

1 A. I believe so. I had a similar system
2 down at Florida Power and Light which I used on that
3 EPC project and I was there for the regulatory
4 hearings on that and so that plant was accepted into
5 base, so yes.

6 Q. Okay. And in that instance were any
7 costs that were above what I would refer to as the
8 CBE, the control budget estimate, were any costs that
9 were above that automatically disallowed by the
10 Florida Commission?

11 A. No, sir. I'd never heard of that before.

12 Q. Were you aware of part of KCP&L's plan
13 for Iatan to dismantle or take down the smokestack?

14 A. No, sir, I never heard that. And I've
15 looked from the original schedule obviously and the
16 original cost and I've never seen that in the
17 schedule, in the costs or anything. I could be wrong,
18 but I've never seen it and I looked.

19 Q. And had you reviewed any Schiff Hardin
20 invoices?

21 A. Yes, sir, I have.

22 Q. Did -- in reviewing those, did you ever
23 disallow or ask for any sort of breakdown of any time
24 entries from Schiff Hardin?

25 A. No, sir. On the Iatan project, as I've

1 reviewed them, at the project I'm -- basically Schiff
2 Hardin is at my direction at the project. And so what
3 they're really doing is what I've told them to do. So
4 when I review what they've done, I already -- I --
5 it's very easy for me to make sure they're doing
6 exactly what I tell them. So I never had any
7 instances. I had some questions a few times, but I
8 never found anything out of line or something that I
9 hadn't asked them to do.

10 Q. All right. All right. I don't believe I
11 have any more questions. Mr. Bell, thank you.

12 JUDGE PRIDGIN: Any further Bench
13 questions? I know we're breaking in the middle of a
14 witness, but we are starting to approach one o'clock
15 and I do want to give people an opportunity for -- for
16 lunch. And we will resume at roughly 1:45. And
17 Mr. Bell will still be on the stand and be available
18 for further recross based on Bench questions and
19 redirect.

20 Is there anything else from the parties
21 before we stand in recess? All right. Hearing
22 nothing further, we will be in recess until 1:45.
23 Thank you. We are off the record.

24 (A recess was taken.)

25 (Change of court reporters.)

1 JUDGE PRIDGIN: All right. We are back
2 on the record. I believe when we adjourned for lunch,
3 the bench had finished its questions for Mr. Bell, and
4 he was to be available to take recross and redirect.
5 Is there anything further from counsel? Mr. Dottheim?

6 MR. DOTTHEIM: Judge, if we might take a
7 procedural item --

8 JUDGE PRIDGIN: All right.

9 MR. DOTTHEIM: -- first. It's my
10 understanding that the company has filed a -- for a
11 protective order, motion to quash the subpoena
12 obtained by the Staff, sought by -- obtained by the
13 Staff for Mr. David McDonald for deposition on Monday
14 next week. And if it hasn't been filed by now, it's
15 my understanding that company will be filing a motion
16 to quash the subpoenas for Ms. Shoemaker and
17 Mr. Bassham to appear as witnesses called by the Staff
18 next Tuesday, and also the subpoena for Mr. McDonald
19 to be called as an adverse witness by the Staff next
20 Tuesday. The Staff would like to ask for oral
21 argument tomorrow morning on the -- on the motions.

22 JUDGE PRIDGIN: I don't know if any
23 Commissioners will -- will be available. I mean, I
24 certainly don't object, and I don't know how any of
25 the other parties feel. That will put us even further

1 behind schedule on a schedule we're already behind,
2 but I mean, let me hear what other parties have to
3 say, I guess.

4 MR. FISCHER: Judge, we would certainly
5 participate in an oral argument; however, I would like
6 to have Commissioners here if that's at all possible.

7 MR. DOTTHEIM: And certainly the -- the
8 staff would, too. So --

9 JUDGE PRIDGIN: I can certainly circulate
10 an e-mail to the Commissioners and let them know your
11 request and see what we can do to accommodate. That's
12 about the best I can do.

13 MR. DOTTHEIM: Of course.

14 MR. FISCHER: Monday might be a
15 possibility, too. I think the depositions are
16 scheduled for Tuesday; is that correct, Steve?

