

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Hearing

October 23, 2006
Jefferson City, Missouri
Volume 9

In the Matter of the)
Application of Kansas City)
Power & Light Company for)
Approval to Make Certain)
Changes in its Charges for) Case No. ER-2006-0314
Electric Service to Begin)
the Implementation of Its)
Regulatory Plan)

RONALD D. PRIDGIN, Presiding,
REGULATORY LAW JUDGE

REPORTED BY:

PAMELA FICK, RMR, RPR, CCR #447, CSR
MIDWEST LITIGATION SERVICES

1 APPEARANCES

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

5 KARL ZOBRIST, Attorney at Law
ROGER W. STEINER, Attorney at Law
6 Sonnenschein, Nath & Rosenthal, LLC
4520 Main Street, Suite 1100
7 Kansas City, MO 64111
(816) 460-2400

8
CURTIS BLANC, Attorney at Law
9 BILL RIGGINS, Attorney at Law
Kansas City Power & Light
10 1201 Walnut
Kansas City, MO 64111
11 (816) 556-2483

12
FOR: Kansas City Power & Light.
13

14
STUART CONRAD, Attorney at Law
15 DAVID WOODSMALL, Attorney at Law
Finnegan, Conrad & Peterson
16 428 East Capitol Avenue, Suite 300
Jefferson City, MO 65101
17 (573) 635-2700

18 FOR: Praxair.

19
PAUL PHILLIPS, Attorney at Law
20 1000 Independence Avenue SW
Washington, D.C. 20585
21 (202) 586-4224

22 STEPHANIE L. BOGART, Attorney at Law
P.O. Box 410202
23 Kansas City, MO 64141-0202
(816) 997-3341

24

25 FOR: US DOE/NNSA.

1 JEFFREY A. KEEVIL, Attorney at Law
2 Stewart & Keevil
3 Southampton Village at Corporate Lake
4 4603 John Garry Drive, Suite 11
5 Columbia, MO 65203
6 (573) 499-0635

7
8 FOR: Trigen-Kansas City Energy Corporation.

9

10

11 LEWIS R. MILLS, JR., Public Counsel
12 P.O. Box 2230
13 200 Madison Street, Suite 650
14 Jefferson City, MO 65102-2230
15 (573) 751-4857

16

17 FOR: Office of the Public Counsel
18 and the Public.

19

20

21 KEVIN THOMPSON, General Counsel
22 STEVEN DOTTHEIM, Chief Deputy General Counsel
23 DENNIS L. FREY, Senior Counsel
24 NATHAN WILLIAMS, Senior Counsel
25 DAVID A. MEYER, Senior Counsel
P.O. Box 360
200 Madison Street
Jefferson City, MO 65102
(573) 751-3234

26

27 FOR: Staff of the Missouri Public
28 Service Commission.

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30

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

2 JUDGE PRIDGIN: Good morning. We're
3 back on the record. It is about 8:35 a.m., Monday,
4 October 23rd. We're resuming the KCPL hearing in
5 ER-2006-0314. Before we begin calling witnesses,
6 Mr. Steiner, I think you had some sort of news on a
7 potential witness for today?

8 MR. STEINER: That's right, your Honor.
9 Mr. Cross let me know late last night that he was in
10 an auto accident on his way to the airport to come to
11 the hearing, and he will not be able to be here
12 today. He's going to let me know today if he can
13 rearrange that for later this week, either by phone
14 or in person, and I will let you know when his
15 available times are and work that into the schedule
16 later on this week.

17 JUDGE PRIDGIN: Okay. Mr. Steiner,
18 thank you. And I assume everybody heard Mr. Cross
19 who was the incentive compensation witness, if I'm
20 not mistaken --

21 MR. STEINER: Yes, your Honor.

22 JUDGE PRIDGIN: -- was in an automobile
23 accident and will be unable to testify today, and
24 Mr. Steiner will keep me up to date as to when we can
25 rearrange the schedule to have him testify; is that

1 correct?

2 MR. STEINER: That's correct.

3 JUDGE PRIDGIN: All right. Thank you.

4 Do I understand that we will be going -- I'm sorry.

5 Mr. Mills?

6 MR. MILLS: I was just gonna say I --
7 for the record, I don't have any cross for Mr. Cross.

8 JUDGE PRIDGIN: Okay. Thank you. All
9 right. Do I understand, then, we will be going on to
10 off-system sales witnesses? That was my
11 understanding anyway.

12 MR. WOODSMALL: I believe, your Honor,
13 that we were gonna go back and pick up Mr. Brubaker
14 on jurisdictional allocations and then unused energy
15 allocator, and that will finish up those issues, and
16 then we can move on to off-system sales.

17 JUDGE PRIDGIN: And then he'll testify
18 to off-system sales as well; is that correct?

19 MR. WOODSMALL: That's correct.

20 JUDGE PRIDGIN: Okay. Yeah, that's fine
21 with me. That makes more sense to go back and take
22 Mr. Brubaker on those issues that other witnesses
23 have covered on jurisdictional allocations and the
24 unused energy allocator. Okay. Is there anything
25 else counsel needs to bring up before we put

1 Mr. Brubaker on the stand on those issues?

2 Mr. Thompson?

3 MR. THOMPSON: I wonder if I could,
4 Judge, just inquire as to what issue you anticipate
5 taking up after off-system sales?

6 JUDGE PRIDGIN: After off-system sales,
7 I would like to move on -- it looks like the next --
8 on my list anyway, it's cost of capital. And I don't
9 know if we have -- it looks like we have Mr. Giles.
10 Mr. Schnitzer's not available until Wednesday; is
11 that correct? Okay.

12 So that would leave -- we'll have
13 Mr. Brubaker on the stand, Mr. Giles, Mr. Traxler,
14 Mr. Kind and Mr. Dittmer all on off-system sales? So
15 I anticipate that will take a while. I don't know if
16 we would get to cost of capital today or not. It
17 wouldn't surprise me if we didn't.

18 But the next issue I would like to take
19 up is cost of capital, and then if class cost of
20 service and rate design has either settled or at
21 least we will have minimal cross on that, it looks
22 like that would only leave the weatherization and
23 customer program issues, at least on my list.

24 So if counsel thinks something to the
25 contrary, please let me know.

1 MR. KEEVIL: Judge, we still have --

2 JUDGE PRIDGIN: Oh, Herz for tomorrow.

3 MR. KEEVIL: Those would be first thing
4 tomorrow morning; is that your plan?

5 JUDGE PRIDGIN: Yes, sir.

6 MR. KEEVIL: Okay. Thank you.

7 JUDGE PRIDGIN: Anything further before
8 Mr. Brubaker?

9 MR. KEEVIL: Judge, I just have a
10 question.

11 JUDGE PRIDGIN: Yes, sir.

12 MR. KEEVIL: You indicated last week you
13 might say something about the briefing or the
14 transcript as related to briefing this week. Are you
15 in a position to know any more now than you did --

16 JUDGE PRIDGIN: I will just ask that,
17 and let the court reporter know we will probably need
18 this week's transcript expedited for briefing
19 purposes. I think last week's could go on a regular
20 schedule as far as having availability for counsel
21 for briefs, but this week's we would need expedited
22 for counsel. Mr. Fischer?

23 MR. FISCHER: Judge, I would just
24 inquire, I had on my list for off-system sales a
25 couple of other Staff witnesses that you didn't

1 mention. I don't know if that would be Carey
2 Featherstone, Erin Maloney, Lena Mantle, Steve
3 Traxler and then Ryan Kind. I think they all had a
4 test on off-system sales.

5 JUDGE PRIDGIN: Okay. And perhaps I
6 misunderstood. I thought last week when we --

7 MR. FISCHER: Did we go over that
8 already?

9 JUDGE PRIDGIN: I thought so.

10 MR. FISCHER: Okay. I'm mistaken then.
11 Thank you.

12 JUDGE PRIDGIN: Okay. Thank you.
13 Anything else before Mr. Brubaker takes the stand?
14 And that would be on jurisdictional allocation and
15 unused energy allocator, and then he would leave the
16 stand, we would recall him for off-systems sales.
17 Okay.

18 Anything further.

19 All right. Mr. Brubaker, if you'd come
20 forward to be sworn, please?

21 MAURICE BRUBAKER testified as follows:

22 JUDGE PRIDGIN: Thank you very much,
23 sir. If you would please have a seat. Let me check
24 the order of cross-examination.

25 MR. WOODSMALL: I believe, your Honor,

1 that we have a correction that needs to be made to a
2 piece of his testimony.

3 JUDGE PRIDGIN: Mr. Woodsmall, when
4 you're ready.

5 DIRECT EXAMINATION BY MR. WOODSMALL:

6 Q. Mr. Brubaker, do you have any
7 corrections to your testimony in this case?

8 A. Just one.

9 Q. Please proceed.

10 A. Exhibit 601.

11 Q. That's your direct testimony on revenue
12 requirement?

13 A. Yes, it is. At page 4, line 2, there
14 are numbers in parentheses. The correct number
15 should be as follows in order: 57 percent in the
16 first parentheses, and 42 percent in the second.

17 Q. So that sentence would now -- or that
18 line would now read, "Approximately to Missouri,"
19 parenthetical, "57 percent," in parentheses and
20 "Kansas," parentheses, "42 percent" --

21 A. Correct.

22 Q. -- in parentheses, "retail customers"?

23 A. Correct.

24 MR. WOODSMALL: Thank you. No other
25 questions, your Honor. Tender the witness for cross.

1 JUDGE PRIDGIN: All right,
2 Mr. Woodsmall, thank you. KCP&L wish cross?

3 MR. BLANC: Yes, your Honor.

4 JUDGE PRIDGIN: Staff?

5 MR. DOTTHEIM: No questions.

6 JUDGE PRIDGIN: Any other counsel wish
7 cross besides KCP&L? Okay. Mr. Blanc, you're ready,
8 sir?

9 MR. BLANC: Thank you, your Honor.

10 CROSS-EXAMINATION BY MR. BLANC:

11 Q. Good morning, Mr. Brubaker.

12 A. Good morning.

13 Q. I'd like to walk through a hypothetical,
14 if I could, to try to understand how the different
15 proposals to allocate off-system sales margins would
16 work. Just a couple of assumptions to keep in mind.

17 First is that there's the one utility
18 that serves two jurisdictions, and each jurisdiction
19 has a peak monthly load of ten megawatts.
20 Jurisdiction 1 has an average load of ten megawatts,
21 and jurisdiction 2 has an average load of five
22 megawatts.

23 A. I'm sorry. What was the average for the
24 first one?

25 Q. Sure, sure. Ten megawatts.

1 A. Yes.

2 Q. And those are all the assumptions I'm
3 gonna ask you to try and keep track of. Sorry about
4 that.

5 Now, looking at an energy allocator
6 under these assumptions, am I correct that that would
7 allocate two-thirds or roughly 67 percent to
8 jurisdiction 1 and one-third or roughly 33 percent to
9 jurisdiction 2?

10 A. Yes.

11 Q. Okay. And going to the demand
12 allocator, am I correct that under these assumptions,
13 it would be approximately -- would it be 50 percent
14 to jurisdiction 1 and 50 percent to jurisdiction 2?

15 A. Correct.

16 Q. Would you agree that jurisdiction 1,
17 with an average load of ten megawatts and a peak
18 monthly load of ten megawatts, has a load factor of
19 100 percent?

20 A. Yes.

21 Q. So that means that jurisdiction 1 uses
22 ten megawatt hours of energy each of the 8,760 hours
23 per year, correct?

24 A. It could be different than that if the
25 ten-megawatt peak is the coincident peak. There

1 could be peaks at other times that are higher, but if
2 you want to restrict the hypothetical to not include
3 that case, then the answer would be yes.

4 Q. Okay. Yeah, for the hypothetical each
5 month has a ten-megawatt peak and the average is ten
6 megawatts?

7 A. Yes.

8 Q. Okay. Thank you. And so jurisdiction 2,
9 would you agree that with an average load of five
10 megawatts and a monthly peak of ten megawatts has a
11 load factor of 50 percent?

12 A. Yes.

13 Q. Okay. Thank you. So that means there
14 will be hours during the year when jurisdiction 2
15 uses less energy than jurisdiction 1; is that
16 correct?

17 A. Yeah, that would be correct, yes.

18 Q. And is it also true that the utility
19 would have energy available to sell during those
20 times during jurisdiction 2's off-peak hours?

21 A. It probably has energy available to sell
22 during a lot of hours.

23 Q. But under the facts of this hypothetical
24 they would have energy available to sell during
25 jurisdiction 2's off-peak hours?

1 A. And jurisdiction 1's hours when it was
2 not -- when the company had available capacity in
3 excess of its peak load, which it better have most
4 times.

5 Q. But under the facts, under the
6 assumptions we've made in this case, which I admit
7 are simplified, but under our assumptions in this
8 case or assumptions in this hypothetical, the utility
9 would have excess energy to sell when jurisdiction 2
10 is off-peak?

11 A. Among other times, yes.

12 Q. Okay. Thank you. Okay. Let's assume
13 that the utility makes \$100 of profit as a result
14 of these sales. Now, using an energy allocator as
15 proposed by Staff and endorsed by you, would it be
16 correct that roughly \$67 of the utility profits
17 would go to jurisdiction 1, and 33 would go to
18 jurisdiction 2?

19 A. Yes.

20 Q. Okay. Using a demand allocator, that
21 would allocate \$50 to each of the jurisdictions,
22 correct?

23 A. Correct.

24 Q. And I know there's been some
25 disagreement about the particular unused energy

1 allocator proposed by KCPL, and I guess just setting
2 that aside for a moment and just to discuss how an
3 unused energy allocator should work, theoretically
4 should work, would it be correct that an unused
5 energy allocator would allocate zero dollars to
6 jurisdiction 1 and \$100 to jurisdiction 2, all of the
7 profits to jurisdiction 2?

8 A. When you say "unused energy allocator,"
9 are you asking me to assume it's the one that the
10 company's put forward in this case?

11 Q. No. I believe I asked you to set that
12 one aside. I understand there's some differences
13 about the methodology proposed by KCP&L, but an
14 unused energy allocator, theoretically what it's
15 designed to do is what we're focusing on.

16 A. That's difficult for me to address
17 because I've never -- I've never seen anybody propose
18 that kind of allocator in any rate case I've been in.

19 Q. Okay. But is it your understanding that
20 if one were proposing to adopt it, the intent would
21 be to allocate \$100 of entire profits in this case to
22 jurisdiction 2?

23 A. Well, you asked me to set aside the
24 company's specific proposal.

25 Q. Yes, sir.

1 A. And I've just told you I've never seen
2 an unused energy allocator either discussed in theory
3 or applied by any utility in several hundred rate
4 cases. So I don't know how to respond to that in
5 theory when --

6 Q. Well, is it your understanding that an
7 unused energy allocator in principle would be
8 designed to allocate quote, unquote, the unused
9 energy? I believe you summarized the company's
10 theoretical position in your testimony. I could
11 refer you to that if that would be helpful.

12 A. I could answer in the context of the
13 company's proposal but not -- but not any more
14 broadly.

15 Q. Okay. Just a moment. Perhaps we can take
16 a slightly different tact. Would it be true that an
17 unused energy allocator, even the one proposed by the
18 company, would allocate more to jurisdiction 1 -- or
19 I'm sorry, more to jurisdiction 2 than jurisdiction 1?

20 A. Confining my response to what's been
21 proposed by the company, the answer would be yes.

22 MR. BLANC: Okay. Thank you. No
23 further questions.

24 JUDGE PRIDGIN: All right. Thank you.
25 Any further cross-examination?

1 (NO RESPONSE.)

2 JUDGE PRIDGIN: All right. Any
3 questions from the bench? Commissioner Murray?

4 COMMISSIONER MURRAY: Thank you.

5 QUESTIONS BY COMMISSIONER MURRAY:

6 Q. Good morning, Mr. Brubaker.

7 A. Good morning, Commissioner.

8 Q. Is your position on this issue the same
9 as the Staff's position or does it differ from that?

10 A. It's the same. We come out to the same
11 recommendation, yes.

12 COMMISSIONER MURRAY: Okay. Thank you.

13 JUDGE PRIDGIN: Commissioner Appling?

14 COMMISSIONER APPLING: (Shook head.)

15 JUDGE PRIDGIN: Any redirect -- or
16 excuse me, recross?

17 MR. BLANC: No, your Honor.

18 JUDGE PRIDGIN: Redirect?

19 MR. WOODSMALL: Yes, your Honor.

20 REDIRECT EXAMINATION BY MR. WOODSMALL:

21 Q. Mr. Brubaker, you were asked some
22 hypothetical questions. Now, I'm gonna ask you to
23 leave the hypothetical world and return to reality
24 here and tell me what is wrong with KCP&L's unused
25 energy allocator as it was described and discussed in

1 your cross-examination with Mr. Blanc?

2 A. Well, a couple of things, I guess. If
3 we leave -- the hypothetical is kind of unrealistic
4 because we don't have 100 percent load factor
5 jurisdiction. But in general, the way that the
6 allocator has been developed by the company, leaves
7 aside a lot of important questions that I've outlined
8 in my -- in my rebuttal.

9 One of them is the fact that there's no
10 attention paid to when off-system sales are being
11 made or from what capacity. There's no analysis of
12 load shapes, and I also pointed out as a couple of
13 other witnesses did, if you want to parse down to
14 these kinds of distinctions for allocation, then you
15 need to look at the other implications of different
16 load factors and load shapes by jurisdiction down to
17 such things as the structure of the -- structure and
18 composition of the generation portfolio.

19 If you're going to consider these kinds
20 of load shape differences in allocating part of it,
21 then you need to look at it more in terms of deciding
22 how to allocate the underlying generation fixed cost
23 and variable cost because clearly, the higher load
24 factor jurisdictions would, if you parse it out to
25 the logical conclusion, have a lower energy cost.

1 And so the profit margins would, in theory, be higher
2 from those kind of sales.

3 So the unused energy allocator that
4 KCP&L has developed is not comprehensive and is, you
5 know, I think not -- not something I could support.

6 It also ignores the fact that some of
7 the off-system sales come from buying capacity and
8 reselling it which has really nothing to do with the
9 load shape, as well as the fact that part of the
10 sales will come from reserve capacity that's
11 allocated to and supported by all customers
12 regardless of load factor. So I think it just leaves
13 a whole lot of important details out of the equation.

14 Q. One further question. Returning to the
15 hypothetical, as simplistic as it was, would you
16 believe that a 50/50 energy allocator would be
17 equitable in that case or would you advocate some
18 other energy allocator?

19 A. Well, I've never seen 100 percent load
20 factor jurisdiction so it's hard to -- hard to
21 imagine how you would address something that
22 different from -- from the normal.

23 Q. But given --

24 A. But my first --

25 Q. -- the difference in load factors, would

1 you be advocating something different than the 50/50
2 energy allocator?

3 A. No, not just on that basis I would not.

4 MR. WOODSMALL: I have no further
5 questions, your Honor, except maybe possibly to
6 inquire of counsel, was there questions on the
7 4 CP/12 CP or are we done completely on those two
8 issues?

9 MR. BLANC: We're done with 12 CP/4 CP.

10 JUDGE PRIDGIN: All right.

11 Mr. Woodsmall, thank you. I'd like to excuse
12 Mr. Brubaker on this issue, then call him back on
13 off-system sales.

14 THE WITNESS: Thank you.

15 JUDGE PRIDGIN: All right. Thank you.

16 It's my understanding we would next take Mr. Giles on
17 the off-system sales.

18 Mr. Giles, when you're ready, sir.

19 Okay. Mr. Giles, you're still under oath from last
20 week. Is there anything we need to clean up before
21 he's tendered for cross-examination?

22 MR. RIGGINS: I don't believe so, your
23 Honor.

24 JUDGE PRIDGIN: All right, Mr. Riggins,
25 thank you. Parties who wish to cross-examine

1 Mr. Giles? Mr. Dottheim, Mr. Mills, other parties?
2 Just a moment, please. Mr. Mills, when you're ready.
3 CROSS-EXAMINATION BY MR. MILLS:

4 Q. Mr. Giles, did the Regulatory Plan
5 Stipulation and Agreement contain a provision
6 regarding treatment of off-system sales for
7 ratemaking purposes?

8 A. Yes, it did.

9 Q. And on page 28 of your direct testimony
10 you talk about that provision, is that correct, 28
11 and onto 29?

12 A. That's correct.

13 Q. Can you read the portion of your answer
14 that begins at line 21 on page 28 and continues until
15 line 2 on page 29?

16 A. Yes. "KCP&L would not propose any
17 adjustment that would remove any portion of its
18 off-system sales from its revenue requirement
19 determination in any rate case, and KCP&L agrees that
20 it will not argue that these revenues and associated
21 expenses should be excluded from the ratemaking
22 process."

23 Q. And you've confirmed in response to a
24 Public Counsel's DR that it is not KCPL's intent to
25 retain any portion of the off-system sales margins

1 for shareholders, did you not?

2 A. I don't have that DR in front of me.

3 Q. Well, it was OPC's DR 5013 that was made
4 a part of the record as Exhibit 48. I can provide
5 you a copy if you need to.

6 A. Well, I'm not going to agree to what it
7 says unless I can see it.

8 Q. The question was, "Please confirm that
9 it is not KCPL's intent to retain any portion of the
10 off-system sales margins for shareholders." And the
11 answer is, "Yes, that is correct." Is that not your
12 response to that DR?

13 A. Yes, that is my response.

14 Q. Now, I'm gonna ask you a hypothetical so
15 that I don't have to talk about any of the highly
16 confidential numbers that are related to your
17 position on this issue.

18 Assume that based on its range of
19 potential amounts of off-system sales margins that
20 KCPL could achieve in 2007, and I'm just gonna put in
21 some numbers. Assume that in 2007 the 25th
22 percentile value is X and the median value is Y,
23 okay? Assume that Y is about twice as large as X.
24 Your proposal on behalf of KCPL is to reflect only
25 the 25th percentile amount of X of off-system sales

1 margin in computing revenue requirement; is that
2 correct?

3 A. I believe so, yes.

4 Q. Okay. If the 25th percentile amount is
5 used in calculating your rates, there's a 75 percent
6 chance that the amount actually realized by KCPL
7 would be higher; is that correct?

8 A. That's correct.

9 Q. If KCPL reflects only the 25th
10 percentile amount for off-system sales and the
11 revenue requirement determination, and then earns more
12 than that amount in 2007, all off-system sales amounts
13 in excess of the 25th percentile amount would flow to
14 the benefit of KCPL's shareholders, wouldn't they --

15 A. Not necessarily.

16 Q. -- all else being equal.

17 A. Well, first --

18 Q. Assuming that every other portion of the
19 ratemaking equation is set properly.

20 A. The 25 percent is a point on a curve
21 that we use to establish a risk mechanism for the
22 off-system sales. So in order to exceed that point
23 and have it -- we would first have to achieve the Y
24 point under the hypothetical. And there's a 70 --
25 there's a 25 percent probability we will not achieve

1 beyond the X point --

2 Q. I'm not -- I don't think you're
3 following me. If we set rates based on the 25th
4 percentile point, okay, are you with me so far?

5 A. I'm with you.

6 Q. Okay. If you earn more than that amount
7 in 2007, all else being equal, won't any amounts that
8 you achieve above that point flow to shareholders?

9 A. It would increase the return on equity,
10 yes, and I point that out in my surrebuttal testimony.

11 Q. So the answer is yes, it would flow to
12 shareholders?

13 A. It is a means to adjust for the risk of
14 this --

15 MR. MILLS: Your Honor, could I get a
16 yes or no answer to yes or no questions, please?

17 JUDGE PRIDGIN: Yeah. Mr. Giles, I
18 think -- and if you'll ask your question again,
19 Mr. Mills, I think -- I think your question is
20 something along the line of that will flow to the
21 shareholders, won't it? I mean --

22 MR. MILLS: Yes --

23 JUDGE PRIDGIN: Okay.

24 MR. MILLS: -- that was it.

25 THE WITNESS: It will increase the

1 return on equity of the company.

2 BY MR. MILLS:

3 Q. Okay. And how does return on equity get
4 distributed between ratepayers and shareholders?

5 A. Well, shareholders receive dividends.

6 Q. So --

7 A. And I'm not indicating we would change
8 our dividend policy, I'm just indicating it would
9 increase the return on equity of the company. That's
10 what it was designed to do, and I make that very
11 clear in my testimony.

12 Q. Okay.

13 A. So it's a means to adjust the return on
14 equity of the company for the risk of this market.
15 So, yes, all things equal, the company would achieve
16 a higher rate of return than established in this case
17 if it were to actually achieve the 50 percentile
18 mark. Conversely --

19 Q. Hang on. Hang on.

20 JUDGE PRIDGIN: That's enough.

21 MR. MILLS: That's way more than I asked
22 for.

23 THE WITNESS: Just trying to be clear.

24 BY MR. MILLS:

25 Q. What about -- I'm not talking about the

1 50th percentile mark. What about if we set it at the
2 25th percentile and you earn at the 26th percentile,
3 will that not also increase return on equity?

4 A. Yes.

5 Q. The 27th percentile?

6 A. Each -- each --

7 Q. Each and every percentile point above 25
8 all the way up to 100?

9 A. I believe I stated in my testimony, each
10 million dollars of off-system sales margin --

11 JUDGE PRIDGIN: This isn't HC, is it?

12 We're not going into HC --

13 THE WITNESS: No.

14 JUDGE PRIDGIN: Okay.

15 THE WITNESS: Each million dollars is
16 worth 9.57 basis points on return on equity. So,
17 yes, every million dollars above the X value or the
18 25 percentile would result in a 9.57 base point
19 increase in return on equity, all things equal.

20 BY MR. MILLS:

21 Q. Okay. So even something less than a
22 million dollars would also increase your return; is
23 that correct?

24 A. That's correct.

25 Q. Okay. Your proposal to use the 25th

1 percentile amount of projected off-system sales
2 margin could derive -- could deprive ratepayers of
3 the benefits of some of the off-system sales margin
4 that KCPL pledged in the Regulatory Plan to provide
5 to ratepayers; is that not correct?

6 A. That's not correct.

7 Q. If KCPL earned extra off-system sales
8 margins in 2007 beyond the amount that is recognized
9 for ratemaking purposes in this case, that extra
10 off-system sales margin could, depending on whether
11 all other factors are equal, increase KCPL's return
12 for its shareholders; is that not correct?

13 A. I believe I just testified to that.

14 Q. Yes. Now, if KCPL earned extra
15 off-system sales margin in 2007 beyond the amount
16 that is recognized for ratemaking purposes in this
17 case, that extra off-system sales margin would
18 increase KCPL's return for shareholders above the
19 level that the Commission determines is reasonable;
20 is that not correct?

21 A. I would not say that's correct.

22 Q. Why is that not correct?

23 A. Well, you indicated that beyond what the
24 Commission determines is reasonable. It depends on
25 the methodology that the Commission adopts in

1 determining what is reasonable.

2 In other words, every rate of return
3 witness in this case and every rate of return witness
4 that I've read testimony for the past 30 years uses
5 the same methodology to determine a return on equity
6 as was used 30 years ago. This is typically a
7 discounted cash flow methodology or a CAPM
8 methodology. None of those methodologies account for
9 the risk of the off-system sales market.

10 Q. Okay. Let's not talk about methodology.
11 Let's just say the Commission picks a return on
12 equity of 10 percent, just to make this example
13 simple. And in calculating that, they also put in an
14 amount for off-system sales margins of X as we've
15 discussed previously. If you get X times 1.25, will
16 you not earn -- all else being equal, will you not
17 earn more than 10 percent?

18 A. I believe I've testified to that, but
19 that was not your prior question.

20 Q. If the Commission determines that 10
21 percent is a reasonable return on equity, you've
22 testified that if you achieve higher off-system sales
23 margins, you can achieve a higher rate of return than
24 what the Commission has established in this case; is
25 that not correct?

1 A. As I was attempting to explain, if you
2 would let me --

3 Q. I'm not asking you to explain, I'm
4 asking is that not correct?

5 JUDGE PRIDGIN: Yeah, I think that's
6 not --

7 THE WITNESS: That's not correct.

8 BY MR. MILLS:

9 Q. That's not correct?

10 A. No.

11 MR. MILLS: Okay. Can we hang on just
12 one sec?

13 JUDGE PRIDGIN: Certainly.

14 BY MR. MILLS:

15 Q. Okay. Can I -- do you have a copy of
16 Public Counsel witness Smith's testimony with you?

17 A. No, I don't.

18 Q. Okay. Okay. Well, let me -- let me
19 just have you refer to your own testimony, your
20 rebuttal testimony, page 5, lines 11 through 13, and
21 I'm gonna caution you that there is a highly
22 confidential number in there, and I'm gonna phrase my
23 questions so that I don't refer to that number.

24 There you state that OPC witness Smith
25 recommends setting off-system sales margins at a

1 level based upon the most likely outcome contained in
2 Mr. Schnitzer's testimony.

3 A. That's correct.

4 Q. Skipping over all the highly
5 confidential, is that a fair paraphrasing of that
6 answer?

7 A. Yes.

8 Q. Okay. The most likely outcome based on
9 Mr. Schnitzer's analysis is the median amount, is it
10 not?

11 A. That's correct.

12 Q. Now, in the Regulatory Plan Stipulation
13 and Agreement, did it say anything about KCPL keeping
14 off-system sales margins for its shareholders by
15 means of a risk adjustment to the return on equity in
16 this case?

17 A. I'm not -- I'm not sure I follow your
18 question.

19 Q. Is there anything in the Regulatory Plan
20 Stipulation and Agreement that talks about a risk
21 adjustment to the return on equity in this case?

22 A. No, which is why we proposed it.

23 Q. Now, is it KCPL's position in this case
24 that you want either a revenue requirement based on
25 the 25th percentile amount of off-system sales

1 margins or additional return on equity in this case?

2 A. Yes.

3 Q. Now, flipping ahead a couple of pages in
4 your rebuttal testimony to page 7, at lines 18 to 22,
5 you state that KCPL has agreed that it has no
6 inherent right to earnings from the off-system sales
7 market as long as the cost of those assets
8 generating -- I'm sorry -- as long as the cost of the
9 assets generating those earnings are in retail rates;
10 is that correct?

11 A. That's correct.

12 Q. And you still agree with that statement;
13 is that correct?

14 A. I do.

15 Q. Now, let's turn back to my hypothetical
16 where X is the 25th percentile amount and Y is the
17 50th percentile amount, and my assumption Y was twice
18 as much as X. If in the year that rates in this case
19 are expected to be in effect, the year of 2007, if
20 you earn Y amount for off-system sales, but the
21 Commission has accepted your proposal to only include
22 X in determining rates in this case, KCPL would
23 retain all earnings from off-system sales between X
24 and Y; is that not correct?

25 A. Well, I'm not sure what you mean by

1 retain, but as we -- as I discussed earlier and have
2 testified to before, we would have an additional
3 return on equity as a result of making those
4 additional off-system sales.

5 Q. Additional earnings, correct?

6 A. Additional earnings and additional
7 return on equity.

8 Q. And are these cash earnings?

9 A. These are cash earnings.

10 Q. Okay.

11 A. And I'm glad you pointed that out. It's
12 a very critical piece of the equation.

13 Q. And you propose no mechanism in this
14 case that would allow any of those earnings to flow
15 back to ratepayers; is that correct?

16 A. We --

17 JUDGE PRIDGIN: Is that correct,
18 Mr. Giles?

19 THE WITNESS: Yes.

20 JUDGE PRIDGIN: Okay.

21 BY MR. MILLS:

22 Q. Thank you. That's all I need. At
23 page 17, line 11 -- I'm sorry. Line 17, page 11 of
24 your rebuttal testimony, you state that none of the
25 ROE experts in this case account for additional risk

1 of the off-system sales market contributing
2 approximately 50 percent of KCPL's earnings; is that
3 correct?

4 A. That's correct. Yes, it is.

5 Q. How do you know that?

6 A. As I -- as I was explaining earlier, the
7 same methodologies are proposed in this case that
8 were proposed 20, 30 years ago when the market did
9 not --

10 Q. The DCF's?

11 A. Yes. The market did not exist 20 and 30
12 years ago.

13 Q. Are you familiar with the DCF analysis
14 that OPC witness Baudino proposed?

15 THE WITNESS: Judge, may I finish my
16 answer?

17 MR. MILLS: Oh, I thought he was
18 finished. I've got a new question pending.

19 JUDGE PRIDGIN: That's fine. I mean,
20 I'll let -- I'll let Mr. Mills control how he asks
21 the questions, and since it's his cross-examination,
22 on redirect you'll be free to have your counsel have
23 you explain whatever you'd like.

24 THE WITNESS: Thank you.

25 BY MR. MILLS:

1 Q. Are you familiar with the testimony of
2 the OPC witness Baudino?

3 A. I am.

4 Q. What comparable companies did he use in
5 his DCF analysis?

6 A. I don't recall.

7 Q. What portions of the earnings do each of
8 those companies derive from off-system sales?

9 A. I don't believe -- I don't know that
10 that was contained in his testimony, but I don't -- I
11 don't recall if it was.

12 Q. Do you know the answer?

13 A. I -- I know from my own research and our
14 own rate of return and others' research, it is very
15 difficult, if not impossible, to determine the
16 margins of any electric utility company on this
17 market. We do not publicly disclose our margins.

18 Q. So the answer is you don't know?

19 A. I don't know what he put in his
20 testimony. I'm saying from our research, my guess is
21 he doesn't have any information on the margins of
22 those comparables.

23 Q. And you don't either?

24 A. No. Which, again, is why we propose --

25 JUDGE PRIDGIN: That's enough. That's

1 enough.

2 THE WITNESS: -- this methodology.

3 JUDGE PRIDGIN: That's enough,

4 Mr. Giles. Thank you.

5 BY MR. MILLS:

6 Q. Now, in your rebuttal testimony, page 9,
7 line 8, is it your testimony that other companies
8 don't participate in the off-system sales market?

9 A. No. Most -- most, if not all, companies
10 participate to some extent. What I was meaning to
11 say there, if it's not very clear, to the extent that
12 KCPL participates. And my -- my intent there was to
13 point out that KCPL's portion of revenue and earnings
14 are much greater than most utilities and definitely
15 greater than Missouri utilities.

16 Q. All Missouri utilities?

17 A. Yes.

18 Q. And how do you know that?

19 A. We went to --

20 Q. I thought you just testified that you
21 don't know the margins of other utilities.

22 A. I don't know the margins, but I do
23 know the percentage of revenue of the Missouri
24 electric utilities, IOU utilities. And in the case
25 of revenue, 18 percent of KCPL's total revenues

1 are attributable to this market and approximately 50
2 percent our earnings.

3 On the other hand, for Ameren, for
4 Empire and for Aquila, it's around 7 to 8 percent of
5 revenues. So that would lead me to conclude that the
6 same would hold true for margins if not more so
7 because KCPL has some of the lowest fuel costs of any
8 of those utilities.

9 Q. Now, are you aware of the fact that
10 Ameren's joint dispatch agreement is going away?

11 A. I'm not aware of anything about Ameren's
12 joint dispatch agreement.

13 Q. So you didn't -- you didn't calculate
14 the impact of the JDA in the way you've just
15 summarized the revenues and margins for Ameren?

