

1 BEFORE THE PUBLIC SERVICE COMMISSION

2 STATE OF MISSOURI

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5 TRANSCRIPT OF PROCEEDINGS

6 Evidentiary Hearing

7 August 1, 2011

8 Jefferson City, Missouri

9 Volume 2

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13 In The Matter of The 2009 Resource Plan)
14 Of KCP&L Greater Missouri Operations) File No.
15 Company Pursuant To 4 CSR 240-22) EE-2009-0237

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18 HAROLD STEARLEY, Presiding

19 REGULATORY LAW JUDGE

20 KEVIN D. GUNN, Chairman,

21 ROBERT M. CLAYTON, III

22 JEFF DAVIS

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1 PROCEEDINGS

2 JUDGE STEARLEY: Good morning. We are on the
3 record. It is Monday, August 1st, 2011. Commission has set
4 this time for an evidentiary hearing in EE-2009-0237, which
5 is captioned as In The Matter Of The 2009 Resource Plan Of
6 KCP&L Greater Missouri Operations Company Pursuant To 4 CSR
7 240-22.

8 My name's Harold Stearley, and I'm the
9 presiding officer over this hearing. And we will begin by
10 taking entries of appearance. I believe Mr. Healy from the
11 Missouri Joint Municipal Electrical and Utility Commission is
12 calling in by phone and we'll let him make his appearance
13 first.

14 MR. HEALY: Thank you, Judge. Douglas Healy,
15 the law firm of Healy & Healy, Attorneys at Law, 939
16 Boonville, Suite A, Springfield, Missouri 65810.

17 JUDGE STEARLEY: All right. And Mr. Healy,
18 you had e-mailed me this morning. Did you intend to waive
19 cross-examination?

20 MR. HEALY: That is correct.

21 JUDGE STEARLEY: And are you just going to
22 monitor the hearing, then, remotely by web cast?

23 MR. HEALY: That is correct, Your Honor.

24 JUDGE STEARLEY: All right. Very well. We
25 can go ahead and disconnect you by phone here. If the

1 situation should change in any way, send me another e-mail
2 message, Mr. Healy.

3 MR. HEALY: Thank you, sir. I appreciate it.

4 JUDGE STEARLEY: All right. Thank you for
5 your appearance.

6 KCP&L, Greater Missouri Operations Company.

7 MR. FISCHER: Thank you, Judge. Let the
8 record reflect the appearance of Roger W. Steiner and James
9 M. Fischer on behalf of the Company. Our contact information
10 is on the written form.

11 JUDGE STEARLEY: All right. Thank you,
12 Mr. Fischer.

13 For the Missouri Department of Natural
14 Resources.

15 MS. MANGELSDORF: Sara Mangelsdorf and Jenny
16 Frazier on behalf of the Missouri Department of Natural
17 Resources.

18 JUDGE STEARLEY: Okay. Thank you,
19 Ms. Mangelsdorf.

20 For the Office of the Public Counsel.

21 MS. BAKER: Thank you, Your Honor. Christina
22 Baker and Lewis Mills, P.O. Box 2230, Jefferson City,
23 Missouri 65102, appearing on behalf of the Office of the
24 Public Counsel and the ratepayers.

25 JUDGE STEARLEY: All right. Thank you,

1 Ms. Baker.

2 For the City of Kansas City. And we'll let
3 the record reflect there is no appearance from the City of
4 Kansas City.

5 For Dogwood Energy.

6 MR. LUMLEY: Thank you, Judge. Carl Lumley of
7 the Curtis, Heinz firm appearing for Dogwood.

8 JUDGE STEARLEY: All right. Thank you,
9 Mr. Lumley.

10 For the Sedalia Industrial Energy Users
11 Association. Okay. We'll let the record reflect there is no
12 appearance for SIEUA.

13 And for the Staff of the Missouri Public
14 Service Commission.

15 MR. THOMPSON: Thank you, Judge. Kevin A.
16 Thompson for the Staff of the Missouri Public Service
17 Commission, Post Office Box 360, Jefferson City, Missouri
18 65102.

19 JUDGE STEARLEY: All right. Thank you,
20 Mr. Thompson.

21 Did I miss anybody?

22 All right. As I always must remind you, if
23 you would all please turn off any BlackBerries, cell phones,
24 any other electronic devices, they do have a tendency to
25 interfere with our recording and web casting. It would be

1 greatly appreciated.

2 Are there any preliminary matters we need to
3 take up at this time?

4 Okay. The witness list that I've been
5 provided by the parties reflect that Staff has witnesses John
6 Rogers and Lena Mantle; DNR, Adam Bickford; and GMO, Kevin
7 Bryant; is that correct?

8 MR. FISCHER: Yes, Judge.

9 JUDGE STEARLEY: Okay. And we also have
10 several witnesses kind of on standby should the Commission
11 want to inquire further, so I won't read through that list.
12 The bench is a little thin right now, so we may not be
13 inquiring of those other witnesses.

14 All right. If there's nothing more in terms
15 of preliminary matters, we'll go ahead and proceed with
16 opening statements, beginning with the Staff of the Missouri
17 Public Service Commission.

18 MR. THOMPSON: Thank you, Judge.

19 May it please the Commission. This case
20 concerns the integrated resource planning of Kansas City
21 Power & Light Greater Missouri Operations Company, fondly
22 referred to as GMO within the walls of this building. And it
23 is Staff's position today that there is no substantive
24 violation or deficiency in the report that GMO filed on
25 July 1st, 2011. Therefore, Staff will not be going forward

1 with its complaint.

2 However, Staff will point out that it's
3 Staff's position that the report was late. Staff requests
4 the Commission to advise Staff by Order as to whether or not
5 Staff should pursue a complaint on the lateness issue. We
6 will not do so unless directed to do so by the Commission.

7 Although Staff has found no deficiencies,
8 Staff has some concerns. One concern is a lack of capacity
9 on GMO's part going forward. Where will GMO come up with the
10 power that it will need to serve its native load in the
11 future years? Staff will point out that if the two companies
12 were to merge, GMO and KCP&L, it is Staff's view right now
13 that there would no longer be a capacity problem.

14 Staff also has concerns with the change in the
15 July 1st report in DSM programs. It looks like GMO is
16 pursuing or planning to pursue a less DSM than it originally
17 had proposed. Given Staff's change of position with respect
18 to deficiencies, Judge, I am not going to call my witnesses.
19 Instead, Mr. Rogers and Ms. Mantle are here to answer
20 questions from the bench.

21 I do have some exhibits I would like to put
22 into the record that have been prepared, and I believe
23 counsel will have no objection to that. Everyone has had a
24 chance to look at those.

25 JUDGE STEARLEY: All right. Is that correct?

1 All the parties have had an opportunity to examine Staff's
2 exhibits?

3 MS. BAKER: Yes, Your Honor.

4 MR. FISCHER: Judge, we just got them a few
5 minutes before the hearing. We have been looking at them. I
6 don't have an objection to most of them. The capacity issue,
7 I think is probably beyond the scope of what the Commission's
8 Order said we were here to talk about directly; however, if
9 the Commission has an interest in that topic, certainly the
10 Company would be willing to address that. I -- with those
11 caveats, I guess I would suggest that we go forward with the
12 hearing and deal with that.

13 JUDGE STEARLEY: All right. If Staff does not
14 intend to proffer its witnesses unless the Commission has
15 questions, I'm not sure that issue needs to be addressed in
16 this hearing. But if the parties want to go forward and
17 address it and make a record of it, I would certainly allow
18 that to happen.

19 As you can see, the Commissioners are not down
20 here, so I can't advise you as to how they would wish to
21 proceed on that. They may wish to just have filings or
22 pleadings filed in this matter addressing that issue.

23 MR. THOMPSON: So Judge, I would like at this
24 time to offer Staff's Exhibits 1, 2, 3, 4, and 5.

25 JUDGE STEARLEY: And I do note, though,

1 Counselor, that your exhibits do address, it looks like, the
2 issue on the DSM programs and the capacity programs.

3 MR. THOMPSON: It addresses -- the exhibits
4 address both of Staff's concerns, that's correct.

5 JUDGE STEARLEY: Okay.

6 MR. THOMPSON: Staff would be remiss, Your
7 Honor, if we did not bring our concerns to the Commission's
8 attention.

9 JUDGE STEARLEY: Certainly. And Mr. Fischer,
10 would you be prepared today to address those concerns in this
11 hearing?

12 MR. FISCHER: If that's the Commission's
13 desire, we have a witness that could do that. As I say,
14 though, that was beyond the scope of what the original Order
15 suggested was the purpose for the hearing.

16 JUDGE STEARLEY: Well, it is, and I want to be
17 sure you have an ample opportunity to respond, since this
18 is --

19 MR. FISCHER: I think as far as the exhibits
20 go, Judge, I wouldn't have an objection to those that are
21 being offered, other than the two that are being offered on
22 the capacity issue. And I would like to reserve ruling
23 pending cross-examination or pending the conclusion of the
24 hearing. And if it becomes an issue that needs to be
25 addressed, we can perhaps do that.

1 JUDGE STEARLEY: All right. Very well. So
2 this would be Exhibits 3, 4, and 5?

3 MR. FISCHER: Four and five, I believe.

4 JUDGE STEARLEY: Or just 4 and 5.

5 MR. THOMPSON: Well, in the event of an
6 adverse ruling, Judge, Staff would make an offer of proof.

7 JUDGE STEARLEY: Well, I'm going to reserve a
8 ruling until cross-examination has been held. But with
9 regard to Exhibits Staff 1, 2 and 3, there are no objections?

10 MR. FISCHER: No.

11 JUDGE STEARLEY: Well, hearing none, we will
12 receive those into the record.

13 (Staff Exhibit Numbers 1 through 5 were marked
14 for identification by the court reporter.)

15 JUDGE STEARLEY: And we will receive into the
16 record Exhibits 1, 2 and 3. I will reserve ruling on
17 Exhibits 4 and 5. All right. Opening statements from the
18 Office of Public Counsel.

19 (Staff Exhibit Numbers 1 through 3 were
20 received into evidence.)

21 MS. BAKER: Public Counsel has no specific
22 opening statement, however as a signatory to the stipulation
23 and agreement, we do support the concerns of Staff and the
24 Department of Natural Resources.

25 JUDGE STEARLEY: All right. And you heard

1 Staff say they were no longer going to pursue the complaint
2 action they had filed in EC-2011-0250?

3 MS. BAKER: Yes.

4 JUDGE STEARLEY: Is Public Counsel wanting to
5 pursue complaint with regard to that same issue?

6 MS. BAKER: No, not at this time.

7 JUDGE STEARLEY: Okay. I just thought I would
8 inquire while we're all here.

9 Opening statements from Missouri Department of
10 Natural Resources.

11 MS. MANGELSDORF: May it please the
12 Commission. Good morning, my name is Sara Mangelsdorf. I am
13 an assistant attorney general representing the Missouri
14 Department of Natural Resources, specifically its energy
15 division in this case.

16 As you've heard from the Department of Natural
17 Resources previously in rate cases, energy efficiency
18 programs represent good energy policy, especially now since
19 low costs are becoming increasingly significant and important
20 in today's economy. In those cases, the Department of
21 Natural Resources has also emphasized the need for this
22 Commission to ensure that electric utility companies meet the
23 Missouri Energy Efficiency Investment Act's goal of achieving
24 all cost effective demand-side energy savings.

25 Additionally the Revised Missouri Statutes,

1 Section 640.150, requires the Missouri Department of Natural
2 Resources to plan for energy resource development, analyze
3 energy management issues, analyze the potential for increased
4 use of energy alternatives, and make recommendations for the
5 expanded use of alternative energy sources and technology.

6 Now, obviously this is not a rate case. We
7 are here due to concerns that several parties, including the
8 Missouri Department of Natural Resources, have with GMO's
9 recent revised IRP filings. However, even though we are not
10 before this Commission in the context of a rate case, the
11 goals and objectives of the Missouri Department of Natural
12 Resources are still the same.

13 An IRP is a comprehensive roadmap developed by
14 an electric utility company to evaluate and define its short-
15 and long-term capacity additions and demand-side management
16 programs that it will undertake to meet projected energy
17 demands. Therefore, IRPs are an essential tool electric
18 utility companies and others, such as the Missouri Department
19 of Natural Resources, used to determine whether a company's
20 demand-side management programs are cost effective and
21 therefore in compliance with the Missouri Energy Investment
22 Act [sic].

23 Today you will hear testimony from Dr. Adam
24 Bickford on behalf of the Missouri Department of Natural
25 Resources, Division of Energy. The evidence will show that

1 in 2009, GMO filed an IRP in which several parties, including
2 the Department of Natural Resources, noted several
3 deficiencies. However, rather than having a hearing before
4 this Commission, the parties entered into a stipulation and
5 agreement to address these deficiencies. We are here today
6 for the Commission to determine whether GMO violated this
7 non-unanimous stipulation and agreement. The evidence will
8 show that it did.

9 The stipulation and agreement outlined a
10 roadmap for GMO to begin a new process for developing a
11 revised IRP. As part of this agreement, GMO agreed to
12 participate in a stakeholder process and to present to the
13 stakeholder group various items that were to be included in
14 its revised IRP. The Department of Natural Resources also
15 participated in the stakeholder group and spent a significant
16 amount of time and resources during that process reviewing
17 these items.

18 Therefore, in determining whether GMO violated
19 the stipulation and agreement, it's important for this
20 Commission to look not only at the language of the agreement
21 itself, but also to look at the agreements reached with GMO
22 during the stakeholder process.

23 The evidence will also show that during the
24 stakeholder process, GMO agreed to submit to certain
25 integrated analysis resource plans that included agreed-on

1 DSM programs and program savings levels. However, when GMO
2 filed its revised IRP in January of this year, the savings
3 levels were different than the savings levels previously
4 agreed to during the stakeholder process.

5 In addition, a preferred plan was not selected
6 by GMO as required by the non-unanimous stipulation and
7 agreement, as well as the Commission's rules. Furthermore,
8 GMO did not test its DSM portfolios for cost effectiveness,
9 in violation of the non-unanimous stipulation and agreement
10 in the Commission's rules.

11 Additionally, the evidence will show that GMO
12 filed yet another revised IRP in July of this year. While
13 the Missouri Department of Natural Resources is still
14 evaluating this IRP, it has identified deficiencies for this
15 filing as well. For instance, in addition to having savings
16 levels that were different than the savings levels previously
17 agreed to during the stakeholder process, the DSM programs
18 were different than the agreed-on savings levels previously
19 agreed to during the stakeholder process.

20 GMO did select a preferred resource plan in
21 this IRP; however, this plan was not even mentioned during
22 the stakeholder process. Furthermore, GMO did not submit its
23 alternative resource plans to integration or test its DSM
24 portfolios for cost effectiveness, all of which are
25 violations of the stipulation and agreement, as well as the

1 Commission's rules.

2 It is also important to note that because the
3 Department of Natural Resources is still evaluating the
4 revised IRP filed by GMO in July of this year, this hearing
5 should not preclude the Missouri Department of Natural
6 Resources from coming before this Commission to address its
7 concerns with this filing, should it be deemed necessary to
8 do so in the future. Thank you.

9 JUDGE STEARLEY: All right. Ms. Mangelsdorf,
10 you -- DNR was an intervenor in the complaint case?

11 MS. MANGELSDORF: That's correct.

12 JUDGE STEARLEY: And you heard the Staff
13 announce its position to not pursue the Complaint?

14 MS. MANGELSDORF: Yes.

15 JUDGE STEARLEY: Does MDNR have a position
16 with regard to that at this time?

17 MS. MANGELSDORF: We would still like to
18 pursue the complaint, yes.

19 JUDGE STEARLEY: All right. Thank you very
20 much.

21 MR. LUMLEY: Good morning, Judge. Carl Lumley
22 for Dogwood Energy.

23 Our concerns relate to the new IRP filing from
24 July. We certainly recognize that Staff, as a party, has
25 control over its own complaint and we don't have a complaint

1 filed.

2 As counsel for DNR noted, with a new IRP being
3 filed under the rules, the parties would have 120 days to
4 identify their concerns, and we certainly don't believe we're
5 foreclosed by this prompt hearing, following the July filing,
6 from expressing those concerns. But to identify them now for
7 the Commission, the rules that these filings are being made
8 under are now the old rules, no longer in effect. But it's
9 our understanding that since this filing is building off the
10 August, 2009, filings and everything that's happened since
11 then, that the old rules apply.

12 And in 22.040, the supply-side rules, there's
13 a requirement that the Company consider a variety of
14 potential supply-side resources, including specifically
15 purchase power from independent generators. It also goes on
16 to identify, specifically in Subsection 5, the requirements
17 for looking at those kind of alternatives.

18 And further, the rule, still in 22.040,
19 requires the Company to explain the reasons why supply-side
20 options were not pursued. If they're eliminated from the
21 process, an explanation is required why they stopped
22 considering it.

23 And I would note that the new rules, even
24 though the wording changes a little bit, it's almost
25 identical on those points that I just raised. So even if

1 we're under the new rules, the standards would still be the
2 same.

3 So with that background, our concern is pretty
4 simple. We feel that in the process of the Company,
5 discarding its preferred plan as announced to the Commission
6 in January, and then coming up with the new filing in July,
7 that it's now made -- that basically Dogwood has been
8 completely disregarded in this process. And that's not an
9 appropriate way of conducting integrated resource planning.
10 Given that Dogwood is located in their service area, it's a
11 substantial potential resource for them. So that's our
12 concern.

13 JUDGE STEARLEY: Thank you, Mr. Lumley.

14 And there is no preclusion from any of the
15 parties filing responses to the July 1st IRP filing. So I
16 just want to make that clear.

17 MR. LUMLEY: Thank you, Judge.

18 JUDGE STEARLEY: Opening statements, GMO.

19 MR. FISCHER: Good morning, Judge. As I
20 mentioned, my name's Jim Fischer. And Roger Steiner and I
21 will be representing KCPL Greater Missouri Operations
22 Company, which I, too, will call GMO and I'll shorthand
23 Kansas City Power & Light Company with KCPL.

24 The purpose of the hearing today, as I
25 understand it, understand the April 27th Order, is to

1 determine whether GMO violated the terms and conditions of
2 the non-unanimous stipulation and agreement that was approved
3 by the Commission back in June of 2010. It's also my
4 understanding that the Commission prefers to review this
5 matter in the context of the overall IRP process.

6 Just to begin, then, I would say that GMO does
7 not believe that it has violated any of the terms and
8 conditions of the non-unanimous stipulation and agreement
9 filed April 12th of 2010. It's my understanding now based
10 upon Mr. Thompson's opening statement and the Staff DR
11 response that the Staff believes that there are no
12 deficiencies in GMO's IRP plan after the filing of the
13 supplemental IRP on July 1st, 2011, that would require the
14 complaint to go forward.

15 Staff does contend that the January 18th,
16 2011, revised IRP filing was not complete and was late since
17 it didn't specify a specific preferred plan. But now after
18 filing the supplemental filing on the 1st of July of this
19 year, GMO has selected another preferred plan. Based upon my
20 current understanding of the Staff's position, it's my
21 understanding that we essentially satisfied the concerns that
22 were raised in the complaint itself.

23 From our perspective, the Commission should
24 view the Company's filings as a cumulative process; with the
25 filings of its original IRP plan in August of 2009, its

1 revised IRP plan in January of 2011, and then finally the
2 supplemental filing that was made on July 1st of 2011. Now
3 taken together, GMO believes it's fully complied with the
4 Commission's Chapter 22 rules and has satisfied the concerns
5 raised by the Staff's complaint.

6 I'd like to, for purposes of the record, I
7 guess, ask that the Commission take administrative notice of
8 the Company's original IRP plan filing made on August the
9 5th, the revised IRP plan filing made on January 18th, 2011,
10 and then the supplemental filing made on July the 1st of
11 2011.

12 JUDGE STEARLEY: All right. The Commission
13 shall take official notice of the three filings.

14 MR. FISCHER: GMO believes it's now important
15 for the Commission to focus on the future policies of the
16 state that will promote and encourage the development of DSM
17 and energy efficiency programs, especially policies that give
18 electric companies incentives to implement these programs
19 rather than continuing to penalize companies financially for
20 encouraging consumers to conserve or to be more efficient in
21 their use of electricity.

22 As the Commission's well aware, this has been
23 a very active and a fluid time in Missouri's regulatory
24 history related to the Commission's integrated resource
25 planning rules, which are in Chapter 22, policies related to

1 DSM potential studies and the Missouri Energy Efficiency
2 Investment Act and those related rules, as well as there was
3 considerable discussion of these kinds of issues in the
4 recent GMO and KCP&L rate cases.

5 There's been uncertainties surrounding all of
6 these areas during the last several years. And these
7 uncertainties have made it more difficult to select a
8 preferred plan, especially without certainty regarding the
9 financial incentives and the cost recovery policies related
10 to DSM programs. I believe the record will demonstrate that
11 KCP&L and GMO's IRP team of technical analysts have done a
12 very good job of fulfilling the requirements of Chapter 22,
13 as many as there are, notwithstanding the uncertainties that
14 have existed during this period.

15 Beginning in May of 2009, the Commission Staff
16 began conducting a series of workshops and accepted comments
17 from interested parties regarding new IRP rules. On March
18 the 10th of 2010, the Commission issued a notice of finding
19 and necessity, and after a series of meetings, filing of
20 comments and a rulemaking hearing, the Commission did adopt a
21 new Chapter 22.

22 These new IRP rules became effective on June
23 the 30th of 2011, about one month ago. Under the revised IRP
24 rules, KCP&L and GMO are required to file their next IRP
25 compliance plans on April 1st of 2012, and every third year

1 thereafter. The next compliance plan filings in April of
2 2012 will include a review of the various levels of
3 alternative DSM investments, as well as supply-side options.

4 The Commission's policies and statutory
5 authority related to energy efficiency and demand-side
6 management programs have also been in flux in recent years.
7 Back in the KCP&L original regulatory plan that was adopted
8 back in 2005/2006, KCP&L agreed to implement, in consultation
9 with the Staff, the Public Counsel and DNR and other
10 interested parties, a series of demand responses, efficiency
11 and affordability programs throughout the term of the
12 regulatory plan. Now, that regulatory plan expired on
13 June 1st of 2010.

14 Then in 2009, the General Assembly passed the
15 Missouri Energy Efficiency Investment Act, or what I'll refer
16 to as MEEIA. That adopted the policy of the state to value
17 demand-side investments equal to traditional investments in
18 supply and delivery infrastructure and to allow the recovery
19 of all reasonable and prudent costs in delivering
20 cost-effective demand-side programs.

21 Now, in support of that policy, the Commission
22 had certain directives. The Commission was directed to
23 provide timely cost recovery for utilities, to ensure that
24 utility financial incentives are aligned with helping
25 consumers use energy more efficiently, and to provide timely

1 earnings opportunities associated with cost-effective and
2 verifiable energy savings.

3 The Commission held workshops as required by
4 the statute related to MEEIA beginning in 2009, they were
5 adopted in February of 2011, and just recently the rules
6 became effective. And also in April and May of this year,
7 the Commission issued its decisions in the recent KCP&L and
8 GMO rate cases. These -- these decisions address KCP&L and
9 GMO's DSM and energy efficiency programs.

10 Now, in those cases, KCP&L and GMO urged the
11 Commission to implement expeditiously a cost-recovery
12 mechanism for energy efficiency and demand-side programs,
13 including the recovery of lost revenues associated with
14 specific DSM programs and adopt a bridge, a bridge
15 cost-recovery mechanism until the Company's MEEIA filings
16 could be considered. And in these decisions, the Commission
17 concluded that the Company should continue to fund and
18 promote DSM at the 2005 regulatory plan level and for GMO, as
19 a part of -- at the level it had in its last preferred
20 resource plan.

21 Now, these existing demand-side programs
22 represent an expected reduction of 28 of one-hundredths of
23 one percent for GMO and 351 one-hundredths of a percent of
24 KCP&L's retail load.

25 Now, on the 5th of July, the Companies filed

1 their Notices of Intent to File Applications under MEEIA and
2 we are expecting to file those applications in the very near
3 future. While I know the Commissioners and yourself, Judge,
4 have -- are very familiar with these particular cases, I
5 think it's important to keep this in mind, these policies
6 that have been in flux over these periods of time as you
7 consider the particular issues that are being raised by the
8 Complaint in this case and other concerns raised by DNR.

9 Now, let's turn, just for a few minutes, to
10 the specific case that we're here to talk about. The case
11 really began back in October of 2008. There was a discussion
12 with the stakeholders of the waivers that we were planning to
13 request in the August 5th, 2000 [sic], filing. The
14 application for waivers were filed back in December of 2008,
15 and then there were stakeholders meetings to discuss the
16 upcoming IRP filing on June 18th of 2009, and then we did
17 file a compliance plan with a supplemental filing on
18 November 2nd, 2009.

19 Then the Company also held a series of
20 post-filing stakeholder meetings, and I have those listed on
21 the screen. On December the 10th, the Staff, Public Counsel,
22 DNR and Dogwood submitted reports identifying their concerns
23 and in some cases alleging certain deficiencies related to
24 that GMO IRP filing back in 2009. And then we had a series
25 of post-report stakeholder meetings, which are listed there.

