



PAUL S. DEFORD  
(816)292-2000  
EMAIL: PDEFORD@LATHROPGAGE.COM

SUITE 2800  
2345 GRAND BOULEVARD  
KANSAS CITY, MISSOURI 64108-2612  
816-292-2000, FAX 816-292-2001

July 2, 1999

**VIA HAND DELIVERY**

The Honorable Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
301 West High Street, Room 530  
Jefferson City Missouri 65101

**FILED**  
JUL 2 1999  
Missouri Public  
Service Commission

Re: In the Matter of Hawthorn Generating Station Union No. 5 and the  
Adequacy of Service Provided by the Kansas City Power & Light  
Company; Case No. E-99-553

Dear Secretary Roberts:

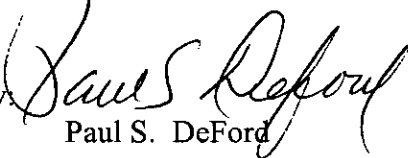
Enclosed for filing in the above-referenced case, please find:

- 1) An original and fourteen (14) copies of GST Steel Company's Motion to Compel Kansas City Power & Light Company's Responses to the First Set of Interrogatories and Requests for Production of Documents Propounded by GST Steel Company to the Kansas City Power & Light Company

Thank you in advance for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By:   
Paul S. DeFord

Enclosures

cc: To all parties of record

**BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI**

In the Matter of Hawthorn Generating )  
Station Unit No. 5 and the Adequacy )  
of Service Provided by the Kansas City )  
Power & Light Company. )

Case No. EC-99-553

**FILED**  
JUL 2 1999  
Missouri Public  
Service Commission

**GST STEEL COMPANY'S MOTION TO COMPEL KANSAS CITY POWER &  
LIGHT COMPANY'S RESPONSES TO THE FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY GST STEEL COMPANY TO THE KANSAS CITY POWER  
& LIGHT COMPANY**

Comes now GST Steel Company ("GST") and requests that this Commission compel Kansas City Power & Light Company's ("KCPL") response to the First Set of Interrogatories and Requests for Production of Documents Propounded by GST to KCPL ("First Set"), and in support thereof, states as follows:<sup>1</sup>

1. GST operates a steel manufacturing facility for which it purchases all of its electricity needs from KCPL. GST is the largest single point retail customer on KCPL's system, using in excess of half a billion kilowatt-hours of electricity every year, at a cost of millions of dollars.

2. As a result of KCPL's Hawthorn Generating Unit No. 5 exploding in 1999, KCPL has dramatically increased the rate it charges GST for electric power; a trend that KCPL has informed GST will continue in the coming year and cost GST millions of dollars in increased fees.

3. GST brings this case before the Commission in order to seek immediate protection from KCPL's unjust and unreasonable increased charges for electric service, in part, on the

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<sup>1</sup> On June 21, 1999, GST served upon KCPL a second set of data requests. GST has not received responses or an objection to this set of requests; however, GST fears that it will face the same intransigence from KCPL. Thus, GST requests that the Commission undertake whatever means it deems effective and appropriate to ensure that KCPL responds in good faith to all GST data requests.

assertion that the Hawthorn explosion and resulting rate increases have been caused by KCPL's erratic and unreliable operation of its facilities.

4. On or about June 18, 1999, GST served upon KCPL a First Set of Interrogatories and Requests for Production of Documents Propounded by GST to KCPL (attached as Exhibit A).

5. By letter dated June 28, 1999, KCPL served upon GST an objection to GST's First Request reading in pertinent part as follows:

[KCPL] objects to each of the Requests to the extent GST seeks information or documents protected by the attorney client privilege and/or the work product doctrine. In addition, KCPL objects to each of the Requests to the extent GST attempts to impose obligations that exceed those imposed by Missouri law.

Finally, the sole issue involved in this matter is whether the pricing mechanism contained in the special contract between KCPL and GST is just and reasonable. Accordingly, KCPL objects to each of the Requests because they are irrelevant, beyond the scope of these proceedings, and not reasonably calculated to lead to admissible evidence.

*See KCPL's objection (attached as Exhibit B and incorporated herein by reference).*

6. Pursuant to this Commission's rules of discovery, any party may seek discovery through, *inter alia*, written interrogatories, requests for production of documents, and data requests "upon and under the same conditions as in civil actions in the circuit court." 4 CSR 240-2.090 (1) & (2).

7. In civil actions before the circuit court, each interrogatory must be answered separately and fully and objections must be stated in detail in lieu of an answer. Supreme Court Rule 57.01(a).

