STATE OF MISSOURI

PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

April 23, 2008
Jefferson City, Missouri
Volume 13

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

HAROLD STEARLEY, Presiding,
REGULATORY LAW JUDGE

CONNIE MURRAY,
ROBERT M. CLAYTON III,
COMMISSIONERS.

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P R O C E E D I N G S

(EXHIBIT NOS. 24, 25, 28 AND 29 WERE MARKED FOR IDENTIFICATION.)

JUDGE STEARLEY: Good morning. Today is Wednesday, April 23rd, 2008. We are back on the record in Case No. EM-2007-0374. A couple preliminary matters before we get started today. My usual caution on please shutting off all Blackberries, cell phones and electronic devices which may interfere with our recording of the web casting.

The witness list that I have for today is Spring, Van Dyne, Wright, Brubaker, Dittmer and Schallenberg, but I've been informed that cross, the parties have agreed to waive cross on Mr. Spring; is that correct?

MR. BLANC: Yes, that's my understanding, your Honor.

MR. CONRAD: That is correct. I will have objections to his testimony, but --

JUDGE STEARLEY: At the time whenever it's offered. At this point I'm unsure, the Commissioners may have some questions for Mr. Spring. So subject to them wanting to ask him any questions, there'll be no need to produce him.

MR. CONRAD: And then, Judge, I had sent

you an e-mail last afternoon about Brubaker. Did that get through?

JUDGE STEARLEY: I'm afraid I didn't receive that, Mr. Conrad.

MR. CONRAD: It hasn't bounced back, but it was harold.stearley dot -- or rather harold.stearley@mo.ps.gov. Anyway --

JUDGE STEARLEY: I should have received it, but -- well, it's not on the list generated --

MR. CONRAD: A lot of others did, so I know it went out. The thrust of it was that Mr. Fischer had indicated that he was willing to waive Mr. Brubaker, and so I have -- on the strength of that, I had advised Mr. Brubaker not to show up this morning. Now, if it's still your -- and not having heard anything from your Honor to the contrary, you know -- that's the danger of e-mails, I guess -- I had told him that.

Now, if you need to have him here, I can probably get him here yet this afternoon. I indicated in that we could have him for the Commissioners Thursday, Friday, and then he has a bad day on Monday, but Tuesday, if that -- you know, if the Commissioners wanted to talk to him.

JUDGE STEARLEY: We can get back to that at the end of the day, if he could appear tomorrow if the

Commissioners should have questions, and they may not.

MR. CONRAD: That would work.

COMMISSIONER CLAYTON: Judge, I'm going to have questions for Mr. Brubaker.

JUDGE STEARLEY: You will.

COMMISSIONER CLAYTON: Yeah. I mean, I don't want to --

MR. CONRAD: I'm sorry. I didn't -- we were going to have him here and all this went on.

COMMISSIONER CLAYTON: I don't want to cause him any inconvenience. I don't -- it really doesn't have to be today, but I'm -- I'm going to have questions.

MR. CONRAD: Would your pleasure be tomorrow or Friday or Tuesday?

COMMISSIONER CLAYTON: I'd say tomorrow, probably, or next week's fine, too.

JUDGE STEARLEY: Tomorrow might actually be a better day in light of the way our witness list is shaping up, if that is acceptable with Mr. Brubaker.

MR. CONRAD: I will so advise him and he can just schedule accordingly. I apologize for the confusion that it didn't come through.

JUDGE STEARLEY: As do I.

MR. CONRAD: I know it went out, because several people responded to it, said they didn't have --

they were confirming that they didn't have questions. I'll look at my address and see if I typed it right.

JUDGE STEARLEY: I can't always explain cyberspace.

MR. CONRAD: It's probably a Chinese hedge block. It's that Unix thing again.

JUDGE STEARLEY: With regard to the other witnesses that I named today, they are still on track for testimony today? All right. There was --

COMMISSIONER CLAYTON: I'll tell you what, Mr. Conrad, I'll talk to the Judge, if I -- I'll go through that material again, and if I change my mind, I know the Judge is going to have to deal with other Commissioners, so -- questions they may have, but I may change my mind, depending on -- but I'll let the Judge know and then he can let you know.

MR. CONRAD: Be assured we'll be happy to have him here. It's not an issue.

COMMISSIONER CLAYTON: I don't want to make him drive all the way to Jefferson City. It's a long way. I understand.

JUDGE STEARLEY: Commissioner Murray, now that you're with us, we were just discussing the appearance of Mr. Brubaker. Counsel tried to inform me yesterday, and I apparently did not get their communication, that the parties have agreed to waive cross, but he will be available to appear if the Commissioners should have questions for him. So if you could get back to me maybe by the end of the day and let me know, we can have him here tomorrow if need be.

COMMISSIONER MURRAY: I'll let you know by noon today. Thank you.

JUDGE STEARLEY: Thank you, Commissioner. One other preliminary matter, two others I wanted to bring up before we get started today. Going back over the pleadings of the case, I noticed, Mr. Conrad, we had an outstanding motion from you back in December, December 5, I believe, for a partial summary judgment that I don't believe we'd ever ruled on.

MR. CONRAD: I think that is correct.

JUDGE STEARLEY: I believe that was predicated at the time upon the existence of the proposed regulatory plan for additional amortizations.

MR. CONRAD: There was -- actually, there was an exchange of pleadings about that. I think there was some initial activity on it, and then, Mr. Mills may correct me, but there was a motion from his office to reconsider whatever the action was, and I'm struggling to remember it right now.

MR. MILLS: If I may, I think what happened was that when the hearings were recessed, Judge Dippell on her own motion essentially held that in abeyance, and I filed a motion for reconsideration saying I believe that's still a live issue and we needed to have resolution whether we go forward to hearings again or whether we continue with discussion, and I don't think either the underlying motion or either the motion for reconsideration was addressed. All right.

MR. CONRAD: Just for the Bench's --since you weren't in there before, before Chairman Davis recused, he had expressed interest in actually that motion, and it was essentially generated in response to that -- to that inquiry or his question that he put to us. So it was kind of puzzling to us that it was handled the way it was, but maybe that was due to his recusal.

In any event, I believe you are correct. I believe that still is there, and given the -- I don't have the -- obviously the transcript from Mr. Bassham's testimony on Monday, but I do recall that there was some ambiguity about that.

I certainly grant that the joint applicants appear to have in some aspects dropped that, but if you will remember those exhibits, there was some ambiguity about what their intentions were, and I -- perhaps Staff counsel can -- could speak to that issue, but I guess in a certain sense it is still out there. Here's Mr. Dottheim. I think that's his issue.

JUDGE STEARLEY: My understanding of Mr. Bassham's testimony was that may be a future issue, but it's not currently in this matter, and that's what I -- I would like to hear from the parties because if not, I want to know if this motion is now moot.

MR. FISCHER: Judge, that's certainly the joint applicants' position. We've taken the additional amortization request for approval in this case out of this case, and we're not asking for approval of that additional amortization for Aquila at this time at all.

COMMISSIONER CLAYTON: Can I ask him a question real quick?

JUDGE STEARLEY: Okay.

COMMISSIONER CLAYTON: I want to be clear on this as well, and I don't want to cut off Mr. Dottheim, but with that pending motion out there, there was some discussion about the motion for reconsideration. It would be helpful for the parties to let us know whether that needs to be ruled upon and the difference in that issue now that the joint applicants' thing has changed, because I was -- well, with the testimony that we've heard thus far, we don't have a request for specific finding in this case, but a potential deferral for a future case.

How would we address that motion on a deferred issue, if it's even possible to defer it? So I think we need guidance on how to address that issue, if it needs to be addressed at all.

MR. DOTTHEIM: From the Staff's perspective, on Monday the Staff had marked as exhibits, I believe it's Exhibit 122, a notice of ex parte contact which Chairman Davis had filed in the -- in the case, a letter I believe from Mr. Downey and Mr. Chesser which he received that went out to a great many individuals which had a chart that indicated that although the additional amortizations was removed from this case, the additional amortizations would be in the next Aquila rate case.

There was also marked as an exhibit, I believe it's Exhibit 123, a March 25 presentation that I believe Mr. Cline made in New York which also contains that chart, which indicates that, again, although from the joint applicants' perspective the additional amortization is removed from this case, it will be in the next Aquila rate case.

JUDGE STEARLEY: Excuse me, Mr. Dottheim. For purposes of this case and this particular motion for summary determination, we do not have a regulatory plan involving additional amortizations on the table for purpose of this summary determination.

MR. DOTTHEIM: Well, Judge, if I could finish?

JUDGE STEARLEY: By all means.

MR. DOTTHEIM: The Staff has been taking the position, not just on Monday, but in a number of pleadings that the Staff has been filing since the joint applicants have indicated that they -- that they were purportedly removing the additional amortizations from this case, but this chart and statements from the company were occurring that the additional amortization was definitely still going to appear as, from the Staff's perspective, part of the merger, but subsequently in the very next Aquila case the Staff was taking the position that under the Missouri Supreme Court decision in 2003, State ex rel Ag Processing v Public Service Commission, that this Commission was required to decide as part of this case the additional amortizations issue.

And so from the Staff's perspective, the Staff has been maintaining for some time in pleadings for this Commission that the additional amortizations is still very much part of this -- of this case, and the Staff on Monday had marked as Exhibit 124 a Moody's Investor Services letter to Mr. Cline of January 8th, I believe, and Exhibit 125, a Standard & Poor's letter of January 7th, I believe, to Mr. Cline, which both of those letters indicated, I believe, that the additional amortizations in the analysis of Standard & Poor's and Moody's was considered to be part of the merger as far as the analysis of Moody's and Standard & Poor's for creditworthiness.

So the Staff again, excuse me, maintains that the issue of the additional amortizations pursuant to the State ex rel Ag Processing, the Public Service Commission case, is before this Commission for determination.

JUDGE STEARLEY: Okay. I'm not sure I agree totally with your interpretation of Ag Processing. I'm trying to get to the issue on this particular motion. I want to know if this is still a live motion that you want a ruling on. I know where your position is, Mr. Fischer, on the motion.

MR. FISCHER: Yes. I would just add, too, Judge, that because it was held in abeyance, we were not ever given the opportunity really to file a written response, and if you did want to take it up, we would like that opportunity. We do have a different view of the AGP case given the facts on the amortization issue, and I think I explained some of that in the opening statement, but -- so that's -- our view is that it is moot, it wouldn't need to be addressed, and it could be take with this case for that matter.

JUDGE STEARLEY: Yes, Mr. Conrad?

MR. CONRAD: As the movant, I think we -- we find much of Mr. Dottheim's statement to agree with and much of Mr. Fischer's statement to disagree with, but that's not surprising. I do think, however, that Commissioner Clayton's suggestion perhaps has some merit, and it might be useful alternatively to have the company either submit their response and let us further respond to that or, as Commissioner Clayton has suggested, to clarify where that is in view of the change before -- I mean, that seems only fair. It's kind of been floating out there while -- while things underneath it changed. It's probably appropriate to take another look at that even from our perspective.

JUDGE STEARLEY: All right. Mr. Conrad, what I will instruct the parties to do is I will have you renew your motion based upon the current filings in this matter and your position, and Mr. Fischer, you'll be given ample opportunity to respond, and that can be taken then with the case.

All right. One other preliminary matter I wanted to address was KCPL's outstanding motion on limiting the scope of these proceedings. This motion was filed on the 17th, and we kind of touched around it a little bit the last couple days. I wanted to be sure the parties have ample enough time to respond to the motion if they did want to file written response, or if they want to be heard orally on it, but we also need to provide the parties with direction, I would think, hopefully by the end of this week so they can plan on witness availability as we proceed with the matter.

So I wanted to ask the parties, are any of the parties wanting a full ten days to respond to this motion, in which case I will take it up Monday? If not, my preference would to be take it up Friday so the parties all have clear direction by the end of this week, which witnesses we'll be bringing in next week.

MR. DOTTHEIM: Judge, I think that's very wise to do because the way the hearings are moving along, I don't believe that the rest of the hearing, considering the way things are moving, are going to prevent those deponents from appearing schedule-wise, that is number of days that remain, so that we should be able -- if the Commission were to decide to hear Issues 10 and 11, we should be able to start that, I would think, early next week for a -- so a decision would be helpful for scheduling purposes.

MR. FISCHER: Your plan makes a lot of sense to me, too, Judge.

JUDGE STEARLEY: If there's no objections, then I'm going to limit the response time 'til Friday morning at 8 a.m. to this motion if any party wants to file a written response. We can take the motion up and we can hear responses orally on Friday as well if a party would prefer not to file a pleading. Are there any objections to sticking with that schedule?

MR. CONRAD: No.

MR. MILLS: Judge, I don't have any objection. I think there is some chance that we may get through all the witnesses up to that point before Friday, but --

JUDGE STEARLEY: Okay. Well, if that's the case, if there's no objection, we can pick it up at the end of the day Thursday. But I just want to make sure the parties feel they have ample time to respond and no one's going to object to that schedule. All right. We'll plan on that. We'll see how things play out with the witnesses for the rest of this week.

Are there any other preliminary matters we need to address before calling witnesses this morning?

(No response.)

JUDGE STEARLEY: Well, hearing none, you may call your first witness.

MR. STEINER: Great Plains Energy/KCPL calls Paul Van Dyne.

(Witness sworn.)

JUDGE STEARLEY: You may proceed.

PAUL VAN DYNE testified as follows:

DIRECT EXAMINATION BY MR. STEINER:

Q. Mr. Van Dyne, did you cause to be filed your supplemental direct testimony which has been premarked as Exhibit 28 in this case?

A. Yes, I did.

Q. Do you have any corrections to that testimony?

A. No, I do not.

MR. STEINER: Your Honor, I would tender Mr. Van Dyne for cross and questions from the Bench.

JUDGE STEARLEY: Very well. Cross-examination, IBEW Locals?

MS. WILLIAMS: Yes, your Honor, we have some questions.

COMMISSIONER STEARLEY: Proceed, Ms. Williams.

CROSS-EXAMINATION BY MS. WILLIAMS:

Q. Good morning, Mr. Van Dyne.

A. Good morning.

Q. My name is Jane Williams, and I represent all five of the local IBEWs who are intervenors in this case.

A. Uh-huh.

Q. I'd like to start by directing your attention to Exhibit 28, which is your supplemental direct testimony in this case. Do you have that in front of you?

A. Yes, I do.

Q. Great. If you would look at page 2, please.

A. Yes.

Q. Lines 14 and 15, and I would like you to read the first sentence of your response to the question, what is the general strategy for integrating the Aquila benefits with the KCPL benefits?

A. The general strategy will be to provide benefits to existing Aquila employees through the KCPL benefit plans.

Q. Thank you. Do the employees referenced in that statement include both Aquila management and current Aquila bargaining unit members?

A. Clearly it includes the management employees, but while that may be our strategy, the collective bargaining process with the bargaining unit employees will determine the extent which that strategy gets implemented.

Q. I might ask you to clarify, then, if the strategy were not to include the bargaining unit employees, as you have stated that they would be -- I don't want to misquote you, providing benefits through the KCP&L benefit plans, what would you see as an alternative to that?

A. That as a result of the bargaining process, that a benefit plan would be maintained specific for the bargaining unit employees. We currently have, for instance, a joint trusteed health and welfare plan which provides benefits exclusively to the bargaining employees.

Q. KCP&L?

A. Yes.

Q. Sorry. The KCP&L bargaining unit employees?

A. Yes.

Q. I apologize for interrupting you. Okay. Reading on from where we stopped on line 15, your testimony continues by stating the implementation of this strategy with respect to bargaining unit participants in the various benefit plans is contingent upon successful completions of negotiations with those units. Did I read that correctly?

A. Yes, you did.

Q. And that's what you were referring to previously?

A. Correct.

Q. It's my understanding from testimony previously presented by Mr. Bassham or Mr. Giles -- I apologize, I can't remember -- that immediately following the proposed merger, Aquila will have no employees, and that all former Aquila bargaining unit members will be employees of KCP&L. Do you agree with that statement?

A. As far as I know, the Aquila entity may or may not have employees, if that's what was stated, and the intention. While I worked with the benefits, I can't specifically say they will or will not be employees in the Aquila legal entity.

Q. Okay. So you -- either yes, no or I don't know, and I assume --

A. I don't know.

Q. -- that would be an I don't know. Thank you.

That statement, you state that the implementation of the strategy suggested there in your testimony is contingent upon successful completion of negotiations with those units. In this context, how do you define successful?

A. That there would be an agreement reached with the parties with respect to the matters of collective bargaining either individually or collectively through some sort of implement.

Q. So it is not, then, within your definition of successful that they would necessarily go along with the strategy being that the Aquila benefits would be integrated with KCP&L benefits?

A. That is a possible outcome of the collective bargaining process.

Q. But not the only definition of successful?

A. Correct.

Q. Okay. Thank you. In the next portion of your testimony on page 2, beginning on line 20, in response to a question regarding the structure of the KCP&L benefit plans into which the Aquila employees will be integrated. Do you see where I am?

A. Yes.

Q. You respond that -- I'm going to paraphrase a little bit -- that the programs can be grouped into three general categories, programs that affect only the management employees, those that affect only the bargaining unit employees, and those that affect both management and bargaining unit employees; is that correct?

A. Correct.

Q. And you go on to say that the Aquila employees will be placed into the appropriate KCPL benefit plan based on the employee's status as a management or a bargaining unit employee. Did I paraphrase that --

A. Correct.
Q. -- adequately?
Are any of the current Aquila bargaining unit employees slated to become management employees following the closing?
A. I do not know.
Q. Is it safe, then, to read your testimony to mean that the current Aquila bargaining unit members will be placed into the KCPL benefit plan for bargaining unit participants as opposed to being placed into the KCPL benefit plan for management employees?
A. That would be determined by the collective bargaining process.
Q. As far as your strategy goes, though, we're just discussing --
A. Generally from the strategy, yes, that would be the case.
Q. Okay. Are you aware of any discussions that have taken place with current union representatives of either KCP&L or Aquila local IBEWs where the possibility of certain Aquila bargaining unit members are being asked to accept placement in the KCP&L benefit plan for management employees?
A. I'm aware that discussions have gone on. I'm not aware that there have been discussions about

specifically any particular participants coming into the management plan, with the potential exception of the merger of the Aquila pension plan potentially into the management pension plan for KCP&L. However, that's not a firm decision.

Q. I want to be sure I understood you correctly. You were talking about the bargaining unit pension plan?

A. No. I was talking -- Aquila has a single plan that covers both management and bargaining unit employees, and separating that pension plan into two pieces is somewhat problematic. As a result, it would either stay as a standalone or anticipation is frozen plan, or it would be merged into one of the two existing KCP&L pension plans.

Q. I see. So the discussion might be that the Aquila plan, which includes both management and bargaining unit participants, could be merged into one or the other of KCP&L's current pension plans? And I think you're talking about the defined benefit, are you not?

A. Yes, the defined benefit plan is what we're talking about, yes.

Q. So was my statement correct, that because it's difficult to split, it could go into the management plan or into the bargaining unit plan that's currently at

KCP&L?

A. It could go into either of those plans, yes. However, there would be several issues around that. There are trustees of both of those plans. Those trustees would have to agree. It would have to be permitted by the IRS regulations. There are several things that determine where it as a practical matter can go.

Q. Is it fair to say that some of the benefits provided under the KCP&L defined benefit plan for bargaining unit participants are more comprehensive than some of the benefits provided under the KCP&L management benefit plan?

A. They are -- there are some slight differences in the benefits. As a practical matter, I think they would be viewed as somewhat comparable. There may be some differences, for instance, in ages on reduced retirement and those sorts of things, but I would not say one is more comprehensive than the other.

Q. Thank you. Would you please turn to the portion of your testimony on page 3, beginning on line 3, where the question is asked, what are the key management benefit programs that are to be integrated? Do you see that?

A. Yes, I do.

Q. If you will just follow along with me through the questions, the questions only that follow that one.

A. Right.

Q. If you follow down and you'll see what is the anticipated effect on the management retirement programs, and down on line 12, what is the anticipated effect on the management medical and dental programs, going on down to line 17, the question is what is the anticipated effect on the other management insurance programs, and at the very bottom, what is the anticipated effect on the management paid time off programs? And then on the next page, on page 4, finally what is the anticipated effect on Aquila retirees who are currently receiving benefits from Aquila plans? Do you see all of those questions?

A. Yes, I do.

Q. And the next question asked in your prefiled testimony, which is on line 15 on that page, says, what are the key union programs that are to be integrated? Do you see where I am?

A. Yes I do.

Q. Kind of flew through that. However, no follow-up questions regarding the anticipated effect on the Aquila union programs to be integrated are asked. Why is that?

A. That is because all of that would be subject to the collective bargaining process, and we can't anticipate what would be the outcome of a collective bargaining process until it's completed.

Q. Given your strategy, however, that you stated in the beginning, would it not be prudent to allow the Commission and the people involved here to know what that strategy would look like and how that would affect the bargaining unit plans?

A. I think we've stated the strategy, but because with the management there have been decisions that have been made, I can speak to those directly, which I did with the management, because the collective bargaining process will determine the ultimate outcome, I would view trying to say anything more specific as purely speculation on my part about what might come about.

Q. Okay. I'm going to ask you to bear with me as we talk about if your strategy went a certain direction, what the effects might be.

A. Okay.

Q. I'd like you to look down on that same page on page 4 at line 21.

A. Yes.

Q. Where it says, KCPL intends to pursue negotiations that will result in the integration of the

Aquila employees currently represented by IBEW 695 and 814 into KCP&L's three existing bargaining units. Do you see that?

A. Yes, I do.

Q. I'm a little confused about how that answers the question, what are the key union programs that are to be integrated? Can you explain that? I see that as rather unresponsive to how the key union programs are to be integrated.

A. I think that was just stating that was the company's intent in terms of trying to pursue negotiations, to kind of clarify that process would be what determines the actual outcome.

Q. Are you suggesting, then, that integrating the current Aquila bargaining unit members into the KCP&L benefit programs is somehow dependent on the Aquila participants being integrated into the KCP&L bargaining units?

A. No. I would not be intending that it would happen that way.

Q. So it's still possible that the Aquila bargaining unit participants in the benefit plans could become a part of KCP&L benefit plans even if the five unions are not merged into three; is that my understanding?

A. That could happen if that was the outcome of the collective bargaining process.

Q. Okay. In that paragraph, the same paragraph at the bottom of line -- or I'm sorry, at the bottom of page 4, it continues by saying, as announced from the outset, KCP&L recognizes and is committed to working with the IBEW as the representing organization for the currently covered Aquila employees and looks forward to working collaboratively with them as well as with the existing KCPL bargaining units towards a positive negotiated outcome. Did I read that correctly?

A. Yes, you did.

Q. In that context, how do you define a positive negotiated outcome with regard to the benefit plan integration?

A. An outcome that would result in the Aquila employees being in benefit programs generally like the KCP&L programs, if not in the KCP&L programs, so that they could be easily administered, easily understood by the employees.

Q. So the two factors you just mentioned that would prove success in that context would be ease of administration and ease of understanding of the participants? Did I restate that correctly?

A. Those are clearly some of the key things that we would be looking at. You know, of course the company has stated that it would prefer to reach an outcome of the negotiations where our three collective bargaining agreements are kind of the remaining bargaining agreements with which we look at that. So obviously that is something we are interested in and would be a favorable outcome, we believe. However, there are other outcomes that could be viewed as successful outcomes.

Q. So your statement positive negotiated outcome does not necessarily exclude the possibility of all five bargaining units remaining autonomous and solvent; is that correct?

A. That's correct.

Q. It could still be a positive outcome in that context?

A. Yes.

Q. Okay. Thanks. I just wanted to make sure we were on the same page.

A. With -- with -- and very specifically with respect to the benefits.

Q. Of course.

A. Other operational issues others would have to address.

Q. Of course. Thank you. Okay. Let's talk specifically about the defined benefit pension plan if we could.

A. Yes.

Q. What is your understanding of what will happen or what are the options of what will happen to the current defined benefit plan administered by Aquila, which as you mentioned previously has both management and bargaining unit participants, if the merger is approved?

A. Unless an outcome from the negotiations would be otherwise, we would expect that that plan would become a frozen pension plan so that all benefits accrued for time with Aquila would be frozen in that plan, that that plan would then ultimately be merged into one of the KCPL plans. We believe the management plan may be a more appropriate place to merge that, and that then, upon retirement, individuals would receive that frozen Aquila benefit plan under the rules of its payments, and then subsequent benefits under the rules of the payments for the KCP&L plans.

Q. Okay. Thank you. Along with that being frozen, will there be -- would you anticipate that there would be any interest earnings applied to the plan post freezing?

A. On the management side, the company has stated that it would intend to increase the amount of the frozen Aquila plan at a rate of 4 percent per year of service that the employee has with GPE. So that if the individual had an additional ten years of service with us, we would take ten times 4 percent, or 40 percent, and that frozen Aquila benefit would be increased by that amount.

Q. And I want to be very clear about what you mean by from the management perspective, and I may be misquoting you.

A. Sure.

Q. Are you talking about if all of the bargaining unit and management employees from Aquila, if their defined benefits plan were totally merged into the KCPL management plan, that all of those participants would be receiving that 4 percent per year?

A. We view that 4 percent per year strictly for the management employees, not the collective bargaining employees, that that 4 percent would be one of the subjects of the collective bargaining process.

Q. So it's not your testimony that it's off the table. It's simply your testimony that, based on the collective bargaining process, it may or may not be a part of the deal for the bargaining unit employees?

A. Correct.

Q. Are you aware of any discussions that it would not be offered in the collective bargaining process, that 4 percent would not be offered in the bargaining process?

A. I have heard no discussions that it would be not part of the collective bargaining process or that it is something that would not be offered.

Q. Okay. Thank you. So let's talk about the distribution. You talked about that just for a moment.

A. Right.

Q. I believe that you said, and again, please tell me if I'm misquoting you, that the frozen benefits at the -- at the time of retirement along with the benefits that had been earned under whatever KCPL defined benefits program the participants were in would be distributed per the rules of payment --

A. Yes.

Q. -- I think is the term you used for each individual plan?

A. For each individual component, yes.

Q. And what happens if the rules, which they are, are different, how do you intend to resolve that? And let me give you an example, if I might. I believe it's my understanding that the current KCP&L plan for bargaining unit members allows for retirement at age 57 with 30 years of service.

A. Correct.

Q. Is that -- is my understanding correct?

A. Correct.
Q. And that the current Aquila plan doesn't allow for retirement until age 62.
A. Correct.
Q. So how do you anticipate the benefits being provided under those two plans?
A. Unless some other outcome is negotiated, what would happen is when the employee actually retires, we would look at their age and service under the -- let's go on the assumption that someone went at exactly age 57. Under the Aquila plan, its rules would say we take that frozen benefit and we then apply an early retirement reduction factor back to age 57.
So that frozen Aquila benefit would have an early retirement reduction factor back to age 57. The KCPL portion of the benefit if service were at 57, 57/30 would not have an early retirement reduction factor applied to it. The sum of those two, the reduced plus the unreduced would be the total retirement annuity if they took it as an annuity payment stream.
Q. Thank you. I appreciate that explanation. Does that explanation hold true also if the Aquila plan were to effectively merge into the KCP&L plan?
A. Yes. There are IRS regulations that require that under the Aquila plan we preserve benefit

payment options that were available to the Aquila employees at the time at which that plan is frozen.

Q. Okay. How about the lump sum opportunity that's afforded under KCP&L -- under KCP&L's current defined benefit plan for bargaining unit participants? It's my understanding they can accept a lump sum payment as opposed to the annuity payments?

A. Correct.

Q. And I'm not certain if that's also how that works in the Aquila plan. Are you by chance?

A. Okay. There are very limited options for the lump sum payment in the Aquila plan. There are certain participants who have a benefit as of 19 -- December 31st, 1988, and they may take that benefit as a lump sum. The balance of the benefits under the Aquila plan is taken in some form of an annuity. There are alternative forms, but it's an annuity.

It's anticipated that those same rules would apply to the frozen Aquila benefit. So while the individual might be able to elect a lump sum benefit for the KCPL portion, they would be receiving a lump sum if they are eligible for a lump sum under the frozen Aquila, and the balance of the frozen Aquila would be available to them in some form of an annuity.

Q. Okay. Thank you. I've been going under the assumption that KCPL will be affording the current Aquila members all of the years of service for Aquila.

A. We have -- again, this is while this is subject to collective bargaining. We have said for the management employees we intend to recognize that service for all purposes except the actual formula in the benefit plan, and obviously that if the bargaining process were to come up with a different conclusion, then we would follow that different conclusion that came out of the bargaining process.

Q. But that crediting of years is certainly on the table for bargaining?

A. Yes, it's on the table, and clearly I think management's intention is clear, because we've said that for the nonbargaining unit employees, this is what we will be doing.

Q. And again, this would not be something dependent upon the integration of the five bargaining units, current IBEW units into three; is that correct?

A. It would be dependant upon us reaching an agreement with the unions, the locals, that would say this is how we're going to handle the Aquila service. As the bargaining agreements exist today, the bargaining agreements would not permit the recognition of this service, so obviously through the negotiating process, something will have to change for that service to be recognized.

Q. Would you agree, however, that the bargaining process could include bargaining with all five of those local IBEWs?

A. Absolutely.

Q. Okay. Thank you. What do you project as the treatment under the integration of plans for those current Aquila employees who are not yet vested in their defined benefit plan?

A. At the point in time where the benefit becomes frozen, those individuals, it would be our expectation that under the IRS rules, the service with Aquila would be added to the service with GPE for vesting. There are specific IRS rules on how that happens that I am not aware of ways to change that through the collective bargaining process, so it would be simply if they have two with Aquila, once they have three with GPE, that would be done, and that is per IRS regulations rather than collective bargaining.

Q. I see. What about the difference in the multipliers for these plans? It's my understanding that Aquila's defined benefit multiplier is 1.2 and that KCP&L's is 1.8. Is that your understanding as well?

A. It's -- those are rounded numbers. KCPL's is 1.67 and Aquila's, actually there's a two step formula in it, but if you take it, that's a rough difference, yes.

Q. How do you intend to resolve that issue?

A. Well, the frozen Aquila benefit would be calculated under the Aquila formula. Whatever is in the KCPL plan going forward, that accrual rate or percentage would be used for future benefits.

Q. So can you envision any circumstances under which the current KCP&L multiplier would be reduced because the Aquila employees -- because of the Aquila employees integration in these plans?

A. The trustees of that plan have control for that. One of the things that was done last year with the management plan was that we offered employees a choice of a new defined benefit formula with an increased 401K match, and existing employees got to choose between those two. If the trustees of the KCPL bargaining unit plan were to come up with a program like that or any other program, it is the trustees of that plan who determine the formula and how that formula gets applied to any prospective benefit.

Q. So I guess a fair question would be, have you been involved in or do you have any information on any discussions about reducing KCPL's current multiplier?

A. We have had discussions with the three business agents from KCPL where we have talked about what we did with the management plan. We've talked about some things we see on the horizon, where it may be appropriate for the trustees of that plan to look at some changes in it. There's been a major pension law change that we have to implement.

So there have been some what I would call very informal discussions about that, trying to explain what we did and point out some of the issues that the plan will be facing in the future.

Q. And is one of those issues that the plan will be facing being able to fund the retirement benefits for this increased work force?

A. Clearly the funding level of the plans is important. However, on a prospective basis, there will be requirements about how the company has to fund it from an IRS perspective and clearly from a regulatory perspective. The Commission here will -- has the potential to affect how that happens also.

Q. So is your answer yes, that that is one of the challenges?

A. Yes, that is one of the challenges.

Q. Okay. Thank you. Let's talk about integration of the 401K plans, if we could.

A. Yes.

Q. Do the eligibility requirements for distribution of the 401K benefits for KCP&L mirror the requirements for Aquila's 401K distribution?
A. Generally, yes, if we're talking about a benefit at termination of employment or if we're talking about retirement benefit. If we're taking about certain in-service withdrawals, there are slight differences with respect to those withdrawals.
Q. What are those differences in the in-service withdrawals?
A. In the in-service withdrawal, the KCP&L plan has a provision that once you reach age 59 and a half, you may withdraw some of your funds without having to terminate employment. Those provisions are not in the Aquila plan to the best of my knowledge. There are slight differences in the hardship withdrawal provisions in the two plans, so that if there's a financial hardship, what I would call slight differences there.
Q. And as far as at the time of termination, you said they pretty well mirror one another?
A. Yes.
Q. Is the age requirement the same as far as what we were talking about before, the 57 and 62?
A. The age requirement would be much less there because there's no such thing as an early retirement

reduction. When an employee terminates, they are -- to the extent they're vested in their benefit, they are allowed to take 100 percent of that out at that point in time. So there is no age restriction, there is no reduction factor.

Q. Currently I believe Aquila's 401K plan calls for up to a 6 percent company match?

A. Yes, a 100 percent match of what the employee puts in up to 6 percent paid.

Q. But KCP&L's plan calls for a 3 percent company match if the 6 percent is invested by the employee; is that correct?

A. For the collectively bargained employees, yes, that is correct. For the management, as part of the new management plan, a new management employee's match is 100 percent of the first 6. For those management employees who elected to stay in the old benefit structure it is the 50 cents on the -- of the dollar for the first 6 percent.

Q. So how within your strategy do you expect to resolve that difference if the Aquila employees become KCPL plan benefit participants?

A. The Aquila employees are currently 100 percent vested in their 401K benefit. If the 401K plans are merged from Aquila into KCP&L, that Aquila account would become an account within the KCP&L 401K that's 100 percent vested. They would then be able to receive that money at the time of termination. They in essence would be handled as kind of two separate different accounts. Prospective accounts with the prospective match, the prospective employee money goes into one set of accounts. The frozen Aquila money would stay in a separate set of accounts.

Q. I may not have been specific with my question. In your strategy is it anticipated that still only 50 cents on the dollar will be provided even though the current benefits that the Aquila employees are enjoying includes 100 percent on the dollar of 6 percent?

