

EXHIBIT 3

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
3
4
5
6 TRANSCRIPT OF PROCEEDINGS
7 On-The-Record Presentation
8 July 5, 2001
9 Jefferson City, Missouri
10 Volume 2
11
12 In the Matter of the Application)
13 of Kansas City Power & Light)
14 Company for an Order Authorizing) Case No. EM-2001-464
15 its Plan to Reorganize itself)
16 into a Holding Company Structure.)
17
18 KEVIN THOMPSON, Presiding,
19 DEPUTY CHIEF REGULATORY LAW JUDGE.
20
21 SHEILA LUMPE, Chair,
22 CONNIE MURRAY,
23 KELVIN SIMMONS,
24 STEVE GAW,
25 COMMISSIONERS.

23 REPORTED BY:
24 KELLENE K. FEDDERSEN, CSR, RPR
25 ASSOCIATED COURT REPORTERS, INC.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 APPEARANCES:

2 JAMES M. FISCHER, Attorney at Law
3 Fischer & Dority
4 101 Madison, Suite 400
5 Jefferson City, Missouri 65101
6 (573)636-6758

7 and

8 BILL RIGGINS, Attorney at Law
9 Kansas City Power & Light
10 1201 Walnut
11 Kansas City, MO

12 FOR: Kansas City Power & Light.

13 PAUL A. BOUDREAU, Attorney at Law
14 Brydon, Swearingen & England, P.C.
15 312 East Capitol
16 P.O. Box 456
17 Jefferson City, Missouri 65102-0456
18 (573)635-7166

19 FOR: UtiliCorp United, Inc.
20 The Empire District Electric Company.

21 MARK W. COMLEY, Attorney at Law
22 Newman, Comley & Ruth
23 601 Monroe, Suite 301
24 P.O. Box 537
25 Jefferson City, Missouri 65102
26 (573)634-2266

27 FOR: City of Kansas City.
28 County of Jackson.

29 LISA C. LANGENECKERT, Attorney at Law
30 720 Olive Street, Suite 2400
31 St. Louis, MO 63101
32 (314)345-6441

33 FOR: Missouri Energy Group.

34

35

36

1 RUTH O'NEILL, Legal Counsel
P.O. Box 7800
2 Jefferson City, Missouri 65102-780
(573)751-4857
3
4 FOR: Office of the Public Counsel
and the Public.

5 STEVEN DOTTHEIM, Chief Deputy Counsel
DENNY L. FREY, Associate Counsel
6 P.O. Box 360
Jefferson City, Missouri 65102
7 (573)751-3234
8 FOR: Staff of the Missouri Public
Service Commission.
9

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

2 JUDGE THOMPSON: Good afternoon. We're here
3 in the Matter of the Application of Kansas City Power &
4 Light Company for an Order Authorizing its Plan to
5 Reorganize Itself Into a Holding Company Structure, Case
6 No. EM-2001-464.

7 My name is Kevin Thompson, and I am the
8 Regulatory Law Judge assigned to preside. At this time we
9 will take oral entries of appearance. Mr. Dottheim.

10 MR. DOTTHEIM: Thank you. Steven Dottheim,
11 Dennis Frey, Post Office Box 360, Jefferson City, Missouri
12 65102, appearing on behalf of the Staff of the Missouri
13 Public Service Commission.

14 JUDGE THOMPSON: Thank you. Mr. Fischer.

15 MR. FISCHER: Let the record reflect the
16 appearance of James M. Fischer and William G. Riggins, Jr.
17 on behalf of Kansas City Power & Light.

18 JUDGE THOMPSON: Thank you. Ms. O'Neill?

19 MS. O'NEILL: Yes. Ruth O'Neill appearing on
20 behalf of the Office of the Public Counsel, P.O. Box 7800,
21 Jefferson City, Missouri 65102. Also present is John
22 Coffman from our office, same address.

23 JUDGE THOMPSON: Thank you. Who's next? Is
24 there any other counsel present?

25 MR. BOUDREAU: I'll start it. Paul Boudreau

1 with the law firm of Brydon, Swearngen & England, Post
2 Office Box 456, Jefferson City, Missouri, appearing on
3 behalf of the Empire District Electric Company and UtiliCorp
4 United, Inc.

5 JUDGE THOMPSON: Thank you. Mr. Comley.

6 MR. COMLEY: Mark Comley, Newman, Comley &
7 Ruth, 601 Monroe Street, Suite 301, Jefferson City,
8 Missouri, appearing on behalf of the City of Kansas City.

9 JUDGE THOMPSON: Yes, ma'am?

10 MS. LANGENECKERT: Lisa Langeneckert, Law
11 Office of Robert Johnson, 720 Olive, Suite 2400, St. Louis,
12 Missouri 63101. I'm appearing on behalf of the Missouri
13 Energy Group. I note that in all of the Commission's Orders
14 they have us as Missouri Gas Energy. As much as we'd like
15 to take them on as a client, that is incorrect.

16 JUDGE THOMPSON: Okay. And I will note that
17 correction. Thank you.

18 Any other counsel here today? I heard from
19 Mr. Kincheloe that he is going to be on vacation and he will
20 not be joining us today. Let the record reflect that he is
21 excused.

22 This hearing is being convened in order to
23 give the Commissioners an opportunity to inquire of the
24 Company's representatives in order to satisfy themselves on
25 certain points. I understand that there is no one opposing

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

14

1 Company's application. Is that still correct?

2 MR. FISCHER: That's my understanding, your
3 Honor.

4 JUDGE THOMPSON: And, therefore, we're going
5 to hear, I think, briefly from Company. Do other parties
6 have any sort of opening remarks they would like to make?

7 (No response.)

8 Okay. So why don't we hear from you
9 Mr. Fischer. We have about an hour available. So we'll
10 hear from you, Mr. Fischer, and then go directly into
11 questions from the Commissioners.

12 MR. FISCHER: Thank you.

13 JUDGE THOMPSON: Thank you, sir.

14 MR. FISCHER: Good afternoon. May it please
15 the Commission?

16 As you know, my name is Jim Fischer and I'm
17 representing Kansas City Power & Light in this proceeding.
18 I'd like to thank the Commission for the opportunity to come
19 before you today to visit about the Company's reorganization
20 plans and its future. We look forward to answering your
21 questions.

22 I'd also like to thank the Staff and the
23 Office of the Public Counsel for their hard work on this
24 docket. A lot of long hours and very late nights were put
25 in, and I want to thank them and appreciate all their

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

15

1 efforts. This was a very important project for the company,
2 and we appreciate their willingness to work with us on
3 resolving the issues.

4 I also have with me today three gentlemen that
5 are available to answer your questions: Bernie Beaudoin,
6 who is Chairman of the Board and Chief Executive Officer;
7 Bill Riggins, who is the General Counsel of the company; and
8 Chris Giles, who was very much involved with the development
9 of the Stipulation & Agreement. Chris serves as the Senior
10 Director of Regulatory Affairs and Risk Management.

11 Chris Giles will specifically address, I
12 think, the second question that was in your Order and
13 Notice, which was whether it's in the public interest to
14 permit KCP&L to meet a portion of its future generation
15 requirements via a purchase power with Great Plains Power.

16 Chris can address those questions at length,
17 but I would like to note that KCP&L has not entered into a
18 purchase power agreement in this matter with Great Plains,
19 and we're not asking for approval to do so as a part of this
20 proceeding.

21 In the event that Kansas City Power & Light
22 did enter into a purchase power agreement with Great Plains,
23 it would be submitted to the Missouri Commission for its
24 review and approval. We addressed that item on page 14 of

25 the Stipulation & Agreement on paragraph 9.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

16

1 Also on that page we indicate that KCP&L may
2 enter into a cost-based purchase supply agreement with Great
3 Plains Power to acquire capacity and energy. Since it would
4 be cost-based, the rates would be based upon Great Plains
5 Power, its cost of service and not prevailing market based
6 rates in the purchased power arena.

7 In other words, the rates would be the same as
8 if they were determined based upon cost of service
9 principles under traditional rate of return regulation. In
10 any event, it would have to be approved by the Commission.
11 And Chris can elaborate on that whenever he gets the
12 opportunity.

13 The other thing I wanted to mention is Kansas
14 City Power & Light is not, is not proposing to transfer any
15 assets from KCP&L to Great Plains Power in this proceeding.
16 We're simply requesting and proposing a reorganization of
17 the company into a holding company structure so that there
18 would be a holding company, which will be known as Great
19 Plains Energy, over the current regulated public utility,
20 Kansas City Power & Light, as well as the unregulated
21 subsidiaries. It's really an opportunity to separate the
22 regulated operations from the unregulated activities.

23 We'd also be glad to answer any questions that
24 you have about any other topic in the Stipulation &

25 Agreement or the future of the company. We're -- assuming

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

17

1 that we do have regulatory approval, we expect to have a
2 closing on the transaction by August 9th of 2001, and we
3 will begin trading on the stock exchange under the name of
4 Great Plains Energy by August the 10th.

5 We also expect to have an Order from the State
6 of Kansas next week. There was a presentation on the record
7 very similar to this one last Monday, and we've had an
8 indication that we'll probably get an Order next week. SEC
9 approval is expected to follow the state order, as soon as
10 they're issued.

11 The other topic I wanted to address was the
12 first question that was in the Notice and Order, and that
13 was with regard to the pleadings filed by some of the
14 intervenors in the case.

15 Kansas City Power & Light viewed these
16 pleadings by Empire and UtiliCorp as merely an attempt to
17 indicate their non-objection to the Stipulation & Agreement
18 and ask, I guess, that it -- that they don't oppose it being
19 applied to Kansas City Power & Light, but they just want to
20 reserve their rights to say they may not like it being
21 imposed upon their clients.

22 And we didn't view it as anything more than a
23 statement of non-opposition and they were not requesting a

24 hearing. But Mr. Boudreau is here today, and I'm sure he
25 can answer your questions directly about that.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

18

1 With that, I'd be happy to address any other
2 questions or matters in the Stipulation & Agreement or I'd
3 be happy to call Chris Giles to do the same if you prefer.

4 JUDGE THOMPSON: Thank you, Mr. Fischer.

5 Questions from the Bench, Chair Lumpe.

6 CHAIR LUMPE: Mr. Fischer, I'm going to ask my
7 question of Staff and Mr. Boudreau, if I might.

8 MR. FISCHER: Sure.

9 CHAIR LUMPE: And I'm thinking of the first
10 item, Mr. Dottheim. Those aren't unusual things in stips
11 and agreements in any event, are they? In other words, they
12 don't set precedents and they don't obligate other parties
13 normally when there's a Stip & Agreement, is that the case?

