



**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

**IN THE MATTER OF A PROPOSED EXPERIMENTAL
REGULATORY PLAN OF KANSAS CITY POWER & LIGHT
COMPANY**

Case No. EO-2005-0329

ORIGINAL

Hearing – Volume 4

June 23, 2005

FILED

JUL 1 2005

***Missouri
Public Service Commission***

OFFICES MISSOURI ■ ILLINOIS ■ KANSAS

HEADQUARTERS: 711 NORTH ELEVENTH STREET, ST. LOUIS, MISSOURI 63101

800.280.3376

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

June 23, 2005
Jefferson City, Missouri
Volume 4

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

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

REPORTED BY:

KELLENE K. FEDDERSEN, CSR, RPR, CCR
MIDWEST LITIGATION SERVICES

1 APPEARANCES

2 KARL ZOBRIST, Attorney at Law
 3 Blackwell, Sanders, Peper, Martin, LLP
 4 2300 Main Street, Suite 1100
 5 Kansas City, MO 64113
 6 (816)983-8171

7 JAMES M. FISCHER, Attorney at Law
 8 Fischer & Dority
 9 101 Madison, Suite 400
 10 Jefferson City, MO 65101
 11 (573)636-6758

12 WILLIAM RIGGINS, Attorney at Law
 13 Kansas City Power & Light Company
 14 1201 Walnut Street
 15 Kansas City, MO 64106
 16 (816)556-2645

17 FOR: Kansas City Power & Light.

18 KATHLEEN GREEN HENRY, Attorney at Law
 19 Great River Environmental Law Center
 20 705 Olive Street, Suite 614
 21 St. Louis, MO 63101
 22 (314)231-4181

23 FOR: Sierra Club.
 24 Concerned Citizens of Platte County.

25 PAUL A. BOUDREAU, Attorney at Law
 1 JAMES C. SWEARENGEN, Attorney at Law
 2 JANET WHEELER, Attorney at Law
 3 Brydon, Swearengen & England, P.C.
 4 312 East Capitol
 5 P.O. Box 456
 6 Jefferson City, MO 65102-0456
 7 (573)635-7166

8 FOR: Aquila, Inc.

9 DEAN L. COOPER, Attorney at Law
 10 Brydon, Swearengen & England, P.C.
 11 312 East Capitol
 12 Jefferson City, MO 65102-0456
 13 (573)635-7166

14 FOR: The Empire District Electric Co.

1 DIANA C. CARTER, Attorney at Law
2 Brydon, Swearngen & England, P.C.
3 312 East Capitol
4 P.O. Box 456
5 Jefferson City, MO 65102-0456
6 (573)635-7166

7 FOR: Missouri Gas Energy.

8 MARK W. COMLEY, Attorney at Law
9 Newman, Comley & Ruth
10 601 Monroe, Suite 301
11 Jefferson City, MO 65102
12 (573)634-2266

13 FOR: City of Kansas City, Missouri.

14 KARA VALENTINE, Attorney at Law
15 Department of Natural Resources
16 P.O. Box 176
17 Jefferson City, MO 65102
18 (573)751-0763

19 FOR: Department of Natural Resources.

20 STUART CONRAD, Attorney at Law
21 Finnegan, Conrad & Peterson
22 3100 Broadway
23 1209 Penntower Officer Center
24 Kansas City, MO 64111
25 (816)753-1122

FOR: Praxair, Inc.

18 PAUL DeFORD, Attorney at Law
19 Lathrop & Gage
20 2345 Grand Boulevard
21 Kansas City, MO 64108
22 (816)292-2000

23 FOR: Trigen Kansas City.

24 EDWARD F. DOWNEY, Attorney at Law
25 Bryan Cave, LLP
21 Bolivar Street, Suite 101
Jefferson City, MO 65101-1575
(573)556-6622

FOR: Missouri Industrial Energy Consumers.

1 JAMES B. LOWERY, Attorney at Law
2 DAVID KURTZ, Attorney at Law
3 Smith Lewis, LLP
4 P.O. Box 918
5 111 S. 9th Street, Suite 200
6 Columbia, MO 65205-0918
7 (573)443-3141

8 FOR: AmerenUE.

9 DUNCAN KINCHELOE, General Manager & CEO
10 Missouri Public Utility Alliance
11 2407 West Ash
12 Columbia, MO 65203
13 (573)445-3279

14 FOR: Missouri Joint Municipal Electric
15 Utility Commission.

16 PAUL PHILLIPS, Attorney at Law
17 1000 Independence Avenue SW
18 Washington, DC 20585
19 (202)586-4224

20 FOR: USDOE.

21 MICHAEL DANDINO, Senior Public Counsel
22 DOUGLAS E. MICHEEL, Senior Public Counsel
23 P.O. Box 2230
24 200 Madison Street, Suite 650
25 Jefferson City, MO 65102-2230
(573)751-4857

FOR: Office of the Public Counsel
and the Public.

DANA K. JOYCE, General Counsel
STEVEN DOTTHEIM, Chief Deputy General Counsel
NATHAN WILLIAMS, Associate General Counsel
P.O. Box 360
200 Madison Street
Jefferson City, MO 65102
(573)751-3234

FOR: Staff of the Missouri Public
Service Commission.

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

2 JUDGE PRIDGIN: Good morning. We are on
3 the record. This is the hearing on the Stipulation &
4 Agreement on Case No. EO-2005-0329, in the matter of a
5 proposed experimental regulatory plan of Kansas City Power
6 & Light Company. This hearing is being held on June 23rd,
7 2005, in the Governor Office Building in Jefferson City,
8 Missouri. The time is 8:40 a.m.

9 I would like to get entries of appearance
10 from counsel, and I'm going to go in the same order
11 calling counsel as I have as listed in the order of
12 opening statements filed with me and the list of issues.
13 So I'd like to get entries of appearance from KCP&L,
14 please.

15 MR. FISCHER: Thank you, your Honor.

16 Let the record reflect the appearance of
17 William G. Riggins, Carl Zobrist and James M. Fischer on
18 behalf of Kansas City Power & Light Company. Our
19 addresses are written on the written entries of
20 appearance.

21 JUDGE PRIDGIN: Mr. Fischer, thank you.
22 On behalf of the Staff of the Commission, please?

23 MR. DOTTHEIM: Steven Dottheim, Dana K.
24 Joyce and Nathan Williams, P.O. Box 360, Jefferson City,
25 Missouri 65102, appearing on behalf of Staff of the

1 Missouri Public Service Commission.

2 JUDGE PRIDGIN: Mr. Dottheim, thank you.
3 On behalf of the Office of Public Counsel, please?

4 MR. DANDINO: Thank you, your Honor.
5 Michael Dandino and Douglas Micheel, Office of the Public
6 Counsel, Post Office Box 2230, Jefferson City, Missouri
7 65102, representing the Office of the Public Counsel and
8 the public.

9 JUDGE PRIDGIN: Mr. Dandino, thank you.
10 On behalf of the Missouri Department of Natural Resources,
11 please?

12 MS. VALENTINE: Kara Valentine on behalf of
13 the Department of Natural Resources, and my address is on
14 the entry of appearance form.

15 JUDGE PRIDGIN: Ms. Valentine, thank you.
16 On behalf of Ford Motor Company, please?

17 MR. DOWNEY: Edward S. Downey, Bryan Cave,
18 LLP, 221 Bolivar Street, Jefferson City, Missouri 65101.

19 JUDGE PRIDGIN: Mr. Downey, thank you.
20 On behalf of MIEC, please?

21 MR. DOWNEY: The same, Edward F. Downey.

22 JUDGE PRIDGIN: Mr. Downey, thank you.
23 On behalf of the City of Kansas City, please?

24 MR. COMLEY: Let the record reflect the
25 entry of appearance of Mark W. Comley, Newman, Comley &

1 Ruth, 601 Monroe, Suite 301, Jefferson City, Missouri
2 65102, on the behalf of the City of Kansas City.

3 JUDGE PRIDGIN: Mr. Comley, thank you.
4 On behalf of Praxair, please?

5 MR. CONRAD: Your Honor, on behalf of
6 Intervenor Praxair, Inc., please let the record show the
7 appearance of Stuart W. Conrad, of the law firm of
8 Finnegan, Conrad & Peterson, 3100 Broadway, Suite 1209,
9 Kansas City, Missouri 64111, and I have completed the
10 appearance form. Thank you.

11 JUDGE PRIDGIN: Mr. Conrad, thank you.
12 On behalf of Aquila?

13 MR. SWEARENGEN: Yes, your Honor. James
14 Swearengen, Paul Boudreau and Janet Wheeler. We have made
15 our written entry of appearance. Thank you.

16 JUDGE PRIDGIN: Mr. Swearengen, thank you.
17 On behalf of Empire, please?

18 MR. COOPER: Dean L. Cooper, P.O. Box 456,
19 Jefferson City, Missouri 65102, appearing on behalf of the
20 Empire District Electric Company.

21 JUDGE PRIDGIN: Mr. Cooper, thank you.
22 On behalf of MJMEUC, please?

23 MR. KINCHELOE: Appearing on behalf of
24 Missouri Joint Municipal Electric Utility Commission,
25 Duncan E. Kincheloe, 2407 West Ash, Columbia, Missouri

1 65203.

2 JUDGE PRIDGIN: Mr. Kincheloe, thank you.
3 On behalf of Jackson County, please?

4 (No response.)

5 JUDGE PRIDGIN: No appearances for Jackson
6 County?

7 On behalf of the U.S. Department of Energy,
8 please?

9 MR. PHILLIPS: Yes. Let the record show
10 the appearance of Paul W. Phillips, 1000 Independence
11 Avenue SW, Washington, D.C. 20585, appearing on behalf of
12 Intervenor US DOE.

13 MR. PRIDGIN: Mr. Phillips, thank you.
14 On behalf of Concerned Citizens of Platte County and the
15 Sierra Club, please?

16 MS. HENRY: Kathleen Henry, Great Rivers
17 Environmental Law Center, 705 Olive Street, St. Louis,
18 Missouri 63101 on behalf of the Sierra Club and Concerned
19 Citizens of Platte County.

20 JUDGE PRIDGIN: Ms. Henry, thank you.
21 On behalf of AmerenUE, please?

22 MR. LOWERY: James B. Lowery and David M.
23 Kurtz, Smith Lewis, LP, 111 South Ninth Street, Columbia,
24 Missouri 65205, appearing on behalf of Intervenor
25 AmerenUE.

1 JUDGE PRIDGIN: Mr. Lowery, thank you.
2 On behalf of Trigen?

3 MR. DeFORD: Paul DeFord with the law firm
4 of Lathrop & Gage, 2345 Grand Boulevard, Kansas City,
5 Missouri 64108, appearing on behalf of Trigen Kansas City.

6 JUDGE PRIDGIN: Mr. DeFord, thank you.
7 On behalf MGE, please?

8 MS. CARTER: Diana Carter on behalf of
9 Missouri Gas Energy. The address is reflected on the
10 entry of appearance form.

11 JUDGE PRIDGIN: Ms. Carter, thank you. Did
12 I miss anyone?

13 (No response.)

14 JUDGE PRIDGIN: Any housekeeping matters
15 before we begin taking opening statements?

16 MR. FISCHER: Your Honor, I don't know if
17 you want to take this up now. I think there may be a
18 couple of scheduling issues as far as witnesses go that we
19 might want to address early on. Kansas City Power & Light
20 has one witness that needs to get on and off today, and I
21 understand that Sierra Club may have one or two that way.
22 We certainly would like to accommodate all the witnesses,
23 if we can.

24 JUDGE PRIDGIN: That's certainly fine with
25 me. Any comments, objections? Ms. Henry?

1 MS. HENRY: The Sierra Club has one witness
2 we need to get on today, Troy Helming.

3 JUDGE PRIDGIN: That's certainly fine with
4 me. I'll be glad to take witnesses however the parties
5 need to put them on, if you'll just alert me whenever.

6 MR. FISCHER: We would suggest, just as a
7 thought, that if KCPL put its first witness up, which is
8 Chris Giles that deals with policy, the stipulation, and
9 then perhaps if we wanted to put Troy up to make sure he
10 gets on, and if you want to, we could even go to Ned Ford,
11 and then go back.

12 MS. HENRY: Ned Ford will only be here
13 tomorrow, so we need to do him tomorrow.

14 MR. FISCHER: Okay. And then Lori Wright
15 is the other witness we need to get on and off today. So
16 if we could go to her perhaps after -- after either Troy
17 Helming is done or after Chris Giles, whichever is your
18 preference.

19 JUDGE PRIDGIN: Bear with me just a moment,
20 please. So we need to get -- is it Mr. Giles?

21 MR. FISCHER: Mr. Giles will be here the
22 whole time, but he is our policy witness.

23 JUDGE PRIDGIN: So we want to get him on
24 today and we want to get -- I'm sorry -- from Concerned
25 Citizens of Platte County and Sierra Club, who do we need

1 to get on today?

2 MS. HENRY: Troy Helming.

3 JUDGE PRIDGIN: Okay. Mr. Helming. And
4 then you have another witness, Mr. Fischer?

5 MR. FISCHER: Yes, Lori Wright. I don't
6 know if we have cross for her. She deals with the pension
7 issue.

8 JUDGE PRIDGIN: Okay. So those three need
9 to get on today; is that correct?

10 MR. FISCHER: Yes.

11 JUDGE PRIDGIN: And I'll be glad to take
12 those in whatever order the parties need.

13 Anything else?

14 (No response.)

15 JUDGE PRIDGIN: All right. Hearing nothing
16 else, I would like to proceed to opening statements. And
17 I will proceed in the same order that the parties
18 suggested in the list of issues. It will be in the same
19 order in which I call counsel to give opening statements.
20 You may feel free to come to the podium or stay where you
21 are for your opening statement.

22 I would ask that you try to be brief. I
23 think I counted 18 different parties. We could be here a
24 while, if you want, or we can try to get this done. So I
25 would ask the parties to try to be brief.

