THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

True-up Hearing

March 4, 2011

Jefferson City, Missouri

Volume 45

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In The Matter Of The Application)
Of Kansas City Power And Light   )
Company For Approval To Make   )
Certain Changes In Its Charges   ) File No. ER-2010-0355
For Electric Service To Continue)
Implementation Of Its Regulatory)
Plan   )

In The Matter Of The Application)
Of KCP&L Greater Missouri   )
Operations Company For Approval) File No. ER-2010-0356
To Make Certain Changes In Its   )
Changes For Electric Service   )

_____

NANCY M. DIPPELL
     SENIOR REGULATORY LAW JUDGE.

JEFF DAVIS,
TERRY JARRETT,
     Commissioners.

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1   JUDGE DIPPELL: Okay. Good morning. It is

2 Friday, March 4th, 2011. And we are back on the record in

3 the evidentiary hearings of KCPL and GMO in ER-2010-0355

4 and 2010-0356. And I said evidentiary hearings, which it

5 is, but this is the true-up part.

6   And everyone is present. We have some

7 housekeeping matters to take care of before we get started

8 with our first witness.

9   Mr. Zobrist?

10   MR ZOBRIST: Thanks, Judge. As I advised

11 the parties in the bench before we went on the record, I

12 have Exhibit 52 and Exhibit 53 prepared as a result of your

13 direction, at the end of -- I think it was the last day of

14 the GMO hearing.

15   And Exhibit 52 is the Commission's order

16 approving non-unanimous stipulations and agreements and

17 authorizing tariff filling in Case No. ER-2009-0090; issue

18 date June 10, 2009.

19   Exhibit 53 is the Commission's order

20 approving tariff filings in compliance with Commission

21 order in the same case issued on July 30, 2009. And that

22 is actually only a three-page order, but I attached to that

23 order Mr. FisCher's transmittal letter of July 8, 2009,

24 which is in the EFIS system, which attaches all of the

25 tariffs.

1   So I would offer Exhibits 53 and 53 at this

2 time.

3   (Wherein; KCPL Exhibit No. KCPL 52 and KCPL

4 53 were marked for identification.)

5   JUDGE DIPPELL: Okay. Well, I believe

6 Exhibits 52 and 53 have already been admitted. Won over

7 objection. So those are already admitted. I will let you

8 give those to the court reporter.

9   Unless there was some objection to the

10 particular copies, that Mr. Zobrist had provided?

11   MR. ZOBRIST: And I've got them available

12 here if counsel will take a look. They're voluminous

13 documents. I advised them that I have not made separate

14 copies. But to the best of my knowledge, these were

15 printed of EFIS.

16   And if they want to take the opportunity at

17 the next break to take a look, I of course, have no

18 objection to that.

19   JUDEGE DIPPELL: All right.

20   MR. ZOBRIST: The second housekeeping detail

21 is -- and I don't know what the next three numbers would

22 be, but if the bench could advise me -- these would be

23 three exhibits. The first is, Mr. Schnitzer's

24 subject-to-check responses that respond to Mr. Woodsmall's

25 questions.

1   If you recall, when Mr. Schnitzer was last

2 before the Commission by telephone and he did not have full

3 access to his work papers. And we have prepared his

4 responses subject to check. And essentially they are very

5 close to the numbers that he agreed to. And I have

6 circulated them to the parties. So that would be the first

7 exhibit. Whatever the number is.

8   The second one would be Mr. Schnitzer's

9 response to Commissioner Davis's request at Page 3327 of

10 the transcript.

11   And the third exhibit would be his response

12 to Commissioner Davis's request for some SPP north

13 quarterly spot prices for a certain period of time. And

14 Mr. Schnitzer provided them from first quarter 2003 to the

15 end of 2010.

16   And I have already circulated copies to

17 counsel. I think maybe not counsel for Empire, but I've

18 got extra copies.

19   JUDGE DIPPELL: So you have three items that

20 you need exhibit numbers for? And are those all joint

21 exhibits in both cases, or are those GMO only?

22   MR. ZOBRIST: Technically, no. These are --

23 these are on off-system sales, so technically if there were

24 to be limited to one case it would be the KCP&L case.

25   JUDGE DIPPELL: Okay. So they will have a

1 KCPL number then?

2   MR. ZOBRIST: Okay. And if you could let me

3 know what those numbers are.

4   JUDGE DIPPELL: Okay. The next number I

5 have is KCPL 121.

6   MR. ZOBRIST: All right. Judge, then 121

7 would be the subject-to-check answers. And I have six

8 copies for the bench.

9   JUDGE DIPPELL: Thank You.

10   MR. ZOBRIST: KCP&L Exhibit 122 would be the

11 SPP north quarterly spot prices.

12   JUDGE DIPPELL: Thank you.

13   MR. ZOBRIST: And Exhibit 123 would be

14 Mr. Schnitzer's response to Commissioner Davis's request at

15 Page 3327 of the transcript. I'll hand copies of those to

16 the court reporter.

17   (Wherein; KCP&L Exhibit Nos. 121, KCPL 122,

18 and KCPL 123 were marked for identification.)

19   JUDGE DIPPELL: All right. Then, and I'm

20 sorry, the other parties have had an opportunity to look at

21 these?

22   MR. ZOBRIST: I don't think Ms. Carter has,

23 but I think everybody else has. And let me -- I'll give

24 her copies right now.

25   JUDGE DIPPELL: And you're offering those at

1 this time?

2   MR. ZOBRIST: Yes, Judge.

3   JUDGE DIPPELL: Will there be any objection

4 to Exhibit 121, KCPL 121?

5   Seeing none, then I will admit it.

6   (Wherein; KCP&L Exhibit No. KCPL 121 was

7 received into evidence.)

8   JUDGE DIPPELL: Will there be any objection

9 to KCPL 122?

10   And seeing none, I will admit that.

11   (Wherein; KCPL Exhibit No. KCPL 122 was

12 received into evidence.)

13   JUDGE DIPPELL: And Exhibit 123, which I

14 don't believe -- did I get a copy of that Mr. Zobrist?

15   MR. ZOBRIST: That's the one-pager with the

16 box. Oh, maybe I didn't give those to you. Did I not?

17 Sorry.

18   JUDGE DIPPELL: Thank You. Is there any

19 objection to Exhibit 123?

20   Seeing none then, I will admit Exhibit 123.

21   (Wherein; KCP&L Exhibit No. KCPL 123 was

22 received into evidence.)

23   JUDGE DIPPELL: And those are all KCPL

24 designations. Anything further, Mr. Zobrist?

25   MR: ZOBRIST: None -- no, Your Honor.

 1   JUDEGE DIPPELL: All right. Thank you. The

 2 other sort of housekeeping thing I wanted to bring up this

 3 morning was yesterday Mr. Woodsmall made a motion or asked

 4 me to take a official notice of transcript pages from

 5 ER-2007-0291. And I just wanted to get some clarification

 6 on that, Mr. Woodsmall.

 7   There was an objection as to relevance and

 8 can you just explain to me again the relevance of those

 9 transcript pages.

10   MR. WOODSMALL: One of the issues in the

11 rate case expense, and that's why I brought it up during

12 rate case expense, was as Mr. Rush said, The substantial

13 increase from the last -- from the last litigated case to

14 this case, part of that substantial increase is legal fees.

15 We heard a lot of testimony about that.

16   And most of the legal fees obviously are

17 outside attorneys. What I'm trying to get at with those

18 transcripts cites is that outside attorneys have done much

19 more work in this case as opposed to the last case.

20   So I'm just asking you to take official

21 notice of the fact that KCP&L corporate attorneys litigated

22 those four -- four issues in the last case. You know,

23 whatever inferences they can make from that I -- I don't

24 know, but it is a fact that I am asking you to take

25 official notice of that KCP&L attorneys Blanc and Riggins

1 litigated issues in that last litigated case.

2   JUDGE DIPPELL: And you were the one making

3 arguments earlier in this case that I couldn't take

4 official notice of a FERC tariff. Correct?

5   MR. WOODSMALL: I was -- it wasn't taking

6 official notice of the FERC tariff. My -- my concern was

7 who would interpret the FERC tariff and be able to --

8 you've seen it come in. It's a big document. Who would

9 look at that with the expertise and say, These are the

10 charges that we take out of tariff. It wasn't taking

11 notice of the tariff; it was interpreting that tariff.

12   JUDGE DIPPELL: Does KCPL have any have

13 anything? Mr. Fischer was the one here yesterday, but do

14 you have anything to add to that?

15   MR. STEINER: He was taking judicial notice

16 of -- he says facts, but it's facts in isolation; those are

17 different issues that are tried here today. Different

18 attorneys, different circumstances. I do question the

19 relevance of how you can extrapolate from this case to that

20 case as far as staffing decisions.

21   JUDGE DIPPELL: Well, I think that will go

22 to the weight of the -- of it and I will take official

23 notice of that. I will overrule objections.

24   But I want to mark it as an exhibit. And

25 Mr. Woodsmall, I would like you to provided copies of those

 1 | transcript pages.

 2 | MR. WOODSMALL: Just the transcript pages

 3 | that I referenced? Is that --

 4 | JUDGE PIDDELL: Yes.

 5 | MR. WOODSMALL: Okay. I can do that.

 6 | JUDGE DIPPELL: And I will mark it as --

 7 | let's see.

 8 | MR. WOODSMALL: I marked our true-up

 9 | rebuttal as 1209, so the next one in line is 1210. That

10 | would be the KCP&L side.

11 | JUDGE PIDDELL: Let me double check to see

12 | if that's what I marked your true-up. No. Because you

13 | had -- you had -- you had some other exhibits during the

14 | KCPL.

15 | MR. WOODSMALL: Okay. You're correct.

16 | JUDGE DIPPELL: So the next number for you

17 | is 1217.

18 | MR. WOODSMALL: So 1217 will be the --

19 | JUDGE DIPPELL: Yes.

20 | MR. WOODSMALL: -- the official notice of

21 | the transcripts?

22 | JUDGE DIPPELL: Yes.

23 | MR. WOODSMALL: Okay.

24 | JUDGE DIPPELL: And --

25 | MR. WOODSMALL: And on the GMO side?

1   JUDGE DIPPELL: We'll just need the one.

2 The one --

3   MR. WOODSMALL: Okay.

4   JUDGE DIPPELL: -- the one exhibit number.

5   MR. WOODSMALL: Okay. So even though rate

6 case expense is in both cases --

7   JUDGE DIPPELL: Right.

8   MR. WOODSMALL: -- you will only -- okay.

9   JUDGE DIPPELL: I consider it a joint

10 exhibit. It will be the same exhibit. It will be marked

11 KCPL 1217.

12   MR. WOODSMALL: Great.

13   JUDGE DIPPELL: And just for your

14 information, Mr. Meyers true-up rebuttal is 1216.

15   MR. WOODSMALL: Okay.

16   JUDGE DIPPELL: All right. Now, with those

17 housekeeping things out of the way, is there anything else

18 before we go to Mr. Schnitzer, who is on the phone with us?

19   MR. FISCHER: We were just going to have

20 mini opening statements.

21   JUDGE DIPPELL: Oh, that's correct. I'm

22 sorry. All right. Company, go ahead with its opening.

23   MR ZOBRIST: Thanks, Judge.

24   We've got two issues that we will be dealing

25 with here today, quite diverse; the first related to

1 off-system sales and fuel and purchase power, and the

2 second relating to cost of debt issues.

3   Because this is opening statement, I'm not

4 going to go into the highly confidential figures, but I

5 will talk about the percentiles with regard to off-system

6 sales. Our first witness will be Michael Schnitzer, who

7 provided true-up direct testimony.

8   He testified for the Commission a couple

9 weeks ago. He's a managing director from the North Bridge

10 Group and he was the sponsoring witness of the

11 probabilistic studies that have been reviewed by the

12 Commission in the last several rate cases of Kansas City

13 Power and Light Company.

14   He again is given ranges from the 25th

15 percentile to the median percentile and in response to

16 questions from counsel and from the bench, has also

17 provided the information on other percentiles; the 33 and

18 the 40th.

19   His true-up direct testimony talks about the

20 capacity that has been added to the system, which includes

21 Iatan 2, as well as other available capacity, including

22 Spearville 2 and the Wolf Creek upgrades. He also provides

23 testimony with regard to the fuel and energy prices, which

24 continue to be volatile.

25   Recent prices of natural gas both on the

1 spot and the future's market have declined. We believe he

2 provides the factual background and foundation wide

3 percentages. The percentile of off-system sales margin

4 should be set conservatively in rates at the 25th mark.

5   There are two other witnesses on this issue;

6 Mr. Harris for Staff and Mr. Meyer for the Industrials.

7 Mr. Harris has recommended that the margins be set at the

8 40th percentile. He departs from the initial

9 recommendation of Staff's report, which it agreed with the

10 Company at the 25th percentile.

11   He continues -- although he wants the

12 percentile to be higher, he does not make any

13 recommendation with regard to modifying what we call the

14 asymmetric approach to this issue whereby there are no

15 sharing of off-system sales between customers and KCPL.

16   There is much talk of incentives with regard

17 to this issue. The Company does not feel moving the

18 percentile up offers any kind of an incentive, indeed, it

19 is actually a threat of under recovery. Mr. Meyer also

20 sets -- or recommends that the Commission set tariffs at

21 the 40th percentile. However, while Mr. Harris uses

22 updated figures provided by Mr. Schnitzer, Mr. Meyer uses

23 the outdated figures that Mr. Schnitzer provided in the --

24 in his direct testimony to come to the figure at the 40th

25 percentile that he recommends.

1   He also continues the asymmetric approach

2 where the Company does not share in any of the off-system

3 sales margins. He provides several isolated adjustments to

4 the figures that Mr. Schnitzer sponsors. And we believe

5 those are not well-founded.

6   Now, moving to the cost to debt issue; the

7 basic disagreement here -- pardon me. I should say that

8 Mr. Crawford also provided true-up direct testimony on

9 certain fuel and purchase power issues. So he will be a

10 witness as well.

11   With the regard to cost to debt issue,

12 there are two witnesses; Michael Cline, on behalf of the

13 Company, and David Murray on behalf of Staff. Mr. Cline

14 with the Commission's permission will be appearing by

15 telephone at 11:00 a.m. our time. He is in New York

16 meeting with the rating agencies and could not be in

17 Missouri at this time. But we will be available at 11:00

18 a.m.

19   The basic disagreement with regard to cost

20 of debt is whether we use the actual cost of debt or

21 Staff's entirely subjective and indeed fictional assignment

22 of debt cost. The background is for KCP&L from the

23 Company's perspective, we thought we all agreed on the cost

24 of debt, which is to say that we would use the actual cost

25 and that was the situation at the end of the case.

1   For GMO, Staff wanted to use the Empire cost

2 of debt as a proxy and we did litigate that in the case in

3 chief. Then on true-up rebuttal, Mr. Murray has come here

4 providing a -- another methodology, which the Company has

5 really had no effective chance to respond to.

6   I should say with regard to GMO, the

7 position of the Company is that we should use the actual

8 debt expect for one issue in some senior notes and that's

9 the high interest of 11.875 notes, which is Legacy debt

10 Aquila. If the Commission will recall, Aquila management

11 agreed that the cost of that high issuance would not be

12 passed on to ratepayers.

13   Great Plains Energy honored that

14 recommendation and the Commission directed that that be

15 continued as a result of the margin case. So essentially

16 we are now here in the true-up case and Staff is offering

17 an entirely different set of methodology for the

18 Commission's consideration.

19   And, you know, we understand that the

20 Commission wants to -- to take a look at this issue. The

21 point we would be is that it could have been fully

22 litigated if the senior notes issue that has caused Staff

23 to come up with this new proposal, which occurred in August

24 of 2007 -- almost seven months ago -- we could have had a

25 better opportunity to explain why that is not -- not

1 proper.

