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Missouri Public Service Commission

HAND DELIVERY
Mr. Dale Hardy Roberts
Secretary/Chief Regulatory Judge
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102

Re: GS Technologies Operating Co., Inc. d/b/a GST Steel Company v Kansas City Power & Light Company, Case No. EC-99-553

Dear Mr. Roberts:

Enclosed for filing in the above case is an original and eight copies of Supplemental Brief on Remand Issues of GST Steel Company.

If you have any questions concerning this filing, please contact Paul DeFord in our Kansas City office.

Thank you for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By: Susan C. Kliethermes
Paralegal

enclosures
cc: All counsel of record

JCDOCS 19345v1

PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

GS Technologies Operating Co. Inc. d/b/a GST Steel Company,	)	
Complainant,	)	
v.	)	Case No. EC-99-553
Kansas City Power & Light Company,	)	
Respondent.	)	

SUPPLEMENTAL BRIEF ON REMAND ISSUES
OF GST STEEL COMPANY

INTRODUCTION

By Order dated September 12, 2003, the Court of Appeals for the Western District remanded this matter to the Commission to address certain errors of law contained in the Commission's Report and Order dated July 13, 2000. This docket concerns a petition filed in 1999 by GS Technologies Operating Co., Inc., doing business in Missouri as GST Steel Company ("GST"), requesting that the Commission investigate the adequacy of electric service provided by Kansas City Power and Light Company ("KCPL") and the reasonableness of KCPL's charges to GST pursuant to a special contract approved by the Commission in October 1994. In particular, GST's petition focused on increased costs charged by KCPL to GST as a result of the catastrophic February 17, 1999 boiler explosion at KCPL's Hawthorn generating unit #5 which demolished that facility. Upon review of the Commission's July 2000 Report and Order, the Court of Appeals determined that:

1) The Commission erroneously interpreted the law in evaluating the testimony of GST's expert. The attachments to the expert's testimony were received without objection by the regulatory law judge and, therefore, were substantive evidence in the record supporting the expert's opinion testimony; and

2) The Commission erred in failing to make findings on one of the theories of imprudence that GST raised (*i.e.*, that KCPL management failed to close the main gas valve to the power plant while the electronic components of the system that controlled the flow and burning of gas in the boiler was being repaired.) The Commission's failure to address this theory precluded the court from being able to adequately assess the Commission's conclusion that GST failed to show KCPL imprudence caused the explosion at the generating station.

Each of these errors of law concern the Commission's failure to consider the testimony of GST witness Jerry N. Ward and the documentary evidence offered in support of his expert testimony. That testimony chronicled the events of the prior days leading to the explosion by reference to contemporaneous documents and KCPL records kept in the normal course of its business. It addressed key decision points at which reasonably prudent management would have taken action to make the plant safe and KCPL management's failure to take any needed action. Consistent with the points discussed at the pre-hearing conference held on February 11, 2004, regarding the matters on remand, no further recitation of the procedural history in this docket is required, and this supplemental brief is confined to the two issues on remand listed above.

OVERVIEW

A. Background

Shortly after midnight on February 17, 1999, an enormous explosion completely demolished the 11-story Hawthorn boiler structure. (Exh. 6, p. 17, Sch. No. 15; Exh. 5,

pp. 13-14, Sch. No. 10). Witnesses at the site observed a fireball of burning gas streaming from the rubble of the boiler building. (Exh. 6, p. 4). This 479 MW steam-electric power plant was primarily coal-fired, but used natural gas as a start-up fuel. (Exh. 1, p. 8; Exh. 6, pp. 11-12). KCPL employees raced to the main gas valve between the Williams pipeline and the boiler, discovered it in the open position, and closed the valve to extinguish the fire. (Exh. 6, p. 4). KCPL publicly announced that the cause of the explosion was an unnoticed accumulation of natural gas in the boiler. (Exh. 12, p. 19). There were, fortunately, no serious injuries because no one was in the building at the time, but the boiler building was a total loss.