1 Mr. Fischer, will you give the opening for
2 KCP&L?

3 MR. FISCHER: Your Honor, general counsel
4 will do that, Kansas City Power & Light's general counsel,
5 Bill Riggins.

6 JUDGE PRIDGIN: All right, Mr. Riggins.
7 Whenever you're ready, sir.

8 MR. RIGGINS: Thank you, your Honor. Good
9 morning. I'm Bill Riggins with Kansas City Power & Light
10 Company. Today is the culmination of a year and a half
11 long process that began a year and a half ago when Kansas
12 City -- when Kansas City Power & Light began a ten-year
13 strategic planning exercise. And we started that exercise
14 by scheduling seven strategic planning seminars, each one
15 of which covered a specific area; for example, new
16 distribution technologies, the financial community
17 perspective, energy and environmental policy, the Kansas
18 City metro area's future needs and DSM programming.

19 And we invited speakers with divergent
20 viewpoints in, and they spent the morning debating these
21 topics. And then in the afternoon the speakers and the
22 audience broke into discussion groups and debated those
23 issues some more.

24 Approximately 2,000 of the company's
25 employees participated in that exercise, as did customers,

1 unions, representatives of the financial community, local
2 and national environmental groups, including the Concerned
3 Citizens of Platte County, community representatives and
4 regulators. The MPSC Staff participated in these
5 seminars. And the purpose of those seminars was to
6 provide a database that would support a vigorous planning
7 exercise, and that's what we did next.

8 That scenario planning produced a balanced
9 portfolio of investments that appeared to provide the
10 greatest benefit and the greatest protection, regardless
11 of future events, to the company's customers, its
12 investors and the community that it serves. That
13 portfolio was then further vetted in five to six community
14 forums that were hosted by the company. Again, the Sierra
15 Club and Concerned Citizens of Platte County participated
16 in those forums.

17 We also met with more than 80 groups and
18 organizations that expressed an interest in our plan. And
19 by now I think you're aware of what the primary components
20 of that balanced portfolio are, but just to summarize them
21 briefly, they include a new coal plant using
22 state-of-the-art technology that will provide low cost and
23 reliable energy to meet load growth needs. The balanced
24 portfolio also includes environmental upgrades at Lacine 1
25 and at Iatan 1, and those environmental upgrades will

1 result in reduced emissions at the Iatan site and across
2 our fleet, even with the addition of a new coal unit.

3 Those environmental upgrades are also a key
4 component of the clean air action plan that's been
5 developed by the Mid-America Regional Council, which is
6 designed to keep the Kansas City metropolitan area in an
7 attainment status.

8 The balanced portfolio also includes owning
9 more renewable energy than any Missouri utility to date.
10 It includes increased investment in transmission and
11 distribution infrastructure to maintain the company's
12 position as an industry leader in service reliability.
13 And it includes investing more in peak reduction energy
14 efficiency and affordability programs than any Missouri
15 utility to date.

16 The strength of the plan, I believe, is
17 demonstrated by the fact that it has received
18 19 endorsements in Missouri and Kansas, besides the
19 Mid-America Regional Council. Those endorsements come
20 from cities, chambers of commerce, businesses, economic
21 development councils, interest groups and unions.

22 The process then moved to regulatory
23 workshops in both states, and again the Sierra Club and
24 the Concerned Citizens of Platte County participated
25 throughout that workshop process. In those workshops we

1 shared information, we debated some more, and we began
2 moving toward consensus on the investment portfolio and a
3 mechanism for enabling those investments.

4 The negotiations were extremely difficult,
5 but we ultimately reached very similar agreements with
6 broad-based support in both Missouri and Kansas. And as I
7 said, the negotiations were very difficult, probably the
8 most difficult that I've ever been involved in, but I'm
9 very proud of the accomplishment because of the uniqueness
10 of the challenge that we were facing.

11 What we were basically looking at is
12 building new base load generation and making other
13 investments that will have the effect of increasing our
14 asset base by about 50 percent over a five to six-year
15 period while maintaining our debt at investment grade.

16 And the signatories to the stipulation that
17 you have in front of you today in essence reached a
18 consensus that these investments are the right investments
19 to make at the right time, and that consensus is
20 memorialized in the stipulation which essentially is a
21 series of agreements between the signatories that are
22 designed to enable these investments.

23 KCPL witnesses have addressed these
24 agreements in detail in their testimony and their
25 exhibits, and they're available to answer questions about

1 those agreements. My understanding is that
2 representatives of other signatories will also be
3 available to answer questions, but I'd like to take just a
4 moment to summarize some of the primary components of the
5 stipulation. Not all of them, but some of the primary
6 components.

7 The stipulation contains an agreement to
8 maintain current rates through 2006. It contains
9 agreements concerning the timing mechanics of future rate
10 cases, some of which are mandatory and some of which are
11 optional. It contains an agreement regarding the future
12 implementation of an interim energy clause. It contains
13 an agreement regarding SO2 emission allowance sales, an
14 agreement regarding accounting for pension expense,
15 agreements regarding depreciation rates and in-service
16 criteria for new assets, and agreement that any special
17 contracts at discounted rates will for ratemaking purposes
18 be treated as if the rates have not been discounted. In
19 other words, revenue will be imputed to any such
20 contracts.

21 And finally, the agreement contains an
22 agreement to support, if necessary, an amortization that
23 will minimize the cost of the resource plan while
24 providing adequate cash flow for KCP&L to maintain its
25 debt at investment grade. In other words, the way I see

1 it, the amortization is an investment tool that will
2 provide KCPL with the opportunity during this
3 extraordinary construction period to maintain its credit
4 and its ability to attract capital, and as the courts of
5 this country have held, that opportunity is a necessary
6 component of just and reasonable rates.

7 However, obviously Commission adoption of
8 this stipulation does not bind the non-signatories in
9 future cases, and more importantly, by its express terms,
10 nothing in this stipulation is intended to impinge or
11 restrict in any manner the exercise by the Commission of
12 any statutory right or obligation in the future.

13 In closing, I'd just like to point out that
14 the signatories to this agreement are very diverse, but I
15 think it's significant that the signatories include the
16 Staff of the Commission, the Office of the Public Counsel,
17 the Missouri Department of Natural Resources, the City of
18 Kansas City, Missouri, the Missouri Joint Municipal
19 Electric Utility Commission and the company.

20 I think that's significant, because one
21 realization I came to through this process is that those
22 with public and fiduciary responsibilities understand that
23 good public policy and good business require a sensible
24 balancing between competing and sometimes apparently
25 conflicting interests. In contrast, such a balancing can

1 be an unworkable concept for those with narrow agendas and
2 no responsibilities. But I think the process and the
3 products that have resulted from that process have, in
4 fact, created an intersect between good public policy and
5 good business.

6 I'm reminded often that 20 years ago Wolf
7 Creek was coming online. In fact, 20 years ago today I
8 was in a Wolf Creek rate case over in Kansas, and I think
9 a number of people in this room were involved in that
10 process as well.

11 And I would suggest that that process and
12 the resulting rate case and its outcome probably didn't
13 work out that well for anyone. And now we need to build
14 another base load unit, but we don't need to repeat the
15 past. And the signatories to this stipulation and I
16 believe that there is a better way and we're asking you to
17 approve it. Thank you.

18 JUDGE PRIDGIN: Mr. Riggins, thank you very
19 much. Let me next call on the Staff of the Commission.
20 Mr. Dottheim, will you give the opening?

21 MR. DOTTHEIM: Yes.

22 JUDGE PRIDGIN: I would remind the parties
23 that we are broadcasting this over the Internet and to try
24 to speak pretty clearly into your microphone. If you're
25 speaking as loudly as I am, that should be plenty loud.

1 Mr. Dottheim?

2 MR. DOTTHEIM: Thank you. May it please
3 the Commission?

4 The Stipulation & Agreement filed on
5 March 28, 2005 was the result of a substantial effort on
6 the part of the Staff and various other entities to
7 address issues raised by Kansas City Power & Light Company
8 regarding its need for additional generating capacity and
9 its desire to address that need by regulatory procedure
10 that would permit it to retain its investment grade
11 status.

12 Among KCPL's concerns was that the mere
13 announcement of a plan to build Iatan 2 and the level of
14 planned environmental improvements without an agreement on
15 an experimental regulatory plan for consideration by the
16 Missouri Public Service Commission would result in a
17 downgrade by the financial rating agencies. There are
18 costs associated with a loss of investment grade rating
19 which KCPL is seeking to avoid. More importantly, the
20 loss of investment grade rating would make financing of
21 the construction expenditures contemplated in this
22 Stipulation & Agreement considerably more difficult.

23 In order to directly address the prospect
24 of a loss of investment grade status by KCPL, the
25 signatory parties utilized a procedure that is a variation

1 on an amortization that first appeared in a Stipulation &
2 Agreement in a KCPL rate design case, Case No. EO-94-199.
3 The amortization was clearly identified and continued in a
4 subsequent KCPL Stipulation & Agreement in Case
5 No. EO-99-313, a rate reduction case associated with the
6 Staff earnings audit of KCPL relating to KCPL's
7 fortunately ill-fated merger with Western Resources.

8 The amortization was proposed by the Staff
9 in this proceeding -- well, excuse me. The amortization
10 was proposed by the Staff in that other proceeding, in
11 lieu of reducing KCPL's rates even further. Ratemaking
12 recognition will occur in KCPL's 2006 rate case under the
13 experimental alternative regulatory plan by the provision
14 that rate base would be reduced by the amount of the
15 accumulated amortization since Case No. EO-94-199.

16 Both of the cases I've just cited were
17 settlements, so there is standard language in those
18 settlements that the signatories are not to assert that
19 any other signatory has agreed to any ratemaking principle
20 by being a party to that Stipulation & Agreement.

21 Issues have been raised by non-signatories
22 to the present Stipulation & Agreement that was filed on
23 March 28th about not only the lawfulness of the end result
24 of the process that resulted in a stipulation and
25 agreement in the instant case, but also about that

1 process.

2 The Staff has referred to Cases
3 EO-2004-0577 and EW-2004-0596 in its various filings in
4 the instant case, not to make any legal argument that the
5 Commission can literally utilize what occurred in those
6 dockets as a competent and substantial evidence for
7 approving the pending KCPL experimental regulatory plan.

8 Competent and substantial evidence for the
9 Commission to approve the KCPL experimental regulatory
10 plan exists in the instant case in the testimony filed on
11 April 11th by Kansas City Power & Light, and the Staff
12 expects additional testimony of a competent and
13 substantial nature will be adduced in the next two days to
14 further support the KCPL regulatory plan.

15 All interested entities were provided an
16 opportunity to participate in the development of the
17 experimental regulatory plan, that is, the Stipulation &
18 Agreement filed on March 28th. All interested parties are
19 now being afforded an opportunity to challenge that
20 proposed experimental regulatory plan.

21 The United States Department of Energy has
22 raised various concerns about the legal sufficiency of how
23 KCPL has proceeded in the instant case and the lawfulness
24 of facets of the Stipulation & Agreement. Apparently,
25 unlike the Concerned Citizens of Platte County and the

1 Sierra Club, U.S. DOE is not literally challenging KCPL's
2 decision that it needs base load generation and that the
3 prudent and reasonable way to meet this need is by KCPL
4 constructing a pulverized coal-fired generating unit.

5 U.S. DOE and, in essence, the Concerned
6 Citizens/Sierra Club are challenging the advisability of
7 the Commission approving a Stipulation & Agreement that
8 addresses in any manner KCPL's need for additional
9 capacity and the meeting of that need with a pulverized
10 coal-fired generating unit, outside of any proceeding
11 other than the proceeding where KCPL would seek to place
12 Iatan 2 and the environmental enhancements in rate base
13 and commence recovering in rates those costs.

14 U.S. DOE is also seeking that the
15 Commission address at this point what is the legal effect
16 of the Commission approving the KCPL experimental
17 regulatory plan.

18 Concerned Citizens/Sierra Club is also
19 challenging the underlying decision that there is a need
20 for additional capacity, and the choice that has been made
21 that pulverized coal-fired capacity is prudent and
22 reasonable. The Staff used the analysis reflecting the
23 KCPL regulatory plan as similar to the analysis required
24 under the Commission's Chapter 22 electric resource
25 planning rules. The analysis is to determine whether the

1 process to be filed is prudent and reasonable.

2 Whether the actual execution and
3 implementation of a process is prudent and reasonable is a
4 matter for future determination. The Staff, in
5 conjunction with the other signatory parties, have
6 attempted to build in safeguards by addressing as many
7 contingencies with which they have experience or could
8 reasonably envision at this time. The Staff believes that
9 the experimental regulatory plan is within the bounds of
10 Section 393.135, Proposition 1, and other legal
11 requirements.

12 KCPL advises Staff that in order for it to
13 implement the Stipulation & Agreement, the regulatory
14 plan, it would also need regulatory approval from the
15 Kansas Corporation Commission. The Kansas Corporation
16 Commission's evidentiary hearing on KCPL's Kansas
17 regulatory plan occurred last Friday, June 17. In Kansas,
18 the Citizens Utility Ratepayers Board, the Kansas
19 counterpart to the Missouri Office of Public Counsel was
20 not a signatory party. The Sierra Club in Kansas opposes
21 the Stipulation & Agreement, as it does in Missouri,
22 although with different witnesses and different counsel.

23 The Kansas City Power & Light financing
24 plan for the construction of Iatan 2, which is referenced
25 in the Stipulation & Agreement that was filed on

1 March 28th, the KCPL financing plan was filed yesterday,
2 Wednesday, by KCPL, and was docketed by the Commission as
3 Case No. EF-2005-0498. The Commission does not need to
4 hold in abeyance its decision in the instant case for its
5 decision in the newly filed KCPL financing plan docket.
6 Nonetheless, the financing application filed yesterday by
7 KCPL is contingent upon the Commission approving the
8 experimental regulatory plan that has been filed.

9 The Staff believes that the KCPL
10 experimental regulatory plan is a reasonable and prudent
11 approach to address a myriad of regulatory issues in a
12 lawful and otherwise appropriate manner. The KCPL
13 regulatory plan is more than a plan for the building of
14 Iatan 2. The size and scope of the demand response,
15 affordability and efficiency programs, the cost of which
16 will be directly recovered from KCPL's customers, are
17 noteworthy. These programs are not being proposed on the
18 basis that their implementation will obviate the need for
19 Iatan 2.