2   Now to get into the -- to get into the facts

3 of the case, the August 2010 Great Plains Energy

4 transaction involved $250 million of senior notes at a low

5 interest rate of 2.75 percent. This was made entirely on

6 behalf of GMO not on behalf of KCP&L. Staff apparently

7 thinks it was such a good deal that it should now be shared

8 with KCP&L.

9   Mr. Murray apparently thinks there is a

10 commingling of financing activities between KCP&L and GMO

11 although he never actually specifies what he means by that

12 and he cites no facts in his rebuttal testimony.

13   But he uses this theory to endorse a sort of

14 commingling himself by proposing an assignment of this debt

15 between KCP&L and GMO. And in GMO's case he also proposes

16 an addition to Empire another scenario similar to KCPL one

17 now.

18   This would have the effect of raising GMO's

19 debt from the Company's recommendation of 6.24 percent to

20 either -- depending on which theory you take with

21 Mr. Murray either 6.6 percent or 6.66 percent. And what he

22 does for KCPL is he lowers -- recommends that the debt be

23 lowered from 6.825 percent, which is the actual debt of

24 KCPL to either the 6.6 percent or the 6.66 percent.

25   It's the Company's belief that such an

 1 action is -- such a recommendation is contrary to the

 2 Commission's longstanding policy of favoring actual capital

 3 structures and actual debt costs. Now, because this is a

 4 relatively new issue. I would like to go into just a

 5 couple of the reasons why this really bears the

 6 attention -- requires the attention of the Commission.

 7   Mr. Murray suggests that KCP&L had debt

 8 needs too, GMO and so Great Plain Energy should have taken

 9 advantage of that and gone into the debt margin on behalf

10 of KCP&L, not just GMO. But the truth is the GMO short

11 term borrowing levels early in the third quarter were

12 approximately 70 percent of GMO's $400 million capacity

13 under its revolving credit facility.

14   And based on those cash flow projections,

15 GMO saw little opportunity for a reduction in those short

16 term balances based upon available cash from operations

17 over a reasonable planning horizon. And Mr. Cline talks

18 about this in his true-up rebuttal.

19   The truth is the GMO's cash forecast

20 indicated that its available cash under the revolving

21 credit facility would have been exhausted by early 2011,

22 early this year absent other actions. And as a result a

23 long term offering to enable GMO to replace, repay the

24 short term debt in the third quarter was deemed to be

25 appropriate.

1   Then Mr. Murray asked the question, Well,

2 why didn't you go in for KCPL and make the same kind of

3 debt offer? And as Mr. Cline again talks about on Page 3

4 of his rebuttal, KCPL did not face similar pressures on its

5 liquidity. KCPL's total revolving credit at that time --

6 or at this time $600 million and KCPL's short-term debt

7 outstanding during the third quarter of 2010 ranged between

8 35 and 54 percent, whereas for GMO it was approximately 70

9 percent.

10   Now, Mr. Murray also makes a very short

11 comment about the money pool suggesting that the Company's

12 were commingling their funds. And I'm not exactly sure if

13 that's what he's saying, but there is that suggestion of

14 that. And Mr. Cline addresses this again on Page 4 of his

15 testimony and explains that the money pool borrowings by

16 KCPL are not relevant to the argument.

17   The truth is once the borrowings were made,

18 GMO would incur a cost or a breakage fee if it elected to

19 repay the debt before the due date. And as such any excess

20 cash generated by GMO on any given day could not

21 necessarily be used to reduce any short-term debt on a

22 realtime basis. And so that really is not relevant to the

23 point we're talking about here, which is the cost of debt.

24   The final question is well what would be the

25 effect of accepting the Staff's 11th-hour recommendation.

1 If the Commission were to move in the direction in which

2 Mr. Murray recommends, KCPL and GMO could be presented --

3 pardon me -- prevented from recovering their actual

4 financing costs as long as GMO's credit rating is different

5 from the subjective level that Staff determines is correct

6 whether based upon a past credit rating of Aquila or

7 compared to its sister company, KCP&L.

8   As a result, we believe that any use of a

9 fictional or a hypothetical cost of debt methodology in

10 this case for either of the two companies would be

11 improper. Thank you, Judge.

12   JUDGE DIPPELL: Is there anyone else who

13 would like to make an opening?

14   MR. THOMPSON: Staff would, Judge.

15   JUDGE DIPPELL: All right. Staff and

16 Mr. Woodsmall, which I assume is going after Staff.

17   MR. WOODSMALL: Whichever, it doesn't

18 matter.

19   MR. THOMPSON: May it please the Commission.

20 Mr. Zobrist has done an excellent job of setting out for

21 you a road map of who you're going to here today and the

22 topics that they're going to be talking about. From the

23 point of view of Staff let me say this: You have treated

24 this cluster of companies at the western edge of our state

25 very favorably over the past several years in order to

1 accomplish the important goals of the regulatory plan. The

2 regulatory plan is complete. It is time now to consider

3 the ratepayers who have provided a huge amount of support

4 to this company through the additional regulatory

5 amortization device.

6   Staff urges you consequently with the

7 ratepayers in mind to set the OSS margins that are baked

8 into rates at the 40th percentile rather than the 25th.

9 The Company's performance, its actual level of margins

10 achieved in 2010, demonstrate that this is readily

11 achievable by this company.

12   With respect to the cost of debt, Staff's

13 position continues to be that you should use the Empire

14 embedded cost of debt as a proxy for GMO. That's Staff's

15 position and that has not changed. However, the Company

16 disagrees. And Staff has no way of knowing which position

17 the Commission will adopt. So what Mr. Murray has done is

18 pointed out some things that the Commission should think

19 about if it does not adopt Staff's suggestion, which is to

20 use Empire's cost of debt as a proxy for GMO.

21   If instead you use GMO's actual cost of

22 debt, then Mr. Murray wants you to consider some important

23 points. These points have to do with the $250 million debt

24 issuance by Great Plains in August of last year. All of

25 this debt was assigned by Great Plains to GMO with the

1 effect that GMO's embedded cost of debt dropped -- are

2 these figures highly confidential, Karl?

3   MR. ZOBRIST: I don't think so because those

4 are public figures of the debt.

5   MR. THOMPSON: GMO's embedded cost of debt

6 consequently dropped to 6.42 percent from 7.07 percent,

7 whereas KCPL's embedded cost of debt remained at 6.82

8 percent. GMO is weaker financially than KCPL. Its

9 embedded cost of debt nonetheless is now lower than KCPL's.

10 How can that be?

11   It can be because that entire $250 million,

12 the proceeds from that debt issuance were used to pay off

13 GMO's short-term debt. That debt was eliminated. How is

14 GPE able to issue this debt at the coupon rate of 2.75?

15 Because GPE is supported by KCPL, supported by KCPL. GPE

16 only has two assets; GMO and KCPL.

17   The effect is to reduce KCPL's credit

18 capacity and increase KCPL's cost and this is unfair to the

19 KCPL ratepayers in Staff's point of view. The very same

20 ratepayers who have provided exceptional financial support

21 to this company throughout the time, the term or the

22 regulatory plan by paying additional monies in regulatory

23 amortization.

24   It's time now to think about those

25 ratepayers. Iatan is built. The PSC should not allow GPE

1 to assign all of this amount to GMO. This negatively

2 impacts KCPL's ratepayers. That is why Mr. Murray has

3 suggested that in view of these considerations if you

4 reject Staff's position and accept the Company position,

5 then you might think about assigning some portion of this

6 issuance to KCPL.

7   Mr. Murray points out that Great Plains has

8 a strong incentive to carry short term debt at KCPL rather

9 than at GMO because KCPL, the stronger company, has access

10 to the commercial paper markets whereas GMO does not.

11 KCPL's commercial paper rate is substantially lower --

12 substantially lower than the rate applicable to GMO's

13 credit facility.

14   Staff objects because GPE's acting frankly

15 to maximize wealth for its shareholders rather than looking

16 out for the best interests of each of these two

17 subsidiaries. Now maybe that's sensible management. Maybe

18 they're even required to do that by the laws of corporate

19 governance. But why should the ratepayers underwrite it?

20 Why should the ratepayers pay for it? They've already paid

21 for Iatan.

22   Fairness to ratepayers requires assignment

23 of some of this $250 million issuance to KCPL to reduce

24 KCPL's embedded cost of debt. In closing, I remind you

25 Staff's position on cost of debt continues to be that you

1| use Empire's cost of debt as a proxy. If you choose

2| instead to accept the Company's recommendation that you use

3| actuals, then we urge you to consider these points raised

4| by David Murray.

5| Thank you very much.

6| JUDGE DIPPELL: Thank you, Mr. Thompson.

7| And Mr. Woodsmall?

8| MR. WOODSMALL: Your Honor, when the

9| projector was broke yesterday I noticed that Mr. Fischer

10| used a handout, so I didn't take a chance so I brought

11| handouts myself.

12| And I'll warn you a number -- a whole bunch

13| of the off-system sales material is highly confidential.

14| Rather than trying to dodge around that, I'm going to ask

15| you at least part way through this to go in camera.

16| Good morning. In my opening statement at

17| the chief evidentiary hearing I told you about many things.

18| First I demonstrated to you that KCP&L rates have been

19| increasing dramatically in the last five years. I was able

20| to tie this dramatic increase directly to KCP&L's dismal

21| performance in the wholesale market during that time.

22| Second, I showed you that there's a reason

23| for KCP&L's dismal performance. As a result of its actions

24| in Kansas, KCP&L must now return $1.05 for every dollar it

25| makes in the wholesale market. I also warned you that this

1 is not the fault of Missouri regulators. KCP&L's own

2 witness in Kansas admits that the Kansas allocator's

3 faulty. As such, this is not your problem to fix.

4   Third, I told you that by setting rates at

5 the 25th percentile you place very poor expectations on

6 KCP&L. It is the position of MEUA that in order to get

7 passed the disincentives caused by KCP&L's action in

8 Missouri, the Missouri -- or in Kansas, the Missouri

9 Commission must set higher expectations in Missouri.

10   I proved to you that when KCP&L is faced

11 with higher expectations they can achieve. In the last

12 case, KCP&L agreed to a stipulation which placed

13 expectations at the 44th percentile and KCP&L was able to

14 achieve that level. As such, we now recommend that you

15 move off the 25th percentile to the 40th percentile.

16   Finally, I showed you that the reasons that

17 the Commission initially provided for moving to the 25th

18 percentile are no longer applicable. First off-system

19 sales are no longer 50 percent of KCP&L earnings. In fact,

20 off-system sales are well below that level now.

21   Second, I showed you that the -- with the

22 completion of the regulatory plan KCP&L is not facing the

23 same construction budget pressures. As such, there is no

24 longer any reason to set rates at the 25th percentile.

25   You probably notice that KCP&L never

1 provided any good reasons for remaining with the low

2 expectations of the 25th percentile. Instead, KCP&L simply

3 said that's the way it's been done. So rather than attempt

4 to address the expectations or the need to move to the 40th

5 percentile, KCP&L simply made adjustments to its true-up

6 model. I'll show you today that KCP&L's assumptions in

7 that model are faulty.

8   At this point, I'd ask to go in here and

9 I'll be discussing the handout that I gave you.

10   JUDGE DIPPELL: Okay. We're going to go in

11 camera.

12   (REPORTER'S NOTE: At this point an

13 in-camera session was held, which is at Volume 46, Pages

14 4806 to 4809.)

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1   MR. WOODSMALL: Your Honor, I would note

2 yesterday you marked Mr. Fischer's handout as an exhibit.

3 I don't -- if you want it as an exhibit, it's not evidence,

4 but whichever you prefer.

5   JUDGE DIPPELL: Just to keep -- I like to

6 have everything kind of there and so -- when you refer to a

7 document. So I will go ahead and mark it. Just give it an

8 exhibit number.

9   MR. ZOBRIST: Judge, I don't have a problem

10 with that, but as Mr. Woodsmall says, this is an opening

11 statement. It's not evidence. And so it should be very

12 clear in the record that's it's -- I'm not even sure it's

13 demonstrative evidence. But at least it's not -- it should

14 not be considered.

15   JUDGE DIPPELL: Right. I'm not -- I'm not

16 going to enter it as evidence. I'm just going to mark it

17 as an exhibit.

18   MR. ZOBRIST: Thank you.

19   JUDGE DIPPELL: It's an illustrative

20 exhibit. So that's KCPL 1218. And did you have a copy of

21 that for the court reporter, Mr. Woodsmall?

22   MR. WOODSMALL: Yeah. I do.

23   (Wherein; Industrials Exhibit No. KCPL 1218

24 HC was marked for identification.)

25   MR. WOODSMALL: We wrote it on the top.

 1| Thanks.

 2| THE COURT REPORTER: Thank you.

 3| JUDGE DIPPELL: All right. Then I think if

 4| that's all of the opening statements or no other opening

 5| statements, then we are ready to go ahead and begin with

 6| our first witness of the day.

 7| MR. ZOBRIST: The Company calls Michael

 8| Schnitzer, who is on the telephone. Is that correct,

 9| Mr. Schnitzer?

10| MR. SCHNITZER: Yes, sir. I'm here.

11| MR. ZOBRIST: Okay.

12| JUDGE DIPPELL: And Mr. Schnitzer, have you

13| been able to hear us okay if we speak into the microphones?

14| MR. SCHNITZER: Yes, I hear everything thus

15| far fine, Your Honor. Thank you.

16| JUDGE DIPPELL: All right. Then, I'll ask

17| you to raise your right hand and I will swear you in.

18| (Witness sworn.)

19| JUDGE DIPPELL: Thank you. Mr. Zobrist, go

20| ahead with your questions.

21| MR. ZOBRIST: Thank you, Judge.

22| MICHAEL SCHNITZER testifies as follows:

23| DIRECT EXAMINATION BY MR. ZOBRIST:

24| Q.   Please state your name.

25| A.   Michael Schnitzer.

1   Q.   And by whom are you --

2   A.   S-c-h-n-i-t-z-e-r.

3   Q.   And by whom are you employed?

4   A.   I'm employed by the North Bridge Group Inc.

5   Q.   And what's your position there?

6   A.   I'm a director of the firm.

7   Q.   Now, Mr. Schnitzer, did you previously

8 provide direct testimony in the case in chief in this

9 proceeding, the KCPL proceeding?

10   A.   I did.

11   Q.   And did you prepare true-up direct testimony

12 in this case, as well?

13   A.   I have.

14   MR. ZOBRIST: And Judge, I have copies to be

15 marked, but I need an exhibit number. I guess is it 124?

16   JUDGE DIPPELL: Hold on just a moment. No.

17 Mr. Schnitzer's direct -- true-up direct is KCPL 116.

18   MR. WOODSMALL: What was that number, Your

19 Honor?

20   JUDGE DIPPELL: I'm sorry. KCPL 116.

21   (Wherein; KCP&L Exhibit No. 116 NP and KCPL

22 116 HC were marked for identification.)

23 BY MR. ZOBRIST:

24   Q.   And Mr. Schnitzer, do you have a copy of

25 your true-up direct testimony before you?

1   A.   I do.

2   Q.   Do you have any corrections to that

3   testimony?

4   A.   I have one slight correction.

5   Q.   And where is that, sir?

6   A.   It is on Page 3, Line 3. And Your Honor,

7   unfortunately it involves a highly confidential figure.

8   JUDGE DIPPELL: All right. Then let me go

9   in camera. Hold on just one moment.

10   (REPORTER'S NOTE: At this point, an

11   in-camera session was held at Volume 46, Page 4814.)

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1   JUDGE DIPPELL: All right.

