

0229

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION

3
4 TRANSCRIPT OF PROCEEDINGS

5 Hearing
6 March 7, 2006
7 Jefferson City, Missouri
8 Volume 2

9 City of Kansas City, Missouri,)
10)
11 The Planned Industrial Expansion)
12 Authority of Kansas City, Missouri,))
13 Boulevard Brewing Associates)
14 Limited Partnership, a Missouri)
15 limited partnership, d/b/a)
16 Boulevard Brewing Company,)
17)
18 Complainants,)
19)
20 v.) Case No. EC-2006-0332
21)
22 Kansas City Power & Light Company,)
23)
24 Respondent.)

25 COLLEEN M. DALE, Presiding,
CHIEF REGULATORY LAW JUDGE.

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APPEARANCES:

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FOR: Boulevard Brewing Company.

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FOR: Kansas City Power & Light.

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1 P R O C E E D I N G S

2 JUDGE DALE: All right. We are resuming in
3 Case No. EC-2006-0332. There was a pending motion to
4 dismiss. That motion has been denied this morning by the
5 Commissioners, so we will proceed with evidence from
6 KCP&L. Are there any other -- I have excused for the day
7 Ms. Brown from the City. I don't believe I have any other
8 preliminary matters before me, but do I, that you know of?

9 (No response.)

10 JUDGE DALE: Okay. Then, Mr. Blanc, please
11 proceed.

12 TIM RUSH testified as follows:

13 DIRECT EXAMINATION BY MR. BLANC:

14 Q. Good morning, Mr. Rush.

15 A. Good morning. Start off with having you
16 look at a document I think we're --

17 MR. RUSH: I probably should be sworn in.

18 MR. BLANC: Sorry.

19 JUDGE DALE: I'm sorry.

20 (Witness sworn.)

21 JUDGE DALE: Thank you.

22 BY MR. BLANC:

23 Q. And I should probably start off with
24 introductions. Would you please state and spell your name
25 for the court reporter, please.

1 A. Tim Rush, T-i-m, R-u-s-h.

2 Q. And what is your position at KCP&L?

3 A. I'm the director of regulatory affairs.

4 Q. And what do your duties entail in that
5 position?

6 A. Basically, it's the oversight of the
7 tariffs that the company manages, dealing with rate cases
8 and doing studies that may lead to the costs and the rates
9 that we charge for customers.

10 Q. How long have you worked for KCP&L?

11 A. Approximately five years.

12 Q. And do you have past experience in that
13 same capacity with another company?

14 A. Yes. I spent about 25 years with
15 St. Joseph Light & Power Company in the same kind of
16 capacity.

17 Q. I'm going to hand you a copy -- we'll be
18 marking that. I think we're up to 43.

19 (EXHIBIT NO. 43 WAS MARKED FOR
20 IDENTIFICATION.)

21 MR. BLANC: We prefiled this as one of our
22 attachments. I believe it's Attachment 5 to our answer.

23 JUDGE DALE: I'm sorry. I was having
24 technical difficulties.

25 BY MR. BLANC:

0233

1 Q. Could you please identify that document,
2 Mr. Rush?

3 A. Yes. This is the city ordinance with the
4 City of Kansas City that allows us to provide electric
5 service, as it says the City of Kansas in this ordinance,
6 but Kansas City.

7 Q. So that's KCP&L's franchise to serve the
8 Kansas City service territory?

9 A. Yes.

10 Q. Is there a provision in there that
11 authorizes the City to require us to relocate our
12 distribution facilities?

13 A. Are you saying a provision that would
14 require us to do it at no cost? There is no provision
15 that says how we are to relocate facilities and charge.

16 Q. Okay. Now, but I think where you were --
17 what you were getting at, there is -- the closest thing to
18 that is Section 5?

19 A. That's correct.

20 Q. I'm going to ask you some questions about
21 that.

22 A. Okay.

23 Q. I guess we'll start off with, would you
24 please read question 5 or Section 5?

25 A. Whenever the council shall by general

1 ordinance determine that all lines, pipes or conductors
2 for illuminating and heating purposes and for furnishing
3 motive powers by electric works shall be laid underground,
4 then and in such cases, all lines, pipes and conductors
5 erected above ground under this ordinance shall be taken
6 down and transferred under the ground as may be provided
7 in such general ordinance and with as little delay as
8 possible.

9 Q. Has the Kansas City city council ever
10 passed such a general ordinance?

11 A. No, they have not.

12 Q. And assuming at some point in the future
13 they did, do our tariffs provide for how that would be
14 handled as far as who would pay for such relocations or
15 burial?

16 A. Yes, they do. In fact, we have a tariff in
17 our rate book. It is entitled Municipal Underground Cost
18 Recovery Rider -- it's found on Sheet No. 38 -- that
19 addresses that situation where a municipality may require
20 the utility to convert overhead systems to underground.

21 Q. And according to those tariff provisions,
22 who would pay if a city ordinance like that were to be
23 passed?

24 A. The actual tariff itself requires the City
25 to pay through a surcharge, so it would be a special

1 additional fee added to their bill to -- so the City would
2 be paying for that.

3 Q. So just to clarify, even if the City did
4 direct KCP&L to underground its facilities by general
5 ordinance, the tariff provides that KCP&L would not pay
6 for that?

7 A. That's correct.

8 MR. BLANC: I'd like to move for the
9 admission of Exhibit 43.

10 JUDGE DALE: I have a question about it.
11 Was it prefiled?

12 MR. BLANC: Yes, it was, as Attachment 5 to
13 our answer.

14 JUDGE DALE: Thank you. Is there any
15 objection?

16 MR. FINNEGAN: No, your Honor. I think
17 it's already been admitted as a separate exhibit.

18 MR. BLANC: If it has, it has, but I don't
19 believe so.

20 JUDGE DALE: We were discussing this last
21 night, and I don't think it has been admitted yet. So it
22 will be admitted into evidence as Exhibit 43. And there
23 was a discussion of the additional tariff page, the rider
24 that you discussed, and that of course is included in the
25 judicial notice of the entire affected tariff.

0236

1 MR. BLANC: Thank you, your Honor.

2 (EXHIBIT NO. 43 WAS RECEIVED INTO

3 EVIDENCE.)

4 BY MR. BLANC:

5 Q. I guess moving on to the relocation
6 projects at issue here, are you generally familiar with
7 the relocation projects that Boulevard has requested?

8 A. I am.

9 Q. Do KCP&L's tariffs authorize it to recover
10 the costs of the project from Boulevard?

11 A. Yes, they do.

12 Q. Okay. Let's go specifically through them.
13 We'll start with Belleview where Boulevard in its
14 Complaint has directed us to move those underground at our
15 cost. Is there a tariff provision that deals with a
16 customer request to move facilities underground?

17 A. Yes, there is. In our tariffs -- and it is
18 found on Sheet No. 1.33. In our general rules and
19 regulations, it is entitled the underground distribution
20 policy. Under Section 10.02B it addresses how there will
21 be a -- how we will recover the costs in converting from
22 overhead to underground, and that will be borne by the
23 customer.

24 Q. And moving on to the relocation project on
25 26th Street, is there a tariff provision that deals with

1 who should pay for such a customer-requested relocation?

2 A. Yes. I would look to the general -- again,
3 general rules and regulations sheet, 1.32, and it's under
4 extension policies, and all of this is encompassed in our
5 entire rules and regulations. And this particular section
6 is dealing with extension policies, and it addresses it
7 under other extensions of services.

8 And basically you would look at the whole
9 package of the cost versus the revenue to be recovered
10 from that cost, and if it meets a certain criteria, then,
11 you know, there would be a charge for anything that is
12 above that -- above that revenue criteria, and that would
13 be borne by the customer again.

14 They have -- just make sure we understand
15 something. When we look at, for example, all of the
16 activities going on with Boulevard Brewing, we look at it
17 as a total package. I mean, this is an extension of
18 service. This is a conversion from overhead to
19 underground. This is an expansion. You know, this is a
20 moving -- having us move lines, so we look at everything.
21 We have elements in our tariffs that allow us to address
22 each one of those components, but again, we take it as a
23 total package.

24 Q. And KCPL's tariffs provide that whole
25 package, since requested by Boulevard, should be borne at

1 Boulevard's expense?

2 A. Well, yes and no, because first of all, you
3 have to realize that they have an expansion that was going
4 on, and so we looked at the whole cost of that expansion,
5 and there were certain phases that went along with it. I
6 think the first cost was somewhere around 90-some-odd
7 thousand dollars that we paid. But they have revenue
8 coming in from that in the area of 100 or \$110,000
9 annually that's expected to come from that. So for those
10 costs, the revenue covered the cost of that addition.

11 But, however, we have other things that are
12 happening, such as the removal and such as the
13 conversions, that are not covered by that. So we've kind
14 of eaten up all the revenues that we have to cover the
15 costs, and we are really looking at additional cost at
16 this point.

17 Q. Okay. I think that's clear enough.
18 Complainants also disagree with the discretion afforded
19 KCPL in its tariffs. Do you agree that the tariffs do
20 afford KCPL some discretion in calculating the cost and
21 designing relocation projects?

22 A. I do think they provide a lot of discretion
23 for the company and the customer because what -- when you
24 deal with a situation of a customer coming and asking for
25 service, every single customer has their own specific

1 requirements that they want met.

2 What our tariffs cover are the guidelines
3 of how we will address all of those things. So there is
4 discretion. We try to extend everything we could
5 possibly, in my mind, to Boulevard. It may not be
6 everything they wanted, but we did do a lot of things to
7 try to help them meet their needs.

8 Q. And is it your opinion that that
9 flexibility generally benefits our customers?

10 A. Yes, very much so.

11 Q. Has this provision in our tariff been in
12 effect for a long time?

13 A. You know, I was looking at the date of
14 that. I know that it is 19-- I think it was '87 or so was
15 the tariff that kind of initiated the book, but that was a
16 book change. So my best estimate is it's been, you know,
17 10, probably 20 or so years since this has been changed.

18 Q. And has --

19 A. In any material sense. There may be --
20 like, I noticed that there were some wording changes that
21 have occurred in '97 on that Section 9.02 tariff, but
22 nothing that changed the intent or how it was applied.

23 Q. Okay. And has the discretion afforded by
24 KCPL in these tariff provisions that have been in effect
25 for 20 years, has that been controversial in the past?

1 A. We basically have very little, if any,
2 complaints from customers. I mean, I know we had one
3 recently in Kansas because our tariffs in Kansas are
4 almost identical to those in Missouri. We have two
5 different jurisdictions we serve, but we really have very
6 few complaints.

7 Q. How many formal complaints are you aware of
8 on this tariff provision?

9 A. I'm familiar with one that was in Kansas,
10 and I'm not familiar with any others.

11 Q. Okay. So two in addition to this one?

12 A. No, one in addition to this one. One in
13 Kansas is all I'm aware of.

14 Q. And do you recall who the initial
15 Complainant was in that Kansas proceeding?

16 A. Well, initially, it was --

17 Q. Who filed the complaint?

18 A. It was American Energy. AES was the
19 initial filer of a complaint, and then the Commission in
20 Kansas said, you're not the customer, and so they rejected
21 that complaint. And then later on sometime, through Nall
22 Valley, the customer, actually filed the complaint.

23 Q. So is it fair to say that AES was involved
24 in both proceedings?

25 A. That's my understanding, yes.

1 Q. Roughly how many line relocation projects
2 do you think KCPL has done under this tariff provision,
3 hundreds, thousands?

4 A. Oh, my goodness. You know, we probably do
5 \$30 million a year or more in extensions of services.
6 That's not maintenance. That's new growth,
7 distribution-type things. So we do thousands of them a
8 year, I mean, just literally.

9 Q. And only two complaints?

10 A. Yes.

11 Q. And both --

12 A. Two formal complaints.

13 Q. Sure.

14 A. And I've been here five years, and I'm not
15 aware of any others. There could have been some prior to
16 my coming on board.

17 Q. Okay. And both of those complaints
18 involved Mr. Elam?

19 A. Yes.

20 Q. If we could move on, they've also raised
21 allegations concerning whether contractors should be
22 allowed to do certain types of work on KCP&L's system.
23 Why does KCP&L restrict the type of work contractors can
24 perform on its system?

25 A. Well, we have a significant liability that

1 we are responsible for, for safety, for reliability and
2 really continuous service to customers. So we bear all of
3 that liability, and in certain regards, I mean, we have
4 certain indemnifications, for example, of interruptions of
5 service that we had no control unless there's like gross
6 negligence or something, but we are -- so we're bound by
7 when we design something, we have to make sure that it
8 will operate, run and be the best that it can.

9 Q. But KCPL does -- you sometimes use
10 contractors for some type of work on its system?

11 A. Oh, absolutely. Yes.

12 Q. And what kind of indemnifications or other
13 protections are involved in those contracts with those
14 contractors?

15 A. Well, typically there are indemnifications
16 that the contractor covers us for, for example, for
17 accidents and other things that occur, but it is under our
18 design and control that those are done.

19 Q. And we supervise the projects?

20 A. We supervise the projects. As I understand
21 it, with most contracted jobs we really don't do much live
22 work. There are certain cases that we may -- I mean, when
23 you're talking about doing things that are energized and
24 other things, you are really dealing with a very, very
25 serious situation. You want to have total control of it.

1 Q. Would KCP&L have such supervisory or
2 indemnification protections if Boulevard was allowed to go
3 out and hire its own contractor to do the work?

4 A. As I heard yesterday, I don't -- I mean,
5 they were kind of saying they would not indemnify or
6 they -- I'm sure there is something that the contractor
7 would do, but I don't know what that would be. It didn't
8 sound like, you know, AES was interested in doing that,
9 from yesterday's discussion.

10 Q. How does KCP&L's reliability compare to
11 that of other utilities?

12 A. Well, we're very proud of our reliability.
13 We're in what's considered a Tier 1 level. So if you put
14 us in quartiles with all the utilities that we're aware
15 of, which is several hundred, ours is in the top
16 25 percent of all reliability, and it's even on the high
17 end of that side, and it has been for a number of years.
18 That's one of the things Kansas City Power & Light kind of
19 hangs its hat on, that we are a very, very strong and
20 highly reliable utility.

21 Q. You touched upon this before, but I just
22 want to clarify it. Can KCPL be held liable for
23 reliability and safety-related issues that arise on its
24 system?

25 A. Yes, we can.

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1 calls for a legal conclusion, but as I recall the
2 testimony yesterday, it was -- it was very vague. I'm
3 sorry. It was very vague and did not, in fact, make
4 specific engineering --

5 MR. BLANC: I guess two different tariff
6 provisions. Mr. Rush just testified about arguably the
7 alleged ambiguity in the tariff and the discretion in the
8 tariff. This just goes to the fact that we can be -- we
9 would be potentially held liable if we followed a
10 recommendation that our consultants disagreed with -- or
11 sorry -- that our engineers and system planners disagreed
12 with.

13 JUDGE DALE: I think in that case, it is a
14 legal conclusion, and I think your tariff controls that
15 liability issue and the Commission knows. So sustained, I
16 think is the final answer in that.

17 BY MR. BLANC:

18 Q. You already touched upon earlier the work
19 we've already done in support of Boulevard's expansion
20 project?

21 A. Right.

22 Q. I'd just like you to expand upon that a
23 little bit. Are you aware, roughly speaking -- we'll get
24 the details from Ms. Locker later -- but roughly speaking,
25 how much work KCPL has already done?

1 A. I believe what we spent today is around
2 \$90,000 on, you know, both undergrounding the services and
3 whatever else other things may have been done to get the
4 load up and operating the way that they want.

