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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

HEARING

June 27, 2005

Jefferson City, Missouri

Volume 7

In the Matter of a Proposed)
Experimental Regulatory Plan of) Case No. EO-2005-0329
Kansas City Power & Light Company)

RONALD D. PRIDGIN,
REGULATORY LAW JUDGE.
JEFF DAVIS, Chairman
STEVE GAW
ROBERT M. CLAYTON, III
LINWARD "LIN" APPLING,
COMMISSIONERS.

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P R O C E E D I N G S

JUDGE PRIDGIN: Good morning. This resumes the hearing in Case No. EO-2005-0329. It is Monday morning. The time is about 8:50 a.m.

What I'd like to do is go a little bit out of order. I've asked Mr. Wood from Staff to take the stand and give his testimony, he needs to get to a funeral. And our condolences, Mr. Wood.

THE WITNESS: Thank you.

JUDGE PRIDGIN: Mr. Dottheim, are you ready for direct?

MR. DOTTHEIM: Yes.

JUDGE PRIDGIN: All right.

MR. DOTTHEIM: Yes. On Friday, Commissioner Gaw indicated that he had some questions, I think in particular regarding the generating unit itself, that is, the 800- to 900-megawatt supercritical pulverized coal-fired generating unit. He had questions for the Staff. And Mr. Wood, in particular, would be the appropriate member of the Staff to respond to those questions.

Also, too, at the May 24 local public hearing in downtown Kansas City at the Jackson County Courthouse, a Mr. Byron Combs testified, also had his testimony in writing, which was marked as Exhibit 3. And Commissioner Gaw indicated that after Mr. Combs had testified, that he was expecting that

1 one or more parties would provide some feedback to address
2 Mr. Combs' testimony.

3 The Staff, in its prehearing brief, indicated
4 that Mr. Wood would provide the feedback from the Staff and we
5 have a short summary of that information. So that's what
6 Mr. Wood is being offered for this morning and for any other
7 questions the Bench may have.

8 JUDGE PRIDGIN: Mr. Dottheim, thank you.

9 Mr. Wood, I'll swear you in here in just a
10 moment. And, again, what I intend to do is after we get done
11 with Mr. Wood is try to get back into schedule. And I believe
12 Mr. Grimwade from KCP&L is in the midst of his testimony and I
13 plan to put him back on the stand unless we have any other
14 scheduling issues. And Mr. Trippensee gave some testimony and
15 we'll get back to him.

16 We're kind of jumping around to accommodate
17 schedules. So unless I hear any scheduling conflicts, that's
18 how I plan to proceed after we're done with Mr. Wood. Okay,
19 hearing no objections, Mr. Wood please raise your right hand
20 and be sworn.

21 (Witness sworn.)

22 JUDGE PRIDGIN: Thank you, sir. If you would,
23 please have a seat. Mr. Dottheim, when you're ready, sir.

24 WARREN WOOD testified as follows:

25 DIRECT EXAMINATION BY MR. DOTTHEIM:

1 Q. Please state your name.

2 A. Warren T. Wood.

3 Q. Please state your business address.

4 A. Missouri Public Service Commission, PO Box 360,
5 Jefferson City, Missouri 65102.

6 Q. What is the nature of your present employment?

7 A. I am the utility operations division director
8 with Public Service Commission Staff with oversight of
9 manufactured housing, water and sewer, telecommunications,
10 natural gas and electric operations of regulated utilities in
11 the state of Missouri.

12 Q. Would you please indicate your employment
13 history prior to your present employment by the Commission?

14 A. Within the Commission, prior to this position,
15 I was the energy department manager with natural gas and
16 electric operations. Prior to that, the gas department
17 manager. And prior to that, the procurement analysis
18 department engineer in our natural gas department.

19 Q. Have you been employed anywhere other than at
20 the Missouri Public Service Commission?

21 A. Yes. In total at the Public Service Commission
22 I've been employed a little over six years. Prior to that, I
23 spent about 11 -- a little over 11 years in consulting
24 engineering. Most of that time with Black and Veatch at
25 Overland Park, Kansas where I was working on the design of

1 clean wastewater treatment plants, transmission structures and
2 most of that time was devoted to natural gas, coal-fired and
3 nuclear power plant design.

4 Q. What is your educational background?

5 A. Bachelors in civil engineering from the
6 University of Missouri-Columbia, College of Engineering in
7 1987 with honors.

8 Q. Do you hold any professional licenses?

9 A. I have a professional engineering license in
10 Kansas and Missouri. And I used to have a license in the
11 state of Washington, but I let it expire.

12 Q. And the license that you're referring to is --

13 A. Professional engineering license.

14 Q. -- engineering?

15 Have you submitted testimony in any regulatory
16 proceedings?

17 A. Yes. I've presented testimony primarily during
18 my term in the procurement analysis department with natural
19 gas utilities in looking at their reliability, purchasing and
20 their prudence in their operations, their storage and their
21 gas supply contracts.

22 Q. Did you attend the local public hearings at the
23 Jackson County Courthouse on May 24th, 2005?

24 A. I did. I attended both public hearings that
25 day.

1 Q. When you say "both," you're referring to the
2 subsequent hearing in Platte City?

3 A. Yes.

4 Q. Were you present when Mr. Byron Combs testified
5 at the Jackson County Courthouse?

6 A. Yes, I was.

7 Q. Did Mr. Combs have a multi-page document
8 entitled Testimony Before the Missouri Public Service
9 Commission, which was marked as Exhibit No. 3?

10 A. Yes, he did.

11 Q. Do you recall whether Commissioner Gaw
12 indicated at the May 24, 2005 local public hearing at Jackson
13 County Courthouse that he was interested in receiving some
14 feedback on the information that Mr. Combs had presented in
15 his testimony?

16 A. Yes, he did. Staff was interested in looking
17 into that issue as well.

18 Q. And did the Staff address that in very summary
19 form in its prehearing brief filed on June the 15th?

20 A. Yes, it did. On pages 2 and 3.

21 Q. Would you please provide a summary of
22 Mr. Combs' testimony?

23 A. Certainly. First of all, I thought Mr. Combs
24 did a good job of tracking down data. It isn't easy to find
25 some of this data in the public forum. But in looking through

1 the information, there was some sales to KCPL customers, sales
2 to other customer in megawatt hours over a period of years.

3 And Mr. Combs used that information to arrive
4 at some information on percentage of total sales going to
5 other utilities, and noting an increase in that trend, and
6 noticing, in particular, during a peak period on August 21st,
7 2003 that KCPL was selling a significant number of megawatt
8 hours during a peak period and arriving at the conclusion that
9 if they can be selling this much power during a peak period,
10 why do they need a new generating unit. And that was his
11 point -- summary of his point and what we reviewed in our data
12 since then.

13 Q. Mr. Wood, have you reviewed the information
14 provided by Mr. Combs?

15 A. Yes, we have.

16 Q. Okay. Would you provide, please, the results
17 of your review of Mr. Combs' testimony and the analysis you've
18 performed?

19 A. Certainly. Much of the data that Mr. Combs
20 pulled off of the different public information sites was
21 accurate. It was lacking some information, however, regarding
22 power purchases during that day. There were a number of
23 purchased power contracts in effect that day, some sales
24 contracts as well. And, in fact, during that day, Kansas City
25 Power and Light was a net purchaser of power in order to serve

1 their own system peak.

2 MR. DOTTHEIM: I would like to tender Mr. Wood
3 for cross-examination.

4 JUDGE PRIDGIN: Mr. Dottheim, thank you. Let
5 me see what questions we have from the Bench.

6 Commissioner Gaw?

7 COMMISSIONER GAW: Do you want to go here or do
8 you want to have cross first?

9 JUDGE PRIDGIN: Let me see if we have any
10 questions from counsel. Normally what we've been going
11 through is seeing -- instead of just jumping around, I assume,
12 Ms. Henry, you'll have some questions?

13 MS. HENRY: A few.

14 JUDGE PRIDGIN: Mr. Conrad?

15 MR. CONRAD: I think just one possibly.

16 JUDGE PRIDGIN: And then KCP&L perhaps? No,
17 Mr. Fischer?

18 Mr. Conrad, if you have any questions for
19 Mr. Wood.

20 CROSS-EXAMINATION BY MR. CONRAD:

21 Q. Mr. Wood, thank you for coming in this morning.

22 The sales that this gentleman had identified,
23 if I were to say to you are those FERC regulated sales, would
24 you understand what I'm -- I mean, FERC regulates, would you
25 agree with me, the wholesale site?

1 A. Yes.

2 Q. Were these wholesale sites?

3 A. Yes.

4 Q. Were they sales to municipalities? Did he
5 include some there that KCPL has contracts to serve?

6 A. There were some sales to municipals in there,
7 yes.

8 MR. CONRAD: Thank you. That's all.

9 JUDGE PRIDGIN: Mr. Conrad, thank you.

10 Does anyone else wish cross-examination other
11 than Ms. Henry?

12 Ms. Henry, whenever you're ready.

13 MS. HENRY: I have a few questions about the
14 workshop proceedings, but maybe you're -- is his only purpose
15 up here to deal with Mr. Combs' testimony so the workshop
16 proceedings would not be appropriate or is he representing the
17 Staff in relation to the regulatory plan?

18 MR. DOTTHEIM: Well, he would answer questions
19 identified in the Staff's prehearing brief. The general
20 possibly policy person or process is Robert E. Schallenberg.
21 Mr. Wood was being offered, in particular, for purposes of
22 addressing the local public hearings, Mr. Combs' testimony and
23 any questions relating to Kansas City Power and Light's choice
24 of a supercritical pulverized coal-fired base load generating
25 unit and also addressing any questions relating to wind energy

1 provisions of the Stipulation and Agreement.

2 So as far as the process that was utilized
3 itself, if I understand you correctly, I think, in particular,
4 that as far as a Staff witness might be Mr. Schallenberg.

5 MS. HENRY: Okay. I'll save my questions for
6 him.

7 Is Mr. Schallenberg going to come on later?

8 MR. DOTTHEIM: Mr. Schallenberg is available to
9 testify. He will be -- I think he's -- I don't know if he's
10 made it back from a meeting, but he will be here I think
11 virtually the entire day, so --

12 JUDGE PRIDGIN: Ms. Henry, thank you.

13 If we have no other questions from counsel,
14 we'll see if we have questions from the Bench. Commissioner
15 Gaw?

16 COMMISSIONER GAW: I have a inquiry of question
17 for Staff first.

18 Mr. Dottheim, does Staff intend to put on
19 witnesses in support of its conclusion in its recommendations
20 at some point?

21 MR. DOTTHEIM: The Staff has witnesses
22 available and it's indicated what areas they would cover if,
23 in particular, the Bench was interested in asking questions.

24 COMMISSIONER GAW: I understand that. But I'm
25 inferring from that that you do not intend to put on any other

1 evidence other than what the Bench might seek.

2 MR. DOTTHEIM: That was the intention.

3 COMMISSIONER GAW: And help me to understand
4 that position since we do not have a unanimous stip in front
5 of us, that the Staff is not putting on any significant
6 evidence in this case.

7 MR. DOTTHEIM: Well, in part, it was to address
8 what the Staff perceived as far as the Commission's direction
9 regarding the filing of testimony.

10 COMMISSIONER GAW: That being?

11 MR. DOTTHEIM: That being that a fair amount of
12 pre-filed testimony has not addressed the needs or the
13 concerns of the Commissioners. And as a consequence, instead
14 of, in particular, drafting testimony and submitting it, there
15 are Staff witnesses available covering each of the areas that
16 are of relevance if there are questions from the Bench or as
17 in the case of Ms. Henry, Mr. Schallenberg can take the stand
18 to respond, to answer any questions that Ms. Henry may have
19 regarding process.

20 COMMISSIONER GAW: Staff has already indicated
21 that it believes -- Staff believes that the agreement that it
22 signed is in the public interest.

23 MR. DOTTHEIM: Yes. And the Staff believes
24 that the testimony that Kansas City Power and Light pre-filed
25 provides competent and substantial evidence for the Commission

1 to adopt the regulatory plan.

2 COMMISSIONER GAW: But it does not intend to
3 really put on any specific testimony from Staff witnesses
4 supporting that position?

5 MR. DOTTHEIM: Correct.

6 QUESTIONS BY COMMISSIONER GAW:

7 Q. Okay. Mr. Wood, good morning.

8 A. Good morning.

9 Q. I'm sorry for your loss.

10 A. Thank you.

11 Q. I'll try to move this along.

12 I want you to start back with what you were
13 just testifying on. And it was not clear to me what you were
14 saying in regard to the off-system sales on KCP&L. Can you be
15 more specific with me about what the trends have been on
16 native load growth --

17 A. Uh-huh.

18 Q. -- in off-system sales changes over the last
19 few years and give me a more specific picture of what that
20 dynamic is and what projections are?

21 A. Very good. Okay. There were a couple
22 different parts of that question. I'll try to address the
23 main part.

24 Q. There are, yes. I'm giving you an
25 open-ended --

1 A. If I drop something, feel free to ask again.

2 Regarding the load forecasting, first, I'd note
3 Staff's primary witness regarding load forecasting is Henry
4 Warren. Although I would indicate that during the regulatory
5 working meetings and subsequent research and looking at some
6 independent information outside of that provided by Kansas
7 City Power & Light, it did appear that there was a growth in
8 peak within the SPP area and, in particular, within Kansas
9 City Power & Light area's as well.

10 And in looking at those numbers, it appears
11 that growth percentages anywhere from 1.4 to 2 percent per
12 annum appeared reasonable. Looking back, there's been some
13 information provided that over the last five years, there have
14 been -- there's been a slower trend than that.

15 In looking at this information, much of -- much
16 of that can be attributed to weather anomalies in that time
17 frame and economics, economic variables including Sprint, GST,
18 September 11th and a general economic downtrend.

19 JUDGE PRIDGIN: Mr. Dottheim, you indicated you
20 needed to say something?

21 MR. DOTTHEIM: Yes. We have an officer from
22 Capitol complex, police security. Evidently there's a panic
23 alarm that's been set off in this general area.

24 JUDGE PRIDGIN: No problems here. Thank you
25 for being here.

1 (Off the record.)

2 JUDGE PRIDGIN: We're back on the record. We
3 went off the record and had an interesting conversation with
4 Capitol police about panic buttons and I apologize for the
5 interruption.

6 Commissioner Gaw, I believe you were
7 questioning Mr. Wood.

8 COMMISSIONER GAW: I think I was, but I have no
9 idea what my question was and I suspect Mr. Wood doesn't
10 either.

11 THE WITNESS: I remember.

12 JUDGE PRIDGIN: Native load, I believe
13 somewhere in that ballpark.

14 BY COMMISSIONER GAW:

15 Q. We were talking about growth and load and
16 sales. And my recollection is he was suggesting that growth
17 had slowed the last few years, but that his opinion was it was
18 due to certain anomalies in weather and economic conditions;
19 is that accurate?

20 A. Yes. Yes. And I was also going to answer some
21 information on sales trends.

22 Q. Let me talk to you, first of all -- when you
23 said economic trends, you mentioned GST and you mentioned
24 Sprint --

25 A. Yes.

1 Q. -- is that correct?
2 GST was a major steel manufacturing --
3 A. Uh-huh. Yes.
4 Q. -- unit or site in --
5 A. Uh-huh.
6 Q. -- Kansas City. Correct?
7 A. Uh-huh. Yes.
8 Q. And Sprint you mentioned because of downsizing
9 or what?
10 A. Yes, some layoffs and downsizing. And there
11 was also the Hawthorne 5 period where it had exploded and they
12 were rebuilding ing that area and there was a period of time
13 that definitely impacted their saleability.
14 Q. Okay. When we were talking about growth a
15 while ago, were you talking about overall sales or were you
16 talking about native load growth?
17 A. Peak overall for native load and energy sales.
18 Q. All right. How many categories did you just
19 tell me?
20 A. Talk about peak and energy.
21 Q. Peak and energy?
22 A. Yeah.
23 Q. For native load?
24 A. Yes.
25 Q. Only?

1 A. Yes. In terms of growth, in terms of looking
2 at capacity needs to serve Kansas City Power & Light's
3 customers, we're talking about the customers they serve, their
4 native load.

5 Q. What confused me was when you said
6 Hawthorne 5 --

7 A. Uh-huh.

8 Q. -- was down and so that limited their ability
9 for sales.

10 A. Sales -- okay. And I should note that there's
11 two categories --

12 Q. That confused me when you said that.

13 A. Power to their own customers --

14 Q. Yes.

15 A. -- and off-system sales to municipals and other
16 utilities that wish to buy power from them.

17 Q. I understand that concept, but how did that
18 impact their native load in any way?

19 A. It wouldn't. In fact, it would have forced a
20 requirement to purchase power at times to serve their native
21 load.

22 Q. It would have impacted their ability to do
23 off-system sales. Correct?

24 A. Yes. Yes.

25 Q. And it might have caused them, in some cases,

1 to have to buy power that they would not have otherwise had to
2 purchase during certain times for native load; is that --

3 A. True.

4 Q. -- is that accurate?

5 A. That is accurate.

6 Q. Okay. So growth patterns in the last four
7 years or so, what have they been at?

8 A. The specific number, I can dig that up, but I
9 think it's less than a percent.

10 Q. Okay. All right. Now, put this picture
11 together for me. With the need for an additional generation
12 unit coal plant -- and if you're the witness to talk to me
13 about it -- how does that fit in with this growth pattern and
14 what growth patterns are assumed, if you know, in getting to
15 the point where it looks as though that size of a plant is
16 needed during the time frame that's slated for construction?

17 A. Regarding the load forecast, the peak and
18 energy forecast growth, I would probably defer that to
19 Mr. Warren.

20 Q. Okay.

21 A. Regarding how that impacts Kansas City Power
22 and Light's capacity, ability to basically serve a peak in
23 forecasted years, I can talk about that and the amount of
24 shortfall that's forecasted by 2010.

25 Q. Okay. But you don't know what the shortfalls

1 are based upon --

2 A. The --

3 Q. -- in regard to load growth?

4 A. I've reviewed the percentage growth rates over

5 the years that the forecast plant is based on.

6 Q. Do you know what they were? If you don't,

7 that's all right. I can ask Mr. Warren, but it's -- your

8 testimony is based upon the information you're getting from

9 other sources and you haven't analyzed the growth pattern in

10 depth it sounds like?

11 A. The in depth review of that I would refer to

12 Mr. Warren. I have reviewed it in order to have some sort of

13 comfort level as to the numbers I'm seeing. And they were

14 certainly in the range of what I would have anticipated seeing

15 from that area, in the 1.4 to 1.8 percentage.

16 Q. You think that was the growth pattern that was

17 utilized in determining the need for new generation?

18 A. Yes.

19 Q. All right. Now, do you know what -- do you

20 have any idea of what the percentage of off-system sales have

21 been over the last few years?

22 A. I do. Relative to the review of the

23 information provided by Witness Combs at the public hearing --

24 Q. Yes.

25 A. -- I do have information regarding what that

1 actual trend has been in terms of percentages.

2 Q. Would you go into that for me?

3 A. Certainly. Do you want me to compare the
4 information provided by Mr. Combs and then give the new
5 percentages in terms of net off-system sales after purchases?

6 Q. That would be fine --

7 A. Okay.

8 Q. -- if you want to go that route.

9 A. Okay. Mr. Combs' testimony provided data for
10 1999 through 2003.

11 Q. Uh-huh.

12 A. In looking at comparable information after
13 accounting for purchases, which Mr. Combs' testimony did not
14 include, in 1999, Mr. Combs had indicated a 14.8 percent of
15 total sales going to other utilities.

16 Q. Uh-huh.

17 A. After that's adjusted for purchases, it's
18 5.8 percent.

19 Q. Okay. Hold on just a second. I'm sorry,
20 Warren. Just a second. 5 point what?

21 A. 5.8.

22 Q. 5.8. So the net is 5.8?

23 A. Yes.

24 Q. All right. Now, keep going. I'll come back in
25 a minute.

1 A. Okay. In 2000, it indicated 10.8 percent.

2 Q. Okay.

3 A. After adjusting for purchases, and this is the
4 time frame over which Hawthorne 5 was out of service --

5 Q. Yes.

6 A. -- it was down by negative .3 percent.

7 Q. Uh-huh.

8 A. In 2001, Mr. Combs' testimony was 20.6 percent.
9 Adjusted, it's 15.7 percent.

10 Q. 15.7. What was the status of Hawthorne in '01?

11 A. I believe it came back online mid-2001.

12 Q. Okay. Okay. All right. And go to '02 then.

13 A. The '02 number, Mr. Combs' testimony was
14 26.3 percent.

15 Q. Uh-huh.

16 A. Adjusted, I have 22.7 percent.

17 Q. Okay.

18 A. In 2003 Mr. Combs' testimony was 29.1 percent.

19 Q. Uh-huh.

20 A. After adjusting for purchases, it was
21 24.7 percent.

22 Q. 24.7?

23 A. Yeah. And actually, I do have -- well, no,
24 Mr. Combs didn't have 2004 information.

25 Q. Do you have it?

1 A. Yes, I do. 27.5 percent.

2 Q. 27.5 is the net or the gross?

3 A. Net after adjusting for purchases.

4 Q. Okay. It seems to be a definite trend upward
5 if I throw out the Hawthorne plant question or issue. Would
6 that be right?

7 A. If you take out the Hawthorne 5 change and the
8 off-system sales and purchases, you take all that out and you
9 take the trend from 1996 through 2004 --

10 Q. You need to go back that far.

11 A. -- if you go through that, I think about
12 15.9 percent annualized rate of growth of off-system sales.

13 Q. Annualized. But what's my trend?

14 A. Your trend over the last few years is obviously
15 a significant increase in off-system sales.

16 Q. Okay. Now, what does that mean to you?

17 A. That means that they have the opportunity to
18 sell more power into the market and they can do it at an
19 incremental revenue over what they would potentially generate
20 it or sell it on their own system for.

21 Q. Generally, when do you have the opportunity to
22 make profitable off-system sales if you're in a position of
23 owning generation?

24 A. When you have available energy. You've already
25 met the commitment of serving your native load and you have

1 energy to sell where other customers either can't generate it
2 that cheaply -- generally, they can't generate it or purchase
3 from some other source at a cheaper rate and so they -- they
4 end up buying it from Kansas City Power & Light or some other
5 customer.

6 In this case, the coal-fired opportunities that
7 Kansas City Power & Light has in terms of its energy sales
8 provide certainly an advantage over many sellers in the market
9 trying to compete with natural gas.

10 Q. Because?

11 A. Because it costs less than -- you know, the
12 coal-fired generation costs less on a kilowatt/megawatt hour
13 basis than natural gas generation does.

14 Q. You would say that if you're scaling -- looking
15 at when opportunities exist, first, you have to have, as you
16 said, the available generation?

17 A. Available energy, yes.

18 Q. And the price -- going price at that time --

19 A. Uh-huh.

20 Q. -- has got to be something where you're
21 actually making a profit?

22 A. Right. There's some net revenue out of it.
23 And you obviously have to have transmission access to move
24 that power.

25 Q. Which is also a factor, is it not, in trying to

1 determine whether you can make the sale, the particular load?

2 A. Absolutely. Certainly -- and it certainly
3 becomes a major player as you move further away from
4 generation and load.

5 Q. Yeah. Now, if you've got coal facilities and
6 prices are selling at natural gas peaking prices --

7 A. Uh-huh.

8 Q. -- and you have that generation -- coal
9 generation available, it's profitable to sell it. Correct?

10 A. It certainly could be, yes.

11 Q. And you're going to bring money in because of
12 that?

13 A. It -- yes.

14 Q. All right. And let's say if it is -- we'll say
15 it's still a peaking price out on the market. There should
16 be -- assuming the transmission's available again, that was in
17 my last question. I'll make that so as well.

18 A. Okay.

19 Q. That you had a co generation plant -- gas
20 plant --

21 A. Uh-huh.

22 Q. -- it probably would be -- probably be
23 profitable in most cases to go ahead and sell off of that
24 plant as well if you were at peaking price?

25 A. It -- based on current spark spreads, heat

1 rates, natural gas prices, there's certainly a high
2 probability that's the case.

3 Q. Yeah. Why don't you rank, just for the record,
4 the highest to lowest price generation? I realize that
5 varies, but just generally by category.

6 A. Well, on a variable cost basis, you know, for
7 the -- for the incremental unit of energy, nuclear does very
8 well, hydroelectric does very well, wind is quite often very
9 competitive in that -- in that if it's available. Coal and
10 obviously the newer -- the better heat rate units are better
11 than the older units with less -- with the less acceptable
12 heat rates. Combined cycle natural gas followed by simple
13 cycle combustion turbines.

14 Q. You went from lowest to highest.

15 A. Oh, I'm sorry.

16 Q. Is that right?

17 A. Yes, I went from lowest to highest. Did you
18 mean the other way? I'm sorry.

19 Q. I don't care. I just want to make sure that
20 we're clear.

21 Okay. So if that's the case, can you give
22 me -- when you look at these numbers in regard to off-system
23 sales of Kansas City Power & Light, can you tell me whether or
24 not this is about an average on off-system sales percentages
25 or is it below average, above average, or do you know?

1 A. I do not know the answer to that question.

2 Q. Okay. All right. Now, the argument, I assume,
3 is that if you've got the ability to make -- have this kind of
4 a growth pattern in off-system sales, doesn't that argue that
5 you have sufficient capacity and, in fact, perhaps more
6 capacity than is needed and so why is it necessary for this
7 coal plant to be built under the schedule that is proposed?

8 A. I'm really glad you asked that question.

9 Q. I figured you would be.

10 A. Okay. Because it's -- it's something that's
11 been bantered around quite a bit in these proceedings and it's
12 a very important thing we need to make sure the record
13 reflects.

14 In looking at the forecasting period for Kansas
15 City Power & Light and in looking at their capacity position
16 now and where it will be in the time frame over which this
17 power plant could actually be built and online, just -- just
18 as a sideline very quickly, you know, with favorable
19 permitting, we're looking at six to seven years generally to
20 build a unit. If you were already well into your permitting
21 from the point you break ground to generate steam, it may well
22 be five years for a unit this size.

23 Taking those factors into account, there's
24 still an obligation through one source or another to end up
25 providing the generation capacity to serve a peak day. Okay?

1 In the end, you need to have some reliable mechanism to do
2 that. In the Southwest Power Pool, that is a 12 percent
3 margin. And that's calculated as the capacity available,
4 divide -- minus your peak responsibility, divided by the
5 generation capacity available.

6 Okay. In looking at their current position,
7 growth rates and where they are anticipated to be in the time
8 frame this unit could be built, a unit of this size appears to
9 be appropriate. In fact, between now and when that unit would
10 come on, there will likely be some short-term provisions that
11 need to be made in order to have the capacity to serve the
12 obligations required by SPP in that time frame.

13 Now, that comes back to so then why are they
14 selling so much energy? Okay. First of all, very quickly, on
15 the energy sales, you know, when we start looking at the rate
16 cases that are scheduled in this regulatory plan, one of
17 issues specifically addressed in the regulatory plans are
18 those off-system sales revenues.

19 In the end, those off-system sales revenues --
20 we didn't push the button again, did we?

21 Q. No. I think I need to turn my cell phone off.
22 Go ahead.

23 A. In the end, those revenues brought in through
24 those off-system sales provide for an offset in operating
25 expenses and can end up resulting in lower rates to customers.

1 Okay?

2 Now, that still hasn't come back to your final
3 issue, so how can they sell so much energy. Well, the fact of
4 the matter is if you look at the needed generation at any
5 point in -- any particular hour throughout the 8,760 of the
6 year and throughout multiple years, there will only be a few
7 times when you need to have that capacity to serve that peak
8 day and to meet that SPP obligation so we don't end up
9 blacking people out when it gets to 105 degrees Fahrenheit.

10 Okay?

11 Well, many of our base load units, nuclear in
12 particular and coal fired as well, operate better -- and there
13 are some thermal shock issues, there's cycling timing issues
14 regarding coal-fired unit operation. And where you can --
15 certainly where you can undercut the market for natural gas
16 fired generation and any place where you can maybe even
17 potentially just break even with your own cost and you can
18 leave the unit up and operating, it's advantageous to do so.

19 So you'll have a significant -- well, you know,
20 if you just look at the peak periods over a time and you look
21 at all the valleys when you're not really needing all of that
22 capacity, you can sell that energy into the market.

23 And what you are seeing in this trend, you
24 know, a couple different things. One of them is almost
25 certainly the high natural gas price market that is in effect,

1 how that's impacting sales in the market and Kansas City Power
2 & Light's percentage of base load generation capability and
3 the ability to operate those units more than they have
4 historically and sell more energy into the market than they
5 have historically.

6 Q. Okay. Now, normally whenever someone is
7 discussing the issue of needing energy just during certain
8 peak times, I hear discussion about that being -- in order to
9 fill that need, that's a need that's more economically filled
10 with a peaking unit or something similar to that if it's only
11 to deal with peaking periods during the year.

12 A. Uh-huh. Yes.

13 Q. What is different about the needs of KCP&L
14 during this time frame that caused your opinion to be that
15 they need a base load addition, not just some additional
16 peaking facilities?

17 A. Very good question. One that was a focus of
18 many discussions during the regulatory plan meetings. And, in
19 fact, if you look around, especially over the last couple of
20 years, you've seen many natural gas units being brought in.

21 Much of that has been in response to -- well,
22 initially when it began, lower natural gas prices and
23 compliance with emission requirements and a lower perceived
24 risk of the capital cost of putting in natural gas-fired
25 generation. That was the focus because we still had a

1 significant percentage of base load from what some have argued
2 was, to some degree, an overbuild of coal in the '70s and
3 early '80s.

4 Well, we have grown into needing all of that
5 base load or we are growing into it. And the expectation is
6 over the next couple of years we will have grown beyond it and
7 be at a point where if we try to serve the growth in the next
8 incremental increases in load with peaking units, we will be
9 operating them far more often than we need to. We'll be
10 filling in valleys that really should be served by base load
11 with gas-fired generation.

12 And not surprisingly, when you begin to look at
13 your present -- present value revenue requirement over a long
14 time frame, that ends up costing customers more than it would
15 if a base load unit was built.

16 Q. Now, I understand what you're saying, I think.
17 Are you giving me information about KCP&L's needs or is it on
18 a broader scale in dealing with that territory, perhaps the
19 SPP territory or perhaps the region that's defined differently
20 than that when you're talking about the particular needs of --
21 that you just discussed for additional base load generation?

22 A. I have not looked at that research for the
23 entire SPP region. I, frankly, don't know what their optimal
24 incremental generation additions are. My testimony here is
25 specific to my review of the Kansas City Power & Light

1 situation.

2 Q. So based upon your review of KCP&L's needs,
3 additional base load, in your opinion, is warranted to the
4 level that has been proposed in this non-unanimous stip, of
5 approximately 500 megawatts?

6 A. Yes.

7 Q. Okay. Now, is it unusual to see the kind of
8 generation portfolio on a percentage basis of base load to
9 intermediate, to peaking facilities that KCP&L currently has?

10 A. In looking at their current percentages, it
11 lines up well with -- and this is a somewhat dated study, but
12 there was a late '80s, I believe there was a MoKan and it's no
13 longer in operation, study. And Kansas City Power & Light's
14 generation base load intermediate and peak currently line up
15 relatively well with that study.

16 In looking at some of the variable --
17 significant variables that have changed since then, I would
18 say Kansas City Power & Light will, with the addition of
19 Iatan 2, begin to be even a bit higher in their base load
20 percentages than that study would have indicated.

21 But I think that the major variable changes of
22 higher natural gas prices -- significantly higher natural gas
23 prices than were available at that time, the current demand
24 for coal-fired generation prices and their ability to sell
25 into the market to potentially off-system unit cost for

1 installation, I think that's consistent with appropriate
2 planning to have a higher percentage of the coal-fired
3 generation or base load generation.

4 Q. Your analysis of this being a good plan --

5 A. Uh-huh.

6 Q. -- does, in part, relate to the ability of
7 KCP&L to sell profitably into the market their excess
8 capacity?

9 A. Their excess energy.

10 Q. Excuse me. Excess energy. Correct?

11 A. Yes. Yes.

12 Q. And when that -- the way this is likely to be
13 done, based upon what's happened in the past and that may be
14 mentioned in the stip, is that revenues from those off-system
15 sales are credited back to the customers of KCP&L?

16 A. Through their offsets and other expenses
17 when -- when everything is looked at in a rate case and
18 revenues are set.

19 Q. So ratepayers get credit for these sales?

20 A. It's not --

21 Q. Yes or no?

22 A. It's not really a direct mechanism, but what it
23 is, is you look at what they have been able to bring in in
24 terms of off-system revenues. And there's some level of that
25 argued about in a rate case and imputed to reduce expenses and

1 when you look at the overall setting of rates or revenue
2 requirement.

3 So I believe the answer to your question -- if
4 I had to give a yes or no, I'd say yes. But it's not like a
5 dollar for dollar unless you set up some sort of mechanism to
6 do it that way.

7 Q. The other day I asked a question in regard to
8 SPP's analysis in the -- actually the market monitor's
9 analysis of the availability of generation capacity by fuel
10 type. And I read that into the record. I'm going to pass
11 this down to you to see this same paragraph on page 14 of this
12 document.

13 COMMISSIONER GAW: Perhaps at some point,
14 Judge, we might ought to mark that just so it's in the record
15 and not -- but it has been read into the record, this portion.
16 This is 2004 State of the Market Report, Southwest Power
17 Pooling prepared by Boston Pacific, the independent market
18 monitor for SPP, if you could hand that down.
19 BY COMMISSIONER GAW:

20 Q. I'd just like for you to read that generation
21 by fuel type portion, which is not -- it's just basically a
22 short paragraph.

23 A. I believe I was here when you were reading when
24 Mr. Grimwade was testifying. You were reviewing that
25 information.

1 Q. I'm curious about whether or not that gives --
2 sheds any light on the need for additional base load in the
3 SPP region and how it relates to the -- what appears to be
4 perhaps additional base load capability of KCP&L as it
5 currently exists relative to the SPP territory, if you want to
6 look at it again.

7 A. You don't want me to read it into the record?
8 Just read it for my --

9 Q. It's up to you. If you want to.

10 A. Since it's already in the record, I'll just
11 read it here.

12 Okay.

13 MR. DOTTHEIM: Pardon me. Pardon me. Excuse
14 me. For purposes of clarity, it might be of assistance if
15 Mr. Wood read the fuel type and the percentages into the
16 record.

17 THE WITNESS: Certainly if you'd like.

18 BY COMMISSIONER GAW:

19 Q. It's in paragraph form, but I think that would
20 be fine.

21 A. I'll read the highlighted text then. As noted
22 previously in Figure 1 -- I.4, load is less than 20,000
23 megawatts 33 percent of the time and approximately 15,000
24 megawatts capacity operates in SPP during all hours of the
25 year. Approximately 18 percent of the coal generation can be

1 found in APW while KCPL and WERE each have 15 percent in their
2 control areas.

3 Q. Mr. Wood, does that tell you anything at all in
4 regard to what current generation capacity availability in the
5 SPP region that's helpful?

