

THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

True-up Hearing

March 3, 2011

Jefferson City, Missouri

Volume 43

In The Matter Of The Application)
Of Kansas City Power And Light)
Company For Approval To Make)
Certain Changes In Its Charges) File No. ER-2010-0355
For Electric Service To Continue)
Implementation Of Its Regulatory)
Plan)

In The Matter Of The Application)
Of KCP&L Greater Missouri)
Operations Company For Approval) File No. ER-2010-0356
To Make Certain Changes In Its)
Changes For Electric Service)

NANCY M. DIPPELL

SENIOR REGULATORY LAW JUDGE.

KEVIN GUNN, Chairman
JEFF DAVIS,
TERRY JARRETT,
Commissioners.

REPORTED BY:
LISA M. BANKS, CCR
TIGER COURT REPORTING, LLC

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1 (Wherein; Industrials Exhibit Nos. KCPL 1216
2 HC and KCPL 1216 NP were marked for identification.)

3 JUDGE DIPPELL: Okay. Good morning. We
4 have come here today in Case No. ER-2010-0355 and
5 ER-2010-0356 for a true-up hearing, which is scheduled for
6 today, March 3rd and tomorrow, March 4th. And my name is
7 Nancy Dippell, the regulatory law judge assigned to hear
8 this part of the case.

9 And we're going to begin by making entries
10 of appearance. And I begin with the Company, please.

11 MR. STEINER: Roger Steiner on behalf of
12 Kansas City Power and Light Company and KCP&L Greater
13 Missouri Operations Company. Also entering an appearance
14 are Jim Fischer and Karl Zobrist, and I think all of our
15 addresses have previously been entered into the record.

16 JUDGE DIPPELL: Thank you.

17 Staff?

18 MR. WILLIAMS: Thank you, Judge. Appearing
19 on behalf of Staff will be Jaime Ott, Steve Dottheim,
20 Nathan Williams, Kevin Thompson, Jennifer Hernandez and
21 Nathan Williams, myself.

22 JUDGE DIPPELL: Thank you.

23 Office of the Public Counsel?

24 MR. MILLS: On behalf of the Office of the
25 Public Counsel and the public, my name is Lewis Mills. My

1 address is Post Office Box 2230, Jefferson City, Missouri,
2 65102.

3 JUDGE DIPPELL: Federal Executive Agencies?
4 AARP and the Consumers Council?

5 MR. COFFMAN: Yes. Appearing on behalf of
6 AARP as well as Consumers Council, John B. Coffman, 871
7 Tuxedo Boulevard, St. Louis, Missouri 63119.

8 JUDGE DIPPELL: Missouri Retailers
9 Association?

10 City of Lee's Summit?

11 Missouri Gas Energy?

12 Mr. Wagner?

13 City of Kansas City?

14 Union Electric Company?

15 The hospital intervenors?

16 City of St. Joseph?

17 Empire District Electric Company?

18 MS. CARTER: Diana Carter and Jim Swarengen
19 of Brydon, Swarengen and England, P.C. for the Empire
20 District Company.

21 JUDGE DIPPELL: Missouri Department of
22 Natural Resources?

23 Ag Processing?

24 MR. WOODSMALL: Thank you, Your Honor.

25 Appearing on behalf of Ag Processing and Sedalia Industrial

1 Energy Users Association in the 0356 case, David woodsmall.

2 And then appearing on behalf of Praxair and
3 Midwest Energy Users Association in the 0355 case as well.

4 JUDGE DIPPELL: Dogwood Energy? I believe
5 Mr. Lumley told me he would not be here today.

6 Anyone for the unions?

7 And is there anyone that I missed? There
8 may have been some parties in the 355 case that I didn't
9 call, but I'm not seeing anyone else jumping to make an
10 appearance, so we will go forward with that.

11 Okay. Before we went on the record, I asked
12 about any additional scheduling conflicts. There are no
13 additional scheduling conflicts, however Staff indicated
14 they would like Mr. Featherstone to appear after Mr. Harris
15 in the order.

16 And then the Industrial intervenors
17 indicated that they would like Mr. Meyer to appear after
18 Staff's witness. Is that correct, Mr. woodsmall?

19 MR. WOODSMALL: Correct, Your Honor. I
20 would note Mr. Meyer is presently in the AmerenUE
21 prehearing conference, so his appearance may be somewhat
22 limited, but we would ask that he be placed last in order.

23 I would note that when the schedule was sent
24 to Your Honor, it was noted copying in other parties and
25 soliciting their input. So this schedule was put together

1 by KCP&L and Staff without our input.