5 Q. And Boulevard did not bear those costs?

6 A. No, they did not. Again, they --

7 Q. Why not?

8 A. They go back to the tariff provision that
9 we looked at that talks about the comparison of the
10 investment of the facility associated with the revenues
11 that are expected to come from that facility. And we use
12 a standard that's been used for obviously as long as I've
13 been there, but many years before that, of we do a
14 comparison that looks at 85 percent of the revenue. We
15 can spend up to that amount of money under our standards
16 that we operate under. Now, what I mean by that is, is
17 that we won't go out and I call it gold plate a system.

18 Q. Sure.

19 A. If a customer wants more things put in that
20 are not in our standard practice, we don't just offer that
21 if it's below the revenue test. And again, what we're
22 talking about is trying to make sure that we treat all
23 customers fair.

24 In my mind, this comes down to a lot of the
25 discussion that we've been dealing with that deals with

1 equity, and the equity is whether you put the burden of
2 this cost on other ratepayers or whether it is borne by
3 Boulevard. And so you have to look at -- and that's what
4 our tariffs are designed for, to make sure you manage that
5 issue of equity, and that is to me one of the primary
6 issues of this whole case.

7 Q. Are you aware that KCPL has reduced its
8 estimates of the costs to Boulevard of the relocation
9 projects as a result of discussions with Boulevard?

10 A. Yes, I am.

11 Q. And are you aware that part of that
12 reduction dealt with minus expired life of facilities?

13 A. Right.

14 Q. Could you please explain I guess how it
15 worked here, and then we'll go into how it was supposed to
16 work? Please explain first how it was applied here.

17 A. Apparently when the offer was made, there
18 were, I guess, lots of conversations back and forth
19 through this whole process about -- it would seem to me
20 they were saying that the costs were too high, and we're
21 saying, no, this is what the costs were. Well, one of the
22 ways we've attempted to try to settle that is to put a
23 credit or reduction on the actual cost estimates that
24 we're dealing with.

25 Now, what we're talking about is the ones

1 that we've done some detailed estimates on. We have not
2 done a detailed estimate on the underground facility at
3 this point. But what they did is they took and said,
4 well, there's some facilities out there that we're going
5 to be removing, and we will give you credit for the unused
6 life that's out there, which is totally --

7 Q. Is that --

8 A. No, that is absolutely contrary. It should
9 be the exact 180 degrees of that.

10 Q. How should it have worked?

11 A. It should have been an adder charge, if you
12 really want to look at it. Now, we don't do it that way
13 because what we look at is, it should have not even
14 appeared in this cost of the project. What we should have
15 done is simply take the cost minus any cost of removal and
16 plus the salvage, so that we give the customer the full
17 benefit of the salvage, as well as charging them for the
18 cost of the removal. What we did is we did that, and then
19 we gave them this additional credit for this unexpired
20 life.

21 Well, that would be like saying, you know,
22 we have some plant out there and we're not going to earn a
23 return on it, so we're going to give you some more money
24 back. It's contrary to what should have happened, but it
25 did.

1 Q. KCP&L is willing to stand by that cost
2 estimate here?

3 A. Oh, yes. That's the way it happened.

4 MR. BLANC: No further questions.

5 JUDGE DALE: Thank you. Cross?

6 MR. FINNEGAN: Yes, your Honor.

7 CROSS-EXAMINATION BY MR. FINNEGAN:

8 Q. Good morning, Mr. Rush.

9 A. Good morning.

10 Q. Let's refer to your rule extension policy,
11 Rule 9.

12 A. Okay.

13 Q. And in Rule 9 itself, is there any mention
14 of removal or relocation of lines?

15 A. I believe there is not.

16 Q. It only refers to extensions; is that
17 correct?

18 A. Well, the reference is dealing with the
19 applicant to the company for an extension of service,
20 which in this case, as I previously said, deals with the
21 entire project that they're talking about. And so while
22 re-- while what you said may not -- the words may not
23 appear in there, it also doesn't address, you know, how
24 every item will be addressed either.

25 Q. And you think that meets the statutory rule

1 that your charges will be set forth in a tariff?

2 A. Well, we have a set of tariffs that deal
3 with our charges for the sale of electricity. We have
4 rules and regulations and guidelines on how we deal with
5 services and applications and a number of other things,
6 and yeah -- yes, it does meet the statutory requirements,
7 from what I understand. I am not an attorney.

8 Q. Well, the requirement -- you've said that
9 you have the charges for service, but basically those are
10 rates, right?

11 A. We have -- we have rates for electric
12 service approved by this Commission, yes.

13 Q. And the statute refers to rates and
14 charges?

15 A. I'm not sure which statute you're talking
16 about.

17 Q. I'm talking about 393.140, subsection 11.

18 A. And it says what?

19 Q. That the --

20 MR. BLANC: Mr. Rush is here to interpret
21 our tariffs, not Missouri statutes.

22 JUDGE DALE: I have to agree.

23 MR. FINNEGAN: Well, part of the -- they
24 have the ability to file a tariff means that you've got to
25 comply with the statutes regarding it, and the Commission

0251

1 statute says you cannot make a charge unless it's in your
2 tariffs.

3 MR. BLANC: They argue that in their
4 Complaint. That issue's before the Commission.

5 JUDGE DALE: The question is, is it in the
6 tariff or isn't it? If you have specific questions about
7 whether a specific charge is in the tariff, then I think
8 Mr. Rush can answer it.

9 BY MR. FINNEGAN:

10 Q. Mr. Rush, do you have -- anywhere in your
11 tariff, does it talk about anything applicable to removal
12 of lines?

13 A. Yes. I mean, with regard to the
14 interpretation that's under 9.02.

15 Q. That says extensions.

16 A. Right.

17 Q. There's nothing that says removal. This is
18 extending service to a new customer, isn't it?

19 A. The extension of the service included a
20 number of items, of which one of them was the removal.

21 Q. And where does it say that?

22 A. I mean, it talks about -- if I came to you
23 as a customer and wanted -- had a project of which it is
24 for -- I'm reconstructing, rebuilding, adding load,
25 et cetera, it would fall under this guideline, and that is

1 an application for electric service, and that would fall
2 under this guideline as a total package. There are
3 certain elements that would occur. I want this
4 transformer this size, I need this load, I need these
5 cables. Each one of those items is not addressed in here,
6 but the whole intent of this is to look at the total cost
7 for a customer for an extension of service, of which
8 Boulevard's extension was just that. I mean, it was an
9 expansion of service.

10 Q. Boulevard's already had its extension, has
11 it not?

12 A. So then we should stop.

13 Q. And it's done?

14 A. I mean, if you're going to kind of say,
15 well, they asked for an -- you know, they asked for this
16 load growth of which only the first part dealt with the
17 extension and everything else does not, then I guess we
18 are talking about different things, but that's not what we
19 are. The customer came and asked us to do all of the
20 service. They wanted the whole package. We've been
21 working, and the discussion we've had, sounds like it's
22 been since 2004, address everything.

23 Q. The lines that are asked to be removed, do
24 they serve Boulevard?

25 A. Yes, they do.

0253

1 Q. They do?

2 A. Yes.

3 Q. There's a direct connection from them to
4 Boulevard? If they were removed, Boulevard wouldn't
5 receive service?

6 A. They've a contingency, so they are -- they
7 are an assurance to keep continued service. Just like
8 when we talked about reliability earlier, they're one of
9 the assurances of the backbone of our system to make sure,
10 you know, if there's some failure in their system, that we
11 can quickly have them back in operation.

12 Q. How does it do that?

13 A. That you'd have to talk to an engineer.
14 I'm not -- I'm not here to be able to talk to that.

15 Q. So you don't really know that this would
16 serve Boulevard?

17 A. Well, I've been told that it does.

18 Q. Okay. Did you hear yesterday that the line
19 has been de-energized?

20 A. Absolutely.

21 Q. Okay.

22 A. Yeah, that happens all the time. That's
23 why you have assurances and securities to make sure the
24 system operates.

25 Q. But Boulevard still has power?

1 A. Well, if you wanted to have service -- and
2 I'll use the term radial feed, which means you have a
3 single point of assurance from Point A to your service,
4 and if that went out, you know, you'll be out until we get
5 it fixed. Most customers of a large nature, particularly
6 downtown, would not be very happy, and so we have
7 continuous assurances of our system by making -- there are
8 redundancies in our system for backup. There are
9 assurances that if this line goes down, we can be fed from
10 this area, and that happens all the time.

11 Q. And --

12 A. But I mean, you're really talking to an
13 area I'm not an expert in, and we do have people here that
14 can probably answer all those questions.

15 Q. Okay. Then I should ask somebody else. Do
16 you know who that might be?

17 A. Well, it would probably be Emeka, but it
18 might be someone else here also, like Russ Wiley would
19 probably have some familiarity. But the engineer would be
20 Emeka.

21 Q. Let's go back to --

22 A. And I believe his name is -- I don't know
23 now to pronounce the last name. I'm sorry.

24 Q. The -- back to the tariffs, though.

25 A. Uh-huh.

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1 Q. Nowhere -- you said there's nowhere in here
2 removal or relocation is mentioned?

3 A. I've said that those words do not exist,
4 yes.

5 Q. That's your tariff?

6 A. Uh-huh.

7 Q. Okay. But despite the fact there's no
8 mention of them, you continue to make charges for
9 relocations and removals?

10 A. We do when a customer comes and asks for
11 services, but if you came and asked us simply to remove
12 some line and you didn't want anything else done, we would
13 probably look at this and make an application that there's
14 no revenue attributable to it, so that you would bear the
15 full cost.

16 Q. Based on what? What tariff do you base
17 that on?

18 A. Based on the customer's asking for an
19 extension or an expansion of their service, whatever that
20 is.

21 Q. Well, you've already --

22 A. Think about -- think about a customer who
23 would come and ask for, please move that line. Why would
24 you do that?

25 Q. Well, if you had a tariff, you could charge

1 for it.

2 A. But why would you as a customer come and
3 ask for it? Just because I want to have the line moved?

4 Q. No.

5 A. Well, why --

6 Q. I don't understand why you're saying why
7 would a customer ask the line be removed. There's been a
8 direction from the City to remove the line because it's
9 blighted.

10 A. Now we're talking about a different
11 situation. You're talking about the undergrounding,
12 conversion from an overhead to an underground is what
13 you're talking about now.

14 Q. That's it. Or removal of the line
15 altogether.

16 A. Now, why would we want to remove a line?

17 Q. If it's not serving anybody.

18 A. I just told you that it was.

19 Q. Well, you don't really know that, do you?

20 A. I feel confident that it does.

21 Q. Okay.

22 A. I mean, I have the people here to explain
23 that, you know.

24 Q. I don't want to --

25 A. I'm not the expert on that.

1 Q. Okay. So you're saying that the extension
2 policy applies, even though there's no mention of removal
3 or relocation, that you just apply this policy?

4 A. Apply this rule, yes.

5 Q. This rule. Okay. Well, it says -- the
6 rule says extension policy?

7 A. Right. You're right. Yeah.

8 Q. And then you go down and you mention other
9 extensions, Rule 9.02?

10 A. That's the one we were just talking about.

11 Q. Well, I was talking about Rule 9 itself,
12 the beginning of it.

13 A. Oh, I'm sorry. I thought you had
14 referenced 9.02. I apologize. 9.01 addresses the
15 residential areas, both rural and --

16 Q. Yes. But above that there's a Rule 9.

17 A. Uh-huh. And that gives you the general
18 guidelines. For example, years ago the Commission wanted
19 clarification with regard to indirect costs, because they
20 wanted to make sure that the utilities provided the
21 customer the needed information, and that the customer was
22 well aware of those. And so there were some provisions
23 put in there in the very front that talked about the
24 charging of indirect costs.

25 Q. And does it set out what the indirect costs

1 are or how to compute them and what?

2 A. The company will prov-- has to provide that
3 information.

4 Q. But there's nothing in your tariffs that
5 tell you how -- or tells a customer that this is -- this
6 is direct cost, this is what -- how it's determined, that
7 this is that indirect cost and this is how that is
8 determined, so that a customer can know up front just what
9 the costs are?

10 A. Well, we provide that to the customer. We
11 provide them a detail list. We provide them a high-level
12 list. We provide them all kinds of information upon
13 request.

14 Q. But it's all --

15 A. I know that in the -- you know, in
16 situations they were referencing the STORMS projects, it
17 has all of this information that you were questioning
18 yesterday in extremely great detail of every nut and bolt
19 and wire and cable in a project. That's provided.

20 Q. Is that in your tariff?

21 A. The cost is.

22 Q. STORMS, is the STORMS in your tariff? Is
23 there any reference to it in your tariff?

24 A. Sir, I think if you had every item that the
25 company did in a tariff, you know, you have 2,500 people

1 that work at various stages. There's no way you would put
2 all that in. There are guidelines and established tariffs
3 and rules that the company follows that this Commission
4 has approved. I mean, it sounds like you're having a
5 debate with that our rules or tariffs are not just and
6 reasonable or not --

7 Q. That's --

8 A. -- following -- is that what you're saying?

9 Q. That's what we alleged our complaint, that
10 they're not just and reasonable because you have not
11 complied with the statute to set forth the rates and
12 charges that you make to customers.

13 A. As I said, I'm not really totally familiar
14 with the statute, but at the same time I do know that the
15 tariffs, rules and regulations have been approved by this
16 Commission.

17 Q. And you indicated you have 2,500 employees?

18 A. Uh-huh.

19 Q. If they're -- they cannot rely on the
20 tariffs either, can they, as to this --

21 A. Well --

22 Q. -- item?

23 A. -- if you look at things in the sense of
24 what we do, we have this very, very detailed set of rules,
25 regulations, tariffs, et cetera, the company follows in

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1 everything that we do.

2 Underneath that, we have certain -- in my
3 mind I will call it policies that we make sure that we are
4 applying each one of these rules and regulations to what
5 is required by this Commission. Underneath that, we have
6 guidelines. You have -- when we look at our customer
7 information system, you see all kinds of practices and how
8 you talk to customers and things you can do, and it
9 addresses each one of these elements because every
10 customer has an individual need, and you have to address
11 it. But we have to deal with fair and equity to
12 customers, and that's the -- one of the premises in my
13 mind that we look at in everything that we do and
14 everything that we say.

15 Q. But you do not have anything in the tariffs
16 approving those guidelines or those policies?

17 A. We are regularly reviewed by this
18 Commission or by their Staff in lots of different things.
19 We have rate cases --

20 Q. I'm saying -- the question was, your Honor,
21 in response, there's nothing in your tariffs that sets out
22 those guidelines? There's nothing in your tariff that
23 sets forth those policies?

24 A. The guiding principles are set out here,
25 yes.

1 Q. The guiding principles. Okay. Let's look
2 at one of them. Here's one, on Rule 9.02, each
3 application will be studied by the company as received in
4 order the company may determine the amount of investment
5 warranted by the company in making such extension, giving
6 full consideration to customers' load requirements and
7 characteristics, and the customer -- company's estimated
8 revenue from the customer during the term of the
9 customer's service agreement as may be required by the
10 company.

11 A. Uh-huh.

12 Q. Okay. It appears to me that the company
13 makes all these decisions?

14 A. They make a lot of decisions, yes.

15 Q. And they're all discretionary?

16 A. They are discretionary within -- there is
17 some discretion in them, yes.

18 Q. Some?

19 A. But there are also policies that guide
20 that, and I just talked to you about the one, and I think
21 your client would understand that, is that what we looked
22 at, we look at the investment associated with that, and we
23 look at the revenue associated with that load with the
24 additional construction and we take 85 percent of the
25 anticipated revenue --

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1 Q. Where is that in the tariff?

