

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 IN-CAMERA PROCEEDINGS

8 April 30, 2008
9 Jefferson City, Missouri
Volume 22

10 In the Matter of the Joint)
11 Application of Great Plains)
Energy Incorporated, Kansas)
12 City Power & Light Company,)
and Aquila, Inc., for Approval)Case No. EM-2007-0374
13 of the Merger of Aquila, Inc.,)
with a Subsidiary of Great)
14 Plains Energy Incorporated and)
for Other Related Relief.)

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16 JUDGE HAROLD STEARLEY, Presiding,
REGULATORY LAW JUDGE.
17 CONNIE MURRAY,
ROBERT CLAYTON,
18 TERRY JARRETT,
COMMISSIONERS.
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22 REPORTED BY:

23 PAMELA FICK, RMR, RPR, CCR #447, CSR
24 MIDWEST LITIGATION SERVICES
25

1 I N - C A M E R A P R O C E E D I N G S

2 JUDGE STEARLEY: We are in-camera, and
3 again, I'm going to leave it to the attorneys to
4 police our gallery to ensure there are persons not
5 present that shouldn't be here for this.

6 THE WITNESS: Would you repeat the
7 question for me, make sure I have it right?

8 MR. DOTTHEIM: Could you read back the
9 question?

10 (THE COURT REPORTER READ BACK THE
11 PREVIOUS QUESTION.)

12 THE WITNESS: Yes.

13 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

14 Q. And at the present time, what is it
15 anticipated for the number of days for the extension
16 of the outage?

17 A. The outage as part of the reforecast is
18 at 73 days.

19 Q. And what was the outage scheduled for as
20 part of the control budget estimate, do you recall?

21 A. 56 days.

22 Q. Is there a dollar-per-day consequence
23 associated with the extension of the outage?

24 A. The generation costs are the costs would
25 change based on Iatan being off. I don't know if

1 there's a specific cost per day.

2 MR. DOTTHEIM: If I could have a moment,
3 please.

4 JUDGE STEARLEY: Certainly,
5 Mr. Dottheim.

6 MR. DOTTHEIM: I think we can come out
7 from in-camera.

8 (WHEREUPON, the in-camera portion of
9 Stephen Easley's testimony was concluded.)

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1 JUDGE STEARLEY: We are in-camera and it
2 looks like the gallery's been cleared, so you may
3 proceed.

4 THE WITNESS: Can you define for me your
5 definition of materiality so I can know how to answer
6 your question?

7 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

8 Q. What would you consider to be material?

9 A. On a \$1.6 billion project, 100 million.

10 Q. If -- but the -- why don't we use as a
11 reference like the Pullman item in dispute. Can
12 you -- can you quantify what is the -- the size of --
13 of that item?

14 A. I don't remember specifically. It's
15 significantly under 100 million.

16 Q. And could you -- could you provide a
17 description of what that item is, if you recall?

18 A. I don't recall the specifics. It had to
19 do with their relationship with their subcontractor
20 and their view that it was a economic choice for them
21 to pay the liquidated damages on the contract rather
22 than to perform at a rate that would be effective for
23 the project.

24 MR. DOTTHEIM: Okay. Thank you. We can
25 go out of camera. I can pursue this with one of the

1 remaining witnesses.

2 (WHEREUPON, the in-camera portion of
3 Stephen Easley's testimony was concluded.)

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1 JUDGE STEARLEY: And we are back in the
2 in-camera session.

3 THE WITNESS: Could you read the
4 question back to me to make sure I have it correct.

5 (THE COURT REPORTER READ BACK THE
6 PREVIOUS QUESTION.)

7 THE WITNESS: I don't know.

8 DIRECT-EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

9 Q. And I would ask you the same question
10 for Iatan 1.

11 A. And again, I would say I don't know to
12 that question.

13 Q. When Iatan 2 is completed and in
14 commercial operation, do you expect it will meet the
15 schedule, be completed later or be completed earlier
16 than the reforecast will show?

