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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Hearing of the Public Service
Commission, held at Jefferson City,
Missouri, on the 7th and 8th days
of April, 1997.

CASE NO. ET-97-113

In the matter of Kansas City Power &
Light Company's tariffs for standby
service and special contracts.

BEFORE:
JOSEPH A. DERQUE, III, Presiding,
ADMINISTRATIVE LAW JUDGE.
KARL ZOBRIST, Chairman,
COMMISSIONER.

REPORTED BY:
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BARBARA WEST, CSR, RPR
ASSOCIATED COURT REPORTERS, INC.

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P R O C E E D I N G S

2 ALJ DERQUE: We're on the record in Case No.
3 ET-97-113 in the matter of Kansas City Power & Light
4 Company's tariffs for standby service and special
5 contracts. Before opening statements, let me see, for
6 Kansas City Power & Light?

7 MR. RIGGINS: Yes, your Honor.

8 ALJ DERQUE: You are?

9 MR. RIGGINS: Bill Riggins and Susan
10 Cunningham.

11 ALJ DERQUE: Ma'am?

12 MS. CUNNINGHAM: Susan Cunningham for KCPL.

13 ALJ DERQUE: Which --

14 MS. CUNNINGHAM: For Kansas City Power &
15 Light.

16 ALJ DERQUE: Are both of you going to try it
17 or just one of you?

18 MR. RIGGINS: Yes. We're dividing up the
19 hearing.

20 ALJ DERQUE: We're missing the staff lawyer.
21 It's Mr. Woodsmall, isn't it?

22 DR. PROCTOR: That's correct.

23 ALJ DERQUE: Office of the Public Counsel,
24 Mr. Mills. Trigen-Kansas City, Mr. French.

25 MR. FRENCH: Yes, and also Erik Swenson is

1 going to be trying the standby tariff issue and I'm
2 going to be asking questions on the special contract
3 issue.

4 ALJ DERQUE: Okay.

5 MR. FRENCH: I'll be making the opening
6 statement.

7 ALJ DERQUE: Who is Mr. Swenson?

8 MR. FRENCH: Right here (indicating).

9 ALJ DERQUE: Department of Energy?

10 MR. PHILLIPS: Yes, Paul Phillips.

11 ALJ DERQUE: Mr. Phillips. Okay. I have a
12 letter from the Attorney General, State of Missouri,
13 who is asking to be excused. It says the Attorney
14 General takes no position on the issues involved and
15 will make no opening statements at the beginning of
16 the proceedings. Is there any objection to excusing
17 the Attorney General?

18 (No response.)

19 ALJ DERQUE: Seeing none, they will be
20 excused.

21 Is there anybody I left out?

22 MR. COMLEY: Judge Derque, the record should
23 reflect the entry of appearance of our firm for the
24 City of Kansas City.

25 ALJ DERQUE: Oh, okay.

1 MR. COMLEY: Having said that, however, I
2 think I would be in the same spot as the Attorney
3 General is and ask to be excused from the hearing.
4 We're here mainly to listen and to learn, and we do
5 not anticipate having any questions for the witnesses,
6 nor do I anticipate giving an opening statement. If I
7 can be excused from the hearing from time to time, I'd
8 be grateful.

9 ALJ DERQUE: Thank you, Mr. Comley. Is
10 there any objection to the City of Kansas City being
11 excused from the hearing?

12 (No response.)

13 ALJ DERQUE: Seeing none, that will be fine.
14 Now, is there anyone else I left out?

15 MR. HACK: ALJ Derque, my name is Rob Hack.

16 ALJ DERQUE: Yes, Mr. Hack, I'm going to
17 give you a chance here in just a moment.

18 MR. HACK: Wonderful.

19 ALJ DERQUE: I have a pending Motion to
20 Compel Answer to Data Requests or in the Alternative
21 to Strike Testimony filed by Kansas City Power & Light
22 and a response from Trigen-Kansas City.

23 Since this all occurred April 1st to
24 April 4th, I'm going to rule on that motion on the
25 record. And I believe I'm going to rule in favor of

1 Trigen-Kansas City to the extent that I will allow
2 KCPL to cross-examine Dr. Shanker regarding
3 information supporting the controverted statement.

4 However, please refrain from asking
5 Dr. Shanker about communications with his attorney.
6 I'm not going to let Kansas City Power & Light get
7 into that because I do agree with Trigen that it's
8 attorney/client privilege.

9 Do you have any questions, Mr. Riggins?

10 MR. RIGGINS: I guess my only question, your
11 Honor, is since Trigen's response to our Motion to
12 Compel was that the information contained in
13 Dr. Shanker's testimony which was the subject of our
14 motion was provided by Trigen's counsel, I'm not sure
15 how we can cross him about that portion of his
16 testimony without asking about what information he
17 might have received from his attorney.

18 ALJ DERQUE: You can ask him what support he
19 has himself for the statement, but what he heard from
20 his attorney, I would prefer not to get into that.

21 MR. RIGGINS: All right.

22 ALJ DERQUE: I do agree with Trigen that
23 it's probably attorney/client privilege. No. 2, I
24 thought it was fairly irrelevant also. If he has --
25 he is an expert or is purported to be an expert. If

1 he has support for his statement, that's fine. If he
2 doesn't, that's fine.

3 Mr. Hack?

4 MR. HACK: Thank you.

5 ALJ DERQUE: For the record, let me say that
6 Mr. Rob Hack is representing Missouri Gas Energy.

7 MR. HACK: If I may, thank you, Judge
8 Derque. On March 21st we applied to participate in
9 this proceeding without intervention. That
10 application was opposed on the grounds that it was
11 filed too late.

12 Late Friday I was informed that the
13 Commission was dead-locked on the application two to
14 two. Information I've received has led me to believe
15 that the basis of the two no votes anyway is that the
16 application was filed late, and by late I mean not
17 before or by the intervention deadline.

18 MGE would respectfully request that the
19 Commission reconsider that vote. Can't consider it an
20 order because it was entitled to notice. The fact
21 that it was filed after the intervention deadline is a
22 fact but it misses the point. We filed and asked to
23 participate without intervention. As such, the
24 intervention deadline is really not relevant to that
25 request.

1 Second of all, the rules regarding
2 participation without intervention allow such requests
3 to be made up until the time of the hearing. I would
4 ask that the Commission reconsider, look at its rules,
5 and permit our participation.

6 As the electric industry is poised at the
7 brink of competition, this filing, MGE believes, if it
8 is approved, poses a substantial risk towards
9 deterring the development of effective and workable
10 competition. As such --

11 ALJ DERQUE: Mr. Hack.

12 MR. HACK: I have about two sentences,
13 Judge, and it all relates to my request for
14 reconsideration.

15 In the larger picture, therefore, this
16 proceeding is more significant than outward
17 appearances may indicate. As a consequence, MGE
18 believes that the process would be better served and
19 that the Commission would be better informed by
20 including relevant input.

21 That concludes my remarks. I would ask for
22 reconsideration, and thank you for allowing me to
23 address you, Judge.

24 ALJ DERQUE: Thank you, Mr. Hack.

25 I will note for the record that the

1 intervention deadline was October 17th of 1996. In
2 addition, I will read into the record the notice
3 regarding requests to participate without
4 intervention.

5 The Commission will not take any formal
6 action on the Application to Participate Without
7 Intervention as filed by Missouri Gas Energy. The
8 proposed order was on the Commission's agenda for
9 April 4th, 1997. This proposed order received two
10 votes in favor and two votes against granting the
11 request.

12 As a result of the dead-locked vote, the
13 Commission will be unable to take any further action
14 on Missouri Gas Energy's request to participate
15 without intervention.

16 Thank you, Mr. Hack.

17 Is there any other matters I need to deal
18 with before we proceed with opening statements?

19 MR. WOODSMALL: Did you want to premark any
20 exhibits?

21 ALJ DERQUE: No. Okay. We'll go off the
22 record.

23 (Discussion off the record.)

24 ALJ DERQUE: We're back on the record.
25 Opening statements, Mr. Riggins.

1 MR. RIGGINS: Thank you, your Honor.

2 This case involves two tariffs, one for
3 standby service and one for special contract service,
4 and I'd like to take a moment to summarize how we got
5 here.

6 KCPL for a number of years has been working
7 to redesign its rates. As a part of that process
8 we've had the goals to implement new rate design that
9 contain efficient rates, that provide benefits for
10 both the company and its customers, that provide our
11 customers with some options.

12 And as a result of that process which has
13 occurred in a number of different cases over the past
14 few years, we've been able to resolve some fairly
15 important issues with various parties, including the
16 Staff. We have presented the Commission with some
17 opportunities to resolve some fairly important issues.

18 In terms of this particular case, it really
19 started back in December of '94 in one sense when KCPL
20 filed a special contract and a tariff sheet for
21 special contracts. The Commission approved the
22 contract in that case, but it rejected the tariff and
23 it ordered KCPL to file a revised tariff, and it also
24 ordered KCPL to address a special contract tariff in
25 its rate design case, which was EO-94-199.

1 On the other hand, in September of 1995 KCPL
2 file a QF rate schedule and a special contract for a
3 cogeneration customer. The Commission approved the
4 contract, it approved a temporary QF rate schedule,
5 and it again directed that the rates in that schedule
6 be reviewed in KCPL's rate design case.

7 The tariffs in this case were filed in
8 August of this past year as a result of the
9 Commission-approved stipulation in our rate design
10 case, and it's apparent that, of the two tariffs, the
11 standby tariff has stimulated the most discussion.

12 During the course of this case, and it's
13 reflected in KCPL's rebuttal and surrebuttal
14 testimony, we have adopted a number of the suggestions
15 that Staff has made with regard to the standby tariff.

16 And I think I would be accurate in stating
17 that as a result of that process, no significant
18 differences remain between the Staff and KCPL with
19 regard to the standby tariff.

20 On the other hand you have Trigen and the
21 Department of Energy who oppose not just specific
22 provisions of the proposed tariff but really the
23 entire conceptual framework for the tariff, arguing
24 that it is illegal.

25 With regard to the special contract tariff,

1 Public Counsel is presenting some familiar themes to
2 the Commission.

3 In KCPL's view, however, the special
4 contract tariff that we have proposed is consistent
5 with Commission precedent and it's also consistent
6 with the Commission's past recognition of the benefits
7 that can accrue for both customers and the company
8 from special contracts and a recognition that in some
9 cases special contracts are needed.

10 Thank you.

11 ALJ DERQUE: Thank you, Mr. Riggins.
12 Mr. Woodsmall?

13 MR. WOODSMALL: Yes. Thank you, Mr. Derque.

14 In 1978 Congress passed the Public Utilities
15 Regulatory Policies Act, PURPA for short. As Congress
16 specifically stated, it was one of the underlying
17 goals of PURPA to implement a program which would
18 increase efficiency in the use of facilities and
19 resources of electric utilities.

20 Today PURPA is generally credited with being
21 one of the primary factors driving electric generation
22 away from the traditional regulated monopoly and
23 towards a competitive market-based industry.

24 Nearly 20 years after its passage,
25 regulatory agencies across the commission (sic)

1 wrestle with requirements of PURPA and its underlying
2 intent.

3 In PURPA, Congress envisioned a system that
4 would encourage the development -- the development of
5 alternative electric generators, that is cogenerators
6 and qualifying small power producers.

7 However, in order allow these alternative
8 generators the opportunity to develop, Congress
9 recognized that it must remove those obstacles that
10 had been typically erected by the monopolistic
11 electric utility.

12 One such obstacle was that electric
13 utilities had historically charged discriminatorily
14 high rates for standby electric service.

15 While leaving the development of specific
16 rules for the pricing of such electric services to
17 FERC and the State Commission, Congress did provide
18 some guidance. Specifically, Congress stated that the
19 rates for such standby services must, one, be just and
20 reasonable and in the public interest, and, two, not
21 discriminate against the cogenerator or qualifying
22 facility.

23 In this case, the Commission is asked to
24 determine the price that alternative generators will
25 be charged for standby electric service. In

1 fulfilling this task, the Commission is presented two
2 different -- two different approaches; one, standby
3 service based upon traditional embedded cost of
4 service setting, or two, standby service based upon
5 competitive market-based pricing.

6 As the testimony clearly indicates, only
7 market-based pricing provides the price signals
8 necessary for alternative generators to insure the
9 efficient generation of electricity.

10 In this light, Staff has developed a
11 two-part standby rate which reflects the Congressional
12 intent of efficient generation of electricity.
13 Specifically, the first part of Staff's two-part rate
14 proposal consists of a real-time pricing component for
15 electricity.

16 As envisioned, the market price of
17 electricity will be conveyed to alternative generators
18 on a day-ahead basis. In those instances in which the
19 market price is greater than the alternative
20 generator's cost of production, the alternative
21 generator will produce efficient electricity.

22 Similarly, in those situations in which the
23 market price is less than the alternative generator's
24 cost of production, the alternative generator will
25 merely purchase power from the electric utility.

1 In either situation, the market -- the
2 comparison to the market price of electricity insures
3 efficient generation of electricity.

4 Once the conclusion is accepted that market
5 pricing should be used for standby electric service,
6 the issue then becomes how to treat those fixed costs
7 incurred by the electric utility that go unrecovered
8 as a result of a sale of electricity at less than full
9 embedded costs.

10 These unrecovered costs are referred to
11 throughout the testimony as stranded costs. Unless
12 such costs are somehow addressed in the rate for
13 standby services and recovered from the alternative
14 generator, these costs will necessarily fall upon the
15 shoulders of the utility's captive customers.

16 In the Staff's two-part rate proposal, costs
17 are recovered from the alternative generator through
18 the use of an access charge, recognizing that the need
19 to provide proper pricing through efficient generation
20 of electricity mandates that such an access charge be
21 independent of the amount of electricity purchased.

22 Staff's access charge is based upon a fixed
23 level of usage, the customer baseline load. Although
24 the Commission is addressing stranded costs with
25 alternative generation, it is important to recognize

1 that such a decision will not predispose the decision
2 of recovery of stranded costs in regards to retail
3 open access.

4 Rather, Staff's access charge -- access
5 charge proposal only perpetuates the status quo, that
6 is the full recovery of costs by the electric utility.
7 Any Commission decision regarding recovery of stranded
8 costs associated with retail open access will be
9 easily applicable to the alternative generator standby
10 service rates.

11 In contrast to the logic inherent in Staff's
12 position, other parties will request the Commission
13 implement an embedded cost of service -- an embedded
14 cost standby rate. Although not supported by Staff,
15 Staff did prepare an example embedded cost standby
16 rate.

17 In addition to promoting the inefficient
18 generation of electricity, this embedded cost rate
19 will necessarily result in stranded costs, costs that
20 will be inequitably shifted to the electric utility's
21 captive customers.

22 The second issue for the Commission to
23 decide today regards the latitude a utility should
24 have in addressing large customers who have
25 competitive alternatives or require special form

1 service.

2 Recognizing that the recovery of some
3 portion of fixed costs is better than the recovery of
4 no fixed costs, Staff generally supports a utility's
5 ability to enter into special contracts.

6 However, in order to insure that all factors
7 are considered prior to negotiating reduced rates for
8 such customers, Staff recommends the utility document
9 its consideration of eight specific factors. Such
10 factors include documentation regarding customer
11 alternatives, incremental costs of continuing to serve
12 such customer, a determination of profitability to the
13 customer at the reduced rate for service and other
14 economic benefits to the area of retaining the large
15 customer.

16 As the Hearing Memorandum indicates, Staff
17 has prefiled the testimony of four witnesses. Of
18 particular importance in this is the testimony of
19 Dr. Michael Proctor which details the development of
20 the two-part standby rate as well as the eight
21 considerations necessary for standby -- for special
22 contract service; secondly, Staff witness James
23 Watkins' testimony which details the development of
24 the embedded cost rate for standby service and the
25 detriments of such a rate.

1 These individuals will be happy to answer
2 any further questions the Commission has.

3 Thank you.

4 ALJ DERQUE: Thank you, Mr. Woodsmall.
5 Mr. Mills?

6 MR. MILLS: Thank you. May it please the
7 Commission?

8 As noted in the Hearing Memorandum, Public
9 Counsel is not taking a position on the standby
10 services tariffs proposed in this case, but are
11 limiting our participation to the question of the
12 special contract tariffs.

13 Our primary concern with the special
14 contract tariffs as filed in this case is that they
15 may be handled in such a manner that they frustrate
16 the development of competition to the detriment of
17 ratepayers.

18 To the end of minimizing that risk, Public
19 Counsel has offered testimony by Ryan Kind outlining
20 some of the things that need to be done to insure that
21 the special contract tariffs will not harm ratepayers.

22 First, the facilities charged language needs
23 to be clarified. Second, we need to insure that each
24 customer pays a reasonable contribution to fixed
25 costs. Third, we need to allow KCPL to only offer

1 special contracts to customers with documented
2 alternatives to taking service from KCPL.

3 Fourth, we need to limit the duration of
4 special contracts in order that they're not used to
5 frustrate competition. And fifth, we need to require
6 that all the documentation concerning the special
7 contracts that is provided to the Staff is also
8 provided to Public Counsel.

9 With these modifications, we believe that
10 the special contract tariffs could be implemented in
11 such a way that they're not detrimental to the public
12 interest.

13 Thank you.

14 ALJ DERQUE: Thank you, Mr. Mills.
15 Mr. French?

16 MR. FRENCH: Thank you. May it please the
17 Commission? Are we going to do entries at a later
18 time?

19 ALJ DERQUE: She's already got written
20 entries. You can go right ahead and do it any way you
21 want, Mr. French.

22 MR. FRENCH: Thank you. I'm Rick French
23 representing Trigen-Kansas City Energy Corporation.
24 Also with me today is Erik Swenson with the law firm
25 of King & Spalding.

1 Trigen-Kansas City is the regulated provider
2 of steam services to downtown Kansas City. It is also
3 the owner of the Grand Avenue Plant which was
4 purchased from KCPL at the time Trigen-Kansas City
5 purchased the steam system.

6 Currently, Trigen-Kansas City and KCP&L have
7 a noncompete agreement until the year 2000 regarding
8 the sale of electricity. After that time, the Grand
9 Avenue Plant could potentially operate as a qualified
10 facility and generate Trigen's electrical needs.

11 Therefore, Trigen-Kansas City is vitally
12 interested in the establishment of a just and
13 reasonable rate for standby service from KCPL who,
14 until other sources of generation are allowed to
15 compete, represent the only providers of standby
16 services available to potential cogenerators.

17 Trigen-Kansas City simply disagrees that the
18 consideration of KCPL's proposed SQF tariff is about
19 efficiency. Rather, this tariff is about an attempt
20 to lock in historic margins through the hundred
21 percent recovery of strandable costs.

22 Simply stated, KCPL's proposed tariff will
23 artificially charge rates completely unrelated to the
24 actual use of KCPL's system by the self-generator, but
25 rather will charge rates at a level which assumes that

1 the self-generator is still receiving its full
2 requirement of electricity from KCPL.

3 As such, the access charge portion of the
4 proposed standby rate is in no way a market rate but
5 really is an embedded cost rate.

6 In addition to the unfairness and
7 unreasonableness of this approach, the evidence will
8 show that the SQF tariff treats on-site generators in
9 a discriminatory fashion in clear violation of PURPA
10 and the rules implementing PURPA by the FERC and this
11 Commission. The rules of the Commission are found at
12 4 CSR 240-20.060.

13 In the interest of time, I will leave most
14 of the arguments contained in testimony concerning
15 PURPA and economic efficiency to the Briefs, but I
16 will state that the evidence will show that the
17 efficiency arguments made by KCPL and Staff only make
18 sense when the rates to be charged a self-generator
19 are compared to KCPL's inefficient embedded cost
20 rates, all of which also now contain strandable costs.

21 Efficiency arguments disappear completely
22 when the standby rate is compared to what a market
23 rate would be for the services if available.

24 Further, argument that the standby rate is
25 needed to force self-generators to make efficient

1 decisions to self-generate have been disputed by
2 Staff's apparent position that self-generators are
3 free to voluntarily avail themselves of any of KCPL's
4 tariffs for which they qualify.

5 In the evidence presented in this case it
6 has been charged that Trigen is advocating special
7 treatment for standby rates for self-generators.
8 However, the evidence will show that this is simply
9 not true.

10 Trigen is advocating standby rates which
11 identifies the actual usage made by the
12 self-generators of KCPL's system, charges for that use
13 and have rates which are designed to allocate and
14 recover costs consistently across all classes.

15 The evidence will show that the amount, if
16 any, of strandable costs which KCPL should be allowed
17 to recover from any or all of its customers as KCPL
18 enters into a deregulated market for electric
19 generation is an extremely important policy issue and
20 a decision to be made by this Commission.

21 It is the position of Trigen that this
22 decision should not be made in a piecemeal fashion
23 without the full participation of all interested
24 parties, including KCPL's full requirement customers.

25 A Commission decision approving a hundred

1 percent recovery of strandable costs from self-
2 generators in this proceeding and a different decision
3 later for strandable cost recovery or sharing from
4 other KCPL customers would be unconscionable and quite
5 simply unnecessary.

6 Trigen's evidence will establish that KCPL's
7 proposed standby tariff SQF should be rejected by this
8 Commission and that KCPL should be ordered to develop
9 a standby rate which reflects the actual use of KCPL's
10 system by the standby customer and which insures that
11 the costs associated with that use are allocated and
12 recovered consistently across all classes.

13 At the very least, Trigen requests that
14 KCPL's current schedule QF which contemplates
15 customer-by-customer negotiation of standby rates
16 remain in effect with instructions to KCPL to
17 negotiate rates which meet the standards I discussed
18 earlier pending a full review and determination of the
19 issue of the recovery or sharing of strandable costs
20 involving all of KCPL's customers.

21 Thank you.

22 ALJ DERQUE: Thank you, Mr. French.
23 Mr. Phillips?

24 MR. PHILLIPS: Yes, thank you.

25 A brief summary of our position is set out

1 in the Hearing Memorandum which will be filed as an
2 exhibit in this docket.

3 Let me just say briefly, I -- without timing
4 the Staff, I think I could agree with about the first
5 three minutes of what Mr. Woodsmall said. After that,
6 we would have to take issue.

7 We filed testimony in this case on behalf of
8 two witnesses which we will call, Mr. Rosenstein and
9 Mr. Bernal. Mr. Rosenstein filed rebuttal testimony,
10 and Mr. Bernal filed testimony specific to the
11 alternative standby rate for qualifying facility.

12 The two proposals that have been made by the
13 Staff on the one hand and the Company on the other are
14 clearly inconsistent with and in violation of your
15 rule that you've adopted relating to cogeneration at
16 qualifying facilities, the underlying FERC regulation
17 and the cogeneration part of PURPA. It's as simple as
18 that.

19 In regard to the other rate that's been
20 filed, the special contract rate, we see no need for
21 that rate, as our witnesses pointed out. The rates
22 raise issues which shouldn't be tried in this docket
23 in any respect, and that is the issue or question
24 related to stranded costs.

25 Stranded costs is an issue which ought to be

1 taken up by this Commission certainly. It ought to be
2 taken up so that all the stakeholders of Kansas City
3 Power & Light and other electric utilities have an
4 opportunity to participate. As Mr. French said, it
5 shouldn't be done on a piecemeal basis.

