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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
April 20 2009
Jefferson City, Missouri
Volume 11

In the Matter of the Application)
of Kansas City Power and Light)
Company For Approval to Make)
Certain Changes in its Charges for) Case No. ER-2009-0089
Electric Service to Continue the)
Implementation of Its Regulatory)
Plan)

HAROLD STEARLEY, Presiding,
SENIOR REGULATORY LAW JUDGE

ROBERT M. CLAYTON III, Chairman,
CONNIE MURRAY,
TERRY JARRETT,
COMMISSIONERS.

REPORTED BY:
KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

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1 P R O C E E D I N G S

2 JUDGE STEARLEY: Good morning. Today is
3 Monday, April 20th, 2009, and the Commission has set this
4 time for an evidentiary hearing in Case No. ER-2009-0089,
5 in the matter of the application of Kansas City Power &
6 Light Company for approval to make certain changes in its
7 charges for electric service to continue the
8 implementation of its regulatory plan.

9 My name is Harold Stearley and I'm the
10 Regulatory Law Judge presiding over this matter. The
11 court reporter this morning is Kellene Feddersen.

12 We will begin by taking entries of
13 appearance, starting with Kansas City Power & Light
14 Company.

15 MR. FISCHER: Good morning, Judge. My name
16 is Jim Fischer. I'll be appearing today on behalf of
17 Kansas City Power & Light Company. With me are also
18 William Riggins, Curtis Blanc, Carl Zobrist, Roger Steiner
19 and Chuck Hatfield on behalf of the company. Thank you.
20 Our written entries have the addresses and phone numbers
21 on them.

22 JUDGE STEARLEY: Thank you, Mr. Fischer.
23 City of Kansas City, Missouri.

24 MR. COMLEY: Good morning, Judge Stearley.
25 Let the record reflect the entry of appearance of Mark W.

1 Comley, Newman, Comley & Ruth, 601 Monroe, Suite 301,
2 Jefferson City, Missouri 65101, on behalf of City of
3 Kansas City.

4 JUDGE STEARLEY: Thank you, Mr. Comley.
5 The Empire District Electric Company.

6 MS. CARTER: Diana Carter of Brydon,
7 Swearingen & England, P.C., on behalf of The Empire
8 District Electric Company and also Missouri Gas Energy,
9 and we also have Russ Mitten on behalf of Empire. Written
10 entries were filed.

11 JUDGE STEARLEY: Thank you, Ms. Carter.
12 Midwest Energy Users Association.

13 MR. WOODSMALL: Good morning, your Honor.
14 Appearing on behalf of Midwest Energy Users Association
15 and Praxair, Stuart W. Conrad and David Woodsmall, the
16 firm Finnegan, Conrad & Peterson. Our address has
17 previously been entered in our written appearance.

18 JUDGE STEARLEY: Thank you, Mr. Woodsmall.
19 Trigen-Kansas City Energy Corporation.

20 MR. KEEVIL: Yes, Judge. Appearing on
21 behalf of Trigen-Kansas City Energy Corporation,
22 Jeffrey A. Keevil of the law firm Stewart & Keevil, LLC.
23 I've also submitted a written entry with the address and
24 mailing address and phone number. Thank you.

25 JUDGE STEARLEY: Thank you, Mr. Keevil.

1 Missouri Industrial Energy Consumers.

2 (No response.)

3 JUDGE STEARLEY: Let the record reflect we
4 have no entry for MIEC.

5 Union Electric Company, doing business as
6 AmerenUE.

7 MR. LOWERY: Good morning, your Honor.
8 James B. Lowery, the law firm of Smith Lewis, LLP,
9 appearing on behalf of Union Electric Company, and my
10 written entry of appearance also reflects my address and
11 phone number.

12 JUDGE STEARLEY: Thank you, Mr. Lowery.
13 Ford Motor Company.

14 (No response.)

15 JUDGE STEARLEY: And let the record reflect
16 we also have no entry for Ford.

17 United States Department of Energy,
18 National Nuclear Security Administration and the Federal
19 Executive Agencies.

20 MR. BRUDER: Arthur Perry Bruder, 1000
21 Independence Avenue Southwest, Washington, D.C. 20585.
22 Good morning, Judge.

23 JUDGE STEARLEY: Good morning. Thank you,
24 Mr. Bruder. Our hospital intervenors.

25 MR. ZAKOURA: Your Honor, James B. Zakoura.

1 I have a motion --

2 THE REPORTER: I'm sorry. You need to
3 speak up or use a microphone.

4 JUDGE STEARLEY: If you could approach to
5 the podium, Mr. Zakoura, you can make benefit of our
6 microphone here.

7 MR. ZAKOURA: Thank you, your Honor. Since
8 I was not yet admitted, I didn't know if I was allowed to.

9 JUDGE STEARLEY: Yes.

10 MR. ZAKOURA: I'm James P. Zakoura on
11 behalf of the metropolitan Kansas City hospitals. I have
12 a motion pro hoc vice filed before the Commission which
13 has not yet been ruled upon. My co-counsel, Ms. Connie
14 Shidler, is coming from Kansas City and has been delayed
15 in traffic so she has not yet arrived. But we are here
16 when the Commission asks.

17 JUDGE STEARLEY: Your motion will be
18 granted, Mr. Zakoura. There's one minor detail. You had
19 named local counsel of Neil Sader, I believe, and he needs
20 to technically by our rule file a written separate entry
21 of appearance in the case. If you can have that done at
22 some time before conclusion of the case, that will be
23 satisfactory.

24 MR. ZAKOURA: Absolutely, your Honor. I'll
25 do that at the first break. May I move forward to counsel

1 table at this point?

2 JUDGE STEARLEY: Certainly.

3 MR. ZAKOURA: Thank you.

4 JUDGE STEARLEY: Missouri Department of
5 Natural Resources.

6 MS. WOODS: Good morning. Shelley Ann
7 Woods, Assistant Attorney General, Post Office Box 899,
8 Jefferson City, Missouri 65102, and I have with me today
9 Sarah Colyer, also with the Office of the Attorney
10 General, appearing on behalf of the Missouri Department of
11 Natural Resources.

12 JUDGE STEARLEY: Thank you, Ms. Woods. The
13 Office of the Public Counsel.

14 MR. MILLS: On behalf of the Office of the
15 Public Counsel and the public, my name is Lewis Mills. My
16 address is Post Office Box 2230, Jefferson City, Missouri
17 65102. Thank you.

18 JUDGE STEARLEY: Thank you, Mr. Mills. And
19 the Staff of the Missouri Public Service Commission.

20 MR. THOMPSON: Thank you, Judge. For the
21 Staff, Kevin Thompson, Steven Dottheim, Eric Dearmont,
22 Jennifer Hernandez, Sarah Kliethermes, Jaime Ott, Samuel
23 Ritchie and Nathan Williams, P.O. Box 360, Jefferson City,
24 Missouri 65101.

25 JUDGE STEARLEY: Thank you, Mr. Thompson.

1 Have I missed anybody? Very good.

2 A couple preliminary matters we need to
3 address. As always, I need to advise you all to please
4 turn off any cell phones, Blackberries, other electrical
5 devices that may interfere with our recording and our
6 webcasting.

7 Additionally, I know that many of the
8 parties here today are not here for every single issue,
9 and the Commission has a sort of liberal attendance policy
10 with regard to those policies. You're not expected to be
11 here every single day of the hearing. However, if a party
12 is absent on a day when cross-examination of witnesses are
13 occurring, they will be deemed to have waived their
14 cross-examination of those particular witnesses.

15 I'd also like to advise the parties that
16 the Commission has agenda meetings scheduled for
17 Wednesdays, April 22nd, April 29th, which are set for
18 noon. We will try to conform our schedule around those
19 times so that the Commissioners may be in the agenda
20 meetings and any of the parties who may have orders on
21 those agendas may be present. So we'll probably take
22 extended lunch breaks on those days so people can attend
23 agenda and break for lunch as well.

24 There are several pending motions that I'd
25 like to rule on at this time. Staff had an April 15th

1 Motion for Leave to Late File a Response, and that is
2 granted. Their response regarded briefing differences in
3 issues lists, and since Staff did not brief issues per se,
4 Kansas City Power & Light was alleviated of any need to
5 file reply brief to that as well.

6 Department of Natural Resources had an
7 April 16th Motion to Late File a Position Statement and
8 Amended Issues List. That too is granted.

9 MIEC had an April 17th Motion for Leave to
10 File its Position Statement Out of Time. That is granted.

11 Staff -- let's see. Staff filed this
12 morning, today, April 20th, a Motion for Leave to File Two
13 Affidavits. Those affidavits from my understanding are
14 affidavits that should be attached to prefiled testimony
15 or staff report, and they are not substantive affidavits
16 in any manner. Is that correct, counsel?

17 MR. DOTTHEIM: Judge, I didn't hear your
18 last statement. You said they are not --

19 JUDGE STEARLEY: They're not substantive.
20 They're not offering any additional statements?

21 MR. DOTTHEIM: No. No, they are not.

22 JUDGE STEARLEY: Very well. That motion
23 shall be granted. Those affidavits will be received.

24 There have been a number of prior cases
25 mentioned in prefiled testimony, and the Commission will

1 take official notice now of these following cases:
2 EO-2005-0329, in the matter of the proposed experimental
3 regulatory plan of Kansas City Power & Light Company;
4 ER-2006-0314, in the matter of the application of Kansas
5 City Power & Light Company for approval to make certain
6 changes in its charges for electric service to begin the
7 implementation of its regulatory plan; ER-2007-0291, in
8 the matter of the application of Kansas City Power & Light
9 Company for approval to make certain changes in its
10 charges for electric service to implement its regulatory
11 plan; and EM-2007-0374, in the matter of the joint
12 application of Great Plains Energy, Incorporated, Kansas
13 City Power & Light Company, and Aquila, Incorporated for
14 approval of the merger of Aquila, Incorporated with a
15 subsidiary of Great Plains Energy, Incorporated and for
16 other related relief.

17 MR. KEEVIL: Judge, could you clarify what
18 you -- when you say you've taken official notice of those
19 cases --

20 JUDGE STEARLEY: That's correct.

21 MR. KEEVIL: -- what exactly does that
22 mean? I apologize. Are you taking official notice of the
23 record in those cases or the --

24 JUDGE STEARLEY: I'm taking official notice
25 of the record, all filings, pleadings, et cetera, involved

1 in those cases.

2 MR. WOODSMALL: Your Honor, you're taking
3 official notice of the fact that those cases existed, the
4 Report and Order, every piece of testimony, every word of
5 transcript in those cases?

6 JUDGE STEARLEY: Yes, Mr. Woodsmall.

7 MR. WOODSMALL: For what purpose? I need
8 to look at 536 which talks about official notice, but I
9 believe there's something there about taking official
10 notice of some judiciable fact. I don't understand what
11 we're taking notice of.

12 JUDGE STEARLEY: I believe the Commission
13 can take notice of its prior cases, Mr. Woodsmall, and
14 there's repeated references to these cases throughout the
15 prefiled testimony which is going to be offered into
16 evidence. Consequently, I'm taking notice of those now
17 just as a matter of efficiency.

18 Are you objecting to the Commission taking
19 official notice of its prior cases, Mr. Woodsmall?

20 MR. WOODSMALL: No. I just -- I'm worried
21 that there's something in there that you're bringing into
22 this case. If you want to take notice of the Report and
23 Order or the fact that those cases existed, certainly I
24 have no problems with that. It's just the multitude of
25 all the transcripts and evidence that I'm just kind of

1 wondering why we're bringing into the case, but --

2 JUDGE STEARLEY: Anything that's relevant
3 that's brought into this case --

4 MR. WOODSMALL: But you're making a finding
5 of relevance already without any --

6 JUDGE STEARLEY: No, I'm not making a
7 finding of relevance. I'm taking official notice of these
8 cases, Mr. Woodsmall. If you have an objection to that,
9 please state it.

10 MR. WOODSMALL: Okay. So you're not making
11 a finding of relevance on --

12 JUDGE STEARLEY: I'm not making any
13 finding, Mr. Woodsmall. I'm taking official notice of
14 these cases.

15 MR. WOODSMALL: Okay. I'm more confused.

16 JUDGE STEARLEY: If you want to reference
17 these cases in your pleadings and in your filings, which I
18 believe you have, then the parties are going to be
19 asserting there's some sort of relevance to them.

20 MR. BRUDER: Your Honor, if I may, maybe I
21 could clarify this. My understanding of what -- what
22 you're doing is that you're saying in effect that these
23 have become a part of the record, so if anyone would want
24 to refer to them, they may do so without officially or
25 formally requesting that part of -- that that part of that

1 case, that part of the record be made part of the record?

2 JUDGE STEARLEY: That's exactly correct,
3 Mr. Bruder. That's all this was attempting to do, and I
4 appreciate your clarifying remarks.

5 MR. MILLS: Judge, if I may ask a
6 clarifying question. Are you taking official notice of
7 any facts in those particular records? Because pursuant
8 to 536.070.6, if you are, you need to give the parties
9 reasonable notice and the opportunity to contest such
10 facts. So if you are taking notice of particular facts
11 within those records, I need to know what they are so that
12 I may have an opportunity to contest.

13 JUDGE STEARLEY: I believe the sentence
14 you're referring to refers to matters that aren't normally
15 taken judicial notice of, and I don't know that the
16 Commission's prior cases fall under that sentence,
17 Mr. Mills.

18 MR. MILLS: So you're not taking notice of
19 specific facts within those records?

20 JUDGE STEARLEY: I am taking notice of
21 those records.

22 MR. WOODSMALL: To preserve our rights to
23 appeal, I will object. If you're taking notice of facts
24 and evidence, I do object to that. Without you telling us
25 the particular facts that you're taking notice of, I will

1 object.

2 JUDGE STEARLEY: Mr. Woodsmall, the Report
3 and Orders in those cases all had Findings of Fact and
4 Conclusions of Law. Those are being taken notice of.
5 Does that clarify that for you?