6 A. Not without reviewing the -- I'd need to really
7 look at the time frame and the loads and generation types.
8 And really this -- it doesn't go back to what the optimal, you
9 know, capacity factors for the units serving this load are.

10 It tells me something, you know, that the load
11 is less than 20,000 megawatts 33 percent of the time, but I
12 don't know right off how that compares to the peak. And there
13 is some information in here -- you know, it may be helpful to
14 have this in the record in terms of other information it
15 provides in terms of peak and it also has some other
16 information on primary fuel types.

17 Q. It does.

18 A. That's helpful.

19 Q. The report was just -- on the front does it say
20 when the report is issued?

21 A. May 31st, 2005, so it's quite current.

22 Q. Perhaps somebody might be willing to look at
23 that and see whether or not it's appropriate to have in the
24 record so it can be referred to.

25 MR. DOTTHEIM: Staff will review the document

1 and report back as far as whether it suggests that it be
2 marked as an exhibit and received into evidence.

3 COMMISSIONER GAW: That would be great. Thank
4 you.

5 MR. DOTTHEIM: And, of course, any other party
6 that would like to review the document, Staff will make copies
7 of it.

8 COMMISSIONER GAW: I think it's available
9 online too, so we can, I think, download additional copies.

10 BY COMMISSIONER GAW:

11 Q. All right. So, Mr. Wood, in regard to the
12 questions that have been raised about the lack of need of
13 additional base load for KCP&L over the time frame that the
14 base load -- additional base load is to be constructed under
15 this plan, you believe that that base load capacity is indeed
16 needed and in the public interest?

17 A. I believe it's needed and it is the most
18 appropriate resource addition given all the information
19 available today to serve the growing load and provide for the
20 lowest possible rates to customers.

21 Q. All right. Does the additional construction of
22 the plant if -- assuming that it goes through as announced by
23 ACI in the western part of Carroll County, I believe?

24 A. Near Norborne, right.

25 Q. Yes. Does it have any impact at all in regard

1 to base load generation needs in that area?

2 A. Only in terms of one of the sensitivities, and
3 that is off-system sales sensitivities. There may be a
4 potential that ACI could begin to sell into the market. It
5 may reduce some opportunities for off-system sales in the
6 future. That was one of the sensitivities looked at in this
7 resource plan. It didn't change the appropriateness of this
8 sized unit and it's timing. In fact, it tends to -- those
9 pressures tend to -- tend to make building this resource
10 sooner versus later more attractive.

11 Q. Tell me why that is.

12 A. Oh, because the more you are ahead of your
13 competitors in building coal-fired generation to sell into the
14 market, the more you potentially have to sell.

15 Q. I see. Is that just while you're up before the
16 other one or does that continue into the future beyond that?

17 A. It -- there continues to be the appearance of
18 the opportunities for off-system sales. It just potentially
19 brings them down somewhere or reduces --

20 Q. After the other plant is up and running?

21 A. Right.

22 Q. Do you know when that's scheduled to occur?

23 A. When the Norborne --

24 Q. Yes.

25 A. My last information on that is that -- no. To

1 answer your question, no, I don't have a start date for that
2 unit. I know that ACI may have some projections, but last
3 I've heard, they were rough.

4 Q. Okay. So you don't have any idea about what
5 the window is?

6 A. When that unit will start, no.

7 Q. Yes. All right. Let's talk just a little bit
8 about the specifics of this particular coal plant. And I want
9 you to tell me how this plant compares to other plants,
10 without a lot of detail, that might not be supercritical
11 plants with the -- and might not have the same -- the same
12 environmental controls.

13 A. Certainly. A comparison -- let's just compare
14 it to a generic subcritical plant built 15, 20 years ago, for
15 instance, if that's the comparison you'd like to make.

16 Q. That's fine to start there.

17 A. A supercritical plant is -- you know, when
18 subcritical plants were being built 10 to 15 years ago, there
19 was some information on supercritical plants, not primarily
20 within the United States, it was more of a European -- more
21 European design. It's a hotter -- it's slightly hotter and a
22 higher pressure steam. The supercritical is in reference to
23 the -- it's a thermodynamic term referring to the condition of
24 the steam in the unit. It requires better metallurgy. It has
25 a somewhat more efficient overall process, heat rate and

1 efficiency than a subcritical unit.

2 And that was a recognized possibility years ago
3 when subcritical plants were being built, but the metallurgy
4 issues were a big enough concern that the United States
5 industry wasn't as inclined to build those units.

6 I would say that has changed. Supercritical is
7 a much more accepted and understood technology now. There are
8 several units being built supercritical. That's primary --
9 much of the equipment -- if you went to a subcritical versus a
10 supercritical, would look very much the same as the -- the
11 heaters, all the different major piping, major equipment is
12 very similar.

13 The emissions obviously have changed now with
14 the Clean Air Act, Natural Ambient Air Quality Standards,
15 Clean Air Interstate Rule, Clean Air Mercury Rule,
16 expectations for required reductions in SO₂, NO_x, moving from
17 a particulate PM-10 to a PM-2.5 standard and mercury removal
18 in the 70 percent range, possibly 90 percent have moved -- any
19 current plants will likely involve the selective catalytic
20 reduction for NO_x control, will likely control wet -- wet
21 scrubber, fluid -- fluid gas desulfurization systems for SO₂
22 control and will likely be looking at baghouses, fabric
23 filters as opposed to electrostatic precipitators because of
24 the small particle size and their effectiveness on the small
25 particles.

1 All of those have significant co-benefits
2 referred to co-benefit support in mercury control. It's very
3 possible with that equipment installed largely for SO2, NOx
4 and particle control, that you'll achieve the mercury control
5 of the 70 percent or greater that's necessary. And with some
6 changes to catalysts and some of the existing equipment, you
7 may potentially be able to achieve 90 percent if that become a
8 requirement.

9 Q. So are all of these things that you have just
10 mentioned going to be present in this plant that's being
11 constructed?

12 A. At Iatan 2?

13 Q. Yes.

14 A. Yes.

15 Q. Do you believe that -- do you believe that
16 anything that has been discussed -- first off, are you
17 familiar with the environmental proposals that have been out
18 there in regard to additional restrictions that may occur on
19 coal-fired plants?

20 A. You mean the current implementation of Clean
21 Interstate Rule, Clean Mercury Rule and those?

22 Q. And any additional proposals that may become a
23 reality or have a significant chance of becoming a reality in
24 the next 10 to 15 years?

25 A. You mean like CO2?

1 Q. I'm going to get to that. Avoid that until we
2 get this other thing discussed.

3 A. Okay. Much beyond what I've described here in
4 terms of compliance of SO₂, NO_x, particles and mercury
5 relative to CAIR, CAMR provisions, no.

6 Q. Okay. In regard to those particular things,
7 the sulfur, the NO_x and mercury --

8 A. Uh-huh.

9 Q. -- will this plant likely, in your opinion, be
10 in compliance with any rules that might come about -- that are
11 foreseeable to come about in the next 10 to 15 years on
12 those -- on those three things?

13 A. It is my expectation that with the current
14 forms of Clean Air Interstate Rule, Clean Air Mercury Rule, if
15 it's 70 percent removal versus 90, the answer is yes. I'm not
16 in a position to say that expectations for, you know, possible
17 additional regulatory emissions provisions outside of CO₂ in
18 the next 10 to 15 years are covered as well. I would need to
19 refer to -- you know, likely the DNR air pollution control
20 witness would be in a better position to talk about likely
21 10 to 15 year possibilities.

22 Q. All right. What did you say you believe this
23 plant will remove -- what percentage of mercury?

24 A. 70 percent is my understanding of the expected
25 co-benefit removal of mercury.

1 Q. Okay. The carbon issue is out there. This
2 plant, of course, I assume will do nothing in regard to carbon
3 removal -- carbon dioxide removal as it's currently planned
4 because of its nature?

5 A. Outside -- well, it will produce less carbon
6 dioxide than that other generic unit we talked about just by
7 the nature of --

8 Q. Because it's more efficient?

9 A. Right. Just by virtue that it burns less coal
10 per kilowatt hour. Outside of that, no.

11 Q. Okay. All right. Now, real briefly, the
12 changes that are going to be done to the Iatan 1 plant as a
13 result of what's being proposed, will it be close to the
14 emission standards that Iatan 2 will be at or how will they
15 compare?

16 A. They will be installing selective catalytic
17 reduction, fluid gas desulfurization and fabric filter
18 baghouses is my understanding as associated with the
19 regulatory plan, as will LaCygne 1.

20 Q. So what does that mean?

21 A. It means that they'll be reducing NOx,
22 especially at LaCygne 1. That's one of the reasons that the
23 first emissions installation of all of these projects is SCR
24 at LaCygne 1. It's a cycle-on boiler, much higher NOx
25 emissions. And those -- the Kansas City area has studied --

1 at least that LaCygne's contributed to the NOx in that area.
2 And there's an interest in not receiving a non-attainment
3 declaration for a number of different reasons.

4 That's why LaCygne 1 SCR is first in terms of
5 NOx control, then Iatan 1, all of the different pieces of
6 equipment we talked about, largely trying to make sure that
7 you match the installation of that work with the construction
8 time frame of Iatan 2 for some economies of scale with labor
9 and equipment. And then finally coming back to LaCygne 1 and
10 finishing with whole gas desulfurization and baghouses there
11 as well.

12 Q. So Iatan 1 and Iatan 2, how will they compare
13 when this all is completed in regard to their emissions?

14 A. Well, in SO2, NOx and mercury, the total
15 Iatan 1 plus 2 site will have lower emissions than the Iatan 1
16 alone.

17 Q. Okay. I want to know how the two plants
18 compare to one another after the retrofits on Iatan 1 and the
19 new Iatan 2 plant. How much difference will there be in their
20 emissions?

21 A. I haven't seen that breakdown.

22 Q. Are the things that are being put on Iatan 1
23 the same as what are being put on Iatan 2 in regard to
24 emissions controlling?

25 A. In terms of the exact same equipment, I don't

1 know.

2 Q. Okay. Of course, there's a difference between
3 the two plants, I assume, because Iatan 1 is not a
4 supercritical plant?

5 A. Yeah.

6 Q. But will the scrubbing be -- will it be the
7 same for both plants, or do you know that?

8 A. I do not know the exact SO₂, NO_x provisions for
9 the plants separate.

10 Q. Okay. On IGCC, can you tell me what your
11 opinion is as to whether or not IGCC is any technology that is
12 available for use at the current time for a plant of this
13 size?

14 A. If I understand your question, you were pretty
15 direct, is this -- is this the technology that's available
16 today to serve this -- to be constructed right now to serve
17 this load?

18 Q. Yes.

19 A. No.

20 Q. Okay. Tell me why not.

21 A. Okay. A couple of different variables. In
22 looking at the size of other IGCC units that are currently
23 operating, there are -- you know, we're in the high 200's to
24 low 300 megawatt range. And even with those units they're not
25 necessarily all coal. They're using heavy oil, they're using

1 coke, they're using other things to provide for improved
2 reliability from the units. Even -- and I understand the
3 Tampa unit may have achieved something 90, 95 percent, but
4 with that, they're co-firing other fuels not just coal.

5 Looking at the units that are in operation,
6 we're seeing reliability or capacity factors in the 65 to 70
7 or so range. We're not -- we're not in the 85, 90 percent
8 range that's necessary.

9 And even with these units that are installed,
10 they're still having quite a few different equipment problems,
11 you know, refractory, all sorts of different major pieces of
12 the gas and fire train.

13 In necessary -- it looks like -- and there's
14 been some research out there to say that if you want to
15 achieve 90 percent in the future with these, it's probably
16 going to require a spare gas of fire at 200 percent capacity
17 trains for the syn gas development because of some of the
18 forced outages and maintenance issues with the gas fires.

19 There are also issues in construction of the
20 larger turbines, you know. When we talk about syn gas, some
21 people think that's producing methane. It's not. It's more
22 of a hydrogen/carbon monoxide generator. And that's got about
23 one-quarter of the BTU per cubic foot, which has implications
24 in the burner design and the overall design of that turbine.

25 So, no, at this point in time I -- I can't

1 look out there and say that construction of an 800 megawatt or
2 even a 600, as is being talked about with -- you know, there's
3 another -- an announcement out of there 600 megawatts or so,
4 is technology that is well established or understood and
5 necessarily reliable.

6 This generation unit would represent a
7 relatively large percentage of Kansas City Power & Light's
8 needed capacity in the time frame soon after it's built, and
9 years on out it continues to represent a significant
10 percentage. Staff is uneasy with proceeding forth with a
11 technology that, frankly, appears to need to do some maturing
12 before it becomes the next resource.

13 And with that, I would say looking at IGCC, I
14 think it represents a tremendous opportunity. I think it is
15 probably the bridge technology to where we can begin to talk
16 about potential zero emission plants, other technology that's
17 being talked about, maybe an incremental step in overall
18 efficiency.

19 It's very possible 10 to 15 years from now we
20 may look back and say, you know, I wish we could have waited
21 10 to 15 years. But at this point in time with the
22 information we have available, natural gas prices where they
23 are and expectation for where they're going and some of the
24 other sensitivities looked at in this model, I can't recommend
25 that we wait those 10 to 15 years. It takes 5 years to build

1 the unit. By the time it's built, we will very likely need
2 all of its capacity.

3 Q. The 600 megawatt plant that you're referring
4 to, is that the announcement by AUP that they intend to build
5 two 600-megawatt plants in the Ohio, Kentucky --

6 A. I believe that is -- I think we're talking the
7 same units, yes. I would note in the regulatory proceedings
8 where it's being talked about, there are -- there's a lot of
9 language in those applications about, you know, approval for
10 this and I don't carry the risk for that, you do and, you
11 know, I'm willing to proceed with this but you're holding the
12 hand on a lot of risk to proceed forth with it.

13 It's -- it's the type of proceeding I think
14 here would also be viewed with a lot of concern.

15 Q. Okay. If you were going to detail for me or at
16 least give me the bullet list of the risks that were involved
17 in moving forward with this plant, what would they be?

18 A. Well, obviously include -- now, I wouldn't be
19 surprised if I leave an item or two off, by I think I'll hit
20 the major bullets.

21 Q. All right.

22 A. Higher load growth, natural gas prices, coal
23 prices and transportation, emissions requirements, SO₂, NO_x,
24 mercury, in particular, and CO₂, in particular, in the future.
25 Transmission not so much in this case because of its proximity

1 to load. I think those are the -- those would be the major
2 ones I would identify right off the top of my head here.

3 Q. Okay. And of those things, what would you be
4 the most concerned about in regard to having a series of
5 events that would make this plant not seem as good of an idea
6 in retrospect if they occur?

7 A. Right. Chain of events that would potentially
8 cause -- and I mean, there's a long list of terrorist acts and
9 all kinds of things you could get into, but let's talk about
10 some of the potential probability issues.

11 Some sort of a significant change in -- in the
12 time frame over which IGCC becomes viable, reliable,
13 operational technology and, you know, that would likely come
14 out of the G.E. Bechtel partnership and some of the current
15 development projects there. That would be one.

16 Carbon dioxide -- significant change in carbon
17 dioxide policy and beginning to place a very significant tax
18 on that. That, especially in conjunction with some sort of
19 significant reduction in natural gas prices. Those would
20 be -- well, yeah, the mercury provision as well, going from 70
21 to 90 percent. I would consider those the major concerns.

22 Q. Okay. All right. Of those, what are the
23 biggest risks -- likelihood of something happening?

24 A. I -- you may have noticed in there I linked
25 natural gas and carbon dioxide.

1 Q. Yes.

2 A. I would say single issue alone, carbon dioxide
3 is probably one of the most significant variables. But -- and
4 you might bridge to a question of why would -- why do we still
5 consider this an appropriate thing? Because I do bridge it
6 with the natural gas issue. I think it's unlikely you'll see
7 two regulations without it impacting natural gas prices. And
8 not down. I mean up.

9 And that was one of the variables considered in
10 the resource plan and even with CO2 taxes of some type and
11 within a pretty significant range of probable dollars per ton.
12 If you saw an appreciable change in natural gas prices, it
13 swings it back to -- well, let me back up for a moment.

14 If you put in some sort of a significant CO2
15 tax assumption and you keep natural gas prices or you take a
16 low -- a low case for natural gas prices, you can swing this
17 resource plan appropriateness over to a combined cycle unit.
18 But as soon as you begin to bring those natural gas prices up
19 to current levels or some higher level in anticipation of some
20 sort of fuel switching because of CO2, you swing it back to
21 Iatan 2 just as quickly.

22 Q. Okay.

23 A. Okay.

24 Q. What -- what are the capabilities -- if you got
25 into carbon sequestration, what are the capabilities or

1 possibility of sequestration in that Iatan area?

2 A. That I don't know.

3 Q. Okay. You haven't looked at that?

4 A. No. I've heard some general discussions on it,
5 but it would all be hearsay.

6 Q. Okay. You've looked at these -- at the
7 efficiency programs that are being proposed?

8 A. Only from a review position. Actually, our
9 Staff witness on the demand side management energy efficiency
10 affordability program is Lena Mantle.

11 Q. So we can -- you did that very well. I'm sure
12 she appreciates that.

13 A. I'm sure she does.

14 COMMISSIONER GAW: I think I'm done for now.

15 Thank you, Mr. Wood --

16 THE WITNESS: Thank you.

17 COMMISSIONER GAW: -- for indulging me this
18 morning.

19 JUDGE PRIDGIN: Commissioner Gaw, thank you.

20 Let me see if we have any other questions from
21 the Bench. Mr. Chairman?

22 CHAIRMAN DAVIS: No questions. Thank you.

23 JUDGE PRIDGIN: All right. Mr. Chairman, thank
24 you very much.

25 Commissioner Clayton?

1 COMMISSIONER CLAYTON: No, thank you.

2 JUDGE PRIDGIN: Commissioner Appling?

3 I don't have any questions. Let me make
4 Mr. Wood available for cross-examination. And I think the
5 only folks who ask questions -- Mr. Conrad? I'm seeing no
6 questions. Mr. Zobrist or Mr. Fischer? All right.

7 MR. FISCHER: No questions.

8 JUDGE PRIDGIN: No questions from KCP&L.

9 Ms. Henry? I'm seeing no questions. Nobody
10 else wishes any cross?

11 Mr. Dottheim, any redirect?

12 MR. DOTTHEIM: Very briefly.

13 REDIRECT EXAMINATION BY MR. DOTTHEIM:

14 Q. Mr. Wood, you made reference to the Stipulation
15 and Agreement addressing off-system sales?

16 A. Uh-huh.

17 Q. I'm going to hand you -- do you happen to have
18 a copy of the Stipulation and Agreement with you?

19 A. I do.

20 Q. I'd like to direct you to page 22, the subject
21 heading about middle of that page J, off-system sales. Would
22 you read that paragraph into the record?

23 A. Certainly. Section J, off-system sales. KCPL
24 agrees that off-system energy and capacity sales revenues and
25 related costs will continue to be treated above the line for

1 rate-making purposes. KCPL specifically agrees not to propose
2 any adjustment that would remove any portion of its off-system
3 sales from its revenue requirement determination in any rate
4 case and KCPL agrees that it will not argue that these
5 revenues and associated expenses should be excluded from the
6 rate-making process.

7 Q. Mr. Wood, do you know when Kansas City Power &
8 Light's last rate increase case was -- or rate increase
9 occurred?

10 A. I believe it was in 1988.

11 Q. Do you know whether since that time, 1988,
12 there have been any rate decreases respecting Kansas City
13 Power & Light?

14 A. I believe there have been four rate reductions
15 since then.

16 Q. I'd like to refer you back to Mr. Combs'
17 testimony that he delivered at the local public hearing. And
18 I think you've indicated that based upon your analysis for the
19 date in particular that Mr. Combs identified for which Kansas
20 City Power & Light sold 528 megawatt hours to other utilities,
21 you indicated, I believe recall earlier today, that KCPL was a
22 net purchaser of power during that peak period?

23 A. Yes, they were. During that particular hour in
24 order to cover their peak requirement.

25 Q. What does that indicate to you; that is, KCPL's

1 sales, and purchases and ultimately being a net purchaser?

2 A. That they did, in fact, need all of their
3 capacity. The portions that they did sell they ended up
4 needing to cover that, plus some in order to cover their
5 native load during that period.

6 Q. Do you know whether that is also an indication
7 that KCPL was able to purchase energy at a cost less than
8 which it could generate itself?

9 A. That is the expectation generally if they're
10 purchasing the power. There is also the potential that
11 they're in a position where they -- one of their units is
12 down, they don't have the capacity and maybe they could
13 generate it for less if they could, but then they'll purchase
14 it from somebody else to cover a peak. That's one of the
15 benefits of a grid that's interconnected with our ability to
16 buy and sell power to one another if there's a unit down.

17 MR. DOTTHEIM: Thank you.

18 JUDGE PRIDGIN: All right. Mr. Dottheim, thank
19 you.

20 If there are no further questions for this
21 witness, he may be excused. Mr. Chairman?

22 CHAIRMAN DAVIS: I have one question.

23 QUESTIONS BY CHAIRMAN DAVIS:

24 Q. Mr. Wood, hypothetically speaking, if we did
25 decide we wanted to call you back in the next three days, what

1 is your availability? Are you out tomorrow, Wednesday?

2 A. As soon as I return from the funeral today, I
3 am available the rest of the week.

4 Q. Okay. So you'll be in the office tomorrow and
5 Wednesday?

6 A. I will be.

7 CHAIRMAN DAVIS: All right. Thank you.

8 JUDGE PRIDGIN: Mr. Chairman, thank you. If
9 there are no further questions -- all right. Seeing none,
10 Mr. Wood, thank you. You are excused.

11 THE WITNESS: Thank you.

12 JUDGE PRIDGIN: This looks to be a convenient
13 time to break. I'm seeing 10:05 on the clock at the back of
14 the room. If we could, let's reconvene at 10:20. We are off
15 the record.

16 (A recess was taken.)

17 JUDGE PRIDGIN: All right. We're back on the
18 record. As I recall, where we'd left, after we were going to
19 take Mr. Wood, is that we were going to put Mr. Grimwade back
20 on the stand, that the Bench had cross-examined him and we
21 were going to make him available for recross and redirect. Is
22 that counsel's understanding?

23 MR. ZOBRIST: That's correct.

24 JUDGE PRIDGIN: I'm seeing some nods.

25 Mr. Grimwade, if you would, please take the

1 stand. I'll remind you that you're still under oath. I won't
2 re-swear you.

3 Let me see what kind of cross-examination we
4 may have from counsel. Ms. Nathan, will you have questions?

5 MS. HENRY: Ms. Henry.

6 JUDGE PRIDGIN: I'm sorry. I'll call you
7 everything but your name before it's all over.

8 Ms. Henry will have questions.

9 Mr. Dottheim?

10 MR. DOTTHEIM: Just one or two.

11 JUDGE PRIDGIN: Mr. Dandino?

12 MR. DANDINO: No questions.

13 JUDGE PRIDGIN: Any other cross-examination?

14 All right. Mr. Dottheim, whenever you're
15 ready.

16 JOHN GRIMWADE testified as follows:

17 CROSS-EXAMINATION BY MR. DOTTHEIM:

18 Q. Mr. Grimwade, last Friday you received I
19 believe some questions from Commissioner Gaw about integrated
20 gasification combined cycle unit versus supercritical
21 pulverized coal-fired base load unit.

22 How long does it take to construct a
23 supercritical pulverized coal-fired base load unit of 800 to
24 900 megawatts?

25 A. It really depends upon where you're at in the

1 development phase. It could take somewhere between, say, six
2 and seven years, eight years, if you're just starting from --
3 from scratch without any environmental permitting, any
4 modelling done.

5 From where we're starting right now with an
6 awful of that accomplished, we're expecting anywhere between
7 four and five years primarily from this point.

8 Q. And when you say "from this point," do you mean
9 literally the end of June 2005 or some later approximate date?

10 A. Primarily if we proceed on the schedule we have
11 right now and start procurement process for the bidding of
12 equipment on the plant, and as we expect, would complete that
13 bidding process sometime by the end of this year to early
14 2006, commencing construction in early 2006 we would be able
15 to meet the online date of June 2010.

16 Q. And when you say "the online date of June
17 2010," that's also for the environmental enhancements that are
18 involved, not just Iatan 2?

19 A. The -- yes, the environmental enhancements for
20 both the Iatan 2 facility would get done in that schedule.
21 For the Iatan1 facility, it's anticipated that those would be
22 done in the 2007 to 2008 time frame, completed in 2008.

23 MR. DOTTHEIM: Thank you, Mr. Grimwade.

24 JUDGE PRIDGIN: Mr. Dottheim, thank you.

25 Ms. Henry?

1 CROSS-EXAMINATION BY MS. HENRY:

2 Q. Mr. Grimwade, are you aware that the price of
3 most coal has doubled in the past two years and the price of
4 PRB coal as increased by 20 percent in the last six months?

5 A. Yes. That's primarily -- the doubling is an
6 eastern bituminous fuel market, Appalachian primarily. The
7 PRB market has been much more stable.

8 Q. What does it say about the riskiness of new
9 plant if the price of PRB coal continues to rise?

10 A. Well, the fundamentals of the PRB primarily are
11 driven by an awful lot of demand associated with some of the
12 recent environmental regulations that have passed.

13 And with some of the higher priced Appalachian
14 coal, there has been an increased demand for power river
15 basin, which is actually a good thing because it's increasing
16 the amount of production, it's increasing the amount of acid
17 investment within the basin to open up new fields and create
18 more supply.

19 So in the long run, this is actually a healthy
20 thing for a long-term prospective of power river basin coal.

21 Q. What price range did you put into the MIDAS
22 model when you ran it?

23 A. Specifically, I don't have that number, but it
24 was based on projections that we obtained through both
25 publicly known sources as well as consultants that we utilize

1 that are experts within the power river basin.

2 Q. But you ran the MIDAS model about a year and a
3 half ago or something -- some time period -- how long ago did
4 you run it?

5 A. Well, the IRP analysis was done in conjunction
6 with the workshops and our strategic planning process. It
7 started early 2004 and went up through primarily December of
8 2004.

9 Q. Do you think it included the price of PRB coal
10 included -- continuing to rise?

11 A. There were -- yes, there were some assessments
12 based on the forecasts that were seen at that time.

13 MS. HENRY: Okay. I have no further questions.
14 Thank you.

15 JUDGE PRIDGIN: Ms. Henry, thank you.

16 Do we have any redirect? Mr. Zobrist?

17 MR. ZOBRIST: Thank you, Judge. Just a couple
18 of questions.

19 REDIRECT EXAMINATION BY MR. ZOBRIST:

20 Q. Mr. Grimwade, in response to Commissioner Gaw's
21 questions about environmental considerations, did KCPL, as
22 part of the workshop process, prepare an analysis of those
23 items?

24 A. Yes. As part of the initial Integrated
25 Resource Planning process, which led into the workshop process

1 and then follow up to questions that we received during the
2 workshop process, there was a number of different studies that
3 were done.

4 The studies that primarily culminated in I
5 guess the majority of the concerns or questions that we
6 received from the workshop were put together in an appendix to
7 a response for the October 29th workshop meeting where KCPL
8 was presented questions by workshop participants.

9 Q. Okay. Let me hand you what I am going to have
10 marked as Exhibit 40.

11 (Exhibit No. 40 was marked for identification.)

12 BY MR. ZOBRIST:

13 Q. Handing you what I've marked as Exhibit 40, is
14 that the study that you were referring to?

15 A. Yes, it is.

16 Q. And that contains, as I understand it, four or
17 five pages which still remain highly confidential?

18 A. Yes, it does.

19 Q. And the remainder of the document, although it
20 says highly confidential, that designation has been removed;
21 is that correct?

22 A. That is correct.

23 MR. ZOBRIST: Okay. Your Honor, I move the
24 admission of Exhibit 40.

25 JUDGE PRIDGIN: Any objections?

1 Hearing none, Exhibit No. 40 is admitted.

2 (Exhibit No. 40 was received into evidence.)

3 JUDGE PRIDGIN: And just for my notes, either
4 Mr. Zobrist or Mr. Grimwade, could you just briefly identify
5 what that exhibit is again, please?

6 THE WITNESS: It's Appendix C entitled
7 Environmental Compliance Planning.

8 JUDGE PRIDGIN: Appendix C to your testimony,
9 your pre-filed direct?

10 THE WITNESS: No. It's Appendix C to the
11 response to the questions that KCPL received from the
12 October 29th, 2004 workshop.

13 JUDGE PRIDGIN: All right. Thank you.

14 MR. ZOBRIST: Judge, let me hand you these for
15 the Bench, please.

16 JUDGE PRIDGIN: Thank you.

17 MR. ZOBRIST: And for the record, Judge, the
18 pages that are remaining confidential are as follows: A
19 portion of page C21, a portion of page C24, all of page C28, a
20 portion of page C30, and all of page C31.

21 BY MR. ZOBRIST:

22 Q. Now, Mr. Grimwade, you were also asked
23 questions from the Bench of IGCC technology; is that correct?

24 A. Yes, I was.

25 Q. And at the same time, as with regard to the

1 previous exhibit, did Kansas City Power & Light Company
2 prepare an IGCC technology report that was distributed to
3 participants in the workshop in early December 2004?

4 A. Yes, we did.

5 Q. And let me hand you what I'd like the court
6 reporter to mark as Exhibit 41 and ask you to identify that.

7 (Exhibit No. 41 was marked for identification.)

8 BY MR. ZOBRIST:

9 Q. Mr. Grimwade, have you had an opportunity to
10 examine what the court reporter has marked as Exhibit 41?

11 A. I have.

12 Q. And what is that?

13 A. This is an appendix to the responses that KCPL
14 made to the questions that were presented to us in the
15 October 29th, 2004 workshop. This one specifically addresses
16 integrated coal gasification, combined cycle technology
17 status.

18 MR. ZOBRIST: Move the admission of Exhibit 41,
19 your Honor.

20 JUDGE PRIDGIN: Any objections?

21 Hearing none, Exhibit No. 41 is admitted.

22 (Exhibit No. 41 was received into evidence.)

23 BY MR. ZOBRIST:

24 Q. And then, finally, you also received questions
25 from the Bench concerning the analysis that Kansas City Power

1 & Light Company did with regard to energy efficiency and
2 demand response evaluations. Do you recall that?

3 A. Yes, we did.

4 Q. And was there also a paper prepared as part of
5 the workshop process circulated to the participants in early
6 December 2004, late November 2004 on that topic?

7 A. Yes, there was.

8 Q. Okay. And let me ask you what I will have the
9 court reporter mark as Exhibit 42 to identify this document.

10 (Exhibit No. 42 was marked for identification.)

11 BY MR. ZOBRIST:

12 Q. Can you identify Exhibit No. 41,
13 Mr. Grimwade -- I'm sorry, Exhibit No. 42. Correct?
14 Exhibit 42.

15 A. Yes, I can. This was entitled Appendix A,
16 Energy Efficiency and Demand Response Evaluations. This
17 specific evaluation addressed questions that KCPL received at
18 the October 29th, 2004 workshop regarding the integration of
19 certain demand side and energy efficiency programs with supply
20 side initiatives.

21 MR. ZOBRIST: Move the admission of Exhibit 42,
22 your Honor.

23 JUDGE PRIDGIN: Any objections?

24 Hearing none, Exhibit No. 42 is admitted.

25 (Exhibit No. 42 was received into evidence.)

1 BY MR. ZOBRIST:

2 Q. Mr. Grimwade, I'd like to turn your attention
3 to the issue of forecasting and weather normalization in
4 response to the questions that you received from the Bench, if
5 I might. Let me hand you what I'm going to ask the court
6 reporter to mark as Exhibit 43.

7 (Exhibit No. 43 was marked for identification.)

8 BY MR. ZOBRIST:

9 Q. Sir, can you identify Exhibit 43?

10 A. Yes, I can. Exhibit 43 is a strategic planning
11 forecast for both peak demand and for energy. That was
12 provided by KCPL in July of 2004 with regard to discussions we
13 had with Staff and OPC as well as workshop participants.

14 Q. And what you are looking at right now in
15 Exhibit 43 are pages 16 and 17; is that correct?

16 A. That is correct.

17 Q. Okay. What is the larger document that they
18 are a part of?

19 A. Well, they were a part, I believe, of a -- I
20 think it was an update document. I'm not sure specifically,
21 but I think it was a -- an update of where we were at with the
22 overall strategic planning effort.

23 Q. And in the lower left-hand corner, it bears the
24 date July 2004?

25 A. Correct.

1 Q. And was this presented at a workshop that
2 occurred in the EW docket on or about July 21, 2004, to the
3 best of your knowledge?

4 A. Yes, I believe it was.

5 Q. Now, turning your attention to the first page,
6 that deals with peak demand; is that correct?

7 A. That's correct.

8 Q. And just briefly, when we're talking about peak
9 demand, what are we speaking of?

10 A. Peak demand is essentially the demand for
11 megawatts on the -- it's typically the hottest day of the
12 year, but it's the day that exceeds all others in a given
13 calendar year.

14 Q. Okay. And so you could have a very significant
15 peak day and an otherwise cool summer. Correct?

16 A. Yeah. I think it's important to recognize that
17 peak isn't necessarily an indication of the energy that's
18 required. And you can find a relatively cool summer with a
19 heat storm that occurs -- typically our peaks occur after hot
20 weather that's consistent over two or three, maybe even a
21 four-day period, but you can have a hot week and a relatively
22 cool summer and still have a fairly high peak.

23 Q. Now, why do utilities forecast peak demand?

24 A. Peak is the -- the requirements that we have to
25 have, essentially assets either in place or assets that are

1 under purchased contracts so that we can maintain the
2 reliability requirements that are required of us from the
3 Southwest Power Pool.

4 Q. Now, with regard to forecast peak demand, what
5 does the first page of Exhibit 43 show?

6 A. Over a period of time, at least through
7 historical, it -- this particular graph illustrates the
8 annualized increment in peak demand. And it bounces around a
9 little bit, and you can see specifically in the period of
10 2000, 2004 where we did have a significant loss in peak
11 because of the loss of the GST steel company, which was a
12 one-time hit to our -- our normal load growth. There was the
13 recession that I talked about earlier in my testimony.

14 During that time frame, which created some
15 stagnation in growth and commercial and industrial customers,
16 there was a noted effect that occurred because of the
17 terrorist attack on 9/11. And then I think Mr. Wood referred
18 to some Sprint layoffs which also occurred there.

19 Q. And for the record, those four factors are
20 listed in light print in the center of the graph below the
21 line. Correct?

22 A. They are, yes.

23 Q. Okay. Thank you.

24 Now, what does the forecasting indicate as far
25 as the future that KCPL believes will occur in peak demand?

1 A. Just over -- over a period of time, it appears
2 that this indicates 2.4 percent per year for at least the next
3 five years. And then probably closer to 1.5 percent through
4 the next five years with a growth rate of 2004 to 2014
5 expected to be somewhere around 1.9 percent.

6 Q. And is that figure contained in the lower
7 left-hand corner of the document under the title Growth Rate?

8 A. Yes, it is.

9 Q. Okay. Now, let's look at page 17. What does
10 this document depict?

11 A. This is a similar analysis, only this focuses
12 on the total amount of energy that our customers are expected
13 to require.