2 A. -- times that cost.

3 It is in a policy.

4 Q. It's not in the tariff?

5 A. And it has been -- the Commission Staff and
6 other parties have been aware of it and customers are
7 aware of it.

8 Q. I'm asking you, is it in your tariff?

9 A. No.

10 Q. Yes or no?

11 A. No. Uh-huh.

12 Q. Customer doesn't know in advance which kind
13 of revenue you're going to come up with and attribute to
14 them, do they?

15 A. Well, usually that is --

16 Q. From looking at the tariff?

17 A. Well, I don't know what the revenue will be
18 from the customer's side. So I mean, I don't know what
19 you're trying to say.

20 Q. Well, for example, your 85 percent of the
21 customer's revenues --

22 A. Uh-huh.

23 Q. -- how do you come up with this 85 percent?
24 Where is that in these tariffs?

25 A. There have been studies performed about how

1 that cost comes --

2 Q. Where is it in the tariffs?

3 A. Oh, it doesn't exist in the tariffs.

4 Q. Okay. Doesn't exist in the tariffs.

5 And -- okay. During the term of the customer's service
6 agreement. So when you estimate revenue, how many years
7 do you use?

8 A. We look at a one-year revenue.

9 Q. Is that the term of the customer's service
10 agreement is one year?

11 A. We consider that that one year -- I want to
12 back up on that. You're right. We look at the full load
13 of that customer's load on an annual basis over the
14 expected life of that project.

15 Q. Which means that if, say, it came up with
16 \$100,000 in revenues for a year --

17 A. Uh-huh.

18 Q. -- not considering any rate increases, and
19 the customer's going to be here for 20 years, so we're
20 looking at \$2 million?

21 A. Yeah, you're looking at 100,000 per year.

22 Q. Okay. Is that how you looked at this
23 project?

24 A. Uh-huh. Yes.

25 Q. And you gave it a \$100,000 credit?

1 A. We gave them a \$110,000 credit.

2 Q. Based on how many years?

3 A. Based on probably 30 years.

4 Q. Do you know that?

5 A. Probably.

6 Q. Do you know that?

7 A. Well, it wasn't anything discounted, so it
8 would have had to have been for the life of the project.

9 Q. And how do you determine what the life of
10 the project is?

11 A. The life of the equipment associated with
12 it, and really, the reason -- the only reason you're
13 dealing with that is because you're trying to deal with
14 temporary services. You know, if you had some seasonality
15 associated with the customer, you have some short term,
16 there's a highly likely situation that that customer may
17 not be in here in a few years, then you would address it
18 differently.

19 Q. You don't anticipate that with Boulevard,
20 do you?

21 A. We did not.

22 Q. So then there's no reason to talk about --

23 A. That's.

24 Q. -- seasonality?

25 A. That's exactly what I said. We gave them

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1 the full load anticipated from that growth. And that is
2 actually discussed with the customer, and it's actually
3 information provided by the customer, because there's no
4 way we would understand what their loads would be.

5 So what we do is we talk to the customer,
6 we get the load characteristics of that customer, we try
7 to determine the revenue associated with that, and then we
8 work to validate it. Let's say that we came up and the
9 number was \$90,000 a year and the customer says, no, no,
10 no, I'm going to have all these other things, and we deal
11 with that.

12 We address that and we work with the
13 customer to make sure that we recognize their full load
14 and the revenue. We don't take into account rate
15 increases or decreases or, you know, other things. We
16 look at that customer's full load for this. And it's been
17 a policy that we've used for as long as I've been here and
18 many, many years before, from my understanding.

19 Q. But the \$110,000 is all you estimate that
20 Boulevard's going to produce over the next 30 years?

21 A. I just said it's an annual amount.

22 Q. An annual amount?

23 A. Uh-huh.

24 Q. So they qualified -- so you just used one
25 year?

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1 A. That's how we do that, yes.

2 Q. One year, even though it's going to be
3 there for 30 years?

4 A. Well, we could look at it a different way.
5 We could take and give them a full 20 years of revenue,
6 and then we would use a factor of, you know, oh,
7 20 percent or 4 percent, I guess it would be, of that
8 facility, you know.

9 Q. So I'm sorry. So it's just you. Anything
10 that Kansas City Power & Light says that there's no tariff
11 provision, you can have all the absolute discretion
12 whether it's 25 years or 1 year, whether it's 4 percent or
13 100 percent, that's your discretion?

14 A. No.

15 Q. No?

16 A. That is something that's worked out between
17 the customer and the company, and the Commission Staff
18 have been involved with various things, and in fact, they
19 obviously are involved with this case.

20 Q. Where's the customer going to go, other
21 than to Kansas City Power & Light, if you come up with
22 some --

23 A. That's why we --

24 Q. -- cockamamie decision?

25 A. That's why we have the Commission Staff.

1 That's why we have guidelines that we have to follow.
2 That's why there are complaints that are filed like this
3 one right here. I mean, this happens. You know, we
4 obviously haven't had many problems with this or we'd have
5 had more complaints.

6 Q. Give me a break. You really believe that,
7 that the reason you haven't had problems with this is
8 because -- you haven't had any complaints is because it's
9 working fine? You don't believe that the customer thinks
10 it's going to cost me money to file a complaint, to go
11 through with this? They don't take that into
12 consideration?

13 A. I think that the Commission Staff and other
14 parties who oversee us are very conscious of what happens.
15 We have informal complaints that occur on a regular basis,
16 where a customer has an issue with the company, they may
17 call in, they talk to the Commission, you know, Staff
18 members that are responsible to handle those, and that
19 happens on a regular basis. It's not a real frequent one.
20 In fact, Kansas City kind of prides itself that it has
21 fewer than most other utilities on a percentage basis.

22 But we do have those that happen, and we
23 try to deal with those informally. We have lots of
24 oversight. I mean, lots and lots of oversight to make
25 sure that we're doing the right thing. And we are

1 responsible. You know, if we say that it's the cost of
2 the job, that has to prove out to be the cost of a job.
3 That's the way it is.

4 Q. Well, who would determine it wasn't the
5 cost of the job? How would you be penalized? Who does
6 that?

7 A. Well, we have a set of auditors from the
8 Commission Staff that review us on a very regular basis,
9 and we're in the process of having a review done right now
10 while we're -- we actually have a rate case filed.

11 Q. And they in and -- every job that you
12 perform and they look and see whether you put the cost in
13 there, that the cost was proper?

14 A. You know, I don't think they look at every
15 job, but I pretty much feel comfortable they take a sample
16 of jobs, yes.

17 Q. Well, once --

18 A. We have to do the same thing ourselves. We
19 try to validate that our STORM system and the estimates
20 that we provide are accurate.

21 Q. In the first part of the extension policy
22 right under Rule 9, you --

23 A. First part of the extension under?

24 Q. Under 9, above 9.01.

25 A. Okay.

1 Q. The language there. All costs of the -- of
2 the company referenced in the following extension policy
3 shall include applicable material and labor costs,
4 including allocation of indirect costs.

5 A. Yes.

6 Q. Indirect costs are comprised of
7 supervision, engineering, transportation, material
8 handling and administrative cost financing that support
9 actual construction; is that correct?

10 A. Yes.

11 Q. The amount of the allocation of indirect
12 costs is derived by application of unit cost or allocation
13 percentages determined from historical experience; is that
14 correct?

15 A. Uh-huh. Yes.

16 Q. Who makes these determinations?

17 A. Well, those -- the information comes from a
18 number of different sources.

19 Q. I asked who makes the determinations on
20 these?

21 A. Who makes the determinations?

22 Q. The company, doesn't the company make these
23 determinations themselves?

24 A. Yes. Uh-huh.

25 Q. And are there any standards set forth here

1 in this rule or in any of your rules that are on file with
2 the Commission as to how to determine indirect costs, how
3 to determine how much transportation, how to determine
4 what labor costs?

5 A. There's an order from the Commission back
6 when this tariff was established that said we have to have
7 that information available for review, so I believe that
8 is available for review. Honestly, it was done before I
9 came to Kansas City Power & Light. I don't know if they
10 have reviewed that. My guess is they probably have.

11 Q. It's available for review, but it's
12 still --

13 A. I'm sure --

14 Q. But it's still --

15 A. -- that the Commission Staff in some review
16 audit process have probably looked at those costs in
17 detail and they've been calculated.

18 Q. All the calculations are made at Kansas
19 City Power & Light's discretion, right?

20 A. I'm not sure I follow what you said.

21 Q. Well, you make the initial calculation, you
22 go to -- you tell the customer, here's what you're going
23 to pay?

24 A. Yes, we do.

25 Q. You do?

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1 A. This is what you'll need to pay to have
2 this application of service provided, yes, we will do
3 that.

4 Q. Do you say your rules prohibit the customer
5 from getting their own contractor to do the job according
6 to your specifications?

7 A. The company would not let the customer be
8 responsible for the oversight of a project where you're
9 dealing with this kind of service unless they, you know --
10 we wouldn't do that, first of all. We would maybe
11 contract with somebody to do work and it would be under
12 our supervision, and, you know, as --

13 Q. But you would contract?

14 A. Yes.

15 Q. You use outside contractors --

16 A. All the time, yes.

17 Q. -- all the time?

18 A. Yes.

19 Q. And then during storm situations --

20 A. Sure.

21 Q. -- there's all kind of contractors coming
22 in?

23 A. Right.

24 Q. My question was, with respect to letting a
25 customer engage the contractor to perform the work

1 according to your specifications, under your oversight,
2 you do not -- do your tariffs not allow that?

3 A. Could you repeat that?

4 MR. FINNEGAN: I'd ask the reporter to.

5 THE REPORTER: "Question: My question was,
6 with respect to letting a customer engage the contractor
7 to perform the work according to your specifications,
8 under your oversight, you do not -- do your tariffs not
9 allow that?"

10 THE WITNESS: They absolutely did because
11 that customer would be the contractor then.

12 BY MR. FINNEGAN:

13 Q. Your tariffs do allow that to be done?

14 A. We could do that.

15 Q. You would allow --

16 A. You just said they would be under our
17 control.

18 Q. Yes. You would allow Boulevard to do the
19 construction?

20 A. Well, no, I didn't say Boulevard. I just
21 said we would allow a customer, if they met certain
22 criteria, to have work performed under our supervision,
23 sure. Just like a contractor. I mean, there would be
24 certain liabilities they'd have to take on, certain
25 indemnifications they'd have to take on, and then they'd

1 have to be qualified to be able to do that. I mean, that
2 would be no problem.

3 Q. If Boulevard were to engage one of the
4 contractors that Kansas City Power & Light uses and pays
5 them directly for the costs of the installation and it
6 would be under your supervision, under Kansas City Power &
7 Light's supervision, and it would be up to Kansas City
8 Power & Light's specifications, would you allow that to be
9 done in this case?

10 A. We would probably need to go out on a bid
11 basis because we wouldn't want to do anything too high in
12 cost, so we would probably have to bid that out. And if
13 they were the successful bidder and met the certain
14 criteria that the company had, sure.

15 Q. Well, I'm not asking the company to do the
16 bidding. I'm asking that Boulevard be allowed to do --

17 A. No, no, no. You're saying that the
18 customer -- Boulevard would be the contractor to KCPL.
19 That's what you're saying.

20 Q. The customer would engage a contractor?

21 A. No. I don't care who they get. They could
22 do it themselves. I'm saying we would be contracting with
23 Boulevard, is what you're saying.

24 Q. Yes. Okay.

25 Q. And, sure, we would do that if they met the

1 criteria. I don't see any problem with that, but I don't
2 know if they could meet it.

3 Q. If they use one of your contractors that
4 you use all the time?

5 A. That could probably happen.

6 Q. If they use Capital Utilities, is that it?
7 Capital --

8 A. We use Capital, sure. I mean, I think if
9 Boulevard wanted to get into the bidding of projects and
10 were qualified to do it, they could do that, just like a
11 new business.

12 Q. And what -- okay. If they were to do it,
13 if they were able to get it done for half the cost --

14 A. That would be great.

15 Q. -- you would -- at the end of the thing
16 when you've got the same job, the same work that you would
17 have done if you did it yourself, you would allow that?

18 A. Oh, absolutely. We do that. I mean, we
19 try to get the lowest cost possible, so we do bids all the
20 time. We bid against ourselves. We try to make sure that
21 we are performing our service to the best possible at the
22 lowest cost possible, but there are certain criterias to
23 meet that.

24 I mean, from yesterday's discussion saying
25 that they've got an estimate by some phone call that says

1 it's \$66,000, whatever number it is, compared to our
2 estimate of 134, I have no idea the comparison of that. I
3 have none. And if Boulevard wanted to go through a review
4 process and try to be a bidder on that, I think we
5 probably could let that happen, sure.

6 Q. You mean you probably would look at it?

7 A. Well, I don't know why we wouldn't.

8 Q. And that's one of the issues in this case,
9 you know? Boulevard's asking --

10 A. No, that's not the issue in the case.
11 Boulevard wants to take and do the work, not under our
12 supervision, not under our specs. It doesn't talk about
13 any of this stuff. It just says they want to be able to
14 do the project.

15 Q. Why would anybody want to do it not
16 according to your specs? It's just a question of whether
17 you'd perform it with all your overheads in it or somebody
18 else performs it without all your overheads in it. That's
19 the issue.

20 A. We still have the same overheads that occur
21 to it.

22 Q. For what? If somebody else were to
23 construct this job --

24 A. Let me give you an example.

25 Q. -- would you have labor involved in that?

1 A. Let me give you an example.

2 Q. Would you have labor involved if somebody
3 were to construct the job?

4 MR. BLANC: The witness is trying to answer
5 his question.

6 THE WITNESS: I will answer your question.
7 Do you know how many hours that the company has put into
8 this project on the detailed design associated with the
9 overhead job that was initially estimated?

10 BY MR. FINNEGAN:

11 Q. No.

12 A. Let's say it's \$10,000.

13 Q. Okay.

14 A. Do you think that Boulevard should pay for
15 that?

16 JUDGE DALE: Excuse me. We seem to have
17 gotten off the track here. He's not sworn to testify --

18 THE WITNESS: I'm sorry. There have been
19 an awful lot of labor that has been associated with this
20 project that would have to be recovered associated with
21 this project.

22 BY MR. FINNEGAN:

23 Q. The labor I'm referring --

24 A. It's already been spent.

25 Q. How about the labor to do the work, that

1 has not been expended yet, to remove the lines?

2 A. No. That hasn't been done, no.

3 Q. And those are overheads that you have
4 included in your bid or your demand to Boulevard that they
5 shall pay this much for the undergrounding, they'll pay
6 this much for the removal of the lines, they'll pay this
7 much for relocation?

8 A. All those components are in there, as well
9 as the engineering associated with it, the trucks, the
10 vehicles, you name it. You know, you made some comment in
11 your Complaint that the vehicles are in rate base. Well,
12 they're -- while the vehicles may be rate base, there is
13 an expense associated with that -- that to keep operating
14 and those are not recovered in there.

15 But you do talk about proportionating
16 things, and we follow a very standard costing project
17 that's been reviewed by the Commission Staff,
18 Commissioners, et cetera. We follow what's called the
19 FERC accounting standards, and those dictate how things
20 are charged out, and we are audited on those books. We
21 have -- you know, we have internal auditors that review
22 our documents, we have external auditors, and if we're
23 doing something inappropriate, we'll be held liable for
24 it.

25 Q. Well, let's come back to the question. You

1 say that Boulevard could be allowed to do this
2 construction work under your --

3 A. If they were a successful bidder on the
4 project.

5 Q. And they'd have to bid with Kansas City
6 Power & Light; is that correct?

7 A. They probably would bid with Kansas City
8 and other people. If they are the low cost, they would be
9 the low cost.