6 MR. WOODSMALL: Now you're saying it's the
7 Report and Orders?

8 JUDGE STEARLEY: They're a part of the
9 record, taking official notice of those records. I said
10 all the filings in those cases, all the orders. To the
11 extent there's findings of facts in the Reports and
12 Orders, that was encompassed within that notice.

13 MR. WOODSMALL: I will renew my objection,
14 then.

15 JUDGE STEARLEY: You've been given notice,
16 Mr. Woodsmall, so I don't know what your legal objection
17 is.

18 MR. WOODSMALL: You asked if anybody had an
19 objection to you taking official notice of all the
20 transcript and evidence in those cases, and I do object to
21 the Commission taking official notice without telling us
22 which particular facts it wants to take official notice
23 of.

24 MR. MILLS: And Judge, if he was done, I
25 would like to add my objection, and the basis of my

1 objection is that I have not been given reasonable
2 opportunity to contest such facts or otherwise show that
3 it would not be proper for the agency to take such notice
4 of them pursuant to 536.071 sub 6.

5 JUDGE STEARLEY: Well, gentlemen, I'm not
6 sure I understand the nature of your objection. The
7 Commission is taking notice of those records. The
8 Findings of Fact are clear in those Orders. I'm taking
9 official notice of those at the very beginning of these
10 proceedings. The Commission's not made any findings of
11 fact or conclusions of law in this case relying upon
12 anything from those cases.

13 The parties have brought those cases in to
14 this case by their references. You are given an
15 opportunity to respond to anything the Commission has
16 taken notice of here. You were all participants in those
17 cases as well.

18 MR. MILLS: Judge, can you then explain to
19 me the opportunity I have to contest such facts that are
20 contained in those thousands and thousands of pages you
21 just took notice of?

22 JUDGE STEARLEY: You had occasion to appear
23 in those cases, Mr. Mills, and the Commission has not put
24 out an Order in this case relying on anything, and if the
25 Commission puts out an Order relying on anything from

1 those cases, you'll be given an opportunity to file a
2 motion for rehearing and contest those.

3 MR. MILLS: Okay.

4 JUDGE STEARLEY: You also have a contest on
5 taking your writ of review or taking subsequent appeals.
6 So I don't see where you're being limited in any way.

7 MR. MILLS: Thank you.

8 JUDGE STEARLEY: Any other party like to
9 weigh in on this? I assume since you-all have referred to
10 these cases you'd be asking me to take official notice of
11 them at the appropriate times in this case, and this was
12 just a matter of judicial efficiency. Nothing else, we
13 will move on.

14 There is a matter I wanted to bring up
15 regarding schedule of witnesses. I notice next week on
16 April 30th there's a witness scheduled, Mr. Greg Meyer,
17 for several parties. Mr. Meyer by his bio was a former
18 employee of the Commission, and I'm just making the
19 parties aware now before he gets here on Thursday, the
20 Commission's rules don't allow prior employees to
21 participate if they've been involved in matters
22 substantially that have been before it.

23 I'm just advising you of that now. So we
24 may need to clarify when Mr. Meyer is offered to give his
25 testimony that he's had no prior involvement with any

1 matter that would have any bearing on this case.

2 MR. BRUDER: Your Honor, if I may on a
3 matter of scheduling?

4 JUDGE STEARLEY: Yes.

5 MR. BRUDER: I don't want to address it
6 now, it is too early in the proceedings, but we have a
7 witness, Mr. Kumar, and he has testified in a number of
8 different subject areas, and for that reason, on the basis
9 of the scheduling, which is done on the basis of subject
10 as you know, he would be on many, many days, both this
11 week and next week.

12 I would like at an appropriate time to
13 approach the parties one and then another and see if we
14 can't limit the number of days. So as I say, I'm not
15 looking to do that now or on the record, but I did want to
16 apprise you at the very outset that that is our intention.

17 JUDGE STEARLEY: All right. Thank you,
18 Mr. Bruder.

19 We have instructed our court reporters to
20 do a 40-day -- 48-hour turnaround on our transcripts. So
21 today's transcript should be available for the parties
22 Wednesday, et cetera, following down the list. Thursday's
23 and Friday's should be available the following Monday.

24 Are there any other preliminary matters we
25 need to address?

1 MR. BRUDER: One other thing if I may on
2 the transcripts. I'm sorry to interrupt again. Will the
3 transcripts be on the Commission website, and if so, what
4 will be the time frame for that?

5 JUDGE STEARLEY: When the Commission gets
6 the transcript submitted electronically, we get it posted.
7 So it may fall a little bit after that 48-hour time
8 period, it'll get filed in our EFIS system, Mr. Bruder.

9 MR. BRUDER: So it will be there, say,
10 three days after the hearing, like this would be Thursday
11 or Friday?

12 JUDGE STEARLEY: Easily so, yes.

13 MR. BRUDER: Okay. Thank you very much.

14 JUDGE STEARLEY: Mr. Keevil?

15 MR. KEEVIL: Just going back to something
16 you said earlier about the counsel are excused, kind of a
17 standing excused if you're not involved in that issue. I
18 know you issued an Order setting the order of witnesses
19 and the issues last week, I think it was. Are you going
20 to stick to that pretty firmly, or how reasonable is it to
21 rely on that for the days that those issues are coming up?

22 JUDGE STEARLEY: Well, I know our witness
23 list, as you well know, Mr. Keevil, can tend to shift. It
24 depends on how fast cross-examination goes. Sometimes
25 parties all decide to waive cross. I can try to put out a

1 notice daily or every other day if the witness list has
2 shifted substantially to give you notice with regard to
3 who's going to be on.

4 At the conclusion of each day, we'll go
5 through the witness list with the parties. So even if
6 you're not present, I suppose you could tune in to the
7 webcast and find out who's going to be appearing the
8 following day.

9 Any other preliminary matters? All right.
10 Very well. We'll begin with opening statements, starting
11 with Kansas City Power & Light.

12 MR. FISCHER: Good morning, your Honors.
13 My name is Jim Fischer, and I'll be representing Kansas
14 City Power & Light today. If it please the Commission?

15 This is KCPL's third of four rate cases
16 that are contemplated by the KCPL regulatory plan that was
17 approved by one of the cases the judge referred to,
18 EO-2005-0329. Each planned rate case is related to the
19 completion of a major component of the regulatory plan.

20 The first rate case, another case referred
21 to by the judge, ER-2006-0314, included the construction
22 of 100 megawatts of wind generation that was completed in
23 September of 2006.

24 The second rate case, ER-2007-0291,
25 included investments to install selected catalytic

1 reduction equipment at Lacine Unit No. 1, as well as the
2 continued investment in customer programs and transmission
3 and distribution projects.

4 In this, the third case, KCPL has filed
5 tariffs requesting an increase of \$101.5 million or
6 approximately 17 and a half percent. This case involves
7 the installation of the Iatan 1 air quality control system
8 equipment as set forth in the regulatory plan.

9 I'm pleased to announce today that KCPL
10 believes that the air quality control system equipment
11 successfully completed its testing and has met the
12 in-service criteria agreed to by Staff and KCP&L as of
13 yesterday, April 19th, around noon.

14 The Iatan 1 AQCS investments as of the
15 April 30 cutoff date is expected to be approximately
16 \$423 million on a total project basis, including the
17 allocated common plant allocated to Iatan 1. This number
18 does not include payments for contract retentions or what
19 are effectively escrowed funds after that April 30 cutoff
20 date.

21 This cost compares to the current control
22 budget estimate for Iatan 1 investments of \$484.1 million,
23 including the Iatan 1 common costs.

24 More importantly for this case, though,
25 KCPL's Missouri jurisdictional share of the Iatan 1 air

1 quality control system costs are \$243 million. The
2 Missouri jurisdictional share of the common plant is
3 approximately \$97 million. So the total Missouri
4 jurisdictional piece of the Iatan 1 air quality control
5 system plus the common plant is \$340 million.

6 Speaking of that common plant issue just
7 briefly, it's very important to understand that under FERC
8 accounting rules, all of the common plant for both 1 and 2
9 investments must be reflected on KCPL's books at the time
10 the common plant is used to operate Unit 1. Once that
11 common plant is in service -- or is in service, then the
12 allowance for funds used during construction would
13 typically cease.

14 KCPL's requesting in this case a regulatory
15 asset be established to defer the carrying costs and
16 depreciation expenses associated with the Iatan 1 air
17 quality control system costs and any common costs that are
18 recorded on the financial books but are not included in
19 rate base in the current case. Our witness John Weisensee
20 will be here to address any questions about that.

21 Obviously Iatan 1 is a huge investment for
22 KCPL in this case, and it's designed to improve the air
23 quality in the Kansas City area. Now, in September of
24 2008, KCPL filed its case using the last approved ROE of
25 10.75 percent. However, as I'm going to discuss shortly,

1 the financial markets have dramatically deteriorated since
2 the company filed its original request in September, and
3 the capital costs of the company are in reality
4 substantially higher today than they were at the time we
5 filed our case.

6 With regard to the off-system sales margin
7 issue, KCPL is advocating the continued use in this case
8 of the methodology that's been adopted by the Commission
9 in the last couple of cases for KCPL. KCPL proposes to
10 establish the off-system sales contribution margin at the
11 25th percentile level of Michael Schnitzer's probabilistic
12 analysis for the years 2009 and 2010 period with the
13 tracking mechanism the Commission has used in past cases.

14 As we've discussed in the last KCPL rate
15 case, this approach to the off-system sales issue has
16 proven to be critically important since the off-system
17 sales market has been so volatile. In this case, the
18 conditions of the off-system sales market have
19 dramatically changed since the company filed its rate case
20 in September.

21 The off-system sales margins that will --
22 that typically are used to reduce the overall revenue
23 requirement have precipitously declined. This decline is
24 due principally to the plummeting natural gas prices,
25 which I know the Commission is very aware of, and the

1 prices -- the declining prices for wholesale electricity.

2 While the off-system sales margins that are
3 included in the revenue requirement are confidential, the
4 impact of the changes of this market on the company's
5 revenue requirement in this case have been quite
6 substantial. In its September filing, KCPL filed a rate
7 increase request for 101.1 million. However, on Friday of
8 last week, the Staff filed an updated reconciliation for
9 this case which now shows that KCPL's current case would
10 support a revenue requirement of 132.2 -- \$132.2 million.

11 Much of the increase from the 101 million
12 to the 132 is due to the changes that have occurred in the
13 off-system sales market. These changes, of course, will
14 be updated in the true-up process.

15 In his rebuttal testimony, Staff witness
16 Dr. Michael Proctor analyzes the off-system sales market
17 and the models that are used by the company's consultant,
18 Michael Schnitzer, of the consulting firm Northridge
19 Group.

20 On page 5 of Dr. Proctor's rebuttal, he
21 states and concludes, the primary reason for the
22 significant drop in the distribution for margins is the
23 result of a significant drop in the inputs assumed for
24 natural gas and electricity prices. The original
25 forecasts for these prices were developed at a time when

1 natural gas and electricity prices were experiencing
2 historic highs in July of 2008. In September 2008, prices
3 for electricity began to fall and continued to fall in
4 September of 2008.

5 Now, Dr. Proctor goes on to discuss in his
6 confidential version of the rebuttal testimony just how
7 dramatically these markets have changed since the company
8 filed its case in September and how that will impact the
9 company's off-system sales margins.

10 Unlike the approach that has been
11 previously adopted by the Commission in KCPL's last two
12 rate cases, Dr. Proctor has used a historic analysis or
13 historic numbers rather than the forward-looking analysis
14 adopted by the Commission that's contained in Michael
15 Schnitzer's testimony.

16 KCPL continues to believe that the approach
17 that has been utilized in past cases using this
18 forward-looking analysis is the better approach, but even
19 Dr. Proctor's historical analysis shows that there's been
20 a very substantial decline in the likely off-system sales
21 margins since the case was filed in September. The total
22 difference on the off-system sales issue between the Staff
23 and the company is about \$11 million.

24 Now, since the company filed this case in
25 September, it's become very apparent to everyone that the

1 global economy and the financial systems are experiencing
2 unprecedented times. According to KCPL witness Dr. Sam
3 Hadaway, during the last several months capital markets of
4 the United States have been more turbulent than at any
5 time since the 1930s. Corporate borrowing costs for
6 triple B companies like KCPL are more than 100 basis
7 points higher than they were in 2007 when we presented our
8 last rate case.

9 Recent government efforts to stabilize the
10 economy by pumping trillions of dollars into the ailing
11 credit markets have had their major impact on the
12 borrowing costs of the banks, not corporate borrowers like
13 KCPL. Providers of long-term capital for corporations now
14 require higher, not lower rates. However, the ROE
15 recommendations of some of the other parties in this case
16 don't seem to recognize that fact.

17 As the financial crisis began to unfold,
18 the Commission adopted a 10.76 percent ROE for Ameren in
19 January of this year, but that was before the freeze-up of
20 the corporate debt became -- worsened and the further
21 collapse of the stock market.

22 In this case, though, the Staff continues
23 to be recommending a 9.75 percent ROE. Public Counsel's
24 witness, Michael Gorman, recommends a higher ROE than
25 Staff. He recommends an ROE of 10.3 percent, but this

1 recommendation is still considerably below what we believe
2 the evidence will show is the real cost of capital given
3 these turbulent financial times.

4 As Dr. Hadaway explains in his rebuttal
5 testimony, the corporate interest rate spreads, which are
6 the difference between the corporate rates and the U.S.
7 Treasury bonds, those remain almost three times as large
8 as they were before the credit crisis began. These wider
9 spreads are signaling a clear increase in the price of
10 risk, a cost that affects both the equity holders and also
11 the debt holders.

12 Based on these dramatic changes in the
13 financial markets, Dr. Hadaway concludes that a reasonable
14 ROE is 11.55 percent at this time. But unlike many cases
15 that you've had in recent years, the rate of return on
16 equity issue is not the largest issue in this case. About
17 \$22 million of the difference between the company and the
18 Staff are accounted for in the ROE issue.

19 I'd like to give you kind of a big picture
20 look at the company and the Staff cases at this point, and
21 Judge, I have an illustrative exhibit, since I'm going to
22 talk about some numbers, that might be helpful if I could
23 have that marked.