2 BY MR. ZOBRIST:

3   Q.   Mr. Schnitzer, do you have any other

4 corrections to your true-up direct testimony?

5   A.   I do not.

6   Q.   And if you were asked those questions, would

7 your answers be the same?

8   A.   Yes, they would.

9   MR. ZOBRIST: Your Honor, I move the

10 admission of Exhibit 116 at this time.

11   JUDGE DIPPELL: Is there any objection to

12 Exhibit KCPL 116 with that correction?

13   Seeing none, then I will admit it.

14   (Wherein; KCP&L Exhibit Nos. KCPL 116 HC and

15 KCPL 116 NP were received into evidence.)

16   JUDGE DIPPELL: Thank you.

17   MR. ZOBRIST: Thank you, Judge. Nothing

18 further. I tender Mr. Schnitzer for cross-examination.

19   JUDGE DIPPELL: Who all will I have

20 cross-examination from? Staff and the Industrials? In

21 that case, is there cross-examination from Mr. Woodsmall?

22   MR. WOODSMALL: Yes. Very briefly, Your

23 Honor.

24 CROSS-EXAMINATION BY MR. WOODSMALL:

25   Q.   Good morning, Mr. Schnitzer.

1   A.   Good morning, Mr. Woodsmall.

2   Q.   Some very brief questions for you. You

3 state at Page 2 of your true-up direct that your goal is to

4 model off-system sales from baseload units; is that

5 correct?

6   A.   Do you know that line number there you want

7 to point me to, sir?

8   Q.   You refer to baseload resources at Line 22.

9   A.   Well, that's a statement that Iatan 2

10 additional capacity will increase from base-- from KCPL's

11 baseload facilities, but it's not a statement that the

12 model is limited to baseload facilities, no sir.

13   Q.   Do you model more than KCP&L's baseload

14 facilities?

15   A.   We do.

16   Q.   Can you tell me what facilities you model?

17   A.   I believe those are -- those facilities are

18 included in some data responses. And if you like, I can

19 try and find the data response and point you in the right

20 direction.

21   Q.   Okay.

22   A.   Well, there may be others, Mr. Woodsmall,

23 but the one I'm looking at right now looks to be an MEUA

24 Data Response Question 13-1, which asks among other things

25 for the available capacity of each KCPL generated unit.

1 And there's a table attached to that. I believe, but I'm

2 not certain, that this is a highly confidential response or

3 not, but there's a table that in response that sets out

4 each of the generating units and the capacity in the model

5 by month.

6   Q.   Thank you. And I don't want the capacity

7 numbers, but can you tell me just what those units are?

8   A.   Would you like me to read them?

9   Q.   Yes, please.

10   A.   Yes. Wolf Creek 1. I'm not sure I'm going

11 to get the pronunciation of all these correct. La Cygne 1;

12 La Cygne 2; Iatan 1; Montrose 1, 2, and 3; Hawthorn 5, 7,

13 8, and 9; Northeast 11, 12, 13, 14, 15, 16, 17, and 18;

14 West Gardner 1, 2, 3 and 4; Osawatomie; Higgins; MFCG;

15 Iatan 2 and Spearville.

16   Q.   Okay. Thank you. At Page 3 of your true-up

17 rebuttal you mention a number that's there, that's highly

18 confidential and I won't repeat that number. But would you

19 agree that that number's calculated is the -- a value of

20 off-system sales from Iatan 2 at the 25th percentile; is

21 that correct?

22   A.   It is not correct. No.

23   Q.   That number is not the value of Iatan 2

24 off-system sales margins at the 25th percentile?

25   A.   No, sir. It is not.

1   Q.   Can you tell me what that number represents?

2   A.   Well, that number is taken from my direct

3 testimony from, I believe, Figure 8 of my direct testimony.

4 And perhaps if you had that in front of you it would make

5 my -- make my response more clear.

6   Q.   Okay. I have it.

7   A.   Okay. And I -- Mr. Woodsmall, it would make

8 it easier for me if I could use the numbers, which are all

9 highly confidential, but if you want me to try and avoid

10 using any numbers, I can try and do it that way.

11   Q.   I have no problems going into camera.

12   JUDGE DIPPELL: All right. We'll go in

13 camera.

14   (REPORTER'S NOTE: At this point, an

15 in-camera session was held, which is at Volume 46, Pages

16 4819 to 4822.)

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1   JUDGE DIPPELL: Okay. Go ahead. I'm sorry

2 to interrupt, Mr. Thompson.

3   MR. THOMPSON: That's quite all right.

4 BY MR. THOMPSON:

5   Q.   Do you have that sentence, Mr. Schnitzer?

6   A.   I do, sir.

7   Q.   I wonder if you would read that sentence for

8 me, please.

9   A.   Yes. Other things being equal, it is more

10 likely that KCPL will make a higher volume of off-system

11 sales than it would without the addition of Iatan 2 because

12 there are additional megawatts to sell.

13   Q.   Thank you, sir. In your analysis you

14 included Iatan 2 and --

15   MR. THOMPSON: Karl, help me with this. Is

16 the megawatt rating of Iatan 2, is that highly

17 confidential?

18   MR. ZOBRIST: I don't think so.

19 BY MR. THOMPSON:

20   Q.   Okay. You included Iatan 2, which is 472

21 megawatts. Correct?

22   A.   For the KCPL share, that's correct.

23   Q.   Okay. And did you include Spearville 2 at

24 48 megawatts?

25   A.   Yes, sir.

1   Q.   Okay. And did you include expected

2 improvements at Wolf Creek that are expected to increase

3 its capacity?

4   A.   Yes, sir.

5   Q.   And did you include the lo-- the capacity

6 that is released by the expiration of the firm purchase

7 power contract with MJMEUC?

8   A.   You are correct, sir. All of those are

9 reflected in the analysis.

10   Q.   Okay. And can you tell me, has native load

11 increased significantly?

12   A.   I'm sorry, sir. Compared to when or what,

13 between which pieces of testimony?

14   Q.   Well, how about between your direct

15 testimony in the case in chief and now.

16   A.   If you'll hold on just a minute, I'll pull

17 that up. Between the direct testimony and the true-up

18 direct the firm load obligation including provision for

19 spinning reserves has decreased very slightly.

20   Q.   Okay.

21   A.   .6 percent.

22   Q.   And --

23   MR. ZOBRIST: I'm sorry. What was that

24 number, just -- if the court reporter picked it up? I

25 didn't hear it.

1   THE WITNESS: The decrease --

2   THE COURT REPORTER: Point .6 --

3   THE WITNESS: -- was 0.6 percent.

4   MR. ZOBRIST: Thank you.

5 BY MR. THOMPSON:

6   Q.   And Mr. Schnitzer, are you aware of what the

7 Company actually achieved between August of 2009 and July

8 of 2010? And that number is highly confidential, so please

9 don't state it.

10   A.   I'm not certain. Now, I'm not aware that

11 there are some figures in -- that were included in Staff's

12 rebuttal testimony, Mr. Harris's rebuttal testimony. I've

13 reviewed those figures. I don't know that they correspond

14 to the period that you just mentioned. I thought they were

15 calendar year figures.

16   Q.   But that is the period you used in the last

17 testimony. Correct?

18   A.   I have to refresh my recollection as to what

19 that -- what that final period was.

20   Q.   I'm sorry. Not the last -- in the last rate

21 case, that is the 12-month period you focused on, is that

22 not correct?

23   A.   Well, let me -- let me -- let me double

24 check that. I need to look at an exhibit to my direct

25 testimony, if I could do that.

1   Q.   Take your time, sir.

2   A.   I believe in my rebuttal testimony in the

3 last case the study period was August 2009 to July 2010.

4 If that's the -- that was your question.

5   MR. THOMPSON: That was my question. Thank

6 you very much, sir. No further questions.

7   JUDGE DIPPELL: All right. Then, is there

8 any -- there's no additional cross-examination. Are there

9 any questions from the bench. Commissioner Davis?

10 QUESTIONS BY COMMISSIONER DAVIS:

11   Q.   Good morning, Mr. Schnitzer.

12   A.   Good morning, Commissioner.

13   Q.   Mr. Schnitzer, I listened to Mr. Thompson's

14 opening statement and I listened to Mr. Woodsmall's opening

15 statement and I find them very compelling. I would like

16 for you to respond to that and tell me what I'm missing.

17   A.   Yes, sir. Thank you. And if I can do that

18 with your permission in two pieces; first would be the

19 policy issue that I think is presented to you.

20   Q.   Uh-huh.

21   A.   And then second from numerical inaccuracies

22 that I think were included in both of those opening

23 statements. If that's an acceptable form of response to

24 you, sir?

25   Q.   Sure.

1   A.   Yes. On the policy issue, the question

2 before you is so long as the -- the treatment of off-system

3 sales margins is asymmetric with respect to the shareholder

4 as it is presently, which is to say that any off-system

5 margins less than 25 percent come out of the shareholder's

6 pocket and any off-system margin in excess of 25 percent go

7 100 percent to customers, putting aside the allocation

8 issue for a moment between Kansas and Missouri, that's a

9 heads the shareholders loses and tails the shareholders

10 break even kind of a regulatory paradigm.

11   And in that paradigm, so long as you

12 continue that policy it seems that fairness would dictate

13 that the off-system margin baked into rates as it were,

14 should be low, around the 25th percentile or somewhere in

15 that vicinity, which by my current number is $54 million.

16 Because then it leaves the shareholder has only a 25

17 percent chance of suffering a loss, whereas proposed by the

18 other parties in an asymmetric world -- you know, four

19 times out of ten they would lose money and six times out of

20 ten they would break even. That seems hardly -- to my mind

21 the proper balancing of interests.

22   The other policy option is to change the

23 policy and make it symmetric, which is to have the

24 shareholders at risk for recoveries up to a certain level

25 and have the shareholders enjoy the benefits of recoveries

1 above a certain level. And in that context, it makes

2 absolute sense to raise the percentage all the way to the

3 50th percentile, to the median level, which by the way is

4 the effect of -- of -- of -- of Mr. Woodsmall's

5 recommendation. The number that he recommends is actually

6 the present median level.

7 So he is proposing that you raise the level

8 to the median level as I calculated, but preserve the

9 asymmetry. And I think, sir, that that would be not good

10 regulatory policy. And that if you're going to raise the

11 level to the median level as he suggests, that you should

12 return to the prior practice of allowing symmetric

13 opportunity where the shareholder is at risk below that

14 figure and the shareholder stands to benefit above that

15 figure.

16 So that, I think applies there, sir. And

17 that's the policy issue I think that you're presented and

18 my views on that. And I'm happy to go on the numerical

19 piece if you would like. But let me stop there and see if

20 that prompts any follow-up.

21 MR. FISCHER: Commissioner, pardon me for

22 interrupting but I think Mr. Schnitzer quoted a highly

23 confidential figure and I would just say if we're going to

24 go into numbers --

25 COMMISSIONER DAVIS: Right.

1   MR. FISCHER: -- the balance of his ques--

2 the balance of his response ought to be in closed session.

3   COMMISSIONER DAVIS: All right.

4   THE WITNESS: I apologize.

5   COMMISSIONER DAVIS: Before we go into

6 closed session, let me just ask one follow-up.

7 BY COMMISSIONER DAVIS:

8   Q.   Mr. Schnitzer, to the best of your knowledge

9 is KCP&L recommending any change in the -- in the

10 apportionment of the off-system sales proceeds in this

11 case?

12   A.   My understanding is that the Company's

13 position is to stay with the regulatory plan, which has the

14 asymmetric treatment and to set the level at 25th

15 percentile. And I'm -- in my earlier comments I stated

16 that so long as we're in that asymmetric structure that

17 something at or about the 25th percentile would be

18 appropriate.

19   And I then said in response to those that

20 say that it should be raised effectively to the 50th

21 percentile, which is the effect of Mr. Woodsmall's

22 recommendation, that if the Commission were to be inclined

23 to go that way that it should restore -- it should

24 accompany that with the restoration of the symmetric

25 treatment, where the shareholder is at risk below that

1 level and stands to benefit above that level.

2   Q.   Okay. And Mr. Schnitzer, are you familiar

3 with the unused energy allocator discussions?

4   A.   Familiar with the discussion would be an apt

5 description, I'm not familiar with the details.

6   Q.   Okay. But -- but you are vaguely familiar

7 with the concept?

8   A.   I'm aware that Kansas -- in Kansas there's a

9 different allocator of the off-system margin to decide how

10 much is the Kansas share and how much is the Missouri

11 share.

12   Q.   Right. And did you read Mr. Blanc's

13 testimony in the -- in the direct case at all?

14   A.   I probably did, not before today, but at an

15 earlier time I probably did, yeah.

16   Q.   Well --

17   A.   And I believe he pointed out that that

18 results in an over allocation if you will of a dollar

19 margin.

20   Q.   Right. So basically, let me see if this is

21 a fair analogy here. For every dollar's worth of

22 off-system sales it actually costs KCP&L $1.05; is that a

23 fair statement?

24   A.   For every dollar of sales above whatever the

25 minimum threshold is. For every -- but up until that I'm

1 not sure that that would be the case.

2   Q.   Okay. Well, Mr. Schnitzer, my ultimate

3 concern here is that KCP&L's advocating that we set this

4 number, you know, as low as possible. And that KCP&L is

5 going to en-- and when I use KCP&L I'm talking KCP&L and

6 KCP&L GMO. Well, maybe not. But that KCP&L is going to

7 endeavor to meet that number and then not go over it

8 because it costs the company money to do that.

9   And, I mean, my concern is that, you know,

10 this regulatory framework is what it is, but that they are

11 not maximizing the use of their resources. Does that make

12 sense?

13   A.   I understand the concern, sir. And I'm --

14 what I'm -- what I'm -- and I appreciate that concern.

15 What I'm trying to suggest to you is that if in response to

16 that concern you want to raise the level of off-system

17 sales in base rates up to at or near the median level, as

18 Mr. Woodsmall has proposed, that from a policy perspective

19 when you did that it would be appropriate to also undo the

20 asymmetry.

21   Now, as a matter of law, sir, I can't tell

22 you with the record in front of you whether you're --

23 whether it's permissible for you to do that, but I would

24 tell you as a matter of policy that that would be the

25 companion piece, if you will, to raise from the 25th to the

1 50th percentile, which would -- I understand the beneficial

2 effects that you're trying to get for the -- for the

3 Missouri customers.

4   But I would suggest that if you do that,

5 that you should also make it clear that above that level

6 the shareholder stands to benefit, that that change -- one

7 change should be paired with the other from a policy

8 perspective.

9   Q.   And I guess what you're ultimately saying is

10 there may be a legal problem with that because KCP&L is a

11 signatory to the comprehensive energy plan and there may be

12 language in there that would prohibit that?

13   A.   I don't know one way or the other, sir. I'm

14 just pointing out that the only advise that I can give is

15 from a policy perspective. And there may or may not be

16 legal considerations that would argue differently, but --

17 so I just wanted to make that clear that I was -- what I

18 was suggesting to you was from a policy perspective, sir.

19   COMMISSIONER DAVIS: Okay. Can we go in

20 camera now?

21   JUDGE DIPPELL: Yes.

22   (REPORTER'S NOTE: At this point, an

23 in-camera session was held, which is at Volume 46, Page

24 4833 to 4861.)

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 1 | MICHAEL SCHNITZER testifies as follows:

 2 | CROSS-EXAMINATION BY MR. THOMPSON:

 3 | Q.   Mr. Schnitzer?

 4 | A.   Yes.

 5 | Q.   When we were talking about volumes, you

 6 | mentioned that purchases for resale needed to be excluded.

 7 | Do you recall that?

 8 | A.   For purposes of an apples to apples

 9 | comparison with my forecast, yes.

