

1                   BEFORE THE PUBLIC SERVICE COMMISSION

2                   STATE OF MISSOURI

3                   \_\_\_\_\_  
4                   TRANSCRIPT OF PROCEEDINGS

5                   PREHEARING

6                   January 29, 2004

7                   Jefferson City, Missouri

8                   Volume 1  
9                   \_\_\_\_\_

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11           In the Matter of the Application of       )  
12           Kansas City Power & Light Company for   )  
13           an Accounting Authority Order Allowing   ) Case No.  
14           the Company to Record and Preserve       ) EU-2004-0294  
15           Asset Retirement Obligation Costs       )  
16           Consistent with Statement of Financial   )  
17           Accounting Standard No. 143 and Motion   )  
18           for Expedited Treatment.

19           BEFORE:                   \_\_\_\_\_

20                               KEVIN A. THOMPSON,  
21                               DEPUTY CHIEF REGULATORY LAW JUDGE.

22           REPORTED BY:

23           TRACY L. THORPE, CSR, CCR  
24           ASSOCIATED COURT REPORTERS  
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## 1 A P P E A R A N C E S

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1 JUDGE THOMPSON: Good morning. We're here in  
2 the matter of the application of Kansas City Power & Light  
3 Company for an Accounting Authority Order allowing the  
4 company to record and preserve asset retirement obligation  
5 costs consistent with statement of account -- of financial  
6 accounting standard No. 143 and motion for expedited  
7 treatment.

8 This is Case No. EU-2004-0294. My name is  
9 Kevin Thompson. I'm the regulatory law judge assigned to  
10 preside over this matter. And we'll take oral entries of  
11 appearance at this time. Why don't we begin with the  
12 Company.

13 MR. RUMP: Michael Rump appears for Kansas  
14 City Power & Light Company. Business address is 1201  
15 Walnut, Kansas City, Missouri 64106.

16 JUDGE THOMPSON: Staff?

17 MR. DOTTHEIM: Steven Dottheim, PO Box 360,  
18 Jefferson City, Missouri 65102, appearing on behalf of the  
19 Staff of the Missouri Public Service Commission.

20 JUDGE THOMPSON: Thank you.

21 Public Counsel?

22 MS. O'NEILL: Yes. Good morning. Ruth  
23 O'Neill from the Office of the Public Counsel, Post Office  
24 Box 2230, Jefferson City, Missouri 65102.

25 JUDGE THOMPSON: Thank you very much.

1                   We're in somewhat of an unusual posture this  
2 morning. And to summarize why that is and where we're at,  
3 the Company filed its application and motion on  
4 January 16th, 2004 requesting Commission action by  
5 February 2nd. The Commission issued an order directing  
6 filing on January 22nd stating that the motion for expedited  
7 treatment contained in the application was deficient in that  
8 it did not meet all the requirements of the Commission's  
9 rule, and that rule is 4 CSR 240-2.080(17).

10                   The Company very promptly filed its renewed  
11 motion for expedited treatment on that same day,  
12 January 22nd. The matter first went to the Commission for  
13 consideration last Tuesday, which I believe was the 27th.

14                   At that time, let me be frank, I proposed to  
15 the Commission an order denying the motion for expedited  
16 treatment, but the Commission elected not to take that  
17 course. Instead, the Commission directed me to convene a  
18 prehearing conference as quickly as could be done prior to  
19 the agenda for today, January 29th, in order to address  
20 certain questions and gain additional information from the  
21 parties that would assist them in determining how to resolve  
22 this matter. So that's why we're here.

23                   And at this time -- let's see. I don't know  
24 if whoever's away from the site is going to be participating  
25 as a witness or -- I guess not as counsel because we've got

1 counsel for everyone here, so we can just dial them in as we  
2 need them. How's that? Unless you want to bring them in  
3 right now.

4 MR. RUMP: We have someone available, the  
5 controller, Lori Wright, who would be able to answer  
6 questions about Rule 143, if that's necessary.

7 JUDGE THOMPSON: Okay.

8 MR. RUMP: And explain basically why we're  
9 asking for this Accounting Authority Order.

10 JUDGE THOMPSON: Mr. Dottheim?

11 MR. DOTTHEIM: And Staff has an auditor, Mark  
12 Oligschlaeger, who could not be here this morning, he's  
13 on-site at Missouri Gas Energy addressing matters --  
14 Commission matters there. But he will be available -- is  
15 available at this time. And it might be best if we try to  
16 dial in Ms. Wright from Kansas City Power & Light and  
17 Mr. Oligschlaeger from the audit room at Missouri Gas  
18 Energy.