10 Q. And you would accept that?

11 A. If they meet the criteria of what it would
12 require to have the bids, yeah, indemnifications and all
13 the things that go along with it and design criterias.
14 But it doesn't take away the overheads or other things
15 that we have to apply to a job anyway.

16 There's certain -- you think that the
17 overheads that we place on the costs -- or maybe you do --
18 are attributable only to those individuals. Well, they're
19 not. They're all of the things. They're general and
20 administrative costs, the -- you know, beyond the labor
21 associated with it there's those, there's vehicle
22 loadings. There's all kinds of things that we look at
23 that tally up to this total cost. That's what we charge.

24 Q. If Boulevard were able to get the job done
25 for \$60,000 and it was up to your specifications and they

1 finished it and they -- and it was under your supervision,
2 they finished it and gave you the job, would Boulevard
3 have to pay more than \$60,000 to do that?

4 A. Yes.

5 Q. Would they have to pay the same amount that
6 you're telling them that they have to pay now?

7 A. I don't know what the 60,000 is in
8 comparison to what our number includes, because we haven't
9 done a detailed underground study. We have not done that
10 yet. Because, you know, what we understood is that this
11 was going to be an overhead job with some cleanup work.
12 You sent a -- pardon me. Boulevard sent a memo, said
13 proceed with it. We sent a bill to you, said this is what
14 it costs, because we'd already done that. We've not heard
15 anything.

16 The next thing we know it says, no, we're
17 not going to do that. We want it underground and you're
18 going to pay for it all. We think we hit an impasse at
19 that point in time. We haven't done anything. That's why
20 we're here today. We have to do a detailed study. We're
21 talking 40 to 50 hours of work just to do that study to
22 make sure that that job is done correctly.

23 Q. But if they were to do the job --

24 A. When you come up with \$60,000 or whatever
25 the number is, it's not on a detailed study that I know

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1 of, and because our \$134,000 estimate for underground is
2 not on a detailed study by any means.

3 Q. But your \$134,000 includes many, many
4 overheads?

5 A. Well, it includes overheads, yeah.

6 Q. And you're saying that these overheads
7 would also equally apply if Boulevard did the work and
8 gave --

9 A. The ones that are attributable to the job
10 would, and the ones that aren't wouldn't.

11 Q. So like transportation costs?

12 A. For what?

13 Q. For the -- for doing the work?

14 A. Well, if we don't have a truck going out
15 there to do the work, we wouldn't charge the customer for
16 a truck going out to do the work.

17 Q. And the same for the labor of the workers
18 that would do the work?

19 A. That would not be included either, but you
20 probably would have supervision, you'd probably have
21 vehicle expense, you'd probably have all kinds of things
22 associated with making sure that the project was done.
23 You'd have to put it into a mapping system. You've got to
24 get the project completed.

25 I mean, our job as a utility is to make

1 sure we provide you safe and reliable service at
2 reasonable cost, and to say that, you know, you can do it
3 cheaper, maybe you can, but I mean, we've yet to see that.
4 We do audits, we do checks, we have the Commission
5 oversight. That's what they're here for, to make sure we
6 do this in a very fair and equitable means.

7 Q. Thank you. Not to belabor this, but are
8 you saying that Kansas City Power & Light's willing to sit
9 down with Boulevard and determine what the cost would be
10 if Boulevard did the job?

11 A. I'm saying that if you wanted us to proceed
12 with full knowledge that Boulevard was responsible for the
13 cost and that you were wanting us to proceed to do the
14 detailed engineering study, and that you then wanted to
15 take that engineering study and go out and bid it and then
16 you were willing to pay all the costs of Kansas City
17 Power & Light plus the cost of that bid, if it met our
18 specs, sure.

19 I mean, it's not an issue about whether
20 Kansas City Power & Light does the work or not. This is
21 about equity to the customer, and this is about who pays
22 for what.

23 Q. Mr. Rush, you are familiar, are you not,
24 with the case of Union Electric vs. Land Clearance?

25 A. Well, I have read the documents that you

1 provided.

2 MR. BLANC: This is beginning to sound like
3 a legal conclusion. We'll see what he asks him.

4 BY MR. FINNEGAN:

5 Q. All right. Let me ask you this: Have you
6 done other construction in Kansas City that has been
7 ordered by the City as result of a blight, blighted
8 conditions, to improve a blighted condition?

9 A. I'm sure we probably have.

10 Q. And who has paid for that?

11 A. I'm sure that it has occurred on two
12 different ends. I mean, if you're talking about
13 converting a line from overhead to underground, and that's
14 all that's required, I'm sure that that customer or the
15 City or the person responsible for it paid it. It was not
16 paid by Kansas City Power & Light.

17 Q. What about moving lines across the street,
18 relocating the lines?

19 A. If there is a situation that is required by
20 the City to move a line and it is in public right of way
21 and it is the direction of the City only for the public
22 good, it is often paid for by KCPL.

23 If it is in private right of way, however,
24 the -- and the City directs it to be done not for an
25 individual customer but for the public good, then the City

1 pays for it.

2 If it is a situation where it is designated
3 to be -- and we're talking about 26th Street in my mind
4 right now, where the City says, in order for you to get
5 this expansion done, you have to move this line, then it
6 is the customer that pays in all cases.

7 Q. If the requirement to move the line is a
8 result of a traffic study of the City that orders this
9 line to be removed, to be moved --

10 A. The only reason --

11 Q. -- to clear blight --

12 A. The only reason that a street would be
13 widened or changed would be a study of the city. So then
14 it is, what is that study being done for? And in this
15 case the study was being done for the expansion of
16 Boulevard, and in my understanding, then, is that the City
17 when it did that study for the expansion of Boulevard
18 directed that because this's some kind of turn lanes that
19 needed to be occurring because of vehicles coming out of
20 this area attributable only to the expansion of Boulevard,
21 then Boulevard's responsible.

22 Now, there obviously are other trucks
23 coming out of there, it sounds like, you know, some
24 Jamison or Jianus or somebody, but until this expansion
25 occurred, the City wasn't saying change this situation.

1 If the City had come to us and said,
2 independent of any expansion, this road needs to be
3 widened, you know, we've decided this, then we would look
4 at whether it's in private right of way or public -- or
5 private easements or public right of way, and that would
6 dictate who pays.

7 Q. And if it were a public right of way and if
8 it were required by the City to remove blight --

9 A. No. We're not talking about blight now.
10 We are not talking about blight. We're talking about a
11 traffic study. That's what you said.

12 Q. Yes.

13 A. The other questions were about blight.

14 Q. It's part of the -- part of the removal
15 of the blight, the City has asked that these lines be
16 removed -- be moved.

17 A. No, that's because of the traffic study, is
18 what you said. It wasn't -- blight was never addressed as
19 the reason that these lines needed to be moved. That's
20 not what I heard at all. It's not in the testimony or any
21 of your Complaint or anything that deals with that.

22 Q. Did not the City declare this area to be
23 blighted and legislatively declare it a blighted area that
24 needed to be cleaned up and allow the redevelopment of the
25 area?

1 A. Yeah, they did. I think it says 25th and
2 Bellevue. It didn't say 26th and Bellevue. So I don't
3 know -- you know, I'm not going to pretend to know the
4 particulars of that, because you have one situation that
5 you say needs to be underground because it says blight,
6 you have one that you say needs to be moved that's
7 overhead that's also because of blight, and I don't
8 understand the similarities, because I don't understand
9 where the City's coming from.

10 Because you've got one that you want
11 underground because of blight, you want us to pay for it.
12 You have one that you want moved that's overhead that now
13 says blight, but I understand was a traffic situation.

14 Q. That was caused by the blight to improve
15 the blighted condition?

16 A. I don't understand what you're saying.

17 Q. You don't understand. Okay. You talked
18 about -- just to clarify this, there was the 90,000 you
19 expended that was already covered by Boulevard's
20 anticipated revenue projection?

21 A. Yes. Uh-huh.

22 Q. And that is not the situation, or we're not
23 talking about those particular parts of the equation at
24 this point, are we?

25 A. Sure, we are. It's a whole package.

1 Q. That's already been done; is that not true?

2 A. It was done as a whole package. It may be
3 phases. I've heard references to phases throughout this
4 whole discussion the last two days.

5 Q. But what we're here about, that's already
6 been done, nobody's complaining about that? What the
7 complaint is about --

8 A. I think you have to look at the whole
9 package. I mean, you can't say that you're going to look
10 at one little piece when there's this whole pie that's
11 associated with it.

12 Q. Come back to this. What is the Complaint
13 asking for in this case, do you recall?

14 A. I believe there's two counts. I believe
15 what you first want is you don't want to pay for any of
16 this.

17 Q. Talking about --

18 A. Then you believe Boulevard is not
19 responsible for paying any of it, and that that's
20 conditioned on some phrase that talks about blight. I
21 believe that's what the case is.

22 On the second count, I believe there's a
23 number of tidbit-type things, but basically it talks about
24 the company is overcharging the customer, the company has
25 inflated prices, the company doesn't have a tariff that

1 allows them to do this, the company -- a number of things
2 that the company doesn't have. They shouldn't be charging
3 them the gross-up on the CIAC tax, a number of situations,
4 ultimately saying that they ought to pay something less
5 probably is what I would think the second complaint is.

6 But I can't remember if it says that you
7 shouldn't pay any of it. I don't think it's that case. I
8 think it's the case that you shouldn't pay as much as
9 you're paying, is probably what the second count says,
10 because of all these things, but it never identified what
11 you want to pay. I mean, all this kind of --

12 Q. I'm talking about the basis, so you kind
13 of -- I appreciate your --

14 MR. BLANC: Counsel is asking the witness
15 to summarize Counsel's complaint. I'm not sure that's
16 an --

17 MR. FINNEGAN: I did not ask him that.
18 That's what he answered.

19 My question was, the basis of the complaint
20 involves -- and I may have said it improperly -- involves
21 the lines on Belleview and the line on 26th Street, right?

22 MR. BLANC: He's asking him to state the
23 basis for his own complaint. I don't think that's an
24 appropriate question for this witness.

25 JUDGE DALE: I will note that the witness

1 tends to add things to the record that aren't actually
2 responsive to the questions, and perhaps Mr. Finnegan
3 could rephrase his question so that he's not asking what
4 the basis of the complaint is, but merely what we're
5 talking about right now.

6 BY MR. FINNEGAN:

7 Q. Let's try this one more time. The lines
8 we're talking about in this Complaint in this hearing are
9 the line on Bellevue and the line on 26th Street?

10 A. Those are the two lines in question.

11 Q. And we're not -- the Complaint has
12 nothing to do with the service that you already ran to
13 Bellevue -- I mean to Boulevard Brewery?

14 A. That may be what your Complaint says.

15 MR. FINNEGAN: Okay. Can I have a couple
16 minutes?

17 JUDGE DALE: Sure.

18 MR. FINNEGAN: I think I've asked enough.

19 JUDGE DALE: Thank you. I do have a couple
20 questions.

21 QUESTIONS BY JUDGE DALE:

22 Q. Pertaining to -- and I can't remember which
23 street is which, but the one that is to be widened.

24 A. That's 26th Street.

25 Q. Okay. 26th Street. Has KCP&L been

1 notified by the City that it is required to move those
2 lines?

3 A. No, not to my knowledge. This came through
4 Boulevard Brewing as a component of the project.

5 Q. Has PIEA directly communicated to KCP&L
6 that the lines are required to be moved?

7 A. I don't think we heard that. Maybe the
8 earliest we would have heard that would have been like
9 February of this year, because if we did, I don't -- I'm
10 not the one that could answer that, because I've never
11 heard it.

12 As I understand, we were not even aware
13 PIEA was involved with this. We had dealings directly
14 with Boulevard, with AES, and I believe there was another
15 consultant that we were also involved with.

16 Q. Okay. So you've not been notified to your
17 knowledge by the City of Kansas City or any other
18 governmental entity that required you to move those --

19 A. That's my knowledge.

20 Q. -- poles?

21 A. Yes. That's correct.

22 JUDGE DALE: Thank you. Redirect?

23 MR. BLANC: Just a point of clarification
24 first, if I could, your Honor. I know the rules of this
25 proceeding are somewhat modified, given the expedited

1 nature, but I just wanted a point of clarification. Would
2 recross, for example, be limited to the issues that were
3 covered on redirect, or would it be wide open?

4 JUDGE DALE: Recross is limited to redirect
5 and questions from the Bench.

6 MR. BLANC: Thank you, your Honor. Just a
7 couple of questions for Mr. Rush on clarification.

8 JUDGE DALE: Certainly. And if you want to
9 sit while you do these, you may do so.

10 MR. BLANC: Thank you, your Honor.

11 REDIRECT EXAMINATION BY MR. BLANC:

12 Q. Just one small point of clarification,
13 Mr. Rush. Counsel for the Complainant spent a long time
14 talking about the City's finding of blight in this
15 instance. Are you generally familiar with the general
16 development plan that they're relying upon to say it was
17 blighted?

18 A. Yes.

19 Q. Now, does that general development plan
20 make a statement about who's responsible for the cost to
21 move utilities as a result of the blighted condition?

22 A. Yes, it does.

23 Q. What does the plan say?

24 A. The plan says that the developer is
25 responsible for it. There was a modification obviously

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1 made recently that said that --

2 Q. The plan as approved by the city council.

3 A. The plan as approved by the City says the
4 developer has to pay for it.

5 MR. BLANC: No more questions.

6 JUDGE DALE: Thank you. Any recross?

7 MR. FINNEGAN: No, your Honor.

8 JUDGE DALE: Thank you. Mr. Rush, you may
9 step down.

10 (Witness excused.)

11 JUDGE DALE: While we call the next
12 witness, I would like to have about a three-minute break.

13 (A BREAK WAS TAKEN.)

14 JUDGE DALE: We're back on the record and
15 proceeding with our next witness.

16 DELORA LOCKER testified as follows:

17 DIRECT EXAMINATION BY MR. BLANC:

18 Q. Good morning, Ms. Locker. Would you please
19 state your name and spell it for the record.

20 A. It's Delora, D-e-l-o-r-a, Locker,
21 L-o-c-k-e-r.

22 Q. Where are you employed?

23 A. Kansas City Power & Light.

24 MR. FINNEGAN: I'm sorry. I don't believe
25 she was sworn, your Honor.

1 JUDGE DALE: I'm sorry. I'm having a day.

2 (Witness sworn.)

3 JUDGE DALE: Thank you.

4 Thank you, Mr. Finnegan.

5 BY MR. BLANC:

6 Q. Just so the record's clear now that you're
7 under oath, would you please state and spell your name for
8 the record.

9 A. Delora Locker, D-e-l-o-r-a, L-o-c-k-e-r.

10 Q. And where are you employed?

11 A. Kansas City Power & Light.

12 Q. And what's your position there?

13 A. I'm an account rep.

14 Q. What are your duties?

15 A. I am the customer's first point of contact,
16 and I actually facilitate the jobs from initial contact
17 from the customer, getting it entered into our STORM
18 system, working it through, following it through the
19 system, making sure gets to construction, gets built and
20 goes out. So I'm the one person contact for the customer
21 basically.

22 Q. And have you worked with Boulevard on these
23 relocation projects?

24 A. Yes.

25 Q. Now, I'd just like to kind of go over the

1 background of discussions with Boulevard about these
2 projects.