14 MR. DOTTHEIM: Chair, you're referring to the
15 provisions of the Stipulation & Agreement involving --

16 CHAIR LUMPE: UtiliCorp and Empire.

17 MR. DOTTHEIM: Well, as far as involving them
18 or binding them in any way?

19 CHAIR LUMPE: Right.

20 MR. DOTTHEIM: No. They're not a signatory to
21 the Stipulation & Agreement, which is between Kansas City
22 Power & Light, Great Plains Energy, Office of Public Counsel
23 and the Staff, and does not seek to bind any non-signatory

24 or any other party to this proceeding. So the Stipulation &
25 Agreement is not unusual in any respect.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

19

1 CHAIR LUMPE: I think that's what I was sort
2 of trying to get at. They're not a signatory, and generally
3 in a Stipulation & Agreement that does not bind some other
4 party, doesn't set a precedence for some other party. So
5 they're saying that is fine, but that wouldn't have occurred
6 in any event, right?

7 MR. DOTTHEIM: That is correct, and there is
8 nothing in the Stipulation & Agreement that seeks to bind a
9 nonsignatory or any other party in the proceeding or any
10 entity other than the signatories. Mr. Boudreau can --

11 CHAIR LUMPE: Let me ask Mr. Boudreau then why
12 he felt this was very important to say?

13 MR. BOUDREAU: I'll come up here, if you don't
14 mind.

15 I want to echo first of all Mr. Fischer's
16 comments early on that it wasn't our intention, it wasn't my
17 intention as counsel for Empire and UtiliCorp to register an
18 objection or to request a hearing.

19 Without going into a lot of detail, I think
20 the reason that I did it -- I mean, I'm comforted by
21 Mr. Dottheim's observations, which I think are consistent
22 with prior practice and my understanding.

23 The reason I filed a pleading in this case is
24 I -- and it may just be that I'm misinterpreting what is
25 taking place with the Commission, but the Commission's

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

20

1 practices with respect to procedure have been changing,
2 getting a little bit more formalized with time.

3 It used to be that it was sufficient -- and I
4 have done this in the past. I would just file a letter. I
5 would just send a letter to the secretary of the Commission
6 indicating that we weren't a signatory but we had a copy of
7 it, we didn't have any objection.

8 And I just had the sense that the Commission
9 is becoming -- wanting to become a little bit more
10 formalized in the sense of how parties' positions are stated
11 officially for the record. So this time -- obviously I'm
12 starting to regret this decision, but this time I decided
13 just to put those thoughts in a pleading form.

14 And I'll plead guilty to the observation of
15 one of my colleagues that said, You said the right thing
16 probably but you were just too long saying it, and that's
17 probably true. But that's about all that was behind it.

18 CHAIR LUMPE: But there was nothing behind it
19 that you thought we were somehow binding you or thought we
20 were holding you to standards of the stipulation?

21 MR. BOUDREAU: I just wanted to bring that
22 concern to the Commission's attention, this time a little

23 bit more formalized fashion than has been the practice in
24 the past, but that's all there was to it. There really
25 wasn't any other intention behind it.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

21

1 CHAIR LUMPE: Prior to this you would have
2 just put it in a letter and said those same things?

3 MR. BOUDREAU: There's probably a dozen
4 different ways to skin this cat, and obviously in the future
5 I'm going to be looking for an easier way to skin it. I'm
6 not going to do this again. If I've learned one thing, I've
7 learned not to do this.

8 CHAIR LUMPE: Well, it sort of made one go,
9 Well, let me look through here and see where they've really
10 done this to UtiliCorp. And not finding that, then one
11 wonders why you felt it was necessary, and so that's your
12 response?

13 MR. BOUDREAU: Yeah. The purpose wasn't that
14 there was something in the agreement that I thought the
15 parties were trying to apply to my clients. I think I took
16 a little bit closer read of the nonunanimous stipulation
17 rule which talks about if you -- if a hearing isn't
18 requested, it's treated as unanimous.

19 And so I just thought, well, maybe I should
20 just go on the record and indicate that we have no objection
21 to the agreement that KCPL's reached with the other parties,

22 we're satisfied that our primary interest in the case isn't
23 adversely affected, and just state the company's positions.

24 CHAIR LUMPE: Okay. Thank you, Mr. Boudreau.
25 That's all I have. Would you like to respond, Mr. Dottheim?

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

22

1 MR. DOTTHEIM: And pardon me for previously
2 not using the podium.

3 I don't know if it was -- if it was involved
4 in Mr. Boudreau's thinking also, I think he maybe alluded to
5 it when he made reference to nonunanimous stipulations and
6 agreements.

7 And various of the parties, the Staff have
8 experienced proceedings before the Commission with
9 nonunanimous stipulations and agreements, of recent note in
10 an Empire case, in a Missouri Gas Energy case, where one or
11 more parties did not join in and requested a hearing and, as
12 a consequence, what at least I think some of the parties,
13 including the Staff, have thought that previously were
14 nonunanimous stipulations and agreements are no longer being
15 deemed to be nonunanimous stipulations and agreements.
16 Seemingly they're some other entity not being accepted as
17 stipulation and agreements and parties being permitted to
18 change their position.

19 So I don't know if that also figured in at all
20 with Mr. Boudreau's thinking as to the manner in which he
21 responded in this instance with his pleadings.

22 CHAIR LUMPE: But I guess what he's saying is
23 becoming more formalized, so that even though it were
24 nonunanimous, if the parties felt it important to say, While
25 it's nonunanimous, we're not objecting, we, you know, want

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

23

1 to put in these phrases saying we know it doesn't apply to
2 us, et cetera, et cetera, that we may see more of that is
3 what you're --

4 MR. DOTTHEIM: Yes, I think that's probably
5 the case. And the parties trying to work their way through
6 how the Commission is now approaching nonunanimous
7 stipulations and agreements may be a factor in that also.

8 CHAIR LUMPE: So if we see a party come in
9 with this kind of statement, et cetera, we should not be
10 alarmed?

11 MR. DOTTHEIM: I hope not.

12 CHAIR LUMPE: Thank you.

13 MR. DOTTHEIM: Hopefully the party will be
14 clear enough so that the Commission and none of the other
15 parties need be alarmed.

16 CHAIR LUMPE: Thank you. That's all.

17 JUDGE THOMPSON: Thank you, Chair Lumpe.
18 Commissioner Murray?

19 COMMISSIONER MURRAY: Thank you. I would like
20 to ask each of the signatories, in regard to 6A under

21 financial conditions, the language regarding the
22 telecommunications and information businesses and activities
23 being limited to those considered reasonably related to
24 current operations, why did the parties feel this was
25 necessary language and how does it address the concerns that

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

24

1 were raised regarding financial issues?

2 MR. FISCHER: Your Honor, this was a
3 negotiated item among the parties. Some of the other
4 parties might want to address why they felt it was
5 appropriate that that be included. We had some concerns
6 about limiting our flexibility, but we have agreed to this
7 term and condition as a part of the settlement.

8 MR. DOTTHEIM: This is an item that was of
9 concern to the Staff, and the Staff raised it just -- it is
10 an item that the Missouri Staff does have some concern with
11 with seeing activities in these areas. It's also something
12 that the Missouri Staff had noticed other state commissions
13 expressing concerns with and attempting to address also.

14 So it's not just limited to this area. I
15 think it's clear from other provisions under the financial
16 conditions, stipulations and agreements. It's concern in
17 general is to the range of activities that an energy company
18 in particular at this time might seek in the future to
19 engage in and possibly engage in without the scrutiny of the
20 Commission.

21 COMMISSIONER MURRAY: Mr. Dottheim, does the
22 language here prohibit KCP&L from engaging in any activities
23 that are not considered reasonably related to current
24 operations even or should I say prohibit them from even
25 seeking Commission approval for that?

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

25

1 MR. DOTTHEIM: No, it does not prohibit in
2 this case Kansas City Power & Light from seeking to engage
3 in any additional or further activities in the
4 telecommunications and information business.

5 There's a provision that Kansas City Power &
6 Light, GPE, the holding company, would do so with Commission
7 approval. It would be something that would arguably be
8 brought before the Commission in particular if the Staff and
9 the holding company, Kansas City Power & Light, could not
10 reach agreement or something that potentially could be
11 brought before the Commission if the Office of Public
12 Counsel had a contrary view as far as the activities that
13 were being engaged in or sought to be engaged in.

14 COMMISSIONER MURRAY: I guess I'm having a
15 problem interpreting then that last sentence in Section A
16 because it says activities will be limited to those
17 considered reasonably related to current operations, but am
18 I understanding you to say it is not the intent that that is
19 a prohibition against any activities?

20 MR. DOTTHEIM: Without Commission approval.

21 COMMISSIONER MURRAY: But the first sentence
22 in subsection A talks about Commission approval, and why
23 then was it necessary to add that second sentence apart from
24 other Commission approval?

25 MR. FISCHER: Your Honor, maybe I could

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

26

1 mention, Kansas City Power & Light is already in some other
2 areas besides electricity, particularly telecommunications,
3 and that sentence was designed, at least from our
4 perspective, to ensure that expansion in our current
5 activities would not automatically be interpreted as needing
6 Public Service Commission approval if it was reasonably
7 related to what we were already in.

8 COMMISSIONER MURRAY: Okay. I still have a
9 problem understanding that language, but maybe it's just my
10 reading of it.

11 Ms. O'Neill?

12 MS. O'NEILL: Good afternoon. I also wanted
13 to let the Commission know that Ryan Kind from my office is
14 available to answer any questions, and if you get into -- if
15 you want a little bit more thorough explanation, he's
16 available to answer any questions that you may have.

17 Public Counsel was concerned about the
18 possibility that KCP&L's customers may be exposed to some
19 greater risks regarding the business enterprises of GPE,

20 which of course is not regulated for that, you know, any
21 kind of business risk associated with those unregulated
22 ventures which could come back to problems when we come
23 before the Commission or otherwise as far as the ratepayers
24 are concerned.

25 Again, Ryan could probably give you a little

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

27

1 bit more detail on that, but we wanted a provision like
2 this, much as Staff did, to try to limit that risk on behalf
3 of the regulated utility's customers.

4 MR. DOTTHEIM: Commissioner, I might also
5 direct your question to a member of the Staff, Roberta
6 McKiddy, who might address it, might give you a fuller
7 answer, something more akin to addressing your concern.

8 COMMISSIONER MURRAY: Well, Mr. Dottheim, I
9 think my question here is more a legal question as to how to
10 interpret this language, and I've heard from three legal
11 counsel on it and I still am not sure practically how to
12 interpret it. So I'm not sure that having a Staff witness
13 pursue the reasons for the language would help me.

14 Let me move on to another section. On
15 page 12, it's -- I believe it's 6 again, subsection I, the
16 GPE and KCP&L guarantee that the customers of KCP&L shall be
17 held harmless, that language, and I'd like to know how the
18 parties contemplate identifying the causal factors of any

19 subsequent higher revenue requirement.

20 MR. DOTTHEIM: We'd have to address that at
21 some future time in a rate proceeding as a result of a Staff
22 earnings audit or a Kansas City Power & Light rate increase
23 case in particular and would be addressed in the manner of
24 some sort of an adjustment. I don't know that it's easy at
25 this point to be very specific.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551
28

1 COMMISSIONER MURRAY: The reason, I guess, for
2 my question is that many times when we're looking at a
3 merger approval, we look at the difficulty in terms of
4 showing whether something is merger related or not merger
5 related, whether any savings will result of a merger or
6 would have occurred anyway.