14 Q. Now, it says right above the graph, Annual
15 Weather Normalized. What is weather normalization?

16 A. Well, weather normalization is used to take out
17 the effects that weather can cause on annualized data. And
18 if -- for an example, if you look at 2003 data, 2003 was one
19 of the coolest summers we've experienced in the last 20 years.

20 And it's -- when you take the amount of load
21 that you would expect to occur because of cooling degree days
22 associated with weather and normalize the actual data, you'll
23 get something closer to what would be representing the
24 forecast.

25 Q. Now, what is the expected growth rate in light

1 of weather normalization for Kansas City Power & Light?

2 A. This indicates that over a period of 2004 to
3 2014, we expect a growth and energy of 2.1 percent.

4 Q. And, again, that's based upon an analysis that
5 goes back roughly 25 years?

6 A. Yes. But let me -- let me elaborate on that a
7 little bit. KCPL uses pretty, I guess, standard methodologies
8 for our forecasts. Under the current IRP requirements, we
9 develop these forecasts with assumptions, we sit down with
10 Public Service Commission Staff and the Office of Public
11 Counsel Staff on an annual basis and review the assumptions
12 and the methodologies that we use and we discuss any
13 deficiencies or needed revisions. So this is a process we go
14 through in a regular basis and do it in conjunction with Staff
15 and OPC.

16 Q. Now, you mentioned summer of 2003 being the
17 coolest summer. Is it 2003 or 2004? Was it last summer or
18 the summer before?

19 A. I'm sorry. It was 2004. Thank you.

20 Q. Thank you.

21 MR. ZOBRIST: Your Honor, I move the admission
22 of Exhibit 43.

23 JUDGE PRIDGIN: Any objections?

24 Hearing none, Exhibit No. 43 is admitted.

25 (Exhibit No. 43 was received into evidence.)

1 BY MR. ZOBRIST:

2 Q. Mr. Grimwade, just a couple of follow-up
3 questions in regard to the Bench questions concerning future
4 energy policy of the United States. What is KCPL's position
5 with regard to putting in the 100 megawatts of wind and
6 working toward a second 100 megawatts of wind in light of what
7 Congress may or may not decide with regard to the renewal of
8 their production tax credit?

9 A. Right. You know, we're committed to the
10 100-megawatt wind plant for 2006. And that's a commitment
11 regardless of where PTC might go or where the environmental
12 laws might go.

13 One of the things that we need to understand as
14 a company is to -- we need to -- we need to know a little bit
15 more on how to develop wind, but we need to know more how to
16 operate it and how to have wind operate within our system with
17 assets that we're operating.

18 So you know, our interest is to put the
19 100-megawatt plant in, learn from it, look at what happens
20 with future environmental regulations, tax -- tax regulation
21 and use that as a part of the decision making for the second
22 100 megawatts.

23 Q. So although the production tax credit makes
24 wind more economical, does KCPL believe that wind has to be an
25 element of its future generation portfolio?

1 A. We believe that it's a very -- we'll learn
2 after we put this 100 megawatts in and we'll learn how it
3 operates, but from what we can see right now with cost and the
4 performance of wind, we expect it to be a fairly important
5 part of a balanced portfolio.

6 Q. You were asked a question or two about the
7 material adverse change language in the Stipulation and
8 Agreement with regard to changes in environmental laws. If
9 environmental laws change so that they are more restrictive,
10 what effect would that change have on the wind generation
11 element of this plan?

12 A. Well, it really depends on the -- on the type
13 of regulation. But if it were to be a regulation such as more
14 stringent carbon dioxide legislation that would require
15 drastic cuts in the amount of CO2 that's produced annually by
16 the United States, then wind and wind plants would actually
17 enhance our ability to meet those new regulations. So we
18 would actually increase the amount of wind that we're looking
19 at because of more stringent environmental regulations.

20 MR. ZOBRIST: Okay. All right. No further
21 questions.

22 JUDGE PRIDGIN: Mr. Zobrist, thank you.

23 Mr. Dottheim?

24 MR. DOTTHEIM: Maybe this was addressed. With
25 Exhibits 41 and 42, they have on the pages highly

1 confidential, but in that they're not in envelopes, have they
2 been declassified?

3 MR. ZOBRIST: Yes. The designation has been
4 removed.

5 MR. DOTTHEIM: Thank you.

6 JUDGE PRIDGIN: All right. Thank you.

7 Mr. Grimwade, thank you very much, sir. You
8 may be excused.

9 If I'm understanding correctly, the next and
10 final KCP&L witness is Susan Nathan. And do I understand that
11 she will testify or someone will adopt her testimony?

12 MR. FISCHER: No, your Honor. With the change
13 of schedule, she's available.

14 JUDGE PRIDGIN: All right. Very good. If
15 Ms. Nathan is available.

16 (Witness sworn.)

17 JUDGE PRIDGIN: Thank you very much, ma'am. If
18 you would, please have a seat.

19 Mr. Fischer, when you're ready, sir.

20 SUSAN NATHAN testified as follows:

21 DIRECT EXAMINATION BY MR. FISCHER:

22 Q. Please state your name and address for the
23 record.

24 A. My name is Susan K. Nathan, N-a-t-h-a-n. And
25 my address is 1201 Walnut Street, Kansas City, Missouri 64106.

1 Q. Are you the same Susan K. Nathan that caused to
2 be filed in this docket Direct Testimony consisting of
3 11 pages and 2 schedules?

4 A. I am.

5 Q. Do you have any corrections that need to be
6 made to your testimony or exhibits at this time?

7 A. Yes, I do. I have two corrections.

8 Q. Would you identify those corrections for the
9 record?

10 A. Yes. The first one is on page 5 of my
11 testimony. On lines 2 and 20, the words "total resource test"
12 should be changed to "utility cost test."

13 Q. Okay. Do you have any others?

14 A. Yes. On my Schedule SKN-1, on the row that
15 talks about Energy Star homes, the X is marked under the
16 column titled Affordability. It should be moved over one
17 column and the X should be in the column marked Residential.

18 Q. And with those changes, if I were to ask you
19 the same questions that are contained in your Direct
20 Testimony, would your answers be the same?

21 A. They would.

22 Q. And do the schedules that are attached
23 accurately depict what they're intended to show?

24 A. They do.

25 MR. FISCHER: Your Honor, I didn't have the

1 number marked, but with that, I would ask that it be marked
2 and I would move the admission of the Direct Testimony of
3 Susan K. Nathan and tender her for cross-examination.

4 JUDGE PRIDGIN: All right. Mr. Fischer, thank
5 you.

6 For the record, I don't know if this exhibit
7 had been offered before?

8 MR. FISCHER: I'm offering it now. It had not
9 been offered previously.

10 JUDGE PRIDGIN: I'm labelling that as
11 Exhibit No. 44 if my numbers are accurate. Any objection?

12 All right. Hearing none, Exhibit No. 44 is
13 admitted.

14 (Exhibit No. 44 was marked for identification
15 and received into evidence.)

16 JUDGE PRIDGIN: Mr. Fischer, thank you.

17 Let me have her available for
18 cross-examination. And without precluding anybody else, let
19 me just go through and ask the usual suspects. Mr. Conrad?

20 MR. CONRAD: No, sir.

21 JUDGE PRIDGIN: All right. Thank you.

22 Mr. Dottheim?

23 MR. DOTTHEIM: No questions.

24 JUDGE PRIDGIN: Thank you.

25 Mr. Dandino? Mr. DeFord?

1 MR. DEFORD: Yes, I have a couple, your Honor.

2 JUDGE PRIDGIN: Whenever you're ready.

3 CROSS-EXAMINATION BY MR. DEFORD:

4 Q. Good morning, Ms. Nathan.

5 A. Good morning.

6 Q. Ms. Nathan, I believe you indicate in your
7 Direct Testimony that you're responsible for developing KCPL's
8 overall marketing programs; is that correct?

9 A. Yes, that is.

10 Q. And are you familiar with KCPL's current
11 marketing efforts?

12 A. Yes.

13 Q. To your knowledge, is KCPL offering incentives
14 to attract new commercial space cooling customers in downtown
15 Kansas City?

16 A. I don't know that we're offering incentives per
17 se. I do know that we're talking to people about what
18 we're -- what we have in terms of rates, things like that.
19 But I'm not made aware of any -- and, of course, I'm not part
20 of the discussions with customers either.

21 Q. To your knowledge, is the company offering free
22 or discounted equipment?

23 A. Not that I'm aware of.

24 Q. Do you know if the company has made any
25 proposal to the Federal Court building?

1 A. I am not aware of any of those discussions.

2 Q. Are you familiar with the Downtown Arena
3 Project in Kansas City?

4 A. I know that there is one in the planning
5 stages.

6 Q. Do you know if KCPL is attempting to secure the
7 space cooling business for the arena?

8 A. No, I -- I would think they are. I would think
9 they would be offering anything that we currently have on our
10 tariffs.

11 Q. Ms. Nathan, during the space cooling season, I
12 believe the summer months, would it be desirable to have a
13 customer with a high load and a low load factor, assuming that
14 that high load would occur in the afternoon, evening hours?

15 A. I would assume that we would want the best load
16 factor that we can get, but that growth is good and we would
17 be promoting growth at the same time. Promoting efficient
18 growth is even better.

19 Q. Would adding the arena be adding efficient
20 growth, in the company's view?

21 A. It would certainly be adding growth. There --
22 growth is good.

23 MR. DEFORD: Thank you. I think that's all I
24 have.

25 JUDGE PRIDGIN: All right, Mr. DeFord, thank

1 you.

2 Ms. Henry? Will anybody else wish cross except
3 Ms. Henry? All right. Thank you.

4 Ms. Henry, when you're ready.

5 CROSS-EXAMINATION BY MS. HENRY:

6 Q. I would like to ask you about the newly formed
7 Customer Programs Advisory Group, CPAG.

8 A. Sure.

9 Q. What is the purpose of the CPAG?

10 A. The purpose of the CPAG is to provide an
11 organization that gives input and advice into the current
12 proposed programs, maybe even analyzing them a little bit
13 further to look at the evaluation plans for the programs, the
14 implementation plans and then once those types of plans are
15 formulated, to give more input.

16 Q. Is the CPAG what was referred to in a prior day
17 of testimony as the outside group doing the evaluations of the
18 programs?

19 A. No, they are not. The outside group that have
20 been proposed to do evaluations -- and there's no group that's
21 been selected yet, but it would be a third-party vendor whose
22 business it is to do evaluations of energy efficiency
23 programs.

24 Q. And where will the CPAG meetings take place?

25 A. Right now they are scheduled for Jefferson

1 City. And I do know that one person on the CPAG has requested
2 that it be discussed so that maybe we could flip locations
3 periodically. That is going to be on the agenda for the first
4 meeting.

5 Q. And who's invited to attend the CPAG?

6 A. All the signatory agreement parties at this
7 time.

8 Q. So the Sierra Club and Concerned Citizens will
9 not be invited to attend the CPAG meetings?

10 A. At this time it's -- it is the signatory
11 parties. But that is another item that's been asked to be put
12 on the discussion table.

13 Q. So the people who have been pushing
14 efficiencies the strongest won't be allowed to participate in
15 the evaluations of the programs?

16 A. That is going to be on the agenda.

17 Q. What guarantee is there that KCP&L will
18 implement the energy efficiency programs that are mentioned in
19 the stipulation?

20 A. We said we would.

21 Q. I want to turn to the programs that go into the
22 energy efficiency. You said the total cost would be
23 12.7 million for efficiency programs over five years or
24 2.5 million per year; is that correct? It's on page 3 of your
25 testimony.

1 A. Yes.

2 Q. And in the appendix there's a chart outlining
3 expected kilowatts to be saved from the programs -- from each
4 program separately; is that correct?

5 A. That is part of the stipulation agreement.
6 There's an appendix that outlines that, yes.

7 Q. Appendix C. And 6 of the 12 energy efficiency
8 programs will result in zero kilowatts saved; is that correct?

9 A. They are training programs. And although we
10 assume that there will be some savings, they're not designed
11 to be a direct impact program. And the cost and the effort to
12 measure any potential savings probably wouldn't be worth the
13 savings.

14 Q. And the other 6 will result in 7,390 kilowatts
15 or 7 megawatts of saved energy; is that correct?

16 A. 7.2 billion kWh, I believe.

17 Q. Is 7,390 kilowatts --

18 A. Yeah. Let me get --

19 Q. Am I close to what you're saying?

20 A. Yeah. It's --

21 Q. You said --

22 A. 7.2 billion kWh, so 7.2 million, yes.

23 Q. Seven megawatts is what we're talking about.
24 Do you agree that it's around 7 megawatts of saved energy?

25 A. Pending checking, I will agree with that. Go

1 ahead.

2 Q. Go ahead. Take your time and check.

3 A. Cumulatively it's 31 million kWh of energy.

4 Q. I'm just talking about the energy efficiency
5 programs, not the demand response or affordability programs.

6 A. Okay. Sorry. Are you talking at the end of
7 five years or --

8 Q. Sure. At the end of five years expect to save
9 7 megawatts of energy, is that correct, out of the 12 energy
10 efficiency programs that have been going on for five years?

11 MR. CONRAD: Your Honor, could I get a little
12 clarification? We're talking about megawatts of energy and
13 energy is measured not in megawatts. That's demand. What are
14 we -- I'm not understanding counsel's question.

15 BY MS. HENRY:

16 Q. You can give me the answer in kilowatt hours,
17 if you'd prefer. I'm asking how much will be saved after five
18 years in whatever number you'd prefer?

19 A. After five years, cumulatively of kWh it will
20 be 70,415,500 kWh.

21 Q. Okay. Thank you.

22 A. For energy efficiency only.

23 Q. Right.

24 A. Yeah.

25 Q. And did you ever look at how much efficiency

1 would be necessary to delay the online date of the plant for
2 one year?

3 A. We didn't do an analysis per se. We did talk
4 to some people to ask them if they thought it could be
5 possible, primarily the Rocky Mountain Institute who were
6 advisors to the group. And they felt that it was not possible
7 at all. If we could get 1 percent of our growth covered under
8 energy efficiency, it would be an incredible accomplishment.
9 They did feel that the proposed balanced approach that we were
10 offering was the best that they had seen in a long time.

11 Q. And how are you going to allocate the program
12 costs?

13 A. The first step in that would be to make sure
14 that both states participate in the programs. Normally for
15 the participants themselves, we will know what state they're
16 from and we have codes that we can allocate the costs to by
17 the participant.

18 When there are general costs, then we would
19 have to decide between the states how we want -- what kind of
20 allocation methodology we would use. And that has not been
21 determined yet.

22 Q. Would you most likely allocate the costs to the
23 customer class that receives the benefit?

24 A. Yes. And the state.

25 Q. And did you consider asking for financial

1 incentives so -- I can see in the stipulation you're going to
2 get your costs back and you're going to be allowed to amortize
3 your costs?

4 A. Right.

5 Q. Did you consider doing anything other than
6 that?

7 A. We are getting the same rate of return that
8 the -- the amortization for the coal, I believe, is going to
9 be providing us so that we are getting some sort of incentive
10 on that. And the details I believe are going to be worked out
11 among other parties, but we will be getting our cost recovery
12 and we will be getting some incentive on it.

13 MS. HENRY: Okay. Thank you. I have no
14 further questions.

15 JUDGE PRIDGIN: All right. Thank you.

16 No further questions from counsel?

17 All right. Let me see if the Bench has any
18 questions. Commissioner Appling?

19 All right. Commissioner Gaw?

20 COMMISSIONER APPLING: No questions.

21 QUESTIONS BY COMMISSIONER GAW:

22 Q. Ms. Nathan, if I am re-plowing ground here, let
23 me --

24 A. That's all right.

25 Q. -- let me know.

1 Give me a brief description of the efficiency
2 programs that are contemplated.

3 A. Certainly. There's two affordability programs.
4 One is for weatherization. We will be coordinating with local
5 cap agencies who currently do weatherization and augmenting
6 their federal funding. In addition to that, we have increased
7 the availability of the funds to people at 185 percent of
8 federal poverty guidelines. So we're hoping to catch some
9 people and give them some assistance that normally would not
10 be eligible for any.

11 Q. On weatherization?

12 A. On weatherization.

13 Q. Okay.

14 A. Then we have a small new construction program
15 proposed. And please be aware this is not just KCPL's
16 proposal. It was a whole collaborative process.

17 We thought it would be a good idea to try and
18 get some efficiency in during construction time, which is the
19 most effective time and the most efficient time to incorporate
20 energy efficiencies. So we're trying to do some work with
21 organizations such as the community development organizations
22 of cities, Habitat for Humanity to get some energy efficiency
23 incorporated to start out with. So those are the two
24 affordability programs that we're proposing.

25 Q. Okay.

1 A. In terms of the residential programs, we have
2 an online energy analysis where -- we have online energy
3 things today, but they're -- they're transactional. What
4 we're trying to do is make the information more analytical for
5 the customer.

6 So the customer signs up, we download their
7 data, they can do an energy audit online and they can get
8 results based on their own data. There's also an energy
9 information library where if they wanted to know about more
10 energy technologies or refrigerators, they can look into that.
11 There's a calculator that will try and estimate for them what
12 the savings might be if they go higher efficiency and their
13 paybacks. So we believe that that's a good place to start.
14 It gives people objective information.

15 Then we have a training program called Home
16 Performance Training. And what it does is it trains crews to
17 look at the home as a system when they go to do bids for
18 installation or retrofits in people's homes.

19 Q. What crews -- when you say "crews," who are you
20 talking about?

21 A. It could be an HVAC crew, it can be a
22 remodeling crew, it could be anybody who does that kind of
23 work as a business.

24 Q. Okay. And how would they get the training?

25 A. We would provide it to them --

1 Q. How?

2 A. -- through a third-party provider.

3 Q. How would they know about it and what would
4 cause them to go get the training? What's the incentive to do
5 that?

6 A. We would try to advertise this program through
7 HVAC dealers, through other crews, through our Internet site.
8 We have organizations in the community that we could contact
9 and let them know about it. We would also want to advertise
10 the program to our residential customer so that they know that
11 there are these people who have been trained as such and that
12 they should seek them out when they are thinking of renovating
13 the room or doing an addition or something like that.

14 Q. What makes that kind of a program work? And
15 I'm still trying to understand --

16 A. Okay.

17 Q. -- you offer the program, the old thing if you
18 build it, they will come deal. How do we -- what causes
19 people to get training like this? What's the incentive?

20 A. I think the incentive for the crews would be
21 that they can offer a better service and a better result. And
22 an example, Commissioner, is my own house. Apparently there
23 was a small fire in the attic for the previous owners. And
24 while they were renovating it, they decided to make a master
25 bedroom upstairs. Well, they didn't zone the heating and

1 cooling system and they didn't expand on the ducting or
2 anything like that. They didn't insulate the walls very well.
3 So now I have a very hot bedroom every summer. That kind of
4 thing.

5 Q. Well, but what would have caused you if you
6 were -- if you were a consumer, you're wanting to get
7 something down, how would you have known that this program was
8 in existence from what's contemplated there?

9 A. We would have to do as much as we can to let
10 customers know that there are these crews that are trained and
11 that they should seek them out. Because then that crew could
12 have said to me, You should heighten your attic or the roof
13 and put more insulation in there, you could zone your system.
14 They could have given me the options had I been the resident
15 at the time.

16 Q. Does DOE have some sort of a program
17 designation for these type of crews or --

18 A. Yes.

19 Q. -- is there some sort of a name attached to
20 them so you're marketing out there -- somebody's marketing,
21 that they will have some notation about how they qualified
22 under something like a DOE standard?

23 A. I don't know if -- if they do for residential.
24 I do know that they do for, like, building operator
25 certification, for Energy Star. And we do have a number of

1 their programs incorporated into our list of programs.

2 Q. All right. Now, let me -- you're just running
3 right into my next question. That's great.

4 Have you ever seen programs designed where
5 there are different rates given to customers if they have
6 their building Energy Star compliant or some other efficiency
7 level that's been arrived at by that particular builder?

8 A. I don't know if there's different rates. I do
9 know of utilities that are offering Energy Star certification
10 on new construction.

11 Q. What does that do for them if they get Energy
12 Star qualification other than the obvious fact that hopefully
13 their utility bill will be lower because they're more
14 efficient?

15 A. Well, the customer has more confidence that
16 they're operating costs and their energy costs will be reduced
17 in the future. The builder gets a competitive advantage over
18 builders who don't offer Energy Star ratings.

19 Q. Because of the fact the consumer will have the
20 confidence that you mentioned?

21 A. Exactly. And that there's been attention made
22 to the energy efficiency of the home.

23 Q. Was there a discussion in regard to utilizing
24 an incentive rate in addition to what you've just described to
25 try to get buildings Energy Star qualified?

1 A. There was not, but that doesn't mean that there
2 can't be. Because the programs haven't been cast in concrete
3 yet. We will still be reviewing this with CPAG.

4 Q. Would it -- and I'll just say to you I would be
5 interested in the future in hearing if those discussions
6 produced anything where there would be -- where there would be
7 some sort of an incentive in the rate itself --

8 A. Uh-huh.

9 Q. -- that's tariffed for buildings that had
10 achieved that designation.

11 A. All right.

12 Q. And perhaps without -- and making it somewhat
13 revenue neutral, perhaps those that had not would actually see
14 a little higher rate than they might have otherwise paid, so
15 that you're not showing a decrease in your overall -- your
16 overall rate structure.

17 A. All right.

18 Q. Is that something that could be looked into?

19 A. Yes, it can.

20 Q. And I'm not suggesting to you that I know of
21 anything like that out there.

22 A. We can try and ask and see if there are.

23 Q. Did you all examine -- are you familiar with
24 programs that are sometimes -- I think there's one program out
25 there trademarked as a PAYS program?

1 A. Yes.

2 Q. Are you familiar with that?

3 A. I am familiar with that.

4 Q. Did you examine any kind of an idea like that
5 when you were looking at potential programs?

6 A. If you look at my list of programs on page 2 --

7 Q. All right.

8 A. -- of the stipulation program description
9 attachment, you will see that there is a PAYS-type program
10 listed as something. What we discussed was that we don't want
11 to really become a bank and that's what PAYS sort of is, but
12 that there might be other ways to remove the market obstacles
13 and facilitate people making energy efficiency improvements.

14 So an option could be having a bank provide the
15 actual dollars and we loan it out, we collect it, but the
16 liability is really on the bank and we won't have to go and
17 file liens and things like that. So we are going to look into
18 that to see if there are other ways that we could remove those
19 market obstacles and --

20 Q. So if there were -- if there were other
21 financiers that were participants in this program --

22 A. Right.

23 Q. -- KCPL, at least in principle, would not say
24 absolutely no to a program that would allow for some financing
25 through the billing statement itself?

1 A. We would definitely be open to that.

2 Q. All right. And those programs you might just
3 very -- very quickly and generally describe what those
4 programs do, for the record.

5 A. Sure. The program is designed so that when a
6 residential customer -- and it's probably mostly residential
7 that I know the program to be targeted to -- makes an energy
8 efficiency improvement in their home -- and let's say they
9 decide to insulate their attic, I'll use that as an example.

10 It's going to cost them \$1,000. The crew gets
11 paid directly by the utility in the Vermont PAYS program. The
12 savings are, let's say, \$100 a month and the calculation is
13 that they will pay \$75 of that on their energy bill. So
14 they're saving money, the \$25, while they're paying their loan
15 off. And so it's a win/win. And it's facilitating the
16 actually energy efficiency being implemented.

17 Q. And so --

18 A. It --

19 Q. Go ahead. I'm sorry.

20 A. It's a tariffed rate, so people can get shut
21 off if they don't maintain their payments. Furthermore, if
22 they sell their home and there are still payments left, the
23 new homeowner is required to pick up those payments. Of
24 course, the old homeowner could go ahead and pay off the loan
25 first too.

1 Q. And that would be something that would be
2 arranged at closing?

3 A. Right.

4 Q. It would be similar to some other -- for
5 instance, a particular improvement for a sewer line or
6 something else --

7 A. Exactly.

8 Q. -- that might be attached to that property as
9 an improvement?

10 A. Exactly, yes.

11 Q. So as we're -- in looking at -- you were
12 discussing just a moment ago the concept of whether there
13 would be some sort of a rate of return on certain parts of
14 efficiency programs that you might implement. Can you give me
15 some idea about how that would work, if I understood that
16 correctly?

17 A. I'm probably not the best person to answer
18 that. I do know that it's been proposed that all the costs
19 associated with implementing the energy efficiency programs
20 would go into a regulatory asset account. And starting at the
21 next rate case, it would be amortized over 10 years at a rate
22 that is no higher than AFUDC. Other than that, I'm not sure
23 of any more of the details.

24 Q. That's not your area --

25 A. No, it's not.

1 Q. -- that you generally deal with. Correct?

2 A. Right. Correct.

3 Q. Okay. Can you tell me what we're talking about
4 in regard to dollars or percentages that might be going to
5 efficiency programs if this is approved, this concept?

6 A. Yes. I believe the total budget for both
7 states that we're proposing is \$52 million, of which 29, I
8 believe -- let me just double check that.

9 MR. FISCHER: Might look on page 46 of the
10 stip.

11 THE WITNESS: Missouri is \$29 million. For
12 energy efficiency, that would be \$12.7 million and for
13 affordability programs, it would be 2.5 million over the next
14 five years. The remaining dollars, which is 13.8, would be
15 for demand response programs.

16 BY COMMISSIONER GAW:

17 Q. Okay. And this is in addition to whatever
18 KCP&L is currently doing?

19 A. It would be inclusive of -- for the
20 affordability program. Right now we're funding a small amount
21 of weatherization and that is included in that.

22 Q. Do you know how much of that is included?

23 A. Currently we're spending \$80,000 a year.

24 Q. 80. So is that both Missouri and Kansas?

25 A. No, it's just Missouri.

1 Q. So you're going from 80,000 to 29 million?

2 A. Yes.

3 Q. And that's annual figures?

4 A. But not just for affordability programs.

5 Q. All right.

6 A. Yeah.

7 Q. But the 80,000 encompasses all your spending on

8 efficiency and affordability now?

9 A. Yes.

10 Q. Okay. So for both of those, you're going from

11 80,000 to 29 million?

12 A. Yes.

13 Q. And is that --

14 A. Well, we do have some dollars that are being

15 spent on PLCC, which is our Peak Load Curtailment Credit

16 program. And that is a demand response program.

17 Q. Do you know how much that is currently?

18 A. No, I don't offhand.

19 Q. Is that something you could find out?

20 A. Yes, it is.

21 Q. If you could do that --

22 A. I most certainly will.

23 Q. -- have somebody provide it, that would be

24 great.

25 All right. Now, tell me a little bit about the

1 demand response programs.

2 A. The demand response programs -- we currently
3 have, as I just mentioned, PLCC, which is Peak Load
4 Curtailment Credit program. We provide an incentive up front
5 for people -- for large commercial customers who can curtail
6 at least 200 kWh and curtail on the days that we request it.

7 We're proposing to expand that program, have
8 multi-year contracts with multi-varying notification periods,
9 things like that. And as the value increases, we would -- we
10 would adjust the payments for that. We would also have an up
11 front payment and then a per event payment. And so we're
12 designing that to come and propose it to CPAG and then offer
13 it to the Commission for approval.

14 Q. Would that vary according to the time when it
15 occurred? Would it be tied to anything on the energy markets?
16 Tell me how that would work.

17 A. There would be varying levels of the program.
18 The most simple level would be a one-year program that would
19 run for five months, but the longest could be 5 or 10 years
20 and that could be a 12-month contract. So it would depend.
21 It needs to meet the customer's needs as well as our needs and
22 so it provides a little bit more flexibility.

23 Q. You don't know whether -- at this stage is it
24 too early to tell whether or not that's going to be at some
25 flat rate of value or is it going to be something where

1 there -- there would be a variable on the amount of value to
2 the customer depending upon when they were cutting back on
3 their energy consumption?

4 A. It's not just when, but how much advance notice
5 they need.

6 Q. I heard you say that too.

7 A. From our perspective --

8 Q. If you can separate the two for me first --

9 A. Exactly.

10 Q. -- that would be helpful.

11 A. A one-year -- I mean, a one-hour notification
12 is much more valuable to us than a four hour. So we would
13 probably be willing to pay more for that value.

14 Q. Would it be flat within that -- that context or
15 would it -- would it be something that could vary according to
16 some sort of the markets that might be up in --

17 A. I would think that we would want to make sure
18 that we are consistent within each type of customer so that we
19 treat all our customers fairly. So if they give us three
20 value points, we would pay X dollars. If they give us two
21 value points, we would pay something maybe slightly less.
22 That would be the general design of the program. And that
23 would be for the large C and I customers, that program.

24 Q. C and I?

25 A. Commercial and industry, I'm sorry.

1 Q. That's all right. I just wanted it clear.

2 A. Right.

3 Q. And then in regard to these programs, when
4 they're all put together, do you have any estimates about the
5 impact on needed capacity once they're implemented for KCP&L?

6 A. We have estimates at this point. And before we
7 go too much further, I do also want to tell you about our
8 small residential and small commercial --

9 Q. Sure. I want you could do that, but if you can
10 remember what I just asked you and then when we get to that
11 point, that would be great.

12 A. Let me tell you about the program first and
13 then I'll tell you about the evaluation.

14 Q. Great.

15 A. The residential and small commercial program is
16 going to be an air conditioning cycling program. And we're
17 proposing to start out by using a thermostat that has a radio
18 control. And the thermostat will allow us to do one of four
19 things to the customer's home.

20 One, it would allow us to cycle the outdoor
21 compressor on and off on a set schedule, which is similar to
22 the old standard equipment that used to be used. The
23 thermostat can also raise the temperature one hour -- one
24 degree per hour and generally, you know, slightly increase the
25 temperature. It could also increase the temperature three or

1 four degrees in one -- immediately. And it would last for
2 four hours. And it depends on what kind of load shape we need
3 which process we would use.

4 It also allows us to precool the home. So if
5 we know that we're going to curtail between 12:00 and 4:00 and
6 we want to minimize the discomfort on the customer and it's
7 the time of the curtailment that's critical, then starting
8 maybe ten o'clock or eleven o'clock, we would start to cool
9 the home a little bit more and then when we increase the
10 temperature, the customer isn't as uncomfortable.

11 And same with the small commercial customer.
12 They would have to have a split coil system similar to a
13 residential home, but we would include them. We also include
14 apartment buildings that have large enough apartments.

15 So that's what we're proposing for the
16 residential and the small commercial. And, again, all of this
17 will go through the CPAG group and then we will be filing
18 tariffs.

19 Q. The residential customers would have some
20 incentive to get into this program?

21 A. The incentive is the thermostat. It's about a
22 \$300 value installed. And we will maintain it and repair it
23 or replace it for the first three years. And our research has
24 shown that that seems to be a higher desirable end result with
25 our customers than an outdoor switch with an annual incentive.

1 We asked which people would prefer and they wanted the
2 thermostat.

3 And it was very interesting, because 30 percent
4 of the 70 percent who wanted the thermostat already had a
5 programable setback thermostat. But the other benefit to this
6 is that they can get an online anywhere and adjust their
7 thermostats. And a lot of people don't know how to program
8 their thermostats, so this makes it very, very easy for them.

9 Q. And what is the incentive for them to want to
10 participate in this program other than getting a new
11 thermostat? What causes people to say, yeah, I want in this
12 program?

13 A. Well, several things. They do want the
14 thermostat. That in and of itself can be an incentive.

15 Q. Okay.

16 A. The second is that they can use this thermostat
17 to save energy for all the other remaining days of the year
18 when we are not curtailing them.

19 Q. In what way?

20 A. They can set their thermostat so that when they
21 leave to go to work, the temperature goes down or up depending
22 on whether it's heating or cooling time and can then bring the
23 house back to the desired temperature right before they come
24 home. And then once they go to bed, it can reset their
25 thermostat so that it's lower or higher so they don't use as

1 much energy when they're not there.

2 Q. Okay. And what I'm wanting you to tell me is
3 whether or not it is likely that utilizing this thermostat
4 will lower their bills?

5 A. It will.

6 Q. And in what way? Because of the -- because of
7 what?

8 A. Okay. Let's take heating, for example.

9 Q. Okay.

10 A. Go to work in the morning and your thermostat
11 was set at 65 degrees, let's say, 68 degrees. And when you go
12 to work, you put it down to 60 degrees so you're not using as
13 much natural gas to heat your home with. That helps you save
14 energy, it's lowering your bill.

15 Q. We're talking about in the winter?

16 A. In the winter, that's right.
17 In the summer it would be -- it would be the
18 flip.

19 Q. I'm sorry. Because I thought you were going to
20 start off in the summer and --

21 A. Well, I can go to the summer now --

22 Q. No, that's fine.

23 A. -- but it's the same thing.

24 Q. I'm with you.

25 A. Yeah.

1 Q. Go ahead.

2 A. If I had my temperature set at 68 degrees,
3 let's say, in the summer and I go to work and there's nobody
4 home, I set it up to 72 degrees. It doesn't use as much air
5 conditioning, I save energy, I save money on my bill.

6 Q. And it is true that it saves energy despite the
7 fact when you get home it's going -- you're going to set that
8 thermostat down again and it's going to have to cool that
9 house down some more? That still saves energy. Right?

10 A. Yes. The general rule is if you're gone for
11 four or more hours, you will save energy. The other thing
12 that -- the smart thermostats today -- I mean, these are smart
13 thermostats, so they don't just come on and zoom up to where
14 it was or where you want it to be.

15 They clock what the temperature was and they
16 will know that in order to get it to the desired temperature,
17 they need to start 30 minutes before the desired temperature
18 or it needs to start two hours before the desired temperature.
19 These are now called smart thermostats and so they're pretty
20 good.

21 Q. Now you want to get to the capacity issue?

22 A. Yes. The evaluations. In my presentation, in
23 my testimony where there is a list of programs, we've also
24 provided a high-level evaluation plan for all of our direct
25 impact programs.

1 And most likely scenario is that you get your
2 list of participants and you do a sample of those and you have
3 a control group of non-participants and you look at the
4 difference between their energy use. And that's the analysis
5 that we would want to do after at least one full year of
6 running the program.

7 Q. Yes.

8 A. And then we say, all right, how -- how well did
9 our estimates of savings turn out to be. And you redo your
10 screening tests and everything else with better information.

11 Q. Okay. Do you have any anticipated capacity
12 savings?

13 A. Yes.

14 Q. And do you know what that range might be?

15 A. On the residential program, we are estimating
16 1 kW per participant for the residential customer. On the
17 large commercial and industrial programs, it cannot be
18 estimated on a per participant basis. Some customers just
19 have a larger capability to curtail. So you just can't say on
20 a per customer basis.

21 Q. I'm looking at for the system what you're
22 anticipating, if you implement these, how much freed up
23 capacity --

24 A. Yes.

25 Q. -- will you have for KCP&L?

1 A. Yes. On -- for both states, for demand
2 response programs alone, we are estimating at the end of five
3 years we would have 170 megawatts.