20 The Staff believes that there -- that the
21 need for Iatan 2 cannot be obviated. If the parties were
22 not before the Commission presently respecting the
23 proposed KCPL experimental regulatory plan, the parties
24 might be before the Commission on the issue of whether the
25 Commission has the authority to order KCPL to meet its

1 generation needs with a base load pulverized coal-fired
2 unit instead of with combustion turbine generators.

3 KCPL has indicated that without a device
4 such as the proposed experimental regulatory plan, it will
5 meet its capacity needs with combustion turbine
6 generators. No one has asserted that KCPL's customers
7 will be better served by relying on gas generation instead
8 of power from the proposed Iatan 2

9 The Staff has not entered into any
10 agreements which are not set out in the Stipulation &
11 Agreement filed on March 28, 2005. When he was a
12 Commissioner, Ken McClure established the practice of
13 inquiring into whether there were any side agreements not
14 contained in the Stipulation & Agreement before the
15 Commission for consideration. I can only speak for the
16 Staff. The Staff has not entered into any side agreements
17 and has made no commitments other than those that are
18 contained in the Stipulation & Agreement.

19 The Staff has attempted to make it clear to
20 other parties that if there are any side agreements or
21 understandings, no one either now or at some later date
22 should indicate that the Staff has committed to supporting
23 any such side agreement or understanding.

24 A part of the Stipulation & Agreement is a
25 provision that Kansas City Power & Light will offer to the

1 signatory parties in Missouri any different terms
2 negotiated in Kansas or directed by the Kansas Corporation
3 Commission. The Staff has indicated in filings with the
4 Commission and to Kansas City Power & Light at least one
5 provision in Kansas that the Staff desires to see adopted
6 for the experimental regulatory plan in Missouri, and that
7 is the 200 basis point reduction to AFUDC.

8 The term in the Missouri KCPL regulatory
9 plan, there was a 125 basis point reduction. A larger
10 reduction was negotiated in Kansas. Kansas City Power &
11 Light has indicated that there is no problem confronted by
12 amending the Missouri Kansas City Power & Light
13 experimental regulatory plan to reflect that provision.

14 So the Staff would suggest to the
15 Commission that the document that it has before it is not
16 necessarily -- in fact, is not the final document. There
17 have been some discussions about reflecting some of the
18 changes that appear in the Kansas Kansas City Power &
19 Light experimental regulatory plan, but the Kansas
20 Commission has not issued its decision, so it's not known
21 whether the Kansas Corporation Commission will adopt the
22 Stipulation & Agreement that has been filed in whole cloth
23 in Kansas.

24 There is one final item that the Staff
25 would like to address in the opening statement, and that

1 is, there is a provision in the Stipulation & Agreement on
2 partnership issues involving the Iatan plant. It appears
3 on page 51, and part of a sentence contained on page 51
4 states, in respect to Empire District Electric Company and
5 Aquila, Inc., that KCPL will consider these entities as
6 preferred potential partners in the Iatan 2 generating
7 plant project of at least a combined -- of at least a
8 30 percent combined share of Iatan 2, if these entities
9 can demonstrate that they have a commercially feasible
10 financing plan for meeting their financial commitments.
11 And there is additional detail which I won't go into.

12 At the moment -- and I will not go into
13 details of what the Staff is aware of the negotiations or
14 possible agreements between Kansas City Power & Light and
15 Empire and Aquila, but based on the information provided
16 to the Staff that if the Iatan 2 generating unit is, for
17 example, an 850 megawatt unit, presently the ownership
18 shares of Empire and Aquila do not amount to at least
19 30 percent. That is an item of concern to the Staff.

20 Thank you.

21 JUDGE PRIDGIN: Mr. Dottheim, thank you.

22 On behalf of the Office of the Public Counsel,
23 Mr. Dandino?

24 MR. DANDINO: Thank you, your Honor. May
25 it please the Commission?

1 Coming from the telecommunications arena,
2 I've had my eyes opened as to the complexities and the
3 variety of issues. We -- in the telecom area, we usually
4 don't have rate cases. Rate cases are a thing of the
5 past, especially with major players such as present here,
6 major carriers.

7 But I think the goals of Public Counsel in
8 this is basically the same in terms of looking for the
9 goal is safe and adequate service at just and reasonable
10 rates consistent with the public interest. It is for that
11 reason Public Counsel participated in the year and a half
12 proceedings leading up to the Stipulation & Agreement.
13 Office of Public Counsel supports a Stipulation &
14 Agreement and asks the Commission to approve it.

15 What we're looking at, remember, is just
16 and reasonable, just and reasonable Stipulation &
17 Agreement. It is not a perfect agreement, but it is --
18 under the circumstances in light of a variety issues, the
19 complexity of issues, the competing interests, the
20 ultimate goals of this Commission, I think it is a
21 reasonable and fair agreement and is within the public
22 interest.

23 Public Counsel would also like to point out
24 that this is -- that entering into the Stipulation &
25 Agreement is not a signal to any of the industry or to

1 this Commission that Public Counsel will treat all rate
2 cases or even all attempts at entering into an
3 experimental rate plan the same way. We look at things on
4 a case-by-case basis, and look at the unique
5 circumstances.

6 This is an experimental regulatory plan.
7 We were involved in it from the beginning, had
8 participation in it and our staff was able to be involved
9 with it. That brings us to a certain level of confidence
10 and at least participation in it and our opportunity to be
11 heard and fairly heard at meaningful times within the
12 process.

13 As far as the details of this, I'm going to
14 have to leave this to Russ Trippensee, our chief
15 accountant in our office, public utility accountant, who
16 has filed prefiled testimony in this. He can address some
17 of the major policy issues and our rationale. Also, Ryan
18 Kind, chief economist in our office, is also here to
19 answer any questions that the Commission may have
20 concerning the Office of Public Counsel's position.

21 Essentially, though, and Mr. Trippensee
22 sets out in his testimony some of the considerations that
23 we would look for for protection of the ratepayers having
24 reasonable rates, preventing rate shock, assuring adequate
25 service of power for the residents in their homes, places

1 of employment, and in their businesses. There's also some
2 protection for environmental improvements and
3 considerations, and even at least a start toward
4 consideration of alternative energy sources other than
5 fossil fuel.

6 When Public Counsel looks at this, at these
7 cases, we also have to do a balancing. In the same way
8 that the Commission makes a balancing between the public
9 and the consumers and the industry and the state as a
10 whole, Public Counsel also has to balance the various
11 interests of its clientele, the public. The public is a
12 broad concept.

13 We attempt to address the concerns, may not
14 satisfy each and every constituent or segment of the
15 public, may not be -- it may not address their priorities
16 in the way they wish it occurs, but I think it's important
17 that overall Public Counsel, when we look at this, if we
18 can achieve our goal of safe, adequate electric service at
19 just and reasonable rates, that we are operating
20 consistent with the public interest and recommend to this
21 Commission the approval of the Stipulation & Agreement.

22 Thank you, your Honor.

23 JUDGE PRIDGIN: Mr. Dandino, thank you.

24 On behalf of the Missouri Department of Natural Resources,
25 please, Ms. Valentine?

1 MS. VALENTINE: Thank you, your Honor.
2 Good morning, Commission members. My name is Kara
3 Valentine. I'm here this morning on behalf of the
4 Missouri Department of Natural Resources.

5 The Department actively participated in
6 KCPL's workgroup process that resulted in the Stipulation
7 & Agreement that's the subject of this morning's hearing.
8 We support three initiatives included in the stipulation.

9 The first is KCPL's commitment to energy
10 efficiency and affordability programs for its customers.
11 Energy efficiency and affordability programs identified in
12 the stipulation include rebates for customers who purchase
13 high-efficiency lighting and HVAC systems, partial funding
14 for energy efficiency improvements in buildings and
15 processes of commercial and industrial customers, and
16 funding for low-income weatherization, to name a few. The
17 initial budget for the five-year period for Missouri are
18 \$2.5 million for affordability programs and \$12.7 million
19 for energy efficiency programs.

20 The second initiative that the Department
21 supports is KCPL's investment in renewable energy. KCPL
22 will invest 100 megawatts of wind to be installed in 2006.
23 An additional 100 megawatts of new wind generation
24 facilities will be installed in 2008, if an evaluation
25 supports that investment. The evaluation must include

1 assessment of wind resources and economic viability for
2 wind power production in Missouri.

3 The third initiative that we support is
4 KCPL's commitment to install environmental controls on
5 existing power plants in advance of federal requirements
6 to do so. Within the Department, we call that accelerated
7 compliance, and the goal here is a reduction of ozone
8 precursors. KCPL will install environmental equipment on
9 Iatan 1 and Lacine 1 before EPA requires those upgrades
10 pursuant to the Clean Air Interstate Rule. With the
11 addition of Iatan 2, early installation of environmental
12 control equipment on Iatan 1 will help to mitigate total
13 site emissions after completion of Iatan 2.

14 The Department of Natural Resources
15 believes that as electric utilities plan for the future,
16 energy efficiency should be considered on an equal basis
17 with supply side alternatives. Because of the numerous
18 benefits energy efficiency provides consumers, the economy
19 and the environment, the economic/environmental benefits
20 of clean indigenous energy sources, such as wind energy,
21 should also be considered.

22 As Missouri reduces its energy use through
23 efficiency and diversifies its resources to include its
24 own renewable energy resources, the resulting dollars stay
25 within the state to bolster the state's economy.

1 For these reasons, the Department requests
2 that the Commission approve the Stipulation & Agreement.
3 Thank you.

4 JUDGE PRIDGIN: Ms. Valentine, thank you.
5 On behalf of Ford and MIEC, please, Mr. Downey?

6 MR. DOWNEY: Good morning, your Honor,
7 members of the Commission. Ford and MIEC support the
8 stipulation of facts or the joint stipulation and
9 encourage the Commission to adopt it. Further, we have no
10 witnesses to present and intend no cross-examination, and
11 I would respectfully request that at the conclusion of
12 opening statements that I be dismissed from the further
13 proceedings.

14 JUDGE PRIDGIN: Well, Mr. Downey, thank
15 you. At the end of opening, we'll see if the
16 Commissioners have any concerns that they'd like to take
17 up with you. Thank you.

18 MR. DOWNEY: Very well. Thank you.

19 JUDGE PRIDGIN: On behalf of the City of
20 Kansas City, please, Mr. Comley?

21 MR. COMLEY: May it please the Commission,
22 the Commission's records will reflect that the City of
23 Kansas City is a fairly recent signatory to the
24 stipulation. Our filing was yesterday afternoon. But I
25 don't want that to be any indication of any flagging of

1 support for the stipulation. Let me explain a little bit
2 about the City's relationship to KCP&L.

3 I think I can say without fear of
4 contradiction that Kansas City, Missouri itself is one of
5 the largest consumers of electric power generated by
6 Kansas City Power & Light. At stake for us would be the
7 future requirement for uninterrupted and otherwise
8 reliable power to energize essential city services to
9 citizens, to businesses and even other governmental units
10 within the City that depend on the City for those
11 services, or interdepend upon the City for those services.
12 We consider the stipulation a very important step in
13 making sure that there is a guaranteed power source for
14 those critical city services rendered to those entities.
15 We agree with the signatories.

16 We think the Commission should consider our
17 signature on that that the City is lending its full
18 support to the stipulation and believes it is fair, it is
19 reasonable, and it is not detrimental to the public
20 interest. In fact, it is the conclusion of the City that
21 it is quite important to the public interest. Therefore,
22 we would ask that the Commission approve it, and do it as
23 quickly as possible.

24 Like Ford and MEIC, the City will have no
25 witnesses to present at this hearing today, and the City

1 has no cross-examination scheduled for any of the other
2 witnesses. And like counsel before, I would request that
3 as soon as the Commission has posed its questions after
4 opening statements, that we be excused from the hearing
5 for the remainder. Thank you.

6 JUDGE PRIDGIN: Mr. Comley, again, at the
7 end of opening statements, we will see if the Commission
8 has any concerns for the City of Kansas City. Thank you.
9 On behalf of Praxair, please, Mr. Conrad?

10 MR. CONRAD: Judge, by your leave, I would
11 just stay here, if that's okay.

12 JUDGE PRIDGIN: Absolutely.

13 MR. CONRAD: I have two parts to my opening
14 statement. Both will be brief.

15 Praxair is a signatory to this document.
16 It is not perfect. It is like any compromise, and there
17 was a lot of compromise in this, but we support it and
18 believe that it is in the public interest to go forward
19 with it. Mr. Dottheim made reference to side agreements.
20 There are none of which I'm aware involving the Staff.

21 I believe Mr. Giles' testimony does make
22 reference to an arrangement that my client had worked out
23 with Kansas City Power & Light, and that in due course
24 will be spread before the Commission for its awareness. I
25 would lift up one statement with respect to that and

1 confirm what Mr. Riggins has stated, in that there is a
2 provision in the stipulation that exonerates all other
3 classes of customers from any financial impact from any
4 kind of side agreement.

5 The second part of my opening statement,
6 which would also be brief, is in the way of a mea copa.
7 As I am growing older, I have wished that I was more a
8 student of the Bible than I am. I am sure in that book
9 there is a statement to the effect that one should so
10 conduct their affairs in life that when an aspersion is
11 raised against them, that those who know them know
12 instantly that it is false.

13 In the course of the negotiations,
14 particularly at the conclusion of this, I was party to a
15 telephone call in room, I believe 800 or 810 on the eight
16 floor of this building, and during the course of that
17 telephone call an assertion was made that Mr. Dottheim had
18 in some manner acted inappropriately with respect to
19 information provided to the parties or to certain parties.

20 Mr. Dottheim has been a friend of mine for
21 a number of years, and in the some 30-odd years of
22 practice that I have before this Commission and others, I
23 have known few, if any, attorneys who are as scrupulous as
24 he has been about avoiding any type of appearance and the
25 fact of any unfairness in his dealings with any party.

