you the same Tim Rush that has
14 previously testified in the KCP&L and GMO
15 proceedings?

16 A. I am.

17 Q. For identification purposes, did you cause
18 to be prepared and prefiled in this case rebuttal
19 testimony that has been identified as GMO Exhibit 34?

20 A. I did.

21 Q. And that is on rate design issues; is that
22 right?

23 A. That's correct.

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

1 A. I do not.

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

5 A. Yes, they would.

6 Q. Are the answers true and correct?

7 A. Yes, they are.

8 MS. CUNNINGHAM: Your Honor, at this time
9 I would move for the admission of Exhibit GMO 34,
10 which is the rebuttal testimony of Tim Rush on GMO
11 rate design issues.

12 JUDGE DIPPELL: would there be any
13 objection to GMO 34?

14 (No response.)

15 JUDGE DIPPELL: Seeing none, I would admit
16 GMO 34.

17 (GMO Exhibit No. 34 was admitted.)

18 MS. CUNNINGHAM: And I would tender the
19 witness for cross-examination.

20 JUDGE DIPPELL: All right then. Do we
21 have any cross-examination questions on the Lee's
22 Summit issue from Mr. Comley? Anyone else?

23 All right. I'll come back to you,
24 Ms. Slack, after we take care of the rate design
25 issue, all right?

1 MR. COMLEY: Mr. Rush, before I go into
2 detail about the testimony you have, I had a few
3 preliminary questions myself.

4 THE WITNESS: Okay.

5 CROSS-EXAMINATION BY MR. COMLEY:

6 Q. You and I have known each other for some
7 time; isn't that correct?

8 A. Yes, we have.

9 Q. It's been about 28 years, hasn't it?

10 A. It's been a long time.

11 Q. And our association first started when I
12 was representing St. Joseph Light & Power in 1983 or
13 so, would that be your --

14 A. I think that would be the time frame, yes.

15 Q. At that time you were in a position of
16 management with St. Joseph Light & Power; is that
17 correct?

18 A. That's correct.

19 Q. In fact, you had been with St. Joseph
20 Light & Power for about, what, more than twenty
21 years?

22 A. Well, not at that time but I -- I was with
23 St. Joseph Light & Power for about 25 years.

24 Q. And as I recall, I was working for the law
25 firm that represented St. Joseph Light & Power at

1 that time, and one of the issues was the Iatan plant
2 at that time.

3 A. Back in that eighties period, yes, that's
4 correct.

5 Q. And between 1983 and 2000, I had been
6 associated with St. Joseph Light & Power in one way
7 or the other.

8 A. In various stages, yes. Correct.

9 Q. Right. It's also true that in 1999, or
10 somewhere in that area, I was retained by St. Joseph
11 Light & Power to represent it in connection with its
12 merger with Aquila.

13 A. That's correct.

14 Q. Actually, I think it was Utilicorp United
15 at that time.

16 A. It was, yes.

17 Q. During that time you and Terry Steinbecker
18 and Larry Stole were part of the management group
19 that was advising me and my law firm in connection
20 with the progress on that merger; is that correct?

21 A. That's correct.

22 Q. And now that I think of it, we have other
23 associations. I'm trying to think now. I better
24 bring these out too. Your daughter, Sarah Jean, and
25 my daughter, Catherine, were in the same dormitory at

1 william Jewel college; isn't that correct?

2 A. That's correct.

3 Q. And your son, Seth, and my son, Russell,
4 are the same age and went to William Jewel College at
5 the same time.

6 A. That's correct.

7 Q. I'm on the president's advisory counsel
8 for William Jewel College. Let me ask this
9 question: My position with the college had no
10 influence over your child's decision to go to William
11 Jewel or your decision to send them there. Would
12 that be a fair statement?

13 A. No, it did not.

14 Q. All right. Let me ask a question I think
15 Ms. Cunningham has written down for later, but I'm
16 going to ask it anyway. Is there anything about our
17 association over the last 28 years that's going to
18 influence you today in the way you answer the
19 questions I have for you?

20 A. No, they will not.

21 Q. Darn. I thought that's what he was going
22 to say. Thank you.

23 Regarding the lighting service generally
24 for GMO, do you happen to know what GMO collects in
25 total annual revenue from the lighting class?

1 A. I can -- I can find that information. I
2 have --

3 Q. would that be in the schedules that
4 Mr. Norman --

5 A. It would -- it would be, yes.

6 Q. would you happen to know offhand what
7 percent of GMO's total rate base revenues does the
8 annual revenue from the lighting class represent?

9 A. Again, I could find that information. I
10 don't have it readily --

11 Q. would that be in Norman's schedules?

12 A. It would -- it would be.

13 Q. I have copies of the schedules from
14 Mr. Norman's testimony. If I would give those to you
15 for the moment -- do you have them handy?

16 A. I do have his testimony available, so if
17 you reference what sections you're talking about, I
18 could probably find it.

19 Q. Take a glance at Schedule PMN-2A. And
20 then again, it may cross-reference to schedule
21 PMN-3A. And forgive me. I'm presuming that you've
22 had a chance to review Mr. Norman's testimony in
23 connection with your class cost of service
24 sponsorship.

25 A. I did.

1 what page of PMN-2A are you looking at
2 there? I think 27 pages --

3 Q. Page 1 may have the information you're
4 looking for.

5 A. All right. I'm there.

6 Q. And I'm looking at line number 60, total
7 operating revenue under Column H. Am I looking at
8 the correct number?

9 A. You are.

10 Q. And what is that number?

11 A. 8,919,131.

12 Q. And can you tell from the schedule what
13 percent -- I'm not sure it's on this page.

14 A. It is not on this page, the percent of
15 revenue.

16 Q. I may have to do some clever math here.

17 A. It's less than 2 percent, if that would
18 help.

19 Q. Thank you. Some just very preliminary
20 questions, background questions. Am I correct that
21 the City of Lee's Summit takes service for
22 streetlighting under GMO's MPS municipal
23 streetlighting service tariffs.

24 A. That's correct.

25 Q. It takes other services, but it takes --

1 A. Right.

2 Q. -- streetlighting service under that
3 tariff?

4 A. That's correct.

5 Q. And that tariff would apply strictly to
6 the streetlights that are leased by the City from
7 GMO?

8 A. Well, they take two different sets of
9 lights, but one of them you're referencing, yes, is
10 under the tariffs that are associated with the
11 lighting service. They also have metered service.

12 Q. So the lease system is a nonmetered
13 service?

14 A. That's correct.

15 Q. GMO meters the service for the traffic
16 lights under a different tariff?

17 A. They -- it's under -- yes, they do.

18 Q. What I'm gathering is that the MPS
19 municipal streetlighting tariff schedule, is one of
20 many different lighting rate schedules that are
21 bundled in the class cost of service study done by
22 Mr. Norman.

23 A. That's correct.

24 Q. Do you happen to know what portion of the
25 lighting class revenue and expenditures is

1 represented by GMO's MPS municipal streetlighting
2 service? I'll ask it again.

3 Do you know what portion of the lighting
4 class revenue and expenditure is represented by GMO's
5 MPS municipal streetlighting service?

6 A. I'm still not understanding your -- it's
7 sounding like --

8 Q. Let me see if I can ask it a different
9 way. Do you know -- I'll say it by the word
10 "percentage."

11 A. Okay.

12 Q. What percentage of the revenue that you're
13 getting from the municipal streetlighting service is
14 part of the total revenue for the lighting service?
15 Do you know?

16 A. I do not know.

17 Q. Is there anything in the studies that you
18 know of that can direct us toward that number?

19 A. Are you asking me for streetlighting only,
20 the percentage that is represented by these -- by the
21 tariffs in the lighting group in comparison to all
22 other lighting that's available in MPS?

23 Q. Yeah, in the MPS territory.

24 A. In the MPS territory, and are you talking
25 about streetlighting only or are you talking about

1 lighting of parking lots, buildings, private area
2 lights.

3 Q. Right, I think I am. I'm asking you --

4 A. Oh. I don't have it.

5 Q. -- of that 8,000,000 or so dollars, how
6 much is representative of just the lighting service,
7 the MPS municipal lighting service?