6 We think this is an inappropriate docket for
7 that. If the Commission were to open a generic docket
8 either for Kansas City Power & Light or all the
9 electric utilities, that would probably be the best
10 and most efficient way for the Commission to go in
11 order to make a broad policy decision which will
12 affect all customers in the future, but not in this
13 respect on the basis of a couple of tariffs that have
14 been filed by the Company.

15 That's all that we would have at this point.

16 ALJ DERQUE: Thank you, Mr. Phillips. Let's
17 go off the record.

18 (A recess was taken.)

19 ALJ DERQUE: We're back on the record.

20 MR. WOODSMALL: I have the Hearing
21 Memorandum to mark. Is that where you wanted to go?

22 ALJ DERQUE: Let's mark the Hearing
23 Memorandum No. 1.

24 MR. WOODSMALL: And I would note, the
25 Hearing Memorandum was originally signed by all

1 parties but Trigen. Trigen then filed a motion to
2 late file their portions of the Hearing Memorandum,
3 and I have those too. So they will both be attached
4 as Exhibit 1.

5 ALJ DERQUE: That will be fine. For
6 purposes of identification, Trigen's position is
7 labeled Attachment 1, Position of Trigen-Kansas City.

8 Off the record.

9 (Discussion off the record.)

10 (EXHIBIT NO. 1 WAS MARKED FOR
11 IDENTIFICATION.)

12 ALJ DERQUE: Back on the record.

13 Kansas City Power & Light, Mr. Riggins or
14 Ms. Cunningham?

15 MS. CUNNINGHAM: Thank you, your Honor.
16 Kansas City Power now calls Chris Giles to the stand
17 first.

18 (Witness sworn.)

19 _____

20 ALJ DERQUE: Thank you, sir. Please be
21 seated.

22 MS. CUNNINGHAM: Mr. Giles has three pieces
23 of testimony that will be need to be marked, his
24 direct testimony, rebuttal and surrebuttal.

25 ALJ DERQUE: Okay. Direct of Giles will be

1 No. 2. The rebuttal of Giles will be No. 3. The
2 surrebuttal of Giles will be No. 4.

3 Off the record.

4 (Discussion off the record.)

5 (EXHIBIT NOS. 2, 3 AND 4 WERE MARKED FOR
6 IDENTIFICATION.)

7 ALJ DERQUE: We're back on the record.

8 Mr. Woodsmall, please offer the Hearing
9 Memorandum while we're doing this. Did you offer it?

10 MR. WOODSMALL: Oh, I'm sorry. No. We
11 marked it. At this time Staff would offer the Hearing
12 Memorandum which has been marked as Exhibit 1.

13 ALJ DERQUE: Is there any objection to entry
14 of the Hearing Memorandum into evidence?

15 (No response.)

16 ALJ DERQUE: Seeing none, it will be
17 admitted.

18 (EXHIBIT NO. 1 WAS RECEIVED INTO EVIDENCE.)

19 ALJ DERQUE: Now, Ms. Cunningham.

20 CHRIS B. GILES testified as follows:

21 DIRECT EXAMINATION BY MS. CUNNINGHAM:

22 Q. Would you please state your name, employer,
23 and business address for the record.

24 A. Chris Giles, Kansas City Power & Light. My
25 business address is 1201 Walnut, Kansas City,

1 Missouri.

2 Q. Are you the same Chris Giles that has caused
3 to be filed direct testimony marked for identification
4 as Exhibit 2, rebuttal testimony marked for
5 identification as Exhibit 3, and surrebuttal testimony
6 marked for identification as Exhibit 4 in this
7 proceeding?

8 A. Yes.

9 Q. Was that testimony prepared by you or under
10 your direct supervision and control?

11 A. Yes.

12 Q. Do you have any corrections or changes to
13 make to that testimony?

14 A. No.

15 Q. If I asked you today the same questions
16 contained in your testimony, would your answers be the
17 same as those that are contained in your testimony?

18 A. Yes, they would.

19 MS. CUNNINGHAM: Your Honor, at this time I
20 would move for the admission of Exhibit 2, 3 and 4.

21 ALJ DERQUE: Is there any objection to the
22 admission of Exhibits 2, 3 and 4 into evidence?

23 (No response.)

24 ALJ DERQUE: Seeing none, they will be
25 admitted.

1 (EXHIBIT NOS. 2, 3 AND 4 WERE RECEIVED INTO
2 EVIDENCE.)

3 MS. CUNNINGHAM: The witness is available
4 for cross-examination.

5 ALJ DERQUE: Thank. Mr. Woodsmall?

6 MR. WOODSMALL: Yes. I believe just one
7 quick question.

8 CROSS-EXAMINATION BY MR. WOODSMALL:

9 Q. In Dr. Proctor's testimony for Staff, his
10 surrebuttal testimony specifically, he raises the
11 issue of a transmission credit to account for the fact
12 that the transmission system will not be used by the
13 QF at the time of system peak.

14 Does KCP&L have a position with regard to
15 that transmission credit?

16 A. Yes. We agree with Dr. Proctor that the
17 transmission credit should be a part of the tariff and
18 would propose that in the compliance filing we'd make
19 that change.

20 MR. WOODSMALL: I have no further questions.

21 ALJ DERQUE: Thank you, Mr. Woodsmall.
22 Mr. Mills?

23 MR. MILLS: Thank you.

24 CROSS-EXAMINATION BY MR. MILLS:

25 Q. Good morning, Mr. Giles. I have just a few

1 questions for you.

2 First of all, if I could have you turn to
3 page -- in your surrebuttal testimony, page 11, I
4 believe. Towards the bottom you're discussing the
5 incremental cost of serving customers, and you
6 essentially say that you would accept Dr. Proctor's
7 recommendation or the recommendation of Mr. Kind.

8 A. Yes, I see that.

9 Q. Okay. The actual words that you use is you
10 say that the revenue collected from each customer will
11 exceed the incremental cost of serving the customer.
12 That's at lines 18 and 19. Do you see that?

13 A. Yes.

14 Q. Are you willing to state that not only will
15 it exceed the cost, but that you will receive a
16 reasonable contribution towards fixed costs?

17 A. Yeah. I think that's consistent with what
18 we're saying. Our intent is to achieve a contribution
19 to fixed costs from each and every contract customer.
20 That's never been an issue with the Company.

21 Q. I guess my question goes more to the
22 question of the reasonableness of that contribution.
23 Do you consider that you're going to get a reasonable
24 contribution as opposed to just a de minimus
25 contribution?

1 A. Well, I don't know what your definition of
2 reasonable is. I wouldn't want to put some language
3 in the tariff that is unclear or ambiguous.

4 The Company's intent is to maximize the
5 contribution to fixed costs on each and every
6 contract, and the Company would not in any case sell
7 below marginal cost.

8 Q. So according to what you've just stated, it
9 is possible that the Company would price at a
10 de minimus amount above fixed costs or -- excuse me --
11 incremental cost?

12 A. No. I don't think I'm saying that. I'm
13 saying that the intent is to maximize the
14 contribution. So it would be just the opposite. Our
15 intent and objective would be to maximize the
16 contribution of fixed costs.

17 Q. If during negotiations with a customer for a
18 special contract you determine that the only way you
19 can agree upon special contract terms with that
20 customer is at such a level that the contribution to
21 fixed cost is insignificant or de minimus, are you
22 saying that you would not enter into a special
23 contract in that case?

24 A. If we would not exceed our marginal cost,
25 no, we would not enter into a contract. Whether de

1 minimus or insignificant, I'm not sure what that is.

2 Now, it would depend on the circumstances of the
3 customer.

4 Q. So you're not ruling that out?

5 A. All I'm saying is we would achieve a
6 contribution to fixed cost, and our objective is to
7 maximize that contribution, and under no circumstances
8 would we price below.

9 Q. Now, one of the facets of the availability
10 that we've had some disagreement about is the question
11 of special provisions.

12 Can you tell me within the last, say, two
13 years, special needs, special provisions, how many
14 customers have approached KCPL with special needs that
15 KCPL was not able to meet under its current tariffs?

16 A. I don't know.

17 Q. Do you know if there were any?

18 A. No.

19 MR. MILLS: I have no further questions.

20 ALJ DERQUE: Thank you, Mr. Mills.

21 Mr. Phillips?

22 MR. PHILLIPS: Yes, thank you.

23 CROSS-EXAMINATION BY MR. PHILLIPS:

24 Q. Mr. Giles, let me ask you in regard to your
25 direct testimony, as I understand your proposed

1 tariff, it would apply to qualifying facilities as
2 they meet such definition under Section 201 and 210 of
3 PURPA and in turn as that's been incorporated in this
4 Commission's rule which is found at 4 CSR 240-20.060;
5 is that correct?

6 A. That's correct.

7 Q. Let me ask you, I think Public Counsel was
8 asking you about special contracts. Since Section 201
9 and 210 of PURPA was adopted in 1978 and the
10 Commission's rule was adopted in 1980, has Kansas City
11 Power & Light sold any standby power to qualifying
12 facilities?

13 A. I'm confused on the dates. Did you say '78
14 to '80?

15 Q. PURPA was passed in 1978, and this
16 Commission then adopted its rule relating to
17 cogeneration in 1980. Since those two dates, either
18 1978 or starting in 1980, has the Company sold any
19 standby power to qualifying facilities?

20 A. Yes.

21 Q. Either from 1978 to the present or 1980 to
22 the present?

23 A. Yes.

24 Q. How many instances have you done that?

25 A. We have one customer that's been a QF, I

1 believe, since about 1987, actually has QF status
2 since about '87 or '88.

3 Q. And do you know if that customer's self-
4 served by a qualifying facility?

5 A. Is?

6 Q. Is a self-certified facility?

7 A. It's been certified by FERC, if that's your
8 question.

9 Q. It's been certified by FERC, but you don't
10 know if it's a self-certified facility?

11 A. I'm not sure what you mean.

12 Q. Okay. At what rate have you sold standby
13 power to that customer?

14 A. That customer's currently under a contract.

15 Q. Yes.

16 A. And the terms and conditions are as they're
17 stated in that contract.

18 Q. And has that contract been approved by the
19 Commission?

20 A. Yes.

21 Q. By this Commission?

22 A. Yes.

23 Q. And do you know what that rate is?

24 A. The contract incorporates nearly the
25 identical provisions that we're proposing in this

1 standby QF tariff today. It's a very similar concept.

2 Q. Is there an access charge in that?

3 A. Yes, there is.

4 Q. Have any potential QFs approached Kansas
5 City Power & Light in that same period of time about
6 purchasing standby power, other than the one customer
7 you mentioned?

8 A. I'm not sure what you mean by potential.
9 We've had inquiries over the years by potential self-
10 generators. Whether they would qualify as a QF or
11 not, I'm not sure, or whether they would even seek to.
12 There's not any other customer other than Trigen that
13 I'm aware of that's achieved QF status, that I'm aware
14 of.

15 Q. Did you quote a rate to any of those
16 customers?

17 A. No.

18 Q. Do you recall specifically with any of those
19 customers what your response was --

20 A. We would --

21 Q. -- regarding the standby charge?

22 A. We would attempt to negotiate a contract.

23 MR. PHILLIPS: Your Honor, I'd like to have
24 two documents marked.

25 ALJ DERQUE: Okay. Let me see copies first.

1 I have what will be marked as Exhibit No. 5, a letter
2 of September 13th, 1994, and Exhibit No. 6 appears to
3 be the large primary service tariff of Kansas City
4 Power & Light.

5 Off the record.

6 (Discussion off the record.)

7 (EXHIBIT NOS. 5 AND 6 WERE MARKED FOR
8 IDENTIFICATION.)

9 ALJ DERQUE: Mr. Phillips?

10 BY MR. PHILLIPS:

11 Q. Yes. Mr. Giles, if you would take a minute
12 to look at what's been marked as Exhibit 5 and then
13 Exhibit No. 6. Let me ask you if you recognize
14 Exhibit No. 5?

15 A. Yes, I do.

16 Q. And can you describe what that exhibit is?

17 A. That is a letter to Danita Agar from me, the
18 Department of Energy, regarding the fact that Kansas
19 City Power & Light does not have a standby rate
20 available or on file with the Commission and that the
21 Company's primary service large tariff is a good proxy
22 for a standby rate.

23 Q. And you wrote that letter?

24 A. Yes, I did.

25 Q. And Exhibit No. 6, do you recognize that?

1 A. Yes. It's the -- it's a copy of the
2 Company's primary service large rate that was in
3 effect in January of 1994.

4 Q. So is this the tariff that's referred to in
5 Exhibit No. 5?

6 A. Yes, it is.

7 Q. Mr. Giles, is the proposed access charge
8 that's in your proposed qualifying facility standby
9 rate, is that charge in any or all of your sales rates
10 such as for residential customers?

11 A. Not specifically.

12 Q. In the qualifying standby proposal, you use
13 what I understand to be a baseline which is based on
14 historical load. Should that load be weather
15 normalized?

16 A. Possibly. It would depend on if you were to
17 have an extreme period of weather that the Company
18 would certainly look at weather normalizing as a
19 possibility.

20 Q. And how about future actual load, should
21 that be weather normalized?

22 A. No.

23 MR. PHILLIPS: That's all I have.

24 ALJ DERQUE: Thank you, Mr. Phillips.

25 Mr. French and Mr. Swenson?

1 MR. FRENCH: Mr. Examiner, Mr. Swenson will
2 ask Mr. Giles questions regarding the standby tariff,
3 and then I will ask questions regarding the special
4 contract.

5 ALJ DERQUE: Thank you. Mr. Swenson?

6 CROSS-EXAMINATION BY MR. SWENSON:

7 Q. Good morning, Mr. Giles.

8 A. Good morning.

9 Q. I'm going to start out talking about or
10 asking you some questions about your surrebuttal
11 testimony. You may want to have that in front of you.

12 On page 2, line 11 of your testimony, it
13 states that the tariffs can be approved on the ground
14 of their consistency with principles of economic
15 efficiency and minimizing cost transfers; is that
16 correct?

17 ALJ DERQUE: Excuse me. Mr. Swenson, you
18 need to find you a microphone.

19 MR. SWENSON: I'm sorry, your Honor.

20 ALJ DERQUE: I'm sorry, but I'm deaf in one
21 ear.

22 MR. SWENSON: I'm sorry, your Honor.

23 ALJ DERQUE: I've been persevering, but you
24 finally got me. I could see your mouth moving, but
25 nothing was coming out.

1 MR. SWENSON: I'll try to go a little
2 slower, too.

3 ALJ DERQUE: There you go.

4 BY MR. SWENSON:

5 Q. On page 2 of your surrebuttal testimony,
6 line 11, do you see where you state that tariffs can
7 be -- tariffs you are proposing can be approved on the
8 ground of their consistency with principles of
9 economic efficiency and minimizing cost transfers?

10 A. Yes.

11 Q. With regard to economic efficiency, are you
12 stating that the access charge is required to achieve
13 economic efficiency?

14 A. In combination with the rest of the tariff,
15 yes.

16 Q. Couldn't the tariff be just as easily
17 approved without the access charge and still be
18 consistent with economic efficiency?

19 A. No.

20 Q. How does the access charge minimize the cost
21 transfer?

22 A. Well, if the -- if the access charge did not
23 exist, then the tariff would result in pricing all the
24 energy uses at marginal cost, so --

25 Q. I'm sorry. I couldn't hear you. Could you

1 speak up a little?

2 A. Without the access charge, you're left with
3 pricing energy at marginal cost, which is essentially
4 what the RTP and RTP plus tariff prices are.

5 Without the access charge, the contribution
6 to fixed costs would have to be made up from other
7 customer classes. That's the reference to transfer
8 among customer classes.

9 Q. How do you know that that charge should
10 properly be allocated to other customers as opposed to
11 absorbed by shareholders?

12 A. It's a prudently incurred cost to serve the
13 customers.

14 Q. But that's an assumption you're making that
15 whatever you don't recover from reductions in usage
16 you should be able to recover from other ratepayers?

17 A. No. I don't think I'm assuming that at all.
18 I'm saying that the access charge provides the
19 mechanism for the potential self-generator to base his
20 decision to self-generate on economic efficiency
21 principles.

22 Q. But when it's -- when you're doing that,
23 you're collecting these costs that would otherwise be
24 transferred to another ratepayer; is that correct?

25 A. Only if the potential cogenerator made a

1 decision that was uneconomic, economic -- uneconomic
2 bypass would result, which would result in customers
3 having to bear those costs.

4 Q. Well, if it's economic to go ahead and put
5 in the cogeneration unit, aren't you collecting
6 something in the access charge that you're saying
7 would otherwise fall upon other ratepayers?

8 A. No.

9 Q. Okay. Maybe you could explain it because
10 I'm really lost at this point, then. I thought you
11 had to charge the access charge in order to prevent a
12 cost transfer to other ratepayers.

13 A. Well, if you're a potential cogenerator and
14 we priced at margin with no access charge, those costs
15 would have to be borne by other ratepayers, yes.

16 Q. Well --

17 A. I'm not sure I'm --

18 Q. I'm talking about an actual -- you're an
19 actual cogenerator now, not just a potential
20 cogenerator.

21 A. Okay.

22 Q. And you're -- and I thought it was your
23 testimony that the access charge somehow acts to keep
24 other ratepayers from having to pay additional costs.
25 Is that correct?

1 A. No.

2 Q. So the access charge isn't helping to
3 prevent the transfer of costs to other parties?

4 A. Well, as I've stated, it is in the case
5 where the potential generator is making a decision
6 whether to install generation or not.

7 Q. But once he's installed it, what does it do?

8 A. It contributes to the fixed costs of serving
9 that load.

10 Q. Of serving that cogenerator's load?

11 A. Yes.

12 Q. It's the fixed -- it's actually contributing
13 to the costs incurred to serve the cogenerator, that's
14 what you're saying?

15 A. Yes.

16 Q. Based on his actual usage?

17 A. The access charge is based on the CBL,
18 customer baseline usage.

19 Q. And is that his actual usage?

20 A. It's based on the most recent 12 months.

21 Q. Does that -- if I understand what you just
22 said, if a cogenerator has a good record in the first
23 year of his plant being on this tariff so that he uses
24 no power, would his CBL for the second year drop to
25 zero?

1 A. No.

2 Q. Okay. So please explain to me what the 12
3 months of use you're referring to is, then.

4 A. The 12 months of usage determines -- is used
5 to determine a customer's baseline load. The
6 customer's baseline load is used to calculate the
7 access charge.

8 Q. Right. But you said that it was -- I
9 thought it was the most recent or the last 12 months
10 of his -- oh, it's his load. I'm sorry. Is that
11 where I'm missing the distinction? You're saying it's
12 his total load no matter who serves it?

13 A. It's his hourly usage, right.

14 Q. Okay. But it's not his hourly usage of the
15 utilities system facilities, is it; it's his total
16 usage of all facilities?

17 A. I'm not sure what you mean.

18 Q. Okay. What I'm trying to get is you said
19 he's being charged on the basis of his load; is that
20 correct?

21 A. In reference to what?

22 Q. To establish the CBL, you look at the
23 customer's total load; is that correct?

24 A. For the most recent 12 months, right.

25 Q. And that load that -- when you say

1 customer's total load, you're talking about the load
2 that's served both by the cogenerator's own equipment
3 and the -- and KCPL's facilities; is that correct?

4 A. It would depend on whether the cogenerator
5 was currently a cogenerator or was a cogenerator
6 looking at making a decision to be a cogenerator.

7 Q. Okay. Well, I'm trying to work with the
8 example of an existing cogenerator.

9 A. It would be -- the existing cogenerator, we
10 would take a look at the load that he was actually
11 placing on the system, on KCPL's system, for the most
12 recent 12 months. That would be a starting point.

13 In all likelihood we would negotiate the
14 baseline load and reach a contract with that customer,
15 as we've done with the only QF customer that we've had
16 in this situation.

17 Q. I'm sorry to be dense about this, but I'm
18 continuing to be confused because if I have a
19 cogenerator that has a good -- such a good operating
20 plant that he doesn't use anything from KCP&L for the
21 last most recent 12 months, I'm understanding you to
22 say that that doesn't affect what his CBL is, but --

23 A. If --

24 Q. Is that correct?

25 A. Well, without getting into the specifics, a

1 perfect example of what you're describing is the
2 current QF customer that we have under contract. The
3 customer chose to make an uneconomic decision several
4 years ago to install generating equipment.

5 Under the terms of the tariff that we're
6 proposing now, the same concept we proposed to that
7 customer. He actually signed up for the contract and
8 is now taking most of his requirements from KCPL, and
9 that was a negotiated CBL.

10 Q. I still don't think I've gotten close to the
11 answer to my question, so I'm going to keep trying.

12 A. I think I've answered it, but maybe it's
13 just not the way you want.

14 Q. What I'm trying to understand is, is the CBL
15 related to the actual -- as you move through time, is
16 the CBL actually related to the customer's purchases
17 of electricity from KCPL or is it just his total load
18 from whatever source served?

19 A. The CBL is based on historical usage.

20 Q. Usage of what?

21 A. The pricing -- the pricing of the
22 consumption going forward is real-time pricing on an
23 hourly basis.

24 Q. I'm not asking about the energy rate. I'm
25 asking about the CBL. Let me try a hypothetical.

1 Maybe that will help us.

2 You have a customer that bought a million
3 kilowatt hours in a year before he put in a
4 cogeneration unit. He then puts in a cogeneration
5 unit and he uses zero kilowatt hours from KCP&L, but
6 he continues to use a million kilowatt hours, it's
7 just he produced it all himself in the first year. At
8 the end of the first year when you start the second
9 year, what is his CBL?

10 A. The base -- the customer's baseline would be
11 based on the load shape of the million kilowatt hours
12 prior to him installing generation.

13 Q. And forever more it's going to be based on
14 that year before he installed cogeneration; is that
15 correct?

16 A. That's correct.

17 Q. Okay. Can you please turn to page 4 of your
18 surrebuttal, line 19? You testify there that KCPL
19 interprets PURPA as including economic efficiency as
20 an important objective; is that correct?

21 A. That's correct.

22 Q. Does KCPL interpret economic efficiency as
23 an overriding objective?

24 A. It's an objective. I wouldn't say it is an
25 overriding objective.

1 Q. So that in trying to promote economic
2 efficiency, you're still required to meet the other
3 requirements of PURPA, state law, et cetera; is that
4 correct?

5 A. That's correct.

6 Q. Can you turn to page 5, line 1 of your
7 surrebuttal testimony, please?

8 ALJ DERQUE: Give me a page again,
9 Mr. Swenson.

10 MR. SWENSON: It's page 5, line 1, your
11 Honor.

12 BY MR. SWENSON:

13 Q. There you testify that alternative to the
14 standby tariff which have been suggested by Trigen and
15 the Department of Energy can result in installation of
16 uneconomic generating capacity; is that correct?

17 A. That's correct.

18 Q. Would charging backup power at marginal cost
19 rates without an access charge result in the
20 installation of uneconomic generating capacity?

21 A. Well, that would depend on the customer and
22 the situation.

23 Q. Well, would it basically provide economic
24 incentives to do that?

25 A. Would you repeat your question?

1 Q. Sure. I'll just rephrase it for you
2 altogether.

3 Would charging for backup power at marginal
4 cost rates without an access charge create economic
5 incentives for the installation of uneconomic
6 generating capacity?