1 The purpose of those four meetings were to discuss whether
2 there were ways that we could settle the case.

3 The parties did file a non-unanimous
4 stipulation and agreement in April of 2010 to resolve some of
5 the deficiencies. Paragraph 1 of the stipulation stated that
6 GMO would submit a revised IRP by December 17th, 2010. And
7 the stipulation also contains a number of other provisions
8 regarding the plan to remedy some of the deficiencies raised
9 by the parties.

10 Now, as a part of that non-unanimous
11 stipulation and agreement, GMO agreed that the next Chapter
12 22 compliance filings will, and I'll quote this, model and
13 fully analyze at least one alternative DSM portfolio that
14 annually achieves incremental electric energy and demand
15 savings equivalent to one percent by 2015 and two percent by
16 2020 reduction in annual sales and peak requirements
17 respectively.

18 Now, Judge, importantly, it should be
19 emphasized that that stipulation does not say that GMO will
20 necessarily adopt and implement a DSM program that achieves
21 such large reductions in retail load. It says that GMO will
22 model and fully analyze these programs. It may not be
23 achievable to implement programs that have that much of a
24 reduction in retail load.

25 JUDGE STEARLEY: Mr. Fischer, I don't want to

1 interrupt your flow here, but could you direct the Commission
2 to which part of the non-unanimous stipulation agreement this
3 item was in, just to make it easy for their reference?

4 MR. FISCHER: I've got a slide that addresses
5 that in just a minute, I think.

6 JUDGE STEARLEY: Okay. That's fine.

7 MR. FISCHER: The Commission did approve that
8 stipulation on June 2nd of 2010. Then we had a series of
9 post-stipulation stakeholder meetings -- I think there are
10 about ten there -- and then there were often written reports
11 as are reflected in one of the exhibits that Mr. Thompson
12 introduced, of stakeholder meeting reports that were filed in
13 EFIS telling the Commission what we talked about in those
14 meetings.

15 Then on December 17th, GMO requested an
16 extension until January the 18th, 2011, to file its revised
17 IRP. The Commission granted this request on December 28th
18 without objection from any of the parties. And then on
19 January 18th, 2011, GMO did file its revised IRP.

20 And this filing included a number of things.
21 It included a revised integrated analysis, which is the
22 Volume 6, an integrated analysis report, which is extensive
23 Appendix A, and non-traditional accounting report, which is
24 found in Volume 8. Now, that revised IRP included 11
25 alternative resource plans using a combination of

1 supply-side, demand-side resources, and unit retirements.
2 Nine alternative resource plans were developed by the
3 stakeholder process for the revised integrated resource plan,
4 and these plans were designed to model and fully analyze
5 alternative DSM portfolios that would achieve reductions of
6 load of nine-tenths of one percent of retail load.

7 Now -- now we're getting to the heart of the
8 case here, I think. After the review of the results, the
9 Company identified two alternative plans as a contingency in
10 the event that DSM financial incentives or cost recovery
11 granted by the Commission were determined to be inadequate to
12 proceed with a more robust DSM investment program. Plan 10
13 continued to use the DSM programs at levels discussed in the
14 stakeholder process, but plan 11 lowered the DSM investment
15 level in the event that the financial incentives and the cost
16 recovery were determined to be inadequate to justify a higher
17 level of DSM investment.

18 In addition to that, the Company filed a
19 notice, and I've got it listed here. It's in Paragraph 6 of
20 our -- of our January filing. It basically says that as a
21 result of this additional analysis completed per the
22 stipulation and agreement in this case, GMO is determined
23 that the preferred resource plan filed in August, 2009, is no
24 longer appropriate.

25 Significant changes have occurred in

1 projections of both natural gas costs and CO2 emission costs,
2 along with reasonably proposed U.S. Environmental Protection
3 Agency regulations, the transport rule, that dictates the
4 need to fully evaluate additional alternative resource plans
5 prior to determining a revised preferred plan. GMO will be
6 conducting this additional analysis and expects to have the
7 results available in the summer of 2011.

8 Now, as I understand the basis of Staff's
9 Complaint, it was that previous paragraph that I just read
10 that is the real basis for the Staff's Complaint and the
11 concerns of the other parties. On February the 8th, 2011,
12 Staff filed the Complaint alleging that GMO -- that that
13 January 18th filing was deficient under the Commission rules,
14 and it was a violation of the stipulation and agreement, and
15 the order that approved that stipulation and agreement.
16 Specifically they allege certain rule violations that are
17 listed there.

18 But essentially, as I understand the
19 Complaint, Staff was contending that GMO had not adopted a
20 resource acquisition strategy, or what is called a preferred
21 plan, because GMO included in that January 17 filing the
22 notice that it had determined that the preferred resource
23 plan it filed in August was no longer appropriate.

24 Well, so why would we do that? Why would we
25 put a statement that it was no longer appropriate in this

1 filing? As we've explained in the GMO's Answer in this case,
2 GMO included this statement in order to comply with the
3 requirements of Chapter 22, the old IRP rules.

4 And it's found that Rule 4 CSR 240-22.080, Subsection 10, and
5 I've listed that particular provision there.

6 But essentially, if the utility determines
7 that its circumstances have changed so that the preferred
8 resource plan is no longer appropriate, utility in writing
9 shall notify the Commission within 60 days of the utility's
10 determination. Such written notification was specifically
11 set forth in Paragraph 6 of that January 17th or 18th IRP
12 filing. And then the Staff's complaint was filed a little
13 bit later on February the 8th. And this happened to be also
14 the time that the GMO rate case was pending.

15 Now, in that rate case, GMO was requesting the
16 Commission to modify the financial incentives and cost
17 recovery associated with the DSM and energy efficiency
18 projects. But at the time of the filing of the January IRP,
19 GMO didn't know how the Commission was going to react to its
20 proposal.

21 On April 7th, 2011, DNR filed a pleading in
22 the Complaint case indicating that DNR also understood that
23 GMO's revised IRP filing would include a revised preferred
24 plan in accordance with Chapter 22. Now, as I understand the
25 DNR position, they also believe that the January 18 filing

1 was deficient because it didn't include a new preferred plan.
2 And as I've already mentioned, the July 1, 2011, supplemental
3 filing did choose a new preferred plan.

4 On April 27th of this year, the Commission
5 ordered GMO to file its revised IRP on July the 1st, which we
6 did, and it also set this particular evidentiary hearing to
7 determine whether GMO had violated the terms of the
8 stipulation and agreement. On July 1st, GMO did submit its
9 completed analysis, including its designation of a preferred
10 resource plan.

11 GMO's July 1st supplemental filing included a
12 6-page executive summary, a 49-page integrated analysis, a
13 62-page risk and -- analysis and strategy, and a 25-page
14 implementation and resource acquisition strategy. It
15 included in that July 1st filing alternative resource plans
16 that were developed using a combination, again, of both the
17 supply-side resources, demand-side resources, and possible
18 retirements.

19 The results from the 12 alternative plans
20 ranked by their net present value revenue requirement
21 demonstrated that the preferred resource plan includes an
22 enhanced level of proposed DSM program starting in 2012. But
23 there's a very important caveat. And that caveat is that is
24 subject to receiving an acceptable approval under the
25 Missouri Energy Efficiency Investment Act for the proposals

1 the Company will be proposing shortly.

2 I have to emphasize this, that this enhanced
3 level of proposed DSM programs would be subject to receiving
4 acceptable financial incentives and cost recovery that would
5 make financial sense for the Company to make these
6 substantial DSM program investments. Without such approval
7 consistent with the Company's requested MEEIA filings, which
8 are expected later -- probably later this month, GMO cannot
9 pursue the DSM program investment plans included in the
10 preferred resource plan discussed in that July 1 supplemental
11 filing.

12 The enhanced level of DSM investment would be
13 expected to increase the expected reductions in retail load
14 from the existing plans, the GMO level of 28-hundredths of a
15 percent of retail load and similarly there would be an
16 increase from what is currently planned for the KCP&L
17 programs. But obviously this preferred plan would include a
18 more aggressive DSM program investment.

19 But again, the only way that GMO can justify
20 such increased investments is if it receives adequate
21 financial incentives and cost recovery in the MEEIA filings.
22 Otherwise, it just doesn't make financial sense from the
23 Company's perspective to pursue such increased investments in
24 these programs. It can only be the preferred plan if it can
25 be financed and treated in a manner that is fair from the

1 investors' standpoint as well as from the ratepayers'
2 standpoint.

3 Finally, it's my understanding that MDNR is
4 concerned that GMO's selection of candidate alternative
5 resource plans in its July 1st, 2011, filing somehow violated
6 the agreements that GMO agrees with the parties during the
7 stakeholder process. We don't believe that particular
8 concern has merit.

9 GMO agreed to model and fully analyze a
10 portfolio of DSM programs, which it did. But GMO did not
11 agree to adopt as its preferred plan any particular DSM
12 portfolio. It's my understanding that Staff's opinion, too,
13 that the language of the non-unanimous stipulation and
14 agreement does not require GMO to use the stakeholder agreed
15 to demand-side programs in its updated analysis preferred
16 plan. But that I think is, essentially, what DNR is
17 concerned about. And we think that particular concern should
18 not be -- should be rejected.

19 Now, GMO could model any number of programs
20 and analyze those programs at any number of levels of reduced
21 reductions from the retail load. But -- but they could do
22 that whether they were achievable or not. For example, GMO
23 could model a -- model and analyze a program that would
24 assume a five or a ten percent reduction in retail load.
25 But it would largely be an academic exercise if those levels

1 are not realistically achievable. Certainly it would not be
2 reasonable to expect the Company to adopt unrealistic load
3 reductions as a part of its preferred plan, merely because it
4 modeled and analyzed the programs at some level of retail
5 load reductions.

6 Now, I understand that DNR also believes that
7 the Company filed -- or failed to discuss the changed
8 circumstances that caused GMO to decide to announce that its
9 original plan was no longer appropriate. We believe this
10 criticism is also an error since the Company included in its
11 July 1st filing data, using the revised natural gas prices,
12 the CO2 emission assumptions, and the EPA's new transport
13 rule, the things that caused us to announce that it was no
14 longer appropriate. And we included that in the analysis.
15 But as I understand DNR, they're suggesting that GMO has also
16 not demonstrated the cost effectiveness of their DSM
17 portfolio.

18 Now, we believe that this analysis was
19 included in the original IRP plan back in 2009, and it was
20 unnecessary to duplicate it in the January or the July 1st
21 filings.

22 Finally, it's my understanding that DNR is
23 suggesting that GMO did not provide appropriate documentation
24 in its July 1st filing when it gave notice that the original
25 preferred plan was no longer appropriate. Apparently, DNR

1 believes that the Company should also, again, have screened
2 the end-use measures and provided another description of each
3 demand-side management program developed for the initial
4 screening. But this requirement was already met as part of
5 the original IRP filing and it was unnecessary to duplicate
6 this work again in the supplemental filing. Instead, GMO
7 followed the requirements of the Commission's rule. And that
8 rule is found at 4 CSR 240-22.080, Subsection 10, when a
9 utility determines the -- what to do whenever the plan is no
10 longer appropriate.

11 In summary, GMO believes that it was following
12 the Commission's IRP rule when it notified the Commission and
13 the parties that the preferred plan contained in the
14 August 9th, 2009, IRP rule, the original plan, was no longer
15 appropriate under the existing circumstances. While
16 apparently the Staff and other parties expected the revised
17 IRP filing to have another preferred plan, this simply was
18 not realistic given the uncertainties that existed in January
19 of this year when there were so many things in flux related
20 to these DSM programs and the cost recovery mechanisms that
21 the Commission is going to approve.

22 Even now, it's uncertain how the Commission
23 will treat the Company's expected MEEIA filing that we expect
24 to file later this month. This will determine whether the
25 preferred plan contained in the July 1st supplemental filing

1 can be fully implemented. As an analogy, and perhaps a
2 hypothetically [sic], it could be that an IRP resource plan
3 could show, for example, that under some circumstances, a
4 nuclear power plant might be the best alternative. But if
5 the nuclear power plant can't be reasonably financed under
6 existing law, some might suggest that it shouldn't be
7 considered a preferred plan in the real world.

8 Obviously the real world financial aspects of
9 any given resource plan have to be considered. Similarly, if
10 the preferred plan contained in the July 1st supplemental
11 filing doesn't make financial sense from the investor's
12 perspective and can't be financed with investor funds, then
13 it should not be considered the preferred plan in the real
14 world either.

15 Now today, the Company will be calling as a
16 witness Mr. Kevin Bryant, KCP&L's vice-president in strategy
17 and risk management, to answer any of your questions. We
18 also have available a number of other witnesses that we've
19 included in the July 25th filing, if you have more technical
20 questions about the rule or the process.

21 But finally, I just want to reiterate that
22 it's my understanding Staff no longer has a concern that
23 there are deficiencies in the company's IRP cumulative
24 filings following the July 1st filing. And therefore, we
25 believe the Commission should dismiss the Complaint and move

1 on to reviewing the Company's expected MEEIA filings later
2 this month. That's where the future is. It's in that MEEIA
3 filing. It's not in the Complaint of whether we should have
4 designated something in January or whether we were late in
5 doing it by doing it in July. The future is now the MEEIA
6 filing and we would ask you to take very seriously whenever
7 we file that the request for financial incentives and cost
8 recovery.

9 Thank you very much and I'd be happy to answer
10 any of your questions if you have any.

11 JUDGE STEARLEY: Okay. Thank you,
12 Mr. Fischer. I think we'll go ahead and proceed with witness
13 examination, Mr. Thompson.

14 MR. THOMPSON: I'd request a brief recess at
15 this time so I can confer with my witnesses. Since GMO has
16 not stipulated to all of my exhibits, we might change our
17 strategy at this point.

18 JUDGE STEARLEY: All right. Why don't we go
19 ahead and take about a 15-minute recess.

20 (A break was held.)

21 JUDGE STEARLEY: All right. We are back on
22 the record and Mr. Thompson, I understand Staff would wish to
23 proceed with calling a witness; is that correct?

24 MR. THOMPSON: That's correct. We call Lena
25 Mantle.

1 LENA M. MANTLE,
2 of lawful age, being produced, sworn and examined on the part
3 of the Staff and afterward responding "I do" to the oath
4 administered, deposes and says:

5 JUDGE STEARLEY: Thank you. You may be
6 seated.

7 You may proceed.

8 MR. THOMPSON: Thank you.

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. THOMPSON:

11 Q. State your name, please.

12 A. My name is Lena M. Mantle.

13 Q. And how are you employed?

14 A. I'm employed by the Missouri Public Service
15 Commission as the manager of the energy department.

16 Q. Now, do your duties as manager of the energy
17 department relate in any way to integrated resource planning
18 by electric utilities?

19 A. Yes, there's a section in the energy
20 department that reviews the resource plans of the electric
21 utilities and provides comment to those resource plans for
22 the Staff.

23 Q. And do you supervise that section or
24 department?

25 A. Yes, I do. I work very closely with that

1 department.

2 Q. Are you familiar with an electric corporation
3 referred to here as GMO?

4 A. Yes.

5 Q. And are you familiar with GMO's integrated
6 resource planning?

7 A. I have been a part of the review of GMO's
8 resource planning since the early '90s.

9 Q. How long, in fact, have you been the manager
10 of the energy department at the Public Service Commission?

11 A. I've been the manager of the energy department
12 since 2005.

13 Q. And how long have you been an employee of the
14 Public Service Commission?

15 A. Since 1983.

16 Q. Now, previously in this case, your
17 qualifications, your professional vitae, if you would, a
18 resume was provided, and in fact, filed in the EFIS system,
19 correct?

20 A. Correct.

21 MR. THOMPSON: Okay. We would request that
22 the Commission take notice of that filing in the EFIS system
23 and admit it into the record.

24 JUDGE STEARLEY: All right. Any objections?

25 MR. FISCHER: No objection.

1 JUDGE STEARLEY: All right. Commission will
2 take official notice of that filing.

3 MR. THOMPSON: Thank you.

4 BY MR. THOMPSON:

5 Q. With respect to the GMO resource planning,
6 there was a filing of some sort on July 1st of this year; is
7 that correct?

8 A. Yes, there was.

9 Q. Do you recall what was filed on that date?

10 A. On July 1st, GMO filed its integrated response
11 to the 070 rule of Chapter 22, which is integrated resource
12 analysis. It also supplied documentation of its risk and
13 strategy selection, along with a preferred plan.

14 Q. Now, did Staff review and analyze that filing?

15 A. Yes, it did.

16 Q. And if you know, did Staff find any
17 deficiencies in that filing?

18 A. In the months since that filing was made, we
19 have not found any deficiencies with that filing.

20 Q. And if you know, does Staff have any concerns
21 as a result of its analysis and review of that filing?

22 A. Yes, it does.

23 Q. What are those concerns?

24 A. The concern that John Rogers can speak to most
25 accurately would be that the demand-side programs have

1 changed considerably since their July 1st filing -- I mean
2 their January 18th filing. The concern that I'm more aware
3 of is that they are short on capacity, according to our
4 analysis, 16 out of the next 20 years, based off Staff's
5 analysis in a capacity balance table.

6 Q. Now, when you say they are short of capacity
7 for the next 16 of the next 20 years -- and before we go any
8 further, let me ask you: If you know, is this highly
9 confidential information?

10 THE WITNESS: I would ask the Company whether
11 that is or not. Just to the numbers that's confidential or
12 should we go into camera here.

13 MR. FISCHER: Judge, as long as we don't go
14 into specific numbers, I think we can talk generally on
15 whether we're long or short or whatever on capacity.

16 JUDGE STEARLEY: All right. I'm going to
17 trust Counsel is going to alert me if any information needs
18 to be in-camera and we'll clear the gallery accordingly in
19 terms of anyone who should not be privy to any confidential
20 information.

21 So please proceed.

22 MR. THOMPSON: Thank you, Judge.

23 BY MR. THOMPSON:

24 Q. I think you said that there is a concern that
25 GMO is short of capacity for 16 of the next 20 years. Did I

1 restate that accurately?

2 A. Yes.

3 Q. Okay. Short of capacity, does that mean that
4 GMO has less generating capacity than it is likely to need on
5 a forecasted going-forward basis?

6 A. It has less generation and/or long-term firm
7 purchase power agreements. GMO's position, as told to us,
8 would be to provide for this capacity on a year-by-year basis
9 with short-term PPAs, or purchase power agreements.

10 Q. Now, if you know, is it -- is it normal
11 practice to provide or notify the Commission of concerns
12 following an IRP filing?

13 A. Staff believes it is very important to provide
14 the Commission with its concerns regarding the filings. A
15 utility can make a filing that is -- meets the -- the
16 requirements of the rules without coming out with a
17 reasonable result.

18 Q. Okay. And how important do you consider this
19 concern to be?

20 A. I think it's very important. It's leaving the
21 resource acquisition for this utility up to a year-by-year
22 play on the market, what's available and what's not. Energy
23 is likely to be there every summer. I don't believe they'll
24 not provide the energy. It's just at what cost and having to
25 do this every year is not good practices. It's not Staff's

1 position that that's a good practice. We prefer steel in the
2 ground, something that can provide Missouri ratepayers with
3 energy over the life span of that plant and -- so they'll
4 know it's there year after year.

5 Q. You would agree that this concern does not go
6 to the issue of any violation of the stipulation and
7 agreement?

8 A. That is correct.

9 Q. Did you cause to be prepared two exhibits to
10 illustrate your concern?

11 A. Yes, I did.

12 MR. THOMPSON: May I approach?

13 JUDGE STEARLEY: You may.

14 MR. THOMPSON: Thank you.

15 BY MR. THOMPSON:

16 Q. I'm going to show you what's been marked as
17 Staff's Exhibit No. 4. Do you recognize that document?

18 A. Yes. It is schedule LMM-1 that was attached
19 to the Staff report for its direct case in the last GMO rate
20 case, ER-2010-0356.

21 Q. If you know, was it offered and received in
22 that case?

23 A. Yes, it was.

24 MR. THOMPSON: I would ask the Commission to
25 take official notice of the schedule that's here, marked

1 Exhibit 4, which is evidently part of the Commission's
2 official records from ER-2010-0356.

3 JUDGE STEARLEY: All right. Counselor, do you
4 happen to know what exhibit number it was from the 0356 case?

5 MR. THOMPSON: I do not, but I can supply that
6 information after the close of the hearing today.

7 JUDGE STEARLEY: That would be greatly
8 appreciated. Any objections?

9 MR. FISCHER: Judge, we just would express a
10 relevancy objection, since the Staff has admitted just that
11 it's not really relevant to the Complaint itself, and to the
12 extent it's relevant to anything that will be an issue in
13 some future IRP filings and perhaps they will file that as a
14 part of their concerns about the July 1st IRP plan. But it's
15 not relevant to this proceeding.

16 JUDGE STEARLEY: Mr. Thompson?

17 MR. THOMPSON: It is not relevant to the
18 narrow issue of whether there's been any violation of the
19 stipulation and agreement. We agree wholly with that.
20 Nonetheless, it is one of Staff's concerns and it's a
21 significant concern arising out of the July 1st IRP filing.
22 And we believe we would be remiss not to bring it to the
23 Commission's attention and this seems like a good opportunity
24 to do so.

25 JUDGE STEARLEY: All right. I understand the

1 nature of today's hearing is a little bit lard because we
2 have two sort of inter-related cases, but this was set in the
3 IRP docket. It's -- while it's been addressing issues in a
4 contested matter, this matter in itself is not, per se,
5 contested.

6 So I mean, I can go about this in a couple
7 different manners. We can take this as an offer of proof, we
8 could tell parties to make filings in the IRP case and give
9 people opportunities to address filings.

10 Mr. Fischer, are you going to have witnesses
11 where you can rebut or address?

12 MR. FISCHER: I have witnesses that could
13 address the topic, if that's the judge's desire to hear more
14 about it, or we can take it up in some future proceeding
15 where we can have it more developed.

16 JUDGE STEARLEY: Okay. I think as a matter of
17 administrative economy, since everybody's here and you have
18 witnesses and you say you can provide rebuttal testimony,
19 we're going to go ahead and make a record of this. I will
20 note as a continuing objection on your part to the relevance
21 with regard to specific setting this hearing was set for with
22 regard to determining whether or not GMO violated the
23 stipulation and agreement, but I will take official notice of
24 the exhibit from the prior case.

25 And Counselor, if you want to offer it in this

1 case.

2 MR. THOMPSON: I will do so, Judge.

3 JUDGE STEARLEY: I will also, with that
4 continuing objection, I will still receive it into the
5 record.

6 MR. THOMPSON: Thank you, Your Honor.

7 (Staff Exhibit Number 4 was received into
8 evidence.)

9 MR. THOMPSON: May I approach again?

10 JUDGE STEARLEY: You may.

11 BY MR. THOMPSON:

12 Q. Ms. Mantle, let me show you what's been marked
13 as Staff's Exhibit 5. And I'll take back 4 from you, if I
14 may. Thank you.

15 Do you recognize that document?

16 A. Yes. It's a document that I asked one of the
17 Staff and the resource analysis section to develop, and I've
18 worked very closely with that Staff person on this capacity
19 balance spreadsheet. It is also what is now required in the
20 new Chapter 22 for the utilities to file with their resource
21 plan.

22 Q. You referred to it as a capacity balance
23 spreadsheet; is that correct?

24 A. That is correct.

25 Q. And you agree with me it shows many numbers

1 arranged in columns and rows?

2 A. Yes.

3 Q. What is the significance of that document?

4 A. This document shows the generation capacity
5 owned by Greater Missouri Operations Company, the
6 purchases -- long-term purchase power agreements that it has
7 to provide capacity, and then it has the peak demands, and
8 from that a very simplistic calculation of whether or not it
9 meets the capacity balance requirements for -- well, actually
10 Southwest Power Pool, I believe, is the one that sets up the
11 reserve or capacity margin for GMO.

12 Q. And that document is highly confidential, is
13 it not?

14 A. Yes, it is.

15 Q. Okay. And so am I correct in understanding
16 that it portrays or depicts the concern that you are here
17 talking about today?

18 A. Yes. I have been told by -- we've supplied
19 this to Greater Missouri Operations Company on July 8th,
20 requesting that they review the numbers because of the
21 results that we saw, we were concerned. Just today, I've
22 been told that the place that we found the peak forecast
23 demand was not the right peak forecast demand, and so it is
24 off some. We'd like to revise that, but I do not believe
25 that will alleviate the concern of not enough capacity on

1 many years of this 20-year planning horizon.

2 Q. Okay. You did supply a draft of this document
3 to GMO on July 8th?

4 A. Yes.

5 Q. Did you get any response?

6 A. We had a phone call with GMO, maybe a week and
7 a half after this was provided, and they discussed their
8 resource plan. They did not discuss this document. And then
9 again last Friday, we had another call where again they
10 discussed their resource plan and the capacity that's shown
11 there, but we did not discuss this document. It was that --
12 at that time that we were told that they had not even looked
13 at it yet.