17 MR. DOTTHEIM: The deposition was
18 scheduled for Monday.

19 MR. FISCHER: Oh, Monday.

20 MR. DOTTHEIM: I believe. And the Staff
21 doesn't make its request for oral argument to
22 inconvenience Commission. Whatever --

23 JUDGE PRIDGIN: Understood.

24 MR. DOTTHEIM: whatever would convenience
25 the Commission is the Staff's desire.

1 JUDGE PRIDGIN: I understand.

2 COMMISSIONER KENNEY: Since we're talking
3 about it, can I inquire?

4 JUDGE PRIDGIN: Absolutely.

5 COMMISSIONER KENNEY: This is the --
6 which witness is this for?

7 MR. DOTTHEIM: This is for Mr. McDonald
8 for the deposition and for --

9 COMMISSIONER KENNEY: The subpoena duces
10 tecum?

11 MR. DOTTHEIM: -- the subpoena --
12 appearance as a witness based upon the deposition, but
13 there are also subpoenas for Ms. Shoemaker and Mr.
14 Bassham to appear as witnesses next Tuesday.

15 COMMISSIONER KENNEY: To appear as
16 witnesses here?

17 MR. DOTTHEIM: Yes, yes.

18 COMMISSIONER KENNEY: Okay. But just
19 with -- and I don't mean to be difficult, but how is
20 it that this subpoena and deposition notice was just
21 sent like a couple of days -- a couple of business
22 days before the trial was going to start? Or put
23 another way, why wasn't he deposed earlier?

24 MR. DOTTHEIM: In -- in part, it was
25 based upon another deposition that occurred last week.

1 Also, too, Commissioner, I -- I won't represent to you
2 that the Staff is as efficient as it ideally might be.

3 COMMISSIONER KENNEY: well, I appreciate
4 that candor, because it puts us in a bad situation
5 because we obviously want a full and completely
6 developed record for the purposes of making decisions
7 that are complete and based upon substantial and
8 competent evidence and that do the ratepayers justice.

9 But, conversely, you know, it seems
10 really untimely. Was this witness a known witness,
11 David McDonald, prior to the deposition that you just
12 referenced? I mean, was his existence known to Staff
13 prior to the deposition?

14 MR. DOTTHEIM: Yes.

15 COMMISSIONER KENNEY: And why are they
16 asking for documents going all the way back to a time
17 when he didn't even work there?

18 MR. DOTTHEIM: No, it's not prior to the
19 time that he didn't work there.

20 COMMISSIONER KENNEY: Doesn't it ask for
21 documents going back to 2005 and he didn't start
22 working there until 2009, or did I read that
23 incorrectly? You-guys feel free to chime in.

24 MR. STEINER: Yes, that's how we
25 interpreted it. The document request was all the way

1 back to 2005.

2 COMMISSIONER KENNEY: And Mr. McDonald
3 started working there in 2009?

4 MR. STEINER: That's correct.

5 MR. DOTTHEIM: And the Staff is --
6 subsequently -- the Staff is willing to narrow that
7 document request to the time that Mr. McDonald has
8 been working at the company.

9 COMMISSIONER KENNEY: I apologize for the
10 interruption.

11 MR. STEINER: It's still a long period of
12 time, Your Honor. This close to hearing, it's a large
13 burden for us to get those e-mails and review them for
14 the hearing next week.

15 COMMISSIONER KENNEY: I appreciate that.
16 And, again, that just reinforces what I said. We need
17 to make decisions that are based upon all the
18 information that's available to us, and we need to be
19 able to ensure that the ratepayers have a fully
20 developed record.

21 MR. DOTTHEIM: Commissioner, if I might
22 add something?

23 COMMISSIONER KENNEY: Sure.

24 MR. DOTTHEIM: To put this in context for
25 you -- and I don't know if you're aware of this or not

1 -- sometimes companies raise this objection. This
2 company at this time hasn't, but it's standard
3 procedure for the Staff to submit data requests even
4 throughout the context of a rate case. So --

5 COMMISSIONER KENNEY: So that practice
6 goes both ways of issuing data requests into trial, is
7 that what you're saying?