16 A. I had some of my staff research FERC
17 Form 1's to determine that information.

18 Q. Okay. So the answer is, you don't know
19 the impact of the JDA on the information you just
20 gave?

21 A. No, I don't.

22 MR. MILLS: Okay. That's all I have.
23 Thank you.

24 JUDGE PRIDGIN: Mr. Mills, thank you.
25 Mr. Dottheim?

1 CROSS-EXAMINATION BY MR. DOTTHEIM:

2 Q. Good morning, Mr. Giles.

3 A. Good morning, Mr. Dottheim.

4 Q. Mr. Giles, could I first refer you to
5 your direct testimony, Exhibit 3? I'd like to direct
6 you to a page that Mr. Mills directed you to,
7 page 28, line 20 to page 29, line 2.

8 And Mr. Giles, you were quoting there
9 from the provision in the Stipulation and Agreement
10 of the Regulatory Plan on off-system sales.

11 A. Yes.

12 Q. Now, do you recall whether that
13 provision was amended?

14 A. I'm not sure whether it was amended. I
15 think it appears at least a couple of times in this
16 stip.

17 Q. It was amended and I think a number of
18 people have forgotten that. It's very easy to do. I
19 believe -- I wasn't in the hearing room at the time --
20 that maybe Exhibit No. 153 -- well, excuse me, 143,
21 the Stipulation and Agreement and the Order Approving
22 Amendments to the Experimental Regulatory Plan, those
23 two documents were made Exhibit No. 143. If -- there
24 were, I think, at least two other or only two other
25 amendments to the Stipulation and Agreement.

1 The Commission issued an order on
2 July 25, 2005, respecting the off-system sales
3 section of the Stipulation and Agreement and directed
4 the parties to file with the Commission, if there was
5 an amendment, an amendment. And on July 26th the
6 signatory parties responded with an amendment to the
7 off-system sales section and I believe also an
8 amendment to the section for allowance for funds used
9 during construction.

10 I have copies of those documents, and in
11 that -- the Stipulation and Agreement itself and the
12 Commission's order approving amendments to the
13 experimental Regulatory Plan were marked as an
14 exhibit.

15 I would suggest that it might make sense
16 making exhibits of at least the signatory parties'
17 response to the order directing filing, but again, I
18 also have a copy or copies of the Commission's order
19 directing that filing.

20 JUDGE PRIDGIN: Okay. Mr. Dottheim, if
21 you're wanting another exhibit, let me find -- I
22 think we would be up to 144 if you wanted to mark
23 something.

24 MR. DOTTHEIM: I would like to request
25 that Exhibit 144, that number be given for the

1 Signatory Parties' Response to Order Directing
2 Filing.

3 JUDGE PRIDGIN: All right. So noted.

4 (EXHIBIT NO. 144 WAS MARKED FOR
5 IDENTIFICATION BY THE COURT REPORTER BUT LATER
6 RE-MARKED AS EXHIBIT NO. 148.)

7 JUDGE PRIDGIN: Okay. Mr. Dottheim,
8 when you're ready.

9 BY MR. DOTTHEIM:

10 Q. Mr. Giles, have you had a chance to take
11 a look at what's been marked as Exhibit 144?

12 A. Yes, I have.

13 Q. And does that document indicate that the
14 signatory parties to the KCPL Regulatory Plan
15 Stipulation and Agreement amended section III.B.1.j,
16 off-system sales?

17 A. Yes.

18 MR. DOTTHEIM: And I might note for the
19 record that the Commission's own Report and Order
20 issued on July 28th, 2005, makes note of that
21 amendment on page 19, both in the body of the Order
22 on page 19 and in the footnote 4.

23 BY MR. DOTTHEIM:

24 Q. Mr. Giles, I'd like to direct you to
25 your rebuttal testimony, Exhibit 4, and in

1 particular, page 9, line 14.

2 A. Okay.

3 Q. You reference on line 14, you discuss a
4 conference call with representatives of S&P, do you
5 not?

6 A. I do.

7 Q. Is that conference call the conference
8 call that occurred on July 18, 2006, with Richard
9 Cortright, Garrett Jepson (phonetic spelling),
10 Barbara Isoman (phonetic spelling) and Leo Carrillo
11 of Standard & Poor's?

12 A. I'm not sure of the date, but I believe
13 that's correct.

14 Q. KCPL arranged that call with Standard &
15 Poor's, did it not?

16 A. Yes, it did.

17 Q. Did you ask any of the S&P
18 representatives on that call to verify what you had
19 placed in your rebuttal testimony regarding that
20 conference call?

21 A. No, I did not.

22 CHAIRMAN DAVIS: Mr. Dottheim, are we on
23 page 9 of Mr. Giles' rebuttal --

24 MR. DOTTHEIM: Yes, I'm sorry. If I did
25 not mention page 9, I apologize. Page -- page 9

1 starting on line 14 on page 9.

2 CHAIRMAN DAVIS: Got it.

3 BY MR. DOTTHEIM:

4 Q. And continuing with that paragraph,
5 Mr. Giles, the business risk of six and five that you
6 referred to in that paragraph, is a ranking in a
7 range of one to ten, from one, the strongest credit
8 ranking to ten, the weakest credit ranking, is it
9 not?

10 A. I believe that's correct.

11 Q. In that conference call, Richard
12 Cortright stated, did he not, that KCPL's business
13 profile would be a five instead of six if it weren't
14 for the nonregulated Great Plains Energy subsidiary,
15 Strategic Energy, did he not?

16 A. I don't recall him stating that, no.

17 Q. Do you recall Mr. Cortright or any other
18 S&P representative stating that Strategic Energy is
19 considered -- is considered sizeable for credit risk
20 and analysis purposes regarding KCPL?

21 A. I don't recall the specific language.
22 There -- there was some discussion of how did KCPL
23 get to be a six, and I'm not sure even in that
24 telephone conference call whether anyone could
25 exactly predict the date that KCPL was given a six.

1 Mr. Cortright did indicate that at some point in the
2 past, the Strategic Energy business may have had an
3 impact on that risk or that ranking.

4 Q. Do you recall Mr. Cortright indicating
5 that if KCPL could be further insulated from the risk
6 pressures of Strategic Energy, it is possible that
7 KCPL's risk profile might move to a five from a six?

8 A. No, I don't recall that.

9 MR. DOTTHEIM: Can I go off the record a
10 moment, please?

11 JUDGE PRIDGIN: We'll go off the record
12 just a moment, please.

13 (DISCUSSION HELD OFF THE RECORD.)

14 JUDGE PRIDGIN: Okay, Mr. Dottheim.

15 MR. DOTTHEIM: At this time I'd like to
16 have marked as exhibits three Standard & Poor's
17 reports. I guess it would be Exhibits 145, 146 and
18 147. I'd like to have marked as Exhibit 145 a
19 Standard & Poor's research report on Kansas City
20 Power & Light Company that shows a date of August 1,
21 2006.

22 (EXHIBIT NO. 145 WAS MARKED FOR
23 IDENTIFICATION BY THE COURT REPORTER.)

24 MR. DOTTHEIM: I'd like to have marked
25 Exhibit 146 a Standard & Poor's research report on

1 Great Plains Energy, Inc. showing a date of August 1,
2 2006.

3 (EXHIBIT NO. 146 WAS MARKED FOR
4 IDENTIFICATION BY THE COURT REPORTER.)

5 MR. DOTTHEIM: I'd like to have marked
6 as Exhibit 147 a Standard & Poor's research report on
7 Great Plains Energy, Inc., bearing a date of
8 August 1, 2006.

9 (EXHIBIT NO. 147 WAS MARKED FOR
10 IDENTIFICATION BY THE COURT REPORTER.)

11 JUDGE PRIDGIN: And Mr. Dottheim, for
12 the bench, would you be able to differentiate between
13 these three exhibits, please?

14 MR. DOTTHEIM: Yes. Exhibits 145 and
15 146, if you look at the bottom right-hand corner,
16 you'll see the date 8/2/2006. If you look at
17 Exhibit 147, you look at the bottom right-hand
18 corner, you'll see the date 10/19/2006.

19 Exhibits 145 and 146, except for the
20 charts that are on the first page, and then on
21 table 2 at the bottom of page 5 and onto page 6, I
22 think they're basically identical.

23 Exhibit 1 -- and let me direct -- and I
24 did this when we went off the record. I directed
25 counsel to page 4 of both documents. The section at

1 the bottom of the page, financial ratio adjustments,
2 and you'll see for Exhibit 145, it actually shows --
3 shows up on page 5 instead of page 4, there's
4 reference to Standard & Poor's as of January 1, 2006,
5 assigned a risk factor of 30 percent to KCPL's
6 take-and-pay contracts.

7 If you look at Exhibit 146, you'll see
8 that sentence at the bottom of page 4. "As of
9 January 1, 2006, Standard & Poor's had assigned a
10 risk factor of 30 percent to KCPL's take-and-pay
11 contracts."

12 The Staff was informed last week by
13 Standard & Poor's of what I have marked as
14 Exhibit 147, which -- I have not literally compared
15 it word for word, but I think it's basically
16 identical, except we were told that Exhibit 147 is a
17 correction. And although I -- in my perusal of it, I
18 don't see the word correction anywhere, I see the
19 same date, August 1, 2006.

20 I would direct you to page 4 of 6, under
21 the financial ratio adjustments, the third paragraph,
22 the sentence in the third paragraph, the second to
23 the last sentence, "As of January 1, 2006, Standard &
24 Poor's had assigned a risk factor of 50 percent," and
25 the other two documents, the number is 30 percent.

1 So --

2 CHAIRMAN DAVIS: I'm sorry, Mr. Dottheim,
3 you're losing me. Which paragraph are you at? Okay.
4 And that's the 10/19 document? Okay. All right.
5 I'm sorry. Go ahead.

6 MR. DOTTHEIM: Now, the purpose for
7 this -- I wanted to use the document in the cross of
8 Mr. Giles is not relevant to that point, but the
9 Staff, having been advised of -- of that change,
10 thought it best to mark as exhibits each of the
11 documents.

12 That -- and I brought this to the
13 attention of Public Counsel and the company when we
14 went off the record because although the sentence I
15 read relating to the risk factor does not relate to
16 the issue that we are trying at this moment,
17 off-system sales net margin, there is another issue
18 which remains in the case that, arguably, some of the
19 parties would assert that information is relevant,
20 and that is -- that is the additional amortization,
21 the off-balance sheet obligations issue, the risk
22 factor item associated with the off-balance sheet
23 obligations. So --

24 JUDGE PRIDGIN: Will you have any cross
25 for Mr. Giles on these exhibits?

1 MR. DOTTHEIM: I just would want to
2 direct Mr. Giles to -- well, in particular, the
3 outlook section in each of these documents where
4 there is...

5 BY MR. DOTTHEIM:

6 Q. Mr. Giles, is there not a discussion of
7 Standard & Poor's view as to the prospects for future
8 rate relief for Kansas City Power & Light Company,
9 but also at the same time there is mention of
10 Strategic Energy as also being a factor in Standard &
11 Poor's consideration of the credit of Kansas City
12 Power & Light?

13 A. Should I just read the sentence?

14 Q. Mr. Giles, you may do so.

15 A. I'm on the 10/19 document that was
16 actually, I guess, issued in August. But the second
17 paragraph under outlook states, "Exceptionally strong
18 regulatory support, project execution and debt
19 reduction could lead to an improved outlook. In
20 contrast, failure to obtain adequate rate relief or a
21 fuel cost recovery mechanism by 2007 or rapid growth
22 or poor risk management at Strategic Energy could
23 have negative credit implications." I was assuming
24 that's what you were referring to.

25 Q. Yes, yes. And you've had a chance to

1 peruse this document?

2 A. Yes, I have.

3 Q. And Strategic Energy is mentioned
4 elsewhere?

5 A. Yes.

6 Q. And you were looking at the 10/19 -- the
7 Great Plains Energy document, and I'd like to direct
8 you to the Kansas City Power & Light Company research
9 report which is Exhibit 145.

10 A. Okay.

11 Q. And the references to Strategic Energy
12 are in that document also, the same references, are
13 they not?

14 A. I believe the best I can tell, the exact
15 paragraph is in that document that I just read.

16 Q. Mr. Giles, I'd like to direct you to
17 your rebuttal testimony again, Exhibit 4, page 6,
18 lines 12 to 14. You state, "The evidence in this
19 case based upon the disparate recommendations of the
20 various parties supports the fact that the
21 determination of a, quote, reasonable return on
22 equity, closed quote, is a very subjective one."
23 That's a direct quote from your --

24 A. Yes, it is.

25 Q. -- testimony, is it not?

1 A. It is.

2 Q. KCPL's setting its revenue requirement
3 at a level of off-system sales for which there is a
4 75 percent likelihood that off-system sales actually
5 will be higher is a subjective one, is it not?

6 A. Use of the methodology is subjective. I
7 mean --

8 Q. Thank you, Mr. Giles.

9 A. Yes.

10 Q. I'd like to refer you to page 7 in your
11 rebuttal testimony, Exhibit 4, lines 15 to 18.

12 A. Okay.

13 Q. And I'd also like to refer you to page 8
14 of your rebuttal testimony, lines 10 to 17, where you
15 make in both places references to Ameren UE.

16 A. Yes.

17 Q. You mention Ameren UE's proposal in its
18 final rate increase case to share off-system sales
19 between Ameren UE shareholders and customers, do you
20 not?

21 A. I do.

22 Q. A similar proposal on the part of KCPL
23 would have been in violation of the Regulatory Plan
24 Stipulation and Agreement, would it not?

25 A. I believe it would.

1 Q. And you actually state that in your
2 surrebuttal testimony, do you not, page -- if I could
3 direct you to Exhibit 5, page 2, lines 11 to 12,
4 where you state, "Based upon this agreement, KCPL
5 could not propose a sharing of off-system sales
6 profit"?

7 A. Correct.

8 Q. And you further state, "KCPL has not
9 proposed a sharing of profit in this case."

10 A. Correct.

11 Q. I'd like to refer you to -- I'm sorry.
12 To ask you to go back to -- well, I'm gonna have to
13 go into numbers in this one, so maybe I'll save this
14 one for last. Mr. Giles, again I'd like to refer you
15 to your rebuttal testimony, page 10, lines 7 to 10.

16 A. Okay.

17 Q. Okay. On lines 7 to 10, you have an
18 alternative rate of return proposal to your
19 off-system sales proposal, do you not?

20 A. That's correct.

21 Q. And you -- I'm not going to repeat the
22 highly confidential numbers, but you state, and I
23 quote, "Alternatively, I recommend the Commission
24 include an additional return on equity of blank basis
25 points for each one million dollars of off-system

1 sales margin included in revenue requirement above
2 blank," and if I might say million, I think the
3 number itself is what's probably highly confidential,
4 but...

5 A. That's correct.

6 Q. And you end the sentence, "On a Missouri
7 jurisdictional basis." You repeat your alternative
8 rate of return proposal in your surrebuttal
9 testimony, do you not? I would refer you to your
10 surrebuttal testimony at page 4, lines 14 to 17.

11 A. Yes, I do.

12 Q. Mr. Giles, if you know, is your
13 alternative rate of return proposal reflected in the
14 issues list, witness list in order of
15 cross-examination that was filed with the Commission?

16 A. I don't believe it was specifically set
17 out. My thought process was it was all part of this
18 off-system sales issue.

19 Q. Your alternative rate of return proposal
20 is not reflected in the prehearing brief that was
21 filed with the Commission, is it?

22 A. Not -- not specifically.

23 Q. And your alternative rate of return
24 proposal is not reflected in your direct testimony,
25 is it?

1 A. No, it's not.

2 Q. I'd like to refer you to your direct
3 testimony, Exhibit 3, page 28 again.

4 A. Okay.

5 Q. And I'd like to refer you to lines 12 to
6 16 where you state, "A number of alternatives exist
7 in this proceeding to account for the potential
8 upside to the company of increased off-system sales
9 margins." You then present some alternatives for
10 addressing the off-system sales margin issue, do you
11 not?

12 A. I do.

13 Q. Okay. Since filing your direct
14 testimony, has KCPL made a specific proposal based
15 upon any of the alternatives that are listed on that
16 page of your direct testimony?

17 A. We have not made a specific proposal in
18 terms of testimony, anything direct in this case. I
19 had anticipated making those proposals in settlement
20 discussions.

21 Q. Mr. Giles, does KCPL have an obligation
22 to make off-system sales that are economic?

23 A. I don't believe there is any -- and I
24 hate to use this term, but I will. I'm not a lawyer
25 but I don't -- there's not any legal obligation that

1 I'm aware of.

2 Q. Is it prudent for Kansas City Power &
3 Light Company to make off-system sales that are
4 economic?

5 A. Yes, it is.

6 Q. Mr. Giles, did Kansas City Power & Light
7 discuss its off-system sales net margin proposal with
8 the Staff before it was filed in the company's direct
9 case on February 1?

10 A. Yes, we did.

11 Q. Do you recall what date that occurred?

12 A. It was very close to the filing date,
13 within a two or three-day time frame.

14 Q. So it was immediately preceding the
15 company's filing on February 1?

16 A. Yes. I -- I called the Staff and gave
17 them a preview of what was in our filing.

18 Q. So it was not a discussion with the
19 Staff in advance of the filing at a time when Kansas
20 City Power & Light was seeking any input on that
21 issue?

22 A. No.

23 MR. DOTTHEIM: May I have one moment,
24 please?

25 JUDGE PRIDGIN: Certainly.

1 MR. DOTTHEIM: I have a few questions
2 that I think we probably need to go in-camera on.

3 JUDGE PRIDGIN: All right. If you'll
4 give me just a moment, Mr. Dottheim.

5 (REPORTER'S NOTE: At this point, an
6 in-camera session was held, which is contained in
7 Volume 10, pages 774 through 780 of the transcript.)

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1 JUDGE PRIDGIN: All right. We're back
2 on in public forum. And let me see if we have any
3 questions from the bench, depending on the length of
4 the questions.

5 MR. DOTTHEIM: Judge?

6 JUDGE PRIDGIN: Yes. I'm sorry.

7 MR. DOTTHEIM: Excuse me. If I might
8 interrupt?

9 JUDGE PRIDGIN: Yes, sir.

10 MR. DOTTHEIM: At this time I would like
11 to offer Exhibits 145, 146 and 147.

12 JUDGE PRIDGIN: Mr. Dottheim, thank you.
13 Any objections to those exhibits?

14 MR. RIGGINS: Your Honor, I would
15 object. I'm not sure a proper foundation has been
16 laid. It's not been established that Mr. Giles has
17 seen these documents before, is familiar with them.
18 Sounds as if there may well be a Staff witness that
19 will be testifying on this issue later that could lay
20 a proper foundation, but I don't think that one's
21 been laid at this point.

22 JUDGE PRIDGIN: Mr. Dottheim?

23 MR. DOTTHEIM: Yes. Mr. Giles made
24 representations as to what Standard & Poor's said in
25 a July 18th conference call, and the one thing we

1 do -- we do have that's a public record, so to speak,
2 is the research reports of Standard & Poor's that has
3 a name on it of at least one of those individuals
4 that was involved in that July 18th conference call.

5 And I think the representations that
6 were made in Mr. Giles' testimony as to what was said
7 by S&P representatives, I think the Standard & Poor's
8 research reports that were -- that were issued within
9 the next two weeks after that conference call have a
10 direct bearing on what Standard & Poor's views
11 actually are as opposed to what they may be
12 represented to have been. And Mr. Giles indicated
13 that he did not submit to those Standard & Poor's
14 representatives what he was going to indicate that
15 they had stated in that conference call.

16 JUDGE PRIDGIN: Okay. I'm going to
17 overrule and allow those exhibits in. So Exhibits
18 145, 146 and 147 are admitted.

19 (EXHIBIT NOS. 145, 146 AND 147 WERE
20 RECEIVED INTO EVIDENCE AND MADE A PART OF THE RECORD.)

21 JUDGE PRIDGIN: Anything further before
22 we go on to bench questions?

23 MR. WOODSMALL: Was 144 offered?

24 JUDGE PRIDGIN: I don't recall that it
25 was.

1 MR. DOTTHEIM: No, it wasn't. I'm
2 sorry. And at this -- this point, thank you, I would
3 offer Exhibit 144.

4 JUDGE PRIDGIN: Okay. 144's been
5 offered. Any objections?

6 (NO RESPONSE.)

7 JUDGE PRIDGIN: Okay. 144 is admitted.

8 (EXHIBIT NO. 144 WHICH WAS LATER
9 RE-MARKED AS EXHIBIT NO. 148 WAS RECEIVED INTO
10 EVIDENCE AND MADE A PART OF THE RECORD.)

11 JUDGE PRIDGIN: All right, Mr. Dottheim,
12 thank you. Let me see if we have questions from the
13 bench. Mr. Chairman?

14 CHAIRMAN DAVIS: No questions at this
15 time.

16 JUDGE PRIDGIN: All right. Thank you.
17 Commissioner Murray?

18 COMMISSIONER MURRAY: Thank you. Yes, I
19 have several questions, actually.

20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Mr. Giles, good morning.

22 A. Good morning.

23 Q. I want to summarize something and see if
24 you can confirm that I'm correct here. The company
25 is recommending that we include in the income

1 calculation for the revenue requirement 25 percent of
2 the jurisdictional -- Missouri jurisdictional
3 off-system sales profit; is that correct?

4 A. No, not exactly. What we are proposing
5 is it's not necessarily 25 percent. What it is, is
6 the 25 percent probability of hitting a certain
7 amount of off-system sales revenue.

8 Q. Okay.

9 A. So it's not really a percentage of any
10 total.

11 Q. All right. But let me rephrase it then.

12 A. Okay.

13 Q. There's a median amount -- median amount
14 that was suggested that you would probably be
15 50 percent likely to hit; is that correct?

16 A. That's correct.

17 Q. And rather than including that median
18 amount, you are suggesting that you include only half
19 of that amount; is that correct?

20 A. It's -- it's more than half. It's --
21 what we are suggesting is, if you look at that median
22 amount --

23 Q. Okay. 75 percent of that amount is what
24 you're suggesting, approximately?

25 A. No. The median amount, without getting

1 into the numbers, let me give you an example. The
2 median amount, let's say just to make up a number so
3 I don't get into highly confidential, let's say the
4 median amount was \$100 million which would be -- the
5 company would have an equal chance of being above or
6 below that in the future.

7 The probability distribution on that
8 curve, then, we would pick the 25 percent probability
9 that we would hit -- that we would not hit some
10 level. And let's just say that that level is, for
11 lack of a better -- let's just say \$70 million as an
12 example. So it's not a percentage of the 100, it's
13 where does -- where does that 25 percent probability
14 fall on the curve and what's that value? And that's
15 what we're proposing.

16 So in my hypothetical, if we assume that
17 that 25 percent point on the curve is 70 million,
18 then we have a 75 percent chance of exceeding that
19 versus a 50 percent chance at the median level. And
20 the reason we selected that, is if you look at it,
21 the distribution on the downside of the curve, it's
22 50/50 because you've got the median at the midpoint.

23 And what I was proposing was, we share
24 this risk because the risk is real, and by selecting
25 the 25 percent point on the downside of the curve,

1 there's a 25 percent chance the company will not hit
2 that 70 million and we will take that risk. There's
3 a 25 percent chance we will exceed it up to the 100
4 million and that's the risk the customers would be
5 taking.

6 So what we were attempting to do with
7 this mechanism is to say, you know, this is a risky
8 market and it benefits both the company and the
9 customer. So with this probability distribution, we
10 were attempting to share that risk so that it's not
11 all on the customer, it's not all on the company.

12 Q. Okay. I'm a little confused as to the
13 sharing level because it appears that you're
14 suggesting that the ratepayers have 75 percent and
15 the company 25?

16 A. Yes. What's -- what's missing in
17 this -- in this analysis, for instance -- and this
18 gets to the point -- I think it was Mr. -- it was
19 either Mr. Dottheim or Mr. Mills that was asking me
20 about what proposals did you make or not make on the
21 upside. And to clarify how this works, and I'll just
22 put out a hypothetical that could work, you could
23 also set cap, for instance, the off-system sales
24 margins, at the median point.

25 Q. Uh-huh.

1 A. And you could say, okay, we're gonna set
2 it at the 25 percent point for the risk, but that
3 means the company then has unlimited potential on the
4 upside. So what if the company exceeded 100 -- or
5 the 100 million in my example? What we were prepared
6 to propose and would still propose is that you cap
7 that at 100 million. In other words, if the company
8 went over that in the year the rates were in effect,
9 you could --

10 Q. Okay. Let's stop there. I don't need
11 further explanation of that.

12 A. Okay.

13 Q. If you're -- the alternative you suggest
14 is that the Commission not put it at the 25 percent
15 risk level, but -- or probability level, but actually
16 include the median amount, and in your hypothetical
17 it would have been 100 million, but add a number of
18 basis points to make up the difference; is that
19 correct?

20 A. That's correct.

21 Q. In your ROE?

22 A. Yes.

23 Q. Okay. I would like to know -- I'd like
24 for you to explain how this -- either one -- well,
25 let's go with the first recommendation. How does

1 that treat all off-system sales as above the line?

2 A. The basis for the agreement for treating
3 off-system sales above the line, there had been
4 considerable debate around the time we were doing the
5 Regulatory Plan and also in other forums of
6 off-system sales incentives or off-system sales
7 sharing as though a utility had some -- and I use
8 this phrase in my testimony, --right to those profits.
9 And --

10 Q. Okay. Just -- can you just simply
11 answer the question? How does that treat off-system
12 sales as above the line, all off-system sales as
13 above the line, if we adopted your proposal, your
14 number one proposal?

15 A. All off-system sales are still above the
16 line. It's just a matter of whether you treat them
17 as a risk-adjusted off-system sales level. In other
18 words, we don't know what level of off-system sales
19 we will have in 2007.

20 Q. Okay. But assume you're wrong and you
21 have more than the level that we allow. Wouldn't
22 that be treating some of them as below the line?

23 A. No, because we -- that -- that is a
24 future amount. In other words, we're not setting
25 rates based on a test year amount, we're setting

1 rates based on an expected level of off-system sales
2 in the future, and we're adjusting that off-system
3 sales level in the future for risk.

4 So that was another issue that we had,
5 is that you have a history of this market -- unlike
6 retail sales, the history is meaningless because of
7 the volatility of prices and the volatility of union
8 averages, et cetera.

9 So to the extent you leave the test
10 year -- I mean, we're not saying that we hit a
11 certain amount sales in the test year and we want to
12 exclude some of those. What we're saying is let's
13 look out to the year the rates are in effect and
14 include them in the test year revenue, but only to
15 the extent they're adjusted for risk.

16 Q. But to that extent, the likelihood of
17 there being not above the line is greater to the
18 extent that you adjust for that 50/50 risk factor; is
19 that correct?

20 A. There's -- there is a greater
21 probability that we will be above in my example, the
22 70 million, than below, that's true.

23 Q. Okay. On page 12 of your rebuttal --
24 and it's highly confidential numbers, so I'm not
25 gonna say the numbers, but could you explain why the

1 numbers -- the number here, there is a number on
2 line 16, and -- in dollars, dollar number. Can you
3 explain why that number is different from the numbers
4 in the reconciliation statement for the OSS
5 adjustments? And it's some basic concept I'm not
6 understanding here, I'm sure, but if you could
7 explain that, perhaps that would help.

8 A. Sure. What this particular line is
9 representing is not really related to the off-system
10 sales, and I think that's what the confusing part of
11 it is. What I was trying to demonstrate here is that
12 the amount of basis points attributable to a million
13 dollars is the same whether you're looking at
14 off-system sales or whether you're looking at the ROE
15 difference between what Staff has recommended in this
16 case and what the company has recommended.

17 So it's really just pointing out that
18 whether you're talking about cash earnings from
19 off-system sales or just cash earnings from a higher
20 ROE, the basis point difference is the same, and
21 that's what I was trying to demonstrate here, so that
22 the difference between the company's proposed ROE is
23 11.5 percent compared to the Staff's 9.3. And
24 here it's demonstrated as 1150 basis points versus
25 930.

1 So my point with this example is, I was
2 trying to demonstrate that cash earnings are cash
3 earnings, and whether the Commission decides to give
4 KCPL a certain rate of return, that rate of return
5 has to be achieved by all the assumptions that's put
6 into it. So my point was, off-system sales margins
7 are just one more piece that goes into that
8 assumption.

9 Q. Okay. Would you look at page 28 of your
10 direct testimony, please.

11 A. Okay.

12 Q. Mr. Dottheim asked you earlier to look
13 at lines 13 through 16 regarding some of the
14 alternatives that were mentioned in your direct
15 testimony. Do you see that?

16 A. Yes, I see that.

17 Q. Are any of those alternatives still an
18 option for this Commission to order in this case?

19 A. I believe they are. I -- I would
20 suggest that the -- and again, I'm not an attorney,
21 but, you know, I -- my suggestion is that, for
22 instance, I could give two hypotheticals.

23 One -- and I do this mainly to point out
24 how this whole mechanism works -- if the Commission
25 were to decide that we will set the off-system sales

1 margin at the 25 percent point on the curve, but the
2 company will not be allowed to earn any additional
3 margin above that point, conversely the company will
4 not be able to not -- will be able to make up any
5 amount of revenue it doesn't hit up to that point.
6 In other words, it's a symmetrical proposition.

7 Under that scenario, if the company
8 exceeded the 70 -- or the -- in my example, the
9 \$70 million, for instance, that amount could be
10 booked as a regulatory liability, and the company
11 would then flow that regulatory liability back to
12 customers in the next rate case.

13 Conversely, if it was lower, it could be
14 booked as a regulatory asset and made up in the next
15 rate case. What that alternative does is it takes
16 all the risk away from the company on this market.

17 Now, true, it puts all the risk then on
18 the customer, but it takes it all away from the
19 company. The reason I was not able to propose this
20 in settlement discussions is we weren't able to get
21 past the rate of return issue because as Mr. Smith
22 from OPC had indicated the other day, well, that
23 means now we've got to adjust the rate of return.

24 Well, no, because this risk is not in
25 the rate of return proposed by all the witnesses in

1 this case. So you -- you shouldn't remove something
2 that's not there.

3 The other alternative that I would
4 suggest is cap the off-system sales at the 50-point
5 on the curve, include in the ratemaking in the cost
6 of service the 25 percent point, but the company
7 would now have no opportunity to make that up. In
8 other words, that's a true sharing of the risk. If
9 we were below the 70 --

10 Q. I'm sorry. Would you go through that
11 last one one more time?

12 A. Oh, sure. The one I was just talking
13 about?

14 Q. Yes.

15 A. An alternative, let's say in my example
16 the 50/50 point was 100 million and the 25 percent
17 point was 70, cap -- and let's say in '07 the company
18 hit 140, had a really good year. That 40 million in
19 margin would not be retained by the company as
20 earnings. It would be booked into a regulatory
21 liability given back to customers.

22 Conversely, on the downside, at the 70
23 million level, the 25 percent point on the curve, if
24 the company were to only achieve 50 million, it would
25 not ever receive that 20 million additional. It

1 would just be booked, and there's no -- there's no
2 downside protection for the company.

3 And that's in exchange for having some
4 upside from the 25 percent point, 70 million up to
5 the 100. So those are two alternatives that could
6 work and the company would -- would be equal -- you
7 know, equally acceptable of either of those
8 alternatives.

9 Q. That does not move some of the risk to
10 the ratepayers though?

11 A. That's -- in that second alternative
12 it's a sharing of the risk. The ratepayers don't
13 have anything to risk. 25 percent of the risk is
14 taken by the company and the ratepayers are giving up
15 an opportunity for the 25 percent on the upside. But
16 no more than 25 percent. So it's an equal sharing of
17 the risk. And at that 50/50 midpoint, any earnings
18 the company made above that would be returned to
19 customers.

20 The only downside to that second
21 alternative, from my viewpoint, is there's always
22 cash needs, and the company would be taking the cash
23 risk on either of those proposals, alternative 1 or
24 the second one that I mentioned, because if -- even
25 though we might make up the shortage from the

1 70 million in the first alternative, we wouldn't have
2 the cash. It would be short of cash.

3 So the complexity of this case is this
4 whole concept of cash earnings versus amortization
5 earnings, and these off-system sales play a big part
6 in that.

7 Q. And with Staff's proposal, your cash
8 flow is the same in this particular -- the year that
9 these particular rates would be in effect, but then
10 the next rate case you'd see a significant reduction;
11 is that correct?

12 A. Correct.

13 Q. Well, my next question I believe you've
14 answered for me was to be, was there some significant
15 event or circumstance during settlement negotiations
16 that made KCP&L decide not to offer any of the
17 alternatives that you proposed in your direct
18 testimony, or you mentioned in your direct testimony,
19 but rather, to offer the alternative of adjusting
20 ROE. And I believe you said that it was because you
21 were not able to get beyond the ROE -- the rate of
22 return issue; is that correct?

23 A. Let me -- let me expand on that just a
24 little bit.

25 MR. WOODSMALL: Your Honor, I don't want

1 to object. I don't know yet what he is going to say,
2 but I am conscious of the confidentiality of
3 settlement discussions. So to the extent that
4 Mr. Giles, who was present at those discussions,
5 intends to go into the nature of those discussions,
6 I'm going to object to his answer.

7 JUDGE PRIDGIN: Okay. And I'll let --
8 Mr. Woodsmall, thank you. I'll let Mr. Giles answer
9 to the extent that he can try to avoid any settlement
10 discussions that would be confidential. And if you
11 think he's getting into something, please -- please
12 object.

13 MR. WOODSMALL: Well, your Honor, all
14 settlement discussions are confidential. So to the
15 extent that he's maintaining that he wasn't able to
16 present these because of settlement discussions, by
17 the very nature, the rationale is confidential.

18 COMMISSIONER MURRAY: Judge, I think I
19 have the answer to the question. I don't need to
20 have Mr. Giles elaborate. Thank you.

21 MR. DOTTHEIM: And Judge, although I'm
22 not objecting to the line of questioning, I would
23 just say that the parties may have very different
24 perceptions about the settlement discussions than
25 Mr. Giles does.

1 JUDGE PRIDGIN: I understand.

2 THE WITNESS: But may I -- and I can --
3 I think I can do this without breaching
4 confidential -- may I just --

5 MR. WOODSMALL: Your Honor, I don't
6 believe there's any question pending.

7 JUDGE PRIDGIN: That's correct. Let me
8 let the Commissioner ask her other question.

9 BY COMMISSIONER MURRAY:

10 Q. Mr. Giles, the second alternative that
11 you just discussed here on the stand today, it's my
12 understanding that if the Commission adopted that
13 alternative, that it would be a true sharing
14 mechanism of the risk involved with off-system sales;
15 is that your statement?

16 A. That's correct.

17 Q. And it would give the company some
18 offset to the downside, but it would not give the
19 ratepayers any more risk?

20 A. That's correct.

21 Q. It would -- could affect your cash flow?

22 A. That's a possibility, yes.

23 Q. But that would be preferable, is it
24 correct? That would be preferable to the company
25 than having the cash flow unaffected in this case,

1 but the amortization amount being so high that there
2 would be a significant decrease in your next rate
3 case which will be a year from now?