7 And when I read this, my -- the question that
8 came to mind was, will there be great controversy at the
9 time we come to look at higher revenue requirements and
10 whether, in fact, they were related to reorganization?

11 MR. DOTTHEIM: That might be the case, I think
12 in particular depending upon how soon after the event, the
13 reorganization, the item that may cause the revenue
14 requirement to be higher, how soon after that point there
15 might be a proceeding would be a factor.

16 And I think it does, as you pointed out,
17 center to some extent on the concerns that are raised by
18 various parties in merger proceedings as far as the ability

19 to track costs after -- costs or savings after an event has
20 occurred.

21 COMMISSIONER MURRAY: All right. If either of
22 the other parties have something to add.

23 MR. FISCHER: Your Honor, I guess I would
24 agree with Mr. Dottheim that that would be perhaps at least
25 potentially a subject of a rate case discussion.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

29

1 However, I would point out that we believe
2 that just the separation of the utility into a separate
3 subsidiary apart from the unregulated activities of the
4 company will actually help the regulatory process in making
5 sure that the ratepayers are held harmless from any
6 activities related to the reorganization itself or for that
7 matter other unregulated activities down the road.

8 MS. O'NEILL: And, Commissioner, we agree that
9 if this comes up in a rate case, there may be -- we may have
10 to litigate exactly what that dollar amount would be, but I
11 think what this does is it commits all these parties to this
12 agreement to a certain obligation to follow to a certain
13 principle, which is if these increased -- an increased
14 revenue requirement's attributable to this restructuring,
15 then the ratepayers are not going to suffer the consequences
16 of that.

17 Again, we can't foresee at this point whether

18 there will be a raise in the revenue requirement as a result
19 of this reorganization. The Company seems to believe that
20 that's not going to happen, and we hope that that's correct.
21 Again, we're just seeking to insulate those customers of the
22 regulated utility from any adverse effects of this
23 transaction.

24 MR. DOTTHEIM: Commissioner, I don't know how
25 detailed of assurances we can provide to you. It's an

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

30

1 effort in these various provisions to attempt to provide
2 some protections in situations that this Commission and
3 these parties have not necessarily experienced before.

4 I wouldn't say that it's necessarily a
5 situation that has never been experienced at all by the
6 Missouri Commission. Back in 1983 what with the
7 AT&T/Southwestern Bell divestiture, there was a divestiture
8 case at the Commission at that time where issues not totally
9 unrelated to some of the matters attempting to be addressed
10 in this Stipulation & Agreement had to be dealt with as
11 Southwestern Bell's revenue requirement had to be determined
12 in a post-divestiture environment.

13 And we struggled through that process, but we
14 did attempt to make efforts to track costs in that
15 situation, and we would endeavor to do so in the future
16 under these circumstances.

17 COMMISSIONER MURRAY: Now I have a question

18 regarding 6K, the information that the holding company will
19 provide upon request to Staff and Office of Public Counsel.
20 I'd like to know if the parties contemplate that this gives
21 Staff and Office of the Public Counsel access to records of
22 the holding company beyond what they would otherwise be
23 entitled to by law?

24 MR. DOTTHEIM: Commissioner, I think as is
25 likely known, the Staff takes a rather broad interpretation

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

31

1 of the statutes as far as the jurisdiction of the Commission
2 is concerned, and I don't think the Staff would assert that
3 the Commission is obtaining jurisdiction beyond what is
4 authorized by statute, although I expect there might be some
5 differences of opinion as to what statute provides.

6 Again, it's an effort to try to be as specific
7 as possible that at least the Staff and I believe the Office
8 of the Public Counsel believe that the Commission does have
9 jurisdiction relating to records, information, access to
10 personnel relating to that holding company concerning these
11 areas.

12 MR. FISCHER: Your Honor, I would, I guess,
13 point you to page 5. There's a separate section for access
14 to books, records and personnel which more specifically
15 addresses the question of access to books and records.

16 Again, this was a negotiated item. We agreed

17 to enter into this arrangement to give the Staff and Public
18 Counsel the access to not only KCP&L's records but also the
19 GPE as laid out there.

20 I viewed the item K that you refer to as not
21 necessarily access to books and records as much as giving
22 other information that might be helpful to the Staff and the
23 Public Counsel to ensure that we had complied with the
24 provisions of the stipulation itself. But as far as books
25 and records, I would point to that more specific section on

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

32

1 page 5.

2 MS. O'NEILL: Public Counsel reads the statute
3 very broadly, at least as broadly probably as Staff.
4 Certainly we believe that if you read K along with the
5 information on pages 5 and 6 that Mr. Fischer referred to,
6 it gives a flavor to the types of information that we're
7 seeking.

8 What this also does is it eliminates those
9 disputes about the totality of what is included in those
10 requests, and we believe that also is a benefit to the
11 customers because that way Public Counsel and Staff and the
12 Commission can have all the information that they need to
13 make determinations regarding the regulated utility.

14 COMMISSIONER MURRAY: All right. My last
15 question is somewhat related, I suppose. It's Section 7,
16 prospective merger conditions where GPE agrees, and I would

17 like to know if the parties believe that that gives the
18 Commission jurisdiction over an unregulated holding company
19 that it would otherwise not have?

20 MR. FISCHER: Your Honor, from the Company's
21 perspective, I would say it's inconsistent, in my opinion,
22 with your holdings on other holding company mergers of
23 parents. However, again, as a negotiated item, in order to
24 get a stipulation between the Staff, the Public Counsel and
25 the Company, we have agreed to this provision.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

33

1 MR. DOTTHEIM: And again, different parties
2 can interpret the statute differently. It was an effort to
3 establish in certain areas what arguably the holding company
4 would not contest in the way of coming before the Commission
5 in certain instances.

6 Of course, the Commission is always free, if
7 it so chooses, to assert that it will not exercise
8 jurisdiction in a particular situation.

9 COMMISSIONER MURRAY: Before you respond,
10 Ms. O'Neill, I just have a quick follow-up for Mr. Fischer.
11 Who has the authority to bind GPE?

12 MR. FISCHER: Your Honor, I failed to also
13 enter my appearance on behalf of GPE. I'm speaking on
14 behalf of the Great Plains Energy Company as well.

15 COMMISSIONER MURRAY: Thank you. Go ahead,

16 Ms. O'Neill.

17 MS. O'NEILL: Yes. We recognize that the
18 Commission has taken certain positions regarding
19 jurisdiction on some other cases. However, we do believe
20 that the Commission does have the ability to exercise
21 jurisdiction over matters relating to public utilities. Our
22 position has been in some -- in some cases the Commission's
23 agreed with us. In some cases the Commission's disagreed
24 with us, depending on the facts of the particular case.

25 We believe it is appropriate, however, to

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

34

1 include this term within this agreement. We believe that
2 GPE, who is a signatory to this agreement, can agree to be
3 bound on those matters which are significantly related to
4 Commission jurisdiction and oversight to not oppose our
5 request for jurisdiction and not impede our ability to
6 challenge any claim that there isn't jurisdiction.

7 I suppose the facts of the particular case
8 will continue to control as to whether jurisdiction will be
9 exercised. This, however, does -- this agreement does allow
10 Public Counsel and the Staff and the Company to each put
11 forth their opinions regarding whether a particular
12 transaction should be subject to your jurisdiction but
13 requires them to make the initial filing and allows the
14 Commission to make that determination.

15 COMMISSIONER MURRAY: Thank you, your Honor.

16 That's all I have.

17 JUDGE THOMPSON: Thank you, Commissioner
18 Murray. Commissioner Simmons?

19 COMMISSIONER SIMMONS: Thank you, your Honor.
20 I just have one simple question. It is not a question
21 specific to the Stipulation & Agreement, but it is one that
22 is brought, and it is a question that goes to an essential
23 issue.

24 Mr. Fischer, you raised in your opening
25 statement that being able to organize into a separate

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

35

1 holding company is in the public interest. I would like to
2 ask of your client, I believe you have your CEO chairman
3 here, why he believes that this proceeding is in the public
4 interest.

5 MR. FISCHER: Your Honor, I'm sure he'd be
6 very pleased to answer that question. Would you like for
7 him to come up to the --

8 COMMISSIONER SIMMONS: It is the decorum of
9 the Judge, however he wants to handle that.

10 JUDGE THOMPSON: Come forward, please, to the
11 witness stand. State your name if you would,

12 MR. Beaudoin: Bernie Beaudoin.

13 (Witness sworn.)

14 JUDGE THOMPSON: Thank you, sir. Please go

15 ahead and ask your question, Commissioner.

16 BERNIE BEAUDOIN testified as follows:

17 QUESTIONS BY COMMISSIONER SIMMONS:

18 Q. Thank you, sir. We wouldn't want you to come
19 all this way and not have an opportunity to say something to
20 this Commission, so I'll give you an opportunity here.

21 A. Thank you.

22 Q. Originally early on in the testimony of your
23 counsel this issue was raised as to whether or not this --
24 my issue is whether or not this is in the public interest to
25 organize into a separate holding company, and I guess you

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

36

1 would be the best person to talk about the management and
2 the shareholder philosophy that at some point in time I'm
3 sure that this issue has been raised.

4 How is this in the best interests of the
5 public, and does it go further than just limiting the risk
6 on behalf of the ratepayers?

7 A. It covers a number of issues. As you are well
8 aware, the industry is changing. Whether we like it or not,
9 it is changing. It's becoming more deregulated. It is
10 essentially completely deregulated at the wholesale level,
11 and at the retail level there's some 25 states that are in
12 some form of retail deregulation.

13 We're not here today to argue the benefits or
14 the detriments of retail regulation. When myself and my

15 management looked at the trends in the industry we said, How
16 can we position the company in a way that best satisfies the
17 needs of our customers as well as our investors?

18 And by looking at looking around the industry,
19 this is not rocket science. This is something that's been
20 done in other companies. We determined that the holding
21 company structure was the way to separate the unregulated
22 from the regulated businesses in a way that allows us to
23 attract capital from investors -- we were thinking
24 particularly of the wholesale generation of power -- and at
25 the same time maintain all the benefits of the regulated

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

37

1 integrated utility that we have today.

2 And the holding company structure where the
3 holding company holds the investment in each of these
4 businesses we felt satisfied those requirements.

5 It not only separated the businesses, made
6 them more transparent to our customers and the Commission
7 and our investors, but also allowed us to grow in areas
8 outside of the regulated utility that would make us in the
9 long run a stronger company, more attractive to investors,
10 and, therefore, not only benefit the investors, but retain
11 and possibly improve the benefits to the ratepayers.

12 Certainly the holding company structure adds,
13 if anything, another layer of regulation that we must submit

14 to, but we are willing to undergo that for the -- for the
15 ability to run our businesses along the business lines that
16 we've outlined in our application.

17 We feel that this structure respects the
18 responsibilities of the Commission to our ratepayers as well
19 as respects the responsibilities of our management to our
20 investors.