7 A. Yes.

8 Q. Is that only true because your other rates
9 are not set at marginal cost?

10 A. No.

11 Q. So it's -- is it your testimony that if you
12 set all the other rates for full requirement service
13 and what have you across the board in your system that
14 you'd still have to go ahead and charge the same
15 access charge that you're proposing in this
16 proceeding?

17 A. Well, it wouldn't be the same access charge.
18 You would have to charge something as a contribution
19 to fixed costs.

20 Q. Can you describe qualitatively how the
21 access charge in the case we've just described would
22 compare with the access charge we're proposing now?

23 A. Well, one possible means to do it is
24 identical to either the two-part tariff that we have
25 already approved or the RTP or RTP plus tariffs.

1 Those are conceptually identical to the tariff that
2 we're talking about. That's one means to do it.

3 Q. Would charging for backup power at embedded
4 cost rates result in the installation of uneconomic
5 generating capacity if KCPL were permitted to offer
6 discounts to customers that would otherwise install
7 generating capacity, assuming that the discount could
8 drop rates to the point of equaling KCPL's marginal
9 costs?

10 A. That was a long question.

11 Q. Sure it was. I'd be happy to repeat it
12 again. Would charging for backup power at embedded
13 cost rates result in the installation of uneconomic
14 generating capacity if KCP&L were permitted to offer
15 discounts to customers that would otherwise install
16 generating capacity?

17 That's the basic question, but I want you to
18 assume that discount could be dropped to the point of
19 equaling KCPL's marginal costs.

20 A. I'm not sure that I understand how discounts
21 have any bearing whatsoever on the issue. I really
22 can't answer your question because I don't understand
23 it.

24 Q. What I'm asking is, is there an alternative
25 to your SQF tariff if you could go ahead and charge

1 customers that would otherwise install generating
2 capacity at a discounted rate?

3 A. I'm going to try and answer this the way I
4 think I understand your question. If I'm not, just
5 let me know. But yes, there's alternatives. Contract
6 is probably the easiest alternative.

7 Q. I don't want to go into every question
8 you're asking, but that's enough. Thanks.

9 Can you turn to page 5, line 11, please,
10 where you discuss the Energy Policy Act of 1992?

11 A. Okay.

12 Q. Can you tell me whether KCPL currently has
13 planned any improvements in, I'll quote, energy
14 efficiency of power generation, transmission and
15 distribution?

16 A. Does KCPL plan efficiency improvements in
17 its own facilities, is that your question?

18 Q. Do you have currently in the books a plan
19 somewhere to improve the energy efficiency of power
20 generation, transmission and distribution?

21 A. I'm not aware of whether we do or we don't.
22 I would -- I would anticipate we do.

23 Q. Assuming that KCPL had the installation of a
24 new generating unit in its plans, how would the SQF
25 tariff provide appropriate signal to a customer with

1 regard to whether it should install a more energy
2 efficient unit?

3 A. The decision for the QF would be based on
4 the marginal energy prices that are the incentive for
5 that QF. Any -- any capacity that's being added would
6 be a part of that marginal cost from generation.

7 Q. That marginal cost signal, is that an
8 overall economic efficiency signal or does it somehow
9 single out energy efficiency in order to relate to the
10 wording of the tariff, the Energy Policy Act?

11 A. I don't follow your question at all.

12 Q. Well, I think you told me that there's a
13 marginal cost signal that's going to give some -- give
14 the customer some information with regard to whether
15 it should install another generating unit or not; is
16 that correct?

17 A. The SQF tariff access charge combined with
18 the real-time marginal cost pricing would provide the
19 economics for that customer in making that decision.

20 Q. And is that economics or that signal, does
21 that look only to the energy efficiency of the unit or
22 is it looking at the total sum aspects of economic
23 efficiency?

24 A. I apologize, but you're going to have to get
25 more specific. I don't understand what you're asking.

1 Q. Well, what -- I'd certainly be happy to try
2 again.

3 The Energy Policy Act that you've mentioned
4 in your testimony seems to refer to energy efficiency.
5 Do you understand that?

6 A. Yeah. I can read the section that's in my
7 testimony. I mean, I understand what that says.

8 Q. And do you think there's a difference
9 between energy efficiency and economic efficiency?

10 A. There is a difference in technical
11 efficiency and economic efficiency, yes.

12 Q. Do you think energy efficiency is probably a
13 reference to technical efficiency?

14 A. In this particular quote that I'm talking
15 about, it's economic efficiency.

16 Q. How do you know that?

17 A. That's the way I interpret it.

18 Q. And on what basis do you come up with that
19 interpretation?

20 A. It says the rates charged by any electric
21 utility shall be such that the utility is encouraged
22 to make investments in and expenditures of all cost-
23 effective improvements in the energy efficiency of
24 power generation, transmission and distribution. It
25 could be a combination of technical efficiency and

1 economic efficiency.

2 Q. Well --

3 A. The two are -- the two really have to go
4 together.

5 Q. Well, it certainly says cost effective
6 there, doesn't it, somewhere in there, words to that
7 effect?

8 A. Yes.

9 Q. So that's probably the part that goes to
10 economic efficiency; isn't that correct?

11 A. Cost and economic efficiency, yes, are the
12 same.

13 Q. So do you think they'd need to say energy
14 efficiency a second time in there if that just meant
15 economic efficiency?

16 A. I think it's referring to both technical and
17 economic efficiency.

18 Q. So you think they're just saying the same
19 thing in two different places in there in the
20 language, then; is that correct?

21 A. I think -- I think it was the intent of
22 PURPA to promote both.

23 Q. I'm just -- we're not talking about PURPA
24 here. We're talking about the Energy Policy Act of
25 1992, right?

1 A. Right. I would say that was the same, the
2 Energy Policy Act of 1992.

3 Q. Okay. But where it says energy efficiency,
4 it's also your testimony that energy efficiency is
5 referring to economic efficiency. We're not talking
6 about the act as a whole now, just looking at that
7 particular language.

8 A. I think it's probably both technical and
9 economic.

10 Q. Okay. Thank you. On page 6, line 16 of
11 your surrebuttal, are you attempting to distinguish
12 on-site generation there because -- on-site generation
13 customers from other customers because they have a
14 choice of generating their own or taking from
15 utility -- their own energy or taking energy from the
16 utility?

17 A. That's what I say, yes.

18 Q. Okay. Do all customers have a choice with
19 regard to taking or not taking power from KCPL?

20 A. Well, they don't have a choice as far as
21 today who provides that power.

22 Q. Okay. But from KCP&L's standpoint, when
23 they see electrons flowing out to a customer, does
24 each customer have a choice with regard to whether
25 it's going to take power or not take power from KCPL?

1 A. Well, like I said, we have a certificated
2 service territory. So they have to take power from
3 KCPL or generate it themselves.

4 Q. They can't turn off the lights in a room
5 instead of leaving them on; is that correct?

6 A. Well, they would -- you know, you're talking
7 about how they use the power.

8 Q. I'm talking whether they take -- I'm sorry.

9 A. Well, no. You said could they take the
10 power. The power is there ready for their use.
11 Whether they choose to use it or not, that's a
12 different question.

13 Q. So let me repeat the question so we're clear
14 on the answer.

15 Do all customers have a choice with regard
16 to taking or not taking power from KCPL?

17 A. And I answered it and I'll answer it again.
18 We're the only supplier today that they can take power
19 from unless they generate it themselves.

20 Q. But I'm not asking you who their choice of
21 suppliers are. I'm asking whether they have a choice
22 whether to buy power from you at all?

23 A. They have a choice whether to use the power,
24 but the power is there ready when they flip the switch
25 from us or they generate it themselves.

1 Q. If a customer decides not to use power as a
2 result of KCPL's standard rates, how much revenue
3 would KCPL lose?

4 A. All customers?

5 Q. I'm not saying -- I'm just saying if an
6 individual customer makes a decision not to take a
7 particular kilowatt of power, what's the effect? How
8 would you determine how much revenue KCPL will lose?

9 A. I don't know. It would depend on the
10 customer and the usage characteristics, the tariff.

11 Q. So isn't the answer it depends on what the
12 tariff says? Is that another way of saying it? It's
13 whatever the tariff rate is for that particular
14 customer; is that correct?

15 A. Well, it's more than the tariff. It would
16 depend on the customer, the contribution the
17 customer's making when he was using the power. I
18 don't know any given customer what the revenue
19 shortfall would be.

20 Q. And you couldn't tell that from just looking
21 at the tariff and knowing how much power the customer
22 was buying before and how much he bought after?

23 A. Well, I suppose you could -- you could if I
24 had all the information I needed to determine that.

25 Q. If a customer decides not to use power as a

1 result of KCPL's standard rates, would KCPL still
2 stand ready to serve that customer in the event the
3 customer reverses its decision?

4 A. KCPL typically would not know whether that
5 customer was using power or not at any given time.

6 Q. Could you answer my question, please?

7 A. Well, ask your question again.

8 Q. Sure. If a customer decides not to take
9 power as a result of KCPL's standard rates, would KCPL
10 still stand ready to serve that customer in the event
11 that the customer reverses its decision?

12 A. I think this goes back to your question
13 earlier that KCPL is always there. The power is
14 there. It's up to the customer to choose whether to
15 use that power or not, so yes.

16 Q. Okay. Yes. Thank you. Could you turn to
17 page 8, line 9? Is it true that at that point in your
18 testimony you dispute the possibility that KCPL will
19 recover many times over the stranded costs associated
20 with any given customer?

21 A. Yes, that's true.

22 Q. Does the Commission review KCPL's stranded
23 cost recovery with regard to individual customers?

24 A. This Commission does not address stranded
25 cost recovery for KCPL.

1 Q. Thank you. Can you tell us where KCP&L came
2 up with the idea for the SQF tariff?

3 A. We have been for some time, probably since
4 about 1993 or '94, been developing tariffs in
5 conjunction with a rate design case that was filed or
6 actually was approved in, I think, June or July of
7 '96.

8 During the course of determining the RTP,
9 the RTP plus tariff and also the two-part tariff that
10 was a part of that rate design case, all of these
11 tariffs and all these concepts worked together were
12 looking for a better means to send price signals to
13 customers.

14 And recognizing that in the transmission to
15 competition, you can't price at marginal cost totally
16 today, what means or what methods did we have
17 available to make that transition? The SQF tariff,
18 the two-part tariff, the RTP tariff all fit within
19 that concept.

20 Q. Well, to get closer to my point, did KCP&L
21 come up with the idea for the SQF tariff through
22 someone inside KCP&L, or did you see this tariff
23 somewhere else and decide that that was a pretty good
24 idea and that, given everything else that was going
25 on, that you'd try to adopt it here?

1 A. The SQF tariff actually came about after we
2 had developed the two-part tariffs for RTP and RTP
3 plus and our two-part tariff that's a part of our
4 general available rate schedules.

5 One of our staff members, George Mentrop,
6 formulated the ideas for those tariffs, also working
7 with Dave Glycer from Christianson & Associates as a
8 consultant.

9 And the SQF tariff sort of came about as a
10 result of those tariffs. It didn't come about because
11 of anything that we observed or pointed to regarding
12 the SQF in any other state or any other jurisdiction.

13 Q. Mr. Giles, does your definition of marginal
14 cost include the cost of capacity and fuel or just
15 fuel?

16 A. It's large -- it's primarily variable cost
17 fuel, but there is a component of the marginal cost
18 for capacity shortages during those peak hours in the
19 summer.

20 Q. And how would the capacity be charged? Is
21 that based on a market-based rate or KCPL's embedded
22 cost rate?

23 A. Market-based rate.

24 Q. On page 8, line 19 of -- I think it's your
25 surrebuttal testimony. I hope I'm not confusing

1 things here. Yes. That's right. You discuss
2 Dr. Thompson and Case No. EO-94-199; is that correct?
3 A. That's correct.
4 Q. Was Case EO-94-199 about total cost recovery
5 for KCP&L?
6 A. By total cost recovery, are you meaning a
7 revenue requirement --
8 Q. Yes.
9 A. -- type case?
10 Q. Uh-huh.
11 A. It wasn't initially. It turned into that.
12 Q. Can you explain to me how it turned into it
13 and what happened, please?
14 A. Sure. We went into that case initially with
15 a so-called revenue neutral position. In other words,
16 we were going to reallocate the costs among the
17 classes and among the tariffs and collect the same
18 revenue as before the reallocation.
19 During the process of that case, which
20 lasted for probably 18 months, the Company and the
21 Staff entered into an earnings review, and as a part
22 of that earnings review, the Company and the Staff
23 agreed to reduce rates.
24 When we agreed to reduce rates, we also
25 agreed to allocate those costs in that rate design

1 case so that the revenue reduction became a part of
2 the rate design case.

3 Q. Suppose we have a retail competition and a
4 backup generation source were available that did not
5 include an access charge, was only based on market
6 prices. Would the access charge that KCP&L proposes
7 here then be necessary to result in a correct cost
8 comparison?

9 A. If you have retail competition, that
10 generator would be on their own. They'd have to
11 secure that standby or backup.

12 Q. That's right. And would you be able to
13 charge the access charge, do you think, under those
14 circumstances?

15 A. I'm not sure.

16 Q. Well, what makes you unsure?

17 A. Well, you're using a hypothetical retail
18 competition. In retail competition theoretically
19 everything's going to be at market. Whether you can
20 charge anything other than market, probably not, but I
21 don't know.

22 Q. I'd like to explore a little further the
23 cost of backup power that KCP&L is proposing. Can we
24 assume a hypothetical for a moment where there's a
25 10 megawatt load, 8,760 hours in a year. You might

1 want to write some of this -- do you have pen and
2 paper? I can give you some if you need it. I'll try
3 to keep the math simple.

4 You have a 10 megawatt load, 8,760 hours in
5 a year, and the market price for power is 3 cents, and
6 KCP&L's embedded cost rate would be 5 cents.

7 Is it correct to say that if the cogenerator
8 wanted to buy -- was choosing between whether it
9 should buy no power and not sign up with KCP&L for the
10 SQF tariff or it needed to buy a single kilowatt hour
11 of power from KCP&L but that single kilowatt under the
12 SQF tariff would be priced at \$2,628,000.03?

13 A. I don't know. I'm not sure what your
14 example is doing here.

15 Q. Okay. Well, what I'm assuming here -- let's
16 just kind of work through it piece by piece and see
17 where we come out.

18 We've got a 10 megawatt load, 8,760 hours in
19 the year. That works out by my math to be 87,600,000
20 kilowatt hours a year. Are you with me so far?

21 A. Okay.

22 Q. If you were buying it under the full service
23 tariff rate, you'd pay 5 cents a kilowatt hour for it,
24 but under the proposal as I understand it, you under
25 the SQF tariff would create an access charge equal to

1 the margin, which was the difference between the 5
2 cents and the 2 cents -- I might have got these
3 flipped around. I'm sorry.

4 Let's assume that the real-time pricing or
5 your marginal cost was 2 cents. So as I understand
6 the access charge, the assess charge would be 3 cents
7 times the 87,600,000 kilowatt hours, that is the
8 facility's load; is that correct?

9 A. That's correct.

10 Q. Okay. And so when the QF decides to buy a
11 kilowatt hour of electricity under the SQF tariff, he
12 would pay \$2,628,000 as an access charge plus 3 -- I'm
13 sorry -- 2 cents for the kilowatt hour. So that the
14 effective price of that kilowatt hour is now is
15 \$2,628,000.02; is that correct?

16 A. I haven't worked all the math, but what
17 you're describing sounds correct.

18 Q. Do you want to take a minute and work the
19 math? I don't know if it's really necessary.

20 A. Not really.

21 Q. Okay. And do you think that's the right
22 economic signal for someone to get with regard to that
23 last kilowatt hour, or the first kilowatt hour I
24 should say?

25 A. Yes.

1 Q. So that's going to cause a cogeneration
2 facility to make the right economic decision with
3 regard to whether it should buy the 1 kilowatt hour
4 from KCP&L or whether it should generate itself?

5 A. Yes.

6 Q. Can you explain why that is?

7 A. Well, the generator is comparing market
8 costs to KCPL's real-time price. So he can either
9 generate -- if he can generate cheaper than KCPL's
10 marginal costs, then he should. If he can't, he
11 should purchase from KCPL.

12 Q. Well, let me just suppose that the
13 cogenerator or the potential cogenerator could go out
14 to Sears and buy one of these little gas-powered
15 generators and so forth for a hundred bucks and put a
16 penny's worth of gas in there and make that 1 kilowatt
17 hour of electricity. So it costs them \$101 to make
18 that kilowatt hour of electricity; is that correct?

19 A. Well --

20 Q. \$100.01. I think I may have misspoke.
21 Okay. And KCP&L could have produced that kilowatt
22 hour for 2 cents under our hypothetical; is that
23 correct?

24 A. Right.

25 Q. And you're saying that it's the right thing

1 for the cogenerator to do to go out and spend \$100.01
2 to generate that kilowatt hour of electricity rather
3 than pay KCP&L something on the order of 2, 3, 4 cents
4 for the power, something less than \$100.01?

5 A. We're not talking about what's necessarily
6 best for the cogenerator. We're talking about what's
7 economically efficient.

8 Q. Okay.

9 A. Those are two different concepts.

10 Q. Right. But why isn't it economically
11 efficient for KCP&L to say to the cogenerator I'll
12 sell you that kilowatt hour of power for something
13 greater than my marginal cost but less than what it
14 would cost you, as opposed to saying I'll sell you
15 that kilowatt hour of power for 2-million-something
16 dollars?

17 A. Because the customer or the potential
18 cogenerator or cogenerator would be making an
19 uneconomic decision because economic efficiency would
20 not be served under that scenario.

21 Q. Well, I'm still confused. We've got --
22 we've got the cogenerator. He can either install an
23 additional piece of backup by going out to Sears for a
24 hundred dollars and a penny and take care of his
25 1 kilowatt hour of need or he can go to KCP&L and pay

1 \$2,628,000-something for that kilowatt hour of power.

2 And you're saying that it's the appropriate
3 economic signal to tell the guy to go to Sears and
4 spend the hundred dollars plus to generate that power
5 rather than go to KCP&L and buy that 1 kilowatt hour
6 of power?

7 A. No. I think what we're saying is that,
8 under the SQF tariff, the customer wouldn't make that
9 decision. He would buy from KCPL.

10 Q. He would?

11 A. Yes.

12 Q. He'd spend the 2,628,000 instead of going to
13 Sears for \$100, and that's what he'd do?

14 A. Yes.

15 Q. Why would he do that?

16 A. Because it would be the requirement of the
17 tariff, and that's the whole point of the tariff is to
18 provide the correct economic signal to the customer
19 whether to install generation or not.

20 We're not talking about simply from the
21 competitor or the customer prospectively. We're
22 talking about it from the economic efficiency
23 standpoint.

24 Q. Absolutely. What I'm trying to pose here,
25 just make sure we're clear because I'm really confused

1 now, is that you've got a guy who's already got an
2 on-site generation plant for whatever reason.

3 He's trying to decide whether he wants to go
4 buy some extra reliability for his cogeneration
5 facility by buying some power from KCP&L or going to
6 Sears and buying a little hand unit generator.

7 And we've calculated, I thought, that KC --
8 the signal KCP&L is giving to the guy is, if you want
9 to come to us for the backup power, for that 1
10 kilowatt hour, we'll be glad to sell it to you for
11 \$2,628,000.02, and his other option is to go out and
12 spend \$100 plus a penny to back up his power.

13 And what I heard you tell me -- tell me if
14 this is correct -- is he would go ahead and choose to
15 buy the power under those circumstances from KCP&L.

16 A. Well, you've changed your example, or at
17 least changed it from the perspective I was looking
18 at.

19 Now we're talking about a situation where
20 he's already got the generation in and he's looking to
21 make another decision. You know, I would suggest in
22 that case we would sit down and negotiate a contract.

23 Q. Well, I'm asking about the SQF tariff. So
24 does the SQF tariff provide the right signal in this
25 case?

1 A. Yes.

2 Q. And what signal is it?

3 A. The signal is that it's not economically
4 efficient to install that generation.

5 Q. To install -- to go out and buy, it's not
6 efficient to go out and spend \$100 to buy the Sears
7 generator; is that right?

8 A. That's right.

9 Q. I'm just totally befuddled. We've decided
10 it's going to cost them 2 million something to buy the
11 kilowatt hour from KCP&L and \$100 to go to Sears, and
12 you're telling me that the signal is don't go to
13 Sears, spend \$2,628,000.02. What am I missing?

14 A. The same thing I've been telling you. It's
15 not just from that customer's perspective. The
16 economic efficiency is economic efficiency for the
17 society as a whole. We're not talking about just that
18 customer. That's what you're missing, but I don't
19 really think you're missing it.

20 Q. All right. What I'm -- what I thought was,
21 you're providing a signal through the SQF tariff that
22 tell the customer what he should do.

23 A. Exactly, from the economic efficiency
24 standpoint.

25 Q. And I don't know how much longer to spend on

1 this, your Honor, but I thought the signal that --
2 what you're telling me is from the economic
3 efficiency, from the big standpoint, the system should
4 be telling him not to install the Sears generator; he
5 should buy his additional kilowatt hour from you
6 folks.

7 This is the only kilowatt hour he's going to
8 buy. He can go off the SQF tariff altogether if he
9 goes out to Sears and gets his backup generator to
10 make his reliability.

11 A. If his marginal cost is cheaper than KCPL's,
12 he should provide his own generation.

13 Q. Well --

14 A. I mean, that's the basic concept.

15 Q. I understand that.

16 A. If that's the case, then he should
17 purchase -- or he should generate rather than purchase
18 from KCPL.

19 Q. So are you saying that if it's going to cost
20 him \$101 to go out and buy the generation, he should
21 go out and do that?

22 A. If that marginal cost is cheaper than KCPL's
23 marginal cost.

24 Q. You tell me what the marginal cost is.
25 What's the marginal cost? Is it the cost of buying

1 the Sears generator and the fuel to put into it?

2 A. Yes.

3 Q. That's \$100.01. And what's KCP&L's marginal
4 cost?

5 A. Probably one to one and a half cents.

6 Q. Okay. And how does he end up comparing that
7 when the SQF tariff is going to sock him with
8 \$2,628,000 and some cents?

9 A. Well, if he is -- if he is already -- you're
10 talking about 1 kilowatt hour. The \$2,628,000 is not
11 a marginal cost.

12 Q. I know that.

13 A. So he's not making that comparison at that
14 point. He's comparing his strictly marginal cost to
15 KCPL's marginal cost. He's already incurred the
16 \$2,628,000.

17 Q. Why does he --

18 A. Therefore, he's going to go ahead and buy
19 the \$101 unit.

20 Q. Okay. I guess we've now figured out why we
21 have this discrepancy. I'm assuming if he goes out to
22 Sears and buys the generator, he can tell KCP&L that
23 he has no interest in buying service from KCP&L
24 whatsoever. That was the only kilowatt hour he's
25 going to buy. He's not going to buy it anymore

1 because he can get it from the Sears generator.
2 So he's not going to be on the SQF tariff.
3 He's not going to be on any tariff. He's just going
4 to make a decision I don't need -- for \$2,628,000
5 it'll cost me to be on the SQF tariff, I'm not
6 interested. I'll go to Sears instead.

7 A. Okay.

8 Q. So was that what you were assuming all along
9 or have I just changed the --

10 A. Well, I think you've changed it several
11 times. I think that's part of the confusion. The
12 whole issue, the whole concept is quite simple. If he
13 is going to make a decision whether to install
14 generating equipment or not, he's going to use the SQF
15 tariff to make that decision with the access charge
16 and with the marginal cost pricing.