17 A. I expect it will meet the schedule.

18 Q. And the same question for Iatan 1.

19 A. I'd have to say I don't know at this
20 point.

21 MR. DOTTHEIM: Thank you for your
22 patience, Mr. Easley.

23 JUDGE STEARLEY: May we go out of
24 in-camera?

25 MR. DOTTHEIM: Yes.

1 (WHEREUPON, the in-camera portion of
2 Stephen Easley's testimony was concluded.)
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1 JUDGE STEARLEY: All right. We are
2 in-camera, Mr. Dottheim. The gallery's been cleared.
3 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

4 Q. Mr. Davis, can you answer that question
5 in greater detail?

6 A. Yeah. In general, we looked at -- we
7 looked at design maturation, we looked at schedule,
8 we looked at change orders, as I mentioned earlier on
9 specific contracts. Those are the types of drivers
10 that were looked at during the reforecast effort.

11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
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18 [REDACTED]
19 [REDACTED]
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A. Yes.

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Q. When you say design maturity or

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maturation, what do you mean by that?

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A. At the time of the original control

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budget estimate, we were approximately 20, 25 percent

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complete with engineering. The design has obviously

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matured since then. We're in the range total project

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of 80 percent complete now. You learn things during

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that design process that can have impacts and be

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inputted into that R&O table.

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MR. DOTTHEIM: I think we can go out

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from in-camera.

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(WHEREUPON, the in-camera portion of

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Brent Davis' testimony was concluded.)

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1 JUDGE STEARLEY: We are in-camera and
2 you may continue, Mr. Dottheim.

3 THE WITNESS: Could you repeat that
4 question, again?

5 (THE COURT REPORTER READ BACK THE
6 PREVIOUS QUESTION.)

7 THE WITNESS: Based on what we know at
8 this point in time and the assumptions surrounding
9 the reforecast, I'd have to say it would be close to
10 the same.

11 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

12 Q. I would ask you the same question
13 respecting Iatan 1.

14 A. My answer would be the same.

15 Q. The reforecast deals with schedule in
16 addition to cost, does it not? When Iatan 2 is
17 completed and in service, is it your expectation that
18 the date by which it will be completed and in service
19 will be the same, later or earlier than that shown by
20 the reforecast?

21 A. The same. That was our assumption in
22 the reforecast.

23 Q. And my question to you regarding Iatan 1
24 will be the same.

25 A. Iatan 1, we did push the outage back one

1 month. We do have two areas on Iatan 1 that are
2 still scheduled challenges that we're watching very
3 closely. And recovery plans will dictate whether
4 that outage schedule remains as it is, but I do feel
5 like that uncertainty was covered in the cost
6 reforecast.

7 Q. In your response to me regarding the
8 schedule for Iatan 2, you said, if I understood you
9 correctly, that the same date was assumed for
10 Iatan 2. Could you tell me what you meant by that?

11 A. Summer of 2010.

12 Q. Okay.

13 JUDGE STEARLEY: Excuse me,
14 Mr. Dottheim. I don't mean to interrupt, but at this
15 time I think we're going to go ahead and recess so we
16 can attend the agenda meeting, those of us who have
17 to be there. And we will reconvene and continue
18 questioning at approximately 1:30.

19 (WHEREUPON, the in-camera portion of
20 Brent Davis' testimony was concluded.)

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1 THE WITNESS: Our target date --

2 JUDGE STEARLEY: Excuse me just a
3 moment, Mr. Davis. Let the other people clear the
4 room.

5 THE WITNESS: Oh, I'm sorry.

6 JUDGE STEARLEY: All right. I believe
7 the gallery's cleared now and we are in-camera and
8 you may proceed.

9 THE WITNESS: We have always said summer
10 of 2010. Our target date for planning purposes on
11 the Iatan 2 project is June 1 of 2010.