8 MR. DOTTHEIM: Yes.

9 MR. STEINER: This is more than a data
10 request, and it's Mr. -- the existence of Mr. McDonald
11 as the procurement director has been known since this
12 case began.

13 COMMISSIONER KENNEY: I didn't intend to
14 open this up to -- because we're getting close to
15 arguing on the motion now, and that certainly wasn't
16 my intention.

17 Yeah, I didn't intend to argue the merits
18 of it. I just wanted to ask those couple of questions
19 and express my thoughts about this. I mean, I
20 appreciate your candor about Staff not always being as
21 efficient as Staff would like to be and the fact that
22 data requests and discovery continues into the trial
23 itself. I mean, that's troubling, frankly. It's an
24 unusual practice, and I don't see how you can
25 efficiently litigate a case that way.

1 MR. DOTTHEIM: Commissioner, sometimes --

2 COMMISSIONER KENNEY: But having said
3 that, I mean, I don't know -- I'm not going to rule --
4 Judge, I don't know if you're going to rule on this
5 now or not, but it just seems like you-all should be
6 able to figure -- if you narrow the scope of the
7 document requests and come to some reasonable
8 agreement on the location of the deposition, either --
9 something that's convenient for the witness, too. Is
10 he scheduled to testify in the case itself?

11 MR. STEINER: No, he's not, Your Honor.

12 COMMISSIONER KENNEY: I would think
13 you-all would be able to work this out. That's it.

14 JUDGE PRIDGIN: I'm doing the best I can
15 to poll the Commissioners to see how they would like
16 to proceed, and I'll certainly alert the parties. But
17 I understand time is of the essence for you, as it is
18 for me and the Commissioners as well. I'll certainly
19 let you know something as soon as I find out
20 information from the Commissioners.

21 Anything else before we resume
22 cross-examination of Mr. Bell?

23 COMMISSIONER KENNEY: Sorry about that.

24 JUDGE PRIDGIN: No, not at all. All
25 right. We are ready for recross, then, Mr. Schwarz.

1 MR. SCHWARZ: Thank you, Judge.

2 RE-CROSS-EXAMINATION

3 QUESTIONS BY MR. SCHWARZ:

4 Q. Mr. Bell, you recall some questions from
5 Commissioner Jarrett, and I don't want to go into
6 anything that's HC, but about some site access issues?

7 A. Yes, sir.

8 Q. Thinking back to yesterday, would that be
9 considered perhaps a sequencing problem?

10 A. No, sir, it's not a sequencing problem.
11 It's just one of the issues you have when you have
12 multiple contractors on the site. Somebody's got to
13 finish before somebody else can work in the same spot.

14 Q. So it's a congestion issue?

15 A. It's a congestion issue, yes, sir.

16 Q. Okay. And I believe you got into a
17 discussion with Commissioner Jarrett about the
18 anticipated costs in a controlled budget estimate that
19 was done with, say, 30 percent engineering completed.
20 Do you recall those?

21 A. Yes, sir.

22 Q. The control budget estimate had a
23 contingency of \$220 million, which is about 15, 16
24 percent. That would be expected to cover some of
25 those -- it was planned to cover some of those

1 contingencies, was it not?

2 A. Some of the contingencies, yes, sir. We
3 commonly refer to that in the industry as the known
4 unknowns.

5 MR. SCHWARZ: Thank you. That's all I
6 have, Judge.

7 JUDGE PRIDGIN: Mr. Schwarz, thank you.
8 Mr. Mills?

9 MR. MILLS: I have no questions.

10 JUDGE PRIDGIN: Mr. Dottheim?

11 MR. DOTTHEIM: Thank you.

12 RE-CROSS-EXAMINATION

13 QUESTIONS BY MR. DOTTHEIM:

14 Q. Mr. Bell, Mr. Schwarz asked you about
15 contingency in the control budget estimate.

16 Do you recall the exact amount of the
17 dollar amount of the contingency in the \$1.685 billion
18 controlled budget estimate?

19 A. Did you ask me did I know what part of
20 the 1.685 was contingency?

21 Q. Yes.

22 A. I believe he just said it was 15 to 16
23 percent.

24 Q. Well, Mr. Schwarz said that it was 15 to
25 16 percent.

1 Do you know how much of the \$1.685
2 billion is contingency?

3 A. Yes, sir, I believe that's correct. I
4 mean, earlier in the testimony, we referred to the 1.4
5 something, and this 200-something, yes, sir, it is
6 correct.