14 Q. When did they give you information that caused
15 you to believe that some of the numbers might not be correct?

16 A. In the hearing this morning.

17 Q. This morning?

18 A. Yes.

19 Q. And do you agree that some of the numbers may
20 not be correct?

21 A. I don't know, but I do want a correct
22 representation before the Commission.

23 Q. Okay. So at this point, you're not sure that
24 the numbers are wrong?

25 A. I'm not sure, but I -- they could be.

1 Q. The numbers that are questioned, where did you
2 find those?

3 A. They were in the work papers supplied by GMO
4 in their July 1st filing.

5 Q. So you obtained those numbers from GMO?

6 A. Yes.

7 Q. As recently as July 1st, one month ago?

8 A. Yes.

9 Q. Okay.

10 MR. THOMPSON: At this time, I will go ahead
11 and offer Exhibit 5.

12 THE COURT: All right. Mr. Fischer, I assume
13 you still have the same objection with regard to the purpose
14 of this hearing?

15 MR. FISCHER: Yes, I have that objection. I
16 also have the concern that we believe some of the numbers may
17 be somewhat inaccurate and we'd like, I think, an opportunity
18 to respond to that if -- at an appropriate time, if you want
19 it in this record or some other record.

20 JUDGE STEARLEY: All right. Well, I think we
21 will make as much of a record as we can today. This is not
22 going to preclude any written filings, responses in the IRP
23 docket itself, which is sort of a continuing docket anyway.
24 So with that, I am going to overrule the objection and admit
25 it and receive it into the record. But I will note,

1 Counselor, that it does go beyond the original purpose of
2 this hearing. But we are making efficient use of
3 Commission's time in establishing a record with concerns to
4 the IRP filing.

5 (Staff Exhibit Number 5 was received into
6 evidence.)

7 MR. THOMPSON: I appreciate that point, Judge,
8 and thank you for your tolerance today, and I will pass the
9 witness.

10 JUDGE STEARLEY: All right.
11 Cross-examination, beginning with DNR.

12 MS. MANGELSDORF: No questions, Your Honor.

13 JUDGE STEARLEY: Office of the Public Counsel.

14 MS. BAKER: No questions, thank you.

15 JUDGE STEARLEY: Dogwood Energy.

16 MR. LUMLEY: No questions, Judge.

17 JUDGE STEARLEY: And GMO.

18 CROSS-EXAMINATION

19 QUESTIONS BY MR. FISCHER:

20 Q. Good morning, Ms. Mantle.

21 A. Good morning.

22 Q. I just wanted to follow-up on a couple of your
23 comments and make sure I understand your testimony.

24 As I understand the Staff's concern for GMO's
25 reliance on its preferred resource plan on purchase power

1 agreements, you're concerned that we're relying on purchase
2 power agreements short-term rather than putting steel in the
3 ground? Is that, in essence, what you're concerned about?

4 A. Yes.

5 Q. Has the Staff looked at what kind of capacity
6 is projected to be available in the SPP region during that
7 time -- during that planning horizon?

8 A. No.

9 Q. If -- if there is capacity available, that
10 would alleviate a lot of your concerns, wouldn't it, that
11 there would be a shortfall itself to be able to meet the
12 load?

13 A. No, it would not alleviate our concern.

14 Q. It's basically a philosophical concern about
15 whether the company builds capacity versus purchases it?

16 A. A short-term purchase power agreement is lower
17 cost in the short-term. Over the long-term, putting steel in
18 the ground is the least cost resource and that is Staff's
19 concern, on top of the probability of whether or not there
20 will be anything out there and what the cost will be.

21 Q. Have you looked at whether capacity might be
22 available from -- from companies that are very near to GMO
23 with existing plant in the ground?

24 A. I'm aware that Dogwood has a plant. I don't
25 know whether it is still available or not.

1 Q. Okay. And have you looked at Empire or
2 KCP&L's capacity, would that also be a source of possible
3 purchase power agreements?

4 A. I have looked at that.

5 Q. Assuming that there are purchase power
6 agreements available, that would -- that would alleviate the
7 concern that we wouldn't have the ability to serve our
8 customers. There still would be a question about whether it
9 would be least cost in Staff's mind; is that right?

10 A. That's correct.

11 Q. Okay. I wanted to clarify one other thing.
12 In response to a data request that we sent, I believe the
13 Staff expressed the opinion that the language of the
14 stipulation and agreement, the non-unanimous stipulation and
15 agreement that we've been talking about, does not require GMO
16 to use the stakeholder-agreed-to demand-side programs in its
17 updated analysis and its preferred plan. Is that the Staff's
18 opinion?

19 A. There are no direct words to that in the
20 stipulation agreement. Some of the parties may have a
21 disagreement of what the intent was, but we looked at what
22 the words were.

23 Q. Okay. And just to clarify, I think it's clear
24 in the record, but at the present time, the Staff no longer
25 is asserting there are deficiencies that need to be addressed

1 as part of the Complaint?

2 A. At this time, that is correct.

3 MR. FISCHER: That's all I have, Judge.

4 JUDGE STEARLEY: All right. Thank you,
5 Mr. Fischer.

6 There are no questions from the bench. Any
7 redirect, Mr. Thompson?

8 MR. THOMPSON: No redirect, Judge.

9 JUDGE STEARLEY: Ms. Mantle, you may step
10 down. Thank you, Ms. Mantle.

11 Would Staff like to call any further
12 witnesses?

13 MR. THOMPSON: Staff has no further witnesses.
14 Thank you, Judge.

15 JUDGE STEARLEY: All right. DNR.

16 MS. MANGELSDORF: We would call Dr. Adam
17 Bickford.

18 DR. ADAM BICKFORD,
19 of lawful age, being produced, sworn and examined on the part
20 of Missouri DNR and afterward responding "I do" to the oath
21 administered, deposes and says:

22 JUDGE STEARLEY: Counselor, you may proceed.

23 DIRECT EXAMINATION

24 QUESTIONS BY MS. MANGELSDORF:

25 Q. Would you please state your name?

1 A. Adam Bickford.

2 Q. And by whom are you employed and in what
3 capacity?

4 A. I'm a research analyst for the Missouri
5 Department of Natural Resources, Division of Energy.

6 Q. And how long have you been employed by the
7 Missouri Department of Natural Resources, Division of Energy?

8 A. Two years.

9 Q. And what are your duties as -- or what are
10 your duties as a research analyst?

11 A. I participate in IRP review cases. I
12 participate in rate cases, and also provide public
13 information about energy use in Missouri.

14 Q. And have you participated in the review of
15 GMO's August and November of 2009 IRP filings?

16 A. Yes.

17 Q. Have you provided analytic support for others
18 at the Department of Natural Resources?

19 A. Yes.

20 Q. And what was the nature of that support?

21 A. Mostly quantitative analysis, sampling issues,
22 survey design, and also analytic support.

23 Q. And have you assisted in developing and/or
24 writing any documents published by the Missouri Department of
25 Natural Resources or filed with the Public Service

1 Commission?

2 A. Yes. I've submitted testimony in the GMO and
3 KCPL rate cases, and the Empire rate case. Also, submitted
4 position papers in the MEEIA filings, the MEEIA workshops and
5 in the latest rate design workshop.

6 Q. And just generally speaking of the documents
7 that you just spoke of, what does the Department of Natural
8 Resources use those documents for?

9 A. They -- they use them to help further our
10 position about DSM filings and DSM savings.

11 Q. And what was your employment prior to working
12 for the Missouri Department of Natural Resources?

13 A. I have 20 years of experience as a
14 quantitative analyst and evaluator, primarily in K-12
15 education.

16 Q. And have you prepared a bio showing additional
17 education and work experience?

18 A. Yes.

19 Q. And was this also filed on EFIS?

20 A. Yes.

21 MS. MANGELSDORF: May I approach?

22 JUDGE STEARLEY: You may.

23 (MDNR Exhibit Number 1 was marked for
24 identification by the court reporter.)

25 ///

1 BY MS. MANGELSDORF:

2 Q. Let me show you what's been previously marked
3 as DNR's Exhibit Number 1. Can you please tell us what this
4 document is?

5 A. This is my short version of my curriculum
6 vitae.

7 MS. MANGELSDORF: I'd like to offer this
8 exhibit into evidence.

9 JUDGE STEARLEY: Any objections?

10 MR. THOMPSON: No objection.

11 MR. FISCHER: No objection.

12 JUDGE STEARLEY: MDNR's Exhibit Number 1 shall
13 be admitted and received into the record.

14 (MDNR's Exhibit Number 1 was received into
15 evidence.)

16 BY MS. MANGELSDORF:

17 Q. Are you familiar with GMO's scheduled IRP
18 filing in August and November of 2009 in the EE-2009-0237
19 case?

20 A. Yes.

21 Q. How are you familiar with this?

22 A. I participated in the Department's review of
23 that case and also participated in the meetings that
24 Mr. Fischer outlined.

25 MS. MANGELSDORF: At this time, I'd like to

1 offer Dr. Adam Bickford as an expert in this case to speak of
2 the IRP filing and the non-unanimous stipulation and
3 agreement in this case.

4 JUDGE STEARLEY: All right. Are there any
5 objections to certifying Mr. Bickford as an expert? Hearing
6 none, he is so noted.

7 BY MS. MANGELSDORF:

8 Q. Okay. Just generally, after an IRP is filed,
9 what's the procedure that happens?

10 A. There's a 120-day review period where parties
11 go through a thorough review of the filing in all of the work
12 papers and then that's followed by a series of meetings
13 between the -- between the different parties and filing of
14 reports.

15 Q. And what's the Department's role during this
16 120-day review process usually?

17 A. We primarily look at DSM savings portfolios
18 and the relation between DSM and supply-side resources.

19 Q. And what types of concerns does the Department
20 of Natural Resources generally look for?

21 A. We try to understand the -- excuse me -- the
22 proposed levels of savings of energy and demand savings that
23 are part of an IRP plan and try to understand the Company's
24 plans for particular programs.

25 Q. And did you review GMO's IRP in 2009?

1 A. Yes.

2 Q. And did you have any concerns with that IRP?

3 A. Initially, we -- we felt that the levels of
4 DSM were prohibitively low and that there were other issues
5 with their analysis of the impacts of the DSM plan over the
6 20-year horizon.

7 Q. And are you aware of whether other parties had
8 concerns with this IRP as well?

9 A. Yes.

10 Q. And did other parties share some of the same
11 concerns that the Department of Natural Resources had?

12 A. Yes.

13 MR. FISCHER: Objection. Go ahead.

14 BY MS. MANGELSDORF:

15 Q. Are you familiar with the non-unanimous
16 stipulation and agreement that was filed in EE-2009-0327?

17 A. Yes.

18 Q. And how are you familiar with that agreement?

19 A. I helped draft the DNR deficiencies and
20 participated in the negotiations.

21 Q. And was the Department a signatory to this
22 agreement?

23 A. Yes.

24 Q. And was GMO a signatory to this agreement?

25 A. Yes.

1 MS. MANGELSDORF: May I approach?

2 JUDGE STEARLEY: You may.

3 (MDNR Exhibit Number 2 was marked for
4 identification by the court reporter.)

5 BY MS. MANGELSDORF:

6 Q. Do you recognize what's been premarked as
7 Exhibit Number 2?

8 A. Yes.

9 Q. And what is it?

10 A. It's the non-unanimous stipulation and
11 agreement.

12 MS. MANGELSDORF: I'd like to offer the
13 Department of Natural Resources Exhibit Number 2 into
14 evidence.

15 JUDGE STEARLEY: Any objections? Hearing
16 none, it shall be received and admitted into the record.

17 (MDNR Exhibit Number 2 was received into
18 evidence.)

19 BY MS. MANGELSDORF:

20 Q. Did this agreement address how the Department
21 of Natural Resources' concerns would be resolved?

22 A. Yes, it did.

23 Q. And how did it say that it would be resolved?

24 A. We agreed to participate in a stakeholder
25 process that would review the deficiencies that different

1 parties have found.

2 Q. And what was the Department's understanding of
3 the purpose of this stakeholder group?

4 A. To produce a revised plan for GMO.

5 Q. And can you describe a little bit, generally,
6 how this stakeholder process was supposed to work?

7 A. There was a -- a fairly detailed schedule
8 of -- of meetings beginning in April and May of 2010. That
9 would cover specific issues that the parties had. The goal
10 was to review the DSM filings, to review the supply-side
11 options and to come up with -- have the Company use that
12 information to provide a revised plan in December of 2010.

13 Q. So is it your understanding that these plans
14 and programs would have first been vetted through the
15 stakeholder process prior to being included in a revised IRP?

16 A. Yes.

17 Q. And so if the Department didn't agree to this
18 stipulation and agreement or the stakeholder process, how
19 would the Department have gone about resolving its concerns
20 with GMO's IRP?

21 A. We would have had to take our concerns to the
22 Commission.

23 Q. Okay. And it didn't in this case?

24 A. No, we did not.

25 Q. Did the Department of Natural Resources

1 participate in this stakeholder group?

2 A. Yes.

3 Q. And what was the Department's role?

4 A. My colleague and I attended all of the
5 meetings, participated in all of the conference calls.
6 Additionally, we did some independent research on end-use
7 measures, particularly plug-load measures and presented that
8 to -- to GMO.

9 Q. And so can you just generally describe the
10 amount and type of resources that the Department used in
11 participating in this stakeholder group?

12 A. Well, first we did some fairly extensive
13 research into the evaluation of the literature, looking for
14 studies of end-use measure -- excuse me, end-use measure
15 evaluations to try to help GMO, you know, select from a
16 sufficient group of end-use measures. And then we
17 participated in discussions about their supply-side profile,
18 their supply-side portfolio, and pursued questions about --
19 about their actual analysis.

20 Q. And how many Staff members from the Department
21 of Natural Resources participated in this stakeholder group?

22 A. Mostly two.

23 Q. And approximately how much time did the two of
24 you spend?

25 A. It's hard to give an exact number, but it was

1 a substantial amount of time.

2 Q. And did the Department of Natural Resources
3 employ any consultants during this process?

4 A. We employed consultants for the initial
5 review, but did not for the stakeholder process.

6 Q. And these consultants were hired outside of
7 the Department?

8 A. Yes.

9 Q. And you had said previously that you,
10 yourself, had taken part in this stakeholder process; is that
11 correct?

12 A. Yes.

13 Q. What was your role?

14 A. Participated in the stakeholder process as a
15 member of -- well, as a member of the process. And we, you
16 know, discussed many issues about -- about GMO's demand-side
17 programs and their supply-side analysis.

18 Q. And were any reports generated during this
19 stakeholder process?

20 A. Yes, there were multiple reports in May and
21 in -- it was April, May, and July, I think.

22 Q. And were any of these reports -- were these
23 reports filed with the Commission?

24 A. Yes.

25 Q. And did any of these reports discuss the

1 Department of Natural Resources' concerns?

2 A. No. They were mostly submitted by the
3 Company.

4 Q. And did any of these reports include any
5 agreements made by GMO with respect to the revised IRP
6 filing?

7 A. No. But we did reach -- I may have misspoken.
8 We did reach some agreements in July. On July 21st, we
9 reached an agreement about levels of DSM to be run through
10 integration analysis. And then on October 22nd, we had a set
11 of -- we agreed to a set of alternative resource plans to be
12 filed by GMO.

13 Q. Okay.

14 MS. MANGELSDORF: May I approach?

15 JUDGE STEARLEY: You may.

16 (MDNR Exhibit Number 3 was marked for
17 identification by the court reporter.)

18 BY MS. MANGELSDORF:

19 Q. Showing you what's been premarked as Missouri
20 Department of Natural Resources Exhibit Number 3. Can you
21 tell me what that document is?

22 A. That is the interim report produced by GMO on
23 October 22nd, 2010.

24 MS. MANGELSDORF: I'd like to offer the
25 Missouri Department of Natural Resources Exhibit Number 3

1 into evidence.

2 JUDGE STEARLEY: Okay. Any objections?
3 Hearing none, it shall be received and admitted into the
4 record.

5 (MDNR Exhibit Number 3 was received into
6 evidence.)

7 BY MS. MANGELSDORF:

8 Q. And you previously stated in your testimony
9 that this October 22nd, 2010, report made agreements with
10 respect to alternative candidate resource plans; is that
11 correct?

12 A. Yes.

13 Q. Can you describe what that agreement was?

14 A. The agreement was that it covered a set of
15 nine plans to be submitted to integration analysis by the
16 Company.

17 Q. And what was your understanding of what was
18 going to happen with these reports?

19 A. That this report would form the basis of the
20 plants that were analyzed to choose a preferred plan.

21 Q. And so would these be included in the revised
22 IRP filing?

23 A. It was our understanding that those were to be
24 the basis of the revised IRP filing.

25 Q. And in addition to this report, were these

1 agreements reflected in any other documents provided by GMO?

2 A. Not documents. We do have -- we had e-mail
3 discussions, transfers showing -- you know, documenting our
4 agreements.

5 Q. Okay.

6 MS. MANGELSDORF: May I approach?

7 JUDGE STEARLEY: You may.

8 (MDNR Exhibit Number 4 was marked for
9 identification by the court reporter.)

10 MS. MANGELSDORF: And before I ask questions,
11 I'd like the record to reflect that both of these exhibits
12 have been marked HC. I will be asking general questions
13 about them. I'm not going to get into any specifics
14 regarding numbers. But if at any time the Company feels the
15 need to go in-camera, please let me know.

16 BY MS. MANGELSDORF:

17 Q. Okay. Let's start with what's been premarked
18 as Exhibit Number 4. Can you please tell me what this
19 document is?

20 A. Yeah. This is a -- an e-mail that is -- that
21 confirms the levels of DSM savings that we would expect --
22 that the parties agreed to would be part of the integrated
23 resource plans that GMO would run through analysis. This --
24 this e-mail is dated July 21st, 2010.

25 Q. And who is this e-mail from?

1 A. Lois Liechti of GMO.

2 Q. And based on this agreement, what was your
3 understanding of what was going to occur with this agreement?

4 A. Prior to this -- this meeting, KCP&L presented
5 a -- a table, an Excel spreadsheet showing expected levels of
6 DSM on a per program basis. And we expected that those
7 levels of DSM would be part of the plans that were eventually
8 run through analysis.

9 Q. And is that table included in this exhibit?

10 A. Yes, it is. It's pages 4 -- 4 -- well, it's
11 marked pages 1, 2, 3, and 4.

12 MS. MANGELSDORF: I'd like to offer the
13 Department's Exhibit Number 4 into evidence.

14 JUDGE STEARLEY: Any objections?

15 MR. FISCHER: Judge, I don't object, I don't
16 think, to the exhibit. I do object to the characterization
17 of it as an agreement with GMO, but as far as the -- the
18 actual exhibit, we have no objection to having that come in.

19 JUDGE STEARLEY: All right. And you can
20 address that on cross as well, Mr. Fischer.

21 MR. FISCHER: Yes.

22 JUDGE STEARLEY: All right. If there's no
23 objections, it will be received and admitted into the record.

24 (MDNR Exhibit Number 4 was received into
25 evidence.)

1 (MDNR Exhibit Number 5 was marked for
2 identification by the court reporter.)

3 BY MS. MANGELSDORF:

4 Q. Now, if you could please turn to Exhibit
5 Number 5. Could you please tell me what this document is?

6 A. This is a series of e-mails between John
7 Rogers, James Okenfuss of GMO and myself, confirming the
8 contents of the plans that would be run through the IRP
9 process after -- excuse me -- just prior to the publication
10 of the October 22nd interim report.

11 Q. And what was your understanding that this was
12 going to be used for?

13 A. Specifically, this -- these messages confirm
14 the level of DSM that would be run through integration, but
15 it also specified the -- and confirmed the specific plans
16 that would be run through integration.

17 Q. And were those the same plans that were
18 discussed in the July e-mail, Exhibit Number 4?

19 A. No. The -- they were -- the plans were part
20 of materials that were provided on October 22nd. Within
21 those plans, there was supposed to be levels of DSM that were
22 confirmed in July.

23 Q. So the levels were confirmed in the July
24 e-mail as well as this e-mail?

25 A. Just in the July e-mail.

1 Q. Okay.

2 MS. MANGELSDORF: I'd like to offer the
3 Department's Exhibit Number 5 into evidence.

4 JUDGE STEARLEY: Any objections? Hearing
5 none, it will be received and admitted.

6 (MDNR Exhibit Number 5 was received into
7 evidence.)

8 BY MS. MANGELSDORF:

9 Q. Are you familiar with the revised IRP that was
10 submitted by GMO on January 18th of 2011?

11 A. Yes.

12 MS. MANGELSDORF: May I approach?

13 JUDGE STEARLEY: Yes.

14 (MDNR Exhibit Number 6 was marked for
15 identification.)

16 BY MS. MANGELSDORF:

17 Q. Do you recognize what's been premarked as
18 Department's Exhibit Number 6?

19 A. Yes. It is a copy of Volume 6 of the revised
20 integrated resource analysis. It was submitted on
21 January 18th, 2011.

22 Q. And which part of this filing is relevant to
23 the Department's concerns in this case?

24 A. The DSM levels that were part of the -- well,
25 our issue is with the DSM levels that were represented in the

1 work papers that accompanied this document were different
2 than what we thought the agreement -- agreed levels were.

3 The levels that are represented in this report
4 are largely the same as to what the agreement was, but we're
5 not sure whether those levels were actually represented --
6 which level of DSM was actually part of -- of GMO's analysis,
7 whether it was the values in the work papers or the values in
8 this document.

9 MS. MANGELSDORF: Okay. I'd like to offer the
10 Department's Exhibit Number 6 into evidence.

11 JUDGE STEARLEY: Any objections? Hearing
12 none, it shall be received and admitted.

13 (MDNR Exhibit Number 6 was received into
14 evidence.)

15 BY MS. MANGELSDORF:

16 Q. Okay. Did this revised IRP include the DSM
17 programs that were agreed to previously by GMO?

18 A. We weren't really able to tell. At the DSM
19 program level, we did not receive a list of DSM programs with
20 this filing. At the level of savings, we have -- we had a
21 question about whether -- whether they were actually
22 submitted to -- well, the -- my understanding is that these
23 plans were not submitted to analysis, not submitted to
24 integrated analysis.

25 So we're not sure whether these plans were

1 tested, run through MIDAS, which is the program to analyze
2 alternative resource plans. And we don't really have much
3 understanding of whether -- how accurate these levels are,
4 savings are.

5 Q. And when you say that you don't have much
6 understanding as to what these levels are, why is it that you
7 don't have a clear understanding of what these levels are?

8 A. Because the level of savings that are reported
9 in this -- this report are different than the ones that are
10 reported in GMO's work papers.

11 Q. And what's the significance of that?

12 A. GMO's work papers are supposed to be more
13 detailed, background information that I was under the
14 impression supports the analysis that's in the report.

15 Q. And was a submission of these work papers with
16 this detailed analysis, was that a requirement?

17 A. Yes.

18 Q. And where was that requirement found?

19 A. I believe that's part of the rules, the IRP
20 rules.

21 Q. So did this revised IRP include DSM program
22 savings levels that were previously agreed to by GMO?

23 A. The Volume 6 report does. The -- again,
24 whether or not that actually reflects what was analyzed is a
25 question I can't answer.

1 Q. So were the savings levels in this revised
2 IRP, were those savings levels the same as the savings levels
3 that were discussed during the stakeholder process?

4 A. Yes, the ones that were in the report were the
5 same, but then they were different than -- in the others.
6 And we produced a document to show that, if you want.

7 Q. Okay.

8 MS. MANGELSDORF: May I approach?

9 JUDGE STEARLEY: You may.

10 (MDNR Exhibit Number 7-HC was marked for
11 identification by the court reporter.)

12 BY MS. MANGELSDORF:

13 Q. Do you recognize this document?

14 A. Yes.

15 Q. What is it?

16 A. It's a series of Excel spreadsheets that I
17 produced to document the different plans that were submitted
18 in the October 22nd revised -- excuse me, interim report, the
19 January 18th filing and then the July 1st filing. And also
20 it lists differences in the DSM program levels for each of
21 these filings.

22 Q. And so this is essentially just information
23 that is taken from these previous documents that have already
24 been admitted into evidence?

25 A. Yeah, and their work papers.

1 Q. Okay.

2 MS. MANGELSDORF: I'd like to offer Exhibit
3 Number 7 into evidence.

4 JUDGE STEARLEY: Any objections?

5 MR. FISCHER: Judge, we haven't previously
6 seen this document and have -- of course, it's a live
7 hearing, but we have not been able to verify any of the
8 information contained in it. So with that -- with that
9 caveat, I don't have an objection to having it introduced.

10 JUDGE STEARLEY: Is that something you can do
11 in this short setting or is it something you would need to
12 take time to analyze?

13 MR. FISCHER: Judge, there's a lot there, I
14 think we would probably need some time.

15 JUDGE STEARLEY: Okay. Well, since you're not
16 formally objecting, I will allow it to be admitted, but I
17 will note for the record that GMO will be filing responses
18 as-needed in the future.