10 | Q.   Because your forecast does not include them?

11 | A.   That is correct.

12 | Q.   Why not? Why does your forecast not include

13 | them?

14 | A.   The specification of what I was asked to do

15 | was to come up with a forecast of off-system margins from

16 | sales from the Company's generating plant.

17 | Q.   But the Company does, in fact, make such

18 | sales, isn't that right?

19 | A.   They do. And you'll have to -- Mr. Crawford

20 | may be able to give you a better answer, but my impression

21 | is that the -- that those sales for resales sales, if you

22 | will are not a significant contributor to the total margin

23 | at all. But Mr. Crawford would be a better source for

24 | that.

25 | Q.   Okay. And do you recall discussing the

1 asymmetrical treatment of the OSS margins. And I believe

2 you characterized the suggestion that the margin be baked

3 in as we say, at the 50th percentile while retaining the

4 asymmetrical treatment. You characterized that as

5 fundamentally unfair. Do you recall saying that?

6   A.   I do, sir.

7   Q.   And is your opinion changed at all when you

8 consider the amount of money above normal rates that the

9 ratepayers of KCPL have provided through the regulatory

10 amortizations to this company?

11   A.   No, it has not because they have been

12 treated as amortizations with corresponding deductions in

13 future cost of service.

14   Q.   Do you think if we asked average ratepayers

15 that you might find in the streets of Kansas City whether

16 they considered those amortizations to be fundamentally

17 unfair, what do you think they might say?

18   MR. ZOBRIST: Objection, argumentative. It

19 also calls for speculation.

20   MR. THOMPSON: I'll withdraw the question,

21 Judge. Thank you, Mr. Schnitzer. No further questions.

22   THE WITNESS: Thank you.

23   MR. ZOBRIST: Could I just take a moment,

24 Judge, before we go off -- go on with my -- I've got a

25 couple of questions of Mr. Schnitzer. I just want to

1 confer with my counsel -- co-counsel.

2   JUDGE DIPPELL: Okay. Let's just go off the

3 record while they're talking.

4   (Off the record.)

5   JUDGE DIPPELL: This would probably a good

6 time to just take a short break and then we'll come back in

7 ten minutes. Mr. Schnitzer, if you could stay on the phone

8 for another ten minutes.

9   THE WITNESSS: That's fine, Your Honor.

10 We'll leave the line open?

11   JUDGE DIPPELL: Yes.

12   THE WITNESS: Okay. Thank you.

13   JUDGE DIPPELL: Okay. Thank you. Let's go

14 off the record.

15   COMMISSIONER DAVIS: Judge, before we go off

16 the record. Can I just make one more comment for the

17 record?

18   JUDGE DIPPELL: Yes.

19   COMMISSIONER DAVIS: I don't have an

20 objection to people calling in. I think it saves money and

21 everything. But in the future if we could -- if we -- if

22 we could actually videoconference them in -- I don't know

23 if there's any way or if it's too expensive or whatever.

24 That's fine. But I'd just like to be able to observe the

25 witnesses demeanor when we're -- when we're talking to them

 1 if at all possible.

 2   JUDGE DIPPELL: Certainly.

 3   Thank you. Let's go off the record.

 4   (Off the record.)

 5   JUDGE DIPPELL: Okay. Mr. Schnitzer, are

 6 you still on the phone with us?

 7   THE WITNESS: Yes, Your Honor. I am.

 8   JUDGE DIPPELL: Okay. Great. Then we are

 9 back on the record and we are at redirect.

10   Mr. Zobrist?

11   Let me know if we need to go back in camera

12 for anything.

13 REDIRECT EXAMINATION BY MR. ZOBRIST:

14   Q.   Mr. Schnitzer, can you hear me?

15   A.   Yes, sir.

16   Q.   Okay. Mr. Thompson asked you about your

17 statement on Page 2, Line 22 of your true-up direct about

18 that there was additional power to sell. Do you recall

19 that?

20   A.   I do.

21   Q.   Yeah. What are the risks that attend or

22 accompany the additional power to sell from Iatan 2 and the

23 other new capacity?

24   A.   Well, there are several of course. But the

25 largest, the single largest of which is what the price will

1 be at which that additional output can be sold. And so

2 that's the most significant. There are -- there are others

3 as well, but that's the one I think that's most

4 significant.

5   Q.   Now, you were asked about the firm load that

6 you projected. And that, I believe according to your

7 Schedule 5, in both your direct testimony and as updated in

8 the data request that is now into evidence. That includes

9 spinning reserve?

10   A.   It does. It includes 70 megawatts of

11 spinning reserve in each hour of the year.

12   Q.   And was that included in your model when it

13 was first brung with regard to this case?

14   A.   Yes, sir.

15   Q.   Now, in talking about the asymmetrical

16 versus the symmetrical policies, would it be good policy to

17 have -- for a utility to have over 50 percent of its

18 earnings coming from off-system sales if that utility did

19 not have a fuel adjustment clause?

20   A.   It would present a series of significant

21 financial risks for that utility in terms of whether it

22 would be able to meet debt covenants and coverage ratios

23 and things like that. So it would generally not be

24 consistent with good policy if financial liability of the

25 utility was an important goal.

1   Q.   Does Kansas City Power and Light Company

2 operate in Missouri with a fuel adjustment clause?

3   A.   That's my understanding.

4   Q.   No. In Missouri, does it have a fuel

5 adjustment clause?

6   MR. THOMPSON: I -- objection; asked and

7 answered.

8   MR. ZOBRIST: Well, I think it -- well, it

9 is what it is. It's a matter of record

10   MR. THOMPSON: You asked the question. You

11 didn't get what you wanted.

12   MR. ZOBRIST: I don't --

13   MR. THOMPSON: You don't get to ask it

14 again.

15   MR. ZOBRIST: I'm not sure the witness heard

16 the question, but at any rate, we'll move on.

17 BY MR. ZOBRIST:

18   Q.   Do you know whether the regulatory plan

19 under with KCPL has been operating states anything with

20 regards to a fuel adjustment clause?

21   A.   I do not. No.

22   Q.   Thank you. When you used the word

23 "softened" with regard to natural gas prices, what does

24 that mean?

25   A.   Lower or gone down.

1   Q.   So prices have decreased?

2   A.   Correct.

3   MR. ZOBRIST: Nothing further, Your Honor.

4   JUDGE DIPPELL: Thank you.

5   MR. ZOBRIST: Thank you, Mr. Schnitzer.

6   JUDGE DIPPELL: In that case, I believe then

7 that that concludes Mr. Schnitzer's testimony. And

8 Mr. Schnitzer we appreciate your patience with us on the

9 phone. And we will, I believe, disconnect this call

10 because we have another witness appearing in a few minutes

11 by phone as well.

12   THE WITNESS: All right. Your Honor, thank

13 you very much.

14   (Witness excused.)

15   JUDGE DIPPELL: Thank you. All right.

16 Then --

17   MR. ZOBRIST: The Company's next witness is

18 Burton Crawford.

19   JUDGE DIPPELL: Okay. And what we will do

20 is go forward. I think we may be able to get through

21 Mr. Crawford unless there are a lot of bench questions.

22 But it's my understanding that Mr. Cline is only available

23 at 11:00?

24   MR. STEINER: That's correct.

25   JUDGE DIPPELL: So we will interrupt at

1 11:00 to take up Mr. Cline out of order.

2   Okay. Hang on just a second. My screen is

3 doing something strange.

4   I don't know whose computer is showing.

5   MR. MILLS: It's this one over here.

6   JUDGE DIPPELL: It is the one -- okay.

7 If -- let me see if I can figure out how to get that off

8 the screen.

9   Mr. Zobrist, let me swear in Mr. Crawford

10 and then --

11   (Witness sworn.)

12   JUDGE DIPPELL: Mr. Zobrist, if you'll go

13 ahead with your questions.

14   MR. ZOBRIST: Thank you, Judge.

15 BURTON CRAWFORD testifies as follows;

16 DIRECT EXAMINATION BY MR. ZOBRIST:

17   Q.   Please state your name.

18   A.   Burton Crawford.

19   Q.   And by whom are you employed?

20   A.   Kansas City Power and Light.

21   Q.   And what's your position at KCP&L?

22   A.   Senior manager of energy resource

23 management.

24   Q.   Mr. Crawford, did you prepare in the KCP&L

25 case 0355 true-up direct testimony?

1   A.   I did.

2   Q.   Do you have any corrections to that

3   testimony?

4   A.   I do not.

5   Q.   And in the GMO case no 0356, did you also

6   prepare true-up direct testimony?

7   A.   I did.

8   Q.   Okay. Do you have any corrections to that

9   testimony?

10   A.   I do not.

11   Q.   And if I were to ask you those questions,

12   would your answers be as set forth in those two pieces of

13   testimony?

14   A.   They would.

15   MR. ZOBRIST: Judge, I need numbers for each

16   of those if I might, please.

17   JUDGE DIPPELL: For the KCPL case it is KCPL

18   110 and 111. I'm sorry. 110 is Mr. Cline. 111 is

19   Mr. Crawford.

20   MR. ZOBRIST: I'm sorry. 111 is

21   Mr. Crawford?

22   JUDGE DIPPELL: Yes. And for the GMO case

23   Mr. Crawford if 56.

24   (Wherein; KCP&L Exhibit Nos. KCPL 111 NP and

25   GMO 56 were marked for identification.)

1   MR. ZOBRIST: Judge, I offer Exhibit 111 in

2 the KCP&L case and Exhibit 56 in the GMO case.

3   JUDGE DIPPELL: Will there be any objection

4 to Exhibits 111 and 112? I'm sorry. I'm getting ahead of

5 myself. I'm trying to do three things at once here.

6   Exhibits 111 and 56?

7   MR. THOMPSON: No objection.

8   JUDGE DIPPELL: Thank you. I will admit

9 those exhibits.

10   (Wherein; KCP&L Exhibit Nos. KCPL 111 and

11 GMO 56 were received into evidence.)

12   MR. ZOBRIST: I tender the witness for

13 cross-examination.

14   JUDGE DIPPELL: Is there going to be any

15 cross-examination of Mr. Crawford?

16   MR. WOODSMALL: No, Your Honor.

17   MR. THOMPSON: Very briefly, Judge.

18   JUDGE DIPPELL: All right. Staff?

19 CROSS-EXAMINATION BY MR. THOMPSON:

20   Q.   I just have one question for you,

21 Mr. Crawford. Are you aware of the volume of megawatts

22 that were sold for off-system sales in the past year?

23   A.   Yes.

24   Q.   Okay. And I don't want you to say that

25 number, please. But you would agree with me, would you

 1 not, that sales of power that was purchased for resale

 2 constituted a significant proportion of that amount?

 3   A.   I would.

 4   MR. THOMPSON: Thank you. No further

 5 questions.

 6   JUDGE DIPPELL: Thank you. Mr. Crawford,

 7 I'm not certain if there are additional questions from the

 8 bench.

 9   Commissioner Jarrett, did you have

10 questions?

11   COMMISSIONER JARRETT: I don't have any

12 questions. Thank you.

13   JUDGE DIPPELL: So if you are available to

14 stay, I would like you to stick around in case Commissioner

15 Davis had additional questions --

16   THE WITNESS: I'd be happy to do that.

17   JUDGE DIPPELL: -- for you. Is there any

18 redirect based on the questions that have been asked at

19 this point?

20   MR. ZOBRIST: No, Judge.

21   JUDGE DIPPELL: All right. Then,

22 Mr. Crawford, for now that concludes your testimony, but I

23 may recall you to the stand.

24   THE WITNESS: All right.

25   (Witness excused.)

1   MR. ZOBRIST: Judge, I guess my plan would

2 be to sort of hold proceedings at abeyance for a few

3 minutes and get Mr. Cline on the phone and then shift to

4 the cost of debt issue.

5   JUDGE DIPPELL: All right.

6   MR. ZOBRIST: If we could just go off --

7   JUDGE DIPPELL: Is there any problem with

8 that at this point? And then I did move Mr. Meyer to after

9 Staff. I don't know if you were here yesterday when I did

10 that Mr. Woodsmall.

11   And you want -- let's go ahead then and just

12 go off the record for about seven minutes until eleven

13 o'clock and we'll get Mr. Cline on.

14   (Off the record.)

15   JUDGE DIPPELL: Okay. We're back on the

16 record and I believe we have Mr. Cline on the line.

17   Mr. Cline, can you hear me all right?

18   Apparently not. Mr. Cline, are you still

19 there?

20   MR. CLINE: Yes, I can hear you fine.

21   JUDGE DIPPELL: Okay. Okay. Would you

22 please raise your right hand?

23   (Witness sworn.)

24   JUDGE DIPPELL: Thank you. Mr. Zobrist, go

25 ahead.

1   MR. ZOBRIST: Thank you, Judge.

2 MICHAEL CLINE testifies as follows:

3 DIRECT EXAMINATION BY MR. ZOBRIST:

4   Q.   Please state your name.

5   A.   Michael Cline.

6   Q.   By whom are you employed?

7   A.   Great Plains Energy and Kansas City Power

8 and Light.

9   Q.   And what are your positions with those

10 companies?

11   A.   Vice president investor relations and

12 treasurer.

13   Q.   Now, Mr. Cline, in the KCP&L case docket

14 0355, did you prepare true-up direct testimony as well as

15 true-up rebuttal testimony?

16   A.   I did.

17   Q.   Do you have any corrections to either your

18 true-up direct or your true-up rebuttal in the KCP&L

19 cases -- case?

20   A.   No, I don't.

21   Q.   And in the GMO case, Case No. 0356 did you

22 also prepare true-up direct testimony and true-up rebuttal

23 testimony?

24   A.   Yes, I did.

25   Q.   Okay. Do you have any corrections to either

1 your true-up direct or your true-up rebuttal?

2   A.   No, I don't.

3   Q.   If I were to ask you those questions, would

4 your answers be as set forth in Exhibits 109, 110 in the

5 KCP&L case and what has been marked as Exhibits 54 and 55

6 in the GMO case?

7   A.   Yes, they would.

8   (Wherein; KCP&L Exhibit Nos. KCPL 109, KCPL

9 110, GMO 54 and GMO 55 were marked for identification.)

10   MR. ZOBRIST: Judge, in that event I offer

11 Exhibit 109, which is Mr. Cline's true-up direct in the

12 KCP&L case, Exhibit 110, which is true-up rebuttal in the

13 KCP&L case, Exhibit 54, which is true-up direct in the GMO

14 case and Exhibit 55, which is true-up rebuttal in the GMO

15 case.

16   JUDGE DIPPELL: Would there be any objection

17 to Exhibits KCPL 109 and 1101?

18   MR. THOMPSON: No objection.

19   JUDGE DIPPELL: Would there be any objection

20 to Exhibits GMO 54 and 55?

21   MR. THOMPSON: No objection.

22   JUDGE DIPPELL: Seeing those exhibits, I

23 will admit those four documents.

24   (Wherein; KCP&L Exhibit Nos. KCPL 109, KCPL

25 110, GMO 54 and GMO 55 were received into evidence.)

1   MR. ZOBRIST: Thank you, Judge. I tender

2 Mr. Cline for cross-examination.

3   JUDGE DIPPELL: All right. Will there be

4 cross-examination for Mr. Cline from Staff? I'm seeing

5 yes. All right. Then, Mr. Thompson, you can go ahead.

6   MR. THOMPSON: Thank you very much.

7 CROSS-EXAMINATION BY MR. THOMPSON:

8   Q.   Good morning, Mr. Cline.

9   A.   Good morning, Mr. Thompson.

10   Q.   Could you explain to us why you're not able

11 to be here in person today?