12 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

13 Q. Does the reforecast still show June 1,
14 2010?

15 A. I believe it does.

16 MR. DOTTHEIM: We could go out from
17 in-camera.

18 MR. MILLS: Judge, before we do, can I
19 inquire briefly as to the nature of that information?
20 Is it -- and I can ask Mr. Zobrist this. Is it the
21 fact that the reforecast maintains the June 1 date
22 that's highly confidential? Because I believe the
23 June 1 date has been public for years, so it's the
24 reforecast use of the same date that's --

25 MR. ZOBRIST: Yes, sir.

1 MR. MILLS: Okay. Thank you. I just
2 wanted to clear that up. Thank you.

3 JUDGE STEARLEY: Okay. We're going to
4 go back.

5 (WHEREUPON, the in-camera portion of
6 Brent Davis' testimony was concluded.)

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1 JUDGE STEARLEY: All right. We are
2 in-camera. You may proceed, Mr. Dottheim.

3 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

4 Q. Mr. Foster, you have made reference to a
5 trend with the scheduled performance with -- with one
6 of the Iatan 1 contractors, if I understood you
7 correctly?

8 A. You did.

9 Q. Could you identify which contractor that
10 was?

11 A. Yes. That was Austin.

12 Q. Okay. And could you identify what was
13 the trend -- the trend that had been identified in --
14 in detail, in some detail?

15 A. Yes. They were behind schedule.

16 Q. Was there an identification of a similar
17 trend for Iatan 2?

18 A. We did look at the trend for Iatan 2.
19 Austin was not behind schedule for Iatan 2.

20 Q. And for Iatan 2, did you identify a --
21 any trends with contractors that were cause for
22 concern?

23 A. Not scheduled trends.

24 Q. Were there cost trends?

25 A. Not specifically at that time. There

1 were some unknowns about schedule compression and
2 quantities associated with the Kiewit contract, and
3 we had to do a fairly detailed look at that.

4 Q. Was there any identification of concerns
5 of a similar nature for Iatan 1 with any contractors?

6 A. Yes.

7 Q. Could you identify which contractors?

8 A. Kiewit.

9 MR. DOTTHEIM: I think we can go out
10 from in-camera.

11 JUDGE STEARLEY: All right.

12 (WHEREUPON, the in-camera portion of
13 Terry Foster's testimony was concluded.)

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1 JUDGE STEARLEY: Very well. We are
2 in-camera and you may proceed.

3 THE WITNESS: The same.

4 DIRECT EXAMINATION (CONTINUED) BY MR. DOTTHEIM:

5 Q. And same question for Iatan 1, what
6 would be your answer?

7 A. The same.

8 Q. And respecting the schedule for Iatan 2,
9 once Iatan 2 was completed and in service, is it your
10 expectation that the in-service date for Iatan 2
11 would be the same, later or earlier than what the
12 reforecast presently shows as the in-service date for
13 Iatan 2?

14 A. The same.

15 Q. And the same question for Iatan 1.

16 A. The same.

17 MR. DOTTHEIM: I think we can go out of
18 in-camera.

19 (WHEREUPON, the in-camera portion of
20 Terry Foster's testimony was concluded.)

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1 JUDGE STEARLEY: We are in-camera. You
2 may proceed, Mr. Mills.

3 CROSS-EXAMINATION (CONTINUED) BY MR. MILLS:

4 Q. Mr. Foster, while we were in the public
5 session, I asked if you could identify some of the --
6 the significant changes between Exhibit 132 and the
7 risk and opportunity table, at least as it existed
8 last Friday. Can you go ahead and do that?

9 MR. ZOBRIST: I guess -- and this may
10 not be the right question to object to, it may be
11 Mr. Mills' next question, but I want to make a record
12 that I think, again, the purpose of the inquiry here
13 is not to go through line by line by line, but to
14 determine the effect of the reforecast and the Iatan
15 projects on the ability of GPE to acquire Aquila and
16 to the creditworthiness of KCPL.

17 MR. MILLS: Judge, I don't even know if
18 that's an objection, so I don't know --

19 MR. ZOBRIST: It is an objection --

20 MR. MILLS: -- if you want me to
21 respond.

22 MR. ZOBRIST: Pardon me. I'm sorry. I
23 apologize. I -- my statement is that it is -- is an
24 objection. It goes beyond the inquiry allowed by the
25 Commission, that we're beginning to get into, again,

1 prudence review; tell me what this number is compared
2 with that number as opposed to, say, what is the
3 totality of the numbers and how does that affect the
4 ability of GPE to acquire Aquila or what is its
5 effect on the creditworthiness of Kansas City Power &
6 Light Company.