Plant records showed that the Hawthorn unit had been out of service for a forced outage for several days and that an attempt to restart the unit on the previous day had been aborted to allow certain repairs to be completed. (Exh. 5, p. 11-12; Exh. 6, Sch. No. 8). The re-start began with an order from the KCPL plant operator to manually open the main natural gas valve to the boiler. (Exh. 6, p. 10, Sch. No. 13). Early in the afternoon of February 16, and shortly after the attempted restart was aborted, the Hawthorn control room experienced a flood of sewage backwash from the control room's rest room. (Exh. 5, p. 13, Sch. No. 9; Exh. 6, Sch. Nos. 5, 7, 8). Water from this event quickly descended to the room housing the Burner Management System ("BMS"), (Exh. 6, Sch. Nos. 5, 6, 8), the computerized system that allows control room operators to remotely control the flow of natural gas to the boiler and the ignition in the boiler. (Exh. 5, pp. 11-12, 14; Exh. 6, p. 6, Sch. No. 3).

The flood waters wreaked havoc with the BMS system, shorting out or disabling numerous subcomponents, and sending various alarm signals to control room annunciators.

(Exh. 5, pp. 13-14, Sch. Nos. 5, 10). For roughly the next 10 hours, KCPL employees cleaned up the sewage mess; and removed, cleaned, dried, re-tested and replaced wet or damaged components of the BMS system. (Exh. 5, p. 13, Sch. No. 9; Exh. 6, pp. 11-12, 16, Sch. Nos. 5, 6, 7, 14). Under normal operation, the BMS is designed to prevent unsafe or explosive conditions in the boiler, including in particular the unintended accumulation of natural gas. (Exh. 6, p. 6, Sch. No. 3; Exh. 5, p. 14). The system was not designed to operate with water damaged electrical components. (Tr. Vol. 7, pp. 348-56 (Lissik)).

At some point during this repair and testing process, beginning around 9:00 p.m., spurious signals from the disabled BMS system caused electronically-controlled gas valves to open, allowing large volumes of gas to flow into the boiler unnoticed by KCPL plant staff. (Exh. 6, pp. 3-4, 16, 18-19, Sch. Nos. 11, 16; Exh. 5, pp. 15-16, Sch. No. 12). Shortly after midnight, a spark in the boiler ignited the gas and caused the explosion. (Exh. 12, p. 19). KCPL employees at the site observed a fireball in the building wreckage, realized that the main gas valve had been left open and raced to shut that valve. (Exh. 6, p. 4, Sch. Nos. 5, 18, 19, 20, 21; Exh. 5, p. 16, Sch. No. 13).

GST's expert witness, Jerry Ward, painstakingly recounted the events leading to the explosion based on contemporaneous control operator log entries, Hawthorn engineering documents, reports of the wreckage and equipment found in the debris after the boiler explosion, statements of control operators and other employees that were at Hawthorn on February 15, 16, and 17; plant drawings, plant operational procedures and manuals, alarm records, records of equipment "holds," KCPL correspondence with other parties, and related

documents. These documents are listed in Attachment A to this brief. This is the expert testimony and exhibits not previously considered by the Commission.

In addition, Mr. Ward' expert testimony addressed the KCPL management errors and omissions that permitted the explosion to occur, and gave his expert assessment of actions that reasonably prudent utility management would have taken. In a nutshell, and as is explained in detail below, the explosion was the direct result of KCPL's failure to follow its own established procedures for safely starting up and shutting down the power plant. KCPL began a re-start of the Hawthorn unit before necessary repairs had been completed. When confronted with this conflict after hours of re-start activities, the company aborted the start-up but did not follow its normal shut-down procedures. When the sewage flood disabled the BMS system, the situation became patently dangerous, but KCPL failed to take the basic measures required to make the plant safe.

Mr. Ward documented that KCPL did not follow its process when it aborted the re-start on February 16, even though KCPL management knew it would take several hours for the planned repairs (to a re-heat unit) to be completed. This failure to follow established procedures was unsafe and imprudent in and of itself. Mr. Ward's testimony explained that when the sewage flood disabled the BMS system and control room operators could no longer distinguish between genuine and spurious indications from that system due to the water damage to its electronic components, KCPL management's failure to follow its procedures and tag the main gas valve closed rose to gross mismanagement and imprudence.

Significantly, there was no single event, momentary missed opportunity or sudden equipment failure or operational glitch at fault. At any point over a nearly 10 hour period,

KCPL's operators could, and should, have taken basic steps required by the utility's own safety procedures, to place the plant in a safe condition. Instead, through carelessness and a consistent failure to follow its own procedures, KCPL created and perpetuated the unsafe conditions that led to the explosion.