4 Q. 170 megawatts?

5 A. Yes.

6 Q. All right. Can you stair step that for me
7 during those five years?

8 A. Sure.

9 Q. Has that been done?

10 A. I can stair step that for you right now. Would
11 you like just Missouri or would you like total system?

12 Q. Why don't you give me both?

13 A. All right. Year one, total system,
14 approximately 50 megawatts.

15 Q. Uh-huh.

16 A. Of which Missouri would be 28.

17 Q. Okay.

18 A. And I'm rounding these off.
19 Year --

20 Q. That's fine.

21 A. -- year two, 19 megawatts total.

22 Q. Okay.

23 A. 10 in Missouri.
24 Year three, would be 15 total, about 8 in
25 Missouri.

1 Q. All right.

2 A. Year four, total is 32, Missouri is 17.5.

3 Year five, total is 54, and Missouri is

4 approximately 30.

5 Q. All right.

6 A. The reasons they go up and down is we're trying

7 to match it to the demand that we need.

8 Q. Okay. This is just demand response?

9 A. That's just demand response.

10 Q. Are the other programs likely to impact your

11 capacity needs as well?

12 A. Somewhat, yes. I mean, you start out with any

13 energy efficiency program saying how many kW is it going to

14 save and then you multiply that by the number of hours you

15 think it might run.

16 Q. Now, what's the -- did you set out, when you

17 were discussing this, with the concept of trying to achieve a

18 certain capacity or is that just what you arrived at after you

19 agreed to the programs? That's sort of a chicken and an egg

20 question.

21 A. Yes.

22 Q. I'm trying to figure out which one was your

23 goal.

24 A. The goal started out with the development of

25 the programs.

1 Q. Okay.

2 A. What we wanted to do was balance energy
3 efficiency direct impact programs versus educational programs,
4 because there's no history in our states of a concerted energy
5 efficiency effort.

6 Q. Right.

7 A. The second thing we wanted to do was we wanted
8 to have something for all of our customer classes and market
9 segments, but not spread it so thin that no program was
10 material. So that was sort of our guiding principles in terms
11 of developing the portfolio that we came up with.

12 Q. Okay. Are you aware of any other programs that
13 might have had a significant impact on your capacity needs
14 that you do not include -- do not have included in this?

15 A. We looked at refrigerator programs.
16 Refrigerators run 24/7, so it would not have focused just on
17 capacity in the cooling months. We did look at the
18 refrigerator program, we talked about it quite a bit and we
19 decided we would continue to look into it later. But removal
20 of that second refrigerator and the environmental hazardous
21 waste disposal issues was more than we could tackle at the
22 time.

23 Q. Okay. Anything else?

24 A. I can't think of anything off the top of my
25 head. We did decide that this was a good starting point. We

1 wanted to see how things worked, evaluate them and not just in
2 terms of energy savings, but in terms of market acceptance.

3 And in the meantime, we can always still be
4 looking around at what other states are doing and how
5 successful they're -- they are and why they're successful.
6 You know, our rates are almost half of what some of the coasts
7 pay, so it's not going to be the same payback for customers,
8 so we really need to give this some time and see how our
9 customers accept this.

10 Q. Okay.

11 A. That's going to be really important.

12 Q. Was there any discussion about time of use
13 metering?

14 A. We have time of use rates for our residential
15 customers right now as well as RTP for our commercial
16 customers.

17 Q. How does that work?

18 A. The -- there are blocks of time and there's
19 prices to the blocks of time. And then people try to adjust
20 their usage knowing what the price is going to be at a
21 different block of time. And you can call it -- it's almost
22 day-ahead pricing.

23 Q. I see.

24 A. It's not real time. It's --

25 Q. Is that something that they don't have that

1 information available to them on the meter or --

2 A. Not on the meter. But if they wanted to
3 participate, we make it available to them on the Internet.

4 Q. Okay. So if they wanted to cut back -- does
5 that show up in their bill then?

6 A. I haven't seen a bill for an RTP customer. I'm
7 not really sure. I can look that -- I can look into that for
8 you and let you know that as well.

9 Q. I'm just curious if there's a transparent
10 incentive there or not?

11 A. There is -- it's visible. Whether there's an
12 incentive there or not would depend on their usage patterns --

13 Q. Yes.

14 A. -- and the pricing.

15 Q. Okay. Yeah, that might be helpful.

16 A. I'll get that for you.

17 Q. I don't want to -- if you can get it easily.

18 A. Sure.

19 COMMISSIONER GAW: Okay. That's all I have,
20 Judge. Thank you.

21 JUDGE PRIDGIN: All right, Commissioner, thank
22 you.

23 Let me see if we have any other recross.

24 Mr. DeFord?

25 MR. DEFORD: None, your Honor.

1 JUDGE PRIDGIN: Mr. Dottheim?

2 MR. DOTTHEIM: No questions.

3 JUDGE PRIDGIN: All right. Thank you.

4 Ms. Henry? Anyone? Ms. Henry?

5 RECROSS-EXAMINATION BY MS. HENRY:

6 Q. I just had a question about your statements
7 that growth is good. How can you reconcile this with trying
8 to do strong energy efficiency programs?

9 A. I don't see that there's any inconsistency.
10 You're going to have growth one way or the other. And if you
11 can make that growth as energy efficient as possible, then I
12 think that's the best of all.

13 Q. If everybody -- all of your residential
14 customers went to The Home Depot and bought the new energy
15 efficiency light bulbs and that would decrease the electric
16 portion of their bill -- of their electric bill, the portion
17 due to lights --

18 A. Yes.

19 Q. -- by between two-thirds and three-quarters,
20 wouldn't KCP&L experience significant revenue erosion?

21 A. They would probably experience some revenue
22 erosion, but there's still overall growth in the system.

23 Q. If all of your commercial and industrial
24 customers went out and took these steps to get energy
25 efficiency buildings, lighting and refrigeration in place by

1 themselves, wouldn't KCP&L experience revenue erosion?

2 A. If everybody did it, we probably would. Even
3 if some people did it, we probably would. But it's still
4 efficiency and it's still good and we're still growing. I
5 mean, I just -- I don't see an inconsistency with efficient
6 growth.

7 MS. HENRY: Okay. I have no further questions.
8 Thank you.

9 JUDGE PRIDGIN: All right. Thank you. This
10 witness may be excused.

11 Mr. Fischer, I'm sorry, you'd like some
12 redirect, I bet.

13 MR. FISCHER: Just a little bit.

14 REDIRECT EXAMINATION BY MR. FISCHER:

15 Q. Ms. Nathan, you were asked about the newly
16 formed Customer Programs Advisory Group.

17 A. Yes.

18 Q. Would you explain who you expect to participate
19 in this program and --

20 A. Right now we are -- we have invited the
21 signatory parties, so Department of Natural Resources, the
22 Missouri Commission Staff, the Office of Public Counsel,
23 Department of Natural Resources, the City of Kansas City. We
24 have invited some of the larger munic-- the larger commercial
25 and industrial customers who are Intervenors.

1 Q. Have you already scheduled opportunities to
2 meet?

3 A. Yes, we have. We have scheduled five meetings
4 starting this Thursday and then every Wednesday in the month
5 of July.

6 Q. And you were asked, I think, also about an
7 outside group doing evaluations.

8 A. Yes.

9 Q. Would you explain the difference between that
10 group and the CPAG group?

11 A. Sure. The CPAG group is an advisory group and
12 they will look at the programs before they're implemented as
13 well as we would be providing reports as to how we're doing
14 towards implementation, what our evaluation plans are, etc.

15 The outside group that I'm talking about would
16 be a consulting firm that does this for a living, they know
17 how to take data from meters -- meter readings of participants
18 and non-participants and develop a control group and a
19 participant group, I mean, it's a very technical thing to do,
20 and compare the difference in usage. Could even go as far as
21 doing some surveys of the people to find out what changes
22 there were in comfort level. It's -- it's fairly technical
23 stuff.

24 Q. Did I understand that your testimony was you
25 hadn't already identified that outside group at this point?

1 A. No, we have not yet. We would go out for bids
2 on something like that.

3 Q. Would either the CPAG group or this outside
4 group end up managing your programs?

5 A. The vendor to evaluate the programs would not
6 be participating in implementing any programs. They would --
7 that would be like the -- the fox guarding the chicken coop.

8 Q. KCPL would continue to be in the management
9 role; is that correct?

10 A. Absolutely.

11 Q. Okay.

12 A. Yes.

13 Q. You also mentioned, I think in answer to one of
14 your questions, that the Rocky Mountain Institute indicated
15 that if you could get 1 percent savings, you'd be doing well?

16 A. Yes.

17 Q. Would you identify who the Rocky Mountain
18 Institute -- what that group is?

19 A. The Rocky Mountain Institute is a group that
20 works on policy and evaluations of a variety of energy
21 efficiency programs. Amory Lovins was one of the founders of
22 the group. Our contact there who acted as a guide for us
23 through this whole process, his name is Joel Swisher,
24 S-w-i-s-h-e-r.

25 Q. Are both Amory Lovins and Joel Swisher

1 recognized as experts in the field?

2 A. Nationally and internationally, yes.

3 Q. In your discussions with Commissioner Gaw, I
4 believe you indicated that KCPL's current level expenditures
5 on these type of programs were \$80,000 annually?

6 A. Yes.

7 Q. And did I understand that the Missouri portion
8 of the stipulation on these programs if adopted would be
9 \$29 million?

10 A. Yes.

11 Q. If my math is right, does that mean that you're
12 going to be spending more than 300 times what you're spending
13 today if this is approved?

14 A. Yes. The 29 million is for five years and the
15 80,000 is on a per year basis.

16 Q. And I'm not too good in math, but that --

17 A. But it's still a huge increase in our
18 investment, yes.

19 Q. On a percentage basis, is that 30,000 percent
20 increase?

21 A. I don't have my calculator with me, but it is
22 very large.

23 Q. It's substantial no matter what?

24 A. It's very substantial, yes.

25 Q. Do you know of any other utility in the state

1 of Missouri that has that level of expenditure or that level
2 of growth in these kinds of programs being proposed?

3 A. No, I don't.

4 Q. You also mentioned that -- in reference to the
5 comparing programs, that I believe you indicated that on some
6 of the coasts the costs are twice as much or our costs are
7 half what other people on the coast pay?

8 A. That's correct.

9 Q. Why is that significant?

10 A. Well, because when you invest in an energy
11 efficiency measure as a resident, you want to make sure that
12 your incremental costs are going to be paid back with savings
13 in a fairly reasonable amount of time. And the higher your
14 rates, the shorter your payback period.

15 Q. Is that a reason why we couldn't adopt in
16 Missouri just programs that were being used in, say, Vermont
17 and expect the same results?

18 A. Yes. I believe so. Vermont's rates are
19 11.4 cents a kWh for a residential customer and their monthly
20 customer charges is \$11. And so if they were going to save
21 800 kWh, then their rate of savings is at a much higher dollar
22 value than ours would be.

23 Q. And back to the level of funding of these
24 programs, was that a topic of some discussion in the
25 collaborative sessions?

1 A. Yes, it was. And the -- as members of the
2 collaborative brought more ideas of programs, we continually
3 increased the dollar value to include those programs. And
4 then at the end, we looked at it and I think everybody seemed
5 to be fairly comfortable that it was enough to make a really
6 good go of it, but not so much that we're jeopardizing
7 ratepayer funds without knowing that we're going to make it
8 worthwhile for the ratepayers.

9 Q. Would you agree that there was some parties
10 that wanted more and some parties that wanted less?

11 A. Absolutely. There were some parties that
12 wanted us to double it, some parties didn't want any part of
13 it.

14 Q. In your professional opinion, would merely
15 throwing unlimited amounts of dollars into these programs be a
16 policy that could just totally eliminate the growth of -- in
17 our load and, therefore, the need for any power plants?

18 A. In my professional opinion, there is -- it will
19 not, no.

20 Q. And I think you were asked some questions
21 regarding revenue erosion and whether growth is good. If a
22 public utility like KCP&L doesn't provide the kind of capacity
23 needed to serve your native load, is that going to have an
24 impact on the local economy?

25 A. It most certainly will.

1 Q. Will that be a positive impact?

2 A. That would be a very negative impact on the
3 community, the economy, the city, the state, absolutely.

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

5 JUDGE PRIDGIN: All right. Mr. Fischer, thank
6 you.

7 Seeing nothing further, this witness can be
8 excused.

9 This looks to be a very good time to break for
10 lunch. I see the clock in the back of the room says about
11 five to 12:00. Let's try to resume about 1:15. And I'll let
12 the parties know, at least according to my road map, it looks
13 like the next witness will be resuming with Mr. Trippensee's
14 testimony, but I do want to be sensitive -- if other people
15 have scheduling issues or conflicts, we'll be glad to address
16 those. Mr. Conrad?

17 MR. CONRAD: I have yet to receive copies of
18 those four reports that were introduced Friday I think when
19 Mr. Ford was on the stand. Could we inquire as to the status
20 of those?

21 JUDGE PRIDGIN: Do you recall who introduced
22 those?

23 MR. CONRAD: Mr. Ford through his counsel.

24 MS. HENRY: I thought in the interest of saving
25 paper I would give everybody a CD with them on it. I'm

1 waiting to receive a CD from him. If you would like, I can
2 e-mail you whenever these hearings end whenever I get back to
3 St. Louis.

4 MR. CONRAD: Well --

5 MS. HENRY: I didn't want to copy that many
6 pages for this many people.

7 MR. CONRAD: Here is my problem. The rules of
8 the Commission provide that copies are to be provided to the
9 other parties. If that's not to occur by the time we close
10 the record, then I'm going to need to lodge an objection to
11 those exhibits and ask that they be struck.

12 MS. HENRY: Then I can spend the money on the
13 papers and go get them copied during lunch break.

14 MR. CONRAD: Your choice, counsel.

15 JUDGE PRIDGIN: Thank you.

16 Anything further?

17 All right. Hearing nothing further, we will
18 resume at 1:15. Thank you very much. We are off the record.

19 (A recess was taken.)

20 JUDGE PRIDGIN: We're ready to go back on the
21 record.

22 I'd like to take a witness out of order, if I
23 could. Ms. Valentine, did you say that DNR has a witness
24 available?

25 MS. VALENTINE: Yes, your Honor.

1 JUDGE PRIDGIN: Could you identify that
2 witness, please?
3 MS. VALENTINE: Sure. His name is Kendall
4 Hale.
5 JUDGE PRIDGIN: If he's ready, if he would come
6 forward and be sworn.
7 (Witness sworn.)
8 JUDGE PRIDGIN: Thank you very much, sir. If
9 you would, please have a seat.
10 Ms. Valentine, whenever you're ready.
11 MS. VALENTINE: Thank you.
12 KENDALL HALE testified as follows:
13 DIRECT EXAMINATION BY MS. VALENTINE:
14 Q. Kendall, for the record, would you please state
15 your full name?
16 A. It's Kendall B. Hale.
17 Q. Where do you live?
18 A. Jefferson City, Missouri.
19 Q. Where are you employed?
20 A. Department of Natural Resources Air Pollution
21 Control Program.
22 Q. What do you do for the Air Pollution Control
23 Program?
24 A. I'm the new source review unit chief.
25 Q. And in that position, what are your duties?

1 A. To supervise approximately eight engineers that
2 their -- their job duties are to review and write construction
3 permits for all types of industry. I review their permits
4 and -- for completeness and accuracy and so forth.

5 Q. How long have you been responsible for that
6 unit?

7 A. Since November of 2004.

8 Q. Now, Kendall, would you go through your
9 educational background for us?

10 A. Yes. I have a BA in chemistry and math from
11 Westminster College in Fulton, Missouri and a BS in chemical
12 engineering from University of Missouri-Columbia.

13 Q. Are you an engineer?

14 A. Yes.

15 Q. Are you a licensed engineer in Missouri?

16 A. Yes, I am.

17 Q. Are you licensed in any other states?

18 A. No, I am not.

19 Q. Now, is it fair to say that you are an air
20 permit writer for the state of Missouri?

21 A. Yes. I wrote permits for approximately five
22 years before taking on this new job.

23 Q. And in the past five years, how many air
24 permits have you been responsible for?

25 A. Give or take, approximately probably 100 or so.

1 Q. Are you familiar with the statutory and
2 regulatory requirements for writing an air permit?

3 A. Yes, I am.

4 Q. What kind of training do you have to write air
5 permits?

6 A. There's been numerous EPA courses that we -- we
7 send our staff to and that I've gone to. In particular, the
8 new source review PSD that's put on by Censera. And don't ask
9 me -- it's central -- it's a group for the central states in
10 the United States and reviews the permitting process and what
11 to look for.

12 Q. Of the 100 to 150 permits that you've been
13 responsible for over the past five years, have any of those
14 been for power plants?

15 A. Yes, they have.

16 Q. Could you briefly describe those?

17 A. For coal-fired power plant we -- I recently
18 reviewed and wrote the permit for City Utilities of
19 Springfield. It was issued I believe December of 2004. And
20 then there's natural gas peaking plants for Aquila and Empire.
21 And then there's a natural gas plant for Panda Energy.

22 Q. Does KCPL need any air permits for Iatan 2?

23 A. The Kansas City Power & Light will have to
24 receive a -- what we call a PSD permit, that stands for
25 Prevention of Significant Deterioration permit. So, yes.

1 Q. Has DNR received a permit application from
2 KCPL?

3 A. We have.

4 Q. And what is the department's process for
5 handling that application?

6 A. What they're having to go through for is for
7 each pollutant, there's NOx, nitrogen oxides, there's sulfur
8 oxides, volatile organic compounds, carbon monoxide and
9 hazardous air pollutants. And I'm leaving one out I think,
10 but there will be a review on their emissions calculations and
11 so forth and then modelling review for ones that are
12 necessary.

13 The application we currently have right now is
14 what we call a netting analysis. The added controls that
15 they're putting on Iatan 1 they get to take credit for and
16 basically count as a reduction. And so they're doing a
17 netting analysis for sulfur oxides and nitrogen oxides and
18 then a full-blown PSD review for the other pollutants.

19 Q. Will you be the DNR staff person responsible
20 for the KCPL air permit?

21 A. We have a member -- a person in my unit that's
22 reviewing that permit, Steve Jaques, working closely and
23 involved with it all the way. And I will be reviewing his
24 final product, correct.

25 Q. Has DNR had any meetings with KCPL to go over

1 the contents of the permit application?

2 A. Numerous, yes.

3 Q. And how recently was the last meeting?

4 A. Approximately probably a month ago.

5 Q. At some point will DNR be issuing a draft air
6 permit?

7 A. We will be issuing a draft permit at some
8 point. At that -- we're looking at probably September we're
9 planning on, if everything goes smoothly. At -- once a draft
10 permit's issued, goes on public notice for 30 to 45 days -- or
11 30 to 40 days, excuse me. And if we receive a request for a
12 public hearing, a public hearing will be held at that point.

13 Q. So is there a public participation process that
14 goes hand in hand with the application process?

15 A. Yes.

16 Q. And if somebody had concerns about air
17 pollution issues, would those people have an opportunity to
18 raise those concerns?

19 A. Yes, they would. During the public comment
20 period. Once the draft is put on public notice, anybody may
21 submit written comments. And in -- during the public hearing,
22 they may submit oral testimony also.

23 Q. And does DNR have an obligation to respond to
24 the written comments that are received by the public?

25 A. Upon completion of the review period -- the

1 public notice period, excuse me, all comments would be
2 responded to and any changes that were necessary would be made
3 to the permit -- draft permit.

4 Q. Have you ever testified before the PSC before?

5 A. No, I have not.

6 Q. And did you know before Friday afternoon that
7 you may be a potential witness in this proceeding?

8 A. No, I did not.

9 Q. Have you been asked to look at any of the
10 pleadings or filings in the PSC proceeding?

11 A. No, I have not.

12 Q. But you're here to testify today as a permit
13 writer for the department; is that right?

14 A. That's correct.

15 Q. Were you here this morning for Warren Wood's
16 testimony?

17 A. Yes, I was.

18 Q. There was some questioning about IGCC. Are you
19 familiar with that?

20 A. Yes, I am.

21 Q. Can you briefly explain what IGCC is?

22 A. IGCC is Integrated Gasification Combined Cycle.

23 And it's -- you can use numerous fuels, but what's being
24 looked at a lot right now is coal. And basically the --
25 simply you're going to heat it up and drive off the gases.

1 And those gases -- that syn gas would be used to run a
2 turbine, similar to a natural gas turbine.

3 Q. Is KCPL proposing IGCC?

4 A. No, they have not.

5 Q. Are there any IGCC plants operating in
6 Missouri?

7 A. No, there is not.

8 Q. Has the DNR's air program received any air
9 permit applications that involve IGCC?

10 A. We have not.

11 Q. Kendall, are you familiar with both Iatan 1 and
12 Iatan 2?

13 A. Yes.

14 Q. Earlier today, Commissioner Gaw had some
15 questions about the control technologies and emission
16 limits --

17 A. Uh-huh.

18 Q. -- between Iatan 1 and Iatan 2.

19 Let's talk about emission limits first. How do
20 the emission limits for Iatan 1 compare to Iatan 2?

21 A. They'll be very similar, I think, as far as
22 sulfur dioxide. With what they've proposed in their
23 application is a limit of .10 pounds per million BTU. And for
24 Iatan 2 would be .09 pounds per million BTU. And then for
25 nitrogen oxides, again it's .1 pounds per million BTU and for

1 Iatan 2 it would be .08. So they're very close in realm.
2 Part of it, Iatan 1 is a retrofit and Iatan 2 would be
3 brand-new, built at the beginning.

4 Q. Kendall, I see you're referring to something in
5 front of you. Can you explain to us what that is?

6 A. This is basically just a few rough es-- almost
7 I guess cheat sheet of their application that has the emission
8 limits and what type of emissions they're talking about
9 that -- existing out of Iatan 1, the reductions that they
10 expect to see out of Iatan 1 and then the new emissions from
11 Iatan 2.

12 MS. VALENTINE: Your Honor, could I have the
13 court reporter mark this as an exhibit?

14 JUDGE PRIDGIN: You may.

15 (Exhibit No. 45 was marked for identification.)

16 JUDGE PRIDGIN: And, Ms. Valentine, what you're
17 handing out I'm marking as Exhibit 45 for identification
18 purposes.

19 BY MS. VALENTINE:

20 Q. Kendall, will you please identify Exhibit
21 No. 45?

22 A. This is a document that Kansas City Power &
23 Light gave us on a site -- I think Steve Jaques on a site
24 visit that he made to the Iatan 1 plant. And it's basically a
25 rough overview of what is in their application that we

1 currently have in-house.

2 Q. So this document was prepared by KCPL and not
3 DNR; is that right?

4 A. Yes.

5 Q. You were talking about the emission limits.
6 Were you looking at the chart there in the middle of page 1 of
7 Exhibit 45?

8 A. Correct.

9 Q. Would you again explain the emission limits for
10 Iatan 1 and Iatan 2? Are they similar?

11 A. They're very similar. I mean, they're still --
12 overall emissions would be different, but I mean, when you're
13 talking about emission limits as far as heat input, they're
14 very close, yes.

15 Q. How about the control technologies? Will
16 Iatan 2 have same or similar control technologies as Iatan 1?

17 A. Yes. As far as for NOx, they're both planning
18 on -- they're planning on installing selective catalytic
19 reduction, which is SCR for both Iatan 1 and 2, wet fluid gas
20 desulfurization for SO2 and baghouse for PM-10. And then the
21 carbon monoxide and VOCs will be just the best management --
22 good combustion practices.

23 And then for mercury is combination of the
24 control efficiencies for the -- the controls from the other --
25 the controls that are being installed for the other pollutants

1 also will control mercury also, so it's a combination of
2 those.

3 MS. VALENTINE: Your Honor, I'll offer Exhibit
4 No. 45 into evidence at this time.

5 JUDGE PRIDGIN: Any objections?

6 Hearing none, Exhibit No. 45 is admitted.

7 (Exhibit No. 45 was received into evidence.)

8 MS. VALENTINE: Thank you. I have no other
9 questions for this witness.

10 JUDGE PRIDGIN: Ms. Valentine, thank you.

11 Any counsel wish cross-examination? Ms. Henry?

12 CROSS-EXAMINATION BY MS. HENRY:

13 Q. Mr. Hale, are you able to -- when you get an
14 application that says it will have a design heat input for
15 8,100 MMBtu per hour, can you convert that to megawatts?

16 A. We can. I -- not right here I can't, but --

17 Q. Okay.

18 A. -- it can be done.

19 Q. Do you have any idea how many megawatts that
20 would be? Not off -- you can't?

21 A. I don't --

22 MS. HENRY: Okay. Thank you.

23 JUDGE PRIDGIN: Any further questions from
24 counsel?

25 Hearing none, let me see if we have any

1 questions from the Bench. Commissioner Gaw?

2 COMMISSIONER GAW: Thank you, Judge.

3 QUESTIONS BY COMMISSIONER GAW:

4 Q. Mr. Hale, thank you for coming. And I think
5 that counsel has probably asked several of the questions I was
6 going to ask, so that will hopefully speed this along quite a
7 bit.

8 If you would, give me an idea about the
9 comparison between the emissions at the Iatan site if Iatan 1
10 were upgraded as proposed and no Iatan 2 were built --

11 A. Okay.

12 Q. -- compared to Iatan 1 being upgraded and
13 Iatan 2 being built.

14 A. Okay.

15 Q. And tell me what -- if you could under those
16 categories of pollutants that you've listed, run down those
17 figures, if you have them.

18 A. On the second page of the handout that
19 Ms. Valentine handed you, I believe, might speak to your
20 question.

21 Q. Good. Which ones?

22 A. The top -- the top table --

23 Q. All right.

24 A. -- and the baseline, the average of the last
25 two years for I believe 2003 and 2004 --

1 Q. Okay.

2 A. -- was for SO2 18,890 tons for SO2. And for
3 NOx was 9,873 tons.

4 Q. All right.

5 A. And that's what they were -- the average that
6 they've been emitting the last two years.

7 Q. Okay.

8 A. The potential emissions with these limits that
9 they've proposed in the permit application would reduce down
10 for SO2 to 6,609 tons.

11 Q. Is that on here somewhere?

12 A. Yeah. It's the next column over on that top
13 table.

14 Q. Now I'm with you. Okay.

15 A. So you'd have a grand reduction of
16 approximately 12,200 tons --

17 Q. Okay.

18 A. -- of SO2. And that's with both plants
19 operating versus what Iatan 1's operating at now.
20 For NOx --

21 Q. Now -- okay. You can go ahead, but that's not
22 exactly my question.

23 A. Okay.

24 Q. And my question is, if you assume that Iatan 1
25 was upgraded --

1 A. Was upgraded.

2 Q. -- and compared that to Iatan 1 upgraded plus
3 Iatan 2 --

4 A. Right.

5 Q. -- and is that -- and I think you've got the
6 figures on here, but if you can sort that.

7 A. Correct. The 6,609 tons in the second
8 column --

9 Q. Yes.

10 A. -- is the -- is the emissions that would be
11 Iatan 1 upgraded and Iatan 2.

12 Q. But -- okay. All right. Go ahead.

13 A. So --

14 Q. And you've got that separated out for Iatan 1?

15 A. Yes. The paragraph -- or the table -- the
16 second table down --

17 Q. Yes. Uh-huh.

18 A. -- has approximately 3,416 tons would be from
19 Iatan 1 and 3,193 tons would be from Iatan 2.

20 Q. Okay.

21 A. So the second table down does break them out.

22 Q. Yeah. So, in essence, the unit two provisions
23 would tell me that --

24 A. Correct.

25 Q. -- difference?

1 A. The difference.

2 Q. Okay. What about for the other things that are
3 listed on page 1 besides SO₂, and NO_x and --

4 A. For all the others, there will be an increase.
5 PM-10 the increase is associated with the fact that a wet
6 scrubber has particular emissions versus a higher particulate
7 emission rate than what they currently have at Iatan 1, the
8 dry scrubbing -- or excuse me.

9 And then -- and then also you have the coal
10 handling operations and various other operations that go along
11 with the boilers, auxiliary operations. So there's going to
12 be a slight increase of -- when I say "slight," I can't
13 quantify it, but of PM-10. And then --

14 Q. What is PM-10 again?

15 A. Particulate matter less than --

16 Q. Okay. Thank you. I didn't mean to cut you
17 off.

18 A. Oh, you're fine.

19 Q. That's helpful.

20 A. And then carbon monoxide and VOC emissions,
21 they're not adding any controls on the Iatan 1.

22 Q. All right. VOC is what?

23 A. Volatile organic compounds.

24 Q. Give me an example.

25 A. Methane.

1 Q. Thank you.

2 And the mercury?

3 A. The mercury will be -- there will be -- there
4 will be an increase, I can't quantify that right now because
5 they're changing their -- basically the pollution control
6 train, what's going on Iatan 1 so they should see an increase
7 in control of mercury at Iatan 1. To quantify that I can't do
8 right now.

9 Q. Just to clarify -- I wasn't clear a while ago.
10 When you say there should be an increase, you're talking about
11 an increase in the control of mercury, which means a decrease
12 in emissions or not?

13 A. There will be -- if you were looking at just
14 Iatan 1, there would be a decrease in mercury.

15 Q. Okay. Overall, if you add the two together --

16 A. There will be an increase, I'd imagine. I
17 don't have the numbers so I can't say 100 percent, but --

18 Q. Okay. Is it possible to make that calculation?

19 A. Yes.

20 Q. Is that a difficult thing to do?

21 A. No. We should be able to have that for you
22 pretty quick.

23 Q. Okay. Good. Let's see. That may be -- okay.

24 Did you have a background in regard to air
25 quality over there in the Kansas City region?

1 A. Do I personally --

2 Q. Yes.

3 A. No, I do not.

4 Q. Are you familiar with it?

5 A. Yes.

6 Q. Will the addition of this plant have any impact
7 on air quality issues in the Kansas City region?

8 A. That's part of our review. We look at that and
9 before we can issue a permit, they have to be able to -- we
10 have the -- what we call National Ambient Air Quality
11 Standards and they'll have to do the modelling analysis to
12 analyze and make sure that the results are showing below the
13 standards. So that is part of our review.

14 Q. What does that mean, "below the standards"? Is
15 that the overall standards of the region? Is it something
16 different than that?

17 A. Well, there's kind of two different analysis we
18 do. One is the NAAQS, or the Natural Ambient Air Quality
19 Standard. And they have to -- I can't recall what the
20 numbers -- those numbers are off the top of my head. I don't
21 deal with that every day. But they'll have to stay below
22 those for the project in of itself.

23 And then once that's done, we have what we call
24 an increment evaluation. And that takes into account
25 everything in the surrounding area. And there's a set amount

1 that the area can increase over.

2 Q. Have you done that analysis yet?

3 A. We're in the process of doing that analysis.

4 Q. So today you couldn't tell me whether or not
5 incrementally this -- the addition of this plant will cause
6 this -- cause a problem on the second issue of air quality in
7 the Kansas City region from the standpoint of giving a license
8 or certification or whatever it is you're going to give?

9 A. Not currently, no.

10 Q. How long will that process take?

11 A. We're hoping to be able to have that completed
12 by the end of August, September -- August, September time
13 range.

14 Q. Okay. Are you familiar with the coal facility
15 that Associated Electric is proposing to build in the Norborne
16 area?

17 A. Yes. Yes, I am.

18 Q. Will that plant have any impact in regard to
19 air quality in the Kansas City region that will have to be
20 taken into account?

21 A. As far as in account to this project or --

22 Q. I want you to answer that question. If you
23 want to answer it first, that's fine.

24 A. It will have -- again, without running the
25 model, it's hard to say, but the prevailing winds would not --

1 it will be situated in such a way that I would say the
2 prevailing winds would probably not cause a major impact.

3 Q. Because the prevailing winds are from the west?

4 A. From the -- right. Kind of north-- northeast,
5 heading northeast, I guess.

6 Q. Heading northeast. So with the Norborne
7 facility, if it's built, they would be blowing away from
8 Kansas City?

9 A. Correct.

10 Q. Is it in -- is that facility within the -- what
11 is it, the attainment area? I'm looking for the right words.

12 A. For the maintenance area of Kansas City? No,
13 they're not.

14 Q. If that's what it is.

15 A. No, they're not. They're outside of that.

16 Q. Okay. The Iatan facility, is it within the
17 maintenance area?

18 A. I believe they're outside it also, but I would
19 have to check to make 100 percent sure.

20 Q. But you still do a review in regard to whether
21 or not it impacts the Kansas City maintenance area?

22 A. That will be part of their -- I mean, as far as
23 impact -- not necessarily that it's -- any plant that does --
24 submits something, I mean, this can be in the northeast corner
25 of the state, will do a modelling analysis for their area of

1 impact. So I mean, since they're located near Kansas City, I
2 mean, that would incorporate -- we would look and see what
3 their area of impact is.

4 Q. If there is an impact, what does that do in
5 regard to your analysis and your recommendations?

6 A. It depends on whether -- it depends on what the
7 impact is and whether they're meeting -- I guess we have the
8 set standards that -- and if they're above or below the
9 standards. I mean, any plant is probably going to have an
10 impact and so forth.

11 Q. Okay.

12 A. So what degree of impact that is --

13 Q. If the impact is above the standard, is that --
14 what occurs then?

15 A. If their modelling shows that they're above
16 their standards, than they'll either have to correct -- add
17 additional controls, come in with lower limits or -- or could
18 be denied ultimately.

19 Q. Okay. And in regard to -- well, in the Kansas
20 City region, are there currently any restrictions in regard
21 to, for instance, gassing up your car and in fuels that are
22 used that are similar to what is in the St. Louis region?

23 A. There are some. Not to the degree that
24 St. Louis has. I do not believe that there's any fuel
25 regulations. Again, that's not my area though, so --

1 Q. What I'm after is whether or not this plant
2 would potentially cause any triggering of any additional
3 restrictions in the Kansas City region or not?

4 A. With the reduction that you're going to see
5 from Iatan 1, I would -- my guess would be not.

6 Q. Okay. And at some point in time does that
7 become more than a guess?

8 A. Yes. Once -- once we've completed the
9 modelling analysis. And the modelling is we basically take
10 their emission rates and everything and put them in a computer
11 model and the -- with the meteorologic data and it will
12 predict where their impacts are and everything.

13 Q. And if it impacted the Kansas City region in a
14 way that caused there to be a question of whether or not there
15 may be some additional triggering of additional restrictions
16 in the Kansas City region, would you recommend, as DNR, that
17 the project be approved?

18 A. At that point, I'd say it will go above where
19 my -- above my decision. And so, I mean, it will go to our
20 director and they'll be making that call on that.

21 COMMISSIONER GAW: Is there somebody with -- is
22 DNR willing to make a representation in that regard from
23 counsel? And I apologize for putting you in that position,
24 Ms. Valentine. I'm trying to understand whether or not that's
25 of any concern in this case or in regard to this plant itself

1 and if you know the answer.

2 MS. VALENTINE: The standard in the law is
3 whether there will be an appreciable impact to air quality.
4 That's what we look for. If there is an appreciable impact,
5 then as Mr. Hale pointed out, we try to decide if that can be
6 controlled somehow with technology, with cutting back
7 production. Ultimately it could be a decision where we have
8 to deny a permit. But as we're sitting here today, we're not
9 in a position to make that decision.