1 And he wears multiple hats that he has to wear in his
2 position very well.

3 I should have in the course of that
4 conversation risen instantly to his defense. I did not,
5 and I hope that this statement at this time and in this
6 place and on the record will clear that and he will accept
7 my apology for not doing so. Thank you, your Honor.

8 JUDGE PRIDGIN: Mr. Conrad, thank you.
9 On behalf of Aquila, please, Mr. Swearengen?

10 MR. SWEARENGEN: Yes. We have no opening
11 statement on behalf of a Aquila. We are a signatory to
12 the stipulation and would simply urge the Commission to
13 approve it. Thank you.

14 JUDGE PRIDGIN: Mr. Swearengen, thank you.
15 On behalf of Empire, please, Mr. Cooper?

16 MR. COOPER: Yes, your Honor. Good
17 morning. The Empire District Electric Company is
18 particularly interested in this matter. As stated by
19 Mr. Dottheim, the Stipulation & Agreement in this case
20 identifies Empire as a preferred potential partner in the
21 Iatan 2 generating plant project. This potential has been
22 taken a step further as on June 10th of 2005, Empire
23 entered into a letter of intent with KCPL to present
24 preferred capacity.

25 The letter of intent is contingent upon

1 Empire providing an acceptable financing and regulatory
2 plan, as well as the execution of its ownership, operating
3 and common facility agreements. It is Empire's position
4 that after the hearing of this matter, that the Commission
5 should approve the Stipulation or the Nonunanimous
6 Stipulation & Agreement filed herein, as the projects
7 enabled by the Stipulation & Agreement are very important
8 for Missouri consumers.

9 Empire does not intend to call any
10 witnesses at this time. However, should the Commission
11 believe that an Empire witness would be helpful, we
12 believe that we can provide such a witness, if so
13 requested.

14 Thank you.

15 JUDGE PRIDGIN: Mr. Cooper, thank you.
16 On behalf of MJMEUC, please, Mr. Kincheloe?

17 MR. KINCHELOE: Good morning. The
18 Municipal Electric Commission is also pleased to be a
19 signatory to the Stipulation & Agreement and hopes to look
20 forward to the Commission's approval of the Stipulation &
21 Agreement. The Municipal Electric Commission's
22 participation in this proceeding is, frankly, strictly
23 pointed towards the facilitation of its participation --
24 prospective participation as a partner in the Iatan 2
25 project.

1 The Municipal Electric Commission is also
2 listed as a preferred partner in the stipulation and has
3 also entered into a letter of agreement, letter of intent
4 with Kansas City Power & Light on that matter. We believe
5 that the Iatan 2 project is very important to Missouri
6 ratepayers, a number of the utilities, including those
7 ratepayers, a number of municipal utilities that have been
8 and are supplied by Kansas City Power & Light currently
9 and have recently, as a result of tariff changes at the
10 wholesale level, are not enjoying as advantageous terms as
11 has been previously enjoyed by those municipal utilities
12 and their ratepayers. And so the ability to participate
13 through the Municipal Electric Commission is important to
14 those municipal utilities.

15 Mr. Dottheim referred to the fact that
16 there's a question about the level of participation of
17 some of the preferred potential partners listed in the
18 Stipulation & Agreement. We've not had a chance to confer
19 with other parties on this matter. The point that he
20 raises is also true with respect to the apparent
21 opportunity to participate on behalf of the Municipal
22 Electric Commission, in that the 100 megawatts listed in
23 the stipulation I learned very recently is likely to be
24 something less than 100 megawatts.

25 I think we should afford the company the

1 opportunity to address this issue in the proceeding here
2 and look forward to doing that, and I'll ask to be excused
3 from here on in the proceeding.

4 JUDGE PRIDGIN: Mr. Kincheloe, thank you.
5 Again, at the end of opening statements, we'll see if the
6 Commission has any concerns with your client.

7 I don't believe I have an entry of
8 appearance from Jackson County. Has anyone appeared for
9 Jackson County?

10 (No response.)

11 MR. PRIDGIN: Hearing none. On behalf of
12 U.S. Department of Energy, Mr. Phillips?

13 MR. PHILLIPS: Yes. It's good to be back
14 before the Commission. I've had the pleasure of being an
15 Administrative Law Judge at this Commission, assistant
16 general counsel, I've been a deputy general counsel and
17 finally being general counsel of the Commission.

18 And I just want to say to you, I want to
19 echo what Mr. Conrad said, because a number of years
20 ago -- I can't remember now if it was '76, '77 or '78 -- I
21 had the pleasure of hiring Steve Dottheim on the Staff.
22 And I remember one of the Commissioners was concerned
23 about Steve, and his concern was whether Steve would stay
24 more than one or two years. They were fearful that Steve
25 would be here a year or two and take all that learning

1 that he got in that short period of time and leave the
2 Commission and we would have invested 20, \$30,000 or so in
3 his education. And I think the ratepayers of this state
4 have benefited greatly from the period of time that Steve
5 has been here, and I am glad that we have proven that
6 Commissioner wrong.

7 Just let me say on behalf of U.S. DOE, we
8 are here in our customer capacity on a policy. We have a
9 facility in Kansas City which is the NNSA. We refer to it
10 as the Kansas City plant. It's a big user of electricity.
11 I think in the last few years or so we've averaged
12 something like \$6 million in our bills. We are concerned
13 about those rates. We want those rates to be just and
14 reasonable. We don't want them to be discriminatory, and
15 we want the allocation of rates and costs between and
16 among customers classes to be fair.

17 We have, therefore, intervened in that
18 capacity. On April 19th, we filed our intervention, and
19 since then it's been a little over two months in the
20 process. As I said, we appreciate the process. We
21 appreciate the complexity of the stipulation. When we
22 received the Stipulation & Agreement that was filed
23 herein, we reviewed it, and we realized that there were
24 substantial issues that were initially raised that we
25 thought the Commission needed to resolve.

1 At the prehearing in this matter on May the
2 3rd, Judge Mills, at the time the presiding judge herein,
3 laid out what the schedule would be and we together came
4 up with proposed dates for hearing of this Commission. I
5 raised an issue relating to discovery, because I realized
6 that this stipulation was so complex we were going to have
7 to do considerable interrogatory serving on the company at
8 least. Your rule ordinarily provides 20 days for
9 responses to discovery requests. And Kansas City Power &
10 Light agreed that they would respond to our
11 interrogatories within five days, and they did so.

12 We appreciate the cooperation of the
13 company in that regard, and we began our review of all of
14 the responses. We also proceeded in filing various and
15 sundry pleadings with the Commission trying to winnow
16 down, discover, determine the issues before the
17 Commission.

18 And over that period of time, as we have
19 reviewed the discovery responses and as we have talked to
20 Kansas City Power & Light, we have determined that in this
21 case to be tried before you in the next couple of days or
22 so, we see one issue remaining of the numbers that we had
23 started out with, and that issue relates to what's been
24 called the additional amortization issue.

25 We were parties to 94-199 that Steve

1 referred to earlier. We also were parties to the 99-313
2 case. We signed the stipulation in 94-199. We didn't
3 sign the stipulation in 99-313, but that does not infer
4 that we did not support that stipulation. We believe that
5 we need to ask some questions of Mr. Giles of Kansas City
6 Power & Light, relating to the amortization issue, and we
7 understand from Mr. Dottheim that Bob Schallenberg will be
8 here throughout most of this hearing, and we may wish to
9 ask some limited questions of Mr. Schallenberg.

10 We understand that yesterday -- and we have
11 obtained a copy of Russell Trippensee's testimony on
12 behalf of Public Counsel. We reviewed that last night and
13 this morning, and we may have some questions for
14 Mr. Trippensee after he does his direct either today or
15 tomorrow.

16 Mr. Dottheim talked about side agreements
17 and understandings. We have no side agreement nor
18 understanding involving Public Counsel or the Staff of the
19 Commission. We do have an understanding, however, with
20 Kansas City Power & Light, and that understanding revolves
21 totally around the situation that we have relating to a
22 substation.

23 And let me just say to you, since 9/11,
24 every agency has been more concerned with national
25 security than before. If this -- if this particular

1 situation comes to fruition between Kansas City Power &
2 Light and U.S. DOE, it would result in a filing at the
3 Commission of an application for your approval.

4 In that respect, we have not sought Staff
5 approval, nor the Public Counsel approval, because it's
6 premature at this time to do so, but if we were to file an
7 application, it would stand on its own. It would not have
8 any relationship, would not have any relevance to any
9 issue that you need to resolve or any finding that you
10 need to make in this case.

11 So with that, and with the caveat that we
12 do need to ask a few questions relating to the additional
13 amortization issue, that would conclude my opening
14 statement. Thank you.

15 JUDGE PRIDGIN: Mr. Phillips, thank you.
16 On behalf of Concerned Citizens of Platte County and
17 Sierra Club, Ms. Henry?

18 MS. HENRY: May it please the Commission?
19 My name is Kathleen Henry, and I represent the Sierra Club
20 and Concerned Citizens of Platte County.

21 Kansas City Power & Light Company has told
22 you that it needs to construct a new 800 to 900 megawatt
23 coal-fired power plant, Iatan 2, in order to meet
24 increasing energy demands which KCPL projects to be 500
25 megawatts over the next five years.

1 Sierra Club and Concerned Citizens are
2 confident that the evidence will show that KCP&L could
3 meet that demand through wind-powered plants at less cost
4 than a new coal-fired power plant, and that KCP&L could
5 meet that demand through establishing good and strong
6 energy efficiency programs which also would cost less than
7 a new coal-fired power plant.

8 The Sierra Club is concerned with this case
9 for many reasons, some of which are that there is solid
10 evidence that emissions from coal-fired power plants
11 contribute to global warming and cause asthma and other
12 respiratory problems and are harmful to human health. The
13 Sierra Club believes since there are cheaper alternatives
14 available to KCP&L, they should not build Iatan 2.

15 Concerned Citizens of Platte County is a
16 nonprofit corporation made up of people who are ratepayers
17 of KCP&L, and who live near the proposed site. Concerned
18 Citizens members will be forced to pay any increased rates
19 caused by the new plant and to breathe in the pollution
20 emitted from the plant. The Concerned Citizens group is
21 concerned about costs, environmental problems and health
22 problems associated with the new plant.

23 Sierra Club and Concerned Citizens will
24 tell the Commission at this hearing that it is not
25 necessary for KCP&L to build a new coal-fired power plant.

1 There are cheaper and better alternatives available which
2 can be readily implemented if the Commission will provide
3 strong financial incentives for KCP&L.

4 Sierra Club and Concerned Citizens' first
5 witness will be Troy Helming. He is from the Kansas City
6 metropolitan area and is known as one of America's leading
7 clean energy economists, showing how converting to clean
8 power can be profitable.

9 Mr. Helming will prove that KCP&L's plan to
10 build a new coal-fired power plant will cost consumers
11 more than it would if KCP&L were to build wind plants.
12 Mr. Helming has completed mathematical calculations
13 demonstrating his points, and will explain these
14 calculations to the Commission. Mr. Helming also will
15 prove that pollution from the United States' addiction to
16 fossil fuels is ruining our health and our environment.
17 Mr. Helming has included in his calculation the cost to
18 KCP&L customers, the health related problems caused by the
19 burning of coal, and he will explain in detail these costs
20 at the hearing.

21 The Sierra Club and Concerned Citizens'
22 second witness will be Ned Ford. Ned Ford is an energy
23 efficiency expert from Cincinnati, Ohio. He will prove
24 that it is not necessary for KCP&L to construct Iatan 2
25 because KCP&L can meet its customers' energy demands by

1 using energy efficiency measures. It is also cheaper for
2 KCP&L to use energy efficiency measures than to build a
3 new plant. In addition, he will prove it is less risky
4 for KCP&L ratepayers for KCP&L to use energy efficiency
5 measures rather than to construct a new coal-fired power
6 plant.

7 KCP&L needs financial incentives in order
8 to develop strong wind and energy efficiency programs.
9 Sierra Club and Concerned Citizens are asking the Public
10 Service Commission to make Kansas City Power & Light as
11 profitable saving energy as it would be making energy.
12 The Public Service Commission is the only state agency
13 that can do this.

14 I'll take one moment to discuss a standard
15 of review and my choice of vocabulary during the hearings.
16 During the hearing, Sierra Club and Concerned Citizen will
17 prove it is not necessary for KCP&L to build a coal-fired
18 power plant to meet energy demands. KCP&L has indicated
19 its resources must be reasonable and adequate or
20 reasonable and prudent for the Commission to approve it.

21 Another standard the Commission has invoked
22 in other instances is that an action must be in the public
23 interest. Sierra Club and Concerned Citizens maintain the
24 plan is not reasonable, adequate, prudent or in the public
25 interest. Underlying each of these standards would be a

1 finding of necessity, for it would be impossible for a
2 \$776 million coal plant to be reasonable, adequate,
3 prudent or in the public interest if it were not
4 necessary.

5 During these hearings, when Sierra Club and
6 Concerned Citizens argue that the plant is not necessary,
7 they're also arguing the plant is not reasonable,
8 adequate, prudent, nor in the public interest. Because it
9 is cumbersome to list all standards at all times, I'm
10 using the term necessary to encompass all of those.

11 The Sierra Club and Concerned Citizens will
12 prove to you in their post-hearing brief, if there is one
13 allowed, that the Commission lacks jurisdiction to approve
14 the experimental regulatory plan. Since that proof
15 involves primarily legal arguments, we will not present
16 witnesses to testify about that.

17 At the conclusion of the case, we will ask
18 the Commission to deny KCPL's request for approval of the
19 experimental regulatory plan. There is no need for a new
20 coal-fired power plant to meet energy demand, and the
21 regulatory plan is not reasonable, adequate, prudent nor
22 in the public interest. Thank you.

23 JUDGE PRIDGIN: Ms. Henry, thank you.
24 On behalf of AmerenUE, please, Mr. Lowery?

25 MR. LOWERY: Good morning. May it please

1 the Commission? I'm Jim Lowery, and I represent AmerenUE.
2 Also with me this morning and who will be in the hearings
3 for part of the time is David Kurtz, an associate in my
4 office.