A. Unless there would be something as part of the collective bargaining process that would lead to some other discussion, it's our intention that the benefits, if they are integrated into the KCP&L retirement plan and 401K, that the appropriate benefits for them in those plans would continue, which would mean the 50 cent match would continue.

Q. So -- and I don't have the joint application in front of me, however -- the joint applicants' application in front of me; however, I believe that it states that at the time of closing, that the benefits would remain the same as they are currently for those Aquila bargaining unit employees until and unless a new contract is negotiated. Am I misstating that? Are you aware of that?

A. That if there are collective -- if the collective bargaining agreements are not modified in any way, then my assumption is, yes, they would keep those exact same benefits.

Q. Which would include the 100 percent up to 6 percent until and unless a new negotiation occurred?

A. Yes.

Q. Okay. Thank you. How about the medical and dental benefits? And this will be brief. Does the coverage offered under the KCP&L medical and dental benefit programs mirror pretty closely the Aquila plans?

A. Our plans are very similar, yes, and particularly for the collective bargaining agreement where it's part of the national IBEW plan.

Q. And are both medical and dental plans part of the national IBEW plan?

A. Yes. For the collective bargaining employees, yes.

Q. Okay. Thank you. Do the premium costs that are required for the KCP&L participants mirror the premium costs for the Aquila participants in the medical and dental plan?

A. The premium costs are different. In the Aquila plan, the premiums are stated as a percentage that the employee pays. In our collective bargaining agreements, there is a fixed dollar amount that is contributed toward the cost of those premiums and the employee pays the excess. There are certain options within our plan where the amount the company contributes fully pays for that premium. There is no way under the Aquila plan where that would be fully paid.

Q. So as of closing, does KCP&L intend to maintain the premium cost for the Aquila employees until negotiations occur?

A. That would be our intent, unless there's otherwise changed in the collective bargaining process.

Q. But prior to negotiating with the Aquila bargaining units --

A. Yes.

Q. -- everything would remain the same?

A. We have -- we have -- you know, obviously under those agreements we would.

Q. And does KCP&L intend to honor the current Aquila paid time off programs until negotiations are completed?

A. Yes. To the extent they're covered in the collective bargaining agreements, yes.

Q. And does KCPL intend to give credit for paid time off accrued prior to the closing, to those Aquila employees?

A. That would be subject to whatever the ongoing agreement is, if there is no change in the existing agreements, of course. If there is, and at full integration, then whatever would come out of negotiations would be followed.

Q. I just want to be clear. In your response are you suggesting that full integration of the five bargaining units into three would de -- let me rephrase that.

That giving credit for paid time off accrued by the Aquila employees, is that dependant upon the full integration of the five bargaining units into three?

A. No, it is not dependant upon that. However, it would take changes in the existing agreements -- to the extent employees come under different agreements, it would take changes in those agreements to give them credit.

Q. And I assume you're saying, then, that that is also an option is to make changes to those agreements as opposed to the full integration of the five units?

A. Yes.

Q. Thank you. Okay. One last question, hopefully it will be. If full integration of the locals were to take place --
A. Yes.
Q. -- as is the intention of KCP&L to attempt to bargain --
A. Right.
Q. -- in that direction, and should this merger be approved, we talked briefly about the funding --
A. Yes.
Q. -- issues. We didn't talk about it at length. However, there will be funding issues with regard to the pension --
A. Yes.
Q. -- benefits? Funding of the 401K programs, we briefly discussed. Providing health benefits to all of the current employees as well as the possibility, which is, I assume, not your bailiwick, but the salaries that may or may not change based on that full integration, most likely would. Have those funding issues been factored into the synergy effects of merging these bargaining unit employees into all the KCPL employees?
A. For the benefits synergies, I can't speak to any of the synergies other than within the benefit plans. But within the benefit plans, yes, those have been

factored into the synergy calculations that have been presented.

Q. Can you point me to or tell me where in the testimony that's reflected, where in the charts, where in the synergies that that funding issue is reflected?

A. No, I cannot. I have not seen what the full and final charts were that were presented.

Q. Do you know who could?

A. I am not sure exactly who could provide that off the top of my head.

Q. So you don't know who could provide that or --

A. I -- I --

Q. -- where specifically it's reflected in the synergies?

A. No, I don't.

MS. WILLIAMS: Okay. Thank you very much for your time.

THE WITNESS: Sure.

JUDGE STEARLEY: Thank you, Ms. Williams. Cross-examination, Dogwood Energy? Joint Municipals? City of Kansas City? City of St. Joseph? City of Lee's Summit? City of Independence? Cass County? South Harper residents?

And I will take this opportunity to remind the parties that while they may elect to appear on the days that we're having witness testimony or not, if they do not appear while a witness is giving testimony, it will have been considered to have waived any examination of that witness.

And moving on then, cross-examination, Ag Processing?

MR. CONRAD: Thank you, your Honor, but we do not have questions for this witness at this time.

JUDGE STEARLEY: Thank you, Mr. Conrad. Public Counsel?

MR. MILLS: No questions.

JUDGE STEARLEY: Staff?

MR. THOMPSON: No questions. Thank you, Judge.

JUDGE STEARLEY: Questions from the Bench? Commissioner Murray?

QUESTIONS BY COMMISSIONER MURRAY:

Q. I just have a couple of questions, just to clarify something that I don't understand at all. The five bargaining units that have been referred to are all IBEW units; is that correct?

A. That's correct.

Q. So does each unit represent a different classification of workers?

A. If I look at the KCP&L side, we have our locals divided kind of by process, so all of our plant personnel in the generation are in one bargaining agreement. Our linemen and distribution transmission folks are in one, and our clerical and support are in one. So there are three.

On the Aquila side, there are two, and each of those two represents a geography, so Local 695 represents all bargaining employees within that geography. They would have generation, transmission, distribution, other support people within one local. So there really is kind of a different strategy in how the bargaining groups have been formed and set up between the two companies, and this is why we talk about integration, because there are -- there are kind of different total approaches in how those agreements are structured.

Q. Well, do those units compete with one another in terms of being able to represent workers?

A. On the KCP&L side, no. It's clearly defined in those bargaining agreements which it is. In the Aquila plant, it's the same, it's by the geography. The issue would come if we get to put the organizations together through the merger, you would have perchance if we -- as Mr. Herdegen will talk about that, how the operational piece would go, you could potentially have issues of under which bargaining agreement should which work be done.

Q. All right. Thank you.

A. Sure.

JUDGE STEARLEY: Okay, Commissioner. Commissioner Clayton?

COMMISSIONER CLAYTON: No questions. Thank you.

JUDGE STEARLEY: Any recross based on questions from the Bench?

(No response.)

JUDGE STEARLEY: Any redirect?

MR. BLANC: No, your Honor.

JUDGE STEARLEY: All right. Thank you for your testimony, Mr. Van Dyne. You may be excused at this time. However, I will not finally excuse you just in case the Commissioners should have additional questions for you prior to the end of the hearing.

THE WITNESS: Thank you.

JUDGE STEARLEY: Thank you very much.

MR. BLANC: And Judge, I'd like to offer Mr. Van Dyne's testimony into evidence.

JUDGE STEARLEY: I believe that's Exhibit No. 28. Any objections to Exhibit No. 28?

MR. CONRAD: Yes, briefly, your Honor.

Again, as we were doing yesterday, these -- these statements of Mr. Van Dyne as supplemental direct Exhibit 28 are found on page 7 of our November 28th Motion in Limine. They're very -- they are very brief. They're encompassing page 2, line 9, through page 5, line 10. That's it. But they are stated and put before you in the form of objection on the same basis as stated in the Motions in Limine as well as my verbal supplementation of that through the day yesterday.

JUDGE STEARLEY: Thank you, Mr. Conrad. And we understand the basis of the objection, and consistent with our prior rulings, they will be overruled. Are there any other objections to the admission of Exhibit No. 28?

(No response.)

JUDGE STEARLEY: Hearing none, it shall be received and admitted into evidence.

(EXHIBIT NO. 28 WAS RECEIVED INTO EVIDENCE.)

JUDGE STEARLEY: And Mr. Conrad, just so you know, I received your e-mail at 9:07 this morning.

MR. CONRAD: Judge, I think you got the resent, because I resent it.

JUDGE STEARLEY: All right. Thank you. I appreciate that.

MR. CONRAD: I apologize for any confusion that I caused.

JUDGE STEARLEY: That sometimes just happens in cyberspace. And Great Plains/KCPL may call their next witness.

MR. STEINER: Call Lori Wright.

(Witness sworn.)

JUDGE STEARLEY: You may be seated, and you may proceed.

LORI WRIGHT testified as follows:

DIRECT EXAMINATION BY MR. STEINER:

Q. Ms. Wright, did you cause to be filed your direct testimony in this case, which has been premarked as Exhibit 29?

A. Yes, I did.

Q. Do you have any changes or corrections to this testimony?

A. No, I do not.

MR. STEINER: Your Honor, I would tender this witness for cross-examination and questions from the Bench.

JUDGE STEARLEY: Cross-examination, IBEW Locals?

MS. WILLIAMS: The unions have nothing, your Honor.

JUDGE STEARLEY: All right. Ag Processing?

MR. CONRAD: No questions, your Honor.

JUDGE STEARLEY: Office of the Public Counsel?

MR. MILLS: No questions.

JUDGE STEARLEY: Staff of the Missouri Public Service?

MS. KLIETHERMES: No questions.

JUDGE STEARLEY: Commissioner Clayton, any questions for this witness?

COMMISSIONER CLAYTON: No questions. Thank you.

JUDGE STEARLEY: Commissioner Murray, any questions for Ms. Wright?

COMMISSIONER MURRAY: Just one moment, Judge.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Ms. Wright?

A. Yes.

Q. Good morning.

A. Good morning.

Q. When you were calculating the synergy savings, you used a base year of 2006; is that correct?

A. That's correct, a base year of 2006 was used.

Q. Did you account for any normal changes in expenses that would have occurred without -- absent the merger?

A. When we calculated the synergy savings that were put into the testimony or estimate of synergy savings, at that point in time the comparison was made of what the anticipated cost post day one would be based on budgeted -- the budget subsequent to day one versus what those actual costs were for 2006.

Q. For 2006?

A. Uh-huh.

Q. All right. So you didn't include any potential changes either positive or negative that would have occurred absent the merger?

A. No, we did not. However, as we worked through our process to calculate what the -- what the process will be to determine what the actual synergy savings are, that is an aspect that we are including in our synergy process, changes that would have taken place irrespective of whether the organizations would have had this transaction take place.

Q. All right. Thank you.

A. You're welcome.

JUDGE STEARLEY: Any recross-examination based on questions from the Bench?

MR. CONRAD: No.

JUDGE STEARLEY: Hearing none, redirect?

MR. STEINER: None, your Honor.

JUDGE STEARLEY: Thank you, Mr. Steiner. Thank you, Ms. Wright. Your testimony has been brief. We appreciate you coming today. As I have done with all the other witnesses, you are excused now, but you will not be finally excused just in case the Commission should have additional questions for you.

THE WITNESS: Thank you.

JUDGE STEARLEY: Mr. Steiner, is this Ms. Wright's only appearance for testimony?

MR. STEINER: No, your Honor.

JUDGE STEARLEY: So you will not be offering her testimony at this time?

MR. STEINER: That's right.

JUDGE STEARLEY: You may call your next witness.

MR. STEINER: I believe that's it for KCPL.

JUDGE STEARLEY: That's it for KCPL. Going to be moving to Public Counsel.

MR. MILLS: I think we're up to Mr. Dittmer at this point.

JUDGE STEARLEY: Why don't we pause and take about a ten-minute break before we start with

Mr. Dittmer. And prior to counsel going on break, there was one other matter I neglected to bring up at the start of the hearing. I did want to come back to -- Dogwood Energy had offered the admission of several exhibits on Monday and was wanting to know if the parties wanted to cross-examine those respective witnesses, and I wanted to see if the parties had reached any conclusions on that.

MR. CONRAD: I think your Honor is correct. I think I was the holdout on that. I have indicated to the representatives for Dogwood and I also responded to an e-mail, which you may not have gotten, that -- from counsel, I believe, for City of Independence in Washington, that we did not have cross for either Dogwood's witnesses or City of Independence' witnesses, I believe Mr. Mahlberg and Volpe, and I don't -- it may have been Mr. Janssen who's the Dogwood witness.

JUDGE STEARLEY: Janssen and also testimony offered on behalf of the Joint Municipals from Mr. Grotzinger?

MR. CONRAD: We had also -- I keep forgetting Mr. Grotzinger, but we did not have cross for him either on those issues. I have also confirmed with counsel for KCP&L that we do not have questions, and I believe it's Mr. Spring, we will not have questions for Mr. Spring on that. We will have objections to, as has been the pattern, to portions of his testimony. So at the time that his testimony is offered, we'll have to be a little bit noisy, but other than that, there's no reason, I think, unless the Commission has questions, for those folks to appear.

JUDGE STEARLEY: All right. Very good. And if that's the case, I do want to take up the offering. I believe Exhibit 700, 800, 1300 and 1305 were offered on Monday. Am I missing any?

MR. CONRAD: Those are the Dogwood and Independence and MJMEUC?

JUDGE STEARLEY: Yes

MR. CONRAD: And except to the limited extent, Judge, that anything therein has to do with this synergy issue, that's kind of under the standing objection, we would have no objections to their receipt.

JUDGE STEARLEY: Are there any other objections to the admissions of Exhibit No. 700, 800, 1300 and 1305?

(No response.)

JUDGE STEARLEY: Hearing none, then they shall be received. And Mr. Conrad, subject to your objection, if it applies again, it will be overruled.

(EXHIBIT NOS. 700, 800, 1300 and 1305 WERE RECEIVED INTO EVIDENCE.)

JUDGE STEARLEY: Thank you all very much, and we will now -- Mr. Blanc.

MR. BLANC: Your Honor, since that confirms Mr. Spring will not be scheduled to testify unless the Commission has questions for him, I would like to offer his testimony at this point as well. That would be Exhibits 24 and 25.

JUDGE STEARLEY: And that would be on his day of testimony for next Monday or Tuesday, am I looking at the schedule --

MR. BLANC: He was scheduled to appear twice, today and then next week, but I believe Mr. Conrad has now confirmed that none of the parties will have cross-examination for him and we were not intending to present him.

JUDGE STEARLEY: Let me check with the Commissioners on that to see if they would have any examination for him, and hopefully by the end of today or tomorrow we'll be able to let you know.

MR. BLANC: Thank you, your Honor.

JUDGE STEARLEY: Thank you, Mr. Blanc. And with that, we'll go ahead and take a ten-minute recess.

(A BREAK WAS TAKEN.)

JUDGE STEARLEY: Prior to picking up with your witness, Mr. Mills, Commissioner Clayton, I believe, had a question of clarification in determining whether or not he was going to have some questions for Mr. Brubaker.

COMMISSIONER CLAYTON: Mr. Conrad, can I just ask you a few questions? I went back and reviewed my notes --

MR. CONRAD: I swear. Okay. Go ahead.

COMMISSIONER CLAYTON: I went back and reviewed my notes on the testimony of Mr. Brubaker, and he didn't file a supplemental -- any supplemental report or testimony following his original testimony in October. So his information hasn't been updated; is that correct?

MR. CONRAD: That is correct.

COMMISSIONER CLAYTON: And the issues that he addressed in his testimony it appears may be off -- or are off the table associated with interest costs and --

MR. CONRAD: To that extent, yes, but there are other issues that are not.

COMMISSIONER CLAYTON: Well, and I think he addressed the transaction and transition -- original -- the transaction and transition costs, the original proposal, which is slightly different now as well?

MR. CONRAD: It is -- the proposal is slightly different. I'm not sure that his conclusion is altered by that. So that if you were going to question -- that would probably be -- probably be an area to get some clarification from him. I may be anticipating your question. I'm sorry if I'm doing that.

COMMISSIONER CLAYTON: Well, in that case, I'm not going to let him off the hook, then.

MR. CONRAD: Okay. That's fine.

COMMISSIONER CLAYTON: I'm trying to accommodate schedules here, and gas prices are high, and I don't want to cause him hardship to come down here.

MR. CONRAD: Well, he runs on ethanol that way. Well, that said, I'm trying to arrange him to come in Thursday afternoon, early in the afternoon. How would that --

JUDGE STEARLEY: Yeah. We'll-- before conclusion of the day, we'll kind of piece together who we have left to testify and we'll figure out an appropriate time that's convenient for him.

MR. CONRAD: Super. Thank you.

JUDGE STEARLEY: All right. Mr. Mills?

MR. MILLS: I'd like to call Jim Dittmer, please.

(Witness sworn.)

JUDGE STEARLEY: Thank you. You may be seated and Mr. Mills, you may proceed.

(EXHIBIT NOS. 200NP AND 200HC WERE MARKED FOR IDENTIFICATION BY THE REPORTER.)

JAMES R. DITTMER testified as follows:
DIRECT EXAMINATION BY MR. MILLS:
Q. Could you state your name for the record, please.
A. James R. Dittmer.
Q. And by whom are you employed and in what capacity?
A. The firm that I'm working for is Utilitech Inc. Utilitech, Inc in turn was engaged in this proceeding to work for the Office of the Public Counsel.
Q. And did you cause to be filed rebuttal testimony in this case on or about October 12th, 2007?
A. I did.
Q. And are the answers contained therein true and correct to the best of your knowledge and belief?
A. With the errata sheet that I hopefully gave you.
Q. Yes. And that brings about my next question. Do you have copies of the NP version and the HC version of your errata sheets?
A. I do.
MR. MILLS: And Judge, as we discussed off the record, I'd like to mark that as a separate exhibit.
JUDGE STEARLEY: Yes. And I believe for you, you'd be at Exhibit No. 305.

MR. MILLS: 208, I believe.

JUDGE STEARLEY: I'm sorry. That's correct. 208.

(EXHIBIT NO. 208 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. MILLS:

Q. And Mr. Dittmer, with the corrections that are shown on the errata sheets that have been marked as 208NP and 208HC, are the answers therein correct?

A. Yes.

MR. MILLS: With that, your Honor, I will offer Exhibit 200, both in the NP and the HC version, and Exhibit 208, both in the NP and the HC version, and tender the witness for cross-examination.

JUDGE STEARLEY: All right. Are there any objections to the admission of Exhibits No. 200 and 208?

MR. CONRAD: None, other than --

JUDGE STEARLEY: Hearing none, it shall be received and admitted into evidence.

(EXHIBIT NOS. 200NP, 200HC, 208NP AND 208HC WAS RECEIVED INTO EVIDENCE.)

JUDGE STEARLEY: And we will start with cross-examination with Staff.

MR. THOMPSON: No questions for this witness. Thank you, Judge.

JUDGE STEARLEY: Ag Processing?
MR. CONRAD: We have no questions for Mr. Dittmer.
JUDGE STEARLEY: IBEW Locals?
MS. WILLIAMS: We have no questions.
JUDGE STEARLEY: Black Hills?
MR. DeFORD: No questions. Thank you.
JUDGE STEARLEY: Aquila?
MS. PARSONS: No questions.
JUDGE STEARLEY: And Great Plains/KCPL?
MR. FISCHER: Thank you very much, Judge.
CROSS-EXAMINATION BY MR. FISCHER:
Q. Good morning, Mr. Dittmer. As you know, I'm Jim Fischer and I'm working with Great Plains Energy and Kansas City Power & Light in this case. I've got a few questions I'd like to address to you regarding your testimony.
As I understand your role in the case, you were hired by Public Counsel to respond to the joint application of Great Plains, Kansas City Power & Light and Aquila in this matter, right?
A. Yes, to review and respond to it, yes.
Q. And you and Mr. Dittmer (sic) are the witnesses that will present the position of the Public Counsel in this case?

A. I'm sorry. Am I the witness?
Q. You and Mr. Trippensee. I'm sorry.
A. Yes. Yes.
Q. In KCPL's last two rate cases, if I recall, you were representing the Department of -- the U.S. Department of Energy and the federal agencies; is that correct?
A. That is correct.
Q. Is it your understanding that the Federal Energy Regulatory Commission has approved the transaction that's in front of the Commission today?
A. I believe I've read that all approvals except for this Commission have occurred.
Q. Let's turn first to page 47 of your testimony there at the top of the page. On lines 1 through 4 you indicate that with adjoining service territories, GPE/KCPL's acquisition of Aquila's Missouri electric properties should be expected to generate real and fairly significant synergy savings. It would be beneficial if those savings were actually achieved and passed on to Missouri retail ratepayers; is that correct?
A. That's correct.
Q. Is it correct to conclude from your statement that you believed since KCP&L and Aquila have adjoining service territories, there would be real and

fairly significant synergy savings from a joint operation of those service territories?

A. I believe that's exactly what I said.

Q. Okay. Good. And is it your understanding of the joint applicants' revised regulatory plan that all merger synergies would be considered in rate cases and passed through to consumers?

A. The testimony reads that way. I'm not sure exactly what they're saying. They also want to recover the five-year amortization of transaction and transition costs, and I'm not sure if that's contingent upon showing the synergy savings are realized. I assume it is, but then you still have the issues of can you really prove it up one way or the other.

Q. Yeah. I don't think you were here when Mr. Bassham addressed that issue earlier in the proceedings, but I think you're generally correct that there is a true-up process being proposed to look at that issue.

Later on on page 47 at about lines 4 through 10, you indicate that, further, Public Counsel would welcome a scenario under which Missouri ratepayers would no longer be exposed to subsidizing Aquila's failed unregulated business operations. Therefore, if a deal could be had with terms that would not expose Missouri ratepayers to detriments, Public Counsel would welcome such a transaction wherein GPE/KCPL would acquire Aquila's Missouri electric properties. Did I read that right?

A. Yes.

Q. And then in the next sentence you're asked, are you or Public Counsel conceptually opposed to the transaction going through with appropriate conditions imposed that would protect ratepayers from detriment -- from detriment envisioned to result from the merger; is that right?

A. Yes.

Q. Would it be correct, then, and when you answer the next question, that neither I nor Public Counsel are conceptually opposed to the proposition of this Commission simply ordering conditions that would protect ratepayers from probable detriment stemming from the transaction? You're not conceptually opposed to the Commission approving it with appropriate conditions; is that right?

A. Again, I believe that's exactly what I say there.

Q. Okay. Now, I believe you also indicate in your testimony that Public Counsel sees some benefits to ratepayers if they are no longer exposed to subsidizing Aquila's unregulated business operations; is that correct?

A. Well, I think I said exposed to subsidizing. I don't have knowledge if they are at the moment subsidizing.

Q. Okay. But there would be benefits if they were no longer exposed to subsidizing Aquila's unregulated business operations?

A. That's what I stated, yes.

Q. And I believe you also indicate, don't you, that Public Counsel believes it would be desirable for GPE/KCPL to maintain their investment grade rating?

A. Yes, absolutely.

Q. Would it be correct to conclude that you believe it would be desirable for Aquila to return to an investment grade rating under appropriate circumstances?

A. Desirable if it can be achieved without charging the ratepayers for, for instance, failed business operations, yes. As a general proposition, you want your utilities to be investment grade but not at any cost.

Q. Under appropriate circumstances, correct?

A. Under fair and reasonable rates, yes, which I define to mean excluding the high cost debt and anything else that might be unacceptable.

Q. Have you had the opportunity to read the direct testimony, the supplemental direct that was filed on February 25th by the joint applicants where they laid

out their modified regulatory plan proposal?
A. I have, yes.
Q. Okay. And that would include, I think, their withdrawal of the original treatment of the actual cost of Aquila debt; is that correct?
A. That is correct, yes.
Q. And the request for an additional amortization provision for Aquila in future rate cases?
A. Well, my understanding is that they withdrew it as a condition of approval of this case, but they very much intend to come right back and ask for it in the next rate case.
Q. They've indicated they would like to visit with the Public Counsel and other interested parties about that kind of a provision in a regulatory plan; is that your understanding?
A. Well, they definitely said that they would like to visit, but they've also -- my understanding is they've basically represented to the rating agencies that it would occur.
Q. And they've also dropped, have they not, the proposal to share 50/50 the synergy savings with -- between shareholders and customers; is that your understanding?
A. They've dropped an explicit requirement for

50/50 savings, yes, that's correct.

Q. And then finally they've also dropped the request for the recovery of about $16.7 million in severance costs related to the Aquila senior executives; is that your understanding?

A. Yes, part of the transaction costs are off the table.

Q. Mr. Dittmer, is it your understanding that the joint applicants' are now seeking the deferral and amortization of about $65 million of transaction costs on a total company basis?

A. Sounds about right. I don't recall from memory exactly. That sounds in the ballpark.

Q. If you just assume that for purposes of these questions, that would probably be helpful. And there -- when we look at it on a Missouri jurisdictional basis, those transaction costs are approximately 47 million; is that your understanding?

A. I would accept that subject to check.

Q. Okay. Have you read the testimony of Michael Cline for the applicants in which he concluded that a combination of the reduction of Great Plains Energy's business risk that would result from the Aquila acquisition ant the projected credit matrix would result from Great Plains and Aquila being investment grade rated at -- within a short period after the closing?

A. I have read that testimony, but again, I think it's based on some -- the feedback from the rating agency, which that -- those calculations, those opinions were based on some assumptions that have not been agreed to in this case or in Kansas.

Q. Okay. Would it be desirable from Public Counsel's standpoint if Aquila could again achieve an investment grade rating under appropriate circumstances?

A. The key words being under appropriate circumstances, without charging the ratepayers, get them back on their shoulders alone.

Q. So would it also be desirable from Public Counsel's perspective if Great Plains and KCPL could continue to be investment grade rated after the transaction closed?

A. Sure, yes.

Q. So having both KCPL and Aquila at investment grade would be viewed as beneficial to the ratepayers from your perspective under these appropriate circumstances?

A. Under appropriate circumstances, yes.

Q. Now, let's turn to page 20 of your testimony, down at about line 16 you say that before considering transaction costs, it appears the purchase price will likely approximate Aquila's net depreciated original cost and assets; is that right?

A. That's what I stated there, yes.

Q. And then later on that page at about line 21 it looks like you say that even after considering the transaction costs associated with the merger, the true price being paid for Aquila's Missouri assets would appear to be in the range of reasonableness; is that correct?

A. That is correctly stated.

Q. As I understand your testimony there, you believe the purchase price agreed to in this case would appear to be in the range of reasonableness?

A. Well, you have to read what I said after that. It is close to book value, and if you stop right there and put your blinders on, then you would say, yeah, it looks pretty reasonable. It's the added lug of the high cost debt that made what otherwise appears to be a reasonable price somewhat unreasonable.

Q. And that's been withdrawn, is your understanding, correct, from the company's revised proposal?

A. That has been withdrawn, but we're still exposed to the risk. The company still has to pay it even though they aren't directly asking for the ratepayers to pay for it. Presumably they're paying for it through

synergy savings, which are again suspect.
Q. Let me ask you this. Is it correct that at the time you wrote this testimony the joint applicants had not reduced the amount of the transaction costs that they were seeking related to the $16.7 million of severance cost associated with Aquila's senior executives?
A. That would be correct, yes.
Q. Okay. Let's talk a little bit about synergy savings. Is it your understanding that the company's witnesses have estimated synergy savings of approximately 305 million during the first five years?
A. That's correct.
Q. And if we look at it on a ten-year basis, the company's witnesses have supported a synergy savings amount of 755 million, is that what your understanding -- is that your understanding of their position?
A. Yes.
Q. Did you have the opportunity to read the supplemental direct testimony of Mr. Bassham where he discussed the revised proposal of the companies?
A. Are you talking about the February filing now, that supplement?
Q. Yes, I am.
A. Yes, I've read all three witnesses.
Q. And there again, he confirmed that at that

time, over a ten-year period, synergies are expected by the joint applicants to be 755 million and 305 million when looked at on a five-year basis?

A. Those are expectations on his part. There's absolutely no guarantees, but those are his stated expectations.

Q. As I understand your testimony, the Office of the Public Counsel did not have the resources to do its own complete bottom-up analysis of the expected synergies in this case; is that right?

A. Yes.

Q. Let's turn to page 12 for a minute of your testimony. There at the top of that page you've got a table I'd like to visit with you about. There's a couple of highly confidential numbers that I don't want to necessarily get into. There on that page you've included a table that analyzes the net cost to ratepayers for the first five years following the merger if the original applicant's rate plan was approved. Is that what that table was designed to show?

A. Yes, it is.

Q. Now, that table, which was based upon the original regulatory plan, does not reflect the revised regulatory plan that was filed on February 25; would that be correct?

A. That is correct.
Q. When you filed this testimony, the joint applicants were including a request to recover the incremental actual costs of debt in excess of the regulatory interest costs that were currently being collected in Aquila's rates; is that right?
A. That is correct.
Q. And now that the joint applicants have withdrawn their request for the incremental actual cost of debt, I'd like to ask if we merely eliminated that figure, the incremental actual cost of debt, which is shown on that page, it is a highly confidential number, but if we eliminated that single number, wouldn't that single change to the table result in a positive number for the benefit of consumers during the first five years?
A. I would agree the math works that way, but again, it takes full faith and belief in the top number shown.
Q. I understand. But the bottom line would be positive at that point if we just did the math?
A. The math works, yes, to a positive number.
Q. Now, your table also includes a $95.2 million figure for transaction costs; is that correct?
A. Yes.

Q. These transaction costs were again based upon the joint applicants' original request for recovery of transaction costs; is that right?
A. That is correct, yes.
Q. Now, if we substituted the revised transaction cost of 65 million for that $95 million number, would it be correct that that would also increase the bottom line net benefits for ratepayers if we do the math?
A. That's the way the math would work, yes.
Q. Okay. Now let's turn to, let's see, your schedule JRD-1. Are you there?
A. I am.
Q. It's my understanding that this is designed to discuss the enabled savings issue that you've raised in your testimony, quantify some of the points; is that correct?
A. It identified some what I would consider to be clearly identifiable enabled savings as opposed to others that are in the all other category.
Q. Let's look at that first item that's listed there. The first item listed is the fact that the joint applicants intended to install an automated meter reading system on a portion -- or on Aquila's metropolitan service territory similar to the one that's already in existence

for KCPL. Is that what that relates to?
A. Yes.
Q. Is it your understanding that KCPL has been utilizing automatic meter reading for a number of years?
A. I don't know the number of years, but certainly they're using it at this point.
Q. And Aquila does not have that AMR system at this point?
A. That's my understanding.
Q. Did you request any Data Requests from Aquila on the level of experience or expertise that Aquila existing personnel would have to implement AMR systems?
A. I don't know, but I don't recall.
Q. Is it your understanding from the joint applicants' testimony that if the proposed transaction is approved, this would allow KCPL and Aquila to work together to implement an AMR system on the Aquila system?
A. That's their stated intentions, yes.
Q. Okay. Another item listed there on your schedule is a $13 million item listed toward the bottom of the schedule where the joint applicants intend to implement KCPL's energy efficiency programs for Aquila electric customers. Do you see that?
A. Yes.
Q. Okay. Again, did you inquire of Aquila

whether there were any existing personnel that have substantial amounts of experience with the implementation of energy efficiency programs?

A. I don't recall. I probably didn't. It's not really relevant to the point that I'm making. It could be done. Whether they are or not, I'm not certain.

Q. Are you aware by chance that KCPL's been awarded an EEI award for energy efficiency programs?

A. I know they had an EEI award. I don't know if it was strictly for energy efficiencies or other things.

Q. Yeah, they have had a number of awards. There are three items listed that --

MR. MILLS: Judge --

MR. FISCHER: I'll move to withdraw that.

MR. MILLS: Thank you.

MR. FISCHER: I couldn't help myself.

MR. CONRAD: Let's not move to withdraw. Let's move to strike that.

JUDGE STEARLEY: I assumed that was going to be to strike.

MR. MILLS: That's why I interrupted.

MR. FISCHER: I'll withdraw it.

JUDGE STEARLEY: They're withdrawn. I don't have to strike it.

BY MR. FISCHER:

Q. There are also listed three items related to improvements at Aquila's Sibley units on your list; is that right?

A. Yes. Well, I guess -- certainly Sibley's mentioned twice, and I think there's a -- third mention is also the Sibley plant also.

Q. I believe you participated in some Aquila rate cases in the past; is that true?

A. I have, yes.

Q. Are you aware that there have been some challenges at Sibley and -- on operations and outage management over the years?

A. I didn't work on those issues. I'm not -- I don't have knowledge to agree or disagree because my focus was usually pretty limited when I worked in recent years on those cases.

Q. I understand. In this case, did you inquire of Aquila whether any of their existing personnel have experience or expertise to implement KCPL's boiler tube failure reduction and cycle chemistry program at Sibley?

A. I don't recall asking that. I doubt that I would have again because, again, it wouldn't be relevant to the point I'm trying to make here.

Q. Did you inquire of Aquila whether any of their existing personnel have the experience or expertise to utilize KCPL's combustion expertise in outage management experience?
A. That would be the same answer.
Q. Okay. And did you inquire of Aquila whether any of their existing personnel have the experience or expertise to utilize KCPL's techniques for improving fuel blending and combustion tuning?
A. Same answer, I don't recall and probably did not ask specifically.
Q. Okay. Now, there's also an item listed for $13 million related to enabled synergies related to KCPL's expectation that it would be able to utilize Aquila's substantial experience, skills in electrical properties and processes of the customer service area. Do you see that one?
A. I should have numbered these.
Q. It was 13 million down toward the bottom.
A. Third from the bottom, is that the one you're talking about?
Q. Yes.
A. Rate revenue realization?
Q. Yes.
A. Okay. And the question is?