10 COMMISSIONER GAW: So that analysis is not
11 complete currently?

12 MS. VALENTINE: No. It's not complete. It
13 won't be complete until we're at the point we're ready to
14 issue a draft permit.

15 COMMISSIONER GAW: Okay.

16 THE WITNESS: We do have a modelling unit in
17 our program that takes care of this and they would probably be
18 better suited to answer your questions as far as the
19 likelihood of an impact. And that -- Jeff Bennett is the --
20 in charge of that unit. And he has better feel since that's
21 what he does on what type of impact and the size of sources
22 and things.

23 BY COMMISSIONER GAW:

24 Q. Okay. I believe you testified earlier that you
25 have not reviewed the stipulation in this case?

1 A. No, I have not.

2 Q. So would you have any opinions in regard to the
3 efficiency programs that are in place or any of the other
4 proposals in regard to conservation?

5 A. No, I don't.

6 Q. Okay. So when DNR signed off on this, someone
7 else would have --

8 A. That's --

9 Q. -- someone else would have made that analysis?

10 A. That's correct.

11 Q. Okay. In regard to the IGCC possibilities, are
12 you familiar with any of the proposals that AEP has, American
13 Electric Power, has to build units in other parts of the
14 country?

15 A. Slightly.

16 Q. If you have a familiarity, do you have -- do
17 you have any opinion in regard to those projects?

18 A. Not an opinion as far as how it applies to this
19 particular project, no, I don't.

20 Q. Are you familiar with those plants fairly
21 significantly?

22 A. The IGCC plants?

23 Q. Yes.

24 A. The one I'm familiar with is one that's
25 possibly being proposed in Illinois. I believe it's

1 Steelhead, I think is what they refer to it as.

2 Q. Do you know who's proposing that?

3 A. No, I do not.

4 Q. Do you know where it's located in Illinois?

5 A. Southern part, I believe.

6 Q. Do you know how big the proposed facility is?

7 A. I'm trying to remember. I went to an IGCC

8 conference a month or two ago and I want to say in the

9 neighborhood of 300 megawatts, but I just honestly don't

10 remember for sure.

11 Q. That's okay.

12 Do you have an opinion in regard to whether or

13 not IGCC is currently at an advanced enough state to, as a

14 practical matter, utilize that technology for building a power

15 plant?

16 A. I have an opinion probably as far as the air
17 permitting. The cost weighs heavily in part of our analysis.

18 Q. Okay.

19 A. And it is considerably more expensive at this

20 time to build. Then also we weigh in the other factors and

21 part of it is that this is a base load unit that they're

22 wanting to build. And the reliability and availability of an

23 IGCC plant is -- the data that I've seen just doesn't show

24 that it is there, to me, that a base load unit would require.

25 Q. So at this point in time you don't believe that

1 an IGCC plant has had enough testing done to be a substitute
2 for a pulverized coal plant such as the one being proposed by
3 KCP&L?

4 A. Correct. Or the experience I guess is also --

5 Q. Okay. That's fine.

6 As far as DNR's position on this is concerned,
7 is DNR supportive of building this pulverized coal plant at
8 the Iatan 2 site subject to your licensing, your reviews that
9 you're doing on air quality?

10 A. I can speak for the Air Pollution Control
11 Program.

12 Q. Okay.

13 A. We'll -- as far as all our reviews go and shows
14 that, then we would be in support of it, correct. And with
15 the fact that they're adding controls on Iatan 1 and we'll
16 have them in a permit that is federally enforceable, we
17 consider it as a good thing.

18 COMMISSIONER GAW: All right. I think that's
19 all I have of this witness, Judge.

20 And I'm sorry, but I was looking for some
21 information in regard to the concept of efficiency programs,
22 which I imagine is Amanda Boss (ph.). As much as she may be
23 anxious to testify about this, I may want to ask her questions
24 at some point in time, but I appreciate Mr. Hale coming in.

25 JUDGE PRIDGIN: Commissioner Gaw, thank you.

1 Commissioner Clayton?

2 COMMISSIONER CLAYTON: Thank you, Judge.

3 QUESTIONS BY COMMISSIONER CLAYTON:

4 Q. Sir, I apologize for getting here late today
5 and I missed your introduction. I was wondering if you would
6 repeat your name and position with DNR?

7 A. Kendall Hale, new source review unit chief in
8 the Air Pollution Control Program.

9 Q. Of the Division of Environmental Quality?

10 A. Division of Air and Land Protection Division.

11 Q. In the review of such a proposed air permit or
12 the construction of such a plant, is that division the only
13 division at DNR that would be involved in approving a project?

14 A. No, it would not.

15 Q. What other divisions would be involved?

16 A. Well, as far as division, I know within --
17 there's other programs involved. The Hazardous Waste Program
18 might be involved; Solid Waste Program, if they're going to
19 landfill anything; and then the Water Program.

20 Q. Now, are those within Air and Land Protection
21 or are they within the Division of Environmental Quality?

22 A. They're within the air -- or water is not in
23 the Air and Land Protection, but the others are.

24 Q. Okay. So environmental quality has nothing to
25 do with any --

1 A. Well, Environmental Quality Division I believe
2 is no longer -- I think we split.

3 Q. Has it changed?

4 A. It's changed names and we split into the Air
5 and Land Protection Division. And I don't recall the name of
6 the other division, but it's mainly water.

7 Q. Reinventing government.

8 A. It split about -- oh, a few years ago.

9 Q. A few years, that would make me not know. I
10 understand.

11 How long have you -- first of all, let me ask
12 you this. You're an engineer?

13 A. Correct.

14 Q. And what type of training have you had?

15 A. Training as far as --

16 Q. As far as environmental issues.

17 A. I've worked a year and a half approximately in
18 our technical support section and then the last five years in
19 the permit section, specifically the new source review unit.
20 I've been to several EPA-sponsored classes on controls of
21 nitrogen oxide emissions, volatile organic compounds,
22 particulate matter and a probably a few more.

23 And then specifically related to this type
24 of -- this style of permit, not necessarily a power plant, but
25 what we call a PS-- new source review PSD permit -- permits

1 review, that's basically for big projects.

2 Q. How do you qualify a big project in that
3 scientific term that you used with years of expensive
4 education?

5 A. Level of emissions for a brand-new plant you'd
6 be looking at 250 -- anything over 250 tons of emissions.

7 Q. 250 tons of emissions?

8 A. Per pollutant. And if it's an existing plant,
9 then that's a lot lower.

10 Q. Okay. If one were going to consider
11 constructing a plant, what would be their first step in
12 working with your office?

13 A. Working with my office would be to do some
14 possible pre-construction monitoring for -- depending,
15 again -- a lot of it is kind of hard to speak in generics
16 because it varies on emission rates and just simply how tall
17 their stacks and so forth can vary a lot in our review and our
18 results, so --

19 Q. Before you begin building, do you have to have
20 a permit?

21 A. Before they can begin building, they have to
22 have a permit. Before they can even break ground, they have
23 to have a permit from us.

24 Q. And if you have -- if this is your first
25 facility, then everything has to be done by modelling and by

1 making certain assumptions about what type of pollutants will
2 be emitted or not?

3 A. In reviewing the permit -- in reviewing the
4 application, correct. The final permit then will have various
5 either testing requirements or monitoring requirements for
6 different pollutants that basically come back and check and
7 make sure that those assumptions that you have made originally
8 were correct.

9 If not, then they need -- then we'll either
10 come back and we'll figure out -- either have to redo the
11 modelling or they'll have to add additional controls or
12 whatever.

13 Q. So you do your modelling -- an application is
14 submitted, you do your modelling, you kind of test the numbers
15 that are in the application. And if they're within a certain
16 limit, you'll issue a draft permit?

17 A. That's part of the review. Part of the other
18 review's what we call a best available control technology
19 review. And in that process we determine what the appropriate
20 emission limits are for each pollutant.

21 Q. And you assess -- you say technology. You
22 learn what is the best available for that particular type of
23 business or --

24 A. Correct.

25 Q. -- production model?

1 A. And within -- even within though the
2 technology, certain technologies that are capable of achieving
3 lower limits.

4 Q. These protocols that you use in doing the
5 modelling and establishing the procedure for a draft permit,
6 is that all entirely Missouri law or is it federal -- entirely
7 federal law or is it a combination of EPA and DNR models?

8 A. The modelling -- the protocol as far as doing
9 the draft permit and so forth is Missouri law, how long we
10 have to go on public notice and how -- the procedure for doing
11 that. The limits and everything, the modelling protocols and
12 so forth are federal. And they're in the state also, but the
13 state usually just reflects the federal in a lot of cases.

14 Q. In comparing -- in comparing.

15 In comparing the two bodies of law, federal and
16 state, can the state be stricter than the federal government
17 or is it no stricter than the federal government or -- I
18 assume the feds set a guideline or mandatory guideline. Could
19 you explain how they work together?

20 A. For the air program, we can be no stricter than
21 the federal government.

22 Q. No stricter than the federal government?

23 A. Correct.

24 Q. And then the federal government sets the amount
25 of pollutants that can be emitted. Is that an easy way to

1 explain their guidelines? Is it amount of pounds per million
2 BTU or a certain number of tonnage?

3 A. Not on that, no. It doesn't set that
4 particular number. What it sets is as far as your modelling
5 results, what your concentrations are and your air, it does
6 set standards for that. These pounds per million BTU are set
7 up to be an ongoing evolutionary number that's supposed to
8 hopefully keep going lower as new technology comes out and so
9 forth.

10 Q. Okay. Does the EPA have a role at all in doing
11 permitting with such a project?

12 A. EPA will review the permit and comment at the
13 same time during our public notice period as far as any other
14 citizens or --

15 Q. Can the EPA veto the Missouri DNR's position or
16 decision?

17 A. There's -- in the construction permit, no.

18 Q. Either in the draft permit or the final permit.

19 A. There's another route that they probably could
20 go, which is through their operating permit. And they have to
21 approve their operating permit. So there's probably an avenue
22 that if EPA saw something in the permit that they just could
23 not live with, they probably could object to it but not in the
24 construction.

25 Q. When is the first time that EPA would

1 contribute an opinion or a blessing or guidance on whether
2 permit would be issued or not? What is their first
3 involvement?

4 A. Their first involvement's when we first get the
5 application. We send a copy of the application to EPA and so
6 they're aware of it from the very beginning. And we -- we do
7 make it -- we do work hand in hand with them and try to
8 resolve any issues that we have with EPA and with the company
9 and all the stakeholders that we can. Sometimes -- and for
10 the most part, you can find a ground that everyone's satisfied
11 with.

12 Q. Okay. I'm looking at this document that was
13 handed out and is this document the document that you
14 prepared? Is this your cheat sheet?

15 A. The one that says Iatan station PSD?

16 Q. Yes.

17 A. Yes.

18 COMMISSIONER CLAYTON: And does this have an
19 exhibit number, Judge?

20 JUDGE PRIDGIN: I believe that's 45. Somebody
21 correct me if I'm -- I'm seeing some nods.

22 COMMISSIONER CLAYTON: Glad they're paying
23 attention out there.

24 BY COMMISSIONER CLAYTON:

25 Q. Going through this document, I wanted to ask

1 you some questions about this and what some of the terms mean.

2 The first chart has emission limits in Iatan
3 PSD application. Explain to me what this chart is.

4 A. Right now those are the emission limits that
5 Kansas City Power & Light has proposed in their application
6 for Iatan 1 after they install control technology and for the
7 new Iatan 2.

8 Q. Okay.

9 A. So for Iatan 1, that's not currently what
10 they're emitting. Those limits may or may not be what the
11 final permit states. They could be lower. The best thing
12 would be -- that's what they've proposed so it's not going to
13 be any higher than that.

14 Q. Does the law require each one of these numbers
15 in the chart to be below a certain amount?

16 A. No, it does not.

17 Q. It does not. Is there a chart in this --

18 A. Excuse me. I'll correct myself. There are
19 some federal rules, what we call new source performance
20 standards, that have -- have, like, for mercury and for some
21 of these that have some standards, these are below those
22 though.

23 Q. Okay. But there are standards? There are
24 numbers that these must be below?

25 A. In some federal regulations, yes.

1 Q. In just some federal?

2 A. Yes.

3 Q. Are those numbers based on pounds per -- is it
4 million BTU?

5 A. That's correct.

6 Q. Are they numbers phrased in that amount or are
7 they based on annual tonnage emitted or are they based on
8 certain percentages of output or --

9 A. It varies, but normally it will be an emission
10 rate per pounds per million BTU such as that.

11 Q. Can you tell me what the federal guideline is
12 for, say, SO2?

13 A. I cannot tell you right now. I can tell you
14 that's below -- at least all these numbers are below any
15 federal standard that's in an SPS.

16 Q. For future construction?

17 A. Yes.

18 Q. Is it possible to get the numbers to compare
19 side by side the projected Iatan unit 1 and the new Iatan
20 unit 2 numbers? Is it possible to set out to the side the
21 federal guideline or limit --

22 A. We can --

23 Q. -- to compare these figures?

24 A. We can for those that have a federal limit,
25 yes.

1 Q. Okay. SO₂, NO_x, PM-10, mercury, is that carbon
2 monoxide?

3 A. Correct.

4 Q. I don't know what VOC is.

5 A. Volatile organic compounds.

6 Q. What?

7 A. Volatile organic.

8 Q. Oh, volatile organic compound. Okay.
9 Do you have that -- okay.
10 What is a volatile organic compound?

11 A. It's what we call an ozone precursor. So the
12 real two, like, especially for the St. Louis area, VOCs and
13 NO_x, the nitrogen oxides are pollutants that we're really
14 concerned with for ozone. So it's pollutants such as -- oh, I
15 was trying to think. I can't think of any of them. They
16 should be easy, but -- methane -- or methanol, excuse me, and
17 several of those.

18 Q. Volatile organic compounds. Okay. I would
19 like to see if there are numbers that are either in federal
20 law or state law under which the applicant numbers must be, if
21 that's possible.

22 A. We can do that. I don't believe that there's
23 one for every pollutant, but for those in which there is, we
24 can put that together.

25 Q. If there's not one for a pollutant, does that

1 mean it could be ignored in the application process?

2 A. No, it can't be ignored. I mean, it's still a
3 regulated pollutant. It's just at that point there's not been
4 a limit set. Like I said, a lot of the limits are set a while
5 ago. When, I can't say a certain date, but these are below
6 these numbers. There's not been --

7 Q. Okay. Looking on the second chart, which is a
8 small chart, netting out for SO2 and NOx at the Iatan station
9 under the current permit section you have 1.2 pounds per
10 million BTU for SO2. Is that amount below current standards?

11 A. I can't speak for sure on that.

12 Q. You don't know if it's close, it's not close?

13 A. I would hesitate to make a guess on that.

14 Q. How about the NOx current permit amount of
15 .7 pounds per million BTU? Do you know on that?

16 A. They're meeting -- the Iatan 1's meeting the
17 federal requirements. So, I mean, while the current permit
18 status, those numbers may not be what the federal are, the
19 baseline numbers would be below the --

20 Q. Next to that are baseline. What are those
21 baseline numbers?

22 A. The baseline numbers are what they're actually
23 emitting at right now. So, I mean, while the -- their permit
24 states that they can emit 1.2 pounds per million BTU, what
25 they were actually emitting was .67.

1 Q. Do you know what the date of the current permit
2 was?

3 A. Not off the top of my head, no.

4 Q. Year? Decade?

5 A. Decade, I --

6 Q. Century?

7 A. It's a long time ago.

8 Q. Long time ago?

9 A. That's -- I apologize for that, but time to
10 look it up was --

11 Q. I understand. I understand. You got dragged
12 over here anyway. Who dragged you over here?

13 A. I'm still trying to figure that out.

14 Q. It was either you or Doyle. I'm sorry, Doyle
15 wasn't coming over.

16 A. That's fine.

17 Q. On that second chart, you go to PSD
18 applications, unit 1, unit 2. Now, I guess I'm trying to get
19 an idea. The .10 pounds per million BTU on SO₂, it looks to
20 me as a layperson, as a non-scientist, non-engineer that
21 that's a significant reduction.

22 A. It is.

23 Q. Can you tell me whether that is significant or
24 not and whether that should be an amount of reduction that the
25 state of Missouri should be looking at in issuing these

1 permits?

2 A. It is a significant reduction. I think maybe
3 over on the second page might be a little better numbers for
4 you to understand. Right now as far as SO₂, Iatan 1 alone is
5 emitting approximately -- the average of '04 and '03,
6 18,809 tons of SO₂. And what they'd be emitting for just
7 Iatan 1 -- that number I got from the table at the top of the
8 page, the second table down. What they'd be emitting from
9 just unit 1 would be 3,416 tons of SO₂.

10 So you're talking almost a 15 -- a little over
11 15,000 ton reduction of SO₂ for just Iatan 1. And if you
12 consider Iatan 1 controlled along with Iatan 2, they're still
13 going to have roughly a 12,000 ton reduction over what they're
14 emitting now.

15 Q. Okay. How would the current permit amounts for
16 Iatan 1 compare to other coal-fired facilities in the state
17 like Hawthorne or --

18 A. As compared --

19 Q. Let's start with Hawthorne. How would the
20 permit level compare to Hawthorne?

21 A. For Hawthorne No. 5 they're a lot higher
22 because Hawthorne No. 5 was permitted back in the late '90s,
23 or around late '90s, I believe. And there hadn't been a
24 coal-fired power plant permitted in a long time, since the
25 '70s, I believe. So I mean, the standards have changed

1 considerably.

2 Q. So Hawthorne is higher -- has higher limits?

3 A. Lower.

4 Q. Has lower limits?

5 A. They have lower limits, yes.

6 Q. So their emissions are a lot lower?

7 A. A lot lower.

8 Q. So then by implication, Iatan 1 would be back

9 in the '70s or earlier or something --

10 A. Right.

11 Q. -- is what you referred to earlier?

12 Okay. How about Thomas Hill, for example?

13 A. Again, this will be a lot lower. The Iatan 2

14 and the Iatan controlled 1 will be a lot lower than what

15 Thomas Hill is.

16 Q. How about Callaway?

17 A. The nuclear plant?

18 Q. Just seeing if you're paying attention.

19 Now, comparing the figures between page 1 and

20 page 2, the pounds per million BTU and then you have actual

21 tonnage.

22 A. Correct.

23 Q. How is a ton of air pollutant measured? I

24 mean, how do you -- how do you establish a ton of air

25 pollutant? Don't tell me you have scales and a little truck

1 you send out.

2 A. You mean how do they measure it?

3 Q. How do they measure it?

4 A. Okay. For SO2 and several of the other
5 pollutants they'll have -- be required to put continuous
6 emission monitors on their stack, which will actually
7 measure -- measure the emissions going out the stack for the
8 boiler. There are some auxiliary emissions from their coal
9 handling and so forth that will not be measured directly.
10 Those are estimated. And then there's also some stack testing
11 for like mercury and things that will be required that will
12 actually measure for that snapshot in time what the emissions
13 are to quantify them.

14 Q. You read this and you read 6,609 tons of
15 pollutant going into the air. That looks significantly
16 different than .1 pounds per million BTU. Is 6,600 tons a
17 significant amount?

18 A. Significant -- I would hesitate to try to
19 define what significant would be. I mean, it is a measurable
20 amount. The -- with the stacks and everything, again, it goes
21 back -- those amounts relate back to -- we take these
22 emissions and put them into our computer models and run the
23 data and find out what the actual concentration in the air --
24 where it is and where the levels are and so forth.

25 The reason we write -- write the emission

1 limits in pounds per million BTU is so we can compare across
2 the board from boiler -- from plant to plant. I mean, because
3 one plant may be a lot smaller so if you just write it in
4 tonnage, Springfield is 275 megawatt, this is a lot larger so
5 this is going to have a lot more emissions. So we write them
6 in a term that can be compared across the board.

7 Q. The technology that's to be employed of Iatan 1
8 in the upgrades and in the Iatan 2 plant, are they the most
9 current and the best technology available in removing
10 pollutants from emissions?

11 A. Right now we're in the process of reviewing
12 that. It's consistent with other recently permitted
13 coal-fired -- coal-rise coal-fired boilers across the country.

14 Q. How often does technology change in this arena?
15 How often does a new technology come along that will
16 potentially reduce emissions on any of the regulated
17 chemicals?

18 A. Right now I'd say the technology that would --
19 your statement's a fair statement for the specific technology.
20 Then once you get into the technology, the discussion and the
21 review comes on what the actual emission -- what kind of
22 control can it achieve.

23 So, I mean, I think it's -- SCR, the selective
24 catalytic reduction, for nitrogen oxides is the best right
25 now. But what now is the emission limit? Should it be

1 .12 pounds per million, .08? And that's kind of where the
2 debate is and that's what our review's focusing on. So at
3 this time I would say the technology that they've proposed
4 will be agreed upon and now the exact emission rate from that
5 we're still reviewing.

6 Q. Are you familiar with activity at the federal
7 level, either through rule or regulation or change in federal
8 law, on changes and what the EPA allows for emissions? How
9 well versed are you in the activity at the federal level?

10 A. As -- probably not what -- I don't -- I know
11 some, but I don't know if I'll be enough to answer your
12 question, so --

13 Q. Well, for example, right now the state only
14 regulates based on SO2 and NOx; is that correct?

15 A. There's a list of pollutants that we do
16 regulate and it's more than just SO2 and NOx.

17 Q. Okay. It's this first chart?

18 A. That's the main ones, correct. I mean, there's
19 some others that we do regulate, but these will be the main
20 ones that -- for this type of plant that we'd be looking at.
21 There's some -- I mean, hydrogen chloride, hydrogen fluoride
22 are emitted from power plants. And we'll review that as part
23 of this application, but that's -- these are probably the ones
24 that --

25 Q. Do you anticipate any changes in the pollutants

1 that are listed on your chart at the federal level?

2 A. At the federal level? You mean adding
3 pollutants?

4 Q. Adding or reducing the allowed amount of
5 pollutant being emitted.

6 A. I do not see any additional pollutants being
7 regulated in the near future. There's --

8 Q. How about quantity?

9 A. The quantity I'm -- again, the new source
10 review is -- we're what we call a delegated state so we have
11 the chance -- we write our regulation. The EPA has to approve
12 them and put them in our state implementation plan. So I
13 mean, a lot of -- a lot of it they'll say, Here you go and
14 then we will write -- we'll look at it and we'll -- they give
15 us a lot of leeway, I guess, in how we implement some of their
16 programs and so forth.

17 Q. The EPA gives you a lot of leeway?

18 A. In some programs they will. There's --
19 sometimes yes, sometimes no on that. So on some of these new
20 rules we -- they say, Here's the guidelines, you implement it
21 and we'll have to have it approved by EPA, yes.

22 Q. How many -- well, let me rephrase the question.

23 This is the first coal-fired power plant air
24 permit that you have reviewed in your career?

25 A. No, it is not.

1 Q. It is not?

2 A. I reviewed one for City Utilities of
3 Springfield.

4 Q. Okay.

5 A. That was issued in December --

6 Q. Was issued in December?

7 A. -- '04.

8 Q. And was it a larger or smaller project?

9 A. Smaller. It was 275 megawatts.

10 Q. Yeah. And before that?

11 A. Before that, the only other one that was done
12 in the state in -- that anyone in our office had worked on had
13 been Hawthorne 5.

14 Q. Okay. If it is not a power plant application,
15 would there be any other type of facility that would come to
16 your office with similar regulation?

17 A. Similar as in amount of pollutants?

18 Q. Uh-huh.

19 A. Yes. Cement kilns are -- have in the
20 neighborhood of what a power plant does and similar -- similar
21 types of pollutants. The car manufacturing places, while
22 different pollutants, have sizable amount of emissions and so
23 forth.

24 Q. Lastly, you have issued a draft permit?

25 A. We have not.

1 Q. You have not?

2 A. We're in our review process right now.

3 Q. What would be the date of the result of your
4 review?

5 A. Right now we're --

6 Q. Approximately.

7 A. -- approximately we're looking in the
8 August/September time frame.

9 Q. Of this year?

10 A. Of this year.

11 Q. Okay. Plant would be constructed and then you
12 would monitor once the plant is up and running. Correct?

13 A. Correct.

14 Q. And how often does that monitoring take effect
15 or how often do you do analyses in the emissions?

16 A. Well, I mean, there's -- they have to keep
17 records from their continuous emission monitors, continuously
18 and onsite. They're inspected -- I don't know the inspection
19 schedule from the inspection but I know they're inspected at
20 least once a year from an inspector. As far as their
21 emissions, they have to submit annual emission inventory
22 questionnaires that quantify the emissions from the entire
23 installation. So they're monitored pretty close.

24 COMMISSIONER CLAYTON: Okay. I don't have any
25 other questions. I would appreciate it if it would be

1 possible to have the -- the figures for each of those
2 chemicals in that first chart that the law requires, either
3 with the ceiling or the limits that we discussed. Can you do
4 that for me?

5 THE WITNESS: Yes, I can.

6 COMMISSIONER CLAYTON: Great. Thank you very
7 much.

8 JUDGE PRIDGIN: Commissioner Clayton, thank
9 you.

10 Commissioner Appling?

11 QUESTIONS BY COMMISSIONER APPLING:

12 Q. Mr. Hale, how you doing?

13 A. Doing all right. Yourself?

14 Q. You know, I'm a country boy and born way out on
15 a farm there. And my mother used to tell my father how far
16 they put the pig pen from the house. And I still didn't know
17 how she could tell that. And after reviewing all your numbers
18 here, I'm not sure that I could -- I'm any smarter than I was
19 before I came here.

20 But anyway, are we going to be okay in Kansas
21 City if we approve this plant to be put up here? We're not
22 going to kill anybody up there, are we?

23 A. If it's approved, then yes.

24 Q. And that's after you run all your tests and all
25 that?

1 A. That's correct.

2 Q. Tell me, how do you -- how do you -- and I
3 think you described that for Commissioner Gaw a few minutes
4 ago, and I won't hold you long here. This is the last
5 question, I promise you that.

6 But how do you determine the air quality in a
7 place like Kansas City? I won't even ask you about New York,
8 but just Kansas City. How do you get to that?

9 A. Well, actually in the air program, we have
10 several different units, and one of the units is our
11 monitoring unit. And so to speak to the exact network of air
12 monitors I cannot do, but I mean, they do have air monitors
13 for different pollutants that's located in Kansas City and
14 across the state for -- for things.

15 So like down in Herculaneum they have lead
16 monitors and so -- in St. Louis I would venture to say in
17 Kansas City also, ozone monitors and so forth. There is a
18 possibility, based on a review, that Kansas City Power & Light
19 will require -- will be required to do post-construction
20 monitoring. So depending on the numbers that the model shows,
21 if they hit a certain level, then they would be required to
22 conduct modelling after they build and operate also.

23 Q. Is that a 24/7?

24 A. Yes. The monitor is. The sampling -- I'm not
25 sure how often it samples and air data. I mean, it's -- it's

1 set on a cycle. So it probably -- I'm not sure.

2 Q. Last question, who set the level of the
3 standards who -- did the federal government set that?

4 A. As far as the air quality standards, we follow
5 what the federal rules are, so they would have set them.

6 COMMISSIONER APPLING: Okay. Thank you, sir.

7 JUDGE PRIDGIN: Commissioner Appling, thank
8 you.

9 I don't have any questions. Do you,
10 Commissioner Gaw.

11 COMMISSIONER GAW: I just have a couple more.
12 I'll try be quick.

13 FURTHER QUESTIONS BY COMMISSIONER GAW:

14 Q. You referred to the no stricter than language
15 earlier, that the state cannot have any regulation that's
16 stricter than --

17 A. Correct.

18 Q. -- federal law?

19 Is that a matter of rule or statute or federal
20 law or what is that?

21 A. It's part of our rule, statute, I'm not sure,
22 but I mean, I'd have to let Kara probably answer that.

23 Q. Okay. That's all right. And the other thing
24 is in regard to mercury, are you familiar with whether or not
25 we have a mercury issue in the Missouri River?

1 A. No, I am not.

2 Q. Someone else would know that?

3 A. Correct.

4 Q. Not you.

5 And what becomes of the -- when you take these

6 pollutants out of the emission going through the stacks, it

7 goes somewhere?

8 A. Correct.

9 Q. Where do they go and how are they disposed of?

10 A. That's part of what we're looking at right now

11 is once we're controlling it, what's going to happen and how

12 much is in the -- in their ash and so forth. So we're in

13 the -- we are looking at that and the permit may contain, I

14 can't say for sure, but some requirements to test their ash

15 for mercury content or something. That's part of what our

16 review is right now.

17 Q. Okay. And I think you stated earlier that

18 you're not familiar with any proposed federal legislation that

19 may be coming down the pike or may likely be in effect over

20 the next few years?

21 A. I'm familiar -- I mean, familiar with as far as

22 talking to people in our office. I may or may not be able to

23 answer any questions on it, so --

24 Q. You don't have any direct knowledge of those

25 things?

1 A. Correct.

2 COMMISSIONER GAW: Okay. That's all I have,
3 Judge. Thank you.

4 JUDGE PRIDGIN: Commissioner, thank you.

5 If we have no further questions from the Bench,
6 do we have any counsel that wishes to recross? Mr. Fischer?
7 Mr. Dottheim?

8 Mr. Dottheim, whenever you're ready, sir.

9 MR. DOTTHEIM: Now, first, Commissioner Gaw, I
10 don't know if this goes to a question that you asked. I
11 assume the Commissioners are aware of this language in the
12 Stipulation and Agreement on page 52 under heading No. 10,
13 Effective this Negotiated Settlement.

14 Starting at that point there's basically for
15 the most part the standard boilerplate one finds in
16 Stipulations and Agreements filed at the Commission. But at
17 the end of paragraph 10-A, there are two sentences which
18 state, This agreement shall not be construed as fulfilling any
19 requirements for environmental permits necessary for
20 construction or operation of the infrastructure investments
21 delineated in this agreement. Participation by MDNR in this
22 agreement shall not be construed as an indication that MDNR
23 has taken any position on any KCPL application for
24 construction of new generation facilities.

25 RE-CROSS-EXAMINATION BY MR. DOTTHEIM:

1 Q. Mr. Hale, you've previously indicated that you
2 were involved with the permitting of a 275 megawatt plant for
3 the City Utilities of Springfield?

4 A. Yes, I was.

5 Q. After the draft permit was issued, were there
6 requests for a public hearing?

7 A. Yes, there was.

8 Q. Was there a public hearing?

9 A. Yes.

10 Q. Were there written comments that were also
11 submitted?

12 A. There were written comments submitted by City
13 Utilities of Springfield, EPA, Sierra Club and then several
14 citizens.

15 Q. And that was one of the questions I was going
16 to ask you, whether organizations such as the Sierra Club
17 requested a public hearing or submitted written comments?

18 A. Yes, they did.

19 Q. Can you indicate how soon or how long after the
20 draft permit was issued for the City Utilities of Springfield
21 275 megawatt plant it took before a final determination was
22 made by MDNR?

23 A. Before a final permit was issued?

24 Q. Yes.

25 A. Let me see.

1 Approximately four months. This permit though
2 from that time frame would be a lot less than that. There was
3 some mistakes on that one that was -- had to be corrected,
4 which extended the time frame on that.

5 Q. So offhand you would not necessarily assume a
6 four-month period or as long as a four-month period between
7 the issuance of a draft permit and the issuance of a final
8 permit?

9 A. My best guess and what we -- what you're
10 looking at from the time we go on public notice to where
11 there's a draft permit available for review to the time of
12 final permit would be issued is approximately probably two
13 months. And that's pending how many public -- how many
14 comments we get.

15 Q. And does that also include if there is a public
16 hearing?

17 A. Yes.

18 Q. Can there be more than one public hearing?

19 A. At this time -- I mean, it's not required in
20 our regulations. The one public hearing is required and
21 that's 40 -- 40 days after -- within 40 days after we put the
22 draft permit on public notice. And then approximately --
23 again, depending how many comments, a week to a month to
24 respond to the comments.

25 MR. DOTTHEIM: Thank you, Mr. Hale.

1 JUDGE PRIDGIN: Mr. Dottheim, thank you.

2 Mr. Fischer, did you have cross?

3 MR. FISCHER: Just very briefly.

4 RE-CROSS-EXAMINATION BY MR. FISCHER:

5 Q. Mr. Hale, my name's Jim Fischer. And I
6 represent Kansas City Power & Light. I want to thank you
7 today for coming to testify. I just had a couple questions to
8 follow up on some questions from the Bench, particularly, as
9 it related to Iatan 1 and the effect that the accelerated
10 investment would have on the reduction of the SO₂s.

11 If I understood your testimony, we could look
12 at that first column on the second page and the 18,809 tons
13 would represent the current level of SO₂ --

14 A. That's correct.

15 Q. -- at Iatan 1?

16 A. That's correct.

17 Q. And then if we drop down to the second table
18 below, the 3,416 would represent the expected level after the
19 accelerated investment at Iatan 1 was completed; is that
20 correct?

21 A. Correct, with a caveat in there. In that these
22 limits are effective once the Iatan 2 would come online. So I
23 mean --

24 Q. Okay. That's fair.

25 A. So the limits would not be enforceable until

1 unit 2 came online.

2 Q. Would you agree with me that that's
3 approximately an 82 percent reduction from the current level
4 to the expected level?

5 A. Without a calculator, but yeah, around that, I
6 would say.

7 Q. Okay. And if we looked at the NOx levels, the
8 existing level is 8,973 tons and if we compared that to the
9 expected levels of Iatan 1 after the accelerated investment,
10 it would 3,241 tons; is that correct?

11 A. Correct. With the same caveat as before.

12 Q. And if my calculator's correct, that would be
13 about a 67 percent reduction?

14 A. That looks probably correct.

15 Q. And you understand whenever I use the term
16 "accelerated investment," I'm referring to an investment that
17 doesn't have to be made today as a requirement of law?

18 A. Yes. That's correct. I understand.

19 Q. From an environmental engineer's perspective,
20 just on a generic basis, if you can reduce SO2 by 82 percent
21 and NOx by 67 percent on an existing coal plant, is that a
22 pretty good thing?

23 A. Any time you can reduce emissions, this is a
24 good thing.

25 Q. And then to understand the total effect, I

1 guess that's what that far column on the right-hand side would
2 indicate. After the accelerated investment on Iatan 1 and the
3 construction of Iatan 2, is it correct that there will be
4 expected a 64.9 percent reduction in SO2 emissions?

5 A. Yes.

6 Q. And for NOx it would be 38.4 percent from what
7 it is today?

8 A. Yes. And, again, the only other thing I would
9 add is that from what's proposed in the application. So I
10 mean, the final numbers could be lower so --

11 Q. Right. Okay. And I believe you indicated
12 Iatan 1 came online a long time ago?

13 A. I don't have an exact date, but it is a long
14 time ago.

15 Q. My memory was early 1980's. And I understand
16 for some of us in the room that seems like a long time ago.
17 Others it seems like the other day.

18 MR. FISCHER: I think that's all I have. Thank
19 you very much for coming to testify.

20 JUDGE PRIDGIN: Mr. Fischer, thank you.

21 Any other counsel wish to recross?

22 Ms. Valentine, any redirect?

23 MS. VALENTINE: No, your Honor.

24 JUDGE PRIDGIN: All right. Thank you.

25 This witness can be excused then. Mr. Hale,

1 thank you very much for your testimony.