21 Q. And so you just said something that was
22 interesting to me. You said it adds another layer of
23 regulation?

24 A. Uh-huh.

25 Q. And how do you believe it adds another layer

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

38

1 of regulation?

2 A. Certainly we have a lot of regulations that we
3 have to satisfy at the SEC for the Holding Company Act, and
4 I believe our stipulation, the experts could verify that,
5 but I believe our stipulation pretty much duplicates many of
6 those additional requirements that we will be -- we are
7 going to find under the SEC regulation.

8 Q. You also talked about the industry changing.
9 Would you also be saying that in the industry you are seeing
10 a number of these kinds of proceedings throughout the
11 country where other utility companies are also doing the
12 same things?

13 A. Counsel Bill Riggins could probably verify

14 this. As I recall, about ten years ago there was something
15 like a dozen registered holding companies and many exempt
16 holding companies, but today there are something like 30-odd
17 registered holding companies in the utility industry who
18 have essentially the same goals that we have. All we're
19 asking for is the opportunity to compete on the same playing
20 field.

21 COMMISSIONER SIMMONS: That's all the
22 questions I have. I don't know if either Public Counsel or
23 Staff wants to comment. If not, that will be the end of my
24 questioning.

25 JUDGE THOMPSON: Thank you, Commissioner

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

39

1 Simmons.

2 Why don't you remain there just for a moment.
3 Commissioner Gaw?

4 COMMISSIONER GAW: Thank you, your Honor.

5 I'll come back maybe in just a little bit if you're
6 comfortable up there. I may not ask you any questions at
7 all.

8 MR. BEAUDOIN: I'm glad to sit here and wait.

9 COMMISSIONER GAW: Thank you. I want to go
10 back to the first question that we started out with first in
11 regard to the procedural issue and make sure. I think this
12 has been made clear on the record, but it's my understanding

13 that there is -- that the nonsignatory parties who are
14 involved in this case have no objection to this stipulation.

15 MR. BOUDREAU: If I may, yes, I'll be glad to
16 clarify that. My two companies I represent, Empire and
17 UtiliCorp, have no objection to the stipulation that's been
18 entered into by KCPL and the other parties, Staff and Public
19 Counsel and I think there may have been several other
20 parties. We have no objection to that. We simply wanted to
21 point out that it was KCPL's settlement and that's all. I'm
22 glad to clarify that point.

23 COMMISSIONER GAW: I think the only question
24 came as a result of the interpretation of a conditional
25 waiver and whether or not that might have met some sort of a

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

40

1 level for us that would require us to interpret it as an
2 objection, and you're telling me that it does not rise to
3 that level.

4 Was there anyone else, your Honor, that you're
5 aware of besides these two parties who had that -- who had
6 that conditional waiver?

7 JUDGE THOMPSON: No. It was those two
8 parties, sir.

9 COMMISSIONER GAW: Thank you.

10 Now, if I could, I think I want to direct
11 these next questions initially to Staff and to OPC so that I
12 can make sure I'm understanding how this is changing the

13 current ability of the Commission to regulate the sale of
14 electricity.

15 It's my understanding -- and everyone, I
16 think, probably is aware of the fact that I'm fairly new, so
17 please bear with me. It's my understanding that electric
18 companies doing business in the state are required to meet
19 certain minimum levels in order to provide the electricity
20 needed by their -- by the individuals and companies they
21 serve. Mr. Dottheim, is that accurate in general?

22 MR. DOTTHEIM: When you say, Commissioner,
23 minimum levels, as far as -- I can think of many areas or a
24 number of areas that you may be referring to, whether it be
25 reliability in the provision of service, safety, the

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

41

1 adequacy.

2 COMMISSIONER GAW: Mainly referring to
3 adequacy.

4 MR. DOTTHEIM: Yes, there are minimum levels
5 as far as the actual literal provision of service and,
6 again, as part of that possibly safety.

7 Also, when you're referring to adequacy, I
8 don't know if you may be also referring to the charge that
9 the rates must be just and reasonable and whether your
10 question goes to there is any diminishment on the part of
11 the Commission to regulate in that area.

12 COMMISSIONER GAW: Let me get a little more
13 specific with you. Is there any requirement under Missouri
14 law that an electric company utility that is serving a base
15 of customers be able to provide for the load requirements of
16 their customers?

17 MR. DOTTHEIM: Yes. Yes. A public utility
18 company by its nature being certificated to serve in a
19 specific service area must provide service to the public.

20 COMMISSIONER GAW: All right.

21 MR. DOTTHEIM: And, now, whether your question
22 goes to how they provide that service, whether that is are
23 they required to provide service by building generation as
24 opposed to purchasing generation, if that's part of the
25 question, there's nothing specific in the statutes that

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551
42

1 requires that an electrical corporation must build
2 generation as opposed to purchase capacity and energy.

3 COMMISSIONER GAW: Well, let me ask you this
4 theoretical question, then. Is there no ability of the
5 Commission to review the reasonableness of the charges for
6 electricity based upon from whence the generation was
7 acquired?

8 MR. DOTTHEIM: Yes, the Commission does have
9 that authority, and I think that would go to even questions
10 of looking at cost if the electrical corporation had built
11 generation as opposed to having purchased generation.

12 So although the Commission's authority may not
13 literally go to the extent of requiring that generation be
14 built as opposed to capacity and energy being purchased, as
15 far as in the setting of just and reasonable rates, I do
16 believe that that is an item that the Commission can look at
17 as far as the setting of just and reasonable rates, the cost
18 involved, the prudence of an electrical corporation's
19 decision either to build or to acquire the capacity and
20 energy by some other means other than by building.

21 COMMISSIONER GAW: Let me get to this case so
22 I'm not asking you to speculate so much. Currently under
23 the structure of KCP&L, are you -- are you familiar with
24 general generation ability of KCP&L and GPP?

25 MR. DOTTHEIM: In a general manner. Why don't

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

43

1 you ask your question and then I'll see if I have to beg
2 ignorance.

3 COMMISSIONER GAW: That's fine. Under the
4 current structure, the generation that is owned by KCP&L or
5 an affiliate is owned by -- is some of it owned by KCP&L and
6 some of it by GPP? Tell me where that generation is as far
7 as ownership is concerned.

8 MR. DOTTHEIM: At the moment, the ownership is
9 with Kansas City Power & Light. All of Kansas City Power &
10 Light's generation traditionally, its generation is owned by

11 Kansas City Power & Light. It may be jointly owned with
12 other electric utilities. For example, the Iatan generating
13 unit is owned with a number of other electrical
14 corporations, if my memory serves me correctly, Empire
15 District Electric and formerly St. Joseph Light & Power, now
16 UtiliCorp.

17 There has been no transfer of the ownership of
18 any of that generation to Great Plains Energy or Great
19 Plains Power at this time.

20 COMMISSIONER GAW: Does this stipulation
21 contemplate a transfer of any of that generation?

22 MR. DOTTHEIM: The Stipulation & Agreement
23 only contemplates the transfer of the right to a Memorandum
24 of Understanding that exists between Kansas City Power &
25 Light and General Electric for the construction of five

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

44

1 combustion turbines, and there's a specific reference to
2 three of the five combustion turbines because it's the
3 Staff's understanding that, of those five combustion
4 turbines, three would be used to serve Kansas City Power &
5 Light's native load.

6 That's not to say that the Commission wouldn't
7 have jurisdiction in one manner or another respecting the
8 two other combustion turbines. For example, I think the
9 Staff in particular would look to the Commission's affiliate
10 transactions rules which Kansas City Power & Light did not

11 seek a stay of the Commission's affiliate transaction rules.

12 So the Staff even for the two other combustion
13 turbines which it's the Staff's understanding would not be
14 utilized to serve Kansas City Power & Light's native load,
15 the Staff would look for other means of the Commission
16 having some regulatory authority over costs or benefits
17 associated with those two other generating units.

18 COMMISSIONER GAW: I've got to be more
19 specific. If we did not have -- if this reorganization were
20 not approved and those five units were constructed as is
21 anticipated and planned as far as this stipulation is
22 concerned, in that event that generation would be available
23 to KCP&L customers as a first resort, would it not?

24 MR. DOTTHEIM: Yes, if I understand your --

25 COMMISSIONER GAW: I'm going to keep going

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

45

1 here.

2 MR. DOTTHEIM: And also, too, it's not
3 necessarily that it would be, if I'm understanding you
4 correctly, under this form --

5 COMMISSIONER GAW: You are.

6 MR. DOTTHEIM: -- of reorganization. It could
7 be that without going to a Public Utility Holding Company
8 Act, a registered company, KCPL might in some other
9 manner -- and KCPL can address this -- try to create an

10 exempt wholesale generator that would raise other questions,
11 similar questions, but maybe I shouldn't try to anticipate
12 in any manner what you're asking.

13 COMMISSIONER GAW: Let me continue. Those
14 generation facilities -- first of all, it's my understanding
15 under the stipulation that there is an anticipated need for
16 additional generation over and above what currently exists
17 which is stated in the stipulation.

18 There is an additional need that's anticipated
19 in the near future for additional generation over and above
20 what KCP&L currently has access to, and that is one of the
21 reasons why these new generations -- one of the reasons why
22 these new generation facilities are being accessed by lease
23 or purchase; is that right?

24 MR. DOTTHEIM: Yes, that's my understanding.
25 And the Staff, as is the Office of the Public Counsel, is

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

46

1 aware of that through in part the operation of, so to speak,
2 Chapter 22 of the Commission's rules on resource planning.
3 Chapter 22 is by agreement with the Staff, Office of Public
4 Counsel and the electric industry in the state, it was a
5 matter put before the Commission for approval.

6 Chapter 22 was suspended, but as part of that
7 suspension the electric utilities, Kansas City Power & Light
8 included, make I believe it is semi-annual presentations to
9 the Staff and the Office of the Public Counsel.

9 clearly the most prudent thing was the purchase of that
10 electricity from -- or the use of the electricity from the
11 generation facilities, in either event, all of them being
12 wrapped into one, if it was all under one company, I suppose
13 it could all come out in the wash is what you're saying,
14 because if they had wheeled off some of their electricity on
15 their own units, it's possible that you could come up with
16 an end result that really didn't matter since it was all
17 under the same company anyway.

18 MR. DOTTHEIM: Well, when you say an end
19 result that didn't matter, I don't know that I'm following
20 you, but it certainly -- well, it's -- it is an area that
21 the Staff would look at.

22 COMMISSIONER GAW: Would review?

23 MR. DOTTHEIM: Yes.

24 COMMISSIONER GAW: Now, let me jump ahead.

25 MR. DOTTHEIM: And it's an area that on an

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

48

1 ongoing basis the Staff does review.

2 COMMISSIONER GAW: Now, under this new
3 structure -- I want to make sure that there's no difference
4 in our ability to make that review. Under this new
5 structure, GPP will own these or lease these five generation
6 units, correct?