5 AmerenUE was a participant in the workshops
6 that were held before this case began. We are
7 participating in this case and intervened in the case
8 because we think it presents some important issues of
9 public utility regulatory policy, practice and procedures.
10 It's a rather unique and innovative way to pursue these
11 types of things, and KCP&L is to be commended for thinking
12 outside the box a little bit.

13 It also is directly related, we think, to
14 the Commission's resource planning process. There's a
15 close relationship there, and obviously that affects
16 AmerenUE, as it does any other electric utility. So we do
17 not intend to present any witnesses and probably won't
18 have any cross-examination, but we do very much appreciate
19 the opportunity to be involved in the process.

20 I also want to very briefly reiterate very
21 sincerely my agreement with Mr. Conrad's comments about
22 Mr. Dottheim. I practice here and in other contexts, and
23 I have found Mr. Dottheim to be one of the folks who is
24 probably the best to work with, and his word, if he gives
25 me his word about something, I always know that I can

1 count on it. So I'd just like to reiterate that as well.
2 I was in on the conversation that Mr. Conrad was speaking
3 about. I had similar feelings I think to his at the time,
4 so I'd just like to reiterate that.

5 Thank you very much.

6 JUDGE PRIDGIN: Mr. Lowery, thank you.

7 On behalf of Trigen, please, Mr. DeFord?

8 MR. DeFORD: Thank you. Trigen neither
9 supports nor opposes the Stipulation & Agreement and,
10 therefore, will waive opening statement. We are pleased
11 to answer or address any questions or concerns the
12 Commission may have.

13 JUDGE PRIDGIN: Mr. DeFord, thank you.

14 On behalf MGE, please, Ms. Carter?

15 MS. CARTER: We'd waive opening statement
16 also. We do not plan on presenting witnesses or
17 cross-examining other parties' witnesses, and would ask to
18 be excused following opening statements, unless there are
19 questions.

20 JUDGE PRIDGIN: All right, Ms. Carter,
21 thank you.

22 Let me see if the Commission has any
23 concerns about some of the entities that want to be
24 excused from the rest of the hearing. I understand from
25 my list, I have Ford, MIEC, the City of Kansas City,

1 MJMEUC and MGE that have all asked to be excused from the
2 remainder of the hearing; is that correct?

3 Mr. Kincheloe, I'm sorry?

4 MR. KINCHELOE: I'd like to be excused
5 after some questions of Mr. Giles.

6 JUDGE PRIDGIN: Thank you. All right. Any
7 objections from counsel from what these parties have
8 requested?

9 MR. FISCHER: No objection from Kansas City
10 Power & Light.

11 MS. HENRY: No objection.

12 MR. DANDINO: No objection.

13 JUDGE PRIDGIN: I'm seeing no objections
14 all the way around. Let me see if the Commission has any
15 concerns, any questions for these counsel.

16 COMMISSIONER CLAYTON: Judge, could you
17 repeat that list and say it a little slower? You used a
18 lot of letters there, and maybe just from my notes, I'll
19 know who's going to be here and who's not going to be
20 here.

21 JUDGE PRIDGIN: Absolutely. I believe --
22 and somebody correct me if I'm wrong -- we have Ford and
23 MIEC -- and Mr. Downey, so I don't get the devices wrong,
24 MIEC is?

25 MR. DOWNEY: Missouri Industrial Energy

1 Consumers.

2 JUDGE PRIDGIN: All right. Thank you. The
3 City of Kansas City, MJMEUC -- and I understand,
4 Mr. Kincheloe, you may want to be excused a little
5 later, and that is the Missouri Joint Municipal --

6 MR. KINCHELOE: Electric Utility
7 Commission.

8 JUDGE PRIDGIN: -- Electric Utility
9 Commission. Thank you. And MGE, Missouri Gas Energy. Do
10 I have any concerns from the Commission, any questions for
11 these counsel?

12 COMMISSIONER GAW: It's up to them if they
13 want to leave. It's their clients' interest.

14 JUDGE PRIDGIN: All right. We will let --
15 I'll excuse counsel then from Ford, MIEC, the City of
16 Kansas City and MGE. And I understand that MJMEUC may
17 leave after some cross-examination of Mr. Giles? Is that
18 correct?

19 All right. Thank you very much. Before we
20 take the first witness, just let me let the parties know,
21 we'll probably plan to break somewhere roughly around
22 10:15, 10:30. It kind of depends on how long the
23 cross-examination takes. The Commission also, if I
24 understand correctly, has an agenda meeting at 12:30, so
25 we will break before then and may take a little bit of a

1 longer lunch break to allow the Commission to have their
2 agenda meeting.

3 Commissioner Gaw?

4 COMMISSIONER GAW: I have a procedural
5 question that I think I will address to Mr. Conrad, since
6 he's the one that usually speaks up on this topic.

7 Mr. Conrad, we have a nonunanimous
8 stipulation before us. I would like to have your
9 viewpoint on what it is this Commission is hearing today,
10 because I seem to recall some comments from you in other
11 cases indicating that we were not here to decide the
12 appropriateness of a stipulation that was nonunanimous,
13 but to decide based upon the evidence what was indeed
14 supposed to be the findings of the Commission. I'd like
15 to know if I'm -- what your characterization is of this
16 hearing in regard to that stipulation?

17 MR. CONRAD: The question you asked,
18 Commissioner, is I think perhaps multi-level. Let me see
19 if I can approach --

20 COMMISSIONER GAW: It could be that.

21 MR. CONRAD: As so many of your Honor's
22 questions are.

23 The debate that we had had at an earlier
24 stage not really of this proceeding but in the workshop
25 proceeding was that it was not a contested case, as

1 defined in Missouri law. This case was -- this EO case
2 was filed, however, with an application seeking relief
3 from the Commission, namely approval of this package.
4 Now, one can, I think, debate legitimately whether at that
5 precise instant, as the stipulation was filed, whether you
6 actually had a, quote, contested case, closed quote, or
7 not.

8 Under the Commission's rules, however, and
9 as your Honor quite adroitly points out, a filing of that
10 initiated a ticking clock and a timely request for
11 hearing, and objection to that stipulation was filed.
12 Now, at that point, under the Commission's rules, a
13 hearing is now required by law, since the Commission's
14 rules, having been promulgated by the Commission and
15 published under statutory authority, have the force of
16 law.

17 So now we have the definition of the
18 contested case met certainly at that point in time. That
19 being true, as a nonunanimous stipulation, it becomes a
20 joint recommendation, I believe, under the rule. I don't
21 have it before me, but I believe it becomes a joint
22 recommendation of the signatory parties with respect to
23 the resolution of the issues that are laid before the
24 Commission, and to the extent that it frames those issues
25 in conjunction with the application. It would be my sense

1 that, at this point in time, that is from and after the
2 point in time that that objection was filed, you certainly
3 do have a contested case before you.

4 The issues that have been laid out appear
5 to me to be largely legal issues, and may more
6 appropriately be addressed in Briefs by the parties at
7 appropriate times. I understand there are factual issues,
8 as Ms. Henry has pointed out, from her client's position.

9 I think there is -- there is some ambiguity
10 in the rule that suggests that when an objection is filed
11 and the document ceases being a Stipulation & Agreement,
12 it becomes transmogrified, if you will, into a joint
13 recommendation of the parties, that no party is bound, and
14 I think there is a phrase in the rule to that effect.

15 That I believe, Judge, in my -- I haven't
16 thoroughly researched this point, but I believe the sense
17 of that rule is that probably no party is bound in the
18 sense of having signed a stipulation, but they nonetheless
19 have signed what I believe to be a contract which
20 obligates them to do certain things, or in some cases to
21 not do certain things in exchange for quid pro quos, which
22 is consideration supporting any contract.

23 And so, therefore, although a party to
24 that -- or signatory party might choose to depart from
25 that, my sense would be that that would, at minimum, be a

1 breach of contract that may very well be actionable. I
2 have no idea about the damages. But I suppose for the
3 purpose of your proceeding here this morning, I would
4 indicate to you that my client has no intention of
5 consciously violating that contract agreement that we have
6 at this point with KCP&L.

7 Now, I hope that that's responsive, at
8 least in part, to the several levels of your question.

9 COMMISSIONER GAW: My main question that
10 I'm trying to get an answer to is, what is in your opinion
11 necessary for us with regard to findings based upon what's
12 presented to us here as evidence, and whether or not the
13 stip itself is evidence when it is non-- it is a
14 nonunanimous agreement?

15 And I want to make sure that we have --
16 that I have an understanding anyway of -- sorry. I think
17 that was off.

18 I want to make sure that I have an
19 understanding of what it is that we have to have as a
20 record in order to make --enter an Order in this case
21 since it is a nonunanimous stip, and whether or not there
22 needs to be the same amount of evidence in the record that
23 would be required if no stipulation existed at all. Do
24 you understand what I'm asking you?

25 MR. CONRAD: Yes, I do.

1 COMMISSIONER GAW: Because I thought that
2 in some previous cases you had made a very pointed
3 argument about that.

4 MR. CONRAD: I was hoping you'd say
5 eloquent, but that's okay.

6 COMMISSIONER GAW: It was eloquent. I will
7 add that, too, since we're being complimentary of some
8 this morning.

9 MR. CONRAD: The first part of the question
10 as I'm understanding it is, what is the evidentiary
11 significance of the Stipulation & Agreement. Having been
12 objected to in a hearing requested, I think it is
13 presented before you five Commissioners as a joint
14 recommendation, and as such, I don't believe my
15 understanding is that it has any evidentiary value in
16 itself, that it articulates perhaps the issues on which
17 you would need to have evidentiary support.

18 Now, Judge, several years ago in a
19 telephone case that my friend Mr. Dottheim could probably
20 cite to you, Judge Brown I believe rejected a Commission
21 decision approving a joint recommendation, where the only
22 evidence was the joint recommendation. Of course, I think
23 you're aware as I am of the Fischer case that basically
24 says it becomes, and Mr. Fischer may be aware of it, and
25 at some point appropriate point in time, I do hope that

1 you'll open the microphone to him.

2 COMMISSIONER GAW: I think he should be
3 allowed to respond.

4 MR. CONRAD: But I do think that the joint
5 recommendation/stipulation agreement which is recommended
6 to you by the signatory parties articulates many of the
7 issues Mr. Riggins has laid out, and indeed Ms. Henry has
8 laid out the issues on which you would need to make
9 Findings of Fact, based upon competent substantial
10 evidence on the whole record to withstand review.

11 But as you ask me the Stipulation &
12 Agreement just by itself standing alone probably is not
13 evidence, even though it may very well be marked at some
14 point in time here -- I have no inside knowledge as to
15 that -- as an exhibit. Often we have done that, but it is
16 filed with the Commission now, so marking it as an exhibit
17 I'm not sure adds a lot of weight to it. It may be in
18 that context that you and I have had that type of
19 discussion before.

20 Again, I hope that's responsive.

21 COMMISSIONER GAW: Normally it's when you
22 were not a signatory then?

23 MR. CONRAD: Yes, sir.

24 COMMISSIONER GAW: Does anyone else want to
25 add in on that question?

1 MR. FISCHER: Judge, it sounded like an
2 invitation to me. I would address that briefly. We also
3 view it -- and I join in the comments of my friend,
4 Mr. Conrad about that -- that this is a joint
5 recommendation before you. There are parties that are
6 contesting certain issues. We believe we've got seven
7 witnesses in this case that fully support with competent
8 and substantial evidence the aspects that are important in
9 this Stipulation & Agreement, and with the hearing today,
10 the cross-examination, there will be additional evidence
11 adduced that clearly support the Stipulation & Agreement.

12 As we pointed out in our prehearing brief,
13 the stipulation is largely a contract among the parties
14 who are obligated to carry out the terms of that
15 stipulation in the event the Commission approves it.

16 Now, there are a few items that we are
17 asking for Commission approval on in addition to the
18 approval of the contract among the parties, and I've laid
19 those out on pages 15 and 16 of our Brief. They are
20 largely in the areas of SO2 emissions allowances, pension
21 expenses, how that's going to be treated, and the
22 recording of an additional amortization expense related to
23 the Wolf Creek extension and the life there, and a couple
24 of other items that are listed there.

25 But for the most part, we view this as

1 largely we're asking for approval of a contract among the
2 signatory parties. Non-signatories are not bound by it
3 and they can raise whatever issues they'd like in the
4 future. But in the context of this, we are -- we believe
5 it is in the public interest and we're asking that you
6 approve this Stipulation & Agreement based upon the
7 evidence that's being presented today and tomorrow and any
8 legal arguments that we'll have about that.

9 COMMISSIONER GAW: Mr. Dottheim?

10 MR. DOTTHEIM: Yes, Commissioner Gaw. The
11 Commission's rule, and I believe it's been cited in some
12 pleadings before the Commission, in this particular case
13 because of the objection of Concerned Citizens of Platte
14 County and Sierra Club and the issues raised by U.S.
15 Department of Energy, but the rule is 4 CSR
16 240-2.115(2)(d), a nonunanimous stipulation and agreement
17 to which a timely objection has been filed shall be
18 considered to be merely a position of the signatory
19 parties to the stipulated position, except that no party
20 should be bound by it. All issues shall remain for
21 determination after hearing.

22 I think generally what has occurred is the
23 nonunanimous stipulation and agreement has been in a
24 somewhat different context. It's been in a -- for
25 example, a rate increase case, or the State ex rel Fischer

1 case from the early 1980s was a Laclede rate design case
2 where there was a stipulation and agreement. It was
3 nonunanimous. The Commission held a hearing, but the
4 hearing was limited only to whether the Commission would
5 decide to adopt, accept the stipulation and agreement.
6 The hearing did not include the underlying case, and the
7 Commission was overturned.

8 And I think in the other contexts that the
9 Commissioners are probably familiar with it, it's -- there
10 is direct testimony, maybe rebuttal testimony filed, and
11 then some of the parties reached nonunanimous agreement on
12 some or even all of the issues. So it's occurred in
13 somewhat of a different context. And Mr. Fischer may want
14 to verify whether I'm remembering the State ex rel Fischer
15 case.