Q. Well, I was just really referring you to that one. You've included a $13 million item on that as an enabled savings related to customer service on those items, correct?
A. Yes. Your question sounded slightly different than the verbiage right there, but understood.
Q. Did you by chance read John Marshall's supplemental direct where he talked about KCPL had recognized experience and success of Aquila in the customer service area and hoped to implement some of their programs in that regard?
A. I had certainly read all of the supplemental direct at one point in time or another, yes.
Q. Is it your understanding that KCPL hopes to improve processes at KCPL using Aquila's experiences in customer service where it would be helpful?
A. I agree that's their stated intention.
Q. And is it your understanding that KCPL will be hiring Aquila's customer service operation expert Jim Albers to lead KCPL and Aquila's customer service operations after the transaction closes?
A. I don't recall that specifically.
Q. Okay. Let's assume for a minute that that's in the testimony. Would you expect someone to come over from KCPL or to be able to give his expertise to the

KCPL customer service operations if the transaction was not approved and he remained at Aquila?

A. Perhaps not that individual, but, I mean, we now have public records of what can be done. I would be -- I think Aquila or KCPL would be remiss not to look at where the management consultants have found supposed areas for improvement and go forward now. The question is why they didn't do it sooner. We don't know the answer to that, but clearly they should move forward on their own, maybe not with those specific individuals crossing from the two companies.

Q. I think, Mr. Dittmer, you've answered the question there, but on page 14 of your testimony, I believe you have a footnote that reduces the synergies by this 59 million of enabled synergies; is that correct?

A. Yes.

Q. Under the joint applicants' revised regulatory plan, the joint applicants are proposing to pass through synergy savings to consumers in the traditional ratemaking process. Is that your understanding?

A. Why -- I think -- that's my understanding. They're not going to try and withdraw, so to speak, some of the synergy savings from the cost of service development.

Q. Would you agree that if all merger synergy savings are passed through to consumers in rate cases, it really wouldn't matter to consumers whether those savings are characterized as created or enabled?

A. Okay. They don't -- the ratepayers wouldn't care if it was enabled or created, but I mean --

Q. I think --

A. -- you still have to -- they have to be real. They have to be realized --

Q. Certainly.

A. -- which is something we're not certain of at this point in time.

Q. But any real savings, whether they're created or enabled, would be -- assuming they're passed through to the ratepayers in rate cases, the ratepayers are indifferent to what you call it, right?

A. And assuming they didn't have to pay transaction and transition and incremental interest costs that exceeded those savings identified --

Q. Okay.

A. -- in either bucket.

Q. Let's look at that issue a little bit. On your Footnote 4 on page 14, for starters let's assume that the company's claimed synergy savings level of 305 million are reduced by that $59 million of enabled savings which you suggested there. Your table would indicate that that would reduce the savings to the created level of 246 million; is that right?

A. That's where the math works. Make sure it's clearly identified enabled. There's more enabled savings in that 246. I couldn't split it out.

Q. Okay. Well, now, let's assume that instead of the 95 million of transaction costs that were included in your table there, that we substitute the revised proposal of 65 million for transaction costs that are currently being requested by the joint applicants. Will you make that assumption?

A. I will.

Q. And is it your understanding that there's some severance costs that were reclassified by the joint applicants that changes the transition cost number?

A. Yes.

Q. Would you assume for me that the revised transition costs requested by the applicants is 59 million on a total company basis? Can you make that assumption?

A. Okay.

Q. If we make those two assumptions, then there would be a total of 65 million of transaction costs and 59 million of transition costs totaling 124 million on a total company basis; is that correct?

A. Yes.

Q. Now, even if we reduce the savings by your 59 million for enabled savings, the total created savings in your Footnote 4 of 246 million would still exceed the total transaction and transition costs of 124 million, would you agree?

A. The math works that way, yes.

Q. And if my arithmetic is correct, there would still be 122 million of created savings above the total transaction and transition costs as that table would indicate?

A. Your math works the same as mine, yes.

Q. Okay. Good. It doesn't always, but I appreciate it when it does.

As I believe you've indicated, too, as long as the synergy savings are passed through to consumers, consumers are indifferent to what we call it, right?

A. If they're passed through and exceed the other costs that you're proposing to include in the cost of service, which those transaction, transition and perhaps amortization expense down the road.

Q. If we did not include -- or did not reduce, excuse me, the total synergy savings of the 305 million that you have listed there by that 59 million of enabled savings, that number would be higher than the total transaction and transition costs of 124 million; is that correct?

A. Are you simple saying the 122 would be a bigger number?

Q. Yes.

A. I would agree with that.

Q. Okay. Now, I believe you've also indicated the company witnesses have projected synergy savings over a ten-year period of 755 million; is that right?

A. That's right.

Q. Now, if we compare the total transaction and transition costs of 124 million to that ten-year synergy saving figure of 755 million, would you agree the total savings would be substantially higher than the total transaction and transition costs just looking at that math?

A. The math works to a bigger number, yes.

MR. FISCHER: That's all I have. Thank you very much.

JUDGE STEARLEY: Thank you, Mr. Fischer. Any other party I missed for cross-examination?

(No response.)

JUDGE STEARLEY: None. Questions from the Bench, Commissioner Murray?

COMMISSIONER MURRAY: Thank you.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Good morning, Mr. Dittmer.

A. Good morning.

Q. On page 49 of your testimony, would you take a look?

A. I am there.

Q. You indicate on line 2 that KCP&L is charging its Missouri retail customers an amount above that which can be justified employing a traditional approach to cost of service development to avoid an investment rating downgrade. Is that -- did I read that correctly?

A. You did, yes.

Q. Now, that is no longer the case, is it?

A. Yes, it is. I'm talking about the regulatory amortization there.

Q. Which they're not asking for in this?

A. They're already getting it. This statement is historical. They are already asking for and receiving -- have received and are pretty much guaranteed to receive continuing regulatory amortization.

Q. Okay. All right. I'm sorry. I misunderstood what you were saying there. Now I understand. You're saying that in relation to the KCP&L amortization that is current. All right.

A. Correct.
Q. And so you're claiming that is not justified to the ratepayers?
A. No, no. I didn't -- no, that isn't what I said at all. All I'm saying is, the Commission and the parties actually agreed to, most of the parties in the room, not in this room, in another room, agreed to this regulatory amortization.
We are paying above traditional cost of service rates just to keep the credit rating acceptable, and now we are exposing that credit rating to a downgrade through this purchase through the other costs -- if the company is not allowed to recover all the costs that they were asking for in this case or in the next rate case where they do ask for regulatory amortization on the Aquila side.
Q. All right. So when you say it cannot be justified under -- employing a traditional approach, you're saying that it was justified because it was other than a traditional approach, but all the parties agreed that it was justified under the circumstances; is that correct?
A. Yes. I didn't actually weigh in on that decision one way or the other, but I accept that the parties who signed the stipulation agreed that it was an

acceptable way to go to keep the rating, the ratings of KCPL acceptable, investment grade in other words.

Q. All right. Now, the revised plan that has been submitted, do you think that the revised plan will result in a downgrade to KCP&L?

A. I can't state that with certainty. What I can state is that the calculations and assumptions that the rating agencies used to give the opinion letter to Great Plains that there would not be a downgrading are not in total sync with what they're proposing in this case or what they've agreed to in Kansas.

And I also state that it assumes that all of the synergies that they've projected are absolutely correct and will occur, and if they don't occur, then they are exposed to a downgrade. I cannot state that they will or won't, but they are definitely more exposed with those parameters.

Q. All right. Now, if Aquila -- if the merger does not take place and Aquila remains below investment grade and the utility struggles financially, is that a detriment to Aquila's ratepayers?

A. Not necessarily. I mean, you've -- the Commission -- well, the company, Aquila has come forward and not asked for recovery of the high cost interest that's really associated with its unregulated operations.

And the other thing that can occur, if this merger doesn't go through, is there may be another merger, another acquisition and they get the price right this time. It could be lower, so that it recognizes the high cost interest that is really the stumbling block in this transaction going through from my perspective.

Q. But by the company not asking for or receiving recovery for the high cost interest, if that -- and I realize that's not what we're looking at here, but if that would, in fact, put Aquila in a financial strain, would that not -- could that not result in a detriment to the Aquila customers?

A. I apologize. I didn't quite understand the whole question. I know it was long one, and I hate to ask you to repeat it.

Q. I'm probably not phrasing it very artfully. When a utility is struggling financially, is that a potential detriment to ratepayers?

A. Yes. I mean, it causes their borrowing costs to potentially go up, which if that borrowing cost is passed to the cost of service, that would be a detriment to ratepayers.

Q. Take that out of the equation and say that borrowing costs are not passed on to the ratepayers. If that's the case, then the utility itself struggles even more financially, does it not?

A. Yes. They've got a bigger hole to crawl out of, yes, I would agree.

Q. And is that not a potential detriment to its customers?

A. Well, I'm not sure what happens if you go the full length of the field, so to speak. I mean, if they cannot get out and they have to -- I mean, if the Commission does what I think it should, which is not allow the recovery of costs that really are attributable to failed operations, and they simply cannot pull their way out and they go into bankruptcy, which some people have said Aquila might and should, I'm not sure what happens under that scenario, but basically the debt holders would have to take a bigger pounding than they have already.

In other words, I don't know. You're going into some unknown land from my professional experience. I don't know exactly what happens in that scenario. But the flip side is, and I want to encourage you to keep, you know, and not passing on the cost of the failed operations of Aquila.

Q. In this particular merger application, do you think the Commission should consider the potential impact on all of the ratepayers, both Aquila's and KCPL's, in looking at whether or not there is a detriment or benefit to the ratepayers?

A. It's probably a legal question, but I think the answer would be they have to look at the detriments to each set of ratepayers, I mean, cumulatively but individually also. I mean, it could -- I suppose a deal could be structured that it would be not detrimental to one set but detrimental to the other set. Should you go forward? I would think not at that point.

Q. Now, what potential detriments do you see under the revised plan? Would you please enumerate them?

A. Well, the single biggest is a downgrade if the company does not experience the synergies that they predict and, therefore, you do not allow recovery of -- well, you're already not allowing recovery of the high cost interest debt on the Aquila side, and if you -- because they don't prove up their synergy savings, there has to be a disallowance of the transaction or transition costs, and at that point, the financial matrix that they predict will not be realized, and then you are exposed to the downgrade, and then you're potentially in a bit of a death spiral.

Q. Any others?

A. It would be just an amplification on the credit risk problems. The models, the assumptions that support a continued investment grade rating have, I won't say utopia, but they assume no problems, no write downs or findings of imprudence at any of the major construction projects that are going on at KCPL.

If you don't have these other costs, namely interest, transaction and transition costs, there could be a cushion -- a cushion for a needed disallowance from the Commission on the recovery of -- a disallowance of cost overruns on construction projects. That would go away or goes away to a greater extent. So that, again, it comes back to the credit ratings at this point, proving up synergy savings and what it exposes the company to, and then ultimately to the ratepayers.

Q. Is it ever possible in advance to prove up synergy savings?

A. I think there's a sliding scale. I think some synergy savings have a lot more firmness than others. So I don't have an exact answer, but I think some of the synergy savings, there probably would be little dispute from most parties. They might disagree on the exact amount of even the so-called firm synergy savings, but then there -- as you move out, there will be more and more assumptions and more and more disputes on what is a true synergy savings.

Q. Okay. Would you look at JRD-1.

A. Okay.

Q. That is your schedule that you and Mr. Fischer were speaking about earlier, is it not?

A. It is.

Q. And your claim, I believe, on this schedule is that all of these claimed synergies could be achieved absent the merger; is that correct?

A. That's it exactly. Yes, at least these, yes.

Q. Do you think the financial viability or the financial health of a company makes a difference in whether it's able to implement programs such as these?

A. You'd have to probably look at them item by item. Certainly the items that are not capital intensive would have no impact. I mean, those are just process changes. You would hope that they would implement them because they'd get an immediate payback. They'd make money for their rate -- for their shareholders for a while and then eventually save their ratepayers some money.

It's possible that some of the capital intensive programs, a utility under financial stress may defer or postpone those for a while.

Q. And which ones would those be?

A. I have -- I would -- I haven't looked at these, the underlying work papers for seven months, but I would expect most of the production facilities would require some investment to make -- to find the efficiencies that they're predicting.

Q. And that would include the automated meter reading, would it not?

A. That would be one also. I would agree with that, yes. Some of these savings are almost fairly immediate. So you get -- the company gets an almost immediate payback. So it shouldn't be a big detriment on those or a big inhibition to going forward on those.

Q. But you have to be able to spend money first, do you not?

A. On many of these, you do, yes.

Q. When you wrote your testimony that was back in October of 2007, you indicated on page 48 that you could not envision a scenario wherein enough conditions would be imposed that would adequately protect ratepayers from the detriment resulting from this merger.

Now, considering the detriments that you see from the revised plan and, as I interpret what you've said, all centering around a potential downgrade of KCP&L if the synergies aren't realized, can you envision conditions which would protect from those potential detriments?

A. I guess the short answer is no. Where I get caught or hung up is, if the synergies aren't real, let's say the Commission issues an Order and says we will initially allow you to defer transaction and transition costs and we accept that you're never going to ask for high cost in interest cost, but we expect you to prove it up in the next rate case.

Next rate case comes along and ultimately parties disagree that the synergies have been realized and, therefore, you determine that synergy savings won't cover all the costs they're trying to recover in this proceeding, and now there will be -- now there will be a hit to those financial matrix which drive the credit rating, credit rating agencies' opinion. And at that point if there's a downgrade, there's high cost interest that comes through the pipeline for the next rate case.

At that point, it would seem you would say, okay, we never saw this one coming up. This is really a cost of them not being able to prove up, not realizing their synergy savings. Now we've not only got high cost debt on the Aquila side that we're going to pass on to ratepayers, we now have high cost -- a little higher cost debt on the KCPL/Great Plains side, and we're not going to allow recovery of that, and then you start moving into the so-called death spiral.

That's the problem. You can -- the Commission can have a stated policy of we will never charge the ratepayers for costs that we don't think they should have to bear, but in this case there may not be enough cushion to prevent the downgrade if they occur.

COMMISSIONER MURRAY: I think that's all I have. Thank you.

JUDGE STEARLEY: Commissioner Clayton?

QUESTIONS BY COMMISSIONER CLAYTON:

Q. Mr. Dittmer, would you tell me again what you do now, where you work, who you're affiliated with?

A. I work for the firm Utilitech, Inc., which is a very small, three, three and a half person consulting firm in the Kansas City area, and the vast majority of our work consists of reviewing, critiquing and responding to utility rate applications on behalf of public service commission staffs, sometimes industrial customers, enough -- people who have enough -- customers who have enough money at stake to look at the issues.

Q. Do you ever work for utilities?

A. Limited, very limited. We're doing some work for Trigen.

Q. Their checks just don't cash, is that the problem, or --

A. No. I think, at least in my case, early on in your career you come to some -- there are -- there's certain issues I think you can work on both sides of the fence fairly easily. But there are certain philosophical issues sometimes that you -- that you adhere to that tend to be more, well, right in my opinion on the consumer side or in some people's opinion or more utility oriented. So you kind of make a choice early on. At least that's the way I view it.

Q. And have you -- were you a former employee of the Office of Public Counsel?

A. No.

Q. Were you a former employee of the Staff of the Missouri Public Service Commission?

A. Yes.

Q. And how many years did you serve on the Staff?

A. Four.

Q. Four years. And when did you leave the employment of the Commission?

A. 1979.

Q. So a few years ago?

A. Quite a few. Getting to be quite a few years ago.

Q. Quite a few years ago. I want to work through a number of different topics here, and I don't know how organized this will be, but bear with me.

First of all, I want to start with the

purchase price for the stock that has been offered by -- by Great Plains. There was some discussion earlier about the characterization of that purchase price, and there was discussion about whether it's reasonable or not reasonable. First of all, I want to ask you, what is your understanding of the purchase price of this utility?

A. That Aquila shareholders will receive $1.80.

Q. Let's talk in big total figures rather than focus on what an individual share will be. Do you know?

A. I can get fairly close, I think.

Q. Or if you want to describe it the other way, that's fine, too. I don't want to tell you how to answer.

A. The total compensation I stated in this direct testimony is slightly above the net depreciated original cost book value of the Aquila --

Q. When you say slightly above, what does that mean?

A. I think I had --

Q. Is that public to ask what the net depreciated original cost is?

A. I think it's in my testimony. Footnote 5, I think. And I think that's nonconfidential. It is nonconfidential. That states the approximate consideration and the approximate book value, and those are based on KCPL's stock price back in October, I believe it was. Actually, that was --

Q. Now I've got to find Footnote 5.

A. Page 19.

Q. That's public information, right?

A. Yes, it is. Well, I think it is. I put it in as public information. I hope it is.

Q. It's your problem, not mine. It's in your testimony.

A. I think I would have heard about it by now if it weren't.

Q. So the transaction costs -- or excuse me. The purchase price is the 1.599.6 million dollar figure?

A. And that was at an assumed Great Plains share price of 28.82. What I don't see from the footnote was the exact date. That was probably shortly before this testimony was written.

Q. And that's based on a share price of how much of Aquila shares?

A. Aquila share price doesn't matter, doesn't enter into the equation. The number of Aquila shares outstanding does. There were at least last fall about 375 million shares of Aquila.

Q. Okay. So when you say slightly above, it appears that's about $9 million above?

A. At that particular point in time, yes, these numbers are fluid.

Q. What is today, do you know?

A. Well, KCPL's closing share price, I believe, as of yesterday or a couple of days ago was $25, and I don't know if the number of shares of Aquila are still at 375. If they're about the same, then these numbers would have come down slightly. The million 599 would be a lower number today at KCPL's trading price. The flip side or the other side of that, I don't know what has happened to Aquila's net depreciated book value.

Q. You don't know the answer to that --

A. I don't know the answer.

Q. -- in the last six months I guess from the date of your testimony?

A. I do not know.

Q. Now, you've been in this business now for -- 1978 you left the Commission. We're talking at least 30 years, 35 years, roughly?

A. 32 years, yes.

Q. 32 years?

A. 32.

Q. And are you familiar with utility mergers and acquisitions in general?

A. I have worked on a few, yes.
Q. I mean, do you keep abreast in the field and read the trade publications about mergers and acquisitions?
A. I read, yeah, I read in the Wall Street Journal or hear through the -- our network of people we work with of transactions. Only occasionally do I kind of delve into specifics of the transaction.
Q. Have you ever testified in a merger and acquisition case for any party?
A. Yes.
Q. You have?
A. Yes.
Q. Well, so you do have some background and knowledge of utility mergers and acquisitions?
A. Yes.
Q. Okay.
A. Yes.
Q. How does this purchase price as compared to book value compare to other mergers and acquisitions that you're familiar with?
A. If you just look at the purchase price --
Q. That's all I'm asking about right now.
A. -- then it looks very reasonable, but you have to -- you have to add the lug of the --

Q. I understand. We're going to get to that, but I want to focus on the different pieces of this and then we'll put it together at the end.
A. All right. Okay.
Q. Don't think I'm going to -- I mean, your counsel's going to be able to --
A. Okay.
Q. -- fix any problems that I cause for you. I'm sure he'll be able to do that. But focusing on the price, it is your testimony that the price in and of itself is a reasonable price?
A. Stopping right there, yes, it's close to book value.
Q. Now, generally looking at mergers and acquisitions, do you normally see a purchase price that is significantly greater than the book value or less than the book value?
A. I would say normally it is greater than the book value. There are instances, one that comes to mind particularly it was quite a bit less than the book value, but normally most of the ones I read about or been involved with have a price greater than book value.
Q. Okay. So there is a -- some sort of premium that is built in to close the transaction or for whatever reason above what the net book value is at the

time of purchase?
A. In the majority of cases that I've looked at or am aware of, yes.
Q. Okay. You've suggested that there has been at least one occasion where the purchase price was less than the book value?
A. Yes.
Q. Is that out of the ordinary?
A. I guess it is by the definition, if it's on -- well, one of only a couple I can think of, yes.
Q. Are you aware of the circumstances of that case that led to a purchase price that was less than the book value?
A. Somewhat, I mean --
Q. What were those reasons that led to that?
A. I -- the -- it was Citizens Gas and Electric property in Arizona, and there were some -- some known or thought to be problems with those systems and they were -- they were rural. They were going to be somewhat -- they're higher cost to serve, and I think on the gas side they -- they were looking at construction expansion program that would -- basically Citizens was trying to get out of everything except the telephone business, and so they were -- and they owned small properties, often rural properties across the nation.

They did not have the most desirable pieces of utility property to sell, and they were downsizing, you know. Their financing capabilities were becoming more limited also.

Q. So there were some issues associated with that utility that led to a lower purchase price than the net book value?

A. That's my recall from some years ago, yes.

Q. In the industry, is there a rule of thumb at all in terms of how great a premium should be offered in an -- in a purchase price above the book value, in a normal average circumstance?

A. I don't know that. I'm sure there are statistics out there. I don't know that off the top of my head.

Q. Okay. How many mergers and acquisitions cases have you participated in in your career?

A. I can probably think of five or six, you know, off the top of my head.

Q. Do you recall the percentage of the premium above the book value in those mergers or acquisitions?

A. No, not with any --

Q. Do you remember any of them?

A. I think I've seen anywhere from 20 percent to 100 percent.

Q. So when you say -- if you take 100 percent in this instance, would that mean double the book value?
A. Yes.
Q. So in the examples or cases in which you've participated in the past, you have seen where there has been a premium of 100 percent, and in this case that would amount to roughly $1.6 billion?
A. Yeah.
Q. I mean, is that what that means?
A. Yeah. No. That's what it would mean, and I frankly thought they were ridiculous prices, but, I mean, they were made for -- probably unique circumstances. Just happened to fit perfectly for a --
Q. Can you -- can you affirmatively state that most mergers and acquisitions that you're familiar with have premiums between 20 and 100 percent above the book value? Can you call that the norm or an average?
A. I'm really uncomfortable. I just -- I don't think I've done enough of them to say that this is a good average. I don't want to be nonresponsive, but I am uncomfortable with saying this is --
Q. Well, you have testified that you think this purchase price is a reasonable price in and of itself. I'm trying to get an idea of how you base that -- that statement that you believe it is reasonable, and I'm

trying to get context of what makes this such a reasonable purchase price. I'm not trying to ask specific questions about a bunch of old cases, but give me some context of why you believe this is a reasonable purchase price.

A. The basis of this statement was, it was close to book value. Your rates are based on book value. So on that basis alone, it is at first blush a reasonable purchase price. That's a good thing. That's an okay thing.

Q. Okay. Now, when you filed your testimony, the joint applicants had before the Commission a request for ratemaking treatment for a finding associated with acquisition premium, is that your recollection?

A. Yes.

Q. And at the time your testimony was filed, do you recall the amount of that acquisition adjustment that would potentially be included in rates in the future? Was it the $9 million figure?

A. No. Maybe I didn't understand the first question. They -- they were asking for regulatory assurances of certain items, and one of those was deferral and amortization of transaction costs. They didn't ask for an acquisition premium in the sense that they were asking for an amount above net depreciated book value to ever be included in rate base, but they were asking for

the 95 million initially as an amount to be --
Q. Of the transaction costs?
A. Of transaction costs to be included in rate base and amortized.
Q. You're saying it was not your understanding they were seeking any acquisition premium adjustment included in rates?
A. Other than the 95 million, which is typically recorded and thought to be an acquisition adjustment.
Q. Are transaction costs on an accounting basis, those are considered costs that would increase the net book value of the company?
A. Under -- yeah, under accounting guidelines, the 95 million, the transaction costs would be added to the other consideration paid, sum those two, and that becomes the total purchase price, if you will. And you compare that to the net depreciated book value of the assets being acquired, and that becomes an acquisition adjustment. And that amount sometimes is sought to be included in rate base. Sometimes it isn't. And that's why we have to split that 95 million out, because that part they were asking for rate base treatment and a return on. Whether or not there was going to be a premium or a discount on the remaining piece will be a matter -- we

can't tell that with certainty, but the numbers looked like it was going to be fairly close.

Q. Okay. Let me ask this question. If you assume that the net book value of Aquila right now or during the time this case is to be decided is the roughly 1.59 billion or 1,590 million, it's listed several ways. Under the original proposal, if the joint applicants were given all that they requested, what would be the net book value of the Aquila assets following the merger, assuming that we were to grant everything and give them -- give the applicants everything that they've asked for? Are you able to compute that?

A. No. You can't, because you have to have the -- the price of KCPL stock, you have to have the number of shares outstanding of Aquila at the time the transaction is closed, and you have to have the then current recorded net book value. You have to have all of those.

Q. I understand. Assuming that you have -- just assume a constant net book value for the time being, that you don't have the fluctuations of depreciation or added investment. Is it possible to simplify the applicants' request in identifying what that future net book value will be as their existing net book value plus their requests for transaction costs of 95 million or --

yeah, 95 million. In fact, we can't make that simple statement so that you add that 95 million into the net book value? Does that make sense?

A. I mean, I think I've pretty much done the math here as to -- there was a data request response where they kind of broke out what would happen under, you know, today's KCPL price and today's Aquila shares outstanding and so forth, and as it turned out, it was pretty close to net book value at that point.

Q. Even in the future?

A. No. No. At that point in time. I have never seen a projection of what it would be at closing date.

Q. Okay.

A. It would -- I mean, you can do any assumptions you want, but it would take a lot of assumptions.

Q. If you look at -- if you look at rates that are paid by Aquila's current customers that are based on that net book value today and you have their existing expenses that are added in to that rate base calculation in the formula, if the book value and the expenses stay the same, then the rates don't change, assuming that, I mean, you have to have a change in the revenue requirement formula to have any increase in rates?

A. Increase or decrease, but yes.

Q. Correct? Under this transaction, both the proposed transaction and the existing transaction, what do you see the impacts being to the rates that are charged to Aquila customers compared to what they're paying today?

A. Let's take the existing at this point. It would seem that it would just be a slow crawl out of the non-investment-grade rating over a period of time, best case. If there are other costs that can be recovered, it could go the other direction and, I guess, ultimately could go to bankruptcy, but, you know, they will -- they'll have to crawl out of their non-investment-grade rating.

Q. Tell me what the impact is on the rates paid by Aquila customers.

A. They should be theoretically the same as if they'd had investment grade all along.

Q. I think I understand what you're saying. What I'm trying to understand in your testimony is, as you assess the application filed by the joint applicants, let's look five or ten years down the road.

A. Okay.

Q. Assuming a cost of service -- you know, we're going to have fuel costs. There are a number of variables that we can't speculate on what would happen in five or ten years. All things being equal, though, because of this transaction, is it your testimony that rates for existing Aquila customers will go up or down because of this transaction?

A. Okay.

Q. Does that make -- maybe I'm not making sense.

A. No. Let me try and answer it this way. Under the company's original proposal, then certainly during the first five years rates would have gone up above that which would have occurred under the status quo of Aquila staying as a standalone company.

Q. Okay.

A. Now, under the revised proposal, the company's math suggests that there will be no detriment to ratepayers for the first five years, and then it gets better beyond that.

Q. Okay. I'm going to stop you right there. So if you take the original proposal, with your understanding what the original proposal was, in five years, all things staying constant, with the existing rates and not taking into consideration fluctuations of -- in the cost of service, all things being equal, because of the merger and the application as presented by the applicants, rates would go up in a five-year period?

A. That is correct.

Q. Now, in the original proposal after that five-year period, go out to year ten, what is your estimation or your estimate of rates for those same customers?

A. If you accept all of the company's synergy savings, they would go down, but if you have to accept all the synergy projections --

Q. In that circumstance, with your estimate of what would happen, not assuming that the -- the best case scenario for the company, what do you think realistically would happen if we were to grant the applicants all they requested in the original proposal in that five to ten-year range in the future?

A. In the original proposal, what would happen over a ten-year period, is that the question?

Q. Well, you said that you -- rates would go up in the first five years, you agree with that? Regardless of whether you accept all the synergy savings, rates are going to go up?

A. Even accepting, yes. Even accepting, yes.

Q. And then in year 6 through 10, your evaluation of what the best, you know, what you think is likely to occur, what happens in year six through ten in the original proposal?

A. Well, and I did not try and crystal ball, you know, how much exactly I agreed with the synergy savings. What I pointed out was there are problems. I don't think they're as conservative as the joint applicants suggest they are, and I think there are enabled savings that should never have been in there in the first place.

So we really never got to that trying to divine and slice exactly what we think the -- I didn't get to that number anyway, as to what we think the real synergy savings, true and only synergy savings will be over a ten-year period. What I simply pointed out was there are some problems in the company's projection.

Q. Make the assumption that you disallow all of the savings that you've identified as being a potential problem and then tell me what happens to Aquila customers' rates year six through ten.

A. If we just subtract out the -- and I haven't done this calculation, but I'm reasonably sure it would work out, that if we just subtract out the clearly identified enabled savings and compare that, the remaining savings to the transaction transition and incremental interest costs, the math will probably show that on a nominal basis there were -- there were savings to customers. On a present value basis there may or may not be, because the synergy savings under that approach wouldn't be passed on to the ratepayers until down the road because you have to discount those dollars back to today.

Q. Okay. Under the revised proposal that is before us today as proposed by the joint applicants, what -- all things being -- staying constant with cost of service, because of the merger, what happens to Aquila's rates in years one through five under the current proposal in your estimate?

A. I haven't -- I haven't done that math exactly because I think what you're asking is if we take out what I consider to be -- or what they've identified enabled savings and then we consider what they're asking to recover still.

Q. What is your understanding of this revised proposal --

A. They continue --

Q. -- that's before us today?

A. They continue to ask for recovery of transaction and transition costs but not incremental interest costs over the next five years, but they will accept that they have to prove up synergy savings in excess of the amortization of the transaction and transition costs before they get to collect them.

Q. When do those -- when do those true-ups or calculations occur? Do they occur at certain times or year five, year ten?

A. During each rate case is what I interpret their proposal to mean.

Q. Does that make a difference to you in that manner of addressing costs and possible synergy savings? Do you find that an acceptable or unacceptable way of addressing synergies and costs?

A. I -- if we didn't have the possible -- real probable problem of a downgrade, if these things don't realize, then you can ring fence it so to speak, as they're suggesting. We'll accept -- we don't get to recover transaction or transition costs if we can't prove up synergy savings. And you can say it looks good, it looks good, and they've already agreed not to allow incremental interest costs. It looks good, but then what happens if the synergy savings aren't as real or material as they suggest? Then you've got a -- you've really got a disallowance at that point.

Q. All right. That detriment that you're identifying right -- I think you're identifying a detriment.

A. Yes.

Q. That detriment would be attributable to

Great Plains/KCP&L and its customers, correct?

A. Yes. You get into that issue of, okay, we're -- now got a downgrade. Who has to pay the cost? How do we get out?

Q. But you're talking -- that's the Great Plains/KCPL side, not the Aquila side?

A. Yeah. Aquila's already there.

Q. So with the way these costs and the synergies are being addressed, are there detriments to the Aquila customers, the Aquila division existing customers?

A. Only I guess if they get more disallowances, so to speak, for the transaction/transition costs that would be allocated to Aquila ratepayers that will be unrecovered and could lead to a further -- even further investment grade downgrade.

Q. But Aquila's already below investment grade?

A. They're already below.

Q. Is there really much more of a detriment that those customers would have to -- or the company, that division would have to deal with following this transaction? I mean, they've got nowhere to go but up really at this point.

A. Well, that's what I was alluding to in answering Commissioner Murray's questions about you're kind of in unknown, unchartered waters. I don't -- I mean, I think there's only been one bankruptcy in the last 32 years that I'm aware of and different opinions about what happens, but it's not good. I mean, it can't be good. I mean, there are -- there can be more downgrades and ultimately it could be bankruptcy.

Q. So it's your testimony that there's a detriment to both customers of Great Plains, KCPL and Aquila, not -- I think I was making the assumption that with a credit downgrade of KCP&L and Great Plains, that primarily the detriment would be to those entities and their customers and not on the Aquila side. Maybe I'm mistaken on that.

A. It could be to both. The fact that KCPL has an investment grade and has a regulatory plan to ensure they have a continued investment grade kind of highlights the problem with the deal in my opinion.

Q. Let's talk about the synergies or the savings that have been proposed. I'd like to confide -- I'd like to try to get you to confine your remarks to Missouri jurisdictional amounts. Testimony's kind of bounced back and forth between system-wide and multi-jurisdictions.

I have written down -- let me ask you this: What is your understanding of the amount of synergy savings that potentially can be realized that are Missouri jurisdictional savings total? What is your understanding?

A. I think I'd have to look at the -- the supplemental direct filed in February, because I don't have that number.

Q. I have figures written down, and I think this goes -- comes back to Mr. Fischer's opening of 222 million over a five-year period, and if that's incorrect --

A. I just --

Q. -- does that sound close?

A. It's probably correct. What I recall is there's virtually no savings to ratepayers after paying the transaction/transition costs for about two or three years, and then the number starts to grow. I'm not disagreeing. I just don't recall if that number --

Q. The other number that I have is 549 million over ten years. Does that ring a bell?

A. Well, it would be a lot bigger. That would be in the ballpark, but perhaps if I could get the -- pull out the company's supplemental, I might be able to --

Q. Tell me if anything sounds familiar. I also wrote down total savings over a five-year period was 305 million. Missouri's portion of that was 222.

A. I'm not disagreeing. I'm just saying I don't have those numbers memorized because we didn't get to that level of the analysis. There were other concerns that prohibited it.

Q. And then I had written down -- I may have written down incorrectly, so I mean, so feel free to -- this crowd doesn't hesitate to correct us. So 755 million over ten years is what I've got.

A. Those were gross savings. I do remember that number. Those are before you start paying anything, they'd like to recover.

Q. Okay. Now, of -- of those savings, if we go to the chart in your testimony that was referenced in cross-examination, you use total merger savings of 304.6 million. So that would match with the 305?

A. Yes.

Q. Do you buy that?

A. Yes.

Q. So your evaluation was not based on Missouri jurisdictional figures?

A. That's correct. I didn't take it to that level.

Q. Well, to do this analysis, do we need to focus on Missouri jurisdictional figures? I mean, does it matter what happens in Kansas or another state in our evaluation or should we be looking at only Missouri figures?