3 A. Okay.

4 Q. We'll start with Belleview. What was
5 Boulevard's first request with respect to the Belleview
6 facilities?

7 A. Belleview, I believe at one time they
8 wanted some estimates. They wanted an underground
9 estimate, they wanted it --

10 Q. Did they request that we prepare a detailed
11 plan?

12 A. No, just a ballpark estimate. It was an
13 estimate to go to remove it. There was an estimate to put
14 it underground. There was an estimate to clean it up.

15 Q. So --

16 A. So there's been various requests the whole
17 time.

18 Q. Okay. So they requested -- I just wanted
19 to confirm, they requested cost information about removing
20 the facilities?

21 A. Right.

22 Q. Moving them, burying them, putting them
23 underground?

24 A. Right.

25 Q. And then cleaning them up?

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1 A. Yes.

2 Q. And did we provide cost estimates for those
3 options?

4 A. The only one we didn't, I don't think, is
5 removal because it was determined that it needed to stay.
6 Engineering -- it's my understanding engineering said it
7 needed to stay.

8 Q. So the two options that were left were?

9 A. Were the cleaning up and the
10 undergrounding -- or the undergrounding, yes.

11 Q. Okay. And do you recall what KCPL's
12 original ballpark estimate was for the burial?

13 A. I think it was like \$134,000 and some
14 dollars and some change or something like that.

15 Q. And does that estimate assume Boulevard
16 will construct the underground conduits?

17 A. Yes. That estimate included that they
18 would be responsible for installation of all conduit, any
19 equipment bases, sectionalizers. We would provide the
20 sectionalizers. I don't remember what kind of piece of
21 equipment it was because I didn't get that much in the
22 detail, but if there was bases that needed to be provided
23 they would have to install those along with the conduit
24 and --

25 Q. So we didn't demand that KCPL get to do the

1 whole job?

2 A. No. It's -- that's -- it's the customer's
3 responsibility to put that conduit in, the transformer
4 bases, things like that in, yes.

5 Q. Now, you mentioned the cleaning up option.

6 A. Uh-huh.

7 Q. Do you remember a ballpark estimate of what
8 we thought that cost? And if you don't, that's fine. We
9 have the person that prepared the cost estimate later.

10 A. I don't remember what it was. I think it
11 was -- I don't know. I can't guess.

12 Q. Okay. Do you remember -- do you recall
13 which option Boulevard indicated -- I guess I should say
14 initially indicated they wanted to pursue?

15 A. After we gave them the options, it was
16 their choice. I got an e-mail from Mike stating that they
17 wanted to proceed with Option A on both the Belleview and
18 the 26th Street.

19 Q. Okay. I want to show you Exhibit 23 that
20 was entered in the record, if you could please confirm
21 that that's the e-mail you're referring to.

22 A. Yes.

23 Q. And who is that e-mail exchange between?

24 A. It was from Mike Utz to me, and then -- and
25 to Russ Wiley, Craig Burgett, Ron Anderson, Tom Coulter,

1 Gary Westhues, John MacDonald and Jeff Krum.

2 Q. And if I could refer you to Mr. Utz's
3 e-mail to you of July 5th, would you please read the first
4 e-mail of the paragraph -- I'm sorry -- the first
5 paragraph of the e-mail he sent you?

6 A. It says, Lori, we would like to proceed
7 with Option A below for both systems. I understand that
8 there will be a number of weeks involved in engineering
9 and planning phases of this job of this project, but would
10 like to have detailed cost estimates in our hands as soon
11 as possible. I also need a schedule for the work as soon
12 as it can get to -- as you can get it to us.

13 Q. And what does Option A refer to?

14 A. Option A --

15 Q. Well, you can just -- the cleaning-up
16 option you described?

17 A. It's the cleaning-up option on Belleview,
18 yes.

19 Q. Okay. Was there any ambiguity about that?

20 A. No. Pretty clear to me.

21 Q. Now, looking back at the prior e-mail in
22 the chain, I think it's the e-mail that initiated the
23 discussion, bottom of page 2?

24 A. Yes.

25 Q. How did you interpret the inclusion of the

1 dollar figures at the end of the different options?

2 A. Those were the actual estimates that were
3 given to them when we were in a meeting. I think it was
4 that morning we had a meeting with them there at their
5 offices, and their -- that was the cost estimates that we
6 had given to them.

7 Q. With the understanding estimates, though,
8 you made clear that those estimates would be for cost that
9 they would --

10 A. Yes. And ours was like \$35,000 and then
11 their electrician cost for Westhues, I'm assuming
12 installation of the conduit was \$3,100.

13 Q. Okay. But it was your understanding --

14 A. Yes.

15 Q. -- that it was --

16 A. Yes. They knew. Yes. That was their --
17 that was our estimate to them for that piece of work.

18 Q. And they selected Option A?

19 A. Absolutely.

20 Q. Because Boulevard chose to clean up the
21 Belleview facilities, Option A, did we do a detailed plan
22 or detailed cost estimate for plan -- I guess it was
23 referred to as Plan C, the undergrounding of those
24 facilities?

25 A. No, not at all.

1 Q. When did you become aware that Boulevard
2 had changed its mind and wanted to pursue the underground
3 option on Belleview?

4 A. I think it was a November 3rd e-mail of
5 2005 that I got from Mr. Elam. And I don't even -- well,
6 actually, I don't think that -- I think that just told us
7 they wanted us to come out and remove or relocate it.
8 There was nothing in his e-mail about underground now. It
9 was somebody else's letter I read.

10 Q. But no sooner than --

11 A. No.

12 Q. -- November of 2005?

13 A. No, no sooner than that.

14 Q. I'm going to show you Exhibit 26 that has
15 been entered into the record. Could you please identify
16 that document?

17 A. This is a memorandum from Greg Elam to Mike
18 Utz, Jeff Krum, myself, Emeka and Russ Wiley.

19 Q. And would you please read paragraph 2 of
20 that memo? I believe it's on page 2.

21 A. Removal of the 2.47 KV feeder between 25th
22 and 26th on Belleview, it was agreed that since the feeder
23 to serve the Boulevard Brewery's plant extension will be
24 installed from 26th Street with a tie onto a switch to be
25 located at the -- at the southwest corner of 25th Street

1 and Belleview, the feeder that currently exists on
2 Belleview can be removed.

3 Q. Now, he says, am I correct, that it was
4 agreed that the facilities on Belleview could be removed?

5 A. That's what he says.

6 Q. Right. You were at the meeting he's
7 referring to, correct, or do you agree -- the memo was to
8 you, do you agree that --

9 A. No.

10 Q. Now, if we could go back to the cleanup
11 option. We provided them with a detailed cost estimate of
12 the cleanup option; is that correct?

13 A. Yes.

14 Q. And I'm going to show you Exhibit 22.
15 Could you please identify that document?

16 A. This is a document that I prepared on
17 December the 16th and sent to Mr. Elam I believe via
18 e-mail to him and Mr. Utz, and then I also sent a hard
19 copy to both of them. And it's basically in response to
20 his e-mail, I believe, of the 3rd of November.

21 Q. And then what information -- what does it
22 provide as the detailed cost estimate for cleaning up the
23 Belleview facilities?

24 A. Belleview, it gives the installation. I
25 broke it out per Belleview. The installation with the

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1 labor, material, vehicle, indirect costs, then the removal
2 portion of that for labor, material, vehicle and indirect
3 costs.

4 Q. And then is there evidence there of a
5 reduction in our estimate that we agreed to?

6 A. Yes.

7 Q. And was that the minus expired
8 facilities --

9 A. Yes.

10 Q. -- that Tim Rush testified to earlier?

11 A. Yes.

12 Q. And do you agree with Mr. Rush that that's
13 not the approach we should have taken here, that that
14 reduction should not have occurred?

15 A. Yes.

16 Q. But it's your understanding that we're
17 willing to stand by that cost estimate?

18 A. Absolutely, yes.

19 Q. I'd like to switch to the relocation on
20 26th Street, if we could.

21 A. Okay.

22 Q. Did you hear Mr. Elam testify yesterday
23 that you agreed that no CIAC should apply to the
24 26th Street segments?

25 A. I heard him testify to that, yes.

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1 Q. Is that indeed what you agreed to?

2 A. Absolutely not.

3 Q. How did you -- what did you tell Mr. Elam
4 with respect to the CIAC treatment of the 26th Street
5 project?

6 A. In my e-mail to him, it clearly states that
7 between the alley and Southwest Boulevard, that's the only
8 portion that would not be subject to the tax.

9 Q. Do you recall what was KCP&L's initial
10 ballpark estimate for the 26th Street project?

11 A. I think it was like 57,000, I think.

12 Q. Okay. And did that estimate change or was
13 reduced as a result of discussions with Boulevard, like
14 the Belleview?

15 A. Yes, absolutely.

16 Q. And was it reduced in part for the same
17 reason about this minus expired facilities?

18 A. Yes.

19 Q. And would you agree that that treatment
20 here was also inappropriate --

21 A. Absolutely.

22 Q. -- that we shouldn't have reduced?

23 But we're willing to stand by that cost
24 estimate?

25 A. Yes.

1 Q. And when did you become aware that
2 Boulevard believed it should no longer be responsible for
3 the costs of relocating the facilities on 26th Street?

4 A. The e-mail I got from Greg on November the
5 3rd, I believe it was.

6 Q. Now I'm going to go to their allegations
7 that we've been unresponsive throughout this process.
8 They've testified -- both Mr. Krum and Mr. Elam have
9 presented testimony that indicated or implied that we've
10 been unresponsive. Do you have a rough estimate of how
11 many phone calls, e-mails, conferences you've had with
12 either Mr. Elam, Boulevard or any of its representatives
13 regarding this matter?

14 A. Yes. Just roughly here from my call logs,
15 I've probably got 20, 25, and that's just the ones that I
16 missed phone calls. There were times when I was at my
17 desk and answered the phone and had conversations that
18 way, too. Meetings onsite, there were numerous meetings
19 onsite, five, ten maybe, somewhere in that area, and they
20 came to our facility one time, too.

21 Q. Next I'd like to show you Exhibit 24, the
22 timeline prepared by Mr. Elam.

23 A. Uh-huh.

24 Q. Does he indicate there that there's a
25 period from October through November, the entire two

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1 months, that KCPL was nonresponsive?

2 A. Yes.

3 Q. And did you have an onsite meeting with
4 Mr. Elam during that period?

5 A. Absolutely.

6 Q. What date did that occur?

7 A. 10/20/04.

8 Q. And what was the result of that meeting?
9 Was it agreed that we needed more information?

10 A. Yes. At that time I gave -- I don't
11 remember if it was Mike or if it was Greg, but I gave them
12 the service application, a customer letter that Mike did
13 sign, which states everything that I need in order to
14 start a job, which is the commercial service application
15 filled out. I need hard copy drawings. I need autoCAD
16 drawings. I need riser, everything that my field people
17 will need in order to design this job.

18 Q. And when did you get that information?

19 A. I got the service application back on
20 10/25. I did not get final autoCAD drawings until
21 November, I think the 17th.

22 Q. Would that imply to you that we weren't
23 responsive during the October to November period?

24 A. No.

25 MR. FINNEGAN: Objection, self serving.

1 JUDGE DALE: Overruled. Please answer the
2 question. It was a yes or no question, as I recall.

3 MR. BLANC: She did. She indicated no.

4 BY MR. BLANC:

5 Q. Now, the dates you just provided, it was a
6 long time ago, and you gave specific dates. How can you
7 be so sure that the dates you provided are accurate?

8 A. I've got e-mails to back them up. I've got
9 my calendar where I scheduled my appointments.

10 Q. Is there a STORMS audit report?

11 A. There's a STORMS audit report that whenever
12 you make a -- I want to say like an entry or something
13 like that, there are requirements, and one of the
14 requirements is after you first start the job, it's called
15 160, and it's waiting on customer data. I didn't sign
16 that off. I signed it off initially. When I entered the
17 job, then I realized that the autoCAD drawings, that we
18 didn't have them, so I unchecked it, and I didn't check it
19 back until November the 17th when I got those autoCAD
20 drawings.

21 Q. Okay. Thank you. One final question. In
22 a meeting early on in this process with Mr. Elam, did
23 Mr. Elam express an opinion to you about who should pay
24 for the cost of these projects?

25 A. We were at our facility on January the

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1 27th. Mr. Elam, Mike and Jeff were there, Emeka, Russ and
2 Nathan, a whole bunch of other people. After the meeting
3 was over with, we were -- I walked the three gentlemen
4 out, and Greg had made the statement -- I don't remember
5 his exact words, but I was kind of taken aback by it. We
6 were discussing the costs on the way down, and he said, I
7 don't understand why you don't just put it in the rate
8 base and let the ratepayers pay for it. That's basically
9 what he said.

10 Now, I don't know his exact wording, but
11 that's what he implied. And the reason it stuck with me,
12 I never had anybody say that. I relayed that information
13 to the working foreman and Russ as the designer.

14 Q. But it was clear to you that Mr. Elam
15 thought it would be appropriate --

16 A. Yes.

17 Q. -- for all of KCP&L's ratepayers to pay for
18 this?

19 A. Yes.

20 MR. BLANC: No further questions.

21 JUDGE DALE: Before Mr. -- while
22 Mr. Finnegan's coming up, I'll just ask a couple
23 questions. You can come on up. This is very brief.

24 QUESTIONS BY JUDGE DALE:

25 Q. What do you mean by cleaning up?

1 A. Cleaning up was the term that they used.
2 They thought it was ugly. They wanted to see newer
3 transformers on the poles, maybe some new poles, take down
4 the ratty wire and put up new wire. So it was their term
5 of clean up is what I mean by that. Just new poles, the
6 terminal pole they thought was ugly, wanted a new updated
7 terminal pole. Does that answer --

8 Q. Do you believe that PIEA and the City of
9 Kansas City meant the same thing by cleaning up? Is
10 everybody clear on what cleaning up is?

11 A. I don't know, because I didn't -- like I
12 say, PIEA, I didn't have any idea they were involved in
13 this until basically the complaint came down.

14 Q. Okay.

15 A. So I don't know what they mean by cleaning
16 up.

17 JUDGE DALE: Okay. Thank you. I'm sorry,
18 Mr. Finnegan. Please proceed.

19 CROSS-EXAMINATION BY MR. FINNEGAN:

20 Q. All right. Ms. Locker --

21 A. Yes.

22 Q. -- when did you first become involved in
23 the Boulevard Brewery project?

24 A. I first became involved from the initial
25 e-- or not e-mail, but memo that Mike -- or Mike had

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1 received I guess from Greg that was dated 9/21. I
2 received it on my chair --

3 Q. What year was that?

4 A. '04. 9/22/04 is basically when I became
5 aware of it and made a phone call to Greg. My first
6 initial phone call to him was 9/23 of '04.

7 Q. At any time in your correspondence with
8 Boulevard and its representatives, did you place in
9 writing that -- to either Boulevard or American Energy
10 that the Belleview line was needed?

11 A. Did I?

12 Q. Yes.

13 A. No.

14 Q. Do you recall that the first request was to
15 remove that line?

16 A. I'll be honest with you, there were so many
17 options talked about, I don't know if -- it probably was,
18 because I think in his -- in his memo he had, I guess,
19 discussed that with Mike Lucas. And so I don't -- but I'm
20 assuming it was at some time, yes.

21 Q. Now, you indicated that you were involved,
22 I think, in the revenue calculation or you were aware of
23 the revenue calculation for the new project?

24 A. Yes.

25 Q. And did you help determine the amount of

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1 revenues?

2 A. That is based on the service application
3 that they fill out. It asks for specific load
4 information, and I plug those numbers into our STORMS, and
5 then it gives me the amount. So it's a computer-generated
6 calculation. It's not something that I do manually.