7 Q. Well, I think Mr. Schwarz referred to
8 \$220 million. Do you know whether the \$220 million
9 that
10 Mr. Schwarz referred to is only Iatan 2 or both Iatan
11 2 and Iatan 1?

12 A. I could not swear on a bible. I believe
13 it's Iatan 2, though.

14 Q. Okay. Do you recall whether the Iatan 1
15 contingency is \$25.7 million?

16 A. No, sir. Unfortunately, I had no
17 association with Unit 1.

18 Q. Okay. And I think Mr. Schwarz made
19 reference to engineering being 30 percent complete at
20 the time of the controlled budget estimate.

21 Do you recall whether it was 25 percent
22 complete or 30 percent complete?

23 A. I wasn't here at the time, but just
24 listening to the testimony and my recollection of
25 looking back in the schedules, it was somewhere in the

1 25, 30 percent range, yes, sir.

2 Q. There was a question from Commissioner
3 Gunn this morning about whether the plans for the
4 Iatan station included the removal of the original
5 chimney, if I understood correctly. Do you recall the
6 question?

7 A. Yes, sir, I believe he asked me that
8 question.

9 Q. Have you seen any drawings, renderings of
10 the Iatan station with Iatan 2 that only show one
11 chimney?

12 A. No, sir, I cannot recall having seen
13 anything like that.

14 Q. I'm going to hand to you what I'm going
15 to purport to be a copy of the Iatan construction
16 project, project execution plan.

17 Do you know what the Iatan construction
18 project, project execution plan is?

19 A. Yes, sir, I'm familiar with the purpose
20 of it.

21 Q. Do you recall ever having seen the
22 project execution plan?

23 A. I have referred back to a couple of
24 sections in it for non-related issues, yes, sir.

25 MR. DOTTHEIM: May I approach the

1 witness?

2 JUDGE PRIDGIN: You may.

3 BY MR. DOTTHEIM:

4 Q. Would you please take a look at that
5 document.

6 A. Yes, sir.

7 Q. Do you recognize that document?

8 A. Yes, sir. It's the project execution
9 plan for Iatan.

10 Q. It's a copy, is it not?

11 A. Yes, sir.

12 Q. And on the cover, there's a rendering of
13 the Iatan station, is there not?

14 A. Yes, sir, there's a beautiful drawing
15 there.

16 Q. Okay. Is it a rendering of the Iatan
17 station with Iatan 2? Can you tell?

18 A. Yes, sir, I can tell Iatan 2's there.

19 Q. Okay. Does it show one or two chimneys?

20 A. This particular artist's drawing only
21 shows one.

22 Q. Okay. Have you seen any of the Iatan 2
23 status reports that are provided to the -- to the
24 staff?

25 A. Yes, sir, I have. In particular, the one

1 since I arrived.

2 Q. Okay. Okay. I'm going to hand to you
3 what I'm going to purport is the Iatan 2 status report
4 for September 2010.

5 MR. DOTTHEIM: May I approach the
6 witness?

7 JUDGE PRIDGIN: You may.

8 BY MR. DOTTHEIM:

9 Q. Mr. Bell, would you please take a look at
10 the document I just handed to you, which I'll
11 represent is the Iatan status report for September
12 2010.

13 A. Yes, sir.

14 Q. Have you seen that document before?

15 A. I have, yes, sir.

16 Q. Okay. And is there a rendering on the
17 cover page of the Iatan station?

18 A. Yes, sir. It's a color version of the
19 one you handed me earlier. Much better quality.

20 Q. And it shows the Iatan 2 unit?

21 A. Yes, sir.

22 Q. And does it -- does it show one or two
23 chimneys?

24 A. It shows the dual-fuel single chimney,
25 yes, sir, you are correct.

1 Q. It doesn't show the original Iatan 1
2 chimney along with the -- with the dual -- the dual
3 chimney that was built as a result of the Iatan
4 construction project, correct?