19 JUDGE THOMPSON: Okay. That's certainly fine  
20 with me.

21 Now, as I indicated before I went on the  
22 record, I was anticipating a single off-site party  
23 originally who would just call at the number here, so I have  
24 not set up a conference call or anything of that kind. So  
25 someone with more telephone savvy than me will have to take

1 over the controls here.

2 MR. DOTTHEIM: Well, we'll try to do that.

3 I've also made arrangements that we have a telephone port so  
4 we will all be able to dial into a number if none of us is  
5 successful in patching in the two other locations.

6 JUDGE THOMPSON: Okay. See, you lost me right  
7 there, telephone port. I don't know what that is. We can  
8 go off the record now as I express my deep and abiding  
9 ignorance of things technical.

10 (Off the record.)

11 JUDGE THOMPSON: Let the record reflect our  
12 gratitude to Mr. Dottheim at his successful operation of the  
13 telephone.

14 This is Judge Thompson. Happy to have you  
15 both with us. Can you hear me?

16 MR. OLIGSCHLAEGER: Yes.

17 MS. WRIGHT: Yes.

18 JUDGE THOMPSON: Very good. Why don't I take  
19 up the matters then that the Commission particularly wanted  
20 information on and then we can let the parties do whatever  
21 the parties might want to do after that. Okay?

22 So the first thing I want to know has to do  
23 with SEC Form 10-K for the year 2003. What I need to know  
24 is what date is that due at the SEC?

25 MS. WRIGHT: It's due 75 days after year-end.

1 JUDGE THOMPSON: And when did your year end?  
2 MS. WRIGHT: December 31.  
3 JUDGE THOMPSON: Do you know what the 75th day  
4 is?  
5 MS. WRIGHT: I have to count out the days.  
6 JUDGE THOMPSON: Okay. But roughly two and a  
7 half months?  
8 MS. WRIGHT: Right. Right.  
9 JUDGE THOMPSON: Thank you.  
10 MR. DOTTHEIM: Judge --  
11 JUDGE THOMPSON: Yes.  
12 MR. DOTTHEIM: -- would you like the parties  
13 on the conference call to identify themselves for purposes  
14 of the record?  
15 JUDGE THOMPSON: One's a guy, one's a girl. I  
16 think it's --  
17 MS. WRIGHT: That was Lori, Lori Wright.  
18 JUDGE THOMPSON: Thank you, ma'am.  
19 And, Ms. Wright, what happens if that's filed  
20 late?  
21 MS. WRIGHT: Then you have a late filing at  
22 the SEC, which is viewed negatively in the market.  
23 JUDGE THOMPSON: Okay. So that's a bad thing?  
24 MS. WRIGHT: Correct.  
25 JUDGE THOMPSON: And is there any kind of

1 monetary penalty or is it just something that makes you look  
2 bad to investors?

3 MS. WRIGHT: You have to file for an  
4 extension. And then the worst penalty is how you are  
5 perceived in the public and the impact on your stock price.

6 JUDGE THOMPSON: So a prudent corporation  
7 avoids that at all costs?

8 MS. WRIGHT: Correct.

9 JUDGE THOMPSON: Very good. And let's say you  
10 have timely filed your Form 10-K and then you need to  
11 correct it or supplement it. Is that possible?

12 MS. WRIGHT: Yes, it is.

13 JUDGE THOMPSON: And is that also something  
14 that results in damage to the Company's perception?

15 MS. WRIGHT: Yes, that's correct.

16 JUDGE THOMPSON: Okay. So you also want to  
17 avoid that, if at all possible?

18 MS. WRIGHT: Correct.

19 JUDGE THOMPSON: Okay. And with respect to  
20 FAS 143 and the view that the SEC staff has taken of it, my  
21 question would be, when did KCPL first know that an AAO  
22 would be necessary?

23 MS. WRIGHT: We had been talking with Deloitte  
24 throughout the year and until probably the middle to latter  
25 part of the fourth quarter, we didn't believe that we would



1 have to get any type of assurance from the Commission  
2 regarding asset retirement obligations. Within during the  
3 fourth quarter that we found out that we would definitely  
4 have to get some sort of assurance from both Missouri and  
5 Kansas.