A. It would be certainly reasonable to look at on a Missouri jurisdictional basis. I don't think the -- it would flip such that one jurisdiction would be beneficial and one jurisdiction would be detrimental. I don't think it would move around that much, because they were proposing, as I recall, to originally allocate the cost basis on the cost on the basis of benefits.

So if total cost exceeded benefits, as they did in my analysis, then it wouldn't matter which jurisdiction you'd be looking at.

Q. Well, let's look at page 12 of your -- now, this has HC down at the bottom, but I think the HC numbers are identified.

A. Yes, they are.

Q. So I can talk about all the figures except for line 6; is that correct?

MR. MILLS: On page 12 of his testimony, the bottom two numbers in the table are HC. Actually, it's the second to last number, which calculates into the last number, so because of that the last number's HC.

BY COMMISSIONER CLAYTON:

Q. Okay. Well, if we convert these to Missouri jurisdictional amounts, that 304.6 million that has been suggested that Missouri jurisdiction is

222 million, but you don't have any way to agree or disagree with that?

A. Perhaps if I could just grab the company's supplemental --

MR. FISCHER: If I could be of assistance?

THE WITNESS: -- then I think I might be able to answer things more quickly.

COMMISSIONER CLAYTON: Whatever you-all feel is appropriate. I'm not trying to trick you without the information.

THE WITNESS: I'm not trying not to answer your question. I just hate to --

BY COMMISSIONER CLAYTON:

Q. Well, most people are trying not to answer my questions. I appreciate your --

A. Yes, that is the representation made by Mr. Bassham in February '08 testimony.

Q. So with the information you have, do you agree or disagree that 222 million Missouri jurisdictional savings over five years?

A. That is his representation and testimony, I agree.

Q. Okay. His representation? I'm not asking if you agree with it, just that that's their starting point.

A. That is their starting point.

Q. Now, on this chart on page 12, looking at the math, it has less transition costs proposed to be netted against gross synergy savings claimed. Now, from opening, I have Missouri jurisdictional transition costs estimated to be 43 million.

A. From opening, I'm not sure what you mean.

Q. Well, from Mr. Fischer's opening. Now it probably should be in that supplemental. And while you're looking, I'm going to -- I'm going to refer to transaction costs being estimated or as stated by Mr. Fischer at around 47 million for a total of 90 and --

MR. FISCHER: Those are confirmed on page 5 of the supplemental that Bassham filed, and there's also a chart on Chris Giles' testimony supplemental that breaks it down.

THE WITNESS: That's the one I'm envisioning.

COMMISSIONER CLAYTON: I haven't misstated those figures yet, have I?

MR. FISCHER: You've been correct.

THE WITNESS: Yeah, 47.2 million of -- excuse me. 64.9 of total transaction costs, 47.2 on Missouri jurisdictional basis, and 58.9 of transition and 42.86 Missouri jurisdictional.

BY COMMISSIONER CLAYTON:

Q. Now, if we revise your chart on page 12 of your testimony with the alternate proposal that's been presented where we have -- where we have alleged savings 222 less transition costs of 43 less transaction costs of 45 --

A. 47, I think, but anyway --

Q. 47. Excuse me. Excuse me. For a total of 90. That leaves net savings as alleged by the applicants -- I think I can say that total. 222 minus 90 is 132 million in alleged savings over a five-year period?

A. I agree with that math.

Q. Do you buy that so far?

A. I agree with the math, yes.

Q. So also on your chart, and you would agree under the alternate proposal that the applicants are saying that they will net out or take out all these costs by the savings that they have to achieve to a certain degree of savings?

A. They have to prove them up before they collect them, right.

Q. Which is different from what your chart originally suggested where you had identification of costs ahead of time and specific ratemaking treatment ahead of time?

A. Well, the purpose of the chart was simply saying -- using the company's own numbers, not even -- and I disagreed with parts of it, but just saying their math, it doesn't work.

Q. I understand. I'm going to give you a chance to disagree with those numbers, too. We're going to get to that. So -- so according to this chart, which also lists incremental actual interest costs, which is a highly confidential number which I'm not going to restate, this chart, the new chart would not include that amount because they're not asking for that increased interest cost at this time?

A. They're not asking for it, but they have to pay it.

Q. I understand. But on this chart where we're netting out the total savings, it would be a zero, correct?

A. That is correct.

Q. All right. So on this chart, I think as Mr. Fisher suggests, that that number down at the bottom, the total is going to be a different calculation under this proposal than under the original proposal?

A. Yes.

Q. The math is going to be different. Now, all things being equal, to find a net benefit as opposed to a net cost or net detriment under -- just doing the math, at this point we've got 132 million in alleged savings over five years if we accept everything that they've said as true?

A. The math would suggest that's correct.

Q. Now, how much -- I think your schedule JRD-1 removed a number of enabled costs, and you've also attacked some of the other savings that would -- are you able to affirmatively state that -- that the amount that you disagree with is more or less than $132 million in savings? Are you able to point out savings as alleged by the company? Are you able to reduce that by another $132 million? Do you follow me?

A. The short answer is no. I mean, all that I can state with certainty is that there are $59 million worth of enabled savings that should have been taken out of the 304 on the top line, and then you have to Missouri jurisdictionalize that piece. Just -- you know, eyeballing it, it doesn't look like that would be enough to drive the bottom line, the 132 million into a negative number, but you've got to keep -- well, your question. I'm sorry.

Q. So you disallow another 59 --

A. At least, yes.

Q. At a minimum?

A. Right.

Q. You say this is stuff that would happen regardless of the merger?

A. Should happen, yes.

Q. Now, I think that statement makes a number of assumptions of Aquila being -- of having the capital and the wherewithal to implement a number of those programs, doesn't it? Doesn't it make that assumption?

A. We had the discussion there, there's potentially some capital investment on some of those that could be deferred or delayed, I suppose.

Q. Do you know -- do you know if Aquila has the capital or the wherewithal to implement that 59 million worth of savings through investment?

A. I don't know. I mean, I know they're in the Iatan construction program already, so -- but no, I've not been asked.

Q. You don't know?

A. No.

Q. So we're really not sure whether that 59 million would occur or not if the merger happens or doesn't happen?

A. I'd agree, we don't know every dollar. We also don't know -- we also know that the 59 is not the total population of enabled savings.

Q. Okay. You did not perform a bottom-up calculation of potential savings --

A. No.

Q. -- that would be achieved in this merger?

A. No.

Q. And I think the testimony earlier was that you didn't have the resources or the Public Counsel didn't have the resources to do that?

A. That's correct.

Q. So at this point, we have a figure of suggested savings of a net $132 million over five years. Your testimony is that you really don't know what savings, if any, can be achieved through this merger?

A. Well, I guess my testimony is I know that the 304 is overstated at least for enabled savings, and beyond that, I'm not sure what is achievable.

Q. Are you certain that any savings can be achieved in this merger?

A. It's been -- again, going back to discussion with Commissioner Murray, I mean, I looked at this back in the summer of last year, but you know, I think that some of the head count reductions are pretty firm, but then you start moving up the scale and some of the claimed savings I think are much harder to define and declare.

Q. What amount can you give me that's firm?
A. I can't. I haven't looked at it from that perspective. I haven't tried to formulize --
Q. Is there any amount that you would feel comfortable saying that some savings can be achieved?
A. I'm not comfortable saying an amount. I haven't made those calculations. Didn't look at it in that detail. No, I cannot.
Q. Well, is it possible that they can achieve 132 million in savings? I mean -- is it --
A. It's possible, yes, I suppose.
Q. Is it possible that they could achieve $50 million in savings?
A. Well, if they -- I guess -- if I agree it's possible they can achieve 132, then I suppose they could definitely achieve -- can possibly achieve 50 million.
Q. Well, what I'm struggling with is trying to get a handle on here for Public Counsel's position what savings has to be realized to make the merger a good idea. At some point -- at some point the numbers would justify a merger, I'm assuming, from Public Counsel's position?
A. I don't know that I can answer that with certainty for the Public Counsel.
Q. I understand. But in your analysis, I mean, you're the one stating the opinion here on the --

looking at the costs, the charts that we have in your testimony are, you know, just outdated because of the nature of this transaction. We've got an alternate proposal, so the net cost that you identified in that chart, and I know that's just a mathematical computation, but those are no longer accurate and may not be relevant with the current proposal.

So I'm trying to get a handle on --you can only affirmatively disallow around 59, $60 million in savings, which still leaves potential savings that are not really being refuted by you; is that correct?

A. I think the math will probably suggest that if we take a much more stringent conservative view of the net savings, that the first time around that the Commission, the parties can create a scenario where there won't be a detriment to ratepayers.

The problem with that, we can -- we can -- we probably could agree outside this hearing room on those things, but the problem, the reason I think there isn't a settlement, because if you look at the next line there, the unrecovered interest cost and compare that to the savings, then you start going --

Q. I'm going to get to that. And see the thing is, I'm trying to figure out where we stand with the amount of savings. I think we have to identify what --

what I'm trying to get at, and you can't give me this answer, but I'm trying to identify what savings potentially is there, what's the likely scenario from your perspective of what type of savings is going to be there, and then move on to the costs and the dollars that are going to be imposed on Great Plains and KCP&L through the added interest costs or, you know, the acquisition adjustment or some of these other issues.

And I can't -- I can't get to any point where you agree that -- well, you're certainly not going to agree there are any savings. I'm assuming you're not going to agree that there are any savings from this transaction.

A. Well, I think I stated that pretty clearly in the cross of Mr. Fischer, that I expect there are some fairly significant synergy savings.

Q. Well, let's move on to that next -- let's move on -- I've got a couple more questions here. First of all, of the transition costs that were identified, we talked about earlier a $43 million. Do you -- do you accept or disagree with that calculation as being accurate and what should be anticipated in terms of transition costs? Missouri jurisdictional, accurate, fair, appropriate, reasonably calculated?

A. All that I would say is the company's never changed those numbers over a period of eight or nine months, which would suggest they're fairly firm, I would hope.

Q. Have you evaluated their merit, whether they're accurate, whether they're reasonable and appropriate?

A. On the transaction or transition?

Q. Transition costs.

A. Transition costs. I would say I didn't get to that level of analysis only because we didn't need to. We never got to that point the first time around.

Q. I understand, but the first time around, we've got a different deal now. So you -- are you saying whether you evaluated -- did you evaluate the transition costs figure that has been proposed by the applicants, yes or no?

MR. MILLS: Judge, can I interrupt here, because I think this will help frame these questions, and I won't take long, but what happened in this case is that we hired Mr. Dittmer when the case was first filed and almost immediately said, don't do anything. There's going to be a revised set of numbers. And that came out in August, and then Mr. Dittmer evaluated those. Because of our limited budget, we have not had Mr. Dittmer do a whole lot of work since that time. We simply haven't been able to afford to get him to do updated analysis as the case updates.

So to the extent that he's not able to answer these questions, I think I need to take some responsibility for that. We haven't paid him to be prepared to answer a lot of these questions that are coming up about what the new numbers are and how the new numbers play out.

We paid him to do the analysis on the original case. As you see from the chart on page 12, his analysis was quite clear and really didn't have to get into the kinds of details and the kinds of analysis because on the surface what we were talking about at that point didn't look good.

So I just want to point out that we have not really engaged Mr. Dittmer to keep up with what's going on in this case, and that may help frame some of his answers and help you understand where we are in the case. Thank you.

BY COMMISSIONER CLAYTON:

Q. I understand that, and I'm not asking you to -- I mean, if you didn't evaluate something, I just want you to tell me that you didn't evaluate it, and then we'll move on. On the transition costs, the amount that has been alleged by the company, by the applicants, of

$43 million, have you evaluated the accuracy or the reasonableness of that amount?

A. I would say I haven't looked at the accuracy. Conceptually, what they asked for seems reasonable

Q. Okay. So it appears reasonable, but you have not evaluated the accuracy?

A. Yeah. Conceptually what they're calling transition costs and what they want to do sounds reasonable.

Q. Okay. Same question for transaction costs estimated to be around 47 million, where do you stand on that? Same answer? Different answer?

A. Well, on transaction costs, I mean, my standard answer is just say no, so I didn't spend time -- very much time trying to understand what those costs were.

Q. Okay.

A. Because those wouldn't be typically considered as part of the acquisition premium or the acquisition adjustment which this Commission has, as I understand it, a strong precedent to disallow, so no, I don't have a -- I have not evaluated reasonableness of those numbers.

Q. And so you have no idea whether that amount is reasonable or not?

A. My only answer is they did not take the effort to change it over a period of almost a year now.

Q. But you haven't evaluated it?

A. I have not evaluated it.

Q. And the answer is no. I think that's --

A. Okay.

Q. -- what you're saying, is you have not evaluated it?

A. Yes.

Q. Okay. Okay. Now, we've gone through the price being paid, potential acquisition adjustment. The acquisition adjustment I'm assuming is public. That would be adding the transaction cost amount with the amount of the purchase price above book value on the date the matter closes, do you agree, is that accurate?

A. That is my understanding.

Q. So we'd be looking at it with the figures that we were talking about, would be 47 plus 9 million for 50 -- $56 million. Now, that would be -- that would be a cost that would be paid by whom?

A. The -- I think you're talking about the Missouri allocated portion of the transaction costs?

Q. Yeah. Actually, that 9 million over book value is probably not Missouri adjusted, but it's not a huge figure, so I'm not going to worry about it.

A. Well, again, the answer is the 47 million would only -- well, would be paid for out of proved up proven up, trued up synergy savings under the company's proposal.

Q. Under the proposal, that would be paid through potential savings?

A. Correct.

Q. Now, under the original proposal the transaction costs, I think, were going to be amortized over a five-year period and deferred?

A. Yeah. Under both scenarios, they were going to be amortized over five years. The number has changed as they've shifted money from transactions.

Q. There wasn't going to be a netting, there wasn't going to be an offset of potential savings until year ten or something?

A. My understanding the company was basically asking for the Commission to accept today or back in November that all the synergy savings they projected are real and therefore we can book the transaction costs and we will never address this issue again in a hearing -- at a rate case hearing.

Q. Okay. So -- so if we look at this total acquisition premium of roughly $56 million, and that's an estimate there, and it may not be accurate based on

Missouri jurisdictional figures, if the Commission does not authorize recovery of an acquisition adjustment, then is -- then that would be generally payable by the shareholders of the acquiring entity?

A. It would be -- as I understand it, it would be initially -- you have to -- keep in mind, you have to add the transaction costs, plus the interaction between the other compensations being paid and the net book value, and those would be added together, and that would become, if it's a positive number, good will. If it's negative, it's negative acquisition adjustment.

But that will show up on the company's balance sheet, the 47 million would initially show up on the company's balance sheet, but then it would be subject to impairment testing. If you don't give them explicit rate recovery in this docket, then it goes to good will, and then it could be subject to impairment testing and there could be write downs.

Q. So if we were to grant an acquisition premium in a case where -- I mean, you would increase the net book value of the company by that amount, base rates on the new net book value; is that accurate?

A. It is. I mean, there actually is a scenario where it would be decreased. We don't know the interplay exactly between KCPL stock price and the net book value at the date of the closing, so I don't want to mislead you to think that we're only looking at a positive number. It is possible it will be a negative number.

Q. Okay. So these transaction/transition costs, the 90 million, the way the current proposal or the proposal that's before us now would have to work, the company would have to realize 90 million in savings over a five-year period to cover those, correct?

A. On a total company basis, you're talking about the transaction/transition costs?

Q. Yeah. I think those are Missouri jurisdictional.

A. Yes.

Q. All right.

A. Yes.

Q. So that's their burden, they have to carry -- they have to reach those synergies of 90 million to be able to keep those or to recover, they're going to basically recover those costs if they reach those synergies?

A. That's my understanding of their proposal, yes.

Q. Is that reasonable or an unreasonable proposal, just that portion of it?

A. That's reasonable. I mean, if you, yeah, stop it right there, it's an okay outcome. We'll put it off to the next case, and if they don't prove it up, they eat it, and if they do, they recover.

Q. So let's put a couple of these pieces together. So at the start we talked about the price is reasonable. You agree with that?

A. With the caveat that you made me stop right there and not --

Q. I understand.

A. But yes.

Q. And then is it reasonable for this second component where the company carries the burden of achieving savings at a minimum of the transaction and transition costs?

A. Again, if you stop me --

Q. Right there.

A. -- there, yes.

Q. That's a reasonable way to handle that component of the transaction?

A. Yes. You should be aware you'll probably have some messy fights about the calculation of true synergy savings, but yes, in concept, it's an acceptable proposal.

Q. All right. But we have no idea, you don't have a proposal on what you think the synergies would be?

You don't acknowledge there are any potential synergies because you didn't do the ground-up analysis?

A. I think I acknowledged in concept I expect there will be some significant synergy savings.

Q. Okay. So really if you look at those two components, there's not a detriment yet. The detriment then would come from the impact on the finances of both companies based on how all these other costs are going to be addressed. Would you agree with that statement?

A. The -- yeah. The total look at actual synergy savings compared to actual transaction and transition costs, and what that impact -- what happens if the synergy savings aren't realized and the transaction costs aren't recovered.

Q. Okay. Yeah. So you've got that question mark. Now, you have this increased interest cost for interest to the Aquila division greater and above -- or above their regulatory interest rate that's in their rates right now, correct?

A. Correct.

Q. And you've got a figure in here I'm not going to repeat because I think that's highly confidential, but you've got a significant figure built into that, and if the company is not going to seek recovery of that, then Aquila's customers -- we had agenda today. I forgot.

Under the current proposal, the ratepayers will not pay higher rates in the short term because of that difference in interest costs, either Aquila or Great Plains customers?

A. Conceptually, no. But I think I do have to add, there is a prompt that they're going to ask for amortization expense. I'm not sure how you -- how those two mesh. You're not going to actually recover actual interest cost, but you're going to have a multiplier to include amortization on -- to get the financial matrix where you need them to be. That part confuses me.

Q. I'm not ready for the amortization side. I want to just talk about the interest, the increase in interest cost. We'll get to that. Is that possible to talk about them separately?

A. Yes, I suppose.

Q. I'll tell you what, it may be a good time to stop. The Judge has just given me a note that we have agenda in five minutes, and I'm going to have some questions, so I'm not going to be able to finish before lunch. Why don't I stop right there and we'll come back to this point? Is that okay?

JUDGE STEARLEY: We will recess and we will pick up with Commissioner Clayton's continued questions to

Mr. Dittmer at approximately 1:15.

MR. THOMPSON: Judge, could you extend that to 1:30 given that we've got an agenda?

JUDGE STEARLEY: Certainly. We'll pick up at 1:30.

(A BREAK WAS TAKEN.)

JUDGE STEARLEY: We are back on the record. Mr. Dittmer is testifying. I remind you, sir, you're still under oath.

BY COMMISSIONER CLAYTON:

Q. Mr. Dittmer, I want to get back to where we left off, and I kind of categorized this area in my notes as potential costs that would be borne by Great Plains or KCP&L based on what the existing proposal, and I think the first item under that would be added interest costs that Great Plains would be subject to because the Aquila division is not receiving the full interest costs in its cost of service. Would you agree with that characterization? Does that make sense?

A. Yes.

Q. Okay. Now, what is your understanding of the current proposal as it relates to interest cost? How -- if we were to approve the merger, according to the current proposal, who pays that extra interest cost that is not built in to Aquila's rates right now?

A. Great Plains Energy shareholders.
Q. So the shareholders would pay -- in theory would pay that extra cost unless at some point they're included back in rates?
A. Pay it in the terms of reduced actual earned return below targeted authorized return.
Q. Okay. Now, you mentioned right before we left, I asked about the interest cost, and you responded to me with a -- with an answer that related to regulatory amortizations or additional amortizations. I want you to explain how you were answering my question, if you recall.
A. If I'm remembering the question and scenario correctly, what I was trying to relay is part of the company's proposal in this case is were -- they're saying we're not asking for a guarantee of regulatory amortization but it's coming. We're going to ask for it in the next rate case, and at the very time that you're trying to calculate extra expense, amortization expense, the company will be incurring interest costs that it was not collecting from ratepayers.
So you get into a real odd situation where I guess you're trying to calculate theoretical investment grade interest and the lug that you would have to pay on that, on the amortization expense at the very time that the company's eating some interest costs, and whether the

two would balance out to where they could actually keep their investment rating.

well, No. 1, you'd have to make the decision because I know the Public Counsel at this point is opposed to approval of regulatory amortization for Aquila for specific reasons stated in Mr. Trippensee's testimony. But even beyond that, if the Commission disagreed and gave that to them, you could -- you could have a scenario where you're giving the company more in revenues than can be justified under traditional rate of return with the intent of keeping investment grade rating, and because of the interest cost recovery that's not occurring, you could still have a downgrade. And I think that would be an ironic and unfortunate situation, but it's something that this Commission certainly needs to grapple with.

Q. So to understand your response, if the Commission were to grant the merger request in accordance with the proposal right now where Great Plains shareholders bear the burden of the increased interest cost that is not recoverable in rates today, that that cost would affect the credit matrix and the other calculations that would encourage additional regulatory amortizations under the CEP?

A. Not as I understand it.

Q. No. Okay. So I got that wrong?

A. Well, it's complicated, because my understanding of the regulatory amortization as calculated for KCPL, it's basically a rollout of the regulated rate base, the jurisdictional regulated rate base, and so what you would be -- what I envision under this hypothetical scenario where you're trying to give Aquila a regulatory amortization plan comparable to KCPL's --

Q. Now, that's a different -- that's a different deal, isn't it, if you're talking about Aquila having a regulatory amortization similar to the others, that -- that's different than what we're talking about right now, isn't it?

A. No. That's my understanding what the company wants is a regulatory amortization plan for Aquila somewhat comparable if not identical to what they have for KCPL. And it gets very confusing because you first calculate a traditional cost of service for Aquila, and then presumably, because we haven't seen the actual plan, but presumably you would calculate interest coverages and debt ratios and so forth by considering juris -- or excuse me, regular -- regulatory interest cost, which would be less than the actual interest cost that they're paying on their non-investment-grade rating.

So you'd be probably throwing more money into the cost of service, you'd be collecting more in rates based on this hypothetical level of interest expense that they should be paying if they'd always maintained investment grade. But those matrix calculated for regulatory purposes would not be their actual matrix because S&P doesn't look at your regulatory matrix, they look at what's actually happening, and the actual cost would have the interest cost for -- for Aquila's non-investment grade debt.

Q. In the original proposal as it relates to interest cost, what was your understanding of the request?

A. That they wanted to recover actual interest costs and then a regulatory amortization plan similar to KCPL's which presumably would have used actual interest cost at that point.

Q. In the original plan, would rates have changed after the approval of the order or would that have occurred in the next rate case?

A. Next rate case.

Q. In the next rate case?

A. Yes.

Q. So we would make a finding in the original proposal that -- that we would grant recovery of the actual interest cost in the next rate case when the Aquila subdivision -- when the Aquila division would file its own rate case?

A. That's my understanding of their proposal, yes.

Q. And then at that point, it would be evaluated. There's an assumption that it would be considered investment grade at that point?

A. For --

Q. And then -- then it would apply for additional regulatory amortizations like Empire and KCP&L variety?

A. We never got -- I mean, we haven't seen that level of detail. We've just had, to my knowledge, just narratively described that we want a plan similar to what we have for KCPL for Aquila, and I don't think I ever saw the specifics of when they did their regulatory amortization, whether they would consider actual interest cost or the 7 percent that -- the theoretical amount. I would assume it's actual because that was a part of their initial request, they're asking for recovery of actual interest cost and the traditional cost of service.

Q. Now, going back to your page 12 of your testimony and the chart that you had on there, the highly confidential number is the amount of incremental actual interest costs in excess of regulatory interest cost. Is that figure, is that an annual cost or is that a five-year total cost that's in your chart?

A. That is five years.

Q. That's a five-year. So we'd want to divide that by five. I want to ask you at this point, since the applicants have not requested a specific finding on regulatory amortization, they've not requested the acquisition premium or adjustment or the transaction or transition costs be identified as a ratemaking component as part of this order that would be netted out, I want you, if you can, to identify for me the detriments again. I want to go back and tell me, because we walked through the price. We talked about the price. We've talked about potential savings, potential costs. We've talked about this interest and the potential impact on customers.

At this point in the analysis, tell me why your conclusion with today's proposal, the alternate proposal, why this -- why you believe this is detrimental to the public interest.

A. I think it can be summed up in two or three items. One is not full belief, distrust of the synergy savings which drive the collection of the transaction and transition costs. The actual recovery of the transaction and the transition cost, the fact that the company is basing its claim that they can retain investment grade rating on opinions from the rating agencies which have assumptions that don't line up exactly with what is being proposed in this proceeding right now, and then if you add to the fact that -- if you add the fact that we have a disagreement on how synergy savings should be calculated and whether they will be as significant as the company proposes, the problem gets compounded. So you're exposed to a downgrading on their debt, and that can lead to a vicious cycle.

Q. Let me try to summarize here. I've got -- first of all, you don't accept or believe the synergy savings, they're too speculative, I believe is what you're saying?

A. Yes. We can't accept all of them, that's correct.

Q. You don't accept or believe the cost estimates that have been identified by the applicants?

A. Are you talking about the transaction and transition costs?

Q. Yes. You were referring to some costs.

A. I'm just talking about the recovery of transaction and transition costs. It's really a rollout of whether you believe the synergy savings are real or not.

Q. And you don't believe that the companies can retain investment grade status under any scenario associated with this merger?

A. I cannot say that with certainty. That is the Public Counsel's and my concern is that -- that they will not be able to retain investment grade rating.

Q. That none of the companies, none of the entities can retain investment grade?

A. Correct. I mean, Aquila already is below investment grade, but yes, it would extend to KCPL and Great Plains.

Q. Now, I want to talk about this investment grade status. So I need you to make an assumption that you're probably not going to like, but I need you to assume for a moment that we ignore the first couple of concerns that you identified. Let's assume that the synergies pay for the transaction costs. Can we make that assumption so that that in and of itself is not a detriment?

I want to focus on your concern of any of the companies either falling below investment grade or not getting above investment grade. Explain to me how that is a detriment to Aquila customers and KCP&L customers.

A. Well, Aquila customers, let me think about that first. Right now they don't have -- excuse me. They -- they're exposed to the regulatory amortization that KCPL has, and you have -- I have to defer to Mr.

Trippensee's testimony, but I think he explains some things that Public Counsel felt that they got when they signed on to the KCPL agreement that are not in the deal so far with Aquila. So they will end up paying regulatory amortization even though they haven't gotten some of the benefits that the KCPL customers got when they entered into the stipulation on the KCPL side.

And on the KCPL side, Great Plains Energy side, it is exposure to -- well, either, you know, from the Public Counsel's position perhaps paying for transaction costs, transition costs that weren't fully recovered by synergy savings, or if they are disallowed for ratemaking purposes and they do not get recovered in rates, it could result in the financial matrix falling below investment grade targets, and that would result in a downgrade to KCPL and Great Plains Energy.

And, I mean, I think I had this discussion with Commissioner Murray. I mean, you get into -- you're trying to put ring fences around saying, well, okay, they got downgraded, but now we're going to put on our blinders, we're going to pretend that they are investment grade. We're going to only use investment grade interest, but then you're crawling out and you -- frankly, you're exposed to very aggressive rate filings at that point. It's -- you know, it will be -- it just gets more

aggressive when they fall below investment grade.
Q. You don't think the rate filings have been aggressive at this point?
A. I think they would get more aggressive. I really believe that.
Q. So KCP&L customers would face exposure to costs that are potentially not recovered, which would lead potentially to higher interest costs, higher capital costs, and would potentially lead to more -- a downgrade that would lead to additional regulatory amortizations; is that accurate?
A. Yeah. You're hitting it all. Then once they get downgraded, then you start -- potentially start cutting back your construction program and you start cutting service. So there's all those things happen when your investment grade rating falls below acceptable parameters.
Q. Okay. And do you believe that the Commission has the power, the ability to protect those customers if that scenario were to happen? Can we say no to additional regulatory amortizations if you have KCPL fall below investment grade? Can the Commission say no or is the Commission bound to grant those additional amortizations?
A. There's where you kind of go into

Never-Never Land. I mean, you can say we only want to pass on prudent and reasonable costs, but then you will come in -- the company will come in with tremendous pressure on all fronts saying we've got to have more money, we've got to get investment grade back, we have to have reasonable rates, our shareholders can't bear this, we won't be able to provide quality service. So I don't know the answer. I can't state with certainty that you can box it in fully.

Q. Okay.

A. I mean, the only thing that attempt -- I think on Aquila's side years ago, they thought everything was okay, the Commission thought everything was okay, even though there wasn't rigid ring fencing, and now everyone's living with that problem.

Q. Are you -- how familiar are you with the comprehensive energy plan of Great Plains?

A. Well, I've read the stipulation and I've seen the math of how it's calculated.

Q. Okay.

A. I won't say -- I can't repeat it verbatim, but I've seen it.

Q. Now, when is Iatan supposed to go into service where it would be used and useful?

A. I'd say 2010.

Q. 2010. So a year and a half from now, two years from now roughly?
A. Something like that.
Q. In looking at whether there's a detriment in this case, once Iatan goes into service, then the regulatory amortization issue changes, doesn't it?
A. I think it should largely go away. Probably should go away.
Q. Okay. So --
A. We don't know what's in the construction program for sure after 2010, but the game plan was always that it would reverse and you could see some benefits from the plan.
Q. So -- so Aquila is going to have its share of Iatan come online at some point in 2010. It's going to have a piece of that cost that's going to go into their rates, I mean, assuming you have prudency evaluation and everything, you know, meets certain guidelines, but the regulatory amortization issue isn't going to be there in 2010, sometime in 2010?
A. I can't say with certainty, but I -- that's the only major construction, major, major construction project that I'm aware of, but I haven't been involved in an Aquila case for some years now.
Q. Okay. So we're talking about two years'

worth of ratemaking issues in association with the regulatory amortizations?

A. If my understanding of their --

Q. Yeah, I'm sure we'll get -- I'll get corrected if that's not accurate. So we're talking about a short-term problem associated with regulatory amortizations. Do you agree with that statement?

A. Well, the regulatory amortization issue will be short-term, but if they are down -- if KCPL is downgraded in the next few months, that problem could stay with you for more than two years. Probably stay with you a for a few more years.

Q. But in 2010, you don't have to deal with accelerated depreciation anymore. You have plant goes into service and those costs go into rates, so you don't have -- you don't have this -- this stipulation or this agreed upon CEP that -- that is causing some problems right now as we look at all this?

A. No, but you could have unrecoverable interest costs on the KCPL side in addition to what you have on the Aquila side.

Q. All right. Is it -- are you able to identify a dollar amount that you believe would certainly lead to a downgrade for KCP&L?

A. No.

Q. I mean, are we able to say, you know, $50 million hit is going to cause a downgrade or $10 million hit is going to cause a downgrade? Are you able to identify that number?
A. No, I can't. No. 1, I haven't looked at it, and No. 2, you probably need a couple disciplines or another discipline besides accounting to help work through it, too.
Q. If this case were taking place in 2010 following Iatan 2 going into service, what would your conclusion be? Remove the regulatory amortization question from the table. All else, everything else being the same, would it change your analysis?
A. It seems like it might be a little easier to swallow at that point. I mean, there would still be some unrecovered interest cost on the Aquila side that may hold them in a non-investment grade for a while.
Q. But they've got that right now. I mean --
A. They've got it right now. And if KCPL survived and kept their investment grade through Iatan 2 and all the costs were recoverable, found to be prudent and reasonable, it would seem that it would be safer ground at that point, but you'd also assume the same purchase price as what they've got right now. If things get better for Aquila, for instance, you might expect the

purchase price to go up.

Q. If we didn't have a regulatory amortization plan in place, we didn't have a CEP, and you wouldn't have a trigger upon a reduction in KCP&L or Great Plains' rating status, would that change your analysis here today? If we didn't have regulatory amortizations, would KCPL or Great Plains being downgraded below investment grade, would that be enough of a detriment to urge us to reject the application?

A. I believe so.

Q. Okay. Tell me why.

A. I don't think any Commission should knowingly take actions that will lead to a downgrade. I mean, that -- I've never heard of that being suggested and I've never heard of it happening. Sometimes unknowingly, you know, things happen and there's a downgrade, but to knowingly say we think the parameters are not good enough to allow an investment grade rating but nonetheless we're going to go forward and we're going to try and protect the ratepayers by just putting in regulatory interest, it just would be -- it would just be difficult for me to agree with that scenario. As soon as they get a downgrade, I think there's more pressure for rate relief.

Q. Okay. Do you consider -- well, are there any intangibles that you are able to evaluate in whether to recommend approval of this merger? And when I say intangibles, I mean issues that are not necessarily quantifiable on your chart where you don't have identifiable savings, identifiable costs, you run some math, are there any other issues that would suggest that approval of the merger is warranted?

A. I guess I haven't tried to think outside the box, so to speak. I do expect the company to try to put the best presentation that could possibly be put forward. So I guess the answer is no, I don't know of, I haven't really tried to think of, am I missing something on the positive side.

Q. All right. Well, let me ask -- let me ask the question this way. I'll try to get more specific. Aquila is rated at below investment grade today --

A. Yes.

Q. -- correct?

So do you see them being above investment grade as a standalone company any time in the future?

A. I haven't been involved in an Aquila rate case. Mr. Mills told me over the lunch time that there was testimony in the record that Aquila envisions to crawl out of -- crawl back to investment grade by 2011 on its own.

Q. 2011. Okay.

A. Which I think is when some of that high cost debt matures.

Q. If we assume that Aquila would rise above investment grade if this merger goes through, and we have to make that assumption, so don't feel like I'm asking you to concede that. Assuming that Aquila would rise above investment grade following this merger, are you able to quantify that fact as a benefit that should be considered in the analysis of this merger?

A. Well, the only time it seems to come in play is when they become investment grade and they actually refinance their old -- their high cost debt matures and you replace it with investment grade and that cost becomes at -- or, well, equal to what's being allowed for regulatory purposes, presumably the ratepayers will be protected up to that point in time. It's really more of a benefit to the shareholders at that point, but they might get there quicker.