16 But the case that Mr. Conrad I think was
17 referring to as the telecommunications case was in essence
18 a stipulation and agreement in which the Commissioners,
19 the Commission itself entered into -- there were two Staff
20 excess earnings complaint cases against Southwestern Bell
21 which Southwestern Bell appealed. And while both cases
22 were on appeal before the circuit court, the Commission
23 and the Office of Public Counsel and Southwestern Bell
24 entered into a settlement of the -- of the litigation, but
25 not all other parties were signatories.

1 COMMISSIONER GAW: Okay. Yes, sir?

2 MR. PHILLIPS: Commissioner, I just wanted
3 to say that I believe that the signatory parties and the
4 supporters of the stipulation just need to prove by
5 competent and substantial evidence the reasonableness of
6 the stipulation, and we will be prepared, if we're allowed
7 closing argument, to make a statement relative to the
8 Stipulation & Agreement after the evidence has been
9 produced here. And as I said, we have some limited
10 questions of two or three witnesses, and we think that
11 will settle this matter. Thank you.

12 COMMISSIONER GAW: Thank you. I think
13 that what your statement of what we need to find here has
14 been the crux of the argument that Mr. Conrad has
15 disagreed with in the past and was one of the reasons I
16 raised this, because I suspicioned that we may have
17 slightly different views on what our responsibilities are
18 with this stipulation. I'll leave it alone if you-all
19 want to address it in some other way. What I'm hoping is
20 that the record is complete when we finish, unless someone
21 else has something.

22 Thank you, Judge, for that.

23 JUDGE PRIDGIN: Thank you, Commissioner. I
24 would like to get started with the first witness on behalf
25 of KCP&L, which is Mr. Giles, and then probably take a

1 break. I did get an e-mail from someone in the building,
2 and for those who aren't aware, we did have water problems
3 this morning and Jefferson City is under precautionary
4 boil orders. So I would caution you not to drink the
5 water, or not from the water fountain, until further
6 notice. And I'll try to remind people again at the break.
7 Bottled water is outside for sale for probably a modest
8 fee now.

9 Mr. Giles, if you'll raise your right hand
10 to be sworn, please.

11 (Witness sworn.)

12 JUDGE PRIDGIN: If you would please have a
13 seat. Mr. Fischer, whenever you're ready, sir.

14 Mr. Giles, would you make sure that your
15 microphone's on? Thank you.

16 CHRIS GILES testified as follows:

17 DIRECT EXAMINATION BY MR. FISCHER:

18 Q. Please state your name and address for the
19 record.

20 A. Chris Giles, G-i-l-e-s.

21 Q. Are you the same Chris Giles that caused to
22 be filed in this proceeding direct testimony consisting of
23 approximately 23 pages?

24 A. I am.

25 MR. FISCHER: Judge, I'd like to mark that

1 as an exhibit, if that's appropriate, and do you need
2 three copies today with our EFIS system?

3 JUDGE PRIDGIN: Labeling that as Exhibit
4 No. 1 for identification purposes.

5 (EXHIBIT NO. 1 WAS MARKED FOR
6 IDENTIFICATION BY THE REPORTER.)

7 BY MR. FISCHER:

8 Q. Mr. Giles, do you have any corrections or
9 additions or deletions you need to make to that Exhibit
10 No. 1?

11 A. No, I don't.

12 Q. If I were to ask you the questions that are
13 contained in that exhibit today, would your answers be the
14 same?

15 A. Yes, they would.

16 Q. And are they true and correct to the best
17 of your knowledge, information and belief?

18 A. Yes.

19 MR. FISCHER: Your Honor, then I would move
20 for the admission of Exhibit No. 1 at this point in time.

21 JUDGE PRIDGIN: Any objections?

22 (No response.)

23 JUDGE PRIDGIN: Seeing none, Exhibit No. 1,
24 the direct testimony of Chris Giles, is admitted into the
25 evidence.

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

2 BY MR. FISCHER:

3 Q. Mr. Giles, before I tender you for
4 cross-examination, there were a number of references this
5 morning to the partnership issue, and I believe some of
6 the counsel would like to hear that discussed early on.
7 And I thought perhaps it would be -- accommodate the
8 Commission's interest to ask you to explain the status of
9 the partnership issue at this point in time on direct.

10 A. Sure. We have received signed letters of
11 intent from four different entities. Those entities
12 include Missouri Joint Municipal Electric Utility
13 Commission and Aquila and Empire. The stipulation
14 contains language that would indicate that Aquila and
15 Empire collectively are preferred partners for up to a
16 minimum of 30 percent of the unit, and it also contains
17 language that would provide 100 megawatts to the Missouri
18 Joint Municipals.

19 The letter of intent we received was based
20 on a minimum of 140 megawatts for Aquila, 100 for Empire
21 and I believe 80 for Missouri Joint Municipals. The
22 reason those are lesser amounts than what is contained in
23 the Stipulation & Agreement is there were certain
24 conditions that need to be met both from a financial side
25 as well as ownership agreements and operating agreements.

1 We also do not know yet the size, actual size of the unit,
2 because we won't bid the unit until we have a better
3 indication of the amount of partnership that we will be
4 able to secure.

5 Having said all that, if one were to look
6 at an 800 megawatt unit, for instance, the share that
7 Empire and Aquila has at a minimum is approximately
8 30 percent. The intent of the company is to fully comply
9 with the Stipulation & Agreement. We will make
10 available -- given all circumstances are equal, including
11 financing, operating agreements and ownership agreements,
12 we will comply with the provisions of the stipulation.

13 Q. Mr. Giles, could you also speak to the
14 timing issue in terms of the approvals of not only
15 this -- in this proceeding, but also I think a companion
16 proceeding that might be in front of the Commission, how
17 that might impact the timing of the plan?

18 A. We have several items that we must begin to
19 pursue, which one of them, of course, is the bidding of
20 the -- of the unit itself, as well as the environmental
21 bids. And any delay beyond August 1 will have some impact
22 of meeting the June date, 2010, for the in-service date of
23 the unit. Can't say at this point how much of an impact,
24 but it will have an impact.

25 In addition, every day of delay will cause

1 potentially increases in cost. We're not the only utility
2 that's attempting to secure both equipment and labor to
3 build a coal plant, in addition to the environmental
4 equipment we must bid and order. So as we delay, it's
5 expected those costs will increase.

6 Q. And I believe the stipulation talks in
7 terms of a unit of 800 to 900 megawatts. Do you have an
8 expectation at this point about what's more likely to be
9 the ballpark?

10 A. It's more likely the unit will be in the
11 range of 850.

12 MR. FISCHER: Okay. Judge, I'm sure there
13 are other questions on that topic, but I would tender the
14 witness for cross-examination and he can address whatever
15 questions there might be.

16 JUDGE PRIDGIN: Mr. Fischer, thank you. I
17 will go in the order of cross-examination that the parties
18 suggested in their list of issues.

19 AmerenUE, Mr. Lowery, any questions?

20 MR. LOWERY: No questions, your Honor.

21 JUDGE PRIDGIN: Mr. Lowery, thank you.
22 Trigen?

23 MR. DeFORD: No questions, your Honor.

24 JUDGE PRIDGIN: MGE and the City of Kansas
25 City have waived their right to cross-examination?

1 MR. COMLEY: No questions.

2 MS. CARTER: No questions.

3 JUDGE PRIDGIN: Thank you.

4 Aquila?

5 MR. SWEARENGEN: No questions.

6 JUDGE PRIDGIN: Mr. Swearengen, thank you.

7 On behalf of Empire?

8 MR. COOPER: No questions.

9 JUDGE PRIDGIN: Mr. Cooper, thank you. On
10 behalf of MJMEUC, Mr. Kincheloe?

11 MR. KINCHELOE: Thank you.

12 CROSS-EXAMINATION OF MR. KINCHELOE:

13 Q. Good morning, Chris.

14 A. Good morning.

15 Q. You referred to the letter of intent that
16 the company had received from Missouri Joint Municipals.
17 The -- does that letter refer to a desired participation
18 by the Missouri Joint Municipals of a level of
19 245 megawatts?

20 A. I -- I'm sorry to say, I don't recall, but
21 I will accept that.

22 Q. The -- I'm learning about the contents of
23 an understanding with regard to the other preferred
24 partners just this morning as we're hearing this. Is
25 there some reason I should be -- I should not be a little

1 disturbed by the fact that there seems to be a reduction
2 from the terms of the stipulation on the basis it's not
3 sort of pro rata among the preferred potential partners?

4 A. No. I mean, as I said earlier, we have
5 attempted to accommodate all the parties with an interest
6 in the unit. Clearly we had more interest in the unit in
7 terms of megawatts than we have megawatts available. But
8 given that, we did make an agreement in the stipulation
9 that we had preferred status to Aquila and Empire and the
10 Missouri Municipals, and we intend to honor that.

11 Q. Is it fair to expect that, as the process
12 moves forward, plans are refined and we learn the rated
13 capacity of the -- the expected capacity of the unit, that
14 there would generally be an effort on the part of the
15 company, on the part of KCP&L to make the availability of
16 participation to the partners on a pro rata basis, at
17 least in proportion to what's represented in the
18 stipulation?

19 A. I'm not sure whether I can say pro rata,
20 but let me put it this way: If the unit were to be of
21 substantial size, larger than 850, there is a potential --
22 or if a party were to not be able to meet the financial
23 conditions or reach an operating and ownership agreement,
24 it is possible that all of these minimums could increase,
25 and how they might increase we haven't determined as yet,

1 but we certainly would attempt to be as equitable and fair
2 as we could to all the parties.

3 Q. In that attempt to be equitable and fair,
4 if you find that the unit is rated at 800 as opposed to
5 850, would it be fair, given that the numbers that have
6 been spoken of today represent a larger reduction from the
7 stipulation for the Missouri Joint Municipals than for the
8 other preferred partners, could we expect that if the
9 company expects to try to proceed with those numbers, that
10 a reduction in capacity of the overall unit would -- that
11 the Missouri Joint Municipals would be held harmless from
12 that kind of reduction in capacity, except to the extent
13 that there is something in the way, again, of a pro rata
14 participation by all the preferred partners?

15 A. Let me answer this way: When the letter --
16 the intent or the concept behind the letter of intent,
17 what the minimum was, no matter what size of the unit, I
18 mean, even if the unit should come in at 700 megawatts, no
19 matter the size of the unit, given all conditions are met
20 regarding financing and the other conditions, the minimum
21 contained in the letter of intent would be available to
22 the parties that signed the letter of intent.

23 So from that point, if the unit -- as the
24 unit becomes larger, and whether we can get to a 900
25 megawatt unit seems to be in doubt at this point, it's

1 more likely to be 850, but if it is an 850 megawatt unit,
2 say, we would meet the terms of the Stipulation &
3 Agreement. So it's not necessarily that the Missouri
4 Joint Municipals would be at their minimum as the letter
5 of intent. The minimum is simply a minimum in --
6 regardless of the size of the unit. And as I said, what
7 we will try to do is to ratchet up all the parties on an
8 equitable basis.

9 Q. So I understand you to be saying now that
10 the minimums that have been discussed here and presented
11 this morning as far as -- I gather it's 140 megawatts for
12 Aquila, 100 for Empire and 80 for Missouri Joint
13 Municipals?

14 A. Yes.

15 Q. -- can be regarded as minimums, regardless
16 of the size of the unit or the rating of the unit?

17 A. Yes.

18 Q. I believe you're aware of the fact that
19 Missouri Joint Municipals' participation would be on
20 behalf of -- to the benefit of the City of Independence
21 Light & Power and some other municipal utilities,
22 Marshall, Carrollton, Salisbury, perhaps, that are
23 currently customers or supplied by Kansas City Power &
24 Light?

25 A. Yes.

1 Q. Are you aware of changes in terms of
2 service by Kansas City Power & Light to some of those --
3 to those municipal utilities that would make it especially
4 valuable to them to have the opportunity to participate
5 in Iatan on this basis in order to avoid potential
6 increase -- other increases that they are experiencing in
7 their cost of power?

8 A. I am aware a tariff change was made
9 sometime in the last 12 to 24 months. I'm not sure of the
10 exact time frame. I'm not aware of how that tariff and
11 the relationship to Iatan 2 would play out. I'm not --

12 Q. Okay. A tariff change by Kansas City
13 Power & Light?

14 A. Correct.

15 Q. Which has increased the cost to those
16 utilities?

17 A. Yes.

18 Q. The -- I gather -- I assume that one of the
19 benefits of Kansas City Power & Light of taking advantage
20 of the opportunity for a second unit at Iatan is, among
21 other things, the transmission circumstances in the Kansas
22 City area and the fact that that's a facility that will be
23 conducive to service to the load at Kansas City Power &
24 Light, as it would be other utilities in the immediate
25 Kansas City area; is that correct?

1 A. Yes, I believe so.

2 Q. And that would be equally true or
3 comparably true for the City of Independence; would you
4 agree?

5 A. I would -- I can't really say. I would
6 expect that to be the case. The transmission, the only
7 transmission courses that I'm aware of are the costs that
8 we included in our plan that are really to interconnect to
9 our system. What type of transmission costs will be
10 involved with from that interconnection points to
11 Independence or any of these other municipals, I'm not
12 sure. I believe that would have to be something that SPP
13 would determine.