7 Q. Okay. So -- but STORMS is not included in
8 your tariffs, is it?

9 A. I don't know.

10 MR. BLANC: She's not the witness to
11 testify to that.

12 JUDGE DALE: I'm sorry. I'll confess I was
13 responding to an e-mail from a Commissioner. Could you
14 tell me what you asked again?

15 MR. FINNEGAN: I asked, STORMS is not
16 included in your tariffs?

17 MR. BLANC: The tariff witness has already
18 been.

19 JUDGE DALE: I think it's already been
20 established that STORMS is not in their tariffs. Not that
21 I'm qualified as the witness on that.

22 BY MR. FINNEGAN:

23 Q. How did you then arrive at, was it \$110,000
24 as the revenue that this project would produce?

25 A. Yes.

1 Q. Did you convey that to anybody from
2 Boulevard, say Mr. Utz?

3 A. I don't know if I told him exactly how much
4 it was. I just told him -- he wanted to know what it was
5 going to cost for the new piece, and I said I won't know
6 that until I actually have a final design. So I don't
7 know if I ever told him it was \$110,000. No, I don't know
8 if I did or not.

9 Q. Have they ever had a chance to dispute that
10 amount or say that it should have been higher?

11 A. If they did, they didn't express that to
12 me.

13 Q. Well, if they didn't know what it was, I
14 guess they couldn't express it?

15 A. I guess not then. I don't know.

16 Q. You made a statement concerning the CIAC
17 tax --

18 A. Uh-huh.

19 Q. -- that part of it was to be waived on
20 26th Street?

21 A. Yes.

22 Q. Is that correct, you said that?

23 A. Yes.

24 Q. What was the reason that would have been
25 waived?

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1 MR. BLANC: Our CIAC witness will be here
2 Wednesday. She was basically implementing a policy
3 decision. I don't think she can answer that question.

4 MR. FINNEGAN: If she knows.

5 JUDGE DALE: She can say whether she knows.

6 THE WITNESS: What was the question again,
7 then?

8 BY MR. FINNEGAN:

9 Q. You made the statement to or I believe you
10 put it in a memo that the CIAC tax on 26th Street would be
11 waived?

12 A. Uh-huh.

13 Q. Or part of it would?

14 A. Uh-huh.

15 Q. And what was the basis for the waiver?

16 A. I was advised that.

17 Q. Did you or anyone respond to Mr. Elam's
18 memo dated January 17, 2005 in which you just quoted from
19 in paragraph 2?

20 A. I don't believe I did. I'm not sure if
21 somebody else did or not. I think they may have, but I'm
22 not sure of that.

23 Q. And that was Exhibit 26, for the record,
24 we're talking about.

25 Do you know if KCPL has changed its design

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1 during the course of its negotiations with Boulevard,
2 especially with respect to the Belleview line?

3 A. You mean by change the design?

4 Q. Well, if at one point it wasn't needed and
5 then it was decided it was needed again, do you know that?

6 A. Actually, from my involvement from the
7 meeting we had in the very first meeting I had in the
8 field with them, Greg discussed that with us, and the
9 engineer onsite said that he would have to explore that
10 option before giving an answer. So at that point, in my
11 opinion it was never, yes, it could be removed. And then
12 when he explored that option, it was, no, it has to
13 remain. So from my understanding from the get-go of my
14 involvement, it could never be removed.

15 Q. With respect to your e-mail of
16 December 16th to Boulevard, to Mr. Elam, where you set out
17 the Belleview cleanup costs and the 26th relocation costs,
18 are these the details that you provided?

19 A. Yes.

20 Q. Nothing behind this with more detailed
21 information than this?

22 A. No. This was what I provided. I was
23 advised this is what I had to provide.

24 Q. No breakdown of the labor costs, material
25 costs, vehicle costs, indirect costs on any of these

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1 items?

2 A. That's what they -- this is the total for
3 the job. This is what that is. The installation pieces,
4 all the labor for -- for that, for material. I guess I'm
5 kind of confused on what you're asking me then.

6 Q. I just want to know if there's any more
7 detail that the customer could look at and see what was
8 here and whether or not there was any provision for the
9 revenue requirement of the company.

10 A. The revenue, there would be no revenue
11 based on this because the revenue was used up on the first
12 phase of the project.

13 Q. I understood it was 110,000 and there was
14 only 90,000 was used up?

15 A. Yes.

16 Q. So what happens to the other 20,000?

17 A. The alley between the new expansion part of
18 the building there and the old building, I guess you'd
19 say, and Jianus Brothers, there's a piece that -- I'm not
20 sure when it's going to happen -- of the old Boulevard
21 building will be tore down. It will be a parking lot and
22 I believe a driveway through there.

23 Once that happens, there has to be some
24 relocation work done of the facilities that we just
25 installed to refeed Jianus. We assured them that piece

1 then was going to be included in that revenue. There's I
2 think two or three poles, I think, that need to be
3 relocated once that happens, and that would all be revenue
4 justified.

5 Q. By the --

6 A. By the first 110, yes. But I don't know
7 the details of what all has to be relocated.

8 Q. If Boulevard could show Kansas City Power &
9 Light that actually the revenue calculation was too low,
10 that it should be more like \$200,000 a year, would you
11 take -- would Power & Light take a look at that again?

12 MR. BLANC: That's not her decision to
13 make. The testimony of Mr. Rush I think already covered
14 this point.

15 JUDGE DALE: Then she can answer that she
16 doesn't know.

17 THE WITNESS: What was the question again?

18 MR. FINNEGAN: Could you repeat the
19 question, Madam Court Reporter?

20 THE REPORTER: "Question: If Boulevard
21 could show Kansas City Power & Light that actually the
22 revenue calculation was too low, that it should be more
23 like \$200,000 a year, would you take -- would Power &
24 Light take a look at that again?"

25 THE WITNESS: I'm assuming I would, but if

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1 I might say, that revenue was supplied to us by them in
2 the beginning anyway. I mean, it's based on their load
3 information they provided us.

4 BY MR. FINNEGAN:

5 Q. But then you made the calculation based on
6 the information they provided you?

7 A. I didn't make that calculation. STORMS
8 system made that. I took their numbers just like they are
9 on the sheet and put them into the system and it kicked
10 out a number. So their information that they provided is
11 exactly how the revenue was determined.

12 Q. Based on the STORMS system?

13 A. Based on the STORMS system, yes.

14 MR. FINNEGAN: That's all my questions.

15 JUDGE DALE: I have no questions. Do you
16 have redirect?

17 MR. BLANC: No, your Honor.

18 JUDGE DALE: Thank you. You may step down.

19 (Witness excused.)

20 JUDGE DALE: We have half an hour. What's
21 your assessment on how long your direct will take?

22 MR. BLANC: I think that works very well.

23 I don't have many questions for the next witness, and I
24 don't anticipate that counsel for Complainant will either.

25 JUDGE DALE: Okay. Let's go ahead.

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1 (Witness sworn.)

2 JUDGE DALE: Thank you. You may be seated.

3 JOSEPH ROSA testified as follows:

4 DIRECT EXAMINATION BY MR. BLANC:

5 Q. Good morning.

6 A. Good morning.

7 Q. Would you please state and spell your name
8 for the record, please.

9 A. Joseph Rosa, spelled R-o-s-a.

10 Q. And who are you employed by?

11 A. Kansas City Power & Light Company.

12 Q. And what position do you hold there?

13 A. I am managing attorney for corporate
14 matters in the company's law department.

15 Q. And what do your duties include?

16 A. I handle corporate legal issues, primarily
17 negotiating contracts on behalf of the company for
18 everything from construction to buying and selling
19 electricity and everything in between that's needed to do
20 that.

21 Q. Could you tell me how you got involved in
22 the present projects involving Boulevard?

23 A. One of my responsibilities is to provide --
24 occasionally provide legal advice to people in the
25 operations area that have questions about real estate

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1 matters and that sort of thing. And I got a call, I
2 believe, or an e-mail from Ms. Locker in November, I
3 believe it was, about a customer that we were having some
4 difficulty reaching agreement with on some work.

5 Q. That's November of '05?

6 A. November of '05, yes. I'm sorry. And so
7 at that time I had -- didn't know what was going on, and
8 we -- in our law department we're a very small group, but
9 we have several attorneys that are available to explore
10 customer issues, sometimes if they're brought in by law
11 firms or attorneys and/or areas that require some
12 additional analysis that the folks in the field perhaps
13 don't feel qualified to respond to.

14 And Ms. Locker's question I think, as I
15 recall, was specifically related to what PIEA was, the
16 Planning and Industrial Expansion Authority, because that
17 was cited as a basis for the customer's request. And I
18 didn't know anything about PIEA at that time as well, so
19 that's how I first got involved.

20 Q. And then were you -- how soon after that
21 were you invited for an onsite meeting down at Boulevard?

22 A. About a week or so later I went down, we
23 had a meeting at Boulevard Brewing Company at their
24 offices, and I went down there to meet with -- with Jeff
25 Krum, I believe was my initial point of contact with

1 Boulevard to schedule that. And I believe their
2 facilities manager was there, and I believe the president
3 of the company came in for a few minutes as well. So we
4 met in their conference room. It was, I think, a little
5 bit before Thanksgiving, '05.

6 Q. Did they explain to you at that meeting why
7 it was necessary to alter the Belleview facilities, either
8 underground them or remove them entirely? Did they
9 explain their reason for wanting that?

10 A. When I got there, like I said, since I had
11 really no knowledge about what the problems were and what
12 the concerns were, I went down there with basically the
13 idea that I need to gather information. And so they had
14 all of the architectural renderings that have been
15 admitted here into evidence today on display in full size,
16 and in fact, Mr. Krum gave me a tour of the facility and
17 we walked around. I parked in the parking lot along
18 Belleview, so I could see the lines there that were in
19 question.

20 And we talked in general probably for about
21 an hour about the project, what it entailed, what their
22 requirements were and what their specific requests of
23 Kansas City Power & Light were with regard to the lines at
24 that time.

25 And my recollection was, and I specifically

1 remember looking at the renderings, that the line on
2 Belleview was a problem for the conference center or
3 meeting area that they had designed for the third floor of
4 the brewery, and the line on 26th Street was going to be a
5 problem because of increased truck traffic that was going
6 to be coming out of the site.

7 Q. And that's what they described to you at
8 the meeting?

9 A. Right. Right. That's how I learned that
10 at that meeting.

11 Q. Okay. If I could go back to the Belleview
12 facilities for a moment. Mr. Elam has testified that I
13 believe at this meeting you just described you told him
14 that the Belleview facilities weren't necessary. Did you
15 tell him that?

16 A. Actually, I don't think that was the
17 correct meeting. There was a second meeting, and I could
18 describe that first.

19 Q. Please.

20 A. When at the first meeting I got the
21 information about PIE -- in fact, I hadn't even read the
22 ordinance when I went down there, so I got the ordinance
23 and then I asked -- I believe I asked Mr. Krum to give me
24 a copy of the development plan, because we hadn't seen
25 that. And that was -- I think it's admitted into

1 evidence. It's about a 200-page report.

2 So I had to spend some time reading that
3 over and trying to -- trying to figure out whether or not
4 it changed any of our obligations that we otherwise
5 understood. And then I helped -- there was a written
6 response with regard to our costs, I think that's -- I
7 helped Lori write that, I believe, with regard to the cost
8 breakdown that she just testified to.

9 After the first of the year, we had gotten
10 a call from Mr. Mike White, an attorney in I believe it's
11 the White Goss Law Firm, saying that he had been retained
12 by Boulevard to represent them and had wanted to have a
13 meeting on pretty short order at Boulevard's facility.
14 And so I think I went down about a day or two later to a
15 second meeting in January. And at that --

16 Q. Of this year?

17 A. January of this year, yes. I'm sorry. In
18 January of 2006. And I went down to that meeting and,
19 actually, Mr. White wasn't there. I understand he was
20 representing the Jackson County Sports Authority with the
21 stadium matter, so he had his partner Jim Bowers that was
22 there. And at that meeting Mr. Krum was there,
23 Mr. Finnegan was there, I believe, and Mr. Utz, the
24 facilities manager, and then Mr. Elam was at that meeting.
25 So that was also held in their conference room, and that's

1 the meeting where I think the question about whether the
2 line was needed or not was asked by Mr. Elam.

3 Q. And did you express an opinion or intend to
4 express an opinion for that matter about whether that line
5 should be removed or is necessary?

6 A. Well, when I was in that meeting, I'm there
7 by myself, and I didn't have any engineers or anybody that
8 was responsible for system reliability making these sorts
9 of decisions. So I committed to them that I would convey
10 their request and their concerns to the appropriate
11 people. And I remember that there was some sketches on a
12 piece of paper about whether or not switching or lines
13 were needed or not, but that I didn't know the answer to
14 that question.

15 Q. So you didn't tell them that the lines
16 would not be necessary?

17 A. No. I didn't tell them that. I certainly
18 wasn't qualified to tell them that at that point, and if
19 it was mistaken, I'm sorry for that. But I certainly
20 didn't know. In fact, until yesterday I didn't know that
21 line was de-energized for safety reasons, but of course,
22 that makes perfect sense because you can see cranes right
23 near it, and I am familiar with many accidents from --
24 several accidents involving cranes in the years I've been
25 with Kansas City Power & Light. It's a very dangerous

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1 situation, so it's very prudent on our part not to have
2 them energized at this point with the crane ten feet away.

3 MR. BLANC: No further questions.

4 JUDGE DALE: I have no questions.

5 Mr. Finnegan?

6 CROSS-EXAMINATION BY MR. FINNEGAN:

7 Q. Mr. Rosa, you are an attorney, right?

8 A. Yes, sir, I am.

9 Q. And you're also an engineer?

10 A. I have an engineering degree, yes, I do.

11 Q. Okay. With respect to the e-mail I believe
12 that Ms. Locker sent to Mr. Elam, you said you had a part
13 in that, in helping her draft part of it?

14 A. Right. I think I helped her wordsmith it,
15 if you will. She provided the cost information, and I
16 kind of helped with the writing part of it, since I do
17 that more for a living than she does, I think.

18 Q. And you also have made a reference in there
19 that the reason why the -- it should be paid for by
20 Boulevard rather than Kansas City Power & Light. Do you
21 recall what reason you gave?

22 A. You know, I know the question raised was
23 whether or not the UE -- AmerenUE case applied to this,
24 and I believe I had said that we believed that it did not
25 apply to this case.

1 Q. Was that in your first correspondence or is
2 that in your letter dated February 2nd, 2006?

3 A. I don't recall which letter it was in.

4 Q. Do you recall the first reason given was
5 because this was being done for -- can I find a copy of
6 that exhibit?

7 JUDGE DALE: Do you know the number?

8 MR. FINNEGAN: You're holding it.

9 JUDGE DALE: This is the December 16th
10 letter.

11 MR. FINNEGAN: That's the one.

12 JUDGE DALE: You're welcome to use it.

13 BY MR. FINNEGAN:

14 Q. But the reason that you gave in your letter
15 of February 2nd that you did not think that Union Electric
16 applied was because it was being -- the relocation was
17 being done to benefit one private entity?

18 A. I'm not sure which letter that was in, but
19 I may have -- I may have said something along those lines,
20 that I didn't believe the Union Electric case applied for
21 that reason.

22 Q. And you now understand that the property is
23 owned by PIEA and that Boulevard is a tenant?

24 A. I learned that during this proceeding, yes.

25 Q. PIEA is not a private entity, is it?

1 A. I don't believe that's the case. I don't
2 know for sure. I believe they are a City agency.

3 Q. Are you also -- are you aware that the
4 traffic study that was performed in this -- pursuant to
5 this matter indicates that the -- it was the City that's
6 requiring the lines on 26th Street to be relocated to make
7 room for widening of the street?