4 A. Yes. And I might add that in summary
5 of -- and I don't want to breach any confidentiality,
6 but -- and I indicated we couldn't get past ROE, and
7 what I really -- I was using that as a surrogate for
8 we couldn't get past the huge difference between the
9 Staff and the company in cash earnings versus
10 amortization.

11 Staff's case is a \$52 million rate
12 increase, all amortization. The company's case is a
13 \$55 million with no amortization. That's really what
14 I was trying to characterize, is that we couldn't get
15 beyond the wide gap to get into serious discussions
16 of these issues.

17 Q. And I wanted to discuss that wide gap
18 for a minute, because -- assuming I can find my notes
19 here. For the Staff to have arrived at the
20 amortization amount that they included, they had to
21 believe that -- or had to claim that KCP&L should
22 have been receiving a \$34 million rate reduction; is
23 that correct?

24 A. That's correct.

25 Q. And this is at a time when your

1 Regulatory Plan calls for significant new investment,
2 correct?

3 A. That's correct.

4 Q. And it's in spite of the fact that you
5 have had a good performance record --

6 A. That's correct.

7 Q. -- correct? And it's also in spite of
8 the risk for a high off-system sales level?

9 A. True.

10 Q. I had thought of something that I
11 thought could work as an alternative that I was going
12 to propose, but I think your second proposal probably
13 makes more sense than this. But I was wondering
14 why -- that we wouldn't include the entire amount of
15 projected profit from off-system sales in the revenue
16 requirement, and then give the company as high an ROE
17 as we could -- felt that we could reasonably give the
18 company, and then whatever difference that resulted
19 in, put that into the rate -- the Regulatory Plan
20 amortization?

21 A. That could work as well. The only thing
22 I would caveat that with -- it certainly could work.
23 And it's not unlike what I proposed as the
24 alternative either. I proposed in my testimony to
25 set it at the lower level.

1 But you're correct, it all comes down to
2 ROE. If the ROE is high enough that the company has
3 a reasonable opportunity to earn that ROE in this
4 year, it will also have an opportunity to receive the
5 cash from that ROE. So, yes, you're -- you're
6 exactly right, it could also work in that manner.

7 Q. Okay. Now, I've just got a couple of
8 questions about the exhibits that Mr. Dottheim
9 introduced earlier, the Standard & Poor's. And I see
10 on each one of those three exhibits that the business
11 risk profile is listed as a seven. Is that more or
12 less of a risks than five?

13 A. Seven is more. They actually rate KCPL
14 and Great Plains Energy, the parent -- Great Plains
15 Energy is a seven, KCPL is a six.

16 Q. And yet your testimony mentioned five
17 somewhere, I thought.

18 A. Right. We have had -- and Mr. Cline who
19 will also testify on this docket could be more
20 specific, but we've had continuing questions with S&P
21 as to why KCPL continues to be a six.

22 Ameren UE is a five, Aquila is a five,
23 Westar is a five, and Mr. Cline can certainly share
24 with you his frustration with S&P on this matter.
25 And I have also met directly with S&P and I

1 specifically asked them why, and they said to me --
2 and this was a meeting we had in New York -- until we
3 see the outcomes of these rate cases, we're not going
4 to move you to a five. But we agree you should
5 probably be a five. Now, my comment back to them
6 was, "All you care about is cash, so why is the rate
7 case outcome so important to you?" And they said,
8 "We want to see the outcome."

9 MR. MILLS: I think he's starting to
10 testify about a lot of hearsay here. And I don't
11 object to the question, but I think I object to the
12 answer. And I don't think the question called for
13 hearsay in the answer, but I think that's what we're
14 getting.

15 JUDGE PRIDGIN: Okay. Mr. Giles, if you
16 can, to the best that you can at least, try to limit
17 to your question to your personal knowledge -- or
18 your answer, excuse me, to personal knowledge.

19 THE WITNESS: Sure. Okay.

20 MR. MILLS: And I move to strike the
21 previous answer about what he was told by some
22 unknown person in New York.

23 JUDGE PRIDGIN: I'll sustain. And
24 Mr. Giles, do you need the question asked again, sir?

25 THE WITNESS: I was just -- I just was

1 trying to point out that the company is as frustrated
2 with S&P as everyone else is, and I won't go into
3 more detail.

4 COMMISSIONER MURRAY: I think that's all
5 I have. Thank you.

6 THE WITNESS: You're welcome.

7 JUDGE PRIDGIN: Thank you, Commissioner.
8 Commissioner Appling, any questions for this witness?

9 COMMISSIONER APPLING: I have no
10 questions.

11 JUDGE PRIDGIN: Mr. Chairman?

12 QUESTIONS BY CHAIRMAN DAVIS:

13 Q. Now, Mr. Giles, without asking you any
14 hearsay question -- or asking you a question which
15 would elicit a hearsay response, although I really do
16 appreciate Mr. Mills raising a hearsay objection,
17 because I was beginning to think that there were some
18 sort of unwritten Stipulation and Agreement that
19 there would never be any hearsay objections in this
20 room, so Mr. Mills, I do appreciate that.

21 Mr. Giles, have you ever heard of any
22 criticism of S&P lagging the market?

23 A. I have not, but --

24 Q. Maybe -- maybe in regard to Enron a few
25 years where --

1 A. They -- I haven't heard that
2 specifically, but they were certainly behind the
3 eight ball in that case. So I would agree that
4 that's pretty good evidence.

5 CHAIRMAN DAVIS: All right. All right.
6 I think -- I still have to look at your -- this whole
7 off-system sales thing. I'm gonna have -- that's
8 gonna require more study on my part. I'm just
9 still -- I mean, hopefully by the end of this week I
10 won't have to recall this witness, but I've got to
11 look at this.

12 JUDGE PRIDGIN: I understand Mr. Giles
13 will be back to testify on other issues, so if you
14 need to question him --

15 CHAIRMAN DAVIS: Okay. All right.
16 Thank you. No further questions.

17 COMMISSIONER MURRAY: Judge, could I ask
18 another --

19 JUDGE PRIDGIN: Commissioner Murray?
20 QUESTIONS BY COMMISSIONER MURRAY:

21 Q. Mr. Giles, there's still something
22 that's troubling about this, although I can see
23 the -- certainly I can see the company's argument
24 about additional risk from the degree of off-system
25 sales that this company has, that it relies upon.

1 However, I keep looking at this Regulatory Plan
2 Stipulation and Agreement.

3 A. Sure.

4 Q. And it appears that -- on its face at
5 least, it appears that even the alternatives are not
6 in accord with what the company agreed to in the
7 Regulatory Plan. Now, would you agree that it
8 appears that way?

9 A. I think it -- it could be -- it's very
10 easy to interpret it that way, but let me explain why
11 I believe we are following the Regulatory Plan. When
12 we entered into the Regulatory Plan, we took the
13 position then and as we do today, that the company
14 has no inherent right to those profits. We're a
15 regulated business and what we're really talking
16 about is risk and a higher return for that risk.

17 This subject never came up, the risk fees
18 in those regulatory discussions, and we agreed to it
19 and were thinking in terms of what I just stated. We
20 don't believe we have an inherent right to additional
21 profits just because we participate in this market.

22 We do believe we have an inherent right
23 to be -- to be recognized the risk of doing that
24 market. So from my perspective and the company's
25 perspective, we look at this as a means to quantify

1 the risk of this market.

2 And the reason I say that, when we had
3 our rate of return -- return on equity witness
4 prepare testimony for this case, I specifically asked
5 for him to look at the risk of this market and try to
6 determine how we would go about calculating a risk
7 adjustment for this market.

8 He didn't -- he couldn't do it. No
9 other witness in this case has done it. So working
10 with Mr. Schnitzer, we came up with a method to
11 identify and to quantify the risk of this market. So
12 that's how I view it as consistent with the
13 Regulatory Plan.

14 Now, the Commission could just as easily
15 include, as you have suggested, that we are going to
16 include the full level, the 50/50 level of off-system
17 sales in this case. But we are going to allow a
18 half of -- a half of 100 basis points. We could
19 allow 100 basis points, we could allow 25 basis
20 points.

21 I think the evidence is here for the
22 Commission to make that determination. And I think
23 that fits in with what you were saying earlier.

24 The company -- and I'll go on record
25 again -- we are not opposed to that. And I think

1 that, again, is consistent with the Regulatory Plan.
2 We're not asking to share this profit. We're asking
3 to recognize the risk of this market, and it can
4 be done a number of ways.

5 The way I did it, some people could
6 interpret that, as I indicated that this is not
7 consistent with the stipulation. I believe it is
8 when you -- when you step back and look at it and say
9 what are they really trying to do with this? We're
10 really trying to say how much of an adjustment is
11 necessary for this market on the ROE? That's what
12 I'm really trying to do.

13 COMMISSIONER MURRAY: Okay. Thank you.

14 JUDGE PRIDGIN: All right. Anything
15 further from the bench before we take a break?

16 (NO RESPONSE.)

17 JUDGE PRIDGIN: All right. Let's go off
18 the record, take a break. The clock at the back of
19 the room shows about 10:45, so let's resume about 11
20 o'clock, and Mr. Giles will be back on the stand for
21 recross and redirect. We're off the record.

22 (A RECESS WAS TAKEN.)

23 JUDGE PRIDGIN: All right. Let's go
24 back on the record. And Mr. Giles is back on the
25 stand. And before we resume cross-examination again,

1 I believe Mr. Dottheim off the record had mentioned
2 that we had a duplicate Exhibit No. 144 and we had
3 already had, I think, like a data request marked as
4 144 which I neglected to see, and I think
5 Mr. Dottheim had labeled an exhibit this morning as
6 144.

7 MR. DOTTHEIM: My apologies, Judge.

8 JUDGE PRIDGIN: No, that's my
9 responsibility. It looks -- I think the easiest fix
10 is to simply relabel 144, leave everything else the
11 same, and relabel 144 to be 148. And it's already
12 been offered and admitted. So this morning's 144
13 which I believe was the signatories' response to an
14 order directing filing in the EO-2005-0329 case will
15 be relabeled as No. 148.

16 MR. WOODSMALL: And your Honor, to the
17 extent -- I don't recall if there were any questions,
18 but to the extent there were any questions referring
19 to 144, they are now gonna be referring to 148?

20 JUDGE PRIDGIN: That's correct. That's
21 correct. Thank you. Mr. Mills?

22 MR. MILLS: And just so my recordkeeping
23 is clear, has 144 been offered and admitted, the real
24 144, the earlier 144?

25 JUDGE PRIDGIN: I show that it has.

1 MR. MILLS: Okay.

2 MR. DOTTHEIM: I'm showing that it has
3 also.

4 MR. MILLS: Thank you.

5 JUDGE PRIDGIN: All right. Thank you.
6 And I believe Commissioner Murray had a few
7 additional questions for Mr. Giles, and then we can
8 go into recross if there's nothing further from
9 counsel. Mr. Mills?

10 MR. MILLS: Before we go on, can I ask
11 Mr. Giles a few questions?

12 JUDGE PRIDGIN: I believe Commissioner
13 Murray still had some questions on this.

14 MR. MILLS: My questions have to do with
15 what transpired during the break and whether he had
16 consultation with counsel and what they talked about.

17 JUDGE PRIDGIN: That's fine.

18 QUESTIONS BY MR. MILLS:

19 Q. Mr. Giles, did you consult with counsel
20 during the break?

21 A. I did.

22 Q. Did you talk about the testimony you've
23 given this morning?

24 A. No, not -- not particularly.

25 Q. No or yes?

1 A. Well, we talked about what I'm going to
2 be redirected.

3 Q. Okay. So you were given some counsel
4 and advice on how to handle redirect?

5 A. No.

6 MR. RIGGINS: I'm gonna object at this
7 point, your Honor. This is getting into
8 attorney/client communications.

9 MR. MILLS: Well, it has to do with how
10 the hearing is conducted and whether he's been
11 coached for redirect and the testimony he's about to
12 give, and I think if he has been, then I think the
13 record should reflect that. Typically a witness is
14 not allowed to be coached before redirect.

15 JUDGE PRIDGIN: Mr. Riggins?

16 MR. RIGGINS: Your Honor, if it's the --
17 if it's your direction that witnesses who have not
18 yet testified or not yet completed their testimony
19 are prohibited from consulting with counsel during
20 the pendency of the hearing, then I think we should
21 have made that rule known up front. I mean, we have
22 witnesses that are coming and going for a two-week
23 period here on various issues, and as I said, it's a
24 little bit unrealistic, I think, to suggest that they
25 can't talk to each other.

1 JUDGE PRIDGIN: I'm going to let, I
2 mean, Mr. Mills continue. I mean, he can certainly
3 say whether or not he's spoken to counsel. I'm not
4 gonna ask him to say what they talked about. I
5 believe that's attorney/client. But he's
6 certainly -- if he wants to show some sort of
7 potential bias by saying he's talked to counsel
8 during the break, I mean, I think he's free to do so,
9 but I'm not sure we can go much further with that.

10 MR. MILLS: And that's really my whole
11 point, is whether or not he had discussions about
12 testimony that he's about to give.

13 BY MR. MILLS:

14 Q. And have you?

15 A. I had conversations with counsel during
16 the break. I don't need coaching and I didn't get
17 any coaching.

18 Q. But did you have discussions that
19 centered around the testimony that you're expected to
20 give during this ensuing period of the hearing?

21 A. I can't say that, no.

22 Q. You can't say that or the answer is no?

23 A. We had -- we had general discussions
24 about the topic of off-system sales. Now, that has
25 nothing to do with what I'm going to say or what I'm

1 about to say. I know what I need to say and I know
2 the issue, so I don't know what your point is.

3 MR. MILLS: I think that's all I'm
4 gonna get out of him, so that's all the questions I
5 have.

6 JUDGE PRIDGIN: Mr. Mills, thank you.
7 Commissioner Murray?

8 QUESTIONS BY COMMISSIONER MURRAY:

9 Q. Just briefly, Mr. Giles. I just wanted
10 to ask you in terms of the issue of off-system sales,
11 there is also included in the amount of the
12 difference between the company and Staff the
13 difference in the jurisdictional allocator; is that
14 correct?

15 A. Correct.

16 Q. So that it would be possible for the
17 Commission to find the Staff was correct on one part
18 and the company on another part --

19 A. That's correct.

20 Q. -- correct?

21 A. Yes.

22 COMMISSIONER MURRAY: Thank you.

23 JUDGE PRIDGIN: All right. Thank you.

24 Recross of this witness?

25 MR. WOODSMALL: Yes, your Honor.

1 JUDGE PRIDGIN: Mr. Woodsmall?

2 RECROSS-EXAMINATION BY MR. WOODSMALL:

3 Q. Good morning, Mr. Giles.

4 A. Good morning.

5 Q. First off, turning to page 28 of your
6 direct testimony, you've been asked a number of
7 questions by Mr. Dottheim and then by bench,
8 specifically lines 13 through 16. Do you recall
9 those questions?

10 A. I do.

11 Q. And just so it's clear for the record,
12 you never provided any more substance to those
13 alternatives other than what's provided in lines 13
14 through 16 and other parts of your testimony, did
15 you?

16 A. I did not.

17 Q. Okay. You were asked some questions
18 regarding -- it's your rebuttal testimony, page 12,
19 and the idea that setting the off-system sales
20 margins at 50 percent but compensating for that with
21 an adder to ROE. Do you recall those questions?

22 A. I do.

23 Q. And just so the record's clear, you're
24 not a certified rate of return analyst, are you?

25 A. I don't know that something like that

1 exists, so I'd definitely say no.

2 Q. Okay. And to the extent earlier that
3 you threw out the numbers 25 basis points, 50 basis
4 points, 100 basis points adder, those were just a
5 layperson grabbing numbers out of thin air, weren't
6 they?

7 A. No, that's not correct.

8 Q. You have done no analysis to come up
9 with those numbers, have you?

10 A. No, that's not correct.

11 Q. You said earlier that your witness,
12 Mr. Hadaway, could not quantify the risk associated
13 with KCP&L's participation in the off-system sales
14 market; is that correct?

15 A. That's correct.

16 Q. And to your knowledge no one else could
17 either; wasn't that your testimony?

18 A. No one else did or even attempted to.

19 Q. Okay. Okay. And you also said that to
20 the best of your knowledge, those numbers for other
21 companies' off-system sales margins are not
22 available; is that correct?

23 A. That's correct.

24 MR. WOODSMALL: Okay. I have no further
25 questions.

1 JUDGE PRIDGIN: Mr. Woodsmall, thank
2 you. Any further recross? Mr. Mills?

3 RECROSS-EXAMINATION BY MR. MILLS:

4 Q. Mr. Giles, some way to approach what you
5 consider to be a large risk facing KCPL in terms of
6 off-system sales, some means to address that risk is
7 an important part of your case, is it not?

8 A. It is.

9 Q. Why did you not, in your direct
10 testimony, include a detailed plan for addressing
11 that risk so that other parties could have addressed
12 it in their responsive testimony?

13 A. I believe I did.

14 Q. Okay. Could you direct me in your
15 direct testimony where the details of that proposal
16 are?

17 A. Beginning on page 23 of my direct
18 testimony, line 7, continuing to page 25, line 22.

19 Q. Okay. For example, page 25, lines 6 and
20 7, you talk about sharing a risk; is that correct?

21 A. That's correct.

22 Q. Where in your direct testimony would I
23 find the company's proposal as to how to share that
24 risk between the ratepayers and the shareholders?

25 A. Well, I believe it's on the same page.

1 That's when I get into the discussion of
2 Mr. Schnitzer's analysis and our selection of the --
3 in this case, I'm looking at the positive side, the
4 75 percent point on the curve, and I go on to state
5 that, "This means a 25 percent chance exists that the
6 off-system sales margin will be below this amount.
7 Traditional return on equity are based upon the
8 assumption that retail revenue's the predominant
9 contributor to return on equity." And I go --

10 Q. So -- go ahead.

11 A. And I go on to say, the last sentence
12 on that page, "KCP&L selected the 75/25 point on
13 the probability curve as a risk the company would be
14 able to accept given the return on equity,
15 amortization and other factors in the Regulatory
16 Plan."

17 Q. So your proposal is the 75/25 that we've
18 been talking about here this morning?

19 A. Yes.

20 Q. Okay. You discussed some other
21 alternatives with Commissioner Murray this morning.

22 A. I did.

23 Q. Why did you not include those proposals
24 in your direct testimony?

25 A. Well, as I indicated earlier, it was my

1 intent to propose those alternatives in the
2 settlement discussions. Unfortunately, we didn't
3 get that far in those discussions. But I --

4 Q. So there's nothing in the testimony
5 that other witnesses could have responded to that
6 would have fleshed out some of the details that
7 you mentioned to Commissioner Murray this morning?

8 A. I think the information that is provided
9 in my direct, my rebuttal and my surrebuttal, there's
10 enough information there for any party to respond to
11 these issues. I mean, I don't see the fact that I
12 didn't specifically state in my testimony how these
13 alternatives could work. I mean, they're certainly
14 apparent from my testimony.

15 For instance, what I have continually
16 stressed throughout all my three pieces of my
17 testimony, our intent throughout this whole case with
18 this issue: Recognize the risk. Recognize the risk.
19 In some manner the Commission should recognize the
20 risk of this market.

21 Now, not a single party to this case,
22 other than KCPL, has addressed that issue. There's
23 ample opportunity in all of my testimony for another
24 party to come back and propose the same alternatives
25 I just elicited here for Commissioner Murray. This

1 isn't rocket science. We all know what the issue is,
2 and we all know what the upside and the downside is.

3 The fact that no party chose to address
4 this risk issue is very concerning to me,
5 disappointing. It's easy to say I don't have to -- I
6 don't have to look at that risk; I'll just say it's a
7 violation of the stipulation.

8 Q. Are you familiar with the direct
9 testimony of Public Counsel witness Ralph Smith?

10 A. I am.

11 Q. Did he not, at page 11, say, "OPC is
12 willing to consider an alternative mechanism by which
13 KCPL would establish a regulatory liability or asset
14 account and record its actual achieved off-system
15 sales margin during the rate-effective period in
16 excess of or below [a certain point] in such account"?

17 And I didn't -- I substituted "a certain
18 level" from that quote so as not to reveal highly
19 confidential information.

20 A. Yes, I recall that and --

21 Q. And did you respond directly to that in
22 either your direct or surrebuttal testimony?

23 A. I believe that was in his surrebuttal.

24 Q. That was in his direct testimony --

25 A. In his direct testimony?

1 Q. -- filed on August 8th. Did you respond
2 to that in your rebuttal or surrebuttal?

3 A. The manner I responded to that was to
4 become more detailed and specific in my surrebuttal
5 on what this adjustment really meant in terms of ROE
6 and risk. I did not respond specifically to his
7 alternative. But as the discussion and questions
8 with Commissioner Murray indicated, if we were to set
9 that amount at the -- I think he suggested 50 percent
10 of the median level and I suggested setting it at the
11 25 percent level in doing the regulatory asset
12 liability accounting.

13 The only issue I have with his 50
14 percent level is the cash flow issue. There's a much
15 higher probability that KCPL would not reach that
16 midpoint, and it's too much cash that we would have
17 to do without.

18 Q. Where in your testimony did you -- did
19 you propose setting the level at 25 percent and
20 creating a sharing account?

21 A. I don't specifically.

22 MR. MILLS: Okay. I have no further
23 questions.

24 JUDGE PRIDGIN: All right. Mr. Mills,
25 thank you. Further recross? Mr. Dottheim?

1 MR. DOTTHEIM: Yes, thank you.

2 FURTHER RECROSS-EXAMINATION BY MR. DOTTHEIM:

3 Q. I had some questions respecting some
4 questions you received from Commissioner Murray.
5 There's a question regarding the present case being
6 a -- as filed by the Staff being a negative case of
7 rate of reduction case. Mr. Giles, you were at the
8 company at the time of the Wolf Creek rate increase
9 case, were you not?

10 A. I was.

11 Q. Do you recall the Staff's filed case at
12 that time?

13 A. No, I don't.

14 Q. Okay. You don't recall that the Staff
15 filed a rate reduction case based just on its regular
16 financial audit of Kansas City Power & Light without
17 looking at the costs of Wolf Creek?

18 A. No, I don't recall.

19 Q. Also, in a question that you received
20 from the bench, you made reference to Ameren UE
21 having, I believe, a business risk profile of five.
22 Do you know whether Ameren UE has an affiliate
23 comparable to Kansas City Power & Light's Strategic
24 Energy?

25 A. I don't know.

1 Q. The company's proposal on off-system
2 sales net margins, that is in addition to the Kansas
3 City Power & Light Regulatory Plan, is it not?

4 A. I don't understand the question.

5 Q. Okay. Your proposal, the company's
6 proposal on off-system sales net margin is not a
7 proposal, it's not a facet of -- of the Regulatory
8 Plan that was approved by the Commission in Case
9 Number EO-2005-0329?

10 A. Not directly, but indirectly it is.

11 Q. Mr. Giles, you've made reference to the
12 company's cash flow situation decreasing. Pursuant
13 to the KCPL Regulatory Plan in all subsequent rate
14 cases contemplated by the Regulatory Plan, the Staff
15 is required, is it not, to recommend an amortization
16 to meet the identified metrics to provide KCPL the
17 opportunity to maintain its credit rating?

18 A. I believe so.

19 Q. Can you identify specifically where in
20 the KCPL Regulatory Plan there is provision for
21 Kansas City Power & Light's proposal on off-system
22 sales net margin?

23 A. There's not a direct. As I indicated,
24 there's no mention of risk on the off-system sales
25 market in that plan.

1 MR. DOTTHEIM: Okay. Thank you. No
2 further questions. Thank you.

3 JUDGE PRIDGIN: Mr. Dottheim, thank you.
4 Further recross?

5 (NO RESPONSE.)

6 JUDGE PRIDGIN: Redirect?

7 MR. RIGGINS: Thank you, your Honor.
8 Just a few.

9 REDIRECT EXAMINATION BY MR. RIGGINS:

10 Q. Mr. Giles, in response to a question
11 from Mr. Mills earlier, do you recall referencing a --
12 an assessment of FERC Form 1 data that you asked your
13 staff to review in terms of wholesale revenues?

14 A. Yes, I do.

15 MR. WOODSMALL: Your Honor, I'm gonna
16 object to the extent that counsel is going to offer
17 an exhibit on redirect that would limit us, in fact,
18 preclude us from crossing on that exhibit. To the
19 extent that they wanted to make an exhibit, it should
20 have been done in their prefiled testimony.

21 MR. RIGGINS: Well, I'm not sure how
22 Mr. Woodsmall can object when he doesn't know yet
23 what I'm offering, but, you know, I'll submit that
24 this is simply the compilation of the data that
25 Mr. Giles referred to in response to a question from

1 Mr. Mills. It contains basically the same
2 information in terms of the Missouri jurisdictional
3 utilities and the percent of their revenues that come
4 from wholesale sales.

5 JUDGE PRIDGIN: Okay. Well, again, I'll
6 let you approach the witness, and, you know, if
7 there's an objection to an exhibit that you offer
8 later, I'll deal with that then. If you want to
9 refer the witness to that, you may.

10 MR. RIGGINS: Okay. Thank you.

11 MR. WOODSMALL: I'd ask that counsel be
12 provided copies too, then.

13 MR. RIGGINS: I plan to.

14 MR. WOODSMALL: Okay.

15 (EXHIBIT NO. 49 WAS MARKED FOR
16 IDENTIFICATION BY THE COURT REPORTER.)

17 BY MR. RIGGINS:

18 Q. Mr. Giles, you've been handed what's
19 been marked for identification as 149.

20 JUDGE PRIDGIN: Excuse me. Wouldn't it
21 just simply be 49?

22 MR. RIGGINS: Oh, I'm sorry.

23 JUDGE PRIDGIN: That's all right.

24 MR. RIGGINS: My mistake.

25 BY MR. RIGGINS:

1 Q. Mr. Giles, you've been handed what's
2 been marked for identification as Exhibit 49. Are
3 those the numbers that you were referring to in
4 response to the question from Mr. Mills earlier about
5 different utilities and their revenue from off-system
6 sales?

7 A. Yes. This -- this exhibit lists the
8 retail revenue and the wholesale revenue of Ameren,
9 Empire, Aquila and KCPL per the 2005 FERC Form 1 and
10 the percentage of wholesale to retail as shown in the
11 right-hand column.

12 Q. And as I recall, in response to that
13 question from Mr. Mills, you were estimating or
14 trying to recall what those percentages were. Does
15 this exhibit refresh your memory as to whether that
16 previous testimony was accurate in your attempt to
17 recall those numbers?

18 A. Yes, it does and they were accurate.

19 Q. Thank you. Mr. Giles, the Commission
20 has before it a number of proposals in terms of the
21 appropriate number for off-system sales margins to
22 include in the company's rates. Now, obviously
23 you're familiar with the proposal that KCPL has made.
24 Are you familiar with the proposals that some of the
25 other parties have made?

1 A. Yes, I am.

2 Q. And without going into confidential
3 numbers, let's try to do this in open session if we
4 can. But whereas, KCPL has proposed a number that
5 KCPL's analysis estimates it has a 75 percent
6 probability of achieving, what are the comparable
7 proposals of other parties to this case?

8 A. I believe Mr. Brubaker proposed using
9 the 75 percent probability on the upside of the
10 curve. In other words, he selected an amount -- or
11 recommended an amount of off-system sales margins
12 that the company would not likely meet. There would
13 only be a 25 percent probability the company would
14 exceed that amount.

15 I believe Office of Public Counsel
16 witness Smith selected the median value, the
17 midpoint. Staff used a historical qualification of
18 off-system sales margins. I don't recall that --
19 whether DOE had a proposal.

20 Q. Based upon your many years with the
21 company and many years in the industry, do you expect
22 any of those numbers to be right?

23 A. They will all be wrong, most assuredly.

24 Q. So to the extent that the Commission
25 will ultimately pick a number to include in the

1 company's cost of service, to the extent that the
2 actual off-system -- actual off-system margins are
3 above that number, what does that mean for the
4 company in terms of cash and earnings?

5 A. If the margins exceed what's included in
6 the cost of service, then the company would achieve a
7 higher rate of return and also higher cash flow.
8 Conversely, if the number is below, the company would
9 receive both lower earnings and lower cash.

10 Q. In response to a question from
11 Mr. Dottheim, and I think that this was in-camera,
12 and again, I'll try to rephrase the question and you
13 see if you can phrase the answer so that we don't
14 have to go in-camera, but while we were in-camera and
15 Mr. Dottheim asked you a question about the amount of
16 off-system sales margins included in the company's
17 '07 budget, do you recall that?

18 A. I do.

19 Q. Since the time that that budget has
20 been -- since the time that that budget was prepared,
21 and I think you indicated it was prepared about a
22 year ago, has the number changed?

23 A. It has changed. In fact, we do an
24 independent budget using our own internal staff. We
25 also use Mr. Schnitzer in his testimony to provide

1 periodic updates to the analysis he presented in his
2 direct testimony.

3 Indications are both of those numbers
4 for '07 just in the last two to three months have
5 declined 10 to \$15 million for the median value.
6 Conversely, the 25 percent point on the curve would
7 decline but not as great.

8 Q. And what do you understand to be the
9 cause of that decline?

10 A. The primary reason is --

11 MR. WOODSMALL: Your Honor, I'm gonna
12 object. I don't recall any questions regarding
13 changes in Mr. Schnitzer's testimony. Those
14 questions can certainly be addressed to
15 Mr. Schnitzer. I don't recall any questions
16 regarding the underlying factors that may have
17 resulted in that change. So I believe this is going
18 outside the bounds of any cross.

19 MR. RIGGINS: Your Honor, I didn't ask
20 him any questions about Mr. Schnitzer's testimony. I
21 asked him about the change in the budget and what
22 caused that change.

23 MR. WOODSMALL: Well, he just testified
24 that Mr. Schnitzer's number changed and was asked
25 what were the factors that caused that.

1 MR. RIGGINS: No, that's not what I
2 asked, your Honor.

3 MR. WOODSMALL: Well, then we can --

4 JUDGE PRIDGIN: Do we need the court
5 reporter to reread the question?

6 MR. WOODSMALL: Or just rephrase the
7 question.

8 BY MR. RIGGINS:

9 Q. Well, I can repeat the question, and I
10 didn't say anything about Mr. Schnitzer. What I said
11 was, has the number in KCPL's current budget changed
12 in terms of off-system sales margins compared to the
13 budget that was prepared about a year ago?

14 A. Yes. The primary driver of that change
15 is natural gas prices have fallen dramatically just
16 in the last two to three months.

17 Q. Thank you. Finally, I'm going to go
18 back to some of the examples that you discussed with
19 Commissioner Murray to make sure that the record is
20 clear. One example was a mechanism by which the
21 off-system sales margins would be set at a number
22 that KCPL had a 75 percent chance of achieving and a
23 25 percent chance of not achieving.

24 And there would be a symmetrical
25 mechanism built around that where any numbers,

1 off-system margins in excess or below that would be
2 accounted for in some way. Do you recall that?

3 A. I do.

4 Q. And just to make sure the record is
5 clear, if we were to experience off-system margins in
6 excess of that number, how would they be treated?

7 A. The company would book those as a
8 regulatory liability. This is a mechanism that's
9 similar to what we do to -- in SO2 sales that's
10 contained in the Regulatory Plan. In effect, what it
11 does is it defers the earnings portion so that the
12 company cannot recognize those additional sales as
13 part of its earnings.

14 But the other thing it does is the
15 company would be able to keep the cash to meet its
16 CreditMetrics™, but it would not recognize those
17 earnings.

18 Conversely, on the other side of that
19 equation -- and I might add, the time that those
20 regulatory liabilities would then be passed back to
21 customers would be in the next rate case or taken
22 into account in the next rate case. KCPL is
23 intending to file another case as soon as February of
24 2007.

25 Conversely, on the other side, if we

1 came in below that 25 percent point on the curve, it
2 would be booked as a regulatory asset. And again,
3 those earnings-related piece of that would be
4 recovered by the company in the next rate case.

5 The issue -- only issue with that is the
6 company would still be at risk for the cash loss
7 below the 25 percent point, but that's a much more
8 manageable proposition at that level than it is at
9 the median level because, as I just indicated, just
10 in the last two to three months, that median level
11 has dropped 10 to \$15 million. The potential of not
12 hitting that median level is -- and the cash
13 associated with it may not be able to allow the
14 company to meet its CreditMetrics™.

15 So, you know, you could pick the point
16 on the curve on either -- on either the median or the
17 25 percent, but you're much more likely to not meet
18 your CreditMetrics™ because of cash flow if you pick
19 the higher level.

20 Q. If the Commission were to adopt some
21 sort of mechanism along those lines, would it then
22 need to adjust the company's ROE downward to account
23 for the fact that some of the risk that was on the
24 company is being removed?

25 A. No. As I stated earlier, none of the

1 ROE's proposed in this case or proposed in the
2 traditional ROE calculation includes this risk in the
3 first place. So it wouldn't be appropriate to take
4 something out that's not already there.

5 The other thing I would point out is, as
6 I mentioned, we still would have the cash flow risk
7 on the downside wherever the point is selected.

8 MR. RIGGINS: All right. Thank you. I
9 think that's all I have, your Honor, but I would like
10 to offer Exhibit 49.

11 MR. MILLS: I have some objections to
12 that.

13 JUDGE PRIDGIN: Mr. Mills?

14 MR. MILLS: First of all, I think we had
15 testimony earlier from Mr. Giles that he did not
16 prepare this exhibit. We don't know who prepared it,
17 and we don't know any of the assumptions that went
18 into preparing it, so I object on the grounds that
19 it's hearsay and that there's not adequate foundation
20 from this witness as to its accuracy. Those are my
21 two objections, foundation and hearsay.

22 JUDGE PRIDGIN: Mr. Riggins?

23 MR. RIGGINS: Well, I think with due
24 respect to Mr. Mills, he mischaracterizes the record.
25 I believe what Mr. Giles said, according to my notes,

1 was that he asked his staff to review FERC Form 1 and
2 prepare this for him -- or to gather this information
3 for him, and this is simply that information.

4 MR. MILLS: And as the Commission is
5 well aware, FERC Form 1 is not a terribly simple
6 form. There is a lot of information there that is
7 not contained in this proposed exhibit, and we have
8 no way of knowing how it was transcribed, how it was
9 characterized. For example, whether or not, you
10 know, this reflects all of Aquila, part of Aquila,
11 all of Empire, all of Ameren, we don't know that, and
12 without being able to cross-examine the people who
13 prepared this exhibit, there's no foundation for it.

14 MR. WOODSMALL: Your Honor, and to
15 expand on his point a little bit, I'm not certain
16 whether FERC Form 1 is done on a jurisdictional
17 basis. All four of these companies are
18 multijurisdictional, so in different jurisdictions
19 than KCP&L, so we may be comparing apples and
20 oranges.