7 MR. DOTTHEIM: Yes.

8 COMMISSIONER GAW: Don't jump ahead of me now.

9 MR. DOTTHEIM: That is potentially a manner of
10 which KCPL may proceed with GPP.

11 COMMISSIONER GAW: It's contemplated in the
12 stipulation, correct?

13 MR. DOTTHEIM: Yes.

14 COMMISSIONER GAW: And it says in the
15 stipulation on page 14, KCP&L presently anticipates that it
16 will need an additional 231 megawatts of capacity in the
17 next three years. KCP&L may enter into a cost-based
18 purchase supply agreement with GPP to acquire capacity and
19 energy. Any purchase supply agreement between KCP&L and GPP
20 will be submitted by KCP&L for review and approval by the
21 Commission.

22 That's in there, and I believe -- isn't that
23 correct? That's in your stipulation?

24 MR. DOTTHEIM: Yes.

25 COMMISSIONER GAW: Is there also something

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

49

1 that refers to ability of that -- of those -- of any amounts
2 purchased to be looked at on cost-based methods or something
3 similar to that? Do you recall that?

4 MR. DOTTHEIM: I don't know that there's
5 anything other than what is Section 9.

6 COMMISSIONER GAW: That's basically what it
7 says here is it's cost-based?

8 MR. DOTTHEIM: And that's referring to the
9 purchase supply agreement itself between KCP&L.

10 COMMISSIONER GAW: And GPP.

11 MR. DOTTHEIM: Now, and Commissioner, I don't
12 know -- and Public Counsel and the Staff have broached this
13 item with Kansas City Power & Light earlier today.

14 As far as the Commission's order establishing
15 the hearing this date, it has occurred to the Staff and the
16 Office of Public Counsel as to whether the Commission was
17 curious as to this transaction as it may relate to another
18 transaction that has occurred, which the Commission has
19 taken note of and filed at the Securities and Exchange
20 Commission and the Federal Energy Regulatory Commission, and
21 that is the transaction involving AmerenUE and Ameren Energy
22 Marketing Company where it has been asserted involving power
23 that is being purchased ultimately from Ameren Energy
24 Generating Company, which is a -- which is a gen co, which
25 is an exempt wholesale generator, which arguably GPP would

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

50

1 be comparable to Ameren Energy Generating Company.

2 And, of course, the situation in that instance
3 AmerenUE has asserted that because the contract for power is
4 from Ameren Energy Marketing Company and not Ameren Energy
5 Generating Company, that Section 32K of the Public Utility
6 Holding Act does not apply.

7 That is potentially a similar situation. The

8 Stipulation & Agreement which was filed with the Commission
9 on May 1 predates May 8th, which is the date when the
10 Missouri Commission filed its request for an investigation,
11 in essence a complaint with the Securities and Exchange
12 Commission, and filed a notice of protest -- or excuse me, a
13 protest with the Federal Energy Regulatory Commission
14 regarding the contract between Ameren Energy Marketing
15 Company and AmerenUE.

16 The literal language of Section 9 makes
17 reference to Great Plains Power. It doesn't address a
18 situation where Great Plains Energy would establish a
19 marketing company and would interpose it between GPP and
20 KCPL. There's been no indication by Kansas City Power &
21 Light to date to the Staff that a marketing company would be
22 established, but frankly, the Staff maybe has been remiss in
23 this, and I would -- if anyone has been remiss it would be
24 me, has not broached this very subject with Kansas City
25 Power & Light.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

51

1 Kansas City Power & Light has indicated that
2 they were unaware of the situation that has developed with
3 AmerenUE, and at least to the Staff and I think maybe the
4 office of the Public Counsel the thought had occurred to us
5 that maybe the Commission's questions that were identified
6 in the Order that was issued are designed to address this

7 situation and seek some answers from the parties this
8 afternoon.

9 COMMISSIONER GAW: Well, I appreciate that
10 very much, Mr. Dottheim. Let me ask you this. In
11 hindsight, if you were -- if you were looking at this
12 stipulation on May the 9th, would you have signed it in its
13 current form?

14 MR. DOTTHEIM: No.

15 COMMISSIONER GAW: Office of the Public
16 Counsel?

17 MS. O'NEILL: My answer would be the same, no,
18 on May 9th we would not have signed it in its current form.
19 However, and I think Ryan Kind can speak more to the details
20 of this, and perhaps the Company can speak to this, but I
21 don't know whether or not we got a final statement from the
22 Company about whether anything like this was contemplated.

23 I know that in the future I know they hadn't
24 thought about it or, you know, seemed to not have been aware
25 of what was going on with Ameren. Maybe you should address

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

52

1 that.

2 MR. FISCHER: Your Honor, maybe I can just
3 take care of it right now. We were unaware of the situation
4 with Ameren or the dispute with the Staff or the Commission
5 until Staff and Public Counsel called me this morning.

6 One of the benefits of having the chairman of

7 the board and the general counsel in your office, though, is
8 you can talk about these kinds of issues and resolve the
9 matter directly.

10 We were willing to stipulate that we are not
11 going to set up any kind of marketing company and try to
12 avoid bringing a contract to the Commission for its
13 approval. In the event that we do enter into a power supply
14 agreement, it will be with GPP, and as the stipulation
15 states, we will bring it to the Commission for its review
16 and approval.

17 COMMISSIONER GAW: Is it true that GPP is not
18 a signatory to this agreement?

19 MR. FISCHER: GPE is the holding company, but
20 I guess the Great Plains Power Company would not be.

21 COMMISSIONER GAW: Is there a reason for that?
22 It's probably something simple that I just don't know of.

23 MS. O'NEILL: Commissioner, I'm not sure that
24 GPP was in existence on May 1st.

25 COMMISSIONER GAW: But it appears to be in

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

53

1 existence in the diagram that's in the stipulation. That's
2 why I'm asking.

3 MR. FISCHER: Your Honor, it does exist today
4 as a corporate entity. However, the Stipulation & Agreement
5 does not bind GPP in some way. There's no affirmative

6 obligations on behalf of that particular subsidiary. There
7 are many on behalf of GPP, the holding company, and Kansas
8 City Power & Light Company.

9 COMMISSIONER GAW: But GPP is not a signatory
10 to this agreement?

11 MR. FISCHER: That's correct.

12 COMMISSIONER GAW: Let me continue on my
13 questions and come back in just a bit here.

14 MR. BEAUDOIN: Can I address that?

15 COMMISSIONER GAW: Absolutely. It's okay.

16 MR. BEAUDOIN: Really the burden of proof here
17 is for Kansas City Power & Light. GPP is an independent
18 generating company. If it can't provide power to Kansas
19 City Power & Light on an economical level, it's the burden
20 of Kansas City Power & Light to seek the most economic
21 choice, whether it's to build, buy, lease or lease from a
22 third-party independently of GPP.

23 So GPP we believe is an independent company
24 that has agreed to supply power to KCPL, but it's KCPL's
25 burden to prove to this Commission that that is the most

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

54

1 economical way to go.

2 COMMISSIONER GAW: I appreciate that. I want
3 to come back to that in just a moment.

4 Now, what I want to ask Mr. Dottheim next is,
5 if we are out dealing with the issue of let's suppose that

6 this structure, which I'm a little unclear whether this
7 structure actually existed or not that's on page 2 where it
8 says current corporate structure, when this agreement was
9 entered into which has KCP&L as the parent company, KLT and
10 GPP as subsidiaries, but that is the diagram that appears on
11 there.

12 Is that an accurate representation of what was
13 quote/unquote current corporate structure?

14 MR. DOTTHEIM: I believe so. I think Kansas
15 City Power & Light might address that.

16 COMMISSIONER GAW: I can ask you-all, too.

17 MR. FISCHER: Yes. The answer is yes.

18 COMMISSIONER GAW: Okay. Thank you. Now,
19 assuming that to be the case, and if GPP as a subsidiary had
20 been -- had acquired the ability to generate those --
21 generate the electricity rather than it being directly owned
22 by KCP&L, would it have been considered by Staff, based upon
23 your knowledge and belief of how Staff has operated in the
24 past, to have been the same as being owned directly, those
25 assets, those generation assets being owned directly by

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

55

1 KCP&L if it was a subsidiary?

2 MR. DOTTHEIM: Yes, I believe the Staff would
3 have considered that in such a manner.

4 COMMISSIONER GAW: Now, if this change takes

5 place and this corporation, GPP, is no longer a subsidiary
6 but instead a sister corporation, which I believe is what is
7 contemplated here, of KCP&L, is it treated -- is the
8 generation asset treated the same way when they do not have
9 direct control of that corporation?

10 MR. DOTTHEIM: In certain respects, it is.
11 And let me see if I can be clear about this. And it applies
12 also to -- and I don't know if this will help.

13 Even if we went to the restructured company as
14 KCPL is proposing, and let's just take hypothetically that
15 in addition to Great Plains Power being established as the
16 generating company, as the gen co, Great -- excuse me, yeah,
17 Great Plains Energy also created a marketing company, which
18 let's call Great Plains Marketing Company, and if Great
19 Plains Power sold the power to Great Plains Marketing
20 Company and then Great Plains Marketing Company sold the
21 power to Kansas City Power & Light, if one would make the
22 argument that Section 32K of the Public Utility Holding
23 Company Act doesn't apply, that does not necessarily remove
24 all Commission jurisdiction over the sale of power from, in
25 this case, Great Plains Marketing Company to Kansas City

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

56

1 Power & Light.

2 What might occur or might be asserted is that
3 Section 32K of the Public Utility Holding Company Act does
4 not apply, but what the Staff would assert is that in any

4 COMMISSIONER GAW: This Staff would assert
5 that it was just as strong?

6 MR. DOTTHEIM: Yes.

7 COMMISSIONER GAW: Is it subject to more
8 challenge?

9 MR. DOTTHEIM: It is arguably subject to more
10 challenge.

11 COMMISSIONER GAW: All right. Now, if you
12 have this GPP or a subsidiary of GPP form something that is
13 engaged with these generation facilities and sells energy
14 generated from those facilities, and if they can generate
15 for the entire system, I mean GPE and its affiliates, more
16 income by buying -- by KCP&L buying on the spot market
17 coupled with the sale of electricity from those generating
18 units on the spot market rather than it being sold to KCP&L.
19 Are you following me?

20 MR. DOTTHEIM: No. I'm sorry. If you -- I'm
21 sorry.

22 COMMISSIONER GAW: This is complicated enough
23 for me the first time through, Mr. Dottheim, but I'll try to
24 get back.

25 MR. DOTTHEIM: I'm sorry.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

58

1 COMMISSIONER GAW: If you have these
2 generating units of GPP's and KCP&L has needs for
3 electricity and GPP says, We're not selling you this

4 electricity because we can sell it for more on the spot
5 market. KCPL then goes out and has to make up its amount on
6 the spot market because they don't have any control over GPP
7 as a sister corporation as they did as a subsidiary the
8 same.

9 What does that do on a prudence review on
10 their purchase of electricity compared to what kind of a
11 case you would have had if they had remained under the
12 current structure? Does that help?

13 MR. DOTTHEIM: Yes.

14 COMMISSIONER GAW: Just trying to see whether
15 we're changing our ability to review those kinds of things,
16 and I'll let you proceed.