B. The Effect of the Explosion on the Cost of Power Charged to GST

Under the Special Contract, GST willingly assumed the risks that changes in various factors could affect KCPL's incremental costs, causing either momentary or longer term increases or decreases in those incremental costs and the prices charged to GST. GST, however, did not assume the risk of cost increases due to KCPL imprudence. Under the Contract, KCPL owes GST the same standard of care and performance, *i.e.*, to manage and operate its facilities in a reasonable and prudent manner, that it owes to all other ratepayers. This is a reasonable and enforceable expectation according to Missouri law and consistently applied Commission practice.

There was no waiver by GST of KCPL's prudence obligation, express or implied, anywhere in the Special Contract. As Staff quite correctly stated in its Position Statement, "...if the Commission were to find that KCPL acted imprudently with respect to the Hawthorn 5 boiler explosion, the charges [to GST] have not been just and reasonable." Staff Position Statement at p. 2. Moreover, the contract did not need to state directly that KCPL would operate in a reasonable and prudent manner any more than it needed to recite any other obligation applicable to the utility under Missouri law.

GST has not challenged the reasonableness of the pricing formula approved by the Commission. The formula is reasonable; it is the purchase power data KCPL included in the

pricing model that was unjust and unreasonable. KCPL admits that it replaced Hawthorn's output with higher cost resources and purchased power, and that this resulted in substantially higher charges to GST. (Exh. 3, pp. 1-2).

The Commission has authority to require KCPL to calculate the overcharges to GST resulting from the imprudent costs that have been included in GST's bills. GST has submitted testimony calculating the extent of the overcharges since the boiler explosion occurred in February 1999. (Exh. 3, pp. 4-6, Sch. Nos. 2-4). This testimony used KCPL historic dispatch data and Hawthorn historic cost and performance levels to calculate the prices KCPL would have charged GST if Hawthorn had not been destroyed. (Exh. 3, p. 8). GST conservatively estimated at the time it filed its Direct Testimony filing that Hawthorn related overcharges amounted to $3 million. (Exh. 3, p. 2). Those overcharges continued to build each day. At the time of the hearings on this matter in mid-April 2000, GST estimated the total Hawthorn related overcharges to be $4.5 million. (Tr. Vol. 6, p.206 (Smith)). KCPL did not challenge this testimony. Significantly, Staff also did not disagree with, or consider inaccurate, any of the essential facts provided in GST's testimony. Finally, it bears emphasizing that GST simply requested the benefit of the bargain struck in 1994, *i.e.*, that it would pay an energy charge based on the incremental production costs of a reasonably and prudently managed utility.

ARGUMENT

A. KCPL May Not Include Imprudently Incurred Costs in its Calculation of Prices to GST

Unjust and unreasonable charges are prohibited by Missouri law. RSMo 393.130(1). This is an express statutory mandate, and the central premise of cost-based rate regulation itself. Staff witness Proctor could not think of a single instance in his twenty-three years at the Commission in which the Commission had allowed an electric utility to include costs the Commission had determined were imprudent in rates charged to consumers. (Tr. Vol. 8, pp. 376-77 (Proctor) (HIGHLY CONFIDENTIAL)). Indeed, the basic purpose of Commission regulation is to prevent such events from occurring.

The GST Special Contract with KCPL provides for an hourly energy component based on KCPL's incremental costs, but there is nothing in this feature of the Special Contract that alters or waives the prohibition against unjust and unreasonable charges. None of the regulatory "rules" have changed. In granting its approval of the contract, the Commission did not authorize or otherwise give KCPL the prerogative to include unjust and unreasonable charges in the GST pricing formula.

The issue to be decided now is whether, based on the record, including the testimony and documentary exhibits presented by Mr. Ward and the theories of imprudence advanced in that testimony, KCPL included costs in the calculation of incremental cost charged to GST that were unjust and unreasonable. The Commission's examination of this matter in this docket does not involve questions of equitable relief or the imposition of money damages which are beyond the Commission's jurisdictional purview. It concerns a straightforward

application of the Commission's express statutory powers. As Staff correctly observed in its Position Statement, if KCPL imprudently caused the Hawthorn explosion, the utility has included imprudently incurred costs in its charges to GST, and those charges are unjust and unreasonable. (Staff Position Statement at 2). As explained below, the record on the points that are the subject of this remand establishes that KCPL was imprudent in several respects that directly resulted in excessive charges to GST.