21 MR. RIGGINS: Your Honor, all I can say
22 is that Mr. Mills listed this information out of
23 Mr. Giles on his cross-examination. Mr. Giles
24 testified to this process in terms of what he had his
25 staff collect and what he was relying on in terms of

1 his testimony, and these simply contain the same
2 numbers that he responded to orally to Mr. Mills.

3 MR. MILLS: If I may, I did not elicit
4 this information. I asked Mr. Giles if he knew about
5 the comparables in Public Counsel witness Baudino's
6 testimony. Mr. Giles volunteered some information
7 about Missouri utilities. I never solicited this.
8 And regardless of whether I did or not, there's still
9 no foundation for this exhibit.

10 MR. RIGGINS: Well, there is an adequate
11 foundation, your Honor, and I think Mr. Mills'
12 objections go to the weight to be accorded the
13 evidence as opposed to its admissibility.

14 JUDGE PRIDGIN: I'm going to sustain and
15 keep this out because of foundation and hearsay, and
16 the witness did testify that this exhibit did refresh
17 his recollection, and to that extent, there is some
18 evidence in the record as to what his personal
19 recollection is. But I'm going to keep this exhibit
20 out. This witness can be excused on this topic, on
21 off-system sales, and I understand he'll be back on
22 cost of capital.

23 MR. MILLS: Your Honor, I have some
24 recross.

25 JUDGE PRIDGIN: Yes, I'm sorry. Very

1 briefly, please.

2 RECROSS-EXAMINATION BY MR. MILLS:

3 Q. With respect to the -- the additional
4 description you gave on redirect to Mr. Riggins about
5 how one of your proposals would work, what do you
6 think Mr. Smith, Public Counsel's witness, would say
7 in response to that description?

8 MR. RIGGINS: Object. Calls for
9 speculation.

10 MR. MILLS: I agree, and that's my
11 point. I'll withdraw the question.

12 JUDGE PRIDGIN: Thank you.

13 MR. MILLS: We'll never know what
14 Mr. Smith might have said.

15 JUDGE PRIDGIN: Thank you. All right.
16 This witness will be excused on off-system sales and
17 will return on cost of capital, if I understand
18 correctly?

19 MR. RIGGINS: That's correct, your
20 Honor. But I'd like to make an offer of proof on
21 Exhibit 49.

22 JUDGE PRIDGIN: You may. Do I
23 understand the next witness, Mr. Schnitzer, will not
24 be available, and then we will have Mr. Traxler on
25 off-system sales?

1 MR. RIGGINS: It's correct that

2 Mr. Schnitzer will be here on Wednesday, your Honor.

3 JUDGE PRIDGIN: All right. Mr. Traxler,

4 if you'll come to the stand, please. And

5 Mr. Traxler, you're still under oath.

6 MR. TRAXLER: Yes.

7 JUDGE PRIDGIN: Parties who wish cross

8 of Mr. Traxler on off-system sales?

9 MR. ZOBRIST: KCPL does, your Honor.

10 JUDGE PRIDGIN: Other counsel?

11 (NO RESPONSE.)

12 JUDGE PRIDGIN: Mr. Zobrist, when you're

13 ready.

14 MR. DOTTHEIM: Judge, Mr. Traxler has

15 some corrections.

16 JUDGE PRIDGIN: Thank you. I apologize

17 for not checking into that. Yes, sir.

18 DIRECT EXAMINATION BY MR. DOTTHEIM:

19 Q. Mr. Traxler, you have copies of your

20 direct, rebuttal and surrebuttal testimony,

21 Exhibits 134, 135 and 136?

22 A. Yes, I do.

23 Q. Do you have any corrections to either

24 Exhibits 134, 135 or 136?

25 A. Yes. On my rebuttal testimony I have

1 one correction. Page 9, line 5, the reference to the
2 75th percentile should be the 25th percentile.

3 And page 14 of my rebuttal, line 19, the
4 reference to 9 million should be 4.3 million as a
5 result of the company's change in position on the
6 unused energy allocator.

7 Regarding my surrebuttal testimony,
8 page 4, line No. 14, the reference to surrebuttal
9 should be rebuttal. Page 24, line No. 6, the
10 sentence reads -- the middle sentence reads,
11 "However, thus," and "thus" should be replaced with
12 "this."

13 Page 26, I have a quote at the top from
14 the Stipulation and Agreement. There was a
15 subsequent change to that language as a result of the
16 Commission's Order to Direct Filing on July 25th. I
17 need to add a sentence at the bottom. That sentence
18 should read: "KCPL agrees that all of its off-system
19 energy and capacity sales revenue will continue to be
20 used to establish Missouri jurisdictional rates as
21 long as related investments and expenses are
22 considered in the determination of Missouri
23 jurisdictional rates."

24 JUDGE PRIDGIN: Could you repeat that
25 last correction, please, Mr. Traxler, where -- where

1 it is in your testimony, where you're making that
2 change?

3 BY MR. DOTTHEIM:

4 Q. Mr. Traxler, that's to reflect the
5 amendment to the Stipulation and Agreement that's
6 reflected in Exhibit 148, the Signatory Parties'
7 Response to Order Directing Filing?

8 A. That's correct. The additional sentence
9 on my testimony on surrebuttal, page 26, at the top,
10 I have a quote. That additional sentence must be
11 added to the bottom of that quote.

12 And on page 27 of my surrebuttal, line
13 No. 9, after the -- the sentence currently reads, "Is
14 this statement consistent with Mr. Giles' direct
15 testimony and response to Staff discovery?" That
16 sentence should read: "Is this statement consistent
17 with Mr. Giles' direct testimony, rebuttal testimony
18 and response to Staff discovery?"

19 Line No. 11, similar change, the
20 sentence reads: "The following statements appear in
21 Mr. Giles' direct testimony." That sentence should
22 read: "The following statements appear in Mr. Giles'
23 direct testimony, rebuttal testimony and response to
24 Staff discovery." Those are all my changes.

25 JUDGE PRIDGIN: Mr. Dottheim, anything

1 further before he's tendered for cross?

2 MR. DOTTHEIM: No. Staff would tender
3 Mr. Traxler for cross-examination.

4 JUDGE PRIDGIN: Any other parties wish
5 cross other than KCP&L?

6 MR. MILLS: No questions.

7 JUDGE PRIDGIN: Mr. Zobrist, when you're
8 ready, sir.

9 MR. ZOBRIST: Thank you, Judge.

10 CROSS-EXAMINATION BY MR. ZOBRIST:

11 Q. Good morning.

12 A. Good morning.

13 Q. Now, as I understand it, Mr. Traxler,
14 the dispute that we have with regard to off-system
15 sales from your standpoint is whether to use
16 Mr. Giles' proposal or whether we should go and use
17 historical data that you derived from 2005; is that
18 correct?

19 A. Well, there's two -- two issues there.
20 The first issue is whether or not, which you've
21 addressed, which level is more proper, and the second
22 issue is whether or not the proposal by the company
23 violates the Stipulation and Agreement.

24 Q. And thank you, and I'll deal with that
25 second issue in a few minutes.

1 A. Sure.

2 Q. My question to you is, do you reject
3 entirely the probability analysis that Mr. Schnitzer
4 proposed and then the various proposals based by --
5 or proposed by the company, Public Counsel and, I
6 believe, the Department of Energy on where on that
7 continuum there ought to be -- or the point ought to
8 be set?

9 A. Our proposal is based on a
10 recommendation that the level for 2005 represents
11 Kansas City Power & Light's ongoing operations for
12 off-system sales.

13 Q. Okay. But my question is, you want to
14 base this aspect of the revenue requirement on
15 historical 2005 data, correct?

16 A. That's what we consider to be proper,
17 yes.

18 Q. And you do not want this Commission to
19 accept the NorthBridge analysis that Mr. Schnitzer
20 proposes?

21 A. No. The Staff -- the Staff
22 traditionally does not accept budgeted information
23 for purposes of setting rates, especially something
24 as difficult to forecast as off-system sales.

25 Q. Okay. Well, without quibbling as to

1 whether the NorthBridge analysis is a budgeted
2 analysis, your recommendation to the Commission is
3 that it reject entirely the NorthBridge analysis as a
4 basis to set off-system sales, correct?

5 A. That's correct.

6 Q. Okay. And so you and I don't need to
7 have a discussion on where it ought to be set in
8 Mr. Schnitzer's, you know, lines of probability at
9 the 50 percent margin, the 25 percent margin, because
10 you don't want that to be accepted under any
11 conditions, correct?

12 A. That's correct.

13 Q. Okay. Now, you did state in your
14 rebuttal testimony -- I believe it's at page 11 --
15 that you do not believe that KCPL faces substantial
16 risk from off-system sales; is that correct?

17 A. Yes. Based on the analysis we've done,
18 that's my statement.

19 Q. Okay. And you stated that you arrived
20 at that position because in comparing the 2004 and
21 2005 data, the company had earned about the same
22 amount, correct?

23 A. Well, in addition to also looking at
24 what's happened in 2006, we've made a determination
25 that the 2005 level is representative, we think, of

1 ongoing operations.

2 Q. Okay. But then, am I correct that you
3 have looked at 2004 and 2005 and said because KCPL
4 earned about the same amount, that shows that there
5 is a lack of volatility that this Commission needs to
6 be concerned about?

7 A. Well, as I stated, we looked at those
8 years, all the years on page 11 but also what's
9 happened since 2006.

10 Q. All right. Let me -- but you did look
11 at what the company earned in 2004 and in 2005,
12 correct?

13 A. Oh, certainly, certainly.

14 Q. Now, did you have an opportunity to read
15 Mr. Schnitzer's surrebuttal before taking the stand
16 here this morning?

17 A. Yes, I did.

18 Q. Okay. And do you dispute his testimony --
19 and I don't know if you have -- do you have it in
20 front of you? I'd be glad to provide you with a copy
21 if you don't.

22 And what I'm referring to, sir, is his
23 surrebuttal at page 5, and specifically I'm looking
24 down at pages -- pardon me, lines 21, 22, again,
25 page 5 of Mr. Schnitzer's surrebuttal. Do you have

1 that before you, sir?

2 A. Yes, I do.

3 Q. Do you see where he says that the sales
4 price increased from \$30.86 per megawatt hour in 2004
5 to \$47.82 per megawatt hour in 2005 which was an
6 increase or a rise of 55 percent?

7 A. That's correct.

8 Q. Okay. Now, I have read that correctly,
9 right?

10 A. That's correct.

11 Q. And do you dispute those facts?

12 A. No.

13 Q. Okay. Now, Mr. Schnitzer went on, on
14 line 23 of page 5 of his surrebuttal, to say, "However,
15 the quantity of KCPL off-system sales decreased from
16 5,076,508 megawatt hours in 2004, to 3,003,007 megawatt
17 hours in 2005, (a decrease of 41 percent)."

18 A. That's correct.

19 Q. And I read that correctly, right?

20 A. Yes, you did.

21 Q. And you don't disagree with those
22 figures either?

23 A. No.

24 Q. And you did say that Staff had taken a
25 look at natural gas prices in 2006; is that correct?

1 A. No. What I was referring to, we've
2 looked at the level of off-system net margin the
3 company's been able to achieve for the 12 months
4 ending September, the most current year.

5 Q. Now, those results were based upon what
6 the price of natural gas was in the market, correct?

7 A. Well, it's based on -- on the company's
8 actual results which include the cost of natural gas.

9 Q. All right. And that's all I'm -- there
10 are other factors too --

11 A. Sure.

12 Q. -- but natural gas is what drives the
13 spot market for electricity in this company, correct?

14 A. I don't -- I haven't done that analysis.
15 I don't necessarily agree or disagree with that
16 statement.

17 Q. Okay. You don't -- I take it you don't,
18 in your normal duties, track the price of electricity
19 on the spot market?

20 A. Not for purposes of this proposal, no,
21 we -- I have not.

22 Q. Okay. All right. And so just as part
23 of your daily keeping abreast of issues, you don't
24 read publications like "Megawatt Daily" or "Energy
25 Daily" to see what's happening on the spot market of

1 electricity prices?

2 A. From time to time we have -- we review
3 that information. Not something I do on a daily
4 basis, no.

5 Q. But is it fair to say that you do
6 understand that the price of electricity in the spot
7 market is more prominently driven by the price of
8 natural gas than any other factor?

9 A. That statement has been made certainly
10 in the testimony -- I'm certain that that's Kansas
11 City Power & Light's position. I haven't done any
12 analysis to agree or disagree with that statement.

13 Q. All right. That's fine, sir. Thank
14 you. Let's turn to the stipulation, if we can, and
15 let me ask you a couple of questions about that.

16 Am I correct that in your direct
17 testimony you actually did not say anything about
18 whether the company's proposal violated the
19 stipulation? And if I can direct your testimony --
20 or direct your attention to your direct on page 31, I
21 believe what you said is that Staff's direct case
22 reflects the net margin from off-system sales revenue
23 and costs based upon the test year level 2005.

24 A. Well, the -- an assessment as to whether
25 or not the company's position violated the

1 Stipulation and Agreement is appropriately addressed
2 in the rebuttal testimony. It shouldn't have been in
3 my direct.

4 Q. All right. Okay. So your position is
5 that you didn't need to address that in your direct,
6 but you did address it in the rebuttal?

7 A. The only place to appropriately do that
8 would be rebuttal testimony.

9 Q. Well, we have a couple other witnesses
10 that have departed from that tradition, but I
11 understand your point, Mr. Traxler. Now, if we look
12 at the three sentences -- and Mr. Dottheim has given
13 us that third sentence -- is it true -- do you have
14 those sentences before you? I believe it's in
15 Exhibit 148 on page 2.

16 MR. DOTTHEIM: May I approach the
17 witness and give him a copy?

18 JUDGE PRIDGIN: Yes. Thank you.

19 MR. ZOBRIST: Thank you very much.

20 THE WITNESS: I've got that exhibit in
21 front of me.

22 BY MR. ZOBRIST:

23 Q. Okay. Now, the first sentence says
24 that, "KCP&L agrees that off-system energy and
25 capacity sales revenues and related costs will

1 continue to be treated for above-the-line -- pardon
2 me -- "continued to be treated above-the-line for
3 ratemaking purposes," correct?

4 A. That's correct.

5 Q. Okay. And Mr. Giles has agreed with
6 that, correct?

7 A. He may have agreed with it. His
8 proposal doesn't agree with it, in my view.

9 Q. Okay. But what we're talking about,
10 Mr. Traxler, is not whether the earnings ultimately
11 go back to ratepayers. What we're talking about is
12 what is the mechanism that the Commission is going to
13 set in this case to deal with the risk factor
14 involved in off-system sales; isn't that what we're
15 talking about?

16 A. No, I wouldn't agree with that
17 characterization.

18 Q. No one from the company in either
19 prefiled testimony or from the witness stand has
20 suggested that any earnings from off-system sales
21 should go anywhere else except as an offset to rate
22 base, correct?

23 A. You're correct in the fact that the
24 company's testimony today is consistent with those
25 statements. However, the proposal is not consistent

1 with those statements.

2 Q. Okay. And you believe it's inconsistent
3 because it's the measure by which the company
4 recommends that the Commission deal with risk in this
5 case for off-system sales?

6 A. No. The reason I believe it's
7 inconsistent is because it's an adjustment which
8 represents an assignment of a portion of the profit
9 from off-system sales to shareholders, and that's
10 clearly a violation in our view.

11 Q. Okay. Would you agree that the --
12 there's nothing in the language in front of you at
13 the bottom of page 2 of Exhibit 148 that prevents the
14 Commission from entertaining a risk mechanism or a
15 risk analysis in setting rates with regard to
16 off-system sales?

17 A. I would agree with you, sir, there's
18 certainly nothing preventing the Commission or the
19 company from proposing an adjustment to the
20 recommended ROE. There is, however -- this language
21 precludes the company from making an adjustment which
22 reduces its off-system sales margin for that purpose.
23 That's the issue.

24 Q. Now, there was some debate later on
25 in your testimony about whether Mr. Giles was

1 proposing to share margins or profits with customers
2 or whether it was a sharing of a risk. Can we lay to
3 rest that debate and agree that what KCPL is
4 proposing to share is the risk and not sharing any
5 profits or margins with customers?

6 A. Certainly not, we can't agree with that.

7 Q. Okay.

8 A. That's not -- not the company's
9 proposal.

10 Q. All right. So you view the company's
11 proposal as going beyond the sharing of risks?

12 A. Well, the option that Mr. Giles lays out
13 on page 7 of his rebuttal testimony is clearly one in
14 which the Commission has an option of either
15 increasing the ROE 100 basis points above its
16 recommended ROE by its witness if you use the Staff's
17 level of off-system sales, or 130 basis points if you
18 accept the level of off-system sales recommended by
19 OPC and DOE.

20 The company's recommendation is clearly a
21 substitute for that. And anything that's a substitute
22 for a higher ROE has to generate additional earnings
23 or it wouldn't be a substitute for ROE.

24 This is an assignment of profit for
25 off-system sales in lieu of the additional

1 recommendation for ROE.

2 Q. Now, you were here in the hearing room
3 when Mr. Giles was testifying earlier this morning,
4 correct?

5 A. I certainly was.

6 Q. And you viewed, as I understand, both of
7 his proposals that he made I believe in response to
8 Commissioner Murray's questions of being that kind of
9 an assignment of earnings to shareholders?

10 A. No. What I was referring to is their
11 recommendation in this case. Now, the additional
12 sharing mechanisms -- I may have misunderstood your
13 question. I wasn't referring to those. I was
14 talking about referring to their actual position
15 taken in this case which is an assignment of the
16 off-system sales margin to shareholders.

17 Q. But it was clear, wasn't it, not to you
18 (sic) when you looked at Mr. Giles' testimony on
19 page 28 that the company was never opposed to a
20 mechanism that would account for any upside profits
21 it had made on off-system sales, correct?

22 A. I will -- that's -- that's what he said
23 and it's also the first time that Staff has heard
24 that representation.

25 Q. Okay. But the concept was clearly set

1 forth in his direct on page 28, correct?

2 A. I'm sorry, sir. Where?

3 Q. Mr. Giles' testimony, direct testimony
4 on page 28.

5 A. Okay. Let me refer to that real quick.

6 JUDGE PRIDGIN: And Mr. Traxler, I'll
7 give you a moment to read that, and when you're
8 done -- and Mr. Zobrist, if you could ask your
9 question again, please?

10 MR. ZOBRIST: Okay.

11 THE WITNESS: Okay. I'm on page 28.

12 BY MR. ZOBRIST:

13 Q. Isn't it true that toward the bottom of
14 page 28, Mr. Giles mentioned in his direct testimony
15 return on equity sharing mechanisms; is that correct?

16 A. That's correct.

17 Q. And earmarking additional earnings for
18 future amortization requirements, correct?

19 A. Correct.

20 Q. Adjustments to the risk sharing for
21 off-system sales?

22 A. That's correct.

23 Q. And ratepayer refunds, correct?

24 A. That's correct. But nothing
25 specifically has been put on the table for

1 consideration. That's my point.

2 MR. ZOBRIST: Okay. No further
3 questions, Judge.

4 JUDGE PRIDGIN: Mr. Zobrist, thank you.
5 If there's no further cross from counsel,
6 Mr. Chairman?

7 CHAIRMAN DAVIS: Okay.

8 QUESTIONS BY CHAIRMAN DAVIS:

9 Q. Mr. Traxler, are you familiar with the
10 unanimous stip and agreement filed in the Kansas City
11 Power & Light Regulatory Plan?

12 A. Yes, I am.

13 Q. Okay. Do you have a copy of that?

14 A. Yes, I do.

15 Q. Okay. Page 22, item No. j, off-system
16 sales, first sentence says, KCP&L -- "KCPL agrees
17 that off-system energy and capacity sales, revenues
18 and related costs will continue to be treated above
19 the line for ratemaking purposes" --

20 A. Yes.

21 Q. -- is that correct?

22 A. Yes, sir.

23 Q. What does the -- what do the words "will
24 continue" mean?

25 A. The traditional treatment for all

1 electric utility companies of Missouri since I've
2 been in this jurisdiction has been consistent in that
3 100 percent of the profit from off-system sales has
4 been used as a -- included rec -- recognized in cost
5 of service.

6 Q. Uh-huh.

7 A. And that -- that sentence would indicate
8 to me a desire by the parties to continue that
9 treatment for off-system sales margin.

10 Q. Okay. And how was Kansas City --
11 KCP&L's, what sort of treatment did off-system sales
12 get in the past?

13 A. Well, the company's last rate case was
14 1985 and --

15 Q. Well, didn't they have -- were there any
16 earnings complaint filed subsequently?

17 A. Yes, I can -- as a direct -- as a Staff
18 auditor directly involved in those cases, I can state
19 that the off-system sales margins were included
20 consistent with that approach in those cases.

21 1985 rate case, the Report and Order
22 indicates discussion of determining the margin of
23 off-system sales. So I'm -- it's our position it was
24 treated in that fashion during that case also.

25 Q. Okay. So in your opinion, is the --

1 what Mr. Giles is proposing, is that somehow
2 violating this provision in item j on page 22 where
3 they agreed not to propose any adjustment that would
4 remove any portion of their off-system sales from
5 their revenue requirement determination in their -- a
6 rate case?

7 A. Yes, that's our position. The company's
8 recommendation and adjustment was to reduce the
9 actual level of off-system sales margin in 2005 by
10 \$19 million, total company. The resulting level,
11 even -- even the company's own witness admits that
12 the company has a 75 percent probability of achieving
13 a number higher than that, and it's the Staff's
14 position that that's the intent.

15 The only way you can have a substitute
16 for a higher ROE is with the intent and expectation
17 that that margin will exceed what they put in this
18 case.

19 CHAIRMAN DAVIS: No further questions,
20 Mr. Traxler, at this time, Judge.

21 JUDGE PRIDGIN: Mr. Chairman, thank you.
22 Commissioner Murray?

23 COMMISSIONER MURRAY: Thank you.

24 QUESTIONS BY COMMISSIONER MURRAY:

25 Q. Good afternoon, Mr. Traxler.

1 A. Good afternoon, Commissioner.

2 Q. You were asked some questions about
3 Mr. Giles' testimony on page 28 of his direct where
4 he set out some alternatives that exist to account
5 for the potential for upside to the company of
6 increased off-system sales margins --

7 A. Yes.

8 Q. -- do you remember that? Did the Staff
9 take any position in regard to the references that
10 were made in that direct testimony?

11 A. The -- if the Staff and certainly the
12 other parties, if we'd have been presented with some
13 kind of specific recommendation or something for
14 discussion, we would have certainly, you know, given
15 consideration to some type of mechanism discussed by
16 Mr. Giles in his discussion with you. But we were
17 never given any -- any -- any kind of a direct
18 proposal, so this -- these statements were just
19 considered to be general statements.

20 Q. And the proposal that he set forth on
21 the stand today, the one that Mr. -- that -- the one
22 that was somewhat clarified on redirect, would you
23 consider that to fit within one of those alternatives
24 that was mentioned within his direct testimony?
25 Would it have been an adjustment to the risk sharing?

1 A. Well, the one that states, "Earmarking
2 of additional earnings for future amortization", now,
3 that one, I think, is closest to what Mr. Giles
4 described as a tracking mechanism where you'd set up
5 a regulatory asset and/or liability for the
6 difference between the level that was included in
7 rates and what the actual levels were. And then that
8 would be amortized in the next rate case, that
9 difference.

10 Q. Okay. Now, does Staff have any reason
11 other than the fact that you believe it is a
12 violation of the Stipulation and Agreement to account
13 for the risk for off-system sales in this rate case,
14 does Staff have any other reason to want to avoid
15 accounting for any risk factor for off-system sales?

16 A. Well, I think we need to make clear that
17 the issue of risk on this particular issue applies to
18 every single electric rate case involving Kansas City
19 Power & Light or any other electric utility in the
20 state.

21 The risk factor from a ratemaking
22 perspective is clearly, we don't want to include an
23 amount that's too high. If that happens, the company
24 will -- that will result in a cash -- cash shortfall
25 of the company and a negative impact on their ability

1 to earn their authorized rate of return.

2 On the other hand, if we're too low,
3 that creates a cash windfall and a excess-earning
4 situation. So the recommended level that we're
5 recommending in this case, we consider to be
6 conservative, given that the level we're recommending
7 is significantly below their most current level for
8 the 12 months ending September 2006.

9 Q. So is it your position that Staff is
10 already accounting for risk --

11 A. Yes.

12 Q. -- on the off-system sales?

13 A. Yes, it is.

14 Q. Because you're using a lower number than
15 the number that was actually used in the test year;
16 is that what you're saying?

17 A. We consider the level for 2005, given
18 the -- the actual levels that have occurred in the
19 last three or four years, and more importantly, in
20 addition to the fact that the most current year that
21 they have for the 12 months ending September is a
22 level which is \$16 million higher than what we're
23 recommending.

24 So we think the number we're
25 recommending is conservative for that reason. If we

1 were to update the Staff's revenue requirement and
2 reflect their actual off-system sales margin for the
3 12 months ending September, our revenue requirement
4 would go down by \$16 million. Now, that's total
5 company, about -- approximately 54 percent of that.
6 I'm sorry.

7 Q. Okay. Do you agree that KCP&L relies on
8 more revenue percentage-wise from off-system sales
9 than the other electric utilities in the state?

10 A. That's an accurate statement.

11 Q. And do you agree that there should be a
12 consideration of a higher risk when there is a higher
13 reliance upon off-system sales?

14 A. Well, I think that you're -- you
15 definitely have a responsibility with the kind of
16 money we're talking about and the impact, to be
17 conservative in your recommendation, and we think
18 we've done that.

19 Q. I want to turn to your testimony, your
20 direct testimony. And this is related -- this is not
21 directly related to the off-system sales issue, but
22 it is regarding the Regulatory Plan amortization on
23 page 17.

24 I just want to question you about your
25 response to some of the language in the Stipulation

1 and Agreement that was EO-2005-0329. On page 17 you
2 set out a quote from that agreement, from that case,
3 and I'd like you to read the last full paragraph of
4 that quote which is at the top of page 17.

5 A. "The Signatory Parties agree to support
6 an additional amortization amount added to Kansas
7 City -- KCPL's cost of service in a rate case when
8 the projected cash flows resulting from KCPL's
9 Missouri jurisdictional operations, as determined by
10 the Commission, fail to meet or exceed the Missouri
11 jurisdictional portion of the lower end of the top
12 third of the BBB range shown in Appendix E, for the
13 funds from Operations Interest Coverage ratio and the
14 Funds from Operations as a Percentage of Average
15 Total Debt Ratio..."

16 Q. All right. Now, in responding to that,
17 I'd like you to read your first sentence in that next
18 paragraph.

19 A. "This language requires a determination,
20 in all rate cases between now and 2010, as to whether
21 the cash flows, resulting from the revenue level
22 recommended by the Staff's traditional cost of
23 service, will be sufficient to meet the specified
24 financial ratio range for two specific financial
25 ratios identified in the above paragraph."

1 Q. How does Staff interpret the language in
2 the Stipulation and Agreement, and I quote, as
3 determined by the Commission, to mean the level --
4 the revenue level recommended by the Staff's
5 traditional cost of service?

6 A. What's the basis for that -- compare
7 that statement?

8 Q. How do you -- how do you determine --
9 how do you consider that that means a level
10 recommended by Staff rather than as determined by the
11 Commission? Is it not true that the Commission does
12 not always accept the level recommended by Staff?

13 A. Let me -- I think I understand your
14 question. Let me clarify that. The regulatory
15 amortization is something that has to be determined
16 based on the Missouri jurisdictional revenue
17 requirements set in this case.

18 So the numbers we have in my testimony
19 right now are simply based on the Staff's revenue
20 requirement. That's all we have to work with from
21 our perspective at this point. But the regulatory
22 amortization, the final number will not be known
23 until the company -- the Commission makes a decision
24 on all the other issues. Once that's done, then we
25 can compute what the regulatory amortization would

1 be.

2 Q. Okay. So you're not alleging that we
3 have to -- that the determination is going to be that
4 recommended by the Staff's traditional cost of
5 service?

6 A. No. It's based strictly as a result of
7 whatever your decision is on all the other issues.

8 Q. Now, on page 19 of your direct, you
9 speak about, lines 6 through 8, Missouri ratepayers
10 not being responsible for Great Plains Energy's
11 failure to meet the financial ratio --

12 A. Yes.

13 Q. -- benchmarks as a result of poor
14 performance by Strategic Energy. And I heard a
15 little bit, questions and answers, regarding
16 Strategic Energy earlier today, but do you have any
17 evidence of poor performance by Strategic Energy?

18 A. Well, the -- in my surrebuttal testimony
19 I mention three changes that the Staff has made in
20 the calculation of the Regulatory Plan amortization,
21 and one of those has to do with the issue you were
22 raising.

23 How do we assign GPE's debt to the
24 Missouri jurisdiction because the obligation of the
25 ratepayers of Missouri for purposes of meeting --

1 providing the cash to meet the credit rating
2 CreditMetrics™ is limited to Missouri jurisdictional
3 operations.

4 So the allocation of GPE's capital
5 structure had to be changed, and it was agreed to by
6 the parties so that the debt associated with the
7 nonregulated entity is not something that Missouri
8 jurisdictional ratepayers are asked to cover in terms
9 of cash flow.

10 Q. Okay. I'm gonna move on to page 24 of
11 your direct testimony. And really, this is the --
12 let me just ask it -- ask you the question this way:
13 Would you agree that the cost per kilowatt hour for
14 Missouri customers would be greater if the plant
15 investments were used to supply only native load if
16 there were no off-system sales?

17 A. Oh, certainly, yes.

18 Q. So the -- the use of the plant
19 investments when there is excess capacity -- or not
20 excess capacity, but when there is otherwise energy
21 that would go unused, does reduce the cost of the
22 energy to the native load?

23 A. Yes, it -- it's always been used as an
24 offset to the three jurisdictions which are paying
25 for the plant. That would be the Kansas and Missouri

1 and FERC jurisdiction.

2 Q. Okay. On page 25 of your direct, you
3 quote an order in Case Number EO-2005-0329 regarding
4 off-system sales --

5 A. Yes.

6 Q. -- lines 9 through 23.

7 A. Yes.

8 Q. And in the -- in the midst of that quote
9 at line 16 through 17, actually 15 through 18, it
10 says, "During the hearing KCP&L also stipulated that
11 it would agree to this treatment for off-system sales
12 as long as the Iatan 2 costs were included in KCP&L's
13 rate case." Do you see that?

14 A. Yes.

15 Q. And then down in footnote 4, speaking
16 about their July 26th Response to Order Directing
17 Filing, there was a statement made again, "As long as
18 the related investments and expenses are considered
19 in determining those rates." Do you see that?

20 A. Yes.

21 Q. Okay. If Staff's proposal were adopted
22 and the Commission, in effect, gives KCP&L a rate
23 reduction, wouldn't the Iatan 2 costs effectively be
24 excluded from KCP&L's rate base?

25 A. Well, first of all, I need to make it

1 clear that Staff's recommendation in this case is not
2 a rereduction.

3 Q. Well, theoretically it's not, but --

4 A. Well, our -- no, our recommendation is a
5 \$52 million rate increase at this time.

6 Q. Only through the regulatory
7 amortization?

8 A. That's correct.

9 Q. Which results in a decrease in their
10 future -- in the next rate case, does it not?

11 A. Decrease in?

12 Q. Their rate base.

13 A. There is --

14 Q. Which will result --

15 A. There's a rate base offset for that in
16 the next rate case, that's correct.

17 Q. Decrease on what they'll be allowed to
18 earn a return on?

19 A. That's correct.

20 Q. Which, unless something strange happens,
21 will result in a decrease in the rates, will it not?

22 A. Well, not in the overall rates. The
23 customers will be allowed a rate of return under the
24 Stipulation and Agreement for that money they're
25 providing up front. But the overall cash flow

1 requirements, we still have an obligation in all of
2 these cases during the Regulatory Plan to recompute
3 the amortization and make sure that the cash flow is
4 adequate.

5 Q. And basically what Staff is doing here,
6 as I understand it, is determining that KCP&L is not
7 entitled to a rate increase. However, because you're
8 bound by the Stipulation and Agreement in the
9 Regulatory Plan to provide them the cash flow that
10 will keep their -- that will maintain their credit
11 ratings, you have agreed to, on the one hand,
12 disallow X amount of their requested increases which
13 really results in a negative number, would result in
14 a negative, something like 34 million; is that
15 correct?

16 A. Under a traditional cost of service
17 approach, you're right, the recommendation would be a
18 rate reduction.

19 Q. And then offset that by adding back in,
20 but only under the regulatory amortization plan,
21 something like 55 million?

22 A. Well, yes, the net effect is a -- that's
23 correct.

24 Q. Which means really that you believe that
25 if the regulatory amortization plan were not

1 involved, they would be entitled to a \$34 million
2 decrease?

3 A. That's what the numbers show.

4 Q. Okay. So you are taking the position
5 that they do not -- they are not entitled to an
6 increase?

7 A. They're not entitled to a -- an increase
8 under a traditional approach, that's correct. The
9 increase from our perspective is limited to the
10 Regulatory Plan amortization, that's correct.

11 Q. Which really is not an increase, it's
12 just a delay in the decrease, a delay in time to
13 allow them to maintain their credit ratings for a
14 certain period of time; is that not correct?

15 A. Well, it's still an increase in revenue
16 requirements for the ratepayers. I mean, it's still
17 an increase of \$52 million.

18 Q. Well, for this year only? For the year
19 that the -- for the time period in which this rate
20 case is in effect --

21 A. Well --

22 Q. -- is that correct?

23 A. -- yes, until we -- until we look at
24 their next rate case, that's correct.

25 Q. And at that time their rate base will be

1 reduced by the amount that was in the regulatory
2 amortization plan; is that correct?

3 A. That's correct.

4 COMMISSIONER MURRAY: All right. Let me
5 see. I may have one more, two more. I think that's
6 it. Thank you.

7 THE WITNESS: Uh-huh.

8 JUDGE PRIDGIN: Commissioner Murray,
9 thank you. Mr. Appling, no questions?

10 COMMISSIONER APPLING: (Shook head.)

11 JUDGE PRIDGIN: Recross. Mr. Mills?

12 MR. ZOBRIST: I'm sorry. Did you say
13 recross?

14 JUDGE PRIDGIN: Yes, recross.

15 RE-CROSS-EXAMINATION BY MR. ZOBRIST:

16 Q. I think that we got these numbers
17 correct at the end when Commissioner Murray was
18 asking you these, but it is a -- an additional
19 amortization of \$86.2 million that Staff is
20 requesting in this case or is acknowledging would be
21 owed under its revenue scenario, correct, not
22 52 million?

23 A. No. The Staff's recommended overall
24 revenue requirement is 52 million. The amortization
25 is roughly 86 at this point in time.

1 MR. ZOBRIST: All right. Thank you.

2 Nothing further.

3 JUDGE PRIDGIN: Any further recross?

4 MR. MILLS: Yes.

5 JUDGE PRIDGIN: Mr. Mills?

6 RE CROSS-EXAMINATION BY MR. MILLS:

7 Q. Mr. Traxler, along those same lines,
8 help me out with the amortization calculation. Have
9 you done any other calculations for different revenue
10 requirements and what the resulting amortization
11 might be?