2 Let me go back and try to pick up from where we
3 left off in the schedule. And I believe where we were was we
4 had Mr. Trippensee, who had testified and had been
5 cross-examined by Department of Energy and was going to stand
6 cross-examination from other parties.

7 Mr. Trippensee, if you want to come back to the
8 stand. You are still under oath.

9 Mr. Dandino, if I remember correctly you had
10 tendered him for cross-examination and Mr. Phillips had
11 cross-examined; is that correct?

12 MR. DANDINO: That's correct, your Honor.

13 JUDGE PRIDGIN: Any other parties wish to
14 cross-examine?

15 All right. Whenever you're ready, ma'am.

16 RUSSELL TRIPPENSEE testified as follows:

17 CROSS-EXAMINATION BY MS. HENRY:

18 Q. I had a question about your testimony on
19 page 23 where you talked about leaving the -- asking the
20 Commission to leave the case open to incorporate conditions
21 approved by the Kansas Corporate Commission.

22 A. Yes, ma'am.

23 Q. Let me see which line I was talking about -- or
24 have you found it?

25 A. Line 16 on page 23 is the beginning of my

1 answer.

2 Q. Okay. Where it says -- oh, could you read
3 starting at line -- just the sentence starting at line 21
4 where it starts with, Public Counsel asks the Commission?

5 A. Public Counsel asks the Commission to leave
6 this case open to incorporate any conditions approved by the
7 KCC that the signatory parties wish to incorporate into the
8 Missouri agreement.

9 Q. And are you aware that in the Kansas
10 stipulation they have some sort of funding that's equivalent
11 to our construction work in progress that would not be legal
12 in Missouri?

13 MR. FISCHER: Objection, your Honor. That
14 calls for a legal conclusion.

15 JUDGE PRIDGIN: Sustained.

16 BY MS. HENRY:

17 Q. Okay. I'm going to turn to chapter 22 of the
18 regulations. Are you familiar with those, chapter 22 of the
19 Code of State Regulations? Is that within your job at the PSC
20 Staff?

21 A. Primarily that would be something that Ryan
22 Kind in our office deals with. It deals with Integrated
23 Resource Planning is the primary component of it and while I'm
24 on the peripheries of that, I do not deal with it on a
25 day-to-day basis.

1 Q. Okay. Were you part of the workshop process?
2 Were you involved in that at all?

3 A. Yes, I was.

4 Q. And can you tell me which regulations would
5 apply to your review during the workshop?

6 A. Regulations?

7 Q. Right. Are there any regulations that govern
8 the conduct of workshops or the review applied to it?

9 MR. FISCHER: Same objection, your Honor.

10 JUDGE PRIDGIN: Could you repeat the question,
11 please?

12 MS. HENRY: I asked if there were any
13 regulations that -- in the Code of State Regulations that he's
14 familiar with that deal with workshops.

15 JUDGE PRIDGIN: I'll overrule. He can answer
16 that if he knows the answer.

17 THE WITNESS: The utilities and the -- the
18 Commission's got a case and as the chief accountant in
19 regulatory -- or rate-making person -- policy person in our
20 office, I attended the meeting. I didn't ask under what
21 authority. My boss said go, I went

22 MS. HENRY: Okay. Thank you. I have no
23 further questions.

24 JUDGE PRIDGIN: Any further cross from counsel?

25 Seeing none, we'll see if we have any from the

1 Bench. Commissioner Clayton?

2 COMMISSIONER CLAYTON: Thank you, Judge.

3 QUESTIONS BY COMMISSIONER CLAYTON:

4 Q. Mr. Trippensee, I'd like to go over a number of
5 items associated with your Direct Testimony and also, in
6 general, with the nature of the review of this project with
7 the Office of the Public Counsel.

8 Could you tell me when your involvement in this
9 plant construction discussion began? And I refer to your
10 personal involvement.

11 A. My personal involvement? I believe my
12 testimony discusses a -- the first workshop in the case being
13 held on June 21st of 2004. I attended that and subsequently
14 attended virtually all of the workshop meetings that were not
15 directly focused on the Integrated Resource Plan, the demand
16 side management side of the process.

17 The workshop split into two working --
18 sub-working groups of which I stayed primarily on the
19 rate-making side of those workshops. Mr. Kind worked on
20 the -- I can't remember which group A and group B acronym we
21 used at the time, but --

22 Q. So the first workshop was in June of 2004 and
23 you were involved at the start?

24 A. Yes, I was.

25 Q. Is it fair to say you're the lead Public

1 Counsel staff member working on this project or you and
2 Mr. Kind equal --

3 A. We were probably --

4 Q. I don't want to get into an ego battle here,
5 but you're both equally involved?

6 A. Yes. We're equally involved. Mr. Kind looked
7 at the need for the plant and how to implement some of the DSM
8 supply side resource issues. The -- whereas, once that need
9 was determined, I looked at -- or if that need was determined,
10 I was then to implement how you would do it from a rate-making
11 process and ratepayer protection process.

12 Q. My memory does not serve me very well, but was
13 the workshop docket or the working docket established roughly
14 June of 2004?

15 A. I believe it was -- it may have been in May.
16 The actual first order out of the Commission -- the
17 application and the first order out of the Commission. But
18 June 21st was the first workshop, nicely on my anniversary.

19 Q. That was a gratuitous reference.

20 A. That was, but it made for an interesting home
21 life, but that's okay.

22 Q. Okay. Whatever works.

23 Is it fair to say that you've been involved in
24 these discussions from the very beginning and have been ever
25 since?

1 A. Yes.

2 Q. There was never a gap where you were excluded
3 at any time?

4 A. Not to my knowledge.

5 Q. There was never a gap when another staff person
6 replaced you temporarily?

7 A. Not as primary responsibility. They may have
8 attended a meeting for me, but --

9 Q. Have you ever been felt you've been excluded in
10 any way in any meetings or subgroup meetings or any
11 discussions regarding the permit of this proposal?

12 A. No.

13 Q. Okay. You believe that the Office of the
14 Public Counsel has been an included part of the discussions
15 throughout the process?

16 A. Yes, I do.

17 Q. Is this the first type of workshop-type of
18 docket that you have ever been involved with? I know you've
19 been with the Public Counsel for some time. Is this the first
20 type of workshop case that we've had that's evolved into a
21 later contested case -- or I don't know if this is a contested
22 case or not, but is this the first type of case of it's kind,
23 in your opinion?

24 A. It's the first case of it's kind to the extent
25 of the complexity of the case and the dollars of investment

1 that are involved, most definitely.

2 Q. What makes such a case complex, from your point
3 of view? Simply dollars?

4 A. No. Definitely not simply dollars. The
5 investment decision, the planning for it. The -- the computer
6 modelling as an example, the MIDAS model is extremely complex.
7 It basically models the electrical system from the Rocky
8 Mountains to the east coast. I think I heard the number
9 something like 9,000 power plants are involved.

10 The social issues with efficiency, demand side
11 management, affordability is another layer of complexity. Get
12 into the financial side of it, the tax law implications in
13 there, the impact on ratepayers that are expected to incur --
14 to occur down the road, that has to be taken into
15 consideration. It's not -- the stipulation has taken, I
16 think, the extraordinary step of setting out how the
17 regulatory process will do that procedurally.

18 Q. Is that a positive impact on this process to
19 set out all those details over time?

20 A. I don't know -- I think a positive impact might
21 require I guess an editorial comment, but I guess the thing --
22 I think it gave the parties involved a level of comfort of how
23 it was going to occur.

24 The initial KCPL application called for a
25 pre-approved set of the series of tariffs. Public Counsel's

1 viewpoint was this Commission has an obligation to look at
2 circumstances at the time, tariffs that are changed to be able
3 to ensure that plant is in service, providing service, all the
4 relevant factors are reviewed.

5 And so it was a very critical component to us
6 that a process be set out. Keeping in mind, there's also the
7 obligation of the Commission to look after the interest and
8 balance the interest of the stockholder.

9 Q. Now, there were two sides to the Office of
10 Public Counsel involvement. Your side was the rate-making
11 treatment of this proposal. Is that a fair summary?

12 A. Rate-making, consumer protection treatment.

13 Q. And what was Mr. Kind's?

14 A. Mr. Kind was looking at the need for the
15 facility, alternative methods to meet supply side and also
16 look at demand -- the general term demand side -- the demands
17 the customers place on the company. And then also our office
18 has an interest in affordability, which Mister -- of service
19 because it is supposed to be a public service available to all
20 people. And ability to pay is an issue. And Mr. Kind
21 addressed that part of it also.

22 Q. The ability to pay issue?

23 A. There are people in society that don't have the
24 ability necessarily to pay, but if they -- without electric
25 service, they may suffer irreparable harm to their life.

1 Q. Okay. Focusing on the rate-making treatment of
2 this proposal, that is where you've been involved, can you
3 explain to me in light of the discussion about, quote, all
4 relevant factors, closed quote, what rate-making treatment is
5 included within this agreement?

6 A. Rate-making treatment?

7 Q. Or the plan of rate-making over the course of
8 the life of this Stipulation and Agreement.

9 A. I believe generally it follows the model the
10 Commission has traditionally used, which is the company will
11 make a rate request, the interested parties who intervene in
12 that case, of which this agreement includes all the signatory
13 parties automatically into each case, will look at the
14 evidence, present it to the Commission, ensure that all
15 investments and other items that are included in the rate-base
16 are in service and providing -- and are used and useful, that
17 some of the items in here that set up either regulatory assets
18 or regulatory liabilities have, in fact, occurred. And then
19 the Commission will make a finding on that evidence before
20 them considering all the factors at that point in time.

21 Q. I believe there's a moratorium that's included
22 with this agreement where the company would not be able to
23 request a rate increase until -- is it January 1st of 2007?

24 A. That's I believe when the tariffs can become
25 effective. I think it's anticipated they will be filing --

1 Q. 11 months before that?

2 A. Right. Sometime in the first quarter of '06.

3 Q. Okay. And would the rate case that would be
4 filed at that time be prosecuted any differently than a rate
5 case filed last year, the year before?

6 A. In general, they would be prosecuted in the
7 same manner. The one thing I believe I pointed out in
8 response to questions from Mr. Phillips back on Friday is it
9 is anticipated that the Commission will make their
10 determination and then submit that determination -- the facts
11 of that determination to the parties so that the parties can
12 respond to the additional amortization paragraph that's
13 contained in the Stipulation and Agreement. Because that --
14 the calculation of that amortization is dependent upon the
15 findings as with regard to the prudent operations of the
16 company.

17 Q. Are there any other assumptions that the Office
18 of Public Counsel can make with regard to the rate case of
19 2006 ending in 2007 associated with this plant construction?
20 Does the Office of Public Counsel anticipate that rates will
21 go up by a certain amount or decrease by a certain amount?
22 Are there any assumptions that you're able to make at this
23 time looking into the future?

24 A. The -- I think it would be fair to state there
25 is some significant new investment that is anticipated to be

1 online by the true-up date of that first rate case.

2 Q. That investment will be used and useful by the
3 time the next rate case is filed?

4 A. If it is not used and useful, it will not be in
5 the recommendation of the Public Counsel to be included in
6 rate-base.

7 Q. Okay. Are you able to give me an idea of those
8 types of improvements that are expected to be online?

9 A. Give me just a second.

10 Q. And feel free to just give me several examples.
11 I don't expect a comprehensive list.

12 A. I believe Schedule B to the stipulation sets
13 out the different investments and a time of when they're going
14 to go into effect.

15 Q. I was afraid of that. I forgot my appendices,
16 so that's okay. Schedule B?

17 A. No. Schedule B is the financing. Schedule D,
18 I believe. But environmental controls at the existing Iatan 1
19 site, I believe the -- the wind generation I believe is -- the
20 first 100 megawatts of wind is anticipated to be online in the
21 first rate -- by the end of the first rate case. And I'm
22 not -- I'll be honest, I'm not sure if it's Iatan first or the
23 other generating facility that's getting the environmental
24 controls.

25 Q. Okay. On page 29 of the Stipulation and

1 Agreement, it makes reference to subsection 3, expected rate
2 cases during the regulatory plan. And it sets out a schedule
3 and number of other provisions over the course of a number of
4 pages.

5 I was wondering if you could summarize those
6 provisions for me and give me the perspective of the Office of
7 Public Counsel in agreeing to those provisions. If that's too
8 much, then we can break it down by section.

9 A. Well, I think each of the rate cases, due to
10 the way this document was drafted, is basically a reproduction
11 of each other, of the prior one with a couple of exceptions.

12 Rate case 1 and rate case 4 are mandatory
13 cases. I think that was critical from our office's
14 standpoint. There's some class cost of service issues that
15 are involved that several parties wish to look at. And it
16 would -- was the feeling -- the feeling was it was best to do
17 that in a rate case.

18 The second thing is, while there have been
19 approximately four rate decreases since cal-- or since KCPL
20 put on their nuclear unit back in the mid '80s, there has not
21 been a comprehensive review before this Commission. And I
22 don't want to go into an adversarial, but that's basically it.
23 We have not had something that started out as an adversarial
24 proceeding before this Commission where everything was looked
25 at. Twenty-year period of time, quite frankly, left several

1 parties uncomfortable.

2 Q. Would you explain to me why -- you suggested
3 that rate case 1 and 4 are mandatory. Would you explain to me
4 from the public's perspective why it is important to have
5 mandatory rate cases? Generally one thinks of a rate case as
6 going to mean an increase in rates. Why would the Office of
7 Public Counsel stress that certain cases be mandatory?

8 A. There -- Kansas City Power & Light has been
9 experiencing, as I said, four rate decreases approximately
10 over the last 15 years. There is not complete agreement on
11 what direction their current rates need to go.

12 Also, just from the standpoint of moving into
13 this construction program, a baseline case, just and
14 reasonable rates, it was our office's -- kind of a policy type
15 decision or feeling that you need to have a solid starting
16 point. The cost of service needs to have a solid starting
17 point to do -- do the cost of service. I mean, you could do
18 it to, quote, a revenue neutral basis, but what if revenues
19 don't need to be neutral? And that's why the initial case, it
20 was our belief that that had to be mandatory.

21 The second -- the last case is bringing Iatan 2
22 online -- anticipated to be brought online. That will cause
23 significant changes in the operations of the company, what
24 plants are serving what customers when you bring on -- what
25 level of off-system sales will be occurring. There's been a

1 lot of testimony to that already.

2 I wish I knew all the answers of what was going
3 to happen, but I do know that the rate -- the revenue
4 requirement calculation will be able to take those into
5 consideration. And, again, therefore, it was best whatever
6 the outcome, to have a firm review of this -- firm outcome
7 based on a review of the Commission to move forward.

8 Q. Are there any agreements as to positions of the
9 parties in any of these rate cases that are set out rate case
10 1 through 4?

11 A. There are -- there are some agreements. As far
12 as -- I don't think the term has been used, but in regard to
13 the projects listed in the Stipulation and Agreement, the
14 parties agree not to oppose those in the rate case in which
15 they have -- are going to be included in rate-base as
16 operational and in service used and useful. We will not
17 oppose those based on the initial decision to commence with
18 those projects.

19 It does not address the stipulation and there
20 is no -- does not address and there is no agreement that the
21 implementation of that decision, the ongoing monitoring and
22 determination of whether maybe a cancellation is appropriate,
23 if -- if any of the -- the implementation and monitoring
24 doesn't occur, cost overruns, there's no agreement as to the
25 parties' position on that. There is the agreement --

1 Q. So when you say there's no agreement, you
2 had -- the Public Counsel -- Office of Public Counsel has not
3 agreed to any particular type of treatment if there's a cost
4 overrun?

5 A. Exactly. All --

6 Q. One way or the other, whether it's included or
7 not included in the cost of service?

8 A. We would evaluate it in the context of the rate
9 case and over the period of the entire time. I don't -- I
10 expect this to be a five-year ongoing project, quite honestly.

11 Q. Is there an agreement as to prudence of any of
12 the actions on the part of the company in this agreement?

13 A. Only to the date -- up until the date of the
14 Stipulation and Agreement. Basically, what some people have
15 referred to as the initial decisional prudence. After that
16 point in time, if the date -- if there's something that has
17 occurred since this document was signed that the parties
18 aren't aware of, that's subject to review as far as the Public
19 Counsel's concerned.

20 Q. Is there a guarantee of any sort of rate of
21 return or return on any equity promised in this document?

22 A. There -- not an overall rate of return. We
23 would lo-- we will be presenting testimony on that throughout
24 the proceedings. Now, there is an agreement with regard to
25 the rate -- the equity component of the allowance for funds

1 used during construction AFUDC, that is currently in the
2 Stipulation and Agreement at 125 basis points below the
3 reasonable return found appropriate by the Commission.

4 I would point out Ms. Henry asked me about the
5 Kansas stipulation and the test-- the stipulation allows the
6 parties to bring what is finally approved in Kansas to this
7 Commission.

8 Currently the language in Kansas would call for
9 a 250-basis point reduction with a slightly different
10 effective date, January 1, '07. Right now it is Public
11 Counsel's anticipation that if approved by the Kansas
12 Corporation Commission, we will bring -- that will be one of
13 the items we wish for the Missouri agreement to reflect.

14 Q. Okay.

15 A. But as far as the rest of the return on equity,
16 no, there is no agreement. That is something that -- return
17 on equity is a critical component in the revenue requirement
18 and we'll be addressing that at that time.

19 Q. How does that agreement regarding 125 basis
20 points below the reasonable rate of return on AFUDC -- hope I
21 got that right.

22 A. Yes, you did.

23 Q. How does that compare to treatment in other
24 rate cases?

25 A. It -- the rate in AFUDC has been an issue in

1 some previous cases. Basically, the way the formula -- the
2 formula works is that the short-term cost of debt is rolled
3 into the AFUDC rate to the extent it supports construction
4 work in progress, CWIP.

5 To the extent short-term debt does not
6 sufficiently support the level of CWIP balances, then there's
7 an equity component applied to that. It's, for lack of a
8 better term, an opportunity cost calculation.

9 Q. Okay. And how is this -- is this 125 basis
10 points significantly different than what is done in other
11 cases? Is this similar to what's been done in other cases?
12 Is this a revolutionary treatment?

13 A. I don't know if it's -- it is different in that
14 other cases would simply use the last authorized rate of
15 return of the Commission; whereas, this will use the
16 authorized rate less either the 125 or probably the 250 if the
17 Commission approves the stipulation and Kansas Commission
18 approves theirs. It will be probably 250.

19 Q. Okay. And OPC is comfortable with that portion
20 of the agreement?

21 A. Yes. And as I said, it's a comprehensive
22 agreement. As I indicated earlier, there's not agreement as
23 to the current revenue -- revenue requirement of the company
24 except to the extent parties agreed not to change it.

25 Q. Are you familiar with the provisions of the

1 Stipulation and Agreement as they relate to the issue of
2 depreciation?

3 A. Yes.

4 Q. There's several provisions regarding
5 depreciation in this agreement, are there not?

6 A. Including the additional amortization, yes,
7 there are.

8 Q. I suppose, could you set out the agreement that
9 you have entered into with regard to each of the depreciation
10 issues? Are you able to do that in a summary fashion?

11 A. One of the primary -- to some extent. Staff
12 depreciation people were very instrumental in the individual
13 depreciation rates that were set out. Public Counsel does not
14 have an engineer and so to the extent I'm able to do that and
15 look at lives, I -- I do, but I don't have the expertise that
16 the -- some of the Staff personnel do.

17 But we did have, like, a new wind depreciation
18 rate that was set out. I believe it was 20 years. And I
19 would point out the additional amortization is depreciation,
20 it's just -- has a different name. It is return on existing
21 investment and it will be assigned to the appropriate
22 accumulated reserve account during the next rate case.

23 Q. Well, let's just go through a few of these.
24 Wolf Creek, there was an extension of the service life of Wolf
25 Creek. That was one change in depreciation?

1 A. I should have remembered that one right off the
2 top of my head because it is a large driver.

3 Q. And that's a benefit to consumers. That would
4 reduce the annual depreciation expense, would it not?

5 A. That is correct.

6 Q. Okay. The wind depreciation is basically
7 setting a new -- depreciation period for a new asset?

8 A. That is correct.

9 Q. Okay.

10 A. There was review of other states' rates and
11 some items along that line --

12 Q. Okay.

13 A. -- to develop that. We don't have any wind
14 under the Missouri Commission currently.

15 Q. Okay. Are you able to explain the additional
16 amortization issue, or should I leave that to Staff?

17 A. I'm hopefully very able to explain.

18 Q. Okay. Well, they're not going to get off the
19 hook anyway --

20 A. That's good.

21 Q. -- so go ahead and start.

22 A. The additional amortization issue is
23 intertwined with cash flow. Depreciation provides cash flow
24 to a utility company. The parties -- part of the thing you
25 just mentioned, the Wolf Creek depreciation, we are

1 decreasing. There are reasons for that. From our standpoint,
2 it reflects the expected life of Wolf Creek, in fact, Kansas
3 has already got a 60-year life on theirs. But cash flow
4 during a period of construction is very important to the
5 financial health of a utility and their ability to attract
6 capital.

7 The Commission, I think as I tried to address
8 in my Direct Testimony or pre-filed rather, that the
9 Commission back in the prior major construction period
10 addressed it through the use of income taxes in a different
11 treatment of current income tax expense.

12 That option is no longer available to the
13 Commission and there's really only two ways the Commission can
14 address cash flow issues and give the ratepayer credit for
15 that, which is a critical component. The other option is
16 depreciation.

17 And by giving the ratepayer credit, what I mean
18 is there's recognition in the regulatory process of the
19 ratepayer paying some -- paying funds into the company. It's
20 a question of timing. In contrast, the company's initial
21 request back to the start of the workshops requested the
22 Commission to find a reasonable rate of return and then
23 effectively, put several hundred basis points on top of that.

24 That creates two problems. One, you have to
25 pay income taxes to the federal government.

1 Q. Who is "you" when you say "you"?

2 A. The ratepayer does.

3 Q. The ratepayer pays those?

4 A. The ratepayer pays everything the utilities get
5 as far as their utility operations, whether it's the Public
6 Service Commission assessment or income taxes or whatever. I
7 explained that in my testimony and I think I went through it a
8 little bit with Mr. Phillips.

9 Basically to get a dollar of earnings, if
10 you're wanting the earnings to be cash flow, the ratepayer --
11 the rates would have to be increased by \$1.62 to reflect the
12 taxability of those dollars. And if you have \$1.62 and you
13 have about approximately a 40 percent tax rate, to get back
14 down to a dollar, you've got to have a \$1.62 of revenue.
15 That's one problem with using equity earnings.

16 The second problem is -- to address cash flow.
17 The second problem is if you pay a dollar in equity to produce
18 cash flow plus the 62 cents that goes off to Washington never
19 to be seen again, that dollar --

20 Q. Starting to sound like you're running for
21 office here.

22 A. That -- trust me, that's not in my career path
23 at all.

24 A dollar of equity is going to be used to
25 support new investment, which, in turn, will be put into a

1 future rate-base, which then the ratepayer will pay a return
2 on and of that.

3 Q. Explain the difference between return on and
4 return of.

5 A. Return of is depreciation or an additional
6 amortization, whatever terminol-- terminology you wish to use.
7 But it's -- you invest a billion dollars in a power plant over
8 50-year life. I'm -- as a ratepayer, I'm going to pay you
9 what -- I believe it's \$20 million a year to give you a return
10 of your \$100 million.

11 But until you receive a return -- an en tire
12 return of it, you have money tied up on which you would expect
13 or hope to earn a return on. Just like you could take it and
14 put it in a savings account, it would grow. You put it in a
15 utility company, an investor, you expect it to grow or get
16 a -- get some opportunity cost recognition of your investment.
17 So return on is basically your interest or your dividend,
18 return of is your principal.

19 Q. Okay. And when you said give ratepayers a
20 credit, what did you mean by that?

21 A. When the ratepayer pays a return of monies via
22 the amortization, via the depreciation, back in pre-1986 with
23 taxes is called deferred taxes, the accumulation of those
24 payments is used as a reduction to rate-base to the -- to the
25 original cost to get a net cost of the plant that you include

1 in rate-base. It recognizes it just like a car loan you've
2 paid down X amount, therefore, I don't have to pay you
3 interest or dividends on the original loan. I only have to
4 pay you on what I owe you.

5 Q. All things being equal, a reduced rate-base
6 would mean lower rates? If the cost of service itself stays
7 the same, that means lower rates for the customer?

8 A. And, in fact -- yes, that in fact, is what has
9 driven to a large extent KCPL's ability to stay out for the
10 last 20 years. Along with other factors, but the depreciation
11 from their major investments in Wolf Creek and Iatan 1,
12 they're providing smaller and smaller rate basis each and
13 every year even though they're making other investments.

14 Q. This giving ratepayers credit, and I think you
15 refer to this on a list that you have on page 7 of your
16 testimony --

17 A. Uh-huh.

18 Q. -- as one of the major consumer protection
19 areas, this is what we're talking about on item 2 where
20 customers will receive recognition of this, quote, return of,
21 closed quote, investment to reduction of the rate-base?

22 A. Yes.

23 Q. Would you explain to me how that would be
24 different than in a -- than in a different rate-making setting
25 or in an agreement from years past?

1 A. It would not be --

2 Q. Or no agreement from years past. I mean, I
3 guess that would be the way to phrase the question.

4 A. Well, and maybe I can -- this -- characterize
5 it maybe slightly different than the way you posed the
6 question. This is essentially a comparison of what this
7 agreement does, which is like past rate-making as compared to
8 KCPL's initial proposal, which was to have this equity adder
9 placed on to the tariffs so that the customer would provide
10 cash flow through an inflated level of equity earnings built
11 into the rate-making.

12 Q. Does this mean that the ratepayer's going to
13 pay more earlier for the project?

14 A. The additional amortization will be applied to
15 existing plant accounts and utilizing the income tax
16 calculation hopefully -- and I say that hopefully because it
17 depends on the level of new investment creating deferred
18 taxes. And if you don't want to go there, we'll probably keep
19 everybody awake.

20 But basically it's going to be applied to
21 existing investment. It's a return of existing investment
22 faster than current depreciation rates would occur -- would
23 occur under current depreciation rates. It does -- it is not
24 related to the new plant accounts that will be created by
25 these new investments.

1 Q. Is there any reference at all in this agreement
2 to the issue of net salvage or costs of removal issue that's
3 come up in many of our rate-making cases? Are there any
4 provisions in this agreement which address that issue?

5 A. I would have to -- I do not believe -- not
6 specifically addressed. I think the depreciation rates set
7 out in the agreement, I don't believe it addresses those.

8 Q. Okay. There are a number of provisions within
9 the agreement --

10 A. Commissioner, if I may, Appendix G shows the
11 average service life, the net salvage and then the resulting
12 depreciation rates. So to that extent, net salvage is built
13 into the depreciation rates on Appendix G. I believe it's
14 consistent with recent Commission ruling, but there might be a
15 Staff witness that could address that a little better, but
16 that's my understanding.

17 Q. Okay. Can you identify any other depreciation
18 issues not to discuss in depth, but --

19 A. The rates, the wind and Wolf Creek and the
20 additional amortization are the four that I'm familiar with
21 right now.

22 Q. Okay. Did Office of Public Counsel participate
23 in the negotiation of the provisions which relate to other
24 provisions of state law for extraordinary rate-making
25 provisions? And I use that term just in the sense that

1 they're outside of rate case. For example, I think Senate
2 Bill 179 is included within this agreement?

3 A. Yes, it --

4 Q. Are you familiar with Senate Bill 179?

5 A. Yes, I am.

6 Q. Okay. Could you explain what Senate Bill 179
7 is and how that issue is treated in this agreement?

8 A. Senate Bill 179 provides, I believe, for three
9 separate provisions, two of which are what would be referred
10 to as single-issue rate-making mechanisms dealing with
11 environmental investments with fuel. And the third provision
12 I believe deals with gas companies and the affect of weather
13 on their revenues and a mechanism for mitigating the alleged
14 effect of that.

15 This agreement provides that Kansas City Power
16 & Light nor the parties will avail themselves of any
17 single-issue mechanism for a period of approximately 10 years.

18 Q. Did the Office of Public Counsel participate in
19 the negotiation of that provision?

20 A. Yes, they did.

21 Q. Why is that important? Or is it important? Do
22 you believe it's important?

23 A. A lot of this agreement is structured around
24 the concept of surety, surety for the financial market, surety
25 for the customers, known factors. Single-issue mechanisms, in

1 Public Counsel's viewpoint, do not provide that surety because
2 it's not known a quantity at the time we were making this
3 agreement. So it was -- it was an important consideration.
4 We provided for a way to address fuel concerns in the
5 agreement with -- with an IEC.

6 Q. Are fuel concerns for this type of facility
7 that much of a concern in terms of a surcharge or in terms of
8 volatility or changes in the cost of fuel?

9 A. Well, if you're saying this type of facility,
10 I'm assuming you're referring to Iatan 2. This agreement and
11 the IEC would -- would be system-wide. So the company does
12 have exposure -- or they do have a gas load that they utilize.
13 And to the extent volatile fuel prices occur, it would be a
14 consideration.

15 But, again, the entire doc-- a lot of this is
16 very interrelated so we're able to present the Commission to
17 look at all relevant factors. The parties are able to have
18 some surety in the negotiations of how all relevant factors
19 would be reviewed and not have any surprises, for lack --

20 Q. So there's an agreement that changes in fuel
21 costs, regardless of the type of fuel mix, would be dealt with
22 through an IEC or an interim energy charge rather than the
23 fuel adjustment clause provision through Senate Bill 179?

24 A. The company has the opportunity to bring that
25 in. Whether -- and request an IEC. Whether or not they will

1 or not would be up to them. We just make certain agreements
2 with respect to we would not question whether the Commission's
3 authorization of an IEC is within your authority.

4 Q. Okay. And I believe there's -- isn't there an
5 environmental provision within Senate Bill 179?

6 A. Yes, there is an environmental provision.

7 Q. As part of this agreement, does the company
8 agree to waive any type of use of that type of surcharge?

9 A. Yes, they do.

10 Q. Okay.

11 A. Again, the -- I would assume from the company's
12 standpoint, that is a surety with how those envi-- significant
13 portion of environmental expenditures will be dealt with.
14 Because that's a significant portion of --

15 Q. They'll be dealt with in the overall rate case
16 and rate-making process rather than deal with it as a single
17 issue?

18 A. And the timing of the rate cases and the timing
19 of the construction of those projects are all, again,
20 interrelated.

21 Q. How about is the concept of an ISRS, or
22 infrastructure system replacement surcharge, dealt with in
23 this case?

24 A. I believe that applies with water and I don't
25 think --

1 Q. Not on electricity?

2 A. Not on electricity.

3 Q. The legislature does many things in a hurry.

4 So that's not a part of this agreement?

5 A. Not to my knowledge.

6 Q. Okay. Okay. Are those provisions important of

7 the company waiving those surcharges? Are those important

8 provisions to the Office of Public Counsel?

9 A. The entire document is integrated, and yes,

10 each -- you could probably pull any one thing out and pose

11 that question, but as the document is structured, we believe

12 it's -- it is a -- a good reasonable proposal to this

13 Commission. So, yes, any provision therein is important.

14 Q. Okay. Do you believe that provides an

15 additional layer of protection for ratepayers?

16 A. Yes.

17 Q. Thank you for the short answer.

18 Looking -- do you have your Direct Testimony?

19 A. Yes, I do.

20 Q. I'm looking at the list on page 7, the list of

21 consumer protections.

22 A. Yes.

23 Q. We've talked about item 2, I think we've talked

24 to some extent about item 1.

25 A. Uh-huh.

1 Q. Would you explain to me how consumers are
2 protected because of the provision of paragraph 3 regarding
3 SO2 emission allowances?

4 A. Basically, consumers will be paying a return on
5 and of the facilities, the generating facilities they will be
6 paying the fuel costs associated with those facilities. To
7 the extent revenues are generated from those two activities,
8 the investing and the operating of the facilities, Public
9 Counsel believes it's appropriate that the ratepayer receive
10 those monies.

11 Kansas City Power & Light agreed to that. I'd
12 have -- I'm not sure when SO2 allowances were created, but I
13 would venture a guess -- I don't believe they were around
14 during their last rate case, a full rate case before this
15 Commission.

16 There has been some question in other companies
17 whether SO2 allowances should be used in the rate-making
18 process and this was something that was put into the agreement
19 to -- so that all parties knew the rules of the rate-making
20 process on a going-forward basis. It is a very -- it's an
21 important and critical issue, you know, to our office and to
22 this agreement.

23 Q. Okay. Paragraph 4 I think we've discussed.
24 Paragraph 5 relating to Missouri jurisdictional funds provided
25 by Missouri retail customers, would you explain that consumer

1 protection to me?

2 A. Kan-- Missouri -- or KCPL operates retail
3 operations in both Missouri and Kansas. There are both
4 differences in depreciation rates and differences in
5 amortizations.

6 I believe Mr. Phillips Friday in discussions
7 either with myself or with another witness talked about
8 \$30 million worth of amortizations that has occurred in
9 Missouri. We want to make sure those monies stay in Missouri
10 and do not get transferred to Kansas via the allocation
11 process.

12 Similarly, since -- there's some other issues
13 along the same lines that Kansas is growing -- getting more of
14 the allocation under the current procedure each and every year
15 than Missouri. And if -- as a result of that, monies that
16 previously would be applied to Missouri may now get allocated
17 in the future to Kansas. And we wish to ensure that if
18 Missourians paid for it, they continue to get credit and that
19 benefit doesn't flow to Kansas consumers despite --

20 Q. Okay. Paragraph 6 and 7 regarding cost control
21 and oversight of the construction process, would you explain
22 to me what you anticipate OPC and the Commission doing in
23 terms of level of oversight and participation in the
24 construction process and why this is important from your
25 perspective?

1 A. Well, having been through the Callaway and Wolf
2 Creek cases and other cases prior to that, having a procedure
3 in place to monitor the cost, identify problems, identify
4 budget overruns, and underlying cause of that is just simply
5 best prac-- management practice.

6 In prior construction periods, quite frankly,
7 utilities did not do as good a job of that as I think they, in
8 hindsight, believe they should have. And this document simply
9 sets out that obligation on behalf of the company. I would
10 anticipate the Office of Public Counsel, to the extent
11 budgetary constraints allow us given the current situation --

12 Q. What do you mean "the current situation"?

13 A. Well, when you lose 25 percent of your office
14 in one fell swoop in the budget process, it reduces some of
15 your abilities to monitor. The three people we lost was our
16 entire water people who do work in the water industry and
17 we're having to reallocate time and commitments and along
18 that -- things -- decisions along that line.

19 But to the extent we can, we will participate
20 by reviewing these -- the reports that will come out of the
21 construction management process of the company. I'll also be
22 looking at other trends and events that could affect the
23 decisional process and, again, whether to continue moving
24 forward or to change direction and go a different way during
25 this five-year construction, different technologies, different

1 costs, different fuel costs. I think there -- the Stipulation
2 and Agreement contains a long list. And I would hope it's
3 exhaustive, but I'm sure there will be a new wrinkle that we
4 didn't think of.