8. Objections to requests for production of documents in the circuit court must state objection "with respect to each item or category." Supreme Court rule 58.01(b).

9. KCPL's vague blanket objections are insufficient and unresponsive. The company's letter fails to provide valid objections sufficiently specific in detail to determine why each interrogatory and request is objectionable.

10. KCPL has failed even to attempt to establish that documents responsive to these data requests are covered by either attorney client or work product privileges. Absent specific references, KCPL's objection with respect to attorney-client and work product privilege is baseless. KCPL objects to the extent the documents requested are privileged; however, it fails even to list documents it considers to be privileged. Further, KCPL does not explain *to what extent* the requests are objectionable based on privilege concerns. The blanket objection merely asserts that KCPL objects to production of documents that could violate privilege conditions, but it does not assert that any responsive documents actually are privileged. If KCPL intends to claim that all documents responsive to any or all of the requests are protected by the attorney-client or work product privileges, it offers no basis for such a claim. KCPL has not stated that any requested documents were prepared by counsel in anticipation of litigation, nor have they identified documents constituting attorney-client communications. The burden to establish that the requested documents are protected belongs with KCPL.

11. All information sought by GST in the First Set is directly relevant, within the scope of these proceedings, and reasonably calculated to lead to admissible evidence. KCPL maintains that because "the sole issue involved in this matter is whether the pricing mechanism contained in the special contract between KCPL and GST is just and reasonable"<sup>2</sup> the requests in the First Set are irrelevant, beyond the scope of the proceedings, and not reasonably calculated to lead to admissible evidence. As GST explained in its Petition for an Investigation as to the Adequacy of

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<sup>2</sup> KCPL Objection, Exhibit B.

Service, GST is entitled to the same quality of service as all Missouri customers, and the service it receives must be in all respects just and reasonable.<sup>3</sup> Utilities are prohibited from rendering unjust and unreasonable charges associated with imprudently incurred and excessive costs RSMo §393.130(1). The Commission has the authority to review, and GST has requested that it review, KCPL's operation of its facilities and make a determination as to the reasonableness of fees charged by KCPL for electricity in relation to that operation.<sup>4</sup> KCPL's generic relevance objection has no basis or merit.

12. All but one of the requests in GST's First Set (except GST 1.3) relate to insurance proceeds KCPL may receive in connection with the Hawthorn outage to offset replacement power costs under policies paid for by KCPL's ratepayers. These insurance policies and proceeds relate directly to the adequacy and cost of service challenged in GST's petition. The policies and their premiums are a cost of doing business that is reflected in the cost of service upon which rates are based. The policies were not created in anticipation of litigation, and there is no apparent link to attorney-client communications.

13. Question 1.3, in GST's First Set, requests documents relating to a March 2, 1999 press release titled "KPL estimates financial impact of plant explosion; plans for the future." This request, like the others, relates directly to issues set forth in GST's petition—namely, whether KCPL's service to GST is reasonable in light of KCPL's erratic and unreliable operation of its system and the Hawthorn incident. KCPL again carries the burden of establishing that the requested documents are privileged; a burden KCPL makes no effort to satisfy. There is no apparent reason why the requested documents are privileged.

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<sup>3</sup> Petition for an Investigation as to the Adequacy of Service Provided by the Kansas City Power & Light Company and Request for Immediate Relief, p. 4.

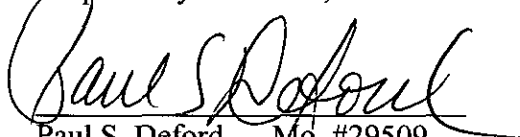
<sup>4</sup> Mo. Ann. Stat. §§ 393.140, 393.150, 393.270.

14. Without the discovery sought by GST, GST will not be able to sufficiently present its case to this Commission, and the Commission will not have sufficient information to reach an informed decision on the issues.

15. A party failing to properly comply with discovery may be sanctioned by the Commission. 4 CSR 240.2.090(1) & (2); Supreme Court Rule 61.01.

**WHEREFORE**, GST requests that this Commission compel KCPL's immediate and complete responses to the First Set of Interrogatories and Requests for Production of Documents Propounded by GST to KCPL or face sanctions pursuant to 4 CSR 240.2-2.090 and Supreme Court Rule 61.01. GST also requests that this Commission grant such further relief as deemed just and proper.