12   A.   Yes. I had a trip scheduled to New York for

13 rating agency meetings yesterday and with a large group of

14 fixed income investors this morning, it would have been

15 problematic to have rescheduled.

16   Q.   Okay. Thank you, sir. Did you sponsor

17 testimony in the general rate case in this proceeding?

18   A.   Yes, I did.

19   Q.   And that was the only testimony; isn't that

20 correct? Rebuttal?

21   A.   I believe I filed -- I believe I filed

22 direct in the GMO case.

23   Q.   Okay.

24   A.   And then rebuttal in both the GMO and KCP&L

25 cases.

1   Q.   Well in the direct that you filed in the GMO

2 case, did you address embedded cost of debt?

3   A.   I did not. It was -- the cost of debt

4 was -- was originally -- I included in Dr. Hadaway's

5 testimony.

6   Q.   Okay. And do you recall the embedded cost

7 of debt that he recommended?

8   A.   No, I don't.

9   Q.   Okay. If you were here I would ask to

10 approach and show you something. But since you're not, I

11 will just read to you. This is from Page 6, Table 1 of the

12 direct testimony of Samuel C. Hadaway in the GMO case.

13   MR. THOMPSON: And I don't know offhand the

14 exhibit number, Your Honor.

15 BY MR. THOMPSON:

16   Q.   In that Table 1, which sets out the

17 requested capital structure for debt the cost that is given

18 is 6.73 percent. Do you have any reason to doubt or to

19 question that figure?

20   A.   No, I don't. I'll accept that figure.

21   Q.   Okay. Thank you, sir. And if you know, did

22 Dr. Hadaway's embedded cost of debt recommendation -- did

23 that anticipate the additional long-term debt of 250

24 million being offered in August of 2010?

25   A.   Yes, it did.

1   Q.   Okay. And if you know, where can I find

2 Dr. Hadaway's description of the terms and conditions of

3 that 250 million of additional debt?

4   A.   Again, I don't have his specific schedule in

5 front of me, but I believe there's a listing of the various

6 items of debt for GMO that roll up into the final cost of

7 debt that was recommended. And in there, there's a line

8 item for prospective debt to be issued and the estimated

9 terms. But I don't recall what interest rate was assumed

10 for that.

11   Q.   Okay. Looking at page -- you don't have

12 Dr. Hadaway's testimony there in front of you, do you?

13   A.   No. I'm sorry. I don't.

14   Q.   Okay. Well, looking at Page 7 of the same

15 piece of testimony I read from already, I find at Lines 8

16 to 10 of the statement that net long-term debt is projected

17 to increase by a highly confidential number due to

18 additional long-term debt expected to be issued by year-end

19 2010 to refinance maturing GMO long-term debt and finance

20 construction expenditures.

21   Would you agree with me that that refers to

22 the debt that we've been talking about?

23   A.   Yes. That sounds correct.

24   Q.   Okay. And if you know, is there anything in

25 the testimony offered in the rate case prior to true-up

1 that would have stated that this debt was ultimately going

2 to be issued by GPE?

3   A.   I -- again, I don't recall if there was any

4 indication in Dr. Hadaway's schedule that indicated that

5 the Company would have some flexibility as to whether GMO

6 issued it directly or whether GPE issued it. So I -- I

7 don't recall. I'm sorry.

8   Q.   If I were to tell you that in fact there is

9 nothing, would you have any reason to disagree with me?

10   A.   I would have no basis to disagree with you.

11 I don't have the documents.

12   Q.   Okay. If you know, when was the first time

13 that it was clarified that this additional debt would

14 actually be issued by GPE?

15   A.   Well, I would answer that, I guess, by

16 saying that from a public disclosure perspective that

17 was -- that was evident in August at the time the

18 transaction was completed.

19   Q.   Okay. Would you agree with me that on a

20 stand alone basis GMO's credit rating would be junk were it

21 not guaranteed by GPE?

22   A.   That would put me in a position,

23 Mr. Thompson of having to speculate on what the rating

24 agency views of GMO's credit metrics might be. So I

25 wouldn't speculate in that regard.

1   Q.   Okay. Again, I have a document here that I

2 would -- I would present to you if you were actually here.

3 You're not. I can't do that. But I will tell you that it

4 is the 10-K form or report filed by Kansas City Power and

5 Light on February 25, 2011.

6   Are you familiar with that document at all?

7   A.   Yes, I am.

8   Q.   Okay. I'm looking at Page 17 of that

9 document and I'm going to read you a paragraph.

10   The paragraph states: Great Plains Energy

11 has guaranteed substantially all of the outstanding debt of

12 GMO and payments under these guarantees may adversely

13 effect Great Plains Energy's liquidity.

14   The paragraph goes on as follows: In

15 connection with the GMO acquisition, Great Plains Energy

16 issued guarantees covering substantially all of the

17 outstanding debt of GMO and has guaranteed GMO's current

18 450 million in revolving credit facility. The guarantees

19 were a factor in GMO receiving investment grade ratings and

20 the guarantees obligate Great Plains Energy to pay amounts

21 owed by GMO directly to the holders of the guaranteed debt

22 in the event GMO defaults on its payment obligations.

23   Great Plains Energy may also guarantee debt

24 that GMO may issue in the future. Any guaranteed payments

25 could adversely effect Great Plains Energy's liquidity.

1   Now, do you have any reason to doubt any of

2 the content of that paragraph?

3   A.   No. I -- I will accept what you've read as

4 representative of what's in the document.

5   Q.   Thank you. Now, if you know, what is the --

6 is the credit rating of GPE itself investment grade?

7   A.   Yes, it is.

8   Q.   And where does GPE get the support for its

9 investment grade credit rating?

10   A.   Well, it is a -- a function of the

11 consolidated credit metrics that are -- that result from

12 the performance of the subsidiaries operating utilities as

13 well as a consolidated view by the rating agencies of the

14 overall regulatory environment and business risk profile

15 that Great Plains Energy presents.

16   Q.   Okay. Thank you. And what are the

17 operating utilities owned by GPE?

18   A.   It would be KCP&L and GMO.

19   Q.   Okay. Thank you. And we've already noted

20 have we not, that GMO needs credit support from GPE; is

21 that correct?

22   A.   Yes. That's correct.

23   Q.   Okay. Now, would you agree with me that

24 under the comprehensive energy plan that KCPL's credit

25 metrics were targeted for support through regulatory

1 amortization?

2   A.   Yes. I would agree with that.

3   Q.   Okay. And if you know, was that mechanism

4 in fact successful in supporting KCPL's credit rating?

5   A.   It was one mechanism that contributed to a

6 support of KCP&L's credit rating.

7   Q.   Okay. And if you know, who is going to be

8 paying for that additional amount of debt that we have been

9 talking about this morning?

10   A.   I'm sorry. I don't understand the question.

11 Could you repeat it?

12   MR. THOMPSON: Well, is the amount of that

13 debt highly confidential, Karl? It evidently was at one

14 time.

15   MR. ZOBRIST: You mean the $250 million?

16   MR. THOMPSON: That's exactly what I mean.

17   MR. ZOBRIST: No. I mean, that's fine.

18 BY MR. THOMPSON:

19   Q.   With respect to that -- you understand I'm

20 trying to very solicitous of the business secrets of the

21 Company and I apologize if that's slowing things down.

22   But with respect to the 250 million of debt,

23 who's going to be paying for that?

24   A.   This is a cost of debt that we have included

25 in GMO's capital structure. So if --

1   Q.   So you -- I'm sorry. Go ahead.

2   A.   So it -- it would be paid for by the GMO

3   customers, the GMO ratepayers.

4   MR. THOMPSON: Thank you very much. I have

5   no further questions.

6   JUDGE DIPPELL: Thank you. Seeing no other

7   cross-examination, Commissioner Jarrett, did you have any

8   questions for Mr. Cline.

9   COMMISSIONER JARRETT: I have no questions,

10 Mr. Cline. Thank you for your testimony.

11   THE WITNESS: Thank you, Commissioner.

12   JUDGE DIPPELL: Thank you. Is there any

13 redirect?

14   MR. ZOBRIST: I just have a brief redirect.

15 REDIRECT EXAMINATION BY MR. ZOBRITT:

16   Q.   Mr. Cline, do you have a copy of your

17 true-up direct testimony in the GMO case?

18   A.   Yes, I do.

19   Q.   And if you'd turn to Page 3. Mr. Thompson

20 asked you some questions about the initial projection of

21 cost of debt and long-term debt for GMO. Do you recall

22 those questions?

23   A.   Yes, I do.

24   Q.   Is your question and answer here at Page 3,

25 Line 5 describe those issues?

1   A.   Just a moment. Yes.

2   Q.   Was the initial projected cost of debt

3 that's indicated in Line 6, when was that initial projected

4 cost of debt presented in your testimony or in the

5 testimony of any GMO witness?

6   A.   That would have been presented at the time

7 the case was filed in June of 2010.

8   Q.   Okay. Thank you. And then finally with

9 regard to Mr. Thompson's questions concerning the

10 regulatory support that came from the regulatory plan and

11 that stipulation and agreement, do you recall the reference

12 to the additional amortizations?

13   A.   Yes, I do.

14   Q.   And is there to be any offset to rate base

15 as a result of those additional amortizations?

16   A.   Yes. There's a -- there's a cumulative

17 offset to the -- to the cost of Iatan 2 that will -- that

18 will be essentially result in a lower rate base going

19 forward.

20   Q.   Okay. And so what does offset to rate base

21 mean in this instance with regard to the additional

22 amortizations?

23   A.   It means the customers will pay less over

24 time for the -- for the plant as a result in that reduction

25 in rate base.

1   Q.   And which customers would that be?

2   A.   The KCP&L customers.

3   MR. ZOBRIST: Thank you. Nothing further,

4 Judge.

5   JUDGE DIPPELL: Thank you. I am not certain

6 if Commissioner Davis had any questions for Mr. Cline. I'm

7 not aware of any, so at this time I'll go ahead and that

8 will conclude your testimony. Mr. Cline, is your schedule

9 such that you are not going to be available once we

10 disconnect this call?

11   THE WITNESS: Your Honor, I could be

12 available for about another hour at the same number as

13 Mr. Steiner reached me. So I will certainly be standing by

14 if Commissioner Davis would have any additional questions.

15   JUDGE DIPPELL: All right. Thank you very

16 much for that. I don't believe he does, but just in case I

17 missed that communication earlier.

18   I appreciate your testimony and I -- that

19 will conclude it at this time.

20   (Witness excused.)

21   JUDGE DIPPELL: And Mr. Mills, you've been

22 my wonderful technical director, if you could disconnect

23 Mr. Cline.

24   MR. MILLS: I'm happy to.

25   JUDGE DIPPELL: All right. Then I think we

1 can go back to our off-systems sales issues.

2   MR. ZOBRIST: Pardon me. Is that what we're

3 really going to do? We have Mr. Murray right here. And

4 Mr. Woodsmall's not here. Are you -- I mean --

5   MR. THOMPSON: Are you trying to --

6   MR. ZOBRIST: No. I'm really sorry. I just

7 thought since we had David right here and pardon if that's

8 not your intention. I just thought let's get cost of debt

9 done.

10   MR. THOMPSON: Well, I thought we were going

11 back to purchase power or -- but I'll do whatever you want.

12   MR. ZOBRIST: Well, I just -- we don't have

13 Mr. Woodsmall in the hearing room and we've got Mr. Murray

14 and we've just done cost of debt. I would be in favor

15 of --

16   MR. THOMPSON: Well, maybe Mr. Woodsmall has

17 questions.

18   MR. ZOBRIST: I don't know the answer to

19 that question, Mr. Thompson. He's not here in any event.

20   JUDGE DIPPELL: I thought -- I thought that

21 we were just taking Mr. Cline out of order and then we were

22 going to proceed back where we were.

23   MR. ZOBRIST: That's fine. I just have to

24 do another shift. So whatever the Commission wants is --

25   JUDGE DIPPELL: And I'm not sure why

1 Mr. Woodsmall excused himself.

2   MR. ZOBRIST: I can tell Mr. Mills is

3 placing a call to Mr. Woodsmall so that we can get an

4 answer.

5   JUDGE DIPPELL: All right. Okay. Well,

6 let's briefly go off the record.

7   (Off the record.)

8   (Wherein; Staff Exhibit Nos. KCPL 311 NP,

9 KCPL 311 HC, KCPL 312, GMO 269 HC, GMO 269 NP and GMO 270

10 were marked for identification.)

11   JUDGE DIPPELL: Okay. We're back on the

12 record and --

13   MR. THOMPSON: Staff calls David Murray.

14   JUDGE DIPPELL: Thank you. We've decided to

15 go forward -- finish up cost of capital and then go back

16 and finish our other.

17   Mr. Murray, will you please raise your right

18 hand.

19   (Witness sworn.)

20   JUDGE DIPPELL: Thank you. Mr. Thompson?

21   MR. THOMPSON: Thank you, Judge.

22 DAVID MURRAY testifies as follows:

23 DIRECT EXAMINATION BY MR. THOMPSON:

24   Q.   State your name, please.

25   A.   David Murray.

1   Q.   Mr. Murray, are you the same David Murray

2 that has previously filed testimony in this matter and

3 stood cross-examination?

4   A.   Yes.

5   Q.   Okay. And did you prepare or cause to be

6 prepared true-up direct testimony in the KCPL case, which

7 has been numbered 311 HC and NP and in the GMO case, 269 HC

8 and NP?

9   A.   Yes.

10   Q.   And did you also prepare or cause to be

11 prepared true-up rebuttal testimony in the KCPL case

12 numbered 312 and in the GMO case numbered 270?

13   A.   Yes.

14   Q.   Do you have any corrections to any of those

15 pieces of testimony?

16   A.   No.

17   Q.   And if I asked you those same questions

18 today, would your answers be the same?

19   A.   Yes.

20   Q.   And are those answers contained in that

21 testimony true and correct to the best of knowledge and

22 belief?

23   A.   Yes.

24   MR. THOMPSON: At this time, I would offer

25 Exhibits KCPL 311 and 312 and GMO Exhibits 269 and 270.

1 And 311 and 269 are in HC and NP versions, Judge.

2   JUDGE DIPPELL: Thank you. Would there be

3 any objection to KCPL 311, KCPL 312, GMO 269 and GMO 270?

4 And as you mentioned that was 311 HC and 269 HC.

5   MR. ZOBRIST: Judge, we don't have an

6 objection to either KCPL Exhibits 311 or GMO Exhibit 269.

7 We have the objections that we stated earlier yesterday and

8 were argued with regard to Exhibit 312 and 270. So we're

9 not going to -- we're just going to renew that objection

10 and understand that the Commission's decision essentially

11 overrules that, but I am not going to --

12   JUDGE DIPPELL: Yes.

13   MR. ZOBRIST: -- indicate that we do not have

14 an objection, because we do. We think it's untimely. We

15 think it's improper rebuttal.

16   JUDGE DIPPELL: All right. Those objections

17 are overruled and I will admit those four items.

18   (Wherein; Staff Exhibit Nos. KCPL 311 NP,

19 KCPL 311 HC, KCPL 312, GMO 269 HC, GMO 269 NP and GMO 270

20 were received into evidence.)

21   MR. THOMPSON: Thank you, Judge. I would

22 tender Mr. Murray for cross-examination at this time.

23   JUDGE DIPPELL: All right. Then

24 cross-examination from Mr. Mills?

25   MR. MILLS: Just one.

1 CROSS-EXAMINATION BY MR. MILLS:

2   Q.   Mr. Murray, why are the weightings of the

3 capital structure highly confidential in the direct

4 testimony, the direct true-up testimony?

5   A.   At that point GPE had not released it's

6 financial results for year-end 2010.