24 JUDGE STEARLEY: Certainly. Extending from
25 your premarked exhibits, counsel, I believe we would be at

1 KCPL Exhibit No. 57.

2 (KCPL EXHIBIT NO. 57 WAS MARKED FOR
3 IDENTIFICATION BY THE REPORTER.)

4 MR. FISCHER: As I mentioned, I'd just like
5 to give the Commission kind of a big picture look at the
6 case and where the bigger issues are and where we're at.

7 As I mentioned earlier, the company's
8 original request in its tariff filing was for
9 \$101.5 million. We understand that that's the maximum
10 that we could be allowed in this rate case since that's
11 what the tariffs reflect. However, our evidence now
12 supports a \$132.2 million rate increase based upon what's
13 in the reconciliation.

14 According to the reconciliation, the
15 Staff's revenue requirement at September 30, 2008 is
16 \$32.5 million. And in its original filing, Staff included
17 a \$60 million allowance for known and measurable changes
18 that, according to Mr. Featherstone's testimony, relates
19 to the substantial increases expected as a result of the
20 true-up.

21 Now, if this allowance for the true-up is
22 added to Staff's current recommendation of 32.5 million as
23 of September 30, then the Staff's recommendation would be
24 expected to be \$92.5 million following the conclusion of
25 the true-up, and, of course, that assumes the Staff's

1 lower ROE number.

2 As I mentioned, though, the company's case
3 now supports 132.2 million. Staff's case after true-up is
4 92.5 million. There's about 40 to \$45 million of issues,
5 differences between the Staff and the company, and those
6 are listed down below. ROE is 22 million. Off-system
7 sales is roughly 11 million. Fuel and purchased power is
8 5 million. Short-term incentive comp is 3. The
9 jurisdictional allocations is about 5.

10 Now, if the Commission would split the
11 difference on their ROE issue and authorize only
12 10.65 percent on equity, then \$11 million would be added
13 to Staff's case, making the total increase 103.5 million,
14 which, of course, is more than what the company has
15 requested.

16 Or if the Commission adopts its previously
17 approved off-system sales issue, then the total revenue
18 requirement with Staff's other numbers would be
19 103.5 million. Again, that's more than the company's
20 requested.

21 Or if the Commission would adopt the
22 company's position on the fuel and purchased power issue,
23 the short-term incentive compensation issue, which was
24 allowed in Ameren's last rate case, and the company's
25 position on jurisdictional allocations, then the revenue

1 requirement would add up to about 105.5 million. Again,
2 more than the company has requested.

3 So in reality, if you look at these cases,
4 assuming that the true-up numbers come in, the revenue
5 requirement differences between Staff and the company are
6 not all that great.

7 Obviously this case is largely driven by
8 the huge investments at Iatan 1 and the urgent need to
9 have this investment reflected in permanent rates. Given
10 the turmoil in the financial markets, the severe recession
11 affecting the United States economy generally, KCPL's
12 reliance on the anticipated cash flows from the rate
13 relief in this case and the publicly disclosed need of
14 Great Plains and Kansas City Power & Light to raise
15 capital in the financial markets in 2009, it's necessary
16 that KCPL be permitted to include its prudent investments
17 in Iatan 1 in permanent rates in a timely manner, in
18 permanent rates.

19 And that's where the rub comes in this
20 case. Staff and the intervenors are not proposing to
21 reflect the full investment related to Iatan 1 in
22 permanent rates even though they have not included any
23 specific allegations of imprudence or inefficiency in
24 their prefiled testimony.

25 The Commission has previously held in the

1 Callaway and the Wolf Creek rate cases that there's a
2 presumption of prudence in public utility expenditures,
3 and the Missouri courts have agreed. In particular, the
4 presumption of prudence and the prudence standard was
5 reviewed in the State Ex Rel Associated Natural Gas vs.
6 the PSC case in 1997.

7 The Commission and the court decisions have
8 held that when other parties raise a serious doubt as to
9 the prudence of those expenditures, then the public
10 utility has the obligation to come forward and rebut those
11 allegations to meet its burden of proof.

12 In this proceeding, we don't believe that
13 any party has raised a serious doubt about the prudence of
14 these expenditures. However, KCPL will present seven
15 witnesses in this proceeding who will address at length
16 the issues related to the Iatan 1 construction project,
17 the legal standards that should be used to judge prudence
18 issues, the extensive cost controls and management
19 processes that were in place to control construction
20 costs, the reason why the control budget estimate of
21 \$484 million as forecasted in May of -- reforecasted in
22 May of 2008 is the appropriate benchmark for looking at
23 those costs.

24 The control budget of \$484 million was
25 based upon engineering that had matured to over

1 90 percent and the Iatan work was 95 percent procured.
2 More specifically, the company's case on the Iatan issue
3 will present about seven witnesses. Chris Giles, KCPL's
4 vice president for regulatory affairs, will address the
5 Staff's interim rate recommendation. He'll discuss the
6 regulatory plan requirements. He'll explain the extensive
7 information that was provided to the signatory parties to
8 the regulatory plan case, and he will explain how the
9 company kept the Staff and the signatory parties updated
10 on significant developments related to the Iatan plant.
11 He'll also discuss the control budget estimate and how the
12 company's team identified and controlled the risks
13 associated with this project.

14 Bill Downey, KCPL's president, will also be
15 testifying regarding the corporate governance and
16 oversight of the comprehensive energy projects, including
17 Iatan 1. He'll explain the early procurement options for
18 the Iatan project, the cost controls that were put in
19 place, the process used to develop the Iatan project's
20 control budget estimate, and the performance of the major
21 contractors, like Alstom, Kiewitt and Burns & McDonnell.

22 Dr. Chris Nielson of the Pegasus Global
23 Management consulting firm, performed an independent and
24 objective evaluation of the effectiveness of KCPL's
25 management regarding the Iatan 1 project and the prudence

1 of the decisions made by the project leadership team.

2 After an extensive review, Pegasus Global
3 concluded that KCPL's management showed a good
4 understanding of the initial conditions and circumstances
5 and the management effort required in regard to Iatan 1.
6 They also concluded that management made appropriate
7 adjustments to the decisions as the project unfolded and
8 found KCPL's management to be prudent and reasonable.

9 We'll also present the testimony of Ken
10 Roberts. Ken Roberts is a lawyer with Schiff Hardin, LLP.
11 This is a law firm that specializes in construction law
12 issues. KCPL engaged Schiff to help the company develop
13 project control procedures to monitor the costs and
14 schedules of Iatan 1 and the other comprehensive energy
15 plan projects, also to monitor the CEP's progress and
16 costs, negotiate contracts with vendors and resolve issues
17 with vendors as they arose.

18 He will also describe KCPL's project
19 controls, and concludes that the project controls work
20 quite well to monitor and manage the costs and the
21 schedule challenges imposed by a particularly challenging
22 market that exists today. He also concludes that the cost
23 of the Iatan 1 would have been significantly higher if
24 KCPL had implemented less robust project controls or
25 failed to implement and monitor the project controls as

1 well as it has.

2 Our fifth witness -- well, Ken will also
3 adopt the testimony of Dan Meyer. This testimony
4 discusses the development of KCPL's control budget for
5 Iatan 1, the cost reforecast process that generally occurs
6 in the industry, and more specifically the KCPL 2008 cost
7 reforecast for Iatan 1. He'll discuss the external
8 reporting and project control systems and their effect on
9 the project and the balance of plant contracting
10 methodology that was employed at the Iatan project.

11 We'll also have Carl Churchman, KCPL's vice
12 president of construction. He will describe the air
13 quality control system that was added at the Iatan 1
14 plant. He'll discuss the Alstom settlement agreement and
15 the impact of the economizer casing issue on the Unit 1
16 outage.

17 Brent Davis, the Iatan 1 project director,
18 provides an overview of the Iatan 1 air quality control
19 systems, the in-service criteria for the project, and he's
20 going to explain how the anticipated costs to complete the
21 project compare to the control budget estimate. And he
22 identifies the portion of the Iatan 1/Iatan 2 common
23 facilities that should be included in rates in this case
24 because they are necessary for the operation of Iatan 1.

25 And finally, Steve Jones, a senior

1 procurement director of KCPL. He will discuss the
2 processes and procedures that help -- that he helped to
3 develop to ensure timely procurement of major equipment
4 and contractor services and resolve contractor claims.
5 He's going to talk about the Kiewitt balance of plant
6 contract, the Alstom settlement related to the economizer
7 delay, and in addition, he'll explain how KCPL derived the
8 cost for the common plant facilities.

9 At the end of the day, KCPL believes that
10 the evidence will show that KCPL has prudently managed the
11 construction of the Iatan 1 project. The project is
12 within the control budget estimate of \$484 million as
13 reforecast in May of 2008 at a time when the scope of the
14 project was fully known.

15 As I mentioned earlier, the total project
16 costs for Iatan 1, including the Iatan 1 allocated common
17 plant, as of the April 30 cutoff date is approximately
18 \$423.3 million.

19 Now, Staff has not challenged the
20 expenditures in their prefiled testimony in this case.
21 Staff witness Cary Featherstone, however, testifies that
22 his direct testimony -- or in his direct that it is
23 premature to address the prudence of Iatan 1 construction
24 costs. He asserts that Staff did not have the time and
25 the resources to complete a construction audit of Iatan 1

1 and won't be able to present any recommendations regarding
2 the prudence of these expenditures in this case.

3 And he goes on to recommend that the
4 Commission make a portion of KCPL's rates designated as
5 interim subject to refund or, alternatively, that the
6 Report and Order that the Commission issues does not
7 decide the prudence issues and announces that it will take
8 that matter up at some case in the future.

9 In Staff's position statement, Staff
10 suggested that the costs that exceed 376.8 million before
11 the inclusion of Iatan 2 common costs should be included
12 on an interim subject to refund basis. Staff is using at
13 this point a very preliminary estimate that's not
14 appropriate for such cost comparison purposes. It was
15 made at a time when the total scope of the project had not
16 been determined. The issue on this point will be
17 addressed by Ken Roberts.

18 From KCPL's perspective, the Staff
19 recommendation in this case, interim subject to refund or
20 the alternative recommendation, is simply unprecedented,
21 it's unreasonable, and we believe it's unlawful.

22 In every other major electric case in which
23 the public utility in Missouri has requested that new
24 electric plant be included in rate base, the Commission
25 Staff has concluded a construction audit or done other

1 analysis and made their recommendations regarding the
2 appropriate level of investment that should be included in
3 permanent rates within the context of that rate case.

4 For example, in the rate cases involving
5 the Callaway nuclear plant, the Wolf Creek and the Grand
6 Gulf nuclear power plants, the Staff conducted their
7 audits and made their recommendations to the Commission
8 within the context of the rate cases in which the plant
9 was being requested to be included in rates.

10 More recently, in the Ameren case involving
11 the Peno Creek plant, Empire's rate cases involving the
12 State Line combined cycle plant and the Asbury plant, and
13 Aquila's rate case involving the South Harper plant, the
14 Commission Staff concluded its investigation and made its
15 recommendations to the Commission in the context of those
16 rate cases.

17 And in those cases, the Commission made its
18 determination of prudence and determined the appropriate
19 amount of the investments that should be included in rate
20 base within the context of those rate cases. There was no
21 recommendation by Staff in any of those past cases that
22 the rates should be interim subject to refund.

23 KCPL has not been able to find any cases in
24 which the Staff recommended that a portion of the rates
25 related to new construction of an electric power plant

1 should be designated interim subject to refund simply
2 because they had not completed the Staff audit.

3 We frankly don't understand why Staff has
4 decided not to complete its investigation and present its
5 recommendations to the Commission. The evidence in the
6 case will show that the Staff made at least 12 on-site
7 visits to Iatan beginning in February '07 and extending
8 into January of this year, and Staff has also been to
9 Iatan several times since January. These visits usually
10 included visits by staff engineers like Dave Elliott,
11 Michael Taylor, Leon Bender and occasionally others,
12 including Lena Mantle.

13 The evidence will also show that the
14 utility operations staff requested all change orders and
15 supporting documentation for changes over \$50,000. They
16 reviewed all Iatan status reports and contractor meeting
17 minutes. They reviewed site photographs, Alstom contract,
18 the Alstom settlement agreement and various other
19 contracts, as well as a list of all Iatan 1 contracts.

20 If you're interested in what they reviewed,
21 there's a 21-page schedule attached to the rebuttal
22 testimony of Brent Davis which lists the various documents
23 that the company provided Staff in this process.

24 KCPL also provided to Staff and the other
25 signatory parties to the regulatory plan stipulation with

1 strat -- with Kansas City Power & Light's strategic
2 infrastructure status reports every three months. These
3 quarterly reports included extensive discussions of the
4 costs, the schedules and any issue that was materially
5 impacting the success of the project.

6 The KCPL quarterly reports were followed up
7 by in-person meetings here in Jefferson City with the
8 Staff and the other regulatory -- or the other signatory
9 parties in which key construction, regulatory and legal
10 personnel made lengthy presentations and answered
11 questions related to all major events that were affecting
12 the comprehensive energy plan projects, including Iatan 1.

13 Each of those meetings typically began
14 around ten and would go into mid afternoon, sometimes
15 without a lunch break. This effort by KCPL to keep the
16 Staff and the signatory parties to the regulatory plan
17 stipulation informed about the progress and the issues in
18 the comprehensive energy plan projects has simply been
19 unprecedented. From KCPL's perspective, the primary
20 reason for the quarterly meetings was to facilitate the
21 prudence review and the regulatory process.

22 Now, Chris Giles will be available, he's
23 our first witness, and he can talk about and explain the
24 nature of those meetings that were held every three months
25 to keep the Staff and the signatory parties involved about

1 the process of the various construction projects.

2 Then, as the Commission will remember, the
3 merger proceedings involving the acquisition of Aquila by
4 KCPL's parent, Great Plains Energy. In that case, the
5 Staff issued numerous subpoenas, deposed 11 key members of
6 the project team and members of the executive oversight
7 committee and requested the production of thousands of
8 documents related to the comprehensive energy plan. That
9 effort occurred over a year ago.