Respectfully submitted,



Paul S. Deford Mo. #29509  
Kurt U. Schaefer Mo. #45829  
**LATHROP & GAGE, L.C.**  
2345 Grand Boulevard  
Suite 2800  
Kansas City, Missouri 64108  
Telephone: 816-292-2000  
Facsimile: 816-292-2001

James W. Brew  
Christopher C. O'Hara  
**BRICKFIELD, BURCHETTE & RITTS, P.C.**  
1025 Thomas Jefferson Street, NW  
8<sup>th</sup> Floor, West Tower  
Washington, D.C. 20007  
Phone: (202) 342-0800  
Facsimile: (202) 342-0807

Attorneys for GST Steel Company

Dated: July 2, 1999

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, postage prepaid, to all counsel of record as shown on the following service list this 2 day of July, 1999.

Gerald A. Reynolds  
KCP&L  
1201 Walnut Street  
Kansas City, MO 64106

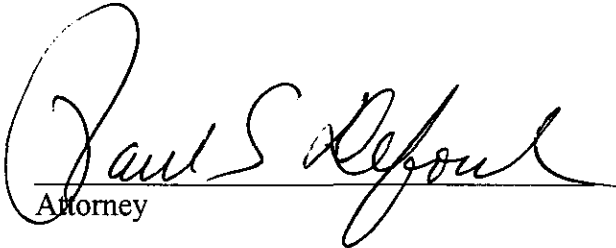
Steven Dottheim  
Chief Deputy General Counsel  
MO Public Service Commission Staff  
P.O. Box 360  
Jefferson City, MO 65102

James M. Fischer  
James M. Fischer, P.C.  
101 West McCarty, Suite 215  
Jefferson City, MO 65101

Lera Shemwell  
Assistant General Counsel  
MO Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

John B. Coffman  
Deputy Public Counsel  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

Office of Public Counsel  
P.O. Box 7800  
Jefferson City, MO 65102

  
\_\_\_\_\_  
Attorney



PAUL S. DEFORD  
(816) 460-5827  
EMAIL: PDEFORD@LATHROPGAGE.COM

SUITE 2800  
2345 GRAND BOULEVARD  
KANSAS CITY, MISSOURI 64108-2612  
816-292-2000, FAX 816-292-2001

June 18, 1999

VIA FAX

Mr. Gerald A. Reynolds  
1201 Walnut Street  
Kansas City, MO 64106

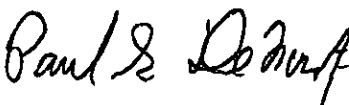
Dear : Mr. Reynolds,

Accompanying this transmission please find GST's first set of interrogatories and requests for production of documents to Kansas City Power & Light Company.

Thank you in advance for your attention to this matter.

Sincerely yours,

LATHROP & GAGE L.C.

By:   
Paul S. DeFord

Enclosures

EXHIBIT A



**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

GST Steel Company,

Complainant

v.

Kansas City Power & Light Company

Respondent.

Case No. EC-99-553

**FIRST SET OF INTERROGATORIES AND  
REQUESTS FOR PRODUCTION OF DOCUMENTS  
PROPOUNDED BY GST STEEL COMPANY TO  
THE KANSAS CITY POWER & LIGHT COMPANY**

GST Steel Company ("GST") hereby propounds the following Interrogatories and Requests for Production of Documents (collectively referred to herein as "Requests") in the captioned proceeding. Each Request incorporates fully by reference each and every Instruction as if set forth fully therein. Any questions, comments or objections to said Requests should be directed as soon as feasible to the undersigned counsel in order to expedite the discovery process. The Kansas City Power & Light Company ("KCPL") is requested to provide its responses on an as available basis and no later than 20 days from service.

**INSTRUCTIONS**

1. "KCPL" or the "Company" refers to the Kansas City Power & Light Company and its subsidiaries, affiliates, predecessors, successors, officers, directors, agents, employees, and other persons acting on its behalf.
2. The "Hawthorn Plant" refers to the Hawthorn Generating Station's Unit No. 5.
3. The "Hawthorn Incident" refers to the February 17, 1999 boiler explosion at the Company's

the Hawthorn Generating Station's Unit No. 5.