17 Now, once he's done that, whether he decides
18 to continue to generate or whether he increases his
19 generation or decreases his generation, he's making
20 that decision based on his marginal cost compared to
21 KCPL's marginal cost.

22 Q. See, that's --

23 A. This works very well. It works with the
24 existing QF that we have. It works with the RTP
25 customers that we have.

1 Q. What I'm trying to get at is, when you get
2 down to the -- once you have a cogenerator on site and
3 you -- he's got to decide whether he wants to stay on
4 the SQF tariff that you, let's say, have approved, is
5 he getting the right signal to stay on the SQF tariff
6 or is he being driven off the SQF tariff altogether in
7 favor of placing his own backup for his cogeneration
8 facilities that he can supply himself backup and he
9 doesn't need KCP&L? And I'm asking you whether that's
10 the case or not.

11 A. Well, if he doesn't need KCPL, then he
12 wouldn't -- he wouldn't have a tariff. He would be
13 stand-alone.

14 Q. Right.

15 A. Right. So the -- on the marginal cost
16 basis, our RTP prices provide the correct signal
17 whether he should generate or whether he should buy
18 from KCPL.

19 Q. I'm asking about the SQF tariff.

20 A. I am talking about the SQF tariff.

21 Q. Okay.

22 A. I mean, those are the components of the SQF
23 tariff.

24 Q. Well, in the example that I've been trying
25 to put forth, it seems to me that he's got two

1 choices, to spend millions of dollars to get the
2 kilowatt hour from KCP&L or to spend about a hundred
3 dollars to get it from another source. Do you agree
4 with that analysis?

5 A. If the customer was not a generating
6 customer and he's trying to make a decision whether to
7 install this 1 KW capacity or not, then he's not
8 comparing the \$2.68 million. That's not his total
9 load, 1 KW.

10 So you're mixing apples and oranges. You're
11 continuing to change the example, and I can't give an
12 answer when the example keeps changing.

13 Q. I'm trying to give a static example. So if
14 you tell me what I'm going changing as we go along,
15 we'll just lock it in.

16 A. Okay.

17 Q. All right. You've got a cogenerator who's
18 already got an existing facility. He's deciding
19 whether he wants to buy backup power or not.

20 A. Okay.

21 A. How large is that existing facility?

22 Q. His existing facility supplies all his needs
23 except 1 kilowatt hour a year.

24 A. Okay. He's already an existing cogenerator?

25 Q. That's right.

1 A. And is he on the SQF tariff? Is he paying
2 an access charge?

3 Q. Well, he will be if he doesn't do another
4 alternative. His other alternative is to go to Sears
5 and spend \$100.

6 A. Well, is he or is he not on the QF tariff?

7 Q. Well, my question has to do with whether
8 he's going to -- how he's going to decide that or not.
9 He's trying to make that decision. He wants to know
10 whether he should go on the SQF tariff, and is the SQF
11 tariff going to give him the right incentive to decide
12 whether he's on it or not?

13 A. Well, if he's on the SQF tariff, then he's
14 paying the access charge. You can't have it both
15 ways. He's either on it or he's not on it.

16 Q. I'm not trying to say he's got it both ways.
17 I'm saying he's trying to decide whether he wants
18 to -- he's seen you come out with this SQF proposal.
19 He's got to react. He's planning on reacting fast.

20 He's either going to say, "Gee, I'll go with
21 KCP&L. I'll get on their SQF tariff, I'll buy my 1
22 kilowatt hour from KCP&L," or he could say, "I don't
23 need KCP&L. I'd rather go to Sears and buy a little
24 generator."

25 A. Okay. Under that scenario, we would sit

1 down with him and negotiate a contract.

2 Q. But I'm not asking you about the contract.
3 I'm asking you about the SQF tariff and the incentive.
4 We're talking about the SQF tariff here.

5 A. Again, we could sit down and look at his --
6 what his CBL would be, what it should be, you know,
7 what the access charge would be. I mean, we would
8 have to sit down with the customer and see what his
9 load requirements are, what his hourly costs are, what
10 the cost of his equipment is.

11 Now, if you make a distinction of whether
12 he's on the tariff or whether he's contemplating being
13 on the tariff, whether he has generation, whether he
14 doesn't, if you make it very clear, I can answer your
15 question. But if you keep jumping around and changing
16 the circumstances, it's very difficult to answer the
17 question.

18 Q. Well, with all due respect, I'm trying not
19 to jump around. Any aspect of this question that you
20 think I'm jumping around in, ask me what it is. I
21 will tell you what the assumption should be, and then
22 we'll work from there.

23 A. Is he on the SQF tariff?

24 Q. He's not on --

25 A. Is he paying an access charge?

1 Q. He's not on the SQF tariff. He's deciding
2 what to do. The SQF tariff has not gone into effect
3 yet.

4 A. Okay. What is he trying to decide?

5 Q. He's trying to decide whether he wants to go
6 on the SQF tariff and buy the 1 kilowatt hour of power
7 from KCP&L or whether he wants to get that power
8 through some other method.

9 A. Does he generate today?

10 Q. He's got an on-site generator.

11 A. Supplying all his own needs?

12 Q. Except for 1 kilowatt hour.

13 A. Has no standby, backup, supplemental
14 requirements with KCPL?

15 Q. Well, that's what he's trying to determine,
16 whether he's going to make those requirements with
17 KCP&L or whether he's going to supply them himself.

18 A. Okay. So today he doesn't?

19 Q. Well --

20 A. He's not on KCPL at all?

21 Q. He may be the, but the --

22 A. Well --

23 Q. -- SQF tariff hasn't taken effect yet.

24 A. It's not a question of whether he may be.
25 He is or he isn't. That's my point.

1 Q. I don't --

2 A. If he's -- if he's taking -- if he's
3 depending on KCPL, he's depending on KCPL. If he's
4 not, he's not.

5 Q. Okay. Why don't we have him buying one
6 power under your existing QF tariff, 1 kilowatt hour
7 of power under the existing QF tariff, but the SQF
8 tariff's about to come into effect and he's got to
9 decide what to do.

10 A. So he's taking standby for 1 kilowatt?

11 Q. 1 kilowatt hour.

12 A. Okay. And what is he trying to decide?

13 Q. He's trying to decide whether he should go
14 out and be switched over to your SQF tariff which is
15 just going on the books and is about to go effective
16 or whether he should go out to Sears or find some
17 other source. I assume on-site generation is his only
18 alternative based on what you've told me.

19 A. Then he would look at the SQF tariff for
20 that 1 kilowatt. He would look at the access charge.
21 He would look at the marginal cost prices and
22 determine whether he wanted to be on that tariff.

23 Q. And did we decide that when he looked at the
24 SQF tariff he's going to see 2 million something?

25 A. No, not in this example.

1 Q. Okay.

2 A. We haven't decided that.

3 Q. Why haven't we decided?

4 A. We're talking about 1 kilowatt. We're not
5 talking about 10 megawatts.

6 Q. But he's got an existing --

7 A. But he's not on KCPL for that. You just
8 said he's on for 1 kilowatt.

9 Q. Okay. So his load, then, the rest of his
10 load doesn't count?

11 A. Exactly.

12 Q. Okay. How do we know when someone's load is
13 going to be in the CBL not be in the CBL based on
14 what's in the tariff today, or proposed tariff?

15 A. It's dependent upon whether they've been
16 taking the service from KCPL or not. I mean, if
17 they've got 12 months of usage and they've been on the
18 standard tariff, then you've got a CBL of 12 months.

19 ALJ DERQUE: Mr. Swenson, are you going on
20 to a different topic?

21 MR. SWENSON: I think we're going to finish
22 with this one, your Honor.

23 ALJ DERQUE: You are finished or you're
24 going to finish?

25 MR. SWENSON: I can't promise not to somehow

1 circle back around to it, but I'm going to move on
2 now, your Honor.

3 ALJ DERQUE: Okay. Good, because I'm going
4 to break for lunch right now. If you're going to move
5 on and circle back around, I'll let you do that after
6 lunch.

7 MR. SWENSON: Okay.

8 ALJ DERQUE: Before we break for lunch,
9 Mr. Phillips, you have two exhibits, Nos. 5 and 6.
10 Are you going to offer those sooner or later?

11 MR. PHILLIPS: I will offer them later.

12 ALJ DERQUE: I'm not going to force you to.

13 MR. PHILLIPS: I'll make a determination.

14 ALJ DERQUE: Well, I reminded Mr. Woodsmall
15 to offer the Hearing Memorandum. I thought I'd give
16 you one chance.

17 MR. PHILLIPS: I appreciate the reminder.

18 ALJ DERQUE: We will adjourn for lunch and
19 resume at, let's make it 1:30.

20 (The noon recess was taken.)

21 ALJ DERQUE: We're back on the record.

22 Mr. Swenson?

23 MR. SWENSON: Yes, your Honor.

24 BY MR. SWENSON:

25 Q. Welcome back from lunch, Mr. Giles.

1 Are Staff and Company in perfect agreement
2 as to the determination of the elements of RTP
3 pricing?

4 A. I believe so.

5 ALJ DERQUE: Excuse me. Yes or no?

6 THE WITNESS: Yes, I believe so.

7 BY MR. SWENSON:

8 Q. Are there any of the elements of that
9 pricing that are subject to debate amongst the
10 parties?

11 A. Not that I'm aware of.

12 Q. So you think all the elements of RTP pricing
13 are completely settled and it's just the mechanical
14 calculation at this point?

15 A. In the context of this proceeding, I'm
16 not -- I'm not aware of any testimony to the contrary.

17 Q. Well, I'm just talking about in general
18 because you were talking about RTP pricing before
19 lunch, and I'm just wondering whether that's a
20 completely settled issue in your mind or whether, when
21 you go to implement a tariff using RTP pricing, there
22 are issues of debate that arise in those pricing.

23 A. I believe all the parties to this case were
24 also a party to the rate design case, and in that case
25 we had several presentations of RTP pricing and, in

1 fact, as a part of that stipulated case submitted an
2 RTP seasonal pricing that follows the same concept
3 with an access charge and so on, and all the parties
4 signed that Stipulation.

5 Q. Okay. Thank you.

6 I'm going to ask you about some assumptions
7 that you may have to make in order to conclude that --
8 no, I'm not either. I'm going to skip that, your
9 Honor.

10 Mr. Giles, is the net effect of the SQF
11 tariff to cap the value on self-generated power at the
12 marginal cost as represented by the RTP?

13 A. Are you talking about sales or purchases?

14 Q. I'm talking about sales. It's really -- or
15 self use for that matter, but the value that's capped.

16 A. Restate the question.

17 Q. Is the net effect of the SQF tariff to cap
18 the value of self-generation at the marginal cost
19 represented by RTP?

20 A. Well, the -- I'm not sure what your question
21 is exactly. Based on our discussions this morning, I
22 want to be very clear what you're asking.

23 I mean, the price that's paid -- or the
24 marginal price, the RTP price is the Company's hourly
25 generation cost. I'm not sure what you mean by a cap.

1 I mean, that cost will vary. That price will vary.

2 Q. What I'm asking is, is the -- let me put it
3 this way. The current embedded cost rate allow a QF
4 to effectively value its power at the embedded cost
5 rate; is that correct?

6 A. I'm not sure what you mean.

7 Q. Well, when the QF is deciding whether it
8 wants -- I'm sorry. On-site generator is deciding
9 whether it wants to generate power or not, it's going
10 to compare its cost of generation with the embedded
11 cost tariffs; is that correct?

12 A. I'm not sure that that's correct. The
13 embedded cost tariffs don't provide an hourly price
14 signal to determine whether that customer should
15 generate or not.

16 Q. I'm talking about an overall decision, not
17 on an hour-by-hour basis.

18 A. Overall decision, I would -- I would say
19 that the decision whether to build generation or not
20 would be the same whether the customer's comparing the
21 standard tariff or the SQF tariff.

22 He'll look at the total costs to him versus
23 the total costs that he would pay without generation,
24 whichever tariff you might be on.

25 Q. So he's going to look at the total cost, and

1 so if the total cost is the embedded cost, that's what
2 his value could be. It can't be above the embedded
3 cost price because, if it was, he'd take -- he'd just
4 buy the power from KCP&L instead; is that correct?

5 A. If it was cheaper to buy it from KCPL, I
6 would think he would buy it from KCPL and not install
7 the generation.

8 Q. So that caps his value, doesn't it?

9 A. I'm not -- I'm not with you on the term
10 "caps his value".

11 Q. Well, he can't extract a higher value out of
12 his own generation than whatever you charge him
13 instead because he'd always just choose to take the
14 KCPL rate instead at that point?

15 A. I mean, he either makes the decision to
16 install the generation or not. And once he's the
17 generation, absent the SQF tariff, there's not a
18 mechanism to provide him hourly pricing.

19 Q. Well, he gets an hourly pricing, doesn't he,
20 but it's just the embedded cost average price, right?

21 A. Well, it's not an hourly pricing. He's got
22 a -- it's not an hourly pricing schedule.

23 Q. Well, it's just that the same rate applies
24 in every hour, isn't it?

25 A. Well, it's not even an hourly rate. It's a

1 monthly rate.

2 Q. I know, but when he goes to make a decision
3 in a particular hour, he's going to look at that rate.
4 Are you saying he's got -- I'm sorry. Let me start
5 over again.

6 Are you saying that when he goes to make a
7 decision about whether to generate a particular hour
8 or not, he has no idea whether he's -- what rate he's
9 got to pay by KCPL in that hour for power generated in
10 that hour?

11 A. Not for that hour, no.

12 Q. He has -- you're saying a customer that has
13 on-site generation has no way to evaluate what it
14 would cost him to buy power from KCP&L in a particular
15 hour under the current tariff?

16 A. That's correct.

17 Q. Why can't he just look at the tariff and see
18 what the rates are in the tariff and calculate it out
19 on paper?

20 A. Tariffs aren't hourly. Prices aren't
21 hourly.

22 Q. But he knows it's the -- so how does KCP&L
23 figure out what it's going to charge somebody in a
24 particular hour for power?

25 A. Unless they're on an RTP schedule, we don't

1 charge them by hour.

2 Q. But you charge them for power in each hour,
3 don't you?

4 A. We charge them on a monthly basis.

5 Q. Right. So you don't care what hour it
6 occurs in; is that what you're saying?

7 A. On the standard tariff.

8 Q. Because it's the same rate in any -- it's
9 the same rate in any hour, it doesn't matter what hour
10 he uses; is that correct?

11 A. It's an average embedded cost rate.

12 Q. Right. And that same average embedded cost
13 rate applies in all hours; is that correct?

14 A. Well, it's an average embedded cost rate
15 over a month. So it's not an hourly rate.

16 Q. Maybe it would be easier just to go back to
17 the RTP rate and see what we can do with that because
18 there is an hourly price in the RTP rate; is that
19 correct?

20 A. That's correct.

21 Q. And when I'm trying to decide whether to
22 generate or not, how could I capture a higher value
23 for using my own power than whatever the alternative
24 choice would be under the RTP rate for power from
25 KCP&L?

1 A. You would compare your marginal cost of
2 generation with the RTP hourly prices.

3 Q. Right. And could my value ever -- if my
4 cost was zero and the RTP rate was 2 cents, what would
5 my value for my power be to me?

6 A. What do you mean, what would your value be?

7 Q. How much is it worth? What am I -- what am
8 I avoiding by using my own power? It's the -- the
9 value is what it cost me in the alternative.

10 A. If you can generate at no cost, you should
11 generate.

12 Q. But I'm not asking what you should do. I'm
13 asking what's the value to him?

14 A. Of?

15 Q. Of the power he generates himself?

16 A. Well, if his alternative is to purchase from
17 KCPL at 2 cents or generate for nothing --

18 Q. Right.

19 A. -- then he would not pay 2 cents to KCPL.

20 Q. Right. So he would save 2 cents, and that
21 would be the value that he would get for himself by
22 generating; is that right?

23 A. He would save 2 cents by not paying KCPL 2
24 cents.

25 Q. Is there any way he could save more than

1 what KCP&L's marginal cost as reflected in the RTP
2 tariff was?

3 A. More from KCPL?

4 Q. Excuse me?

5 A. You mean more from KCPL?

6 Q. No. I'm saying is there any way he can save
7 more than 2 cents or whatever the RTP price is --

8 A. No.

9 Q. -- by generating himself?

10 A. Not. I mean, he's going to not pay KCPL 2
11 cents.

12 Q. Right. That's the most he can save no
13 matter what he does at that point. He could save less
14 by buying the power from KCP&L, I suppose, but he
15 couldn't save more than 2 cents; is that correct?

16 A. Not from KCPL.

17 Q. Does he have any other options?

18 A. Not that I'm aware of.

19 Q. Okay. How does a customer determine how
20 much KCP&L will charge for one additional kilowatt
21 hour under the standard tariff?

22 A. It's a marginal energy price. It's a day
23 ahead.

24 Q. I'm talking about the standard tariff now,
25 not the RTP tariff.

1 A. Okay. So repeat your question.

2 Q. How does a customer determine how much KCP&L

3 will charge for one additional kilowatt hour under the

4 standard tariff?

5 A. He can't from the standard tariff.

6 Q. If he can't determine what he's going to pay

7 under the standard tariff, how does the standard

8 tariff drive him to make uneconomic decisions to

9 install self-generation?

10 A. I didn't say he couldn't determine what he

11 pays under the standard tariff. I said there's not an

12 hourly marginal energy cost in the standard tariff.

13 Q. Well, let me ask the question again because

14 I'm getting confused again. How does a customer

15 determine how much KCP&L will charge for one

16 additional kilowatt hour under the standard tariff?

17 A. At any given time?

18 Q. That's right.

19 A. Well, he could input his billing determinant

20 into the standard tariff and see where the marginal

21 energy cost block he would fall for that additional

22 kilowatt hour.

23 Q. So there is a way to do it, correct?

24 A. On an average embedded cost basis.

25 Q. Well --

1 A. Not on a marginal basis.

2 Q. We've got a customer. He's got the tariff.
3 He knows how much power he's used so much this month
4 already and all his other billing parameters. And
5 you're telling me that if he wants to decide whether
6 to take one more kilowatt hour of power that month or
7 not, there's no way he can figure out how much that's
8 going to cost him?

9 A. No, I didn't say that. I just explained how
10 to do that.

11 Q. Okay. So he can do that?

12 A. Take his monthly billing determinants,
13 applying the rate schedule, determine where that
14 incremental kilowatt hour falls in the energy block,
15 and he can determine that.

16 Q. And that's the customer's marginal cost of
17 buying that extra kilowatt hour of power; is that
18 correct?

19 A. That's correct.

20 Q. Thank you.

21 Mr. Giles, does competition encourage KCPL
22 to have the lowest possible total costs?

23 A. I don't think competition itself has done
24 that. KCPL strives to keep its costs as low as it
25 possibly can.

1 Q. If you were exposed to competition, would
2 that tend to encourage KCP&L to minimize its total
3 costs?

4 A. We're already exposed to competition, and
5 we -- like I said, we strive to keep our costs as low
6 as possible.

7 Q. I understand that, but I don't think you've
8 told us whether competition encourages you to do that.
9 You said you do it anyway, I think.

10 A. Sure, competition does as well.

11 Q. Okay. Was compliance with federal and
12 Missouri laws and regulations that are applicable in
13 this case one of the factors that were discussed in
14 designing the SQF rate?

15 A. They weren't discussed specifically, no.
16 And it goes without saying that we comply with the
17 law.

18 Q. Insofar as you've taken into consideration;
19 is that correct?

20 A. We comply with the law.

21 Q. Well, if you haven't considered the law, how
22 would you know whether you've complied with it or not?

23 A. I don't believe I said we hadn't considered
24 it. We didn't debate it. We didn't discuss it. We
25 know the Commission rules, cogeneration rules. We

1 know the principles that we've established as well as
2 the Staff on rate design.

3 Q. Was one of your goals in developing the SQF
4 tariff to accurately reflect resource costs?

5 A. It does. I don't know that it was a
6 specific goal.

7 Q. Does the approach that you're taking with
8 the SQF tariff endeavor to charge the customers a
9 total amount, including the access charge, that
10 reflects the resource costs imposed in providing that
11 service to those customers?

12 A. It does that, yes.

13 Q. Is it possible to overcollect resource costs
14 from the QF customer and still maximize total welfare?

15 A. I'm not sure I follow the question.

16 Q. If you over-recover your resource costs from
17 the SQF customers, could you still maximize total
18 welfare with your rate structures?

19 A. I'm not following your question.

20 Q. Well, is it the total welfare that's giving
21 you the problem? What's the part that's troubling
22 you?

23 A. Well, it seems like there's about three
24 questions in one. If you can be a little more
25 specific with what you're asking me.

1 Q. Well, I am asking a general question. That
2 is if you overcollected resource costs from the SQF
3 customers, can you maximize the total welfare? And by
4 total welfare what we're talking about is economic
5 efficiency.

6 A. I'm still not following your question.

7 Q. Well, I'm having trouble following what part
8 of the question you don't understand. So we're a
9 little bit stuck.

10 A. Ask me a specific question about the tariff.

11 Q. I'm not -- I'm not really asking you
12 specifically about the tariff now.

13 A. Okay.

14 Q. I'm talking about the effects of the tariff.

15 A. Okay. Well, you're going to have to get
16 more specific because I'm not following.

17 Q. If you overcollect resource costs from the
18 SQF customers, will that lead to inefficiency in
19 economic?

20 A. Perhaps you ought to save this question for
21 Dr. Glyer.

22 Q. Okay. We'll do that.

23 Did the SQF tariff proposal give
24 consideration to maximizing KCP&L's own efficiency or
25 performance?

1 A. Not specifically.

2 Q. Does it in any way encourage that -- does
3 the SQF tariff in and of itself encourage KCP&L to
4 maximize its own efficiency?

5 A. Well, to the extent that we strive to keep
6 our marginal energy costs as low as possible so that
7 we can sell power, but it's a component. It's an
8 implicit assumption.

9 Q. Is it critical that backup power be priced
10 properly in order to have economic efficiency?

11 A. Yes.

12 Q. Is the reason that it's critical because you
13 want to make sure that society benefits from
14 alternative sources of generation other than KCP&L
15 only when that's an economically efficient thing to
16 do?

17 A. I think -- I think that's what we're saying
18 with economic efficiency. We're not just talking
19 about KCPL. We're talking about society.

20 Q. How does KCP&L's long-run marginal cost
21 factor in to the SQF tariff?

22 A. Dr. Glyer can answer that.

23 Q. Okay. Under your proposal, are the costs to
24 consumer that has a potential to put in on-site
25 generation set at the appropriate rates for that

1 consumer vis-a-vis other alternatives such as leaving
2 the state, demand side management and so forth?

3 A. Yes.

4 Q. Why is that?

5 A. It's the same concept. There's not any
6 difference.

7 Q. So the customers that have these other
8 alternatives, such as leaving the state, demand side
9 management and so forth, have the same incentives
10 under their tariff as is found under the SQF tariff?

11 A. Well, if you left the state, you'd no longer
12 be a customer. You wouldn't be on a tariff.

13 Q. Right. But until you leave the state,
14 there's an incentive to leave or not leave based on
15 what the -- whatever price they're paying; is that
16 correct?