8 A. I didn't learn of the traffic study until
9 this hearing, so I didn't know that.

10 Q. You are aware of that now, though?

11 A. I understand that there was a traffic study
12 admitted into evidence here, yes.

13 MR. FINNEGAN: That's all the questions.

14 JUDGE DALE: Thank you. Any redirect?

15 MR. BLANC: No, your Honor.

16 JUDGE DALE: Thank you. Then you may step
17 down.

18 (Witness excused.)

19 JUDGE DALE: We just zipped through a whole
20 ten minutes there. How long do you think your next
21 witness will take?

22 MR. BLANC: It's our first engineer. My
23 questioning won't be long, but I anticipate that
24 Complainant's counsel might have longer questions for him.

25 JUDGE DALE: Well, then we will -- without

1 objection, we can go ahead and recess now so that the
2 group that's probably, oh, I see already beginning to
3 enter the room can get ready for the next proceeding that
4 starts at 1:30. And we will reconvene here at
5 three o'clock, filter in, and hopefully they will end
6 before or at three o'clock.

7 Thank you. We are off the record.

8 (A BREAK WAS TAKEN.)

9 JUDGE DALE: We're back on the record for
10 part 3. We were about to call another KCP&L witness.

11 (Witness sworn.)

12 RUSSELL WILEY testified as follows:

13 DIRECT EXAMINATION BY MR. BLANC:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Would you please state and spell your name
17 for the record.

18 A. Russell Wiley, R-u-s-s-e-l-l, W-i-l-e-y.

19 Q. And where are you employed, Mr. Wiley?

20 A. Kansas City Power & Light.

21 Q. What is your position there?

22 A. Working foreman, project design.

23 Q. What are your responsibilities in that
24 position?

25 A. I help and oversee the project designers at

1 Power & Light and at F&M and do some design work myself.

2 Q. How long have you been working for the
3 company?

4 A. I've been there a little over 26 years.

5 Q. And what was your role specifically with
6 respect to the Boulevard relocation projects that are at
7 issue here?

8 A. I was the project designer.

9 Q. So you designed the relocation?

10 A. Designed the relocation.

11 Q. I'm going to show you a picture that is one
12 of the pictures that were included in Hearing Exhibit 18.
13 Did you hear yesterday Mr. Krum with Boulevard explain
14 that this is an artistic rendering of their proposed
15 expansion project?

16 A. Yes, I did.

17 Q. Did you hear Mr. Krum explain that the
18 reason the Belleview facilities need to be moved
19 underground is to accommodate the parking spaces that are
20 shown there and to accommodate the view from their new
21 conference center?

22 A. Yes.

23 Q. I'd like to ask you about those parking
24 spaces. Has KCP&L worked with Boulevard regarding the
25 parking space issue, the requirement that they have so

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1 many spaces?

2 A. Yes.

3 Q. And what proposal -- what were you able to
4 work out as far as leaving the line over ground than the
5 impact of leaving the line over ground on the parking
6 spaces?

7 A. We worked out the design to where they
8 would only lose one parking space or one pole.

9 Q. So one parking space is in jeopardy on
10 overhead versus underground?

11 A. Yes. May I add?

12 Q. Oh, sure.

13 A. I don't know -- the final underground
14 design, I don't know what that would do to the parking
15 spaces, because we have underground facilities that would
16 need to be --

17 Q. But it could potentially affect them?

18 A. It could affect parking spaces also.

19 Q. Okay. But overhead would only affect one?

20 A. Overhead was one space.

21 Q. Thank you for that clarification. Now I'd
22 like to ask you a little bit about how KCP&L plans and
23 costs projects like this. Could you please just I guess
24 explain the process?

25 A. It would start with a field trip to take

1 notes on existing facilities and sketch notes on the
2 facilities that would have to be installed to complete the
3 construction. Those would then be entered into the STORM
4 system with all the pieces and parts and components, and
5 STORMS generates a cost for that.

6 Q. Okay. Now, did KCP&L prepare a STORMS
7 report for undergrounding the Belleview facilities?

8 A. No.

9 Q. And why was that?

10 A. It was -- the only thing requested was a
11 ballpark figure.

12 Q. I'd like to ask you a little bit about the
13 accuracy of STORMS. Can you tell us how often or how the
14 cost data that is in STORMS is updated?

15 A. The material is updated with --

16 MR. FINNEGAN: Objection, your Honor. I
17 think this is hearsay.

18 MR. BLANC: This is the software system
19 that he uses, and he knows how often and how frequently
20 it's updated. I don't think that's hearsay. This isn't
21 something that's told him. This is what he knows.

22 MR. FINNEGAN: The creator of the software
23 is not present. That's the one that could tell us the
24 answers to that.

25 MR. BLANC: A critical issue in the

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1 Complaint is the accuracy of the STORM software, and he
2 can testify how frequently it is updated.

3 JUDGE DALE: If you will please confine
4 your remarks to those things that you know from firsthand
5 information, from your own observation.

6 MR. BLANC: Things that you're aware of, I
7 think is what Her Honor is saying.

8 JUDGE DALE: Uh-huh.

9 BY MR. BLANC:

10 Q. Okay. So based on your personal knowledge,
11 how often is the cost data in STORMS updated?

12 A. Material is updated as material is ordered
13 or invoiced.

14 Q. So that's real current data, then?

15 A. Current data. Labor is updated with each
16 new contract and raises that go into that, labor cost.
17 And the overheads are updated at the end of business in
18 the spring from the previous year.

19 Q. Okay. I think that's clear enough. And
20 has KCP&L compared the cost estimates generated by STORMS
21 to the actual cost of the projects? I guess let me
22 rephrase that question a little bit.

23 Has KCP&L done any studies after the fact
24 where it looks back and confirms whether the cost STORMS
25 generated, estimated were accurate?

1 A. There is ongoing comparison with actual
2 cost versus estimated.

3 Q. And what are those -- what have those
4 studies shown?

5 A. Generally, actuals will come out a little
6 higher due to unforeseen problems in construction.

7 Q. Examples?

8 A. But they're fairly accurate. You run into
9 rock, you run into weather, unforeseen things.

10 Q. Okay. But as far as the labor, overhead
11 and materials, KCP&L's analyses have shown that STORMS is
12 accurate?

13 A. Generally accurate, yes.

14 Q. Now, Boulevard asserts that KCP&L is adding
15 more facilities than is necessary to the relocation
16 projects. Do you agree with that, having planned the
17 projects?

18 A. No, I don't.

19 Q. The projects as you designed them, are they
20 the design that's necessary to ensure the reliability of
21 KCP&L's system?

22 A. Yes.

23 Q. Did you hear Ms. Locker testify earlier to
24 a memo from Greg Elam to her, you and others that
25 indicated that the parties receiving the memo had agreed

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1 that the facilities on Belleview weren't necessary?

2 A. Yes.

3 Q. Did you, in fact, agree that those
4 facilities weren't necessary?

5 A. Were not necessary?

6 Q. Correct.

7 A. No, I did not agree with that.

8 Q. So you never indicated to Boulevard that
9 the Belleview facilities weren't necessary for KCP&L's
10 system?

11 A. No, I didn't.

12 Q. Okay. Thank you. Speaking of the
13 facilities on Belleview, I would like to show you a
14 picture I believe that was among the pictures in
15 Exhibit 19. It's a picture of KCPL's existing facilities
16 on Belleview.

17 A. Yes.

18 Q. Mr. Elam has suggested that those
19 facilities aren't necessary and asks the Commission to
20 make a determination about that. Could you describe what
21 facilities are on the first two poles in that picture in
22 the foreground of the picture?

23 A. It is a 240 Delta three-phase bank and a
24 single-phase transformer that serves Clarkson
25 Construction.

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1 Q. Okay. So those facilities are necessary to
2 serve Clarkson?

3 A. Yes.

4 Q. Okay. Thank you. Now I'd like to go back
5 to the relocation project on 26th Street. Who requested
6 that we relocate the facilities on 26th Street?

7 A. Boulevard Brewery.

8 Q. Who provided the design for the street
9 widening that we needed to design the relocation?

10 A. Boulevard Brewery.

11 Q. Have you dealt with situations in the past
12 where the City has required a road widening?

13 A. Yes, we have.

14 Q. And in those instances, who made the
15 request to move the facilities?

16 A. The City of KCMO.

17 Q. And who supplied the plans?

18 A. The City of KCMO.

19 MR. BLANC: Thank you. I have no further
20 questions. Oh, I do have one question. I'm sorry.

21 BY MR. BLANC:

22 Q. If I may, just a final question. Is your
23 compensation in any way tied to how you design these
24 facilities? Do you get paid more if you design them one
25 way versus if you design them another way?

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1 A. No.

2 Q. And what's your goal then in the design of
3 these facilities?

4 A. We design to ensure reliability for all
5 customers.

6 MR. BLANC: Thank you very much.

7 JUDGE DALE: I have one question, so that
8 you can cross on it, if you need to.

9 QUESTIONS BY JUDGE DALE:

10 Q. Pertaining to cost estimates, if you run a
11 cost estimate and you overestimate how much it will cost,
12 what happens to that difference in money? Do you just --
13 do you go ahead and charge that amount, do you refund to
14 the customers, how do you handle that?

15 A. I can't answer that because we collect on
16 the front end, and I don't know.

17 JUDGE DALE: Okay. Thank you. Your
18 witness.

19 CROSS-EXAMINATION BY MR. FINNEGAN:

20 Q. Mr. Wiley, how long have you been on the
21 Boulevard project?

22 A. I believe December of '04.

23 Q. And during this project, have you had
24 occasion to deal with Mr. Greg Elam and also with Mr. Mike
25 Utz?

1 A. Yes, I have.

2 Q. With respect to the Belleview line, did you
3 not state in an e-mail from yourself to Mr. Elam and
4 Mr. Utz that's Exhibit 42 that it was agreed that the
5 overhead feeder along Belleview can be removed, it may
6 have to remain in that location as an underground feeder?

7 A. May I see that?

8 Q. Sure. I'm sorry.

9 A. That's quite all right. Thank you.

10 Q. Uh-huh.

11 A. In context, we talked about several types
12 of removal. In this context, we were discussing about
13 whether it had to stay on Belleview. We looked at the
14 option to move it onto Madison, and we looked at the
15 option to move it into the alley. And the first half of
16 this paragraph ties in with the second half that we're
17 talking about, and it talks about not being able to use
18 the alley to reroute the feeder. So in the context, my
19 removed meant that it could be removed if we could find
20 another location for it, but the alley wasn't working.

21 The part of -- the finding serving another
22 customer, I had just gotten knowledge that DST was
23 building a garage on the east side of Belleview, and I
24 certainly didn't want to take facilities out that may in
25 the future serve them. But the primary reason for the

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1 facilities to stay was a tie, and while they could be
2 removed from Belleview, they had to be installed somewhere
3 else.

4 Q. And so there -- you were leaving them on
5 Belleview to serve another customer in the future?

6 A. We were leaving them on Belleview for a
7 tie.

8 Q. But it would also serve another customer,
9 the DST parking garage?

10 A. Possibly.

11 Q. Possibly. Is Boulevard connected to the
12 Belleview line?

13 A. Directly?

14 Q. Directly.

15 A. I don't believe so.

16 Q. Okay. Is Boulevard connected directly to
17 the 26th Street line?

18 A. Not directly.

19 Q. Is there -- who is connected to the
20 Belleview line at this point, directly?

21 A. Clarkson.

22 Q. And is there another method of serving
23 Clarkson other than using the 26th -- I mean, the
24 Belleview line?

25 A. Yes, there is.

0335

1 Q. Has there not been another possibility
2 discussed as to how to serve Clarkson?

3 A. Yes, there was. In connection with leaving
4 the Belleview line underground to remain as a tie, the
5 option for serving Clarkson was discussed in that way.

6 Q. Okay. And where is Clarkson on the line?
7 Is it on the 25th Street side or the 26th Street side?

8 A. It's on the north end, which is the
9 25th Street side.

10 Q. 25th Street side. And beyond Clarkson, to
11 26th Street, there are no customers connected to that
12 line; is that correct?

13 A. No customers directly connected to it.

14 Q. In fact, at this point in time it's
15 de-energized?

16 A. It's -- a portion of it is de-energized for
17 construction purposes. However, it can be re-energized if
18 needed for the emergency feed.

19 Q. And if it were needed full-time, there's
20 another method than de-energizing. Can you not just wrap
21 it with rubber sleeves?

22 A. It can be, depending on the situation.
23 Even if it's wrapped, the crane by OSHA standard can only
24 operate so close.

25 Q. Now, is it my understanding that it's

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1 KCP&L's position that these three projects are all
2 connected as the one -- and by the three projects, I mean
3 the 26th Street removal -- the relocation, the Belleview
4 removal and the connection to that was -- underground
5 connection that was run to Boulevard?

6 A. Yes.

7 Q. And who performed the study to determine
8 the revenue requirements of Boulevard?

9 A. I'm not sure I understand the question.

10 Q. Okay. Let me go back. My understanding is
11 that there was -- that Boulevard was given a credit for
12 certain revenue that they would produce for Kansas City
13 Power & Light?

14 A. Correct.

15 Q. And as a result of that, it received a
16 credit?

17 A. Correct.

18 Q. And basically, as I understand, it all
19 applied to the existing underground feeder?

20 A. It applied to providing them new service,
21 or the work that we've done to this point is what it was
22 applied to, yes.

23 Q. And there's some left over, I believe
24 \$20,000, and that's for another future part of that work;
25 is that correct?

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1 A. Yes.

2 Q. And in determining the amount, it was based
3 on a formula in STORMS?

4 A. Yes.

5 Q. Do you know if STORMS is in Kansas City
6 Power & Light's tariffs anywhere?

7 A. I don't know.

8 Q. You indicated that you compared the STORMS
9 data to what the actual cost for construction was by KCPL;
10 is that correct?

11 A. I indicated that KCPL has people always
12 looking at actuals versus estimates.

13 Q. And --

14 A. It's not something that I necessarily do.

15 Q. Do they also compare what it would have
16 cost to have it done by a third party?

17 A. I don't know.

18 Q. Do you know if Kansas City Power & Light
19 allows third parties to install their own -- their system
20 up to KCP&L's standard?

21 A. No, I don't.

22 Q. As far as providing direct service to
23 Boulevard, the 26th Street line is not needed; is that
24 correct? I mean the Belleview line is not needed?

25 A. As far as directly serving them, no, but do

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1 they benefit from it, I believe they do.

2 Q. But they benefit from lines all over the
3 city, do they not?

4 A. Yes.

5 MR. FINNEGAN: Okay. That's all the
6 questions.

7 JUDGE DALE: Thank you. You may step down.
8 Wait. Do you have any redirect?

9 MR. BLANC: No redirect, your Honor.

10 JUDGE DALE: Now you may step down.

11 (Witness excused.)

12 JUDGE DALE: And, Mr. Blanc, you may call
13 another witness.

14 (Witness sworn.)

15 JUDGE DALE: Thank you.

16 EMEKA ANYANWU testified as follows:

17 DIRECT EXAMINATION BY MR. BLANC:

18 Q. Good afternoon.

19 A. Good afternoon.

20 Q. Please state and spell your name for the
21 record.

22 A. Yes. My name is Emeka Anyanwu, E-m-e-k-a,
23 last name spelled, A-n-y-a-n-w-u.

24 Q. And who are you employed by?

25 A. Kansas City Power & Light Company.

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1 Q. And what's your role there?