12 A. We did make an attempt to estimate what
13 the impact will be from the true-up, and with an
14 increase in depreciation and/or return on equity, the
15 amortization goes down. And that's certainly gonna
16 have -- that's gonna be one of the impacts from the
17 true-up because we've got \$200 million in additional
18 plant, and we've got additional book depreciation.
19 So the amortization I expect to go down when we true
20 up the case.

21 Q. And you expect that the Staff's negative
22 \$34 million number will go up closer -- go up, I
23 mean, be less negative, I suppose?

24 A. My best guess right now would be that
25 that's probably going to have an impact in the 15 to

1 \$20 million range.

2 Q. Okay. So just as an order of magnitude --
3 I realize you haven't probably done this calculation
4 exactly -- if the Commission were to determine that
5 there was no need for any revenue requirement
6 adjustment so that the revenue requirement additional
7 is zero, not negative, not positive, in what
8 neighborhood would the amortization calculation come
9 out to be?

10 A. I'm fairly certain that that 86 million
11 would be reduced down to 52 because a \$34 million
12 negative is driving the 86.

13 Q. So if the Commission were to find in
14 this case that the KCP&L does not need any rate
15 relief under traditional regulatory approaches, the
16 amortization calculation in the Regulatory Plan would
17 require somewhere on the order of a \$50 million rate
18 increase in order to meet those metrics; is that
19 about right?

20 A. Well, the -- the rate increase is
21 roughly 52 either way. It depends on how much money
22 is coming from traditional rates and how much is
23 coming from the amortization.

24 Q. Right.

25 A. The amortization would go down from

1 about 86 to 52, if rates were assumed to be
2 reasonable at this point in time, existing rates.

3 Q. Okay. Now, according to the theory
4 of the Regulatory Plan, would that -- would that
5 tell you that without -- if KCPL were just to walk
6 away from this case, not take an increase, not take
7 a decrease, that without an additional \$50 million,
8 roughly, that they would probably be downgraded?

9 A. Yes, they would be what the calculation
10 indicates, that they need that much additional cash
11 to meet the funds from operations as percentage of
12 total debt, 25 percent.

13 Q. Okay. And how far along in the -- in the
14 construction of Iatan has KCP&L gotten?

15 A. Well, they haven't -- they're just in
16 the -- right now it's my understanding they're in
17 the -- it's still contracting for the work on some of
18 the major components.

19 Q. So not very far along?

20 A. In terms of actual construction, no, it
21 hasn't started.

22 MR. MILLS: All right. No further
23 questions.

24 JUDGE PRIDGIN: Mr. Mills, thank you.
25 Mr. Woodsmall?

1 MR. WOODSMALL: Yes, briefly.

2 RE CROSS-EXAMINATION BY MR. WOODSMALL:

3 Q. Following up on Mr. Mills' case -- or
4 questions, he mentioned how far along Iatan 2 is.
5 Would you agree that there's other portions to the
6 Regulatory Plan, including Iatan I environmental and
7 I believe it's La Cygne environmental upgrades?

8 A. In addition to the 200 million in wind
9 generation we're considering in this case.

10 Q. And have there been capital expenditures
11 for those items that are not yet allowed to be
12 captured in rate base due to the anti-CWIP statute?

13 A. It's my understanding that's correct,
14 yes.

15 MR. WOODSMALL: Okay. Thank you.

16 JUDGE PRIDGIN: Further recross? Any
17 redirect?

18 MR. DOTTHEIM: Yes.

19 REDIRECT EXAMINATION BY MR. DOTTHEIM:

20 Q. You received from Mr. Zobrist some
21 questions regarding NorthBridge testimony. Is the
22 Staff's position, in part, on off-system sales net
23 margin opposition to KCPL's application of the
24 NorthBridge analysis?

25 A. Oh, certainly.

1 Q. Would you explain that?

2 A. The -- Mr. Schnitzer, the purpose of his
3 testimony and his analysis was not to provide a
4 recommendation to Kansas City Power & Light Company
5 regarding the overall level of off-system sales
6 margin to be included in his case. He simply
7 provided a probability analysis. It's been discussed
8 before, the 106 million was the 50 percent likelihood
9 of being higher or lower on an actual basis.

10 It was Mr. Giles and Kansas City Power &
11 Light Company that made a decision to adopt the 25
12 percentile recommendation or probability for purposes
13 of the off-system sales margin in this case, and
14 that's what we're opposed to, that level.

15 Q. Mr. Traxler, you were asked if you'd
16 reviewed Mr. Schnitzer's surrebuttal testimony,
17 weren't you?

18 A. Yes.

19 Q. And you indicated that you had?

20 A. Yes.

21 Q. And the Staff's position has not changed
22 after reviewing Mr. Schnitzer's surrebuttal
23 testimony; is that correct?

24 A. No, it has not.

25 Q. Could you explain why?

1 A. Mr. Schnitzer, the main focus of his
2 surrebuttal testimony is that what I'm describing as
3 risk is an inappropriate characterization. My
4 response to that is that the risk that we have to
5 deal with for purposes of setting rates is what I've
6 described as -- is -- is from a ratemaking perspective
7 is clearly the risk of what you're putting in rate
8 being too high or too low. That applies to this
9 company, applies to any company on this issue.
10 That's the risk from a ratemaking perspective that
11 you're dealing with.

12 And we think that we've dealt
13 effectively with that risk because we're using a
14 level, like I say, that's \$16 million less than the
15 company's actual experience with 12 months ending
16 September.

17 Q. I think you, in response to a question,
18 indicated and have indicated that Staff's position,
19 as you view it, is conservative. Is the Staff's
20 position on this issue the same as DOE's, the
21 industrials and the Office of Public Counsel?

22 A. No, it isn't. The Office of Public Counsel
23 and the DOE recommendation is to adopt the median
24 level recommended by Mr. -- or reflected on
25 Mr. Schnitzer's analysis which, at the 50 percentile

1 which is -- I think that number's highly
2 confidential. That number -- I can state this: That
3 number is --

4 MR. ZOBRIST: Well, Judge, I think we
5 need to be careful because I think very inadvertently
6 Mr. Traxler mentioned that figure about three
7 questions ago, and I didn't catch it. So if I could
8 just request that we be as specific -- or avoid
9 specifics unless you want to go into HC session,
10 so...

11 THE WITNESS: The -- I can describe it
12 this way: The number recommended by DOE and Office
13 of Public Counsel is approximately \$9 million higher
14 than the Staff recommendation.

15 BY MR. DOTTHEIM:

16 Q. Mr. Traxler, you were asked some
17 questions about the -- the alternatives that are set
18 out on page 28 of Mr. Giles' direct testimony. Was
19 today the first time you heard any details regarding
20 those alternatives?

21 A. That's the first time we've heard any --
22 any specific recommendation or proposal addressing
23 any of those alternatives.

24 Q. In order for the Staff to perform an
25 analysis or consider those alternatives, would the

1 Staff need to look at more or hear more than what was
2 disclosed on the record today by Mr. Giles?

3 A. I don't have any doubt that the parties
4 would have been -- taken some interest in at least
5 exploring some of these possibilities, you know,
6 prior to hearings on the issue if we had the
7 opportunity.

8 Q. Okay. You were asked some questions
9 relating to Iatan 2 and the Staff's financial audit
10 which produced a negative number. Is the Staff
11 proposing disallowance of any cost related to Iatan 2
12 in this case?

13 A. No, certainly not.

14 Q. Is the Staff's negative revenue
15 requirement number based upon a financial audit of
16 Kansas City Power & Light excluding Iatan 2?

17 A. That's correct.

18 Q. The various numbers that you were
19 discussing earlier from the stand, again, those are
20 the numbers -- the 86 million, 34 million negative
21 number, \$52 million positive number, all those
22 numbers prior to the true-up in this proceeding?

23 A. That's correct.

24 Q. If there were no Kansas City Power &
25 Light Regulatory Plan and the Staff had performed a

1 financial audit of Kansas City Power & Light as it
2 has done, would the Staff have filed as it has a
3 negative number on revenue requirement?

4 A. Yes, we would have.

5 Q. And that is even with Kansas City Power
6 & Light in the process of starting construction of
7 Iatan 2?

8 A. We certainly would have filed that
9 number in direct testimony, but again, that number is
10 subject to change and will change because of the
11 true-up that's been worked for this case.

12 Q. Okay. But are you also answering that
13 in the context of the Regulatory Plan which provides
14 for the additional amortization?

15 A. I'm sorry. Could you repeat the
16 question?

17 Q. Okay. The response you just gave about
18 the true-up, were you giving that in the context of
19 the additional amortization or not?

20 A. No. I was responding to your question
21 related strictly to a traditional cost of service
22 approach, and that 34 million is subject to change.

23 Q. Okay. Because --

24 A. Additional plant --

25 Q. -- if this were --

1 A. -- for one thing and, you know, updated
2 revenues and expenses.

3 MR. DOTTHEIM: Thank you. That's all
4 the questions I have.

5 JUDGE PRIDGIN: All right, Mr. Dottheim.
6 Thank you. Commissioner?

7 COMMISSIONER MURRAY: Can I ask just one
8 more? I don't think this will elicit any other
9 questions, but I just want to be clear here.

10 QUESTIONS BY COMMISSIONER MURRAY:

11 Q. The difference in total revenue
12 requirement between the company and the Staff today,
13 prior to true-up, is 86 million; is that correct?

14 A. Commissioner, are you talking about
15 under a traditional revenue requirement approach,
16 what the difference is?

17 Q. Yes.

18 A. Let's see. I believe -- I don't have
19 that reconciled number in front of me, but I believe
20 the company's revenue requirement at this time was
21 41 million at the top, and ours was a negative 34, so
22 the difference would be 75 million under a
23 traditional approach.

24 Q. And where does the other 11 million come
25 into the Regulatory Plan amortization?

1 A. I'm sorry, Commissioner. I didn't --

2 Q. Where does the other amount, which is
3 approximately 11 million, come into the regulatory
4 amortization?

5 A. Approximately 11 million. I'm not --

6 Q. The Regulatory Plan amortization calls
7 for 86,237,000. That's more than a \$75 million
8 difference between the Staff and the company.

9 A. Well, the --

10 MR. DOTTHEIM: If I may approach the
11 witness and give him a copy of the latest
12 reconciliation.

13 THE WITNESS: The difference between the
14 company and the Staff under a traditional revenue
15 requirement approach is the difference between
16 42 million at the top and 34 million on line 86,
17 \$75 million.

18 BY COMMISSIONER MURRAY:

19 Q. 75 million.

20 A. That's the difference between the Staff
21 and the company and all the traditional revenue
22 requirement issues. And then the regulatory
23 amortization --

24 Q. 77 million, I believe. We've got 34,540
25 and we've got 41,903. You have almost 42 million and

1 you have almost 35?

2 A. That's the number I'm referring to.

3 Q. Okay. So you're talking about almost
4 \$77 million difference?

5 A. Okay. That's correct.

6 Q. All right. Now, go ahead.

7 A. Now, the amortization comes into play if
8 you look at line 87.

9 Q. Yes.

10 A. On the reconcil -- the Regulatory Plan
11 amortization increases the Staff's revenue
12 requirement from a negative 34 to a positive 52.
13 That's how the amortization comes into play.

14 Q. Okay. My question is, the difference
15 between this \$77 million by which company and Staff
16 are apart and the \$86 million that is in the
17 regulatory amortization plan, where is that
18 \$9 million? Where does that come into the
19 amortization? Someplace other than to make up the
20 difference between the company and the Staff, I
21 assume?

22 A. I'm not following the additional
23 11 million. The difference between the two numbers,
24 the \$77 million, that's the real difference on all
25 the other issues with the exception of the

1 amortization. And you simply take that difference
2 and reduce it by the Regulatory Plan amortization.
3 Well, I mean -- no, no, that's not correct.

4 Q. The Regulatory Plan amortization --

5 A. The amortization applies only to the
6 Staff's case. There is no Regulatory Plan
7 amortization in the company's case, so the full 86
8 impacts only the Staff's case in the reconcile. You
9 have to net the entire thing.

10 Q. Why is it greater than the difference?

11 A. Pardon me?

12 Q. Why is it greater than the difference
13 between the company's revenue requirement and Staff's
14 revenue requirement?

15 A. Because the amortization is not driven
16 strictly on the Staff's case. When you run this
17 Staff's case through the model, the negative
18 \$34 million, the amortization is strictly a function
19 of that calculation.

20 It doesn't compare the difference
21 between the Staff and company on any other issue.
22 The amortization is driven strictly by putting the
23 Staff's recommendation in the model and generating it
24 in amortization.

25 COMMISSIONER MURRAY: Okay. I'm not

1 sure that I understand that fully, but thanks for
2 your answer.

3 THE WITNESS: Sure.

4 JUDGE PRIDGIN: Commissioner, thank you.
5 Any further bench questions?

6 (NO RESPONSE.)

7 JUDGE PRIDGIN: Recross based on the
8 bench questions. Mr. Mills?

9 RE CROSS-EXAMINATION BY MR. MILLS:

10 Q. This is more in the nature of a
11 clarification. Mr. Traxler, if you were to run the
12 company's revenue requirement recommendation of
13 \$41,900,000 through the amortization model, might
14 that generate some additional amortization needed?

15 A. I haven't done it, but I think it would.

16 Q. And would they be somewhere in the
17 neighborhood of 9 million?

18 A. I would expect the amortization to
19 increase that number from 42 million to approximately
20 52. The cash flow shouldn't change under either
21 proposal.

22 MR. MILLS: Thank you. That's all I
23 have.

24 JUDGE PRIDGIN: Mr. Mills, thank you.
25 Further recross?

1 MR. FISCHER: Yes, your Honor.
2 Actually, we had planned to pursue a lot of these
3 types of questions whenever Mr. Traxler comes back to
4 talk about the Regulatory Plan amortization. There's
5 a number of relationships that we'd like to visit
6 with him about rather than in the off-system sales,
7 and with the understanding that we'll have that
8 opportunity, we wouldn't have any further recross at
9 this time.

10 JUDGE PRIDGIN: Is Mr. Traxler -- I'm
11 looking for him in cost of capital?

12 MR. FISCHER: It's my understanding that
13 he and Russ Trippensee would both be back to talk
14 about the amortization relationship with ROE at that
15 time.

16 MR. DOTTHEIM: Yes, that's correct. It
17 was anticipated that he would take the stand again
18 with the settlement of the tax gross-up portion of
19 the additional amortization portion of the Regulatory
20 Plan amortization issue.

21 JUDGE PRIDGIN: Okay.

22 COMMISSIONER MURRAY: And Judge, I think
23 that's why I'm confused, because I don't see that on
24 the schedule. I don't see Regulatory Plan
25 amortizations as being an issue being considered

1 separately.

2 MR. ZOBRIST: I think, Commissioner, it
3 was initially on last Thursday's schedule, and when
4 the tax issues settled, it was moved to this week.
5 That's my understanding.

6 COMMISSIONER MURRAY: And the timing for
7 that?

8 MR. DOTTHEIM: Is to be heard at the
9 same time with cost of capital since it's what
10 remains on -- on the Regulatory Plan. Additional
11 amortizations is related to cost of capital.

12 COMMISSIONER MURRAY: All right. Thank
13 you.

14 JUDGE PRIDGIN: Okay. So with that
15 understanding, will there be -- I'm sorry. Was there
16 any redirect for Mr. Traxler on off-system sales?

17 (NO RESPONSE.)

18 JUDGE PRIDGIN: No further questions for
19 Mr. Traxler on off-system sales?

20 (NO RESPONSE.)

21 JUDGE PRIDGIN: All right. This looks
22 to be a -- as convenient a time as any. I show -- to
23 break for lunch. I show 12:40, the clock on the back
24 of the wall. Let's go back on the record at two
25 o'clock if there's nothing further from counsel. All

1 right. Thank you very much. We'll go off the
2 record.

3 (THE NOON RECESS WAS TAKEN.)

4 JUDGE PRIDGIN: Good afternoon. We're
5 back on the record. I understand that we are still
6 on off-system sales, and I believe counsel from DOE
7 told me during the break that she understood that the
8 parties were all agreeable to allow Mr. Dittmer to
9 take the stand next and testify on ice storm costs as
10 well as off-system sales. Is that the parties'
11 understanding? Okay. I'm seeing some nods.

12 If there's no objection, Mr. Dittmer, if
13 you'd come forward, sir.

14 MR. MILLS: Judge, who are we going to
15 go to after Mr. Dittmer?

16 JUDGE PRIDGIN: Good question. On my
17 schedule, anyway, I saw Mr. Kind would be next, and
18 then Mr. Brubaker. But I'm certainly agreeable if
19 counsel want to do something to the contrary.

20 MR. MILLS: That's fine with me.

21 MR. CONRAD: We're very contrary.

22 JUDGE PRIDGIN: Mr. Conrad's thrown me
23 off already.

24 MR. WOODSMALL: That'll show up on the
25 record.

1 JUDGE PRIDGIN: I believe, Mr. Dittmer,
2 you have been sworn previously; is that correct?

3 MR. DITTMER: I have.

4 JUDGE PRIDGIN: All right. You're still
5 under oath. And Ms. Bogart, any -- any housekeeping
6 matters before we tender him for cross-examination?

7 MS. BOGART: No.

8 JUDGE PRIDGIN: All right. I'm hearing
9 no. Any parties wish cross-examination of this
10 witness?

11 MR. ZOBRIST: Kansas City Power & Light
12 does.

13 JUDGE PRIDGIN: Okay. KCP&L. Other
14 counsel?

15 (NO RESPONSE.)

16 JUDGE PRIDGIN: Mr. Zobrist, when you're
17 ready, sir.

18 CROSS-EXAMINATION BY MR. ZOBRIST:

19 Q. Good afternoon.

20 A. Good afternoon.

21 Q. As I understand your testimony,
22 Mr. Dittmer, your position is that if the Commission
23 would accept Mr. Giles' position of establishing
24 off-system sales at the 25 percent point on the
25 NorthBridge continuum of its forecast analysis, you

1 would oppose that because if the company hit the 50
2 percent mark without any other accounting safeguards,
3 that would result in a windfall to shareholders?

4 A. Correct. I don't believe that the 25th
5 percentile is the best gauge we have as the most
6 normal ongoing level of off-system sales to build
7 into the cost of service.

8 Q. Okay. Now, in your testimony, you did
9 recognize that Mr. Giles had proposed several other
10 safeguards, accounting and otherwise, that could be
11 used to address the upside risk as we've been talking
12 about this morning?

13 A. He throws out some possibilities.

14 Q. Okay. Now, if those safeguards were
15 imposed by the Commission as accounting safeguards to
16 account for that upward chance above the 25th
17 percentile to the 50 -- 50th percentile, you would
18 not have any objection then to the KCP&L proposal?

19 A. Well, in general, if there's a
20 symmetrical proposal out there, and there weren't
21 other caveats that went with it, I would be receptive
22 to looking at those possibilities, but I hate to
23 generalize and say I'm just okay with anything as
24 long as we take care of one problem.

25 Q. And I understand what you're saying is

1 that if those accounting safeguards are realistic and
2 achievable to deal with the space between the 25th
3 percentile point and the 50/50 point, all things
4 being equal, that's something that you would be
5 receptive to?

6 A. I would be receptive to, yes.

7 Q. Now, you have stated in your direct
8 testimony that you recognize that KCP&L's off-system
9 sales margins result from a volatile wholesale
10 electricity market?

11 A. I believe I've used the term volatile,
12 somewhat volatile.

13 Q. Okay. And in terms of the NorthBridge
14 forecast model, the analysis that Mr. Schnitzer has
15 put forward, you did not contest or disagree with his
16 model; is that correct?

17 A. What I said was without fully endorsing
18 all of his calculations and understanding all of his
19 assumptions, the model output that -- for the 50th
20 percentile seemed in the range of reasonableness.

21 Q. Okay. Now, do you, in the normal course
22 of your business, keep in touch with what's happening
23 in the wholesale electricity market?

24 A. I would say it's case-specific and
25 region-specific depending on what I'm working on at a

1 given time, but if your answer (sic) is do I just
2 always look -- read the "Wall Street Journal" or the
3 trade journals to see what's happening in the
4 different regions, no. But if I'm involved in a case
5 such as this, I may try and read up a little bit more
6 about that particular area.

7 Q. Would you agree with me that the
8 wholesale price of electricity is generally driven by
9 the price of natural gas?

10 A. I think the answer to that, based on my
11 experience, is it depends upon the region. In the
12 Southwest, I think it's more hours out of the year
13 that's driven by gas. It is clearly affected by gas
14 in the Midwest but to a slightly lesser degree than
15 in the Southwest.

16 Q. In the Midwest is there any other factor
17 that contributes more to the spot electricity market
18 than the price of natural gas?

19 A. Well, the whole balance of supply and
20 demand, I mean, contributes. I mean, if you're in
21 the off-peak winter months during the evenings, then
22 you would be driven closer to a coal-fired generation
23 price. I don't know if it's more or less, but I'm
24 just saying there are other things besides strictly
25 the price of gas.

1 Q. Right. And what I'm saying is -- and
2 let's just take the summer months. During the summer
3 months, is there any other factor that influences the
4 price of electricity more than the price of natural
5 gas?

6 A. The only -- I'm not trying to quibble
7 with you, but if you have a unit outage or a number
8 of unit outages, that could be as comparable as the
9 price of gas.

10 Q. All right. But generally speaking, if
11 we're not going to deal with, you know, like a
12 hurricane or an unforeseen unit outage, natural gas
13 is the most significant factor that affects the spot
14 price of electricity on the wholesale market?

15 A. The way you're posing the question, I'd
16 have to agree with you.

17 Q. Okay. That's what I'm trying to do with
18 you, Mr. Dittmer, I want you to agree with me.

19 A. I think the other issues I raised about
20 the outages are very important too. If you made me
21 carve that out of the equation, then probably gas --
22 natural gas is by far the biggest factor.

23 Q. Okay. Thank you. And that's really
24 what I was driving at. Did you have a chance to look
25 at Mr. Schnitzer's surrebuttal testimony?

1 A. I know I've read it, yes.

2 Q. On -- do you have it before you?

3 A. I do -- no, I do not.

4 Q. Okay.

5 A. I have it in the back of the room, but

6 I...

7 MR. ZOBRIST: May I approach, your

8 Honor?

9 JUDGE PRIDGIN: You may.

10 BY MR. ZOBRIST:

11 Q. Mr. Dittmer, I've handed you, courtesy

12 from Mr. Dottheim, what is, I believe, Michael

13 Schnitzer's surrebuttal testimony; is that correct?

14 A. I believe that's correct.

15 Q. Could you turn to page 5, please. And

16 directing your attention to line 21, the sentence

17 that begins, "This coincidental result can be seen in

18 his schedule," and it goes on to quote the sales

19 price increase in KCP&L from 2004 to 2005. Do you

20 see that, sir?

21 A. I do.

22 Q. Okay. Do you disagree with those

23 statistics there?

24 A. No, I have no -- I didn't independently

25 derive those, but I have no reason to disagree with

1 them.

2 Q. Okay. And so you don't generally
3 dispute the fact that in Kansas City Power & Light's
4 off-system sales for 2004, the price increase from a
5 little over \$30 per megawatt hour to \$47, almost \$48
6 per megawatt hour in 2005, rises about 55 percent?

7 A. No.

8 Q. Okay. And similarly, you don't quarrel
9 or disagree with his statement that goes on to the
10 top of page 6 that, at the same time, the amount of
11 off-system sales decreased from roughly over five
12 million megawatt hours in 2004 to just slightly over
13 3,000 megawatt hours in 2005, correct?

14 A. I don't disagree.

15 Q. And that's about a decrease of
16 41 percent, correct?

17 A. Correct.

18 Q. And is that one of the reasons why you
19 characterized the wholesale electricity market as
20 being volatile?

21 A. Yeah, it's somewhat volatile. Been a
22 nice upward trend, but it is somewhat volatile.

23 Q. And would you agree with me that given
24 the volatility of this market, you can't always
25 predict what's gonna happen in 2007 by virtue of

1 what's happening today or what's happened in the past
2 couple years?

3 A. Well, you've already established or
4 attempted to establish there's a correlation between
5 natural gas prices and off-system energy prices, and
6 we do have future prices for natural gas. So I mean,
7 yeah, we're not -- like Mr. Giles said, we're not
8 gonna hit it on the head, but we do have a lot of
9 important input items that are -- that we can look at
10 today and use to look at the most likely level,
11 including the latest 12 months ending. I mean,
12 that's an important statistic also.

13 Q. And Mr. Dittmer, in that regard did you
14 happen to look at Mr. Schnitzer's work papers that
15 were attached to his surrebuttal testimony? And I
16 believe we do have copies of those if you haven't had
17 a chance to look at those. It was entitled,
18 "Illustration of Recent Henry Hub Forward Price
19 Movements."

20 A. Is that Figure 2?

21 Q. No. Actually, this was attached to his
22 work papers and produced to all parties, I believe,
23 just subsequent to the filing of the surrebuttal.

24 A. If I looked at those, I'm not
25 remembering them at the moment.

1 MR. ZOBRIST: Let me just -- and I've
2 got copies here for the Commission.

3 Let me just have you mark these and ask
4 you if you're familiar with it. I think this is
5 Exhibit 50.

6 (EXHIBIT NO. 50 WAS MARKED FOR
7 IDENTIFICATION BY THE COURT REPORTER.)
8 BY MR. ZOBRIST:

9 Q. Mr. Dittmer, I've handed you what's been
10 marked as Exhibit 50, and I'll represent to you that
11 this is produced with Mr. Schnitzer's work papers to
12 his surrebuttal. Does that look like something
13 you've had an opportunity to review prior to today?

14 A. Well, I may have had the opportunity,
15 but I don't think I've -- I don't think I've looked
16 at this prior to today.

17 Q. Okay. I know that the typeface is
18 small, but, for example, if you go to the bottom of
19 page 2 -- and let's just look at the January futures.
20 Does that generally square with your knowledge that
21 the price toward the end of September of 2006 dropped
22 to below \$8 and was trading in the high \$7 range,
23 from \$7.64, \$7.54, up to \$7.99?

24 A. Your question is, is the last line
25 consistent with what I believe the futures price is

1 as of --

2 Q. Right. I mean, is this -- does that
3 reflect your knowledge of what the spot market
4 price -- pardon me, what the forward price was for
5 January as of this September 2006?

6 A. Right. I pulled off the NYMEX futures
7 prices as posted on 10/16, and the prices on 9/29
8 shown on this exhibit you just handed out are --
9 appear to be somewhat lower than the prices I'm
10 showing as of 10/16/06.

11 Q. Okay. And is it your belief that the
12 prices went up slightly in October?

13 A. Well, they must have. I mean, I didn't
14 prepare this document, but I am -- I mean, I did pull
15 the -- if these -- if these numbers on the exhibit
16 are accurate, I know where I've gotten the futures
17 prices from. I believe those would be accurate.
18 Then logically it follows that they've risen some.

19 Q. Well, do you recall based upon your
20 review of the futures -- the forward price history
21 for January of '07, that those prices declined
22 substantially in September of '06?

23 A. Well, I will say this: I know that they
24 declined substantially between July 18th when I
25 looked at this issue and approximately the end of

1 September. And they're still below the July 18th,
2 you know, forecast.

3 Q. Okay. Fine. And that's really all I
4 wanted to establish. The second point that you made
5 in your testimony, as I understand it, is that the
6 KCPL proposal in this case to set off-system sales at
7 the 25 percent percentile (sic) is not permitted by
8 the stipulation; is that correct?

9 A. I believe it to be in violation of the
10 stipulation.

11 Q. Now, let me ask you this: If the
12 Commission were to set it at the 50th percentile,
13 would that violate the stipulation?

14 A. I don't believe so.

15 Q. Okay. So you don't have a problem
16 with the Commission utilizing the NorthBridge
17 forward-pricing analysis as long as they set it at
18 the 50/50 mark; is that correct?

19 A. Well, what I said at the time I wrote
20 the testimony, the number was very much in the range
21 of reasonableness of what I except based on past gas
22 prices, past sales and futures prices.

23 Q. Now, what if the Commission set it at
24 45 percentile, would that violate the stip in your
25 opinion?

1 A. Sure, just not as egregiously as the
2 25th percentile.

3 Q. Now, there's nothing in the stip that
4 talks about you can't use the risk analysis to set
5 the price of off-system sales on this rate case,
6 correct?

7 A. No, no.

8 Q. Okay. So this is the judgment that you
9 have come to to say that unless you set it at
10 midpoint, you're going to violate to some degree the
11 stipulation; is that correct?

12 A. Yeah. I would -- I accepted the
13 midpoint as the -- as a good surrogate for the normal
14 ongoing level, and so I'm really supposing on that --
15 on that figure that came out of the NorthBridge
16 study, which I think is reasonable.

17 Q. Okay. And similarly, there is nothing
18 in the stip that says that you have to set it -- if
19 you're gonna use a risk analysis, there's nothing
20 that says you have to set it at the 50th percentile,
21 correct?

22 A. Well, there's no language that talks
23 about a 50th percentile having to be used. But I
24 think the language, to me it indicates that we're
25 going to consider 100 percent of off-system sales

1 above the line as a credit to the cost of service,
2 and when you do that, you pick the most likely
3 ongoing normal level of off-system sales. And if
4 you're gonna stick with the NorthBridge study as the
5 basis, then you would go to the 50th percentile.

6 If you use some other basis, like the
7 Staff saying, well, we think the 2005 test year is
8 ongoing normal, that's -- you know, it's still the
9 concept of picking the most normal ongoing price that
10 you can.

11 But as soon as you deviate from the 50th
12 percentile, assuming you're proceeding with the
13 NorthBridge study, then I'd say, yeah, you have
14 violated the intent of the Stipulation and Agreement
15 because you're knowingly using some number than the
16 best ongoing level.

17 JUDGE PRIDGIN: And Mr. Dittmer -- I'm
18 sorry to interrupt, Mr. Zobrist. That was -- if I
19 could try to encourage you to not launch into
20 narratives. I think the question was "Correct?" And
21 that really calls for a yes or no answer. And so if
22 you could do your best to answer those yes or no
23 questions with a yes or no answer, I'd appreciate it.
24 Thank you.

25 THE WITNESS: Okay.

1 BY MR. ZOBRIST:

2 Q. Is it true that there is nothing in the
3 stipulation that mandates that this Commission set
4 off-system sales at a particular point if it uses a
5 risk analysis?

6 A. That's correct.

7 Q. And you have opted in favor of using the
8 risk analysis and setting the point at the 50th
9 percentile as opposed to Staff's proposal which is to
10 use a historical basis coming from the year 2005,
11 correct?

12 A. Correct.

13 Q. Now, am I also correct that you agree
14 with Mr. Schnitzer that the use of a hedging
15 mechanism by KCP&L would probably not accomplish the
16 task at hand to determine where off-system sales
17 should be set?

18 A. I haven't really evaluated or challenged
19 him on that concept.

20 Q. Okay. All right. Okay. Would you
21 agree that the risk facing KCP&L as far as its retail
22 revenues are not the same as the risks of achieving
23 the 50/50 point on the off-system sales?

24 A. I'm trying to answer yes or no. You're
25 just asking, is there more volatility in the retail

1 sales -- or less volatility in the retail sales than
2 there is in the wholesale?

3 Q. That's correct.

4 A. I would agree with that.

5 Q. That there is less volatility as far as
6 retail sales versus wholesale sales?

7 A. That's correct.

8 Q. Okay. And you recognize that -- well,
9 do you recognize that KCP&L, among Missouri utilities,
10 relies for a more -- for a higher percentage of its
11 earnings related to off-system sales than other
12 utilities?

13 A. I'm -- I don't do -- I haven't done an
14 Aquila case for a couple of years, and even when I
15 did them, I wasn't necessarily looking at that issue.
16 But I would be of the belief that it would be
17 higher -- KCP&L would be higher than Aquila or
18 Empire, but I'm not certain how they compare to
19 Ameren UE, who I understand they do have a lot of
20 off-system sales, but where they compare to KCP&L,
21 I'm not certain.

22 Q. So you do recognize that KCPL derives a
23 greater portion of its revenues and earnings from
24 off-system sales than Aquila and Empire, but you're
25 just not sure about Ameren?

1 A. That would be my opinion, yes.

2 MR. ZOBRIST: Okay. No further
3 questions, Judge.

4 JUDGE PRIDGIN: All right. Thank you.

5 MR. ZOBRIST: I think we're gonna move
6 to ice storm.

7 JUDGE PRIDGIN: Okay, Mr. Zobrist.

8 MR. ZOBRIST: However you want to do it.
9 We could --

10 JUDGE PRIDGIN: I understand it was
11 counsel's preference to have Mr. Dittmer up just the
12 one time to do ice storm costs as well; is that
13 correct?

14 MS. BOGART: Yes.

15 JUDGE PRIDGIN: Okay. So if there are
16 other counsel that have questions on ice storm.
17 Mr. Steiner, when you're ready.

18 CROSS-EXAMINATION BY MR. STEINER:

19 Q. Mr. Dittmer?

20 A. Yes.

21 Q. Page 22 of your direct testimony, you
22 mentioned earnings surveillance reports.

23 A. Yes.

24 Q. During those years you mentioned, were
25 you aware -- are you aware of any Staff or Commission

1 action to reduce KCPL's rates because of
2 overearnings?

3 A. I don't believe there were any rate
4 reductions during this time frame. I think there
5 were some investigations during part of that time
6 frame.

7 Q. The AAO that we're talking about here,
8 that authorized KCPL to defer ice storm costs until
9 the end of January 2007; is that correct?

10 A. The amortization ends in January of
11 2007.

12 Q. So a portion of that amortization
13 occurred during the test year in this case; is that
14 correct?

15 A. Sure, yes.

16 MR. STEINER: That's all the questions I
17 have.

18 JUDGE PRIDGIN: Okay. Thank you,
19 Mr. Steiner. Further cross?

20 MR. ZOBRIST: Judge, I was just gonna
21 move the admission of Exhibit 50.

22 MR. WOODSMALL: Objection, your Honor.
23 I don't believe there's been a proper foundation laid
24 for that. This witness testified that he does not
25 recall ever seeing it and could not attest to the

1 veracity of any of the data contained therein.

2 MR. ZOBRIST: Judge, I'll wait until
3 Mr. Schnitzer gets here.

4 JUDGE PRIDGIN: All right. I'll show
5 that withdrawn for now. Any other cross-examination?

6 (NO RESPONSE.)

7 JUDGE PRIDGIN: See if we have any
8 questions from the bench. Mr. Chairman?

9 CHAIRMAN DAVIS: No questions.

10 JUDGE PRIDGIN: Commissioner Murray?

11 QUESTIONS BY COMMISSIONER MURRAY:

12 Q. I just wanted to ask you a question
13 about the ice storm recovery. Are you -- is it your
14 position that there should be no recovery under the
15 AAO for the ice storm expense?

16 A. No. My position is it's been recovered
17 already, fully, completely.

18 Q. Okay. But -- and I think that's a
19 different way of stating what the company is seeking
20 here in terms of recovery.