14 MR. KINCHELOE: No further questions.
15 Thank you.

16 JUDGE PRIDGIN: Mr. Kincheloe, thank you.
17 I believe Ford and MIEC have waived their right to
18 cross-examination.

19 On behalf of Praxair, Mr. Conrad?

20 MR. CONRAD: Your Honor, pursuant to the
21 agreement of the parties, we have no cross for Mr. Giles.

22 JUDGE PRIDGIN: Mr. Conrad, thank you.
23 On behalf of Missouri Department of Natural Resources?

24 MS. VALENTINE: No questions, your Honor.

25 JUDGE PRIDGIN: Ms. Valentine, thank you.

1 On behalf of Office of Public Counsel?

2 MR. DANDINO: No questions, your Honor.

3 JUDGE PRIDGIN: Mr. Dandino, thank you.

4 On behalf of Staff of the Commission, Mr. Dottheim?

5 MR. DOTTHEIM: Yes, I have a few questions.

6 CROSS-EXAMINATION BY MR. DOTTHEIM:

7 Q. Good morning, Mr. Giles.

8 A. Good morning.

9 Q. Mr. Giles, the letters of intent that you
10 referred to have been executed by KCPL and the joint
11 municipals, Kansas City Power & Light and Aquila, Kansas
12 City Power & Light and Empire. Do any of those letters
13 actually contain the word minimum when it identifies the
14 number of megawatts that the other entity that is seeking
15 partnership with KCPL is to receive?

16 A. I believe it does, but I -- I don't have it
17 in front of me, but if it doesn't, it is the intent that
18 those are minimums.

19 Q. I think you've indicated that at the moment
20 it's most likely that Iatan 2 would be an 850 megawatt
21 unit; is that correct?

22 A. That's correct.

23 Q. And if you just check my math -- I think
24 this is even simple enough for me -- that 30 percent
25 ownership share, combined ownership share of an

1 850 megawatt unit comes out to 255 megawatts?

2 A. That's correct.

3 Q. And the letters of intent, the letter of
4 intent to Aquila refers to 140 megawatts?

5 A. That's correct.

6 Q. And the letter of intent to Empire refers
7 to 100 megawatts?

8 A. That's true.

9 Q. Which in total would be 240?

10 A. Yes.

11 Q. And a 30 percent ownership share of an
12 850 megawatt unit would be 255 megawatts?

13 A. Yes.

14 Q. Okay. So 240 is 15 less in this case
15 megawatts than 255?

16 A. Yes.

17 Q. Presently, Iatan 1, am I correct that
18 Empire has a 12 percent ownership share of Iatan 1?

19 A. That's true.

20 Q. And am I correct that Aquila presently has
21 an 18 percent ownership share of Iatan 1?

22 A. Also correct.

23 Q. And correct me again, but if I do the math
24 correctly, would 12 percent of 850 be 102?

25 A. Yes.

1 Q. And would 28 percent of 850 be 153?

2 A. Yes.

3 MR. DOTTHEIM: Thank you, Mr. Giles.

4 JUDGE PRIDGIN: Mr. Dottheim, thank you. I
5 don't believe I have an entry of appearance for Jackson
6 County.

7 U.S. Department of Energy, Mr. Phillips?

8 MR. PHILLIPS: Yes.

9 CROSS-EXAMINATION BY MR. PHILLIPS:

10 Q. Good morning, Mr. Giles.

11 A. Good morning.

12 Q. I'm going to ask you some questions this
13 morning relating to the Stipulation & Agreement, and I
14 think you said in response to a question of Mr. Dottheim
15 that you did not have that in front of you; is that
16 correct?

17 A. No. I do have the Stipulation. I was -- I
18 did not have the letter of intent.

19 Q. Okay. I want to draw your attention
20 initially to that Stipulation & Agreement in particular to
21 page 19. Now, do you have that in front of you?

22 A. I do.

23 Q. Would it be correct to say that that is the
24 beginning of your explanation of what is referred to as
25 the additional amortizations to maintain financial ratios;

1 is that correct?

2 A. That's correct.

3 Q. Has Kansas City Power & Light in any
4 previous cases before the Commission proposed any similar
5 amortizations?

6 A. There were, I believe -- I think it was
7 Mr. Dottheim mentioned in his opening statement, KCP&L and
8 Staff, Office of Public Counsel and I think other parties
9 agreed to an amortization in the '94 rate reduction case,
10 and that amortization was also maintained in a '99 rate
11 reduction case.

12 Q. And did you participate in those two cases
13 at the Commission?

14 A. Yes, I did.

15 Q. Are the ratepayers of Kansas City Power &
16 Light presently benefiting from the continued
17 amortizations which were agreed to in those two dockets?

18 A. Yes, they are. The amortization is a
19 reduction to rate base, and from the standpoint of a
20 reduced rate case, customers do benefit.

21 Q. How is the amortization that you have
22 agreed to in this Stipulation & Agreement either similar
23 to or different from the amortizations in those two
24 previous cases you mentioned?

25 A. The fundamental premise behind the

1 amortization is the same. The intent for the amortization
2 in this particular case is to provide an opportunity for
3 the company to maintain its credit ratios at an investment
4 grade level, and that was not discussed or even a part of
5 the stipulations in the '94 and the '99 case. So the
6 mechanism, the mechanics, the intent is the same, but the
7 rationale behind it's a little different.

8 Q. So will you continue the amortization in
9 the previous cases, or do they somehow or the other
10 conclude with the next rate filing in January of '06?

11 A. They continue. And subject to check, I
12 believe they will continue throughout the regulatory plan
13 period in all of the rate cases.

14 Q. Okay. Let me turn your attention to your
15 Appendix F to the stipulation, and if you have that, that
16 appears to be an illustration of the adjustment of
17 amortization amounts; is that correct?

18 A. That's correct.

19 Q. And the explanation is it turns on or is
20 based on the 2003 surveillance report as well as other
21 Kansas City Power & Light financial statements; is that
22 correct?

23 A. That's correct.

24 Q. Now, since that period of time when that
25 was prepared, have you updated that for the 2004

1 surveillance report?

2 A. No, we haven't. We did submit our 2004
3 report on or around May 1st of this year, but we -- we
4 have not updated those charts.

5 Q. Is this something you would intend to do
6 between now and your next rate case or in conjunction with
7 your next rate case?

8 A. We probably will.

9 Q. Okay. You've agreed on a test year, I
10 think, haven't you, for that initial rate case --

11 A. Yes.

12 Q. -- in '06?

13 And do you recall offhand what that is?

14 A. Test year is 2004, updated through June of
15 2006, and then the true-up of September 30th of 2006.

16 Q. And then everyone here in this room will
17 have an opportunity to participate in that rate case; is
18 that correct?

19 A. That's correct.

20 Q. And even people who aren't even here today
21 will have an opportunity?

22 A. That's also true.

23 MR. PHILLIPS: Thank you, Mr. Giles.

24 JUDGE PRIDGIN: Mr. Phillips, thank you.

25 I think, even though I don't normally like to break in the

1 middle of a witness, this looks to be about the halfway
2 point between when we started this morning and when the
3 Commission will need to break for its agenda meeting. I
4 would like to break and, Ms. Henry, I show that you're
5 next for cross-examination.

6 I show the time on the clock behind us to
7 be 10:35. I would like to break until 10:50 or 10 'til
8 11, at which time Mr. Giles will resume his
9 cross-examination.

10 We'll go off the record.

11 (A BREAK WAS TAKEN.)

12 JUDGE PRIDGIN: We'll go back on the
13 record. Before, Ms. Henry, you wanted to get ready to
14 cross-examine, that's fine. I understand Mr. Giles had a
15 correction to his testimony.

16 Mr. Giles, I'll remind you, you're still
17 under oath.

18 THE WITNESS: Yes. In response to a
19 question from Mr. Phillips, I'd indicated that the current
20 amortization the company is booking from the '94 and the
21 '99 case would continue through the term of the regulatory
22 plan. I did indicate that was subject to check and, after
23 checking, realized that the amortization, the current
24 amortization will end at the effective date of the first
25 rate case contemplated in the regulatory plan.

1 JUDGE PRIDGIN: All right. Mr. Giles,
2 thank you.

3 And certainly, if anybody has any
4 cross-examination about that, we can entertain that.

5 Ms. Henry, cross-examination?

6 CROSS-EXAMINATION BY MS. HENRY:

7 Q. Mr. Giles, I just want to correct something
8 I thought I heard today. Did you say you have letters of
9 intent from four companies?

10 A. We do.

11 Q. And they are Empire, Aquila and what's --
12 and MJMEUC is Missouri Joint, et cetera?

13 A. Yes.

14 Q. And what's the fourth one?

15 A. Kansas Electric Power Cooperative, KEPCO.

16 Q. And how many megawatts will the Kansas
17 Electric -- what's the acronym for Kansas Electric -- will
18 they be getting?

19 A. We don't know what they will get. I
20 believe the letter of intent indicated a minimum or at
21 least it is the intent that it would be a minimum of 40.

22 Q. Okay. And I had prepared some questions on
23 the basis of it being an 800 megawatt plant. Are you
24 saying that it's not possible that it will be 800 now, it
25 will be at least 850 to 900?

1 A. No. I was -- we had, throughout the
2 process had talked about a unit that was 800 to
3 900 megawatts. We still don't know the actual size of the
4 unit until we bid the unit, but it appears that it will be
5 closer to 850.

6 Q. Okay. Well, let me go through some math
7 with you, similar to what Mr. Dottheim did, but it's not
8 the same. If the plant were 800 megawatts and Empire and
9 Aquila got a 30 percent combined share, then they would
10 get 240 megawatts; is that correct?

11 A. Yes.

12 Q. And 800 minus 240 is 560, so that would
13 leave KCP&L with 560 megawatts?

14 A. Well, it would leave a balance of 560.

15 Q. Okay. Right. Then MJMEUC is going to get
16 100 megawatts, although they have just informed me that
17 they want 245, but the other documents said they would get
18 100?

19 A. The letter of intent indicates a minimum of
20 80. The Stipulation & Agreement indicates 100.

21 Q. Okay. That's the figure I had read in the
22 stipulation. So 560 minus 100 for MJMEUC leaves KCP&L
23 with 460?

24 A. That's correct.

25 Q. And KCP&L has claimed that it's building

1 this plant because the ratepayers need 500 megawatts of
2 power?

3 A. That's correct.

4 Q. But they wouldn't be left with it if
5 contracts with those three companies go through as stated
6 in the LOIs?

7 A. Throughout the workshop process and
8 throughout all of our discussions, we have indicated we
9 would like to have 500 megawatts. Our forecast both on
10 the high and low side found roughly a 450 megawatt need.
11 So in 2010, 450 megawatts would still be enough, so to
12 say, for KCPL.

13 Q. Okay. And if the Kansas Electric Company
14 gets their -- how many did you say they need, 100, that
15 they want 100, or 80?

16 A. They have requested 50.

17 Q. 50. Okay. So 560 minus 50 would leave you
18 with 510. And then on page 51 of the stipulation it says,
19 KCP&L will specifically reserve the right to continue to
20 discuss with other entities, including those entities not
21 regulated by the Commission, the potential participation
22 of those entities in the Iatan 2 plant. Does this mean
23 that other corporations could get shares?

24 A. Not at this time. It would only be if one
25 of these four were not able to meet the conditions, either

1 financing conditions or ownership, operating agreements,
2 could not be negotiated with these parties. We're not
3 actively discussing with any other potential partners at
4 this time.

5 Q. Okay. And if we do the math just for a
6 moment here, say it's an 850 megawatt plant, then the 30
7 percent share is 255 for Empire and Aquila. Would you
8 agree with that?

9 A. Yes.

10 Q. And then that leaves KCP&L and others with
11 595, and 100 goes to MJMEUC, which leaves KCPL with 495,
12 and 50 goes to Kansas City Electric, which leaves you with
13 445. So I thought you had said the ratepayers need
14 500 megawatts. Now you're saying they need 450 megawatts,
15 and they'd be left with 445 if you do contracts with those
16 four companies?

17 A. We have -- in all of our information that
18 we provided throughout the workshops and in the form of
19 Data Request responses, we've always indicated that we
20 would like to have 500 megawatts of the unit. When you
21 build a large base load coal unit and your load is growing
22 at 77 to 80 megawatts per year, 50 megawatts will be
23 needed within the first year of operation of the plant.

24 So it's not as though you peg specifically
25 500 megawatts and there's no more, there's no less that

1 you could take. It's not that precise.

2 Q. Well, the ratepayers will be asked to pay
3 for a precise amount of these, won't they?

4 A. They will only pay for whatever our share
5 is. They will not pay for 500 megawatts if we only
6 receive a 450 megawatt share. They will pay for the
7 450 megawatt share.

8 Q. Then you would be building the plant to
9 meet that demand of 450 megawatts per share?

10 A. We would build -- we are going to build the
11 plant in the neighborhood of 8 to 850 megawatts, and we've
12 said all along that it would be 8 to 900 megawatts. It
13 looks now that it will be closer to 850. That's the most
14 economical size for the unit, and the whole reason that we
15 entertain partners at all is to secure those cost savings
16 from economies of scale of the size of the plant.

17 Q. If you -- if the plant were to become
18 900 megawatts, then Empire and Aquila would get 30 percent
19 or 270 megawatts, which would leave KCPL with 630. MJMEUC
20 would get 100, leaving KCPL with 530. And Kansas Electric
21 would get 50 and you'd be left with 480, and you wouldn't
22 have 400 -- you would still be less than 500 with the
23 citizens, the Kansas City Power & Light ratepayers; is
24 that correct?

25 A. I believe your math said 480.

1 Q. So what's going to happen with this
2 reservation of the right to continue discussion with other
3 entities? Are you going to foreclose that possibility?

4 A. We have the right to discuss with other
5 entities. We do not yet have an agreement with any of
6 these parties. We haven't negotiated an operating
7 agreement. We don't have an owner's agreement. We don't
8 have financing in place for all of these entities.

9 So at any point in time, any one of these
10 potential partners could fail to materialize, and
11 obviously, if that happened, we are not intending to take
12 any more than 500 megawatts of the unit. So we would be
13 looking to engage discussions with other potential
14 partners.

15 Q. I have a question about the workshop
16 proceedings. You testified that they took place on
17 14 days starting with June 21st and going through
18 October 29th. Were the workshops open to the public?

19 A. Yes, they were.

20 Q. Were they all open to them at all times?

21 A. I believe they were.

22 Q. So any member of the Concerned Citizens
23 group could have gone and signed a confidentiality
24 agreement, a nondisclosure agreement and attended any part
25 of the workshops?