8 A. I'm still not -- I'm not understanding
9 that question. I thought what you were asking me is
10 of the lighting category that's here --

11 Q. Yes, okay.

12 A. -- how does that compare to all the other
13 tariffs, the residential, small general service --

14 Q. No, that's not my question.

15 A. -- et cetera, is lighting.

16 Q. And I'll try to clarify this as best I
17 can.

18 A. I'm sorry.

19 Q. Do you know how much the municipal
20 streetlighting service revenue --

21 A. Uh-huh.

22 Q. -- compares to the remainder of the
23 lighting service revenue?

24 A. I'm not sure if you're trying to break
25 the --

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Q. I am.

A. -- service into --

Q. -- the varies schedules --

A. Are you trying to break it into energy or are you trying to trying to break it into underground service, or are you trying to break it into fuel usage?

Q. No.

A. Okay.

Q. I think you have --

A. I'm just a little confused.

Q. You have a metered service in a lighting -- you have a metered lighting service?

A. And that's -- that's not represented in this category.

Q. In H?

A. That's correct, it's not there.

Q. The metered lighting service is not in H?

A. That's correct.

Q. where is that found in the schedule?

A. It's throughout because it's assigned. I think it most likely is in the small general service or other areas.

Q. Oh. Okay. So this is not total lighting service.

1 A. Oh, no.

2 Q. This is strictly --

3 A. It's represented by what Mr. Norman
4 represented in -- in the discussion that he has on
5 lighting. For the L&P Division, it is broken into
6 metered and unmetered because we have an actual
7 tariff for metered lighting in the L&P Division.

8 Q. The metered service, the metered lighting
9 service, is not carved out in line H or --

10 A. That's correct.

11 Q. -- or column H?

12 A. That's correct.

13 Q. It's spread out through the other --

14 A. -- categories.

15 Q. -- categories and classes.

16 THE COURT REPORTER: And if I could just
17 remind you to speak one at a time, please.

18 MR. COMLEY: Oh. I'm sorry.

19 THE WITNESS: sorry also.

20 BY MR. COMLEY:

21 Q. And this is kind of a segway into the next
22 question. would it be fair to say that the GMO rate
23 for MPS municipal streetlighting service contains
24 more than just the cost of energy for lighting?

25 A. Yes, it does.

1 Q. And it includes GMO's cost of
2 installation, maintenance, and equipment. Is that
3 fair?

4 A. Right. It's the capital costs associated
5 with servicing the lights as well as the ongoing
6 maintenance and operations of that, as well as the
7 fuel used to provide it, as well as capacity plant
8 necessary to meet those needs, transformers, all the
9 components necessary.

10 Q. And the metered service, are those
11 components part of the rate?

12 A. No, because in the metered service we
13 don't own the lights.

14 Q. So those are the responsibility of the
15 owners?

16 A. That's correct.

17 Q. Would you also agree with me, Mr. Rush,
18 that the class cost of service studies sponsored by
19 the Company and the one also sponsored by the Staff,
20 Mr. Scheperle's study, have not separately identified
21 the Company's cost of installation, material, and
22 equipment for the municipal streetlighting service?

23 A. That -- that's not true, because we have a
24 special account for the capital items associated with
25 streetlighting in the class cost of service study

1 where power -- plant numbers associated with the
2 investments are placed. That's just a component of
3 it, because also you have transformers and you have
4 cables and other things that are not necessarily
5 associated with specific streetlighting.

6 Q. Let me direct your testimony to -- direct
7 you to your rebuttal testimony --

8 A. Okay.

9 Q. -- on page eight through nine.

10 A. I'm there.

11 Q. In that section at the bottom of the page
12 you're talking about Mr. Park's observations about
13 the cost for nonenergy components --

14 A. Yes.

15 Q. -- in the lighting.

16 Your last sentence in that answer that
17 goes on to page 9, says, Absent a detailed study of
18 the lighting costs, it is impossible to know exactly
19 how much this increase might be.

20 A. I'm -- I'm not on the same page.

21 Q. Line 22 on page 8.

22 A. Oh. I'm sorry. Okay.

23 Q. Okay.

24 A. I believe my reference is to his reference
25 of his cost information, which talks about the City's

1 costs.

2 Q. So you're talking about the City's costs
3 there?

4 A. Yes.

5 Q. Is your testimony, Mr. Rush, then, that
6 the Company can identify with specificity the actual
7 cost of installation, maintenance, and equipment
8 within the unmetered MPS lighting service?

9 A. In total?

10 Q. In total. You can't identify it in total,
11 not just varied? You can't do it separately?

12 You have your metered energy charge and
13 then you have another bundle of charges over here.
14 Is that what you're saying?

15 A. I'm saying for those lights that we lease,
16 we have to capitalize those items, and they are
17 identified when they're capitalized. Then they're
18 depreciated over time, and that is reflected in the
19 class cost of service study, both the capitalization
20 of those items as well as the depreciation and the
21 reserve balances, et cetera, for the items
22 capitalized.

23 Q. They are aggregated, in other words?

24 A. It's aggregated, yes.

25 Now, my guess is you can go back to the

1 detailed property records and -- and in some way
2 maybe identify, you know, significant elements of
3 that. I'm not sure all the -- I mean, you have to be
4 able to do that through your property record system,
5 so we could be able to do that.

6 Q. Let me direct your attention to your
7 surrebuttal testimony. And I'm not clear on what
8 number that is, and I know your rebuttal testimony
9 was just admitted. I don't know if your surrebuttal
10 testimony has been admitted into evidence.

11 JUDGE DIPPELL: It has been. It's Exhibit
12 No. 35.

13 MR. COMLEY: All right.

14 BY MR. COMLEY:

15 Q. If I could direct your attention to page 9
16 of your surrebuttal testimony --

17 A. I'm there.

18 Q. -- top of the page, do you agree with
19 Mr. Park's recommendation? There you disagree. Your
20 last line, if I'm reading it correctly, on line 9, To
21 gain a level of detail as suggested by Mr. Park would
22 require a specific study of the lighting rates.

23 A. That's correct.

24 Q. So what you're telling me is that to get
25 to the detail of the actual cost of each one of those

1 other elements or components, cost of maintenance,
2 installation, and equipment, would require a specific
3 study?

4 A. If you were trying to look at the various
5 specific kinds of lights, and let's take, for
6 example, if you look at the lighting schedule that we
7 lease lights, we may have 40 different kinds of
8 lights that are leased, and they may be anything
9 from -- I don't know all the terminology -- but a
10 Cobra head to one that's an ornamental kind of light
11 to one that's an open ballast, open-faced light, you
12 may have various kinds of lights. They may be
13 different wattages. They may be different lumens.
14 They may be different types. We have mercury vapors
15 that we are somewhat phasing out. We have high-
16 pressure sodium, et cetera.

17 To try to identify each one of those and
18 the prices associated with how they're oriented for
19 the maintenance side or the capital side would take a
20 special study. That's my reference. What I can say,
21 is in a total basis in looking at the class cost of
22 service, that's what you see in Mr. Norman's
23 testimony, so we did do a class cost of service here
24 just like we did for residential, commercial,
25 et cetera, or small general service and medium, but

1 the detail or the specificity of which was referenced
2 by Mr. Park would take a further detailed evaluation.

3 Q. All right. I think I understand what
4 you're trying to say. Let me go back to page 9 of
5 your rebuttal testimony, and I think you alluded to
6 this earlier about your thought that Mr. Park was
7 trying to substitute the City's costs for the
8 Company's.

9 Is it your testimony, then, that GMO's
10 costs of installation, material, and equipment are
11 more than what the City would experience in operating
12 the city-owned streetlighting?

13 A. I don't know that. I don't want to say
14 that the increase in the issues we're addressing here
15 are far more than just simply the maintenance and
16 operation of lights. They deal with bringing a power
17 plant on. They deal with all the other attributes
18 associated with it so, for example, the Iatan power
19 plant, a portion of that is being allocated to
20 streetlights.

21 Q. To streetlights, sure. And when you
22 mention that, there's another question that comes to
23 mind. Is it fair to say that streetlighting does not
24 use any peak power?

25 A. That's not necessarily true, but it's how

1 essentially it's treated. It uses what they call
2 noncoincident peaking load, so when you look at a --
3 for example, a study that we did, which was called a
4 base intermediate peak class cost of service, some
5 responsibility for the generation facilities would be
6 assigned to lighting.