7   MR. STEINER: Which schedule?

8   MR. MILLS: Schedule 1 to Mr. Murray's

9 true-up direct testimony. And it's reflected also in the

10 body of the testimony.

11   MR. ZOBRIST: You know, I really hadn't

12 considered that if we can think about that after lunch, we

13 may not have a problem with declassifying that.

14   MR. MILLS: Okay. That's all I have, Judge.

15 Thank you.

16   JUDGE DIPPELL: We appreciate that. And if

17 there are any questions regarding that, maybe we can think

18 about it soone. But -- all right.

19   That's all you had, Mr. Mills?

20   MR. MILLS: That's it.

21   JUDGE DIPPELL: Then questions from the

22 Company.

23   MR. ZOBRIST: Thank you, Judge.

24 CROSS-EXAMINATION BY MR. ZOBRIST:

25   Q.   Mr. Murray is it fair to say that the point

1 of dispute with regard of cost of debt all relates to the

2 $250 million senior note issue in this case? Actually in

3 both cases as are being dealt with just here on --

4   A.   On the true-up procedure?

5   Q.   On the true-up. On the true-up proceeding.

6   A.   Yes.

7   Q.   Okay. And that's all. We're not going to

8 go back and reargue what we did in the case in chief. But

9 here in the true-up proceeding the dispute between Staff

10 and the Company relates to the $250 million senior note

11 issue that occurred in August?

12   A.   That's the only note that was issued in

13 between the updated test year and the true-up period.

14   Q.   Right. And were you aware of the exact

15 terms of the -- of the offering when they were disclosed in

16 the SEC filing that was filed on or about August 13, 2010?

17   A.   I did not review the exact terms and

18 conditions when that was filed with the SEC.

19   MR. ZOBRIST: Judge, can I have another

20 exhibit number for KCPL, I suppose?

21   JUDGE DIPPELL: Yes. It is KCPL 125.

22   (Wherein; KCP&L Exhibit No. 125 was marked

23 for identification.

24 BY MR. ZOBRIST;

25   Q.   Mr. Murray, I'm going to hand you a copy of

1 what has been marked as Exhibit 125, which is just a

2 portion of the Form 8-K filed on or about August 13, 2010

3 that pertains to this senior notes issue. And I may have a

4 few questions for you.

5   JUDGE DIPPELL: And this is a public

6 document?

7   MR. ZOBRIST: It sure is. We filed it with

8 the Securities Exchange Commission. I would hope so.

9 BY MR. ZOBRIST:

10   Q.   Are -- you're generally familiar with the

11 filings that public companies like Great Plains Energy and

12 Kansas City Power and Light make with the SEC?

13   A.   Generally familiar with specific filings. I

14 wouldn't say that I review all SEC filings.

15   Q.   Was there a time in the course of this case

16 that you did review Exhibit 125, which is the 8-K that was

17 issued by -- pardon me -- filed by Great Plains Energy with

18 the SEC?

19   A.   No. I reviewed the terms and conditions

20 that were disclosed in the 10-Qs and the 10-Ks. I didn't

21 look specifically at the 8-K.

22   Q.   Were you aware upon reviewing the quarterly

23 and the annual report that an 8-K was issued publicly on or

24 about August 13, 2010?

25   A.   I don't remember anything specifically

1 identifying the 8-K being filed, but it generally would

2 have been considered to be -- have done if it's a publicly

3 traded -- or publicly issued security.

4   Q.   Okay. Publicly traded companies like Great

5 Plains Energy and KCP&L are required to make disclosures of

6 events of certain material events that don't occur on a

7 quarterly basis; is that generally true?

8   A.   Yes.

9   Q.   Okay. And if you would turn to Page 2 of

10 Exhibit 125, am I correct that Item 8.01 entitled Other

11 Events does describe the $250 million senior notes that had

12 an interest rate of 2.75 percent?

13   A.   Yes. It indicates that Great Plains Energy

14 issued the note and the specific coupon rate and the tenor

15 of the note.

16   Q.   And so Exhibit 125 does describe the senior

17 notes that forms the basis of our issue here on true-up.

18 Correct?

19   A.   Issued by GPE, yes.

20   MR. ZOBRIST: Okay. Move the admission of

21 Exhibit 125.

22   JUDGE DIPPELL: Would there be any objection

23 to Exhibit 125?

24   MR. THOMPSON: I object because it's not the

25 entire document.

1   MR. ZOBRIST: Judge, it's only presented

2 with regard to the $250 million note issue.

3   MR. THOMPSON: I object because it's not the

4 entire document.

5   MR. ZOBRIST: Well, I'm not offering the

6 entire document because most of the document is not

7 relevant. If counsel will stipulate that he won't object

8 to a full copy of it, I can put a full 8-K in there. It's

9 not terribly long, but I think it has the entire agreement.

10   This is simply offered for the limited

11 purpose of when it became public.

12   MR. THOMPSON: I would not object if

13 Mr. Zobrist wants to substitute the entire document.

14   JUDGE DIPPELL: All right. Then, I will

15 admit the entire form 8-K, which I believe this indicates

16 was filed on 08/13/10; is that correct?

17   MR. ZOBRIST: That's correct, Judge.

18   JUDGE DIPPELL: And Mr. Zobrist, you can

19 submit that after the -- after the hearing has concluded.

20   (Wherein; KCP&L Exhibit No. KCPL 125 was

21 received into evidence.)

22   (Wherein; KCP&L Exhibit No. 126 was marked

23 for identification.)

24   MR. ZOBRIST: Okay. Thank you, Judge.

25 BY MR. ZOBRIST:

1   Q.   We may have the same issue with my same

2   document, which I'll mark as Exhibit 126. It is excerpts

3   from the Form 10-Q that was filed for the period ending

4   September 30th, 2010.

5   Mr. Murray, do you have exhibit 126 before

6   you?

7   A.   Yes, I do.

8   Q.   I will represent to you that this contains

9   excerpts from the form 10-Q that was filed with the

10 Securities and Exchange Commission on or about October 28,

11 2010 for the period ending -- and that's the quarter ending

12 September 30th, 2010.

13   Are you generally familiar with the full

14 document that was filed at that time?

15   A.   Again, I just -- I review the documents for

16 specific reasons. But I'm generally familiar with the

17 10-Q, yes.

18   Q.   So you did review the 10-Q that was issued

19 by Great Plains Energy for the third quarter ending

20 September 30th, 2010?

21   A.   Yes. At what point, I'm not sure, but I

22 have reviewed the 10-Q, yes.

23   Q.   Okay. Would you turn please to Page 33

24 within this Exhibit 126?

25   A.   Yes.

1   Q.   And at the top of Page 33, am I correct that

2 the 10-Q states at September 30, 2010 GMO had no

3 outstanding cash borrowings and had issued letters of

4 credit totalling $13.2 million under the credit facility?

5   A.   Yes.

6   Q.   And then if you would go toward the bottom

7 of the page in the section that says, Other Great Plains

8 Energy. And then go down about three-quarters of the way.

9 Do you see where it says Great Plains Energy 2.7 percent

10 senior notes due in the year 2013 in the amount of $250

11 million?

12   A.   Yes, I do.

13   Q.   And that again, is the senior notes that

14 we're talking about here on true-up and how the cost of

15 these notes ought to be treated by the Commission?

16   A.   The GPE notes, yes.

17   Q.   Now, if you turn to the next Page 34 about

18 halfway in the typewritten portion of the document it

19 refers to the Great Plains Energy senior notes issued $250

20 million at 2.75 percent unsecured senior notes maturing in

21 2013; is that correct?

22   A.   Yes.

23   Q.   And that's the same issuance we've been

24 talking about?

25   A.   That's correct.

1   Q.   And this document, if you turn to the final

2 pages. It's listed as Page 82. Was filed with the SEC and

3 made public on or about October 28, 2010.

4   A.   Yes.

5   Q.   Okay. When did you learn that this

6 document -- pardon me, that these notes had been issued for

7 the benefit of Great Plains -- pardon me, let me just start

8 again.

9   When did you learn that these senior notes

10 were issued for the benefit of GMO?

11   A.   When true-up direct was filed.

12   Q.   So you had made no inquiry of the Company up

13 until that time?

14   A.   Yes. Excuse me. No. I had not made an

15 inquiry as of -- until the true-up direct testimony was

16 filed.

17   Q.   And do you understand that GMO's credit

18 facility had no outstanding cash borrowings as of September

19 30th, 2010 as indicated in these public documents.

20   A.   Yes. I believe I described that in my

21 testimony. That's correct.

22   Q.   Now, there's a portion of your testimony

23 where you say that this -- that the senior notes were

24 assigned by Mr. Cline to GMO. Isn't it true that this was

25 a management decision by Great Plains Energy to issue these

1 notes for the benefit of GMO?

2   A.   Until I saw Mr. Cline's testimony, I was not

3 aware that that -- you know, the GPE notes would be issued

4 specifically -- or GPE would issue the notes on behalf of

5 GMO.

6   Q.   Well, I'm just trying to make a distinction

7 between what you said at one point in your testimony where

8 it sounded like you thought that Mr. Cline did this

9 personally and then later on in your testimony in rebuttal

10 at Page 2 you state it was a Great Plains Energy decision.

11   It was a decision of the corporation, Great

12 Plains Energy to borrow this -- to issue this debt and to

13 do so for the benefit of KCP&L Greater Missouri Operations

14 Company. Correct?

15   A.   I'm just trying to recall where I might have

16 seen that they specifically said they issued it for GMO.

17   Q.   Let me ask it this way, and if -- I don't

18 mean to interrupt you. Did you want to finish?

19   A.   No. Go ahead.

20   Q.   You don't have any facts to indicate it was

21 not issued and that's it's not being used solely for the

22 benefit of GMO, do you?

23   A.   I believe that's what's alleged, yes.

24   Q.   Well, do you have any facts to disagree with

25 that?

1   A.   I wouldn't say I have any specific facts, I

2 guess.

3   Q.   But what I was trying to get at with my

4 earlier questions is the decision to issue these senior

5 notes and to use the $250 million of debt for the benefit

6 of GMO, this was a management decision by Great Plains

7 Energy. Correct?

8   A.   I'll go one step further and say I think

9 you're correct because I think there was an internal loan

10 document and executed, which was not -- I would imagine

11 that was a management decision.

12   Q.   Now, you're proposal on true-up in both of

13 these cases is for KCP&L to move from it's actual cost of

14 debt of 6.825 percent and substitute one of two other

15 figures that you have calculated; is that fair to say?

16   A.   My recommendation has not changed. My

17 recommendation is the same as far as GMO's cost of debt and

18 KCPL's cost of debt. This -- I provide this scenario

19 assuming that the Commission accepts the Company's position

20 in the general rate case, which is to assign GMO certain

21 adjusted -- certain adjusted cost of debt and use KCPL's

22 cost of debt.

23   This is how this 250 million of debt issued

24 that occurred after the update period should be treated if

25 the Commission accepts the Company's proposed cost of debt

1 position.

2   Q.   What I'm trying to do is contrast on the one

3 hand the position of Staff for GMO and then for KCP&L on

4 the other hand. Do you understand that?

5   A.   Yes.

6   Q.   Okay. Now for GMO Staff's primary

7 recommendation is to use the Empire cost of debt as a

8 proxy; is that correct?

9   A.   Yes.

10   Q.   Okay. And for KCP&L up until your true-up

11 rebuttal in Staff's case in chief, it was to use KCP&L's

12 actual cost of debt. Correct?

13   A.   My recommendation is still to use KCP&L's

14 cost of debt. It's just -- I provided this scenario if the

15 Commission accepts the Company's position within the

16 general rate case. So my position is still 6.825 percent

17 for KCPL.

18   Q.   So these other considerations of assigning

19 the $250 million senior notes and either assign to KCPL a

20 cost of 6.598 percent or 6.659 percent, that's merely just

21 a collateral suggestion that you're putting out there?

22   A.   It's contingent. If the Commission accepts

23 the Company's position in the general rate case, this with

24 the new issue of this $250 million of debt that was issued

25 by GPE that was not shown to be at the GPE level, this is

1 what Staff suggests the Commission due for purposes of

2 true-up if they accept the Company's position in the

3 general rate case.

4   Q.   Well, I -- Mr. Murray, I'm confused. For

5 KCPL, are you adhering to the initial cost of debt of 6.825

6 percent or are you recommending these two hypothetical

7 calculations either the 6.598 percent based on the 2

8 percent assumed coupon rate or the 6.659 percent at the

9 2.75 rate?

10   MR. THOMPSON: Asked and answered;

11 objection.

12   MR. ZOBRIST: I'm sorry. I just -- I truly

13 do not understand. Are you

14   MR. THOMPSON: He already agreed with

15 Mr. Zobrist that these were contingent alternatives,

16 suggestions in the prior question.

17   JUDGE DIPPELL: Well, I think he asked the

18 question slightly different in order to clarify and I'm

19 going to allow it.

20   THE WITNESS: Could you please repeat the

21 question?

22   MR. ZOBRIST: I knew you were going to ask

23 that.

24   JUDGE DIPPELL: Would you like the court

25 reporter to read back?

1   (Wherein; the requested portion of the

2 transcript was read back by the court reporter.)

3   THE WITNESS: My position is 6.825 percent.

4 The consolidated cost of debt indications are assuming

5 that -- because I don't know what the Commission's going to

6 do when it comes to the general rate case. If the

7 Commission accepts the Company's position in the general

8 rate case, I believe this new issue at GPE is something

9 that was -- you know, something that was not known at the

10 time of the general rate case.

11   So I felt compelled to go ahead and give the

12 Commission what I believe would be appropriate if they

13 accept this $250 million debt issue in the true-up, which I

14 did not include in my true-up direct. I think that speaks

15 for itself.

16 BY MR. ZOBRIST:

17   Q.   So in KCP&L, the recommendation of Staff is

18 still 6.825 percent for cost of debt.

19   A.   Yes. And --

20   MR. THOMPSON: Objection; asked and answered

21 three times.

22   MR. ZOBRIST: This is cross-examination,

23 Judge.

24   JUDGE DIPPELL: He's already answered.

25   MR. ZOBRIST: Thank you.

1 BY MR. ZOBRIST:

2   Q.   And for GMO, you're sticking with the

3 proposal to use Empire as a proxy; is that correct?

4   A.   That is correct.

5   Q.   Okay. And you adjusted the proxy based upon

6 an Empire offering, but you're still wanting to use Empire

7 as a proxy?

8   A.   Yes.

9   Q.   And so the testimony that you've given in

10 the GMO true-up rebuttal on these alternative scenarios

11 with the 6.598 percent and the 6.659 percent are really

12 just offered as consideration for the Commission and not

13 truly a recommendation by Staff?

14   A.   Yes. If the Commission accepts the

15 Company's position in the general rate case, I believe I

16 needed to provide that alternative because this was a --

17 this issue -- issue of 250 million was handled differently

18 than the other holding company debt that was discussed

19 during the general rate case.

20   Q.   Now, these two interest rates that you came

21 up with on your items for consideration -- and I'm going to

22 round them just to the 6.60 and 6.66 percent, if that's all

23 right with you. Those are hypothetical percentages.

24 Correct? That you, yourself, calculated?

25   A.   The 6.60, I believe, is correctly -- can be

1 correctly characterized as hypothetical because I adjusted

2 the 2.75 cost of debt. The 6.66 percent I don't believe it

3 would be appropriate to say that I calculated the

4 hypothetical cost of debt because that would have been the

5 consolidated GPE cost of debt based on actual debt issuance

6 with the exception of what we discussed in the general rate

7 case, which was the 500 million of debt at GMO that was

8 adjusted.

9   Q.   The 6.60 percent is hypothetical because you

10 adjusted the coupon rate to 2.0 percent. Correct?