B. GST's Expert Established That KCPL Imprudence Caused the Hawthorn Boiler Explosion

The issue left unresolved in the Commission's July 2000 Report and Order that was the focus of the Court's remand Order is whether GST has demonstrated through the expert testimony and documents offered by Jerry Ward that KCPL imprudent actions and failures to act caused the Hawthorn boiler explosion. The Court of Appeals determined that this testimony and documentary materials were substantive evidence to be considered, and that the Commission must also consider Mr. Ward's assertion that KCPL's failure to act to close the main gas valve during the roughly 10 hours between the onset of the sewage flood and the explosion was imprudent.

1. The Basic Chain of Events

Mr. Ward has accumulated decades of experience in the energy industry since graduating from Iowa State University in 1962 with a Bachelor of Science degree. He has been involved in all aspects of electrical generation, including engineering, construction, operation and/or financing of essentially every major type power plant, including coal, gas, nuclear and waste fueled facilities. Furthermore, Mr. Ward's expertise in the operation and

maintenance of fossil generation plants, such as KCPL's Hawthorn facility, was unchallenged in these proceedings. Mr. Ward's complete resume is provided at Exhibit 5, Schedule No. 1.

Using KCPL engineering diagrams and records concerning the boiler building debris, GST witness Ward traced at least one open pathway from the Williams gas pipeline to the Hawthorn boiler, thus confirming the basic cause of the explosion. (Exh. 6, pp. 4, 19-20, Sch. Nos. 17, 22). KCPL does not dispute those findings.

Accumulating natural gas, which was used at Hawthorn as a start-up fuel for the coal-fired generating plant, is an obvious safety hazard. As described below, (1) KCPL's safety rules, the equipment "hold" procedures, and (2) the basic design of its computerized Burner Management System were both aimed to achieve "safety first" by preventing any unplanned gas flow to the boiler. Thus, the basic question concerns what KCPL did, or failed to do, to allow a hazardous condition to develop and go undetected. In this instance, Mr. Ward documented that KCPL did not follow its established "hold" procedures, and the BMS could not be relied upon to either function properly or provide accurate signals concerning fuel or flame boiler conditions to the control room. Further, there was no intervening event or break in the KCPL chain of command. Throughout this extended period, KCPL managers were in total control of the repairs taken and the safety procedures employed (or disregarded). There is no one else to whom these responsibilities could be delegated. There is no one else to blame, and there would have been no explosion if they had followed established procedures.

a. Normal Operation

Mr. Ward explained that Hawthorn utilized a computerized Burner Management System (BMS) to control every aspect of fuel introduced into and consumed in the unit's

boiler. (Exh. 5, pp. 11-12). The Fuel Safety System (FSS) component of the BMS served to prevent unsafe conditions from developing, to detect unsafe conditions that may develop, to immediately alert KCPL's control operators of such conditions, and to initiate immediate corrective action. (Exh. 6, pp. 6-7, Sch. Nos. 1, 2). When functioning properly, the BMS was designed to continually monitor for any aspect of equipment or operating practice error that could cause an abnormal condition to develop, and instantly communicate that information to the control operator. If the condition represented an immediate safety hazard, the BMS would not wait for the operator to react; it would automatically close valves to cut off gas flow to the boiler (i.e., a master fuel trip) (Exh. 6, p. 9, Sch. No. 3). There was no "emergency operating mode" for the BMS. (Exh. 6, p.9, Sch. No. 4). If the BMS was malfunctioning, it must be repaired to operate as designed. (Exh. 6, p. 9, Sch. No. 3).

Mr. Ward also explained that KCPL also employed a "hold" procedure to ensure plant and worker safety. (Exh. 6, p.2). KCPL previously used "red" holds to close and tag the main Williams gas valve to the site. (Exh. 6, p. 10, Sch. No. 12 at 4.09). Only authorized KCPL employees may place or release such a "hold." A red tag hold was placed on the Williams main natural gas valve during the February forced outage. (Exh. 6, p. 10, Sch. No. 13).

b. Conditions on February 16 and 17

Mr. Ward's testimony recounts that KCPL's control operators ordered the release of the hold on the main gas line early on the morning of February 16 (00:10 a.m.) as the plant was prepared for restart. (Exh. 6, p. 10, Sch. No. 13). The restart was aborted at mid-day when it became apparent that planned repairs to a reheat unit could not be completed while

start-up was underway and those repairs would require an additional 8-10 hours to finish. (Exh. 5, p. 12; Exh. 6, Sch. No. 8). KCPL's operators, however, were unwilling to lose all of the heat that had been built up in the boiler. (Exh. 5, p. 12-13). They decided not to vent the boiler (Exh. 6, Sch. 8), and they did not order the main gas valve to be closed and tagged.