6 JUDGE THOMPSON: So you actually need it from  
7 both?

8 MS. WRIGHT: Correct.

9 JUDGE THOMPSON: And have you sought an AAO  
10 from Kansas?

11 MR. RUMP: Yes, we have.

12 MS. WRIGHT: Yes, we have.

13 JUDGE THOMPSON: What is the status of that,  
14 if I may ask?

15 MS. WRIGHT: I was going to say, Tim, would  
16 you like to take that one there?

17 MR. RUSH: Yes. The status of that is almost  
18 identical to here. We basically have a staff party that  
19 appears to be submitting -- that indicates they will submit  
20 a recommendation by tomorrow addressing the AAO.

21 JUDGE THOMPSON: Okay. Very well. And so  
22 when we say fourth quarter, we mean the three months that  
23 began September 1st?

24 MS. WRIGHT: Yes.

25 JUDGE THOMPSON: Very well.

1 MR. RUSH: Initially -- just to clarify --

2 JUDGE THOMPSON: Sure.

3 MR. RUSH: -- initially the auditors thought  
4 that a letter from the Staff of both Kansas and Missouri  
5 would be sufficient to address the issue that Deloitte and  
6 Touche had. And basically immediately after we found that  
7 out, we entered into discussions with both Kansas and  
8 Missouri Staffs.

9 It was found out that both part -- both Staffs  
10 would feel more comfortable having an order from the  
11 Commissions regarding the AAO or something in that fashion  
12 to meet the requirements.

13 JUDGE THOMPSON: Okay.

14 MR. RUSH: So that's when we immediately then  
15 turned and filed the applications.

16 JUDGE THOMPSON: Now, I guess that's the next  
17 thing I need to know about is what exactly does the Company  
18 need by February 2nd? Do you need an order of the  
19 Commission granting the AAO by that date?

20 MR. RUSH: No, we do not.

21 MS. WRIGHT: Deloitte has informed us that if  
22 we receive a letter of positive assurance by the Staff, that  
23 that is sufficient for us in terms of meeting the February  
24 deadline and then ultimately to receive an order.

25 JUDGE THOMPSON: Okay. And if the form isn't

1     due until roughly March 15th, how come the Commission has to  
2     act by February 2nd?

3                     MS. WRIGHT: We're trying to get a positive  
4     assurance before we release our earnings, because we don't  
5     want to release earnings and then have ultimately our 10-K  
6     filed with different earnings.

7                     JUDGE THOMPSON: Okay.

8                     MR. RUMP: Maybe a further explanation, I  
9     believe there's a Board of Directors meeting on February  
10    3rd.

11                    JUDGE THOMPSON: Okay.

12                    MR. RUMP: And earnings are released I believe  
13    the day after that.

14                    MS. WRIGHT: That's correct.

15                    JUDGE THOMPSON: I see.

16                    MR. RUMP: So initially the information would  
17    be publicly available although not filed with the SEC in  
18    this report.

19                    JUDGE THOMPSON: I understand. So that's  
20    really the thing that's setting the pace.

21                    MR. RUMP: That's correct.

22                    MR. RUSH: That's correct.

23                    MS. WRIGHT: That's correct.

24                    JUDGE THOMPSON: Now, this was described, I  
25    think in your application or perhaps in a filing you made,

1 your renewed motion as being essentially balance sheet  
2 geography.

3 MR. RUSH: That's correct.

4 JUDGE THOMPSON: So I'm not clear on how it  
5 affects earnings.

6 MR. RUMP: Perhaps Lori would be better suited  
7 to explain that.

8 MS. WRIGHT: Yes. The -- what there is, is an  
9 impact that happens on the income statement if we do not  
10 receive positive assurance from the Commission. And what  
11 Tariff 143 requires us to do is recognize, especially with  
12 respect to decommissioning, recognize the total costs --

13 JUDGE THOMPSON: Right.

14 MS. WRIGHT: -- of decommissioning the same,  
15 but it's a different timing. So what happens is rather than  
16 recognizing through earnings decommissioning costs that --  
17 that tracks with what's been allowed in rates, we would have  
18 to reflect in earnings decommissioning costs that are  
19 calculated through 143.