Q. Is there any other way that Aquila could reach investment grade outside of this merger case? Is there any other way that they could become -- I guess they have their plan, their recovery plan, be 2011 is one way. Are there any other ways of them clawing their way out, finding a way out?

A. Not that I would know of. I'm sure that they probably put their best foot forward trying to come up with that 2011 plan, but I haven't been asked to study nor have I studied it.

Q. Okay. Would you agree or disagree that there are more synergies that can be recognized with KCP&L or Great Plains as the acquiring entity rather than a company that is perhaps more geographically distant, example, if Exelon were to come in, someone who's not adjacent to the service territory? Are there more synergies that are realized with this merger proposal than another?

A. I would agree that adjoining companies just in general should achieve more synergy savings than disjoined utilities.

Q. Are you able to quantify a value of how many more savings or how much more savings that a -- an adjacent company can realize compared to a distant company like Exelon or --

A. No. No.

Q. We're not able to quantify that?

A. Well, I would say I don't know if I'm not able to. I certainly haven't and can't give you an answer here today.

Q. Well, should we be considering that, though? Should we be looking at -- at what those synergies can be with an adjacent company versus another acquiring entity?

A. Well, I guess -- I don't know if this exactly answers your question. I mean, if the deal falls apart, then presumably Aquila might be up for sale again, and at that point in time there may be other bidders, but at probably a lower price and perhaps a price that makes more sense. It doesn't mean it's the end of the world for Aquila standalone. It just means things will change and we'll relook at things.

Q. Have you identified a purchase price that would justify this merger case?

A. I didn't back into the right price, I mean --

Q. I mean, when you say low enough, have you calculated what you think that price ought to be that would justify?

A. To do the calculation, you have to really agree on or find a synergy savings number that you think is reasonable and you have to understand how it would be considered for ratemaking purpose, because that really drives the purchase price. It drives the purchase price.

Synergy savings and how much they can retain for their shareholders, that's what drives the purchase price, and a different utility coming in may come in with higher or lower synergy savings, but they may also say we aren't going to pay as much as KCPL did or was willing to.

Q. Well, do you agree or disagree that if any companies -- what -- what entity is going to have higher synergy savings than a company that is adjacent to Aquila?

A. I would -- I think I've agreed that I think adjoining --

Q. I mean, is that a fair assumption?

A. I think that is a fair assumption. Adjoining utilities, all other things equal, should have more synergies.

COMMISSIONER CLAYTON: I think I'm done. Thank you very much.

JUDGE STEARLEY: Commissioner Murray, do you have any further questions of Mr. Dittmer?

COMMISSIONER MURRAY: No, I don't. Thank you.

JUDGE STEARLEY: Recross based on questions from the Bench, beginning with Staff?

MR. THOMPSON: Briefly, Judge.

RECROSS-EXAMINATION BY MR. THOMPSON:

Q. Picking up on questions asked by Commissioner Murray and by Commissioner Clayton, is it your opinion that if this transaction is approved, that

KCPL might find itself downgraded?

A. That is the concern right there, they will be, could be.

Q. And if that occurred, is it your understanding of the comprehensive energy plan that there would be additional amortizations, a higher level of additional amortizations sought from KCPL's ratepayers?

A. Well, then you have to start making assumptions of how the calculation would be made, whether it would be based on actual interest cost or theoretical interest costs if they'd retained their investment grade, and that's what I was trying to explain.

Q. I see. But certainly in your opinion could it result in a higher level of additional amortization?

A. It could if you -- if you start using actual interest costs that reflect the higher downgrading, it could. It certainly could.

MR. THOMPSON: Thank you. No further questions.

JUDGE STEARLEY: Ag Processing?

MR. CONRAD: Just a couple things, your Honor.

RECROSS-EXAMINATION BY MR. CONRAD:

Q. Mr. Dittmer, you spent a fair amount of time discussing synergy savings with Commissioner Clayton.

Do you recall that?
A. Yes.
Q. Have you studied the application which the joint applicants have filed?
A. In some level of detail.
Q. Can you identify for me any synergies that would be derived by the acquisition of Aquila by Great Plains, not by KCPL but by Great Plains?
A. I think the answer is no. You have to assume that the synergies will happen between KCPL and Aquila.
Q. And based on your study of their application, have they asked for Commission authorization to do that?
A. They have not.
Q. So your comments to the Commissioner about synergies and everything that's wrapped up in that are based on your assumption that there is a merger to take place between KCPL and Aquila; is that correct?
A. Well, I would say it's based on assumptions those synergies will be realized not with fact -- not withstanding the fact that the merger is only between Great Plains Energy and Aquila.
Q. Is it your opinion that they could combine those companies and integrate their operations without

authorization from the Commission?

A. I haven't -- I know that's a concern of the Staff and perhaps of Praxair. I haven't really weighed in. I haven't studied whether it can be done with operating agreements or without. I know it's a grave concern. I don't know the answer.

Q. And to go back to my earlier question -- I appreciate that. That's apparently an answer that says you don't know, right?

A. Yes.

Q. All right. So back to the synergies, your assumption is that the synergies that you've been talking about are derived from a combination of Aquila and KCPL; is that correct?

A. That would be correct, yes.

Q. Now, you've also talked about the transaction cost with Commissioner Clayton. Who has paid for those transaction costs, to your knowledge?

A. From memory, I think the majority has been paid by Great Plains Energy. I don't know if all of them --

Q. Is Great Plains a regulated utility?

A. No.

Q. Now, the absorption that you talked about by offsetting these with your assumed synergy savings, the result of that would be that ratepayers through rates would pay the transaction costs incurred by nonregulated entities; is that correct?

A. That would be correct, yes.

Q. Would you support that as a proposition?

A. Well, no. My position is just say no.

Q. If the answer is no, then just say no?

A. No.

Q. That's kind of what we talked about with transition -- or transaction costs, isn't it, and your response was and I think your quote was just say no?

A. Correct.

Q. That's the right answer, then, if that's in fact your answer, just say no.

Okay. Now, you also talked about the share price, and I believe you mentioned the share price of KCPL was $28 and something. Does KCPL have a share price?

A. If I said that, that was incorrect, it would be Great Plains Energy.

Q. And what is Great Plains' price today?

A. I don't know today. I think it was 25 yesterday or the day before.

Q. What impact does that have on the transaction -- cost of the transaction if Great Plains' shares decline in value?

A. Well, the consideration being given comes down. I don't know whether -- if your question is, does -- how does it affect transaction costs, I don't know that it affects transaction costs, but it does reduce the consideration being paid for Aquila properties.

Q. Does that have any impact on future dividend obligations of Great Plains if they go forward with the purchase?

A. Well, yes. The stock -- Aquila stock will be exchanged for Great Plains stock, and currently Great Plains is paying, I think, about 6 percent dividends on the current price. So yes, there would be more outlay of cash from Great Plains if the merger goes through.

Q. And based on your experience of some 32 years in the business, what happens to a public utility when they reduce their dividend?

A. Well, stock prices go down and they come to the Commission.

Q. Would that also be true with respect to Great Plains, recognizing that it's not a utility?

A. Well, Great Plains would put the pressure on KCPL, which would come to the Commission, but Great Plains itself could not come to the Commission.

Q. So that could motivate a rate increase?

A. Yes, that I think would. It would put pressure on.

Q. Now, you also talked, I believe, perhaps with Commissioner Murray and maybe to an extent with Commissioner Clayton about detriment, and you talked about the book value. Do you recall that general discussion?

A. I remember we had a discussion about, you know, the price being paid relative to book value.

Q. How did you define book value for that question?

A. Basically the -- it would be the shareholders' book equity in the company.

Q. Does Aquila have any debt?

A. Oh, yes.

Q. How would you account for that debt?

A. Well, it wouldn't be me accounting, but it would just come over. It would be -- would continue to be an obligation for Aquila to pay the interest cost on the debt.

Q. Or Aquila's proposed new owner?

A. Yes.

Q. To your understanding, in this transaction is Great Plains assuming that debt?

A. I don't know the technical answer to that, I mean, whether they are assuming it or if they automatically assume it or if it's -- if there's a wall there. I'm not 100 percent sure.

Q. But it there was a wall there, that would have some impact on the KCPL amortization, wouldn't it?

A. It all depends upon how that formula would be played out in the rate arena at that point.

Q. Now, you indicated some familiarity with the regulatory plan, correct?

A. Some, yes.

Q. Are you of the opinion that the regulatory plan would protect either Great Plains or KCPL from a downgrade in their respective credit matrix that was caused by something other than expenditures for the Iatan 2 plant and the environmental retrofits that are specified in the regulatory plan?

MR. FISCHER: Your Honor, I'm going to object. I don't think there's any foundation that this witness has looked at any of those issues.

MR. CONRAD: The witness indicated he had some familiarity with the regulatory plan. I'm simply endeavoring to find out what the level of familiarity is he has.

MR. FISCHER: I don't think he's testified at all that he's had any involvement in the reforecast that he's requested information about.

MR. CONRAD: Well, I think to the contrary.

I think in response to Commissioner Clayton's question he indicated he had some familiarity with the regulatory plan as well as Commissioner Clayton's questions with respect to Iatan 2 and the effect it would have on Iatan's 2's possible construction program if KCPL's credit matrix went south. I think the record will bear me out.

MR. FISCHER: I think the record will reflect what he's testified to, but I don't recall he has laid any foundation for any knowledge about any rate reforecast of construction costs out of Callaway or anywhere else.

MR. CONRAD: I don't think I mentioned the word Callaway.

MR. FISCHER: I'm sorry. I've been around here too long. I apologize. Iatan 2.

MR. CONRAD: Well, I've been around here a while, Jim, too.

JUDGE STEARLEY: I'm going to overrule. Mr. Dittmer, you can answer the question to the extent that you may have some knowledge. If you don't know, you can simply say I don't know.

THE WITNESS: And let me see if I understand the question. Does the regulatory plan protect --

BY MR. CONRAD:

Q. You might want to speak in the microphone.
A. Does the regulatory plan protect KCPL and Great Plains Energy's financial -- the matrix that would allow an investment grade debt rating beyond the construction costs of Iatan and the pollution control?
Q. Iatan 2 and the other projects that are specified in the regulatory plan, if you know what they are.
A. Well, my understanding of the regulatory plan, I mean, it came about in consideration of the construction costs of Iatan 2, pollution control, wind generation, perhaps other things that I'm not remembering off the top of my head. But the whole plan is just to keep the financial matrix such that they should be able to achieve investment grade rating, but that will only work if the utilities are allowed to -- if they don't have any disallowances.
You can't protect them if there are disallowances in the form of incremental interest costs on the Aquila side for there are disallow -- imprudence disallowances on say Iatan 2. The regulatory plan will not -- should not be able to protect them from imprudence.
Q. Based on your familiarity with regulatory plans, was it intended to protect the credit matrix against issues that might arise from purchasing another

utility?

A. No. That was not my understanding.

MR. CONRAD: That's all.

JUDGE STEARLEY: Thank you, Mr. Conrad. Cross-examination, IBEW Locals?

MS. WILLIAMS: Nothing, your Honor.

JUDGE STEARLEY: Black Hills?

MR. DeFORD: No questions. Thank you.

JUDGE STEARLEY: Aquila?

MS. PARSONS: No questions.

JUDGE STEARLEY: Great Plains?

MR. FISCHER: No questions.

COMMISSIONER CLAYTON: Judge, can I ask one question? I hate to do it.

JUDGE STEARLEY: Certainly, Commissioner Clayton.

FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

Q. In your response to Mr. Conrad, you said that the regulatory plan is not there to protect the company from imprudence. Did I hear that correctly?

A. Yes. I mean, they -- it can't protect them from imprudence as it's --

Q. So can -- do you believe that this merger application is imprudent?

A. I think it -- yes or no answer. I guess the answer is yes, I think it's imprudent under the conditions that we're dealing with at the moment, yes.

Q. What makes it prudent? What would make it prudent?

A. Well, a lower purchase price would make it prudent. Other than that, I don't -- I mean, we still have the issues of synergy savings being questionable or uncertain. Still have the questions of whether the reliance that the company is placing on the rating agency's opinion really match up with what they're asking for here in a rate case, so there's exposure to further downgrades -- or to downgrades on the KCPL and Great Plains side.

Q. If this case were two years into the future once Iatan 2 is in service, let's say all the infrastructure is in service, would your testimony then be that this deal is imprudent also?

A. I would have to look at the facts and circumstances at that point in time.

Q. If you don't know, you can --

A. All I can say is that things will be improving it would seem at that point in time, but there's all kinds of assumptions about, you know, KCPL keeping its debt grading and there being no disallowances by Iatan 2 and other projects that are going on.

COMMISSIONER CLAYTON: Thank you.
JUDGE STEARLEY: Another round of recross, Staff?
MR. THOMPSON: No questions. Thank you.
JUDGE STEARLEY: Ag Processing?
MR. CONRAD: Nothing further, your Honor.
JUDGE STEARLEY: IBEW?
MS. WILLIAMS: No questions.
JUDGE STEARLEY: Black Hills?
MR. DeFORD: No questions.
JUDGE STEARLEY: Aquila?
MS. PARSONS: No questions.
JUDGE STEARLEY: Great Plains?
MR. FISCHER: No questions.
JUDGE STEARLEY: Redirect, Public Counsel?
MR. MILLS: Yes, thank you, I have a few questions.
REDIRECT EXAMINATION BY MR. MILLS:
Q. Mr. Dittmer, I'm going to -- these questions will sort of necessarily go in reverse order, so I'm going to start with some of the questions that Mr. Fischer asked you, and he began by looking at your testimony on page 47. Do you recall those questions?
A. I remember being asked if I agreed with what I'd written the first time, and I did.

Q. Did Mr. Fischer ask you about all of the material that you'd written on pages 47 and 48?

A. He would stop me at select sentences that would, I guess, give the appearance that it's all pretty beneficial with no detriments or risks involved in the process.

Q. For example, he had you read the answer at the top of page 47. What question were you answering there?

A. The question was, are you or the Public Counsel in any way fundamentally opposed to a transaction wherein GPE/KCPL would acquire Aquila's electric properties? That was the answer that he read into the record, had me agree with.

Q. He also had you read part of the answer that appears there on the bottom of page 47. Could you go on and read the rest of the answer beginning with however.

A. However, as I stated previously, I cannot envision a scenario wherein enough conditions could be imposed that would adequately protect ratepayers from detriments resulting from this merger.

Q. Thank you. Now, you were asked some questions about whether or not you undertook a complete bottom-up analysis of synergy savings. Do you recall that?

A. I do.
Q. What kind of -- in order to do that effectively, what kind of resources would that take?
A. Well, the company's literally spending millions to do their own ground-up selection. Whether it can be done for less than the multi-millions, for a couple of million or something like that, I'd be speculating a little bit, but it's a large figure.
Q. Now, with respect to, and I believe you spent a fair amount of time both with questions from the Bench and cross-examination on the chart up at the top of page 12 of your testimony.
A. Yes.
Q. And I believe you answered a number of questions with the caveat that -- that -- words to the effect of that's what the arithmetic would show. Why is the simple arithmetic that's reflected on that chart or is the simple arithmetic that's reflected on that chart the end of the analysis that one needs to do?
A. No, absolutely not. I mean, I spent a fair amount of time and testimony talking about the discomfort that I have with the very top line number, the synergy savings, and if you don't have faith in that number, then you can't have faith in the bottom number that's the confidential number, and you can't have faith in whether

the financial matrix that the rating agencies think will be achieved will, in fact, be achieved.

Q. Now, you were also asked a number of questions about your Schedule JRD-1, and one of the questions was, and I believe this was a question from the Bench, whether some of these particular items are highly capital intensive.

A. Yes.

Q. Could you -- and I believe you conceded that the first one, automated meter reading, probably was; is that correct?

A. Yeah. And I guess not to be picky, but highly capital, I mean, the problem almost all of them have some capital component, but some of them I would consider highly capital intensive.

Q. And would you look at the rest of them and, for example, the -- the second one utilizing KCPL's expertise in outage management, does that appear to be a capital intensive project?

A. It does not imply capital intensive action.

Q. And then the third one is using KCPL's boiler tube failure reduction and cycle chemistry program for Sibley 3. Do you have an opinion as to whether that's capital intensive?

A. Well, that one I can't tell from the

description. It's been eight or ten months since I looked at it. I'd expect those numbers might be in Mr. Zabors' testimony.

Q. And then the next one, utilizing KCPL techniques to improve fuel blending?

A. Does not suggest capital intensive action.

Q. And then the following one appears to be the installation of data acquisition and some software, does that appear to --

A. Well, that one does have some capital expenditures.

Q. How about leveraging Aquila's skills and intellectual properties and processes?

A. No obvious indication of it being capital intensive.

Q. Energy efficiency programs?

A. You can't tell it from this question. There could be some capital requirements on that. And again, I expect there's probably some details in those witnesses' testimony, but it's probably a combination of techniques and capital.

Q. And then finally the fleet maintenance?

A. That one says practices, so it would suggest not necessarily capital intensive.

Q. And then with respect to, I think, several of these in particular, Mr. Fischer asked you whether you had asked Data Requests to get further information about the information behind them, and your answer was no. Why did you decide that you didn't need further information about these?

A. Well, there was two things. One, it was -- I'd never included that in my offer to work for the Public Counsel, but secondly, at least for the conclusions that we were drawing with the original proposal, it was unnecessary. You didn't need to get to that level of detail.

Q. Now, with respect to what's been referred to as enabled synergies, can you define what those are?

A. I think there is a definition given in my testimony, but my simple way off the cuff is just efficiencies, becoming more efficient, not related to the economies of scale. It's just doing things better.

Q. And now with respect to enabled synergies, and I believe it was your testimony in response to questions both from Mr. Fischer and from Commissioner Murray, that there are more enabled synergies embedded in the -- the remainder of the synergies after you take out the $59 million that you've calculated. Can you explain how -- how you arrived at that conclusion?

A. I think there was a section of testimony that gave some specific examples of changes that arguably in part were -- expected savings that arguably were due to economies of scale, true merger savings, but there were also elements of -- the descriptions were written up that they were just going to change the process of improvement, the exchange of ideas and intellectual properties.

So you couldn't divide those synergy savings into enabled and created, and the company clearly did not try either. I could look for it, but I know there is three or four examples in the testimony here.

Q. And on page 14, you were asked some questions about the footnote there in which you made a calculation. For the purposes of the arithmetic that you did there, what assumption did you make about the $305 million of estimated synergy savings?

A. That they were real, true and uncontroverted, would occur.

Q. And do you believe that that's a valid assumption?

A. Well, I've already stated at least 59 million of it I don't think should be in there. There's more than that that shouldn't be in there, and then there are other assumptions that I listed a couple. Admittedly we did not have the resources to delve in too far, but there were a couple of other examples where I thought -- I did not think the company was very conservative in their estimate.

Q. And now with respect to the pass through of synergy savings to customers, is it your understanding that KCPL's current proposal is that customers will only share in synergy savings to the extent that they are captured in rate cases?

A. That would be when they would be captured, yes.

Q. And also only to the extent that the synergy savings exceed transaction and transition costs?

A. Right. The first step was whether they exceed the transaction and transition costs. If they do, they get to collect those costs. If they don't, there's going to be a disallowance. If they exceed transaction and transition costs, then and only then do they actually get to benefit in those first few years from synergy savings.

Q. And the benefit comes at the end of a rate case?

A. Yes.

Q. Now, I believe you had some questions about acquisitions in general and whether they're -- utility acquisitions in general and whether they are typically closed at -- or at, above or below net book value. Do you recall those questions?

A. I do.

Q. Are you familiar with the acquisition in Missouri of Fidelity Natural Gas by Laclede Gas Company?

A. I am not.

Q. Now, in terms of your general practice and your company's general practice, do you tend to get involved mostly in cases with contested issues or noncontested issues?

A. Well, certainly there are settled cases many, many times. So I mean, it starts out being, I guess, contested or at least critiqued for potential -- for the potential of being contested, but they're not all contested. And the other thing I would just say is that, yes, there are contested cases, but I always say, you know, 95, 98 percent of the cost of service is agreed to. It's just that last 2 percent that we're arguing about. So yes, we do have quite a bit of agreement with the utilities.

Q. And in the jurisdictions in which you practice, is a big acquisition premium likely to make a case contested?

A. The bigger the acquisition premium, the more the synergy savings that are studied, and the more controversy, yes, as a general proposition.

Q. Is a utility's net book value constant?
A. It can be, but no, the answer is no, it's always changing somewhat. It can stay relatively constant for a period of years as we sometimes saw in the '90s.
Q. What are the things that push it up and the things that bring it down?
A. The largest driver up is construction costs, adding plant, and the things that bring it down are the lack of construction costs in conjunction with a growing accumulated depreciation reserve. We actually saw rate basis declining in the '90s quite a bit.
Q. And those two things are happening all the time in all utilities, pretty much?
A. There's always construction, and depreciation reserve is always growing. The trend can be up or down, and it can be nationwide or can be utility specific.
Q. Now, if a utility is purchased by another utility at exactly net book value, all else being equal, is that transaction positive, negative or neutral for customers?
A. If there are no synergy savings and they purchase it at net book value and we assume the new management is as efficient as the old management and all those other caveats, then it's neutral. It's neutral.

Q. Now, in terms of the calculation of synergy savings in this case, is it your understanding that the synergies were calculated on a total company basis and then simply allocated to the different jurisdictions?
A. I'd have to go back to the original proposal of Mr. Rush. I did not spend too much time on the allocation side because we never got to that point.
Q. Let me ask you a different way. Did the company ever calculate what the specific savings would be for just Missouri customers and then go and look and see what the specific savings would be just for Kansas customers, for example?
A. There was --
Q. Or for Kansas operations and Missouri operations?
A. I'm recalling a schedule attached to -- I think it was a schedule and not a work paper that wouldn't have gotten filed, but I think Mr. Rush had some kind of calculation of net savings to customers, but it didn't have all the costs that they were proposing to recover in their actual application, so it wasn't a complete picture at that point is my recollection of Mr. Rush's schedule.
Q. And --
A. It purported to show some net synergy savings, but it wasn't a true and correct calculation from

my perspective.

Q. And with respect to the calculation of transition and transaction costs, did the companies calculate a specific set of transaction costs for Missouri and a separate set for Kansas or did they calculate a total and then allocate it?

A. I think the latter, total and then allocate it.

Q. And the same question with respect to transition costs?

A. That's my recollection.

Q. Now, I believe in response to one of the questions that -- or perhaps several of the questions that you answered to Commissioner Clayton, you agreed with a conclusion you'd reached and said that's valid as long as you look at it with blinders on. Do you recall that?

A. I remember making that statement to some question, yes.

Q. And what do you mean by that?

A. Well, I don't -- I think the question had something to do with the synergy savings once again, and the math proved or would suggest that it's not going to be a detriment to ratepayers, in fact it's going to be a benefit. But the question basically prohibited questioning whether the assumptions in the question were correct, and part of my testimony, in fact, did question the assumptions that were in the company's numbers that I believe we're referring to.

Q. Now, you testified earlier that simply calculating the synergies is a very intensive process. Is it your understanding that achieving the synergies will also be a difficult process?

A. I would -- yes, I would agree.

Q. Now, are you familiar with the suite, I should say, of projects that are part of the comprehensive energy plan, the infrastructure projects?

A. I read the stipulation at one point in time, not recently. I know, you know, Iatan, pollution control and wind were three big ones. There probably are some others, but those three come to mind.

Q. Is that group of projects a fairly aggressive construction program for a utility?

A. Yes. It was a -- it was a big number relative to KCPL's then investment.

Q. Will managing that kind of projects also take a lot of attention?

A. Yes, I would agree, it would.

Q. Is a company's ability to take on and manage big projects unlimited?

A. I guess they're unlimited to go out and get

outside resources to help them, but generally, no. You can't -- you have to divide -- you have to allocate your limited resources between projects.
Q. Now, I think you had some questions about what will happen after Iatan 2 is in service in 2010. Do you recall those?
A. Yes.
Q. Is it a given that Iatan will be in service in 2010?
A. I have no assurances that it will. It's an estimate.
Q. Is it a given that it will be in service at all?
A. I guess until it's actually completed, it's not a given.
Q. Have you -- do you have any familiarity with the electric generating plants that have gotten under way and never been completed and never placed in service?
A. There were a few in the '70s and '80s, mostly nuclear projects that never got completed.
Q. Is there any -- any way of knowing today what the rate base valuation of the Iatan 2 plant will be when and if it is placed in service?
A. Not with certainty. I understand there's a new estimate coming out, but that again, that will just be

that, an estimate.

Q. And is it your understanding that the -- well, do you have any basis for comparing your expectation of what the new estimate will be with the definitive estimate from last fall was?

MR. FISCHER: Your Honor, I'm going to object to this. I think this goes well beyond any cross, any questions from the Bench, and there's been no foundation that Mr. Dittmer's been involved in any of the reforecast information.

MR. MILLS: Let me take those backwards. The question I asked him is does he have any basis to make that judgment. So he can certainly say no, I don't, or he can say yes, I do.

But with respect to the questions this came from, Commissioner Clayton asked this witness questions about what happens when Iatan 2 is placed in service and how that reflects the CEP and how that affects regulatory amortizations, and these questions are relevant to that.

JUDGE STEARLEY: I will overrule.

THE WITNESS: I haven't been studying the issue, but I do recall there was an estimate given at the time the regulatory plan was first proposed, and that, the now current estimate, the one that's been in place for about a year or so is quite a bit higher. I don't know if it's 15 percent or 20 percent, but it's somewhat higher.

And beyond that the only thing I know is that the company's coming out with another estimate, and I think they released to analysts that it's, you know, there's escalation in the pipeline in a significant way, so I don't know what that number's going to be.

BY MR. MILLS:

Q. But it's -- based on what they released to analysts, you expect that number to be higher yet again?

A. I do expect that, yes.

MR. MILLS: Your Honor, that's all the questions I have.

JUDGE STEARLEY: All right. Thank you, Mr. Dittmer. I believe that concludes your testimony for today. As with our other witnesses, I will not finally excuse you in case the Commissioners may have additional questions for you.

Mr. Mills, we've been kind of following the practice of offering our evidence at the conclusion of testimony. I think we kind of jumped the gun with Mr. Dittmer. We already offered it and received it. I'm assuming that concludes his testimony and we do not need to have him back tomorrow.

MR. MILLS: Based on the discussions we had yesterday, yes, it's my understanding that the parties have asked all of their cross-examination of this witness that they intend to, barring some need to recall him for questions from the Bench, that he will be done.

JUDGE STEARLEY: All right. Very well. Thank you, Mr. Dittmer. And at this point I believe Staff has a witness.

MR. THOMPSON: We do. We would call Bob Schallenberg.

(Witness sworn.)

JUDGE STEARLEY: Thank you. You may be seated, and you may proceed, Mr. Thompson.

MR. THOMPSON: Thank you, Judge.

ROBERT SCHALLENBERG testified as follows:

DIRECT EXAMINATION BY MR. THOMPSON:

Q. Good afternoon, Mr. Schallenberg.

A. Good afternoon.

Q. State your name, please.

A. Robert E. Schallenberg.

Q. And how are you employed?

A. I'm employed by the Missouri Public Service Commission.

Q. And in what capacity?

A. I'm the director of the utility services division.

Q. And did you prepare or cause to be prepared testimony and an attached report that have been marked here as 100HC and 100NP?

A. Yes.

Q. And do you have any corrections for either the testimony or the report at this time?

A. I have a few to the report.

Q. Why don't you go ahead and make those corrections at this time?

A. On page 2, I guess the difficulty I have is --

Q. Is that direction to a highly confidential portion of the report?

A. Well, it was given to us as highly confidential, and as far as I know the word -- there's a misspelled word in the quote, but it's the quote -- all of page 2 is HC.

MR. THOMPSON: Your Honor, could we go in-camera at this time?

(REPORTER'S NOTE: At this point, an in-camera session was held, which is contained in Volume 14, pages 1784 through 1786 of the transcript.)

MR. MILLS: Judge, before we go on, I'd like to move that that last session be declassified.
JUDGE STEARLEY: Hold on. Yes, Mr. Mills?
MR. MILLS: I'd like to move that that last session be declassified. Neither the specific changes that Mr. Schallenberg made nor the description of how to find them in his testimony revealed anything that was even remotely highly confidential.
JUDGE STEARLEY: Anyone else wish to weigh in on that?
MR. ZOBRIST: Well, I don't think I've got a problem with that right now, but I don't know the iteration from this, so I'd be glad to meet with Mr. Mills at the end of the day to go through the whole staff report and look at these things, but this is -- I think I'd rather not do the declassification right now.
JUDGE STEARLEY: We can have the two of you confer or you can get back to me like we've done before.
MR. MILLS: I will wait and when the transcript comes out, I'll confer with KCPL and we'll see if we can reach an agreement. If so, we will present it to you as an agreed-upon change, and if not I'll renew my motion.
JUDGE STEARLEY: Thank you, Mr. Mills.
MR. CONRAD: Judge, I don't know if it

makes any difference for going in and out of HC, but this screen up here is not functioning right now. I don't know if that has anything to do with your equipment or webcast.

JUDGE STEARLEY: It does not. What I've got displayed on my end and on the web page is correct. I'm not sure why that monitor's not working today. I know they've -- it's set up for two simultaneous hearings earlier this morning, and I don't know if the technology was messed up in accord with that or perhaps it's just the off and on button.

MR. ZOBRIST: It hasn't been on for most of the session, Judge.

MR. MILLS: Mr. DeFord has fixed it.

JUDGE STEARLEY: I like it when things are easy.

BY MR. THOMPSON:

Q. If you could continue with your corrections, Mr. Schallenberg.

JUDGE STEARLEY: And we are back in regular session now.

THE WITNESS: On page 12, the first full paragraph, the fourth line down, it says, the applicable statue. Should be statute. And on page 21, second full paragraph, fourth line down where it says from zero to 41, it should be zero to 14.

On page 23, on the chart under the column combined company, the number it's showing there is 656.6, and the number should be 565.6.

On page 24, first full paragraph, it's nine lines down where it says recover 24.4 annually, the word million should be placed in between that, so it would read recover 2.4 million annually.

BY MR. THOMPSON:

Q. Did you mean 24.4 million annually?

A. Excuse me. 24.4 million annually.

Q. Thank you.

A. On page 35, second full paragraph, the second line, it says in practice KCP&L chose to be managed by GPE rather, and it says then, it should be than. And then on page 40, Footnote 72, the 95.2, the word million should be inserted after that, so it would be 95.2 million less. And that's all the corrections I have.

Q. Now, Mr. Schallenberg, if I were to ask you the same questions today as contained in your testimony, would your answers be substantially the same?

A. Yes. Relative to the testimony I was responding to, yes.

Q. And your report would not change?

A. Yes, other than with those corrections.

Q. Other than with those corrections. Now, are you scheduled to testify later in this proceeding, do you recall?

A. Yes.

MR. THOMPSON: Okay. I will not offer the testimony and the report at this time, then, Judge, and I will tender the witness for cross-examination. Thank you.

JUDGE STEARLEY: Thank you, Mr. Thompson. Cross-examination beginning with Public Counsel?

MR. MILLS: No questions.

JUDGE STEARLEY: Ag Processing?

MR. CONRAD: No questions.

JUDGE STEARLEY: IBEW Locals?

MS. WILLIAMS: No questions.

JUDGE STEARLEY: Black Hills?

MR. DeFORD: No questions.

JUDGE STEARLEY: Aquila?

MS. PARSONS: No questions.

JUDGE STEARLEY: Great Plains/KCPL?

CROSS-EXAMINATION BY MR. ZOBRIST:

Q. Good afternoon, Mr. Schallenberg.

A. Good afternoon.

Q. Now, am I correct that the only degree that you hold is a bachelor of science degree that you earned in 1976 from the University of Missouri at Kansas City?

A. Yes.

Q. And you hold no graduate degrees; is that correct?
A. That's correct.
Q. Now, the same year that you graduated from college in 1976, you began to work for the Staff of this Commission?
A. Yes.
Q. And with the exception of six months when you worked at the Kansas Corporation Commission, you've spent your entire career here on the Staff of the Missouri Commission; is that right?
A. Starting from 1976, that would be correct.
Q. Now, you are a certified public accountant, correct?
A. Yes.
Q. Do you hold any other professional certifications?
A. No.
Q. So you're not a lawyer, you're not a member of the bar, correct?
A. That's correct.
Q. And you're not a professional engineer?
A. That's correct.
Q. Are you an economist?
A. I guess it depends on your definition.

Q. Have you ever held yourself out in prefiled sworn testimony as an economist?
A. No.
Q. And you don't hold a degree in economics, do you, Mr. Schallenberg?
A. Here's my -- I have the core requirements when I got my degree from UMKC to be an account -- have it in business with an emphasis in accounting or economics. I didn't get the 17 hours I needed to get a double degree, so with that, that's what I have.
Q. And I think you said in your prefiled testimony that your major emphasis was in accounting?
A. Yes, that's correct.
Q. Now, have you ever worked as an information technology or information systems expert?
A. I guess it would depend on your -- on what definition you're using.
Q. Well, do you hold yourself out, have you ever held yourself out in prefiled testimony as a computer specialist in information technology or information systems?
A. I've never -- I've never asked or presented myself that way.
Q. Okay. And maybe that's a better way to put it. Have you ever presented yourself as a management

systems expert?

A. No.

Q. And you've never acted as a management consultant, correct?

A. I guess, yes, in the sense I've never portrayed myself as a management consultant for hire.

Q. And you've never hired yourself out as an expert in the area of human resources, correct?

A. That's correct. I've never received compensation in that field either.

Q. Well, have you done it for free?

A. I do it for free right here all the time.

Q. All right. But you don't get paid for it?

A. Well, I do get paid. It's part of compensation.

Q. But you're the head of the utility services department, correct?

A. Right, and that includes my interaction with HR and handling the HR issues with 50, give or take, employees.

Q. Have you ever acted as an investment banker or as a merger and acquisition specialist?

A. I've never acted as an investment banker in any form. I have testified on mergers several times.

Q. Now, my question is, have you ever held yourself out as a mergers and acquisitions specialist in the sense that you're giving advice to companies on why they should or should not merge?