1 A. Yes.

2 Q. Was there any point where parties had to be
3 represented by attorneys?

4 A. Not to my knowledge, not during the
5 workshop process.

6 Q. Did they have to be after the workshop
7 process?

8 A. I don't recall that. When the actual --
9 when the workshop process was closed and when this -- I
10 believe this docket was opened upon filing of the
11 stipulation, so there was no docket, but I believe between
12 the workshop closing and the opening of this docket.

13 Q. Did most of the workshops go for eight
14 hours a day?

15 A. They varied.

16 Q. Okay. I've done a little bit more math
17 here. Assuming they were 8 hours days, they were 14 days,
18 then it was 112 hours of workshops. If a party wanted to
19 have an expert witness present there, then the party would
20 have had to have the expert present for 112 hours of
21 workshops. Would you agree with that?

22 A. I don't agree that they would have to have
23 attended all of the workshops, no. There were no
24 requirements that they attend all the workshops.

25 Q. No, there was definitely no requirement,

1 but if they wanted to refute charges by the company, then
2 they would have needed an expert present at the workshop?

3 A. That would be up to them.

4 Q. And if the expert charged 250 an hour for
5 112 hours, that would have cost 28,000 to have an expert
6 there.

7 I was just wondering if you thought the
8 workshops lasted about that many days and if it would have
9 required that much of an expense for a party to have an
10 expert present at all of the workshops?

11 A. I don't believe it would be necessary to
12 have an expert present during the workshops necessarily.

13 MS. HENRY: Okay. Well, thank you. I have
14 no further questions.

15 JUDGE PRIDGIN: Ms. Henry, thank you.

16 Let me see if we have any questions from the Bench.

17 Commissioner Gaw?

18 QUESTIONS BY COMMISSIONER GAW:

19 Q. Mr. Giles, just for purposes of getting me
20 oriented just a bit in regard to who's testifying to what,
21 I have questions on the environmental side. Who do I ask
22 of your witnesses?

23 A. John Grimwade.

24 Q. All right. And if I have questions about
25 transmission, who do I ask?

1 A. John Grimwade.

2 Q. Okay. Transmission and environmental. If
3 I have questions about fuel mix?

4 A. John Grimwade.

5 Q. I may just ask you, if I have questions
6 about anything, should I ask John, the way this is going?

7 A. I can answer --

8 Q. I'm not -- and I'm really -- I think you
9 just provided sort of an overview, so that's why I'm not
10 just delving into some questions rather than just asking
11 you who should answer them.

12 A. I can answer a number of questions. It
13 really depends on how detailed your questions would be.

14 Q. Well, I think what I want to do is just go
15 to the witness that you're suggesting. And then you're
16 going to be around if --

17 A. Right.

18 Q. -- necessary.

19 So on fuel mix also would be Mr. Grimwade.
20 And how about questions about gasification plants?

21 A. That would be John Grimwade also.

22 Q. All right. And anything to do with
23 resource planning would be John?

24 A. John.

25 Q. Okay. And would he also be the one to ask

1 in regard to distribution of generation in the SPP
2 territories?

3 A. Yes, that would be John as well.

4 Q. All right. Now, help me out a little bit.
5 I've gotten somewhat confused about these numbers back and
6 forth on who's taking what since you've been testifying
7 and asked questions. In regard to the municipals, help me
8 out here. You described a minimum of 80 megawatts that at
9 some point in your testimony that they -- you would be
10 discussing with them to take at a minimum 80, but the stip
11 says 100?

12 A. Right.

13 Q. And then I heard in the question inferred
14 that they would like up to 245. And I'm going to just ask
15 you an open-ended question here. Help me out to
16 understand why we're dealing with that kind of disparity
17 in number with MJMEUC.

18 A. I'm assuming -- when you're talking about
19 the disparity, I'm assuming it's the 80 versus -- the
20 widest band here is the 80 versus 245. When we initially
21 discussed an ownership position with MJMEUC, we were
22 talking around 100 megawatts. Subsequent to that time,
23 when we got into more final discussions on the
24 Stipulation & Agreement, MJMEUC indicated they could
25 certainly take more than 100 and would like to take more.

1 At that point it was indicated they would take up to 200.

2 During those discussions, we also were
3 obviously talking with Aquila and Empire, and we did a
4 quick calculation and said, well, at a 900 megawatt unit,
5 which at that time we were thinking 8 to 900, and my
6 thought process was, well, let's use the max and let's use
7 900. My thought process was that the only constraint we
8 really had between 8 and 900 was whether we could find
9 enough partners to get up to 900.

10 So based on that, we agreed that it looked
11 like we could provide 30 percent to Aquila and Empire
12 collectively, and we agreed with MJMEUC that we would
13 provide 100 as a preferred status, and that we felt like
14 left us potentially with 30 megawatts uncontracted for
15 with our 500. So we felt pretty comfortable that would
16 work.

17 Q. And that's based on how big of a unit?

18 A. That was based on a 900 megawatt unit.

19 Q. Yeah. Okay.

20 A. So subsequent to that time, we've been
21 discussing that we probably cannot get to a 900 megawatt
22 unit because of the air permitting that would be required
23 for that size of a unit.

24 Q. Okay. All right. Thank you. And if
25 you'll remind me if we don't get back to it, I have a

1 question about why we were limiting the ceiling at 900.

2 A. Okay.

3 Q. So I want you to explain that in a little
4 while, but continue with your --

5 A. Okay. So subsequent to that, as I said,
6 thinking we might be more likely to be 850 megawatts --
7 and again, John Grimwade can provide more detail on what
8 the limiting factors are on the size of the unit, given
9 the air permit. So given the 850 megawatts, we quickly
10 realized that we're going to have to have some means to
11 either ratchet down or potentially ratchet up if the unit
12 did, in fact, come in at a higher megawatt level.

13 So those are sort of the parameters we were
14 working with. So we initiated discussions with all the
15 potential partners, and we attempted to negotiate a range
16 so that we could effectively ratio the absolute size of
17 the plant once it's known in some manner that would treat
18 everyone equitably.

19 And that's when we determined that several
20 parties or maybe one party didn't want a range. They
21 wanted a guarantee, that no matter what size of the unit,
22 I would get at least this. And that's how we got to the
23 80 and the 140, that Aquila and Empire regardless of the
24 size of the unit would have available to them 140, given
25 they could meet all the other conditions. MJMEUC would

1 have a guaranteed minimum of 80, given they could meet all
2 the conditions.

3 Q. Well, is that an agreement with MJMEUC that
4 you have reached, that they would get a minimum of 80 at
5 this point or something different than an agreement?

6 A. It is a letter of intent.

7 Q. And what does that mean?

8 A. The letter of intent basically indicates
9 the terms that would need to be met on financing. It
10 indicates that if these terms are met and an ownership
11 agreement is negotiated that's suitable to KCPL and an
12 operating agreement, then they would receive 80 megawatts.

13 Q. And that letter is from KCP&L to MJMEUC
14 or --

15 A. Yes, and it's signed by both MJMEUC and
16 KCPL.

17 Q. Okay. So MJMEUC has signed off on that?

18 A. Correct.

19 Q. It's not a letter to them. It's a letter
20 of intent signed by both parties?

21 A. Both parties. Correct.

22 Q. Okay. Is that in the record, or will it be
23 in the record?

24 MR. FISCHER: Judge, at this point it's not
25 included in any testimony, and we haven't included any of

1 those letters of intent in the record.

2 COMMISSIONER GAW: Are you intending not to
3 introduce them?

4 MR. FISCHER: Subject to objections from
5 the other partners, we wouldn't have a problem introducing
6 that.

7 COMMISSIONER GAW: I'm not sure that it's
8 necessary, but we discussed it, and I don't know that it
9 would.

10 MR. FISCHER: I don't have copies with me,
11 but I can get those.

12 COMMISSIONER GAW: Again, I don't know what
13 kind of confidentiality protection they would deserve,
14 but --

15 MR. FISCHER: That's the reason we need to
16 check with the other partners.

17 COMMISSIONER GAW: Sure. If you would see
18 about that, maybe you could let us know.

19 BY COMMISSIONER GAW:

20 Q. So, Mr. Giles, what we're talking about
21 then, on the 80 and the 140, is that correct --

22 A. Correct. Those are the --

23 Q. -- are minimums?

24 A. Correct.

25 Q. And then what about with Empire?

1 A. The 140 -- or with Empire -- pardon me --
2 it's 100 is the minimum.

3 Q. Okay. So there is one with Empire also?

4 A. Correct.

5 Q. And then Aquila is 140, correct?

6 A. Correct.

7 Q. And then what about the Kansas Utility
8 Company?

9 A. The KEPCO had preferred 50. I don't
10 believe there is a minimum in the letter of intent with
11 KEPCO. I believe it's just -- their preferred status is
12 50.

13 Q. Okay.

14 A. I'd have to look at that, but I believe
15 that's correct.

16 Q. Did someone mention 40 earlier about that?

17 A. I believe I did, and I don't believe there
18 is a minimum. I believe their request is 50. We have had
19 discussions with them of less amounts.

20 Q. Is that where the 40 number came from --

21 A. Yes.

22 Q. -- in your earlier testimony?

23 A. Yes. I don't believe we're limited to
24 40 as a minimum.

25 Q. If one of your proposed partners falls out

1 for some reason, then what would occur in regard to that
2 capacity?

3 A. We would attempt to ratchet the other
4 participants up to take that other partner's share, given
5 the preferred status of the parties of the stip. So that
6 that would be the first criteria and then we would go from
7 there.

8 Q. It would appear that from what I've heard
9 up to this point, that you would have success with MJMEUC
10 in that regard?

11 A. We could, yes.

12 Q. Maybe we'll hear more of that, maybe not.
13 But it might be helpful to know that, since it was just
14 inferred in a question up to this point, I think.

15 A. I want to make sure I understand your
16 question. There's -- I don't believe we could accommodate
17 245 megawatts unless --

18 Q. Unless you had two fall out?

19 A. Yes. Correct.

20 Q. But it would appear that they would -- they
21 would like to have more, and I don't know whether that's
22 in a stair-step fashion or in something more akin to a
23 rheostat in regard to how much they could take or would
24 take. If that -- maybe if someone could shed a little
25 light on that.

1 Do you have other potential parties out
2 there that have expressed an interest that are not
3 included in this list --

4 A. We --

5 Q. -- of partners?

6 A. We have had interest from other parties.
7 We did not pursue letters of intent with anyone but these
8 four.

9 Q. Was there a reason for that?

10 A. The primary reason was because we had the
11 agreement with -- in the stip with MJMEUC and with cat --
12 pardon me -- with Empire and Aquila. And KEPCO was very
13 active and very interested. I should say the other
14 parties that we've talked to have not shown the interest
15 that these four have. So knowing that, if these four were
16 to become partners, the megawatts were already potentially
17 sure, it didn't make a lot of sense for us to send out
18 potential letters of intent to a wide range of interested
19 parties. So let's see what we've got with these first.

20 Q. So you did have inquiries from other
21 parties or other entities?

22 A. Yes, we did.

23 Q. And do you know whether or not some of
24 those entities would still be interested if there was
25 capacity available?

1 A. I don't know whether they would or not.

2 Q. All right. Let me ask you this question,
3 back to the issue of the ceiling on the size of this
4 plant. What is the reason why your ceiling is 900
5 megawatts?

6 A. You really need to ask John, but let me
7 give you my --

8 Q. Generally?

9 A. -- my general perspective in basically
10 talking with John is that with the air permits, that in
11 order to go to a higher, say, 900 megawatt unit in future
12 years, you may have to back down the unit to meet the air
13 permit. So that in effect if you build a 900 megawatt
14 unit, you may only ever get to run it at 850. So it's not
15 very economical to build at nine if you can't run at nine.

16 Q. And is that because the unit sets within
17 the air quality area, the attainment area around Kansas
18 City, or something else?

19 A. No. It's the interstate air quality rules
20 that's applicable for the entire state.

21 Q. For all of the state of Missouri?

22 A. Yes.

23 Q. You're aware of the fact that Associated is
24 proposing to build a coal-fired plant in, I believe,
25 Carroll County?

1 A. I know they are contemplating a plant. I'm
2 not sure where it's located, but we had discussions with
3 AEC, it's been a while ago, about potential partnership in
4 our unit, and the indication we got was they would prefer
5 to build themselves.

6 Q. So your testimony is that Associated did
7 not -- did not express interest in going in as a partner
8 on this plant or that -- what is your testimony in that
9 regard?

10 A. They did -- they did initially express
11 interest in partnering with us in this plant. Subsequent
12 to that -- and we never got into detailed discussions --
13 they came back and indicated that they preferred to build
14 themselves and they were no longer interested in our
15 plant.

16 Q. And you don't know exactly where that plant
17 is supposed to be located that -- would Mr. Grimwade know
18 that information?

19 A. He may know more than I do. The knowledge
20 that I had in our initial discussions, it would be north
21 of Iatan, and I'm not sure that that's still the same site
22 or not.

23 Q. I don't believe it is.

24 A. John may have a better --

25 Q. We'll see if we can elicit that testimony

1 from him.

2 COMMISSIONER GAW: All right. I think
3 that's all I have right now, Mr. Giles. Thank you, sir.

4 JUDGE PRIDGIN: Thank you, Commissioner
5 Gaw.

6 Commissioner Clayton?

7 COMMISSIONER CLAYTON: No questions.

8 JUDGE PRIDGIN: Thank you. Commissioner
9 Appling?

10 QUESTIONS BY COMMISSIONER APPLING:

11 Q. I wouldn't want you to go all the way back
12 to Kansas City and feel that you didn't get a few
13 questions out of me.

14 A. I appreciate that.

15 Q. I'm sure you don't. But anyway, you know,
16 the stipulation was kind of a departure from normal policy
17 and procedure. It's kind of something different. I heard
18 someone say this morning that it's a little thinking
19 outside of the box. What did you want in this process?
20 What were you trying to achieve by going through that
21 process, rather than going through the regular process
22 which we go through?

23 A. We had several objectives, and probably the
24 foremost objective is the old traditional way of
25 utilities, and KCP&L in particular, of making decisions on