7 Q. would it be fair to say that it is not a
8 highly-demanding service on your base load -- or on
9 your peaking load?

10 A. It is not on our peaking load. It is
11 definitely on our base load.

12 Q. It is a demand on your base load, but it's
13 not of high demand. We're not looking at it -- it
14 doesn't compare to residential, does it?

15 A. Oh, no, and we just discussed that for
16 that schedule. It's a very small fraction of our
17 revenues.

18 Q. would you say that the Company has a
19 greater benefit of economy of scale than the City
20 does?

21 A. I would agree in general.

22 Q. All right. Regarding the revenue request,
23 my understanding is the Company's proposing to
24 increase the rate for MPS streetlighting by
25 approximately 15 percent; is that correct?

1 A. It's an equal -- our -- our overall
2 recommendation is an --

3 Q. Equal percent?

4 A. -- equal percentage to all classes. I
5 thought it was a little bit less than 15, but when
6 you do all the rounding, it may have been a fraction
7 over 15 percent for the specific loads.

8 Q. I was trying to recall from the letter
9 introducing the rate case. I thought there was going
10 to be about 14 percent overall.

11 A. That's correct.

12 Q. But there's a 15 percent related to MPS,
13 the streetlighting?

14 A. It's an -- we're recommending an equal
15 percentage increase so, you know, if that's a --

16 Q. It would be more than what -- I may be
17 confused about this, but I was thinking it would be
18 14 percent overall, but you're talking about a 15
19 percent increase just for lighting.

20 A. I believe we're talking about an equal
21 percentage increase to all customer classes in all
22 our rate schedules. I know we are. I mean, that's
23 our recommendation.

24 Q. And so to achieve that --

25 A. So if it's 14 percent, then it's 14

1 percent increase to lighting, and I don't know where
2 the 15 --

3 Q. All right.

4 A. I know there was a reference to 15, too,
5 in the testimony, but it is an equal percentage
6 increase to all classes, is our recommendation.

7 Q. Is it fair to say that the Company's
8 already meeting its costs of service by the rate
9 schedule it has in place for lighting?

10 A. No, I don't believe so.

11 Q. I'm thinking about the schedule from
12 Mr. Norman.

13 A. Uh-huh.

14 Q. There's a reference there to the relative
15 rate of return.

16 A. That's correct.

17 Q. Does that relative rate of return mean
18 that there is a return?

19 A. There -- there is a return, yes.

20 Q. And I'm looking at that as what the
21 Company is receiving in revenue is going ahead and
22 giving you a return, and I'm presuming that it is
23 meeting its cost and giving you more. Would that be
24 a fair statement?

25 A. Those -- those would be true statements.

1 Q. All right. And along those lines, would
2 you agree with me that if you're meeting your costs
3 and getting your return, it's not absolutely
4 essential that you get a rate increase for lighting?

5 A. Well, I think as you see in what we
6 presented, you have to look at -- or Mr. Norman's
7 tes-- his filing. It included the rate increase in
8 there, the proposed rate increase, and then it showed
9 the relative rates of return so that you would see
10 how to look at balancing those rate of returns 'cause
11 there's a lot of policy decision that's made about,
12 you know, should you -- should everybody pay an
13 equalized return on investment for all the classes.

14 Q. I think he had --

15 A. And that's one of the judgments that are
16 made.

17 Q. I think he had another schedule that
18 showed about a 8.99 percent return over every class.

19 A. That's correct. Right. And that's how
20 you look at balancing those interests.

21 Q. Let me ask you this: Did you review
22 Mr. Park's estimate of what the impact would be just
23 on the municipal streetlighting service -- would be
24 if the increase is approved?

25 A. I did read it. I think I understood it,

1 yes.

2 Q. The other thing, do you agree with the
3 other components besides energy that approximately 70
4 to 75 percent of the rate increase is going to be
5 increased for installation, maintenance, and
6 equipment not just energy?

7 A. Well, it's going to be assigned to the
8 fixed component, if you look at it that way, yes --

9 Q. And how much --

10 A. -- which may be demonstrated by -- you're
11 saying that it's those pieces broken up, but it's
12 not -- the way the tariff is set, it looks at the
13 overall cost of which a component is energy, and the
14 component is those fixed components that I described
15 earlier.

16 Q. Let me talk to you about the other point
17 that we're making in the case about the ongoing
18 negotiations for that system.

19 A. Yes.

20 Q. I think you'd agree with your testimony
21 that you acknowledge that there are negotiations
22 pending between GMO and the City of Lee's Summit
23 about purchase of that lease system.

24 A. I'm generally aware of that, yes.

25 Q. I think there's about 4,000 lights

1 involved in those negotiations. would that be fair?

2 A. I think so.

3 Q. Okay. At page 9 of your rebuttal, let me
4 see if I can make sure I point you in the right
5 direction. It's line 11.

6 A. Uh-huh.

7 Q. I don't believe this rate case will affect
8 negotiations any more dramatically than other factors
9 that play into the discussion. Is that a fair
10 reading of your testimony?

11 A. Yes.

12 Q. You would agree that there is going to be
13 some impact if the increase is approved?

14 A. I -- I honestly -- my guess is you're
15 going to be looking at the capital investment of the
16 4,000 lights. You're going to be looking at the
17 discounted cash flows associated with those, and they
18 will play a bearing, but as far as the rate increase,
19 should have essentially minimal impact, but it could
20 have some, because what they're -- what you're
21 looking at, when the City of Lee's Summit is selling
22 their system -- or is buying the system -- excuse
23 me -- they probably will be looking at how they would
24 serve those lights, meaning through a different
25 tariff --

1 Q. Absolutely.

2 A. -- which has an increase also bearing on
3 it.

4 Q. And I'm sure they have other costs that
5 they're going to have to incur.

6 A. And they will look at their other -- all
7 I'm saying is there are a lot of pieces parched to
8 this, and just as anything changes, whether it's
9 interest rates or anything, there will be dynamics
10 that would cause that to change.

11 Q. Well, let me ask you this. First
12 question: would you agree with this statement, that
13 if the Commission were to approve a rate increase in
14 this case and decided simply to raise the rate for
15 the energy component of the lighting service tariff,
16 and that alone -- somehow they would compute that
17 based upon some arguments I would make --

18 A. Okay.

19 Q. -- would you agree with me that the impact
20 that this rate case would have on negotiations would
21 be less?

22 A. I don't know, because if you negotiated
23 the increase, the energy side much greater than the
24 energy cost, it could be equal. I don't -- I
25 don't -- I mean, you can do anything you want.

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Q. Thank you for the answer.

Let me ask you this one: You said that you believe there's not going to be an impact, but let me ask you, if the Company would be willing to back up that belief, would you agree to an order of this commission that basically decrease [sic], that with respect to pending negotiations between us -- I mean City of Lee's Summit and GMO, GMO will not take into account any increased rates for service?

A. I don't think I'm in authority. I couldn't do anything like that.

Q. I thought I'd ask anyway. After all, I think -- what is it? Chief of regulation. I think that's what it is.

MR. COMLEY: I have no other questions.

JUDGE DIPPELL: Thank you. Let me just go ahead and see if there's -- there's no Commission questions on this issue.

Let me ask for the redirect on this issue, and then we'll go back to the other issue. We'll keep it sort of together.

MS. CUNNINGHAM: That's fine. I just have a question or two for Mr. Rush.

REDIRECT EXAMINATION BY MS. CUNNINGHAM:

Q. At one point in his cross-examination,

1 Mr. Comley spoke with you about how the increase in
2 this case was going to be spread among the different
3 rate classes, and I believe your answer was it's
4 going to be an equal percentage increase to all
5 classes. Do you recall that?

6 A. I said that was the Company's proposal.

7 Q. Okay. And there was some question of
8 whether that was an overall 14 or 15 percent, but
9 regardless of what that is, whatever that number is,
10 that's the amount that's going to be equally spread?

11 A. Absolutely. That is correct.

12 Q. Can you explain why the Company took that
13 approach in this case?

14 A. Yes. Our com-- the Company went through
15 the evaluation of Mr. Norman's testimony, which was a
16 class cost of service study, that we did in
17 preparation for this case, and we tried -- obviously,
18 a class cost of service study is simply a snapshot in
19 time of what you think everything is going to mix
20 together with.