Shortly before three o'clock that afternoon, overflowing water and raw sewage from the control room men's room flooded the control room and traveled down three levels to the computer room. (Exh. 5, p. 13, Sch. No. 9; Exh. 6, Sch. Nos. 5, 6, 7, 8). Control room alarms and eyewitness observations of water entrained in computer cabinets informed KCPL that the sewage had damaged the plant's computerized Burner Management System (BMS) and its Fuel Safety System components. (Exh. 6, Sch. Nos. 5, 6, 8). This state of affairs was accurately summarized in the statement of KCPL control operator McLin:

> The wastewater sump operated. The pumps pumped water into the control room. The water was an inch to one and a half inches on the floor. It is known that circuit boards shorted out and had to be replaced. The fuel safety system was entrained in water. Daryl Helmsley [sic] the maintenance foreman was supervising a crew of technicians on the sixteenth on replacing and drying out the equipment on the fuel safety cabinet in the computer room which is three levels below the control room. They had completed their work by 22:00.

(Exh. 6, App. 5).

Thus, Mr. Ward's testimony establishes, without any contradiction, that by 3:30 PM on February 16, KCPL's managers knew that:

1. repairs on the reheater would take another 8-10 hours to complete;

2. the control room was an unsanitary mess;

3. various components of the BMS system and its fuel safety subsystem were malfunctioning, not functioning, disconnected for repair, or wet and possibly ready to malfunction; and

4. the re-start had been aborted roughly an hour earlier, and that the boiler had not been vented.

The control operator log also indicated that no holds had been placed on the main gas valve. Although acutely aware of the damage to the BMS system, KCPL never moved to tag close the main gas valve. There is no documentation that this valve was re-tagged and protectively held closed either after the restart was aborted on the afternoon of February 16, or after the wastewater damage to the BMS was discovered shortly thereafter. (Exh. 6, p. 10, Sch. No. 13). Mr. Ward explained that this was a clear violation of the KCPL Safety Manual and unreasonably jeopardized the lives of everyone on the site. (Exh. 6, p. 10).

Mr. Ward's testimony reviewed the Hawthorn gas line diagrams, and explained that certain gas valves could be operated remotely by the BMS, but that the main gas valve to the Williams pipeline required manual operation. (Exh. 6, Sch. No. 13). As described in its safety manual, KCPL should have established holds to prevent spurious signals from the damaged BMS system from causing any gas valves to open unintentionally or to cause any other unsafe condition to develop. (Exh. 5, p. 14; Exh. 6, pp. 2, 10, Sch. No. 12 at 4.09). Further, while KCPL employees spent the day and evening cleaning, drying, and repairing BMS components and resetting alarms from the BMS, KCPL kept the BMS system energized while it was under repair without securing the main gas valve to the boiler. (Exh. 6, p. 14, Sch. No. 10). Mr. Ward explained that this KCPL decision imprudently continued to rely on the damaged system to keep the plant in a safe condition. (Exh. 6, pp. 15-16, 18). KCPL did not offer any testimony intended to show that it was reasonable and prudent to rely on the water damaged BMS. Only duly authorized KCPL employees could order the main gas valve

to be opened or closed. (Exh. 6, pp. 2, 10, 15, Sch. No. 12). Common sense would have dictated under the circumstances that the main gas valve should have been tagged closed. Mr. Ward testified as an industry expert that prudent management of the facility would have made certain of that.