19 MR. FISCHER: As-needed.

20 (MDNR Exhibit Number 7 was received into
21 evidence.)

22 BY MS. MANGELSDORF:

23 Q. Okay. Can you please describe what we're
24 seeing in this table with respect to the DSM savings levels?

25 A. Yes, this is on a page titled Comparison of

1 DSM Demand. There are three panels, one first showing the
2 information from the July 21st agreement; and then the second
3 showing information from the work papers that accompanied the
4 January 18th filing; and then the third is for -- from the
5 plan table supplied in the July 1st, 2011, filing.

6 And I don't want to go into actual numbers
7 here, but we also show the difference between each of these
8 filings and the -- what we thought were the agreed DSM levels
9 and -- in both cases.

10 Q. And so were the agreed DSM levels different in
11 this January filing?

12 A. Yes, they were.

13 Q. And how were they different?

14 A. They were much higher than the agreed-upon
15 levels.

16 Q. And what do you mean by higher?

17 A. They save more energy than the agreed-upon
18 levels had -- or excuse me, saved more demand.

19 Q. Well, if they were higher, isn't that
20 something that the Department would want to see?

21 A. Not necessarily. We are generally in favor of
22 implementing all cost effective DSM plans. It's entirely
23 possible for someone to propose a level of savings that turns
24 out not to be cost effective. We were curious when we saw
25 these levels of savings because we didn't see any additional

1 analysis demonstrating that the levels of savings that were
2 in the work papers were cost effective.

3 Q. And so are you aware of how these savings
4 levels were calculated?

5 A. Just very generally. You know, GMO undergoes
6 what's called a bottom-up analysis, starting with measures
7 and participation levels and aggregating that information to
8 the point where you have a program-level savings over -- over
9 the 20 years. I'm not entirely sure how things were
10 calculated in this particular case because it was -- because
11 the numbers were really so much different than the ones that
12 we thought we had agreed to.

13 Q. And are these calculations something that's
14 necessary for the Department in order for them to be able to
15 do an independent analysis?

16 A. Yes.

17 Q. And were you able to do any type of analysis
18 in this case?

19 A. Beyond showing the difference, no.

20 Q. And were these new savings levels discussed at
21 all during the stakeholder process?

22 A. The July 18th -- excuse me, pardon me, the
23 January 18th numbers were not because the stakeholder process
24 had concluded by the time the January 18th document was
25 filed.

1 Q. And in your opinion, is that a violation of
2 the stipulation and agreement?

3 A. We believe that it was because we thought
4 there was an agreement about the level of DSM to be modeled
5 and it did not appear that that level was -- was being
6 modeled in -- in the January 18th filing.

7 Q. And was GMO required to submit documentation
8 showing how these levels were calculated?

9 A. Yes.

10 Q. And where is that requirement found?

11 A. I believe that that's part of the work papers
12 and was also part of our stipulation and agreement.

13 Q. And so if GMO didn't submit the required
14 documentation showing how these levels were calculated, would
15 that be a violation of the stipulation and agreement?

16 A. I believe so.

17 Q. Did the Department attempt to ask GMO why
18 these changes were made and how these levels were calculated?

19 A. Yes, we did. We submitted a data request on
20 February 8th, 2011.

21 MS. MANGELSDORF: May I approach?

22 JUDGE STEARLEY: You may.

23 (MDNR Exhibit Number 8-HC was marked for
24 identification by the court reporter.)

25 ///

1 BY MS. MANGELSDORF:

2 Q. Do you recognize what's been premarked as
3 DNR's Exhibit Number 8?

4 A. Yes, I do.

5 Q. And what is this document?

6 A. That is the data request that DNR sent to GMO
7 on February 8th, 2011.

8 Q. And does this document tell you how -- how or
9 why these changes were made by GMO?

10 A. They -- in question 4, we -- we asked GMO to
11 explain the difference between agreed-upon levels of DSM and
12 the levels that were in their work papers. And they replied
13 that the reference file includes data for an additional
14 program and aggressive marketing in column R and it was
15 agreed not to include this in the July 21st plan to be
16 evaluated. It was excluded. However, that does not resolve
17 the -- the differences that -- that we saw.

18 Q. How so?

19 A. Well, we calculated -- going back to the
20 spreadsheet I put together, we calculated differences
21 excluding this additional program and marketing column and
22 still there were large differences between what was filed
23 on -- what was in the work papers and what was -- what we had
24 agreed to.

25 MS. MANGELSDORF: I'd like to offer the

1 Department's Exhibit Number 8 into evidence.

2 JUDGE STEARLEY: Any objections? Hearing
3 none, it shall be received and admitted.

4 (MDNR Exhibit Number 8 was received into
5 evidence.)

6 BY MS. MANGELSDORF:

7 Q. Just generally speaking, how are programs
8 savings levels calculated?

9 A. They're calculated by beginning with
10 particular DSM measures, figuring out participation levels,
11 and then there are costs associated with measures and
12 administration costs and the costs of costs --

13 (Reporter asked for clarification.)

14 THE WITNESS: There were costs associated with
15 administering programs, there are costs associated with
16 providing measures, and costs associated with reaching a
17 particular participation level. Those costs also -- the
18 installation of measures have benefits associated with them.
19 The costs and benefits are aggregated to a system level,
20 utility level and then a projected forecast over the course
21 of 20 years. And, you know, the one requirement for that is
22 that DSM programs be deemed cost effective, which means that
23 they have higher benefits relative than their costs, they
24 have more benefits than their costs.

25 ///

1 BY MS. MANGELSDORF:

2 Q. So why is it important to calculate a savings
3 level?

4 A. Well, the savings level then is used as an
5 input for DSM -- excuse me, for the IRP analysis. DSM
6 savings are supposed to reduce utility load, the amount of
7 energy that they need to supply, and a different set of
8 programs and different levels of savings will have different
9 impacts on their load, which then impacts the supply-side
10 resources they have to use to meet their demand.

11 Q. Okay. And so based on your understanding of
12 this non-unanimous stipulation and agreement, in your
13 opinion, did GMO's DSM program savings levels in their
14 January revised IRP filing comply with the agreement?

15 A. I can't tell. And this is part of the -- part
16 of my concern, really, is the numbers that were in the work
17 papers are different than the numbers that were in the tables
18 in the January 18th filing, and the numbers in the work
19 papers were different than what we had agreed to back in
20 January -- excuse me, July, 2010.

21 We're really, you know, at a loss as to
22 understand what those numbers represent, and you know, we had
23 gone into the stakeholder process to try to clarify that.
24 And I don't believe that -- in the end, I don't think we
25 reached a level of clarity.

1 Q. I'd like to switch gears a little bit. What
2 is a preferred resource plan?

3 A. A preferred resource plan identifies a set of
4 resources that a utility will work to implement given a set
5 of contingencies, situations that can change over different
6 times -- time periods.

7 Q. And when a company submits an IRP, is it
8 required to select a preferred resource plan?

9 A. My understanding is that it is.

10 Q. And where is that requirement found?

11 A. It's in -- it's in the 070 rule.

12 Q. So in the Commission's regulations?

13 A. Yeah.

14 Q. And when is a preferred resource plan required
15 to be selected?

16 A. It's the product of the -- of the planning
17 analysis. So it's supposed to be filed with the entire plan.

18 Q. And did GMO select a preferred resource plan
19 in its January revised IRP filing?

20 A. No, it did not.

21 Q. And essentially, what is this preferred
22 resource plan supposed to do?

23 A. It's supposed to help the utility select
24 resources it needs to acquire to meet its demand, meet its
25 load.

1 Q. And so based on your understanding of this
2 non-unanimous stipulation and agreement and the Commission's
3 regulations, in your opinion, was GMO required to select a
4 preferred resource plan in its January filing?

5 A. Yes, we expected to see one.

6 Q. And it didn't?

7 A. No, it did not.

8 Q. And so would you consider that a violation?

9 A. Yes.

10 Q. Did GMO state why a preferred resource plan
11 was not selected in its January revised IRP filing?

12 A. Yes, it did.

13 Q. And what was that reason?

14 A. They gave three reasons, mostly changes in
15 natural gas price forecasts, changes in CO2 price forecasts,
16 and changes in EPA regulations.

17 Q. And in your opinion, are these valid concerns?

18 A. Well, generally, yes.

19 Q. Are these concerns that would justify GMO's
20 inability to select a preferred resource plan?

21 A. I'm -- I'm -- I have to say that I'm not -- I
22 don't have a great deal of experience in analyzing forecasts,
23 so I can't really tell if that's appropriate.

24 Q. And does the agreement or regulations provide
25 for any exemptions for selecting a preferred resource plan,

1 or do they outline any time for when a company doesn't have
2 to select a preferred resource plan?

3 A. No.

4 Q. Was GMO required to test its DSM portfolios
5 for cost effectiveness?

6 A. Yes.

7 Q. And where is that requirement found?

8 A. That's in Rule 050, Section 7.

9 Q. And what is the purpose of testing DSM
10 portfolios for cost effectiveness?

11 A. You know, it's part of their -- first of all,
12 it's part of the rule requirement. The idea being that we
13 want utilities to operate in an economical manner, in a
14 manner to implement programs that will provide more benefits
15 to their shareholders -- excuse me, to their ratepayers than
16 costs to implement a program.

17 Q. And did GMO test its DSM portfolios in its
18 January revised IRP filing?

19 A. No.

20 Q. And was MDNR able to complete a review in this
21 case of those -- of those portfolios for cost effectiveness?

22 A. No.

23 Q. And why not?

24 A. Well, we didn't receive the cost information
25 or the benefit information.

1 Q. And in your opinion, was this something that
2 was supposed to be -- that's required to be in the revised
3 IRP filing?

4 A. Yes. We -- we expected to see that,
5 especially given that the levels of -- of savings in the
6 July 21st agreement were different than what they -- what GMO
7 had filed originally.

8 Q. And so you would consider that a violation of
9 the stipulation and agreement?

10 A. Yes.

11 Q. So typically once an IRP is filed, what's the
12 next step that the Department of Natural Resources takes when
13 an IRP has been filed?

14 A. We, you know, review the materials and write
15 up comments and identify the deficiencies and concerns.

16 Q. And was the Department able to do a complete
17 review in this case?

18 A. Not in the January 18th case, situation.

19 Q. And why not?

20 A. Initially we started to -- to look at the
21 materials and we saw differences that we were asking the
22 Company about. And then in the meantime, Staff filed its
23 complaint.

24 Q. Are you familiar with GMO's July revised IRP
25 filing of this?

1 A. Yes.

2 Q. And how are you familiar with that?

3 A. We are actively reviewing it now.

4 MS. MANGELSDORF: May I approach?

5 JUDGE STEARLEY: You may.

6 (MDNR Exhibit Numbers 9-HC and 9-NP were
7 marked for identification by the court reporter.)

8 BY MS. MANGELSDORF:

9 Q. Do you recognize what's been marked as the
10 Department's Exhibit Number 9, both HC and NP?

11 A. Yes.

12 Q. What are these documents?

13 A. It's Volume 6 of the GMO plan that was
14 submitted on July 1st, 2011.

15 MS. MANGELSDORF: I'd like to offer the
16 Department's Exhibit Number 9, both HC and NP into evidence.

17 JUDGE STEARLEY: Any objections? Hearing
18 none, it shall be received and admitted.

19 (MDNR Exhibit Numbers 9-HC and 9-NP were
20 received into evidence.)

21 BY MS. MANGELSDORF:

22 Q. Before we get into the details of this
23 particular filing, in its opening, Mr. Fischer spoke about
24 viewing all of these filings as cumulative. Does the
25 Department believe that that is the correct approach to take

1 when looking at these documents?

2 A. Not in this case. We think that each of these
3 documents are substantially different from the previous
4 version and that we need -- they need to stand on their own.

5 Q. And in fact, do each of these documents, are
6 there -- are there some cases where they even conflict with
7 each other?

8 A. Yes.

9 Q. Okay. And so each would -- the Department's
10 view would be that each needs to be viewed separately?

11 A. Yes.

12 MS. MANGELSDORF: May I approach to pass out
13 one more exhibit?

14 BY MS. MANGELSDORF:

15 Q. While I'm passing these out, can you kind of
16 explain generally which parts of the revised IRP in July were
17 relevant to addressing the Department's concerns?

18 A. In July, the first levels of DSM savings that
19 were part of the analysis. Secondly, the programs that were
20 included in this analysis, DSM programs that were included in
21 this analysis. And finally, the set of the alternative
22 resource plans that were submitted to integration.

23 (MDNR Exhibit Number 10-HC and 10-NP were
24 marked for identification by the court reporter.)

25 ///

1 BY MS. MANGELSDORF:

2 Q. And do you recognize what's been marked as the
3 Department's Exhibit Number 10, both the HC and NP version?

4 A. Yes. This is Volume 7 of the GMO IRP plan
5 filed on July 1st, 2011.

6 Q. And so does this filing resolve the
7 Department's concerns regarding GMO's compliance with the
8 non-unanimous stipulation and agreement?

9 A. No, it doesn't. I'll begin with the plans.
10 One of the issues that -- that DNR -- and DNR raised at the
11 beginning, had to do with whether it would be possible to
12 retire the Sibley 3 coal plant. In their initial IRP filed
13 in August, they -- the Company proposed spending 420 million
14 dollars to retrofit that plant. And one question that we had
15 was whether it would be more economical to replace -- to
16 retire that plant, the Sibley 3 plant and then, you know,
17 replace that load with DSM savings.

18 MR. FISCHER: Judge, I think we're getting
19 into some confidential information using the numbers and
20 particular plant retirements that if we need to go there,
21 we'd like to go in-camera.

22 JUDGE STEARLEY: Okay. All right. Very well.

23 (REPORTERTMS NOTE: At this point, an in-camera
24 session was held, which is contained in Volume 3, pages 92 to
25 93 of the transcript.)

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1 JUDGE STEARLEY: We are back in the public
2 forum.

3 MS. MANGELSDORF: Okay. I'd like to kind of
4 go into -- delve into a little bit more detail regarding the
5 concerns that the Department had with this July filing, but
6 first I'd like to offer into evidence the Department's
7 Exhibit Number 10, both HC and NP versions.

8 JUDGE STEARLEY: Okay. Any objections?
9 Hearing none, they shall be received and admitted.

10 (MDNR Exhibit Numbers 10-HC and 10-NP were
11 received into evidence.)

12 BY MS. MANGELSDORF:

13 Q. Was GMO's selection of its DSM programs the
14 same in their July filings as in the January filing?

15 A. No.

16 Q. And do you have any work papers reflecting --

17 A. Well, back in the work papers I put
18 together --

19 Q. Which exhibit was that?

20 A. This is Exhibit 7.

21 Q. Okay.

22 A. The last page maps out programs for each of
23 the -- the three filings. One of the things that -- that
24 happened in July was that there was an additional -- a new
25 program added to this menu and two programs that were in

1 previous versions were removed. And we're not sure really
2 what's going on with the contents of GMO's DSM portfolio.

3 Q. Okay. As far as you said that one program was
4 added and then another one was subtracted. Can you
5 describe -- or what was the program that was added?

6 A. It's a program that is titled Residential
7 Lighting and Appliances. And it's hard for me to describe
8 what is -- what is in it because we did not receive a
9 description of this new program.

10 Q. And is that something that's required?

11 A. Yeah, we believe so.

12 Q. Where is that requirement?

13 A. I believe that's part of the rule, the DSM
14 rule. I think I have the --

15 Q. That's okay if you don't have it. We can move
16 on.

17 A. Yes, actually, it's in Rule 050.6(c) is where
18 the descriptions are discussed.

19 Q. And you said that a program was also taken
20 away. Can you describe --

21 A. Yeah, it's a -- it's called Affordable New
22 Homes program and that's a program for new construction.

23 Q. And you said that it was taken away. Was it
24 something that was included in the January filing?

25 A. Yes, it was.

1 Q. And was this also discussed during the
2 stakeholder process?

3 A. Yes, it was.

4 Q. And so -- in your opinion, what is the
5 significance of any -- of having some programs added, others
6 removed from this July revised IRP filing?

7 A. Well, it doesn't give us a complete picture of
8 GMO's portfolio, so we don't know, for example, if there are
9 particular areas that should have been addressed, would have
10 been addressed by some of these program changes that are not
11 now going to be addressed.

12 Q. And to kind of go back to a little bit,
13 what -- what was the Department's understanding of the
14 purpose of the stakeholder process?

15 A. The stakeholder process was designed to, you
16 know, resolve a lot of the questions we had about GMO's
17 program and their portfolio. We -- we wanted to include --
18 make sure that, you know, the portfolio that they -- that
19 they tested through the process was comprehensive, and that
20 it was also, you know, cost effective.

21 Q. And so is your understanding that ultimately
22 the DSM programs that are -- that were selected to be placed
23 in this revised IRP filing would have been discussed during
24 the stakeholder process first?

25 A. Yes.

1 Q. And is that your understanding of what the
2 intention of this -- non-unanimous stipulation and agreement
3 was?

4 A. Yes.

5 Q. And so did the Department try to obtain any
6 more information from GMO regarding the differences between
7 these DSM programs?

8 A. Yes. We sent an additional data request in --
9 on July 8th, 2011.

10 MS. MANGELSDORF: May I approach?

11 JUDGE STEARLEY: You may.

12 (Exhibit Number 11-HC was marked for
13 identification by the court reporter.)

14 BY MS. MANGELSDORF:

15 Q. Do you recognize what's been premarked as
16 Department's Exhibit Number 11?

17 A. Yes, that's the DNR data request that was
18 submitted to the Company on July 8th, 2011.

19 MS. MANGELSDORF: I'd like to offer the
20 Department's Exhibit Number 11 into evidence.

21 JUDGE STEARLEY: Any objections? Hearing
22 none, it shall be received and admitted.

23 (MDNR Exhibit Number 11 was received into
24 evidence.)

25 ///

1 BY MS. MANGELSDORF:

2 Q. Okay. So you said you -- that the Department
3 had submitted this DR request to try to get more information
4 from GMO regarding the differences between the July DSM
5 programs and the January programs; is that correct?

6 A. Yes.

7 Q. And what did this DR request tell you about
8 why those -- why there were differences?

9 A. We asked a specific question about the
10 Residential Lighting and Appliance program, and we received a
11 very general narrative about what might be in a lighting and
12 appliance program. But we didn't receive an actual
13 description of the measures or of, you know, the focus,
14 whether it was an attempt to, you know, disburr [phonetic]
15 market transformation or whether it was a rebate program or
16 what.

17 Q. And again, these descriptions are required by
18 the Commission's regulations?

19 A. Yes.

20 Q. And so if these descriptions weren't included,
21 would that -- would this be a compliant IRP filing?

22 A. That issue would be resolved.

23 Q. Did GMO agree to what programs were to be
24 modeled in a revised IRP filing?

25 A. We believe they did.

1 Q. And where -- when do you think that agreement
2 was reached?

3 A. That agreement was part of the
4 July 21st, 2010, agreement about savings levels.

5 Q. And what was your understanding of that
6 agreement?

7 A. Our understanding was that the -- there were
8 savings levels and -- programs to be implemented and savings
9 levels approved by the Company to -- to be used in the
10 further analysis.

11 Q. And so did the January revised IRP filing
12 comply with that particular aspect of the agreement?

13 A. As far as we can tell.

14 Q. And how about the July filing?

15 A. The July filing included the Residential
16 Lighting and Appliance program, which was a different program
17 and omitted the Affordable New Homes program. So there were
18 two changes in the portfolio there. And then also the
19 savings levels were different.

20 Q. And so does the Department view that that's a
21 violation of the non-unanimous stipulation and agreement?

22 A. Yes.

23 Q. And are companies required to submit
24 alternative resource plans to integration?

25 A. Yes.

1 Q. And where is that requirement found?

2 A. That is also in the rules. I think that's in
3 070.

4 Q. And what's the purpose of analyzing and
5 assessing the performance of these alternative resource
6 plans?

7 A. Well, you know, you're supposed to -- the
8 process, as I understand it, is that, you know, the Company
9 assembles a series of alternative resource plans and then is
10 supposed to choose the plan that meets particular criteria.
11 You know, especially they're supposed to choose the lowest
12 cost plan that comes out of the analysis.

13 Q. And so did GMO submit alternative resource
14 plans to integration?

15 A. Yes, in July -- in the July 1 filing, they
16 did.

17 Q. But not in the January filing?

18 A. No.

19 Q. And did the Department have any concerns with
20 the alternative resource plans that were submitted by GMO?

21 A. In July, they were different than what we had
22 agreed to on October 22nd.

23 Q. And what do you mean by "they were different?"

24 A. They were all different. None of the -- the
25 choices that were -- we had agreed to in October were part of

1 the plans that were submitted in -- on July 1st.

2 Q. And so with regard to alternative resource
3 plans, none of the plans that were selected were at all
4 discussed during the stakeholder process?

5 A. No.

6 Q. And as you mentioned before, the stakeholder
7 process was supposed to resolve any ambiguities or concerns
8 with the previous IRP filing?

9 A. Yes.

10 Q. So did the Department try to obtain any more
11 information from the -- GMO regarding these concerns?

12 A. Yeah, we asked them about why the -- the
13 programs -- excuse me, the alternative resource plans were
14 different. In the -- the data requests, the June 8th --
15 excuse me, July 8th, data request.

16 Q. Exhibit Number 11?

17 A. Yes. And they replied that the plans in the
18 July 1st, 2011, filing are not intended to correspond to the
19 plans in the January -- they say January 19th, 2011, filing,
20 but it was January 18th.

21 Q. Okay. So what does that mean to you?

22 A. That they violated our agreement with -- you
23 know, we had -- we were under the impression that there
24 were -- that -- that there was an agreement about what
25 conditions were going to be run through integration and we

1 expected to see that in the July filing and didn't.

2 Q. And I think as you had discussed before with
3 respect to Sibley 3, was that discussed during the
4 stakeholder process?

5 A. Yes.

6 Q. And it was your understanding that there was
7 some agreements reached with regard to Sibley 3?

8 A. Yes, although the agreements were couched as
9 the Sibley station rather than just Sibley 3.

10 Q. And so did the alternative resource plans
11 submitted in July include retirement of Sibley 3?

12 A. No.

13 Q. And did the alternative resource plans analyze
14 a reasonably aggressive level of DSM?

15 A. The level of DSM that was analyzed in the
16 July 1st filing was less, smaller, saved less energy than the
17 DSM savings levels from the July 21st, 2010, filing.

18 Q. And what do you mean by -- what's the
19 significance of less energy? What does that mean?

20 A. Well, it's, you know, less energy savings, it
21 means that more energy has to be generated through, you know,
22 in the case of Missouri through burning coal. And we're
23 concerned about the impact of burning coal in the
24 environment.

25 Q. And so were there any agreements made by GMO

1 previously during the stakeholder process with respect to the
2 alternative resource plans that would be -- that would
3 analyze an aggressive level of DSM?

4 A. Yes. We believe that we had established
5 levels of -- of an aggressive portfolio of DSM that was much
6 more aggressive than their original filing in August, 2009.
7 That was the -- the levels that we had -- we thought we had
8 agreed to on July 21st, 2010. We were concerned that in
9 July -- the filing on July 1st was less, saved less energy,
10 less demand, than the -- what we had agreed to.

11 Q. And did you do a comparison of this in your
12 work papers in Exhibit Number 7?

13 A. Yes, we did.

14 Q. Can you kind of go through what comparison you
15 did?

16 A. Not -- I'm not going to talk about any
17 particular numbers, but you can see how comparing --

18 Q. What page are you on?

19 A. This is on the comparison of DSM page again.
20 There's a panel comparing the levels of the megawatt hours --
21 excuse me, the megawatt demand savings in the enhanced level
22 of DSM and their preferred plan to the levels that were
23 agreed upon on July 21st, 2010. And they're lower,
24 consistently.

25 Q. Okay. Changing gears just a little bit, did

1 GMO select a preferred resource plan in this most recent July
2 filing?

3 A. Yes, it did.

4 Q. And what plan was selected?

5 A. It was titled Plan CAB00.

6 Q. And was this resource plan discussed during
7 the stakeholder process?

8 A. No.

9 Q. At all?

10 A. No.

11 Q. Was it mentioned in any of the reports that
12 were filed with the Commission?

13 A. No.

14 Q. Is that a violation of the non-unanimous
15 stipulation and agreement?

16 A. I believe so.

17 Q. How so?

18 A. Well, we had a set of plans that we had
19 agreed -- agreed to have modeled and the plans that were
20 modeled to produce a preferred resource plan were different,
21 completely different.

22 Q. And so if this new plan was submitted now, was
23 there any opportunity for the stakeholder group to comment or
24 provide alternatives to this plan?

25 A. No.

1 Q. And is it your understanding that that was
2 part of the purpose of this stakeholder group?

3 A. Part of the purpose of the stakeholder group
4 was to clarify a lot of the analysis steps and to determine
5 which plans would be run through integration.

6 Q. And did GMO's July filing contain any
7 revisions to its supply-side or its demand-side analysis?

8 A. It did not change the supply-side analysis,
9 but it did change the demand-side analysis, the levels of
10 savings were different than what we had agreed to, the
11 programs were different than what we had agreed to, and you
12 would think that those changes would have to change the
13 supply-side analysis.