20 JUDGE THOMPSON: Okay.

21 MS. WRIGHT: FAS 143. And it's all -- it's  
22 all timing.

23 JUDGE THOMPSON: I understand. So it's the  
24 same amount of money, but the timing is different?

25 MS. WRIGHT: Correct. Correct.

1 JUDGE THOMPSON: Okay. That helps me quite a  
2 bit.

3 MS. WRIGHT: And maybe -- maybe I need to add  
4 one more thing.

5 JUDGE THOMPSON: Sure.

6 MS. WRIGHT: What happens is -- and the  
7 balance sheet hooked to that is that what we want to do is  
8 take that timing difference and reflect that on the balance  
9 sheet, whether it be through a regulatory asset or  
10 regulatory liability. It could be throughout the duration  
11 until the point in time that we decommission the facility.  
12 It can change places. It can be either an asset or a  
13 regulatory liability.

14 JUDGE THOMPSON: Do you happen to know which?

15 MS. WRIGHT: Right now it's a regulatory  
16 asset. The amounts -- in other words, the amounts that  
17 would have been expensed under FAS 143 are higher than what  
18 they would be through rates, which over time that very  
19 easily can turn around. And there are certain things  
20 that -- that drive that. One major factor is the level of  
21 earnings that have been recorded through the decommissioning  
22 trust fund.

23 JUDGE THOMPSON: Okay. So if I have this  
24 correct, the amounts that are expensed under 143 are higher  
25 than the rates?

1 MS. WRIGHT: That's correct. To date. As of  
2 today.

3 MR. RUSH: But they could easily reserve.

4 MS. WRIGHT: They can very easily reserve,  
5 uh-huh. And if they did, they will end up to be the same.

6 MR. RUSH: Correct.

7 JUDGE THOMPSON: And we get to the same place  
8 in the end?

9 MS. WRIGHT: Correct. In the end.

10 JUDGE THOMPSON: Great. I always enjoy my  
11 forays into the world of accounting because I come out just  
12 as confused as when I went in. But that's okay.

13 Now I'm going to let the parties do whatever  
14 the parties might want to do. And let's let the Company go  
15 first, if the Company has anything they want to say or  
16 present. If not, questions you want to ask. Otherwise,  
17 we'll pass to Staff and then Public Counsel.

18 MR. RUMP: I think the only thing we would add  
19 is that the Staff very graciously drafted a recommendation  
20 provided to us late yesterday evening, and I think we've  
21 been able to offer some suggestions on that. I think we're  
22 probably very close to accepting that recommendation. So I  
23 guess with that, I would turn it over to Mr. Dottheim.

24 JUDGE THOMPSON: Steve?

25 MR. DOTTHEIM: That is correct. We need to

1 visit with Mr. Oligschlaeger regarding the suggested changes  
2 and --

3 JUDGE THOMPSON: That's not something you want  
4 to do on the record, I assume?

5 MR. DOTTHEIM: No. That's correct. We'd want  
6 to do that off the record. And Mr. Schallenberg has had an  
7 opportunity to look at the suggested changes. We do believe  
8 that we are close, that we can make a positive  
9 recommendation to the Commission. When I say "a positive  
10 recommendation," it's a recommendation for something other  
11 than the Accounting Authority Order that the Company is  
12 requesting.

13 JUDGE THOMPSON: Okay.

14 MR. DOTTHEIM: We have set out various items  
15 that we would recommend that the Commission order of the  
16 Company as far as bookkeeping entries are concerned, which  
17 would not involve an Accounting Authority Order, which the  
18 Company has indicated would address its concerns.

19 We had a phone call yesterday afternoon to  
20 discuss these matters, which Public Counsel was also on the  
21 phone call, Ms. O'Neill and Mr. Trippensee. And we have  
22 reason to believe that proceeding in this manner is not  
23 objectionable to the Office of Public Counsel.

24 The Staff has a concern with the issuance of  
25 an Accounting Authority Order as to what at some later time

1 might be asserted whether the Commission has done anything  
2 or indicated anything from a rate-making perspective. We  
3 think this is what we have suggested to the Company and to  
4 the Office of Public Counsel is a better solution from the  
5 Staff's perspective and hopefully would not create any  
6 confusion from a rate-making perspective.

7 At this time I'd ask Mr. Schallenberg or  
8 Mr. Oligschlaeger if they would like to add anything or to  
9 clarify anything that I've just said.

10 JUDGE THOMPSON: Mr. Schallenberg?

11 MR. SCHALLENBERG: I would only add that what  
12 we have done is instead of using Accounting Authority Order,  
13 we've used the Commission's authority to tell the utilities  
14 how to keep their books and records.