21 we felt that basically there was nothing
22 in the study that would demonstrate that significant
23 changes should occur to any particular class, so we
24 recommended, basically, in our filing an equal
25 percentage applied, so we were trying to weigh all

1 the interests of where we were, how it looked and
2 what the class cost of service [sic]. If anything,
3 was detrimental, we would've tried to make an
4 address -- we would've tried to address that in this
5 case, but we did not see anything.

6 Q. Based on the cost of service that's
7 required to provide municipal streetlight service, do
8 you know whether the level of increase that -- that
9 equal percentage, do you know whether the level of
10 increase covers the full cost to serve a municipal
11 streetlight service?

12 A. If we were trying to levelize the returns
13 on investments for all of the classes, we would've
14 increased the lighting class a higher percentage than
15 the levelized equal percentage, but we did not
16 recommend to do that.

17 Q. So the Company's proposal in this case
18 actually benefits the City of Lee's Summit?

19 A. It's my opinion based on the snapshot in
20 time and the evaluation of information that it did --
21 we did not feel it was necessary to increase it, but
22 it would have -- it resulted in essentially a benefit
23 based on if you were trying to levelize the returns
24 using this as your tool.

25 MS. CUNNINGHAM: Very good. That's all I

1 have. Thank you.

2 JUDGE DIPPELL: All right then. Let's
3 shift gears here just a little bit, and Ms. Slack has
4 some questions of Mr. Rush about the low-income
5 weatherization issue.

6 MS. SLACK: Yes, your Honor, I do have
7 questions.

8 JUDGE DIPPELL: All right.

9 MS. SLACK: I also have some documents
10 that I'd like to give Mr. Rush to look over, and I'd
11 like to give some to you and to his attorneys, if
12 it's okay I may approach.

13 JUDGE DIPPELL: Yes. If those are things
14 you're going to question him about, do I need to mark
15 them as exhibits?

16 MS. SLACK: Well, then I'll ask.

17 JUDGE DIPPELL: Go ahead.

18 MS. SLACK: I'm giving him a chance to
19 look over the documents.

20 JUDGE DIPPELL: All right.

21 MS. SLACK: And your Honor, there is one
22 document that is in the pack that I gave you and
23 Mr. Rush and Mr. Rush's attorney, on the top of that
24 document -- it's the third in the stack. It says,
25 KCPL, GMO IRP for Case No. EE2009-0237. I'm not

1 going to ask that that document be admitted. That
2 document is highly-confidential. I'm not going to
3 ask specific questions regarding dollar amounts, so
4 we won't need to go into HC.

5 JUDGE DIPPELL: Okay.

6 MS. SLACK: Are you ready?

7 THE WITNESS: I think so.

8 MS. SLACK: Good afternoon.

9 THE WITNESS: Good afternoon.

10 CROSS-EXAMINATION BY MS. SLACK:

11 Q. KCP&L, GMO evaluated and included in its
12 most recent resource plan a provision for low-income
13 weatherization; is that correct?

14 A. That's correct.

15 Q. And then I'll have you look -- and for
16 your purposes -- and this won't be on your document,
17 but I numbered them so he wouldn't get confused.

18 A. Thank you.

19 Q. If you'll just take a look at the one that
20 I have marked for you, number one in the lower right-
21 hand corner --

22 A. I'm with you.

23 Q. -- would you please identify that document
24 for me.

25 A. It says the -- Aquila, is the heading of

1 it. The Missouri Electric Energy Efficiency, that's
2 the subtitle. And I think maybe the title says,
3 Low-income weatherization Program Marketing and
4 Resource Plan, Version 1.0, May 2008, presented by
5 Bridget Hetzolt.

6 MS. SLACK: And your Honor, I'd like to
7 offer this document, and I'm not sure what exhibit
8 number we're on at this point.

9 JUDGE DIPPELL: The next exhibit number
10 would be GMO 253.

11 MS. SLACK: Your Honor, if it's okay, if
12 opposing counsel doesn't have any objections, I'd
13 like to offer that for admission.

14 MR. FISCHER: Judge, could I ask a couple
15 voir dire questions of the witness?

16 JUDGE DIPPELL: Yes.

17 VOIR DIRE EXAMINATION BY MR. FISCHER:

18 Q. Mr. Rush, are you familiar with this
19 document? Do you know what it is?

20 A. Not at all.

21 MR. FISCHER: Judge, I guess I would
22 object that if there's no foundation and he doesn't
23 know what it is. It looks like it probably came from
24 before GMO was acquired by Great Plains Energy.

25 MS. SLACK: And your Honor, for the

1 purposes of my questions, I'm going to ask him
2 specific information, not any detailed information
3 about the document at all, basically for point of
4 reference.

5 MR. FISCHER: Perhaps we could just ask
6 the questions and not introduce the document.

7 JUDGE DIPPELL: Let's try that and see how
8 far we get.

9 MS. SLACK: That's fine. I just wanted to
10 make it convenient for when people went back to look
11 they had all the documents in their hand.

12 JUDGE DIPPELL: All right.

13 MS. SLACK: Okay.

14 BY MS. SLACK:

15 Q. Mr. Rush, if you'll look at that document
16 that we just discussed, and if you'll look at the
17 second page, which is on the flip side, can you give
18 me the date of that tariff.

19 A. You said to look at the second page?

20 Q. Yes, the page you've got your finger on,
21 if you'll just give me the date there.

22 A. The date, not of the tar--

23 Q. Date of tariff.

24 A. Date of tariff: March 12, 2008.

25 Q. And then if you'll read page 6 of this

1 document under Budget, I would like you to read for
2 me beginning at the second -- the last two paragraphs
3 beginning at, Payments will be provided.

4 A. You said go to page 6?

5 Q. Page 6.

6 A. I'm on page --

7 Q. Under the word "budget," last --

8 A. Oh, sentence. It's not the paragraphs.

9 I'm sorry.

10 Q. No.

11 A. Okay. Payments will be provided until the
12 budgeted funds for the total program are expended.
13 To the extent there are excess funds for a given
14 year, the amount of the excess shall be rolled over
15 to be utilized for the program in the succeeding
16 year.

17 Q. And according to this document, it says
18 "shall be"; is that correct?

19 A. That's what the words say, yes.

20 Q. Okay. Thank you.

21 And then I'll have you look at the next
22 document that I provided for you. And I put a two
23 there at the bottom there.

24 A. I'm there.

25 Q. Are you there? would you identify that

1 document. At the top of the page it tells you --

2 A. It appears to be the State of Missouri
3 Public Service Commission, the Rules and Regulations,
4 PSC MO No. 1, First Revised Sheet No. R-62.030 --
5 pardon me -- .03, and it appears to be a tariff under
6 the rules and regulations associated with low-income
7 weatherization.

8 Q. Thank you. And then if you'll look at the
9 second page, and I'll provide to you that these go
10 front to back, so I'm speaking of the actual second
11 page where it reads, For all territory formerly
12 served by Aquila Networks - L&P and Aquila Networks -
13 MPS; is that correct?

14 A. That's correct.

15 Q. So would you please read for me the issue
16 date of the tariff there. There's two pages and two
17 different issue dates.

18 A. Are you talking about the second full
19 page?

20 Q. I'm actually asking for you to give me the
21 issue dates and the effective dates of both.

22 A. I mean, there's four pages. I'm trying to
23 figure which --

24 Q. Right. The first -- the first two-pages,
25 front and back, are one.

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A. Right.

Q. They have the same issue dates and the --

A. Yes.

Q. -- same effective date, and then the second front and back have the same, so I just need those.

A. Okay. The first page is October 11, 2009, both front and back is -- the effective date is October 11, 2009. The second page, or second full page, is April 30, 2009; effective date, April 30, 2009.

Q. And these, the revised tariff, is still active at this point; correct?

A. I do not know. I don't know if there's -- it's been superseded by anything. It -- I do not know.

Q. would you have any reason to doubt if I told you that there hasn't been any?

A. I would not have any doubt. That would be fine.

Q. And my question for you is, we both looked at the two documents that I had you read. The first one was the Aquila document, and then the second document was the revised tariff from KCP&L Greater Missouri Operations Company; is that correct?

1 A. That's what it appears, yes.

2 Q. And my question for you is simply this:
3 when KCP&L, GMO acquired Aquila, they also adopted
4 their tariff; is that correct?

5 A. They did adopt all of the tariffs.

6 Q. And so then when we looked at page 6 of
7 the Aquila document, it says, Payments will be
8 provided until the budgeted fund for the total
9 programs are expended, period, and to the extend that
10 these excess funds for a given year -- or for a given
11 year, the amount of the excess shall be rolled over
12 to be utilized for programs in the succeeding year.