A. I have never on my own initiative done that. I have been deposed by parties for my opinion regarding mergers that parties were going to enter into.

Q. And that's -- that's in a regulatory context in your role here as a member of the Staff of the Commission?

A. It was not -- I was -- it was not a -- it was not because of a function that was before the Commission. I was deposed on behalf of people doing due diligence and seeking information from me between a matter outside the state of Missouri.

Q. Now, because you're not an engineer, you have no special background in the operations of generating plants; is that fair to say?

A. I guess it depends on your definition of specialist. I know more about the operation of generating plants than the average person.

Q. But again --

A. But I'm not holding -- I never held myself out for compensation as a -- to get compensation in that specialty field.

Q. And you don't have any special background in the transmission systems of electrical corporations operating as regulated utilities?

A. I'd have the same answer as I did for generation.

Q. Which is that you've never been paid for that, you've never held yourself out as an expert in those areas; is that correct?

A. That's correct.

Q. And that would be the same answer for distribution systems of electrical corporations as well?

A. That would be correct as well.

Q. Now, in your work here at the Missouri Public Service Commission, have you ever worked in the consumer services department?

A. I have -- I guess I have never -- well, other than for brief periods when they've needed extra assistance, I have been in that department, but I have never been a full-time employee of the consumer services department. But I do have a function to assist them in certain matters on a daily basis.

Q. Now, have you ever worked in the management services area of the Public Service Commission?

A. I have never worked directly in the management services department. I supervised them for the last ten years, and I've had to provide assistance to that department probably throughout my career.

Q. Now, you've never filed testimony as a member of the engineering and management services department; is that fair to say?

A. I have never filed under that name or their prior name, which is management services. I've filed under the auditing department.

Q. And you've never worked in the utility operations division of the Commission; is that correct?

A. That's correct.

MR. ZOBRIST: Judge, if I may approach the witness, I'd like him to identify a document, please.

JUDGE STEARLEY: You may approach.

MR. ZOBRIST: Judge, I think it should be Great Plains Energy Exhibit 53.

MR. THOMPSON: Judge, I think I need to get an opportunity to see that.

JUDGE STEARLEY: Sure.

(EXHIBIT NO. 53 WAS MARKED FOR IDENTIFICATION.)

BY MR. ZOBRIST:

Q. I've asked the court reporter to hand the witness Exhibit 53. Do you have that before you, sir?

A. Yes, I do.

Q. It's three pages, which I believe the first page is an identification of key personnel here at the Missouri Public Service Commission, including the division directors and certain other management staff, and then the last two pages are the PSC divisional phone listing; is that correct?

A. Yes.

Q. And this appears on the website of the Commission, correct?

A. I believe so. I get it -- I get it internally, so I don't -- I don't see it through the website, but I'm aware that we make this information available publicly.

Q. And is this a fair and accurate depiction of the organization of the Public Service Commission?

A. Well, it does in terms of departments. It doesn't show within the departments it structure, but within the departments it would be accurate.

MR. ZOBRIST: Judge, I move the admission of Exhibit 53.

JUDGE STEARLEY: Any objections to the admission of Exhibit 53?

MR. THOMPSON: No objections.

JUDGE STEARLEY: Hearing none, it shall be received and admitted into evidence.

(EXHIBIT NO. 53 WAS RECEIVED INTO

EVIDENCE.)

BY MR. ZOBRIST:

Q. So Mr. Schallenberg, if you would look toward the bottom of page 1 of Exhibit 53, you're listed there, Robert Schallenberg, as the director of utility services division; is that correct?

A. Yes.

Q. And prior to your appointment as division director, am I correct that you worked in the accounting department?

A. Yes.

Q. And is that the department that is now managed by Joan Wandel?

A. Yes.

Q. And then on page 2 of Exhibit 53 in the third column is a description of utility services division that you head with the individuals who were working there at least as of April 14th, 2008; is that fair to say?

A. Yes. In fact, I note that on page 2 it actually -- the accounting department is actually called the auditing department, and page 2 reflects that page 1 still calls it by its old name, accounting department.

Q. So is the auditing department the correct phrase for it?

A. Yes.

Q. And am I correct in saying that for the items of testimony that you listed on the schedules to your testimony in this case, all of those pieces of testimony were prepared while you were either a member of the auditing or accounting department or as the division director of the utility services division?

A. Yes. I can't -- I don't believe it lists the cases I did in Kansas.

Q. Well, you were only there six months, right?

A. Yeah, but I did -- they do a lot of coops, so I did a lot of coops in Kansas.

Q. Now, have you ever filed testimony in any merger case on service quality issues, excepting this report that you're sponsoring in this case?

A. No.

Q. Now, if I could, sir, I'm going to hand you what's been previously admitted into evidence as Exhibit 35.

MR. ZOBRIST: And Judge, pardon my interruption. Does the Bench have copies of the prior exhibits that were entered into evidence, because I have some extra copies of Exhibit 35?

JUDGE STEARLEY: I would appreciate an extra copy.

BY MR. ZOBRIST:

Q. Mr. Schallenberg, Exhibit 35 is a copy of the rebuttal testimony, and to be accurate it's portions of the rebuttal testimony that Staff offered into evidence and it was admitted into evidence in December 2007 by Mr. Oligschlaeger, Mark Oligschlaeger, O-l-i-g-s-c-h-l-a-e-g-e-r, in the UtiliCorp United and St. Joseph Light & Power merger case, No. EM-2000-292. Are you generally familiar with this document?

A. Well, I know I'm familiar with the entire document. I don't think I've ever seen it excerpted like this.

Q. Well, this was offered by Staff, and I'll represent to you that this has been admitted into evidence in this proceeding. Now, you didn't file testimony in that merger case, did you?

A. No.

Q. Now, Mr. Oligschlaeger in his testimony and as depicted in this Exhibit 35 on page 9 lists, does he not, beginning on line 8 of page 9, several of the Staff witnesses?

A. Yes.

Q. And the first witness listed there is witness Featherstone, who is Cary Featherstone, correct?

A. That's correct.

Q. And Mr. Featherstone works for the Kansas City office, if you will, of the auditing department?

A. Yes.

Q. And the second witness is Charles Hyneman, H-y-n-e-m-a-n; is that correct?

A. Yes.

Q. Where's Mr. Hyneman work?

A. The Kansas City office in the auditing department.

Q. And the next witness in the UtiliCorp St. Joe case was Janis E. Fischer, F-i-s-c-h-e-r; is that correct?

A. Yes.

Q. And what did she do at the time?

A. I would suspect that at this time she is still in the Kansas City office of the auditing department. I don't remember when she transferred to Jefferson City.

Q. And then the fourth witness is Michael S. Proctor, who is the chief economist of the Commission today; is that correct?

A. He is today. I don't recall his title at the time of this testimony.

Q. And the fifth witness that Staff sponsored in the UtiliCorp/St. Joe merger was David P. Broadwater,

correct?

A. Yes.

Q. And do you know Mr. Broadwater?

A. I did.

Q. And is he still alive?

A. I don't know.

Q. What did he do at the time that this was filed in 2000?

A. He was in our -- he was in our financial analysis department.

Q. And that's within the utility services division, correct?

A. That's correct.

Q. And the sixth witness that I see identified is on page -- on that same page, page 9, line 15, Steve M. Traxler; is that correct?

A. Yes.

Q. Mr. Traxler's in the Kansas City office of the auditing department?

A. Yes, he is.

Q. And then the seventh witness that was offered by Staff in the UtiliCorp/St. Joe merger depicted on lines 22 and 23 on page 9 is James M. Russo, R-u-s-s-o; is that correct?

A. Yes.

Q. What did Mr. Russo do at the time?
A. At this time he would have been in the auditing department in the Jeff City office.
Q. And then if you would, sir, turn to page 11 on the final line, which is line 21. Staff witness Phillip K. Williams testified on behalf of Staff. Does that appear to be the case?
A. I'm sorry. What line did you say?
Q. Line 21, page 11.
A. Yes, I see it.
Q. What was Mr. Williams' job at the time in May of 2000?
A. He would have been in the Kansas City office of the auditing department.
MR. ZOBRIST: Judge, may I approach?
JUDGE STEARLEY: You may.
(EXHIBIT NO. 54 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)
BY MR. ZOBRIST:
Q. Mr. Schallenberg, has the court reporter offered you what has been marked Exhibit 54?
A. Yes.
Q. This is another excerpt from Mr. Oligschlaeger's rebuttal testimony in the UtiliCorp/ St. Joseph Light & Power case, but it's only page 1 which

identifies him and then Schedule 1 of his testimony and then his affidavit or verification. Is that what it appears to be?

A. What did you describe the second page as?

Q. It's the list of cases, Schedule 1, that he says he had testified on previously to this 2000 case, and it's referenced on page 1 on lines 18 and 19 of the first page of Exhibit 54.

A. Yes.

Q. Now, sir, if you would turn to page 2, which is Schedule 1, Schedule 1-1, I found four merger cases that had Ms by them that he testified in. The first one's about two-thirds of the way down, it says Western Resources, Inc, Southern Union Company, Case GM-94-40; is that correct?

A. Yes.

Q. Did you testify in that case, sir?

A. I'd have to check.

Q. I think if you look at Schedule 1-1 of your rate case proceeding --

A. Yes.

Q. -- participation, it's like the sixth case down there?

A. Yes. The answer is yes.

Q. You did testify in that 1994 case; is that

correct?

A. Yes.

Q. Now, for the record, the -- the docket numbers that the Commission uses, it starts with an alphabetical, usually two letter phrase; is that correct?

A. Yeah. The first letter is usually the industry, and the second letter is the case type.

Q. So GM means gas and it was a merger case?

A. That's correct.

Q. And the 94 means it was filed in 1994, at least fiscal year 1994?

A. It would be filed in fiscal year 1994.

Q. And 40 means it was simply the 40th case that was filed at the Commission?

A. That's how the numbering system works, yes.

Q. Now, on Mr. Oligschlaeger's Exhibit 54, as you go down two numbers, it says Union Electric Company Case No. EM-96-149. Do you see that, sir?

A. Yes.

Q. And that was the merger of Union Electric Company and Central Illinois Public Service Company; is that correct?

A. Yes.

Q. And you did -- did you testify in that case?

A. No.

Q. And then Mr. Oligschlaeger also testified, it's three up from the bottom, in the Western Resources, Incorporated/Kansas City Power & Light Company merger case in EM-97-515; is that correct?

A. Yes.

Q. And you did not testify in that case, did you?

A. No. There was an agreement worked out with the company so I wouldn't be involved.

Q. And then at the bottom of Mr. Oligschlaeger's Schedule 1-1 or Exhibit 54, Missouri American Water Company, there's a water merger case with docket WM-2000-222; correct?

A. Yes.

Q. And you did not testify in that merger case either, did you?

A. No, I did not.

Q. Now, if I'm reading correctly from your Schedule 1-1, the only other merger cases that you testified in the electricity area were the Kansas Power & Light case, EM-91-213, and the Arkansas Power & Light Company case, EM-91-29; is that correct?

A. Yes.

Q. So am I correct in saying that you have not

testified or worked on a merger case for almost 15 years?
A. No. You would be wrong in saying worked. Have I testified? You would be right, but I do a lot of work on almost all cases.
Q. Well, I'm -- so Schedule 1-1 is not accurate? This does not indicate the cases that you have participated in?
A. You asked me if I've testified. It would be correct in terms of testified. I thought your question said testified and worked.
Q. Okay. So you work on a lot of cases that you don't offer sworn testimony on?
A. That's correct.
Q. Well, now, on your next pages of your schedule, Schedule 1-3 through the end, that indicates case summary of involvement; is that correct?
A. It discusses the issues I testified on.
Q. Well, it doesn't say testimony, it says involvement. So you're saying that should be testimony?
A. Yes.
Q. Because that also doesn't have any merger cases except for the ones that are indicated on Schedule 1-1; isn't that true?
A. Right. Schedule 1-3 feeds off the first two pages and identifies the issues I filed testimony on.

Q. So you haven't offered any prefiled testimony in a merger case for approximately 15 years?

A. Yes, that's true.

Q. Now, did you work on the 1997 Union Electric/Central Illinois Public Service Company merger case?

A. Is that the UE/CIPS case?

Q. Correct.

A. No. I was on temporary assignment to the federal group at that time.

Q. And I apologize. Did you say that you -- you did not offer testimony, correct?

A. Yes.

Q. Did you work on that case?

A. I guess, yes, I did.

Q. Okay. Well, let me show you something that may refresh your recollection.

MR. ZOBRIST: And Judge, this is going to be excerpts from the Commission's decision in Case No. EM-96-149, the Union Electric/CIPS merger case.

(EXHIBIT NO. 55 WAS MARKED FOR IDENTIFICATION BY THE REPORTER.)

BY MR. ZOBRIST:

Q. Mr. Schallenberg, this is just an excerpt of the decision, but beginning on page 18 and 19, there is a list of the witnesses who testified in that case, and Staff's witnesses are listed on page 19, and I may ask you a couple of questions about that after you've had a chance to review it.

A. I see it.

Q. So at the time of the Union Electric/CIPS, and that's C-I-P-S in all caps, merger, again, there were a number of Staff witnesses that were presented in prefiled testimony to the Commission; is that correct?

A. Yes.

Q. And, in fact, it's -- you might count them. I count ten witnesses who filed -- prefiled testimony in the Union Electric/CIPS merger; is that correct?

A. How many did you say?

Q. I have ten.

A. Yes.

Q. That includes some of the individuals who testified in the UtiliCorp/St. Joe case, such as Mr. Hyneman, Mr. Featherstone, Mr. Oligschlaeger, correct?

A. Yes.

Q. Now, am I correct that you are the only witness that has been offered by Staff to testify in this case?

A. Yes.

Q. And your testimony is four pages and eight

lines on a fifth page?
A. That's the testimony that -- that's the testimony portion and the report's attached.
Q. Correct. And page 1 is your biography? Of your testimony, Exhibit 100.
A. Okay. Yes.
Q. And page 2 are your job duties?
A. Page 2 was my job duties as a Regulatory Auditor 5.
Q. And page 3 is a description of topics on which you have offered testimony; is that correct?
A. Yes.
Q. And, in fact, you say on pages -- pardon me, lines 3 through 5 of page 3 that you've testified on issues ranging from the prudence of building power plants to the appropriate method of calculating income taxes for ratemaking purposes, correct?
A. That's what it says.
Q. And there's no mention in that answer of a merger case, correct?
A. No.
Q. And the following question and answer beginning on line 9, you indicate the testimony you've submitted in proceedings before the Federal Energy Regulatory Commission?

A. Yes.
Q. And am I correct that you have never testified in any FERC merger case?
A. That's correct.
Q. And the substantive testimony that relates to the proposed merger in this case is contained on page 4, beginning around line 14 through page 5, line 6?
A. I'm sorry. Where did you start?
Q. Your substantive testimony. We're actually regressing. Substantive issues begins on page 4, line 4; is that correct?
A. That's the question, yes.
Q. Well, I'm sorry, sir. I'm focusing on your answer. That's where you begin to discuss your substantive opinion in this case, correct?
A. Yeah, I think that starts on line 5.
Q. Well, you don't offer a substantive opinion until line 14 where you say, in your opinion, the proposed transaction is detrimental to the public interest because. That's where you begin your opinion, right?
A. I guess maybe I'm not quite sure what you mean by opinion, but --
Q. Well, I'll even expand it so it starts at line 5 in your -- in your belief and it goes to six lines on page 5, right?

A. That's what the answer --

Q. And that's the entire substance of your sworn testimony in this case on the application of Great Plains Energy to acquire Aquila, correct?

A. No.

Q. What else is there?

A. The report.

Q. The report is not under oath, is it?

A. I sponsor it. It's an attachment to my testimony.

Q. Who is the author of the report?

A. The ultimate author is myself.

Q. Pardon me?

A. The ultimate author of it is myself.

Q. There is no person listed as an author on the front page of the Staff report, is there?

A. No.

Q. Are there any authors identified in this report?

A. No.

Q. Indeed, it is an anonymous report, true?

A. No.

Q. Well, you sponsor it, but we don't know who the authors of this report are, do we?

MR. THOMPSON: Your Honor, the witness

testified that he's the ultimate author, so counsel is misstating the witness' testimony.

MR. ZOBRIST: All right. I'll be glad to further inquire.

BY MR. ZOBRIST:

Q. Did you write each and every line in this report?

A. Ultimately, yes. I mean, there were -- because pieces of it I got off Data Requests and I copied them in and I got -- I got comments back that I would either choose to accept or not accept, but ultimately all the lines are mine.

Q. That wasn't my question. My question is, did you write every line in this report?

A. I said no, because I copied some of it.

Q. Was there any other member of Staff who is an author, a co-author of this report?

A. I'm not sure what you mean by co-author. I mean, I got material from other people, like, for example, the service quality, the initial draft.

Q. Who did you get that from?

A. Lisa Kremer.

Q. So did Ms. Kremer write pages 68 through 76?

A. She gave me the draft.

Q. Did you change it substantially?
A. I don't -- I don't believe so, but I mean, when she drafted it, she did it in consultation with me at the time. And then I think Kim Bolin wrote the initial piece on the Kemp study. But when I say wrote it, they were in consultation with me during -- before the draft was even created, and then I would have received comments from the General Counsel's office.
Q. So did you receive comments from the General Counsel's office just on the service quality section or on all the sections of the report?
A. On all the sections.
Q. Now, there are a number of discussions in the report that we'll get into where Missouri case law is discussed, correct? Is that true?
A. I know there's some, yes.
Q. And there are discussions of Missouri statutes in here, correct?
A. Yes.
Q. Were they drafted by lawyers in the General Counsel's office?
A. In some cases, yes, unless it was copied out of a Commission Order.
Q. Well, I'm talking about those sections that were not copied from an Order or from a case. Are the

discussions of the statutes and Staff's view of these statutes and what these appellate cases mean, were they written by a lawyer?

A. Yes.

Q. You didn't write those, did you?

A. No.

Q. Who wrote those?

A. It probably would have been either Mr. Dottheim or Mr. Williams.

Q. Now, if we look at the executive summary, which is 24 pages long, do you see that before you, sir?

A. Yes.

Q. Who wrote that?

A. I did.

Q. Did you write that in its entirety?

A. Yes.

Q. You didn't receive any portions that you put in here like you may have received from Ms. Bolin or Ms. Kremer or Mr. Dottheim or Mr. Williams?

A. I would receive comments about sentence structure and things. I don't remember how much -- I doubt -- the executive summary, though, would have been drafted by myself initially.

Q. Now, Section 2 is the scope of Staff's review beginning on page 32?

A. Yes.
Q. Who wrote that?
A. I did.
Q. Did you write that in its entirety?
A. Yes.
Q. Did you receive any -- outside of grammatical advice, did you receive any substantive advice from any members of the Staff?
A. I'm not sure about where you draw the line between grammatical and substantive, but I mean, I would have received comments and would have reviewed them.
Q. Well, for example, beginning on page 25, there is a discussion of the State ex rel Ag Processing v Public Service Commission case. Do you see that?
A. Yes.
Q. Okay. Did you write that or did one of the Staff lawyers write that?
A. This would have been a comment I would have received by -- from one of the Staff attorneys.
Q. If you could turn to pages -- to page 41, which is the synergy savings sharing proposal.
A. I'm sorry. What page?
Q. Page 41.
A. Okay.
Q. The synergy savings proposal section of

part 5 of the report goes to page 48. Did you write this section?

A. Yes.

Q. Did you write the portion on why Staff disagreed with Great Plains' interpretation of Mr. Oligschlaeger's testimony in the UtiliCorp/St. Joe Light & Power case?

A. I don't agree with your characterization of the testimony, but I wrote this testimony.

Q. Well, this is not testimony. I'm talking about the Staff report.

A. Okay. I wrote the language that's in this document that you're referring to. I don't believe I said that I disagreed with what Mr. Oligschlaeger said.

Q. I'm sorry. I didn't mean to say that. What I'm saying is that you disagreed with what Great Plains Energy had to say about the Oligschlaeger testimony?

A. Yeah, or clarified that they had taken it out of context and provided the clarification.

Q. And so you wrote this section yourself?

A. Yes, I wrote this whole entire section.

Q. On synergy savings?

A. Yes. Right.

Q. And then -- and we're going to deal with these either later today or maybe tomorrow, but I just want to, if I may, Judge, ask a preliminary question of authorship. Did you write the transaction cost recovery section of the report?

A. Yes. In fact, if it'll help you, other than the one on service and the one on the Kemp study, I would have been the initial author on all of it.

Q. Okay. And so that would include the affiliate transaction rule section which is E, Section B, the transaction cost recovery, and I guess that's it, because then we start with section 6 on other items, correct?

A. That's correct, except I will note that on Item C on the actual debt cost recovery, some of the schedules and numbers I had checked through financial analysis by Matt Barnes and Ron Bible.

Q. Well, I will be asking you no questions on Item C because the applicants no longer seek to recover actual debt costs, and I will be asking you no questions on Item D on the additional amortization mechanisms unless they would just happen to come up.

MR. ZOBRIST: Judge, I'm at a good breaking point if you want to take an afternoon break, but I'm willing to go on.

JUDGE STEARLEY: I was actually just going to ask you, Mr. Zobrist, because not only do I want to give my court reporter a rest, I also have a message to convey to her as well. Well, why don't we break for let's say 30 minutes. We'll resume at 4:15.

(A BREAK WAS TAKEN.)

JUDGE STEARLEY: We are back on the record continuing with the testimony of Mr. Schallenberg. You may proceed, Mr. Zobrist.

MR. ZOBRIST: Thank you. Judge, I'd like to offer Exhibits 54 and 55 at this time, please.

JUDGE STEARLEY: And just for clarity, Mr. Zobrist, was the excerpt from Union Electric Exhibit 55?

MR. ZOBRIST: Yes, sir, that was 55, and Exhibit 54 was the three-page excerpt from Mr. Oligschlaeger's testimony.

JUDGE STEARLEY: Any objections to the admission of Exhibits No. 54 and 55?

(No response.)

JUDGE STEARLEY: Hearing none, they shall be received and admitted into evidence.

(EXHIBIT NOS. 54 AND 55 WERE RECEIVED INTO EVIDENCE.)

MR. ZOBRIST: Thank you, Judge.

BY MR. ZOBRIST:

Q. Mr. Schallenberg, let's turn to the topic of merger savings. This starts around pages 41, 42, 43 of the Staff report.

Now, as I understand it, one of the reasons that you reject the applicants' synergy savings analysis is because they have not moved to merge or consolidate KCPL and Aquila; is that correct?

A. That that -- that merger or that combination or that transaction is not part of what's being proposed to be approved by the Commission, if that's what you're saying, that would be correct.

Q. And what you're saying is because the consolidation of the two utilities is not being requested, Staff did not analyze the alleged asserted merger savings brought before the Commission by the joint applicants?

A. I wouldn't say they didn't look at it. They did not go down -- we didn't do a bottom-up audit of all the allegations of savings.

Q. Well, I was going to use that phrase. That's what Commissioner Clayton asked Mr. Dittmer. Staff did not do a bottom-up calculation of the merger synergies asserted by the joint applicants in this case?

A. Related to the KCPL and Aquila combination.

Q. And the position that Staff is taking in this case, that you're taking in this case is that it's okay in your view to ignore the asserted savings from integration and coordination of operations of Aquila and KCPL because the applicants are not proposing to merge those two electrical corporations; is that correct?

A. Well, you say ignore. It's a separate transaction that's not before the Commission in this case.

Q. Well, that's the position that you're taking because the joint applicants don't seek to merge those two corporate entities, you don't have to do your bottom-up analysis of the synergies, correct?

A. Yeah. You're talking about a number associated with a transaction that's not before this Commission in this case.

Q. Well, again, that's your argument, correct?

A. That's what -- that's what the facts show, yes.

Q. Well, but you're also saying, not only is that -- let me try to break this down. There is no proposed consolidation of Aquila and KCPL, correct?

A. In this case?

Q. Right.

A. Yes.

Q. But there is a proposed integration and coordination of the operations of the utilities as sister utilities, subsidiaries under Great Plains Energy,

correct?

A. There is a proposed concept of one, yes.

Q. Right. And what you're saying is that the asserted merger synergy savings that can be derived from the coordination and the integration, Staff didn't feel it needed to analyze those because it wasn't part of a formal consolidation of the two corporate entities?

A. That's correct, because they're not related to the transaction being asked for this Commission to approve.

Q. And so you didn't feel that you even needed to take a look at the synergies that are asserted on the transaction that is before the Commission, which is the acquisition by GPE of Aquila, correct?

A. I didn't say that.

Q. Well, that's what I'm asking. Isn't that true?

A. No.

Q. I thought you said that because the merger consolidating transaction is not before the Commission, you don't need to look at the synergies related to integration and coordination of two corporations?

A. That between KCP&L and Aquila, that's not -- whatever alleged synergies can come from that combination is not the proposed transaction before the

Commission. I thought you asked me did we not look at any synergies that came from Great Plains acquiring Aquila.

Q. Okay. Well, did you?

A. Yes.

Q. What were -- what was your conclusion there?

A. There are some. In fact, the company used that when we brought it up to make the last transfer -- some of the last transfer of costs between transaction and transition costs.

Q. Now, in your Staff report, which was part of your October testimony; is that correct?

A. Yes.

Q. And for the record, you haven't updated either your testimony or the Staff report since it was filed on October 2007; isn't that true?

A. That's correct.

Q. Okay. And so the reasons that are in this merger savings section of the report concerning the sharing mechanism, we don't need to deal with that here today because it's been withdrawn, correct?

A. My understanding is that the testimony has not been taken out of this case yet. I think there's an outstanding procedural matter to remove the testimony sometime in May.

Q. All right. But you've read Mr. Bassham's supplemental -- additional supplemental direct testimony, correct?

A. Yes.

Q. Right. And he said there that the joint applicants had withdrawn their request for a 50/50 merger savings synergy mechanism, correct?

A. That's what he said.

Q. Now, in the report at pages 44 and 45, you had some criticisms of the tracking proposal; is that correct?

A. Yes.

Q. Now, if the applicants had withdrawn the synergy savings mechanism and they're just going to come in in a rate case in a year or so to have those synergies assessed with certain other things, isn't it true that we really don't need to worry about tracking in this case right now either?

A. No, I wouldn't agree with that statement.

Q. Well, isn't tracking something that is going to be the burden upon the applicants that come in a rate case either later this year, next year if this merger is approved?

A. That part -- I don't remember seeing that in Mr. Bassham's testimony about the burden and that part.

I don't remember seeing that.
Q. And the criticisms that you had about additional amortizations, since they're not being requested by the applicants at this time, we don't need to deal with that either, correct, in this case, in this merger case?
A. I don't agree with that statement either.
Q. All right. You do understand that Mr. Bassham withdrew the joint applicants' request for additional amortization authority to be granted in this case, correct?
A. I understand that, yes, with the understanding that it's an active matter that can come up at a later date.
Q. Now, because your Staff's only expert in this case, their only witness in this case, you didn't offer any expert testimony concerning the calculation or assessment of the synergies; is that true?
A. You mean as an alternative calculation as to what a combination of KCP&L and Aquila would generate?
Q. Correct.
A. No, I did not do an alternative calculation.
Q. And did you ask the engineering and management services department to analyze the asserted

synergies that the joint applicants had brought to the Commission in this -- in their testimony?

A. No. They looked at the potential threat to service quality.

Q. So you did not ask them to look into merger energy savings?

A. No, other than to look at the relationship to service quality.

Q. Now, is it -- if you would turn, sir, to page 5 of your sworn testimony, although as you said you didn't conduct a bottom-up analysis of the asserted merger savings, looking at line 5 of page 5, you state that the picture depicted by the joint applicants is ameliorated by the assertion by the joint applicants of savings that are outside the scope of the proposed transaction; is that correct?

A. That's what the sentence says.

Q. And ameliorated means improved, made better, correct?

A. Yes. They put the savings in combined with the transaction they're asking approval for.

Q. So if the scope of the transaction that's proposed by the joint applicants is considered by the Commission, you're saying the asserted savings do show that it makes the financial picture better or ameliorated

to use your term, correct?
A. That's right. The -- the -- the alleged savings make the overall transaction look better than it is without the savings.
Q. Now, you were in the hearing room when Mr. Dittmer testified; is that correct?
A. For most of it.
Q. Well, would you agree with his statement, and I believe it was at page 47 of his rebuttal, where he said, quote, with adjoining service territories, GPE slash KCPL's acquisition of Aquila's Missouri electric properties should be expected to generate real and fairly significant synergy savings, close quote. Do you agree with that?
A. Yes. I mean, I believe they have the opportunity to generate synergies.
Q. And do you agree with his statement in response to I think it was either Commissioner Clayton or Commissioner Murray that having utilities merge that have adjoining service territories will -- more likely to result in a greater amount of merger savings than if you have say Exelon or Wisconsin Electric, somebody come down and buy a Missouri utility?
A. I would agree that I think the opportunity for the adjacent -- providing service to the adjacent

properties is greater, unless the other merger options have other synergies that offset that.

Q. So all things being equal, merging two utilities with adjoining service territories is going to create greater merger savings than -- I think you called them distant utilities, who did not have neighboring territories, correct?

A. Yeah, and I think there's -- when you say adjacent, there's also -- I think there's an advantage to merging utilities under the same regulatory regimes because you're more familiar with that.

Q. I'm sorry. Were you done?

A. Yes.

Q. Okay. And when you say under the same utility regulatory regimes, you mean having two Missouri, basically Missouri utilities merge is going to probably have greater synergies than taking a utility in Indiana and trying to merge it with one here in Missouri?

A. Right. Regulatory staffs, your accounting information systems are likely to have special requirements for each jurisdiction you operate in, and it's likely that the jurisdictions will have some competing or differing requirements that can take away the opportunities for synergies.

Q. Now, if you would -- do you have Exhibit 35 before you? It's the rebuttal testimony of Mr. Oligschlaeger from the UtiliCorp/St. Joe case.

A. Yes, I do.

Q. Looking at page 47, starting around line 4, am I correct that in the past Staff has found it acceptable to allow utilities to retain some portion of merger savings?

A. I'm sorry. You said page 47, what line were you referring to?

Q. I'm sorry. Lines 4 through 14. And why don't you go ahead and take a look at that question?

A. And then your question was?

Q. Why don't you take a look at 4 through 14. My question's going to be about Staff's position in allowing utilities -- finding it acceptable to allow utilities to retain some portion of merger savings.

A. You said page -- through 14?

Q. Line 14.

A. Okay. Yes.

Q. And do you agree with this statement in here, particularly looking at lines 12 through 14 where it says, quote, allowing utilities to retain some level of merger savings is therefore superior in that it allows for a sharing to be accomplished in a currency, parenthesis, merger savings, close parentheses, that benefits customers and utility shareholders alike?

A. Yes.

Q. Okay. You still agree with that statement?

A. Yes.

Q. And is that Staff's policy here in this case?

A. Yes.

Q. And am I correct that in the UtiliCorp /St. Joe case, Staff recommended use of what we have called regulatory lag as a method of passing along merger savings both to shareholders and customers? Is that true?

A. That's true, but I mean there's nothing unique to merger savings. We do that with all savings.

Q. If you would, sir, look at page 48, beginning on line 7, there's a question that says, what is regulatory lag? And Mr. Oligschlaeger answers, regulatory lag is the time between when a utility experiences a change in its cost of service and when that change is actually reflected in the utility's rates. In this context under the current regulatory practices in Missouri, utilities such as UtiliCorp United have the opportunity to retain achieved merger savings for a period of time before they may be required to pass through those savings to customers prospectively through a reduction in rates. Did I read that correctly?

A. Yes, you did.
Q. I think I said UtiliCorp United instead of UCU. Do you agree with that definition of regulatory lag?
A. Yes.
Q. Isn't that what Mr. Bassham has proposed in his additional supplemental direct testimony to occur in this case?
A. I -- I'd have to say I think so. I'm not quite sure I exactly understand what -- what's proposed, so he would be a better witness to tell you what he's proposing than I would be.
Q. Now, in the next question, Mr. Oligschlaeger is asked, are there instances in which regulatory lag may not provide a fair sharing of merger savings to a utility? And he answers, that is possible, in particular when a company undergoing a merger faces increasing revenue requirements. Even when estimated net merger savings are factored in, rate increase cases may serve to pass on achieved merger savings to customers without a chance for the utilities to retain a share of merger savings for a reasonable period. In these instances the Staff would not be opposed in concept to proposals by utilities to share merger savings in the context of a rate proceeding. Did I read that correctly?
A. Yes, you did.

Q. If this merger is approved under the revised proposal by the joint applicants, would Staff endorse such a sharing of merger savings in the context of the next rate proceeding?

A. Which concept are you talking about?

Q. The sharing of merger savings after a rate case, pardon me, in a rate case, as a result of a rate case?

MR. THOMPSON: I think that question calls for speculation, Judge, and I object on that basis. He is asking if Staff would take a particular position in the future.

MR. ZOBRIST: I'll rephrase that, Judge.

JUDGE STEARLEY: Okay. Please do.

BY MR. ZOBRIST:

Q. Is this philosophical statement, this concept that Mr. Oligschlaeger sets forth here, is this a policy that you endorse here today, or do you disagree with it?

A. I guess in the way I interpret the sentence is that, and the way it's practiced today, is would we listen to a proposal to share merger savings? Sure. Now, would we accept any proposal that comes to us? The answer is no.

Q. I understand that.

A. And as I -- and the difficulty is, we have always had difficulty in actually being able to break out of a real cost of service what is merger savings, and I'm not aware that has ever been successfully done.