5 Q. This process for you began in June of 2004; is
6 that correct?

7 A. That is correct.

8 Q. Can you tell me when you recommended to the
9 Public Counsel that this agreement should be entered into by
10 the Office of OPC -- the Office of Public Counsel?

11 A. In total, probably the last evening it was
12 being negotiated.

13 Q. Which would have been approximately when?

14 A. Probably a couple days before this document was
15 filed with the Commission.

16 Q. Okay. I don't have a file stamp of the
17 document.

18 A. Well, I was looking for the signature page.

19 Q. If you don't know, you don't know.

20 Around March 28th or so?

21 A. Approximately.

22 Q. Does that sound right?

23 A. That sounds pretty good close.

24 Q. Good.

25 A. Individual components were discussed throughout

1 the document. And the last month was probably refining and
2 doing everything, but probably some time around the first of
3 February I think we had a belief that a Stipulation and
4 Agreement could be reached. But as they always say, the
5 devil's in the details and it took a significant amount of
6 effort on behalf of all parties to come to that final.

7 Q. Are there any provisions within the agreement
8 regarding any low-income ratepayer issues?

9 A. I believe there are, but I think Mr. Kind of
10 our office would be better equipped to answer those.

11 Q. That's right. I forget he did that.

12 So is it a fair statement that OPC has
13 considered that there's been an agreement in principle in
14 general on the provisions associated with this agreement since
15 February of 2005?

16 A. At a high level, yes. Conceptually we felt it
17 could be done, but again, we had to get there. And there was
18 no -- we felt that we could get there. Whether the other
19 parties could or not we were waiting to see and worked
20 diligently to find that out.

21 Q. So the agreement came before the budgetary
22 changes to your office?

23 A. I would believe that would be correct. Well,
24 the conceptual -- our belief that there could be an agreement,
25 not necessarily that -- I'm not saying there was an agreement.

1 I'm just saying that we felt that the parties would be able to
2 reach agreement.

3 Q. You were getting close enough at that point to
4 where you -- the deal was closed?

5 A. That's true.

6 Q. Okay. Has there been any change in policy from
7 your office since the change in leadership in the Office of
8 Public Counsel?

9 A. Not that I'm aware of.

10 Q. And this deal was cut before the current Public
11 Counsel was placed in office?

12 A. That is correct. I believe he was the judge on
13 the case or one of the preceding cases before this -- that led
14 up to this agreement.

15 Q. Okay. I'll stop right there.

16 COMMISSIONER CLAYTON: Thank you,
17 Mr. Trippensee, thank you, Judge.

18 JUDGE PRIDGIN: Commissioner Clayton, thank
19 you.

20 Commissioner Appling? After your questions,
21 Commissioner, I think we'll try to break.

22 COMMISSIONER APPLING: Since you mentioned
23 that, I'll make sure that my questions are short.

24 QUESTIONS BY COMMISSIONER APPLING:

25 Q. Russ, as written, this agreement from the

1 Office of the Public Counsel, do you support this agreement?

2 A. Yes, sir, we do.

3 COMMISSIONER APPLING: Thank you very much.

4 JUDGE PRIDGIN: What I'd like to do is take a
5 break even though we're in the middle of a witness. I'm
6 sorry, Mr. Dottheim, did you have something before we take a
7 break?

8 MR. DOTTHEIM: Yes. Because I don't know if
9 it's something that the Bench might want to consider in some
10 manner.

11 Commissioner Gaw has indicated, at least I
12 thought earlier today, that he had questions for Lena Mantle
13 of the Staff and Henry Warren of the Staff on matters covered
14 earlier today. And they are available to take the stand and
15 we planned on offering them. I don't know if Commissioner Gaw
16 is still available.

17 There are other members of the Staff that we
18 identified in our pre-hearing brief such as Mr. Schallenberg
19 who would be more the appropriate person for fielding the
20 range of questions that Commissioner Clayton has asked
21 Mr. Trippensee.

22 So I just thought I'd broach that matter before
23 we went on break as if that might be something that the Bench
24 might want to consider as to how we proceed when we come back
25 after the break. And I don't know if there's going to be much

1 more sought from Mr. Trippensee so then the only remaining
2 potential witnesses are the Staff witnesses.

3 MR. DANDINO: Your Honor --

4 JUDGE PRIDGIN: Mr. Dandino.

5 MR. DANDINO: -- based on some of the questions
6 that Mr. Clayton or Commissioner Clayton had asked
7 Mr. Trippensee about some things that Mr. Ryan Kind could
8 answer, Mr. Kind is here available. And even though we didn't
9 schedule him as a witness, we'd be glad to put him on for
10 Commissioner Clayton and Commissioner Appling to ask whatever
11 questions they need to round out that testimony.

12 JUDGE PRIDGIN: All right. Mr. Dandino, thank
13 you.

14 And quickly before we break, are we going to
15 have much recross from counsel? Anybody have any questions
16 for Mr. Trippensee? I'm seeing no.

17 So, Mr. Dandino, any redirect?

18 MR. DANDINO: No.

19 JUDGE PRIDGIN: All right. In that case,
20 Mr. Trippensee, you may be excused. We will now break. I see
21 3:30 on the clock. Let's try to get back at 3:45, please.
22 Let's go off the record.

23 COMMISSIONER CLAYTON: Judge, before we do
24 that, in light of Mr. Trippensee being finished, in light of
25 the comments by Mr. Dottheim, I'm wondering what we are going

1 to do next. Commissioner Gaw I know has a funeral and some
2 family matters that he's attending to and I don't think will
3 be back today. I don't know if the Commissioners are going to
4 set out who we'd like to call as a witness or if there's a
5 scheduled witness. How are we doing this?

6 JUDGE PRIDGIN: The parties had listed
7 witnesses. We're through the pre-filed testimony and the
8 parties had listed witnesses. And I believe what I had
9 intended to do anyway is to go through and have Mr. Dottheim
10 put on those Staff witnesses in no particular order just for
11 them to lay the foundation of why those witnesses support the
12 agreement and then tender them for cross-examination. But we
13 can certainly dance around that schedule however we need to tp
14 accommodate people.

15 MR. DANDINO: And, your Honor, Mr. Kind does
16 have a conflict tomorrow. He's got another case that he's
17 been assigned to too.

18 MR. DOTTHEIM: The Staff witnesses I believe
19 are here all week, although as Mr. Dandino has indicated, I
20 know there's at least one other counsel that has a conflict
21 tomorrow and would not be made -- would not be available.

22 Also, too, I don't want to forget that
23 Ms. Henry has indicated to me that if certain Staff witnesses
24 take the stand, she has some questions. And regardless of
25 whether the Commissioners would want to ask questions, we

1 certainly will make those individuals available for any
2 questions that Ms. Henry --

3 MS. HENRY: I only have a couple questions and
4 I don't want them called on my account. I'd be just as happy
5 to skip it.

6 JUDGE PRIDGIN: You're on the record saying it.

7 COMMISSIONER CLAYTON: I'll tell you, Judge, I
8 think the best thing is why don't we go ahead and take the
9 break and I can explain concerns that I have or just a wish
10 list I suppose of proceeding and maybe Commissioner Appling
11 can too and then we can kind of work up a game plan when
12 everybody returns.

13 JUDGE PRIDGIN: Let's go off the record and
14 take a break.

15 (A recess was taken.)

16 JUDGE PRIDGIN: We're back on the record.

17 Next from the Office of Public Counsel the
18 Commission would like to call Ryan Kind. Mr. Dandino, if you
19 would be ready for direct examination.

20 Mr. Kind, come forward to be sworn, please.

21 (Witness sworn.)

22 JUDGE PRIDGIN: All right. Thank you very
23 much, sir. If you would, please have a seat.

24 Mr. Dandino, whenever you're ready.

25 MR. DANDINO: Thank you, your Honor.

1 RYAN KIND testified as follows:

2 DIRECT EXAMINATION BY MR. DANDINO:

3 Q. Please state your name and occupation, please.

4 A. My name is Ryan Kind. And I am the chief
5 energy economist with the Missouri Office of the Public
6 Counsel.

7 Q. And please summarize your educational
8 background.

9 A. I have two degrees in economics and an
10 undergraduate degree and also a masters degree both from the
11 University of Missouri-Columbia.

12 Q. And what is your work experience in the field
13 of regulation?

14 A. Well, it began with working at the Missouri
15 Division of Transportation, which at one time provided
16 economic regulation of the trucking industry. I think it's
17 mostly safety regulation at this point in time. And then I've
18 been at the Office of Public Counsel since 1991.

19 Q. And have you been involved in regulation of
20 electric companies and regulation and restructuring?

21 A. Yes, I have. Over the last 17 years or so,
22 I've worked primarily in regulating the electric industry.
23 And that's involved testifying before the Missouri House,
24 Missouri Senate, providing comments to FERC, also been
25 involved in several organizations through advisory committees,

1 things like that.

2 I've been currently at -- my involvement is
3 that I'm part of the Missouri Department of Natural Resources
4 Weatherization Policy Advisory Committee. I'm a member of the
5 NASUKA electric committees, I've been involved with NERC for
6 several years, which is the North American Electric
7 Reliability Counsel where I serve on both the operating
8 committee and the standards authorization committee. I was --
9 during the period when the MISO first formed, I was on the
10 advisory committee of the Midwest ISO.

11 Q. What's the Midwest ISO?

12 A. It's a regional transmission organization that
13 includes eastern Missouri --

14 Q. Okay.

15 A. -- and stretches into about 10 states as well
16 as parts of Canada. And some other things recently in my work
17 experience I guess is that about a year ago I attended a
18 American Bar Association seminar on federal environmental
19 regulations.

20 Q. Mr. Kind, Mr. Trippensee had said in his
21 testimony that you were the other key member of the Office of
22 Public Counsel involved in these regulatory proceedings; is
23 that correct?

24 A. That is correct.

25 Q. And what was your role in that?

1 A. As Mr. Trippensee related, he worked primarily
2 on a lot of the accounting issues, future rate-making issues.
3 And my work was generally more on the side of the resource
4 planning issues, was there a need for the resources that KCPL
5 was proposing as part of its regulatory plan and as well as
6 some involvement on the issues that Mr. Trippensee worked on
7 as well.

8 Q. Okay. Were you also involved in the review of
9 KCP&L's sale of SO2 allowances?

10 A. Yes, I was. I was probably one of the primary
11 people involved in working with KCPL to develop the SO2
12 emission allowance policy which is attached to the Stipulation
13 and Agreement as Appendix A and part of my -- as part of my
14 work in getting comfortable with the proposals that KCPL had
15 developed in this area, I reviewed a document that they
16 presented on January 23rd, 2005 that was entitled Assessment
17 of the Sale of SO2 Allowances as Part of the Proposed Missouri
18 Regulatory Plan.

19 Q. Slow down.

20 MR. DANDINO: Your Honor, I'd like to have this
21 exhibit marked, please.

22 JUDGE PRIDGIN: You may. I believe we're up to
23 No. 46.

24 (Exhibit No. 46 was marked for identification.)

25 BY MR. DANDINO:

1 Q. Mr. Kind, I've given you a copy of a document
2 that's marked as Exhibit No. 46. Is this the document you
3 just testified concerning -- or identified?

4 A. I have a copy of that document. I don't know
5 that I just received it from you, but --

6 Q. I'm sorry.

7 A. -- yes, that's the document.

8 Q. Okay. And is this marked highly confidential?

9 A. Yes, it is.

10 Q. And what is the significance of this document,
11 without going into any of the specifics of it?

12 A. Sure. The significance of this document is
13 that, as has been discussed during this hearing, KCPL has some
14 pretty large cash flow needs associated with the investments
15 that are part of its regulatory plan, the largest of which, of
16 course, is the new coal plant, the Iatan 2 plant.

17 And KCPL proposed that as part of addressing
18 its cash flow needs, it would sell some of its excess SO2
19 allowances. And so we had to analyze their proposal to see if
20 there -- if they genuinely had some excess allowances, if it
21 was reasonable for them to sell some at this time and what
22 would be the potential consequences of such a sale.

23 And this document was part of the analysis that
24 I did that resulted in the cap on sales levels for SO2
25 revenues and the cap on the number of SO2 emission allowances

1 that are contained in a confidential portion of the
2 Stipulation and Agreement, specifically in Appendix A.

3 Q. And you reviewed this document as part of your
4 assignment to review the Stipulation and Agreement and
5 negotiate on behalf of Office of Public Counsel?

6 A. That's correct.

7 MR. DANDINO: That's all I have, your Honor.
8 I'd like to offer Exhibit 46.

9 JUDGE PRIDGIN: Any objections?

10 Hearing none, Exhibit No. 46 is admitted into
11 evidence.

12 (Exhibit No. 46 was received into evidence.)

13 MR. DANDINO: Tender the witness for
14 cross-examination.

15 JUDGE PRIDGIN: Thank you. Any counsel wish
16 cross-examination?

17 Seeing no volunteers, see if we have any
18 questions from the Bench.

19 COMMISSIONER CLAYTON: I thought Mr. Kind was a
20 Bench witness so I didn't know if we're going to go through
21 the whole -- I've got several witnesses that I'd like to call,
22 but I don't know if we were going to go through all this
23 testimony stuff on each one, Judge, or --

24 JUDGE PRIDGIN: He had not pre-filed and so I
25 just wanted to briefly have him testify about his background.

1 The rest of the witnesses, if I'm not mistaken, are Staff
2 witnesses. And Mr. Dottheim, correct me if I'm wrong, they
3 were just going to be tendered just to kind of have them
4 briefly talk about their participation in the case and be
5 available for Bench cross?

6 MR. DOTTHEIM: I was going to tender them for
7 Bench cross and counsel for any of the parties that might have
8 questions. But I was going to direct them such that they
9 establish their educational background and employment and what
10 have you, but I had not intended to lead them through some
11 extended direct examination on what they did in the case and
12 what have you. The Staff believes that the Stipulation and
13 Agreement of the KCPL experimental regulatory plan is in the
14 public interest, the Staff signed on --

15 COMMISSIONER CLAYTON: The only reason I bring
16 that up is I just -- I don't know if we need to go through
17 every bit of foundation necessary on Bench questions. I mean,
18 I'll leave it to your all's discretion, but I mean, my
19 questions are not about this part of his testimony so there's
20 no reason to lay the foundation for that, so just to save time
21 and everything, I mentioned that.

22 MR. FISCHER: Your Honor, on behalf of KCPL, we
23 stipulate that these folks have participated and they're
24 experts in their field and we don't need to go through the
25 introductory materials as far as we're concerned.

1 JUDGE PRIDGIN: Mr. Fischer, thank you.

2 MR. DANDINO: We'll so stipulate too.

3 MR. CONRAD: Your Honor, we will join in that
4 for purposes of this hearing.

5 JUDGE PRIDGIN: Very good. If we have any
6 objections, we'll handle them at that time.

7 COMMISSIONER CLAYTON: Thank you, Judge.

8 QUESTIONS BY COMMISSIONER CLAYTON:

9 Q. Mr. Kind, have you been involved in this
10 negotiation, this investigation and study project with KCP&L
11 since the beginning?

12 A. Yes, I have. And I think for me the
13 beginning -- it may have begun a little bit earlier than Russ
14 Trippensee's involvement.

15 Q. And when was that?

16 A. I really can't pinpoint it, but I think
17 probably during the late fall of 2004 we began discussion sort
18 of in a resource planning context during our meetings with
19 KCPL about their --

20 Q. Would that be fall of '03? Mr. Trippensee
21 suggested that the workshop started in June of '04.

22 A. That's correct, fall of '03.

23 Q. So you began working with KCP&L on their
24 resource planning back in fall of 2003?

25 A. Well, I would say at that time they sort of

1 began giving us some indications of the general road map that
2 they -- they intended to use to try and get a regulatory plan.
3 And we actually -- we had some resource planning meetings in
4 May of '04, specifically had two meetings that have been
5 referenced throughout this case. There's some presentations
6 from those meetings that were utilized in the workshop.

7 But I also had some meetings probably during
8 the first quarter of '04 with the company as well on resource
9 planning issues.

10 Q. Have you been involved in the process since
11 that time?

12 A. Yes.

13 Q. Was there any time where you were excluded from
14 the process?

15 A. No, there was not.

16 Q. Were there any meetings that you were not
17 invited to?

18 A. None that I'm aware of.

19 Q. Did you receive all the information you needed
20 from the company to make a reasoned and logic-based decision
21 on whether or not you would support this Stipulation and
22 Agreement?

23 A. Yes, I did.

24 Q. Okay. Did you participate in the negotiation
25 of each of the provisions of the Stipulation and Agreement?

1 A. I participated in most of the meetings where
2 the provisions were --

3 Q. Is that a yes or no? Is that a yes or a no?

4 A. I think it would be no --

5 Q. Okay.

6 A. -- because Mr. Trippensee --

7 Q. Excuse me. Mr. Kind, I'm going to try to get
8 through this, but --

9 A. Excuse me.

10 Q. -- the questions do not require several
11 sentences of a response.

12 A. Okay. Sorry.

13 Q. Which provisions were you primarily focusing on
14 in your role with the Office of Public Counsel?

15 A. Okay. I think the easiest way to answer that
16 is to refer to the index of the Stipulation and Agreement.
17 And I'll just go through that and I'll designate the areas
18 where I was involved. 3B 1A, capital investments and
19 programs.

20 Q. Hang on just a second. I've got so much paper
21 up here, I apologize. Could you just give me the general --
22 just the issues --

23 A. Yes.

24 Q. -- rather than --

25 A. Okay. The issues would have been all of the

1 investments that are part of the resource plan that's in the
2 regulatory plan. So that would be all the capital investments
3 and programs, the SO2 emission allowance portion of the
4 agreement, the off-system sales portion, transmission related
5 revenue portion, the resource plan monitoring is another
6 section of the stipulation, the demand response efficiency and
7 affordability programs, was also involved in the partnership
8 issues on the Iatan 2 plant and the class cost of service
9 issues, special contract issues.

10 Q. Okay.

11 A. That's -- that's pretty much it, although I was
12 involved just in almost all the meetings where general
13 discussions took place.

14 Q. Okay. Good. I'd like to focus on
15 affordability just for a second. And I believe the provisions
16 on that in the Stipulation and Agreement begin on page 46. Do
17 you have a copy of the Stipulation and Agreement before you?

18 A. Yes.

19 Q. And I was wondering from the Office of Public
20 Counsel's perspective, if you could set out what your
21 priorities were in relating to affordability issues? How did
22 you address the issue of affordability for ratepayers? and I
23 assume it's for low-income, moderate-income consumers. How
24 did you work on this issue from the Office of Public Counsel?

25 A. Okay. Well, we had a series of meetings that

1 addressed all the customer programs. And that would be the
2 affordability as well as the demand response and efficiency
3 programs.

4 And affordability programs were addressed as
5 part of that series of meetings. There were probably at least
6 six or eight meetings. I would not say that affordability
7 programs were really the main focus of those meetings, but
8 they were one of the things we discussed.

9 And I think our -- the main approach of our
10 office is that we recognize that a regulatory plan that
11 includes the substantial investments that this plan includes
12 will lead to some significant rate impacts. And we wanted to
13 make sure that there were affordability programs in place so
14 that for those customers where those rate impacts had, you
15 know, a really big impact on their ability to afford their
16 monthly energy bills, there would be some programs in place to
17 address that.

18 Q. Can you summarize the provisions of
19 subsection 5 that begin on page 46? And that section relates
20 to demand response efficiency and affordability programs. Can
21 you summarize for me the provisions of the agreement relating
22 to those issues?

23 A. Sure. Relating to all three types of programs?

24 Q. Yes. It's only a couple of pages and I was
25 hoping you could reduce it down to a couple of points for

1 each.

2 A. Okay. Well, there were -- during our meetings,
3 we discussed a number of programs and there was pretty good
4 consensus on a lot of the programs that should be implemented.

5 There was not a complete consensus on the level
6 of expenditures for the programs in one area and that's the
7 area of efficiency programs. And for that reason, there is a
8 provision in here that says that the initially budgeted
9 figures for programs in that area could be increased based on,
10 you know, additional interaction between the Customer Program
11 Advisory Group and the company.

12 But other than in that area, we pretty well
13 laid out that here's a series of programs to be implemented,
14 we won't try and implement them all in the first year, we'll
15 kind of stagger them so we can, you know, do a good job of
16 implementing them. And pretty much just -- just sort of --
17 this -- this section sets up a process for the Customer
18 Program Advisory Group --

19 Q. Is that --

20 A. -- to be involved.

21 Q. -- that a new phenomenon? CPAG, is that the
22 only -- the case of a utility in which that acronym has been
23 found?

24 A. Well, that acronym, but I wouldn't say the
25 concept is new in Missouri or elsewhere.

1 Q. Okay. But as a group acting with membership, I
2 suppose, working on these issues, is it a new concept to be
3 recognized in an agreement of this sort?

4 A. No. As part of the Stipulation and Agreement
5 from the last AmerenUE complaint case, there were several
6 collaboratives set up to implement different types of
7 programs. And one of the collaboratives was an energy
8 efficiency collaborative. And that's something that I've been
9 working as part of that collaborative over the last couple of
10 years.

11 Q. Has it been your experience that those
12 collaborative efforts work? Do they allow for enhanced
13 communication and for results in planning on these issues?

14 A. It's my experience that they work quite well.
15 However, they -- they do take a lot of resources in order to,
16 you know -- from the perspective of the Public Counsel, to get
17 the outcomes that are desirable.

18 One of the reasons that they work and one of
19 the reasons I think they're necessary is, as has been
20 discussed earlier in this hearing, electric utilities don't
21 really have a strong financial incentive to implement programs
22 that are going to encourage customers to reduce their loads,
23 at least if you just look at it from a dollars and cents
24 perspective.

25 Now, if you look at it from a risk mitigation

1 perspective, I think you could find that utilities actually do
2 have a reason to be interested in these programs. But I don't
3 think you can count on all utilities to necessarily recognize
4 potential risk mitigation benefits.

5 And so for that reason, there really is a need
6 to have some oversight I think of utility activities in this
7 area to make sure that when they are budgeting money to spend
8 on this type of program, that they are, in fact, designing and
9 implementing programs that are going to be beneficial for
10 customers and are essentially that are going to get the most
11 bang for the buck.

12 Q. I am going to ask you one background question
13 that I think has already been asked, but I need to ask you
14 again. How long have you been with the Office of Public
15 Counsel?

16 A. I started working with the Office of Public
17 Counsel April 1st of 1991.

18 Q. '91. So you're getting close to your 15-year
19 pin.

20 A. I think I'm past that.

21 Q. Past the 15 year? Okay. Not sure how, but --

22 A. Well, no. Actually, I guess -- I'm thinking my
23 employment in state of Missouri, I'm past that. Public
24 Counsel, I'm not.

25 Q. Okay. Have you ever seen an agreement of this

1 complexity and as comprehensive as this agreement relating to
2 these issues?

3 A. I don't believe so.

4 Q. Okay. Did you recommend to the Public Counsel
5 that he sign this Stipulation and Agreement?

6 A. Yes, I did.

7 Q. Okay. And under oath here today is it your
8 testimony that it is in the public interest for this
9 Commission to adopt the provisions of this Stipulation and
10 Agreement?

11 A. Yes, it is.

12 Q. Do you believe that this agreement will benefit
13 the consumers of this state and the ratepayers within this
14 territory?

15 A. Yes, I do.

16 Q. Do you believe there's sufficient numbers of
17 consumer protections for future rate increases that may or may
18 not occur? I say may not and people shudder, but are you
19 satisfied that there's sufficient consumer protections within
20 this agreement?

21 A. Yes, I am. That's -- I mean, just -- as
22 Mr. Trippensee stated, you have to sort of look at the
23 agreement as a whole. And, you know, what is my view of it as
24 a whole, is it in the public interest? And, of course,
25 consumer protections are a viable part of my being able to say

1 that it is in the public interest.

2 Q. Okay. You've been afforded all the information
3 that you need to make that decision?

4 A. Yes, I have.

5 Q. Okay. And is it your recommendation that the
6 Commission adopt this agreement?

7 A. Yes, it is.

8 COMMISSIONER CLAYTON: I don't think I have any
9 other questions.

10 JUDGE PRIDGIN: Commissioner Clayton, thank
11 you.

12 Commissioner Appling?

13 COMMISSIONER APPLING: No questions.

14 JUDGE PRIDGIN: Thank you.

15 Any recross? Ms. Henry?

16 MS. HENRY: Yeah.

17 JUDGE PRIDGIN: Any other counsel other than
18 Ms. Henry?

19 RECROSS-EXAMINATION BY MS. HENRY:

20 Q. I apologize. I thought you were just up here
21 to talk about SO2 allowances so I didn't ask my questions.

22 During the workshops did you ever ask KCP&L to
23 bring you data showing you how much it would take to do energy
24 efficiency to defer the building of Iatan 2 for another year?

25 A. I don't believe I asked that specific question,

1 no.

2 Q. And do you know if KCP&L has been granted a
3 variance from chapter 22 for the coming IRP?

4 A. No. I don't believe that they have. I guess I
5 should ask for some clarification, what you mean by "the
6 coming IRP"?

7 Q. I think there might be one due in 2006.

8 A. By "one due," you mean a filing by KCPL?

9 Q. Well, I'm -- yeah, that's what I mean. But I
10 don't know exactly when it's going to be filed and when it's
11 due so -- okay.

12 MS. HENRY: Thank you. I have no further
13 questions.

14 JUDGE PRIDGIN: Thank you.

15 Any redirect, Mr. Dandino?

16 MR. DANDINO: No, your Honor. Thank you.

17 COMMISSIONER CLAYTON: I have one question in
18 response to that question.

19 FURTHER QUESTIONS BY COMMISSIONER CLAYTON:

20 Q. Ms. Henry asked you whether you asked KCP&L
21 whether you -- whether they could delay the implementation of
22 Iatan 2 based on studying energy efficiency, I believe was the
23 question, whether you asked the question. And I was going to
24 ask, should you have asked the question --

25 A. I think --

1 Q. -- and if the answer -- and explain your
2 answer.

3 A. Okay. I think her question was did I ask them
4 if they could come up with demand side management programs
5 that would have an impact large enough to delay the need for
6 Iatan 2 by one year.

7 And, no, I don't believe I should have asked
8 that question. I have a sense that the counsel for the Sierra
9 Club is asking that question because there's a provision in
10 the rules that has to do with -- I think it pertains to
11 calculating avoided costs for doing demand side analysis.

12 And to do that calculation there is -- I
13 believe, part of the mechanics of that calculation would be
14 coming up with dollar expenditure in order to defer like
15 annual load growth, that amount of additional capacity needed
16 for one year.

17 And I -- so from my perspective, the energy
18 efficiency part of the agreement was very important. And I
19 guess I -- I don't think you can just ask a utility company,
20 you know, what -- you know, when you -- well, I guess I should
21 start off with, first of all, you come to develop some DSM
22 programs, you design some programs that you think can
23 reasonably be implemented, that have some reasonable targets
24 in terms of the participation rates and in terms of the impact
25 from customers that you get from them participating. And you

1 can come up with different portfolios of DSM programs, you can
2 have a very aggressive portfolio, you can have programs that,
3 you know, just really ramp up slowly.

4 From my perspective, the company has developed
5 a portfolio of programs that is -- I would term it moderately
6 aggressive in terms of essentially starting from zero. And I
7 would have concerns with trying to implement a set of programs
8 that's more aggressive than this when you're starting from
9 zero because you just -- you don't have a good idea of what
10 sort of capabilities can be developed within a utility to do a
11 really prudent job of implementing the programs, and you also
12 don't have a good idea of how the customers in their service
13 territory are going to respond to the programs.

14 So it's the kind of thing where you really want
15 to get some experience before you would spend more money than
16 we've got for our initial budgeted expenditures in here.

17 If the company had been doing these programs
18 five years ago and was already up to this level, I would have
19 said, hey, now's the time to think about, you know, what more
20 can you do and what does that mean. But this -- it was
21 looking at things from a different perspective when you're
22 essentially starting from zero.

23 COMMISSIONER CLAYTON: Thank you.

24 JUDGE PRIDGIN: Commissioner Clayton, thank
25 you.

1 I don't believe we have any more questions.

2 Mr. Kind, you may be excused. Thank you very much.

3 THE WITNESS: Thank you.

4 JUDGE PRIDGIN: Is Ms. Randolph here on behalf
5 of DNR?

6 MS. VALENTINE: No, your Honor, she's not, but
7 she will be here tomorrow morning.

8 JUDGE PRIDGIN: Mr. Dottheim, I think the
9 Commission wants to hear from Staff witnesses. Is
10 Mr. Schallenberg available and ready to go?

11 MR. DOTTHEIM: I think Mr. Schallenberg is
12 indicating that he's ready to go, but again, Commissioner Gaw
13 expressed, I thought, some interest in asking questions of
14 some other Staff witnesses. I don't know how the Commission
15 would like to proceed. Of course, Mr. Schallenberg can take
16 the stand now.

17 I mean, I'm looking for some indication because
18 if there aren't any questions from the Bench and I think we
19 have an indication that there's not possibly any questions
20 from any counsel, including counsel for Sierra Club, Concerned
21 Citizens, I had not intended to ask the members of the Staff
22 who otherwise would be witnesses to go through a set of
23 questions and answers regarding the Stipulation and Agreement.

24 JUDGE PRIDGIN: I understand, Mr. Dottheim. I
25 think that the Bench would have questions for Mr. Schallenberg

1 and perhaps not all of the witnesses. Commissioner?

2 MR. DOTTHEIM: The Staff has attempted to be
3 mindful of providing cumulative testimony and testimony where
4 the Staff had anticipated what the other parties or the
5 Commissioners might want the Staff to address from experience
6 with the ongoing rate case efficiency roundtable and concerns
7 that the Commissioners have expressed regarding the filing of
8 testimony. Of course, the Staff's not intending to deny
9 anyone the right to cross-examine Staff.

10 Also, too, at the same time, the various Staff
11 members who are involved in the KCPL experimental regulatory
12 plan Stipulation and Agreement are also involved with meeting
13 several times a week generally with Aquila and Empire
14 regarding their regulatory plans, which are facing deadlines.
15 So that was another thought of the Staff in whether to file
16 Direct Testimony or not.

17 COMMISSIONER CLAYTON: What was your initial
18 question? You don't remember either, do you?

19 MR. DOTTHEIM: No, no. I don't -- I don't know
20 that it's necessarily relevant. Mr. Schallenberg is available
21 to take the stand.

22 COMMISSIONER CLAYTON: If I may, Mr. Dottheim,
23 just to provide some clarity, I'm going to have some questions
24 for Mr. Schallenberg on just a handful of issues. I'm not
25 sure whether -- the way this is going, whether I can finish in

1 25 minutes.

2 I know Commissioner Gaw had a family death that
3 he's attending to and he is not going to be here tomorrow so
4 there's a problem with that. When I talked to him -- I mean,
5 I cannot speak for him and he did not say everybody can go on,
6 so I'm not sure how the judge is going to plan on that. I
7 have questions and you know that if -- I hesitate to say this
8 on the record, but Commissioner Gaw's going to have questions
9 for anybody you put in front of him, I think, but I don't know
10 how the judge is going to want to handle that.

11 For my purposes, I'll have questions, just a
12 handful for Mr. Schallenberg. I'll do the best I can to get
13 through those. And then we may have to have a conversation on
14 how to proceed tonight.

15 I do have questions for Ms. Randolph. I don't
16 know if she's going to be here or not.

17 MS. VALENTINE: We'll try to get her here.

18 COMMISSIONER CLAYTON: It may be too late in
19 the day and I apologize for that. So having said that, the
20 sooner we get started on Bob --

21 MR. DOTTHEIM: That would be fine.

22 JUDGE PRIDGIN: Stumbling ahead.

23 (Witness sworn.)

24 JUDGE PRIDGIN: Thank you very much. If you
25 would, please, have a seat.

1 Mr. Dottheim, when you're ready.

2 ROBERT SCHALLENBERG testified as follows:

3 DIRECT EXAMINATION BY MR. DOTTHEIM:

4 Q. Would you please state your name?

5 A. Robert E. Schallenberg.

6 Q. And would you please state your business
7 address?

8 A. 200 Madison Street, Jefferson City, Missouri.

9 Q. What is your present employment?

10 A. I'm employed by the Missouri Public Service
11 Commission. I am a division director of the utility services
12 division.

13 Q. Would you please indicate your employment
14 history prior to your present employment by the Commission?

15 A. I started working with the Commission directly
16 after I got my bachelors degree with an emphasis in auditing
17 from the University of Missouri at Kansas City. While I was
18 going through school, I worked for White Westinghouse for
19 about four to six years.

20 Q. Have you worked solely for the Missouri Public
21 Service Commission after your graduation from college?

22 A. Except for a five-month period I worked for the
23 Kansas Corporation Commission, and then I returned to the
24 Commission.

25 Q. And you've indicated your educational

1 background. Is there anything further regarding your
2 educational background?

3 A. I have an associate's degree in business from
4 Penn Valley Junior College.

5 Q. Do you hold any professional licenses?

6 A. I'm a certified public accountant in the state
7 of Missouri.

8 Q. Have you submitted testimony previously in
9 regulatory proceedings?

10 A. Yes. Before this Commission, the Kansas
11 Corporation Commission and the Federal Energy Regulatory
12 Commission.

13 Q. And can you give an indication of the nature of
14 the range of the testimony that you've submitted before the
15 Commission as far as subject matters or -- and also
16 industries?

17 A. Subject matters would be in rate-making,
18 prudence, detailed cost of service matters such as income
19 taxes, experimental regulatory plans, earnings and sharing
20 grids. The range of industries would be telephone, electric
21 and gas cases. I've never filed testimony on water or sewer
22 cases.

23 Q. And you've provided testimony on behalf of the
24 Staff in prior Kansas City Power & Light cases, have you not?

25 A. Yes. For several Kansas City Power & Light

1 cases.

2 Q. Mr. Schallenberg, have you also filed testimony
3 and testified before the Federal Energy Regulatory Commission?

4 A. Yes. I filed on behalf of the Commission on
5 matters involving gas transmission cases and gas contracts
6 that were being passed back through the state of Missouri.

7 Q. Mr. Schallenberg, were you among the principal
8 Staff members who were responsible for working with Kansas
9 City Power & Light Company and the various participants that
10 ultimately resulted in the Staff being a signatory party in
11 the Stipulation and Agreement that was filed on March 28th of
12 this year and the presently pending docket?

13 A. Yes. I was also assigned the role to
14 facilitate the entire process.

15 MR. DOTTHEIM: I would tender Mr. Schallenberg
16 for questions from the Bench and questions that any of the
17 parties -- counsel for any of the parties might have.

18 JUDGE PRIDGIN: Mr. Dottheim, thank you.
19 Commissioner Clayton?

20 COMMISSIONER CLAYTON: Thank you.

21 QUESTIONS BY COMMISSIONER CLAYTON:

22 Q. Mr. Schallenberg, I'd like to talk about a
23 couple of the financial issues associated with the Stipulation
24 and Agreement. You mentioned in the direct examination by
25 Mr. Dottheim that you were involved in all aspects of the

1 discussion and the creation of the Stipulation and Agreement?