11   A.   That is correct.

12   Q.   Okay. Now, with regard to the holding

13 company structure in which KCP&L and GMO find themselves,

14 would you agree that this is a relatively simple holding

15 company with Great Plains Energy as the holding company and

16 two regulated public utilities as the subsidiaries?

17   A.   Yes.

18   Q.   Okay. Now, on Page 4, I believe, of your

19 GMO true-up rebuttal you talk about the additional

20 amortizations in the context of KCP&L's regulatory plan.

21 Do you recall that, sir?

22   A.   Did you say it was Page 4 of the true-up?

23   Q.   Rebuttal.

24   A.   Rebuttal for GMO.

25   Q.   GMO.

1   A.   Yes. I see that.

2   Q.   Is it true that the additional amortizations

3 pursuant to the regulatory plan are to be flowed back to

4 KCP&L's ratepayers as an offset to rate base?

5   A.   Thank you for the clarification. Yes.

6   Q.   Okay. And that would reduce the rate base

7 upon which customer rates are based. Correct?

8   A.   Yes.

9   Q.   And would you agree that without the

10 additional amortizations that KCP&L might have lost its

11 investment grade credit rating during the past four years

12 of the construction program?

13   A.   It's a possibility.

14   Q.   Okay. Have you done any calculations with

15 regard to what the additional costs of losing an investment

16 grade credit rating would have been for KCP&L?

17   A.   No.

18   Q.   Have you made that calculation for the

19 holding company, Great Plains Energy?

20   A.   No.

21   Q.   Would you agree that it would at least be in

22 the 10s of millions of dollars range if it had occurred?

23   A.   I'd -- speculation. I don't know.

24   MR. ZOBRIST: Okay. That's all I have,

25 Judge. Thank you.

1   JUDGE DIPPELL: Mr. Zobrist, did you intend

2   to offer Exhibit 126?

3   MR. ZOBRIST: I was going to offer Exhibit

4   126 and I will gladly --

5   MR. THOMPSON: Same objection.

6   MR. ZOBRIST: -- give the -- I'd be glad to

7   provide the full document if that's Mr. Thompson's desire.

8   MR. THOMPSON: It is.

9   JUDGE DIPPELL: Do you have any objection to

10 the full document, Mr. Thompson?

11   MR. THOMPSON: None whatsoever.

12   JUDGE DIPPELL: All right. Then I will

13 admit Exhibit 126 and ask the entire document be provided

14 at a later date.

15   (Wherein; KCP&L Exhibit No. 126 was received

16 into evidence.)

17   All right. Then, is there redirect? I'm

18 sorry. Are there questions from the bench?

19   Commissioner Jarrett?

20   COMMISSIONER JARRETT: No. I don't have any

21 questions. Thanks, Judge.

22   JUDGE DIPPELL: Thank you. Is there any

23 redirect?

24   MR. THOMPSON: Just a little bit, Judge.

25 Thank you.

1   JUDGE DIPPELL: All right.

2 CROSS-EXAMINATION BY MR. THOMPSON:

3   Q.   Mr. Murray, do you recall the discussion

4 about the regulatory amortizations with reference to your

5 true-up rebuttal testimony in the GMO case?

6   A.   Yes.

7   Q.   And you agreed with Mr. Zobrist that those

8 are being flowed back, if that's the word, to the

9 ratepayers as a reduction in rate base?

10   A.   Yes.

11   Q.   If you know, is there any gross-up or

12 mark-up or interest flowing back to the ratepayers in

13 addition?

14   A.   Can you please clarify your question?

15   Q.   Well, in other words, is the amount that's

16 flowing back to the ratepayers, if you know, the exact same

17 amount that went to the Company or is there any kind of

18 mark-up to represent the cost of money?

19   A.   I don't know.

20   MR. THOMPSON: Okay. Thank you. No further

21 questions.

22   JUDGE DIPPELL: All right. Then,

23 Mr. Murray, I believe that is all the questions. Again, I

24 don't believe there are any other questions from the

25 Commissioners. If I find out different at lunch, I may

1 recall you.

2   THE WITNESS: Okay. Thank you.

3   JUDGE DIPPELL: Thank you.

4   (Witness excused.)

5   JUDGE DIPPELL: All right. That brings us

6 then to the end of that issue and we would be ready to go

7 back to the off-system sales. It's ten til 12:00. Do you

8 want to break now for lunch? I'm seeing lots of heads

9 nodding yes, so let's go ahead and do that. Let's come

10 back at one o'clock.

11   We're off the record.

12   (Off the record.)

13   JUDGE DIPPELL: All right. We are back from

14 our lunch break and ready to go back to our witnesses on

15 the off-system sales issue. And the order as I have it

16 right now should be Harris, Featherstone, Meyer. Is that,

17 everyone's understanding? All right.

18   And then I think that will be the end for

19 the day. So would Staff like to go ahead?

20   MR. THOMPSON: Thank you, Judge. Staff

21 would call V. William Harris.

22   JUDGE DIPPELL: Mr. Harris, would you raise

23 your right hand?

24   (Witness sworn.)

25   JUDGE DIPPELL: Go ahead, Mr. Thompson.

1   MR. THOMPSON: Thank you, Judge.

2 V. WILLIAM HARRIS testifies as follows:

3 DIRECT EXAMINATION BY MR. THOMSPON:

4   Q.   State your name please.

5   A.   V. William Harris.

6   Q.   Mr. Harris, are you the same V. William

7 Harris that has previously filed testimony in this case and

8 stood cross-examination?

9   A.   Yes.

10   Q.   And did you prepare or have prepared one

11 item of testimony, a rebuttal true-up testimony in the 0355

12 case that has been filed for true-up?

13   A.   Yes.

14   MR. THOMPSON: I don't know what the number

15 of that is, Your honor?

16   JUDGE DIPPELL: I'm looking. I'm sorry.

17 That's in the 355 case?

18   MR. THOMPSON: In the 355 case, yes.

19   JUDGE DIPPELL: Helped if I looked in the

20 right place. KCPL 307.

21   MR. THOMPSON: 307. Thank you.

22   (Wherein; Staff Exhibit Nos. KCPL 307 HC and

23 KCPL 307 NP were marked for identification.)

24 BY MR. THOMPSON:

25   Q.   And if I were to ask you those questions

1 today, Mr. Harris, would your answers be the same?

2   A.   They would.

3   Q.   Do you -- do you have any corrections? I'm

4 sorry, I should have asked you.

5   A.   No, I don't.

6   Q.   Okay. And the answers contained therein are

7 true and correct to the best of your knowledge and belief?

8   A.   Yes.

9   MR. THOMPSON: Okay. At this time, I would

10 move the admission of Exhibit KCPL 307.

11   JUDGE DIPPELL: I'm sorry. Would there be

12 any objection to KCPL 307?

13   MR. ZOBRIST: No objection.

14   MR. THOMPSON: And I will tender Mr. Harris

15 for cross-examination.

16   JUDGE DIPPELL: And I will admit Exhibit

17 307.

18   (Wherein; Staff Exhibit Nos. KCPL 307 NP and

19 KCPL 307 HC were received into evidence.)

20   MR. THOMPSON: Thank you.

21   JUDGE DIPPELL: Am I going to have

22 cross-examination from anyone other than the Company? All

23 right. Then, Mr. Zobrist.

24   MR. ZOBRIST: I don't have any questions,

25 Judge.

1   JUDGE DIPPELL: That makes it quick and easy

2 from this perspective. Just double check my e-mail here.

3 All right. I don't believe there are any questions from

4 the bench.

5   So in that case, Mr. Harris your testimony's

6 concluded and you may be excused.

7   MR. HARRIS: Thank you.

8   (Witness excused.)

9   MR. THOMPSON: Judge, we don't have any

10 questions for Mr. Featherstone on the off-system sales. I

11 don't know if there's any other -- so the Company has no

12 further questions for Mr. Featherstone either.

13   JUDGE DIPPELL: All right.

14   MR. WOODSMALL: Did we get his testimony

15 marked earlier? I just didn't get it down.

16   JUDGE DIPPELL: It -- no, not yet. Well, in

17 that case Mr. Thompson, if you would -- I assume that means

18 if there are no questions that the counsel are also willing

19 to waive the preliminary questions if you just want to

20 offer.

21   Mr. THOMPSON: Well, we will go right to the

22 exhibits then if counsel waives the preliminary. For

23 Mr. Featherstone we have direct and rebuttal testimony.

24 It's identical in both cases and I don't know the numbers.

25   JUDGE DIPPELL: Okay. I have the -- that

1 was -- since it was identical testimony filed in the

2 same -- in both cases, I just gave that one number, a KCPL

3 number of 304. Oh, I'm sorry. Yes. 304 HC and NP and 305.

4   (Wherein; Staff Exhibit Nos. KCPL 305, KCPL

5 304 HC and KCPL 304 NP were marked for identification.)

6   MR. THOMPSON: Okay. We also have the Staff

7 true-up accounting schedules and the reconciliation, the

8 true-up reconciliation. I believe the accounting schedules

9 exist in an original true-up accounting schedule form and

10 then a revised form.

11   Do you want to put both of those in?

12   MR. STEINER: Just the revised.

13   MR. THOMPSON: Just the revised. Okay. I

14 don't think those have been pre-marked. Or perhaps they

15 have?

16   JUDGE DIPPELL: They actually have.

17   MR. THOMPSON: Okay. Great.

18   JUDGE DIPPELL: I have labeled the revised

19 true-up cost of service Staff accounting schedules as KCPL

20 302.

21   MR. THOMPSON: Okay.

22   JUDGE DIPPELL: And GMO 267.

23   (Wherein; Staff Exhibit Nos. KCPL 302 and

24 GMO 267 were marked for identification.)

25   MR. THOMPSON: And how about the

1 reconciliation?

2   JUDGE DIPPELL: Those I don't -- I have not

3 yet given a number to, but can do that.

4   MR. THOMPSON: Okay.

5   JUDGE DIPPELL: Let's start with the

6 accounting schedules and go ahead. Let's go ahead and take

7 care of Mr. Featherstone's testimony and then the

8 accounting schedule. And then I'll come to the

9 reconciliations.

10   MR. THOMPSON: Certainly Judge. I would

11 offer KCPL Exhibit 304 HC & NP, which is Mr. Featherstone's

12 true-up direct, and KCPL Exhibit 305, which is

13 Mr. Featherstone's true-up rebuttal.

14   JUDGE DIPPELL: And would there be any

15 objection to Exhibits 304 and 305?

16   MR. ZOBRIST: No objection.

17   JUDGE DIPPELL: Then I will admit those.

18   (Wherein; Staff Exhibit Nos. KCPL 304 HC,

19 KCPL 304 NP, and KCPL 305 were received into evidence.)

20   MR. THOMPSON: I will also offer Exhibits

21 KCPL 302 and GMO 267, which are the revised staff costs of

22 service accounting schedules.

23   MR. ZOBRIST: No objection.

24   JUDGE DIPPELL: And any other objection?

25   Seeing none, then I will admit KCPL 302 and

1 GMO 267.

2   (Wherein; Staff Exhibit Nos. KCPL 302 and

3 GMO 267 were marked for identification.)

4   MR. THOMPSON: And that brings us, Your

5 Honor, to the reconciliation.

6   JUDGE DIPPEL: And there's one of each of

7 those for each --

8   MR. THOMPSON: I believe there is one for

9 each case.

10   JUDGE DIPPELL: Yes, okay. Then I will

11 label the GMO reconciliation as GMO 271.

12   MR. THOMPSON: Okay.

13   JUDGE DIPPELL: And the KCPL reconciliation

14 as KCPL 328.

15   MR. THOMPSONL: Thank you, Your Honor. At

16 this time, I would move the admission of the Exhibit KCPL

17 328 and Exhibit GMO 271.

18   JUDGE DIPPELL: Would there be any objection

19 to those reconciliations?

20   MR. ZOBRIST: No objection.

21   JUDGE DIPPELL: Seeing none, then I will

22 admit KCPL 328 and GMO 271.

23   (Wherein; Staff Exhibit Nos. KCPL 328 HC and

24 GMO 271 HC were received into evidence.)

25   MR.THOMPSON: Thank you, Your Honor.

1   JUDGE DIPPELL: And those were -- I should

2 have labeled those were -- those were both HC.

3   MR. THOMPSON: The reconciliation?

4   JUDGE DIPPELL: Yes. Their marked HC on my

5 copies anyway.

6   MR. THOMPSON: Okay. That will be that,

7 then.

8   Do I need to get you copies of the

9 reconciliation?

10   THE COURT REPORTER: I don't have those.

11   MR. THOMPSON: You have them?

12   JUDGE DIPPELL: Mr. Zobrist, you were about

13 to say something?

14   THE COURT REPORTER: No. I do not.

15   MR. THOMPSON: You do not?

16   THE COURT REPORTER: I need them.

17   MR. THOMPSON: Okay. I don't have them now.

18   THE COURT REPORTER: Okay.

19   MR. ZOBRIST: Judge, I want to deal with a

20 different issue Mr. Mills brought up.

21   JUDGE DIPPELL: Okay. Go ahead. Now, wait

22 just one minute.

23   MR. THOMPSON: One note, Your Honor.

24   JUDGE DIPPELL: Yes.

25   MR. THOMPSON: KCPL 307, Mr. Harris's

 1 rebuttal is also HC.

 2   JUDGE DIPPELL: 307 or 302?

 3   MR. THOMPSON: I thought you told me it was

 4 307.

 5   JUDGE DIPPELL: Oh, Oh. Mr. Harris's.

 6 Okay. Yes. I'm sorry.

 7   MR. THOMPSON: Should be HC and NP.

 8   JUDGE DIPPELL: Okay.

 9   MR. THOMPSON: Thank you.

10   JUDGE DIPPELL: And -- all right. I have to

11 catch up now. Okay. We are ready to go on then with

12 Mr. Meyer and he has already taken the stand. Will you

13 raise your right hand?

14   (Witness sworn.)

15   JUDGE DIPPELL: Thank you. Mr. Woodsmall?

16   MR. WOODSMALL: Thank you, Your Honor.

17 GREG MEYER testifies as follows:

18 DIRECT EXAMINATION BY MR. WOODSMALL:

19   Q.   Would you state your name for the record

20 please?

21   A.   Greg Meyer.

22   Q.   And are you the same Greg Meyer that

23 previously testified in this matter?

24   A.   Yes, I am.

25   Q.   Did you cause to be file what has been

 1 marked as Exhibit No. 1216 true-up rebuttal testimony and

 2 schedules?

 3   A.   Yes, I did.

 4   Q.   And do you have any changes or corrections

 5 to make to that testimony?

 6   A.   Yes, I do. The corrections are for HC

 7 numbers so we probably need to --

 8   JUDGE DIPPELL: All right. Okay. Give me

 9 just one moment.

10   (REPORTER'S NOTE: At this point, an

11 in-camera session was held, which is at Volume 46, Page

12 4918.)

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1   JUDGE DIPPELL: Okay. Go ahead

2 Mr. Woodsmall.

3 BY MR. WOODSMALL:

4   Q.   Subject to those corrections, if I were to

5 ask you the same testimony -- the same questions that are

6 contained in Exhibit 1216, would your answers be the same

7 or substantially the same?

8   A.   Yes.

9   Q.   And are they correct to the best of your

10 knowledge and belief?

11   A.   I believe so.

12   MR. WOODSMALL: Your Honor, I'd offer

13 Exhibit 1216 into evidence.

14   JUDGE DIPPELL: Would there be any objection

15 to Exhibit 1216?

16   MR. ZOBRIST: No objection.

17   JUDGE DIPPELL: Hearing none, then I will

18 admit it.

19   (Wherein; Industrial Exhibit KCPL 1216 was

20 received into evidence.)