13 So to that -- if we look at both of these
14 documents, and KCP&L and GMO adopted the Aquila
15 tariff, it would be reason to say that that same
16 language would be adopted for the current tariff?

17 A. I would not agree with that.

18 Q. You would not?

19 A. But I don't -- I don't know the facts
20 behind this document. I don't know if it was
21 superseded. I don't know if it was a draft. I don't
22 know if it was an internal document. I don't have a
23 clue what the first document that drives this is.

24 Q. Okay. That's fair.

25 A. I just don't know.

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Q. That's fair. That's fair.

So let's look at the last page of the documents with the tariff sheets that I gave you Issued March 31, 2009, effective date, April 30. And it you look at "N" where it says "funding" --

A. I'm there.

Q. -- and it says -- would you read where it begins "rollover grants."

A. Rollover grants under the current LIW -- I guess that would be referencing this tariff -- will remain available to KCP&L and the agencies under the guidance of the LIWAP, LIW tariff sheet Nos. R-6203 -- or .03, and R-6204.

Q. So my question for you -- and my understanding is that if the funds that were remaining in the low-income weatherization programs were rolled over to a EIERA account, that would be within the scope of the tariff; is that correct? Is that your understanding?

A. I don't know where EIERA comes into play with that, but I do know --

Q. Not specifically an EIR, but an account that would be accessed by low-income weatherization.

A. I don't think I've ever said that -- that we were -- are going to stop low-income

1 weatherization. I think what I said is we've got to
2 decide the funding based on basically an assurance of
3 where we're headed and -- and so I haven't talked
4 about stopping funding the low-income weatherization
5 at all in the -- in the prior discussions we've had
6 about it.

7 Q. And I haven't suggested that you said
8 that.

9 A. Right.

10 Q. I'm just saying that if it were to be
11 rolled into an EIERA account, that would seem to
12 follow within the scope of the tariff.

13 A. That is a pos-- that is a possibility,
14 absolutely.

15 Q. Okay. And I also handed you a document,
16 which I expressed to Judge Dippell and your counsel
17 and yourself that we're not going to discuss the
18 numbers because it's HC.

19 A. Okay.

20 Q. And for the purpose of this document --
21 and I'm not going to ask that it be admitted -- I
22 just want you to look at page 250 of this document.
23 And as I said earlier, this document is from the
24 integrated resource plan from Case No. EE-2009-0237.

25 A. Okay.

1 Q. And all I need you to do is to look under
2 where it says Utility Programs Cost.

3 A. Right.

4 Q. And so there is an amount that has been
5 budgeted for low-income weatherization; is that
6 correct?

7 A. Yes.

8 Q. And also looking --

9 A. I mean, that is in the plan.

10 Q. In the plan, in the resource plan.

11 A. The resource plan, right.

12 Q. Yes. Yes.

13 And under that plan, that budgeted
14 amount, the plan would be for at least five years as
15 according to this document?

16 A. As -- yes, and as the filing made, as your
17 reference says, to the EE-2009-0327 docket that it
18 was established under.

19 Q. Okay. And lastly -- and this is my last
20 set of questions I have for you. I handed you
21 another document, and for your purposes that would be
22 your number four. Would you identify that document,
23 please.

24 A. Looks like the Department of Economic
25 Development's rules regarding electric utility

1 resource planning.

2 Q. We're going to specifically look to page
3 16 of this document.

4 A. I'm there.

5 Q. Mr. Rush, would you please read paren 10
6 for me into the record.

7 A. If the utility determines that
8 circumstances have changed so that the preferred
9 resource plan is no longer appropriate, either due to
10 the limits identified pursuant to 4 CSR
11 240-22.070(10)(C) being exceeded or for other
12 reasons, the utility, in writing, shall notify the
13 Commission within sixty days -- 60 is in parens -- of
14 the utility's determination. If the utility decides
15 to implement any of the contingency options
16 identified pursuant to 4 CSR 240-22.070(10)(D), the
17 utility shall file for review in advance of its next
18 regularly-scheduled compliance filing a revised
19 implementation plan.

20 Q. And that paragraph 10 does indicate
21 "shall" notify the Commission; is that correct?

22 A. Yes.

23 Q. And to your knowledge and belief, have
24 either KCP&L or GMO submitted in writing a notice to
25 the Commission that the preferred reference resource

1 plan is no longer appropriate?

2 A. We have.

3 Q. You have?

4 A. Yes.

5 Q. And when was that?

6 A. It was for Kansas City Power and Light. I
7 believe it was a year ago in January.

8 Q. And did you do one for GMO?

9 A. No, because we're still working through
10 the IRP plan for GMO's current operations, just as we
11 speak today.

12 MS. SLACK: I have no further questions.

13 THE WITNESS: That case is not completed
14 yet.

15 MS. SLACK: I have no further questions.

16 JUDGE DIPPELL: Ms. Slack, let me ask you,
17 was the one document the only -- or I'm sorry. Yeah,
18 the one document, was that the only one we needed to
19 mark?

20 MS. SLACK: Well, actually, your Honor, I
21 was going to mark them all, but I was giving him the
22 courtesy of seeing the questions that I had and then
23 I was going to ask them all be marked if they had no
24 objections.

25 JUDGE DIPPELL: Okay. Well, I can mark

1 them regardless of -- so let's -- so I --

2 MS. SLACK: Except for, your Honor, the
3 one that -- identified as the KCP&L, GMO IRP, I was
4 not going to ask to have that submitted.

5 JUDGE DIPPELL: Okay.

6 MS. SLACK: And the reason is because I
7 had middle pages and I wanted to have a proper
8 record, and I didn't have that with this information.

9 JUDGE DIPPELL: Okay. Well, I will mark
10 the tariff pages as GMO 254. And did you want to
11 offer that at this time?

12 MS. SLACK: Yes.

13 JUDGE DIPPELL: would there be any
14 objection to those pages of -- those tariff pages
15 coming into the record?

16 MR. FISCHER: No objection.

17 MS. SLACK: And also the rules of the
18 Department of Economic Development, your Honor,
19 please.

20 JUDGE DIPPELL: Okay. I'm not sure we
21 need to mark the Commission's rules as an exhibit,
22 but if you would like me to, I can.

23 MS. SLACK: I just wanted -- if someone
24 wanted handy resource, they wouldn't have to --

25 JUDGE DIPPELL: All right. Then we'll

1 mark that as GMO 255.

2 MR. FISCHER: No objection.

3 JUDGE DIPPELL: Is there any other
4 objection?

5 (No response.)

6 JUDGE DIPPELL: Thank you. Then I will
7 admit that into the record as well.

8 (GMO Exhibit Nos. 254 and 255 were marked for
9 identification and admitted.)

10 JUDGE DIPPELL: And Ms. Slack, I would ask
11 if you could make me copies for the Commissioners of
12 each of those three exhibits.

13 MS. SLACK: Yes, Your Honor.

14 JUDGE DIPPELL: I'll need five copies
15 sometime before the end of the hearing.

16 MR. FISCHER: Judge, was there a third one
17 that was offered? I missed it if there was.

18 JUDGE DIPPELL: I'm sorry. The first one
19 was offered and there was an objection, and just so
20 the record's clear, I sustained that objection, so it
21 is not actually entered into the record, so I don't
22 need a copy of that, but the other two --

23 MS. SLACK: Other two.

24 JUDGE DIPPELL: -- 254 and 255.

25 And did the court reporter get copies of

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those?

THE COURT REPORTER: No.

JUDGE DIPPELL: The court reporter will also --

MS. SLACK: I will give her copies.

JUDGE DIPPELL: -- need copies.

Okay. Was there any redirect? Or let me ask first: Is there any other cross-examination on this question? I didn't ask that before.

(No response.)

JUDGE DIPPELL: All right. Then is there any redirect on this issue?

MR. FISCHER: Just briefly, Judge.

REDIRECT EXAMINATION BY MR. FISCHER:

Q. Mr. Rush, could I refer you to the document that Staff counsel gave you that had a number three in the bottom right-hand corner, and it had a Case No. EE-2009-0237 at the top.