15 And the reason we took that approach is to  
16 make sure that it will be clear in the future that the  
17 Commission has not made any rate-making decisions or any  
18 depreciation rate decisions from this case that would be any  
19 precedent or establish any decision now that would influence  
20 or be something that would have to be addressed in those  
21 types of cases in the future.

22 JUDGE THOMPSON: Okay. Ms. O'Neill, haven't  
23 heard from you yet.

24 MS. O'NEILL: Yes, your Honor. I would pretty  
25 much concur with what Mr. Dottheim has said. We did



1 participate in the conference call yesterday afternoon. We  
2 believe that a solution that does not include an Accounting  
3 Authority Order is a better way to go in this case and we're  
4 looking at the Staff recommendation and the suggestions that  
5 the Company's made.

6                   And we also believe that we're very close to  
7 coming up with something that is agreeable to all the  
8 parties that could be filed hopefully by -- I think  
9 hopefully by tomorrow, which is when the Staff wanted to do  
10 it; or if not, shortly thereafter.

11                   JUDGE THOMPSON: Okay.

12                   MR. DOTTHEIM: Also too, excuse me, Judge,  
13 that I might address from a timing perspective, and I  
14 turned -- I would turn it back to the Company as far as it  
15 is the Staff's understanding that if the Staff filed the  
16 recommendation which we're discussing, which would be  
17 acceptable to the Company and would not be objectionable to  
18 the Office of Public Counsel, I don't know whether Public  
19 Counsel would literally indicate that they supported the  
20 recommendation as opposed to not indicating any opposition,  
21 that nothing further at this time would be required, no  
22 order would be required by the Commission by the end of  
23 business on February 2, that the Staff submitting the  
24 recommendation that the parties are discussing would provide  
25 to Kansas City Power & Light the assurance that evidently

1 its external auditor, Deloitte and Touche, believe are  
2 necessary in order for the issuance of the earnings by  
3 Kansas City Power & Light next week.

4 So that the Commission would have some time to  
5 review the Staff's recommendation. If the Commission wanted  
6 to hold an on-the-record presentation or wanted further  
7 explanation from the parties, there would be time for that  
8 to occur.

9 JUDGE THOMPSON: So there would still be  
10 necessity for a Commission order eventually?

11 MR. DOTTHEIM: Yes. And the Company may be  
12 able to indicate what type of timing the Company would be  
13 looking for for that ultimate order from the Commission.

14 MR. RUMP: I would agree with Mr. Dottheim,  
15 that a Staff recommendation in the form that we're  
16 considering, which is not an Accounting Authority Order, but  
17 some direction on record-keeping requirements would be  
18 acceptable. And, again, if that's done before -- on or  
19 before February 2nd, that will satisfy the Company and its  
20 auditors that it can proceed in the manner that it desires.

21 JUDGE THOMPSON: Okay.

22 MR. RUMP: I'm not sure as far as the ultimate  
23 order and that timing. I don't know, Lori do you have any  
24 thoughts on when you ultimately need an order? Do you need  
25 that by the time you file a 10-K?

1                   MS. WRIGHT: It would be nice to have it by  
2 then, but we do not have to have it by then. We just  
3 ultimately will need an order to support it.

4                   MR. RUSH: But we do think the Commission  
5 should have the time that they need to address the issue.

6                   MS. WRIGHT: Right.

7                   MR. RUMP: So that would remove the urgency,  
8 yes, if we have the recommendation on file and indication --  
9 some indication that Public Counsel did not object to that  
10 direction that we're headed.

11                  MR. DOTTHEIM: Of course, the Commission may  
12 ultimately have certain questions, which, Judge, you  
13 probably already have and the Commissioners too as to -- of  
14 course, we've got two electric utilities in the state which  
15 have nuclear facilities. And we've seen a filing from  
16 Kansas City Power & Light, we haven't seen a filing from  
17 Union Electric Company.

18                  Those may be some outstanding questions that  
19 you and the Commissioners might have and that -- the timing  
20 that's being discussed would afford some opportunity for  
21 obtaining answers to any questions such as that one.

22                  JUDGE THOMPSON: Well, I'm confident the  
23 Commissioners will have questions. I've seen them in  
24 action.

25                  MR. RUSH: For your information, pertaining to

1 the difference between us and another company in Missouri,  
2 AmerenUE, that has a nuclear plant, every utility has  
3 different requirements, whether it's an asset or a  
4 liability. It's the materiality of those issues that  
5 dictate whether they need to get Commission approvals.