17 MR. DOTTHEIM: I think under the current
18 structure without Great Plains Power KCPL still has the
19 option of constructing or purchasing power in the spot
20 market, and that would be subject to review by the Staff.
21 Now, I'm sorry. I'm not sure if that's what you were --

22 COMMISSIONER GAW: Would OPC want to jump into
23 this if you've got something to offer me? I want somebody
24 to tell me that there is no difference in Staff or OPC's
25 ability to review this structure as compared to what it --

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 the structure that's contemplated as compared to the one we
2 have currently in the event that there are sales outside of

3 the system by GPP and that KCP&L is refused the ability to
4 buy on a cost basis from GPP.

5 MR. FISCHER: Your Honor, the Company would
6 certainly like to respond at the appropriate time.

7 COMMISSIONER GAW: I want you to, too. I'm
8 trying -- I'm going to come over there. I'm just -- I want
9 them to tell me what their -- what their abilities are right
10 now.

11 MR. DOTTHEIM: Excuse me. Your question then
12 goes to if GPP is in existence and builds the units and does
13 not sell --

14 COMMISSIONER GAW: Builds them or leases them.

15 MR. DOTTHEIM: And refuses to sell to Kansas
16 City Power & Light?

17 COMMISSIONER GAW: It's more profitable for
18 them to sell on the open market in that scenario. Rather
19 than selling on a cost basis, which is what your stipulation
20 is calling for, although it says may, not shall, I noticed.

21 MR. DOTTHEIM: Yes.

22 MS. O'NEILL: Commissioner, I believe that
23 Mr. Kind from our office may be able to give you some
24 information on that if you'd like to direct the question to
25 him.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551
60

1 COMMISSIONER GAW: If Mr. Dottheim wouldn't
2 mind.

3 MR. DOTTHEIM: Go ahead.

4 COMMISSIONER GAW: Do we need to have him
5 sworn?

6 JUDGE THOMPSON: Yes. Step up, sir. State
7 your name, sir.

8 THE WITNESS: My name is Ryan Kind.

9 (Witness sworn.)

10 JUDGE THOMPSON: Please take your seat.
11 Proceed, Commissioner.

12 RYAN KIND testified as follows:

13 QUESTIONS BY COMMISSIONER GAW:

14 Q. I don't know that I need to try to reask the
15 question. Can you help me with what I'm inquiring about
16 here in regard to the scenario that I developed?

17 A. One of the things I think you're asking is
18 what if the company chooses to rely on the spot market and
19 purchase power contracts instead of building its own
20 generation.

21 Q. No, that is not what I'm asking about.

22 A. Okay.

23 Q. I'm asking about these five units that are
24 contemplated to be built. I'm assuming they are going to be
25 built. And what I'm asking is, if GPP chooses because it is

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

61

1 more profitable to GPP to sell on the open market rather

2 than sell on a cost basis to KCP&L, what is there that the
3 Commission can do about it?

4 A. Okay. I think I understand.

5 Q. Under this proposed stipulation.

6 A. I think either way what the Commission can do
7 about it, either under the contract structure of KCPL or
8 under a new structure if this application is approved,
9 either way the Commission's remedies are largely in
10 ratemaking proceedings when they can determine prudence of
11 costs.

12 And I think the Commission's ability to
13 determine whether it was prudent for KCPL to rely on the
14 spot market instead of more or less compelling its affiliate
15 to provide power at cost if --

16 Q. Tell me how KCP&L has the ability to compel a
17 sister corporation to sell its electricity on a cost basis
18 when there is no signatory here by GPP, there's nothing here
19 that says they shall sell the electricity at a cost basis if
20 it's available. Help me understand that.

21 A. Unfortunately, I don't think we can rely on
22 them to compel their affiliate to sell on a cost basis under
23 the current structure. Under the current structure, their
24 fiduciary responsibility is to shareholders, and I would
25 expect them to pursue courses of action and business plans

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

2 Q. They have full control over a subsidiary
3 corporation, do they not?

4 A. Yes, they do.

5 Q. They do not have full control over a sister
6 corporation, do they?

7 A. No, they don't. They have probably no
8 control.

9 Q. And therein lies the difference in the
10 structure of these before and after this approval that's
11 requested. So how does the Commission have the ability
12 after the fact, after this, assuming this is approved, to
13 say to KCP&L, KCP&L, you should have purchased this on a
14 cost basis from GPP when GPP says, We didn't want to do
15 that. We have nothing legally requiring us to do that. It
16 made more sense for us to go for our shareholders' sake out
17 on the open market and sell this electricity. It was worth
18 more profit to us at that point in time, which is
19 understandable, so that's where we sold it, as opposed to a
20 subsidiary corporation who has -- who is totally controlled
21 by KCP&L who could be in a position, who KCP&L can direct to
22 do what KCP&L requests them to do, and we have the ability
23 at that point in time, I assume, to make some sort of review
24 based upon that control element that's there.

25 Mr. Dottheim?

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

1 MR. DOTTHEIM: Excuse me for interrupting.
2 And I don't know if this goes to your question, but there is
3 provision in Section 9, last paragraph, that prior to the
4 transfer of the rights, which has not occurred yet, that
5 KCPL and/or GPP -- and granted GPP is not a signatory to
6 this document, but there is provision nonetheless that KCPL
7 or GPP will initiate a proceeding before the Commission to
8 address all issues related to the transfer of the rights.

9 And I would think that your question at that
10 time could be addressed, and from the Staff's perspective,
11 the transfer of the rights need not be authorized by the
12 Commission depending upon what are the terms under which
13 those rights are being transferred. Now --

14 COMMISSIONER GAW: You're talking about the
15 rights to what?

16 MR. DOTTHEIM: To those three combustion
17 turbines.

18 COMMISSIONER GAW: I thought there were five.

19 MR. DOTTHEIM: There are five, and this is
20 another point, and there's reference to three of the five
21 because it is the Staff's and the Office of Public Counsel's
22 understanding that only three of the five are needed,
23 contemplated for serving Kansas City Power & Light's native
24 load.

25 And as a consequence, there's nothing frankly

1 preventing Staff and Office of Public Counsel from seeking
2 the same authority over all five, but the language is three
3 of the five, KCP&L, GPE and GPP -- I mentioned KCPL and
4 Great Plains Power, but it's also Great Plains Energy --
5 have agreed that prior to literally the transfer of the
6 rights, KCPL or GPP will initiate a proceeding before the
7 Commission to address arguably issues such as that which you
8 have raised.

9 Now, by the same token, Kansas City Power &
10 Light, Great Plains Energy, Great Plains Power is free in
11 that proceeding to assert that the Commission has no
12 jurisdiction over the transfer of rights.

13 The Staff and I presume the Office of Public
14 Counsel would assert that the Commission does have
15 jurisdiction over that transfer, but that is -- that is a
16 question that would be brought before the Commission for
17 determination.

18 Now, should the Commission assert
19 jurisdiction, there's no provision in here prohibiting
20 Kansas City Power & Light from challenging in circuit court
21 and beyond that determination by the Commission.

22 So I don't know if that at least in part gets
23 to the question you've asked. It may -- it may well not be
24 what you consider to be a satisfactory answer, but in part
25 that may address your question.

1 There's always the situation, which I think
2 possibly you're suggesting, too, maybe in your question of
3 let's get beyond these five combustion turbines. Any
4 generating units that Great Plains Power might operate or
5 construct other than these five combustion turbines, that is
6 not addressed in this document, in this Stipulation &
7 Agreement.

8 Now, the Staff would assert that ultimately on
9 any rates that are being sought to be set for Kansas City
10 Power & Light, purchased power agreements, determinations by
11 KCPL not to build generation itself, to purchase capacity
12 and energy elsewhere than constructing its own units, those
13 are still issues that the Commission can address in setting
14 just and reasonable rates.

15 But the question of whether by KCPL going to
16 this corporate structure, whether the Commission loses some
17 jurisdiction or jurisdiction is more attenuated over Kansas
18 City Power & Light, I think that's a reality.

19 COMMISSIONER GAW: Yes, sir. Then I want
20 to -- I've got to let the company get their more than two
21 cents worth in.

22 MR. KIND: I just have a brief point that I
23 think is pertinent to the question you're asking. You seem
24 to be raising the observation that, under the current
25 corporate structure with GPP as a subsidiary of KCP&L, the

1 Commission might find that under certain circumstances it
2 would have been reasonable for the company to direct its
3 subsidiary to sell power at cost-based rates instead of
4 paying higher costs to buy the power in the spot market.

5 And I would suggest that that's the kind of
6 situation that Provision I on page 12 of the Stipulation &
7 Agreement was designed to address, that the Commission is
8 not -- is able to require KCPL to hold harmless its
9 customers with respect to changes that took place as a
10 result of this transaction.

11 If one of those changes that takes place as a
12 result of this restructuring is that it no longer has the
13 authority to compel its affiliate gen co to sell power at
14 cost-based rates, then I think this provision -- assuming
15 that the Commission would be proper in making that
16 determination, this provision would allow you to continue to
17 make that determination.

18 MR. DOTTHEIM: The Staff would concur in that.

19 COMMISSIONER GAW: And the Company's position,
20 too?

21 MR. FISCHER: Your Honor, I think, too, if I
22 understand what they're saying, the ratemaking process is
23 the place where you will go to make any adjustments to
24 Kansas City Power & Light's rates if you find for some
25 reason that our purchase practices or our supply of native

1 load through building has been in any way imprudent, and
2 that is the appropriate place to do that.

3 I'll make just a couple points before I'd ask
4 Chris Giles to explain what the Company's plans are and how
5 we view this whole issue. But first of all, today there is
6 no transfer of any generation assets at all being approved
7 by this document that you are being asked to approve.

8 Secondly, there is the provision that you've
9 been talking about where we are agreeing to initiate a
10 proceeding in front of the Commission prior to the time that
11 we transfer the contract rights related to those five CTs.
12 So it will be up to you to take a look at that issue at that
13 time. I think that's probably the appropriate docket to
14 explore these issues.

15 But I don't want to leave it there. I'd like
16 for Chris to talk to you about what we have in mind and what
17 the current plans are.

18 But in any event, this document itself if you
19 approve it does not transfer any generation units, and it
20 contemplates that perhaps down the road we would enter into
21 a purchase supply agreement with GPP, provided the assets
22 are over there.

23 But in any event, the Company's only going to
24 buy energy at the place where we can buy it the cheapest,
25 whether it's GPP, our affiliate, or if we can get it cheaper

1 somewhere else, we're going to go elsewhere.

2 But if you don't mind, I'd like to ask Chris
3 to address it in more detail.

4 COMMISSIONER GAW: I don't mind that, but I
5 guess what I was asking initially was, did you agree with
6 Public Counsel's last statement that, in regard to page 12,
7 Subdivision I, that that is -- that that hold harmless
8 provision would address the series of questions that I had
9 regarding the possibility of KCP&L customers being impacted
10 in an adverse way by this change in structure?