21 A. Well, understand, they want a full
22 additional year's worth of amortization, and even if
23 you accepted that, you know, the rates are gonna go
24 into effect on January. They want one full year's
25 worth of amortization when there's only one month

1 left in the cycle in that original schedule.

2 COMMISSIONER MURRAY: Thank you.

3 JUDGE PRIDGIN: Commissioner Murray, thank
4 you. I don't have any questions. Any recross based
5 on bench questions? Mr. Dottheim, any quesitons?

6 MR. DOTTHEIM: Yeah, I had a question.

7 JUDGE PRIDGIN: Okay. Mr. Dottheim.

8 MR. DOTTHEIM: Yes.

9 RECROSS-EXAMINATION BY MR. DOTTHEIM:

10 Q. Mr. Dittmer, does KCPL budget off-system
11 sales margin in its normal budgeting process?

12 A. I believe they -- they do, yes.

13 Q. Were you provided data from KCPL that
14 provided KCPL's budgeted and actual off-system sales
15 margins for a historical period?

16 A. Yes, I have seen them. If fact, they're
17 in testimony.

18 Q. What has been KCP&L's history -- what
19 has been KCPL's history regarding its ability to
20 accurately forecast off-system sales margin?

21 A. I believe those amounts are in
22 Mr. Schnitzer's testimony, and I believe they
23 missed -- they've underestimated, at least in most
24 recent years, significantly.

25 Q. Mr. Dittmer, where is your recommended

1 level of off-system sales margins compared to the
2 other parties other than the company?

3 A. Well, I think that OPC and the
4 industrials and DOE are using the same midpoint
5 number, at least in direct testimony, unless they've
6 changed it somewhere along the line. In direct
7 testimony we were all on the same -- same page so to
8 speak. And those three parties are quite a few
9 million above the ongoing level margin that Staff has
10 put in their case which is based on 2005 actuals.

11 MR. DOTTHEIM: Thank you, Mr. Dittmer.

12 JUDGE PRIDGIN: Thank you, Mr. Dottheim.
13 Further recross?

14 (NO RESPONSE.)

15 JUDGE PRIDGIN: Any redirect?

16 MS. BOGART: No.

17 JUDGE PRIDGIN: Is that the end of
18 Mr. Dittmer's testimony, I take it? That's all the
19 topics he's going to cover?

20 MS. BOGART: Yes.

21 JUDGE PRIDGIN: All right. Thank you,
22 Mr. Dittmer. Thank you very much. You may step
23 down.

24 MS. BOGART: I'd like to offer the
25 testimony of Mr. Dittmer into evidence.

1 JUDGE PRIDGIN: Let me find that exhibit
2 number.

3 MS. BOGART: Exhibit Nos. 803, 804 and
4 805, which would be the direct, rebuttal and
5 surrebuttal, both highly confidential and public.

6 JUDGE PRIDGIN: Okay. Exhibits 803, 804
7 and 805, and do I understand correctly, Ms. Bogart,
8 that 804 and 805 are both NP and HC, and that 803 is
9 public only; is that correct? They're all NP and HC?

10 MS. BOGART: Yes, all three.

11 JUDGE PRIDGIN: Okay. Thank you. Thank
12 you very much. All right. 803, 804 and 805 have
13 been offered. Any objections?

14 (NO RESPONSE.)

15 JUDGE PRIDGIN: Hearing none, 803, 804
16 and 805, all of which are NP and HC, are admitted
17 into evidence.

18 (EXHIBIT NOS. 803 NP AND HC, 804 NP AND
19 HC, AND 805 NP AND HC WERE RECEIVED INTO EVIDENCE AND
20 MADE A PART OF THE RECORD.)

21 JUDGE PRIDGIN: Anything further before
22 we go on to -- actually, the next witness would be
23 Mr. Kind from Public Counsel's Office.

24 Okay. Mr. Kind, if you'll come forward,
25 sir. Mr. Mills, anything to clean up before he's

1 tendered for cross?

2 MR. MILLS: No. He's ready to go.

3 JUDGE PRIDGIN: All right. Thank you.

4 Any counsel wish cross of Mr. Kind on off-system
5 sales?

6 MR. ZOBRIST: Kansas City Power & Light
7 Company requests it.

8 JUDGE PRIDGIN: KCPL. Any other
9 parties?

10 (NO RESPONSE.)

11 JUDGE PRIDGIN: Mr. Zobrist, when you're
12 ready, sir.

13 CROSS-EXAMINATION BY MR. ZOBRIST:

14 Q. Mr. Kind, in your disagreement with
15 Mr. Giles' recommendation to select the 25th
16 percentile of the range of off-system sales in your
17 rebuttal at page 3, you talked about normalization;
18 do you recall that, sir?

19 A. Yes. I'm turning to that right now.
20 I'm there.

21 Q. And am I correct that the word
22 "normalization" is not used in the stipulation, is
23 it?

24 A. I really don't know. I haven't done a
25 word search for it.

1 Q. Well, I'm talking specifically about the
2 provisions related to off-system sales that's
3 contained in Exhibit 148, page 2, and it's actually
4 section III.B.1.j. of the stipulation. And my
5 question is, isn't it true that within that
6 paragraph, I believe it's three sentences, there is
7 no use of the word "normalization" in those three
8 sentences?

9 A. I don't see it explicitly stated there.

10 Q. And would you agree with me that the
11 concept of normalization is also not expressed in
12 those three sentences?

13 A. No, I couldn't agree with that.

14 Q. All right. Normalization of off-system
15 sales is not required by the stipulation, though,
16 correct?

17 A. With the way I interpret the
18 stipulation, it is.

19 Q. Okay. But again, normal -- the word
20 "normalization" is not set forth in those three
21 sentences requiring the parties or the company to
22 only produce a proposal to the Commission through the
23 use of a normalization of off-system sales?

24 A. My answer is unchanged.

25 Q. Okay. You've got an interpretation that

1 disagrees with the position of the company, correct?

2 A. That's correct.

3 Q. Okay. Now, am I correct that Public
4 Counsel, and I believe it's through Public Counsel's
5 witness, Ralph Smith as well as Mr. Dittmer, believes
6 that the risk analysis should be set at the 50th
7 percentile, correct?

8 A. That's what our witness, Ralph Smith,
9 has testified to.

10 Q. Okay. And you agreed with that?

11 A. I -- I'm not the main witness on what
12 the level actually should be, but I, you know, was
13 involved in working with Mr. Smith on his testimony
14 and didn't, you know, argue against him using that
15 figure.

16 Q. Okay. You didn't offer any testimony to
17 disagree with Mr. Smith, correct?

18 A. Certainly not.

19 Q. Okay. And you would not oppose the
20 Commission's using a risk analysis in order to set
21 off-system sales?

22 A. I think, you know, all I can do is say,
23 you know, as I stated, I think in my surrebuttal
24 testimony on page 11, that as recommended by OPC's
25 witness Ralph Smith in this case, we -- OPC's

1 position is that the Commission should determine it
2 to be this certain level of sales that's associated
3 with the 50 percentile of Mr. Schnitzer's analysis.

4 Q. Okay. So the position of Office of
5 Public Counsel is you can use this risk analysis, but
6 you get to set it at the 50th percentile mark,
7 correct?

8 A. That was based on, you know, of course
9 our review of the risk analysis and the results that
10 it was yielding in the direct and rebuttal testimony
11 of KCPL in this case.

12 We weren't really so much endorsing the
13 methodology as saying that that's, you know, similar
14 to what Mr. Dittmer stated, I think, in response to a
15 previous question, that the methodology seems to come
16 up with figures that are within the range of
17 reasonableness.

18 Q. Okay. What is the range of
19 reasonableness in your view apart from right on the
20 nose of the 50th percentile?

21 A. Well, the range of reasonableness is --
22 I guess I don't know if you're asking what specific
23 dollar value or what would be my approach to
24 determining what range of reasonableness would be.

25 Q. I'm talking about percentile points.

1 For example, would a 45, 55 range, would that be
2 within the zone of reasonableness in your view?

3 A. That's not what I was referring to as a
4 zone of range of reasonableness.

5 Q. Well, that's what I'm referring to in my
6 question. So my question is, do you have an opinion
7 as to what the zone of reasonableness is as far as
8 the percentile points?

9 A. I -- no, I don't believe I do.

10 Q. Okay. Would you agree that the risks in
11 the retail revenue aspect of KCPL's revenues and
12 earnings are greater or less -- I think I just asked
13 an "isn't that true." I'll go ahead and rephrase
14 that.

15 Do you believe that the risks in the
16 retail market are greater than those in the wholesale
17 market for this company?

18 A. Well, I -- I submitted several pages of
19 post surrebuttal testimony that addressed that
20 question, and I think you'll --

21 Q. Well, I'm --

22 A. So that -- I -- I don't know if you had
23 a specific question about that. That would be my
24 answer at this time, is to sort of read those several
25 pages. It's not just a yes or no answer, I don't

1 think.

2 Q. Well, I think it is. What I'm saying
3 is, would you agree that there are greater risks in
4 the wholesale market than in the retail market for
5 this company?

6 A. Oh, I can't agree with that, no.

7 Q. Okay. So the risks in the retail
8 market, if retail rates -- there are more risks posed
9 in the retail revenue than there are in the wholesale
10 revenue?

11 A. There are significant risks on both
12 sides, and I haven't done a specific analysis in
13 order to say which ones I think outweigh the others
14 on an ongoing basis.

15 Q. Okay. So you don't have an opinion
16 which risks are greater facing the company, risks
17 from the off-system wholesale market versus risks in
18 its retail revenue?

19 A. Well --

20 Q. I think that's a yes or no. Do you have
21 an opinion or do you not?

22 JUDGE PRIDGIN: And I agree.

23 THE WITNESS: I don't think I expressed
24 an opinion on that in my -- in my surrebuttal
25 testimony, and I'm not prepared to -- to go any

1 further than that at this time.

2 BY MR. ZOBRIST:

3 Q. Okay. And that's fine. Do you, in the
4 course of your economic analysis of companies, look
5 at FERC Form 1's?

6 A. Sometimes. You know, usually if it's
7 pertinent to a particular case that's going on at the
8 Commission.

9 Q. Now, looking at the four utility
10 companies, KCPL, Empire, Aquila and Ameren, would you
11 agree that KCPL derives a greater source of its
12 revenue from the off-system sales than the other
13 companies?

14 A. In terms of on a historical basis, I
15 haven't really performed that analysis.

16 Q. Okay.

17 A. I did express an opinion on that in my
18 testimony, but it was more just from my general review
19 of the issue than just a new review for Form 1's.

20 Q. So you're not familiar with the FERC
21 Form 1 statistics, correct, as related to off-system
22 sales by the four Missouri electric utilities?

23 A. I have not reviewed them recently enough
24 to be able to express an opinion.

25 Q. So as you're sitting here today, you

1 really don't know whether KCPL derives more or less
2 revenue from off-system sales than these other three
3 companies?

4 A. Well, no. I couldn't -- I do have a
5 general idea. I mean, for instance, I know that they
6 derive more than Aquila or Empire does. And then I
7 also have an opinion about what their off-system
8 sales level is relative to Ameren as well.

9 Q. All right. So you agree that KCPL
10 derives more of its revenue from off-system sales
11 than Aquila and Empire; is that correct?

12 A. That's correct.

13 Q. And do you have that same opinion as far
14 as Ameren?

15 A. Well, as far as Ameren goes, I feel that
16 you need to look at some substantial changes that
17 have taken place in their operations in just the last
18 year in order to make an accurate assessment of that.
19 And I could go over those changes and how they would
20 influence the level of sales --

21 Q. I don't want the changes. I just want to
22 know, do you know if Ameren UE derives a greater
23 percentage of its revenue from off-system sales than
24 KCPL?

25 A. Well, I guess we'd have to define

1 off-system sales. Do we want to include the energy
2 transfers that have taken place at Ameren pursuant to
3 the JDA?

4 Q. Well, let's take it before the JDA, which
5 stands for joint dispatch agreement; is that correct?

6 A. That's correct, yes.

7 Q. Okay. But before these changes, did
8 Ameren UE derive, the Missouri electric utility, did
9 it derive more or less of its revenues from the
10 off-system sales market?

11 A. Again, I haven't done the historical
12 analysis there.

13 Q. Okay. Okay. Now, in your rebuttal and
14 surrebuttal testimony, am I correct that you also did
15 not propose any kind of a hedging strategy for the
16 company to employ to manage its off-system sales?

17 A. My testimony just dealt with responding
18 to proposals that have been made by KCPL.

19 MR. ZOBRIST: Okay. All right. That's
20 all I have, Judge.

21 JUDGE PRIDGIN: Mr. Zobrist, thank you.
22 Further cross?

23 (NO RESPONSE.)

24 JUDGE PRIDGIN: All right. Do we have
25 any questions from the bench? Commissioner Murray?

1 COMMISSIONER MURRAY: I don't have any.

2 Thank you.

3 JUDGE PRIDGIN: All right. Thank you.

4 No questions. Any redirect?

5 MR. MILLS: Yes.

6 JUDGE PRIDGIN: Mr. Mills?

7 REDIRECT EXAMINATION BY MR. MILLS:

8 Q. Mr. Kind, Mr. Zobrist repeatedly asked
9 you about the relative amount of off-system sales
10 revenues between KCPL and Ameren UE. Can you tell
11 me, in your opinion was the number that Mr. Giles
12 gave for the level of off-system sales for Ameren UE
13 significantly understated?

14 A. Well, I believe it's significantly
15 understated in terms of what you would expect to see
16 from Ameren UE on a going-forward basis.

17 Q. In large part because of the doing away
18 of the JDA, correct?

19 A. Yes. Because doing away with the JDA,
20 Ameren UE was making sales to its affiliates of --
21 well, for example, in 2005 they made sales totaling
22 \$230 million to their affiliates pursuant to the JDA.
23 And of course, those \$230 million in sales were
24 priced at incremental costs instead of market value,
25 and, you know, as the JDA goes away, Ameren UE will

1 be able to make similar sales at market price instead
2 of at incremental costs.

3 So one would expect, everything else
4 staying equal, that the \$230 million in sales that
5 were being made to their affiliates would have a much
6 higher value when they're being made into the
7 wholesale market.

8 MR. MILLS: Thank you. That's all the
9 questions I have.

10 JUDGE PRIDGIN: Thank you. And
11 Mr. Kind, thank you very much. And Mr. Brubaker,
12 then, is the only witness remaining on off-system
13 sales; is that correct?

14 MR. WOODSMALL: Correct, your Honor.

15 JUDGE PRIDGIN: Okay. All right. If
16 that's the last witness on off-system sales, will
17 counsel be ready for cost of capital this afternoon?

18 MR. MILLS: I think it depends on which
19 witnesses we're talking about.

20 JUDGE PRIDGIN: And obviously, I'll try
21 to be flexible. There are quite a few KCPL witnesses
22 on that as well as a couple from Staff.

23 MR. RIGGINS: Your Honor, we have in
24 terms of the KCPL witnesses -- and I think I may have
25 indicated this earlier today -- that Chris Giles and

1 Michael Cline are both here and available today to
2 testify on cost of capital.

3 JUDGE PRIDGIN: Okay.

4 MR. RIGGINS: Mr. Hadaway will be here
5 tomorrow.

6 JUDGE PRIDGIN: All right. Very good.
7 Mr. Giles and Mr. Cline, correct?

8 MR. RIGGINS: That's correct.

9 JUDGE PRIDGIN: All right. Thank you.
10 Okay. Mr. Brubaker, you're still under oath. Any
11 counsel wish cross?

12 MR. RIGGINS: KCPL does, your Honor.

13 JUDGE PRIDGIN: Mr. Riggins, thank you.
14 Other parties?

15 (NO RESPONSE.)

16 JUDGE PRIDGIN: Okay. Mr. Riggins, when
17 you're ready, sir.

18 CROSS-EXAMINATION BY MR. RIGGINS:

19 Q. Mr. Brubaker, I'm Bill Riggins from
20 Kansas City Power & Light. I have a few questions
21 for you about off-system sales. I'm going to try to
22 ask these questions in such a way that we don't need
23 to go in-camera, but if you feel like you can't
24 answer my question without getting into a highly
25 confidential number, I'd appreciate it if you'd just

1 tell me that and we'll work around it that way; is
2 that all right?

3 A. Sure.

4 Q. Okay. Thank you. Your proposal on
5 off-system sales, as I understand it, is that the
6 off-system sales margin built into the company's
7 rates in this case should be set at a level that KCPL
8 estimates it has a 25 percent chance of achieving and
9 a 75 percent chance of not achieving; is that
10 correct?

11 A. No, that's not correct.

12 Q. What level are you proposing they be set
13 at?

14 A. My proposal is in the range of the 2005
15 actual to the best estimates for 2006/2007 that have
16 been presented in this case.

17 Q. And again, if you can, without revealing
18 the specific number, where does that number fall in
19 the continuum that is discussed in Mr. Schnitzer's
20 analysis in terms of the 25 percent, the 50 percent
21 and the 75 percent probabilities?

22 A. It's centered around the midpoint, the
23 50 -- what we've termed the 50/50 number on that
24 probability distribution.

25 Q. Would you turn to page 10 of your

1 testimony, please. Are you there?

2 A. I am.

3 Q. And on that page at line 11, there's a
4 confidential number. Is that the number that you're
5 referring to?

6 A. No.

7 Q. Okay. Is -- what number are you
8 referring to in terms of your recommendation?

9 A. Without repeating a confidential number,
10 if we turn back to page 6 of the HC version, my
11 recommendation would center around the range between
12 the number on line 10 and the number on line 16.

13 Q. Okay. Well, thank you for clarifying
14 that for me, because I apparently was confused about
15 your testimony. So your recommendation is that the
16 amount to be included in KCPL's rates in this case is
17 somewhere in between that number on line 10 and the
18 number on line 16 of page 6?

19 A. Correct.

20 Q. And that would be around the 50 percent
21 probability figure, as you testified, in
22 Mr. Schnitzer's analysis?

23 A. If you looked at Mr. Schnitzer analysis,
24 the number that he finds at the 50 percent level is
25 pretty much around those -- or within the boundaries

1 of those two numbers.

2 Q. Okay. That's helpful. I appreciate you
3 clarifying that. And so with that, let me rephrase
4 my initial question. Your proposal is to include a
5 number in KCPL's cost of service for off-system sales
6 margins that, based upon Mr. Schnitzer's analysis,
7 there's approximately a 50/50 chance that KCPL will
8 or will not achieve -- actually achieve that level of
9 sales margins; is that correct?

10 A. Well, let me clarify the answer in this
11 respect: I don't base my recommendation on
12 Mr. Schnitzer's analysis. Mr. Schnitzer's analysis
13 happens to correspond to the company's budgeted
14 numbers for 2007 which they described as a 50/50
15 estimate.

16 Q. Okay. So the answer is yes?

17 A. Well, with that clarification, yes.

18 Q. Okay. Thank you. So to the extent that
19 the -- let's just say, for example, if the Commission
20 was to adopt a number in that range, would you agree
21 with -- I think it was the testimony of Mr. Giles
22 earlier that to the extent that the company's
23 off-system sales margins were to exceed that number,
24 all other things being equal, that that would have a
25 positive impact on the company's earnings and a

1 positive impact on the company's revenue?

2 A. Yes.

3 Q. And conversely, to the extent that KCPL
4 did not actually achieve those margins, it would mean
5 that KCPL would receive less revenue and less
6 earnings, all things being equal?

7 A. That would be correct.

8 Q. And KCPL, all things being equal, would
9 not have that cash during that period of time to use
10 for construction projects or other expenditures; is
11 that correct?

12 A. Sure.

13 Q. Okay. Thank you. Would you agree that
14 the -- would you agree that it's more difficult to
15 accurately predict the appropriate level of
16 off-system sales margins to include in KCPL's revenue
17 requirement than it is to accurately predict the
18 level of regulated retail sales in KCPL's revenue
19 requirement?

20 A. I would.

21 Q. You're familiar with what's happened --
22 excuse me. You're familiar with what's happened to
23 wholesale market prices over the past couple of
24 months?

25 A. Generally, yes.

1 Q. And they've come down?

2 A. They've come down.

3 Q. And is that driven, at least in part, by
4 the falling price of natural gas?

5 A. In part.

6 Q. Okay. What are some of the factors
7 besides gas prices that might make it hard to predict
8 accurately the amount of margins that KCPL might
9 actually be able to experience in terms of wholesale
10 sales?

11 A. One unknown would be the performance of
12 generating units on KCPL's system and on the systems
13 of interconnected utilities who might be purchasers
14 or sellers in the market.

15 Q. So an extended outage, for example, at a
16 KCPL unit could certainly have an impact on KCPL's
17 available energy and capacity of selling to the
18 market, correct?

19 A. Correct.

20 Q. And what you're saying is that if there
21 were enough outages in the neighborhood, so to speak,
22 that that could also have an impact on prices?

23 A. In the opposite direction, yes.

24 Q. Yes.

25 A. It would make it more likely that KCPL

1 would sell more than its estimate.

2 Q. What about weather, does that have an
3 impact?

4 A. Yes.

5 Q. Okay. Just a couple more questions,
6 Mr. Brubaker. Turn to page 9 of your testimony,
7 direct testimony.

8 A. Okay.

9 Q. Excuse me. You make the statement there
10 beginning at page -- or excuse me, beginning at
11 line 13, that, "KCPL has not initiated construction
12 of the Iatan unit, so the need for capital has not
13 yet risen to the level that prompted the development
14 of the Regulatory Plan." When did you prepare your
15 testimony, this testimony, more or less?

16 A. It would have been in August.

17 Q. Okay. Are you aware whether KCPL has
18 started construction of the Iatan unit since that
19 time?

20 A. I don't believe they have, at least not
21 in any significant way. I understand they're still
22 in the negotiation process with major vendors.

23 Q. Well, were you here when Mr. Downey
24 testified on the first day of the hearing? I think
25 it was in response to a question from Commissioner

1 Applying about a status report for the different KCPL
2 projects contemplated by the strategic plan?

3 A. I was not.

4 Q. Okay. If he testified that the
5 construction of Iatan had actually begun, would you
6 have any reason to disagree with him on that point?

7 A. No.

8 Q. Okay. Did you, in terms of discovery in
9 this case, request copies of construction or capital
10 budgets for '06 or '07 or any future years for the
11 projects contemplated by the Regulatory Plan?

12 A. I don't believe I asked any discovery.
13 I have seen information in discovery in this case and
14 in the Regulatory Plan case.

15 Q. So you're not aware at this point, for
16 example, how much KCPL has actually spent to date on
17 Iatan 2 or for the La Cygne selective catalytic
18 reduction system?

19 A. No.

20 Q. Okay. Finally, page 11 of your
21 testimony, direct testimony, lines 12 to 15, you
22 state that the regular -- "The parties to the
23 Regulatory Plan crafted assurances of cash flow which
24 would fairly balance the interests of shareholders
25 and ratepayers. [Those] assurances of increased cash

1 flow would take the form of regulatory
2 amortizations." Do you see that?

3 A. Yes.

4 Q. Is it your testimony that the regulatory
5 amortizations were directed to address the interests
6 of shareholders as opposed to creditors?

7 A. Oh, no, I didn't mean to draw it that
8 tightly.

9 Q. Okay.

10 A. Some would say suppliers of capital as
11 well as customers --

12 Q. Okay.

13 A. -- maybe is more -- more accurate.

14 Q. All right. So you would agree that the
15 shareholders who -- let me rephrase that. You would
16 agree that the company is raising capital for these
17 programs, both through the issuance of equity and the
18 issuance of debt?

19 A. Correct. But in terms of impact, if
20 there's failure to maintain the quality rating, the
21 shareholders will suffer more than the bondholders.

22 Q. The shareholders expect earnings as
23 well, do they not?

24 A. Every investor expects earnings.

25 MR. RIGGINS: Okay. I think that's all

1 I have. Thank you, Mr. Brubaker.

2 JUDGE PRIDGIN: Mr. Riggins, thank you.

3 Further cross?

4 (NO RESPONSE.)

5 JUDGE PRIDGIN: Questions from the
6 bench? Mr. Chairman?

7 CHAIRMAN DAVIS: No questions, your
8 Honor.

9 JUDGE PRIDGIN: Commissioner Murray?

10 COMMISSIONER MURRAY: No questions.

11 JUDGE PRIDGIN: I don't have any
12 questions. Redirect?

13 MR. WOODSMALL: Yes, very briefly.

14 REDIRECT EXAMINATION BY MR. WOODSMALL:

15 Q. Working backwards, you were asked the
16 question regarding page 9 of your direct testimony,
17 specifically line 13, regarding your statement KCP&L
18 has not initiated construction of the Iatan unit.
19 And you were asked whether you had done any discovery
20 relative to that point. You indicated no.

21 Can you tell me what is your basis for
22 making the statement that KCP&L had not initiated
23 construction as of August of 2006?

24 A. Yeah. It was my belief that the company
25 was still in the process of negotiating the major

1 equipment orders with its potential vendors and had
2 not really -- certainly not engaged in a full-scale
3 construction effort. I don't dispute Mr. Downey's
4 statement that some activity has taken place.

5 Q. And have you been a participant in the
6 collaborative process in which that information has
7 been shared with various parties by KCP&L?

8 A. I have.

9 Q. Finally, I think one of Mr. Riggins'
10 first questions had to do with some question about
11 what your position is regarding the level of
12 off-system sales, and you had mentioned in your
13 testimony the 75th percentile figure; that is, that
14 level on the Schnitzer's curve at which the company
15 has a 25 percent probability and the ratepayers have
16 a 75 percent probability of reaching. Do you recall
17 that question?

18 A. I do.

19 Q. And can you tell me what was the purpose
20 in your testimony of referencing the 75th percentile?

21 A. The purpose was simply to look at the
22 issue from the perspective of the customer. The
23 company had looked at it from the perspective of the
24 company and the shareholder of trying to be
25 75 percent sure that they would pick a number that

1 they could exceed. And I just simply said, if you're
2 going to depart from the best estimate, you need to
3 understand what you're doing and if those same
4 statistics and concerns apply from the point of view
5 of the customer.

6 So make it a balanced consideration and
7 realize that there are tradeoffs both directions.
8 You can go one direction, as the company proposed,
9 and create advantages for the shareholder, or you can
10 go the other direction and create advantages for the
11 customer.

12 So I maintain that the best place to be
13 is in the middle with the best estimate of what the
14 numbers are. So I just wanted to give the
15 perspective there as to what that probability
16 distribution really meant to the customer.

17 MR. WOODSMALL: No further questions.
18 Thank you, sir.

19 JUDGE PRIDGIN: All right. Thank you.
20 Mr. Brubaker, you may step down, sir. Thank you very
21 much.

22 THE WITNESS: Thank you.

23 JUDGE PRIDGIN: Do I understand that we
24 will have --

25 MR. WOODSMALL: Oh, your Honor --

1 JUDGE PRIDGIN: Oh, I'm sorry.

2 Mr. Woodsmall?

3 MR. WOODSMALL: Your Honor, at this time
4 I'd like to offer into evidence Exhibit 601, 602,
5 603, 604 and 605.

6 JUDGE PRIDGIN: Okay. And I'm showing
7 601 and 602 are both NP and HC, and that the
8 remainder are public only; is that correct?

9 MR. WOODSMALL: You're correct, your
10 Honor.

11 JUDGE PRIDGIN: Thank you. Any
12 objections?

13 (NO RESPONSE.)

14 JUDGE PRIDGIN: Okay.

15 MR. MILLS: And your Honor, before we
16 leave this topic, I don't believe that I have offered
17 Exhibits 204 and 205, the testimony of Mr. Kind.
18 Mr. Kind is also through testifying in this matter,
19 and I would like to offer his testimony. Both of
20 those exhibits are both NP versions and HC versions.

21 JUDGE PRIDGIN: Okay. Any objections?

22 (NO RESPONSE.)

23 JUDGE PRIDGIN: All right. Hearing no
24 objections, Exhibits 204 and 205, both NP and HC, are
25 admitted. Exhibits 601, 602, both NP and HC, and

1 603, 604, 605 are public only, are admitted into
2 evidence.

3 MR. WOODSMALL: Thank you, your Honor.

4 JUDGE PRIDGIN: You're welcome.

5 (EXHIBIT NOS. 204 AND 205, NP AND HC, 601
6 AND 602, NP AND HC, AND EXHIBITS 603, 604 AND 605 WERE
7 RECEIVED INTO EVIDENCE AND MADE A PART OF THE RECORD.)

8 JUDGE PRIDGIN: Do I understand --
9 Mr. Giles has retaken the stand. We're ready to
10 proceed with cross-examination of him on cost of
11 capital?

12 MR. ZOBRIST: That's correct, your
13 Honor.

14 MR. DOTTHEIM: Judge, I --

15 JUDGE PRIDGIN: Mr. Dottheim?

16 MR. DOTTHEIM: Judge, I need to get
17 Mr. Thompson. I'm sorry.

18 JUDGE PRIDGIN: That's quite all right.

19 MR. DOTTHEIM: He's not in the room.

20 JUDGE PRIDGIN: That's quite all right.

21 This may -- this may be a convenient time for a
22 break, so you can do that without hurrying. So let's
23 go off the record and take about a ten-minute break.

24 (A RECESS WAS TAKEN.)

25 JUDGE PRIDGIN: All right. We're back

1 on the record, and Mr. Giles is back on the stand and
2 I understand will be cross-examined on cost of
3 capital, and that KCPL also has Mr. Camfield
4 available for cross on cost of capital today; is that
5 correct?

6 MR. ZOBRIST: No. Just Mr. Cline.

7 JUDGE PRIDGIN: Or excuse me.

8 Mr. Cline. Excuse me. So Mr. Giles and Mr. Cline
9 are available this afternoon?

10 MR. ZOBRIST: That's correct.

11 JUDGE PRIDGIN: All right. Any other --
12 are those the only KCPL witnesses for cost of capital
13 that are ready today?

14 MR. ZOBRIST: That's correct.

15 JUDGE PRIDGIN: Okay. Mr. Thompson,
16 Staff witnesses. I see Mr. Barnes up there with you.
17 Would he be ready this afternoon?

18 MR. THOMPSON: Yes, he would, your
19 Honor.

20 JUDGE PRIDGIN: Very good. What about
21 Ms. Bernsen?

22 MR. THOMPSON: She would be ready this
23 afternoon.

24 MR. DOTTHEIM: Judge?

25 JUDGE PRIDGIN: Mr. Dottheim?

1 MR. DOTTHEIM: Mr. Cline also has some
2 testimony on additional amortization and we thought
3 that I would cross him. I do have some cross on
4 additional amortization, and I think that would
5 probably finish up any cross of him. So I think
6 after Mr. Giles, we'll then go to Mr. Cline and start
7 off with cost of capital, and then we'll do the
8 additional amortization.

9 JUDGE PRIDGIN: Okay. That's fine with
10 me. Mr. Mills?

11 MR. MILLS: I have questions also for
12 Mr. Cline on additional amortization, but I'm not
13 really ready to go at that point this afternoon.

14 JUDGE PRIDGIN: Okay. Well, will
15 Mr. Cline -- and granted, I may be working from the
16 wrong revised sheet, but will Mr. Cline -- I mean, is
17 this the last topic for Mr. Cline?

18 MR. ZOBRIST: Well, these cost of
19 capital topics were his last ones, your Honor.

20 JUDGE PRIDGIN: Well, we'll see where
21 the day goes. I mean, the cross-examination of
22 Mr. Giles and Mr. Cline that folks are ready to do
23 may take -- may take a while and we may be able to
24 accommodate Mr. Mills. And Mr. Mills, would you be
25 ready to go tomorrow for Mr. Cline, I assume?

1 MR. MILLS: Sure.

2 JUDGE PRIDGIN: Okay. All right.

3 Anything else before we go on to Mr. Giles?

4 (NO RESPONSE.)

5 JUDGE PRIDGIN: Okay. Counsel, ready to
6 proceed with Mr. Giles?

7 MR. THOMPSON: Yes, sir.

8 JUDGE PRIDGIN: All right. Any
9 housekeeping matters or cleanup on Mr. Giles before
10 he's tendered for cross?

11 MR. ZOBRIST: I don't believe so, but
12 let me just ask.

13 DIRECT EXAMINATION BY MR. ZOBRIST:

14 Q. Does the witness have any additional
15 corrections for rebuttal or surrebuttal testimony?

16 A. No.

17 MR. ZOBRIST: Okay. Tender the witness
18 for cross.

19 JUDGE PRIDGIN: Mr. Zobrist, thank you.
20 Mr. Thompson, you wish to cross?

21 MR. THOMPSON: Absolutely.

22 JUDGE PRIDGIN: Other counsel?

23 (NO RESPONSE.)

24 JUDGE PRIDGIN: Okay. Mr. Thompson,
25 when you're ready, sir.

1 CROSS-EXAMINATION BY MR. THOMPSON:

2 Q. Good afternoon, Mr. Giles. How are you?

3 A. Good.

4 Q. I wonder if you could briefly remind me
5 exactly what your testimony on cost of capital is?

6 A. My testimony relates to overall policy
7 regarding cost of capital, and in my direct
8 testimony, to a larger extent in both my rebuttal and
9 my surrebuttal, I point out the relationship between
10 return on equity, amortization and off-system sales
11 margins. So my testimony really relates to how the
12 three of those components interrelate.

13 Q. Okay. And is it your position,
14 Mr. Giles, that the Commission should give KCP&L a
15 higher ROE because the bottom may drop out of the
16 off-system sales market?

17 A. I wouldn't characterize it quite that
18 way.

19 Q. How would you characterize it?

20 A. I would characterize it as our proposal
21 is to have a risk recognition of that off-system
22 sales market.

23 Q. Okay. If I could stop you right there.
24 When you say "risk recognition," does that mean an
25 adder of some sort?

1 A. It potentially could be an adder, yes.

2 JUDGE PRIDGIN: Okay. I'm sorry to
3 interrupt, Mr. Thompson. Is your microphone on? I'm
4 sorry.

5 MR. THOMPSON: It is.

6 JUDGE PRIDGIN: Very good. Thank you.

7 MR. THOMPSON: I'll try to shout, Judge.

8 JUDGE PRIDGIN: Thank you.

9 BY MR. THOMPSON:

10 Q. So how big of an adder are you proposing
11 in recognition of this risk?

12 A. In my surrebuttal, I point out -- or it
13 might have been my rebuttal. It was one of the two,
14 probably my rebuttal -- that for each one million
15 dollars of off-system sales merger --

16 JUDGE PRIDGIN: We're not getting into
17 HC, are we?

18 THE WITNESS: No. I will do my best to
19 not go there. Let me put it this way: For each
20 million dollars of off-system sales margin, I have
21 recommended an adder to the ROE, and that adder is
22 set out in my testimony, in my surrebuttal testimony.

23 BY MR. THOMPSON:

24 Q. Is the amount of the adder highly
25 confidential?

1 A. It is marked as such in my testimony,
2 yes.

3 Q. What happens, Mr. Giles, if the market
4 for off-system sales does not go the way you
5 anticipate? What happens if, in fact, your sales are
6 stronger on a going-forward basis than they were in
7 the test year?