Q. Well, that burden is upon the applicant, correct, that it has to come in and show what the merger savings are, and in this case the extent to which they exceed transaction and transition costs?

A. Yeah, I'm -- I've heard that term today about burden, and I'm not sure what that is, but, okay.

Q. Well when a utility comes before the Commission asking for a rate increase, does it not carry the burden of proof?

A. I've heard that.

Q. That wasn't in your legal discussion here?

A. I've heard that, but I've also heard that if you --

MR. THOMPSON: Judge, he's asking him about a matter of law. Calls for a legal conclusion.

JUDGE STEARLEY: And I believe Mr. Schallenberg's answer was that he didn't know, so -- or essentially didn't know, so --

MR. ZOBRIST: Judge, that's all the questions I have on merger synergy savings -- merger synergy savings. I think we've got some other issues to talk about either later today or tomorrow.

JUDGE STEARLEY: Thank you, Mr. Zobrist. Questions from the Bench? Commission Clayton? With regard to the issue of synergy savings.

QUESTIONS BY COMMISSIONER CLAYTON:

Q. Mr. Schallenberg, what I'm doing right now is reviewing the updated witness list, the schedule. I was working off an old schedule, so mine was not accurate. And since you're going to be coming back, it's probably not going to be efficient for me to go through and ask you questions like I did Mr. Dittmer because I kind of covered the whole spectrum of things, and I don't want to be repetitive. So today you're only supposed to be talking about merger synergies; is that correct?

A. Yes. Well, at the time when it was the synergy proposal and the treatment of synergies.

COMMISSIONER CLAYTON: Let me -- Judge, I'm going to need some guidance, and the attorneys may be able to give me guidance here. We talked at one point that we would potentially have arguments on the motion for partial summary judgment -- summary determination at some point either this week or next week. I think there was discussion about having some sort of oral argument on that.

JUDGE STEARLEY: No, that's not correct.

That particular issue, Mr. Conrad was going to renew that motion. The parties were going to be given an opportunity to respond, and that was going to be taken with the case. The motion regarding limiting the scope of the proceedings --

COMMISSIONER CLAYTON: Before you get to that --

JUDGE STEARLEY: -- that would be separately taken up.

COMMISSIONER CLAYTON: Well, I'm not asking the limiting the scope. What I wanted to ask, will we have an opportunity on the legal matter to ask questions about the motion for partial summary determination? I'm assuming that is a legal issue. Will we have an opportunity to ask the attorneys at some point, once they have had an opportunity to respond and the record is complete?

JUDGE STEARLEY: I believe as the hearing proceeds, there will be an opportunity for you to address that, not perhaps in that context, but perhaps in another.

COMMISSIONER CLAYTON: Then the second question --

JUDGE STEARLEY: That's just with regard to those issues raised in that motion.

COMMISSIONER CLAYTON: I understand. Now, the second question that I have, I guess for the Judge or for the parties, is will the Commission have an opportunity to ask the attorneys questions regarding -- well, I don't know if it would be appropriate or not, but Mr. Conrad has raised a number of objections to the synergy savings testimony that's been placed in. So it's all coming in under an objection right now; is that correct?

JUDGE STEARLEY: That's correct.

COMMISSIONER CLAYTON: And I wanted to see, will we have an opportunity to ask the attorneys questions as a matter of law? I mean, I think there's -- that's a question of law that's in there. Do you anticipate us having an opportunity to ask those questions of the attorneys? Because, I mean, I'm not sure if Mr. Schallenberg is the right witness to ask questions about the legality of the transaction structure but rather ask the attorneys. Do you understand what I'm saying?

JUDGE STEARLEY: Yes. I believe -- if you wanted to direct questions to the attorneys specifically about a legal issue, we can do that at the close of the evidence, not in the framework of closing statements per se because we're going to be getting briefing, but you would certainly have an opportunity to ask the attorneys questions freely at that point as you would know what all testimony was in the record at that point as well.

COMMISSIONER CLAYTON: Okay. Well, I mean, is there -- do you-all have a problem with the Commission -- well, me asking questions of the attorneys on those two legal matters? I just don't think I can ask Mr. Schallenberg, even though there's a big portion of his testimony is about that the transaction is structured in an incorrect way, I see that more of a legal question. Do you-all have any comments on that?

MR. MILLS: From my point of view, I would be happy to discuss that with the Bench.

MR. THOMPSON: Staff would be, too.

MR. CONRAD: I think I would be, too, assuming at the appropriate time. I would respectfully point out that the -- the whole purpose of yours truly submitting those Motions in Limine ahead of in one instance the December hearing and in another ahead of this hearing was to bring that matter to the top of the stack.

You-all have by whatever vote, I don't remember, doesn't matter, have denied those, and I have not at this point in time asked for reconsideration. I am simply at this point, with all due respect, Commissioner Clayton, doing what I can do to protect that issue ultimately, if necessary, for appeal. I would hope it wouldn't be necessary, but I can't predict that, so I don't know.

Now, that having been said, I'm happy to explicate that further, but I'm not sure what context that it would be. I'm making objections as we go through, and those are being consistently denied and/or overruled, and I mean, that's not unexpected. So in a certain sense, it'd help me out here, and you-all are -- you're one of five people that makes that decision. I'm at this point protecting the record, doing what I can to do so.

MR. ZOBRIST: Commissioner, I would say also, certainly we're -- we're, you know, willing to come whenever you want us to come, either at the close of the case to address any legal arguments that are here. I think it's probably better to do them when we, you know, let the witnesses all testify.

But to your point respectfully, this is the only witness that I can cross-examine on Staff's report, and I think you ought to ask him any questions about this 80-page report here, whether it's authored by somebody else or by a lawyer or someone else, because Staff has put this into evidence, it's created a lot of difficulties for us to figure out how to cross-examine, you know, a very accomplished auditor on, you know, a whole variety of things. So I think you ought to feel free to question Mr. Schallenberg about anything in that report because he says he's apparently the -- or at least he's taken the responsibility for it.

COMMISSIONER CLAYTON: Okay. Well, thank you for those comments. I guess -- my attitude, I think it would be helpful for my perspective at some point, and it doesn't have to happen this week, but I think it would be appropriate at some point -- I mean, this case is -- is quite out of the ordinary. There are a number of circumstances that are out of ordinary associated with it.

Most of us sitting up here on the Bench probably have far less experience than most of the witnesses and attorneys that are practicing here. There's no question about that. So I think it would be beneficial at some point to have time for legal arguments, legal discussion on that Motion in Limine that was filed. Even though it has already been ruled upon, I may have questions on that issue as well as that partial summary determination motion when those are all teed up, you know, finally and all the responses come in. I mean, I think we need all the responses in for that.

I just wanted to make sure that I guess there was no objection to anything like that at this point. And I'll just kind of move through this and somebody will object if I'm asking a legal question or something like that. I guess that's what I anticipate.

No one's hesitating objecting when we ask questions, so if that comes up, sorry.

MR. CONRAD: And forgive me if -- I'm not trying to keep track of who's sitting up there and when, but you may have been out of the room, Commissioner, and we have -- you may have been listening also. We had an exchange, I think it could have -- probably was Monday, but it might have been yesterday, in which Judge Stearley indicated that my -- that rather than disrupting, bouncing up and down every time somebody said something about synergies, that I could have benefit of a continuing objection that would be lodged with that.

So when, for example, Mr. Dittmer was up, I didn't jump up and scream and holler, nor have I done so or expect to do so pursuant to that understanding with Mr. Schallenberg. And I'm presuming that that's still in place and that we're operating under that understanding. So subject to that, I don't have any disagreement with what Mr. Zobrist said. Go for it.

COMMISSIONER CLAYTON: Well, I just -- I think each of these issues -- you know, working through this process, each of these issues are constantly -- you know, we're going to have to be evaluated, reevaluated by the Commissioners regardless of what the potential outcome is. So I apologize for slowing things down. May I proceed, Judge? May it please the Commission?

MR. STEARLEY: Yes, you may.

BY COMMISSIONER CLAYTON:

Q. Mr. Schallenberg, were you in the room when I asked some questions of Mr. Dittmer?

A. For most of it, yes.

Q. Do you agree with him that the price that has been proposed for this acquisition is a reasonable price?

A. From a public interest perspective, I would not. From an Aquila shareholder, I would say it is.

Q. Okay. Let's talk about public interest. Tell me why the price is not appropriate. Then give me an idea of what price would be appropriate as an example or a range.

A. Why it's not appropriate right now is it transfers too much value to the Aquila shareholder that puts the combined Great Plains and KCP&L -- because there's no ring fencing there, so if Great Plains is in trouble, KCP&L's in trouble and Aquila, since it will be part of the combined entity under the transaction.

It puts too much financial stress on them to have to try to absorb the excess consideration going to Aquila shareholders. That's why I would say it's not -- it's not beneficial to -- it's not in the public interest.

It's not a fair price in the public interest. To an Aquila shareholder today, it's a fair -- I mean, it's a healthy premium.

Q. How many mergers and acquisitions cases have you -- have come through the Commission since you've been employed at the Commission?

A. Oh, there's -- I know it's got to be at least in the teens, 20. Not all of them get consummated, so there's probably -- I've probably seen probably 20. In fact, if you count the little ones that come through, it's probably even higher, 30s or 40s.

Q. Is the purchase price generally above or below the book value, the net book value of the company?

A. It would depend. The timing in -- well, recently, you probably see more below book or negative acquisition adjustments than you have, say, in -- I've been here for over 30 years. You're seeing a lot more sales of utility property at negative acquisition adjustments.

Q. In Missouri or elsewhere?

A. In Missouri. I don't -- I don't --

Q. Can you give me some examples of acquisitions that have had some sort of discount?

A. Almost all of the what I call the first generation gas expansion that was done when the -- you had individual -- or, well, a lot of them were individuals, but they were companies that attempted to provide natural gas service in the propane area. Most of it's in south, southern Missouri, some south central. We had a little bit recently up north.

Almost all of those have failed in the sense that they were never able to charge rates commensurate with costs, and they have been sold to various entities at less than book values at discounts to book values.

Q. If a company sells at a discount from its net book value, does Staff take a position that -- that the rate base of the company has to be reestablished at lower value?

A. It would depend on what the condition was for the certificate. If the condition of the certificate was such that the owners bore the burden of making it economic, then in those cases the Staff would argue that the new sales price establishes the rate base because they were never able to charge cost based rates.

If a utility is already on a cost -- cost basis where the rate base is already reflected in the cost and the rates are set, then negative acquisition adjustments aren't considered in establishing rates.

Q. Has Staff or have you evaluated the

purported merger savings alleged by the applicants? The figure that was told earlier was for Missouri jurisdictional customers 222 million in five years in savings, 549 million over ten years. Did you or Staff in general evaluate the totality of those savings, their accuracy, their likelihood of being realized?

A. The Staff analysis of the savings initially was at a conceptual level about what is the -- what is the savings here, why is that a savings, that type of question. So we did a lot more -- we did a lot of work at that level, and then the synergy savings were modified from the beginning of this case, I think in April of last year, and as it was subsequently filed, I think their last filing on synergies was in August, where they came up with the set that they're using today, which has a lot more detail drilling down.

The Staff didn't go into all of that detail and all those individual line items. We didn't do that. But we did look at it as a macro number and do, you know, some reasonableness tests, especially in the supply chain change.

Q. And so how would -- how would your conclusion be formulated? You run some tests, you check some figures, but you don't establish a bottom-up amount of likely savings to be generated from this merger as I understand your testimony; is that correct?

A. That's correct.

Q. So what is the nature of your conclusion? Are you just saying that the 222 million over five years is unlikely to be achieved? Is that how you conclude with the savings?

A. In fact, I'm trying to find which number of the two -- I'm familiar with the 305, which --

Q. That's the total company, I think.

A. Well, there's two numbers. There's a -- there's two types of cost reduction savings, whatever definition's applied. There's a portion that they call utility, which would be generally assigned to KCP&L's Kansas/Missouri operations or Aquila's Missouri operations, and then there's what they called a non-utility savings number. I think it's about the same as the 305. I think it might be 302. And that's related to a lot of the cost that will be in Aquila after the Black Hills sale that was for operations that were sold or nonregulated operations, and there are cost reductions in that category.

So I'm familiar with the 305 number and generally what makes that up, but in terms of getting down into the -- all the individual projects and stuff, since we didn't have -- we were looking for like operating agreements between KCP&L and Aquila to define what was really going to take place, and that was not the approach done. The synergies were done at a conceptual level. So we never took the time going through all those estimates-- detailed estimates.

Q. So are you saying that you-all didn't do the analysis that I guess I'm supposedly asking for here because the proposal was presented to you in the form that it was?

A. Well --

Q. Did you not receive the sufficient amount of data or was it the way that the transaction was structured, you didn't think it was relevant?

A. What you just said, that last one, is once -- once we had become aware that -- that -- that the synergies were coming, almost all the synergies that were at issue were coming from the transaction of combining whatever you want to call the KCP&L/Aquila relationship, which was not being requested for this Commission to approve.

We didn't spend -- we didn't spend time going through all the detail of each of their -- of their proposals. But because we had started out on some of them at the very beginning of their April filing, you know, we were knowledgeable about some of those.

Q. But to make a finding or make an opinion about whether or not this transaction is detrimental to the public interest, don't you need to have a position, doesn't Staff have to have a position with what it thinks is a likely number in terms of savings that can be realized by two utilities that are adjacent to each other to establish what would be an appropriate price for what rates will reflect after potential savings, if any?

Don't you -- doesn't Staff need to come up with some idea of what it thinks is likely to happen if a merger occurs?

A. We would need that if we were evaluating a merger or a consolidation or combination, whatever term you want, between KCPL and Aquila. We don't need that number for Great Plains to in essence acquire Aquila.

Q. Now, if -- if the merger application had been drafted in the format that you just suggested where Aquila merges with KCP&L rather than merge with Great Plains, would Aquila as it is today still exist as a standalone entity with its own rate structure, or would the Aquila people be folded into KCP&L and there would be -- they'd get the identical rate structure, same set of tariffs? Explain to me how that application would look.

A. Okay. Now, there is an -- there was a prior merger request between -- at the time it was called

UtiliCorp and KCPL, and they had a structure that they proposed, which that structure would be somewhat akin to what would happen in the proposed -- the proposed transaction where they had -- they were going to form a holding company that would then own KCP&L and UtiliCorp, and the entities would operate as separate entities with -- you know, as things change going forward, they would make proposals to consolidate in future pursuits.

Q. So at the time -- Great Plains didn't exist at the time of that merger application?

A. That's correct.

Q. So you had Kansas City -- Kansas City Power & Light was as high as you got in the -- I mean, it was its own standalone entity without a parent holding company?

A. That's correct. And so that -- in that case, they were going to form a holding company to be the joint owner of the two, the two entities, but at that time the proposal was, is the entities would still operate as separate entities, and one of the reasons for that is that they have different rates. Even Aquila will have different rates in Missouri because there is the St. Joe district and there's the -- I call it the MoPub district. I think it's called MPS something.

But there's -- there's two districts even in Missouri that have a different rate structure, so you need -- as long as you're going to have those rate structures, you're going to need to have in place an organizational structure that allows you to capture costs so that you can set rates for those different rates, jurisdictions.

So you have two in -- you have two at UtiliCorp or Aquila, and you have Missouri rates that have to be established for KCP&L and then you've got Kansas over in Kansas. So that by its very nature means that something has to be done in order to capture data at least that level.

Q. Under -- under the scenario where Aquila and KCP&L would jointly file an application to merge, at the conclusion of that case, if approved, would Aquila, the Aquila entity, regardless of its name, would the corporate entity still exist and have its own debt and debt rating?

A. I guess it would depend on what was being --

Q. Well could it? Could it have its own debt rating?

A. Well, I guess yes, if you pay for it, you're going to get your own debt rating. Now, whether that debt rate is going to be independent of the other entities is going to be based on what the rating agency believes is the level of separation.

Q. Okay. I understand that. But KCP&L has its own rating and Great Plains has its own rating, correct?

A. Yes.

Q. So under your argument for how this merger should have been -- should have been structured, if approved, would it be likely or unlikely that Aquila, the new entity as a subsidiary of Great Plains, would it have its own debt rating and issue its own debt? Could it?

A. One is it would have its own debt rating. Now, whether it's allowed to issue its own debt or whether that's under the control of Great Plains as an organizational corporate governance, but it could issue debt in its -- I mean, somebody would issue debt under its name. They could do that.

Q. Well, if you had an application to merge between Aquila and KCP&L, potentially you'd still have two separate corporate entities acting as affiliates underneath the holding company. Am I correct in that?

A. Well, that's one option.

Q. That's one option?

A. Right

Q. Or could you fold all of Aquila into KCP&L

and just do away with -- now, would they have to make that assertion to achieve the synergies in your analysis or could they file an application to merge between Aquila and KCP&L and then continue to act as a standalone subsidiary of Great Plains?

A. I guess in that last scenario, could they file an application asking to merge, combine part of their operations but still maintain themselves as separate legal entities? Yes.

Q. They could?

A. (Witness nodded.)

Q. So in that instance, Staff would evaluate potential synergy that comes up with an idea what is likely or unlikely in evaluating the overall merger application for the public interest standard?

A. Yes. You would look at that as no -- not detrimental to the public interest. You'd look at that combination of what was being proposed and you'd look at synergies and you would also look at the financial impact on the organizations.

Q. Okay.

A. And you'd look at service.

Q. So if they would have structured the application that way, Staff would have done a more in-depth study of what potential synergies would be if they were to have structured in that way?

A. Yes, because that would be part of the transaction that you were being asked to approve.

Q. Now, in this application, the merger application is between the unregulated parent and the regulated target, but the -- but Aquila will still be a separate division or affiliate under Great Plains but an affiliate with KCP&L, correct?

A. Yes, it'll be -- but it's a -- it's its own entity. It's not going to be a division of Great Plains or KCPL.

Q. It's not?

A. It's going to be a -- an affiliate transaction. It's going to be a sister affiliate to KCP&L. It's going to be wholly owned by Great Plains. And actually --

Q. Right. Right. But that's what I thought we -- one option would be if they actually were going to merge with KCP&L, would they not be an affiliate? Would they be a subsidiary of KCP&L?

A. Well, if they actually merge into KCP&L --

Q. In the way that you think is necessary to achieve synergies, what would be the structure of the corporate entity following the merger?

A. Well, in terms of what you said, what I'm saying to achieve synergies, I mean, you can achieve synergies by entering into joint operating and ownership agreements between the two entities. Right now, I mean, we do it on the generating plants and they don't even -- you know, they still have separate legal entities. They just maintain their legal identity and they do operations jointly under those agreements. They could do that, but that would have really nothing to do with the merger of Great Plains acquiring Aquila. I mean, that's just a separate option they can do now.

Q. Well, in the context of a merger, though, what would they have to allege to, in your opinion, to be able to count the savings?

A. Well, if they were going to merge -- if KCPL and Aquila were going to enter into some arrangement to try to merge or transfer some of their -- their operations to one entity to another, they would first define the nature of the transaction of what they want to merge and what they're not going to merge.

Right now my understanding is they do not intend to do joint dispatch. They intend to keep that function separate within KCP&L and Aquila. But other than that, I think everything else is being contemplated to be consolidated operationally. So then what they'd do is put together what -- what exactly is going to be the framework, the operating agreements, what assets are going to be used in what way, who's going to be responsible for additional assets, because whatever -- it's not a status quo.

Systems are going to have to have -- and so you're going to have to identify of additional assets, who's going to be responsible. Who's going to own those? Or are they going to be assigned back and forth so you know how to keep the books separate for the different legal entities.

You'd look at all of that transaction. You'd say, okay, what -- what -- what impact do we believe that would have? And the threshold you'd have is if it's not going to be detrimental, you would recommend its approval.

Q. Well, I'm following that. I'm still struggling. What would the company look like under your picture of a merger application, what you're suggesting should have happened and did not happen here? What would Great Plains and KCP&L look like after the transaction if it were approved?

A. Well, Great Plains is always -- under either scenario is always the 100 percent owner of Aquila.

Q. Right.

A. And under the idea that you want to keep

Aquila and KCP&L as separate corporate entities, they'll still be separate corporate entities. You will have either by operating agreements --

Q. Would they be sister affiliates?

A. Yes.

Q. They would, under your scenario?

A. Yes.

Q. Now, they're still going to be sister affiliates in the merger application that they proposed in this case, will they not?

A. Yes.

Q. So the corporate structure is going to be the same under your analysis or your scenario of a merger application as well as the merger application filed by the joint applicants? They could be sister affiliates in both instances, right?

A. Yes. Yes. Yes.

Q. So the end result, they would look the same, but I need you to further explain to me, since the result is going to be the same, why the means to get there causes a different analysis in terms of synergies.

A. Because the first baseline is in essence that they're sister affiliates, sister corporate entities, but they still operate individually, operate separate and distinct from each other. That's the baseline.

And to the extent that that's not a model that you want and you want to take service centers, call centers and that kind of stuff and you want to create and make them operate as one, then you would define that and define who's going to do what and where are the employees going to be, where are the assets going to be, and then you would look at what result that's going to have. Now, that's a -- that's a hybrid of the first model where they just operate as separate entities as they are right now.

Q. Well, with the existence of a holding company, wouldn't a cost allocation manual identify potential savings and how costs would be divvied up for common costs, common services, common portions of the business, like HR, personnel, customer relations, that sort of thing? And can't that be done in the way this merger application was filed?

A. The cost allocation manual would handle standard corporate governance, you know, common board, that kind of thing. Now, when you start talking about trying to commingle service centers, call centers, employee groups and stuff like that, you're going to need -- to keep -- to know where the cost and all that stuff goes and who the responsibility is, you're going to need a defined operating or ownership agreement to define who's going to be responsible for what before you can do any kind of cost assignment or allocations.

Q. Through some sort of operating agreement?

A. Right.

Q. And those -- you're saying that there is no -- none of that exists right now?

A. No. I mean, not -- I know we've -- we've done discovery and tried to find it, and they do not exist, unless they've been drafted since the last time we asked the question.

Q. And you absolutely need documents such as that to measure potential savings, synergy savings?

A. I would say so, because that actually is the foundation that defines the transaction, how you're going to operate, of which then you look at and say, okay, if we do that versus what we're doing now, what is going to be the result? And usually in the process of forming those operating agreements, you sit down and define the specific obligations for KCP&L and for Aquila, and from that, in fact, a lot of times when you actually do that, you're actually putting numbers together to look at what impact that has on us because that dictates what you put in as how you're going to share costs.

Q. In Case No. EM-2000-292, the UtiliCorp /St. Joe Light & Power case, are you familiar with the testimony and the process involved in that case?

A. Yes.

Q. Was that case filed in a manner that would allow for a measurement of proposed or alleged synergy savings?

A. I know in the discussions that took place in the case, and even today, Aquila still uses it. We had a discussion how to address this merger synergy savings deal, which the answer there is what you do is you establish post merger targets that you say, okay, I'm not going to worry about whether the number is caused by merger synergy savings or real savings or productivity, but everybody will be willing to accept this number as being better than if we go -- if we go standalone.

And then once you get that agreement, those targets then become your benchmark going forward. It's kind of like a -- it's like a incentive plan. And then from your targets going forward, you define who gets to keep it, or they mentioned the UE/CIPS merger. They had a -- a -- an earnings grid, and if earnings were at a certain level, had to give back credits.

It's the same principle. You set a target that everybody's willing to accept post merger, and then you agree on deviations, how you're going to treat deviations, and you don't get into the argument of saying how much of that is caused by merger savings versus how much is caused by just normal attrition or productivity.

Q. And in that UtiliCorp/St. Joe case, were benchmarks established or targets established?

A. No. The company had that as part of -- they had a regulatory plan, and I think there was a moratorium that they had proposed, and -- and the Commission came out with its order approving it but deferred those issues, and then in the subsequent cases, because they didn't take the five year moratorium --

Q. Hang on. Before you go on, but Staff didn't take a position in setting benchmarks or targets with regard to savings in the St. Joe/UtiliCorp case?

A. We never got to an agreement on a -- a sharing grid or --

Q. Didn't Staff file testimony that would establish what it thought was likely in terms of synergy savings in that scenario?

A. I don't -- I don't recall that, but they may have. I know there was testimony regarding the probability that there would be synergies or savings in common A and G, administrative and general, I'm sorry, costs.

Q. Was that transaction structured in a way that would allow for synergies, in your opinion? Unlike this one, was it -- was it structured in an appropriate

manner, the merger application?
A. I'd say yes, because St. Joe and --
Q. I mean, it was a standalone entity, I'm assuming, and Aquila --
A. It was going to be absorbed into Aquila, so there's --
Q. And UtiliCorp is just -- it's just one entity, it doesn't have all these separate corporate entities underneath, that they're operating divisions as I recall?
A. That's what I mean. So you didn't have the issue that St. -- St. Joe was just absorbed into Aquila and just became a division.
Q. But even in that instance you never got to the point of filing testimony or -- I say you, but Staff never got to the point of filing testimony identifying what it thought were likely synergy savings?
A. I think -- I know in terms of the work, I remember Mr. Traxler spent considerable time looking at the potential of benefits in reduction of administrative and general costs. Now, I don't recall his testimony, so I can't tell you what ended up in testimony, but I do recall the discussions.
Q. Did Staff -- was Staff's position in that case in support or opposed to the merger?

A. It was -- well, it was opposed to the merger as proposed. It was basically opposed to the regulatory plan conditions and suggested to the Commission that it not adopt the regulatory plan, and as I recall the outcome was the Commission did not accept the regulatory plan, but the merger still went through.

Q. They didn't accept the company's proposal for a regulatory plan or Staff's proposal for a regulatory plan?

A. I don't think the Staff actually had an independent. I think the Staff filed testimony against adoption of the company's regulatory plan, and the merger was approved with the Commission decision that they weren't going to adopt --

Q. And they punted and deferred and that led to the lawsuit?

A. Yes.

Q. Okay. So was Staff's position that if the regulatory plan was not included in the Commission's order, that it would support the merger? There are different ways to draft this testimony, but --

A. I say in default, I mean, in default, that's what we said what we are opposed to, and the Commission agreed. I mean, I think we addressed it in the fact that we said we were opposed to the regulatory plan.

I don't want to tell you I'm familiar enough with the testimony that says that we're supportive of a merger. I think we just took the option that we were opposed to the regulatory plan and proposed to the Commission not to adopt the regulatory plan.

I think at the time we had indications from the company that if they didn't get their regulatory plan, they weren't going to have the merger. So I don't want to portray that the Staff thought that by opposing the regulatory plan you were still going to get a merger because I don't think we ever had that representation.

Now, after the Commission's order comes out, the company decided to go forward, which I think the same thing happened at Empire. They did not make that decision to go forward.

Q. Is there a dollar amount in synergy savings that if the companies, the applicants proved up beyond a reasonable doubt that would exist conclusively that would justify the merger application in this case?

A. Are you talking about the merger as proposed or this merger that would also include merger or consolidation of KCP&L and Aquila?

Q. Yes.

A. Possibly.

Q. So if -- I mean, there is a point at which if you can conclusively identify synergy savings, it makes sense?

A. Yeah. In fact, I'll say yes, in fact, it's critical, given the financial situations of those utilities and their construction program that it has to be positive because, you know, they have significant construction requirements going on now, so they have capital needs, so you would not want any endeavor going on that would have a negative consequence on their financial situation.

Q. What is the target date for the subject infrastructure to be in place used and useful and in operation for the infrastructure included within the comprehensive energy plan, CEP?

A. What's left of it and the CEP regulatory plan is the environmental upgrades to Iatan 1, and I believe in the regulatory plan it had an expected date of late this year in the regulatory plan. Now, I'm giving you what's in the plan. That's being reviewed now to see what it'll actually do. The regulatory plan also has the building of Iatan 2, which was expected to be in service on or before May 31st of 2010, and then there's some other things in the regulatory plan that we know now are not going to be done.

Q. The wind, is that one?

A. Well, the second wind was optional. There's a debate between the parties. The second one was optional depending on their study to see if it justified, and there is a study and the company decided not to go forward. So that's the wind. Now, my understanding is from the company's discussions it's still in the que and may pop out at a later date.
Q. I understand.
A. And then Iatan -- the Lacine 1, only the SCR was done. The scrubber and baghouse for Lacine 1 was deferred out of the first. It's not going to be done in the phase -- the first -- under the CEP. So unless there's an extension, it wouldn't be covered.
Q. But the bulk -- the bulk of the dollars in the CEP are associated with Iatan 2; is that a fair statement?
A. That was -- that's -- well, Iatan 2 was the largest portion of it, yes.
Q. So -- and that -- that is -- the target date for being used and useful would be May 31st, 2010?
A. That was then. That's --
Q. It's not now?
A. I'm not trying to represent that currently those dates aren't subject to not being the same.
Q. All right. Well, assume for me that we're

firm on the end of May 2010. If we were talking about this merger application in June of 2010, would Staff have a different position?

A. Well, assuming everything is the same as it is today, probably not in the sense that you still will be in a major construction program because you have to address the environmental for Lacine 2. You're now going to have the deferral of the rest of the environmental for Lacine 1, what you're going to do about that. And we are then -- we're supposed to be addressing the Monrose station and to figure out and -- what we're going to do about Montrose, whether we're going to build, eliminate, retrofit.

So in -- well, in fact, one of the testi -- I know in that new testimony filed in February, Mr. Cline has schedules that actually gives the construction expenditures, so you can see the expenditures after 2010, and there are significant construction expenditures after 2010.

Q. In the sheet or the exhibit that was passed out by Mr. Zobrist, there are a number of merger cases that are listed, Western Resources/Southern Union, Union Electric/CIPS, Western Resources/KCP&L. There's a Missouri American Water Company case. Can you give me an example of where Staff has recommended approval of a merger application from that group, if you recall?

A. I know the Western Resources/KCP&L -- well, when you say recommend approval, there were agreements. They were stips.

Q. They were all agreements?

A. They were stips, so I don't --

Q. Tell me which ones were stips where -- that approved the merger.

A. I know the -- in fact, I'm trying to figure out one that went to hearing. You asked me that -- you're talking about this Schedule 54, the second page?

Q. Frankly, I don't have a document. This was off of Oligschlaeger's case list. That's what I was looking off of, and Mr. Zobrist went through. If there's another one --

MR. ZOBRIST: Commissioner, I think that is Exhibit 54, a three-page document.

THE WITNESS: I know the Western Resources/ KCP&L was -- was a stip. The EM-96-149 Union Electric Company, which is the -- what they referred to earlier as UE and CIPS, that was a stipulation. GM-94-40, Western Resources and Southern Union, that was a stipulation. I think that's all that's on that page.

The Missouri American, I believe that's a stip, but I'm not as sure about that as I am the other ones. I don't recall being -- I don't usually get many questions about water companies. So I don't -- I'm not sure, but I believe it's a stip.

Q. Well, in that case, let me ask the question this way. Aside from the UtiliCorp/St. Joe Light & Power case and this one, are these the only merger cases that Staff has either not come to an agreement with the parties or made some recommendation that would authorize a merger or would suggest approval of a merger?

A. That comes to my mind today, well, the Empire, Empire/UtiliCorp was opposed. That went to a hearing. That's right. So when you talk about UtiliCorp and St. Joe, at the same time they were trying to acquire Empire, so there's two cases there. That one went to hearing as well. That would have been covered by a Stipulation & Agreement. And then this case, yeah, I -- I cannot recall.

Oh, the pipeline, when they were -- when Aquila or UtiliCorp was selling what is Missouri Pipeline Company and Missouri Gas Company to Gateway, that was opposed. Merger, sale, whatever you call it, that was opposed. That went to hearing. I know Staff opposed that. Those are the ones that come to mind.

Q. If the merger application would have been filed in the manner that your report suggests would have been more appropriate, meaning a merger between Aquila and KCP&L rather than Aquila and Great Plains, all other facts being equal, would that change Staff's position or do you know?

A. I'd have to say I don't know. And your question, it's like we evaluate what's filed, so I don't know that we -- we had a preferred -- I guess -- I don't know that Staff did. I know, generally speaking, the prior UtiliCorp/KCP&L deal where the entities are allowed to operate under new ownership and then you gradually do the combinations and stuff after the fact, it's probably -- from my experience is probably a preferred model because the risk of operational and service quality issues is much less.

So it's easier to get to the no detriment standard when you're not making a lot of changes right at the same time at the merger. In fact, a lot of these are done with that idea, that there wasn't going to be a big disruption in the way the utilities were functioning after the merger so that service quality is pretty much what it was, you know, what it was the day before is going to be the day after.

Q. Has Staff computed -- and I don't think that it has, but my memory of the report may not be accurate. Has Staff quantified any potential synergies that arise specifically because of the geographic location of the two service territories, meaning that they're adjacent to each other?

A. You're talking about combining based on combining the operations to serve the overlapping service territory?

Q. Yes.

A. No. You'd need to know -- at the same time you do that, you would have to do -- and companies do that within their own service territory. I mean, they make decisions on how they're going to do, you know, their existing service territory. You would have to do studies as to response time if you want to move a service center. You have to do -- you have to tie the service quality impacts into it at the same time you make those decisions on how you're going to serve a given area.

Q. Let me ask you a question this way. In your opinion, is there a way to achieve a merger such as this that would permit Staff to review potential synergy savings while also permitting Aquila to retain its own debt rating or to have some separation between the entities? Does that make any sense?

A. No.

Q. Doesn't make any sense. Thank you for your honesty.

Do you believe that the merger of these entities, all things being equal, is better, worse or inconsequential as if we were dealing with a merger of a utility from California or Texas?

A. And when you say merger of these entities, are you saying KCP&L and Aquila?

Q. Well, answer KCPL and Aquila and then give me a separate answer for Aquila and Great Plains.

A. I think that you're using like a baseline rule of thumb. As I said when Mr. Zobrist was asking me, I think there's an advantage in having people familiar with the region and the area already in terms of operational.