17 A. They could compare that to their
18 alternatives, yes.

19 Q. Right. Is that the same -- is that price
20 that the customer faces regarding that decision the
21 same pricing signals that they're getting from the SQF
22 tariff?

23 A. They're both based on the same concepts,
24 yes.

25 Q. So for -- you're saying that for all

1 practical purposes they're the same; is that correct?

2 A. Well, they're the same to the extent that
3 they're different types of service. They're both
4 based in part on embedded cost. The SQF tariff has an
5 added feature of a marginal cost energy charge.

6 Q. And does that make a significant difference?

7 A. It's advantageous to have a marginal price
8 energy charge. It's a more direct incentive.

9 Q. So is that significant or not?

10 A. I think it's significant.

11 Q. So can I summarize what you've just told us
12 that there is a significant difference between the
13 signal that the SQF tariff customer gets and the
14 signals and the tariffs faced by non-SQF tariff
15 customers?

16 A. No. I didn't say that at all. That was not
17 what I said.

18 Q. Do you want to try to clear it up for me?

19 A. Well, help me where you're not clear.

20 Q. Well, I thought you said there was a
21 significant difference between the tariff that has the
22 marginal cost energy rate in it and the embedded cost
23 rate tariffs.

24 A. That is a difference, yes.

25 Q. And is that difference significant with

1 regard to consumers deciding whether to exercise the
2 on-site generation alternative versus other
3 alternatives?

4 A. In what context?

5 Q. In the context of economics.

6 A. The marginal energy price for instance will
7 send the correct signal of whether a generator should
8 generate or purchase from KCPL.

9 Q. Okay. And does every tariff give that same
10 signal?

11 A. Every tariff does not give that same signal.

12 Q. Okay. So does the tariff that someone is
13 considering leaving -- who doesn't have on-site
14 generation, that they're just considering leaving the
15 state, taking demand side management with the standard
16 tariffs, do they give that signal?

17 A. The standard tariffs are based on average
18 embedded costs.

19 Q. So do they give that signal?

20 A. Signal?

21 Q. That was found in the SQF tariff.

22 A. It does not give an hourly pricing signal,
23 no.

24 Q. It doesn't give a marginal cost signal
25 either, does it?

1 A. No.

2 Q. How would the SQF tariff proposal work with
3 regard to a new on-site generator that sells all its
4 electricity off system, that is it neither sells the
5 power to KCPL nor any KCPL customer?

6 A. Would it be relying on KCPL?

7 Q. For backup and all standby services, that's
8 right.

9 A. A new customer?

10 Q. New customer.

11 A. I don't know unless I know what the
12 customer's load is, and I don't know the circumstances
13 of the new customer.

14 Q. What type of circumstances would you need to
15 know?

16 A. Well, was the customer contemplating
17 self-generation? Is the customer just coming onto
18 KCPL's system with no intention of self-generation?

19 Q. Well, he's definitely contemplating self-
20 generation because -- let me repeat the question again
21 and we'll work on clarifications and so forth.

22 The question was, how would your proposal
23 work with a new on-site generator that sells all its
24 electricity off system, that is neither to KCPL nor to
25 any of KCPL's customers?

1 A. We would probably negotiate a contract.

2 Q. Well, how would the SQF tariff work?

3 A. It could work -- it could work from a full
4 access charge for the total requirements on one
5 extreme to something less on the other extreme or
6 something in the middle in the negotiation of a
7 contract.

8 Q. Well, let's forget the negotiated contract
9 for a moment and just focus on what the range of
10 options are under the SQF tariff. Can you do that?

11 A. Sure.

12 Q. So can you tell me what the options are
13 under the SQF tariff?

14 A. Well, the options are, it can be based on
15 the full load requirements, the access charge, the
16 estimated CBL, or it can be not.

17 Q. And how do you go about making those
18 decisions? What part of the tariff dictates what the
19 answer's going to be?

20 A. We would negotiate the CBL with the
21 customer, and the tariff provides for that.

22 Q. Is it your expectation that the SQF tariff
23 proposed would lead to recovery of more than KCP&L's
24 embedded cost revenue requirements for the SQF class
25 of customers?

1 A. No.

2 Q. Can you explain why that is?

3 A. The access charge is based on the standard

4 tariff. To over-recover those costs would be over-

5 recovering the costs under the standard tariff.

6 Q. Is the access charge based on actual use?

7 A. It's based on the historical 12 months.

8 Q. Is it based on the current use of the

9 KCP&L's facilities by the customer?

10 A. The CBL?

11 Q. The access charge as it -- however you put

12 it together.

13 A. Well, the access charge is based on the

14 difference between the standard bill and the CBL on

15 marginal cost prices.

16 Q. Okay. And then your -- the rest of the

17 answer to my question has something to do with the

18 fact that the CBL doesn't reflect current use; is that

19 correct?

20 A. The CBL is a 12-month historical usage or

21 negotiated amount.

22 Q. Is the primary purpose of SQF to insure that

23 potential suppliers of generation make efficient

24 choices with respect to whether to install and utilize

25 such generation?

1 A. Yes.

2 Q. Who's the largest supplier of generation on
3 KCP&L's system?

4 A. Other than KCPL?

5 Q. No. Include KCPL.

6 A. Well, obviously it's KCPL.

7 Q. Okay. So how does the tariff accomplish
8 insuring that KCP&L will make an efficient choice with
9 regard to whether to install and utilize its own
10 generation?

11 A. The same way all of our tariffs do. We're
12 regulated by the Commission. Our tariffs are based on
13 revenue requirements determined and approved by the
14 Commission. Standard tariff is a part of the SQF
15 tariff, and all of our tariffs are approved by the
16 Commission.

17 Q. Well, I understand that the Commission would
18 oversee decisions to build additional generation or
19 not, but does the SQF tariff in itself provide KCP&L
20 with incentives to build or not build additional
21 generation and to operate it if it does build it?

22 A. No more so or less so than any of our other
23 tariffs.

24 Q. Well, can you explain to me how the tariff
25 itself provides that incentive to build or not build?

1 A. Well, KCPL's decision to build or not build
2 is based on whether our -- whether our customers'
3 demand is increasing and whether we need to build.

4 Q. Well --

5 A. We'll build the most efficient system that
6 we can to meet that need.

7 Q. I didn't see where that interfaced with the
8 tariff at all. I'm just focusing on the tariff right
9 now, the incentive it creates.

10 A. The costs of those plants and the revenue
11 requirements of those plants are the key component of
12 the tariff, which is approved by the Commission. So
13 that those -- if those decisions are made
14 inefficiently or there's inefficient resources, those
15 would not necessarily be included in the costs we're
16 allowed to recover.

17 Q. Is that the same type of signal that's being
18 provided to the other generators or potential
19 generators as to whether they should build or not
20 build or utilize or not utilize?

21 A. The signal that's being sent to them is
22 whether it's economically efficient to build, and yes,
23 that's the same decision.

24 Q. I understand that they both get signals, but
25 is it the same signal?

1 A. Yes. To the extent that the signal they're
2 getting is based on the SQF tariff, yes.

3 Q. Okay. Well, let me just ask it this way,
4 then. A SQF customer goes ahead and decides to build
5 on-site cogeneration and has a cost overrun. It's a
6 reasonable cost overrun. They did everything they
7 could to avoid it, but despite their best estimates it
8 turned out it cost more than they thought, such that
9 if this was a utility plant, the Commission would have
10 passed that rate through to the ratepayers.

11 Does that customer find some way to recover
12 the over-costs through the SQF tariff? Is there some
13 sort of discount?

14 A. There's not.

15 Q. Okay. And if KCPL goes ahead and makes a
16 prudent decision to go ahead and install new
17 generation and it turns out that that new generation
18 was more expensive but only due to unforeseeable
19 circumstances that didn't impact on their prudence,
20 would KCP&L have a way through its SQF tariff to
21 recover its additional costs?

22 A. No.

23 Q. Why not?

24 A. Only to the extent that the costs were
25 prudent and they were made in an efficient manner and

1 were approved by the Commission.

2 Q. What mechanism exists for KCP&L to
3 coordinate the development and dispatch of its own
4 units with on-site generation?

5 A. I'm not sure I follow your question.

6 Q. Okay. Let me give you some back-- a little
7 bit of background. One of the -- if I understand it,
8 and stop me and correct me where I'm wrong, the idea
9 behind the SQF tariff is supposed to be that it
10 promotes efficiency in the development and operation
11 of on-site generation; is that right?

12 A. Okay.

13 Q. And at the same time we have on-site
14 generators deciding whether to operate or not operate,
15 build or not build, we have KCP&L making a set of
16 decisions, a similar set of decisions with respect to
17 its own units and its own future units; is that
18 correct?

19 A. On the short run, yes, we dispatch the
20 units.

21 Q. And on the long run you decide whether
22 you're going to build a new unit or whatever; is that
23 correct?

24 A. That's correct.

25 Q. So what I'm asking is, what mechanism have

1 you established to coordinate the operation and
2 development of on-site generation with KCP&L's own
3 decisions in order to insure the economic efficient
4 use of these -- and development of these facilities?

5 A. Well, through the -- through the contract,
6 as far as dispatching, there's no specific
7 coordination that's specified in the SQF tariff. If
8 the generator were large enough, you know, I'm certain
9 the contract would take that into account. There
10 would be coordination. There would have to be
11 coordination.

12 Q. What contract are you talking about? I'm
13 sorry.

14 A. The contract for the cogeneration. They
15 still have to have a contract.

16 Q. If he's on -- if he's using it for himself,
17 he's a large load, he still has to coordinate his
18 dispatch of his own facility with KCP&L under some
19 contract; is that right?

20 A. If he's operating in parallel with KCPL,
21 yes.

22 Q. Under the SQF tariff as proposed, would the
23 total earnings that KCP&L collects be the same whether
24 KCP&L is providing full requirements or backup
25 service, or I should say standby services?

1 A. You have to get more specific.

2 Q. I guess what I'm asking is, under the SQF
3 tariff, does KCP&L become indifferent to whether a
4 cogenerator or on-site generator decides to own and
5 operate generation?

6 A. I think we would be indifferent as long as
7 it was based on an economic decision, which is the
8 intent of the tariffs, yes.

9 Q. Well, if he makes an uneconomic decision,
10 how are you affected?

11 A. If he makes an uneconomic decision, the
12 potential exists of cross-transfers.

13 Q. Why doesn't the access charge take care
14 of --

15 A. That's its intent.

16 Q. Even if he makes an uneconomic decision;
17 isn't that correct?

18 A. Yes.

19 Q. So you should -- am I correct in saying you
20 are indifferent if he goes ahead and builds, makes an
21 uneconomic decision and decides to operate?

22 A. Well, I would say it's not that we're
23 indifferent. I mean, we would prefer that the
24 economic decision be made.

25 Q. I'm talking about from an earnings revenue

1 standpoint.

2 A. From an earnings revenue standpoint, yes,
3 we'd probably be indifferent.

4 Q. I'm going to give you a hypothetical, and
5 stop me if I'm not giving you enough details or
6 anything I'm saying's confusing, please.

7 We have a situation where there's a 5 cent
8 standard tariff rate and a 2 cent marginal cost rate
9 such that there's a 3 cent net margin on every
10 kilowatt hour.

11 If we had a self-generator that could
12 self-generate for 2 cents, then that self-generator
13 would face a price of 2 cents for his own generation
14 costs as well as a price, a marginal price under the
15 SQF tariff of 2 cents; is that correct?

16 A. Are you assuming that the marginal price for
17 energy is 2 cents. Then the price would be 2 cents.

18 Q. Right. Okay. Now, if he goes ahead and
19 decides to operate his own generation, which has got
20 the total cost of 2 cents, which is the same as the
21 2 cent marginal cost for KCP&L, is that an economic
22 decision?

23 A. You're looking at what -- he's already got
24 the generation?

25 Q. His total costs are 2 cents, including

1 putting in the unit, everything. All told he figures
2 out it's going to be 2 cents, and he sees a 2 cents
3 marginal cost price from KCP&L.

4 A. Well, let's back up. Is this customer on
5 KCPL's system and he does not today have generation?

6 Q. That's right.

7 A. And he's contemplating whether to install
8 generation?

9 Q. That's right.

10 A. And he's looking at 2 cents marginal energy
11 costs?

12 Q. Right.

13 A. And he's looking at 2 cents marginal energy
14 costs for KCPL, excluding the access charge?

15 Q. Let me back up for a second because I may
16 have confused things.

17 His total cost of generation to himself is 2
18 cents, and I get confused with marginal cost stuff
19 frankly. But if you're including in the marginal cost
20 putting in the plant and all end costs is marginal
21 costs because he had to put the plant in, yes, then I
22 think we're on the same wavelength.

23 A. Okay. So what's the question?

24 Q. So is it an economic decision for him to go
25 ahead and put in the plant and operate it himself?

1 A. He would have to look at the total costs
2 including the access charge on the SQF tariff to make
3 that decision.

4 Q. Well, he knows that it's 2 cents for your --
5 for the marginal cost on the real-time pricing portion
6 of the SQF tariff, and he knows that his all end costs
7 are marginal, long-run marginal costs, whatever it
8 is -- you can put the right term on it for me, I
9 hope -- is 2 cents.

10 Why does he have to look beyond that to know
11 whether or not he can go ahead and generate himself
12 economically?

13 A. Because he would be faced with additional
14 costs other than the 2 cents. He needs to take those
15 into account.

16 Q. What are the additional costs?

17 A. The additional costs are the transmission,
18 distribution and the access charge.

19 Q. Okay. But those are all on the KCPL side of
20 the equation if he decides to do that, right?

21 A. That's correct.

22 Q. So why does he need to know those things,
23 because isn't -- those can only add to his costs. He
24 already knows it's 2 cents for him and at least
25 2 cents from KCP&L because he knows what the marginal

1 cost price is. So would he have to know what the
2 access charge is?

3 A. To make an economically efficient decision,
4 yes.

5 Q. Why is that? Under what circumstances would
6 he have an uneconomic decision to generate himself?

7 A. From his perspective?

8 Q. Right.

9 A. From his perspective, if he can buy energy
10 at 2 cents or generate it for 2 cents and that's all
11 the costs that were involved, then he's indifferent.

12 Q. Right.

13 A. Right.

14 Q. So let's -- we've got to that point now.
15 Okay. So he's got those two choices, but if he goes
16 and decides to take his 2 cent marginal cost of power
17 from KCP&L rather than build his own unit, he has to
18 pay the access charge in addition to that; is that
19 right?

20 A. That's right.

21 Q. In the absence of the access charge,
22 remember at the beginning I think we said there was a
23 5 cent embedded cost rate. I guess that tells us what
24 the access charge is.

25 But in the absence of the access charge, he

1 would keep the 3 cents for himself, is that -- the
2 3 cent savings that he would have from not buying
3 under SQF and instead generating himself would be his;
4 is that correct?

5 A. If he could -- if he could totally support
6 his load and he was not connected to KCPL, it would
7 cost him 2 cents.

8 Q. Okay. But if he went ahead and decided to
9 connect to KCP&L under those circumstances, even
10 though he could go out on his own, he'd pay 3 cents,
11 an additional 3 cents and an access charge to KCP&L;
12 is that correct?

13 A. That's correct.

14 Q. If you have a 10 megawatt customer now and
15 he installs a 101 kilowatt generator, does his whole
16 load go on the SQF tariff?

17 A. We got into this this morning, and I want to
18 be very careful about what we're saying here. If
19 you're only looking at the 1 kilowatt, then the
20 comparison you're making is the 1 kilowatt to 1
21 kilowatt.

22 MR. SWENSON: Your Honor, that's not where
23 I'm going with this at this point. So I'd like to try
24 to focus on this question at the moment.

25 BY MR. SWENSON:

1 Q. In this case I've got a 10 megawatt
2 customer. Okay. He's going to buy all of his
3 resources, not buying just 1 KW from KCP&L, and he
4 decides to install a 100 kilowatt generator. Okay.
5 And he's going to make with the 100 kilowatt generator
6 whatever he can, but he's certainly not going to come
7 anywhere close to meeting his 10 megawatt load.

8 So around the clock, day in and day out he's
9 going to be buying the vast majority of his power from
10 KCP&L and producing whenever he can some of his own
11 power. And my question is, does his whole load go on
12 the SQF tariff?

13 A. Well, it's not a realistic example, but yes.

14 Q. Why isn't it a realistic example?

15 A. It's unlikely that a 10 megawatt customer
16 would want to install a 100 KW generator.

17 Q. Well, let me give you an example. You tell
18 me if this is realistic. I am a 10 megawatt customer,
19 and I keep all my accounting files and all my records
20 on a computer, and I need 100 kilowatts to keep that
21 stuff safe and reliable and on line.

22 And I decide that I want to try to generate
23 power whenever I can with this 100 kilowatt generator
24 to make sure that that power is even more reliable
25 than just taking power from KCP&L alone. That's not a

1 realistic example?

2 A. Well, it's not realistic to get on the SQF
3 tariff.

4 Q. Well --

5 A. I mean --

6 Q. I'm asking, has he got a choice?

7 A. Sure. There's alternatives.

8 Q. Okay. What's his alternative?

9 A. Stay on the standard tariff.

10 Q. Okay. And is that true no matter what size
11 generation he puts in, he always has the alternative
12 to take the standard tariff?

13 A. With a contract, yes.

14 Q. What does with a contract mean? Is it
15 possible he can't get a contract?

16 A. No, it's not. You know, if he's going to
17 operate in parallel, he'd have to have a contract.

18 Q. Okay. But does that contract just have to
19 do with whether the proper safety devices are in and
20 that sort of thing? I mean, is there -- is there
21 something I'm missing here about what could go in the
22 contract to prevent him from getting one; it's not
23 just an engineering consideration?

24 A. No. In this case, you know, if you're
25 talking about a 100 KW load, you know, those exist all

1 over our system today, and they're served under the
2 standard tariff.

3 Q. And they wouldn't be forced to be on the SQF
4 tariff, right?

5 A. No.

6 Q. So how do they get the right signal to
7 decide whether they want to put in another 100 KW
8 generator on their site?

9 A. Well, they're considering putting on a
10 generator for their backup. They're essentially a
11 full requirements customer of KCPL.

12 Q. Okay. I will change the example now and
13 just leave it at this. Someone wants -- he's a full
14 requirements customer, and he decides he just wants to
15 put in a 100 KW generator just as an experiment to see
16 how self-generation works on his site.

17 How does he get -- and he's going to use as
18 much as possible. How does he get the right signal
19 whether to put that in or not?

20 A. Well, he wouldn't under the SQF because it's
21 limited to a thousand.

22 Q. Well --

23 A. Or greater than a hundred rather.

24 Q. But even if -- you're telling me he's always
25 got the alternative to take full requirements, right?

1 A. Yes, right. He could take the standard
2 tariff.
3 Q. So he's never forced on to the SQF; is that
4 right?
5 A. That's right.
6 Q. So why would he ever be -- no matter how big
7 he was -- what did you say the minimum was? I'm
8 sorry.
9 A. A hundred KW.
10 Q. Okay. Let's make it 101 KW. Okay. How is
11 he going to be forced into the SQF tariff in order to
12 see the right signal?
13 A. He's not.
14 Q. Well, how can the SQF tariff provide
15 economic efficiency and give people the right signal
16 if they always have an option to take under the
17 embedded cost rate based tariff?
18 A. It's still there. It's still an
19 alternative. And you get the benefit of marginal cost
20 pricing on an energy basis, on a real-time basis.
21 Q. I don't think that answered my question.
22 I'll try to ask it again, maybe rephrase it a little
23 bit better.
24 I thought the SQF tariff was in order to
25 force people to make the right decisions with regard

1 to whether they're going to put in new generation and
2 once they have it whether they're going to use it or
3 not?

4 A. That's correct.

5 Q. How if he always has the choice to take the
6 embedded cost tariff instead will the SQF tariff force
7 him to do anything?

8 A. No. He would be comparing the standard
9 tariff.

10 Q. Doesn't that just take away the whole signal
11 you've tried to give everyone with the SQF tariff,
12 he's got the option?

13 A. No, I don't think so, because it's still a
14 starting point or an ending point for the negotiated
15 contract.

16 Q. What negotiated contract? Because I don't
17 want to talk about -- you know, we're going to get
18 around to questions with regard to the flex rate
19 contracts or whatever you call it, but are you talking
20 about that kind of contract or are you talking about
21 another contract?

22 A. I'm talking about the QF contract required
23 by the Commission's rules.

24 Q. I thought you said that was purely a matter
25 of engineering issues and make sure that there was --

1 A. Well, that's not entirely it.

2 Q. Okay. What are the other aspects? What can
3 lead to the Company saying no, you can't have the
4 other contract?

5 A. The Commission rules require a contract
6 between the QF and the company, and it's to be a
7 negotiated contract, and there's a standard form
8 contract that's on file with the Commission that's
9 used as a starting point for those negotiations. The
10 SQF tariff is just one more forum for those
11 negotiations.

12 Q. Well, once again I'm lost. There's an
13 option to take your full requirements type service
14 tariff out there, and you say you have to have a
15 contract to get that. I guess you have to have a
16 contract to get SQF, too.

17 And I asked you whether there's anything
18 that can keep you from getting the full requirements
19 type rate in a negotiation of the contract, and I just
20 want to focus on that question and see if you can give
21 me the answer as to what sort of disagreements can
22 arise that would prevent someone from being able to
23 obtain the embedded cost based standard rate?

24 A. Could be any number of things. Could be the
25 nature of the load, the shape of the load.

1 Q. Well, I don't want to interrupt you, but it
2 might be just easier to break this up into piece by
3 piece. So if you want to go on, I'll let you finish.

4 But when you say shape of the load, does
5 that mean there's some load shapes that you can get an
6 SQF tariff but you can't get a full requirements
7 tariff?

8 A. I can't think of -- I can't think of -- I
9 had an example in mind, but I'm not sure that it would
10 really matter in that case whether it was an SQF or it
11 was a standard tariff, but it would be more difficult
12 under the standard tariff to deal with, say, a
13 customer that had huge spikes of load.

14 Q. What do you mean by be more difficult to
15 deal with?

16 A. Well, it probably would be equally difficult
17 under either concept, that example, because if you had
18 a customer whose load could swing 2 or 300 megawatts,
19 you know, with short notice, that's not a load you'd
20 want to serve under a standard tariff. It's probably
21 not a load you want to serve under the SQF tariff as
22 it is.

23 Q. Well, does the Company have, KCPL have some
24 latitude in not serving a load that it doesn't want to
25 serve?

1 A. No, but it has latitude in how it prices and
2 contracts with those customers.

3 Q. So under the standard tariff, you could --
4 KCPL has some discretion with regard to how it's going
5 to set up pricing under the standard tariff?

6 A. I'm not sure what you mean.

7 Q. All right. Let me just start -- this is
8 really a critical issue for us, so I hope you'll bear
9 with me.

10 Can you think of -- are there any
11 circumstances where a customer could obtain an SQF
12 tariff rate that he could not obtain a full -- I'm
13 sorry -- standard embedded cost based rate?

14 A. None that I can think of.

15 Q. Well, is it possible that there's some you
16 can't think of? I'm trying to really cover the whole
17 ground here, not just asking you off the top of your
18 head, but --

19 MS. CUNNINGHAM: Objection; asked and
20 answered. I think Mr. Giles indicated that he
21 couldn't think of any. Can we move on to the next
22 part of the question?