14 Q. Okay. And so what's the significance of that?
15 Can you go into a little bit more detail?

16 A. DSM is generally thought to provide resources
17 that substitute for generating more electricity. The more
18 you save, the less -- the electricity has to be generated to
19 serve the load. If you are saving less energy through DSM,
20 you have to generate more energy and that means, you know,
21 you need to burn more fuel, you have to pay transmission
22 costs, you have to pay for fuel, and those are things that
23 can present problems. I mean, there are environmental
24 impacts with burning of coal and then there is also the whole
25 cost issue because eventually the cost of generating

1 electricity is translated to ratepayers.

2 Q. And in the Company's January filing, it had
3 listed reasons as to why it wasn't able to come up with a
4 preferred plan; is that correct?

5 A. Yes.

6 Q. And so in your opinion, would those reasons
7 that were outlined by the Department, would that also have an
8 impact on the supply-side or the demand-side analysis?

9 A. Yeah, yes, it would.

10 Q. And so does it make sense if -- does it make
11 sense for those changes to be significant enough to not
12 warrant the selection of an IRP but then not change these
13 levels?

14 A. You know, these changes in prices would --
15 would have an impact on the supply-side resources that were
16 available because, for example, if, you know, natural gas
17 prices were consistently lower than they had been forecast,
18 it would be cheaper to run gas plants than potentially run
19 coal plants. So that would -- and then that would translate
20 into decisions about, you know, what sort of plants to build
21 and maintain or, you know, convert.

22 Q. And so you didn't see that in this revised
23 filing?

24 A. No.

25 Q. Is GMO required to test for cost

1 effectiveness?

2 A. I believe so.

3 Q. And did GMO test its DSM portfolios in its
4 January revised IRP filing for cost effectiveness?

5 A. No.

6 Q. And did it -- did it do the same for its July
7 filing?

8 A. No.

9 Q. And in your opinion, is that a violation?

10 A. Yes, it is. I think so.

11 Q. And so if these things are absent, would --
12 would that mean that there is a compliant revised IRP?

13 A. If those -- those things were absent, I would
14 have to say that the IRP was not compliant.

15 Q. And is GMO required to submit any type of
16 documentation or program description for their DSM
17 portfolios?

18 A. Yes, they are.

19 Q. And did they submit this documentation in its
20 July IRP filing?

21 A. No, they did not.

22 Q. And typically, once an IRP is filed, you
23 talked about the next step that the Department goes through
24 to analyze that plan; is that correct?

25 A. Yeah.

1 Q. And so in this case, is the Department able to
2 do that analysis with this revised IRP?

3 A. We're not able to complete that analysis
4 because we don't really have a good idea about what would be
5 in this Residential Lighting and Appliance program.

6 Q. And so in your opinion, is the July revised
7 IRP compliant with the non-unanimous stipulation and
8 agreement or the Commission's regulations?

9 A. I don't believe that it's compliant with
10 either.

11 Q. Even taking -- even if you were to take it in
12 totality with the previous filings?

13 A. Yes, because things have changed. DSM levels
14 are different in this file -- in the July 1st filing, the DSM
15 programs are different, the set of alternative resource plans
16 submitted to integration are different than what have gone on
17 previously. So I believe that really, the materials that
18 were filed on July 1st are completely different than the
19 previous documents.

20 Q. And by "different," do you mean different from
21 the -- what was presented during the stakeholder process?

22 A. Yes.

23 Q. And if I understand you correctly, the
24 stakeholder process was to resolve differences or any
25 confusion with these programs; is that correct?

1 A. Yes.

2 Q. And did the stakeholder process do that?

3 A. In December of 2010, we thought so. But it
4 turns out that that was not the case.

5 MS. MANGELSDORF: Thank you. I don't have any
6 additional questions at this time.

7 JUDGE STEARLEY: All right.

8 Cross-examination, beginning with Staff.

9 MR. THOMPSON: No questions, thank you.

10 JUDGE STEARLEY: Public Counsel.

11 CROSS-EXAMINATION

12 QUESTIONS BY MS. BAKER:

13 Q. I just have a clarifying question about DNR
14 Exhibit Number 7. It's the fourth page back, at the top,
15 it's MDNR work papers, sheet three, comparison of DSM
16 portfolios. You stated that the levels of DSM in Column D-5
17 are higher than the levels of DSM in Columns D-1 and D-2?

18 A. No. Columns D-1 and D-2 are from the
19 July 21st agreement; Column D-4 is the level of savings in
20 the work papers submitted on January 18th. Those are higher
21 than Columns D-1 and D-2. Column D-5 are levels of megawatt
22 savings in the enhanced DSM portfolio that was part of the
23 preferred plan filed on July 1st, 2011, and those levels are
24 lower than the levels in Columns D-1 and D-2 that were filed.

25 Q. Okay. So it was my mistake. You were

1 speaking about D-4, that was higher?

2 A. Right, yes.

3 Q. Okay. All right. Looking at MDNR Exhibit
4 Number 2, and I'm looking at appendix 1, page 5 of 13.

5 A. Okay. One moment, please.

6 Q. Sure.

7 A. Yes.

8 Q. Some of your statements about the Sibley 3
9 plant saying that there was not an agreement regarding that,
10 could you read the last sentence, just before Number 12?

11 A. Yeah. I -- I stand corrected. Let me read
12 this for you. Through this discussion, GMO and the other
13 parties will work to define one of several accommodations of
14 resources that appear most likely to appear --

15 (Reporter asked for clarification.)

16 THE WITNESS: Pardon me. Okay. Parties will
17 work to define one or several accommodations of resources
18 that appear most likely to provide the least cost replacement
19 for the Sibley 3 unit, if that unit is retired. Based on
20 this discussion, GMO agrees to develop at least one
21 alternative resource plan that includes retirement of
22 Sibley 3 and to include this alternative resource plan in the
23 revised integration analysis for the filing due September --
24 excuse me, December 17th, 2010.

25 BY MS. BAKER:

1 Q. Thank you. And one last question: Is it
2 correct that the availability of future capacity in the SPP
3 region could be dramatically effected by retirements of coal
4 plants by KCP&L, Empire, and other electric companies?

5 A. I believe so, but I -- I don't have as great a
6 knowledge of that as other people in this room may.

7 Q. Okay. No further questions. Thank you.

8 JUDGE STEARLEY: Dogwood Energy.

9 MR. LUMLEY: No questions, Judge.

10 JUDGE STEARLEY: All right. GMO.

11 CROSS-EXAMINATION

12 QUESTIONS BY MR. FISCHER:

13 Q. Good morning, Dr. Bickford. Do you happen to
14 have Exhibit Number 4 in front of you there?

15 A. Yes.

16 Q. That's the e-mail that at the top is dated
17 July 21st, 2010; is that correct?

18 A. Yes.

19 Q. And then do you happen to have Exhibit
20 Number 5 in front of you?

21 A. Yes.

22 Q. And that's an e-mail that's dated at the top
23 October 15th, 2010; is that correct?

24 A. Yes.

25 Q. Now, I believe you indicated that -- in your

1 testimony that there were agreements associated with GMO's
2 filings that were incorporated in these e-mails; is that
3 right?

4 A. Yes.

5 Q. Okay. And I believe you also indicated in
6 your testimony that there were savings levels that were
7 agreed to in a July 21st meeting or e-mail; is that right?

8 A. Yes.

9 Q. All right. Now, do you happen to have the
10 non-unanimous stipulation there with you?

11 A. Yes.

12 Q. Is that dated April 10th, 2010 -- or
13 April 12th, 2010?

14 A. I believe so, yes.

15 Q. And that was the stipulation and agreement
16 that was approved by the Commission; is that right?

17 A. Yes.

18 Q. Were there any subsequent stipulations filed
19 after April 12th, 2010, in this case?

20 A. No.

21 Q. So any of those other agreements that you
22 talked about on July 21, October 15, those would have
23 occurred after the stipulation agreement was signed, right?

24 A. Yes.

25 Q. And those weren't approved by the Commission?

1 A. No, they were not.

2 Q. Now, in your testimony, I believe you
3 indicated that you disagreed with the suggestion that the
4 process that was used by GMO in this case was cumulative. Do
5 you recall that?

6 A. Yes.

7 Q. Did you -- did you expect that each and every
8 subsequent filing after the original IRP would have a
9 completely new IRP plan with all the screenings and all of
10 the things that were required?

11 A. I expected that for the things that stayed the
12 same, we would have at least a reference back to the original
13 documents. For things that changed, however, I expected that
14 we would get sufficient information so that we could conduct
15 our review and to look at -- be able to look at the areas
16 that had changed.

17 Q. So the answer is yes, you did expect a
18 completely new IRP plan to be filed each time we filed?

19 A. I expected that the changes would be reflected
20 in the documentation that you provided.

21 Q. So the answer is yes?

22 A. I -- again, I expected that the changes would
23 be reflected in the documents you provided.

24 Q. So the answer is no?

25 MS. MANGELSDORF: Objection, mischaracterizes

1 his testimony.

2 MR. FISCHER: I'm just trying to get an
3 answer, Judge.

4 JUDGE STEARLEY: The objection is overruled.
5 Mr. Bickford, you'll answer yes or no to the yes-or-no
6 question, please.

7 THE WITNESS: Yes.

8 BY MR. FISCHER:

9 Q. Okay. Do you happen to have the old IRP
10 rules?

11 A. No, I don't have them with me.

12 Q. All right. Okay.

13 MR. FISCHER: May I approach the witness?

14 MR. THOMPSON: Those are our Exhibit 1, Judge.

15 JUDGE STEARLEY: You may approach.

16 MR. FISCHER: Do you have the Exhibit 1?

17 THE WITNESS: I'm sorry, I don't.

18 MR. FISCHER: Does anyone have an extra copy
19 of Exhibit 1?

20 MS. MANGELSDORF: Yes.

21 THE WITNESS: Thank you.

22 BY MR. FISCHER:

23 Q. Okay. Dr. Bickford, do you have that now?

24 A. Yes, I do.

25 Q. I'll ask you to turn to what's on page 16 of

1 my copy, but it's 4 CSR 240-22.080, and I'd like for you to
2 look at Subsection 10. It's at the bottom right-hand corner
3 of my copy, it's at the bottom right-hand of page 16. We may
4 have different copies.

5 A. 080 Subsection 10?

6 Q. That's correct.

7 A. Yes.

8 Q. Do you see that?

9 A. Yes, sir.

10 Q. Okay. Does that say that if the utility
11 determines that circumstances have changed so that the
12 preferred resource plan is no longer appropriate, either due
13 to limits identified pursuant to 4 CSR 240-22.070,
14 Subsection 10, Subsection C, or for other reasons, the
15 utility in writing shall notify the Commission within 60 days
16 of the utility's determination? Do you see that?

17 A. Yes, sir.

18 Q. Now, is it your understanding that that's what
19 GMO was trying to do whenever it notified the parties that
20 from its perspective, things had changed?

21 A. No. I -- it was not my understanding that
22 this was a -- a filed -- that GMO's statement was a filing
23 under that rule.

24 Q. Paragraph 6 of that January filing did, in
25 fact, notify the parties that circumstances had changed; is

1 that correct? Is that your understanding?

2 A. That is my understanding.

3 Q. Okay. Then let's look at the next sentence.

4 It says that if the utility decides to implement any of the
5 contingency options identified pursuant to Subsection 4 CSR
6 240-22.070-10(d), the utility shall file for a review in
7 advance of its next regularly scheduled compliance filing, or
8 revised implementation plan; is that right?

9 A. Yes, sir.

10 Q. Did you review Appendix 7(a) of the July 1st
11 filing?

12 A. We have not completed our review of that.

13 Q. Did you review the title page where it says
14 implementation plan and resource acquisition strategy?

15 A. Yes.

16 Q. Would you agree that the Company did, in fact,
17 file an implementation plan following its announcement that
18 circumstances had changed?

19 A. Yes, sir.

20 Q. Does 4 CSR 22.080-10 require a company to file
21 a completely new IRP filing after it designates or after it
22 gives notice that circumstances have changed and it's no
23 longer appropriate to adopt its previously preferred plan?

24 A. It doesn't state that explicitly.

25 Q. Okay. And do you happen to have Exhibit

1 Number 11, DNR Exhibit Number 11?

2 A. Yes, sir.

3 Q. Would you turn to the third page of that? Do
4 you see the -- this appears to be a data request that I
5 submitted to the Department of Natural Resources, Number
6 3301, on July the 7th; is that right?

7 A. Yes, sir.

8 Q. Was that data request included in this exhibit
9 mistakenly?

10 A. Let me -- apparently, it was.

11 Q. Well, in fact, you did answer that data
12 request; is that correct?

13 A. Yes, we did.

14 Q. Did you submit the answer anywhere in your
15 documents? I may have lost the exhibit.

16 A. I don't believe that we did.

17 Q. Do you happen to have a copy of that data
18 request answer with you?

19 A. I may. I'm sorry, I don't.

20 Q. Okay.

21 MR. FISCHER: May I approach, Your Honor?

22 JUDGE STEARLEY: You may.

23 BY MR. FISCHER:

24 Q. Dr. Bickford, I'd like to show you the DNR
25 answer to 3301. Are you familiar with that?

1 A. Yes, I am.

2 Q. And this was a DR that we tendered to the
3 Department basically to try to understand your concerns; is
4 that right?

5 A. Yes.

6 Q. And you've listed your concerns on that and I
7 take it that all your testimony today would relate to the
8 concerns that you indicated here; is that right?

9 A. Yes, sir.

10 Q. Okay. Well, let's just look at a couple of
11 those. The first concern is that GMO's selection of
12 candidate alternative resource plans to submit to integrated
13 analysis in its July 1st filing violates agreements that GMO
14 reached with the parties during the stakeholder process that
15 was established in the April 12th, 2010, stipulation
16 agreement, right?

17 A. Yes.

18 Q. Okay. That stakeholder process you're talking
19 about there, that was the part -- all those meetings we had
20 following the non-unanimous stip, right?

21 A. Yes, sir.

22 Q. Okay. And there were no subsequent agreements
23 filed with this Commission after that time, correct?

24 A. That is correct.

25 Q. Okay. Then your second -- your second

1 criticism is that GMO did not select a preferred plan in its
2 July 18, 2011, filing. It did not fully honor the
3 April 12, 2011, stipulation agreement and agreements that GMO
4 reached during the stakeholder process. That criticism is
5 the same one that Staff had, right? That we didn't select a
6 preferred plan when we filed in January?

7 A. I believe so.

8 Q. Okay. And you understand that we did select a
9 preferred plan in the July filing, correct?

10 A. Yes.

11 Q. Now, your third criticism was that GMO --
12 GMO's July 1st, 2011, filing does not discuss or fully
13 account for the changed circumstances to which GMO attributed
14 its ability to select a preferred resource plan in its
15 January 18, 2011, filing, correct?

16 A. Yes.

17 Q. So is it correct that from your perspective,
18 the Company did not fully explain or justify the changed
19 circumstances?

20 A. That is my -- yes, that is what we -- we
21 believe happened.

22 Q. Did you review, though, the July 1 filing and
23 see that there were revised natural gas prices and CO2
24 assumptions that -- which were the basis for the changed
25 circumstances?

1 A. Yes.

2 Q. So is the criticism here that the Company --
3 while it used the revised data that caused the changed
4 circumstances, it didn't compare the two from the previous
5 January -- or the August or January to the July? Is that the
6 real criticism?

7 A. Yes. Specifically, we were wondering what had
8 changed between the January filing and the July filing to
9 allow GMO to complete its analysis.

10 Q. Okay. Is there something in the old
11 Chapter 22 rules that says that after a company decides that
12 it's no longer appropriate to use the preferred plan it had
13 previously announced that it's supposed to also do a
14 completely new IRP filing and explain how those changed
15 circumstances impacted that?

16 A. There's nothing specifically explicit that
17 says that.

18 Q. Then the other two deficiencies that you
19 asserted was that GMO has not demonstrated the cost
20 effectiveness of their DSM portfolio as required by 4 CSR
21 240-22.050, Subsection 7, right?

22 A. Yes.

23 Q. Now, would you agree that there was a cost
24 effectiveness test done in the original IRP filing?

25 A. Yes, there was.

1 Q. And then as I understand it, you would have
2 preferred that there be a similar cost effectiveness analysis
3 in the January filing and in the July filing, correct?

4 A. I would have expected there to be one because
5 savings levels changed, which means costs changed and
6 benefits changed. And we -- my understanding is that the
7 cost of benefit analysis is essential to the selection of --
8 of credible programs.

9 Q. But there was a cost effectiveness test done
10 originally, correct?

11 A. Back in what was filed in August, yes.

12 Q. And if you think that you need to have a
13 completely new IRP filing each time you update it, I
14 understand where you're coming from, that you need a new cost
15 effectiveness if it's going to be a totally new IRP, right?

16 A. Yes.

17 Q. But if it's not, if it's a supplemental
18 filing, pursuant to the rules explaining why -- what the
19 implementation plan would be after you've announced that
20 there's been changed circumstances, then why would you need a
21 completely new cost effectiveness test?

22 A. I'm not aware of what analysis GMO undertook,
23 but the -- GMO uses a tool that we use as well, DSMore, that
24 produces these cost effectiveness measures automatically as
25 different programs are -- are tested and as part of their

1 analysis in establishing the savings levels. They would have
2 that information available. I would hope to be able to
3 determine, you know, to see that information so that we could
4 be confident that the levels of savings that GMO proposed
5 were credible.

6 Q. Was there anything in the non-unanimous
7 stipulation and agreement that required that?

8 A. No, it was something that we assumed would
9 happen, however.

10 Q. Then the last criticism is that GMO has
11 changed the programs in their enhanced DSM portfolio
12 presented in its July 1st, 2011, filing, right? And that
13 criticism basically goes to the Company announced a preferred
14 plan that had less DSM investment than it had in the January
15 filings, right?

16 A. No. The Company provided materials that had
17 different programs than the original filing did. And we --
18 we were concerned about -- first of all, the Affordable New
19 Homes program that was taken out of the July 1st filing and
20 apparently two programs that were in the previous filings
21 were combined to create this Residential Lighting and
22 Appliance program.

23 Residential Lighting and Appliance programs
24 can take many different forms. We were concerned about
25 whether this was an attempt to, you know, go through a market

1 transformation program such as -- has been going on on the
2 other side of the state or whether -- what exactly that
3 program was. And we expected to see some analysis or some
4 description of that program, some fairly detailed description
5 pursuant to the rule.

6 Q. Did the stipulation and agreement require that
7 the Company accept a particular preferred plan?

8 A. No.

9 Q. There was also an exhibit that included your
10 work papers, I believe.

11 A. Yes.

12 Q. Did you share that with GMO or any other
13 parties?

14 A. Yes, we sent a version of those papers with
15 our July 1st data request -- excuse me, our July 8th data
16 request.

17 Q. With your response?

18 A. No, with the data request that we sent to the
19 Company on July 8th.

20 Q. Okay. Thank you, that's all I have.

21 JUDGE STEARLEY: All right. Redirect.

22 REDIRECT EXAMINATION

23 QUESTIONS BY MS. MANGELSDORF:

24 Q. I have just a couple of follow-up questions
25 for you, Dr. Bickford. As GMO's previously pointed out, the

1 e-mails containing what you called agreements, those were
2 agreed to after the non-unanimous stipulation and agreement;
3 is that correct?

4 A. Yes.

5 Q. And in your opinion, was the stipulation
6 supposed to be an end-all and be-all and without any
7 follow-up or?

8 A. It was my impression that this stipulation and
9 agreement established a stakeholder process, and that through
10 the stakeholder process, we would reach additional agreements
11 with the Company. The agreements that are reflected in these
12 e-mails represent those additional agreements that were made
13 in the process.

14 Q. That go back to this original non-unanimous
15 stipulation and agreement?

16 A. In the stakeholder process that was
17 established by the stipulation and agreement.

18 Q. And there was a previous question regarding an
19 IRP filing and whether or not each -- the Department expected
20 a completely new filing. And did you want to add anything to
21 your yes-or-no answer?

22 A. Certainly. I don't believe that a completely
23 new set of documents need to be provided each time; however,
24 when there are changes, such as changes in the DSM portfolio
25 or changes in savings levels or changes in -- in plans, in

1 the situation like this where there was, you know,
2 agreements, that there would be some documentation describing
3 those changes.

4 And, you know, I -- I would have appreciated
5 that if, you know, there were changes coming that the Company
6 was aware of and getting ready to file and that they had
7 taken a moment to communicate the changes to us before they
8 were filed, so that we had a chance to review them, I would
9 have appreciated that, but neither of those happened.

10 Q. And the Company had talked about the reason
11 for their -- the lack of selection for preferred plan being
12 changed circumstances. When did the stakeholder process
13 conclude?

14 A. It concluded in December of 2010.

15 Q. And when was the revised -- first revised IRP
16 filing filed?

17 A. January 18, 2011.

18 Q. So less than a month afterwards?

19 A. Yes.

20 Q. So if there were any changed circumstances,
21 would you have expected to hear about those circumstances
22 during the course of the stakeholder process?

23 A. Yes. You know, one issue that -- that we
24 discussed was whether GMO needed to recreate its forecasts,
25 its energy forecasts. And the consensus was that things were

1 not, you know, were not going to change sufficiently to
2 require that. And that was a decision that we agreed to over
3 the summer, I believe it was in June or July. We were
4 concerned that it turns out that parts of that forecast had
5 changed. And we -- we really didn't see any -- any
6 comparisons to -- to demonstrate how things had changed.

7 Q. And so was there any additional discussions
8 regarding changed circumstances during the end of the
9 stakeholder process?

10 A. No.

11 Q. In a previous answer, you had stated that you
12 would assume that a cost effectiveness study would be done;
13 is that correct?

14 A. Yes.

15 Q. And why would you assume that a cost
16 effectiveness study would be done?

17 A. Cost effectiveness is really a central tenant
18 of DSM planning in Missouri. It's codified in the MEEIA law.
19 It's part of the -- the IRP rules. I would have expected
20 that that would be an analysis that would go on regardless.
21 You know, it would be a performed, sort of, analysis, and I
22 would have expected to see some of the results of -- of these
23 new levels of savings.

24 Q. So even though a cost effectiveness study
25 wasn't explicitly stated in the non-unanimous stipulation and

1 agreement, that is something that is required by the
2 Commission's rules?

3 A. Yes.

4 Q. And so regardless of the non -- the language
5 of the non-unanimous stipulation and agreement, you would
6 still expect to have GMO still comply with the remaining
7 requirements of the Commission's regulations?

8 MR. FISCHER: Objection to the form, leading.

9 JUDGE STEARLEY: You may rephrase.

10 BY MS. MANGELSDORF:

11 Q. So even though cost effectiveness -- a cost
12 effectiveness study wasn't explicitly stated in the
13 non-unanimous stipulation and agreement, you would expect the
14 company to still do a cost effectiveness study?

15 A. Yes. And I would have expected to see the
16 results of that study.

17 Q. And why would you expect them to do that
18 study?

19 A. As I mentioned before, the idea of cost
20 effectiveness in DSM programs is fairly central to the debate
21 about DSM in Missouri. And I would expect that as conditions
22 change, as savings levels change, as programs change, you
23 know, the companies would really take care to make sure that
24 things remained cost effective.

25 Q. And outside of the stipulation and agreement,

1 is the -- is the cost effectiveness study a requirement for
2 an IRP filing?

3 A. It is part of the IRP rules.

4 Q. And previously, we had talked about preferred
5 plans. The stipulation -- isn't it -- the stipulation didn't
6 state a particular preferred plan that would have to be
7 selected through the stakeholder process; is that correct?

8 A. That is correct.

9 Q. But did the stakeholder process define the
10 universe of plans that ultimately this preferred plan would
11 be selected from?

12 A. Yes.

13 Q. So did the Commission approve the
14 non-unanimous stipulation and agreement back in 2009 or '10?

15 A. Yeah, 2009, yes.

16 Q. So did GMO's failure to honor its agreements
17 reached through the stakeholder process render that process
18 meaningless?

19 A. Yes. I appreciate the work that was done by
20 members of GMO. I thought that we had really made some
21 progress, and was looking forward to their -- to their plans,
22 to you know, their final filing. After this experience, I
23 don't see that it accomplished much.

24 MS. MANGELSDORF: Thank you. I don't have any
25 further questions.

1 JUDGE STEARLEY: All right. Very well.

2 Mr. Bickford, you are excused as a witness.

3 THE WITNESS: Thank you.

4 JUDGE STEARLEY: And this looks like an
5 opportune time to break for lunch. When we come back, GMO
6 will be calling its witnesses.

7 Mr. Fischer, if you haven't already intended
8 to offer, the Commission would like MDNR's response to data
9 request 3301 to be offered as an exhibit.

10 MR. FISCHER: I'll be glad to do that. I'll
11 make some copies over the lunch hour.

12 JUDGE STEARLEY: All right. Thank you very
13 much. And we will reconvene at about 1:20.

14 (A lunch break was held.)