11 MR. FISCHER: Yes, we would agree with that.

12 COMMISSIONER GAW: Okay. And is there a
13 reason why GPP is not a signatory to this agreement?

14 MR. FISCHER: Let me ask the General Counsel
15 to address that.

16 MR. RIGGINS: I can go to the podium if you
17 prefer. I don't think it will take --

18 JUDGE THOMPSON: You can go ahead and speak
19 from there, Mr. Riggins.

20 MR. RIGGINS: Thank you, Judge.

21 I believe the reason for that, Commissioner
22 Gaw, is that the only obligations that have been undertaken
23 by GPP in this stipulation are the ones that we've been
24 talking about in this particular paragraph, and if, in fact,
25 we do make the decision that we would like to transfer

1 KCPL's rights to acquire those CTs to Great Plains Power,
2 the stipulation requires before that occurs that KCPL, Great
3 Plains Power, Great Plains Energy initiate this proceeding
4 with -- a subsequent proceeding with the Commission where
5 the parties, the interested parties are free to raise
6 whatever issues they think need to be raised in that regard.

7 But that's the extent of Great Plains Power's
8 involvement, if you will, in this part of the stip-- or in
9 these provisions of the stipulation. I think that's why
10 from our perspective they weren't a signatory. Great Plains
11 Energy owns all of Great Plains Power, just as it owns all
12 of Great -- or of Kansas City Power & Light.

13 Great Plains Energy is a signatory to this
14 stipulation, but as Mr. Fischer said, Chris can address our
15 current plans in more detail.

16 COMMISSIONER GAW: Currently GPP is still a
17 subsidiary of KCP&L?

18 MR. RIGGINS: That's true.

19 COMMISSIONER GAW: It's interesting. Maybe it
20 was just a typo, but on page 14 in paragraph 3 it seems to
21 contemplate GPP being a signatory.

22 MR. RIGGINS: The provision that you're
23 referencing again is the one where if, in fact, this
24 eventuality occurs where we're talking about transferring
25 those assets -- or not assets, but the interest in the

1 contract over Great Plains Power, that that will be fought
2 or that proceeding will be initiated by KCPL or GPP.

3 And again, if it's the concern about the
4 signature line, Great Plains Energy, which owns Great Plains
5 Power in its entirety, is a signatory to the Stipulation &
6 Agreement.

7 COMMISSIONER GAW: I though KCP&L owned GPP.

8 MR. RIGGINS: It does currently, but
9 subsequent to the reorganization, Great Plains Energy will
10 own the entirety of --

11 COMMISSIONER GAW: So you wouldn't -- there
12 isn't any reason why GPP couldn't be a signatory to this
13 stipulation?

14 MR. RIGGINS: No, there's no reason. I don't
15 think it's necessary because --

16 COMMISSIONER GAW: It wouldn't be a problem
17 for you if that was requested?

18 MR. RIGGINS: No. Great Plains Power is
19 formed, has a chief executive officer.

20 COMMISSIONER GAW: And is there a reason why
21 on the second line of paragraph 2, I'm not sure if I
22 understand the meaning or the significance of that sentence,
23 since it -- other than a permissive.

24 MR. RIGGINS: May means might if that's your
25 question, Commissioner, and that probably could have been

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

71

1 worded better, but may means might.

2 COMMISSIONER GAW: But it certainly doesn't
3 say shall?

4 MR. RIGGINS: No, it doesn't, but --

5 COMMISSIONER GAW: And really that could be
6 problematic, too, I suppose, because you could find yourself
7 in a position where that was not the best place to purchase
8 power --

9 MR. RIGGINS: That's true.

10 COMMISSIONER GAW: -- from a customer
11 standpoint.

12 MR. RIGGINS: And I think that's one of the
13 issues that Chris can address in a bit more detail.

14 COMMISSIONER GAW: All right.

15 MR. FISCHER: If it would be all right, I'd
16 like to just ask Chris Giles to come forward and address the
17 Commissioner's questions and discuss our plans a little bit
18 more.

19 JUDGE THOMPSON: We will do so.

20 (Witness sworn.)

21 JUDGE THOMPSON: Proceed, Commissioner.

22 CHRIS GILES testified as follows:

23 QUESTIONS BY COMMISSIONER GAW:

24 Q. If you want to go ahead -- you've heard the
25 questions I've been asking. If you want to go ahead, I'd

1 appreciate it.

2 A. Actually, I've been a bit chomping at the bit
3 to explain a few things. I would like to start off by
4 commending the Commissioner on your questions and the detail
5 that you're trying to understand this process.

6 And one of the reasons I was so anxious to
7 appear is because I think I can clear up a lot of this very
8 quickly. The CT issue in this case was really not an issue.
9 It's really an issue outside this particular case. And due
10 to the timing of the CT transaction, it became an issue in
11 our negotiations of the stipulation.

12 And as a result of that, we found that we
13 couldn't very much move forward because this issue kept
14 appearing. And the question came down to KCPL had
15 identified 231 megawatt need in the year 2003.

16 In one of our prior meetings with the
17 Commission Staff and the Office of the Public Counsel, we
18 had anticipated meeting that need with three combustion
19 turbines. Subsequent to that time, it became available to
20 us to enter into a Memorandum of Understanding with GE for 5
21 CTs.

22 Knowing we were contemplating Great Plains
23 Power in the future, we thought it would be advantageous to
24 go ahead and at least get, so to speak, in the cue in the

25 line for those CTs. So all of these negotiations were

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

73

1 occurring at the same time we had filed our application and
2 were down here talking with the Staff and the Office of the
3 Public Counsel.

4 So the issue then became, well, what are you
5 going to do with those CTs when the MOU is in Kansas City,
6 the leasing or the financing will be in KCPL. Are you then
7 going to transfer them to GPP, and how would you purchase
8 the energy back and what commitment would be made, all the
9 various questions you've been asking.

10 So the way we got around that for the
11 stipulation, we said, Look, let's just take this issue out
12 of the case. And we don't even know today as I sit here we
13 will ever request those CTs be transferred. We just don't
14 know at this point. They're not scheduled to be constructed
15 until 2003, or completed until 2003. We're still working on
16 financing, et cetera. So we don't know even today what
17 we're going to do.

18 So what we decided to do was we would make it
19 very clear there were two issues. There's the issue of the
20 cost, the PPA, the purchased power agreement. I continued
21 to point out to the Staff and OPC that we would contract
22 back if those CTs were transferred at cost as we are
23 required to do under FERC and under SEC as an affiliate
24 transaction. We would do that.

25

But that still left the issue of jurisdiction

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

74

1 and would we have to request approval, and what we agreed to
2 do to set the issue aside for another day was to say, if
3 we -- if and when we decide to take that route, we will file
4 with the Commission and address all issues. And it's very
5 much what we're sort of doing today in some respect, only
6 maybe not in such detail.

7 The other question, it became an issue in
8 Kansas as well. You probably know, we serve a Kansas
9 jurisdiction. We had the same stipulation presented in
10 Kansas. The Kansas parties, the CERB and the Staff took a
11 little bit different tact and they said, Well, we don't
12 really have an issue with the jurisdiction issue, but we
13 want to make sure that those CTs are dedicated to KCPL or
14 their leads and it's at the lowest cost or you go find it
15 cheaper.

16 That's the language that's in the Kansas
17 stipulation. There's no filing, there's no requirement, and
18 I can assure you we're willing to make that same commitment
19 in Missouri.

20 Q. Did you -- on the Kansas stipulation, who were
21 the parties to that stipulation, do you know?

22 A. The parties were the same as here in Missouri.
23 It was the -- instead of the Office of the Public Counsel,

24 it's the Citizens --

25 Q. I mean with the Company.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

75

1 A. Same.

2 Q. Same one. GPP was not a signatory on that one
3 either?

4 A. No. It was identical. GPE and KCPL. So we
5 made that commitment in Kansas City. The reason you don't
6 find that language in this stipulation is because obviously
7 we were going to file and address all the issues, so we
8 didn't set out a particular issue. So it's a little
9 different.

10 The other comment I wanted to make -- and I'll
11 be glad to answer any other questions you have -- absolutely
12 nothing changes from the Commission's standpoint on this
13 transaction. The Commission has every bit as much authority
14 under this restructure as it does today. In fact, they have
15 more. We have agreed to not only the SEC requirements,
16 we've added additional requirements to ensure that the
17 Commission has authority over not only KCPL but the
18 interactions between KCPL and GPP.

19 And my final comment would be, KCPL will
20 always have a planning function, a supply resource planning
21 function, and in that process will continue to evaluate
22 least cost alternatives for power, just as we do today.

23 Now, whether in the future that means a PPA

24 with GPP, whether it means a purchased contract with another
25 IPP or utility or whether KCPL builds, we will still make

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

76

1 those determinations. And the stipulation nowhere contains
2 the fact that KCPL will never build. It just says that GPP
3 is going to be a generating company, and the generating
4 company may build units that KCPL doesn't need today or may
5 never need. So that's sort of the concept.

6 COMMISSIONER GAW: Let me ask a real quick
7 question. What does that mean, GPP or its affiliate on page
8 14, sentence 3? Who is that contemplating, whoever knows
9 the answer to that?

10 MR. FISCHER: I'm sorry.

11 COMMISSIONER GAW: I'm on page 14. I
12 apologize. Where it says -- it's referring to the units
13 will be leased and operated by GPP or its affiliate. Who is
14 that contemplating, or its affiliate? At the top of the
15 page, line 3.

16 MR. GILES: I'm not sure that that -- what
17 that's referring to. I don't think it was contemplated
18 there would be necessarily an affiliate of GPP. That
19 language may have got in there as a result of, as of the
20 time of that writing, GPP was an affiliate, but it's an
21 affiliate of KCPL.

22 COMMISSIONER GAW: Right.

23 MR. GILES: I think that probably got
24 transposed somehow. There's absolutely no reason for it.

25 COMMISSIONER GAW: All right. So you're

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

77

1 saying really we should assume that that language isn't
2 there or is any consequences concerning --

3 MR. GILES: I don't believe it has any
4 meaning, you know, from my perspective.

5 COMMISSIONER GAW: Mr. Dottheim, it does
6 seem -- I'm asking that because of your previous comments in
7 addition to the fact that I circled it before.

8 MR. DOTTHEIM: Yes, and I'm sorry. I don't
9 recall how that language got there, but, of course, it is
10 there, and it could contemplate a marketing company, for
11 example.

12 MR. GILES: May I address that?

13 COMMISSIONER GAW: Yes.

14 MR. DOTTHEIM: I'm not suggesting that that's
15 why it's there.

16 COMMISSIONER GAW: That's why I'm asking the
17 question.

18 MR. DOTTHEIM: But it could contemplate a
19 marketing company, for example.

20 COMMISSIONER GAW: Go ahead. I'm sorry.

21 MR. GILES: I would be glad to speak to that.

22 COMMISSIONER GAW: Yes. Go ahead.

23 MR. GILES: I don't recall that it ever had
24 any meaning, but let's just assume that it is a marketing
25 company, and I don't believe -- I think Mr. Dottheim may

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

78

1 have alluded to this. I don't know if it's actually been
2 said, but KCPL for the record will say that we will not
3 attempt a so-called end run around the Commission by stating
4 we will purchase from an affiliated marketing company that's
5 in turn contracting with our EWG GPP to get around filing a
6 contract with the Commission. We will stipulate to that on
7 the record here today.