7 JUDGE STEARLEY: Mr. Mills?

8 MR. MILLS: Well, let me respond in a
9 couple of ways. One, I don't -- I'm not sure this
10 witness is prepared to and I don't intend to go line
11 by line and number by number to try and figure out
12 the difference at this point. I may do that at some
13 point in the future, but that's not what this
14 question is.

15 And the question that I've asked is in
16 a -- in a relatively high level, what are some
17 significant differences that have driven the changes?
18 And I think this is in line with what Mr. Dottheim
19 has been responding to Mr. Zobrist's objections all
20 day long, and perhaps even longer than just today,
21 and that is that the question of how KCPL is managing
22 the Iatan 1 and Iatan 2 projects has some bearing on
23 their ability to take on the additional challenges of
24 trying to integrate the Aquila operations, and in
25 particular, the question of how reliable the

1 reforecast is, how reliable the old cost estimates
2 were, have a direct bearing on the kind of
3 information that was provided to the rating agencies.

4 And the -- the reliability and the
5 validity of the information provided to the rating
6 agencies has a direct bearing on the -- the guidance
7 and the advisory opinions that the rating industries
8 gave back.

9 One of the biggest concerns with this --
10 with this merger is that it may result in a
11 downgrade. We have sponsored exhibits from -- from
12 Standard & Poor's and Moody's that seem to indicate
13 that -- that they -- based on the information they
14 got, think that's unlikely.

15 I think it's -- it's critical that this
16 Commission reassure itself that the information on
17 which those letters are based is accurate, because if
18 it's not, then the likelihood of a downgrade is much
19 greater than KCPL and GPE would have you believe, and
20 if it does occur, the results would be disastrous.
21 So that's where I'm going with this.

22 JUDGE STEARLEY: All right. I'm going
23 to allow the general question you've started with.
24 If we start getting into more specifics, Mr. Zobrist,
25 you're certainly free to renew your objection.

1 BY MR. MILLS:

2 Q. Do you recall the question?

3 A. I do not.

4 Q. Okay. The -- the -- before we went
5 in-camera, you said that you could identify some of
6 the significant differences between the risk and
7 opportunity table as it's presented on Exhibit 132
8 and the way it exists last Friday. So if you can
9 just go through at a high level and describe some of
10 the significant differences.

11 A. Okay. One, with our major contractor --
12 I'm sorry -- one of our major contractors, Kiewit, if
13 you look at the information that's embodied here,
14 there's some issues around quantities. There was
15 some assumptions made, some data collected from
16 Kiewit that had quantities extremely high in this
17 particular document.

18 Through the reforecast effort to date,
19 you'll see that design maturation has not caused a
20 significant increase in quantities as we can
21 identify, so those numbers would be going down. Also
22 embodied in these numbers is a significant amount of
23 compression and resource stacking based on the Kiewit
24 schedule.

25 And what we found to date is to the

1 execution of the unit 1 schedule as it currently
2 exists and with the dates of 10/19 verse a 9/18 start
3 date, that we were able to eliminate some of that
4 compression; however, some of it still exists. But
5 the numbers change and the reasons for the numbers
6 change, so -- in some cases.

7 Q. And on that -- that last item, would
8 that affect unit 2 as well as unit 1 or --

9 A. That is correct.

10 Q. All right. More on unit 1 than unit 2
11 or equally?

12 A. As far as the de -- as far as the
13 decompression stacking of resources?

14 Q. Yes.

15 A. More on unit 2 than -- than unit 1.

16 Q. In terms of Exhibit 132, what -- what
17 types of items are -- are reflected -- or which are
18 the items here that deal with that compression?
19 Would -- would the bonuses, the potential bonuses be
20 part of that?

21 A. I -- I could not tell you that without
22 doing some detailed research and look into this
23 document to do that comparison. I could answer your
24 last question.