8 A. I know you weren't here earlier, but I
9 described this all in the off-system sales
10 cross-examination. But I'll be glad to go through
11 it --

12 Q. Just briefly.

13 A. Sure.

14 Q. Do you give the money back?

15 A. If the off-system sales are greater than
16 what is included in the revenue requirement of this
17 case, KCPL would earn a higher return of equity, all
18 other things being equal.

19 If the off-system sales margins are less
20 in 2007, then the revenue requirement in this case,
21 what's used to determine the revenue requirement in
22 this case, all other things being equal, the return
23 on equity would be less than authorized in this case.

24 Q. Are you willing to accept -- I don't
25 know what the opposite of an adder would be. A

1 subtracter? Are you willing to accept a subtracter
2 to recognize the reduction in risk based on the
3 regulatory additional amortizations?

4 A. The reduction in risk related to the
5 off-system sales market has nothing to do with the
6 amortization risk. The amortization was established
7 to ensure or at least provide some assurance to the
8 credit community that the company would have an
9 ability to meet its CreditMetrics™ and maintain its
10 credit ratio.

11 Q. That would be a no; is that correct,
12 Mr. Giles?

13 A. Well, please ask your question again.

14 Q. I asked whether you'd be willing to
15 accept a subtracter to recognize the fact that KCPL
16 faces less risk because of the Regulatory Plan
17 additional amortization.

18 MR. THOMPSON: Judge, if I could get a
19 yes or no to that question?

20 THE WITNESS: I can answer no because --
21 BY MR. THOMPSON:

22 Q. Thank you.

23 A. -- it is not the same risk. One is an
24 investor risk and one is a credit risk.

25 MR. THOMPSON: Judge, could you strike

1 everything following "no"?

2 JUDGE PRIDGIN: Stricken.

3 MR. THOMPSON: Thank you. No further
4 questions, Mr. Giles.

5 JUDGE PRIDGIN: All right. Thank you.
6 Further cross?

7 (NO RESPONSE.)

8 JUDGE PRIDGIN: Okay. Questions from
9 the bench? Mr. Chairman?

10 CHAIRMAN DAVIS: No questions,
11 Mr. Giles.

12 JUDGE PRIDGIN: Thank you. Commissioner
13 Murray?

14 COMMISSIONER MURRAY: Thank you.

15 QUESTIONS BY COMMISSIONER MURRAY:

16 Q. Mr. Giles, on page 11 of your direct
17 testimony, there's something there I don't understand
18 and I'm hoping you can shed some light on it for me.

19 At the top of page 11, first full
20 sentence, "The 2006 rate case, as filed, does not
21 include any amortization expense, related to KCPL's
22 credit ratio metrics, although the Regulatory Plan
23 Stipulation and Agreement contemplates that KCPL
24 [would have --] could have proposed up to \$17 million
25 in such amortization on a Missouri jurisdictional

1 basis, and additional amount in subsequent rate cases
2 during the period of implementing the Regulatory
3 Plan."

4 Can you explain what you're talking
5 about there?

6 A. I can. In fact, I would be glad to. At
7 the time we developed the Regulatory Plan and this
8 concept of amortization, it was recognized by myself
9 and also, I believe, by the other parties, but I can
10 definitely say by the Commission Staff, that the
11 amount of amortization that would be needed would
12 depend on the rate of return or the return on equity
13 set in the individual rate cases, because the cash
14 that we would receive from earnings -- there's
15 earnings-related cash and there's
16 amortization-related cash which has no earnings
17 associated with it.

18 So at the time we were contemplating
19 this plan, we looked out across our five-year budget,
20 and we had a ROE that we thought might be a
21 reasonable ROE, and I can't say for sure what that
22 was, but at the time that we were contemplating this,
23 we said, well, it looks like throughout the five-year
24 construction period we might be able to do about
25 17 million of amortization in each rate case.

1 So it was sort of a placeholder, if you
2 will, not knowing how much cash we would receive in
3 each of those cases from an earnings perspective. So
4 we put in -- at one time we were contemplating fixing
5 this number, and we all agreed that while it didn't
6 make sense to fix the number because if the
7 earnings-related cash varied greatly, this number
8 could vary greatly.

9 It's also dependent upon the cash
10 requirements throughout the construction period, and
11 in particular, it's in this case because we're not
12 spending -- we have spent and continue to spend a
13 substantial amount of cash in our construction
14 efforts.

15 But those construction efforts will ramp
16 up over the next two, three, four rate cases, so that
17 even with a reasonable rate of return, and I realize
18 that's in the eye of the beholder, but just for
19 instance, even in an 11 and a half percent rate of
20 return in those future rate cases, we could be
21 looking at 70 to \$80 million of amortization needed
22 to meet the CreditMetrics™ at an 11 and a half
23 percent cash earnings on equity.

24 And the reason that occurs is because
25 the more and more cash needs are gonna ramp up as we

1 continue construction of the Iatan 2 unit.

2 So my point is, this was a number we put
3 in as sort of an estimate, a placeholder. We had not
4 anticipated in our planning at that point a need for
5 more than 30 to 40 million in amortization in both of
6 our jurisdictions. So that would be a Missouri and
7 Kansas piece. So we were thinking that 30 to 40
8 million per year per case would result in us
9 maintaining adequate credit.

10 Q. And your proposal in this case was not
11 for no amortization; is that --

12 A. Correct. What -- what resulted from --
13 if I may explain how that happened. We proposed an
14 11 and a half percent return on equity that was cash-
15 earnings-related. We also proposed this concept of
16 the off-system sales sharing of risk. We looked out
17 to '07, our '07 budget, and said if we were to
18 achieve both of those components, would we need an
19 additional amortization? And we would not.

20 Now, if you look at this particular case in
21 the test year, and I know as you had asked Mr. Traxler
22 earlier, our current case through the update of \$42
23 million, that's all cash-earnings-related. If we were
24 to run that through the model, we would need an
25 additional 9 million in amortization, because as

1 Mr. Traxler stated, that 52 million cash based on the
2 metrics in this case is what it would show we would
3 need.

4 And to finally make the connection
5 between that and the '07 period, if we were to
6 achieve a 52 million rate increase in this case, 42
7 or 43, whichever it is of amortization -- or cash
8 earnings, 9 million amortization, and we were then to
9 have the midpoint of the off-system sales, if we were
10 to actually achieve that in '07, we would have more
11 than enough cash.

12 So all three of these components are
13 interrelated, and then it depends on whether one is
14 calculating the amortization on the test year or if
15 one is looking out to the '07 time frame when the
16 rates would be in effect.

17 Q. Okay. Your proposal for revenue
18 requirement was 42 million, approximately, correct?

19 A. I think that's our reconciled case, yes.

20 Q. But you're saying that at that number,
21 you would also need to include 9 million in the
22 amortization?

23 A. That's correct, if you ran it through
24 the model.

25 Q. And where did that come in, because it

1 wasn't in your original filing, was it?

2 A. No. Our original filing requested
3 55 million rate increase.

4 Q. Okay.

5 A. So at the 55 million level we would not
6 need an additional amortization.

7 Q. Okay.

8 A. But as you move -- obviously, as you
9 move from lower-earnings cash, you need more
10 amortization cash. But as Mr. Traxler said, the need
11 for cash is the same.

12 Q. So this has been through negotiations
13 since the filing of your direct testimony that those
14 changes have been made; is that correct?

15 A. Right. I think it's -- it's from the
16 update of the case as we've moved through this
17 period, changes that have been made since February
18 when we filed the case.

19 Q. Okay. And then also on page 11 in that
20 same paragraph, you say the 2006 rate case also
21 includes -- well, this is probably -- I can get into
22 this later -- when that issue was brought forth.
23 Never mind.

24 A. Okay.

25 Q. It's hard to keep these issues separate.

1 Well, that would be on the amortization so I'm gonna
2 ask it anyway.

3 The demand response efficiency and
4 affordability amount of approximately 350,000, that
5 is included in -- that -- there is an amortization
6 for that apparently even at the time you filed your
7 direct; is that right?

8 A. The Regulatory Plan -- the amortization
9 associated with that program is not really the same
10 amortization.

11 Q. Okay.

12 A. It's a different...

13 Q. Okay. Which witness has supporting
14 testimony for the methodology to establish the ROE?

15 A. The Staff -- or the company's witness,
16 Dr. Sam Hadaway, who I understand will be here
17 tomorrow.

18 MR. ZOBRIST: I think it's Wednesday.

19 THE WITNESS: Oh.

20 COMMISSIONER MURRAY: Make sure I don't
21 have any more questions about the policy. I think
22 that's all. Thank you.

23 THE WITNESS: You're welcome.

24 JUDGE PRIDGIN: Okay. Commissioner,
25 thank you. I have no questions. Any recross?

1 (NO RESPONSE.)

2 JUDGE PRIDGIN: Seeing none, any
3 redirect?

4 MR. ZOBRIST: Just two questions, your
5 Honor.

6 JUDGE PRIDGIN: Yes, sir.

7 REDIRECT-EXAMINATION BY MR. ZOBRIST:

8 Q. Mr. Giles, in response to Commissioner
9 Murray's questions about the demand response
10 amortizations, will you just clarify the difference
11 between the capital A Additional, capital A
12 Amortizations, that you were speaking of and all the
13 other amortizations that may be in the stip?

14 A. Yes. And it is confusing when one uses
15 the same terminology for two very different things.
16 The customer programs are being booked as a
17 regulatory asset, so the cost of those programs are
18 deferred from an expense recognition.

19 And the expense piece of that, much like
20 a depreciation, will be amortized over a period of
21 years. So from that standpoint, they're similar but
22 they're totally different in that this amortization
23 in the customer programs isn't related to the
24 amortization needed to meet the CreditMetrics™.

25 Q. And I guess, just referring to the most

1 recent reconciliation that we have, the amortizations
2 that are mentioned on lines other than the
3 \$86 million figure which is on line 83, those would
4 be the standard amortizations or more normal type of
5 amortizations that we speak of?

6 A. Correct.

7 Q. And then finally, you were asked with
8 regard to the adder and deflater issues, the
9 relationship, or you were trying to get into the
10 relationship between the amortizations, that they
11 related to credit risk, and ROE as it relates to
12 investor risk. Can you just summarize the company's
13 position on that point, please?

14 A. Sure. The risk often calculated and
15 supported by rate of return witnesses does not
16 include a risk factor for the off-system sales
17 market. And I base my opinion on that from the fact
18 that the same methodology is being used today that
19 was being used 30 years ago when this market did not
20 exist.

21 So to imply or suggest that there should
22 be a subtraction from what those rate of return
23 witnesses propose if this risk is removed from the
24 company is inappropriate because the rate of return
25 doesn't include that risk to begin with. So it

1 doesn't make sense to subtract something that's not
2 there.

3 The other point I would like to make is
4 when we set out to develop the Regulatory Plan, we
5 had hoped to be able to balance the risk and the
6 interest of three components: Customers, creditors
7 and investors.

8 MR. WOODSMALL: Your Honor, I don't
9 believe this is responsive to a question that's
10 pending. He was asked a question about a deflater,
11 and the witness is just continuing on. I don't
12 believe this is responsive.

13 MR. ZOBRIST: I believe it has to do
14 with the equity portion of the analysis.

15 JUDGE PRIDGIN: I'll overrule but ask
16 that you try to wrap that up, Mr. Giles.

17 THE WITNESS: Sure. My point is, the
18 return on equity does not take into account the
19 creditor risk; the creditor risk does not take into
20 account the return on equity risk. They're two
21 separate, distinct risks.

22 MR. ZOBRIST: Nothing further, your
23 Honor.

24 JUDGE PRIDGIN: All right, Mr. Zobrist.
25 Thank you. Mr. Giles, thank you.

1 THE WITNESS: Thank you.

2 JUDGE PRIDGIN: Would Mr. Cline then be
3 the next cost of capital witness?

4 MR. ZOBRIST: And your Honor, just prior
5 to that, if I could offer Giles Exhibit 4 and 5, his
6 rebuttal and surrebuttal testimony?

7 JUDGE PRIDGIN: Exhibits 4 and 5 --

8 MR. ZOBRIST: I've been advised that
9 Exhibit 3, the direct testimony, has already been
10 admitted; that if it hasn't, I move its admission as
11 well.

12 JUDGE PRIDGIN: I show that it's been
13 admitted as well, but 4 and 5, I believe, that are
14 both NP and HC --

15 MR. ZOBRIST: That's correct.

16 JUDGE PRIDGIN: -- are offered? Any
17 objections? Hearing none, Exhibits 4 and 5, both NP
18 and HC, are admitted.

19 (EXHIBIT NOS. 4 AND 5, NP AND HC, WERE
20 RECEIVED INTO EVIDENCE AND MADE A PART OF THE
21 RECORD.)

22 JUDGE PRIDGIN: Is Mr. Cline available?

23 MR. ZOBRIST: Yes, he is, your Honor.

24 JUDGE PRIDGIN: Mr. Cline, if you'd come
25 forward, please.

1 MICHAEL CLINE testified as follows:

2 JUDGE PRIDGIN: Thank you very much. If
3 you would please have a seat.

4 Mr. Zobrist, anything before he's
5 tendered for cross?

6 DIRECT EXAMINATION BY MR. ZOBRIST:

7 Q. Mr. Cline, do you have any corrections
8 to your testimony?

9 A. No, I don't.

10 MR. ZOBRIST: Tender the witness for
11 cross.

12 JUDGE PRIDGIN: All right. Thank you.
13 Counsel, do you wish to cross on cost of capital for
14 Mr. Cline?

15 Mr. Thompson?

16 MR. THOMPSON: Yes, sir.

17 JUDGE PRIDGIN: Any other parties?

18 (NO RESPONSE.)

19 JUDGE PRIDGIN: Mr. Thompson, when
20 you're ready, sir.

21 CROSS-EXAMINATION BY MR. THOMPSON:

22 Q. Good afternoon, Mr. Cline.

23 A. Mr. Thompson.

24 Q. Do I understand that your piece of the
25 cost of capital issue is that you're here to rebut

1 Mr. Barnes; is that correct?

2 A. No, that is not.

3 Q. Well, remind me what it is, would you?

4 A. The extent of my testimony related to
5 cost of capital was really just with respect to the
6 construction risk adder which a couple of the
7 witnesses had taken issue with. As far as I'm aware,
8 there are no other issues.

9 MR. THOMPSON: In that case I don't have
10 any questions for this witness.

11 JUDGE PRIDGIN: All right. Thank you.

12 Any further cross?

13 (NO RESPONSE.)

14 JUDGE PRIDGIN: Questions from the
15 bench? Mr. Chairman? Commissioner Murray?

16 COMMISSIONER MURRAY: Yes.

17 QUESTIONS BY COMMISSIONER MURRAY:

18 Q. Could you please elaborate on the
19 construction risk? I'm sorry, but I'm not recalling.

20 A. Sure, Commissioner. And actually, this
21 may be a more suitable issue for a company witness,
22 Dr. Hadaway, who in his testimony had recommended a
23 50-basis-point return on equity adder for the company
24 given our very high level of construction risk
25 compared to the comparable companies that he used in

1 his analysis.

2 Q. Okay. But I thought you said you were
3 here to support that.

4 A. There were -- yes, there were a couple
5 of witnesses who had taken issue with Dr. Hadaway's
6 analysis, and so in my rebuttal testimony, I have
7 supported Dr. Hadaway in that.

8 Q. Supported adding the 50 basis points?

9 A. Yes. It was really more of a -- of an
10 issue that I took with respect to how the witnesses
11 had characterized the additional amortization
12 mechanism as essentially eliminating risk for the
13 company, and therefore the adder wasn't needed.

14 Q. So is it your position that too much on
15 the amortization level, even though it doesn't affect
16 the cash flow, would still affect the credibility in
17 terms of the credit rating agencies?

18 A. Yes. A large part of my testimony is
19 based upon the risks that we see if there's
20 over-reliance on the amortization mechanism as
21 opposed to returns through traditional ratemaking.

22 Q. Okay. And simple statement, if
23 possible, what is the major danger from over-reliance
24 on the amortization?

25 A. Well, I think the primary risk that we

1 see is with respect to the company's ability to raise
2 equity capital in the future. A lower than, quote,
3 expected rate of return, i.e., earnings throughout
4 normal ratemaking process, would be received, in our
5 view, very negatively by the company's current
6 stockholders and prospective stockholders.

7 Q. Even if you maintain cash flow at the
8 level that is presented here by those who are trying
9 to include a high level of amortization?

10 A. Yes, ma'am, because the amortization
11 mechanism is really designed to address creditor risk
12 and bondholder risk. It's designed to really -- to
13 help the company ensure that it maintains its credit
14 rating through the construction period. It doesn't
15 address the concerns of equity investors.

16 Q. So the equity risk is really much
17 different than the risk that you've addressed in the
18 regulatory resource plan?

19 A. It's a huge part of our funding plan as
20 we go forward, the reliance on additional issuance of
21 equity at the Great Plains level. If I may,
22 Commissioner?

23 Q. Sure.

24 A. There's one other issue that I'd like to
25 make, even with respect to the rating agencies which

1 is the -- and S&P, in particular, which is the
2 primary constituency that the amortization mechanism
3 was structured to, you know, to address the concerns
4 of.

5 I would say that even if -- even they would
6 be concerned with an over-reliance on amortization at
7 the expense of equity earnings. They will be obviously
8 very pleased to see the company meeting its cash flow
9 metrics and they'll draw a comfort from that.

10 But if -- again, if the level of equity
11 earnings is deemed to be below a, quote, fair return,
12 then they will no doubt have concerns about that on a
13 go-forward basis as they contemplate our rating over
14 the term of the plan.

15 Q. And it would definitely have an effect
16 on what the company could earn a return on in the
17 next rate case, would it not?

18 A. Yes, ma'am.

19 COMMISSIONER MURRAY: Okay. I think
20 that's all I have. Thank you.

21 JUDGE PRIDGIN: Commissioner, thank you.
22 I have no questions. Any recross?

23 MR. THOMPSON: Yes, Judge.

24 RE-CROSS-EXAMINATION BY MR. THOMPSON:

25 Q. Commissioner Murray was inquiring about

1 the different categories of risk; do I understand
2 that correctly?

3 A. Yes.

4 Q. And you explained that while the
5 Regulatory Plan additional amortizations might go
6 some way to relieve credit risk, does nothing for
7 investor risk; is that correct?

8 A. It's designed primarily to deal with
9 credit risk, yes.

10 Q. Well, I wonder if you're able to put
11 yourself in the position of the ratepayers. What
12 sort of risk do they face? Is there a risk of paying
13 too much to Kansas City Power & Light?

14 A. I'm not sure I understand your question.

15 Q. Well, if the Commission gives the
16 company a high return on equity, then -- and let's
17 say that the off-system sales margin remains strong,
18 is it possible that the company will find itself in
19 an over-earning situation?

20 A. We're not -- we're not asking for a,
21 quote, high rate of return. We're asking for a fair
22 rate of return.

23 MR. THOMPSON: No further questions.

24 Thank you.

25 JUDGE PRIDGIN: Thank you. Further

1 recross?

2 MR. ZOBRIST: Just one question, your
3 Honor.

4 JUDGE PRIDGIN: I'm sorry. Any recross?

5 MR. ZOBRIST: Oh, I'm sorry.

6 (NO RESPONSE.)

7 JUDGE PRIDGIN: Mr. Zobrist, redirect.

8 REDIRECT EXAMINATION BY MR. ZOBRIST:

9 Q. Mr. Cline, in response to Commissioner
10 Murray's questions about a credit risk, let me just
11 ask you, as a result of the Stipulation and Agreement
12 having been entered into by the parties and approved
13 by this Commission, did either Standard & Poor's or
14 Moody's upgrade the company?

15 A. They did not.

16 Q. Okay. Did they downgrade the company?

17 A. They did not.

18 Q. So there was no change?

19 A. No.

20 MR. ZOBRIST: Okay. Thank you. Nothing
21 further.

22 JUDGE PRIDGIN: All right, Mr. Zobrist,
23 thank you. Mr. Cline, thank you. Mr. Barnes will be
24 available for cross-examination?

25 MR. THOMPSON: Yes, your Honor.

1 JUDGE PRIDGIN: Before -- before he
2 takes the stand, I'm trying to give everybody -- make
3 sure everybody's on the same page as far as where
4 we've been and where we're going. We've just begun
5 cost of capital. I understand Dr. Hadaway will be
6 available Wednesday; is that correct?

7 MR. ZOBRIST: That's correct.

8 JUDGE PRIDGIN: Mr. Camfield is
9 available when?

10 MR. ZOBRIST: I think that's Friday.

11 JUDGE PRIDGIN: Okay. Mr. Camfield
12 available Friday?

13 MR. ZOBRIST: Well, I'm hearing Thursday
14 and Friday.

15 JUDGE PRIDGIN: Okay. But not today,
16 not tomorrow?

17 MR. ZOBRIST: Correct.

18 JUDGE PRIDGIN: All right.

19 MR. ZOBRIST: And Judge, pardon me for
20 interrupting.

21 JUDGE PRIDGIN: No.

22 MR. ZOBRIST: I failed to offer Cline
23 direct testimony Exhibits 23 through 25.

24 JUDGE PRIDGIN: Okay. I show 23 NP and
25 HC, 24, 25 have been offered. Any objections?

1 MR. THOMPSON: No objections, your
2 Honor.

3 JUDGE PRIDGIN: Okay. Hearing none,
4 Exhibit 23 NP and HC, Exhibit 24 and Exhibit 25 are
5 admitted.

6 (EXHIBIT NO. 23, NP AND HC, AND EXHIBIT
7 NOS. 24 AND 25 WERE RECEIVED INTO EVIDENCE AND MADE A
8 PART OF THE RECORD.)

9 JUDGE PRIDGIN: Okay. Back to cost of
10 capital. Mr. Barnes is about to take the stand.
11 Ms. Bernsen would be available today or tomorrow; is
12 that correct?

13 MR. THOMPSON: That is correct, your
14 Honor.

15 JUDGE PRIDGIN: And Mr. Mills,
16 Mr. Baudino, when is he available?

17 MR. MILLS: I believe he's available
18 tomorrow when the issue was originally scheduled.

19 JUDGE PRIDGIN: Okay. And
20 Mr. Woolridge?

21 MR. CAMPBELL: The 25th.

22 JUDGE PRIDGIN: Wednesday. Okay. Then
23 I believe Mr. Keevil has abandoned us, but I think we
24 had said we would take up some issues Tuesday on
25 space heating discounts, which I believe those

1 witnesses -- and I'm sorry, I'm working from a bunch
2 of different notes here. But those witnesses, I
3 think, would be Mr. Rush from KCP&L, Mr. Herz from
4 Trigen, Ms. Liechti, if I'm pronouncing that
5 correctly, from KCP&L, and Ms. Pyatte from Staff; is
6 that counsel's understanding?

7 MR. THOMPSON: Yes, your Honor.

8 MR. FISCHER: Your Honor, my understanding
9 is that all of the class cost of service issues and
10 the rate design issues, except for the Trigen issues,
11 have been settled in concept, and that the only
12 real -- the only real witnesses that will need to
13 take the stand are Joseph Herz for Trigen and Tim
14 Rush for KCP&L.

15 JUDGE PRIDGIN: Okay. Thank you.

16 MR. WOODSMALL: I believe you noted
17 previously when Mr. Keevil was here that that would
18 go up first thing tomorrow?

19 JUDGE PRIDGIN: That's fine with me.
20 I'm just -- I'm trying to keep track of where we're
21 going and make sure counsel has fair warning.

22 COMMISSIONER MURRAY: Judge, was that
23 Mr. Rush and Mr. Herz for tomorrow?

24 JUDGE PRIDGIN: Yes, for tomorrow
25 morning. And then we would have some more cost of

1 capital witnesses depending on how far we get this
2 afternoon. And Mr. Barnes is about to take the
3 stand, Ms. Bernsen, Mr. Baudino, and then Wednesday
4 would be Mr. Woolridge and Dr. Hadaway on cost of
5 capital; am I understanding folks correctly?

6 MR. WOODSMALL: And Mr. Schnitzer.

7 JUDGE PRIDGIN: And Mr. Schnitzer.

8 Thank you. And that would leave, after the Trigen
9 issue, Mr. Rush and Mr. Herz, and we would do, it
10 looks like, a couple more cost of capital witnesses.
11 And then again, we'll probably just keep adjusting as
12 we can on Tuesday.

13 And I think I had announced earlier that
14 Tuesday, Wednesday and Thursday we will need to
15 adjourn no later than four o'clock or so because the
16 Commission has local public hearings and we'll need
17 this room and this space to test for web casting. So
18 we will need to keep that in mind as we schedule.

19 Are there any other scheduling concerns
20 or any other matters before Mr. Barnes takes the
21 stand for cross-examination? Mr. Fisher?

22 MR. FISCHER: Yeah, Judge. It looks to
23 me like tomorrow may be a fairly light day, and I
24 also know it's an agenda day, and to the extent that
25 the company can be -- facilitate working around the

1 Commissioners' schedules, we're certainly willing to
2 do that.

3 JUDGE PRIDGIN: Okay. Thank you. All
4 right. Anything further? All right. Mr. Barnes, if
5 you would please raise your right hand to be sworn.

6 MATTHEW BARNES testified as follows:

7 JUDGE PRIDGIN: Thank you very much,
8 sir.

9 And Mr. Thompson, anything we need to
10 clear up before he's tendered for cross?

11 DIRECT EXAMINATION BY MR. THOMPSON:

12 Q. Mr. Barnes, do you have any corrections
13 to your prefiled testimony?

14 A. No, I don't.

15 MR. THOMPSON: Okay. At this time, your
16 Honor, I would like to offer Mr. Barnes' prefiled
17 testimony. Unfortunately, someone took the exhibit
18 list away from the table, so I don't know the numbers,
19 but I understand there's both direct, rebuttal and
20 surrebuttal, and I would offer it at this time.

21 JUDGE PRIDGIN: Let me find those
22 numbers.

23 MR. THOMPSON: Mr. Woodsmall informs me
24 it's 101, 102 and 103.

25 JUDGE PRIDGIN: That's what I have. I

1 show 101 NP and HC, 102 NP and HC and 103. And those
2 have been offered. Any objections?

3 (NO RESPONSE.)

4 JUDGE PRIDGIN: Okay. Hearing none, 101
5 NP and HC, 102 NP and HC and 103 are admitted.

6 (EXHIBIT NOS. 101 NP AND HC, 102 NP AND
7 HC AND 103 WERE RECEIVED INTO EVIDENCE AND MADE A
8 PART OF THE RECORD.)

9 MR. THOMPSON: Thank you, your Honor.
10 Tender the witness at this time.

11 JUDGE PRIDGIN: All right, Mr. Thompson,
12 thank you. KCP&L wishes cross. Other parties that
13 wish cross?

14 (NO RESPONSE.)

15 JUDGE PRIDGIN: Okay. Mr. Zobrist, when
16 you're ready, sir.

17 CROSS-EXAMINATION BY MR. ZOBRIST:

18 Q. Mr. Barnes.

19 A. Good afternoon.

20 Q. Let me go through your qualifications if
21 I can. Prior to working at the Commission, you
22 worked for the Department of Natural Resources; is
23 that correct?

24 A. Yes, that's correct.

25 Q. And what did you do for them?

1 A. I worked in the Human Resources
2 Department doing payroll and benefits.

3 Q. Okay. Did you have any involvement with
4 regulated public utilities in that position?

5 A. No, I did not.

6 Q. And prior to working for DNR, I
7 understand you worked for the Department of
8 Conservation as an auditor aide; is that correct?

9 A. That's correct.

10 Q. And from what period of time did you
11 work for them?

12 A. I believe it was January of '97 to
13 February of '98.

14 Q. And so from March of '98 until what time
15 did you work for DNR?

16 A. Until June of 2003 when I started here.

17 Q. That's when you joined the Commission
18 Staff?

19 A. Yes.

20 Q. Okay. Thank you. And I understand you
21 hold a bachelor of science in business administration
22 from Columbia College?

23 A. That's correct.

24 Q. And you earned that degree in December
25 of 2002?

1 A. Yes.

2 Q. Okay. So less than four years ago?

3 A. Yes.

4 Q. And then you received an MBA from

5 William Woods College last May, May of 2005?

6 A. Correct.

7 Q. Now, have you ever attended the Michigan

8 State University Public Utility Institute that we

9 commonly call Camp NARUC?

10 A. No, I have not.

11 Q. Did you ever attend the rate school at

12 the New Mexico State University?

13 A. No, I have not.

14 Q. Have you taken any courses or seminars

15 from the National Regulatory Research Institute at

16 Ohio State University?

17 A. No, I have not.

18 Q. Let me move to your testimony in this

19 case. You took a comparative sample of five other

20 public utilities in your DCF analysis, correct?

21 A. Correct.

22 Q. Okay. And you took, as I recall, it was

23 IDACORP; is that correct?

24 A. Yes.

25 Q. And then you took -- and the regulated

1 public utility under IDACORP is Idaho Power Company,
2 correct?

3 A. Correct.

4 Q. And then you took Pinnacle West Capital
5 Corporation?

6 A. Yes.

7 Q. And what was their regulated public
8 utility?

9 A. I don't recall at the moment. I'd have
10 to look that up.

11 Q. And then you took Southern Company; is
12 that correct, as one of your comparative companies?

13 A. Correct.

14 Q. And the fourth company I believe you
15 took was Puget Energy, Incorporated?

16 A. Yes.

17 Q. And then the fifth one was Hawaiian
18 Electric Industries in Honolulu?

19 A. Yes.

20 Q. Now, have you ever done a comparative
21 analysis in another rate case before this Commission?

22 A. No, I have not.

23 Q. Okay. So this is the first time you've
24 ever done a comparative analysis for DCF purposes,
25 correct?

1 A. Correct.

2 Q. Okay. And DCF means what?

3 A. Discounted cash flow.

4 Q. Okay. And that's one of the standard
5 measures that witnesses will use to estimate the cost
6 of capital as the basis for their recommendations in
7 a full rate case, correct?

8 A. Correct.

9 Q. Okay. Can you give me the names of any
10 of the companies that you rejected out of your
11 five-company analysis?

12 A. Yes. If I can refer you to my
13 Schedule 12 of my direct testimony, Central Vermont
14 Public Service, El Paso Electric, Empire District,
15 Green Mountain Power, PacifiCorp and Portland General
16 Electric Company.

17 Q. Why did you reject Empire District
18 Electric Company?

19 A. Since they operate in Missouri, I've
20 been informed by other -- particularly my boss, that
21 the circular argument arrives by including Missouri
22 companies in a comparable group.

23 Q. And what do you mean by the "circular
24 argument"?

25 A. I didn't completely understand that, but

1 I believe that since the Commission regulates Empire
2 District, that their recommendation for cost of
3 capital would be included in the comparable group.

4 Q. And when you said your boss, who is that
5 person?

6 A. Ron Bible.

7 Q. Now, isn't it correct that other experts
8 in this case offering cost of capital testimony did
9 consider Empire District Electric?

10 A. I believe so, yes.

11 Q. Okay. Now, let's go through these
12 companies if we could just a minute. On IDACORP,
13 they do have nonregulated operations, correct?

14 A. I believe so. They may have some.

15 Q. And, in fact, through its other
16 subsidiaries, IDACORP also holds housing and other
17 real estate investments in addition to developing
18 fuel cell systems; does that sound right?

19 A. I believe so.

20 Q. And do you recall whether they have a
21 telecommunications subsidiary?

22 A. I don't recall right at the moment.

23 Q. How many employees does IDACORP have, do
24 you recall?

25 A. I don't have an exact number. I believe

1 a couple thousand.

2 Q. And you felt that they were appropriate
3 to include in your analysis even though they had
4 certain other kinds of nonregulated operations that
5 Kansas City Power & Light Company does not have?

6 A. Could you repeat the question?

7 Q. It's a bad question. I mean, even
8 though they have real estate operations and you
9 believe a telecommunications operation, nonregulated,
10 nonelectric utility operations, you felt it was
11 appropriate to include them in your sample?

12 A. I -- yes.

13 Q. Okay. Now, I believe the next company
14 that you looked at was Pinnacle West Capital
15 Corporation; is that correct?

16 A. Yes.

17 Q. And where are they located?

18 A. I believe it's New Mexico, but I'd have
19 to look at their tech sheet again.

20 Q. It's actually Phoenix, Arizona; does
21 that sound right?

22 A. I believe so, yes.

23 Q. And you can't recall the name of their
24 regulated public utility?

25 A. Not off the top of my head.

1 Q. I think it's Arizona Public Service
2 Company, isn't it?

3 A. That sounds correct.

4 Q. Okay. And what are the segments of the
5 corporation that Pinnacle West Capital has that are
6 not regulated public utilities?

7 A. Could you repeat the question again?

8 Q. Yeah. What other segments of their
9 business do they have that are not regulated electric
10 public utilities?

11 A. I don't know off the top of my head.

12 Q. Okay. Well, they have a real estate
13 segment, do they not?

14 A. I -- I don't know.

15 Q. How many employees does Pinnacle West
16 Capital have, do you know?

17 A. No, I don't.

18 Q. Why did you choose Pinnacle West as a
19 comparable company to use in your analysis?

20 A. I chose these companies because they're
21 classified by Standard & Poor's as vertically
22 integrated electric utility companies.

23 Q. There are lots of other companies that
24 are classified like that too, though, correct?

25 A. As vertically integrated?

1 Q. Correct.

2 A. By Standard & Poor's?

3 Q. You're saying -- yes, there's more than
4 five, aren't there?

5 A. Yes.

6 Q. But you eliminated all the others and
7 just chose these five, correct?

8 A. Through my -- the use of my criterion,
9 yes.

10 Q. Do you know how many employees Pinnacle
11 West Capital Corporation has?

12 A. No, I don't.

13 Q. It's well over 7,000, isn't it?

14 A. I --

15 MR. THOMPSON: I object. He said he
16 didn't know.

17 BY MR. ZOBRIST:

18 Q. Do you have any idea on order of
19 magnitude how many employees they have?

20 A. No, I don't.

21 Q. How many employees does KCP&L have?

22 A. I believe over a thousand, but I'd have
23 to go back and look at that.

24 Q. Okay. Do they have over 2,500?

25 A. It's possible.

1 Q. Okay. Now, the next company that you
2 had in your comparative group was Southern Company;
3 is that correct?

4 A. Yes.

5 Q. How many employees does Southern Company
6 have?

7 A. Southern Company's a pretty good
8 company. I don't know the exact number, but it's
9 quite a few employees.

10 Q. Isn't it true it has over 25,000
11 employees?

12 A. I don't know. I would probably not
13 disagree with that.

14 Q. Is it true that Southern Company is one
15 of the largest public utility companies in the United
16 States?

17 A. Yes.

18 Q. And in fact, would you know the names of
19 any companies, the actual retail companies that it
20 has?

21 A. Not off the top of my head.

22 Q. Where is the company headquarters, do
23 you know?

24 A. I believe is it in -- I believe it's in
25 Georgia.

1 Q. Why did you think it was appropriate to
2 have in your comparable group a public utility that's
3 approximately ten times the size of KCP&L?