23 ALJ DERQUE: Well, it's cross-examination.
24 Ask it one more time, Mr. Swenson.

25 MR. SWENSON: Your Honor, what I'm trying to

1 get at is whether he feels he has considered every
2 possibility or he just can't think of any.

3 ALJ DERQUE: Well, then ask him that.

4 BY MR. SWENSON:

5 Q. Have you considered -- do you feel that
6 you're just --

7 A. I'm sure I haven't considered every
8 possibility, but I can't think of any offhand.

9 ALJ DERQUE: That's the best he can do,
10 Mr. Swenson.

11 MR. SWENSON: I understand, your Honor.

12 ALJ DERQUE: Let me ask you a question. Are
13 you on a different topic?

14 MR. SWENSON: No. I'm still on this topic.
15 I don't think I'll be on this topic much longer,
16 however, your Honor.

17 ALJ DERQUE: Okay. Well, somewhere along
18 the line I need to take a break, but if you want to
19 finish, go right ahead.

20 MR. SWENSON: Thank you, your Honor.

21 BY MR. SWENSON:

22 Q. Let's go back to the 10 megawatt
23 self-generator we were talking about -- I'm sorry --
24 the 10 megawatt load that wanted to install the
25 100 kilowatt hour generator. Can he buy his power

1 under the standard rate?

2 A. I think I already said yes.

3 Q. Okay. Now, what about if you have a
4 10 megawatt self-generator that's only buying
5 1 kilowatt hour from KCP&L, could he get the standard
6 rate?

7 A. Yes.

8 Q. Why wouldn't he do that?

9 A. If it was more economical, I think he
10 probably would.

11 Q. Would there be any reason that you can think
12 of that the embedded cost based rate would not be more
13 economical for that 1 kilowatt hour than your SQF
14 tariff rate?

15 A. Well, if you're -- if you're looking at just
16 the incremental 1 kilowatt hour --

17 Q. Right.

18 A. -- you're looking at the marginal cost,
19 you're not looking at -- 10 megawatts has nothing to
20 do with anything. So you'd actually in that case be
21 better off at marginal energy cost prices than you
22 would an embedded price.

23 Q. I'm just asking whether -- never mind. I'm
24 sorry.

25 MR. SWENSON: Your Honor, if you want to

1 take a break here, I think I'm moving on to a bit of a
2 different subject.

3 ALJ DERQUE: Okay. Let's take about --
4 we'll resume at a quarter till.

5 (A recess was taken.)

6 ALJ DERQUE: We're back on the record.
7 Mr. Swenson.

8 MR. SWENSON: Thank you, your Honor.
9 BY MR. SWENSON:

10 Q. Mr. Giles, are you aware of any approved
11 backup or standby tariff for cogeneration that
12 generates a charge similar to the one that KCP&L is
13 proposing in the SQF?

14 A. I haven't -- I'm not aware of any. I
15 haven't really studied it either.

16 Q. Is the SQF rate design proposal based on
17 cost of service principles?

18 A. Yes.

19 Q. Did you take the embedded or marginal cost
20 studies and analyze what those studies revealed to be
21 the cost of actually providing service to the SQF
22 class and then try to determine what the SQF rates
23 should be?

24 A. No.

25 Q. Have you or KCPL, to your knowledge,

1 performed or seen any studies or analysis that address
2 how many on-site generation projects would meet your
3 definition of economic efficiency?

4 A. I haven't done anything.

5 Q. Are you --

6 A. I'm not aware of any.

7 Q. Can you give me an example of any on-site
8 generation project in Missouri that would be efficient
9 under your definition? By that I mean is there a
10 concrete project that you're aware of that's
11 efficient?

12 A. I'm not aware of any.

13 Q. Did you have any opinion as to how many
14 on-site generation projects will go forward in KCP&L's
15 service territory if the SQF rate is adopted?

16 A. I'm not aware of any being contemplated at
17 the present time one way or another.

18 Q. Would the SQF rate have any effect on how
19 many projects go forward in KCP&L's service territory
20 given that projects have an alternative to using
21 embedded cost standard rates?

22 A. I'm not sure. I don't know.

23 Q. Could the SQF rate design be applied to
24 other customers?

25 A. For the most part, it pretty much mirrors

1 the RTP and RTP plus, the two-part rate. They're very
2 similar in concept.

3 Q. Could you impose the SQF-type rate on every
4 customer?

5 A. We could propose a tariff to do that, yes.

6 Q. Would you see any reason why you shouldn't?

7 A. Probably there's a lot of reasons why we
8 shouldn't, not the least of which is you're talking
9 about 400-and-some-odd thousand customers. The level
10 of knowledge of rate design itself is pretty small.

11 We have to be very careful in our transition
12 to a competitive environment just how much, how big of
13 steps we take toward efficient pricing, marginal cost
14 pricing.

15 We considered this quite a bit in our rate
16 design case, and even in that case we were not able to
17 completely eliminate cross-subsidies due to customer
18 impact primarily.

19 Q. Cross-subsidies between customer classes?

20 A. Rate classes, yes.

21 Q. Does the SQF tariff mimic competitive
22 markets?

23 A. Yes, to some extent.

24 Q. Do you think that's going to be particularly
25 effective given the existence of the option to take

1 the standard rates?

2 A. In some circumstances.

3 Q. How many customers do you currently have on
4 the RTP and RTP plus tariffs?

5 A. I believe there's one on RTP plus. It may
6 be the case where it's RTP, but there's one customer
7 on those tariffs combined.

8 Q. I'd like to take a few minutes to explore
9 another hypothetical, and again please stop me and ask
10 me additional questions where I'm not giving you facts
11 that you need.

12 Let's assume there's a market with no
13 barriers to entry, and yet there's one company called
14 the Acme Widget Company that is the only maker of
15 widgets in this particular area in the market, and
16 there are no viable substitutes for widgets. There's
17 nothing to prevent anybody from entering the market,
18 but Acme doesn't have any competitors at this point.

19 Let's assume that Acme has substantial
20 excess capacity since the marginal cost of building
21 widgets is only the -- is only its incremental cost,
22 material and labor, but because the widget is such a
23 unique product, that the price it charges is several
24 times the cost. Are we clear so far?

25 A. No.

1 Q. Okay. What do you need me to clarify for
2 you?

3 A. Why don't you start from the beginning and
4 explain to me exactly what you're talking about?

5 Q. Well, widgets are hard to define, but other
6 than that I can help you. We've got a market.
7 There's no barriers to entry.

8 A. Is this a hypothetical economic question?

9 Q. Yes, it is. Do you think it's going to be
10 better for Dr. Glycer?

11 A. I think you should refer that to Dr. Glycer.

12 Q. Okay. We'll do that.

13 Will the SQF customer baseline make any
14 accommodations for weather-related loads which
15 customers may have?

16 A. I think I answered that this morning, that
17 we could potentially adjust the baseline load for
18 weather.

19 Q. Well, how do you decide whether you're going
20 to do that or not?

21 A. Severity of the weather.

22 Q. I mean, is it the customer that comes to you
23 and asks for an adjustment and then you decide whether
24 you're going to give it or not, or is this something
25 that a customer's not entitled to ask for and you'll

1 just decide on your own, or how does it work?

2 A. Well, I'm talking about in the initial
3 establishment of the CBL, and that's negotiable
4 between the company and customer. And I would think
5 that we would sit down and look at the data, and if it
6 appeared that it was an extremely weather sensitive
7 year, we would take that into account in setting the
8 baseline.

9 Q. Okay. But are you just talking about the
10 one year that the baseline is set for now?

11 A. Right.

12 Q. So you've got sort of a weather normalized
13 year to start out with; am I correct?

14 A. That's correct.

15 Q. And as you go forward, what happens if you
16 have a year of extreme weather?

17 A. Our intent is not to adjust the baseline
18 going forward.

19 Q. If you have a particularly mild year where
20 less air conditioning and heating is used after the
21 CBL is started, would that result in a windfall in
22 revenues for the Company under the SQF tariff?

23 A. No.

24 Q. Why not?

25 A. Well, the access charge, the energy that is

1 used under the tariff and the energy that's displaced
2 is all at marginal cost.

3 Q. Right. But isn't the base, the access
4 charge based on an assumption about how much power the
5 customer would otherwise use if you didn't have the
6 on-site generation there?

7 A. It's based on his total load, yes, on the
8 historic basis.

9 Q. Right. And that's designed to recover all
10 of KCPL's profits and other fixed costs and what have
11 you based on that original historic baseline load,
12 right?

13 A. That's correct.

14 Q. So if you have a particularly mild year
15 where if he was buying under the actual full
16 requirements tariff and hadn't put in on-site
17 generation, your revenues would have fallen; is that
18 correct?

19 A. If the customer were on a standard tariff
20 and usage declined, revenues would decline.

21 Q. But under the SQF tariff, in that same year
22 where his usage has declined, KCP&L will still
23 continue to recover the profits and other fixed costs
24 and so forth associated with the baseline year, not
25 the lower amounts associated with the actual year; is

1 that right?

2 A. Well, ignoring generation and just looking
3 at usage, if -- if that were the case, as I said
4 before, the access charge is reduced at the margin.
5 So the energy that's being displaced is at the margin,
6 which is not an embedded cost.

7 Q. Excuse me. Is not what?

8 A. Not the same as embedded cost. There would
9 still be a revenue reduction.

10 Q. Does KCP&L have any tariffs in place that
11 would allow third parties to supply backup service to
12 on-site generators in its service territory using its
13 lines?

14 A. No.

15 Q. Is KCP&L considering filing a tariff or
16 tariffs which would allow backup service to be
17 provided by third-party providers in its service
18 territory?

19 A. No.

20 MR. SWENSON: I have no further questions of
21 this witness, your Honor.

22 ALJ DERQUE: Mr. French?

23 MR. FRENCH: Yes, I have some questions.

24 Thank you. First of all, I'd like to mark an exhibit
25 if I could. And basically what this exhibit is, and

1 I'd like the Commission to take official notice of its
2 Report and Order issued in the special contract case,
3 EO-95-181.

4 This case is not, to my knowledge, reported
5 in the Reporters, and, therefore, I would give this
6 copy of the Order to the Commission for its review, if
7 that's acceptable.

8 ALJ DERQUE: What part of it do you want
9 the -- what fact in there do you want the Commission
10 to take notice of, Mr. French?

11 MR. FRENCH: It's the Commission's decision
12 on special contracts in that case, which is relevant
13 to the decision on the special contract tariff in this
14 case.

15 ALJ DERQUE: Well, theoretically, but any
16 particular part of it, any particular issue or --

17 MR. FRENCH: Certainly. It would be -- the
18 issue would be the proper construction of the special
19 contract tariff.

20 ALJ DERQUE: Is that a separate issue in
21 there?

22 MR. FRENCH: That's the issue addressed.

23 ALJ DERQUE: That's the only issue addressed
24 in that case; is that correct?

25 MR. FRENCH: Yes.

1 ALJ DERQUE: Is that right?
2 MR. FRENCH: Yes.
3 ALJ DERQUE: All right. The Commission will
4 mark that Exhibit No. 7 and will take official notice
5 of it.
6 Off the record.
7 (Discussion off the record.)
8 (EXHIBIT NO. 7 WAS MARKED FOR
9 IDENTIFICATION.)
10 ALJ DERQUE: On the record.
11 We're back on the record. Is there any
12 objection to the Commission taking official notice of
13 the Report and Order in Case No. EO-95-181?
14 (No response.)
15 ALJ DERQUE: Seeing none, it will be
16 admitted.
17 (EXHIBIT NO. 7 WAS RECEIVED INTO EVIDENCE.)
18 CROSS-EXAMINATION BY MR. FRENCH:
19 Q. Mr. Giles, I have some questions regarding
20 Schedule SCS proposed by Kansas City Power & Light,
21 and I believe that's attached to your direct testimony
22 as Attachment CBG-2; is that correct?
23 A. That's correct.
24 Q. Could you turn to that schedule?
25 Specifically I'm looking at the availability section

1 of that tariff. I believe it's Sheet No. 29. Are you
2 there?

3 A. Yes.

4 Q. Would you agree with me that, as currently
5 proposed by KCPL, as long as the customer has demand
6 in excess of 1,000 KW, KCPL has complete discretion in
7 determining the applicability and the availability of
8 Schedule SCS?

9 A. That's what it says.

10 Q. Do you have a copy of Dr. Proctor's direct
11 and rebuttal testimony with you?

12 A. I do.

13 Q. Are you aware that Dr. Proctor of the
14 Commission Staff has recommended changes to the
15 availability section of Schedule SCS?

16 A. Yes, I am.

17 Q. Could you turn to page 47 of Dr. Proctor's
18 rebuttal testimony? Are you there?

19 A. Yes.

20 Q. And looking at that page, Dr. Proctor
21 suggests, does he not, that the availability section
22 of Schedule SCS be limited to customers -- I'm trying
23 to find it here -- that either have sources of energy
24 that are competitive for a portion or all of their
25 electric load requirements or require special forms of

1 service not available in the company's standard
2 tariffs. Is that what he's proposing?

3 A. That's correct.

4 Q. And I believe in your surrebuttal testimony
5 you have -- you have agreed to adopt Dr. Proctor's
6 suggestion; is that correct?

7 A. Yes.

8 Q. Dr. Proctor goes on to discuss on page 47
9 the special provisions portion of the SCS tariff which
10 allows KCPL to adjust its access charge or energy
11 prices, and Dr. Proctor states that with this new
12 proposed language that we just read into the record,
13 KCPL's ability to adjust its access charge will be
14 limited to customers having competitive energy
15 alternatives.

16 Do you see that in Dr. Proctor's testimony?

17 A. Yes.

18 Q. Do you agree with that conclusion?

19 A. I'm not sure what you mean, do I agree with
20 it.

21 Q. Well, does KCPL agree that by adopting
22 Dr. Proctor's language, that KCPL's ability to adjust
23 the access charge to customers having competitive --
24 would be limited to customers having competitive
25 energy alternatives?

1 A. I don't disagree with it, and that was
2 Dr. Proctor's intent as he states here.

3 Q. Now, the language we've read into the record
4 contemplates competition for a portion or all of the
5 customers' electric load requirements.

6 In your opinion, would that allow KCPL to
7 offer a discounted rate for a customer's total load if
8 only 10 percent of that load was subject to
9 competition from another energy source?

10 A. I don't -- I don't have any basis to put any
11 numbers or percentages on anything.

12 Q. Let me go for an example here. You would
13 agree that at the present time KCPL has no competition
14 for the delivery of electricity to its retail
15 customers who might otherwise qualify for Schedule
16 SCS, would you not?

17 A. If you mean -- if you're referring to retail
18 competition under the guise of an industry
19 restructuring, deregulation, generation, that kind of
20 thing, no, we don't have that today.

21 Q. However, KCPL does face competition from
22 other energy sources such as natural gas and the
23 provision of space heating services, do they not?

24 A. We have competition from many services, yes.

25 Q. So under a scenario where a large customer's

1 current electric load is 90 percent for lighting and
2 electric motors and 10 percent for space heating and
3 cooling, my question would be whether under
4 Dr. Proctor's proposal KCPL would be able to offer a
5 discounted rate for 100 percent of that customer's
6 electric load even though only 10 percent of that load
7 could be served by competitive energy sources?

8 A. I don't know. You'd have to ask
9 Dr. Proctor.

10 Q. Well, how does KCPL read that language?

11 A. I read it that if there's competitive
12 alternatives or special forms of service, the tariff's
13 available. And, you know, whether I can define all
14 those special circumstances or competitive
15 alternatives, I certainly can't.

16 Q. So you have no idea whether this tariff
17 would allow you to offer a discount only for that
18 portion of a load which is competitive or subject to
19 competition or whether KCPL were to be allowed to
20 offer a discount for the entire load? You have no
21 opinion on that; is that your testimony?

22 A. Whether I -- whether this tariff would allow
23 that?

24 Q. Yes.

25 A. Do I have an opinion on that?

1 Q. Yes.

2 A. I would -- I would say it does allow it. I
3 can't think of a situation where that would be really
4 applicable.

5 Q. Where what would be applicable?

6 A. That scenario that you've outlined.

7 Q. You can't think of a situation where a
8 customer would have space heating needs for a portion
9 of their load and the larger portion of their load
10 being electrical needs only?

11 A. I don't envision -- no, that's not what I
12 meant. I don't envision developing a contract to meet
13 that requirement, to meet only 10 percent of a
14 customer's load.

15 Q. So you would envision the contract meeting
16 the entire load; is that correct?

17 A. Yes. I would envision that if we entered
18 into contract negotiations, it would be for the
19 customer's total load. It wouldn't necessarily be for
20 some portion of its load. It could happen.

21 And again, if we get into the specifics of
22 the customer, you know, I'm just -- I just can't think
23 of all the potential different scenarios that we might
24 have in a contract.

25 Q. On page 45 of his rebuttal testimony

1 Dr. Proctor recommends that the SCS tariff include a
2 condition that any customer on this tariff be allowed
3 to renegotiate the price terms for generation at the
4 time all retail customers are given access to
5 competitive sources of generation.

6 Does KCPL now concur with that suggestion?

7 A. No, we don't. And Dr. Proctor was
8 responding to a concern of Mr. Kind regarding whether
9 this type of contract tariff would frustrate
10 competition, as Mr. Kind puts it. And I viewed this
11 as Dr. Proctor throwing out one way to take care of
12 that and not necessarily a specific recommendation.

13 We would not agree with that. When -- if a
14 customer has an alternative, a competitive alternative
15 today and we enter into a contract with that customer,
16 the fact that industry restructuring may occur in the
17 future is well known by anyone that's in negotiations
18 of a contract today.

19 And that fact will be incorporated into the
20 contract itself. It doesn't -- it doesn't make sense
21 to have a tariff that requires a renegotiation of the
22 terms of the contract when industry restructuring
23 occurs. That limits the ability to do the contract in
24 the first place.

25 Q. Would you agree with me that it is a

1 strategy of KCPL to enter into long-term contracts
2 with customers to retain their load before retail
3 wheeling becomes available to these customers in order
4 to lock in a contribution to margin?

5 A. That's one consideration. It's not the
6 primary consideration. It follows from the strategy
7 that we want to maintain our existing core customers.
8 And customers that have alternatives that we might
9 enter into a contract with, industry restructuring is
10 just another extension of that same concept of
11 strategy.

12 If they're shopping today to leave the
13 system, for instance, they certainly would be shopping
14 whether retail access occurs.

15 MR. FRENCH: Judge, I have some follow-ups
16 to that answer. I believe that it would involve
17 confidential material, and, therefore, in order to
18 move forward in the nonconfidential portion, I would
19 just like to reserve the right to move back to this
20 area when we go in-camera.

21 BY MR. FRENCH:

22 Q. Okay. Could you -- at the end of
23 Schedule SCS, if you'd look at that again, there was a
24 list of documents required to be provided to the
25 Commission Staff; is that correct?

1 A. Yes. There's a list of documentation to be
2 submitted.

3 Q. And I believe in your rebuttal testimony you
4 have agreed to provide additional information to the
5 Commission Staff such as a listing of economic
6 benefits and a copy of the contract involved; is that
7 correct?

8 A. That's correct.

9 Q. Now, I believe you've also agreed to give
10 all this information to the Public Counsel as well?

11 A. That's correct.

12 Q. Once, in KCPL's opinion, a customer is
13 qualified for the SCS tariff and assigned a contract
14 and the required documents are sent to the Staff and
15 Public Counsel, what further action is contemplated to
16 be taken by the Staff or Public Counsel or the
17 Commission itself prior to the commencement of service
18 under the special contract, if any?

19 A. I think the Staff would review the contract,
20 insure that the documentation is in place and that the
21 contract meets all the requirements of the tariff, and
22 that the Staff would let the Company know if it found
23 otherwise.

24 Q. And would the Company wait for that
25 dispensation from the Staff before it proceeded to

1 provide service under the contract?

2 A. Probably it would be pretty much
3 simultaneous.

4 Q. Now, if the Staff expressed the opinion to
5 KCPL, if they would, and we'll explore that with the
6 Staff, that they did not believe that the contract met
7 the conditions of the tariff, what action would KCPL
8 take at that point, if any?

9 A. Well, I can only speculate. What we'd
10 probably do is try to resolve any differences that the
11 Staff had with the contract, either, you know, if it
12 was a case where we just didn't submit documentation,
13 for instance, we would resubmit the documentation.

14 Q. What if the -- and again, we're talking
15 hypothetically because that's the only way we can talk
16 about this.

17 If the Staff believed that the customer
18 simply did not qualify for the tariff because the
19 customer was not -- did not have a competitive energy
20 source or viable competitive energy source, would KCPL
21 accept that determination by the Staff and refuse to
22 serve the customer?

23 A. I think it would most likely be the case. I
24 can't say definitively. Ultimately I would think that
25 either the Staff or the Company would have the option

1 to either file a complaint with the Commission or take
2 it up with the Commission whether the terms and
3 conditions of the contract met the requirements of the
4 tariff or the documentation.

5 It's not likely that we would pursue that
6 avenue, but I can't say for sure since we're talking
7 hypothetically.

8 Q. Is any of this procedure which we discussed
9 just now contained in the tariff itself as far as the
10 Staff's review of the contract and feedback to the
11 Company as to whether Staff believes that the contract
12 complies with the terms of the tariff?

13 A. I don't believe so.

14 Q. Could you tell me how other interested
15 parties would become aware of the existence of a
16 special contract under this tariff?

17 A. I don't believe they would. They would have
18 no need to.

19 Q. Could you tell me when, if ever, a special
20 contract under the SCS tariff would be subject to
21 Commission review?

22 A. The tariff or the contract itself would not
23 be, only to the extent that a revenue requirement
24 issue in a rate design -- or a rate case, a revenue
25 requirement case, I suppose the Commission would then

1 review the contract.

2 Q. And what remedy would you expect to be
3 assessed or ordered if the Commission determined in
4 that rate case or revenue review that the contract was
5 inappropriately executed?

6 A. Well, the Commission can do whatever the
7 Commission would like to do. They could impute
8 revenue. They could -- or not do anything.

9 Q. Other than the -- and when you say imputing
10 revenue, that would involve the Commission ordering
11 KCPL to make an adjustment to its revenues which would
12 impute a higher rate to that customer for ratemaking
13 purposes; is that correct?

14 A. They could do that, yes.

15 Q. In your opinion, could the Commission order
16 you to stop charging that discounted rate to that
17 customer?

18 A. Under the procedure in the terms, the way we
19 set this contract up, no. I don't know that from a
20 legal standpoint that that's the case.

21 Q. If a special contract was justified under
22 the SCS tariff because of the existence of a
23 competitive energy source, how would KCPL determine
24 the appropriate rate to be charged in that special
25 contract?

1 A. It would be negotiated. It could be any
2 number of different methodologies. The tariff
3 provides for the default form to be the access charge
4 and RTP-type pricing. That would be the starting
5 point obviously. But to say how each and every
6 contract might end up, I don't know.

7 Q. How would KCPL go about determining the
8 value of continuing to serve that customer under a
9 discounted rate or, in other words, how much to
10 discount the rate in order to retain the customer?

11 A. I don't know.

12 Q. How easy would you believe that the
13 negotiation process would be under this -- under the
14 SCS tariff for these type of customers?