A. Right.

Q. I believe in answer to one of her questions you suggested that this case was the GMO IRP case that's still under consideration; is that --

A. That is correct.

Q. Did parties, including the Staff, raise some questions about that IRP filing that was made by

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GMO?

A. There have been a lot of questions asked of all parties. We provided a number of things and made a filing, I believe, in December. Maybe it was January again. I don't think it's totally resolved at this stage.

Q. Did the Staff even file a complaint regarding that revised IRP filing?

A. They have.

Q. Okay. She was asking you a little bit about your weatherization policies. Does your position in the KCPL case differ from the weatherization position in the GMO case?

A. It really doesn't, no.

Q. Okay. So everything that you said in the previous hearing would apply to GMO?

A. Yes.

MR. FISCHER: That's all I have. Thank you.

JUDGE DIPPELL: All right then. I believe that concludes your testimony at this time, Mr. Rush.

THE WITNESS: Okay.

JUDGE DIPPELL: You may step down.

I believe our next witness on -- then the Lee's Summit rate design issue.

1 MR. COMLEY: Lee's Summit would call
2 Michael Park.

3 MS. SLACK: Your Honor, I did not get a
4 chance to enter Mr. Warren's --

5 JUDGE DIPPELL: Oh. I'm sorry. See, I
6 told you to remind me. I would forget. Ms. Slack
7 wanted to offer Mr. Warren's testimony on that
8 particular issue. Does he need to be on the stand
9 or -- Oh, he does have some corrections?

10 Sorry, Mr. --

11 MR. COMLEY: We'll wait.

12 JUDGE DIPPELL: I tell you what, let's use
13 the podium as the witness stand, Mr. Warren, if you
14 don't mind.

15 HENRY WARREN,
16 produced, sworn, and examined, testified as follows:

17 JUDGE DIPPELL: And let me just pause just
18 one moment. I'm not confusing the court reporter, am
19 I?

20 THE COURT REPORTER: No.

21 JUDGE DIPPELL: Okay. Go ahead,
22 Ms. Slack.

23 DIRECT EXAMINATION BY MS. SLACK:

24 Q. would you please state your name and
25 address for the record, please.

1 A. Henry Warren, Public Service Commission,
2 Jeff City, Missouri.

3 Q. And are you the same Henry Warren that
4 filed in the proceeding the prefiled direct and
5 surrebuttal testimony?

6 A. I am.

7 Q. And do you have any changes or corrections
8 to your testimony at this time?

9 A. Yes, I -- I do. I want to -- to -- let's
10 see. I don't have a page and line reference here on
11 my direct. I'm going to have to look that up.

12 Q. On your direct or your surrebuttal?

13 A. Yeah, both.

14 Q. Okay. Do your surrebuttal one, and I'll
15 get you --

16 A. Okay. I'll go ahead. Now, I have a
17 circumstance here where the -- I want to put in a
18 number, and the only reference I have for this number
19 is from my -- well, I actually have two references,
20 but one of the references is highly confidential, the
21 other one I'm not -- I'm not sure of the -- the
22 status of the -- of the document.

23 JUDGE DIPPELL: Okay.

24 THE WITNESS: So what I -- I'm not sure.
25 I guess I'm not sure how to proceed at this point.

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JUDGE DIPPELL: Okay. Your other corrections that you have, are any of those also highly-confidential?

THE WITNESS: No, this -- I have -- basically, I need to put the same number into my direct and into my surrebuttal.

MS. SLACK: So the answer would be "yes."

THE WITNESS: Okay, the answer would be "yes."

JUDGE DIPPELL: Okay. Then in that case, let's just quickly go in-camera and we'll introduce. I'm sorry, Mr. Park.

MR. PARK: That's fine.

JUDGE DIPPELL: Anyone who's not able to hear highly-confidential information, if you could leave the room and we will get those corrections on the record.

(REPORTER'S NOTE: At this point an in-camera session was held, which is contained in volume 39, pages 4204 to 4211 of the transcript.)

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1 JUDGE DIPPELL: Okay. We're back on the
2 public session, and once again we've had quite a
3 discussion about evidentiary issues in the in-camera,
4 but because there was some highly-confidential
5 numbers having to do with the corrections, and that
6 was the subject of the objections and the evidentiary
7 issue, I'm going to leave that as in-camera for now.

8 I believe, then, that there's nothing
9 further for you at this time, Mr. Warren.

10 MR. WARREN: Thank you.

11 MS. SLACK: Thank you, your Honor.

12 JUDGE DIPPELL: I will say that since I
13 left that objection pending with regard to the
14 corrections that Mr. Warren said, should I decide to
15 admit that evidence, I will give the Company an
16 opportunity to cross-examine Mr. Warren on that issue
17 further, if they desire.

18 MS. SLACK: Thank you, your Honor.

19 JUDGE DIPPELL: All right. I think now
20 we're ready to go to Mr. Park and get back on our
21 track here.

22 (GMO Exhibit Nos. 4001, 4002, and 4003
23 were marked for identification.)

24 MICHAEL PARK,
25 produced, sworn, and examined, testified as follows:

1 JUDGE DIPPELL: Thank you.

2 MR. COMLEY: Judge Dippell, I had the
3 court reporter mark Mr. Park's testimony. I think I
4 have the numbers correct. If I don't, forgive me,
5 but his direct is marked GMO 4001. His rebuttal and
6 surrebuttal are marked GMO 4002 and 4003,
7 respectively.

8 JUDGE DIPPELL: Yes. I'm sorry. Did you
9 say 4002, 4003?

10 MR. COMLEY: Yes, ma'am.

11 JUDGE DIPPELL: Yes. Okay.

12 DIRECT EXAMINATION BY MR. COMLEY:

13 Q. Mr. Park, would you state your full name
14 for the Commission, please.

15 A. Michael Park.

16 Q. And by whom are you employed?

17 A. The City of Lee's Summit, Missouri.

18 Q. And what's your position with the City?

19 A. I'm the city traffic engineer.

20 Q. Mr. Park, did you cause to be filed in
21 this case a series of written testimony which we have
22 marked, with the reporter's help, Exhibits GMO 4001,
23 4002, and 4003?

24 A. Yes.

25 Q. And that corresponds with your direct,

1 rebuttal, and surrebuttal testimony that you filed in
2 this case?

3 A. Yes.

4 Q. Do you have any additions or corrections
5 to any of the exhibits?

6 A. No.

7 Q. And Mr. Park, if I were to ask you the
8 questions that are contained in those exhibits, would
9 your answers be the same today?

10 A. Yes, they would.

11 MR. COMLEY: Your Honor, I would offer GMO
12 Exhibits 4001, 4002, and 4003 into the record and
13 offer Mr. Park for cross-examination.

14 JUDGE DIPPELL: Great. would there be any
15 objection to Exhibits 4001, 4002, and 4003?

16 MR. WILLIAMS: Staff has neither
17 objections nor cross.

18 MS. CUNNINGHAM: Same with the Company:
19 No objections, no cross.

20 JUDGE DIPPELL: All right. Seeing no
21 objections, I will admit 4001, 4002, and 4003.

22 (GMO Exhibit Nos 4001, 4002, and 4003 were admitted.)

23 JUDGE DIPPELL: And is there any or cross-
24 examination?

25 (No response.)

1 JUDGE DIPPELL: Seeing no cross-
2 examination, I have no questions for you, Mr. Park.

3 MR. COMLEY: I have no redirect.

4 JUDGE DIPPELL: You may be excused. Thank
5 you.

6 okay. Having trouble keeping up here.
7 we're going so fast.

8 okay. Then with that, I believe our next
9 issue is the OSS margins, and do we need to take a
10 break for any changing of the guard?

11 MR. WILLIAMS: Yes.

12 MR. ZOBRIST: Sure.

13 JUDGE DIPPELL: All right. Then let's
14 take a ten-minute break. we'll go back on the --
15 about an eleven-minute break. we'll go back on the
16 record at a quarter after. Let's go off the record.

17 (A recess was taken.)

18 JUDGE DIPPELL: Back on the record after
19 our break, and we are ready, then, to begin with our
20 next issue, which is OSS margins and should be our
21 last issue of the day.

22 And counsel for the company had informed
23 me that Mr. Blanc also had some testimony on this
24 issue.

25 which is your first witness?

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MR. ZOBRIST: Mr. Crawford.

JUDGE DIPPELL: Mr. Crawford, all right.