10 In addition, the Staff on January 14, 2009,
11 one month before the Staff's testimony was due, issued
12 more than 150 data requests in this proceeding concerning
13 the Iatan projects.

14 Frankly, given this extensive investigation
15 and activity by the Staff, KCPL was surprised when we
16 received their testimony that they were unable to make
17 their recommendations regarding the prudence of Iatan in
18 this proceeding. KCPL doesn't know why the Commission
19 Staff did not complete their audit and make its
20 recommendations on appropriate level of investments to be
21 included in the rate case.

22 We don't know if the Staff did not allocate
23 sufficient resources to the project, even though they had
24 done so in every other major electric case involving
25 additional substantial electric plant into rate base, or

1 that's been added at Iatan 1 is the principal plant
2 addition in this case. There can be no doubt that a
3 reflection of those air quality control costs in the
4 company's rates is a relevant factor and probably the
5 major factor to be considered in this case.

6 The company also believes it has some
7 independent rights under the regulatory plan which was
8 adopted in KC-2005-329 to have all those issues concerning
9 the prudence of Iatan 1 resolved in this case.

10 But perhaps more importantly, KCPL believes
11 that it's unlawful for the Commission to make the rates
12 interim subject to refund without the consent of the
13 company. In a recent oral argument regarding the true-up
14 procedural schedule, Staff counsel seemed to concede that
15 the Commission got it wrong when it imposed the interim
16 subject to refund condition on the Commission without its
17 consent. The company certainly agrees, and we greatly
18 appreciate the Commission's willingness to reconsider the
19 conditions in that true-up procedure order.

20 However, at this stage of the proceedings,
21 Staff seems to be arguing in their position statement
22 that, after taking evidence, the Commission will somehow
23 acquire the legal authority to make the rates interim
24 subject to refund without the company's consent. KCPL
25 must respectfully disagree.

1 In the past, the Commission has granted
2 public utilities interim rate increases while the
3 Commission was considering the permanent rate request. In
4 some of those cases the company -- the Commission has used
5 a financial emergency standard. However, I think the case
6 law makes it clear that something less than a financial
7 emergency standard may be used by the Commission in an
8 appropriate case for the Commission to grant interim
9 relief while the Commission is considering a permanent
10 rate request.

11 Now, while the Commission has the authority
12 to approve interim rate increases while the Commission is
13 considering a permanent rate request, the Commission does
14 not have the statutory authority to simply punt on major
15 issues and declare that some portion of the rates will be
16 subject to refund at the end of a full-blown rate case
17 pending further review at some future case.

18 The Commission I think should also consider
19 the precedent that such a decision in this case would set.
20 Any time the Staff or Public Counsel or an intervenor
21 suggested that they didn't have the time or the resources
22 to complete an investigation, then the Commission would
23 have the authority to make the rates interim subject to
24 refund, at least under that legal theory.

25 What would that policy do to the legal

1 presumption of prudence? KCPL would respectfully suggest
2 that that would destroy the fundamental presumption of
3 prudence. More importantly, as a practical matter, there
4 is the uncertainty that interim subject to refund rates
5 would create for KCPL and its parent company in both the
6 debt and the equity financial markets.

7 Given the infrastructure investments that
8 this Commission authorized KCPL to make in 2005 and the
9 hundreds of millions of dollars that the company has spent
10 since then, a decision approving interim rates would be
11 viewed very negatively in the marketplace. The likely
12 effect would be to increase the company's borrowing costs,
13 which would be bad news for the ratepayers.

14 Any refund order in a subsequent case would
15 require a finding that rates are somehow -- in this case
16 are somehow or were somehow unjust or unreasonable. Such
17 a finding and then a subsequent refund order would
18 constitute retroactive ratemaking.

19 In this proceeding, the Public Counsel's
20 Office and other intervenors have not raised serious
21 doubts about the prudence of the expenditures either.
22 Although Public Counsel did hire an outside consultant for
23 the cost of capital issue, the Public Counsel did not file
24 testimony that addressed the Iatan 1 case or issues.

25 Mr. Dittmer on behalf of the hospitals has

1 compared a very preliminary cost projection related to the
2 Iatan 1 project with the company's actual expenditures,
3 but like Staff, Mr. Dittmer uses an inappropriate cost
4 estimate as his starting point. He does not specifically
5 allege any imprudence or inefficiency related to the
6 project, however.

7 United States Department of Energy/NNSA has
8 not conducted a construction audit or raised specific
9 allegations of imprudence related to the Iatan project
10 either. The DOE witness, Mr. Kumar, nevertheless
11 recommends that the rates in this case should not include
12 any recovery of the Iatan 1 costs.

13 In his alternative recommendation,
14 Mr. Kumar recommends that any Iatan 1 costs that are
15 included in rates should be interim subject to refund.
16 These recommendations should be rejected for the same
17 reasons that I've already discussed.

18 Now, from KCPL's perspective, the critical
19 issue, critical task that the Commission has in this case
20 is to appropriately balance the interests of the
21 customers, the shareholders and the bondholders. We
22 believe the Commission originally accomplished this goal
23 in the last two rate cases, and we hope the Commission
24 will continue to course -- or set the course in this case
25 that it has already established.

1 There are, in conclusion, three accounting
2 issues I'd like to briefly mention. First is the
3 jurisdictional allocations issue. We'd ask that you
4 carefully consider this issue. For years the Missouri
5 Commission and the Kansas Corporation Commission have
6 utilized different jurisdictional allocation
7 methodologies. As a result, millions of dollars of KCPL's
8 rate base is not reflected in the rates of either the
9 Kansas rates or the Missouri rates.

10 In this case, KCPL has hired Larry Loos to
11 perform an independent study to determine the most
12 appropriate jurisdictional allocation factors for the
13 company. We hope you will carefully consider his
14 testimony and his approach.

15 Second, there's an issue related to the
16 recovery of merger transition costs related to the
17 acquisition of Aquila, Inc. On this issue, Staff is
18 seeking to rewrite the Commission's merger order. On page
19 241 of the Commission's Report and Order in Case
20 EM-2008-0374, the Commission stated, the Commission will
21 authorize KCPL and Aquila to defer transition costs to be
22 amortized over five years.

23 However, in this case Staff's position
24 statement answers the following question: What is the
25 appropriate level of merger transition costs that should

1 be included in KCPL's revenue requirement for setting
2 KCPL's rates? Staff simply answers zero.

3 Similarly on the talent assessment issue,
4 in KCPL's 2007 rate case the Commission concluded that it
5 was appropriate for KCPL to recover severance costs
6 related to the company's talent assessment program and
7 ordered those costs to be deferred and amortized over five
8 years commencing in 2007.

9 In this case, the Staff is now recommending
10 that the amortization be stopped prematurely before the
11 Commission has -- excuse me, before the company has
12 recovered those deferred costs.

13 In conclusion, and I do appreciate your
14 patience this morning, KCPL requests that the Commission
15 keep its eye on the big picture and recognize that it's
16 important to balance the interests of this case in a way
17 that maintains the financial wherewithal of the company to
18 continue to complete its comprehensive energy plan.

19 Thank you very much again for your
20 patience. We appreciate the Commission's continuing
21 interest in this process and we look forward to your
22 questions.

23 JUDGE STEARLEY: Questions for Mr. Fischer?
24 Mr. Chairman.

25 CHAIRMAN CLAYTON: Thank you, Judge. Thank

1 you, Mr. Fischer. I just had a couple of clarifying
2 questions on Exhibit 57 that you offered. First of all,
3 you have a reference to Staff's position, Staff allowance
4 for known and measurable changes slash true-up estimate
5 and you have a -- this is a public document, correct?

6 MR. FISCHER: Yes.

7 CHAIRMAN CLAYTON: So you have a figure
8 \$60 million there. Is that based on a March 31 or
9 April 30th true-up date?

10 MR. FISCHER: That was based on the direct
11 testimony and the schedules that were filed in the case at
12 the time they filed the direct where there is -- on the
13 first page of the schedules there is a -- and
14 Mr. Featherstone will address this in his testimony.

15 There is an allowance for what they expect
16 the true-up to develop, and the Staff will -- I'm sure
17 will tell you about what that means, but based on that,
18 that's their expectation at the time they filed their
19 testimony, what the true-up at the end of the day would
20 show, additional 60 million.

21 CHAIRMAN CLAYTON: I guess what I'm asking,
22 does that figure reflect some portion or percentage of
23 Iatan 1 improvements?

24 MR. FISCHER: You should ask that to
25 Mr. Featherstone. It is my understanding it does, yes.

1 CHAIRMAN CLAYTON: I will ask it of Staff.
2 It's your document. I just want --

3 MR. FISCHER: Yes. I've just taken that
4 60 million from their document. That's -- and he
5 addresses that in his testimony and can explain what that
6 shows.

7 CHAIRMAN CLAYTON: And can you tell me
8 whether or not the improvements at Iatan 1, the
9 environmental improvements, are they now fully operational
10 and in service as of today?

11 MR. FISCHER: They met the in-service
12 criteria as of yesterday, is what I was told.

13 CHAIRMAN CLAYTON: So April 19th. I think
14 yesterday was April 19th.

15 MR. FISCHER: Yes. Around noon. That, of
16 course, will also be confirmed in the true-up, too.

17 CHAIRMAN CLAYTON: Sure. Sure.
18 Mr. Fischer, just one other question. Can you think of
19 any other examples where an asset has gone into service so
20 close to the time period when its costs would potentially
21 be considered for ratemaking purposes?

22 MR. FISCHER: I'd have to look at the
23 specific cases. I think there have been a number of them,
24 though, where the true-up has brought in capital
25 additions, and that's the case here.

1 CHAIRMAN CLAYTON: Can you think of any
2 that are as large as these improvements?

3 MR. FISCHER: Typically what's happened in
4 the previous cases is the main evidentiary hearing has
5 included discussion of the issues related to the plant,
6 for example, cost overruns or excess capacity or whatever,
7 and then the true-up is merely an update of the numbers.
8 It's not where the substantive issues about any overruns
9 or any other issue have been litigated.

10 CHAIRMAN CLAYTON: I understand. But the
11 true-up period is actually going to include the total cost
12 of these improvements at Iatan 1; is that correct?

13 MR. FISCHER: The invoice updates as of the
14 end of the invoice date, those -- or the true-up period,
15 that will be included. Those will be given to the Staff.
16 But they've had most of those invoices up 'til now.

17 CHAIRMAN CLAYTON: Just one last area of
18 questions. Is it your understanding -- and help me
19 understand, and I'm sorry to be asking you about Staff's
20 position. I know I will ask Staff this. But is Staff
21 recommending inclusion in permanent rates any amounts
22 associated with the Iatan 1 upgrades, or are they
23 suggesting the entire amount of costs be applied on an
24 interim basis?

25 MR. FISCHER: It's my understanding of

1 based on -- my understanding reading their testimony that
2 the first 376 million would be included in permanent
3 rates. You should ask them, though.

4 CHAIRMAN CLAYTON: I will. I will. I
5 just -- you made a lot of statements in your opening
6 statements. I just wanted to know your understanding.

7 MR. FISCHER: That's my interpretation.

8 CHAIRMAN CLAYTON: So basically, in
9 comparing the difference between the position of KCPL and
10 the position of Staff, basically we're talking about a
11 figure of roughly -- well, you used these figures
12 publicly -- around \$50 million difference between the
13 total expenses and the Staff figure, and that's really
14 where the fight is in this case. Would you agree with
15 that?

16 MR. FISCHER: Well, to the extent, though,
17 that the company has only requested 101 million. We don't
18 think we can be allowed to recover more than 101 million.
19 In that extent, if the Staff's number is truly 92 after
20 the true-up, then we're only talking about, what,
21 \$9 million.

22 But the issues that we are debating in this
23 case, they sum to 40 or 45 million here. So even if you
24 split the difference on all those issues you'd be at
25 20 million plus what the Staff position is, which would be

1 above where we're at in our tariffs.

2 CHAIRMAN CLAYTON: And lastly, on I believe
3 line 2 of Exhibit 57, you have KCPL's current revenue
4 requirement reflects a higher figure that exceeds the
5 amount requested in your filed tariffs. Can you identify
6 that difference in figures? Are those expense items or
7 are those capital items?

8 MR. FISCHER: They're primarily related to
9 off-system sales, and there was also a difference in the
10 rate of return on equity, but --

11 CHAIRMAN CLAYTON: Those are the items that
12 are listed down under five major issues?

13 MR. FISCHER: Right.

14 CHAIRMAN CLAYTON: Thank you very much.

15 MR. FISCHER: Thank you.

16 JUDGE STEARLEY: Any other questions for
17 Mr. Fischer?

18 (No response.)

19 JUDGE STEARLEY: Seeing none. Thank you,
20 Mr. Fischer.

21 Opening statements from Staff.

22 MR. THOMPSON: Thank you, your Honor. May
23 it please the Commission?

24 We've heard a very thorough explication by
25 Mr. Fischer on behalf of the company of what the

1 significant issues are going to be, and I am not going to
2 plow that ground again. I will not keep you as long as
3 Mr. Fischer did.

4 I will start out by saying that, as you
5 know, the formula for revenue requirement is simple. You
6 take the prudent annualized and normalized operations and
7 maintenance expenses of a company for the test year, and
8 to that you add the product of the rate of return times
9 the net rate base, that is to say the original cost of
10 plant in service less accumulated depreciation. And you
11 will be hearing issues related to all of those four
12 factors in the course of this case.

13 Of course, a rate case has two parts, the
14 second part being the determination of where that money,
15 that revenue requirement is going to come from. That is
16 the rate design portion.

17 With respect to those issues that are of
18 significance, in the rate base area there's been a lot of
19 talk about the Iatan 1 additions. Let me clarify Staff's
20 position. At the time that Staff filed its position
21 statement, Staff was of the opinion that the in-service
22 criteria had not yet been met.

23 In the event that the in-service criteria
24 are not met by the true-up date in this case, which is
25 April 30th now, then Staff's position would be that no

1 amount of the cost of those additions would go into rate
2 base because, after all, by statute electric plant assets
3 must be used and useful, used for service before they can
4 be added to rate base. That's the CWIP issue that even
5 now is in front of the Legislature, the change of that
6 statute that some are seeking.