15 JUDGE STEARLEY: All right. We are back on
16 the record. And Mr. Fischer, it's time for GMO to call its
17 witnesses.

18 MR. FISCHER: Yes, Judge. We would start by
19 calling Kevin Bryant to the stand.

20 KEVIN BRYANT,
21 of lawful age, being produced, sworn and examined on the part
22 of the GMO/KCP&L and afterward responding "I do" to the oath
23 administered, deposes and says:

24 JUDGE STEARLEY: Thank you. Please be seated.
25 And Mr. Fischer, you may proceed.

1 DIRECT EXAMINATION

2 QUESTIONS BY MR. FISCHER:

3 Q. Please state your name and address for the
4 record.

5 A. Kevin E. Bryant. Did you say address?

6 Q. Yes.

7 A. 1200 Main, Kansas City, Missouri 64141.

8 Q. And by whom are you employed and what's your
9 job title?10 A. I'm employed by KCP&L, and I'm the
11 vice-president of strategy and risk management.12 Q. Mr. Bryant, did you cause to be prepared
13 certain biographical information that we filed earlier in
14 this case?

15 A. I did.

16 MR. FISCHER: Judge, I'd like to have GMO
17 Exhibit Number 1 marked.18 (GMO Exhibit Number 1 was marked for
19 identification by the court reporter.)

20 BY MR. FISCHER:

21 Q. Mr. Bryant, does GMO Exhibit Number 1 contain
22 the biographical information, your education,
23 responsibilities, experience and previous testimony, that
24 kind of thing?

25 A. It does.

1 MR. FISCHER: Judge, I'd move for the
2 admission of Exhibit Number 1.

3 JUDGE STEARLEY: Any objections? Hearing
4 none, it shall be admitted and received.

5 (GMO Exhibit Number 1 was received into
6 evidence.)

7 BY MR. FISCHER:

8 Q. Mr. Bryant, what is the general purpose of
9 your testimony? Can you give us, from a high level, what
10 you're here to do?

11 A. Yes, I'm here to address the -- the Complaint
12 that we did not meet the terms of the IRP filing with respect
13 to our GMO filing and also to talk about other aspects of DSM
14 as it relates to policy considerations.

15 Q. Okay. What's your understanding of the
16 primary basis of the Staff's Complaint in this case?

17 A. My understanding is that the Staff's Complaint
18 was that we did not file a preferred plan in January.

19 Q. Okay. Now, did the Company eventually file a
20 preferred plan later on?

21 A. We did, on July 1st.

22 Q. Okay. Do you agree with the Staff's
23 Complaint?

24 A. I don't. In the January filing, we basically
25 made notice that our plan had changed versus the original

1 filing that we made back in August of 2009, and we laid out a
2 number of factors primarily related to changing key
3 variables, natural gas prices, CO2 prices, and the impact of
4 EPA regulations. And for those reasons, we provided notice
5 in January that our plan had changed and made the commitment
6 to file an updated plan at a later date, which we did on
7 July 1st of 2011.

8 Q. Why did you include this notification in your
9 January IRP filing?

10 A. It was pursuant to the rule, the IRP rule that
11 says if something has changed in your plan, you need to
12 provide notice within 60 days of those circumstances
13 changing.

14 Q. Now, did the Company follow-through and file a
15 supplemental filing in July that identified the preferred
16 plan?

17 A. We did.

18 Q. And can you generally talk about what was
19 included in that supplemental filing, the nature of that?

20 A. Yes. In that filing, we filed an updated IRP
21 plan that laid out the resources that GMO would pursue over
22 the coming 20 years with key assumptions related to DSM
23 included in that filing.

24 Q. Did it also include an implementation plan?

25 A. It did. It had an implementation plan along

1 with, I believe, a risk strategy, risk analysis evaluation as
2 well.

3 Q. But was it a complete IRP, a brand new one?

4 A. It was not.

5 Q. Okay. Now, were there some alternative
6 resource plans included in that July supplemental filing?

7 A. Yes, I believe we had 12 alternative plans
8 that we evaluated.

9 Q. And did that look at supply-side issues as
10 well as demand-side resources and retirements?

11 A. It did.

12 Q. Did the Company include an enhanced level of
13 proposed DSM programs in the plans that you evaluated in that
14 July 1 filing?

15 A. We did.

16 Q. Did the Company select a preferred plan that
17 included an enhanced level of DSM investment?

18 A. We did. We added a DSM plan that included a
19 level of DSM investment that would be contingent on making a
20 filing under the MEEIA rules where not only would we pursue
21 the enhanced DSM but also pursue that subsequent to getting
22 enabling cost recovery under a filing under the MEEIA rules
23 that were previously referenced in this hearing.

24 Q. What do you mean it's contingent upon the
25 filing of the MEEIA application and approval?

1 A. As we stated in our filing, the bottom line is
2 we would believe that the pursued DSM on an aggressive basis
3 going forward, we had to balance the interest between
4 shareholders and customers. And as part of that, as laid out
5 in the MEEIA rules and discussed last year during the MEEIA
6 rulemaking workshops, really have to provide for timely
7 recovery of program costs, recovery of lost margins and
8 return on investment. So there has to be a financial
9 incentive for the utility to pursue DSM versus the plus-side
10 investments.

11 Q. Well, if the Company does not receive what it
12 considers to be adequate financial treatment in that expected
13 MEEIA filing, what would you expect to be the result?

14 A. It would certainly impact the level of
15 aggressiveness of how we pursue DSM investments.

16 Q. Now, would the preferred plan be expected to
17 increase the expected reductions of retail load over what the
18 existing plans have in them?

19 A. The preferred plan for DSM?

20 Q. Yes.

21 A. Yes. Versus the original DSM plan, yes.

22 Q. Do you believe that the level that's included
23 in the July 1st preferred plan is achievable, the DSM
24 programs?

25 A. Yes. As was stated a little bit earlier, to

1 date, our existing programs, which are kind of a foundation
2 for our DSM efforts in Missouri, are receiving about point
3 three-tenths of a percent on an annual basis. In the filing
4 we made, we assumed half a percent savings per year. We
5 believe, based on our experience, that's an
6 aggressive [phonetic] level but achievable during the time
7 frame in which we evaluated the DSM programs.

8 Q. Well, can you explain at a high level what the
9 Company would consider to be adequate financial support to
10 pursue this level investment?

11 A. In terms of the recovery mechanism?

12 Q. Yes.

13 A. So as I mentioned previously, recovery of our
14 program costs in a timely fashion, and we plan to go into
15 this in very much detail under our MEEIA filing that we'll
16 make here this month, but timely recovery of program costs,
17 ideally within a year, recovery of lost margins along the
18 same time frame, and then a commensurate return on our
19 investment.

20 Q. Why is the current cost recovery mechanism not
21 a sustainable solution for the future?

22 A. The current cost of recovery mechanism does
23 not provide for lost margin recovery as well as the
24 timeliness of the recovery of program costs, also makes it
25 difficult to continue to invest in DSM at very aggressive

1 levels.

2 Q. Why is the Company proposing an incentive
3 mechanism?

4 A. Just like with returns on supply-side
5 investments, we believe that the Company should be incented
6 to invest in DSM. And at the very least, should not be at a
7 disadvantage when pursuing DSM investment. So when we talk
8 about incentive, that's what we're talking about, a fair
9 return on investment in DSM.

10 Q. Do you consider the current mechanism to be
11 that equal playing field?

12 A. We do not.

13 Q. How -- how do -- or how will KCP&L and GMO
14 determine that its DSM initiatives are cost effective? The
15 DNR witness mentioned that in his testimony.

16 A. So when we evaluate programs, as was mentioned
17 by Mr. Bickford, we start with a bottom-up analysis, where we
18 evaluate both the program measures and we aggregate those
19 measures ultimately into programs. And when those
20 evaluations occur, as Mr. Bickford stated, we evaluate both
21 the costs of those programs and the benefits of those
22 programs as from a prescreening perspective to determine
23 whether or not the cost exceed -- the benefits exceed the
24 costs. Ultimately, those programs are run through the
25 integration analysis to determine whether or not the

1 portfolio makes sense, but that's -- that's how we evaluate
2 our DSM investments.

3 Q. Did you -- were you in the hearing room when
4 Dr. Bickford testified?

5 A. I was.

6 Q. Did you hear him suggest or criticize the
7 Company, to some extent, for not doing cost effectiveness
8 testing again in the January and the July filings?

9 A. I did.

10 Q. What would -- do you have a comment about
11 that?

12 A. Yeah. So as was mentioned earlier, we
13 conducted a cost effectiveness testing when we originally
14 filed the GMO IRP and the set of programs back in 2009. We
15 did not provide subsequent cost benefit testing because the
16 programs had already been screened from a cost benefit
17 perspective, and then the key variable was what level of
18 penetration did we think we would gain from those programs.

19 Mr. Bickford referenced a couple of programs
20 that changed with respect to the program portfolio. One was
21 an affordable new homes program, I think the other was a
22 residential lighting program. The rationale around not
23 including the affordable new homes program in the July 1st
24 filing that we made was primarily due to the fact that we
25 haven't had much participation in that program since we

1 initiated it back three or four years ago, and conversely
2 with the -- with the residential lighting program, it was an
3 incremental enhancement to an existing program that was in
4 the portfolio. And so the impact of the changes, we think,
5 would be minimal.

6 Q. Do you believe that the programs that are
7 included in the preferred plan that were included in the
8 July 1st filing are cost effective?

9 A. I do.

10 Q. Do you have any comments regarding the -- the
11 sharing of net benefits mechanism that I think the Company
12 has mentioned in filings but would be included in the MEEIA
13 applications?

14 A. Yes, the sharing of net benefits mechanism is
15 a provision that's provided for under the MEEIA rules. And
16 in the context of our upcoming MEEIA filing, we will be
17 offering a cost benefit mechanism using the shared net
18 benefits approach.

19 Q. Okay. And just so the record is clear, for
20 GMO, will the level of DSM investment contained in the
21 July 1st preferred plan and the supplemental filing, would
22 that be an increase from current levels of DSM investments
23 for the Company?

24 A. What was modeled in the July 1st filing at the
25 half a percent would represent an increase from what we're

1 currently experiencing, although our full intention is to
2 conduct a DSM potential study where those activities are
3 underway, where we would have the results of that potential
4 study during the first half of next year.

5 And depending on how that outcome -- the
6 outcome from that potential study, it may indicate a level of
7 potential greater than half a percent. Our intention is to
8 use that potential study to set the guide for our program
9 performance expectations going forward. So right now, the
10 half a percent serves as a reasonable starting point, but
11 really are looking to the DSM potential study to serve as the
12 guide for our programs going forward.

13 Q. So your preferred plan might be modified
14 somewhat if -- if the -- depending on the outcome of the
15 potential DSM study?

16 A. That's correct.

17 MR. THOMPSON: Judge, I'm going to make a
18 relevancy objection at this point. I know that I pushed the
19 bounds of relevance to get my two exhibits in, but I didn't
20 subject anybody to extended examination about them. This has
21 nothing to do with whether or not they violated the
22 stipulation and agreement.

23 JUDGE STEARLEY: Mr. Fischer?

24 MR. FISCHER: Judge, we're -- we created
25 the -- I think we were trying to explain why we didn't adopt

1 a preferred plan in the beginning and we talked a lot about
2 the uncertainties that were out there, including the -- the
3 uncertainties around cost recovery, the DSM potential studies
4 that have been suggested and I believe undertaken, and we're
5 going through that discussion with this policy witness. We
6 can cut it -- we can get right to the end here, I think,
7 quickly.

8 JUDGE STEARLEY: All right. Very well. The
9 objection is overruled.

10 BY MR. FISCHER:

11 Q. Just to cover your counsel, Mr. Bryant, did
12 you hear the opening statement this morning?

13 A. I did.

14 Q. Did you hear anything in the factual
15 discussion that was included there that was a concern?

16 A. No.

17 Q. Okay. Would you briefly summarize your
18 testimony here today?

19 A. Yes. Essentially, I'm here to say that I
20 think we've met all the commitments that were laid out under
21 the IRP rule as it pertains to our GMO IRP filing and we
22 believe with our July 1st filing that we've met the
23 commitments related to that filing and are not deficient as a
24 result.

25 Q. Is there anything else that you heard this

1 morning from Dr. Bickford that you feel you're the one that
2 should address?

3 A. Not specifically. I mean, there was a number
4 of discussion topics around the programs and the cost
5 effectiveness and the change in the portfolio. I guess what
6 I would say is we feel that with the set of DSM programs
7 included in the July 1st filing, it represents a cost
8 effective portfolio program that is aggressive and reasonable
9 to pursue subject to a MEEIA filing where we would have
10 better information.

11 MR. FISCHER: Judge, with that, I would -- if
12 I didn't move for the admission of Exhibit 1, I would do
13 that. And I tender the witness for cross.

14 JUDGE STEARLEY: All right. I believe we have
15 admitted Exhibit 1.

16 So cross-examination, beginning with Dogwood
17 Energy.

18 CROSS-EXAMINATION

19 QUESTIONS BY MR. LUMLEY:

20 Q. Good afternoon, sir.

21 A. Good afternoon.

22 Q. I'm Carl Lumley, I'm representing Dogwood
23 Energy in this proceeding. And first, are you generally
24 aware of Dogwood's 650-megawatt combined-cycle plant in
25 Pleasant Hill, Missouri?

1 A. I am.

2 Q. And that's in GMO's MPS service area, right?

3 A. That's correct.

4 Q. And also, is it your understanding as a
5 company representative that the filing that was made in July
6 of this year was still under the old version of the IRP rules
7 and not the new version?

8 A. I am.

9 Q. And just a caveat about highly confidential
10 information, I'm trying not to get into that, but if I ask
11 you a question that requires that level of confidentiality,
12 if you'd let us know.

13 A. Okay. And I'll look to my lawyer to help me
14 out as well.

15 Q. And I'm doing my best, too. I certainly don't
16 intend to get into that.

17 A. Certainly.

18 Q. In the -- in the July filing, Volume 6, which
19 is the integrated analysis at page 1, it says that your
20 company elected to look at several drivers in developing
21 alternative plans to be studied. Do you recall that?

22 A. Volume 6, page 1.

23 Q. Or section 1 -- right there's the bold-headed
24 section 1, resource planning objectives. And then there's a
25 bold title, and then there's that first sentence.

1 A. Yes.

2 Q. Do you see that?

3 A. I do.

4 Q. Okay. Can you identify what those several
5 drivers were?

6 A. I believe, and Company witness Jim Okenfuss
7 will be able to go into this in a little more detail, but the
8 main drivers as we think about integrated resource planning
9 are low growth, cost of natural gas, cost of CO2 prices.

10 Q. And when it says the Company elected to look
11 at those, what was the basis for that decision?

12 A. We believe that that was required by the IRP
13 rule.

14 Q. So would it be fair to say that the Company
15 was endeavoring to identify, you know, critical drivers or
16 things that it thought would be important in identifying one
17 plan from another?

18 A. Yes.

19 Q. Is there further explanation of that process
20 of selecting those drivers and the analysis that went into
21 that decision-making process in the materials that were filed
22 in July?

23 A. I can't answer that. I think I would be
24 better to defer that to Jim Okenfuss.

25 Q. In the next sentence, still on that page, it

1 says the results of the screening analysis performed for the
2 August 1st, 2009, IRP filing were still considered viable,
3 right?

4 A. Correct.

5 Q. And that -- that analysis in August of 2009
6 would have been based on data gathered in 2008 and 2009,
7 right?

8 A. Correct.

9 Q. And it says, then, that some changes due to
10 information gathered in subsequent RFPs, right?

11 A. Correct.

12 Q. Can you identify just at a high level what
13 those RFPs were?

14 A. I believe the RFPs would have been with
15 respect to PPA pricing, wind pricing. We conducted PPAs on a
16 regular basis to look at the cost of wind and renewables
17 based on what's in the market, so those are the type of RFPs
18 that would have been conducted. But again, Mr. Okenfuss can
19 go into a little more detail.

20 Q. And do you know what changes those RFPs drove
21 relative to the screening analysis from August of '09?

22 A. Again, I think Mr. Okenfuss will be a better
23 source.

24 Q. Are you familiar with the process for deciding
25 that the prior results were still viable? How was that done?

1 A. Could you restate the question?

2 Q. Yeah, it's saying that -- here at this
3 sentence we've been talking about, that the prior screening
4 results were still considered viable. What kind of process
5 was engaged, you know, to reach that determination?

6 A. So there, you would be looking at the
7 variables assuming the original analysis, testing them with
8 new updated market information, and comparing the difference
9 between those data points. And to the extent that they were
10 comparable, that's where you would be validating those
11 assumptions and determining whether or not they are still
12 viable.

13 Q. But you were able to do that without actually
14 doing a new screening analysis and a full-blown screening
15 analysis?

16 A. Again, I think Mr. Okenfuss would be better
17 served to answer that question.

18 Q. Now do you recall in the August, 2009, filing,
19 that there was a table that listed the various candidate
20 supply-side options?

21 A. Yes.

22 Q. And am I correct that the Dogwood plant and
23 acquisition of it was considered at a preliminary stage under
24 the heading Combined Cycle?

25 A. I wouldn't have a detailed perspective there,

1 but if you allege that's such, I take your point as given.

2 Q. But am I also correct that the Dogwood plant
3 did not get through the integrated analysis into the final
4 alternative plans at that time back in the August filing?

5 A. I believe that's correct.

6 Q. Likewise, in the August 2009 filing, there was
7 discussions about long-term purchase power agreements, but
8 the conclusion was to -- to rule those out of the analysis;
9 is that correct?

10 A. I believe that's correct.

11 Q. There's been discussion today already about
12 the January 2011 filing. And the end result of that -- the
13 message of that filing, if you distill it down to a single
14 message, was that your company determined that the preferred
15 resource plan filed in August of 2009 was no longer
16 appropriate?

17 A. That's correct.

18 Q. And it was due to changes in projected natural
19 gas costs, CO2 emission costs, and new EPA regulation
20 proposals?

21 A. Correct.

22 Q. How do the natural gas cost projections
23 change? And by that, you know, it's going to get more
24 expensive, is it going to get cheaper? What was the change?

25 A. I think directionally the -- where natural gas

1 prices are going to be lower. But again, Mr. Okenfuss can
2 give you better color in terms of how those variables change.

3 Q. And you understand on behalf of your company
4 that the Dogwood plant runs on natural gas, correct?

5 A. I do.

6 Q. And as a result of the January 2011 filing,
7 your company decided it needed to re-evaluate the resource
8 plans from the August filing?

9 A. Correct.

10 Q. So it's basically time to start over because
11 of these changes?

12 A. We thought there was enough change to revisit
13 the analysis.

14 Q. Now, can you explain in that re-evaluation
15 process, how did the -- your company move from the prior
16 candidate plans, you know, where the basis of the studies in
17 August of 2009 to the 12 plans that were studied in the July,
18 2011 filing?

19 A. So -- and again, Mr. Okenfuss can give you
20 quite a bit more color, but, you know, as we think about our
21 January filing, that -- variables that have evolved over
22 time, we participated quite vigorously with the stakeholder
23 process and that brought us to kind of the end of 2010 and
24 2011 where we re-evaluated all those options and evaluated
25 them in the context of changing -- changing variables. And

1 that's why we decided to -- to determine that our plan had
2 changed and to ask for more time to reassess the plan and
3 ultimately file the July 1st plan that we filed.

4 Q. No, I understand that. Let me restate my
5 question.

6 A. Okay.

7 Q. In the August, 2009 filing, as we touched on
8 briefly, you know, there was a table that said there's these
9 various supply-side candidates, you know, that we could work
10 from. And then the Company did a very detailed analysis that
11 got down to a more discreet set of plans, you know, with a
12 discreet set of supply-side options, right?

13 A. Sure.

14 Q. But then we moved to the July, 2011 filing
15 that has 12 distinct plans, right?

16 A. Correct.

17 Q. And how did the Company decide, you know, to
18 move from the prior analysis to these 12? How did you know
19 to look at these 12 plans at this point?

20 A. I think that would be a better question for
21 Mr. Okenfuss. But generally speaking, we're trying to look
22 at plans that provide the lowest MPVRR, and I'm assuming
23 these plans would be a function of feedback from the
24 stakeholder process as well as our -- our view of what was
25 viable going forward.

1 Q. Now, you understand that the stakeholder
2 process and the stipulation called for the Company to make a
3 new filing in December of 2010, correct?

4 A. Correct.

5 Q. And also to be fair, the parties didn't object
6 to an extension in the January, 2011, but that was the
7 ultimate due date pursuant to the stipulation, right?

8 A. Right.

9 Q. But there aren't any parties that agreed to
10 that filing being deferred to July of 2011, are there?

11 A. The Commission approved that -- that extension
12 of time for us to ultimately file our plan.

13 Q. But in terms of the stipulation, the parties
14 didn't get back together and enter into a new stipulation
15 saying that you could have until July, correct?

16 A. Not that I'm aware of.

17 Q. I'm referring back to Volume 6 now of the July
18 filing, if you could look at table 1.

19 A. Okay.

20 Q. Just on page 2. Let me just double-check, it
21 might touch on HC.

22 MR. FISCHER: Mr. Lumley, I do think table 1
23 is HC if that's what you're looking for.

24 MR. LUMLEY: Well, let me visit with you for
25 just a second.

1 (An off-the-record discussion was held.)

2 BY MR. LUMLEY:

3 Q. So in table 1, there's a column that's
4 headed -- the top is headed Additional Builds. And under
5 that heading, the left column is the initial CT. Do you see
6 that?

7 A. Yes.

8 Q. Can you describe what that consists of, what
9 the Company is trying to convey in that column?

10 A. What that column is representing is in the
11 context of the 12 plans that are represented in that table,
12 it's denoting the number of plans for which it would be cost
13 effective to build CTs versus CC versus wind. So those --
14 those builds were built into those plans, and so it's then
15 to -- this table is denoting that which plans had CT builds,
16 which had combined-cycle builds, which had wind builds.

17 Q. And the CT is combustion turbine?

18 A. Correct.

19 Q. And the CC, you just said is combined-cycle?

20 A. Combined-cycle.

21 Q. In both instances, you're looking at the
22 Company actually building new generation facilities?

23 A. Correct.

24 Q. Was any consideration given in developing the
25 July, 2011 filing to acquiring part or all of the Dogwood

1 plant in lieu of the Company building new combined-cycle?

2 A. I can't answer that question. That would be
3 one that's better served for Mr. Okenfuss.

4 Q. Do you know if long-term purchase power
5 agreements were considered?

6 A. I believe in the evaluation of our resource
7 plans, the extent that we were looking at capacity on the
8 market, we were looking at short-term PPAs, but again, I
9 think that's a better question for Mr. Okenfuss.

10 Q. But to your knowledge -- in our exchange
11 earlier today already, referred to the fact that in the
12 August, 2009 filing, the long-term PPAs were ruled out. So
13 is it fair to say that in the July filing, you were still
14 relying on that conclusion?

15 A. I believe we were being consistent.

16 Q. Do you know was any data concerning the
17 Dogwood plant considered in developing the July, 2011 filing?

18 A. I don't know. I don't know.

19 Q. Are you familiar with the Crossroads plant
20 that's owned and operated by the City of Clarksdale,
21 Mississippi?

22 A. Yes.

23 Q. And GMO purchases power from that plant,
24 correct?

25 A. Correct.

1 Q. Was that relationship re-evaluated at all in
2 the July, 2011 filing?

3 A. That would be a better question for
4 Mr. Okenfuss.

5 Q. So is it fair to say that you're not sure?

6 A. I'm not sure.

7 Q. Okay.

8 A. I can make a guess --

9 Q. Nope.

10 A. -- but I was told not to do that.

11 Q. Just wanted to be clear.

12 A. Okay.

13 Q. In the -- in the executive summary, Volume 1,
14 of your July, 2011 filing --

15 A. Okay.

16 Q. -- at page 3, I'm going to try to ask this in
17 a way that doesn't get into the HC material. I'm just trying
18 to clarify something.

19 A. Okay.

20 Q. In the column at the far right, I don't want
21 to -- I don't want to talk about the title of it, I don't
22 want to talk about the numbers. But there's a -- is the
23 intent where a number reappears, that it's cumulating or is
24 it just restating the number again and again?

25 A. It's restating the number again and again.

1 Q. Okay. I thought so. I just wanted to make
2 sure. And do you have the appendix 7(a) of your July filing?

3 A. I do.

4 Q. At page 24, there's figure 12, and I
5 understand it's highly confidential, so again, I'm trying to
6 keep this at a very high level. But the intent of this -- of
7 this structure with the different arrows is to convey that
8 if -- if different contingencies arise, the Company might
9 move in a different direction, right?

10 A. Correct.

11 Q. And it's fair to say that all those directions
12 are kind of preset by the 12 plans you looked at?

13 A. Right.

14 Q. And so regardless of contingencies, according
15 to this chart, there's no opportunity for Dogwood to be
16 involved, because it's not in those plans?