5 A. Yes, sir, that's correct.

6 Q. Thank you.

7 A. Yes, sir.

8 MR. DOTTHEIM: If I may have a moment,
9 please.

10 JUDGE PRIDGIN: Certainly.

11 MR. DOTTHEIM: May I approach the
12 witness?

13 JUDGE PRIDGIN: You may.

14 BY MR. DOTTHEIM:

15 Q. Okay. Mr. Bell, Commissioner Jarrett
16 asked you a number of questions about fast track.

17 A. Yes, sir.

18 Q. And you talked about fast tracking with
19 me, and Commissioner Jarrett followed up, and I'm
20 going to hand to you and ask you to read a section and
21 ask you if you agree.

22 I'm going to ask you to take a look at
23 this three-ring binder of the Illinois Institute for
24 Continuing Legal Education, Construction Litigation,
25 2006. And I'm going to ask you to look at a section

1 on fast track written by Lawrence H. Slutzky,
2 S-l-u-t-z-k-y, who's with the law firm of Robbins,
3 Scwartz, S-c-w-a-r-t-z, Robbins, R-o-b-b-i-n-s,
4 Nocholas, N-o-c-h-o-l-a-s, Lifton & Taylor, Ltd., in
5 Chicago.

6 Now -- and there's a section written
7 by Mr. Slutzky -- in fact, there are a couple of
8 sections -- representing the owner. But I would also
9 note that in this publication, Section 9, there is a
10 section, "The Consultant's Role in Construction Claims
11 and Litigation" written by Daniel F. Meyer, President,
12 Meyer Construction Consulting, Inc., M-e-y-e-r, Lake
13 Forest, and Daniel B. Meyer, O'Hagan, O'H-a-g-a-n,
14 Spencer, LLC, Chicago. Mr. Daniel F. Meyer is a
15 witness for Kansas City Power & Light who is scheduled
16 to testify this week.

17 But I'm going to ask you to read this
18 several paragraphs on fast track on page 1-25 and 1-26
19 written by
20 Mr. Lawrence H. Slutzky and ask you if you -- if you
21 agree.

22 A. Should I read these five paragraphs out
23 loud?

24 Q. Yes, please. If you'd first like to read
25 them to yourself, but then if you would read them out

1 loud.

2 A. "'Fast track' is defined as the
3 contemporaneous design and construction of a project.
4 Foundations may be poured by the contractor without
5 plans for the next stage of construction. Design is
6 performed in phases, and construction commences on
7 completion of each design phase. Theoretically,
8 construction time is reduced by the contemporaneous
9 design and construction as well as the ability of the
10 contractor to order long lead items well in advance.
11 Typically, the design and construction
12 responsibilities may merge into a single design-build
13 entity responsible for the entire project. However,
14 in the public sector the duty to publicly bid the
15 various construction packages delays the process.

16 "Although the fast-track process shortens
17 the conventional plan-design-bid-construct process, it
18 increases the risks inherent in construction since
19 cost and quality may be compromised for the sake of
20 saving time. Success of a fast-track project thus
21 requires an experienced design-build team to manage,
22 plan, and schedule design and construction to
23 accomplish expeditious completion while limiting
24 additional expense and maintaining quality.
25 Consequently, the fast track should be used only when

1 the owner's time demands justify the additional risk
2 and expense. Few public projects qualify for the
3 additional risks imposed.

4 "For the owner whose primary need is the
5 immediate completion of a project, fast track may
6 prove the answer. A typical example is the industrial
7 owner who must immediately commence manufacturing a
8 product to maintain market share or to compete in the
9 market. A long design and construction phase could
10 put the owner out of competition.

11 "For the contractor, the fast-track
12 project intensifies the need for supervision and
13 coordination of the workforce, subcontractors, and
14 logistics of ordering materials as well as for
15 maintaining control over the updated or revised
16 drawings. Continual communication with the design
17 professional and monitoring of project progress is
18 indispensable to timely and successful completion of
19 the project.

20 "Since costs in a fast-track project are
21 based on time and materials, cost containment requires
22 proper documentation of labor, material, and overhead
23 expenses. All supporting financial documentation
24 should be maintained and available for the owner's
25 review or audit."