15 A. I don't think the SCS tariff has any impact
16 whatsoever on the negotiation process. What the SCS
17 tariff does is it provides an administratively less
18 burdensome procedure to have the contracts
19 implemented.

20 As far as the Company's concerned, we would
21 not change our negotiating strategy or position from
22 what we've been using with this tariff. It's
23 consistent.

24 Q. And would you categorize that negotiation
25 process as easy or hard?

1 A. Extremely difficult. The ones that I've
2 been involved in, and I'm not involved in the actual
3 negotiation of contracts any longer, but the ones that
4 I have been involved in are extremely difficult.

5 MR. FRENCH: I believe that's all the
6 questions I have. Thank you, Mr. Giles. I do have
7 some questions in-camera.

8 ALJ DERQUE: Ms. Cunningham?
9 REDIRECT EXAMINATION BY MS. CUNNINGHAM:

10 Q. Mr. Giles, Mr. Phillips of DOE asked if
11 there was an access charge in other rates such as the
12 residential rate, and I think you indicated in your
13 answer either not specifically or not explicitly,
14 words to that effect. Do you recall that conversation
15 with Mr. Phillips?

16 A. Yes, I do.

17 Q. Are the types of costs recovered by the
18 access charge also recovered by KCPL's standard rates?

19 A. Yes.

20 Q. Now, going to the cross-examination by
21 Mr. Swenson, and I'm going to try to ask questions
22 within the same order that he raised the issues with
23 you.

24 So back this morning, if you can recall
25 back, Mr. Swenson discussed with you that a purpose of

1 the access charge with regard to Schedule SQF was to
2 prevent the transfer of costs -- prevent the transfer
3 of costs to shareholders and/or to other ratepayers,
4 and I don't recall, did you agree with that statement
5 that that was a purpose of the access charge?

6 A. Yes, I did.

7 Q. And another purpose of the access charge
8 might be to collect standby embedded costs; would you
9 agree with that?

10 A. That's correct.

11 Q. And yet another purpose might be to
12 encourage economic efficiency decisions; would you
13 agree with that?

14 A. Yes. In fact, all three of those.

15 Q. Are purposes of the access charge?

16 A. Are purposes of the access charge.

17 Q. There was some mention in different times
18 about the customer baseline load or the CBL, and not
19 to belabor a variety of the hypotheticals that you
20 were given, let me give you a couple of hypotheticals,
21 and I will try to keep the terms consistent so that we
22 can make this pretty easy.

23 In general, when we're talking about the
24 CBL, we are talking about how much full requirements
25 standby a particular customer needs; would you agree

1 with that?

2 A. That's correct.

3 Q. Okay. I think you also indicated later in
4 cross-examination that typically or basically we would
5 not want to reset or change the CBL. However, to the
6 extent that there are significant demonstrable changes
7 in the full requirements load for a given customer,
8 that could occur?

9 A. Yes.

10 Q. Would you agree with that?

11 A. Yes. In that situation, we would
12 potentially adjust the CBL.

13 Q. At some point you were also asked about a
14 variety of questions that dealt with our real-time
15 pricing tariff. Is the capacity cost component of the
16 RTP hourly price based on the market value of the
17 capacity?

18 A. Yes, it is.

19 Q. Okay. You were also asked some questions
20 that dealt with some PURPA issues by Mr. Swenson, and
21 I'm going to take you down a series of questions and
22 see if you can agree with where I'm going.

23 Does energy efficiency have to do with the
24 allocation of scarce resources?

25 A. Yes, it does.

1 Q. Okay. Is the allocation of scarce resources
2 the key issue of economic efficiency?

3 A. Yes.

4 Q. Therefore, energy efficiency could include
5 the goal of economic efficiency?

6 A. Yes.

7 Q. And so you could agree with me that the
8 Energy Policy Act supports the goal of economic
9 efficiency?

10 A. That's correct.

11 Q. I just have a couple more questions.

12 Once again, not to belabor our Sears
13 example, I want to give you a hypothetical and see if
14 I can make some clarifications to the record about
15 that whole series of questions about our 10 megawatt
16 customer.

17 Let's say we have a self-sustaining
18 10 megawatt customer who has never been on KCPL's
19 system, has never taken any type of requirements from
20 KCP&L, and let's say that that self-sustaining 10
21 megawatt customer is going to now make a decision
22 whether to install 1 kilowatt of generation from Sears
23 at a price of \$100.01, as we heard in the example
24 earlier, or purchase that 1 kilowatt from KCPL.

25 If that customer were trying to compare the

1 \$100.01 cost by buying that, that little generation
2 unit from Sears plus the 1 cent cost of the gas to put
3 in it, what would that rate compare to with regard to
4 KCPL's costs?

5 A. The comparison then would be on a 1 kilowatt
6 basis of KCPL's system. So in other words, the
7 10 megawatts that was used in that example under that,
8 I believe, \$2.68 or \$2.628 is a non-issue. It's not
9 even in the equation.

10 The fact is the guy's -- the customer's
11 looking at purchasing 1 KW from KCPL or purchasing a
12 generator from Sears and using that to generate the
13 1 KW. So the comparison would be on a 1 KW to 1 KW
14 basis, and the cost that we'd work through the SQF
15 tariff would be something on the magnitude of several
16 cents.

17 Q. You were also asked a series of questions
18 from Mr. Swenson about KCPL's own decision-making when
19 it -- when we ourselves make a decision either to
20 build because we need additional generation capacity
21 or whether we purchase.

22 Once KCPL makes a decision whether to
23 purchase additional capacity or to construct
24 generation and we go to the Commission and the
25 Commission looks at our decision-making, if that

1 decision, whatever it was -- whatever we chose to do,
2 whether it was to build it or purchase, if that
3 decision is deemed imprudent, would KCPL be allowed to
4 pass those costs on to customers?

5 A. No. Those costs would be disallowed and not
6 passed through.

7 Q. As a matter of fact, can you think of any
8 examples where that has actually happened?

9 A. Yes. That's happened in the past with Wolf
10 Creek.

11 Q. And one last question with regard to our
12 special contract tariff. I believe Mr. French gave
13 you an example of a customer that his usage was made
14 up of 10 percent space heating and 90 percent lighting
15 services, other types of services.

16 And I think that what he was trying to get
17 at was that that 10 percent of his total load there
18 were competitive alternatives available to that
19 customer as compared to the 90 percent for which he
20 was required to take fully from KCP&L.

21 And he referred you to Dr. Proctor's
22 testimony on page 47. I think it's his rebuttal
23 testimony. And Mr. French asked you if, based on a
24 reading of Mr. -- of Dr. Proctor's testimony, was it
25 your opinion that KCPL would be able to enter into a

1 contract for just 10 percent or for a full 100 percent
2 of that customer's load.

3 And when you look at the top pages, on
4 page 47, lines 4 through 9, specifically the portion
5 that is in italics, do you see where Mr. Proctor says,
6 "And that either have sources of energy that are
7 competitive for a portion or all of their electric
8 load requirements or require special forms of service
9 not available in the Company's standard tariffs"?

10 A. Yes.

11 Q. So back to Mr. French's question, based on a
12 reading of that italicized portion, would you -- would
13 you still agree that KCPL could be permitted to enter
14 into a contract for that customer's entire load, not
15 just the 10 percent for which there are competitive
16 alternatives?

17 A. Yes. In my interpretation, we could enter
18 for the entire load.

19 MS. CUNNINGHAM: I have no further
20 questions.

21 ALJ DERQUE: We will now go in-camera for a
22 portion of Trigen's cross-examination. Let's make
23 sure that there's no -- is there anyone in the room
24 that doesn't belong here?

25 MR. FRENCH: Can we go off the record,

1 Judge?

2 ALJ DERQUE: Sure. Off the record.

3 (Discussion off the record.)

4 ALJ DERQUE: Mr. French for Trigen has just
5 asked for recross. It will be the Commission's ruling
6 there will be no recross.

7 MR. PHILLIPS: Can we go off the record for
8 a minute?

9 (Discussion off the record.)

10 (REPORTER'S NOTE: At this time, an
11 in-camera session was held, which is contained in
12 Volume No. 2, Pages 152 through 163 of the
13 transcript.)

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1 I N - C A M E R A P R O C E E D I N G S

2 ALJ DERQUE: We're now in-camera.

3 Mr. Woodsmall, is there anyone in the room that
4 doesn't belong here?

5 MR. WOODSMALL: I think everybody's fine.
6 Everybody's fine.

7 ALJ DERQUE: Is there anyone KCP&L thinks
8 doesn't belong here?

9 MS. CUNNINGHAM: That's a good question.

10 ALJ DERQUE: I understand.

11 MR. RIGGINS: I think everybody's okay, your
12 Honor.

13 ALJ DERQUE: Okay. Mr. French, Trigen?
14 Mr. French, Trigen, is there anybody here that you
15 object to?

16 MR. FRENCH: No.

17 ALJ DERQUE: Mr. Phillips?

18 MR. PHILLIPS: That I object to?

19 ALJ DERQUE: Yes. Well, is the room -- can
20 we go in-camera now?

21 MR. PHILLIPS: We certainly can.

22 ALJ DERQUE: Mr. Mills?

23 MR. MILLS: I think I recognize everybody
24 here. I assume that the parties responsible for these
25 people either don't require a nondisclosure agreement

1 or they've signed a nondisclosure agreement.

2 ALJ DERQUE: Okay. We're now in-camera.

3 Mr. French, go right ahead.

4 CHRIS B. GILES testified as follows:

5 CROSS-EXAMINATION BY MR. FRENCH:

6 Q. Mr. Giles, I'm handing you what I purport to
7 be the responses of KCPL to Trigen-Kansas City's
8 Second Set of Data Requests. And I believe that in
9 the first part of those responses on page 3 it
10 restates the Data Request asked by Trigen.

11 I'd like to focus your attention on Data
12 Request No. 9 on page 3 of the document. I'll read
13 it, and you can check to make sure that I read it
14 correctly. Data Request No. 9 states: Please provide
15 a copy of all references to KCPL's strategic marketing
16 plans or other planning documents for the last three
17 years which discuss KCPL's plans to meet competition
18 in the electric generation market. Is that correct?

19 A. That's correct.

20 Q. And if you would turn to the last page of
21 the document I handed you, the response by KCPL to
22 Question No. 9 is: Please see Attachment 1 which
23 contains the requested information. Is that correct?

24 A. That's correct.

25 Q. I want to hand you a copy of Attachment 1 to

1 those Data Requests and have you look through it and
2 see if that is familiar to you.

3 A. Yes, it is.

4 Q. And is it correct that the first portion of
5 the information provided in Attachment 1 deals with
6 KCPL's wholesale market? In fact, the vast majority
7 of the information in Attachment 1 deals with KCPL's
8 wholesale market?

9 A. That appears to be the case.

10 Q. Looking at the last two pages of
11 Attachment 1, do these last two pages address
12 strategies for KCPL's retail industrial load?

13 A. I assume it does. The top of the page is
14 labeled industrial, and there's some descriptions
15 beyond that. I can't really say what exactly is
16 included here.

17 MR. FRENCH: Okay. Let me mark an exhibit.
18 This is going to be a highly confidential exhibit.

19 ALJ DERQUE: This will be No. 8HC. Off the
20 record.

21 (Discussion off the record.)

22 (EXHIBIT NO. 8HC WAS MARKED FOR
23 IDENTIFICATION.)

24 ALJ DERQUE: Back on the record.

25 I have what's marked No. 8HC, KCPL response

1 to Trigen-Kansas City's Second Set of Data Requests.

2 Mr. French.

3 BY MR. FRENCH:

4 Q. Mr. Giles, I've handed you what's been
5 marked for identification as Exhibit 8HC, and I would
6 ask you if that exhibit consists of the cover page and
7 the last two pages of KCPL's response to Data Request
8 No. 9 marked Attachment 1?

9 A. Yes.

10 Q. I'd like to refer you specifically to the
11 first of the two pages under the heading "Long-term
12 Contracts," and ignoring the first two sentences which
13 talks about specific customers and negotiations and
14 contracts with those customers, could you read the
15 last two sentences of that paragraph into the record,
16 please?

17 A. Beginning with deregulation, is that where
18 we are?

19 Q. Yes.

20 A. With deregulation occurring already in the
21 electric utility industry, long-term contracts have
22 become the preferred retention strategy for selected
23 customers. The goal is to get industrial customers to
24 enter into ten years or longer contracts.

25 Q. Thank you.

1 MR. FRENCH: Mr. Examiner, I'd move the
2 admission of Exhibit 8HC into the record.

3 ALJ DERQUE: Is there any objection?

4 MS. CUNNINGHAM: None.

5 ALJ DERQUE: Seeing none, Exhibit 8HC will
6 be admitted.

7 (EXHIBIT NO. 8HC WAS RECEIVED INTO
8 EVIDENCE.)

9 BY MR. FRENCH:

10 Q. Mr. Giles, do you still have a copy of that
11 March 18th letter from Mr. Lock to myself which
12 contained the responses to Trigen's Second Set of Data
13 Requests?

14 A. I do.

15 Q. And could you once again turn to the third
16 page of that document, and again looking at the Data
17 Request No. 9, it's true, is it not, that that Data
18 Request asks for copies of all references in KCPL's
19 strategic marketing plans or other planning documents
20 for the last three years which discuss KCPL's plans to
21 meet competition in the electric generation market?

22 A. That's what it says.

23 MR. FRENCH: I'd like to mark another
24 exhibit, please.

25 ALJ DERQUE: Is it protected or not?

1 MR. FRENCH: It is HC, yes.

2 ALJ DERQUE: That will be No. 9HC. We're
3 off the record.

4 (Discussion off the record.)

5 (EXHIBIT NO. 9HC WAS MARKED FOR
6 IDENTIFICATION.)

7 ALJ DERQUE: We're back on the record.

8 I have what's marked Exhibit No. 9HC, the
9 Strategic Marking Plan 1995-1997. Mr. French.

10 BY MR. FRENCH:

11 Q. Mr. Giles, do you recognize Exhibit 9HC?

12 A. I don't have a copy.

13 Q. I guess you don't recognize it, then, do
14 you?

15 A. Yes, I do.

16 Q. Is the date of that document September 1994?

17 A. I believe so.

18 Q. I can understand why you might be hesitant
19 in so stating, but I believe that's correct.

20 So that would fall under the three years
21 requested in Data Request No. 9?

22 A. That's right.

23 Q. And it's true, is it not, that this
24 information was previously provided to Trigen-Kansas
25 City in Case No. EO-95-181?

1 A. I don't know. I would accept that if you
2 know. I don't know.

3 Q. And I would state for the record that that
4 is the case. I don't think we need to prove it beyond
5 that. I would note that you probably need to change
6 the case number on the front of this document.

7 Mr. Giles, if you could turn to the
8 next-to-the-last page, and it's put in upside down so
9 it's easy to identify. Under the heading "Objective
10 1, retain existing profitable customers," could you
11 read the strategy under that objective?

12 A. The principal strategy in retaining existing
13 profitable customers is to employ different pricing
14 mechanisms. One tactic such as long-term contracts
15 can be used effectively to protect selected desirable
16 customers from competitors. The rationale for this
17 different pricing mechanism is to protect and secure
18 KCPL's existing profit stream but also meet customers'
19 needs. You want me to go on?

20 Q. It's up to you.

21 A. A secondary strategy that can help meet
22 Objective 1 is to develop market intelligence.
23 Obtaining market research on KCPL's customer's
24 business needs and equipment will give KCPL the
25 opportunity to better enhance existing product and

1 services as well as create new ones.

2 Q. Mr. Giles, by looking at Exhibit No. 9HC, is
3 it fair to state that it consists of portions of
4 KCPL's Strategic Marketing Plan from 1995 to 1997
5 regarding how KCPL is planning to meet competition in
6 its various customer markets?

7 A. Yes. This isn't the only -- I mean, like
8 you said, this is a portion of it.

9 Q. Right.

10 MR. FRENCH: I would admit Exhibit No. 9HC
11 into the record as a confidential document.

12 ALJ DERQUE: Is there any objection to the
13 admission of Exhibit No. 9HC?

14 (No response.)

15 ALJ DERQUE: Seeing none, it will be
16 admitted.

17 (EXHIBIT NO. 9HC WAS RECEIVED INTO
18 EVIDENCE.)

19 MR. FRENCH: I've got one more exhibit,
20 Judge, which again is a confidential exhibit.

21 ALJ DERQUE: That will be No. 10HC. We're
22 off the record.

23 (Discussion off the record.)

24 (EXHIBIT NO. 10HC WAS MARKED FOR
25 IDENTIFICATION.)

1 ALJ DERQUE: We're back on the record.

2 I have what's marked Exhibit No. 10HC. It's
3 a Data Request in response to Data Request No. 503
4 tendered by the Office of the Public Counsel.

5 MR. FRENCH: Yes.

6 BY MR. FRENCH:

7 Q. Mr. Giles, I've handed you what's been
8 marked for identification as Exhibit 10HC and ask you
9 if that is KCPL's response to Public Counsel Data
10 Request No. 503?

11 A. Yes, it is.

12 Q. And what type of information is provided in
13 this response?

14 A. The information requested was to provide a
15 copy of all documents created in the last two years by
16 KCPL or its agents which contain descriptions or
17 analysis of the potential for special contracts to,
18 one, enhance customer loyalty; two, obtain commitments
19 from customers that they will continue to rely on KCPL
20 for their power supply needs even if retail wheeling
21 becomes legal; or three, meet competitive threats from
22 alternative power suppliers, e.g. Enron, that are
23 attempting to persuade large customers to commit now
24 to being served by the alternate supplier once retail
25 wheeling becomes legal.

1 Q. And, Mr. Giles, I would ask you to turn to
2 the fourth page -- actually the fifth page of the
3 exhibit under the heading "Recommendations and
4 Executive Summary" and under the subheading -- I'm
5 sorry.

6 The next page would be under the subheading
7 "Needs and Benefits Assessment" which begins on the
8 page, and going to the next page, to the last
9 paragraph. So it would be page 6 of the document, the
10 paragraph beginning "although". Are you with me?

11 A. I think so. Although retail competition in
12 the form of retail wheeling does not exist today in
13 Missouri, KCPL is preparing today for the possibility
14 that retail wheeling opportunities for at least large
15 customers will become much more prevalent in the
16 future.

17 In addition, competition exists today among
18 competing utilities and energy service companies for
19 existing customer load. By obtaining exclusive
20 supplier status through contracts, KCPL locks in a
21 contribution to margin even with the existence of
22 retail wheeling.

23 Also, by tailoring its services to meet the
24 unique needs of these large customers, KCPL creates
25 the enhances customer satisfaction that is necessary

1 to successfully retain the load of these customers if
2 and when retail wheeling options are available to
3 them.

4 Contracts also allow KCPL to manage and
5 reduce planning risks. Electric utilities face
6 increasing uncertainty due to technological,
7 regulatory, legislative and market factors.

8 The ability to reduce the variability in the
9 fundamental demand for our service allows us to be
10 more efficient in our business planning and
11 operations.

12 Otherwise desirable investments in system
13 resources, whether they are power plants, people,
14 wires or marketing programs, can be compromised if
15 large discreet chunks of the customer base are subject
16 to rapid, sudden disappearance.

17 Just as KCPL is expected to judiciously
18 manage its costs through its purchasing decisions,
19 KCPL must manage its customer base through
20 economically sound marketing and sales decisions.

21 MR. FRENCH: I would offer Exhibit 10HC into
22 the record, Judge.

23 ALJ DERQUE: Is there any objection to the
24 admission of Exhibit 10HC?

25 (No response.)

1 ALJ DERQUE: Seeing none, it will be
2 admitted.
3 (EXHIBIT NO. 10HC WAS RECEIVED INTO
4 EVIDENCE.)?
5 MR. FRENCH: No further questions. Thank
6 you, Judge. Thank you, Mr. Giles.
7 ALJ DERQUE: Is there any in-camera
8 redirect?
9 MS. CUNNINGHAM: No, no redirect.
10 ALJ DERQUE: Okay. Thank you, Mr. Giles.
11 You may step down.
12 (Witness excused.)

13 _____
14 WHEREUPON, the in-camera portion of Chris B.
15 Giles' testimony was concluded.)
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1 ALJ DERQUE: I assume there's extensive
2 cross-examination of Dr. Glycer. Let's go off the
3 record.

4 (A recess was taken.)

5 ALJ DERQUE: We're back on the record.

6 What's marked Exhibit No. 5, a letter of
7 9/13/94, and Exhibit No. 6, it's a tariff of Kansas
8 City Power & Light, it's my understanding that you
9 would like to offer those, Mr. Phillips?

10 MR. PHILLIPS: Yes. I understand that
11 Mr. Giles is excused.

12 ALJ DERQUE: Is there any objection to the
13 admission of Exhibits No. 5 or 6?

14 (No response.)

15 ALJ DERQUE: They will be admitted.

16 (EXHIBIT NOS. 5 AND 6 WERE RECEIVED INTO
17 EVIDENCE.)

18 ALJ DERQUE: May Mr. Giles be excused for
19 the remainder of the hearing? Is there any objection
20 to that?

21 (No response.)

22 ALJ DERQUE: I don't see any. You're a free
23 man, Mr. Giles.

24 Okay. Ms. Cunningham?

25 MR. RIGGINS: It will be me this time, your

1 Honor. KCPL calls Dr. J. David Glycer, and Dr. Glycer
2 has three pieces of testimony, direct, rebuttal and
3 surrebuttal that should be marked as exhibits.

4 ALJ DERQUE: Yes, sir. Just a second.
5 (Witness sworn.)
6

7 ALJ DERQUE: Those will be -- direct of
8 Dr. Glycer will be No. 11. The rebuttal of Dr. Glycer
9 will be No. 12. The surrebuttal of Dr. Glycer will be
10 No. 13.

11 (EXHIBIT NOS. 11, 12 AND 13 WERE MARKED FOR
12 IDENTIFICATION.)

13 ALJ DERQUE: Mr. Riggins?
14 J. DAVID GLYER testified as follows:
15 DIRECT EXAMINATION BY MR. RIGGINS:

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

18 A. My name is James David Glycer. My business
19 address is 4610 University Avenue, Madison, Wisconsin,
20 Christensen Associates.

21 Q. And have you been retained by Kansas City
22 Power & Light Company to prepare testimony for this
23 case?

24 A. I have.

25 Q. Are you the same David Glycer who has caused

1 to be filed with the Commission direct testimony that
2 has been marked for identification as Exhibit 11,
3 rebuttal testimony that has been marked for
4 identification as Exhibit 12, and surrebuttal
5 testimony that has been marked for identification as
6 Exhibit 13?

7 A. I am.

8 Q. Were those pieces of testimony prepared by
9 you or under your direct supervision and control?

10 A. Yes, they were.

11 Q. Do you have any corrections or modifications
12 to make to your testimony?

13 A. No real modifications or corrections.

14 Q. If I asked you today the questions contained
15 in those pieces of testimony, would your answers be
16 the same as those contained in your testimony?

17 A. Yes, they would.

18 MR. RIGGINS: Your Honor, at this point I
19 would move for the admission of Exhibits 11, 12 and
20 13.

21 ALJ DERQUE: Is there any objection to the
22 admission of Exhibit Nos. 11, 12 or 13?

23 (No response.)