17 A. In the context of this chart, this uncertainty
18 would be built off of the 12 plans that we evaluated.

19 Q. Okay. Has your company issued any new RFPs
20 for capacity and energy in the last 30 days?

21 A. Not that I'm aware of.

22 MR. LUMLEY: That's all my questions.

23 JUDGE STEARLEY: Cross-examination from DNR.

24 ///

25 ///

1 CROSS-EXAMINATION

2 QUESTIONS BY MS. MANGELSDORF:

3 Q. Good afternoon, I just have a few questions.

4 A. Okay.

5 Q. Is it true that natural gas prices and CO2
6 prices can effect the cost effectiveness of DSM portfolios?

7 A. Sure, from an avoided cost perspective.

8 Q. And isn't it true that a cost effectiveness
9 study was not done in January or July of this year?

10 A. We did not refresh the cost benefit analysis.

11 Q. And isn't it also true that GMO did not select
12 a preferred resource plan in January because of significant
13 changes to the natural gas and CO2 prices?

14 A. Correct.

15 MS. MANGELSDORF: Thank you. That's all the
16 questions I have.

17 JUDGE STEARLEY: All right. Public Counsel.

18 MS. BAKER: No questions. Thank you,
19 Mr. Bryant.

20 THE WITNESS: Thank you.

21 JUDGE STEARLEY: Staff?

22 MR. THOMPSON: Thank you.

23 CROSS-EXAMINATION

24 QUESTIONS BY MR. THOMPSON:

25 Q. Good afternoon, Mr. Bryant.

1 A. Good afternoon.

2 Q. Now, you were speaking of cost recovery and
3 its relationship to DSM. And one thing you mentioned was
4 recovery of lost margins. Do you recall talking about that?

5 A. Correct.

6 Q. What do you mean by the phrase "lost margins?"

7 A. Lost margins are basically the lost revenues
8 net of our operating costs that are lost that we don't
9 recover when our customers use less of our product. It's
10 traditionally called the through-put disincentive that
11 utilities face and it's a significant obstacle to the pursuit
12 of DSM programs.

13 Q. So in an effort to become -- in an effort to
14 use less of your product, consumers will have to pay for the
15 product you don't sell?

16 A. What we'd be looking for is full recovery of
17 our costs. If you're going to invest in a power plant, you
18 wouldn't have lost margins between rate cases, and so we
19 would get such a return. With DSM investments, they're a
20 little different. You -- we are disincented and harmed by
21 such losses due to DSM investments.

22 Q. Is that because you have fixed costs that
23 wouldn't be recovered?

24 A. Correct.

25 Q. Now, with respect to the notice given in

1 January, I think you testified that you gave that notice
2 because you believe the rules required it; is that correct?

3 A. I believe so, yes, that's correct.

4 Q. Okay. And who made the decision to provide
5 that notice?

6 A. GMO.

7 Q. Well, when you say "GMO," who at GMO?

8 A. That's a good question. It would be a
9 collective call. It would ultimately -- our head of resource
10 management and risk management at the time would have made
11 that decision.

12 Q. Okay. Would you have been part of that
13 decision?

14 A. I would not; not at that time.

15 Q. If you know, when did GMO determine that gas
16 and CO2 prices and EPA rule changes dictated the need to
17 fully evaluate additional resource plans prior to determining
18 a revised preferred plan?

19 A. To rephrase the question, when did we know
20 that the factors had changed?

21 Q. When did you know?

22 A. I think Mr. Okenfuss would be better served to
23 answer that question.

24 Q. And who is Mr. Okenfuss?

25 A. Jim Okenfuss is that gentleman there at the

1 back of the room. I don't know his specific title.

2 MR. OKENFUSS: Manager of fundamental
3 analysis.

4 THE WITNESS: Manager of fundamental analysis.

5 BY MR. THOMPSON:

6 Q. And who does Mr. Okenfuss work for?

7 A. He works for our manager of energy resource
8 management.

9 Q. Does he report to you?

10 A. He does.

11 Q. Okay. Indirectly or directly?

12 A. Indirectly.

13 Q. Indirectly. Okay. Now, if you know, does GMO
14 have an obligation to have a preferred plan identified at all
15 times?

16 A. I don't know.

17 Q. Do you think it would be good practice -- good
18 business practice to have a preferred plan identified at all
19 times?

20 A. It's good to have a preferred plan,
21 recognizing that market conditions can always change. And so
22 to the extent we have a preferred plan, it may be valid one
23 day, but depending on conditions, may not be valid
24 thereafter. So it's -- as we think about resource planning,
25 it's an ongoing process.

1 Q. Now, you're familiar with the stipulation and
2 agreement that we're here to talk about today?

3 A. Yes.

4 Q. Okay. Based on your understanding of that
5 document, did it contemplate changes in circumstances in the
6 interval between the execution of the stipulation and
7 agreement and GMO's submission of a supplemental filing?

8 A. I'm not sure.

9 Q. Okay.

10 A. I can't answer that. I would hope so.

11 Q. Do you believe that GMO has a general
12 obligation to advise the Commission if its identified
13 preferred plan ceases to be the preferred plan?

14 A. Yes.

15 Q. Now, at the outset, Mr. Fischer asked you if
16 you agreed with Staff's Complaint. Do you recall that?

17 A. Yes.

18 Q. But it doesn't actually matter whether you
19 agree with Staff's Complaint, does it?

20 A. It matters to me.

21 Q. Okay. But does it matter to the Commission?

22 A. I can't speak for the Commission.

23 Q. Very good. Thank you.

24 MR. THOMPSON: No further questions.

25 JUDGE STEARLEY: All right. Redirect.

1 MR. FISCHER: No questions.

2 JUDGE STEARLEY: All right. Mr. Bryant, you
3 may be excused as a witness and thank you for testifying.

4 THE WITNESS: Thank you.

5 JUDGE STEARLEY: Additional witnesses,
6 Mr. Fischer?

7 MR. FISCHER: Yes, we would call James
8 Okenfuss.

9 JAMES OKENFUSS,
10 of lawful age, being produced, sworn and examined on the part
11 of the Staff and afterward responding "I do" to the oath
12 administered, deposes and says:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. FISCHER:

15 Q. Please state your name and address for the
16 record.

17 A. James W. Okenfuss. I am manager of
18 fundamental analysis with Kansas City Power & Light. My
19 office address is 1200 Main, Kansas City, Missouri 64141.

20 Q. Mr. Okenfuss, earlier in this proceeding, did
21 you cause to be created an exhibit that included your
22 biographical information, your education, experience --

23 A. Yes.

24 Q. -- testimony, that kind of thing?

25 A. Yes.

1 MR. FISCHER: I'd like to have an exhibit
2 marked. It's been premarked as GMO Exhibit 3.

3 (GMO Exhibit Number 3 was marked for
4 identification by the court reporter.)

5 BY MR. FISCHER:

6 Q. Mr. Okenfuss, does GMO Exhibit 3 contain your
7 biological -- your biographical information?

8 A. Yes, it does.

9 MR. FISCHER: Judge, I'd move for the
10 admission of GMO Exhibit 3.

11 JUDGE STEARLEY: Any objections? Exhibit will
12 be received and admitted into evidence.

13 (GMO Exhibit Number 3 was received into
14 evidence.)

15 BY MR. FISCHER:

16 Q. Mr. Okenfuss, were you in the room this
17 morning when Staff witness Lena Mantle testified regarding
18 the Staff's concerns about shortfalls and capacity related to
19 PPAs?

20 A. Yes, I was.

21 Q. Do you have any comments regarding her
22 concerns?

23 A. Yes. I would have to just say from a personal
24 standpoint, I understand Ms. Mantle's concerns and the
25 Staff's concerns. I've worked with Lena for several years at

1 KCP&L and before that at GMO, and I have to share her
2 concerns that it is generally in the best interest of a
3 utility to build rather than to buy its future capacity.
4 However, it's not a hard and fast rule all the time that
5 that's the right thing to do in every situation.

6 What we're proposing in our current plan is
7 some short-term capacity to get us through until our demand
8 and our need -- our demand rises and our need rises to the
9 point that we can actually build a minimum-sized block of
10 capacity. For our planning purposes, we took a 154-megawatt
11 block of CTs, basically building two CTs as our minimum size
12 of increase for capacity.

13 We felt that would be probably better than
14 building a CT every time because we could minimize the cost
15 of actually getting the construction firms onsite, locating
16 the citing and permitting and some of the other issues that
17 can arise. And knowing GMO's history, they have had some
18 issues with citing particular plants. So minimizing that
19 risk is a benefit to us as well.

20 Q. Well, based on your analysis as a part of the
21 IRP process, do you believe there will be capacity available
22 in the SPP region during the forthcoming years?

23 A. Yes. I -- I get the luxury of looking at a
24 lot of data across the market. And just this morning, I was
25 looking at the amount of capacity that SPP is showing for

1 their existing available capacity. And that's at 52,000
2 megawatts with their net internal demand being 42,000
3 megawatts, roughly. So about 10,000 megawatts they have
4 above their net internal demand.

5 And if you break that down into how much is
6 needed for their capacity margin, which is a 12 percent
7 requirement, that still leaves about 4,800 megawatts of
8 available capacity. The amount that we need in the largest
9 year, Staff and our group is still trying to find out exactly
10 what that number is. The highest level that we had seen in
11 some of our discussions recently was about 203 megawatts in
12 one year. That's still well within the 4,800 that would be
13 available.

14 So the plan that we have at GMO would be that
15 we would wait until we were sure that we had the need for a
16 block of capacity so that we don't build into a large amount
17 of available capacity that we currently have into the market.
18 And we thought that that time when that need would arise
19 would be in conjunction with a potential retirement of
20 another asset.

21 Q. I believe that Ms. Mantle commented about a
22 plan arising over 16 or 20 years. Would the Company be
23 looking at that planning horizon and considering changed
24 circumstances, if you will, in deciding how much PPAs you
25 need?

1 A. Yes. The planning horizon is always going to
2 be 20 years, but there are many times in that 20-year period
3 where we'll be going back to look at this whole planning
4 process. As a matter of fact, we're going to be back here in
5 seven months with our GMO IRP filing under the new rule,
6 along with the KCP&L filing as well. And then after that,
7 the new rule requires an annual update.

8 So there's going to be many times prior to the
9 period of when we think we're going to need our first block
10 of capacity that we are going to be able to revisit this
11 issue.

12 Q. And you do that annually in that update?

13 A. Yes. Yes. The -- under the new rule, the
14 update to the IRP will be annual.

15 Q. Then does the new rule require a full-blown
16 IRP every three years?

17 A. No.

18 Q. Okay.

19 A. This is -- this is something that the new
20 rule -- I have to admit, I'm a little confused with as I read
21 it. In some of the original part -- in some of the original
22 promulgations of the rule, it was suggested that the update
23 would be a -- like a light filing of a three-year compliance
24 filing. But parties could never quite agree as to what would
25 be required and what would not be required in that update.

1 The final language that was settled in the
2 rule, I think, is fair but still a little vague. It suggests
3 a meeting where the Company presents its update. And after
4 the meeting, it can be discussed among the participants if
5 something needs to be looked at or re-evaluated. So it's --
6 it's a little more -- a little more informal, but it's still
7 open to quite a bit of input from -- from parties.

8 Q. And there you're talking about the annual
9 updates, right?

10 A. Yes, sir.

11 Q. Now, it does also require, doesn't it, a
12 compliance filing every third year following --

13 A. Yes.

14 Q. -- the initial one under the new rule?

15 A. Yes, each company has its own schedule for
16 compliance filings. KCP&L and GMO, their compliance filing
17 falls on April 1st of 2012, and every three years thereafter
18 on April 1st.

19 Q. Mr. Okenfuss, were you also in the room when
20 Dr. Bickford testified?

21 A. Yes, sir, I was.

22 Q. Did you hear him express the concern that
23 GMO's selection of candidate alternative resource plans to
24 submit with the July 1st filing violated the agreement, the
25 non-unanimous stipulation agreement?

1 A. I heard him make that claim, yes.

2 Q. Do you have any comments regarding that? Do
3 you agree?

4 A. No, I don't. It's kind of a bit of a long
5 story and long history with this.

6 Q. Give us the short version to start with.

7 A. Sure. The stipulation and agreement,
8 basically what it set up was a stakeholder -- was a
9 stakeholder process. And there were some guidelines in the
10 stipulation and agreement given to the stakeholder process
11 that they needed to work through. And I believe that through
12 the stakeholder process, we addressed all those issues as
13 they came up.

14 But even in the definition of the stakeholder
15 process and in the enumeration of the items that we were
16 supposed to look at as a group, nowhere in it do I see where
17 it suggests that we were -- the ultimate outcome was a whole
18 new IRP filing.

19 So I -- I can't see how the statement can be
20 made that the lack of a fully complete Section 050 or
21 Rule 050 compliant set of tests and studies done on series of
22 the DSM programs would invalidate what we did or even not
23 coming up with a plan and yet still saying that we have to do
24 some more evaluation. It would still not -- I don't see how
25 that could be out of compliance.

1 Q. As I understood his testimony, one of the
2 criticisms seemed to be that you added a couple plans that
3 hadn't been looked at originally.

4 A. Oh. Oh, yes. I'm sorry.

5 Q. Do you recall that?

6 A. Yes, I do. The stakeholder agreement did come
7 up with nine different alternative plans that specifically
8 had to be looked at to look at very narrow issues that the
9 group agreed these are things that needed to be looked at.
10 And the Company concurred. We should look at those things.
11 And so we developed those plans.

12 But it was never assumed that that was going
13 to be the universe of all that we would look at. It was
14 always going to be what the stakeholder group wanted to see
15 but the Company always reserved the right to look at more
16 alternatives. And we added in an alternative that included
17 the level of DSM that was included in the other nine and we
18 added another alternative that -- another plan that assumed a
19 lower or a delayed amount of DSM coming in.

20 Q. And was that lowered amount due in part to a
21 concern that you might not get financial recovery --

22 A. Yes.

23 Q. -- that you needed to support that?

24 A. Yes. It was a growing concern at the time.

25 Q. There was also a criticism, I believe, that

1 the Company's July 1st filing did not discuss or fully
2 account for the changed circumstances that the Company
3 suggested was a reason why they needed to study it a little
4 further. Do you agree with that criticism?

5 A. No, I do not. The initial discussion of a lot
6 of the drivers that we were discussing in a full IRP filing
7 is normally included in Volume 4, which is the supply
8 screening. And that was not one of the sections we were ever
9 planning on updating. So the data on the new forecasts were
10 included in Volume 7 of the July 1 filing. And we included
11 it in the Section 2 of that filing, and we showed all of the
12 changed forecasts that we had included.

13 Just off the top of my head, and not going
14 through the actual filing, we had the change of the gas price
15 forecast, the change of the CO2 price forecast. We also had
16 some modified -- modified costs for wind. We also included a
17 risk analysis for the federal energy efficiency standard.
18 We also looked at -- oh, the effect of the clean air
19 transport rule -- yeah, the transport rule was included in
20 that as well.

21 So we -- we discussed those issues and how we
22 addressed them in Volume 7, but we didn't do a comparison
23 back to what was originally filed or what we filed in -- in
24 January.

25 And I'd like to make another quick issue, too,

1 here. The concept of a changed forecast doesn't just mean we
2 changed the base forecast. Base forecast can remain the
3 same, but your forecast changes if your risks around that
4 have changed and that's what we had.

5 Q. Well, I believe there may have been also a
6 comment that you didn't look at supply-side options in that
7 July 1st filing and changed circumstances there. Do you
8 think that's correct?

9 A. No, not exactly. It's similar to what we had
10 in the demand side, and I -- just referring back to what
11 Mr. Lumley was asking. The 040 -- or I'm sorry, Volume 4,
12 which meets the 040 rule, was another section that the
13 stakeholder plan didn't anticipate that we would be updating.
14 That would have a new screening of supply options. And we
15 didn't go back and review all those supply options again. We
16 kept the same screen that we had done before.

17 Now, all that that did was we kept the same
18 group of supply options throughout the whole process that we
19 looked at. Now, if we had updated information from some of
20 our RFPs we had for wind or solar, we would take the new
21 costs and imply them into the model, but we didn't rescreen
22 to see if wind was still a viable technology to use.

23 Q. But in the July 1st filing, and I don't want
24 to get into confidential information, but did you also look
25 at changing retirement options?

1 A. Yes, we did. Yes.

2 Q. And that would be a supply-side change?

3 A. Yeah, I would say so, yes. The description of
4 retirements is a Volume 4 obligation.

5 Q. One of the last criticisms I think I heard was
6 that GMO has changed the programs in their enhanced DSM
7 portfolio presumed the July 1st, 2011, filing but didn't
8 sufficiently document it. Do you agree with that?

9 A. On a very narrow literal sense, yes, I would
10 have to agree with it; however, from a practical sense, I
11 don't believe that that was very material. We added a
12 program that wasn't fully vetted, but from my recollection of
13 the load impact of that particular program, it was something
14 on the order of two megawatts. It would probably not have
15 changed the cost effectiveness of all the rest of the
16 programs that we had included. It did seem like a small -- a
17 small change. But to be literal, yes, we didn't follow the
18 rule literally, but I don't think it was a material impact.

19 Q. Were there any other criticisms that I missed
20 that you wanted to address in your area of Dr. Bickford at
21 this point?

22 A. Yes, I did have one. Mr. -- Dr. Bickford was
23 asked if he felt that the stakeholder process was
24 meaningless, and I was at every one of those meetings and
25 there are several people who are in this room who were at

1 every one of those meetings, and the last thing I ever want
2 to have happen is to have someone walk away from this hearing
3 thinking that that was a waste of time. I don't think it
4 was.

5 I'd like to just point out that there were
6 many things we learned in the stakeholder process that we
7 couldn't still, because of time constraints, get included in
8 the January filing that we were able to do in the July
9 filing.

10 And there's two that I want to point out very
11 quickly. One, Staff felt very strongly about us revising our
12 risk analysis to take a look at the potential of a federal
13 energy efficiency standard rule and we were able to
14 incorporate that into the July filing.

15 The second is that even from the beginning of
16 the overall process, there was this discussion about how
17 could the Company take covariant risk into account for what
18 we were doing in our risk analysis. Now, it wasn't a very
19 well-described deficiency when we started, but through the
20 stakeholder process, we had an opportunity to discuss -- and
21 even as part of the stipulation and agreement, we had a risk
22 summit with other utilities across the state. And in that,
23 some ideas came out, one of which was that we would increase
24 our -- we would use our basic scenario analysis, which was
25 using 64 scenarios and increase it to 100 with a randomly

1 selected number of scenarios.

2 And this came to us from the stakeholders in
3 that process and we were able to incorporate it. And in
4 doing so, we've actually been able to find out a lot more
5 about our risk tolerances that we've been able to test and
6 study, some of which we haven't really found out exactly how
7 do we report it in kind of the stricture of the old rule, but
8 under the new rule, we think we're going to have some
9 opportunity to be able to show how this will help us out and
10 be able to make us explain that our -- our planning process
11 really is much more robust.

12 So I don't like disagreeing with Dr. Bickford,
13 but I do have to on this point. I really think that that
14 stakeholder process was quite valuable.

15 Q. In answer to one of my questions, you
16 indicated that you thought that we haven't followed the rule
17 literally. Can you expand on what you meant by that?

18 A. Oh, yeah. The literal interpretation of the
19 rule would say that each plan would have to -- each program,
20 I'm sorry, in 050 would have to go through a screening
21 process and be fully documented. In this particular case, we
22 were still working on, from what I understand, the -- the --
23 the methodology of testing and proving that particular
24 program and getting it completely defined and completely
25 described. That's what I'm saying is we didn't completely

1 meet the exact letter of the rule and have all that -- that
2 done and filed and included. But I --

3 Q. Is that a material concern?

4 A. No, no.

5 Q. I believe you also indicated that there was a
6 residential lighting program that was added in the July 1st
7 filing?

8 A. That's the program, yes.

9 Q. Was -- was that a totally new program or was
10 it a combination of previous programs?

11 A. I'm not a -- I'm not completely versed on the
12 nuances of that particular program.

13 Q. Okay. And one of the criticisms I think of
14 Dr. Bickford was that -- and it was sort of in the
15 conversation about the process being meaningless -- that the
16 Company had agreed to a lot of things that they seemed to go
17 back on from his perspective in this stakeholder process. Do
18 you agree with that?

19 A. No, no, I don't. The stakeholder process
20 asked us to look at a series of plans and had reasons for
21 asking for those particular plans. I think where I would
22 change -- what I would say differently is that what we did
23 was we incorporated what the stakeholder process was really
24 after, which was the answer to a series of questions and we
25 learned from those questions and answers.

1 And when we moved on and started working at --
2 to the question of, all right, now that there's these new
3 risks that we see, what is our real plan now. We
4 incorporated what we learned and advanced and built on it.
5 So I can't characterize that we ignored or didn't follow
6 through when, in fact, what we did was we used that
7 information to build what I think is a much better plan.

8 Q. When you model and fully analyze a DSM
9 program, in your mind, does that mean that you will be
10 adopting and implementing it?

11 A. Absolutely not, no. We -- we model and fully
12 analyze really, really bad plans, too. Some things that
13 obviously we would not pick because their costs would be
14 extremely -- would be harmly [sic] prohibitive.

15 Q. And for example, I think in the stipulation
16 and agreement, we're obligated to model and fully analyze
17 plans that would produce one percent or two percent retail
18 load reductions. Does that mean you're going to implement a
19 program that will produce one or two percent reductions?

20 A. That's the other -- that's the other caveat.
21 We also sometimes analyze plans that may not be achievable.
22 I think we still learn from those plans. Say, for example,
23 we analyze a one percent or two percent plan or twelve
24 percent plan, whatever you want to pick. We can at least
25 learn if we have a financial appetite for more DSM or less

1 DSM. We can kind of learn where is our financial range.

2 Q. Is that an important consideration, too, the
3 financial aspects of a plan?

4 A. I would think so, yes. Yes, it would have to.

5 MR. FISCHER: Judge, I think with that -- I
6 know you're going to get some other questions that were
7 deferred to you, but I think I'll let counsel ask you those.

8 JUDGE STEARLEY: Thank you, Mr. Fischer.
9 Cross-examination, Dogwood Energy.

10 CROSS-EXAMINATION

11 QUESTIONS BY MR. LUMLEY:

12 Q. Good afternoon.

13 A. Good afternoon.

14 Q. To try to avoid repetition, were there any
15 substantive answers from Mr. Bryant to my questions that you
16 disagreed with?

17 A. Not that I disagreed with what he said. It's
18 just that I think I could have provided a little more, as he
19 said, color for you.

20 Early you had asked him about why -- I'm kind
21 of mischaracterizing and -- I'm sure, but why did we kind of
22 pick the plans that we picked for the July filing. In the
23 integrated analysis, Volume 6, you look to the first
24 paragraph on page 1, but actually the answer to your question
25 was on the second paragraph.

1 Q. Okay.

2 A. The issues that drove plan selection for this
3 filing are the impacted DSM programs.

4 Q. The next thing is HC.

5 A. The next thing is HC.

6 Q. Okay.

7 A. Choice of alternative generation, natural gas
8 conversion, and that was at our Lake Road plant, and early
9 imposition of environmental rules and the risk of a federal
10 energy efficiency standard. So those are the main items that
11 drove why we picked the plans we picked. We picked those so
12 that we could test those particular risks.

13 Q. And I think the question that he deferred,
14 then, was: How did you come up with that list of issues?
15 How did you know that those were the ones to be your main
16 drivers?

17 A. Those -- those questions that came up on what
18 sort of risks we would be interested in, some of them came
19 from the stakeholder process, and the HC one is one of them.
20 Though we did not take the directive of the stakeholder
21 process literally and only looked at one alternative in this
22 area, we looked at a large number of alternatives in that
23 area. So we feel that we were building on -- we were
24 building on the stakeholder process, not doing away with it
25 on that particular issue.

1 We also had an internal question in the
2 company concerning the natural gas conversion at Lake Road
3 and internal management -- internally, management wanted to
4 know. The early imposition of environmental rules, that was
5 another question that our management wanted to know. And
6 impact of DSM programs, obviously. And the risk of the
7 federal energy efficiency standard, which from the
8 stakeholder process we tested, we found that we were
9 sensitive to a potential rule and we wanted to make sure that
10 we incorporated that in here.

11 So something that we couldn't do in the time
12 constraints of the stakeholder process. We wanted to make
13 sure we picked it up here, and I want to thank John Rogers
14 for helping us out with that, giving us guidance on how to
15 incorporate it was very helpful. But that's how -- that's
16 where these particular items came from. They came from
17 various sources. But these seemed to be the burning issues
18 at the time.

19 And if you would like to know who exactly
20 narrowed this list down --

21 Q. No, that's okay. You've answered my question.
22 I appreciate it.

23 A. Okay.

24 Q. Another item that was deferred to you, and it
25 refers still to this page 1 of Section 6.

1 A. Sure.

2 Q. There's the comment about using the prior
3 screening analysis results with some changes.

4 A. Yes.

5 Q. Can you explain what the changes were?

6 A. Yes, I can. We used the same screening
7 analysis from the Volume 4 of the initial IRP filing. In the
8 stakeholder process, we were asked to update to what we
9 learned on RFPs for wind, the cost of wind construction. And
10 we learned more information about the wind market in this
11 intervening time, too, and so we actually modified the wind
12 price yet again. But we also had some other information on
13 some other technologies and we included that information as
14 well and that was also in Volume 7 where we showed the
15 changes to the technologies that -- on a cost per KW
16 construction for what we -- what we modified.