I think there's advantage to having that as an owner than it is to have a new owner, well, or a new management, 'cause if you keep -- if the management is the same, you don't have to deal with this, but if you're going to bring in a new owner, you're going to bring in new managers from out of state, then I think you have that problem.

But that was more of a factor, say, maybe five -- or probably longer than that now, when most of the utilities were managed by people who had come up through their ranks and had been here. A lot of our utilities -- in fact, KCP&L has a lot of management that came from the outside that's not from here. So you don't get quite the same advantage that you -- it's not the same inherent advantage that it used to be.

Q. Is Staff able to identify or quantify an amount in its analysis associated with those potential benefits from having a locally owned entity that is adjacent in footprint the same -- under the same regulatory regime, headquarters being close by? Are you able to quantify an amount that that -- that would offset potential detriments to the transaction?

A. Well, I guess I'll say it this way. I think there's a conceptual framework, in fact, especially for Kansas City because I know I've gotten it, well, probably five, six, seven years ago, that the Kansas City market should be consolidated because I think you have five electric companies providing that -- that -- that metropolitan blow, and that there's efficiencies to be gained from having one supplier do that. So if you take that model, yes.

Now, the numbers that will come will come up to the specifics of how you're actually going to combine and -- and do this consolidation, and in practice, depending on how you go about it, you can negate that advantage and actually make it worse, you know, if the cultures clash, you get employees, you know, we see more and more of that.

Q. That can happen with any entity. I mean, I understand that. I understand that. And so -- but it's your testimony that the detriments still outweigh that potential conventional wisdom of achieving efficiencies because of being adjacent?

A. And the fact that that's not the transaction before this Commission.

COMMISSIONER CLAYTON: Okay. I think I'll stop there and defer questions for another day. Thanks.

JUDGE STEARLEY: Okay, Commissioner Clayton. Commissioner Murray, I believe you came in after Commissioner Clayton's questions, do you have any questions for Mr. Schallenberg?

COMMISSIONER MURRAY: I did just come late and I apologize for that. I just have a few questions. Thank you.

QUESTIONS BY COMMISSIONER MURRAY:

Q. Mr. Schallenberg, I'm trying to get my arms around Staff's position, and first of all, is it accurate that Staff really made no analysis of the alleged synergies?

A. No.

Q. That's not accurate?

A. That's not accurate.

Q. Well, Staff's position is, though, that this proposed transaction is not one in which the synergies between KCP&L and Aquila can be considered, is it not?

A. Well, it's not in the proposal that's in the application. That's -- that's not the -- that's not the transaction or the merger, whatever you call the thing before you for approval. KCPL and Aquila combination is not part of that transaction.

Q. And that is where the alleged synergies arise, is it not?

A. That's where the lion's share of the synergies are -- are alleged to come from.

Q. So did you do an analysis of those synergies?

A. Yes.

Q. I thought I heard you talking to Commissioner Clayton saying that you really didn't run the numbers, you really didn't look at the calculations, and I can -- and I will admit I came in during the middle of that questioning, but what did you actually say about what Staff looked at?

A. The question I had is, did we go down to the detail and check every one of the -- I think we used the term bottom-up or something like that. We did not do that.

Now, did we look at the synergies in the overall formation of those and the numbers in an aggregate level? Yes, we did that. In fact, we played a role in the modification of the synergy estimate that they first had when they filed to the one they modified, and I think they filed their last one in August. So we did -- I thought your question was did we do any work, and that's why I said we did. We did not do a go down and look at every proposal, every project, look at that, and then try to measure the dollars and take it up through their system. We did not do that.

Q. In your testimony, page 5, lines 4 through 6, you say, the picture depicted by the joint applicants is ameliorated by the assertion by the joint applicants of savings that are outside the scope of the proposed transaction. Are you saying that every synergy, every savings that is claimed is outside the scope of the proposed transaction?

A. I'm saying almost all. There would be some -- there would be some synergies from what I refer to as the Gregory/Aquila merger to the extent that whatever our allocated share will be of the Great Plains management that they'll assert, in comparison the top management compared to the management that they'll replace by virtue of that merger, there would be some potential for a savings.

But you have to do some calculations as to how much was Missouri presently paying for the Aquila management and compare it to the -- our allocated cost.

Q. All right. Now, you talked about a -- you said something about probably a preferred model is where the entities will function after the merger like they did before the merger, and then later begin integrating the two entities.

Now, if this were structured as Staff would prefer it, and I heard Commissioner Clayton asking you those questions, and I really did not gain much clarity from your answers as to how you would want it proposed to be what Staff would consider an acceptable model where the savings between KCP&L and Aquila would be within the scope of the proposed transaction. Could you go through for me how for Staff it would have to be structured to be an acceptable proposal?

A. Well, given what's -- when you say acceptable, we review what -- what is presented. I mean, we don't -- they don't -- and especially on these deals, they don't come in and ask us, you know, what is -- and so we just look at the transaction and we look at the cost and the --

Q. Let me clarify what I mean. Apparently the fact that it is a proposal to merge Aquila with Great Plains, with a subsidiary of Great Plains but then combine the operations of Aquila with KCP&L following that merger, with savings resulting from that entire process, my understanding of Staff's position is that that is not an acceptable model for us to consider those savings.

A. It's not -- it's not the transaction that's before you for your approval.

Q. Now, what kind of transaction would have to be before us before we could look at the savings between that would be created by the combination of operations that is proposed here between KCP&L and Aquila?

A. You would need at a minimum the operating agreements and ownership agreements that would be the basis of the combination and integration, merger, whatever is really being proposed between KCP&L and Aquila. So you would have an understanding of the respective legal entities' obligations, responsibilities.

Q. Now, earlier there was talk, I believe it was in one of the opening statements, about a cost allocation model being the -- the cost allocation manual, I mean, being the -- the document or the method by which we would determine that each entity was allocating costs and responsibilities appropriately.

It's your position that a cost allocation manual is not -- would not accomplish the same thing as an operations agreement presented at the time of the merger proposal; is that accurate?

A. The cost allocation manual is not a -- it uses the operating agreements to know how to assign what transactions it's assigning costs for. So it's -- it's designed, unless you're doing it just inner-division or just within the same entity, but when you're crossing between legal entities, the cost allocation manual would need to know the nature and the scope of the transaction so it knew what costs to capture and then, based on the nature of the activities, what's the appropriate way to assign those costs, because you have to give instruction to employees and to the cash management group to know how to code expenditures or to assign time.

Q. I keep going back to what you said about probably a preferred model is where the entities will function after the merger like they did before the merger and then later begin integrating the two entities. If, in fact, integration of the two would significantly reduce the cost or produce savings, why would it be better to maintain the entities just like they were before the merger for a period of time?

A. Well, the more aggressive you are in terms of integrating operations and functions, and especially when you do a lot of activity at one time, the greater the risk that in that process you will have service related problems is greater.

And so when you're looking at -- because when you do cost, you also have to look at service. We've seen, for example, ideas to cut down in terms of the call center, the number of people manning at call centers, and you can reduce their cost, but you also have corresponding reduction in service quality.

So you have to balance. You have to look at both at the same time when you're trying to manage cost, look at the impact on service quality.

Q. So is there some magic number about how long it should take to integrate two entities?

A. No. I mean, the answer is no. It would depend on the familiarity of the work force and the commonality of the functions being integrated. To the extent that both entities' work forces already are knowledgeable or pretty common, know how to do the other side's work, then -- and the assets that are being used or the information that's being used is pretty common to both, then that would allow you to integrate successfully much sooner than if the work forces are -- do a lot of separate work or have a separate knowledge of how they do their work, because it takes time for people to learn that to be successful in integration.

Plus you also have a cultural issue with just how the employees feel about the integration, too. If you get a lot of employee resistance, integration will be much more difficult.

Q. Now, in terms of what you have said about meeting an operational agreement between KCP&L and Aquila, if there were such an agreement, and this application were structured as it is, would Staff have done a more thorough analysis of the synergies to determine whether Staff would recommend approval or would Staff still have opposition?

A. In your question, are you also assuming the Commission's asked to approve the integration, consolidation of KCP&L and Aquila?

Q. That wasn't -- I didn't hear that as part of what you said was missing.

A. Well, I mean, if the Commission's being asked to approve it, the Commission's going to say yes or no to it, then our evaluation would have been -- would have been as detailed as it takes to come to a conclusion regarding that transaction. To the extent that they exist and there's a decision that they don't need the Commission's approval, then that would have been the basis that we would have started from to look at the -- at the result of that.

But that's an independent transaction from GPE just becoming the owner of Aquila because you can become the owner of Aquila and not do the integration, or you can do the -- you can become the owner of Aquila and do the integration and those are separate items.

Q. So if GPE were just proposing to become the owner of Aquila and not make any operational combination with KCP&L, would Staff have recommended approval?

A. Of this proposed transaction?

Q. Yes, without any proposal for combining operations.

A. But with the proposal to add transaction cost, cost of -- let me -- with no other conditions, no other request for transaction, transition or anything else?

Q. Well, obviously the synergies would be much different if that was the proposal?

A. Right.

Q. So I understand why you can't answer that question because you don't know what the synergies would have been and you don't know what would have been being proposed for inclusion of rates and that kind of thing, but --

A. But, yeah, there is nothing inherently wrong with the basic proposition that GPE becomes the owner of Aquila and that that can't be accepted. I mean, it's the underlying conditions and the requirements that come along with that transfer that you have to look at to determine whether that -- you know, you would recommend approval on the basis that it's not detrimental to the public interest or you would reject it or recommend rejection on the basis that it is.

COMMISSIONER MURRAY: Okay. I think that's all. Thank you.

JUDGE STEARLEY: All right. Recross based on questions from the Bench, beginning with Public Counsel?

MR. MILLS: Yes, thank you.

RECROSS-EXAMINATION BY MR. MILLS:

Q. Going back to one of the first questions you got from Commissioner Clayton, was it your understanding of Mr. Dittmer's testimony that he said that the acquisition price was reasonable?

A. Are you asking me about his filed testimony?

Q. Either his filed testimony or his testimony on the stand today.

A. Yes. I thought he said -- I thought he said that the purchase price was reasonable.

Q. In an absolute sense or a relative sense?

A. In a relative sense.

Q. Now, you've had -- you've had a bunch of questions that sort of refer to the concept of Aquila as a standalone entity either with or without this merger. Can you define for me how you use the term standalone entity?

A. I use standalone, would be, is Aquila operating as it is today.

Q. Now, given that, if this transaction is approved as the joint applicants want it to be approved, that Aquila will have no employees, will Aquila be able to be a standalone entity post approval?

A. It can in the sense that it will now need an agreement. It's kind of like the old Quanta arrangements where the employees are shipped out to another entity and then you contract to have them provide services to you. So you're actually making the entire work force, you're replacing it with an outside vendor to provide those services to the utility. And since I think under the current -- we have not -- we don't have a precedent that would say that employees are assets that can't be transferred like that.

Q. Now, other than small water and sewer companies, do you know of any utilities in Missouri that have no employees?

A. Are you excluding telephone, too?
Q. No, I hadn't.
A. I can see in some of these entities that are CLECs and those, in fact, I would expect most of those don't have employees. In the electric business, gas, you know, Missouri American, they all have employees, but there are some --
Q. Do you know of any electric utilities anywhere that have no employees?
A. Well, there's none that I know of, but I don't know every electric utility that there is.
Q. Now, you were -- you were asked some questions about debt ratings and whether debt ratings of different subsidiaries and parents may be kept separately. Once Strategic -- assume -- assume for the purpose of this question that Strategic Energy is sold. Once that transaction closes, will KCPL and GPE's debt rating be essentially equivalent?
A. I know they're close. I can't recall right now. There's the letters that will tell you if they're exactly the same or they're just one notch separate.
Q. And do you anticipate that that will -- that that separation, if there is one, will -- maybe will continue after Strategic Energy is sold?
A. Is your question will Great Plains and

KCP&L still have separate debt ratings?
Q. Well, not will they be separate, but will the ratings be different?
A. They could be. Until you get a new rating, you don't know that just because there's something positive or negative that happened, whether they're going to change your rating or not. You don't have any certainty what the rating agency is going to do.
Q. Once Strategic Energy is sold, what other assets will GPE own other than KCP&L?
A. I know there's nothing -- nothing overly significant, but there are reported some individual entities in their affiliate transactions reports other than KCP&L.
Q. Now, in response to some questions by Commissioner Clayton, you referred to Aquila's sale of a couple of pipelines. Do you recall that?
A. Yes. It was UtiliCorp at the time, but I remember.
Q. Right. And I believe you pointed that out as one of the few merger proposals that you're aware of that Staff has opposed in the recent past; is that correct?
A. Well, we opposed it. I thought the question was went to hearing, but we were in opposition of

it, yes.

Q. And from -- from your point of view, has that transaction worked out well, the new owners of those pipelines?

A. Well, I think there's been -- I think there's been a lot of difficulties with them. When you say new owners, my understanding is that there's been a change in ownership since that sale, and I don't know that we have enough interaction with the newest owners to know their -- their role in the operation.

Q. And now with respect to some discussion that you had with Commissioner Murray, and perhaps I misunderstood the question, does Staff have a preferred model for an acquisition of another utility in Missouri?

A. They're using the term -- the questions today are preferred. I think the way the industry refers to it is generic.

Q. Okay.

A. And what that is, there's discussion about after this case of going back and revisiting that, but the generic is the -- the structure of an application and the contents that -- that generally meet the no detriment standard, and then you only have to examine the specific facts to see if it applies in that case or justify any deviation from that.

Q. And by characterizing that as a preferred mode, you're not intending to convey to utilities that Staff has some sort of prerogative over utilities on how they should structure merger applications?

A. No. In fact, when I use the term -- the way the term generic is referred to today is if the transaction is along those lines, given past precedence, usually you can get a Stipulation & Agreement and get your application processed much quicker. Your chances of going to a contested case are much less if you follow that. But I don't -- that's the Staff. That's just the past practice to date.

MR. MILLS: Thank you. That's all the questions I have.

JUDGE STEARLEY: Cross-examination by Ag Processing?

MR. CONRAD: I do have a few, Judge. I'll try to, in view of the hour, to move those along.

RECROSS-EXAMINATION BY MR. CONRAD:

Q. Mr. Schallenberg, in response, I believe, to questions from possibly Commissioner Murray but certainly from Commissioner Clayton, you talked about the existence of a separate Aquila and a separate KCPL. Do you recall that?

A. Yes.

Q. Now, were you here during testimony -- you may or may not have been in the room, may have been listening, but did you recall the testimony of Mr. Giles, I believe possibly on Tuesday, and some of the other joint applicant witnesses later that day to the effect that Aquila after closure of this -- of this package as the joint applicants at least conceive of it will cease to exist?

A. I have not heard or been here for any testimony in these proceedings except for Mr. Dittmer, and I haven't been listening. I've been doing other things.

JUDGE STEARLEY: We seem to have picked up an additional participant to our hearing today. I'm going to suggest that we take a few moment break until I figure out what our IT department is doing.

(AN OFF-THE-RECORD DISCUSSION WAS HELD.)

JUDGE STEARLEY: We are back on the record. Sorry for the interruption. Mr. Mills, I believe you were questioning Mr. Schallenberg.

MR. MILLS: No. I had finished.

JUDGE STEARLEY: I was attempting to move on to Ag Processing.

BY MR. CONRAD:

Q. And I had posed a question which the witness had not heard some of the background for, so let me move on from that.

Commissioner Clayton asked you about, I think about the EM-2000-0292 case, which was the merger, acquisition, however you want to phrase it, by UtiliCorp United of St. Joe Light & Power. Do you recall that discussion?

A. Yes.

Q. Am I correct, Mr. Schallenberg, that that acquisition/merger was approved despite the negative recommendation of Staff in that case?

A. It was approved overall, but I don't believe the regulatory plan as proposed was approved as proposed.

Q. Do you have before you, admittedly it's the segment, Exhibit 35?

A. Yes, I do.

Q. Would you look at what is the second page of that packet? Actually, it is page 9, and just recognizing that it begins with an answer and not a question for Mr. Oligschlaeger, there's reference there, Staff opposes this plan. Is that the regulatory plan you're talking about there?

A. Yes.

Q. And recommends the Commission reject it in its entirety?

A. Yes.

Q. And then he has some bullets as to why later on. Okay. Would a more complete copy of Mr. Oligschlaeger's rebuttal testimony there reveal whatever the Staff's position was in that case?

A. I'd say it would give you more information. I'm not sure whether Mr. Oligschlaeger -- or it says Michael Proctor, but usually we refer to him as Dr. Proctor, wouldn't have a portion of the Staff's position on that case contained in his testimony as well.

Q. Very well. Now, Commissioner Clayton also asked you a question that led you to a discussion about the necessity in this case for both these utilities to have a positive benefit as opposed to a detriment. Do you recall that exchange?

A. I remember talking about the need at the current time for an overall positive result.

Q. And I think part of your response or one of your responses was in conjunction with the construction budgets of both utilities.

Now, we know that from questions from Commissioner Murray that Iatan is a major part of that. When you said both utilities, why both utilities? Why is it necessary for both utilities' construction budgets to have a positive benefit?

A. Both utilities are joint owners of the Iatan 1 and Iatan 2 construction projects. So they both are impacted by changes in its cost.

Q. Now, Commissioner Clayton also asked you about the anticipated online date for Iatan 2. I believe you responded late May or May 31, 2010. Do you recall that exchange?

A. Yes.

Q. Has there been some difficulty in establishing a date by which the various components of the regulatory plan, including but not limited to the Iatan 2, will be in place?

A. Yes.

Q. Would you explain that, please, and tie that to how that construction budget and how the issues on the synergies are significant here?

A. At the current time, the -- the cost and schedule for both of the Iatan 1 and Iatan 2 construction activities is under review, and at this time we do not have a budget estimate or an official schedule as to when those activities are expected to be completed and at what cost.

Q. And your response said we do not have. Who is the we?

A. Well, all the signatory parties and joint owners that either under the regulatory plan, or I think the CEP was the term used, and the joint owners have meetings to -- regarding the status of the project. And during this reforecasting activity, we are waiting for the results of that activity to be completed to find the new cost and schedule estimates.

Q. Does that tie back to the construction budgets and the necessity for both utilities that there be a positive benefit for this transaction?

A. Well, yes, it creates the fact -- it creates the need for a positive impact for this transaction given the need for capital to continue to fund the projects we talked about and their ongoing construction needs as well.

Q. And does that extend, to your knowledge -- I think you may have answered this question in response to question from Mr. -- or from Commissioner Clayton. Does that extend beyond 2010?

A. I'm not sure. Are you asking me about Iatan or are you just asking me about general construction?

Q. Well, general construction for this utility, because as I read some of the documentation on this, the claims for synergies go well beyond 2010, do they not?

A. Yes. I believe they have a ten-year forecast.

Q. Does -- are there construction expenditures that would be impacted by that beyond the extension of the regulatory plan of Iatan 2 coming online?

A. Yes. I know through 2012 there are significant construction expenditures in '10, 2010, '11, and '12 for KCP&L.

Q. You mentioned, I think, one of the examples was Montrose, Montrose Station, but you also used the term significant. Can you put some boundary conditions around significant, if you know?

A. Well, when I say significant, I'm using it in the context that if you look at the construction expenditures that are going on now, there is not a significant drop upon the completion of Iatan 1 and 2, that we will still be in a construction mode, at least it's anticipated that we will still be in a significant construction mode in terms of doing environmental for the Lacine station and I'm not sure at this date what's proposed for Montrose. That's an outstanding question.

MR. CONRAD: Thank you, Mr. Schallenberg. Your Honor, that's all I have right now. Thank you.

JUDGE STEARLEY: Thank you, Mr. Conrad. Any recross from Black Hills?

MR. DeFORD: No questions, your Honor.
JUDGE STEARLEY: Aquila?
MS. PARSONS: No questions.
JUDGE STEARLEY: Great Plains/KCPL?
MR. ZOBRIST: Just a few, Judge.
RECROSS-EXAMINATION BY MR. ZOBRIST:
Q. Mr. Schallenberg, is it true that in Mr. Giles' additional supplemental direct testimony, page 3, that he did offer that if the Commission desired to have the applicants file a joint operating agreement, they would do so?
A. I -- I think that's what it says. I don't -- I don't know it. I can look it up if you want, but I mean, it says what it says.
Q. Now, in the section of the Staff report dealing with synergy savings sharing proposal, you don't discuss, for example, the testimony of either Lora Cheatum or Wallace Buran, correct?
A. No.
Q. And similarly, the specifics of the testimony of Mr. Herdegen, Mr. Crawford, Mr. Steinke and Mr. Spring, they are not discussed or evaluated, correct?
A. In terms of synergy savings, no.
Q. And the testimony of Mr. Tickles, Mr. Van Dyne or Mr. Bryant is also not discussed, correct?

A. That's correct as well.
Q. And you don't address in any detail the overall details John Marshall of KCP&L has supplied to the Commission in his testimony; isn't that true?
A. In terms of the synergies, I don't. I think I do mention their testimony as to the nature of the source being a KCP&L/Aquila combination or merger, something like that, but in terms of the actual numbers or of the alleged or asserted savings, I do not.
Q. Now, I think you told both Commissioner Clayton and Commissioner Murray that -- although I'm a bit confused, too, because during -- after my cross-examination I thought that you said that because the joint applicants did not seek to merge or consolidate KCPL and Aquila, that's why you didn't go ahead and do these other studies; is that correct?
A. I didn't go to the level of bottom-up or whatever that term is, go through every one of the proposed synergy proposals in the detail and underlying support and in trying to pull it together, I did not do that.
Q. And I don't find -- I think you told Commissioner Murray that initially you did some kind of synergy analysis in -- before filing in August. That's not reflected in here either, is it?

A. No. Now, when you say that, there is a part about the omitted productivity and the overall general flaws in methodology, but that wasn't directed at -- that wasn't done at a specific employee level or witness level. I'm sorry.

Q. And am I correct that you -- Staff rejects the rationale that the joint applicants have given to the Commission on the reasons why they did not seek to merge Aquila and KCPL for various reasons dealing with liabilities at Aquila, RTO issues, market power issues, transferring of franchises and financing agreements? You reject those as reasons that support this current plan, this current proposal?

A. No. I mean, you're still keeping -- even under your proposal you're still keeping separate legal entities, so I don't -- I don't see the relevance of liabilities and stuff unless you were actually trying to con -- trying to make KCP&L and Aquila the same legal entity.

Q. So you're saying that a merger or a consolidation can occur between these two companies without forming one corporation?

A. Yes, in part.

Q. So you just kind of want to have merger light here, so we just kind of have an approval to just say, well, you're merging but you're really not merging as a legal entity to form one corporate entity?

A. I don't understand your question.

Q. Well, I thought you just told me that Aquila and KCPL did not need to file a -- an application with the Commission to have one corporate entity secede these two entities.

A. I didn't say that. You asked me -- I thought your question was to me, with all the excuses like liabilities and stuff, that that wasn't -- that in essence that was -- that was something different from what we were proposing, and the legal liabilities stay as long as they're separate corporate entities, that's what I said.

Q. So you just viewed these as excuses, not valid reasons?

A. I can accept excuses.

MR. ZOBRIST: Nothing further, Judge.

JUDGE STEARLEY: Thank you, Mr. Zobrist. Any other party for cross-examination? I don't believe anyone else has lasted this long. We're to redirect by Staff.

MR. THOMPSON: Thank you, your Honor.

REDIRECT EXAMINATION BY MR. THOMPSON:

Q. Mr. Schallenberg, how long have you been employed at the PSC, ignoring your six-month hiatus in

Kansas?

A. I started November of '76. I think for pension purposes they use April of '77. So if you want to count years of service, April of '77 is your start date.

Q. So over 30 years?

A. Yes.

Q. Okay. And in your experience of more than 30 years, is the proposal that is in front of the Commission in this case unique in your experience of electric and gas companies?

A. Yes.

Q. And in what respect is it unique?

A. This feature that we were just talking about where the utilities are going to be acquired and then there's going to be this, I think Mr. Zobrist called it merger light activity or whatever on the side, I don't -- I don't recall ever seeing that -- that separate side transaction in a merger that we had. In fact, in this case, for a long time when people kept talking about a merger, they kept mixing the two -- including myself, kept mixing the two up between KCP&L and Aquila and GPE and Aquila.

Q. And in your experience, have mergers and acquisitions of electric and gas companies generally been structured within certain parameters?

A. Yes.
Q. Okay. And what would those parameters be?
A. Well, normally transaction costs are not included or even have a proposal to require that future rates set up the recovery of that. The synergies that are proposed are, generally speaking, if they're in the transaction, that they're noted or they're noted as a side light as a potential benefit over time, but they're not critical to the no detriment standard.
Q. Now, in the analysis of synergy savings that you did do, based on the actual proposal and authority that is before the Commission in this case, could you give me some more detail on what purported synergy savings you did look at?
A. Well we looked at the categories of what was being suggested was going to be synergies, I think starting in April when they were given to us, and probably actually started a little bit before that because there were meetings before their filing as to some of the areas that they were going to claim that there were synergies. And then from those areas we pointed out that just the cost reduction to Aquila may not be a synergy to a Missouri customer, and one of the examples was interest, because I think it began first as being a savings category and then it inverted after, I think, our May meeting to be

not a savings but an additional item that we had to cover.

And then after that, probably the area that we looked at in general and asked questions even in the first round of depositions about was supply chain, because there's a significant change in the -- as they lost some of their earlier savings, there's a significant change to offset that in supply chain. So we were looking at the efforts of KCP&L and Aquila and those type of activities on their own.

Q. Okay. And in your over 30 years of experience at the Commission, have you generally provided supervision to subordinate staff in electric and gas merger and acquisition cases?

A. Well, I do it now by virtue of my -- as being a director. I probably have done it, as you say, in that over 30-year period, I don't know if you call it supervision as much as I'm asked for advice and assistance. I do more of that than I insert myself into cases. Most of it is people come and ask me. Unless I'm directly involved, they'll come and ask me about a situation or ask for advice or assistance or suggestions. I do a lot of that.

Q. Now, with respect to the Staff report that you've sponsored, was that prepared under your supervision and direction?

A. Yes.

MR. THOMPSON: You'll have to forgive me, Judge, as I go through my somewhat voluminous notes.

JUDGE STEARLEY: Take your time, Mr. Thompson.

MR. THOMPSON: Thank you.

BY MR. THOMPSON:

Q. Now, with respect to the issue of additional amortizations, the proposal originally put forward by the joint applicants included a request for an additional amortization mechanism for Aquila; isn't that correct?

A. Yes.

Q. And, in fact, such a mechanism already exists for Kansas City Power & Light, correct?

A. Yes, but as part of an overall regulatory plan.

Q. Correct.

A. It's not separate and distinct. Stands alone.

Q. Now, in withdrawing the request for an additional amortization mechanism for Aquila in this case, if you know, have the joint applicants made any representation as to whether or not they may seek such a mechanism in a future Aquila rate case if this transaction is approved?

A. I know they've made representations. There is a matrix going around of what they had before and what they want now, but I -- I -- I know it has a request for regulatory plan with that as being a, you know, that or a substitute meeting that's being contained in it. I don't remember if it identifies whether it's a rate case or a separate case.

Q. But if you know, a request for that sort of mechanism, as far as you know, could well surface in the future?

A. I think yes. I think the indication is now that it is likely to occur.

Q. Now, you were asked if you agreed with Mr. Dittmer that these two adjacent utilities have an opportunity to generate synergy savings in an appropriately structured transaction, and I think you replied that you did agree; isn't that correct?

A. Yes. I think I was asked, you know, whether these two utilities or just utilities that have adjacent property, because there are more utilities that have adjacent property in that area, and the answer would be yes.

Q. Are you aware that Mr. Dittmer also testified that he believes the estimated synergy savings in this transaction have been overstated?

A. Yes.

Q. Do you agree or disagree with that testimony?

A. I agree they're overstated.

Q. If this transaction is approved, are you aware of anything that would prevent Staff from filing an overearnings complaint immediately thereafter?

A. I'd have to say yes. I mean, we'd have to have evidence of overearnings.

Q. Assuming you had such evidence?

A. If we had evidence of overearnings and there was a consensus between the Staff and the General Counsel's office that that evidence would withstand the scrutiny that would occur if we filed a complaint, yes, we'd file a complaint.

Q. Now, with respect to the price being paid or agreed, that's been agreed to be paid to the Aquila shareholders, Mr. Dittmer testified, I believe, that the price is just slightly more than the net book value of the assets; is that correct?

A. I think -- yes, I think that's what he testified to this afternoon.

Q. Now, he did not mean, however, the assets less Aquila's outstanding liabilities from its unregulated activities, did he?

A. I don't know what he meant. I know he didn't say that.

Q. How did you understand it?

A. I think he said he was using net book, which was the plant less construction.

Q. Okay.

A. Excuse me. Less depreciation.

Q. Do you have an opinion as to whether the agreed purchase price is reasonable in view of Aquila's outstanding liabilities from its unregulated activities?

A. Yes.

Q. And what is that opinion?

A. From the perspective of the public interest, it's too high. From the perspective of an Aquila shareholder, it's a good deal.

Q. Do you have an opinion as to whether the transaction costs that the joint applicants propose to amortize and recover from ratepayers, do you have an opinion as to whether those are essentially indistinguishable from an acquisition premium?

MR. ZOBRIST: Judge, I thought we were doing transaction costs tomorrow.

MR. THOMPSON: I think we've had testimony on this point.

JUDGE STEARLEY: To the extent that it would have addressed any prior questions on recross or from the Bench, counselor, I guess you may continue, but yeah, we are picking up the entire topic of transaction costs tomorrow.

MR. THOMPSON: Well, as soon as I get this answer, Judge, I will leave this topic.

JUDGE STEARLEY: Good enough.

MR. THOMPSON: You may answer, Mr. Schallenberg, if you remember the question.

THE WITNESS: Could you repeat it? I don't.

MR. THOMPSON: Could you read it back, Kellene.

THE REPORTER: "Question: Do you have an opinion as to whether the transaction costs that the joint applicants propose to amortize and recover from ratepayers, do you have an opinion as to whether those are essentially indistinguishable from an acquisition premium?"

THE WITNESS: Yes.

BY MR. THOMPSON:

Q. What is that difference?

A. The transaction costs are separate and distinct from the acquisition premium. The acquisition premium is the difference between what is given as the price compared to its -- the value achieved of the bought property. Transaction costs are added to that acquisition premium in order to come up with the acqui-- to determine the acquisition adjustment.

MR. THOMPSON: Thank you. And I won't pursue that tonight, Judge. I think that's all the questions that I have. Thank you.

JUDGE STEARLEY: Very well. Thank you, Mr. Schallenberg, for your testimony. We know you'll be back on the stand tomorrow.

And I believe that concludes our witness list for today. I'd like to briefly run through those witness lists for tomorrow with the parties. And Mr. Conrad, Commissioner Clayton informs me that we can cut Mr. Brubaker loose and not have to bring him in here tomorrow. Hopefully that's early enough notice he's not already in route.

MR. CONRAD: He may even be watching part of the ballgame.

JUDGE STEARLEY: I did get an explanation from IT for that, if anybody's really interested, that somebody managed to cross our network

MR. CONRAD: I appreciate being let know. I'll pass the word on.

JUDGE STEARLEY: And then for tomorrow I have Mr. Bassham, Wright, Rush and Schallenberg. Is there anyone else that I'm missing? Mr. Zabors is finished. Mr. Dittmer is finished, correct? Depending on --

COMMISSIONER MURRAY: May I ask if we get through those tomorrow, are we going on to affiliate transactions?

JUDGE STEARLEY: I was just going to bring that up. You're reading my mind. Since Wright, Bassham and Schallenberg will be here, depending on timing tomorrow, are the parties ready to move on to the affiliate transaction issue?

MR. CONRAD: Judge, if Mr. Brubaker is not going to show up tomorrow, just so I don't forget to do it later on, would you indulge me in accepting an offer of what would be Exhibit 300 in both NP and HC versions?

JUDGE STEARLEY: Sure. We can take that up right now. We have an offering of Exhibit 300. Any objections?

MR. ZOBRIST: No objection.

JUDGE STEARLEY: Hearing none, 300 in both versions will be accepted into the record.

(EXHIBIT NO. 300 WAS RECEIVED INTO EVIDENCE.)

JUDGE STEARLEY: Are there any other

matters that we need to address today?

I didn't get a real affirmative answer yet on moving on to the affiliate transactions issue. Would the parties be ready, if time permitted, to move on to that issue?

MR. DOTTHEIM: On affiliate transactions, I think the company witnesses are Mr. Giles, who we've already crossed, and Bassham.

JUDGE STEARLEY: Right. Tomorrow I have Wright and Bassham scheduled for that issue.

MR. DOTTHEIM: I think I've already indicated we don't have cross for Mr. Bassham, and I don't think we have any for Ms. Wright. We can double check that real quickly. Unless there's cross for Mr. Schallenberg, at least as far as the company, we may have nothing further on the transaction.

MR. ZOBRIST: They will be available, Judge, so if the Commissioners have questions of Mr. Bassham or Ms. Wright, they're available tomorrow.

MR. CONRAD: We would be ready, your Honor.

JUDGE STEARLEY: Thank you, Mr. Conrad. Well, we will go off the record and we will reconvene tomorrow at 8:30.

I N D E X

KCPL'S EVIDENCE:

OPC'S EVIDENCE:

STAFF'S EVIDENCE:

EXHIBITS INDEX

C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

I, Kellene K. Feddersen, Certified Shorthand Reporter with the firm of Midwest Litigation Services, and Notary Public within and for the State of Missouri, do hereby certify that I was personally present at the proceedings had in the above-entitled cause at the time and place set forth in the caption sheet thereof; that I then and there took down in Stenotype the proceedings had; and that the foregoing is a full, true and correct transcript of such Stenotype notes so made at such time and place.

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

____
Kellene K. Feddersen, RPR, CSR, CCR
Notary Public (County of Cole)
My commission expires March 28, 2009.