25 Q. Okay. Go ahead.

1 A. The bonuses -- the bonuses would not.

2 Q. Okay. Now, with respect to the risk and
3 opportunity table as it exists today or as it existed
4 last Friday, is there anything on -- on that that
5 identifies a person or a group of people who's
6 responsible for either the numbers or the percent
7 likelihood?

8 MR. ZOBRIST: Judge, I object to lack of
9 foundation. There's been no testimony about a risk
10 and opportunity table that was presented last Friday
11 to anyone. There's been testimony about a
12 reforecast, and maybe Mr. Mills just misspoke, but --

13 MR. MILLS: No, I did not misspeak.
14 Mr. Foster has testified that he believes that one
15 existed, that -- that it can be produced. It may not
16 have been produced in report form, but it existed and
17 it does underline the -- underlie the numbers that
18 were represented last Friday, and that's what I'm
19 talking about.

20 MR. ZOBRIST: Well, I -- I think what --
21 Mr. Mills has asked for us to try to produce one and
22 Mr. Foster has said he thought that could be done.
23 There's been no testimony about an R&O table that was
24 presented at any meeting last week. It was the
25 reforecast. And the record is going to show a

1 confusion of the two if we don't clarify it.

2 MR. MILLS: Well, I'm sorry if
3 Mr. Zobrist is confused. I don't believe the record
4 will be. What I'm talking about is -- there are
5 really two separate things. There's a table and
6 there's a report. The table is an ongoing
7 compilation of items that's occasionally printed out
8 in report form.

9 Mr. Foster has testified that there is
10 an updated report -- an updated table that underlies
11 the numbers that were presented to the EOC last
12 Friday. What -- I'm trying to find out whether or
13 not that updated table has identified within it who's
14 responsible for different parts of the table.

15 MR. ZOBRIST: Well, I'd -- I'd ask
16 Mr. Mills to ask Mr. Foster that question because
17 what I heard the witness say is that it was possible
18 to produce an R&O table. I have heard no testimony
19 for the last two days about an R&O table being
20 presented at any meeting last week. So I think
21 there's a lack of foundation, and that's what I'm
22 basing my objection upon, Judge.

23 MR. MILLS: Perhaps it would be better
24 if I just asked the question again.

25 JUDGE STEARLEY: Please do, Mr. Mills.

1 MR. MILLS: Okay.

2 BY MR. MILLS:

3 Q. And let me lead up to it a little bit.

4 Is there an updated R&O table?

5 A. Yes.

6 Q. Okay. Has it been printed or produced
7 as a report?

8 A. I don't believe so.

9 Q. Okay. Can it be?

10 A. I believe it can.

11 Q. Okay. Is there a table that exists or
12 existed as of Friday -- Friday that looks somewhat
13 similar to Exhibit 132 that underlies the numbers
14 that were presented to the EOC?

15 A. It could be produced.

16 Q. Okay. Is there data that can be
17 produced with it that would show a person or a group
18 of people that is responsible for the numbers and the
19 percent likelihoods for each of these -- each of
20 these rows?

21 A. Yes.

22 MR. MILLS: Okay. Thank you. And,
23 Judge, how -- in terms of requesting this as an
24 exhibit, do I need to do something formally to have
25 this produced?

1 MR. ZOBRIST: Mr. Mills, let me talk
2 with the company. This may not be a problem, it may
3 be a problem, but we're certainly willing to work
4 with you.

5 MR. MILLS: Okay.

6 JUDGE STEARLEY: Okay. And you can
7 certainly inform me if we run into any problems there
8 and some type of request needs to be filed.

9 MR. MILLS: Okay. And, Judge, I believe
10 that's all the questions I have.

11 JUDGE STEARLEY: All right. May we come
12 back to our public forum, come out of in-camera?

13 MR. MILLS: I believe Mr. Woodsmall is
14 next, and depending on his questions, you may want
15 to --

16 MR. WOODSMALL: We can. I'm going to be
17 very brief.

18 JUDGE STEARLEY: All right.

19 (WHEREUPON, the in-camera portion of
20 Terry Foster's testimony was concluded.)

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