24 ALJ DERQUE: Seeing none, they will be
25 admitted.

1 (EXHIBIT NOS. 11, 12 AND 13 WERE RECEIVED
2 INTO EVIDENCE.)

3 ALJ DERQUE: Mr. Woodsmall? Mr. Riggins?

4 MR. RIGGINS: I was simply going to say,
5 Dr. Glyer is available for cross-examination.

6 ALJ DERQUE: Thank you. Mr. Woodsmall?

7 MR. WOODSMALL: No questions, your Honor.

8 ALJ DERQUE: Mr. Mills?

9 MR. MILLS: I have no questions.

10 ALJ DERQUE: Mr. Phillips?

11 MR. PHILLIPS: I have no questions.

12 ALJ DERQUE: And Mr. French or Mr. Swenson?

13 MR. SWENSON: Your Honor, I'm going to say
14 the witness is up there for a reason. We have a few
15 questions.

16 ALJ DERQUE: This is the standby? You're
17 doing the standby and Mr. French is still doing
18 special contract?

19 MR. SWENSON: Yes, your Honor.

20 CROSS-EXAMINATION BY MR. SWENSON:

21 Q. Dr. Glyer, do you recall in your testimony
22 referring to tariffs or rates charged in the state of
23 Georgia?

24 A. Are you -- yes. I believe I made that
25 comment, I think probably in my rebuttal testimony.

1 Q. Right. Are you aware whether Georgia has
2 adopted any two-part tariffs with respect to providing
3 standby service for on-site generators?

4 A. I'm not particularly aware one way or the
5 other on that issue.

6 Q. Are you aware of any other jurisdiction that
7 has adopted two-part access -- I'm sorry -- two-part
8 tariff for standby services?

9 A. Do you mean a two-part tariff of this form?

10 Q. Yes, sir.

11 THE WITNESS: Okay. Can I go off the record
12 for a second?

13 ALJ DERQUE: Off the record.

14 (Discussion off the record.)

15 ALJ DERQUE: Back on the record.

16 You may go ahead and explain, Dr. Glycer.

17 THE WITNESS: Okay. I'll presume that when
18 the term two-part tariff is used in this regard it's
19 used in the more particular form of the two-part
20 tariff that is represented in the standby tariff.

21 There are other tariffs that are two-part
22 tariffs or more generally non-linear tariffs, and I'm
23 sure that there are some tariffs out there that
24 actually are two-part of that type, and I don't -- I
25 could go -- it would take awhile to explain what that

1 means.

2 But I think in terms of the meaning of the
3 question here, that my answer is no.

4 BY MR. SWENSON:

5 Q. Thank you. Would you please turn to your, I
6 think it's your surrebuttal testimony at page 7.

7 A. Yes.

8 Q. In the upper portion of that page, around
9 line 5 you're talking about the implications of the
10 tariff and how it avoids making economic bypass
11 profitable.

12 A. Where it says removing the access charge
13 portion, the text there?

14 Q. Yeah, that general area.

15 A. Okay. What is the question?

16 Q. I'm just asking whether in that case your --
17 in that part of your testimony you're talking about
18 the implications of the tariff and trying to avoid
19 making economic bypass profitable?

20 A. I'm not sure what -- I mean, what
21 specifically is the question?

22 Q. Well, let me just ask you some other
23 questions, but if you -- you may want to refer to that
24 area of your testimony in answering.

25 If you offer a -- if KCPL offers a potential

1 on-site generator with the option to buy all or any of
2 its power at KCP&L's marginal cost, would you
3 eliminate the economic incentive for uneconomic bypass
4 that's posed by embedded costs or standard tariffs?

5 A. Are you asking would removal of the access
6 charge portion diminish the economic incentives that
7 are provided by -- the appropriate economic incentive
8 provided by the SQF tariff?

9 Q. No. I'm asking you if someone who is
10 considering on-site generation but does not have it --

11 A. Okay.

12 Q. -- were offered a rate that consisted of
13 KCPL's marginal costs, whether you would through that
14 mechanism alone eliminate any incentive for the
15 development of uneconomic generation?

16 A. Your question is a completely hypothetical
17 one, what if they just were offered just marginal
18 costs?

19 Q. Right.

20 A. Would that -- okay. Now, given that, what
21 is it they would do?

22 Q. Well, if they had the alternative of either
23 getting power from KCP&L at its marginal cost or
24 building their own generation, would they have an
25 incentive to build their own generation if it were

1 uneconomic?

2 A. What I -- I think what you're probably
3 referring to is that I made a statement about there
4 are incentives to install uneconomic bypass. By that
5 I didn't mean any potential uneconomic bypass no
6 matter how ridiculously uneconomic. I was referring
7 to in general anything that would be sort of within
8 reason that customers might come up with.

9 It would -- because if you recall my direct
10 testimony, I delineated three cases. One case, for
11 instance, when the price is so high that the average
12 cost of the customer's own incremental is above the
13 tariff price, that's really sort of a non-issue
14 because it's not -- it's not going to be -- no one's
15 really going to be looking at that case, and so I
16 think I've assumed away that general type of case. Is
17 that what you're after?

18 Q. Well, it's a nice answer. I'm not sure it
19 fit my question, but I've got some more questions
20 here. We'll just keep moving along.

21 If KCP&L offered marginal cost rates --

22 A. Marginal cost-based rates or --

23 Q. Marginal cost-based rates to a potential
24 cogenerator, potential on-site generator, would you
25 require the access charge in the SQF tariff to avoid

1 giving a signal, economic signal to the on-site --
2 potential on-site generator to build uneconomic
3 generation?

4 A. The question seems to be oddly phrased. Do
5 you want me to try to phrase what I think you're
6 asking?

7 Q. Sure. Take a stab at it.

8 A. Are you saying if you price at marginal
9 cost, is the usage component, is the access charge
10 structured SQF tariff there to provide the efficient
11 economic signals?

12 Q. Is it necessary to provide, right.

13 A. Yeah.

14 Q. It is?

15 A. Yes. Without it you don't get as good
16 economic signals.

17 Q. Why is that?

18 A. How much -- how far do you want me to go
19 back in this?

20 Q. I could use the whole explanation because I
21 don't understand it.

22 A. You don't understand why a customer who has
23 uneconomic bypass, if you have zero access charge,
24 then would get a different incentive as you raise that
25 access charge? That doesn't make any sense to you?

1 Is that what you need me to explain?

2 Q. Well, what I need you to explain is why, if
3 he's facing KCPL's marginal cost as an alternative to
4 building his own generation --

5 A. Okay.

6 Q. -- why he needs an access charge to keep him
7 from doing the wrong thing.

8 A. If the -- if the option that the customer
9 has is you just simply price to him at marginal cost?

10 Q. Right.

11 A. Yes, you actually do. It's sort of an odd
12 type of circumstance, but what we're talking about is
13 something that's prospective by its very nature. It's
14 something that the customer claims that they have.
15 You know, a customer comes up to you and says I've got
16 a generation possibility for 4 and a half cents, and
17 your tariff price to me is 5 cents. So price to me at
18 marginal cost and I won't build it.

19 How do you know how accurate their statement
20 is, you know? Maybe it's 5 cents. Maybe it's 4
21 cents. Even assuming that there was no bias in the
22 answers these people gave but just random error, if
23 there -- you would develop situations where sometimes
24 they didn't believe that they had a viable uneconomic
25 bypass, and so therefore they would require the

1 potential self-generator to go ahead and actually
2 install the generation in order to have some sort of
3 proof.

4 Q. I don't follow you, why that accomplished
5 keeping somebody from making an uneconomic generation.
6 Let me ask you another question.

7 How does the -- if you had a free market
8 here and you didn't have access charges involved, how
9 would you keep an on-site, potential on-site
10 generator -- let me start over again.

11 If you have an open market and KCP&L is not
12 the monopoly provider of backup service or for
13 requirement service, does the free market have an
14 access charge built into it?

15 A. The free market could have access charges in
16 it because there are circumstances when it's most
17 efficient pricing mechanism to have an access charge
18 and it's something that the two parties could agree
19 to. So the access charge would not necessarily be
20 zero in such a market.

21 Q. Okay. Would it be based on your historic
22 usage?

23 A. It could be based on a large number of
24 things. There are actually some advantages to basing
25 it on historic usage.

1 Q. What are those advantages?

2 A. One of the advantages is the advantage he
3 currently has which is observability. It's a
4 reference point that is useful in a number of
5 different contexts, different types of advantages in
6 real-time pricing, contact of the normal sort compared
7 to this one.

8 Q. Would the access charge in the free market
9 tend to capture all the fixed costs of the supplier?

10 A. It would have a different relationship to
11 those fixed costs than you get in a regulated world.
12 Sometimes it could be above. You know, I think the
13 general notion is it would be below, but it doesn't
14 have to be either above or below.

15 Q. Will you please turn to page 10, line 76 of
16 your testimony.

17 MR. RIGGINS: Are we still on surrebuttal?

18 MR. SWENSON: I'm sorry. Yes, we are.

19 BY MR. SWENSON:

20 Q. Do you see where you make a statement that
21 Trigen does not like this solution, though, because it
22 is not as financially advantageous for them?

23 A. Yes.

24 Q. How do you know that that is why Trigen does
25 not like this solution?

1 A. It's an inference on my part. They've
2 intervened. They've asked for one type of pricing
3 KCPL is offering, this as well as some other types of
4 pricing. And I presume that the reason that they're
5 after this is not because they've got some -- you
6 know, there's some poor cousin out there that might
7 want to do it but because they have a financial
8 interest in it. You know, Trigen's pretty reasonable
9 about looking after their financial interests.

10 Q. Do you know Tom Castin of Trigen?

11 A. No.

12 Q. Have you ever attended any briefing session
13 that he's given?

14 A. No.

15 Q. So are you familiar with his views with
16 regard to the direction the generating industry ought
17 to go?

18 A. Not specifically.

19 Q. Generally?

20 A. I can guess, but it would be just a pure
21 guess.

22 Q. I'm not asking you to guess.

23 A. Okay.

24 Q. Is it possible that Trigen -- never mind. I
25 won't ask.

1 Have you concluded that economic efficiency
2 is better served by the SQF tariff than embedded cost
3 standard tariffs?

4 A. The SQF tariff is not an embedded cost
5 tariff. It's the pricing that's different, not the
6 fact that it's completely divorced from the embedded
7 cost ratemaking. I think that's a distinction which
8 was probably best pointed out by Dr. Proctor's
9 testimony.

10 Q. Well, do I need to explain better what we're
11 referring to when I talk about the standard tariff for
12 you to answer my original question?

13 A. Okay. What's the -- my understanding is
14 standard tariff is something like the LP tariff, etc.
15 So -- or no. Wait a second. You mean -- no. Okay.
16 Go ahead and ask your question, then, again.

17 Q. Have you concluded that economic efficiency
18 is best served by the SQF tariff as opposed to KCP&L's
19 standard tariffs?

20 A. I think that in general economic efficiency
21 is better served by the SQF tariff than the standard
22 tariff.

23 Q. Does that conclusion rely on an assumption
24 that both KCP&L and the customer have exactly the same
25 view and forecast of what the customer baseline will

1 be now and in the future?

2 A. We've discussed to some extent the issue of
3 the customer baseline load, and are you by your
4 question meaning to imply that if there's enough
5 difference between what the customer thinks it should
6 be and what the Company thinks it should be, that a
7 disagreement over that would interfere with the
8 workings of the tariff?

9 Q. In the sense that the tariff's supposed to
10 produce an economically efficient result, yes.

11 A. I can see where intractable parties could
12 disagree on a tariff, on some of the features there.
13 The reason that the historical usage is the typical
14 standard is because it is very observable and then it
15 provides a basis if other -- if parties feel that they
16 need to indicate that there are some reasons why that
17 is not appropriate.

18 Q. But my question is, if they have different
19 views as to what the CBL should be, will that affect
20 whether or not the efficient result is achieved under
21 the tariff?

22 A. It usually -- I would think usually no.
23 It's not a problem that I've thought a whole lot, and
24 a lot of economic problems are just that. They're not
25 just single questions but sort of problems that you

1 work through.

2 So it's not necessarily a problem I would
3 work through in ten seconds or two minutes. There are
4 potentially a number of issues that an economist would
5 work through on a problem.

6 Q. I'm happy to wait for you to work through
7 them if you want to do that for us.

8 A. I've indicated that that's a problem that
9 it's not a matter of a few minutes, but a matter of
10 sitting down, maybe looking at things, etc. Are you
11 suggesting that we adjourn for the rest of the day and
12 then I go back and work on the problem with some
13 materials I might look at? What's the reference?

14 Q. Well, maybe you can think about it overnight
15 and we can move on to some other questions. I don't
16 know how to get the right answer on that from you in a
17 practical way. But I guess could you say that you
18 have no view right now because you haven't thought
19 about it?

20 A. No. I indicated what my view was. My view
21 was that generally I think it not very likely.

22 Q. Okay.

23 A. We always work in -- we're working in a
24 prospective world.

25 Q. What about variation in the view of KCPL and

1 the potential on-site generator with regard to future
2 fuel prices, could that interfere with the efficient
3 operation of the SQF tariff?

4 A. Which fuel prices are you referring to, the
5 customer's or the company's, both, what?

6 Q. Both. You can take individual cases and --

7 A. Then which question are we -- let's take one
8 or the other. Why don't you frame one of them?

9 Q. Sure. If KCP&L and the customer have
10 different views as to what KCP&L's fuel price is going
11 to be in the future, will the SQF tariff necessarily
12 produce an efficient result?

13 A. It's going to produce the same sort of
14 efficient result that you would get in the economic
15 marketplace. And since that's really the standard,
16 the standard in the competitive market doesn't mean
17 that somebody isn't going to go out there and make a
18 mistake, and that's your -- I think you're saying
19 that, hey, somebody could come out here and make a
20 mistake.

21 It's the same sort of mistake that they
22 might make in the competitive market. Since they're
23 somewhat parallel, I don't see the thesis you seem to
24 have being validated that it -- that it -- it's the
25 efficient properties of the tariff.

1 Q. Well, I didn't ask you whether the market
2 would do better or not. I just was asking whether
3 they're going to make uneconomic decisions or not.

4 A. You did ask me whether the market would do
5 better because that is often a good way to figure out
6 what the -- what the reference point is. I mean, what
7 do you mean when, you know, you have some notion in
8 mind, I guess, what it means to be economically
9 efficient.

10 In designing this tariff, one of the things
11 that you get out of it is that you get for the
12 potential self-generator the same incentives that that
13 self-generator, potential self-generator would face in
14 a competitive market.

15 That doesn't mean that uneconomic decisions
16 aren't going to be made because someone had wrong
17 information. That doesn't mean only efficient
18 decisions will be made.

19 Q. Does efficiency of the SQF tariff and access
20 charge depend on efficiency of the other prices being
21 charged to customers?

22 A. Rephrase the question. Just repeat the
23 question.

24 Q. Does the efficiency of the SQF tariff and
25 the access charge depend on the efficiency of other

1 prices?

2 A. The combination of the access charge and the
3 usage prices in some sense to the marginal cost for
4 the customer is to a good approximation reasonably
5 independent of those.

6 It's not technically completely independent
7 from them for some reasons I could get into but are
8 relatively arcane. Do you wish me to elaborate a
9 little bit on the direction I mean now?

10 Q. Well, if you can do it in a way we
11 understand, that would be fine, but if it's -- you
12 know, if you can't do it in layman's terms, I don't
13 think it's going to help the record much.

14 A. Let me just summarize it by saying that,
15 given that there are other prices that have certain
16 distortions from marginal cost, especially given the
17 relationships between the availability of substitutes
18 and complements for those goods and that these differ
19 across different customer classes and types of
20 customers, there are circumstances where you might
21 actually want to mark up slightly from marginal cost
22 the energy price because you might be able to collect
23 a margin a little more efficiently there and then be
24 able to drop down the margin a little bit on one of
25 the other customer classes because we're working in a

1 rate -- in a world where there are revenue
2 requirements that are more or less fixed at an overall
3 level.

4 So there are questions at the margin whether
5 you can actually do a little bit better by
6 manipulating that energy price up or down from
7 marginal cost and such, but it's a relatively
8 secondary feature.

9 Q. Would you agree that allowing an on-site
10 generator to purchase his standby requirements under
11 the current retail rates we've been calling the
12 standard rates is inconsistent with economic
13 efficiency as envisioned by --

14 A. You started just a little bit quickly.

15 Q. Would you agree that allowing an on-site
16 generator to purchase his standby requirements under
17 current retail rates -- by that I mean the standard
18 tariffs we were talking about before -- is
19 inconsistent with economic efficiency as contemplated
20 in the SQF tariff?

21 A. Economic efficiency isn't something that is
22 or isn't. I mean, it isn't like economic efficiency,
23 no economic efficiency. It's a matter of degree.

24 And one of the things I think I probably
25 stated in my direct testimony and has generally been

1 stated is that there is certain -- KCPL comes into
2 these proceedings with these tariffs, and it's taken
3 as given a number of things including the other
4 tariffs, and there are interpretations of those
5 tariffs that may be available for backup services in
6 certain circumstances and such and that part of the
7 landscape. So I'm not sure what the meaning of your
8 question is.

9 Q. Well, I just heard you say, that I'm
10 interested in, you said the SQF -- I'm sorry -- that
11 the standard tariffs may be available in some cases
12 for standby services. Are you under a different
13 impression than we heard earlier with regard to the
14 general availability of the standard tariffs?

15 A. There's been testimony by Staff on that
16 issue, and I think Staff is probably a better expert
17 on that, the interpretation of the rules and
18 regulations in Missouri than I'm going to offer you.

19 Q. Well, I'd still like to know what your
20 opinion is.

21 A. My opinion, you know, I'll just -- I'll take
22 the opinion of some fairly well-qualified staff until
23 I have reason to judge otherwise, but I'm not saying
24 it's something that I know. I'm saying that it is the
25 opinion of someone who seems to be well-qualified.

1 Q. Okay. And how does the SQF tariff
2 contribute to efficiency if you have a choice of
3 getting the standard tariffs?

4 A. Let's say that the two tariffs collect at
5 the same contribution to margin for KCPL for a given
6 set of prices and usages and everything, just for some
7 reason that that was the case.

8 Because of the efficiency features of the
9 two-part tariff, the customer would be better off
10 under that two-part tariff because they will have the
11 market signal that they can respond to on the energy
12 prices so they can decide when to generate themselves
13 more efficiently than they can under the current
14 tariff.

15 Q. Are you saying if the total price they pay
16 under the SQF tariff was higher than the total price
17 they pay under the standard tariff, that they would
18 take the SQF tariff because it's a better pricing
19 signal?

20 A. I don't think the word price is well defined
21 in that context.

22 Q. Well, are you saying that the total --

23 A. The quantities aren't fixed and such. The
24 notion of a price is not a real fun concept, and
25 there's a multiple vector of prices so that there

1 isn't a price.

2 I made the statement that I made, which was
3 in terms of the variable that I chose to use, which
4 was that they provided the same contribution to margin
5 at the quantities that the customer would decide to
6 use under each of those.

7 Q. Is that likely to happen in your opinion?

8 A. I'm not sure. You know, it depends on the
9 customer. It depends on the circumstances. Some of
10 the sort of situations where -- well, it's too hard to
11 hypothesize. You have so many crazy hypotheses that
12 bear no real relationship to things that we are likely
13 to see that I think that we've had enough.

14 You know, I just -- I made the statement
15 that I think that you can have that circumstance, and
16 you wanted a comparison between effectiveness of those
17 two tariffs and I gave you my opinion about that.

18 Q. Well, do you have any sense on average
19 whether a realistic on-site generating customer when
20 you take this class as a whole would pay more under
21 the SQF tariff or under the standard tariff for
22 standby service?

23 A. Yeah. They'll often pay more under the SQF
24 tariff because what they'll do is they'll defer a lot
25 more generation to KCPL, many, many hours as we've

1 seen. And so, therefore, they will pay a lot more to
2 KCPL.

3 Q. Under the SQF tariff?

4 A. Yes. But that -- I mean, that comparison, I
5 don't know what it's supposed to provide.

6 Q. I just want to know what the average class
7 member could expect to get under the two rates.
8 That's all.

9 A. I don't think that that gives you the answer
10 to that question.

11 Q. Well, let's -- why don't you answer that
12 question instead, then?

13 A. I just told you. I didn't think your
14 comparison gave you the answer to it.

15 Q. So what is the answer?

16 A. You'll have to -- it's much easier to make
17 my response that yours didn't satisfy. You'll have to
18 be more precise for me to give an answer to the second
19 part.

20 Q. Answer to the second part of what?

21 A. I gave you an answer that in my opinion the
22 comparison you were drawing wasn't -- didn't provide
23 you with an economic or economically relevant
24 comparison about the efficiency or anything of the
25 tariffs.

1 Q. Okay.

2 A. I see no relevance to deciding whether one
3 thing's better than another because a customer happens
4 to pay to one party more for something, you know,
5 without knowing what they pay to all the other parties
6 and without knowing what they get for it. And your
7 statement didn't control any of those things.

8 Q. Well, I thought I was using that equal
9 comparison in both cases, but we're taking sort of
10 the --

11 A. My response specifically told you that the
12 quantities were different.

13 Q. What quantities were different?

14 A. The quantities that the customers purchased.
15 I told you that the structures of the tariffs have
16 specifically different designs, and the results of
17 those different designs are the efficiency features.

18 Some of the efficiency features of the SQF
19 tariff will lead to the customer doing -- if their
20 economic self interest is of interest to them, doing
21 different things under the SQF tariff than they would
22 under the other tariff.

23 And as a result, they are much more likely
24 to purchase more electricity from KCPL, and so that
25 they could very well or probably well pay more to KCPL

1 under that tariff than under the alternative.

2 Q. I see. Well, how about if we take an
3 on-site generator that has a thermal host that
4 requires a given amount of steam that is not flexible
5 to change, and there's a back pressure turbine, and
6 the amount of electricity produced is a function of
7 the back pressure steam required, and that creates a
8 constant amount of electricity he's going to produce
9 from his on-site generator.

10 Now he's going to turn and try to pick
11 either the SQF tariff or the standard tariff. Given a
12 realistic customer, which tariff is likely to be more
13 costly to them?

14 A. It still doesn't mean he's going to buy the
15 same quantity. The prices are not the same. Remember
16 he's a consumer, and remember there's also the
17 possibility his consumption might go down below the
18 quantity.

19 And the KCPL tariff also has a feature that
20 the customer can sell back, and then in that
21 circumstance the net revenue can switch all around.
22 There's just so many characteristics and features that
23 could occur in these situations.

24 And, you know, I'm not an engineer. So all
25 these sort of technical terms you throw, I'm trying to

1 translate for myself into what I think you're talking
2 about in terms of the customer's marginal cost and his
3 opportunities. But that was my understanding of your
4 engineeringly-phrased example.

5 ALJ DERQUE: Mr. Swenson, when you get to a
6 good stopping place, let me know, unless this is a
7 good stopping place.

8 MR. SWENSON: It's as good as any, your
9 Honor.

10 ALJ DERQUE: Okay. I didn't want to
11 interrupt your train of questions, but --

12 MR. SWENSON: I have no problem with
13 stopping now.

14 ALJ DERQUE: That's fine. We'll go off the
15 record.

16 WHEREUPON, the hearing of this case was
17 adjourned until 9 a.m., Tuesday, April 8, 1997.

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