2. KCPL's Position That Its Imprudence With Respect to Hawthorn Does Not Matter Is Baseless

KCPL witness Giles asserted in rebuttal testimony that the Hawthorn explosion and the reasonableness of the utility's actions in connection with the explosion are not relevant to GST's claims in this case. (Exh. 12, pp. 16-17). In his view, the solution to any and all problems GST may have had with the formula pricing of the Special Contract was to opt out and move to a tariffed rate. The issue presented, however, was whether KCPL's charges to GST pursuant to the Special Contract were just and reasonable, not whether some other potential service arrangement would have been better or worse. KCPL's charges to GST could not include imprudently incurred costs, and KCPL did not have the prerogative to include such costs in the pricing formula. For GST to receive the benefit of the terms approved by the Commission in 1994, costs determined to be unreasonably and imprudently incurred must be excluded from the pricing formula. KCPL's comparison of GST's bills to putative bills under KCPL's present tariff is a classic "apples and oranges" comparison that does not begin to show whether KCPL's prices to GST, relative to what is required under the Special Contract, have been just and reasonable.

3. The Commission Has the Authority to Order KCPL to Recalculate GST's Bills Under the Special Contract

GST's petition is not a request for equitable relief or money damages. The prohibition against unjust and unreasonable charges is an explicit statutory mandate. R.S.Mo. § 393.130(1). The Commission's authority and responsibility to enforce this requirement of the law is equally direct and explicit. If, as Staff observed in its Position Statement, the Commission determines that KCPL acted imprudently with respect to the Hawthorn boiler explosion, KCPL has overcharged GST from the day the explosion occurred.

The Commission needs to determine the extent of such overcharges. This does not arise as a matter of equity; but involves the direct applications of the Commission's most basic rate and regulatory powers. The Commission has primary and exclusive jurisdiction over these matters that may not be waived or delegated to another body or forum.

Staff witness Dr. Michael Proctor noted that in his twenty-three years at the Missouri Public Service Commission, he could not recall a single instance in which the Commission had allowed a utility to include costs that the Commission had determined to be imprudent in the rates charged to consumers. (Tr. Vol. 8, pp. 376-77 (Proctor) (HIGHLY CONFIDENTIAL)). This is hardly surprising since the essential purpose of Commission regulation of utilities is to prevent that from occurring. Indeed, if KCPL's view is adopted, and based on the record in this case, considering Mr. Ward's expert testimony and attachments, this would be the first time such recovery was allowed.

4. KCPL Overcharged GST by at Least $4.5 Million 1999 Due to Imprudently Incurred Replacement Energy Costs It Included in the Calculation of GST's Prices

Based on the evidence described above of KCPL imprudence with respect to the Hawthorn incident, the Commission needs to require KCPL to exclude all imprudently incurred replacement energy costs from the hourly energy prices it charges GST. Further, the Commission needs to ascertain the magnitude of the overcharges KCPL has billed to GST since the explosion occurred. GST has provided testimony that is unchallenged which provides a reasonable and conservative estimate of the effect of KCPL's destruction of Hawthorn on GST's bills.

Following the February 17, 1999 Hawthorn boiler explosion, KCPL relied upon more expensive resources on its system and off-system power purchases to replace the generation that would have been provided by Hawthorn, had it been available. (Exh. 3, p. 1). Those higher cost replacement energy resources translate directly into higher energy costs that were passed directly to GST through the incremental energy cost component of the Special Contract. (Exh. 3, pp. 1-2).

KCPL provided GST with actual hourly dispatch data for 1998 and for 1999 through the month of August, historic Hawthorn production, availability and cost information, and Hawthorn's planned maintenance schedule for 1999. (Exh. 3, p. 3). Using KCPL's actual billing calculations for hours when KCPL used peaking resources, GST witness Smith recalculated the hourly incremental production cost chargeable to GST by inserting Hawthorn 5 values into the production stack for each hour of each day modeled. (Exh. 3, pp. 3-5). For non-peak periods when costs typically are less volatile, Mr. Smith recalculated GST's costs,

with and without Hawthorn, for a representative weekday and weekend day each month. (Exh. 3, pp. 5-7). Mr. Smith reflected a planned May 1999 maintenance outage for Hawthorn in his calculations as well as one weekday and weekend forced outage day each month. (Exh. 3, pp. 8, 10).

Based on 1998 historic data, Mr. Smith used an operating cost rate of 10.77 mills/KWh for Hawthorn, which placed Hawthorn at the top (*i.e.*, most expensive) of KCPL's steam-electric generating plants. (Exh. 3, p. 8). This is a conservative (high) cost rate in light of KCPL vice-president Frank Branca's deposition statement that Hawthorn generally fell between the LaCygne and Montrose units in the dispatch order. (Exh. 3, pp. 8-9).