7 I have no reason to doubt what Mr. Fischer
8 said about the in-service criteria being met, and in that
9 instance Staff's position is that the cost up to the
10 amount of the definitive estimate, that roughly
11 370 million figure that Mr. Fischer mentioned, that that
12 amount should go into permanent rates.

13 It is the amount above that that Staff
14 suggested be treated on an interim subject to refund basis
15 because that amount, the excess of what we were told the
16 additions were going to cost, needs to be reviewed for
17 prudence.

18 This Commission has ordered Staff to
19 provide a report on its prudence audit by June 19th, which
20 is just prior to the filing of true-up direct in this
21 case, which is scheduled for June 22nd. There is, in
22 fact, a true-up hearing scheduled for the first two days
23 of July. At that time, I would expect Staff to have
24 provided definitive testimony with respect to just how
25 much those additions cost and just how much of the value

1 of that, of the cost of those additions should go into
2 permanent rates.

3 Now, Mr. Fischer handed you an exhibit,
4 Kansas City Power & Light Exhibit No. 57, and he pointed
5 to that 60 million figure which is Staff's allowance for
6 known and measurable changes true-up estimate. That comes
7 right out of the Staff accounting schedules. That figure
8 is what Mr. Dottheim referred to a couple weeks ago as the
9 plug. It's essentially a placeholder. It's a guess, an
10 estimate. How will Staff's position change when the
11 true-up evidence has been prepared? That's a guess as to
12 how much Staff's position will change.

13 So please don't put too much emphasis or
14 reliance on that figure at this time because, after all,
15 the true-up evidence isn't due until late June. We don't
16 now know exactly what that evidence is going to be. After
17 all, as Mr. Fischer pointed out, a very significant change
18 evidently happened yesterday at noon when he tells us the
19 Iatan 1 additions met the in-service criteria.

20 According to Exhibit 57, one of the largest
21 issues that this Commission will deal with, as is
22 typically the case, is return on equity. This is a
23 difficult issue at the best of times and particularly
24 difficult now given the ongoing financial crisis, the
25 turmoil in the financial markets, and the different

1 opinions of the various experts as to just how the
2 Commission should deal with this uncertainty.

3 Dr. Hadaway obviously believes that the
4 Commission should react by raising the return on equity
5 that it allows to the company. He filed his initial
6 recommendation at 10.75 percent, and then in his rebuttal
7 testimony raised that to 11.55 percent, all because of the
8 continuing turmoil in the capital markets.

9 Staff has proposed 9.75 percent, and Staff
10 has not changed that figure. These are not the only two
11 recommendations that the Commission has before it.
12 Mr. Gorman on behalf of the Office of the Public Counsel
13 recommended 10.3 percent, and Mr. Kumar on behalf of the
14 National Nuclear Security Administration has suggested
15 9.63 percent. So those numbers set out the range within
16 which this Commission may find a reasonable figure for the
17 return on common equity.

18 There's also in this case a dispute as to
19 the appropriate capital structure to be used. Mr. Fischer
20 mentioned the off-system sales issue, and he explained
21 that that has been the primary driver of the increase in
22 the company's case from the originally filed 101 and a
23 half million to Staff's current estimate of the company's
24 case at over 132 million, and that has been because of a
25 drop in the market for electricity sold off-system and

1 also the precipitous drop in natural gas prices.

2 We would urge you to credit Dr. Proctor's
3 analysis as opposed to the competing analysis offered by
4 the company.

5 There are revenue issues worth about
6 10 million, and I'm going now by the figures on the
7 replacement reconciliation. Operations and maintenance
8 expense issues worth over 39 million.

9 Thank you very much. Do you have any
10 questions?

11 JUDGE STEARLEY: Questions for
12 Mr. Thompson?

13 (No response.)

14 JUDGE STEARLEY: Thank you, Mr. Thompson.

15 MR. THOMPSON: Thank you.

16 JUDGE STEARLEY: Opening statement from
17 Public Counsel.

18 MR. MILLS: Good morning. May it please
19 the Commission?

20 Your Honor, one of the things that we
21 didn't talk about before we got into opening statements as
22 a preliminary matter was the question of issue-specific
23 openings. The Commission has generally allowed those in
24 the last half a dozen rate cases or so that I've been
25 involved in. I was hoping that we'd be able to do that in

1 this case as well. If that's the case, then my opening
2 here will be fairly general if we'll be allowed to do
3 issue-specific openings before each issue.

4 JUDGE STEARLEY: Anyone object to having
5 issue-specific openings?

6 (No response.)

7 JUDGE STEARLEY: Hearing none. That's
8 fine, Mr. Mills.

9 MR. MILLS: Thank you. Mr. Thompson talked
10 at somewhat of a higher level than Mr. Fischer did, and
11 I'm going to try to take it up to a higher level still and
12 try and put sort of the context of this case into a big
13 picture.

14 KCPL as a result of its last rate case was
15 authorized to collect from its Missouri ratepayers on an
16 annual basis over \$600 million. Out of that \$600 million,
17 over \$60 million is profit. None of that is in dispute
18 here. What we're talking about is increments on top of
19 that. For those of you who are familiar with the
20 legislative process, and I've heard legislators somewhat
21 complain about this, it's similar to the concept of core
22 budgets and core changes in decision items.

23 Most of what KCPL charges its customers for
24 is not at issue here. Most of the money they collect from
25 customers everyone agrees they should collect from

1 customers. What we're talking about is a few small issues
2 here and there having to do with the increment on top of
3 what they're already collecting and how it should be
4 collected.

5 Depending on how you slice it, how you look
6 at the plug number and how you look at the current
7 reconciliation, the parties are, relative to this
8 \$600 million figure, fairly close. The issues that we're
9 talking about here which are going to consume us for the
10 next two weeks, and which is going to consume your time
11 for a great deal longer, that are relatively minor.

12 Everyone's agreeing that KCPL should be
13 allowed to collect a whole lot of money from Missouri
14 ratepayers. The question is, how much more than they're
15 collecting now should they be allowed to recover?

16 Now, as I mentioned, out of the
17 \$600 million that they recover, approximately 66 million
18 under current rates is profit. So where does that profit
19 go? Let's talk about some of the things it doesn't go for
20 that you're going to be talking about here.

21 Advertising. One of the issues that's
22 going to come up in this case is advertising. The vast
23 bulk of KCPL's advertising dollars is not at issue. Those
24 are considered in expenses. Those come out of the
25 nonprofit portion of the money that's allowed in rates.

1 Expenses. Virtually all of the expenses on
2 a day-to-day basis that the company needs to recover in
3 order to run its business are not at issue, and those are
4 not coming out of the profit. Even salaries, incentive
5 compensation, virtually all of that comes out of expenses,
6 not out of profit. Even pensions, most of that comes out
7 of the -- there may be some minor issues, but the vast
8 bulk of the pensions paid to retirees and future retirees
9 comes out of expenses, not out of profit.

10 One of the few items that does come out of
11 profit is most of the lobbying expense. The Commission
12 has typically disallowed those expenses from rates. In
13 fact, the companies rarely even try to recover lobbying
14 expenses in rates.

15 That brings me to one of the issues that I
16 do want to talk about in a little bit of detail here and,
17 of course, more on the issue-specific opening, and that's
18 the question of rate case expense. This rate case is
19 costing close to \$2 million for KCPL to pursue. Of
20 course, KCPL wants its ratepayers to pay for that, not its
21 shareholders.

22 Public Counsel takes the opposite approach.
23 Public Counsel does not believe that it's appropriate to
24 charge ratepayers such an exorbitant sum for the company
25 to seek to raise their rates. The question of increased

1 rates is something that benefits shareholders
2 overwhelmingly more than it benefits ratepayers, and
3 that's the kind of expense that really should come out of
4 profits. It's like lobbying. It's something that's good
5 for the company, not necessarily good for the customers.
6 It's like promotional advertising, something that's good
7 for the company, doesn't do a thing for ratepayers.

8 So we've taken the position that the rate
9 case expense should be borne out of the shareholders'
10 money. And remember, even before you increase rates in
11 this case, \$66 million a year is going into shareholders'
12 pockets. We're simply saying that they should take a
13 little bit of that money out if they want to increase
14 rates. That's the whole basis of the rate case expense
15 issue.

16 Now, with respect to that profit, as
17 Mr. Fisher noted and Mr. Thompson noted, the question of
18 how much profit should increase in this case is one of the
19 biggest issues in this case, as it almost always is in
20 electric rate cases.

21 Now, I was -- last week I had the
22 opportunity to be at the annual meeting of the Society of
23 Utility Regulatory Financial Analysts annual meeting in
24 Washington. One of the most interesting things that I
25 learned there, the very first panel had a representative

1 of the equity interests. This is, in fact, a gentleman
2 who invests millions and millions of dollars on behalf of
3 Missouri retirees. They also had a banker, a gentleman
4 who has for most of his career lent money to utilities
5 from a major investment bank. They had an academic, and
6 they had a gentleman from Moody's Investor Service.

7 And a question was posed to them, in light
8 of today's economy, what should interest -- what should
9 return on equity be and which should it be going in the
10 future? The question was premised on the notion, and
11 Missouri's a little bit of an outlier on here, that
12 commissions around the country have been for the last year
13 or two been awarding approximately a 10 percent ROE to
14 most companies. We've been noticeably higher than that in
15 Missouri already.

16 But the interesting part of the question
17 that was posed to all four of these people was, where are
18 they going to go from here? In today's uncertain economy,
19 do they go up, do they go down? And it was rather a pushy
20 gentleman from the crowd that asked that and actually
21 pinned them all down to a specific answer to that
22 question. Didn't allow them to equivocate.

23 All four of them, all four of them presumed
24 that the cost of equity is going down from this point
25 going forward. 10 percent and going down. And I think

1 that's -- to me, that was an eye opener that even the
2 people from Moody's, even the bankers who are lending
3 money predicted cost of equity is declining from this
4 point going forward.

5 Another thing that I found interesting out
6 there was that I was on a panel with a gentleman from the
7 Edison Electric Institute, who represents KCPL among all
8 of the other electric utilities in the country. And one
9 of the things that he said, and I agreed with this
10 wholeheartedly, is that commissions should not take the
11 return on equity portion of the rate setting mechanism to
12 try to adjust for other factors. If the company's
13 involved in a construction program, if the company's doing
14 well, if the company's doing badly, commissions shouldn't
15 try to monkey around with the cost of equity and try to
16 use that as a flex number to try and address other issues.

17 Commissions to the extent that they can, of
18 course, it's hard enough to do this, but this is what you
19 should try to do, and I agree with this, you should try to
20 determine what the cost of equity actually is and award
21 that. You shouldn't try to inflate it for other things or
22 deflate it for other things. You should try to determine
23 it, award that, and let the market do what the market
24 does.

25 And in this case, I think you'll find that,

1 you know, the Staff's number of 9.75 really given the fact
2 that many experts, as I just mentioned, believe that the
3 cost of equity is about 10 percent and going down, 9.75 is
4 not a bad number. My witness, Mike Gorman, has testified
5 that 10.3 is an appropriate return on equity, and I think
6 that's an extremely generous return on equity.

7 The numbers that Dr. Hadaway is talking
8 about frankly are just outrageous. There are no electric
9 utilities in Missouri that are earning that. There are no
10 electric utilities around the country that are earning
11 that, and it's not necessary. The current economic
12 situation does not dictate that you should award an
13 outrageous return on equity to try and compensate for some
14 fears that things will get worse. And so I submit that
15 Mr. Gorman's return on equity of 10.3 percent is entirely
16 appropriate.

17 But again, I think you need to look at all
18 of this stuff in context and realize that the issues
19 you're talking about here are simply adding on to the
20 already very large amounts of money that KCPL already
21 recovers from its Missouri customers, and what we're
22 talking about is how much more do they really need to keep
23 their business going.

24 Thank you.

25 JUDGE STEARLEY: Any questions for

1 Mr. Mills? Mr. Chairman.

2 CHAIRMAN CLAYTON: Thank you, Judge.

3 Mr. Mills, I just have a couple of questions for
4 clarification, and I'll tell you what I'm reviewing. I'm
5 looking at the Staff supplemental -- excuse me,
6 replacement reconciliation that was filed. I know you
7 probably don't have it in front of you, but there's a
8 section --

9 MR. MILLS: I do have it. I'm not sure
10 that I can read it without glasses, but I'll try and
11 follow along.

12 CHAIRMAN CLAYTON: Well, it's good we got
13 that on the record, then, on your eyesight.

14 Basically it says Office of Public Counsel,
15 and it's got lines 188 through 194, and it has a handful
16 of issues, five issues that are listed suggesting that
17 they are specific to OPC issues, return on equity, capital
18 structure, off-system sales, fuel expense, rate case
19 expense, and basically it has a -- it has a test year rate
20 increase of 39.4 million.

21 Do you agree with that characterization of
22 your position?

23 MR. MILLS: No, I don't. I don't
24 believe -- for example, line 191, I don't believe that's
25 either a proper way to look at the difference of the issue

1 and, in fact, there's not even a number associated with
2 the off-system sales number.

3 CHAIRMAN CLAYTON: How is your --

4 MR. MILLS: Nor is there one for rate case
5 expense.

6 CHAIRMAN CLAYTON: Well, let's talk about
7 the off-system sales. How different is your position from
8 that of the Staff?

9 MR. MILLS: I don't have those numbers in
10 front of me.

11 CHAIRMAN CLAYTON: Is it different?

12 MR. MILLS: It is different, yes. We did
13 an analysis based on the real time model to come up with
14 an estimate of the off-system sales margins, which differs
15 from the Staff and from the company, but it's not based as
16 line 191 might suggest with the 40th percentile.

17 CHAIRMAN CLAYTON: Okay. And then rate
18 case expense, I mean, that's not --

19 MR. MILLS: Rate case expense, and I don't
20 have the final number on this, but I think Staff's
21 proposing to include on an annual basis about 1.3 million,
22 and we are proposing zero.