8 MR. FISCHER: I think I already did, but --

9 COMMISSIONER GAW: You may have.

10 MR. FISCHER: -- just to make it real clear,
11 your Honor, in the second paragraph, the very last sentence
12 where it says, Any purchase supply agreement between KCP&L
13 and GPP, we would be willing to stipulate to the inclusion
14 of the phrase and any GPE affiliate so that it's very clear
15 that in any event --

16 MR. DOTTHEIM: Where would you insert that,
17 Mr. Fischer?

18 MR. FISCHER: After GPP. So that any purchase
19 supply agreement between KCP&L and GPP, I guess the
20 conjunction would be or, or any GPE affiliate will be
21 submitted by KCP&L for review and approval by the

22 Commission.

23 Certainly we didn't contemplate this marketing
24 idea at all, but if that would clarify it, we would be very
25 happy to make that stipulation.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551
79

1 COMMISSIONER GAW: Okay. Let me inquire about
2 this relationship on an agreement, and I have got to wind
3 this down. I have gone on far longer than I intended.

4 MR. FISCHER: We want to answer all of your
5 questions.

6 COMMISSIONER GAW: And I appreciate the fact
7 that you're here.

8 This contemplates the possibility of that
9 agreement being entered. Let me -- and that also assumes
10 that a transfer at some later date might be approved by this
11 Commission, if you're following me. What happens in the
12 event -- is it possible that the current -- the current, I
13 don't know if they're -- are they contracts or whatever they
14 are with GE on those units between GE and is it KCP&L?

15 MR. FISCHER: Yes.

16 COMMISSIONER GAW: Are those contracts firm?
17 Are they contracts to build? Can KCP&L back out of them
18 without consequence?

19 MR. FISCHER: We don't have the financing yet.
20 Chris, do you want to address that question?

21 MR. GILES: I'm not sure I could address it

22 specifically. The contracts have been signed. There is an
23 ability to transfer those at a later date to GPP if we
24 decide to do so.

25 COMMISSIONER GAW: Is there -- can KCP&L back

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

80

1 out of those contracts the way they are right now without
2 consequence?

3 MR. GILES: I don't believe they could without
4 consequence, but Bernie may be able to shed more light.

5 MR. BEAUDOIN: Those are binding contracts.

6 COMMISSIONER GAW: So you can't get out of it
7 unless you can't get financing; would that be accurate?

8 MR. BEAUDOIN: Right. We'd have to have
9 someone else pick up the contract.

10 COMMISSIONER GAW: All right. Does that
11 contemplate or does that mean to you a transfer if someone
12 else picks up that contract?

13 MR. BEAUDOIN: If it turns out that we do not
14 need the units or we could not finance the units, we would
15 have to find a buyer for those.

16 COMMISSIONER GAW: And if GPP were the buyer,
17 would that be a transfer under this stipulation?

18 MR. BEAUDOIN: Yes, I think so.

19 COMMISSIONER GAW: I think I've probably taken
20 more than enough time here, but I appreciate all the parties

21 allowing me to do that. And if there -- if the parties feel
22 that there's any need to further clarify what they suggested
23 earlier to us, it would be appropriate from my standpoint on
24 my questions to do that now, but otherwise I'm going to give
25 it back to you, Judge.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

81

1 JUDGE THOMPSON: Thank you, Commissioner.

2 Additional questions from the Bench, Commissioner Murray?

3 COMMISSIONER MURRAY: Yes. I would like to
4 follow up on something that both the Staff counsel and the
5 Office of the Public Counsel said earlier when they said
6 that May 9th they would not have signed the Stipulation &
7 Agreement in its current form, and I would like to ask both
8 of you, would you have signed it on May 9th with the
9 stipulations that were suggested here today?

10 MR. DOTTHEIM: Yes.

11 MS. O'NEILL: Yes, we would.

12 COMMISSIONER MURRAY: All right. And then one
13 last question. Staff's written response to the Commission
14 in support of the Stipulation & Agreement was filed on
15 May 11th. I just reread that, and I don't see anywhere in
16 that that Staff indicated that it had any change in position
17 from its original entering into the Stipulation & Agreement.
18 Is that correct?

19 MR. DOTTHEIM: That's correct on the basis
20 that the Staff had entered into a Stipulation & Agreement

21 and subsequent events, if the Staff had known those, we
22 would have attempted to address them as we did today, but
23 that wasn't a basis to suggest to the Commission regardless
24 of concern that had arisen because of another event that the
25 Staff would not proceed forward with the Stipulation &

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

82

1 Agreement.

2 COMMISSIONER MURRAY: Thank you. That's all,
3 your Honor.

4 JUDGE THOMPSON: Thank you, Commissioner
5 Murray. Commissioner Simmons?

6 COMMISSIONER SIMMONS: I have no questions.

7 JUDGE THOMPSON: Commissioner Gaw?

8 COMMISSIONER GAW: Judge, I might just suggest
9 that in light of Commissioner Murray's inquiry, if there are
10 particular -- we have had suggestions of particular
11 additions to stipulations, to this stipulation today, and
12 I'm not sure if I'm totally clear if the parties are all in
13 agreement with that.

14 If the parties desire to do so as a result of
15 the communication that the Commission has had today, perhaps
16 that could be submitted to us with all the parties signing
17 off on it. And I'm not suggesting that you do that or not
18 do that. I'm just suggesting to you, if you desire to do
19 so, it might make it clearer for us rather than going back

20 and reading through the record.

21 That's all I have.

22 JUDGE THOMPSON: Thank you, Commissioner.

23 Further questions from the Bench?

24 Mr. Giles, I think I remember you from a

25 proceeding we had involving GST some months ago.

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

83

1 MR. GILES: You've got the right person. I

2 was here.

3 JUDGE THOMPSON: And I enjoyed your testimony

4 at that time. I have some questions for you today.

5 With respect to the combustion turbines, can

6 you give me a ballpark idea of what the capacity of each of

7 those is?

8 MR. GILES: They're each about 77 megawatts.

9 JUDGE THOMPSON: Okay. Now, there's been

10 discussion concerning three of the five; is that correct?

11 MR. GILES: That's correct.

12 JUDGE THOMPSON: What's going to happen to the

13 other two?

14 MR. GILES: That's a good question. It's part

15 of the reason why we have not decided what we will do with

16 those five CTs at this point. You know, the preference

17 would be to keep all five together, but if three of them

18 need to be carved out separate for KCPL, that may have some

19 influence on how we get the syndication for financing, where

20 we locate them. We don't have a site yet for three of them
21 or five of them.

22 So at some point we will have to make that
23 decision and say, Well, if we are going to carve out three
24 for KCP&L and leave them in KCPL, then we've probably got to
25 have a different site for those three. You get into some

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

84

1 real problems mixing unregulated and regulated assets and
2 common facilities, gas pipelines, et cetera. So it's not an
3 easy chore at this point to split them up.

4 JUDGE THOMPSON: Now, the materials that have
5 been filed with the Commission in this matter suggest that
6 the Company foresees the need for additional capacity in
7 three years of 231 megawatts; is that correct?

8 MR. GILES: That's correct.

9 JUDGE THOMPSON: And that is, in fact, the
10 capacity of three of these CTs?

11 MR. GILES: That's correct.

12 JUDGE THOMPSON: And if you're able to answer
13 this, why wouldn't KCPL retain three of the CTs and assign
14 the other two to GPP?

15 MR. GILES: It gets back to the question of
16 how do we do it and split the five up. That's the primary
17 issue, and how do we site them. I don't believe from either
18 GPP or KCPL's perspective, based on it's going to be a

19 cost-based contract regardless back to KCPL for those three
20 CTs, I don't think GPP or KCPL has a particular preference
21 whether they're in KCPL or outside KCPL.

22 So the issue really becomes complicated
23 because of the siting provisions.

24 JUDGE THOMPSON: Okay. Are you able to tell
25 me what percentage of its capacity KCPL is buying on the

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

85

1 spot market at the present time?

2 MR. GILES: Today, it's not very much. I
3 can't say for sure, but probably less than 200 megawatts,
4 probably in the 100 to 200 range.

5 JUDGE THOMPSON: Okay. And can you give that
6 as a percentage of total?

7 MR. GILES: Less than 5 percent.

8 JUDGE THOMPSON: Less than 5 percent. It's my
9 memory from the GST case that a replacement unit is going to
10 be going on line, expected to go on line at Hawthorn about
11 this time. Can you tell me what the status of that is?

12 MR. GILES: It has been operating since about
13 mid May and has been up to full load at least once that I'm
14 aware of, but it's essentially operating. There are still
15 some -- the boiler has been completely tested and checked
16 out and the turbine. There's some additional work that
17 needs to be done throughout the summer on the pollution
18 control equipment.

19 But as far as generating megawatts, it's
20 generating in the range of 500 up to as many as 590
21 megawatts. The old unit you may recall was a 479 megawatt
22 unit. So we've actually rebuilt it and built it larger and
23 it's generating today.

24 JUDGE THOMPSON: And this is, in fact, the
25 replacement of Unit 5?

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551
86

1 MR. GILES: Yes, it is.

2 JUDGE THOMPSON: Finally, if you're able to
3 answer this, how will the cost of power generated by the CTs
4 under the proposed reorganization, how will that compare to
5 the cost of power generated by KCPL by its own units?

6 MR. GILES: Well, it depends on the unit. If
7 you're looking at combustion turbines, the cost would
8 probably be nearly identical. There's not going to be much
9 difference. If you're comparing CTs to a Hawthorn 5,
10 there's tremendous difference in obviously energy costs,
11 fuel costs and capital costs for that matter.

12 JUDGE THOMPSON: The combustion turbines are
13 powered by?

14 MR. GILES: Natural gas.

15 JUDGE THOMPSON: Natural gas. That's all my
16 questions. Additional questions from the Bench?

17 COMMISSIONER GAW: I don't think so.

18 JUDGE THOMPSON: Do any of the other parties
19 have questions at this point?

20 Okay. That will conclude the on-the-record
21 presentation at this time. Thank you very much for
22 attending. We would like the transcript in a week, Kellene,
23 if that is possible.

24 Commissioner Gaw made some suggestions with
25 respect to additional stipulations that were discussed

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551

87

1 today, and I don't think the Commission's going to tell the
2 parties how to do their business, but I think that you will
3 certainly need to memorialize for the Commission just what
4 is the transaction that's on the table at this time so that
5 the Commission does know exactly what's being done and what
6 they're being asked to do.

7 Is there anything further at this time?

8 MS. O'NEILL: Not at this time.

9 JUDGE THOMPSON: Hearing nothing, that will
10 conclude the on-the-record presentation. We are adjourned.

11 WHEREUPON, the on-the-record presentation was
12 concluded.

13

14

15

16

17

18

19

20

21

22

23

24

25

ASSOCIATED COURT REPORTERS, INC.
JEFFERSON CITY - COLUMBIA - ROLLA
(888)636-7551