4 A. Well, I -- I used S&P's classification
5 system, what they consider vertically integrated
6 utility companies, and I believe that even though
7 they are a lot larger than most other utilities, that
8 they are still comparable to KCP&L.

9 Q. Now, the fourth company that you
10 selected was Puget Energy; is that correct?

11 A. Yes.

12 Q. Okay. And where are they located?

13 A. I believe they're located in Washington
14 State.

15 Q. And is it true that it has both retail
16 electric utility operations as well as natural gas
17 operations?

18 A. I don't know.

19 Q. And again, you just -- you chose them
20 because when you ran this control, if that's the
21 right word, for S&P in terms of vertically integrated
22 utilities, this name popped up and so you chose it?

23 A. Not exactly like that, but I -- with the
24 criterion that I have on my Schedule 12 through
25 the -- those elimination process, that they still --

1 I thought they still ended up being comparable to
2 KCP&L.

3 Q. How many electric companies (sic) does
4 Kansas City Power & Light have on both sides of the
5 state line?

6 A. As far as competitors or --

7 Q. No, I'm sorry. If I said competitors, I
8 misspoke. How many customers, how many ratepayers
9 does Kansas City Power & Light Company have both in
10 Missouri and Kansas?

11 A. I don't have an exact number, but I
12 would say around 500,000 at least.

13 Q. Okay. And how many electric customers
14 does Puget Energy have, do you recall?

15 A. I don't.

16 Q. Is it over a million?

17 A. I don't know.

18 Q. Okay. Now, the final company in your
19 comparison group was Hawaiian Electric Industries; is
20 that correct?

21 A. Yes.

22 Q. Now, what's the major nonregulated
23 business of Hawaiian Electric Industries?

24 A. I believe they have a banking industry.
25 I'm not for sure exactly what -- what that entails.

1 Q. And did you take a look at Hawaiian
2 Electric Industries, the utility, which I think is
3 called Hawaiian Electric Company, to determine if
4 they had off-system sales anywhere comparable to
5 KCP&L?

6 A. No, I didn't.

7 Q. Okay. Now, why did you think that a
8 holding company in Hawaii -- well, let me ask you
9 this: It probably doesn't have very many off-system
10 sales since it's on the island of Hawaii --

11 A. Correct.

12 Q. -- is that a fair statement?

13 A. Yes.

14 Q. And it has banking operations; is that
15 correct?

16 A. Yes.

17 Q. And KCPL does not, correct?

18 A. Correct.

19 Q. And why did you feel that Hawaii
20 Electric Industries was a good company to put in your
21 comparable group of five?

22 A. I think they're probably the most
23 comparable to KCP&L in my opinion, but again, they
24 were classified by Standard & Poor's as vertically
25 integrated.

1 Q. You felt that Hawaii Electric Industries,
2 of the five companies, was the most comparable to
3 KCP&L?

4 MR. THOMPSON: Objection, asked and
5 answered. That's what he testified to.

6 BY MR. ZOBRIST:

7 Q. Well, I just want to make sure I heard
8 that.

9 A. Yes.

10 Q. Okay. Thank you. None of the five
11 companies in your comparison group does business in
12 the Midwest, correct?

13 A. Correct.

14 Q. Now, in your review of the discounted
15 cash flow, the DCF analysis that you performed here,
16 is it fair to say that you've relied exclusively on
17 short-term forecasts?

18 A. I relied on projected three-to-five-year
19 forecasts.

20 Q. And is it fair to say that you did not
21 rely upon any DCF forecasts that were longer than
22 five years?

23 A. Could you repeat the question, please?

24 Q. Yeah. You didn't rely upon any DCF
25 forecasts -- pardon me. You didn't rely upon any

1 forecasts that were longer than five years that might
2 be called long-term forecasts, correct?

3 A. Yes.

4 Q. And you criticized Dr. Hadaway for using
5 GDP, gross domestic product, forecasts over the
6 long-term, correct?

7 A. Yes.

8 Q. Now, you also criticized Dr. Hadaway
9 because you felt that he didn't adequately address
10 the effect of the Regulatory Plan in the Stipulation
11 and Agreement; is that correct?

12 A. Yes.

13 Q. Okay. Now, were you here when Mr. Cline
14 was on the stand and testified that after the
15 Stipulation and Agreement was approved by the
16 Commission, that the rating agencies did not change
17 the rating of the company?

18 A. Yes.

19 Q. And that's your understanding, correct?

20 A. Yes.

21 Q. Okay. Now, Mr. Hadaway did discuss the
22 effect of the Regulatory Plan in his rebuttal
23 testimony; isn't that true?

24 A. I believe so. I'd have to review it
25 again, but I believe he did.

1 Q. Okay. All right. And are you aware
2 that the legality of the stipulation in this
3 Commission's approval of the stipulation is still
4 being challenged in the courts?

5 A. Yes.

6 Q. Okay. And it's still being challenged
7 by the Sierra Club and the Concerned Citizens of
8 Platte County and the Missouri Court of Appeals?

9 A. That's my understanding, yes.

10 Q. And do you know how many parties to this
11 case were not signatories to the Stipulation and
12 Agreement?

13 A. No, I'm not -- I'm not aware of that.

14 Q. Well, would you disagree with me if I
15 said there were five parties, the Department of
16 Energy, Jackson County, Wal-Mart, AARP and Trigen,
17 who did not sign the Stipulation and Agreement?

18 MR. THOMPSON: Objection. He testified
19 he doesn't know.

20 MR. ZOBRIST: Well, you know, this is
21 cross-examination, and I think I can ask him if he
22 knows -- if I can refresh his recollection if he
23 knows.

24 MR. THOMPSON: You already asked him if
25 he knows, and he said he doesn't.

1 JUDGE PRIDGIN: Okay. Ask the question
2 again, please.

3 BY MR. ZOBRIST:

4 Q. Are you aware that there are five
5 parties to this rate proceeding, Department of
6 Energy, Jackson County, Wal-Mart, AARP and Trigen,
7 who did not sign the stipulation?

8 A. I'd have to go back and look the
9 stipulation up. I can't disagree with that right
10 now.

11 Q. Do you recognize that there are some
12 parties to this rate case that are not bound by that
13 stipulation?

14 A. Yes.

15 Q. Okay. And they've prepared testimony,
16 correct?

17 A. Yes.

18 Q. Okay. Opposing the company's plan?

19 A. Correct.

20 Q. All right. And even the signatory
21 parties can raise a number of challenges to how KCPL
22 carries out the Regulatory Plan; isn't that correct?

23 A. Yes.

24 Q. Okay. All parties, even if they've
25 signed the stipulation, can still maintain that KCPL

1 has failed to prudently manage its cost and has
2 failed to continuously improve productivity or
3 maintain service quality during the Regulatory Plan,
4 correct?

5 A. I believe so, yes.

6 Q. Okay. Now, if you would turn, if you
7 would, please, to Schedule C-2 of your direct --
8 well, and actually, let me -- if you would just turn
9 to Schedule C, page 1.

10 Would you describe for me what these
11 three pages, I think it's Schedule C-1 through C-3,
12 what did you intend to impart to the parties and the
13 Commission in this schedule?

14 A. The Schedule C-1, my intention was just
15 to provide the Commission with projected estimates
16 from Value Line, specifically short-term interest
17 rates, growth estimates and gross domestic products
18 in what Value Line is saying as far as what they
19 expect from the economy going forward.

20 Q. And one of the things that you presented
21 in your Schedule C on page 2 was an assessment that
22 Value Line delivered this summer on July 14th, 2006,
23 correct?

24 A. Yes.

25 Q. In your final paragraph there it says,

1 "Investor concerns remain high. Not only is the
2 market worried about the Fed and inflation, but it is
3 also fearful about increasing tensions in North Korea
4 and Iran," correct?

5 A. Yes.

6 Q. And would you agree with me that since
7 the summer of 2006, things have gotten worse in North
8 Korea; they've detonated a nuclear explosion, may
9 detonate a second one and are ignoring a resolution
10 of the UN Security Council?

11 A. Yes.

12 Q. So that has not improved, has it?

13 A. Not that I'm aware of.

14 Q. Okay. And as far as Iran, we know that
15 Iran continues to develop nuclear power in defiance
16 of the UN Security Council resolution, and I think
17 their president on the side is threatening Israel
18 with extinction. So there's no improvement there, is
19 there?

20 A. No, doesn't seem to be.

21 Q. Okay. Now, in your recommendation to
22 the Commission of a return on equity, you did not
23 take explicit recognition of any construction risk
24 that the company is facing for 2007; is that correct?

25 A. Yes.

1 Q. And you did not take any specific -- or
2 you did not make any specific recognition in your
3 recommendation for any risk that the company faces in
4 the off-system sales wholesale electricity market; is
5 that correct?

6 A. Correct.

7 Q. Okay. And you also did not take into
8 account any of the metrics that Robert Camfield,
9 KCPL's performance-based ratemaking expert, you
10 didn't take into consideration any of his metrics or
11 any other performance-type metrics in your
12 recommendation; is that true?

13 A. I did not look at that.

14 Q. Okay. And you didn't look at it on your
15 own in that you didn't adopt Mr. Camfield's either;
16 is that correct?

17 A. Correct.

18 MR. ZOBRIST: That's all I have, Judge.

19 JUDGE PRIDGIN: Mr. Zobrist, thank you.

20 Further cross? Commissioner Murray, any questions?

21 COMMISSIONER MURRAY: Yes.

22 QUESTIONS BY COMMISSIONER MURRAY:

23 Q. Good afternoon, Mr. Barnes.

24 A. Good afternoon.

25 Q. I have a few questions for you. The

1 factors that you've used to determine whether to
2 include a company as a comparable, are they only the
3 seven that you list in your Schedule 12?

4 A. Yes.

5 Q. So you don't look at number of
6 employees?

7 A. No, I do not.

8 Q. You don't look at whether they have any
9 nonregulated businesses?

10 A. That's not one of my criterion. I try
11 to review what other operations that they have.

12 Q. But you couldn't recall the other
13 operations of the comparables you used, so it must
14 not be a very important criteria to you?

15 A. I did not consider that part of my
16 criterion, no.

17 Q. Do you consider the location where the
18 utilities operate?

19 A. As far as a criterion for selecting
20 this?

21 Q. (Nodded head.)

22 A. Not specifically, no.

23 Q. Do you consider their fuel mix?

24 A. No.

25 Q. Do you consider load factors?

1 A. No.

2 Q. Where did you get the methodology that
3 you used -- or where did you come up with the
4 criteria that you used?

5 A. Well, Staff, in the last few rate cases,
6 has used Standard & Poor's as the first criterion
7 which is the vertically integrated electric utility
8 company, and I adopted that. In -- as far as the
9 other criterion, such as column 4, ten years of data
10 available. I believe that's important to look at to
11 determine growth rates for historical or projected
12 growth rates for those companies.

13 Q. And how do you compare those growth
14 rates? What level of influence is that in your
15 decision to include them?

16 A. As far as the number of years?

17 Q. Well, just how do you use that
18 information to determine whether they're a good
19 comparable or not?

20 A. Well, I -- when I -- I believe on
21 Schedule -- on Schedule 15 I list the historical and
22 projected growth rates, and I also look at historical
23 growth rates to see what could be possibly -- what
24 that sustainable growth rate could be going forward.

25 And in my case with these companies,

1 some of them were volatile, meaning they were
2 negative or they were positive. So I didn't really
3 rely on the historical growth rates. I relied on the
4 projected growth rates from Standard & Poor's, IBES and
5 Value Line, and I took the average projected growth
6 there, and that was how I came up with my growth rate.

7 Q. Okay. What does it mean if you look at
8 column 2 on Schedule 15, the IBES column, and you
9 have a 4.70 average, and in Great Plains Energy you
10 have a 2.5 average -- or 2.5. What -- what does that
11 mean? How do those two numbers compare?

12 A. Well, that's just what IBES is
13 projecting for the growth rate, specifically for
14 Great Plains Energy, of 2.5 percent. For my
15 comparables, the -- my average came up with 4.7.

16 Q. And then for the S&P, the comparables
17 average was 4.8?

18 A. Yes.

19 Q. And what, Great Plains was 2?

20 A. Yes.

21 Q. 2.0? And then Value Line, let's see,
22 4.7 was the average?

23 A. That's correct.

24 Q. And what does Nil mean?

25 A. Nil is very little growth is expected

1 from them.

2 Q. And so overall, the average projected
3 growth for the comparables was 4.73 percent?

4 A. Correct.

5 Q. And for Great Plains Energy it was 2.25
6 percent; is that correct?

7 A. Correct.

8 Q. So how are those numbers comparable?

9 A. Well, I was just showing on just
10 company-specific for the growth rates. Based on
11 these numbers it's -- I take it as the growth rate is
12 not expected to be 2. -- or be right at 2.25 percent
13 or a little bit more or less based on the averages of
14 those three columns.

15 Q. I'm not sure I understand. This was a
16 factor that you used to determine that these five
17 companies would be the companies you used as
18 comparables; is that correct?

19 A. Correct.

20 Q. So what is it about their growth rates
21 that made you determine they were comparable to KCPL
22 for your analysis?

23 A. I believe based on the way these -- the
24 average projected growth rates came out, I believe
25 it's actually a little bit high, on the high end, but

1 I relied on a couple of company analyses to determine
2 what the return on equity for -- that should be
3 applied to Kansas City Power & Light. And a lot of
4 my decision to do that was based on the Commission's
5 ruling in, I believe it was -- I forgot what the
6 Empire case number was for the couple of company
7 analyses that was consistent with Bluefield -- Hope
8 and Bluefield.

9 Q. Okay. I believe you got to the growth
10 rate through the criteria on your Schedule 12 that
11 was the ten years of data available; is that --

12 A. That was one of the criterion that I
13 had, yes.

14 Q. And the ten years of data that you're
15 looking for included growth rate?

16 A. Yes. And if you look on Schedule 14-1,
17 I have the ten-year annual compound growth rate for
18 dividends per share, earnings per share and book
19 value per share. And those carry over -- I have a
20 ten-year -- on Schedule 14-3, I have a ten-year
21 average and a five-year average. And as you can see,
22 it's quite a few negatives in there, which is why I
23 did not rely on the historical data. I instead
24 relied on projected growth due to the volatility of
25 the growth rates in the past.

1 Q. And what other data, ten-year data, did
2 you look at?

3 A. Those were the main ones. The projected
4 growth rates were three to five years.

5 Q. Just growth rates?

6 A. Yes, for the most part.

7 Q. Okay. How many companies met all of
8 your criteria on your Schedule 12?

9 A. Five.

10 Q. No. I'm --

11 A. You mean total companies?

12 Q. Yes.

13 A. I believe there's 11.

14 Q. Okay. And how did you eliminate the six
15 that you eliminated?

16 A. On Schedule 12 my fifth criterion is at
17 least investment grade credit rating. Central
18 Vermont did not meet that.

19 Q. I'm sorry. I asked you for the number
20 of companies that met all of these criteria.

21 A. Five.

22 Q. Only five?

23 A. Yes.

24 Q. Okay. And again, to arrive at this set
25 of criteria, where did you go to look for authority

1 that this was a good set of criteria to use?

2 A. I ran this criteria by my boss, Ron
3 Bible and Staff witness, Steven Murray, and plus
4 getting their inputs from them in making my own
5 decision to include this criterion in my schedule.

6 Q. When you say you made your own decision,
7 was it different than their decisions or...

8 A. I believe Mr. Murray did not include the
9 criterion, no Missouri operations. I believe he
10 has -- I don't recall right now if he included Empire
11 in his group or not. That was the major -- the main
12 difference there.

13 Q. So you don't -- you and the other Staff
14 that you consulted with don't think that the size of
15 the company in terms of number of employees is
16 relevant?

17 A. I have not discussed that with them.
18 I'd have to talk to them and see what their opinions
19 are on that.

20 Q. Well, okay. Just you, then, if you
21 haven't discussed it, you must not consider it
22 relevant or you would have discussed it, right?

23 A. Yes.

24 Q. And you don't consider it relevant that
25 they may or may not be nonregulated businesses?

1 A. I believe it's relevant, but that was
2 not one of my criterion because I relied solely on
3 Standard & Poor's classification of these companies.

4 Q. But if it's relevant and you're not
5 ruling them in or out by that criteria, how is it
6 relevant?

7 A. I believe that most of their operating
8 revenues come from the -- their regulated utility
9 operations.

10 Q. I thought you didn't look at whether
11 they had nonregulated businesses.

12 A. Maybe I misunderstood. I -- I did not
13 have that as a criterion in here, but I certainly
14 looked at a percentage of revenues that come from the
15 regulated operations of these companies. I don't
16 have those technical sheets with me right now.

17 Q. So you wouldn't consider that one of the
18 criteria that you used if you looked at percentage of
19 revenues that came from regulated?

20 A. I probably -- I probably should have. I
21 didn't -- I did not, no.

22 Q. And did you look at where the companies
23 were located?

24 A. Yes. It mentions that on the tariff
25 sheets from Value Line. I just don't remember right

1 off the top of my head where exactly all of them are
2 located.

3 Q. But you did not consider it relevant to
4 whether they are comparable?

5 A. No, I did not.

6 Q. And that's why you would have chosen a
7 company -- an electric company in Hawaii, for
8 example?

9 A. Not based on the location.

10 Q. But, I mean, the fact that you
11 considered it irrelevant, the location --

12 A. Yes.

13 Q. -- and the fuel mixes just don't matter
14 in terms of whether the companies are comparable?

15 A. I believe it does matter, but I'd have
16 to go back and look at these companies as far as
17 their fuel mix. But I believe most of them do have
18 coal operations. I believe Hawaiian Electric is an
19 exception to that. I believe they use oil as a fuel
20 mix.

21 Q. And you say you'd have to go back and
22 look. You didn't look at that to determine that they
23 were comparable; is that correct?

24 A. That was not one of my criterion, no.

25 Q. And the types of loads that they serve

1 you did not look at either?

2 A. No, I did not.

3 COMMISSIONER MURRAY: Thank you.

4 JUDGE PRIDGIN: Commissioner, thank you.

5 CHAIRMAN DAVIS: Yeah, I need a second.

6 QUESTIONS BY CHAIRMAN DAVIS:

7 Q. All right. Mr. Barnes?

8 A. Yes, sir.

9 Q. I apologize if some of this may be
10 redundant. I had to step off the bench for just a
11 second here.

12 I believe Mr. -- I'm sorry. I'm drawing
13 a blank here right now. I believe Mr. Zobrist asked
14 you if the companies that you selected in your proxy
15 group were in this region; is that correct?

16 A. Yes.

17 Q. Or something of that nature?

18 A. Yes, I believe so.

19 Q. And were the utilities that you selected
20 in your proxy group in this region?

21 A. Not in Missouri or Kansas, no.

22 Q. Were they in the Midwest?

23 A. I believe the closest one would have
24 been Southern Company or IDACORP, but no, they were
25 not in the Midwest.

1 Q. Okay. So Hawaii's not in the same
2 geographic region?

3 A. No.

4 Q. Okay. Now, have you read Hope and
5 Bluefield?

6 A. I've reviewed it, yes.

7 Q. Okay. Do you have copies of Hope and
8 Blue -- Hope and Bluefield?

9 A. Not with me. I do in my office.

10 Q. Okay.

11 A. I have access to those.

12 Q. But you do have copies of Hope and
13 Bluefield, correct?

14 A. Yes.

15 Q. And when you read Bluefield Water Works,
16 the Supreme Court case, do you recall reading the
17 paragraph in Bluefield that says, "A public utility
18 is entitled to such rates as will permit it to earn a
19 return upon the value of the property which it
20 employs for the convenience of the public equal to
21 that generally being made at the same time in the
22 same general part of the country on investments and
23 other business undertakings which are attended by
24 corresponding risks and uncertainties."

25 Now, I believe that's 262 U.S. at 692.

1 Do you recall reading that?

2 A. Yes.

3 Q. Okay. Now, is Hawaiian Electric

4 Industries in the same part of the country?

5 A. Not as far as -- not -- no, not for

6 KCP&L.

7 Q. Okay. Is IDACORP, are they in the same

8 general part of the country?

9 A. No, they are not. They're in the

10 Northwest.

11 Q. Okay. And where is Southern Company?

12 A. Southeast.

13 Q. Okay. And where is Puget Energy?

14 A. Northwest.

15 Q. Okay. And where is Pinnacle West?

16 A. Southwest.

17 Q. Okay. Now, Mr. Barnes, what do you know

18 about Hawaiian Electric?

19 A. I believe that they are a vertically

20 integrated electric utility company. They -- I

21 believe they do have some banking operations that are

22 nonregulated. For the most part, they operate in

23 Hawaii. Well, they do operate in Hawaii.

24 Q. Now, you say that they have some banking

25 operations that are unregulated. I mean, unregulated

1 in the sense that they're not rate-of-return-regulated
2 like utilities are, or unregulated like, you know,
3 businesses in general being just, you know,
4 unregulated, I guess, you know, less regulation
5 than -- I guess the -- I guess the phrase is less
6 regulation than an electric utility, but they're
7 still regulated, aren't they?

8 A. The banking industry part?

9 Q. Uh-huh.

10 A. I don't know for sure about how much
11 regulation there really is with that, but I don't
12 think it's too much. But not like utilities.

13 Q. Not like utilities. Do you -- do you go
14 to a bank, Mr. Barnes?

15 A. Yes.

16 Q. Is -- I mean, are there statements that
17 your deposits are secured by the FDIC?

18 A. Yes.

19 Q. And are banks required to either have a
20 state or a federal charter?

21 A. I believe so, yes.

22 Q. And they're either -- they're either
23 regulated by either -- either a state or a federal
24 board, depending on where they're chartered at, aren't
25 they?

1 A. I believe so, yes.

2 Q. So I mean, in terms of -- in terms of
3 risk profile, you don't know -- you don't know
4 whether banking is, say, more or less speculative
5 than any other industry out there, do you?

6 A. No, I don't.

7 Q. Okay. And you don't know what portion
8 of Hawaii Electric's business is banking, do you?

9 A. No, I don't.

10 Q. What's -- do you recall what Great
11 Plains' market cap is?

12 A. I know it's in the billions, but I don't
13 have an exact number. I can -- I have the tariff
14 sheet upstairs in my office. I don't have it with
15 me.

16 Q. Do you recall what Southern Company's
17 market cap is?

18 A. I believe it's -- I don't know exactly,
19 but I believe it's much more than Kansas City Power &
20 Light.

21 Q. So if I asked you to guess what multiple
22 it would be, would it be a multiple -- multiplier of
23 several times, four or five, six, maybe?

24 A. Probably, yes.

25 CHAIRMAN DAVIS: Okay. No further

1 questions of Mr. Barnes at this time, your Honor.

2 JUDGE PRIDGIN: Mr. Chairman, thank you.

3 Recross?

4 (NO RESPONSE.)

5 JUDGE PRIDGIN: None? Any --

6 MR. ZOBRIST: No.

7 JUDGE PRIDGIN: I'm sorry. No recross?

8 MR. ZOBRIST: Right.

9 JUDGE PRIDGIN: Okay. Redirect?

10 MR. THOMPSON: Thank you, your Honor.

11 REDIRECT EXAMINATION BY MR. THOMPSON:

12 Q. Mr. Barnes, you'll recall Mr. Zobrist

13 asked you about your qualifications and your length

14 of experience. Do you recall those questions?

15 A. Yes.

16 Q. You do know how to calculate a

17 discounted cash flow?

18 A. Yes.

19 Q. You know how to calculate a risk premium

20 analysis?

21 A. It's part of the CAPM, the capital asset

22 pricing model we use.

23 Q. You know how to calculate a capital

24 asset pricing model?

25 A. Yes.

1 Q. In making the calculations that you made
2 in preparing your testimony, did you follow the
3 standard methods used in the financial analysis
4 industry insofar as you are aware of them?

5 A. Yes.

6 Q. And in forming your proxy group, did you
7 follow the instructions that you were given within
8 your department?

9 A. Yes.

10 Q. And you followed the methods that Staff
11 has used in recent rate cases?

12 A. Yes.

13 Q. Now, you testified, I believe, that you
14 have not been the lead Staff witness on cost of
15 capital in a previous rate proceeding; isn't that
16 correct?

17 A. Yes.

18 Q. Have you assisted other Staff members in
19 doing the analyses in other rate cases?

20 A. Yes, I have.

21 Q. Have you sponsored rate of return
22 testimony in any other types of cases, for example,
23 telephone cases?

24 A. Yes. It was a supplemental direct that
25 I filed for that.

1 Q. But it was testimony?

2 A. Yes.

3 Q. Now, Mr. Zobrist asked you a number of
4 detailed questions about the number of employees and
5 other details having to do with your comparable
6 group. Do you recall those questions?

7 A. Yes.

8 Q. In your opinion, does the number of
9 employees play a part in whether or not a company is
10 a vertically integrated electric utility company?

11 A. Could you repeat that question?

12 Q. Well, let me go at it in a different
13 way. What does vertically integrated electric
14 utility company mean?

15 A. A company that generates and distributes
16 electricity for -- for their service territory.

17 Q. Okay. So they generate it --

18 A. (Nodded head.)

19 Q. -- they transport it --

20 A. Uh-huh.

21 Q. -- and they distribute it to customers;
22 is that correct?

23 A. Yes.

24 Q. Okay. Does any part of that definition
25 take account of the number of employees?

1 A. No, it does not. I don't think it does.

2 Q. Okay. Does any part of that definition
3 take account of the amount of capitalization?

4 A. No -- no.

5 Q. If you know, did any of the other rate
6 of return witnesses analyze or examine the sort of
7 specific information that you were asked about by
8 Mr. Zobrist?

9 A. Not that I know of.

10 Q. What is a pure play electric utility
11 company?

12 A. A utility company that is -- it's as
13 close -- mainly their operations are predominantly
14 regulated.

15 Q. Are there a lot of those still in
16 existence, if you know?

17 A. Yes. I don't know how many.

18 Q. Okay.

19 A. There's a few.

20 Q. But you didn't find very many to use as
21 comparables in your proxy group?

22 A. Yeah, it's getting harder to do that,
23 yes.

24 Q. If you know, is KCP&L a stand-alone
25 electric utility?

1 A. It is -- it is a subsidiary of Great
2 Plains Energy, so, yes, it's -- it's not
3 considered -- wouldn't call it a stand-alone, but
4 they don't issue their own stock, Great Plains Energy
5 does.

6 Q. If you know, does Great Plains Energy
7 have significant unregulated activities?

8 A. I believe so, yes.

9 Q. And finally, if you know, did any of the
10 other rate of return witnesses use geographical
11 location as a criterion in selecting their proxy
12 groups?

13 A. Not that I'm aware of.

14 MR. THOMPSON: No further questions.
15 Thank you, your Honor.

16 JUDGE PRIDGIN: All right, Mr. Thompson,
17 thank you. Mr. Chairman, further questions?

18 QUESTIONS BY CHAIRMAN DAVIS:

19 Q. Mr. Barnes, in Mr. Thompson's redirect,
20 he referred to some -- you following some
21 instructions that were given to you in your
22 department. Can you -- can you recite for me what
23 those instructions were?

24 A. Well, to provide my objective analysis
25 for the Commission. Nothing -- nothing specifically.

1 I was not ordered to do anything specifically. I ran
2 a lot of my thoughts by Staff witness, David Murray
3 and my boss, Ron Bible.

4 Q. Okay. So you consulted with Ron Bible
5 and David Murray regarding your testimony, correct?

6 A. Correct.

7 Q. How did you select five comparables?

8 A. I relied solely on Standard & Poor's
9 classification of vertically integrated electric
10 companies.

11 Q. And does Standard & Poor's say pick five
12 comparables?

13 A. No. They have a list of 11, I believe
14 is what they have.

15 Q. Okay. So they use 11 and you used five.
16 Why is -- why is there a difference?

17 A. From my criterion that I have on my
18 Schedule 12 that list -- that's just the starting
19 point for selecting my comparable companies was using
20 Standard & Poor's.

21 Q. Uh-huh.

22 A. My next criterion was is the stock
23 publicly traded? Is the information printed in Value
24 Line? Ten years of data available, companies must be
25 at least investment grade and two sources of

1 projected growth rates with one from Value Line and
2 then, no Missouri operations, to arrive at five
3 companies.

4 Q. Okay. And why was no Missouri
5 operations important?

6 A. I have been told that there was a
7 circular argument by including Missouri companies in
8 the comparable group.

9 Q. Uh-huh.

10 A. And so I chose to keep using the
11 criterion in this case. I don't know exactly what
12 the specific argument was about, but I believe it was
13 previous to me starting in this position.

14 Q. All right. And you -- you reviewed
15 Dr. Hadaway's testimony, didn't you?

16 A. Yes.

17 Q. And in your opinion did Dr. Hadaway
18 select utilities from the same general part of the
19 country that were making investments and business
20 undertakings with corresponding risks and
21 uncertainties?

22 A. I believe some of his companies were
23 considered diversified. I don't believe -- if there
24 are any in this area, it would have been Empire and
25 possibly Ameren that he included in his.

1 Q. Okay. All right. So now, to paraphrase
2 one more time, your only instructions were to just go
3 forth and give an unbiased analysis of how to -- of
4 Kansas City Power & Light's ROE; is that correct?

5 A. Yes.

6 Q. And how did you learn to do this
7 analysis?

8 A. I've been with the Commission for about
9 three years now, and I've helped develop schedules and
10 go through testimony with the other Staff witnesses.

11 Q. And who would the other Staff witnesses
12 be?

13 A. David Murray and Ron Bible.

14 Q. Now, has Mr. Bible testified in any
15 cases since you've been employed at the Commission?

16 A. Yes. He testified in -- the first one
17 that I saw was the Aquila collateralization case.
18 That would have been in 2003, I believe. I don't
19 know the exact year.

20 CHAIRMAN DAVIS: Okay. All right.

21 Thank you, Mr. Barnes. No further questions.

22 JUDGE PRIDGIN: Mr. Chairman, thank you.
23 Any further questions from the bench?

24 (NO RESPONSE.)

25 JUDGE PRIDGIN: All right. Further

1 recross?

2 MR. ZOBRIST: Just a couple of
3 questions.

4 FURTHER RECROSS-EXAMINATION BY MR. ZOBRIST:

5 Q. Dr. Hadaway used 24 companies in his
6 comparable group, correct?

7 A. Correct.

8 Q. And Professor Woolridge accepted
9 Dr. Hadaway's group of 24 in his analysis, correct?

10 A. I believe so, yes.

11 Q. And Mr. Baudino used 21 companies in his
12 comparable group, correct?

13 A. I believe so, yes.

14 MR. ZOBRIST: Thank you. Nothing
15 further.

16 JUDGE PRIDGIN: Further recross?

17 (NO RESPONSE.)

18 JUDGE PRIDGIN: Redirect?

19 MR. THOMPSON: No, your Honor.

20 JUDGE PRIDGIN: All right. Thank you.

21 Mr. Barnes, you may step down.

22 Let me try to get a handle on the
23 schedule. It looks like we are still at or ahead of
24 time on the schedule, and I think I neglected to ask
25 or verify the availabilities of cost of capital

1 witnesses. And first, will Mr. Dittmer take the
2 stand again on cost of capital, or do parties have
3 more cross for him? It's complete today? So
4 Mr. Dittmer will not come back to the stand on cost
5 of capital?

6 MR. PHILLIPS: He's done.

7 MR. CAMPBELL: He's good for everything
8 that he was going to testify to.

9 JUDGE PRIDGIN: Very good. And
10 Mr. Traxler will be available starting tomorrow on
11 cost of capital if the parties have questions for
12 him?

13 MR. ZOBRIST: I believe that's only to
14 the extent he had any testimony on additional
15 amortizations; is that right?

16 MR. DOTTHEIM: Yes.

17 MR. ZOBRIST: Okay.

18 JUDGE PRIDGIN: And Mr. Trippensee?

19 MR. MILLS: Yes, he will be available
20 tomorrow as well.

21 JUDGE PRIDGIN: Okay. Then we would
22 first take up the -- Mr. Rush and Mr. Herz on some
23 Trigen issues, and then go to the rest of those
24 issues -- excuse me, the rest of those witnesses who
25 would be available tomorrow, and Ms. Bernsen would

1 also be available tomorrow, I assume?

2 MR. THOMPSON: As far as I know, your
3 Honor.

4 JUDGE PRIDGIN: And then we also have
5 for Wednesday Dr. Hadaway, Mr. Woolridge? I keep
6 forgetting -- I keep forgetting Mr. Schnitzer. I
7 even wrote it down. All right. Thank you.

8 Okay. This looks to be -- since we're
9 approaching five o'clock, this looks to be a
10 convenient time to break again since we seem to be at
11 or ahead of schedule. Is there anything else from
12 counsel on scheduling matters or on anything else
13 before we go off the record?

14 MR. MILLS: Just very briefly, we've got
15 a lot of miscellaneous witnesses on cost of capital,
16 Mr. Baudino is here but he's just here for tomorrow.
17 So if it looks like we're gonna get bogged down with
18 people like Mr. Trippensee and Ms. Bernsen, who are
19 probably going to be here anyway, I might ask to move
20 ahead to him.

21 JUDGE PRIDGIN: That's absolutely fine.
22 If there are people whose schedules dictate,
23 absolutely. Please remind me. Be glad to do that.
24 And also I'll ask KCP&L to keep me posted on
25 Mr. Cross, on his condition, and when he'd be

1 available to testify.

2 MR. FISCHER: Certainly.

3 JUDGE PRIDGIN: Anything else from
4 counsel?

5 MR. THOMPSON: Your Honor, Staff's
6 willing to waive cross of Mr. Cross. So if there
7 aren't any questions from the bench or from other
8 counsel for him, then perhaps he could be allowed to
9 recuperate undisturbed.

10 MR. MILLS: And I have no cross for him.

11 JUDGE PRIDGIN: That may be something I
12 can take up with the bench. And obviously we'll see
13 how his condition is, if he's even needed. But I'll
14 ask KCP&L in the morning, and I'll also try to poll
15 the Commissioners to see if they have any questions
16 for Mr. Cross. Okay. Anything else from counsel?

17 (NO RESPONSE.)

18 JUDGE PRIDGIN: Okay. Seeing nothing
19 else, we will adjourn. We will resume at 8:30 in the
20 morning and begin with Mr. Rush from KCP&L. Thank
21 you very much. We're off the record.

22 (WHEREUPON, the hearing of this case was
23 recessed until October 24, 2006.)

24

25

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1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI)
3) ss.
4 COUNTY OF COLE)
5
6

7 I, PAMELA FICK, RMR, RPR, CSR, CCR #447,
8 within and for the State of Missouri, do hereby
9 certify that the witness whose testimony appears in
10 the foregoing deposition was duly sworn by me; that
11 the testimony of said witness was taken by me to the
12 best of my ability and thereafter reduced to
13 typewriting under my direction; that I am neither
14 counsel for, related to, nor employed by any of the
15 parties to the action to which this deposition was
16 taken, and further that I am not a relative or
17 employee of any attorney or counsel employed by the
18 parties thereto, nor financially or otherwise
19 interested in the outcome of the action.
20
21
22

23 _____
24 PAMELA FICK, RMR, RPR, CSR, CCR #447
25