23 CHAIRMAN CLAYTON: Does OPC have a
24 different plug from that of the Staff?

25 MR. MILLS: We did not do a plug.

1 CHAIRMAN CLAYTON: You didn't do a plug.

2 MR. MILLS: I mean, the -- first of all, we
3 didn't do a full revenue requirement analysis with our
4 direct testimony. So we really wouldn't have anything to
5 plug into.

6 CHAIRMAN CLAYTON: Well, if you look at
7 Exhibit 57 -- and I guess this is where I was going with
8 this. If you look at Exhibit 57 that KCPL provided this
9 morning, and according to the updated or replacement
10 recommendation where you-all are 6 or 7 million higher
11 than Staff, you add those figures together, it would
12 suggest that Office of Public Counsel would recommend
13 after true-up around a \$100 million increase for the
14 company.

15 Is that a fair representation of your
16 position?

17 MR. MILLS: I don't believe so. Let me
18 tell you why. Because as Mr. Thompson said, that
19 \$60 million isn't a real number. That's way back when
20 what the Staff thought they were going to end up with
21 after true-up. Even though it says known and measurable
22 changes, by definition those are not known and measurable
23 changes. Those are things that the Staff thought might
24 become known and measurable sometime in the future.

25 What they were trying to do is, and as

1 Mr. Dottheim explained in the oral argument a couple of
2 weeks ago, they just don't want to come out with a really,
3 really low number when they know it's going to go up by
4 some amount. So they try to make a guess as to how much
5 it's going to go up.

6 CHAIRMAN CLAYTON: Well, is that -- would
7 it be a fair statement not to -- and I'm putting you in a
8 position to speak for Staff, and I suppose I should ask
9 Mr. Thompson this, but is the plug that is used in that
10 figure and that I used in trying to evaluate what your
11 position is today, is that based on the budget control
12 figures of Iatan 1 going into service and using their
13 original statements?

14 MR. MILLS: I don't know that level of
15 detail of how they came up with the plug.

16 CHAIRMAN CLAYTON: Okay. Well, then what
17 would you estimate today Public Counsel's position is,
18 assuming some amount of Iatan 1 costs going into rate
19 base? I mean, what would be -- what do you estimate
20 Public Counsel's position is on a rate increase
21 recommendation?

22 MR. MILLS: Let me see if -- I'll answer it
23 this way, and if that doesn't give you the answer you
24 want, we can try again.

25 CHAIRMAN CLAYTON: I don't want any

1 particular answer.

2 MR. MILLS: Our number -- once you take
3 into account all the issues that we have that are
4 different from Staff, our number is likely to be, because
5 we've got a higher proposed return on equity, is likely to
6 be roughly \$5 million higher than Staff.

7 CHAIRMAN CLAYTON: Okay. So with Staff's
8 position on Exhibit 57, and granted this is a utility
9 document and we're referring to Staff's position, we're
10 still edging close to \$100 million. So is it a fair guess
11 that we're going to -- that is within the realm of
12 reasonableness, that's where Public Counsel's going to be
13 at the end of this case?

14 MR. MILLS: With the caveat that we're only
15 edging close to \$100 million if the Staff's \$60 million is
16 still close to where they are. I think you can look at
17 the list of issues and say we're not there yet. I mean,
18 we're closer to the end of the true-up than we are when
19 that \$60 million was created, and we haven't closed that
20 \$60 million gap by a whole lot.

21 So there's -- you know, again, you'll have
22 to ask Staff this, but my guess is if they have to
23 recalculate the plug, I don't know that it would still be
24 \$60 million based on where they are.

25 CHAIRMAN CLAYTON: So there's work that

1 still needs to be done is what you're saying?

2 MR. MILLS: Absolutely.

3 CHAIRMAN CLAYTON: Now, if you had a
4 layperson, someone who's not familiar with how we do
5 business, how business is conducted at the Commission, not
6 aware of our processes and formulae and everything that
7 goes into ratemaking, but today if we look at a comparison
8 of KCPL's position which their original tariff request is
9 set at around \$101 million, and potentially the ratepayer
10 advocate is going to come out somewhere in the same area,
11 what do you tell the layperson who's listening in to this,
12 what are we arguing about over the next four weeks if your
13 positions are pretty close on dollars?

14 MR. MILLS: Well, first of all, I'm not
15 sure that they are that close. And second of all, even if
16 they are, I mean, sometimes -- you know, and I don't know
17 if anybody has told the Bench this, but I think the
18 parties are even now still talking about the possibility
19 of settlement. So we may be relatively close.

20 But even for some issues that are really
21 not worth in the grand scheme of the \$660 million I was
22 talking about, not worth a lot of money, just a few
23 million, frequently those are issues that we believe have
24 importance going forward, and we want to get the
25 Commission to make a decision on those so we know how the

1 Commission's going to rule, because it may be a \$2 million
2 issue here, but it may turn out to be a \$10 million issue
3 in another KCPL case or an Ameren case.

4 CHAIRMAN CLAYTON: Okay. So can I --
5 hearing what you're saying, basically the dollars don't
6 appear to be that far off among all the parties, but
7 potentially the policy decisions that the Commission makes
8 within the context of the case regardless of the dollars
9 are the most part of this case; is that what you're
10 telling me?

11 MR. MILLS: They may be. I'm not saying
12 that the dollars aren't important. A million dollars is a
13 million dollars. I think that's significant. If we need
14 to try the case to figure out the right answer to that,
15 then we need to. But you're right, the principle is on
16 some issues more important than the dollars. I wouldn't
17 say that that's universally the case.

18 CHAIRMAN CLAYTON: Okay. Thank you.

19 JUDGE STEARLEY: Any other questions for
20 Mr. Mills?

21 (No response.)

22 JUDGE STEARLEY: Mr. Thompson, did you want
23 to clarify?

24 MR. THOMPSON: Judge, if I may, I am told
25 that the plug includes the Iatan 1 additions in Staff's

1 calculation of the Iatan common costs.

2 CHAIRMAN CLAYTON: Is that the budget
3 control figures that were used, the original estimate? Is
4 that what that means?

5 MR. THOMPSON: I believe that's true, sir.

6 CHAIRMAN CLAYTON: Thank you.

7 JUDGE STEARLEY: Opening statement,
8 Praxair, MEUA.

9 MR. WOODSMALL: Thank you, your Honor.
10 I'll be very, very brief in light of the fact that we're
11 going to be doing mini openings, if you will.

12 Praxair and the Midwest Energy Users
13 Association has filed testimony on a couple of issues in
14 this case, the first issue being jurisdictional
15 allocations. As Mr. Fischer said, that is the allocation
16 of costs between Kansas and Missouri in the wholesale
17 jurisdiction.

18 KCP&L has indicated that there is some
19 amount of costs that go unrecovered in this allocation of
20 costs between Kansas and Missouri. The evidence will show
21 that this has been a lingering problem. Going back at
22 least 25 years, KCP&L came to this Commission 25 years ago
23 and asked this Commission to resolve this problem for it,
24 and the evidence shows that this Commission took a step
25 forward to help them bridge this gap and made a change in

1 the demand allocator for jurisdictional allocations.

2 Kansas has never made a similar change to
3 help bridge this gap. KCP&L is again before this
4 Commission saying, Missouri, you continue to bridge this
5 gap. There has never been any movement out of Kansas to
6 help us bridge this gap, and we're here to tell you now
7 that Missouri has done enough. Missouri picks up its fair
8 share of the costs. And that will be addressed in the
9 jurisdictional allocation issue.

10 The second issue that we addressed is
11 off-system sales. We had issue originally going back to
12 the previous two cases with the use of the 25th percentile
13 mechanism. We've dropped that. We're far enough along on
14 that. We've agreed to its use, but KCPL wants to make
15 certain adjustments off of that 25th percentile,
16 adjustment for risk-based sales and Q sales and some other
17 type of off-system sales that you'll hear plenty about.

18 We believe those aren't permitted by the
19 regulatory plan. We also believe that KCP&L has not done
20 a study to determine whether the costs of engaging in
21 those type of sales are picked up by regulated ratepayers.
22 So until such time as those costs are excluded from
23 regulated ratepayers' rates, we believe that we should
24 continue to recognize those off-system sales.

25 The third issue that we addressed is rate

1 design. You may remember this from the last case, and we
2 brought it back. Mr. Brubaker proposes a rate design
3 change to the large power tariff. Now, it's important to
4 recognize this is only to the larger power tariff. It's a
5 rate design that will make intra-class changes to that
6 tariff.

7 And what it does is it attempts to reflect
8 the fact that there are two different charges in the
9 tariff. There is an energy charge and there is a demand
10 charge. And what is generally attempted to be done is the
11 demand charge is supposed to pick up the fixed cost. That
12 is the cost that you're going to pay whether you use one
13 kilowatt hour of energy or not. The other cost is the
14 energy cost. That's supposed to pick up the fuel and the
15 other costs that vary with the amount of usage you have.

16 What's happened over time, though, is
17 there's become a discrepancy, and we pick up a large
18 portion of fixed costs in the energy costs. What he has
19 done is try to make a rate design proposal which will --
20 which will balance that better, which will allow more of
21 the fixed costs to be picked up in the demand component.

22 What this does is it better positions the
23 high load factor customers, which are cheaper to serve on
24 a per kilowatt basis, with the lower load factor
25 customers. And again, Mr. Brubaker will be here for that

1 issue, and I ask you to engage in that discussion with
2 him.

3 The final issue, the one that you're going
4 to start hearing today is the Iatan 1 issue, and I'm kind
5 of lost on this issue. You heard me two weeks ago talk
6 about the need to balance customer interests. You've
7 heard the parties here today say you need to balance the
8 interests of the company with the ratepayers, the debt
9 holders, everybody else, and I continue to agree with
10 that.

11 My interest in this issue has somewhat
12 changed recently because the Commission has told the Staff
13 to do a prudence audit, and apparently Staff is going to
14 be able to do that prudence audit. So to the extent that
15 that prudence audit is done, my concerns are somewhat
16 alleviated depending on what Staff says.

17 I think it's important, though, to the
18 extent that Staff is not able to get it done, that you
19 continue to recognize the importance of the interim
20 subject to refund. We're not talking a lot of money here.
21 If Staff is not able to do their prudence audit within the
22 time anticipated by this case, the interim subject to
23 refund, what we're talking about is \$46 million, and I'll
24 go through the derivation of the numbers.

25 The difference between the original control

1 budget estimate of 376 million and the company's new
2 number of 423 million is roughly \$46 million of rate base.
3 Only 70 percent of that is KCPL. So we we're talking
4 \$32 million of KCPL rate case, but that's not all
5 Missouri. Let's say roughly 50 percent of that is
6 Missouri and 50 percent is Kansas. So we're talking
7 \$16 million, \$17 million of KCP&L Missouri regulated
8 operations.

9 That's rate base, though. When you take it
10 through the whole mechanism, we're talking about 3, 4,
11 \$5 million that would be interim subject to refund. In
12 the grand scheme of things, in order to protect the
13 ratepayers' interests and make sure that the construction
14 audit is done and that the ratepayers are protected
15 against paying rates that aren't reasonable and justified,
16 I think it's important to remember that that is an option.
17 We will address that more when the true-up gets here and
18 if it's needed at that time.

19 A final issue in regard to Iatan 1 is an
20 issue brought up by DOE, and I think it's appropriate.
21 DOE has brought up the issue about the proper in-service
22 criteria to be used with Iatan 1.

23 Staff and the company have agreed on
24 in-service criteria, but DOE raises the issue that they
25 don't believe that those in-service criteria go far

1 enough, that those in-service criteria relative to the
2 commercial in-service criteria are vastly different. That
3 is, the regulatory in-service criteria are very
4 abbreviated. It just calls for five days of operation at
5 certain levels.

6 The commercial in-service criteria, that is
7 whether the contractors who have built this unit have
8 just -- have satisfied their contractual obligations, are
9 much more in depth. There are dozens and dozens of
10 performance criteria, several pages worth, and DOE states
11 that they believe that this unit should not go into rates
12 until such time as the unit has demonstrated that it's met
13 commercial performance criteria, and we believe that
14 that's appropriate.

15 At the time that this unit goes into rates,
16 we should know whether it's going to operate pursuant to
17 that contract. We're paying the rates for it. We're
18 paying the O and M expenses. We're paying the rate base.
19 We ought to get the unit that we think we're paying for.
20 So we believe that DOE makes a valid point, that it should
21 meet those commercial criteria.

22 We're not saying throw it out of rate base.
23 What we're saying you can do is just, you know, delay this
24 case until such time as it does meet those criteria. You
25 can make an interim subject to refund order. There are

1 other ways you can handle it, but we believe that you
2 should consider that position proposed by DOE witness
3 Kumar.

4 I think that hits most of the positions
5 that I want to take. Again, I'll be giving you more
6 information when we get to the mini opening statements.
7 Thank you.

8 JUDGE STEARLEY: Any questions for
9 Mr. Woodsmall?

10 (No response.)

11 JUDGE STEARLEY: Seeing none. Thank you,
12 Mr. Woodsmall.

13 Opening statement from DOE/NNSA/FA.

14 MR. BRUDER: Thanks very much. If it
15 please the Commission? Do forgive me for reading, but I
16 want to be as brief and as stringent as I could be.

17 On the issue of Iatan 1, we have as I see
18 it the following situation. To begin with, there's the
19 question of imprudence. Now, we have seven or eight
20 witnesses, depending upon how you count, from the company,
21 and they repeat and repeat and repeat that there has not
22 been any evidence of imprudence. They say that what the
23 Commission has before it is not evidence of imprudence but
24 merely a bare allegation of imprudence.

25 I respectfully suggest that that is not a

1 valid statement. This plant has cost at least
2 \$100 million more than the company represented that it
3 would cost. That alone constitutes evidence of some
4 difficulty.

5 Now, we know, too, that neither the company
6 nor the Commission nor any of the parties knows at this
7 point how much this plant is really going to cost in the
8 end and how that money was spent. That simply hasn't been
9 looked at in its entirety.