4. The "Company's Generating Units" refers to all generating units wholly or partially owned by the Company and any other generating units in which the Company was a participant, including those through a lease or an asset-backed purchase.
5. Unless otherwise indicated, please furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from **January 1, 1989** to the present.
6. In answering each Request, please state the text of the Request prior to providing the response. Each Request and applicable response should be on a separate page. Where there are subparts to a Request, each subpart and applicable response should be on a separate page. Each Request is continuing in nature and the Company is required to supplement its response immediately following the receipt of such additional or different information. For each Request, list all assumptions made by the Company in answering said Request.
7. In the event that the Company asserts that any of the information requested is deemed by it to be privileged or proprietary, then the Company in its written response should identify any such data, and any supporting documents, by date and general content. The Company should also identify all persons who participated in the preparation of the document and all persons, inside or outside the Company, who received a copy, read or examined any such document. In addition, the Company should indicate its claim of privilege with particularity and describe the grounds upon which privilege is claimed. State the present location of the document and all copies thereof and identify each person having custody or control of the document and said copies. For information considered proprietary or confidential by the Company, GST will hold said information confidential and make it available only to GST's counsel and consultants in the present case, in accordance with the protective order adopted by the Commission in this proceeding.
8. In the event the Company asserts that any requested information is not available in the form requested, the Company, in its written response thereto, should disclose the following:
  - (a) the form in which the requested data currently exists (identifying documents by title);
  - (b) whether it is possible under any circumstances for the Company to provide the data in the form requested;
  - (c) the procedures or calculation necessary to provide the data in the form requested;
  - (d) the length of time (in hours or days) necessary for the Company to prepare the data in the form requested; and
  - (e) the earliest dates, time period, and location that the Company's files, records or documents in which the requested information exists may be inspected.

9. The Requests contained herein contemplate that individual copies of any documentary material requested will be provided as is the usual custom in regulatory proceedings. In the event that the Company asserts that any requested documents are too voluminous, or, for some other reason, that copies cannot be provided, the Company will make this documentary material available for inspection at its offices at a reasonable time. Copy services shall also be provided by the Company.
10. In providing documents, the Company is requested to furnish all documents or items in its physical possession or custody, as well as those materials under the physical possession, custody or control of any other person acting or purporting to act on behalf of the Company or any of the Company's employees or representatives, whether as an agent, independent contractor, attorney, consultant, witness, or otherwise.
11. To the extent any requested document cannot be provided in full, it shall be provided to the extent possible, with an indication of what document or portion of what document is being withheld and the reasons for withholding said document.
12. All documents shall be provided in the same order as they are kept or maintained by the Company. To the extent they are attached to each other, documents should not be separated.
13. For each Request answered, provide the name of the person or persons answering, the title of such persons and the name of the witness or witnesses who will be prepared to testify concerning the matters contained in each response or document provided. The Company shall provide all responses under oath.
14. "Identify" means as follows:
  - (a) when used in reference to an individual, to state his full name and present or last known residence address and telephone number, his present or last known position and business affiliation, and his position and business affiliation at the time in question;
  - (b) when used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
  - (c) when used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.) and its present or last known location and custodian;
  - (d) when used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto; and
  - (e) when used in reference to an act, to state the substance of the act, the date, time, and

place of performance, and the identity of the actor and all other persons present.

15. The term "document" as used in the Requests contained herein is used in its customary broad sense, and includes, without limitation, any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes reports, studies, statistics, projections, forecasts, decisions and orders, intra-office and inter-office communications, correspondence, memoranda, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, graphs, sketches, computer printouts, summaries or reports of investigations or negotiations, opinions or reports of consultants, photographs, brochures, bulletins, pamphlets, books, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic, mechanical and electrical records of any kind (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, without limitation, input/output files, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes and amendments to the foregoing, and all other documents or tangible things of whatever description that constitute or contain information within the scope of a Request that are in the possession of the Company. A Request seeking the identification or production of documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or provided; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production.
16. "Communication" shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A Request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
17. The "substance" of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
18. Words expressing the singular number shall be deemed to express the plural number; those expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.

19. The unqualified term "or" shall be construed either conjunctively or disjunctively to bring within the scope of these Requests any matters that might otherwise be construed to be outside their scope.
20. The unqualified term "person" shall mean an individual, corporation, partnership, unincorporated association or other business or governmental entity.
21. The term "e.g." indicates illustration by example, not limitation.
22. Where these Requests seek quantitative or computational information (e.g., models, analyses, databases, formulas) stored by the Company or its consultants in machine-readable form, in addition to providing hard copy, the Company is requested to furnish such machine-readable information in one of the following formats:
  - (a) as Excel worksheet files on diskettes (DS/DD) for IBM PC compatibles;
  - (b) as Lotus 1-2-3™ worksheet files on 3.5 inch diskettes for IBM PC compatibles;
  - (c) as other IBM PC compatible worksheet or database files on 3.5 inch diskettes;
  - (d) as ASCII text diskette files;
  - (e) as magnetic tape files readable by DEC-20 TOPS operating system; or
  - (f) as such other magnetic media files as the Company may use.
23. Responses to any of these Requests may include incorporation by reference to responses to other Requests only under the following circumstances:
  - (a) the reference is explicit and complies with instruction 13; and
  - (b) unless the entirety of the referenced response is to be incorporated, the specific information or documents of the referenced response shall be expressly identified.
24. GST requests that the Company send by express delivery service one copy of its responses to this Request to the following:

James W. Brew  
Brickfield, Burchette & Ritts, P.C.  
1025 Thomas Jefferson Street, NW  
Eighth Floor-West Tower  
Washington, DC 20007

Paul S. DeFord  
Lathrop & Gage, L.C.  
2345 Grand Boulevard  
Suite 2800  
Kansas City, Missouri 64108

James P. McGaughy, Jr.  
GDS Associates, Inc.  
Suite 720  
1850 Parkway Place  
Marietta, Georgia 30067

## REQUESTS

- 1.1 Please identify every insurance policy that might provide coverage for any or all of causes, damages or impacts of the Hawthorn Incident, and for each such policy:
- (a) identify the insurance provider and state the policy number;
  - (b) state the account to which the premiums for that policy were assigned and how that account is treated for Missouri rate-making purposes;
  - (c) provide a description of the type and amount of coverage provided; and
  - (d) provide a copy of all identified policies.
- 1.2 Please provide a breakdown of all costs included in FERC Accounts 924 and 925 and identify every insurance policy for which premiums are booked to one of those accounts and for each such policy:
- (a) identify the insurance provider and state the policy number;
  - (b) state the account to which the premiums for that policy were assigned and how that account is treated for Missouri rate-making purposes; and
  - (c) provide a description of the type and amount of coverage provided; and
  - (d) provide a copy of all identified policies.
- 1.3 Please identify and provide a copy of all workpapers or other documents that were in any way utilized, used, reviewed, or relied upon in the preparation of KCPL's March 2, 1999 press release titled "KCPL estimates financial impact of plant explosion; plans for the future."

1.4 Please identify and provide a copy of all claims or notice of claims made by the Company, or made on its behalf, for insurance benefits, coverage or proceeds in connection with the Hawthorn incident.

1.5 Identify all monies or payments received by the Company from any insurance provider in connection with the Hawthorn incident and for each amount received, please state:

- (a) the dollar amount received;
- (b) the insurance policy pursuant to which the monies were disbursed to the Company;
- (c) the account to which the monies or payment have been booked by the Company;
- and
- (d) the utilization or disposition of the monies or payment.

By:

  
James W. Brew

Christopher C. O'Hara  
Brickfield, Burchette & Ritts, P.C.  
1025 Thomas Jefferson Street, NW  
8<sup>th</sup> Floor, West Tower  
Washington, D.C. 20007  
Phone: (202) 342-0800  
Facsimile: (202) 342-0807

Attorneys for GST Steel Company

Dated: June 18, 1999





William H. Koegel  
Managing Attorney

(816) 556-2785  
(816) 556-2787 (Facsimile)

July 28, 1999

**VIA U.S. MAIL & FACSIMILE (202) 342-0807**

Mr. James W. Brew  
Brickfield, Burchette & Ritts, PC  
1025 Thomas Jefferson Street, NW  
8<sup>th</sup> Floor, West Tower  
Washington, DC, 20007

Re: Case No. EC-99-553

Dear Mr. Brew:

We are in receipt of the First Set of Interrogatories and Requests for Production of Documents submitted by GST Steel Company ("GST") on or about June 18, 1999 ("Requests"). Kansas City Power & Light Company ("KCPL") objects to each of the Requests to the extent GST seeks information or documents protected by the attorney client privilege and/or the work product doctrine. In addition, KCPL objects to each of the Requests to the extent GST attempts to impose obligations that exceed those imposed by Missouri law.

Finally, the sole issue involved in this matter is whether the pricing mechanism contained in the special contract between KCPL and GST is just and reasonable. Accordingly, KCPL objects to each of the Requests because they are irrelevant, beyond the scope of these proceedings, and not reasonably calculated to lead to admissible evidence.

Very truly yours,

William H. Koegel

cc: William G. Riggins  
Chris B. Giles  
Gerald A. Reynolds  
Paul S. DeFord

KANSAS CITY POWER & LIGHT COMPANY  
1201 WALNUT P.O. BOX 418679 KANSAS CITY, MO 64141-9679 • 816-556-2200

EXHIBIT B