1 Concludes.

2 Q. Mr. Bell, would you have any comment on
3 those paragraphs?

4 A. Well, I would say Mr. Slutzky is much
5 more eloquent in his explanation than I was. He did a
6 fine job of describing this. In most cases, I agree.
7 It keeps referring to public sector projects, which
8 are a little bit different and it's not necessarily
9 pointed at a power project, but I believe it agrees
10 with what I had explained to Mr. Jarrett earlier.

11 So yes, in context, I agree.

12 Q. Thank you. And there is actually in
13 here, too, a short rendering of Mr. Slutzky's
14 background. I'm going to read that into the record
15 and ask you if I read that correctly, okay? If you
16 would just track me.

17 A. Yes, sir.

18 MR. FISCHER: Judge, I'm going to object
19 to that. I think that's pure hearsay.

20 JUDGE PRIDGIN: Mr. Dottheim?

21 MR. DOTTHEIM: well, I would just attempt
22 to give some -- some context to who Mr. Slutzky is.
23 This is a continuing legal education publication in
24 Illinois. I think the document speaks for itself in
25 its representation of

1 Mr. Slutzky's background.

2 I would also note that Mr. Daniel F.
3 Meyer, who is a witness in this proceeding, is in this
4 publication, and he also has his own -- I won't say
5 biography; that's not quite the right word -- write-up
6 in this -- in this document. So whatever failing Mr.
7 Fischer may be ascribing to the write-up for Mr.
8 Slutzky, I assume he is ascribing to
9 Mr. Meyer, also.

10 MR. FISCHER: I think he's assuming --
11 he's welcome to ask Mr. Meyer anything about his own
12 writings. I don't have the opportunity to ask Mr.
13 Slutzky anything about what he's writing. He can ask
14 my witness if he agrees, but it's pure hearsay to
15 suggest that this person, whoever his background is --
16 who knows? I've never heard of him.

17 JUDGE PRIDGIN: I'll overrule, and I'll
18 let Mr. Dottheim continue.

19 BY MR. DOTTHEIM:

20 Q. "Lorence H. Slutzky (Chapters 1, 4) is a
21 Partner in the Chicago office of Robbins, Schwarz,
22 Nicholas, Lifton & Taylor, Ltd., where he concentrates
23 on counseling and negotiating on behalf of
24 participants in the construction industry and
25 litigating complex construction disputes representing

1 public and private owners, design professionals,
2 contractors, subcontractors, manufacturers and
3 insurers.

4 Mr. Slutzky is an adjunct faculty member
5 at the John Marshall Law School. He speaks nationally
6 and has authored many articles, textbooks and seminar
7 materials. He is an arbitrator for the American
8 Arbitration Association. He is a member of the
9 Illinois and Florida State Bar Associations, the
10 Chicago and American Bar Associations, and the ABA's
11 Forum Committee on the Construction Industry. He is a
12 founder and officer of the Society of Illinois
13 Construction Attorneys, a Fellow of the American
14 College of Construction Lawyers, and board-certified
15 by the examination as a construction specialist by the
16 Florida Bar. Mr. Slutzky received his B.S. from
17 Southern Illinois University, attended the University
18 of Exeter, England, through the Marshall-Wyeth College
19 of Law, and received his J.D. from the John Marshall
20 Law School."

21 MR. FISCHER: Counsel, I'd ask if you can
22 verify any of those statements.

23 BY MR. DOTTHEIM:

24 Q. Mr. Bell, did I read that correctly?

25 A. Yes, sir, I believe you did.

1 MR. DOTTHEIM: Mr. Fischer, other than
2 those statements being in the Illinois Institute for
3 Continuing Legal Education, Springfield, Illinois,
4 published in 2006, no, I personally cannot.

5 Thank you, Mr. Bell. Thank you for your
6 patience.

7 THE WITNESS: Thank you, sir.

8 JUDGE PRIDGIN: Redirect?

9 MR. FISCHER: Oh, thank you, Judge.

10 REDIRECT EXAMINATION

11 QUESTIONS BY MR. FISCHER:

12 Q. Mr. Bell, during cross-examination,
13 Mr. Dottheim was asking you regarding, I think, the
14 difference between gas-fired and coal-fired -- your
15 gas-fired and coal-fired experience. Do you recall
16 that?