10 More in line with the question of
11 imprudence, we do know and the record shows that there
12 have been delays, there have been accidents, there have
13 been difficulties among the contractors. Those accidents,
14 delays and difficulties it is my understanding are still
15 being looked into, not only by the Staff, but by the
16 company itself.

17 There is great concern in all quarters as
18 to how this plant has been constructed and what happened.
19 We don't know at this point what happened.

20 Now, the next thing is the status of this.
21 Our witness, Mr. Kumar, has pointed out that the criteria
22 that were agreed upon, even if they are met, and we have
23 only at this point a bare allegation that those criteria
24 are met, but even if they are met, that doesn't mean that
25 this plant is online. That doesn't mean that this plant

1 is used and useful. That doesn't mean that this plant is
2 doing what all these hundreds millions of dollars were
3 spent to have it do, which is produce electricity. Isn't
4 doing it now as far as I can make out. There's no clear
5 indication as to when it's going to do it. And there is,
6 as in all great endeavors, the possibility that there will
7 be significantly more delays.

8 So no one seriously contests that no one
9 knows at this point what the costs are. Everyone knows
10 the plant isn't really in service and won't be for a
11 while. We all know there is some significant indicia at
12 least of imprudence and that those need to be examined
13 more fully.

14 And yet with all this mugginess, with all
15 this fogginess, with all this nebulous and some extent
16 disturbing character of the situation, we have the company
17 telling the Commission that the statute and the precedent
18 and that justice demand that you put this plant into rate
19 base right now, and by so doing that the ratepayers be
20 required to begin providing a return on this plant right
21 now even with all of these very, very unanswered important
22 questions.

23 Even that might be acceptable, but what the
24 company goes on to say is you may not put this into effect
25 on an interim basis. They say the statute doesn't allow

1 that. They say the precedents don't allow it. They say
2 that justice doesn't allow it.

3 And in so doing, what happens is that the
4 plant, this nebulous plant goes into rate base, the
5 ratepayers begin to pay a return on that, and under the
6 company's scenario, that return the company can keep no
7 matter what the final results on this plant are.

8 They say the only thing that can be done in
9 regard to prudence findings, in regard to cost findings if
10 you find out later, you can take some of the plant back
11 out of rate base and the return won't continue. All the
12 return that we get up until the time that you make that
13 finding we get to keep no matter what the finding is.

14 And I emphasize that they say, not that
15 that's what they would like, but that's what the statutes
16 require. Gentlemen, I submit that no fair reading of the
17 statutes could possibly require such an inapposite result,
18 and I do ask two things with that in mind.

19 The first is that the Staff and others be
20 given due time, and I persuade that that hasn't happened,
21 due time to look at this prudence issue as carefully as
22 possible. And something that I was struck with as I was
23 reading all the company's testimony about how carefully
24 they had managed this and how carefully they had looked
25 into everything that they thought was important.

1 And one of the things that jumps right out
2 at you after you read that for a couple of hours is this
3 isn't just a matter of pouring over 10,000 pieces of
4 paper. It's a matter of judgment. You need to sit down
5 and talk about it. We need to get input from everybody.
6 That takes time.

7 Let us give the Staff the time to do that,
8 and in the interim, let's put the moneys that are up in
9 question in effect if we're going to do it on an interim
10 basis so that justice can be done at such time as the
11 prudence issue and some others that I've mentioned have
12 been adjudicated fully.

13 Thank you very much.

14 JUDGE STEARLEY: Any questions for
15 Mr. Bruder? Mr. Chairman.

16 CHAIRMAN CLAYTON: I just have a couple of
17 real quick questions. Just to clarify your position, I
18 understand your comments regarding time and the ability
19 for the Staff to do their prudence review, but does your
20 client support the inclusion of the budget control amount
21 of the Iatan 1 improvements being included in rates or are
22 you objecting to the entire amount?

23 MR. BRUDER: Let me be perfectly straight
24 about that. I think that given the number and the
25 character of the questions about considerations of

1 imprudence here, that unless this plant is actually in
2 service, and I don't think anybody, anybody has at this
3 point seriously asserted that it is, we think that none of
4 it should go into rate base because it's not used and
5 useful. It's just not working.

6 But that said, we also understand the
7 realities here, and given those realities, we regard only
8 that approximately \$100 million that's been discussed as
9 the amount that ought to be treated in the manner that's
10 referred to as interim rate base.

11 CHAIRMAN CLAYTON: Let me ask the question
12 a different way. The assertion was made about an hour and
13 a half ago that it was placed in service yesterday.
14 Obviously the evidence would have to support that
15 occurring. But if that was shown, then does your client
16 support inclusion of the budget control figures as a
17 permanent part of rate base?

18 MS. CARTER: The difficulty with the
19 question, I'm going to answer it, but --

20 CHAIRMAN CLAYTON: Answer it yes or no and
21 then explain.

22 MR. BRUDER: I'm sorry. I was busy
23 qualifying and I didn't get the question.

24 CHAIRMAN CLAYTON: If you make the
25 assumption -- I know. That happens a lot around here, a

1 lot of qualification around here because no one likes the
2 questions I found. Witnesses, lawyers, they don't like
3 the questions and so they don't like answering them.

4 MR. BRUDER: That's fair.

5 CHAIRMAN CLAYTON: Trust me on this one.
6 If you assume that the improvements associated with
7 Iatan 1 are placed in service and are fully operational,
8 you've got to make that assumption, that that is proven up
9 in the case, does your client then support inclusion of
10 the, quote/unquote, budget control figures of, a number
11 that was thrown around earlier was 376 million?

12 At the very least does your client support
13 inclusion of those numbers in rate base as a permanent
14 part, yes or no?

15 MR. BRUDER: If the plant is actually
16 online and producing electricity at levels and with
17 reliability and all that other stuff as it should have
18 been, no, I would still want -- no, I would still -- no.
19 The answer to that is no. I would still think that that
20 100 million should be subject to the interim procedure and
21 subject to refund because we think there are so many
22 questions around the status of this plant.

23 CHAIRMAN CLAYTON: Thank you.

24 JUDGE STEARLEY: Any other questions for
25 Mr. Bruder?

1 (No response.)

2 JUDGE STEARLEY: Seeing none. Thank you,
3 Mr. Bruder.

4 Opening statement from the hospital
5 intervenors.

6 MR. ZAKOURA: Thank you for allowing me to
7 appear before the Commission today.

8 When we first started this hearing today,
9 there was a discussion about taking administrative notice
10 of prior proceedings involving the company and the
11 comprehensive energy plan, and although we didn't speak,
12 we absolutely support that. We believe that that's a
13 critical element here in this case, that this case isn't a
14 case that's disconnected or disjunctive from the energy
15 plan, but rather is a part of that energy plan.

16 We filed modest testimony in this case, and
17 the testimony in this case that we filed was basically to
18 highlight what was presented to the Commission in the
19 comprehensive energy plan as to the forecasted rate
20 increase and where we are today.

21 Now, the forecasted rate increase when the
22 comprehensive energy plan came forward was approximately 3
23 to 4 percent per year over a five-year period. We are
24 almost surpassed that estimate, which has been called a
25 definite estimate I believe in some of the testimony, at

1 this time, and the company is here today requesting 17 and
2 a half percent additional rate increase under the
3 comprehensive energy plan.

4 My learned colleague, Mr. Fischer, talked
5 about this being a case that is, I guess, almost ordinary,
6 a case that could be coming before the Commission with
7 regard to the standard rules, the standard procedures, the
8 standard precedent that has been at this Commission for
9 many years. And we believe that that is not the case, and
10 we don't believe that based on the comprehensive energy
11 plan that should be the case.

12 If you step back and look at what the
13 Commission did when they started this plan, the Commission
14 was trying to, as the statute requires, balance the
15 interests of shareholders and ratepayers. The Commission
16 was looking forward out into time, trying to address with
17 the utility, with the ratepayers, how best to have enough
18 electric energy at a reasonable price and to go forward on
19 that with a reasonable rational basis.

20 As a cornerstone of that, of course, was a
21 moderate rate increase over time, and that moderate rate
22 increase over time was even to be supplemented by what the
23 energy plan calls an additional amortization, which, in
24 fact, was extra relief by this Commission to the utility
25 in order for the utility to meet certain credit ratios of

1 the rating agencies.

2 So this was a comprehensive plan. It was a
3 thoughtful plan. It was a plan that was pointed towards
4 an end that would hopefully get to a result that would be
5 good for the Commission, for the ratepayers, for the
6 company.

7 Now, what's changed in that period of time?

8 Well, one thing that's changed is that we're looking now
9 at about a 40 percent rate increase if the company gets
10 that under the comprehensive energy plan. And I would say
11 to the Commission this in response to what learned counsel
12 for the company said.

13 The company said at one point in time in
14 opening statement that they were surprised at how the
15 intervenors had reacted here and how the Staff had
16 reacted. Well, that level of surprise is only moderate
17 compared to the surprise we have now as we're looking at a
18 35, 40 percent rate increase in a comprehensive energy
19 plan that was forecasted to be 3 to 4 percent per year or
20 20 percent over a five-year term. And, of course, we
21 haven't heard about Iatan 2 yet, which is yet to come
22 before this Commission.

23 I would like to talk a little bit about
24 balance here. When the company talked about the
25 extraordinary financial times that are facing the company,

1 Kansas City Power & Light, I would only highlight for the
2 Commission something that the Commission knows so well I
3 don't even probably have to say it. We have the highest
4 unemployment in the state of Missouri that we've had in
5 decades. We have job losses that we haven't seen in
6 decades.

7 While Kansas City Power & Light Company
8 faces an economic crisis, I would only say to the
9 Commission what is in the papers every day, that every
10 single rate -- I won't say every single ratepayer. The
11 majority of ratepayers in the Missouri service territory
12 of Kansas City Power & Light are also facing extremely
13 difficult economic times.

14 And when the Commission sets balancing and
15 rate of return and how they balance the interests in this,
16 certainly the businesses and the individuals that are
17 paying these rates need to be considered and the effect on
18 their lives and their ability and their families to go
19 forward needs to be considered as well

20 Well, I will ask this question to all of
21 the witnesses as they come forward. I want to get at this
22 case as to what went wrong with the definitive estimate.
23 Kansas City Power & Light Company has said that they're
24 going to have seven experts, I think seven, eight experts
25 testify on how the control budget is appropriate and how

1 they've stayed within that control budget.

2 My question is, where were all of those
3 people at the time they were making the definitive
4 estimate? Certainly those are highly professional people.
5 Certainly they would have come to the Commission and said
6 this 3 to 4 percent, this 20 percent over the term of the
7 plant is a reasonably definite estimate. You know, we
8 might miss it by a point or two, but we're not going to be
9 doubling it, which is what has occurred.

10 So those are the questions that we're going
11 to ask, and in large part our position is how did we get
12 here, what is the prudent thing to do, and have the
13 Commission have the answers to the question of how did we
14 start out at 3 to 4 percent a year and 20 percent and end
15 up today, on April 20th, with a 17 and a half percent rate
16 increase before the Commission.

17 Thank you.

18 JUDGE STEARLEY: Any questions for
19 Mr. Zakoura?

20 (No response.)

21 JUDGE STEARLEY: Seeing none. Thank you,
22 Mr. Zakoura.

23 Opening statement from the Department of
24 Natural Resources.

25 MS. WOODS: Good morning. May it please

1 the Commission?

2 The Missouri Department of Natural
3 Resources Energy Center is here before the Commission in
4 this rate case on one issue only, demand side management,
5 and in reality the Department's Energy Center is actually
6 here before the Commission on three of the subissues in
7 demand side management.

8 Two of those subissues have to do with
9 programs that the company has proposed to add to its DSM
10 portfolio. One is an economic relief program, and the
11 second is a supplement to the company's weatherization
12 program, the minor home repair program.

13 The third issue or subissue that the
14 Department has provided testimony to the Commission on has
15 to do with a goal or a target the Department has proposed
16 the company use to assess its energy savings in the demand
17 side management area.

18 And with that, I will reserve anything more
19 detailed for the actual opening on the DSM issue, which I
20 believe is schedule to be before you next week.

21 JUDGE STEARLEY: Questions for Ms. Woods?

22 (No response.)

23 JUDGE STEARLEY: Thank you, Ms. Woods.

24 Opening statement, City of Kansas City.

25 MR. COMLEY: May it please the Commission?

1 The City of Kansas City has appeared in this proceeding
2 first to join with the Missouri Department of Natural
3 Resources in recommending to you that Kansas City Power &
4 Light add the supplemental weatherization and minor home
5 repair program to its menu of demand response programs.

6 The City also wants to bring to your
7 attention two other issues that are addressed by Mr. Bob
8 Jackson, the manager of the city's weatherization program,
9 our witness in this matter. You will find these issues
10 tucked away on page 4 of the list of issues that Kansas
11 City Power & Light filed on April 13th under their demand
12 side management topic.

13 And the issues are, should the
14 weatherization program be modified so that Kansas City
15 Power & Light's call center will refer customers to the
16 program, and should those LIHEAP recipients be directed to
17 the weatherization program and required to participate in
18 it?

19 Mr. Jackson suggests in his testimony that
20 KCPL's call center take a more active role in recommending
21 eligible participants for weather assistance. Kansas City
22 Power & Light is quite familiar with customers who have
23 historic problems with their payments and we believe would
24 have a very good idea of whether those customers would
25 profit from a better insulated home or upgraded heating or

1 cooling system or more efficient way of water heating.

2 Right now it's the City who secures all
3 those applicants, but Mr. Jackson believes that the
4 process of identifying and serving those who are eligible
5 can be very much improved with coordination from KCPL's
6 call center. This is very true particularly with one
7 class of the applicants, and that's those who take Low
8 Income Home Energy Assistance Program funds, the LIHEAP
9 program.

10 I know you're familiar with it. Basically,
11 fuel assistance is made available by the Missouri
12 Department of Social Services through the LIHEAP program,
13 and the recipients of those funds work directly with the
14 utility that provides them service, such as Kansas City
15 Power & Light.