17 Q. And what were those technologies?

18 A. Bear with me for a second. Solar, wind,
19 combined-cycle, and combustion turbines.

20 Q. And did I hear you correctly that that was new
21 information on construction costs by the Company itself?

22 A. Yes.

23 Q. And -- and this is all tied to the issuance of
24 RFPs, responses to RFPs?

25 A. Yes. Also, there was an update to EPRI tag

1 information as well, too.

2 (Reporter asked for clarification.)

3 THE WITNESS: EPRI tag, E-P-R-I.

4 BY MR. LUMLEY:

5 Q. Do you want to briefly explain what that is?

6 A. Oh, yes, certainly. The technical assessment
7 guide is a volume of information produced by EPRI, the
8 Electrical Power Research Institute. It is a survey of
9 different technologies, and it comes out kind of annually,
10 twice a year. It's not very regular. But when it does, it
11 is a survey of -- of estimated costs of construction for
12 different technologies. And I believe it was updated since
13 the initial Volume 4 filing.

14 Q. Something Mr. Bryant wasn't sure about, in
15 formulating the July, 2011 filing, was any data regarding the
16 Dogwood plant considered or had it still been ruled out from
17 the prior analysis?

18 A. No, it had been considered.

19 Q. And at a high level first, at least, how did
20 you go about doing that?

21 A. We actually used it in an alternative plan
22 using --

23 THE WITNESS: I don't know if this is HC, if I
24 can discuss this or not.

25 JUDGE STEARLEY: Hold on just a moment.

(REPORTERTMS NOTE: At this point, an in-camera session was held, which is contained in Volume 4, pages 180 to 184 of the transcript.)

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CROSS-EXAMINATION

QUESTIONS BY MS. MANGELSDORF:

Q. I just have a few questions. If I understand your previous testimony correctly, is it true that you said from the stakeholder process it was a learning experience for how GMO would proceed in the future?

A. Yes.

Q. Is that correct? And is it also true, though, that none of the alternative resource plans included in the July filing were discussed during that stakeholder process?

A. Several of the concepts that were discussed in the stakeholder process were incorporated in the plans that we had.

Q. But the plans themselves in their entirety weren't discussed during that stakeholder process?

A. No, not at the level that we discussed the nine plans that came out of the stakeholder process. Those plans -- the stakeholder process was very deliberate and very -- it very narrowly defined the plans that we were supposed to look at. So no, nothing to that level of detail went into this plan.

Q. Okay. And also just to clarify, isn't it true that part of the stakeholder process was to remedy certain deficiencies that were expressed by the signatories of the non-unanimous stipulation and agreement?

1 A. Yes.

2 MS. MANGELSDORF: Thank you. That's all the
3 questions I have.

4 JUDGE STEARLEY: Public counsel.

5 CROSS-EXAMINATION

6 QUESTIONS BY MS. BAKER:

7 Q. Earlier in your testimony, you commented on
8 how many megawatts of capacity are currently available in the
9 SPP. Do you believe some coal plants will probably be
10 retired in the SPP between 2015 and 2020?

11 A. Most assuredly some will.

12 Q. Do you know how many megawatts of coal
13 capacity will be retired between 2015?

14 A. Not to be flippid, I wish I did. But I would
15 say that there will be some that will be retired. My opinion
16 is that most of those will be relatively small units,
17 relatively old units.

18 I work with and observe the economic studies
19 working group of the Southwest Power Pool and they have a
20 series of proposed units that they suggest will be retired,
21 and they have an operational rule of thumb for a worst case
22 scenario for coal retirements. And the amount that -- or
23 their rule is that they assume if a unit is smaller than 200
24 megawatts, it will be retired. In that eventuality, which is
25 their worst case, we still have adequate reserves.

1 Q. How many years would it take GMO to build a
2 new gas combined-cycle plant, including the permitting
3 process?

4 A. Just had that conversation. To actually
5 build, would be about three years, and I think permitting
6 would probably add about another year on to that.

7 Q. So about four years to come on line?

8 A. Yes.

9 Q. Did any of the alternative resource plans
10 evaluated for the July 1, 2011, filing include the retirement
11 of Unit 3 at GMO's Sibley plant?

12 A. No.

13 Q. Was GMO required to include retirement of
14 Sibley Unit 3 in at least one alternative resource plan
15 pursuant to the stipulation and agreement?

16 A. In the stipulation agreement, yes. It was
17 obligated to do so, but to do that in December -- into the
18 December filing, which was in January, yes.

19 Q. Okay. Last question. You talked with
20 Mr. Lumley about developing a plan with Dogwood that is not
21 reflected in the -- in the filing of the work papers. Did
22 this plan with Dogwood include 100 percent of the Dogwood
23 plant or 50 percent of the Dogwood plant?

24 A. It was 300 megawatts. I think that's just
25 below 50 percent.

1 MS. BAKER: No further questions. Thank you.

2 JUDGE STEARLEY: Staff.

3 CROSS-EXAMINATION

4 QUESTIONS BY MR. THOMPSON:

5 Q. Good afternoon, Mr. Okenfuss.

6 A. Good afternoon.

7 MR. THOMPSON: May I approach?

8 JUDGE STEARLEY: You may.

9 BY MR. THOMPSON:

10 Q. I'm going to hand you what's been marked as
11 Staff's Exhibit Number 5 --

12 A. Thank you.

13 Q. -- and ask you if you've ever seen this
14 before.

15 A. Yes, I saw this this morning.

16 Q. You never saw it before this morning?

17 A. I've seen something like this, but this has
18 been modified since then.

19 Q. Did you hear Ms. Mantle testify that it was
20 provided to GMO on July 8th?

21 A. The earlier version of this was supplied to
22 us, yes.

23 Q. And did you see that earlier version?

24 A. Yes, I did, sir.

25 Q. And did you provide comments to Ms. Mantle in

1 response?

2 A. No, I'm afraid I did not.

3 Q. Why not?

4 A. It -- I didn't get the opportunity to -- to
5 provide it the adequate review that it needed.

6 Q. Okay. Do you agree or is it your view that
7 some of the numbers on that are incorrect?

8 A. Only -- the only thing I know for certain is I
9 believe that the load forecast may be a little bit high.

10 Q. And did you hear Ms. Mantle testify that she
11 got those numbers out of the work papers that GMO supplied
12 with its July 1 filing?

13 A. Yes, she did.

14 Q. Is GMO going to supplement or update or
15 correct those work papers?

16 A. Yes. The work paper that this information was
17 taken from was from a graph showing the impact of DSM. And
18 unfortunately, it still had an old base forecast in it to
19 show the comparison. So it was a mistake that the Company
20 made in that particular graph. Yet in the filing of the work
21 papers with our load forecast and the work papers of our load
22 forecast, those are correct. So it was a chart that -- one
23 of the other charts that didn't get updated.

24 Q. Okay. Now, did you hear my questions to
25 Mr. Bryant about the notice that was given in the July --

1 excuse me, the January filing?

2 A. Could you refresh the question, please? I
3 don't recall the conversation.

4 Q. Well, were you present for his testimony?

5 A. Yes, I was.

6 Q. And did you hear him testify that there was a
7 notice given in the pleading that accompanied the Company's
8 January IRP filing explaining that because conditions had
9 changed, the preferred resource plan was no longer
10 appropriate?

11 A. Yes, sir.

12 Q. And that it was his view that that notice was
13 given pursuant to a rule?

14 A. Yes, sir.

15 Q. Okay. Were you involved in making the
16 decision to provide that notice?

17 A. No, sir.

18 Q. Do you know who was?

19 A. Yes, sir.

20 Q. Who?

21 A. It would have been my immediate supervisor,
22 Mr. Burton Crawford and then his immediate supervisor at the
23 time, Todd Kobayashi. And however, I concur with their
24 opinion and I was consulted while they made that decision,
25 but the conditions did look as if things were fluid enough

1 that we didn't want to, at that time, commit to a definitive
2 plan.

3 Q. When was that decision made?

4 A. That was made sometime in January, I believe.

5 Q. Okay. And when did you know -- you said you
6 concurred in the decision, correct?

7 A. I concurred with the decision, yes. And I was
8 consulted as they were making it.

9 Q. That's what you said, and you concurred, so
10 I'm asking you when did you know that those conditions had
11 changed?

12 A. Well, the market conditions change pretty --
13 change almost all the time. What was changing in the
14 December time frame was the sense that the long-term low gas
15 price risk was beginning to -- to -- to change, that the
16 sense of the market was that shale gas was going to make our
17 low gas price forecast need to be revised lower and that our
18 high gas price forecast needed to be revised lower as well,
19 too. Both of those were pretty important risks.

20 We further believed that there was a chance
21 that the CO2 market may not come into play at all, not just
22 in 2015, and so the low CO2 price forecast went to zero. So
23 we -- we made those calls and those markets sometime in the
24 December, January time frame. It was a pretty hectic time.

25 MR. THOMPSON: May I approach?

1 JUDGE STEARLEY: You may.

2 BY MR. THOMPSON:

3 Q. I'm going to show you Table 1 from Appendix A
4 from the January filing. Do you see that?

5 A. Yes, sir.

6 Q. And have you seen that table before?

7 A. Yes, sir.

8 Q. Okay. Would you agree with me that, in fact,
9 it's not zero?

10 A. No, sir, it's not.

11 Q. Okay. Thank you. Now, you testified as to
12 the amount of megawatts available in the SPP area. Do you
13 recall that testimony?

14 A. Yes.

15 Q. And did your figure include Iatan and La Cygne
16 that evidently are reduced now due to coal supply problems?

17 A. The report that I was working from is the SPP
18 filing of the four -- SPP 411, which is filed with NERC.
19 It's a compilation of all utilities' 411 filings that would
20 have been submitted in February of 2012. So no, no utility
21 knew in February of 2012 that coal conservation was going to
22 hit Iatan 2.

23 Q. It's not 2012 yet, is it?

24 A. 2010. I'm sorry. 2010. These were filed in
25 2010.

1 Q. Very good. So in fact, that figure is not
2 accurate as of today?

3 A. The -- it wouldn't have included the coal
4 conservation, no.

5 Q. Okay. If you know, are there any other plans
6 in the SPP region that are reduced due to coal conservation
7 or supply problems?

8 A. Well, let me stop. No. It is correct. The
9 definition in the EIA 411 for capacity, if you have a
10 temporary -- a temporary interruption, doesn't mean that
11 you've changed your capacity output of unit. The capacity of
12 the unit still is what it's rated at. So I take back what I
13 just said, it is accurate.

14 Q. So when we're forecasting how much power is
15 going to be available in the future to meet GMO's
16 obligations, would you agree with me that we're counting on
17 power that may not, in fact, exist when the time comes?

18 A. The capacity exists today.

19 Q. But is it generating power?

20 A. If it's being called on, yes.

21 Q. So La Cygne and Iatan are not reduced right
22 now due to coal supply problems?

23 A. They are in an operating standpoint but not in
24 a planning standpoint.

25 Q. Well, when the moment comes to provide the

1 power, which is it that counts?

2 A. In the hour, it's the operating amount that
3 comes in; however, that planning, you plan at the beginning
4 of the year.

5 Q. Okay. Let me get back to my question that you
6 did not answer: Are there any other plants, to your
7 knowledge, in the SPP region that are reduced due to coal
8 supply problems?

9 A. Yes, they are reduced operationally, true, but
10 not from a planning standpoint.

11 Q. I understand the distinction, but there are
12 some that are reduced operationally?

13 A. Yes, many.

14 Q. Many. Thank you. So when Wolf Creek was down
15 through June of 2011, it was still included in the 52,000
16 because that was its capacity?

17 A. That's correct.

18 Q. Okay. Is there a possibility that SPP will
19 develop a capacity market like the East Coast RTOs have done
20 and MISO is developing?

21 A. I haven't heard that they're planning a
22 capacity market. I know that they're planning an ancillary
23 services market, but that's greatly different than a capacity
24 market.

25 Q. Okay. Suppose for me, if you would, that they

1 do develop a capacity market.

2 A. Okay.

3 Q. Do you have any idea how that would effect
4 cost of capacity?

5 A. Depends. How are they going to set up that
6 marketplace? If you explain to me the rules of how that
7 capacity market is going to perform by, then I can tell you
8 what the price would be.

9 Q. Okay.

10 A. If I may make an example.

11 Q. Sure.

12 A. At PJM, in their RPM methodology, they -- they
13 price capacity such that capacity is priced at the remainder
14 of what a technology would have earned less what it earns in
15 the energy and ancillary services market. So nuclear
16 capacity gets paid less but a CT gets paid more.

17 So its different types of technology get
18 different -- different costs in that particular market, and
19 that's what I'm saying. You can structure capacity market
20 any number of ways. It's very difficult to -- to analyze a
21 capacity market because it can come in so many different
22 styles and flavors.

23 Q. Okay. If such a capacity market were
24 developed in the SPP, would it be better for GMO to build
25 capacity or to count on buying it? Buying power that it

1 needed is what I mean.

2 A. We'd have to analyze it to see how the market
3 would react.

4 Q. Do you believe that GMO's capacity position
5 would be more risky if it was relying on short-term PPAs
6 during the time that SPP was developing a capacity market?

7 A. I think it would be -- it could be financially
8 risky.

9 Q. Are you familiar with the term "phantom
10 turbines?"

11 A. I've heard of it.

12 Q. Okay. What does it mean to you?

13 A. I'm not fully adversed in -- fully versed in
14 the whole history of the phantom turbines after my departure
15 from Aquila in 2005, but I am vaguely aware that there was
16 a -- a study showing that at one point in time, there was a
17 small advantage in the mid and low gas price scenarios for
18 putting in five CTs and the high gas scenario in that
19 particular study suggested putting in three CTs and going
20 with a long-term PPA.

21 Q. Are you talking about the South Harper site?

22 A. Yes.

23 Q. And in fact, how many CTs were put in there?

24 A. Three.

25 Q. If five had been put in, would GMO have the

1 capacity shortfall that has been identified by Staff in this
2 case?

3 A. Well, if there were more CTs put in, there
4 would be more capacity, yes.

5 Q. If you know, is the cost of developing an
6 alternative CT site greater than that of expanding an
7 existing CT site?

8 A. It would depend on the different sites that
9 we're looking at, but generally, I would assume that it would
10 be more cost effective to expand.

11 Q. Do you believe that updating gas and CO2
12 prices was a requirement for the stakeholder process under
13 the stipulation and agreement?

14 A. No, it wasn't.

15 Q. Could the Company have made the January
16 revised filing without updating gas and CO2 prices and
17 thereby have satisfied the terms and conditions of the
18 stipulation and agreement?

19 A. No. Once again, the stakeholder process
20 included a request that we update the gas prices and the CO2
21 prices and we did. However, the Company still looked at --
22 the Company still has an obligation if they would like to go
23 ahead and if they -- if they see a different gas or CO2
24 forecast that they can update it yet again.

25 Q. Now, you did include, did you not, gas and CO2

1 price updates in the January filing?

2 A. Yes.

3 Q. And did you include gas and CO2 price forecast
4 updates in the July 1 filing?

5 A. Yes.

6 Q. How do they differ?

7 A. The CO2 forecast goes from -- the low forecast
8 goes to zero. The range around the risks of the natural gas
9 price forecast dropped such that the high price curve drops
10 and the low price curve drops. I don't know the exact
11 number.

12 MR. THOMPSON: I have no further questions.

13 Thank you.

14 JUDGE STEARLEY: Okay. Redirect, GMO.

15 MR. FISCHER: Oh, just briefly.

16 REDIRECT EXAMINATION

17 QUESTIONS BY MR. FISCHER:

18 Q. You were just asked some questions about coal
19 being limited at Iatan. Do you recall those?

20 A. Yes.

21 Q. Due to the flood, I believe; is that right?

22 A. Well, train interruptions.

23 Q. Okay. It's been a rather hot summer, hasn't
24 it, here in Missouri?

25 A. Yes.

1 Q. Even in spite of those coal concerns, has the
2 Company been able to meet its load requirements?

3 A. From what I understand, yes.

4 Q. And I believe you were asked some questions
5 about capacity and the SPP area.

6 A. Yes.

7 Q. Does SPP have a requirement for -- to maintain
8 a certain reserve margin?

9 A. Yes. They recommend a 12 percent capacity
10 reserve.

11 Q. Why would SPP have a reserve margin?

12 A. For these very issues.

13 Q. Okay. And I believe you also discussed the
14 fact that -- well, I think with counsel from Staff -- that
15 GMO had the South Harper plant where they had three CTs
16 rather than five.

17 A. Yes.

18 Q. And I believe you also mentioned that one of
19 the things that you looked at was the fact that shale gas
20 might keep the natural gas pricing lower than what you might
21 have otherwise expected?

22 A. Yes.

23 Q. If you owned CTs at South Harper, is there a
24 larger risk associated to the Company with -- with falling
25 natural gas prices than if you had PPAs, or not?

1 A. I'm sorry, could you rephrase that? I'm
2 sorry.

3 Q. Do you have an opinion about whether there's a
4 greater risk to the Company owning steel in the ground
5 whenever you have changing fuel prices --

6 A. Oh.

7 Q. -- like natural gas plummeting due to shale
8 gas?

9 A. From an energy standpoint, yes, because you
10 will still be able to buy energy on the market, generally on
11 most hours more cheaply than you can generate it from a CT.
12 A CT is still going to be a peaking unit and will only
13 operate in those high cost times. When coal is the fuel on
14 the margin, it would have been better just to buy energy in
15 the market and you would have had a greater benefit from
16 doing that. So low gas prices are always a benefit to the
17 capital light, I'd say, strategy.

18 MR. FISCHER: Judge, that's all I have. Thank
19 you very much.

20 JUDGE STEARLEY: All right. Thank you for
21 your testimony. You are excused.

22 THE WITNESS: Thank you, sir.

23 JUDGE STEARLEY: Additional witnesses,
24 Mr. Fischer?

25 MR. FISCHER: Unless the bench has questions

1 for the company witnesses that are in the audience, I was not
2 intending to call anyone. I did want to distribute, I guess,
3 what could be GMO Exhibit Number 2, which was before the
4 lunch hour, I was asked to make copies of DNR's answer to GMO
5 3301 and I have that now and I could distribute that and move
6 for admission.

7 (GMO Exhibit Number 2 was marked for
8 identification by the court reporter.)

9 JUDGE STEARLEY: All right. Let's go ahead
10 and offer that up. Any objections to the admission of GMO
11 Exhibit 2? Hearing none, it shall be received and admitted
12 into the record.

13 (GMO Exhibit Number 2 was received into
14 evidence.)

15 JUDGE STEARLEY: If there are no other
16 witnesses, we are just going to do some housekeeping.

17 First I should ask does anyone wish to make a
18 closing statement? I see one nod from DNR.

19 MR. FISCHER: Judge, if given the opportunity,
20 we would -- if DNR wants to close, we could close.

21 JUDGE STEARLEY: All right. You may proceed.

22 MR. THOMPSON: Judge, before you start, can I
23 inquire as to whether this is going to be in addition to
24 briefs or instead of briefs?

25 JUDGE STEARLEY: I would say in addition to

1 briefs.

2 MR. THOMPSON: Very well.

3 JUDGE STEARLEY: Commission will probably wish
4 to see some briefing on this.

5 MR. THOMPSON: Thank you.

6 MS. MANGELSDORF: That being said, I will try
7 and be brief.

8 As I had stated in my opening, IRPs are an
9 essential tool electric utility companies and others, such as
10 the Department of Natural Resources, use to determine whether
11 a company's demand-side management programs are cost
12 effective and therefore in compliance with the Missouri
13 Energy Efficiency Investment Act.

14 All of the parties here, including the
15 Department of Natural Resources, have spent a significant
16 amount of time and resources participating in the stakeholder
17 process, and in the end, they did not get the product that
18 they bargained for in that GMO agreed into in the
19 non-unanimous stipulation and agreement.

20 As a result, the Department of Natural
21 Resources cannot properly evaluate GMO's programs,
22 portfolios, and savings levels for cost effectiveness. If a
23 determination cannot be made as to the cost effectiveness of
24 these programs and portfolios, the harm will ultimately fall
25 on GMO's customers if they do not result in savings to these

1 customers.

2 The evidence clearly shows that GMO did not
3 comply with the non-unanimous stipulation and agreement or
4 the Commission's rules. Therefore, in this case, the
5 Missouri Department of Natural Resources is requesting this
6 Commission to order GMO to live up to their end of the
7 bargain and to comply with the non-unanimous stipulation and
8 agreement as well as the Commission's rules by filing a
9 credible IRP. Thank you.

10 JUDGE STEARLEY: All right. Thank you,
11 Ms. Mangelsdorf.

12 And Mr. Fischer, then. Closing statement.

13 MR. FISCHER: Well, Judge, given the fact that
14 I understand we're going to have briefs, I'll be very brief
15 and just suggest that we believe the Commission should
16 dismiss the Complaint.

17 JUDGE STEARLEY: All right. Calendars. Being
18 generous today. When would you-all like to file briefs?

19 MR. THOMPSON: Do I get to?

20 JUDGE STEARLEY: Oh, were you going to make a
21 closing statement, Counsel? I thought you were --

22 MR. THOMPSON: I was, Judge.

23 JUDGE STEARLEY: I thought you were going to
24 brief.

25 MR. THOMPSON: I thought I would join with

1 other counsel and just simply close by saying there's no
2 question that the July 1st filing, while substantively
3 compliant, was late. It was filed long after the deadline
4 contemplated in the non-unanimous stipulation and agreement,
5 which was never extended by the signatory parties.

6 However, Staff will seek guidance from the
7 Commission as to whether it should go forward with the
8 Complaint on that issue and Staff will be withdrawing the
9 Complaint previously filed. Thank you.

10 JUDGE STEARLEY: All right. Thank you,
11 Mr. Thompson. I didn't mean to jump the gun and cut you off
12 there.

13 MR. THOMPSON: That's quite all right, Judge.
14 Thank you.

15 JUDGE STEARLEY: I would normally give you-all
16 about 20 days for briefing, but I'll let you look at the
17 calendar. I'm not aware of any other conflicts you may have,
18 so 20 days would put us somewhere around the 22nd of August.
19 Does anyone wish additional time for briefing on this?

20 MR. FISCHER: Judge, I've got a vacation that
21 week. If you wouldn't mind extending that a little bit, that
22 would be helpful.

23 JUDGE STEARLEY: Do you want to go with
24 August 29th or September 5th?

25 MR. THOMPSON: I have a vacation covering both

1 those days, Judge. And I have another hearing on
2 August 10th.

3 JUDGE STEARLEY: We can move this to October,
4 if you wish, Mr. Thompson.

5 MR. THOMPSON: I just want the same
6 consideration that everybody else is getting.

7 MR. FISCHER: How about the 7th or 8th? Would
8 that work better?

9 MR. THOMPSON: That would be fine.

10 JUDGE STEARLEY: Seventh or eighth of
11 September?

12 MR. THOMPSON: That is correct.

13 JUDGE STEARLEY: Let's go with September 8th.

14 MR. THOMPSON: Also, Judge, we'd like to
15 update Staff's Exhibit 5 when the Company and the Staff
16 finally agree on what the numbers ought to be.

17 JUDGE STEARLEY: That would be fine, and you
18 can file that as a late-filed exhibit.

19 MR. THOMPSON: Thank you, sir.

20 JUDGE STEARLEY: September 8th for briefs.
21 Are parties wanting to file reply briefs?

22 MR. FISCHER: We'll take a reply brief if
23 given as an option, yes.

24 MR. THOMPSON: How about two weeks later?

25 JUDGE STEARLEY: That will take us to

1 September 15th.

2 MR. FISCHER: Twenty-second is two weeks.

3 JUDGE STEARLEY: Oh, I'm sorry. I'm afraid

4 I'm going to need reading glasses one of these days.

5 September 22nd.

6 MR. THOMPSON: Thank you, Judge.

7 JUDGE STEARLEY: Any other matters we need to
8 take up at this time? Well, hearing none, our hearing today
9 in File Number EE-2009-0237 is hereby adjourned and I thank
10 you-all very much.

11 (End of hearing.)

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1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)

) ss:

3 COUNTY OF GASCONADE)
4

5 I, JENNIFER L. LEIBACH, Registered Professional
6 Reporter, Certified Court Reporter, CCR #1108, and Certified
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9 testimony appears in the foregoing matter was duly sworn;
10 that the testimony of said witness/es was taken by me to the
11 best of my ability and thereafter reduced to typewriting
12 under my direction; that I am neither counsel for, related
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14 this matter was taken, and further that I am not a relative
15 or employee of any attorney or counsel employed by the
16 parties thereto, nor financially or otherwise interested in
17 the outcome of the action.

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