6 And so every utility throughout the country  
7 may -- is facing maybe a little bit different spin on what's  
8 required or what may not be required for this that we're  
9 pursuing.

10 JUDGE THOMPSON: I appreciate that  
11 clarification. And my focus is just on this single case  
12 that's in front of me right now. And we'll let Staff worry  
13 about the more global concerns about whether Ameren is  
14 behaving or not behaving. I'm just worried about this  
15 particular case.

16 It strikes me that I didn't place you under  
17 oath, Ms. Wright, and so I'm going to do that now and ask  
18 you whether or not the testimony you've already given is  
19 true or not. And we'll go from there. So are you raising  
20 your right hand?

21 MS. WRIGHT: Yes.

22 (Witness sworn.)

23 JUDGE THOMPSON: Very well. And the testimony  
24 that you gave in response to my questions earlier, were they  
25 true as far as you know?

1 MS. WRIGHT: Yes, they are.

2 JUDGE THOMPSON: Very good. All you  
3 (indicating) did was tell us why Staff is concerned, so I  
4 don't think you need to be under oath for that.

5 Anyone have anything else? I need to report  
6 back to the Commission at today's agenda.

7 MR. RUMP: Your Honor, does Mr. Rush need to  
8 be sworn as well?

9 JUDGE THOMPSON: Why not?

10 (Witness sworn.)

11 JUDGE THOMPSON: Thank you. And the response  
12 you gave earlier about Ameren, was that true as far as you  
13 know?

14 MR. RUSH: Yes, it is.

15 JUDGE THOMPSON: Thank you. Anyone else want  
16 to get sworn at?

17 No. Okay. Very good.

18 We covered everything we need to cover today?

19 MS. O'NEILL: I believe so, your Honor.

20 JUDGE THOMPSON: It's my understanding the  
21 parties are in discussions, you've come up with an  
22 alternative that you believe will meet the requirements of  
23 your external auditor. Right?

24 MR. DOTTHEIM: Yes.

25 JUDGE THOMPSON: To permit your earnings

1 report to be issued on time on February 4th with the figures  
2 that you believe need to be in there. And further down the  
3 line, preferably before March 15th, thereabouts, when the  
4 10-K has to be filed, you will be expecting an order from  
5 the Commission. Right?

6 MS. WRIGHT: Yes.

7 MR. RUMP: Yes.

8 JUDGE THOMPSON: Staff's concern with the AAO  
9 is to avoid giving any appearance of a rate-making  
10 treatment; is that correct?

11 MR. DOTTHEIM: That is correct.

12 JUDGE THOMPSON: And the Company is satisfied  
13 that this will meet your requirements, this alternative  
14 they've come up with?

15 MR. RUMP: Yes, we are.

16 MR. DOTTHEIM: Judge, and traditionally the  
17 Commission, even in issuing Accounting Authority Orders,  
18 states that there is no rate-making treatment. The Staff  
19 has concerns regardless of how clear those Accounting  
20 Authority orders are. And, again, we think this is a better  
21 way of addressing the needs of Kansas City Power & Light.

22 JUDGE THOMPSON: Well, you know, from this  
23 side of the bench, as far as I'm concerned, anything you  
24 guys agree to is a lot easier to deal with than something  
25 where you want different things and we have to fight it out

1 over in the big hearing room. Right?

2 Because if you all agree to it, then all the  
3 Commission has to do is satisfy itself that there's no  
4 lurking problem there and then the Commission will sign off  
5 on it as well, generally. So I urge you to go back to your  
6 workshop and keep crafting this joint resolution, whatever  
7 it's going to be, this solution to the problem that you're  
8 working on.

9 MR. DOTTHEIM: Judge --

10 JUDGE THOMPSON: Yes, ma'am -- yes, sir.

11 MR. DOTTHEIM: -- the parties, of course, the  
12 Staff and the Office of Public Counsel are based here in  
13 Jefferson City in the Governor's Office Building. Mr. Rump  
14 and Mr. Rush are in from Kansas City.

15 Should they, in particular -- since they will  
16 be traveling back to Kansas City at some point, should they  
17 remain here in Jefferson City until you've had an  
18 opportunity to visit with the Commissioners and indicate to  
19 them what you've heard this morning and whether they might  
20 still have any remaining questions that the parties may need  
21 to address?