21   MR. WOODSMALL: I tender the witness for

22 cross-examination.

23   JUDGE DIPPELL: And will there be

24 cross-examination of Mr. Meyer from anyone other than the

25 Company?

1   MR. ZOBRIST: The Company does not have any

2 questions.

3   JUDGE DIPPELL: You guys are making it easy

4 on me. All right. Then, I guess if there are no questions

5 for Mr. Meyer then you may step down.

6   (Witness excused.)

7   MR. THOMPSON: Darn.

8   MR. WOODSMALL: Should have stayed at lunch.

9   JUDGE DIPPELL: I started to say we should

10 have taken care of this before lunch. Okay. Then I think

11 that that concludes -- oh, Mr. Zobrist, you had one more

12 issue.

13   MR. ZOBRIST: Mr. Mills asked about some HC

14 figures that were in Mr. Murray's true-up direct, I

15 believe. And those figures now have been disclosed in the

16 10-K, so they can be declassified.

17   JUDGE DIPPELL: Okay. Thank you very much.

18   MR. MILLS: Same for KCPL and GMO.

19   JUDGE DIPPELL: Okay.

20   MR. MILLS: For Murray's.

21   JUDGE DIPPELL: Yes? Go ahead, Mr. Steiner.

22   MR. WOODSMALL: I had --

23   JUDGE DIPPELL: Go ahead, Mr. Woodsmall.

24 You have something in your hand?

25   MR. WOODSMALL: Yeah. I was going have one

1 data request request marked and offer it into -- into

2 evidence.

3   MR. STEINER: Do you have a witness you're

4 going to do this with?

5   MR. WOODSMALL: No. It's

6 self-authenticating. It's signed by the Company. It's an

7 admission.

8   MR. STEINER: I still think you need a

9 witness.

10   MR. WOODSMALL: I don't need a witness if

11 it's an admission signed by the Company.

12   MR. STEINER: Yeah, you do. Why do you

13 think it's self-authenticating just because it's signed?

14   MR. WOODSMALL: Because it's signed. Okay.

15 We can put Mr. Rush up if you doubt that the signature is

16 the Company's.

17   MR. STEINER: He's not here.

18   JUDGE DIPPELL: Let me mark this and then we

19 can have our arguments about it. And is this a joint

20 exhibit?

21   MR. WOODSMALL: No. It would just be in the

22 KCP&L on the issue of off-system sales.

23   JUDGE DIPPELL: So this would be KCPL 1219.

24 Now Mr. Woodsmall, why don't you explain to us what we're

25 doing since this is a little unusual to have an exhibit

 1 offered.

 2   MR. WOODSMALL: I guess I'd tell you it's

 3 not unusual. We introduced the same way Exhibits 1209,

 4 1210, 11, 12, 13, 14, and 15 just on the fact that they are

 5 admissions, self-authenticating with a signature of the

 6 Company.

 7   Now, if the affidavit basically at the end

 8 says the response to Data Request 20.3 is true and accurate

 9 to the best of my knowledge and belief and signed by

10 Mr. Rush. But the Company's telling us now that that's not

11 an accurate signature or the Company's telling us that the

12 information isn't true and accurate, then we can deal with

13 that.

14   If the objection is, it's not relevant we

15 can deal with that. But it is authenticated by the

16 Company.

17   MR. STEINER: Well, Your Honor --

18   JUDGE DIPPELL: Mr. Steiner?

19   MR. STEINER: -- it was done before but

20 there was a witness we could ask questions about the DR. We

21 don't have that opportunity now.

22   MR. WOODSMALL: You want to ask --

23   MR. STEINER: It's just out there. An

24 exhibit's always done with a witness.

25   MR. WOODSMALL: Admission's don't require a

 1 witness.

 2   MR. STEINER: It's not an admission. It's a

 3 data request.

 4   MR. WOODSMALL: But it's an admission that

 5 the information -- I'm sorry -- we're not in camera. The

 6 number that was contained in Data Request 17.14, the

 7 off-system sales do not include Iatan 2. That's an

 8 admission.

 9   JUDGE DIPPELL: Are you -- and so let me

10 just make this official then. The Exhibit 1219 has been

11 offered and there are -- there is an objection. Are there

12 any other objections besides those expressed by the

13 Company?

14   MR. THOMPSON: No objection from Staff.

15   MR. WOODSMALL: Your Honor, I guess I

16 question how I would possibly get this data request in

17 unless I subpoenaed Mr. Rush.

18   MR. STEINER: Through Mr. Schnitzer or

19 Mr. Crawford. We had witnesses on this -- you didn't have

20 Mr. Rush for the ones you identified earlier and got in

21 through a witness.

22   MR. WOODSMALL: Mr. Schnitzer and

23 Mr. Crawford didn't sign the data request.

24   MR. STEINER: You didn't do your previous

25 ones through Mr. Rush either.

1   MR. WOODSMALL: Am I supposed to assume --

2 am I supposed to assume that your witness on the issue

3 would be able to authenticate every data request or -- I'm

4 still baffled as to why it takes a witness to say, Yeah

5 that's Mr. Rush's signature.

6   MR. STEINER: Because they can authenticate

7 it.

8   JUDGE DIPPELL: Okay. I'm going to just

9 take this one under advisement. I'll make a ruling on it

10 hopefully before your first round of briefs is due.

11   MR. THOMPSON: Is that tomorrow?

12   JUDGE DIPPELL: Pretty soon. I'm going to

13 punt on this one for the time being. Is there any -- are

14 there any other housekeeping matters or other evidence?

15   MR. STEINER: There are some more, but

16 Mr. Woodsmall had his opening packet marked as an exhibit

17 and it contained HC information. I don't think it was

18 marked HC, if you could do that?

19   JUDGE DIPPELL: You are correct. And that

20 was 1218 and it should 1218 HC.

21   And are there any other --

22   MR. STEINER: Any other items for me to

23 check I can do that now if you're interested on the

24 confidentiality of certain documents from yesterday.

25   JUDGE DIPPELL: So if you want to do that

1 now is there a different time?

2   JUDGE DIPPELL: No. That's fine. Now is as

3 good of time as any.

4   MR. STEINER: It was 316 HC that I think

5 Mr. Williams --

6   JUDGE DIPPELL: Yes.

7   MR. STEINER: -- and that can be a public

8 document.

9   JUDGE DIPPELL: Okay. So KCPL 316 is no

10 longer highly confidential.

11   MR. STEINER: And then you asked me about

12 296, 297 and 295. That was KCPL 296, 297 and 295.

13   JUDGE DIPPELL: Yes.

14   MR. STEINER: And those, I believe, still

15 need to be highly confidential.

16   JUDGE DIPPELL: Okay. And those were from

17 the earlier weeks of hearing?

18   MR. STEINER: That's correct.

19   JUDGE DIPPELL: Okay. Were there any

20 others? Does that cover it all?

21   MR. STEINER: That's it. I don't --

22   JUDGE DIPPELL: Okay. Did anyone else have

23 any evidentiary matters or exhibits or --

24   MR. ZOBRIST: Well, I just wanted to confirm

25 a response to Mr. Mills question that the financial

1 information in both of those instances, the KCPL and the

2 GMO case, that Mr. Murray cited they can be declassified.

3 I'm not sure we answered your question.

4   They have both been made public.

5   JUDGE DIPPELL: Right. All right. Then I

6 don't have anything further at this time. I'm just making

7 sure we've got everything covered here. It looks like we

8 did and it looks like the exhibits were --

9   MR. STEINER: Could I --

10   JUDGE DIPPELL: Yes.

11   MR. STEINER: Mr. Dottheim wanted to get

12 something on the record regarding some deposition exhibits,

13 so we can get him down here or we can do it off the record,

14 but I know he mentioned to me that he wanted to talk about

15 that with you about how they're presented. And there's

16 some HC information in those, so I just --

17   JUDGE DIPPELL: Okay.

18   MR. STEINER: -- before we close up shop.

19   JUDGE DIPPELL: Before we adjourn perhaps we

20 should --

21   MR. STEINER: Maybe -- I could call him.

22   JUDGE DIPPELL: All right. Let's -- let's

23 take a break until 1:30 and go off the record and we'll

24 come back on to either take the further deposition exhibits

25 or adjourn for the day.

1   (Off the record.)

2   JUDGE DIPPELL: And we had a brief recess

3 there to bring Mr. Dottheim back to the hearing room

4 because we have some exhibits, which were depositions.

5 They've been marked as KCPL 298 HC, which was the Bassham

6 deposition, KCPL 299 HC, which is the Shoemaker (ph.)

7 depositions, and -- or deposition, and the KCPL 300 HC,

8 which is McDonald deposition.

9   And Mr. Dottheim, do you want to --

10   MR. DOTTHEIM: Yes. The Staff at this time

11 would like to offer Exhibits 298, 299 and 300. The Bassham

12 deposition, which is Exhibit 298 does -- not have any

13 exhibits to that deposition. Exhibit 299, which is the

14 Shoemaker deposition, does have exhibits. And those

15 exhibits will be -- they're shown as exhibits, but probably

16 they might, for purposes of clarity be characterized as

17 schedules.

18   And Exhibit 300 is the McDonald deposition

19 and it has six deposition exhibits that, for purposes of

20 clarity, might be referred to as schedules. And all three

21 depositions and deposition exhibits -- deposition schedules

22 will be filed by the Staff in EFIS or provided to the

23 Commission to the -- what -- if the bench would specify how

24 the Staff should proceed.

25   Staff will have copies to provide on Monday

1 and those will all be designated in entirety as HC.

2   JUDGE DIPPELL: Why don't you go ahead and

3 submit them to EFIS yourself and I will designate them as

4 being attached to the transcript. That that will let

5 others have access to them quicker than if we wait for the

6 transcript.

7   And we also discussed the exhibit -- and

8 I've forgotten now which -- which deposition that it was

9 attached to, which was the same as another already entered

10 exhibit in the hearing and I have requested that you just

11 attach the cover page of that exhibit and reference where

12 it is elsewhere in the evidence so that we don't have it

13 duplicated in the record.

14   MR. DOTTHEIM: Yes. That -- that is the

15 exhibit 1 to the Shoemaker deposition, which the Shoemaker

16 deposition is Exhibit 299. Exhibit 1, which is Schedule 1

17 to the Shoemaker deposition is already in the record as

18 KCPL Exhibit 251 HC. And it is the Iatan construction

19 project, project execution plan.

20   JUDGE DIPPELL: All right. And would there

21 be any objection to KCPL exhibits 298, 299 and 300?

22   MR. STEINER: Could I just have a minute off

23 the record to talk to Steve for a second?

24   JUDGE DIPPELL: Yes. Let's go off the

25 record.

 1   (Off the record.)

 2   MR. STEINER: What was the question pending

 3 to me?

 4   JUDGE DIPPELL: Were there any objections?

 5   MR. STEINER: No objections.

 6   JUDGE DIPPELL: All right. And so I will

 7 admit those documents.

 8   (Wherein; Staff Exhibits 298, 299 and 300

 9 were received into evidence.)

10   JUDGE DIPPELL: And also the Company is

11 going to review those and by Monday at noon let us know if

12 there are portions which can be declassified.

13   MR. STEINER: That's correct.

14   JUDGE DIPPELL: All right. Is there

15 anything else?

16   I did -- forgot to ask before a majority of

17 people left about the transcript for the true-up hearing

18 and whether it needed to be expedited because I had not

19 previously asked the court reporter.

20   Mr. Dottheim?

21   MR. DOTTHEIM: Yes. I'm sorry. Mr. Steiner

22 just -- while we were conferring, he did remind me of

23 something that I do want to clarify, which I don't have in

24 front of me, which I apologize for.

25   And the Staff had wanted to put the entirety

1 of the Shoemaker and the McDonald exhibits -- have those

2 admitted. I had actually had drafted a draft pleading,

3 which I provided to the Company wherefore I had the -- I

4 had -- in fact, Mr. Steiner has actually provided me with a

5 copy of it wherefore Mr. Bassham's deposition I had

6 specified certain pages of the deposition that I wanted to

7 offer into evidence.

8   And I had done that with the -- with the

9 McDonald deposition also. It actually it -- I have page

10 numbers. It actually constitutes in essence the entirety

11 of the McDonald and Shoemaker depositions, but it's only a

12 portion of the Bassham deposition. They're just a limited

13 number of pages that we don't have a need for in

14 Mr. Bassham's.

15   JUDGE DIPPELL: So is Mr. Bassham's

16 deposition in it's entirety or are there just portions?

17   MR. DOTTHEIM: Portions.

18   JUDGE DIPPELL: All right.

19   MR. DOTTHEIM: And I can give you the page

20 numbers right now.

21   JUDGE DIPPELL: All right. Go ahead.

22   MR. DOTTHEIM: And I can give you the page

23 numbers for -- for Mr. McDonald and Ms. Shoemaker.

24   JUDGE DIPPELL: Those are not in their

25 entirety?

1   MR. DOTTHEIM: It -- it -- it actually -- it

2 actually is, but I -- I've -- I've specified page numbers.

3 I mean, there's like the introductory material.

4   MR. STEINER: Could I --

5   MR. DOTTHEIM: Go ahead.

6   MR. STEINER: Could I interrupt?

7   MR. DOTTHEIM: Yes.

8   MR. STEINER: I mean, since we're marking it

9 all HC I don't know if you need to do that, Steve. And

10 then I can tell you what portions aren't HC, would just be

11 a way to short circuit putting portions in and that's --

12   JUDGE DIPPELL: If that's what the Company

13 wants to do, because that was the stipulation when I made

14 the original ruling, was that the Company would be allowed

15 to supplement anything. And if it just all comes in then

16 we won't have to worry about anybody supplementing anything

17 later anyway.

18   MR. STEINER: Right.

19   JUDGE DIPPELL: So maybe it's easier if it

20 just all comes in.

21   MR. DOTTHEIM: That's -- that's fine. I

22 mean, frankly we were -- we were trying to be sensitive to

23 concerns of the Company on --

24   JUDGE DIPPELL: I appreciate that.

25   MR. DOTTHEIM: -- on that.

1   JUDGE DIPPELL: And the length of the

2   record, I appreciate trying to keep it short, but at this

3   point I think --

4   MR. STEINER: Steve was trying to look out

5   for the information and we appreciate that. But if it's

6   marked HC, then I tell you what portions aren't, I think

7   the affect is --

8   JUDGE DIPPELL: So let's just leave it as we

9   have it then. I think that will be best. Okay. Is there

10 anything else?

11   Do you all want me to ask the court reporter

12 to expedite this true-up hearing transcript?

13   MR. STEINER: I think that's a good idea.

14 Yes.

15   JUDGE DIPPELL: All right. I will confer

16 with her when we're done here to see how quickly she thinks

17 she can get to that. With that, I think that concludes

18 this hearing.

19   There are still a few late-filed exhibits

20 out there that we have not gotten objections to and

21 admitted. But I will take a look at that and get responses

22 to those as quickly as we can.

23   With that, I think we are finished and we

24 can go off the record. The hearing's adjourned.

25   (Wherein; the hearing is adjourned.)

1   CERTIFICATE OF REPORTER

2

3   I, Lisa M. Banks, CCR within and for the State of

4   Missouri, do hereby certify that the witness whose testimony

5   appears in the foregoing deposition was duly sworn by me;

6   the testimony of said witness was taken by me to the best of

7   ability and thereafter reduced to typewriting under my

8   direction; that I am neither counsel for, related to, nor

9   employed by any of the parties to the action in which this

10 deposition was taken, and further, that I am not a relative

11 employee of any attorney or counsel employed by the parties

12 thereto, nor financially or otherwise interested in the

13 of the action.

14

15

16   _____
                        Lisa M. Banks, CCR
17

18

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