16 Mr. Jackson believes that many LIHEAP
17 recipients could qualify for weatherization assistance,
18 and if KCPL's call center were authorized to refer the
19 LIHEAP recipients to the city's weatherization program,
20 Mr. Jackson foresees better use of all available funds,
21 including a reduced reliance on the LIHEAP dollars.

22 The City recommends that KCPL's
23 participation in the weatherization program be modified so
24 that its call center be active in referring eligible
25 customers and any potential beneficiaries of the

1 weatherization program to Mr. Jackson and his department,
2 particularly the customers who are recipients of the Low
3 Income Home Energy Assistance funds.

4 Thank you.

5 JUDGE STEARLEY: Any questions for
6 Mr. Comley?

7 (No response.)

8 JUDGE STEARLEY: Thank you, Mr. Comley.
9 Opening statement from Trigen.

10 MR. KEEVIL: Thank you, Judge. May it
11 please the Commission? My name is Jeff Keevil. I think
12 most of you know me. I'm here for Trigen-Kansas City
13 Energy Corporation.

14 Now, my client has submitted a statement of
15 position on only three issues or subissues, depending on
16 how you want to look at them, in this case. Those issues
17 are Issues 1A, 1B and 1C under the rate design section of
18 the list of issues which Staff filed last Friday or
19 Monday. Those issues are set forth as follows:

20 A, should the general service all electric
21 winter energy rates be increased by 10 percent before
22 applying the equal percentage increase allocated to the
23 class as a whole?

24 B, should the general service separately
25 metered space heating classes winter energy rate and the

1 service charge be increased by 5 percent before applying
2 the equal percentage increase?

3 And C, should those frozen general service
4 all electric and separately metered space heating rate
5 schedules currently serving no customers be eliminated?
6 That's the way those issues are stated in the staff's list
7 of issues.

8 My client supports the position set forth
9 in Staff's prefiled testimony on these three issues, and
10 therefore, like Staff, submits that the answer to each of
11 these questions is yes, with a small caveat under
12 Issue 1A which was set forth in Staff's statement of
13 position.

14 I would submit that a yes answer to each of
15 these questions is necessary to meaningfully continue the
16 phase out of these rates that the Commission found was
17 needed in KCPL's last rate case and which I believe you
18 took official notice of here this morning, Judge. That
19 was the ER-2007-0291 docket, I believe.

20 Now, I know you have numerous other matters
21 to address in this hearing, and I don't believe these
22 issues that I just mentioned are set for hearing until
23 Thursday, so I won't take up any more of your time here
24 this morning. Thank you very much.

25 JUDGE STEARLEY: Questions for Mr. Keevil?

1 (No response.)

2 JUDGE STEARLEY: Seeing none. Thank you,
3 Mr. Keevil.

4 On our list here the Joint Municipal
5 Electric Utility Commission would be next line. However,
6 Mr. Healey had filed notice that he'd be entering his
7 appearance later this week, and he can give his opening
8 statement at the appropriate time.

9 Opening statement from Empire and MGE?

10 MS. CARTER: I have an issue-specific
11 statement for MGE later on in the proceedings, but I have
12 no general opening for MGE or Empire. Thank you, Judge.

13 JUDGE STEARLEY: Thank you, Ms. Carter.
14 Opening statement Ameren.

15 MR. LOWERY: Your Honor, I have no general
16 opening statement for AmerenUE either. Thank you.

17 JUDGE STEARLEY: Well, we've been going
18 about two hours now. I'd like to give my court reporter a
19 break before we resume with witnesses. The Chairman would
20 like to inquire of Mr. Fischer.

21 MR. FISCHER: Yes, sir.

22 CHAIRMAN CLAYTON: I apologize. I just had
23 a couple of follow-up all the rebuttals to -- you started
24 off and the rebuttals -- the rebuttals that have come in,
25 I just wanted to ask for your feedback on a couple of

1 things.

2 First of all, Mr. Woodsmall made a
3 reference to the difference in the parties' positions
4 especially relating to the Iatan 1 improvements. There
5 have been references to the definitive estimate,
6 approximately 376 million, and then there was another
7 reference to total costs amounting to \$423 million,
8 leaving a difference of 46 million. Do you recall that
9 statement that he made?

10 MR. FISCHER: Yeah, I recall that
11 conversation.

12 CHAIRMAN CLAYTON: How far off is that from
13 what KCPL's --

14 MR. FISCHER: I'd want to look at the
15 transcripts, but I think, Judge, the 484 number that we're
16 using, that's the reforecast that was done in May '08.

17 CHAIRMAN CLAYTON: 484?

18 MR. FISCHER: Yeah. That was based upon
19 the 95 percent of the engineered and the -- or 95 percent
20 procured and 90 percent engineered level. Then he's
21 comparing it to, I think he said the 376. Then you take
22 that down to a Missouri jurisdictional level, I think you
23 can get pretty close to where he was at.

24 CHAIRMAN CLAYTON: Okay. So what is the --
25 did you agree with the 70 percent KCPL allocation?

1 MR. FISCHER: I'm being told that that's
2 approximately right.

3 CHAIRMAN CLAYTON: And then in terms of
4 Missouri allocation, I think he said 50/50. Is that even
5 with the realm of --

6 MR. FISCHER: We're a little bit higher on
7 Missouri than Kansas.

8 CHAIRMAN CLAYTON: Little bit higher?

9 MR. FISCHER: 55/45 or --

10 CHAIRMAN CLAYTON: And then can you -- is
11 it possible for KCPL to identify a dollar amount in
12 revenue requirement increase that the difference between
13 all in at the reforecast number 484 versus the original
14 definitive estimate, what that means in annual dollars and
15 increase in revenue?

16 MR. FISCHER: With some help, I think we
17 can do that, yes.

18 CHAIRMAN CLAYTON: If you could just supply
19 that or mention it on the record at some point.

20 And then the other question that I wanted
21 to mention, if we make the assumption that -- assume an
22 increase of \$100 million. I think your tariffs are around
23 101. The numbers are floating around. But can you just
24 take that increase, divide it by 12 and that is how you
25 come up with an amount of revenue increase per month? Is

1 it that simple?

2 MR. FISCHER: Well, it's not that simple if
3 you look at our actual usage patterns. In the summer, of
4 course, we have more revenues coming in, but if you want
5 to know just an average on a yearly basis, I guess you
6 could do that. The summers we have considerably more
7 revenues as a result of the usage.

8 CHAIRMAN CLAYTON: So divide by 12 and then
9 you'd have to adjust it outward?

10 MR. FISCHER: We could give the Commission
11 whatever kind of information you'd like about that.

12 CHAIRMAN CLAYTON: I'm just trying to get a
13 general idea of what it means on a monthly basis to the
14 utility.

15 MR. FISCHER: We could probably give you a
16 better idea of what it would be on an average summer bill
17 compared to an average winter bill, something like that,
18 if that would be more --

19 CHAIRMAN CLAYTON: I don't even know if I'm
20 looking for rate impact. I'm looking for the actual
21 revenue, what it means coming to the company.

22 MR. FISCHER: It's 17 and a half percent
23 overall on an annual basis.

24 CHAIRMAN CLAYTON: And then lastly, what's
25 the effective date of the tariffs as of right now,

1 September 1st or October 1st?

2 MR. FISCHER: September 5th, I believe.

3 CHAIRMAN CLAYTON: So we're talking five or
4 six months before we get to the conclusion of the case.
5 Okay. Thank you.

6 MR. FISCHER: Although, Judge, we did
7 commit that we would -- with the extension of the true-up,
8 we extended that date.

9 CHAIRMAN CLAYTON: So we're looking at
10 October is where the case will be fully resolved.

11 MR. BLANC: I think we're a month ahead.
12 The tariffs were filed with an August 5th effective date.

13 MR. FISCHER: I'm sorry. That's right.
14 I'm sorry.

15 CHAIRMAN CLAYTON: Got you. Thank you.

16 JUDGE STEARLEY: Any other questions for
17 Mr. Fischer?

18 (No response.)

19 JUDGE STEARLEY: Thank you, Mr. Fischer.
20 Mr. Dottheim?

21 MR. DOTTHEIM: Judge, if we can -- when we
22 go off the record, before we literally break, could you
23 just give us two or three minutes to address schedule,
24 because we may suggest something other than coming back
25 like in 10 or 15 minutes?

1 JUDGE STEARLEY: Certainly. I was going to
2 inquire, we're 10 after 11, if the parties just wanted to
3 break early for lunch at this point and start up with our
4 witness list afterward.

5 MR. DOTTHEIM: Could you give us two or
6 three minutes?

7 JUDGE STEARLEY: Certainly.

8 (AN OFF-THE-RECORD DISCUSSION WAS HELD
9 AMONG COUNSEL.)

10 JUDGE STEARLEY: Mr. Dottheim?

11 MR. DOTTHEIM: Judge, I think it's been
12 mentioned that there have been some settlement
13 discussions, and the non-utility parties would like to
14 take an extended break until what otherwise would be after
15 lunch so that we could talk amongst ourselves and then see
16 if there's a basis for coming back and talking with Kansas
17 City Power & Light further.

18 So I think maybe the best thing I could
19 suggest at this time is possibly coming back after lunch,
20 maybe one o'clock, to report to you to see if we need some
21 additional time, whether the non-utilities parties would
22 like some time to talk with Kansas City Power & Light.
23 And the other utility parties are certainly free to sit in
24 on that and be parties to that conversation.

25 But at this point the non-- Staff is asking

1 on behalf of itself and some other of the non-utility
2 parties for an extended period of time to have some
3 discussions amongst ourselves.

4 JUDGE STEARLEY: Any objections from --

5 MR. FISCHER: No, Judge. The company would
6 very much support that. We would like to resolve the case
7 if we can.

8 JUDGE STEARLEY: Very good. Why don't we
9 plan on reconvening at 1:15, and you can advise me further
10 of where you're at and if you need additional time.

11 MR. DOTTHEIM: Thank you.

12 JUDGE STEARLEY: Thank you very much.

13 (A BREAK WAS TAKEN.)

14 JUDGE STEARLEY: We are back on the record,
15 and if I may inquire what status we're at here now,
16 Mr. Fischer?

17 MR. FISCHER: Yes, Judge, very much. We
18 over the lunch hour were handed a proposal, a revised
19 counter proposal from some of the parties in this case.
20 As you may or may not know, we've been trying to resolve
21 this for some time with a settlement conference several
22 weeks back.

23 We're prepared to go forward with the
24 hearing; however, we believe it might be worthwhile to
25 recess for the day to see if there's any way we can bridge

1 the gap. We're not there yet, and there's some
2 clarifications on what the other parties are now asking
3 that we need to have.

4 We're thinking that if we don't reach an
5 agreement this afternoon or maybe this evening, we'd be
6 prepared to start up at 8:30 in the morning and go
7 forward. I mean, at some point -- we have two weeks of
8 hearings and we have two weeks of issues, and we can't
9 afford not to continue on.

10 On the other hand, given where the numbers
11 are in the case, as I mentioned in the hearing this
12 morning, I think it's worthwhile to try to resolve it if
13 we can. So that's the company's proposal. If we can get
14 it done today, we'd be willing to take a recess and try to
15 do that. We do need some clarification. We'd like to
16 talk to the parties that are willing to sign on to this
17 settlement. We're not sure who it would be at this point.
18 We need some clarification, and that would be the
19 company's proposal.

20 We are prepared, we've got all our
21 witnesses here. We'd be ready at 8:30 tomorrow.

22 JUDGE STEARLEY: And really the witness
23 list for tomorrow would essentially be identical to what
24 we have today. I'm assuming there's no problems with
25 availability of witnesses for tomorrow should we need to

1 resume?

2 MR. FISCHER: None that aren't stated
3 already.

4 JUDGE STEARLEY: We don't know about
5 Mr. Nielson?

6 MR. FISCHER: That's correct.

7 JUDGE STEARLEY: Unless there's any
8 objections, I think the Commission would find it amiable
9 to give you the time that you need to try to reach
10 settlement.

11 MR. FISCHER: I appreciate that.

12 JUDGE STEARLEY: We will plan then on
13 resuming at 8:30 in the morning. Are there any other
14 matters we would need to take up before adjourning today?

15 If we do resume with witnesses tomorrow,
16 the list I would have would be Giles, Churchman, Davis,
17 Jones, Roberts, Meyer, Downey, Featherstone, Schallenberg,
18 Dittmer and Kumar.

19 MR. FISCHER: There's also an overview
20 issue that I think precedes those that may or may not take
21 very long.

22 JUDGE STEARLEY: And I believe we have
23 Mr. Giles and Mr. Featherstone for that.

24 MR. FISCHER: Yes.

25 JUDGE STEARLEY: Very well. If there's

1 nothing more we need to address today, we will go ahead
2 and adjourn for today, and I will see you all at 8:30 in
3 the morning. Thank you.

4 WHEREUPON, the hearing of this case was
5 recessed until April 21, 2009.

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1	I N D E X	
2	Opening Statement by Mr. Fischer	167
	Opening Statement by Mr. Thompson	199
3	Opening Statement by Mr. Mills	204
	Opening Statement by Mr. Woodsmall	219
4	Opening Statement by Mr. Bruder	225
	Opening Statement by Mr. Zakoura	232
5	Opening Statement by Ms. Woods	236
	Opening Statement by Mr. Comley	237
6	Opening Statement by Mr. Keevil	240
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

	EXHIBITS INDEX	MARKED	RECEIVED
1			
2			
3	Exhibit No. 1		
4	Primary Revenue Requirement Issues	175	
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
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19			
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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3 COUNTY OF COLE) ss.

4 I, Kellene K. Feddersen, Certified
5 Shorthand Reporter with the firm of Midwest Litigation
6 Services, do hereby certify that I was personally present
7 at the proceedings had in the above-entitled cause at the
8 time and place set forth in the caption sheet thereof;
9 that I then and there took down in Stenotype the
10 proceedings had; and that the foregoing is a full, true
11 and correct transcript of such Stenotype notes so made at
12 such time and place.

13 Given at my office in the City of
14 Jefferson, County of Cole, State of Missouri.

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16 Kellene K. Feddersen, RPR, CSR, CCR

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