17 A. Yes, sir, I do.

18 Q. From a construction manager's
19 perspective, does the fact that a large power plant is
20 gas-fired rather than coal-fired make a significant
21 difference?

22 A. Not from the technical aspects of the
23 project whatsoever. I would say, though, that gas is
24 much cleaner than coal.

25 Q. As far as controlling the cost of the

1 project or getting it done on time, does it really
2 matter what the -- from the construction manager's
3 perspective, what the source of the fuel is?

4 A. Absolutely not on the standard boiler
5 type plant we have up at Iatan, whether it's gas,
6 coal, it's very similar.

7 Q. Mr. Dottheim asked you also about your
8 schedule 3. I think that included your resume. Could
9 you turn to that, page 3.

10 He was asking about the 1982 to 1987
11 experience that's listed there.

12 A. Yes, sir.

13 Q. I believe you indicated that one of those
14 power plants was larger than Iatan; is that right?

15 A. No, sir. It was the power plant that is
16 the TVA Paradise one, the experience from -- in the
17 direct testimony filed 1978 to '82 experience, that
18 Paradise plant.

19 Q. How large is Paradise?

20 A. It is 2,600 megawatts.

21 Q. Okay. I thought you mentioned that there
22 was one in Egypt that was 600 megawatts.

23 A. That's correct.

24 Q. Which one would that be?

25 A. That was the Abu Soltan plant on the

1 coast.

2 Q. If you had to -- I know you probably
3 can't give us a specific, but if you had to estimate
4 the number of megawatts that are listed here on the
5 power plants that you constructed or been a
6 participant in, how large of a number would that be?

7 A. That would be a guess. Somewhere in the
8 neighborhood of 10,000 megawatts. Without adding this
9 up, it's simply a guess on my part.

10 Q. Which one of those plants would be most
11 similar to Iatan, do you think?

12 A. The Abu Soltan plant in Egypt in that
13 period of time would be very similar. Except for the
14 coal, we used gas because Egypt had no coal. They
15 were only in gas, and we used that as the combustible.

16 Q. You mentioned during your
17 cross-examination, I believe, that at one point,
18 whenever you were working for government projects, I
19 believe, you contract with a law firm that had hourly
20 rates of \$500 to \$650 an hour?

21 A. Somewhere in that part, yes.

22 Q. What years would that have been in?

23 A. That was 2005, '6, '7, '8 and '9.

24 Q. And what power plants were you associated
25 with at that time?

1 A. That was the \$1.4 billion project we had
2 with USAID in Afghanistan.

3 Q. And you didn't use a local law firm for
4 that?

5 A. We did look at the local law firms as
6 required by FAR. They like you to use that, but we
7 couldn't find anyone there that actually knew what FAR
8 was, so we had -- we were able to justify going
9 outside.

10 Q. And is it correct that you said you
11 sole-sourced -- was that the one that you sole-sourced
12 with?

13 A. Yes, sir. We ended up sole-sourcing it
14 to a law firm in Washington, D.C.

15 MR. FISCHER: Counsel, could I borrow
16 your September status report for a minute? Thank you.

17 BY MR. FISCHER:

18 Q. Mr. Bell, I'd like to show you the status
19 report, September 2010, that was given to you by
20 counsel. Perhaps I could have that marked as an
21 exhibit. We can make some copies later, but I'd like
22 to have it marked as an exhibit.

23 JUDGE PRIDGIN: I believe that would be
24 69.

25 MR. SCHWARZ: For clarification, is that

1 the entire document or just the cover?

2 MR. FISCHER: It would be the entire
3 document that I'd have marked.

4 MR. SCHWARZ: Okay.

5 (Exhibit No. 69 was marked for
6 identification.)

7 BY MR. FISCHER:

8 Q. I think we had some questions earlier in
9 the hearing about these quarterly status reports. I'd
10 like for you to describe what that is from your
11 perspective.

12 A. Basically, it's a report we create
13 polling all the members of the project team to present
14 a status for us to present to the staff in both
15 Missouri and Kansas to update them on the status of
16 the project, both from a schedule standpoint and from
17 a cost standpoint.