Mr. Crawford, you were previously sworn and you remain under oath, so I don't believe there's -- is there additional testimony?

MR. ZOBRIST: No, Judge, I was just going to point out that I believe his testimony in the GMO case, Exhibits 10, 11, and 12, both HC and public, have been admitted into evidence. For this issue, I believe only the direct and rebuttal testimony is pertinent, and I have nothing further. We tender the witness for cross-examination.

JUDGE DIPPELL: All right. Thank you.

All right. Do we have any cross-examination other than Staff on this issue?

(No response.)

JUDGE DIPPELL: Seeing none, Mr. Thompson.

MR. THOMPSON: Good afternoon, Mr. Crawford.

THE WITNESS: Good afternoon.

CROSS-EXAMINATION BY MR. THOMPSON:

Q. Now, Mr. Crawford, in your highly-confidential schedule, BLC 2010-4 -- and we may need to go in-camera for this, Judge?

JUDGE DIPPELL: Okay. If you will let me

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know when we are able to go out of the in-camera session, we will go in-camera now.

MR. THOMPSON: Thank you, Judge.

JUDGE DIPPELL: Hang on just one second. All right. We're in the nonpublic session. Go ahead.

(REPORTER'S NOTE: At this point an in-camera session was held, which is contained in volume 39, pages 4218 to 4220 of the transcript.)

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1 Burton Crawford testified as follows:

2 BY MR. THOMPSON:

3 Q. And Staff suggests in it's testimony, does
4 it not, that perhaps GMO is not pursuing off-system
5 sales with the same degree of avidity that Aquila
6 did; isn't that correct?

7 A. I believe that's Staff's conclusion.

8 MR. THOMPSON: No further questions,
9 Judge.

10 JUDGE DIPPELL: Okay. There's no
11 questions from the bench on this issue.

12 Is there redirect?

13 REDIRECT EXAMINATION BY MR. ZOBRIST:

14 Q. Mr. Crawford, I'm not sure what adjective
15 Mr. Thompson used, but I think he suggested that GMO
16 was not pursuing off-system sales with as much vigor
17 as Aquila up till its acquisition by Great Plains
18 Energy in July 2008. Do you recall that question?

19 A. I do.

20 Q. Okay. What factors are responsible for a
21 decline in off-system sales since 2008?

22 A. The largest factor is related to
23 transactions that Aquila had undertaken under the SBP
24 network tariff and I believe under their own network
25 tariff at one point, and KCPL has a different

1 interpretation of -- of what's permissible under that
2 tariff and elected not to continue those -- those
3 transactions.

4 Q. And are there any other factors not
5 related to tariff matters that have influenced
6 off-system sales?

7 A. In general, market prices have been down
8 due to lower gas prices.

9 Q. Anything else, Mr. Crawford?

10 MR. THOMPSON: I object to that question,
11 Judge.

12 BY MR. ZOBRIST:

13 Q. Are there any other factors that you think
14 influence the decline in off-system sales besides the
15 two factors that you mentioned?

16 A. If you go back to an earlier time period,
17 Aquila also undertook what's known as virtual trades,
18 and that's arbitrage between the day-ahead and the
19 realtime markets where such markets exist, such as
20 MISO and PJM, and the Company made a decision back in
21 that 2005-2006 time period to discontinue those
22 transactions.

23 MR. ZOBRIST: Thank you. No further
24 questions, Judge.

25 JUDGE DIPPELL: Thank you.

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Thank you, Mr. Crawford.

Then I believe the Company has Mr. Blanc.

MR. ZOBRIST: Correct. Yeah. The Company would call Curtis Blanc to the stand.

JUDGE DIPPELL: Mr. Blanc, you've also previously testified this week, haven't you?

MR. BLANC: I have.

JUDGE DIPPELL: All right. You are also still under oath and your previous testimony, if you will -- do you have anything further, Mr. Zobrist?

MR. ZOBRIST: Judge, on this issue I believe only Mr. Blanc's surrebuttal, which has been admitted as GMO Exhibit 6, case in point, but although it has been admitted into evidence, let me just ask the witness.

DIRECT EXAMINATION BY MR. ZOBRIST:

Q. Is there a correction on page 3 -- pardon me -- page 5 of your testimony that you would like to make?

A. There is. On page 5, line 18, the text currently says, There is no "casual" relationship, and that should be "causal" relationship.

MR. ZOBRIST: Thank you. Nothing further. Tender the witness for cross-examination.

JUDGE DIPPELL: Let me just briefly ask if

1 there would be any objection to the witness making
2 that correction to his testimony?

3 MR. THOMPSON: No objection, Judge.

4 JUDGE DIPPELL: Thank you. Then that
5 correction is made on his testimony, which was
6 previously admitted.

7 would there be any cross-examination of
8 Mr. Blanc other than Staff?

9 (No response.)

10 JUDGE DIPPELL: In that case,
11 Mr. Thompson, please go ahead.

12 MR. THOMPSON: Thank you, Judge.

13 CROSS-EXAMINATION BY MR. THOMPSON:

14 Q. Mr. Blanc, we talked last week or the week
15 before about off-system sales by KCPL; isn't that
16 correct?

17 A. We did.

18 Q. And we noted KCPL off-system sales margin
19 has declined precipitously, did we not?

20 A. I don't think I ever agreed to the word
21 "precipitously," but we did talk about the same
22 factors Mr. Crawford just discussed and how lower
23 natural gas prices has impacted KCP&L's and GMO's
24 off-system sales -- sale margins.

25 Q. So you agree they have declined?

1 A. Oh, yes.

2 Q. And GMO's off-system sales have declined
3 as well?

4 A. Yes.

5 Q. Now, it's your contention in your
6 testimony that natural gas prices are at historically
7 low levels.

8 A. Yes.

9 Q. And that natural gas prices set the price
10 for wholesale power sales?

11 A. In this region of the country, yes.

12 Q. Okay. And that there's less demand?

13 A. Yes.

14 Q. What do you mean when you tell us that the
15 Federal Energy Regulatory Commission has clarified
16 that it's not appropriate to use network transmission
17 service to facilitate wholesale sales?

18 A. True, as what Mr. Crawford touched upon in
19 one of the line of questions with you. It was
20 beginning in late 2005, FERC made a clarification.
21 Prior to that it wasn't clear whether it was
22 appropriate to use network transmission service to
23 facilitate sales for resale -- or purchases for
24 resale, rather, and that means instead of purchasing
25 power to serve your own native load you are

1 purchasing power for the purpose of reselling it for
2 a profit, a true energy trader, so to speak, and FERC
3 made it clear in late 2005 that utilities were not
4 supposed to use network transmission service for
5 that. Network transmission service was only to be
6 used to satisfy a utility's native load.

7 Q. Okay. Well, Mr. Blanc, you have raised a
8 number of explanations as to why those off-system
9 sales have declined. I wonder if you could tell me,
10 what incentives does GMO have to make off-system
11 sales?

12 A. I guess there are a couple. One, the way
13 the fuel clause works for GMO. If we made enough so
14 that the 5 percent of the margins we got to retain --
15 or the 5 percent of margins exceeded the 5 percent of
16 the incremental costs for fuel, that would actually
17 be a money credit back to the Company under the fuel
18 clause, so that would be a powerful incentive to try
19 and insure that your margins, the portion you would
20 get to keep under the clause, would exceed the
21 incremental fuel cost under the clause.

22 MR. THOMPSON: No further questions,
23 Judge.

24 JUDGE DIPPELL: There are no bench
25 questions for Mr. Blanc on this issue.

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Is there any redirect?

MR. ZOBRIST: Mr. Blanc, just one question.

REDIRECT EXAMINATION BY MR. ZOBRIST:

Q. The FERC decision you referred to, is that a published decision?

A. Yes, it is.

MR. ZOBRIST: Nothing further, Judge.

JUDGE DIPPELL: Mr. Blanc, I believe that is all for you on this issue.

THE WITNESS: Thank you.

JUDGE DIPPELL: You may step down.

I believe that's the last Company witness on this issue, and we are ready for Staff's witness.

MR. THOMPSON: Thank you, Judge. Staff at this time would call Mr. V. Wm. Harris.

V. WM. HARRIS,
produced, sworn, and examined, testified as follows:

JUDGE DIPPELL: Thank you.