22 JUDGE THOMPSON: I would consider that  
23 prudent. In fact, if they want to go up to the agenda room  
24 until this is discussed -- like I say, we're here in an  
25 unusual situation today. It's an unusual stance. We can't

1 really follow the contested case model that we typically  
2 follow because we don't have the time to allow this to  
3 unfold like a circuit court case, right, with discovery back  
4 and forth and witnesses on the stand and the Commission,  
5 after a full briefing, making a decision. There's just not  
6 the time to indulge that sort of procedure. So we have to  
7 kind of go outside the box and come up with a procedure  
8 that's going to work in the time that's available. Right?

9           The Commission's first concern, of course, is  
10 what is the public interest impact of this matter. Are  
11 Missouri ratepayers going to be disadvantaged? Are they  
12 going to pay more money? Is their service going to be less  
13 reliable, less safe, less adequate? Those are the first  
14 considerations.

15           But once those are satisfied, then we have to  
16 look to the Company. If the Company is going to be  
17 disadvantaged, if the investors are going to be put in a  
18 position that's bad and that could have been avoided, then  
19 those are important considerations obviously as well after  
20 the public interest concerns are satisfied. Okay?

21           The Commission's main problem in this  
22 proceeding has been, is this really an emergency? Why do we  
23 have to act so quickly? What are the bad things that will  
24 happen if we don't and who will they happen to? Right?  
25 That's what the Commission wants to know.



1                   And in the Company's successive filings, and I  
2   don't mean to spank you or anything of that kind, but I  
3   just -- you know, we were unable to find that information.  
4   You told us, well, we got to do it because of this reason,  
5   but you didn't tell us what are the bad things that are  
6   going to happen if the Commission doesn't act by that date.  
7   Right?

8                   Because any time you're dealing with millions  
9   of dollars and large companies and complex matters of  
10   accounting that laypersons have a hard time understanding,  
11   then there's that haste makes waste rule. Right? Exactly  
12   what is it we're doing? If we're just moving things around  
13   on a balance sheet, well, okay. I don't even have a balance  
14   sheet. If I did, you know, the negative numbers would be  
15   incredible.

16                  So that's all we're trying to do is make sure  
17   that what the Commission does here is going to, first of  
18   all, protect the public. Second of all, if the public is  
19   okay, if they're held harmless, then we'll protect the  
20   Company. But just how fast does the Commission really need  
21   to act and just what is the nature of the harm that needs to  
22   be avoided or the benefit that might be secured?

23                  Okay. Now, I understand that if the Company  
24   files its 10-K late or has to correct it after it's been  
25   filed, that this gives -- this is perceived badly in the

1 investment world. I assume, and you can straighten me out  
2 if I'm wrong, that this translates into bond ratings and  
3 things of that sort; is that right?

4 MR. RUSH: Also relates to the earnings too  
5 and the perception of what would be out there -- I mean, the  
6 stock market itself.

7 JUDGE THOMPSON: So it would also affect  
8 stocks?

9 MR. RUSH: Yes, it would.

10 JUDGE THOMPSON: And the Company would be, I  
11 presume, perceived not as strong as it otherwise would be.

12 MR. RUSH: That's correct.

13 JUDGE THOMPSON: That's what we're dealing  
14 with and that's what we need to know. Anything else?

15 MR. DOTTHEIM: Nothing from the Staff's  
16 perspective.

17 MR. RUMP: Nothing from the Company.

18 MS. O'NEILL: Nothing, your Honor.

19 JUDGE THOMPSON: Okay. Is everyone satisfied  
20 that the public interest is protected here? Ms. O'Neill?

21 MS. O'NEILL: Yes. I think that if we can  
22 come to this agreement, we can make sure the public interest  
23 is not harmed.

24 JUDGE THOMPSON: Okay. Staff?

25 MR. DOTTHEIM: Yes.

1 JUDGE THOMPSON: Company?

2 MR. RUMP: Yes.

3 JUDGE THOMPSON: Well, as I said, I think it  
4 would be prudent for you to remain here until the Commission  
5 has addressed this and we see what they're going to do,  
6 because certainly I can't speak for them. And then once you  
7 find out that it's all okay with them, then I think you can  
8 travel back to Kansas City. Okay?

9 Thank you very much for making your way here  
10 on this frigid morning. I hope the trip wasn't too bad. We  
11 are adjourned.

12 WHEREUPON, the hearing was adjourned.

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