Using this information, Mr. Smith compared the difference in cost between the base case (without Hawthorn) and the prudent case (with Hawthorn) and multiplied this difference by GST's actual usage in that hour to determine the amounts overcharged. (Exh. 3, p. 2, 4, Sch. No. 1). For the period for which actual data was available (*i.e.*, through August 1999), Mr. Smith calculated the Hawthorn related overcharges were approximately $2.8 million. (Exh. 3, Sch. No. 1). Using a conservative approach, *i.e.*, applying the overcharges in an off-peak month, Mr. Smith estimated that the overcharges amounted to $3.0 million by the end of October and $4.5 million by the time of the hearing on this matter in mid-April. (Exh. 3, p.2; Tr. Vol. 6, p.208 (Smith) (HIGHLY CONFIDENTIAL)).

KCPL submitted rebuttal testimony by five witnesses. None attempted to rebut Mr. Smith's estimates, challenged his assumptions or calculation method, or offered an alternative method for calculating the overcharges to GST. During cross-examination, KCPL

appeared to accept without question Mr. Smith's updated estimate of the overcharges. (Tr. Vol. 6, pp. 199-216 (Smith)). In short, Mr. Smith's approach was reasonable, very conservative and has not been challenged. The Commission should adopt GST's estimate of the Hawthorn related overcharges that GST has experienced since the date of the explosion.

CONCLUSION

For the reasons stated herein, GST requests that the Commission determine that Kansas City Power & Light Company acted in an unreasonable and imprudent manner concerning the matters addressed in this case, that KCPL's imprudent actions resulted in unjust and unreasonable charges to GST, and that KCPL's overcharges of GST amounted to at least $4.5 million following the Hawthorn boiler explosion that occurred in February 1999.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document were served upon the following parties by first-class postage prepaid, U.S. Mail on April 15, 2004.

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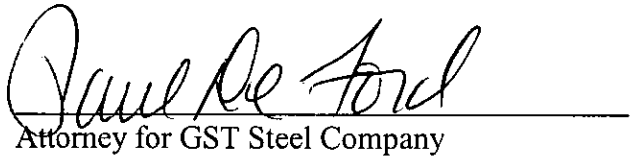

Attorney for GST Steel Company

ATTACHMENT A

Ward Direct Testimony (Exhibit 5)
Schedules of Attachments:

No. 1	Resume of Jerry N. Ward
No. 4	KCPL Five-Year Construction Forecasts
No. 7	December 15, 1999, letter from G.W. Burrows (KCPL) to Frank Branca (KCPL)
No. 8	Statement of Mike Lunsford, dated February 22, 1999
No. 11	Hawthorn 5 Gas Flow – Hourly Readings
No. 12	Graph of Hawthorn 5 Hourly Readings Gas Flow

Ward Surrebuttal (Exhibit 6)
Schedules of Attachments:

No. 1	BMS Theory of Operations (Page III-1)
No. 2	Forney Burner Management System Technical Manual
No. 3	BMS Theory of Operations (Page III-7, 8 and 9)
No. 4	Operational Guide 5-4-5A for Hawthorn Station
No. 5	Statement of Melford McLin – KCPL Control Generator, dated February 18, 1999
No. 6	Statement of Steve Cox, dated February 21, 1999
No. 7	Statement of Mike Irwin, dated February 23, 1999
No. 9	Statement of Ronald Fischbach, dated February 16, 1999
No.10	Excerpt of Renal Retrieved Diskette (control room records)
No.11	Statement of Johnny Pender, dated February 18, 1999
No.12	KCPL Safety Manual
No.13	Hawthorn 5 Hold Tags on specifically identified equipment
No.14	Statement of Daniel Hensley, dated February 19, 1999
No.15	Statement of Ray Boylan, dated February 18, 1999
No 16	William Gas Charts (provided by Williams, maintained and provided by KCPL)
No.17	Hawthorn Piping and Instrument Drawing (Fuel Gas System)
No.18	Statement of Don Stack, dated February 22, 1999
No.19	Statement of Alan Kirkwood, dated February 18, 1999
No.20	Statement of Jim Martin, dated February 18, 1999
No.21	Statement of Rick Utterback, dated February 18, 1999
No 22	Excerpt of "1 Finished Draft Valve Log" Diskette