2 A. I am a distribution engineer.

3 Q. And what do you do? What do your duties
4 entail?

5 A. My duties entail specifically doing system
6 design and system planning for basically an area that is
7 roughly the Missouri side of our system, basically south
8 of the river, north of 9th Street, which is what we call
9 our F&M service territory. So I do system design and
10 planning duties for that.

11 Q. And are part of those duties to look at
12 system designs, proposed system changes, relocation
13 projects and ensure that they don't jeopardize the
14 reliability of KCP&L's system?

15 A. Yes. That is really -- a lot of what my
16 duty entails is looking at new additions and finding ways
17 to add those facilities and those customers or that load
18 to the system without jeopardizing the integrity of the
19 rest of the system.

20 Q. And did you evaluate Mr. Elam's proposal to
21 remove the Belleview facilities entirely?

22 A. Yes, we did. We had discussed that
23 possibility, and we evaluated it. And to make a long
24 story short, we determined that we needed to maintain
25 those facilities.

1 Q. As Ms. Locker and Mr. Wiley testified to,
2 did you hear them describe a memorandum Mr. Elam sent to
3 them as well as you where he indicates that you-all
4 collectively agreed that those facilities weren't
5 necessary? Did you hear testimony to that effect?

6 A. Yes, I did.

7 Q. Are you familiar with that memorandum?

8 A. I am familiar with it.

9 Q. Did you ever agree that those facilities
10 aren't necessary?

11 A. No, we never -- we never made an agreement.
12 Like I said, we discussed the possibility at a meeting,
13 after which this memorandum was drafted, but we never
14 agreed to the fact that those facilities were unnecessary.
15 And, in fact, we did inform Mr. Elam that that those
16 facilities were necessary.

17 Q. And is your compensation in any way
18 affected by how these projects are designed?

19 A. No, it is not.

20 Q. Okay. Boulevard asserts that KCP&L is
21 adding more facilities than are necessary to the
22 relocation projects for the benefits of -- or excuse me.
23 Boulevard asserts that KCP&L is adding more facilities
24 than are necessary to the relocation projects. Do you
25 think that's true?

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1 A. I don't believe that's the case. My
2 evaluation of the design does not lead me to that
3 conclusion.

4 Q. What's there in the plans is there for
5 system reliability?

6 A. That is correct.

7 Q. There's already been some testimony to the
8 effect that part of the Belleview facilities are currently
9 de-energized. Do you know why they were de-energized?

10 A. Yes. Those facilities are de-energized due
11 to crane operation in the area resulting from construction
12 activities in the area.

13 Q. Okay. And could they be switched back on
14 quickly if needed for reliability purposes?

15 A. Yes. The de-energization was done in such
16 a way that it would allow us to utilize those lines in an
17 emergency situation.

18 MR. BLANC: No further questions.

19 JUDGE DALE: Mr. Finnegan, do you have any
20 questions?

21 MR. FINNEGAN: I have just a few, your
22 Honor.

23 CROSS-EXAMINATION BY MR. FINNEGAN:

24 Q. Good afternoon.

25 A. Good afternoon.

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1 Q. Mr. --

2 A. Anyanwu.

3 Q. Anyanwu?

4 A. Yes.

5 Q. Okay. Didn't really want to try that.

6 A. No problem.

7 Q. With respect to this project that -- how
8 long have you been involved in the project with Boulevard?

9 A. I first got involved in the project late in
10 2004. It was probably about October. I was asked to
11 attend a meeting at Boulevard, and that was my first
12 contact or first contact with the project.

13 Q. Is this before or after the feeder line had
14 been installed underground for Boulevard?

15 A. I believe this was before the feeder line
16 had been installed underground. Well, this is not the
17 line for Boulevard. I should clarify that is not a feeder
18 line the way we term a feeder line, but it is a feed to a
19 Boulevard feed.

20 Q. Okay. That's how they get their power, is
21 what you're saying?

22 A. Yes.

23 Q. Okay. And they are not getting their power
24 from the 26th Street line or the Belleview line, is that
25 correct, directly?

1 A. No, they are not directly getting their
2 power from those lines.

3 Q. And if the -- something happened on
4 Boulevard's feed, how would the -- if something, say it
5 stopped operating, how would this 26th Street line or the
6 Belleview line be a backup for it?

7 A. The Belleview line has on it what we call
8 the feeder tie. Feeder ties are basically ties that allow
9 us to pick up large sections of load, large portions of our
10 circuit in the event that there is a system emergency. So
11 there are -- there are a number of scenarios in which, and
12 there's a lot of different scenarios in which we could use
13 that line to refeed portions of that circuit, including
14 Boulevard, in the event -- in the event of a failure.

15 Q. If there were a failure on the feed between
16 the line and Boulevard, it would not be of any use, would
17 it?

18 A. I'm not sure I understand the question.

19 Q. Well, obviously there's some part of this
20 line that's not -- that serves Boulevard and doesn't serve
21 anybody else. There's some electrical lines that go into
22 Boulevard's transformers that -- where do they come from?

23 A. I believe the lines that serve Boulevard's
24 current transformers come out of a piece of switchgear, if
25 that's what you're referring to. I'm trying to, I guess,

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1 follow what you're referring to.

2 Q. Okay. If it comes out of the switchgear,
3 there's a line that comes out of the switchgear and goes
4 to Boulevard. I'm doing this in layman's terms because I
5 am not an engineer.

6 A. I apologize on that.

7 Q. That's all right.

8 A. I'm trying to track with you. Okay. Now,
9 could you repeat your question?

10 Q. Maybe I can -- if it would help if you'd
11 look at that. Do you recognize what that is?

12 A. Yeah.

13 Q. The map on the wall I'm referring to.
14 Excuse me.

15 A. Yeah. That is an out-of-date circuit map
16 that was -- I believe it's dated the 15th of October of
17 2003 that shows the way the feed to the area that's in
18 question at that time, which was 10/15 of '03.

19 Q. Okay. And so that does not show the new
20 feed to Boulevard; is that correct?

21 A. That is correct.

22 Q. So where is the new feed to Boulevard at
23 this point?

24 A. The new feed to Boulevard basically exists
25 in the same location through the alley, but it's now an

1 underground feed.

2 Q. Okay. If a large mole or something were to
3 chew through the underground line that goes to Boulevard,
4 how would the Belleview line help Boulevard keep power?

5 A. The Belleview line would not help Boulevard
6 keep power in that case. But there are a lot of scenarios
7 that are not accounted for. There is no such thing as a
8 100 percent redundancy or 100 percent reliability. There
9 are always points of failure in which we would not be able
10 to restore service without making repairs, such as if the
11 transformer that feeds Boulevard, which is not redundant,
12 if that transformer failed, we would also have to replace
13 that transformer before we could restore service.

14 So we do not claim to provide 100 percent
15 redundancy. What we do try to do is provide -- to give
16 ourselves some form of redundancy so that we can -- we can
17 try to maintain the reliability that we pride ourselves on
18 as a company.

19 Q. But this line on Belleview would not help
20 under the circumstances that I described?

21 A. No, it would not.

22 Q. The same is true with the line on
23 26th Street; is that correct?

24 A. That is correct.

25 Q. Boulevard's not connected to either one of

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1 them; is that correct?

2 A. Boulevard is not currently directly fed by
3 any one of them.

4 Q. Okay. Now, prior to the change -- prior to
5 the Boulevard location -- relocation efforts, was there
6 not some jumpers removed on the 26th Street line for DST?

7 A. I can't say that for certain. I was not
8 involved in that project. I was not the engineer on that
9 project. So I can't -- I can't really say whether that --
10 whether or not that was the case, whether it was removed
11 in fact for DST or not.

12 Q. But they were removed; is that correct?

13 A. They were removed, that is correct.

14 Q. And at this -- in this particular time, you
15 are proposing to have Boulevard pay to reconnect those
16 jumpers?

17 A. We are not proposing to have Boulevard pay
18 to reconnect the jumpers. If the jumpers are in the
19 design, they are -- they are in there as part of the
20 relocation.

21 Q. But they were already removed at one point
22 by KCP&L?

23 A. Yes, but I mean the -- the current -- the
24 current system conditions will dictate a lot of what that
25 design is. Just as we would not design a new system to

1 old standards, we will not design a new system to conform
2 with old system conditions. The old system conditions at
3 the time did not necessitate that those jumpers be in
4 there.

5 I should mention also that the jumpers are
6 a relatively minor part of the system which, you know,
7 could be installed, you know, in fairly short order if
8 they were needed.

9 Q. But at that point it would be without a
10 cost to Boulevard; is that correct?

11 A. That would be correct.

12 Q. Are there any other items that are in this
13 design that you know that aren't needed to serve Boulevard
14 at this point?

15 A. Not that I'm aware of, no.

16 Q. But to the extent that there were, it would
17 be -- you would be asking Boulevard to pay for them; is
18 that correct?

19 A. We would not ask Boulevard to pay for
20 anything that was not necessary.

21 Q. In Kansas City Power & Light's opinion,
22 discretion, right?

23 A. No, we would not -- we are -- let me try, I
24 guess, to answer the question appropriately. We will
25 design the system to the best of our knowledge, the best

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1 way we believe the system needs to be designed. We will
2 not charge Boulevard or anybody else, any one of our other
3 customers for facilities that are not necessary.

4 Q. Not necessary for Kansas City Power & Light
5 or not necessary for the project that we're talking about?

6 A. Not necessary for the project.

7 Q. And so you're saying these jumpers are
8 necessary for the Boulevard project?

9 A. Yes. Because like I said, once we have
10 decided to go and make an alteration to those lines, it is
11 my obligation as the system design engineer to evaluate
12 that design and ensure that whatever we do with that
13 design conforms to our current standards and system
14 requirements, and I cannot -- I cannot go ahead and, you
15 know, do otherwise.

16 Q. Well, are you saying that the jumpers
17 should not have been removed in the first place?

18 A. I can't tell you whether or not the jumpers
19 could have been -- should have been removed in the first
20 place. It could be that the system conditions at the time
21 when they were removed required them to be removed. But
22 just because that was the case, whenever that was, does
23 not mean that that's the case now.

24 Q. With respect to the Belleview line, I
25 understand it's currently serving Clarkson?

1 A. Yes.

2 Q. But that is only necessary to serve them
3 today. There are other methods in which Clarkson can be
4 served without the existence of this line?

5 A. Yes, I believe that's the case.

6 Q. And have you not discussed this with
7 Mr. Elam and Mr. Utz?

8 A. Yes, I believe we have. And that was -- as
9 Mr. Wiley testified to, that was in relation to and in
10 strict -- in the context of a different -- a different
11 plan than what we -- what we currently believe to be the
12 case.

13 Q. So there was a different plan, and then you
14 changed the plan?

15 A. Well, when we -- when we were looking at
16 the undergrounding option before, we were directed to
17 pursue the overhead option on Belleview. We were looking
18 at a lot of different things. You know, part of my job as
19 the engineer is to -- is to work in conjunction with folks
20 like Mr. Wiley and try to consider all the options, not
21 rule anything out, not -- not start with a preconceived
22 notion of what we think should be there, but try to
23 examine the system for what it is and what needs -- what
24 needs to be done to fulfill a certain project.

25 Q. So you're open to outside suggestions from,

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1 say, Mr. Elam and Mr. Utz?

2 A. Yes, we try to -- we try to work with our
3 customers all the time. We work with all kinds of
4 customers, all kinds of customers' consultants, and our
5 goal, you know, I work -- the division of the company that
6 I work for is called customer operations. It's our job to
7 serve the customer. That's what we do.

8 Q. But in the final circumstance, KCP&L
9 decides what's right for the customers, what's right for
10 the company?

11 A. Well, we decide what's right for all of our
12 customers. We do our -- we do our best to provide the
13 best, safest and most reliable system for all of our
14 customers, and we cannot discriminate between customers.
15 We cannot disregard the welfare of all the other customers
16 on our system for the sake of one customer. It has to be
17 something that is fair and equitable to the rest of the
18 customers, the rest of our ratepayers on the system.

19 Q. And that's fair and equitable in KCP&L's
20 sole opinion?

21 A. That's -- that's not -- I don't believe
22 that's the truth. I don't believe that's it.

23 Q. Who else makes the decision?

24 A. Well, I believe we're a regulated utility.

25 Q. Do you go to the Public Service Commission

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1 and say, can I -- is this okay? The decision you just
2 made, is this okay? Does somebody from the Public Service
3 Commission come and check your plans and agree with you or
4 disagree with you?

5 A. The way our system planning processes --
6 the way our system standards are authorized through the
7 Commission is not my area of expertise.

8 Q. But you said you were regulated?

9 A. Yes, we are a regulated utility.

10 Q. Which means that somebody should be looking
11 over your shoulder?

12 A. That is -- that is -- you know, as a
13 citizen and a customer who lives in the jurisdiction the
14 Commission oversees, I believe to be the case.

15 MR. FINNEGAN: That's all the questions.

16 JUDGE DALE: Thank you.

17 MR. FINNEGAN: I may have one more
18 question.

19 BY MR. FINNEGAN:

20 Q. Just one last question. You were here when
21 Mr. Rush testified today?

22 A. Yes, I was.

23 Q. If the Belleview line were taken out of
24 service, would this reduce KCPL's rate base, or is that in
25 your --

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1 A. I am so not the person to ask that
2 question.

3 MR. FINNEGAN: Okay. Thank you, then.

4 JUDGE DALE: Redirect?

5 MR. BLANC: Just one point of
6 clarification.

7 REDIRECT EXAMINATION BY MR. BLANC:

8 Q. In your role as the system planner and
9 engineer with the responsibility to ensure the safe and
10 adequate, reliable service KCP&L provides, do you believe
11 that the facilities on Belleview need to remain there or
12 could they be removed?

13 A. I believe the facilities need to be -- need
14 to remain there or need to be -- well, I believe the
15 facilities need to remain there or need to be replaced by
16 something that is equivalent.

17 Q. But they couldn't simply be removed?

18 A. No, they can't simply be eliminated.

19 Q. So that would, in your opinion as the
20 engineer with the responsibility, potentially jeopardize
21 reliability?

22 A. Yes.

23 MR. BLANC: Thank you.

24 MR. FINNEGAN: One follow-up on that.

25 RECROSS-EXAMINATION BY MR. FINNEGAN:

1 Q. During the whole course of the negotiations
2 with Boulevard and its experts and consultants, has that
3 ever been put in writing that this line has to be there?

4 A. I do not know. I don't recall.

5 MR. FINNEGAN: Thank you.

6 JUDGE DALE: Anything further?

7 MR. BLANC: No redirect or reredirect.

8 JUDGE DALE: Okay. You may step down.

9 (Witness excused.)

10 JUDGE DALE: Any other witnesses today?

11 MR. BLANC: No. Our next witness and final
12 witness would be our CIAC witness who will be here
13 tomorrow at ten.

14 JUDGE DALE: All right. I have researched
15 the calendar and we have this room free and clear for two
16 days. So we can start at a time that is mutually
17 convenient for the two of you. So why don't you guys
18 caucus for a minute, figure out a time that would be best
19 for you to start, and we'll go from that. I can tell you
20 that Commissioner Gaw is not good at eight o'clock in the
21 morning. So beyond starting very early, it's pretty open.

22 So why don't you -- we'll take a few
23 minutes and then go back on the record and figure out what
24 time.

25 (AN OFF-THE-RECORD DISCUSSION WAS HELD.)

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1 MR. BLANC: I think we've agreed to 10:30.

2 JUDGE DALE. We will reconvene then. Until
3 then, we are in recess.

4 WHEREUPON, the hearing of this case was
5 recessed until March 8, 2006.

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