DIRECT EXAMINATION BY MR. THOMPSON:

Q. Now, Mr. Harris, you've already testified in this proceeding; is that correct?

A. Not specifically in the GMO proceeding, no. I did in the prior KCP&L proceeding in 0355.

Q. In the KCP&L portion?

1 A. Yes.

2 Q. At that time your prefiled testimony was
3 offered and received, was it not?

4 A. Yes.

5 Q. And do you have any late-breaking
6 corrections to any of that testimony?

7 A. No.

8 MR. THOMPSON: At this time I'll tender
9 the witness for cross-examination, Judge.

10 JUDGE DIPPELL: Is there any cross-
11 examination other than the Company?

12 (No response.)

13 JUDGE DIPPELL: Seeing none, then I will
14 ask GMO to go ahead.

15 CROSS-EXAMINATION BY MR. ZOBRIST:

16 Q. Mr. Harris, I just have a couple of
17 questions. would you please turn to page 3 of your
18 rebuttal testimony.

19 A. Okay.

20 Q. And without going into the specific
21 numbers at the top of that page, am I correct that
22 the decline in off-system sales margin begins from
23 2006 to 2007; in other words, the number for 2007 is
24 lower than the number for 2006?

25 A. Right. That is true.

1 Q. And then the number as of the end of 2008
2 is lower than the number for 2007?

3 A. That is also true.

4 Q. Would you generally agree that energy
5 prices have declined since the period 2007 to 2008,
6 from that period to today, what we've seen in the
7 last year or so?

8 A. I would probably have to research that a
9 little further to give a definitive answer on that.

10 Q. So in your testimony here you did not
11 undertake an analysis of the energy prices in the SBP
12 North territory?

13 A. No, I did not specifically identify or
14 research the SBP North territory.

15 Q. And would you agree with Mr. Crawford
16 that, as he says in his testimony, that the 100
17 megawatt purchase power agreement with Nebraska
18 Public Power District is expiring later this year?

19 A. That contract is expiring, to be replaced
20 by the 153 megawatts from Iatan 2.

21 Q. Sir, are you generally familiar with FERC
22 clarifying its policy with regard to the use of
23 network transmission service to facilitate off-system
24 sales that Mr. Blanc referred to?

25 A. Generally.

1 Q. Is he generally correct that FERC has
2 indicated that utilities are not to use network
3 transmission service to facilitate off-system sales?

4 A. When I say "generally" I say "very
5 generally." Again, I don't know that I could give a
6 definitive answer on that without more research.

7 Q. You did not undertake that research and
8 put the results of any of that research into your
9 rebuttal or surrebuttal testimony on this particular
10 issue?

11 A. I spent the most -- the biggest part of my
12 time on this issue trying to get my arms around how
13 margins could be negative, because that's what the
14 general ledgers indicate they are, and I've never
15 experienced that in my 16-plus-year career with this
16 company or any other company, and so that's -- that's
17 where I spent most of my time and research is trying
18 to get my arms around how margins could possibly be
19 negative, because they're also -- you mentioned
20 earlier that they are growing, the negative margins
21 are also growing. They went in 2009 test year from a
22 negative 1.2 as indicated in --

23 MR. ZOBRIST: Judge, first of all, that's
24 highly-confidential and, secondly, I'm going to move
25 to strike the witness' testimony because he hasn't

1 responded to my question, which was whether he had
2 analyzed or set forth in his testimony any analysis
3 with regard to FERC policy.

4 MR. THOMPSON: I object to his objection.
5 I think he was doing his best to answer the question
6 he was asked.

7 JUDGE DIPPELL: I don't believe his answer
8 was responsive to the specific question that was
9 asked, so I will strike his response, and
10 Mr. Zobrist, if you'd like to ask the question again
11 and see if you get a better answer.

12 BY MR. ZOBRIST:

13 Q. Mr. Harris, my question is simply, Did you
14 conduct an analysis of FERC's policy with regard to
15 the use of network transmission service with regard
16 to this issue in this case?

17 A. No, I did not specifically research FERC's
18 policy.

19 MR. ZOBRIST: Nothing further, Judge.

20 JUDGE DIPPELL: Thank you.

21 Is there redirect?

22 REDIRECT EXAMINATION BY MR. THOMPSON:

23 Q. Mr. Harris, in your 16 years of practice
24 as a regulatory auditor, have you ever encountered
25 negative margins?

1 A. No, I've never, and I might add to that 16
2 years I spent about four-and-a-half years with FERC
3 myself.

4 Q. And did you encounter negative margins in
5 your audit of GMO?

6 A. Based on the general ledger, yes. The
7 negative -- margins have been negative basically
8 since the -- well, the latter part of 2008, like
9 about two months after the acquisition, and they are
10 continuous.

11 AS I started to say to Mr. Zobrist's
12 question, they continue to grow larger and larger
13 negatively, and I can't imagine why -- I can't
14 understand what the Company's motivation in
15 continuing the sales at a larger loss can -- would be
16 rather than just stopping the sales and refusing to,
17 you know, slit -- you know, slit their own throat, if
18 you will.

19 Q. Now, are those figures shown in the third
20 right-most column that appears on the top half of
21 page 3 of your rebuttal testimony --

22 A. Those --

23 Q. -- headed LSS margin?

24 A. They were -- at that point in time that
25 was the most updated figures. Since then, of

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course -- the last figure in there is October 31. of course we updated through the end of 2010 now and --

Q. Is that data highly-confidential?

A. Yes, it is.

MR. THOMPSON: Can we go in-camera, Judge, to hear what that number is?

JUDGE DIPPELL: Sure. Let's go in-camera. I don't think there's anyone -- hold on just a second. I don't believe there's anyone in the room.

(REPORTER'S NOTE: At this point an in-camera session was held, which is contained in volume 39, pages 4234 to 4235 of the transcript.)

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JUDGE DIPPELL: Go ahead, Mr. Thompson.
V. Wm. Harris testified as follows:

BY MR. THOMPSON:

Q. So if I understand your testimony correctly, the negative margins indicate that these off-system sales are made at a loss?

A. If the numbers that are reported in the general ledger are accurate, then that would indicate a loss. Again, I've never experienced that before. In some ways I have to wonder about the validity of the ledgers because, again, I don't know -- I can't understand what the motivation would be in continuing to make sales at continuingly [sic] larger losses.

MR. THOMPSON: Thank you, Mr. Harris. No further questions, Judge.

JUDGE DIPPELL: Thank you. Thank you, Mr. Harris. I believe that concludes your testimony on this point.

And according to my schedule, that is the last witness on this issue and the last witness for today's testimony. I would like to talk just a little bit about scheduling, but we can do that once we go off the record.

MR. STEINER: Judge, I spoke to Staff counsel on the Jeffrey issue and they're okay with a

1 later start tomorrow.

2 JUDGE DIPPELL: Okay.

3 MR. STEINER: So what's your feeling as
4 starting --

5 JUDGE DIPPELL: I would propose either --
6 well, I was going to say nine or ten. Maybe we
7 should split it and say 9:30.

8 MR. STEINER: That works.

9 JUDGE DIPPELL: would that be agreeable to
10 those that are in the room?

11 MR. THOMPSON: Works for me.

12 JUDGE DIPPELL: Okay. Then we will
13 adjourn for the day and plan to return at 9:30 in the
14 morning.

15 MR. THOMPSON: Thank you, Judge.

16 JUDGE DIPPELL: We can go off the record.

17 (WHEREUPON, the hearing adjourned
18 until 9:30, February 16, 2011.)

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CERTIFICATE

I, Nancy L. Silva, RPR, a Certified Court Reporter, CCR No. 890, the officer before whom the foregoing hearing was taken, do hereby certify that the witness whose testimony appears in the foregoing hearing was duly sworn; that the testimony of said witness was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

Nancy L. Silva, RPR, CCR

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MARKED

DOGWOOD ENERGY EXHIBITS:

DOGWOOD Exhibit No. 3601
Rebuttal Testimony of Robert Janssen

DOGWOOD Exhibit No. 3601-P
Rebuttal Testimony of Robert Janssen
Proprietary

DOGWOOD Exhibit No. 3602
Surrebuttal Testimony of Robert Janssen

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Surrebuttal Testimony of Judah Rose

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Highly Confidential

DOGWOOD Exhibit No. 3604-HC
Schedule Correction
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Data Request response to Question
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Testimony of Charles Hyneman
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GMO Exhibit No. 225-HC
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