18 Q. What is some of the information that is
19 generally provided in that status report?

20 A. It provides very detailed information of
21 our progress in construction. We list any issues that
22 have come to light. We're very transparent about
23 that. But in particular in the report is what we keep
24 referring to as the K Report. And that's what you can
25 look at every month as it's updated to see if there

1 are any changes in costs from the previous month.

2 Q. And how often was that provided to the
3 Staff, or a version of that?

4 A. Well, I know there's quarterly meetings.
5 I'm not sure how the monthly report gets to them, but
6 the quarterly one, I know there's face-to-face
7 usually.

8 Q. And you said that includes the K Report?

9 A. Yes.

10 Q. And what again is the K Report?

11 A. The K Report is the document that shows
12 the individual costs of the different items at the
13 project. It's a fairly detailed document to show
14 where you're at and the different phases of the
15 project. For instance, if you want to know what a
16 particular item listed costs, what we thought the
17 original budget was, what the current forecast is, all
18 of that information is in that document.

19 Q. So you could take a look at whether it's
20 exceeding the control budget estimate?

21 A. Yes, sir, that's what I use it for. I --
22 part of my job and responsibilities to Mr. Downey is
23 to keep the project on budget.

24 Q. would it also show if it is above the
25 reforecasted budget?

1 A. Yes, it would.

2 Q. And would it show if there's any
3 contingency left or not?

4 A. Yes. The contingency is tracked in there
5 also.

6 Q. Is there a discussion of other issues
7 related to the projects, problems that you might be
8 having?

9 A. Absolutely. It's a totally transparent
10 document. I mean, from a reporting standpoint, it's
11 very critical that we stay fully transparent. So we
12 don't hide anything. Everything that we know as of
13 this report's reported in this document, whether it's
14 good news or bad news.

15 Q. Does it also have schedule information?

16 A. Absolutely.

17 Q. Does it show the critical path?

18 A. Yes, sir.

19 Q. And does it show where things are behind
20 schedule or ahead of schedule?

21 A. Yes, sir. It's a good rendering of the
22 entire plan. It gives safety, statistics. It's a
23 very comprehensive document.

24 Q. Did you attend meetings where those
25 documents were presented to the staff and other

1 signatory parties?

2 A. I believe I was at one or two meetings.

3 Q. Were those usually well-attended
4 meetings?

5 A. Yes.

6 MR. FISCHER: Judge, with that, I just
7 ask for the admission of the exhibit, and I conclude
8 my redirect. Thank you.

9 JUDGE PRIDGIN: Thank you. 69 has been
10 offered. Any objections?

11 MR. MILLS: Judge, I object.

12 MR. FISCHER: I'm sorry, it's HC.

13 JUDGE PRIDGIN: Thank you. Mr. Mills?

14 MR. MILLS: I object on the basis of
15 foundation. Mr. Fischer asked some general questions
16 about quarterly reports. There's nothing in the
17 record that reveals that this witness has ever seen
18 that report before or he has any involvement in its
19 preparation or any ability to judge its authenticity.
20 So I object on the basis of lack of foundation.

21 JUDGE PRIDGIN: Mr. Fischer?

22 MR. FISCHER: I can lay some foundation
23 if we need that. We certainly have plenty of
24 witnesses here who can give as much foundation as
25 counsel would like.

1 BY MR. FISCHER:

2 Q. Mr. Bell, did you -- do you recall
3 attending the -- the last quarterly report -- status
4 report meeting or have you seen that particular
5 document before?

6 A. I've seen the document. As the lead at
7 the site, I'm responsible for putting the document
8 together. In particular, I write the executive
9 summary, and I'm responsible for everyone at the site
10 doing their part to get it updated and ready for final
11 review.

12 Q. Is it accurate to the best of your
13 knowledge and belief?

14 A. Absolutely.

15 MR. FISCHER: Judge, I move for the
16 admission.

17 MR. MILLS: No further objections.

18 JUDGE PRIDGIN: All right. 69 HC is
19 admitted.

20 (Exhibit No. 69 HC was received into
21 evidence.)

22 JUDGE PRIDGIN: And, Mr. Davis (sic),
23 thank you very much. You may step down.

24 Okay. And we're on Mr. Jones.

25 Mr. Jones, if you'll raise your right hand to be