2 A. Yes. Generally in detail for all but the
3 group A meetings on demand side management, energy efficiency
4 and affordability, which was handled by Ms. Mantle who handled
5 that while I was doing the other group.

6 Q. Okay. So you were involved in most of the
7 other issues -- or all the other issues excluding the ones you
8 just mentioned?

9 A. And I was involved generally in those areas. I
10 was not able to handle all the detail on that one segment
11 while it took place.

12 Q. Are you personally familiar with each of the
13 provisions within the Stipulation and Agreement as drafted?

14 A. Yes.

15 Q. Okay. What was your role in terms of beyond
16 just being a facilitator? How did the Staff arrive at a
17 decision of whether or not to sign onto the Stipulation and
18 Agreement? And I ask that question meaning was it your
19 decision? Was it a team approach? Was it a collaborative
20 effort among the Staff?

21 A. It would be a collaborative effort between the
22 Staff -- among the Staff with myself, Mr. Henderson, who was
23 my counterpart division director of operations and the general
24 counsel, Mr. Joyce. And then there were representatives from
25 each of our three divisions that worked on this and at the

1 end, there was a collaborative decision to support this
2 agreement.

3 Q. In your opinion -- despite being a
4 collaborative effort, in your opinion, do you believe it is in
5 the best interest for this Commission -- in the best interest
6 of the public for this Commission to adopt the provisions of
7 this Stipulation and Agreement?

8 A. Yes, I do.

9 Q. Specifically relating to depreciation --

10 A. Yes.

11 Q. -- there are several provisions that relate to
12 an issue known as depreciation or also alternatively known as
13 amortizations. Is that a fair statement?

14 A. Yes. I think there's five amortizations in the
15 case.

16 Q. You agree that one of those issues relates to
17 increasing the service life of Wolf Creek?

18 A. Yes.

19 Q. Another provision relates to setting service
20 life for wind generation assets?

21 A. Yes.

22 Q. There also is an issue known as additional
23 amortization. Are you familiar with that?

24 A. Yes.

25 Q. Could you explain that issue more in depth for

1 me?

2 A. Yes. In doing the workshop and looking at the
3 cash flow needs for KCP&L in order to effectuate all of the
4 expenditures that were placed in the agreement -- and I mean
5 all of those because Iatan 2 is a significant expenditure, but
6 we have significant expenditures for environmental upgrades to
7 Iatan 1 to LaCygne 1, we have significant expenditures to
8 handle problems with distribution and transportation area and
9 also in the area of demand side management affordability and
10 efficiency as well. So that put significant cash flow
11 requirements on KCP&L.

12 And when we -- and one of the concerns that was
13 one of the nonstarters when we first began this is KCP&L
14 indicated they would not take on these obligations if they
15 would be downgraded below investment grade. So we had to
16 construct some framework that would get these programs funded
17 that would also meet that requirement. And the additional
18 amortization was the fallout of many attempts to address that
19 issue.

20 Q. And explain to me how this provision will work
21 in terms of relating -- in terms as it relates to financial
22 rating agencies and also to cash flow.

23 A. In prospective rate cases beginning with the
24 first rate case that starts next year through the 2009 rate
25 case, which is anticipated to be the time when Iatan 2 would

1 be placed into service, the additional amortization works in a
2 manner that when parties -- the signatory parties are making
3 recommendations to the Commission.

4 They will also look at the result of their
5 amortizations in terms of its cash flow to meet the two
6 targets that are specified in the agreement, which is fre--
7 excuse me, free funds from operation in relation to debt and
8 free funds from operations related to interest.

9 To the extent their recommendations are
10 inadequate to meet the Missouri proportion of that, they have
11 agreed to adjust upward or downward, depending on the case,
12 from the 17 million standard used to be a par-- a position for
13 that party in a rate case.

14 Q. And is this the starting point? Is it -- the
15 dollar amount comes from the value of asset that is currently
16 in service, will be in service or is it not yet in service?
17 Where does the amortization come from?

18 A. The \$17 million number was a negotiated number
19 that came -- it was derived from some financial scenarios that
20 initially KCP&L had. And then I think on further work, KCPL
21 showed a lower number as a starting point.

22 At the same time, there was an earnings review
23 being done of KCPL to establish the adequacy of current rates.
24 And that number was drifting around the \$17 million number as
25 an amortization. So while we could never come to an agreement

1 as a fixed amortization, we agreed to start with the
2 \$17 million number as one the parties would be agreeable to
3 start with using the ratios to give you the right to adjust it
4 upward or downward.

5 Q. When would those adjustments occur?

6 A. The first time it will occur will be in what is
7 called in the agreement the 2006 rate case or the rate case
8 that they file in February of next year.

9 Q. So it would happen before the rate case or
10 during the rate case?

11 A. It would happen -- the ratios would first be
12 looked at at the time a party made a recommendation in that
13 rate case. I would anticipate if we follow what we have now,
14 KCPL will look at it when they file their direct case and the
15 Staff will look at it when it files its first -- whether it
16 has a direct case or whatever, whenever its first revenue
17 requirement, it will look at what that number will be in
18 relation to what its total cost of service recommendation is.

19 Q. Is it assumed that the parties will come to an
20 agreement on that number? Will it be clear enough to -- or
21 will there be issues that will be in dispute that will cause
22 an argument about what the number will be?

23 A. We have attempted to address the methodology so
24 that the way the number is derived is hopefully agreed upon.

25 Q. A certain perhaps --

1 A. Well --

2 Q. -- an idea of how to -- how to come up with
3 that figure with some certainty?

4 A. Yes. With the understanding that depending on
5 the issues the parties take, that could impact what the
6 amortization would be in relation to that respective party.
7 But once we knew what the Commission's decisions were on the
8 cost of service issues, it is anticipated and expected that
9 the fallout would be what the amortization would be for the
10 parties.

11 Once they knew whatever issues they could not
12 resolve, once they knew what that resolution would be, the --
13 the agreement is designed that the amortization requirement
14 would be defined at that time.

15 Q. How often after that would the figure be
16 adjusted?

17 A. It would not -- it would only be adjusted in
18 each rate case between now and the 2009 case. In the 2009
19 case the amortization will not be active. There is no
20 agreement to do it in the 2009 case.

21 Q. Why is that?

22 A. Because at that time we will have completed all
23 of the infrastructure investments that are in this agreement,
24 so the need to have that -- that support will have disappeared
25 and rates will be set on the full costs of service that exist

1 after the completion of Iatan 2.

2 Q. So the plant will be in service, it will be
3 used and useful at that time?

4 A. Right. And then you would have -- depreciation
5 will be set on all of these investments. Their financing will
6 have been rolled over to permanent financing by that time and
7 the depreciation, ongoing expenses, fuel should be established
8 after we've gone through the -- all the aspects of this
9 program.

10 Q. There was a statement by Mr. Trippensee earlier
11 today the ratepayers will be given credit at some point. And
12 how does that apply to this issue?

13 A. The amortization is designed that whatever
14 funds are provided during -- beginning with the 2006 rate case
15 up until the establishment of rates from the 2009 case, it
16 will be used to credit against the investment of which you set
17 rates between that time period and I think there's a five-year
18 grace period after the Iatan 2 case to give certainty that
19 that benefit would last for five years beyond that. But the
20 investment that would be used to set rates will be reduced by
21 the monies raised through the amortization.

22 Q. Why is this additional amortization issue good
23 for ratepayers or consumers?

24 A. Well, I would say it is good for the customers
25 in the sense that the investments, which I think there was a

1 general consensus by the signatory parties that having those
2 investments made for the KCPL system were good for the
3 customers to have. In the long run, the customers will pay
4 less for those investments than they would have if we filed
5 the traditional regulatory approach.

6 Q. Why is that?

7 A. Because the customers will -- in terms of the
8 AFDC -- excuse me, you're asking me just about the
9 amortization.

10 In terms of the amortization, the customers
11 will not be charged the full return requirements that they
12 would have been charged absent amortization.

13 Q. Does this mean that -- does this reflect in
14 rates at a higher amount? Will this mean higher rates in the
15 short term rather than later term or the opposite or neither?

16 A. It is possible -- and -- it is possible that in
17 the short run, the rates may be higher, but that's not
18 definitive at this stage because there is no agreement as to
19 how the rates will be set in the short run.

20 If you assume that the same decisions would be
21 made on all issues other than the amortization, you can
22 project the hypothesis that they would be higher in the short
23 run, but they will correspondingly be reduced in the long run
24 by the amortization.

25 Q. All things being equal, potentially they will

1 be higher in the short run?

2 A. In the short run, yes, but they will be more
3 than offset in the long run.

4 Q. Does the agreement reflect the concept that all
5 relevant factors will be used in determining rates, whether it
6 be in year one, year two, three or four or in rate case one
7 through four?

8 A. Yes. There is no restriction at all in the
9 determination of using all relevant factors to set rates.

10 Q. And why is it important that all relevant
11 factors be considered in establishing rates?

12 A. Well, I can only -- I know that was a legal
13 matter that was brought forward in terms of finding a basis
14 for a regulatory plan that could be agreed to. It was decided
15 that we could not agree to rate changes through the workshop
16 or the EO docket. The technique that we finally settled on is
17 we would use the rate case to set any rate-making implications
18 from our agreement.

19 Q. Okay. That was the third depreciation issue.
20 Could you describe the fourth and fifth depreciation in the
21 agreement for me? Are you able to do that?

22 A. There's an amortization issue -- well, you say
23 issue. It's a feature. There's an amortization issue to keep
24 the 3.5 million that has been accruing now for close to
25 10 years. That stays in effect through January 1st of 2007,

1 which will continue to accrue and work to reduce rates in the
2 future. It's a precursor to the 17 million. That will stay
3 in effect, but then that will be terminated in the 2006 rate
4 case.

5 Q. Can I ask you, where does that accrual come
6 from, that 3.5?

7 A. It actually started from our first rate
8 settlement in the Wolf Creek period as -- in terms of our
9 earnings reviews when we've been able to effectuate
10 settlements. Sometimes part of it is done in terms of rate
11 reduction, but to the extent rate reduction doesn't satisfy
12 all parties, we have used the technique of putting in an
13 amortization, which while the rates don't get reduced, you get
14 credit for that piece in the setting of rates in the future.

15 And that -- that item has been in effect I
16 would say for at least 10 years and has been rolled over and
17 it will continue to stay in effect through January 1 of '07.

18 Q. Okay.

19 A. And I think the last item is we set
20 amortizations -- if you look at the depreciation schedule,
21 there are certain investments that need amortizations. So
22 when we set the depreciation rates, we also addressed
23 amortizations for all the other pieces of property that we
24 knew of at the time.

25 And I think there's -- there's an amortization

1 set up in our agreement to address the costs for demand side
2 management, energy efficiency and affordability. There's
3 another amortization in that one. And I think that's five.

4 Q. Okay. And you're satisfied in looking at the
5 agreement in total that the treatment of those five issues are
6 satisfactory -- satisfactorily handled in the overall
7 agreement and being a positive thing for consumers or the
8 ratepayers?

9 A. Yes.

10 Q. Okay. How long have you been with the Public
11 Service Commission?

12 A. 2-- I think it's 28 years.

13 Q. Coming up on your 30-year pin.

14 A. Well, if I stay around a couple of years.

15 Q. Ouch.

16 A. It's day by day.

17 Q. I think you just affected the stock market.

18 A. Yeah, but I'm told favorably.

19 Q. That's a fair statement.

20 It is not insignificant that as the facilitator
21 in this project, that you signed onto this agreement. Would
22 you agree that this is an agreement of first impression before
23 the Commission on its substance and the nature of each of the
24 provisions within it?

25 A. Yes.

1 Q. And have you been satisfied with the exchange
2 of information among the parties throughout the process?

3 A. Yes. In fact, I would say as one of the
4 benefits of the process is the exchange of information and the
5 relationship with the parties is better now after the process
6 than it was when we started.

7 Q. You've received all the information that you've
8 needed to make a decision based on fact and good rate-making
9 policies?

10 A. Yes. And the other members of the Staff.

11 Q. Okay. You've been involved throughout the
12 process since, shall we say, what, fall of 2003? Is that when
13 it began for you?

14 A. Yes. I mean, there are some precursor
15 activities. The IRP process had started before the workshop.
16 There were discussions about our earnings review before the
17 workshop. So the fall of 2003 would be as good of a beginning
18 point for any for this.

19 Q. And you've been involved in one way or another
20 throughout the process?

21 A. Yes, I have.

22 Q. Okay. Is it your recommendation that we adopt
23 this Stipulation and Agreement?

24 A. Yes, it is.

25 COMMISSIONER CLAYTON: Okay. Thank you very

1 much Mr. Schallenberg. I have no further questions.

2 JUDGE PRIDGIN: Commissioner Clayton, thank
3 you.

4 Commissioner Appling?

5 COMMISSIONER APPLING: I have no questions.

6 JUDGE PRIDGIN: All right. Thank you.

7 Let me see if we have any cross-examination
8 from counsel. Ms. Henry?

9 CROSS-EXAMINATION BY MS. HENRY:

10 Q. Is it correct that this workshop proceeding had
11 not been used before to do something like this?

12 A. No. We had a workshop -- KCP&L proposed a
13 workshop-type format in order to construct the plant to remove
14 its generation plant from our jurisdiction. It never reached
15 an agreement, but we did use a workshop approach in that
16 endeavor as well.

17 Q. Did any regulations set forth any guidance on
18 what exactly KCP&L had to file during the workshops?

19 A. None that I recall.

20 Q. And what was the standard of review that you
21 and your Staff used to find this was in the public interest?

22 A. I don't -- I don't know that we used a -- we
23 didn't have a precursor guideline for -- for doing that, no.

24 MS. HENRY: Okay. Thank you. I have no
25 further questions.

1 JUDGE PRIDGIN: Any further cross?

2 Mr. Dottheim, any redirect?

3 REDIRECT EXAMINATION BY MR. DOTTHEIM:

4 Q. Mr. Schallenberg, does the Staff on a regular
5 basis deal with determining whether transactions are in the
6 public interest or not detrimental to the public interest?

7 A. Yes.

8 Q. Mr. Schallenberg, will the additional
9 amortizations be determined by the amount of dollars reflected
10 in KCPL's construction accounts?

11 A. No.

12 Q. Will the additional amortizations be determined
13 for any facility that is not fully operational or used for
14 service?

15 A. No.

16 MR. DOTTHEIM: Thank you.

17 JUDGE PRIDGIN: Mr. Dottheim, thank you.

18 Mr. Schallenberg, thank you. You may be
19 excused.

20 Ms. Valentine, is Ms. Randolph here or will she
21 be here?

22 MS. VALENTINE: Yes, she is.

23 JUDGE PRIDGIN: If Ms. Randolph will come
24 forward, please, and sworn.

25 (Witness sworn.)

1 JUDGE PRIDGIN: Thank you very much. If you
2 would, please have a seat.

3 Ms. Valentine, when you're ready.

4 MS. VALENTINE: Thank you, your Honor.

5 In the interest of saving time, the Department
6 of Natural Resources is willing to offer Ms. Randolph as an
7 expert in the area of energy efficiency, if none of the
8 counsel object.

9 MR. FISCHER: No objection, your Honor.

10 MR. DANDINO: No objection.

11 MR. CONRAD: No objection.

12 MR. DOTTHEIM: No objection.

13 JUDGE PRIDGIN: Do I have any objections at
14 all?

15 Hearing none, is that the extent of your
16 direct?

17 MS. VALENTINE: Yes.

18 JUDGE PRIDGIN: Thank you. Let me see what
19 kind of questions we have from the Bench.

20 COMMISSIONER CLAYTON: Thank you, Judge.

21 QUESTIONS BY COMMISSIONER CLAYTON:

22 Q. Ms. Randolph, when did you begin your
23 involvement in this process?

24 A. I began -- began my involvement in this process
25 at the beginning of the workshop series, which seems to me was

1 close to a year ago.

2 Q. Roughly June of 2004?

3 A. Correct.

4 Q. That's consistent with other testimony. It was
5 a good guess.

6 Have you been involved ever since the beginning
7 of that workshop process?

8 A. Yes, I have.

9 Q. Okay. Have you had access to all the
10 information you need to make an informed decision on whether
11 or not to support the Stipulation and Agreement in this case?

12 A. Yes, I have.

13 Q. Okay. Has anybody else from the Department of
14 Natural Resources in the energy department participated in
15 this case?

16 A. Yes.

17 Q. Who else has participated other than yourself?

18 A. Most particularly, Brenda Wilbers of my Staff.

19 Q. Okay. This is probably a little complicated
20 for the Department of Natural Resources considering there are
21 various divisions that are involved, but how was the decision
22 made at DNR whether or not to support this Stipulation and
23 Agreement? Was it the director's decision? Was it a
24 collaborative approach? Was it you and another division
25 making the decision? Can you give me some insight on the

1 various roles that were played by DNR?

2 A. Yes. I discussed the contents of the
3 Stipulation and Agreement with other programs in the
4 department that had an interest and had areas of
5 responsibility pertaining to some of the contents of the
6 Stipulation and Agreement. We developed a consensus
7 recommendation to our department director and it was our
8 department director's ultimate decision.

9 Q. Okay. Was it your recommendation to Director
10 Childers to endorse the Stipulation and Agreement?

11 A. It was my recommendation.

12 Q. Okay. Do you know when you arrived at your
13 decision to support the agreement?

14 A. The -- mine personally or Department Director
15 Childers?

16 Q. Let's start with you personally and then --

17 A. My decision to recommend that Director Childers
18 approve Department of Natural Resources signature took place,
19 I would say, about two or three weeks before the signatures
20 were actually affixed to the stip.

21 Q. So 2005?

22 A. Yes.

23 Q. It was in 2005?

24 A. Yes, yes.

25 Q. So your decision and your recommendation was

1 made in the same -- during the same -- the time of the same
2 administration as when the agreement was actually signed?

3 A. That's correct.

4 Q. Okay. Okay. From your perspective, what did
5 you look at in terms of whether or not you could support the
6 agreement? What issues?

7 A. We looked at three primary issues contained in
8 the Stipulation and Agreement, one of which you've heard a lot
9 of testimony about today. That was the company's proposal to
10 make environmental upgrades to some existing power plants
11 owned by Kansas City Power & Light. Those upgrades will carry
12 environmental benefits that we believe are in the public
13 interest of the Citizens of Missouri.

14 The second issue we considered was the
15 company's commitment to invest in wind generated energy.
16 Again, that's a renewable energy resource that we believe is
17 an important part of our electricity mix. So the fact that
18 the company was making commitments to increase their
19 commitment in renewable energy we felt was beneficial,
20 attractive and in the public interest.

21 And then thirdly, the energy efficiency
22 commitments were great interest and important to -- importance
23 to us also.

24 Q. Are you able to -- let me rephrase my question.

25 When you made your recommendation to your

1 department director, was it based solely on the demand
2 response efficiency and affordability programs or was it made
3 including the environmental and wind issues also?

4 A. It was including the environmental and wind
5 issues also.

6 Q. Okay. We heard from a witness earlier today,
7 Mr. Hale was --

8 A. Hale.

9 Q. Hale. Mr. Hale was his name. I'm sorry. I
10 didn't write that down.

11 Does he work for you or what is the -- is he an
12 equal in another department or who was -- I'm trying to get an
13 idea in DNR who worked on what issues and who made which
14 decisions? And I'll leave it like that and you can explain it
15 because I don't know how to ask the question.

16 A. Kendall Hale is a unit chief within the Air
17 Pollution Control Program. That program is in a different
18 division than the energy center, but we talked with one
19 another, worked with one another on the issues. And as I
20 mentioned earlier, came up with a consensus recommendation to
21 the department director.

22 Q. Okay. Are you sufficiently versed in the
23 environmental issue to discuss why the department is
24 supportive of the agreement in the construction of Iatan 2 and
25 the other environmental upgrades?

1 A. I'm certainly not the air pollution technical
2 person that Kendall Hale is. I think Kendall did a good job
3 of explaining that some of the overall emissions from the
4 Iatan site would be reduced. With the upgrade of Iatan 1 and
5 the additional of Iatan 2, there would still be some lesser
6 emissions from that overall site which -- and those would
7 carry environmental benefits.

8 Q. You're satisfied that those reductions and the
9 supposed lower amount of emissions from the new plant are
10 sufficiently addressed from an environmental standpoint?

11 A. I think the Air Pollution Control staff has not
12 completely finished its work, as Kendall indicated earlier
13 today, but it's -- it seemed to me that Kendall was
14 comfortable that at least some of the air emissions would
15 indeed be lower even with the addition of Iatan 2.

16 Q. If there's still work left to be done -- and
17 I'm sorry for asking these questions of you, but you said that
18 you were part on the environmental side too. If there's still
19 work left to be done, how did DNR sign off on the agreement?

20 A. The language in the Stipulation and Agreement
21 appeared to us to be specific enough in terms of a company's
22 commitment to make significant environmental upgrades to the
23 existing power plants, that those upgrades would result in
24 environmental benefit even though all of the modelling and
25 evaluations is not finished.

1 Q. Okay. Regarding the demand response efficiency
2 and affordability programs, what did DNR or your energy
3 department look to in those issues in deciding whether to
4 support this agreement?

5 A. We looked at the amount of commitment in terms
6 of dollars and energy saved that the company was making -- was
7 making, the commitment the company was making. We also looked
8 at the array of -- of proposed programs. So we looked for a
9 good mixture of residential, commercial, institutional,
10 industrial opportunities in this array of programs that the
11 company has proposed.

12 I think -- and looked -- and looked at the
13 array of programs in terms of the effect-- effectiveness we
14 could expect from them in terms of energy savings. And I
15 think those are the major factors that we considered.

16 Q. Does the Department of Natural Resources have a
17 policy regarding wind generation?

18 A. Yes.

19 Q. And does that set amounts or -- amounts of
20 power that will be generated by wind that the department would
21 like to see overtime or what -- what is the policy?

22 A. The policy does not include a specific goal for
23 the amount of electrical generation to come from wind, but the
24 policy is one that clearly advocates for increased use of wind
25 energy. And, in fact, we are -- we are in the midst of a

1 rather significant initiative to try to get utility scale
2 generation occurring in Missouri as well as that that's
3 occurring in neighboring states.

4 Q. And DNR is satisfied that the level of wind
5 generation included in this plan is sufficient enough for the
6 time being. Is there a plan for added investment in the
7 future or are there other goals outside of this agreement?

8 A. We consider the wind investment in this
9 agreement to be a reasonable beginning investment for this
10 company.

11 Q. Okay. Do you believe it is in the public
12 interest for the Commission to adopt the provisions of this
13 Stipulation and Agreement?

14 A. Yes, we do.

15 Q. Can you tell me here today that the Missouri
16 Department of Natural Resources wholeheartedly supports this
17 Stipulation and Agreement and believes it's in the best
18 interest of the ratepayers and the consumers?

19 A. Yes, I can tell you that.

20 Q. Do you also believe it's in the best interest
21 for the people of this state in terms of environmental
22 quality?

23 A. Yes. Overall, it is in the interest of the
24 people of this state in terms of environmental quality also.

25 COMMISSIONER CLAYTON: I have no other

1 questions, Judge. Thank you.

2 JUDGE PRIDGIN: Commissioner Clayton, thank
3 you.

4 (A recess was taken.)

5 (The remainder of the proceedings were reported
6 by Pamela Fick.)

7 JUDGE PRIDGIN: All right. We're back on the
8 record. Commissioner Clayton, any further questions for
9 Ms. Randolph?

10 COMMISSIONER CLAYTON: No.

11 JUDGE PRIDGIN: I don't have any questions.
12 Let me see if we have any cross-examination. Counsel?

13 MR. DANDINO: No.

14 JUDGE PRIDGIN: Ms. Henry?

15 CROSS-EXAMINATION BY MS. HENRY:

16 Q. Ms. Randolph, what financial incentives did you
17 encourage KCP&L to seek with their energy efficiency programs?

18 A. I'm not sure I understand your question.
19 Financial incentives?

20 Q. How would they be recovered for the cost of the
21 energy efficiency programs?

22 A. The company proposed the kind of cost recovery.
23 We did not propose one. That proposal came from the company
24 about how they would like to handle those costs associated
25 with the energy efficiency programs.

1 MS. HENRY: Okay. Thank you. I have no
2 further questions.

3 JUDGE PRIDGIN: Thank you. Mr. Fischer?

4 CROSS-EXAMINATION BY MR. FISCHER:

5 Q. Just one, Ms. Randolph. Did DNR sponsor some
6 experts to come into Missouri from outside the state to talk
7 about that question?

8 A. Yes. Yes, we did.

9 Q. Would you explain who you brought in and what
10 the nature of that was?

11 A. We did sponsor a gentleman, yeah, Rich Sadano
12 (phonetic spelling). I'm having a terrible time remembering
13 his organization. It's called the Regulatory Assistance
14 Project. Mr. Sadano is a former Public Counsel for the State
15 of Vermont, and after leaving that post, went to join the
16 Regulatory Assistance Project which offers consulting and
17 technical assistance to utility regulatory commissions as well
18 as other -- other entities.

19 So we did ask him to come in. In one of the
20 workshop meetings Mr. Sadano did discuss various options and
21 approaches for providing cost recovery for energy efficiency
22 programs.

23 MR. FISCHER: Thank you very much.

24 JUDGE PRIDGIN: Mr. Fischer, thank you.

25 Any further crosses? Seeing none, any redirect,

1 Ms. Valentine?

2 MS. VALENTINE: No, your Honor.

3 JUDGE PRIDGIN: All right. Thank you.

4 Ms. Randolph, thank you very much. You may be
5 excused. Thank you for your time and your testimony.

6 And Ms. Henry, I believe the Bench will have
7 some questions for you. If you could come to the podium now.

8 COMMISSIONER CLAYTON: Ms. Henry, would you
9 indulge me for a moment to ask a few questions, because I did
10 not ask questions during a portion of the proceedings, and
11 it's raised more questions that I wanted to pose to you, and
12 some of them may border on the line of being factual
13 questions.

14 If you don't feel comfortable answering,
15 certainly tell me, or if you don't know the answer, certainly
16 feel free to tell me.

17 MS. HENRY: Okay.

18 COMMISSIONER CLAYTON: But I want to nail down
19 exactly the position of Sierra Club and Concerned Citizens of
20 Platte County aside from just being opposed to the Stipulation
21 and Agreement.

22 MS. HENRY: Okay.

23 COMMISSIONER CLAYTON: Specifically relating to
24 environmental issues, has your client -- your clients had a
25 full opportunity to review the analysis made by DNR and its

1 evaluation of the environmental impact of this power plant, or
2 these power plants, and their environmental upgrades
3 associated with them?

4 MS. HENRY: I'm not sure what analysis DNR has
5 made that you're referring to.

6 COMMISSIONER CLAYTON: Okay. Well, I assume
7 that they did some analysis in reviewing the plan, that there
8 was an Exhibit No. 45 that has proposals for amounts of
9 pollutants that are under the current permit level and then
10 also presumed to be under the future permit level. So this
11 is, I guess, the basis of the question and then I'm not sure
12 what other analysis.

13 MS. HENRY: The clients will review the draft
14 permit when issued in September and perhaps file comments on
15 it then. I pointed out to Ms. Valentine that I -- I have a
16 draft from October of '04 of the permit where a few of the
17 numbers are changed. Some are higher, some are lower. But
18 she indicated that what you have -- what she filed was the
19 current numbers, but the clients will conduct a full review
20 once the draft permit is issued.

21 COMMISSIONER CLAYTON: Once the draft is issued?

22 MS. HENRY: Yeah.

23 COMMISSIONER CLAYTON: Okay. So -- but your
24 clients have not had the opportunity to at least understand
25 the analysis by DNR signing on to this Stipulation and

1 Agreement?

2 MS. HENRY: My clients still remain concerned
3 about the tons of pollutants that would be emitted, very
4 concerned about those.

5 COMMISSIONER CLAYTON: I understand that, but --

6 MS. HENRY: Okay.

7 COMMISSIONER CLAYTON: -- I want to know if
8 they've had an opportunity to fully investigate with the State
9 environmental regulatory body on how it came to a decision to
10 support this agreement. I guess it doesn't sound like they
11 have the ability to meet with DNR officials, or were they
12 denied information?

13 MS. HENRY: I believe they discussed with DNR
14 the energy efficiency programs. I don't know if they
15 discussed with DNR the pollutants. I think they would
16 normally wait to discuss it after the draft permit is issued.

17 COMMISSIONER CLAYTON: Okay. Okay. So is the
18 basis for being opposed to the Stipulation that it just --
19 that your clients haven't decided on whether or not to support
20 the projects or not?

21 MS. HENRY: The basis is, my clients are opposed
22 to the building of a new coal plant.

23 COMMISSIONER CLAYTON: Any new coal power plant?

24 MS. HENRY: Yes.

25 COMMISSIONER CLAYTON: Okay.

1 MS. HENRY: Because of the pollutants it will
2 emit and because the demand can be met through energy
3 efficiency.

4 COMMISSIONER CLAYTON: Okay. Okay. So my other
5 questions were gonna be if there were any numbers or any other
6 type of limits on pollutants that could be placed in this
7 chart that would permit your clients to support any type of
8 development?

9 MS. HENRY: Oh, no. They would not support a
10 new coal plant because there's tons of pollutants.

11 COMMISSIONER CLAYTON: Okay. So no coal?

12 MS. HENRY: Right.

13 COMMISSIONER CLAYTON: Okay. How about nuclear?

14 MS. HENRY: No, they would not support nuclear.

15 COMMISSIONER CLAYTON: Okay. All right. Can you
16 tell me whether the technology that is to be included in the
17 environmental upgrades of the old plant and the technology to
18 be used in emission control of the new plant are the best
19 technology available for removing pollutants from the
20 emissions of these power plants?

21 MS. HENRY: No, I can't. I can't tell you that.
22 I would need an expert to tell you that.

23 COMMISSIONER CLAYTON: Okay. Okay. No other
24 questions. Thank you for your patience.

25 MS. HENRY: Thank you.

1 JUDGE PRIDGIN: Ms. Henry, thank you.

2 All right. Thank you. What I'd like to do is
3 give you as much direction as I can on how we're gonna
4 proceed. I believe we're through taking evidence except for
5 some questions that Commissioner Gaw may have for some staff
6 witnesses only, if I understand correctly. And he's been
7 called away at a family funeral and is unavailable.

8 I'm assuming because all the staff are here in
9 the building that they personally won't need a whole lot of
10 warning to prepare, that they're already, of course, aware of
11 what's going on.

12 I will certainly give as much warning as
13 possible to the parties if the Commission still has
14 cross-examination for the witnesses. My guess is any hearing
15 that we would hold would be either sometime Wednesday or
16 Thursday, if at all. And I apologize. I really can't give
17 much more guidance at the moment.

18 Mr. Fischer?

19 MR. FISCHER: Your Honor, I understand the need
20 to answer any questions for any of the Commissioners that may
21 not have been here today. There were several that for whatever
22 reason could not have been here. As an alternative, KCPL
23 would suggest that we talk about submitting the case, and in
24 the event that it does become apparent after the Commissioners
25 have had a chance to either talk among themselves, that you

1 convene by agreement and we would make ourselves available.

2 But I would like to try to bring it into this.

3 And the record is complete, I think, after three days of
4 testimony and a number of witnesses, and I suspect that
5 Commissioner Clayton has asked many questions that
6 Commissioner -- other Commissioners would have an interest in,
7 and I guess I would just urge you to consider treating the
8 case as being submitted.

9 And if there's a need to bring someone back, we
10 certainly will make ourselves available. But we have got
11 Aquila and Empire that are negotiating, and I think we
12 canceled a meeting today because of the extension already, and
13 there's several other commitments that are out there. So just
14 a thought and, you know, we certainly submit to whatever your
15 desires are.

16 JUDGE PRIDGIN: All right. Mr. Fischer, thank
17 you. That works for me. If Commissioner Gaw has further
18 questions, he will inform me, and we will set this over.

19 I'm sorry. Ms. Henry?

20 MS. HENRY: I'm inquiring about if the case is
21 submitted, will post-hearing briefs be allowed?

22 JUDGE PRIDGIN: Absolutely. That's what I was
23 about to address.

24 MS. HENRY: Okay.

25 JUDGE PRIDGIN: I know you're brand new to the

1 game, ma'am. I don't even have your name.

2 THE COURT REPORTER: Pam, Pam Fick.

3 JUDGE PRIDGIN: Pam, thank you.

4 Expedited transcripts, do you know when this
5 will be available? Is this is on an expedited basis?

6 THE COURT REPORTER: That was my understanding.

7 JUDGE PRIDGIN: Ball park figure, I think,
8 expedites are usually done around 48 hours or so. I can be
9 wrong. And if counsel understands otherwise, let me know.
10 But what I think I'll do is just to make sure that we have the
11 transcript in, is I'll wait until I receive it, and I'll issue
12 an order, and it will probably be one round of briefs. And
13 frankly, we'll probably accept briefs from KCPL, from staff,
14 from Sierra Club and Concerned Citizens of Platte County, and
15 then I'll allow any other parties who want to brief to do so,
16 but you're not required to since you've been in the
17 agreement, and I'll probably be looking at somewhere in the
18 ball park of ten days. Mr. Fischer?

19 MR. FISCHER: Yeah, your Honor, that's probably
20 okay. I just want to remind the Court or the Commission that
21 we did do pretrial briefs.

22 JUDGE PRIDGIN: I understand.

23 MR. FISCHER: And a lot of the factual data has
24 already been laid out as well as the legal analysis, so our
25 brief may be fairly short.

1 JUDGE PRIDGIN: Wonderful.

2 COMMISSIONER CLAYTON: May I address?

3 JUDGE PRIDGIN: Commissioner, yes.

4 COMMISSIONER CLAYTON: Absolutely. The
5 Commission -- and I can't speak for all five Commissioners, so
6 I must be very careful in what I do say, but because there is
7 prehearing briefing and all the bases of each case has been
8 already briefed, the supplemental briefs on the back side
9 should only be supplemental in nature and not repetitive and
10 only focus on any new information that is -- has been brought
11 up at the hearing.

12 So that would be my suggestion, Judge. I want
13 to make sure that's clear, though, and we don't need to
14 rebrief everything that's already been in.

15 MS. HENRY: But the legal issues that we did
16 not touch on at the hearing that we said we'd put in the
17 post-hearing briefs, they would have to go in it, I would
18 think.

19 JUDGE PRIDGIN: That's fine. I mean, as long
20 as you're not being -- if there's something that you saved for
21 the post-hearing brief, that's fine.

22 MS. HENRY: Okay.

23 JUDGE PRIDGIN: Anything further, counsel,
24 before we adjourn? Is everyone clear on how we're going to
25 proceed? I'll wait until we get the expedited transcript,

1 issue an Order, one round of briefs, you know. Depending on
2 the holiday, probably about ten days or so for opportunities
3 for post-hearing briefs.

4 Seeing nothing further, thank you very much.
5 This concludes the hearing in the case. We are now off the
6 record.

7 (WHEREUPON, THE HEARING IN THIS CASE WAS
8 CONCLUDED.)

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