2 We would note Mr. Meyer is the most adverse
3 issue to KCP&L on this given the position he took in his
4 true-up rebuttal. He proposed adjustment beyond where
5 Staff is. So for all those reasons, I'd ask that Mr. Meyer
6 be last in order.

7 JUDGE DIPPELL: And the Company had an issue
8 with that?

9 MR. STEINER: Well, we did give
10 Mr. Woodsmall the opportunity to see that schedule before
11 it was sent to you, so I don't think that was the first
12 time he saw it as far as the order of his witness. And we
13 believe he's -- his witness is just as adver-- Staff is
14 just as adverse as his witness is on this issue and Staff
15 always traditional goes last in order of witnesses.

16 JUDGE DIPPELL: Okay.

17 MR. WOODSMALL: Your Honor, just to clarify:
18 The Company has their position based upon the 25th
19 percentile of the true-up, which is the least amount of
20 off-system sales. Staff's position is 40th percentile of
21 the true-up, which is the second amount. Our position is
22 40th percentile of the true-up direct -- of the direct
23 testimony.

24 So ours is the most adverse. It would cost
25 the greatest amount of off-system sales. So it is

1 certainly the most adverse. As far as how things have
2 traditionally been done, on most issues it is traditionally
3 just Company and Staff, so I don't believe any type of
4 tradition dictates, but I think the fact that he's most
5 adverse is the most important measure.

6 JUDGE DIPPELL: Okay. Since this is an
7 issue that's going to come up first thing in the morning at
8 this point, I'm going to wait and decide that later. I'll
9 let you all know later today.

10 MR. WOODSMALL: Okay.

11 JUDGE DIPPELL: After I've had an
12 opportunity to look at that again.

13 All right. There were some motions to
14 strike filed late last night. I appreciate that. And I
15 believe they involve the testimony of what is the -- some
16 of the first witnesses on the list, or one of the first
17 witnesses on the list. So I would like to go ahead and
18 address those now.

19 Staff filed the original motion -- or the
20 first of the two, I should say. And so I will let them go
21 first.

22 Mr. Dottheim?

23 MR. DOTTHEIM: Yes. Thank you. Staff filed
24 motion to strike the rebuttal testimony of Darrin Ives and
25 Staff tried to be as explicit as possible in the motion

1 setting out why it is improper by referring to the KCPL
2 regulatory plan, the Commission's order of August 18th,
3 2010, and Commission order from March 18th, 2009 in the
4 last KCPL and GMO cases.

5 The true-up rebuttal testimony of -- of
6 Mr. Ives addressing the -- well, it goes into -- into
7 matters relating the -- the Iatan issues. And it either
8 repeats testimony already in the record and it explicitly
9 identifies that it's repeating testimony already in the
10 record put in by, for example, Mr. Brent Davis, as one
11 individual. And I identify in the pleading on what pages.

12 Or it seeks to add new testimony involving
13 issues that were heard and were addressed in the case in
14 chief making arguments that KCPL/GMO did not make in the
15 case in chief. In fact, in certain instances involving the
16 AFUDC issues of Mr. Majors, the Staff even advised the
17 Company that -- that the Company didn't have in any
18 responsive testimony regarding the AFUDC issues and the
19 Company has attempted to put in rebuttal testimony
20 improperly in the -- in the true-up rebuttal testimony.

21 For example, the Company attempts to address
22 write-offs as SFAS No. 90 in the true-up rebuttal
23 testimony. It was not addressed by the Company until the
24 true-up rebuttal. It is clear that the Staff's posed
25 disallowances if adopted by the Commission, would raise the

1 matter of write-offs.

2 Mr. Ives even addresses that matter by -- by
3 citing on Page 7 the write-offs that KCPL was required to
4 make by SFAS No. 90 as a result of the disallowances that
5 the Commission ordered in the Wolf Creek case.

6 well, this is just an example of the issue
7 that the Company has raised improperly for the first time,
8 that it did not raise in the case in chief and it is now
9 trying at the very last minute in a true-up rebuttal to
10 address its failure to previously make these arguments or
11 is putting in arguments that it -- it has previously made
12 setting up the argument by questions such as, Does the
13 Company -- has the Company changed its position regarding
14 this issue, for example.

15 I would -- I would note I have identified --
16 I filed -- I filed separate pleadings in -- in the two
17 cases because Mr. Ives's testimony is -- is not identical.
18 And because it is not identical, I filed separate pleadings
19 referring to the commonality between the -- the two
20 testimonies, but also to the -- to the -- to the
21 differences.

22 I have noted that in my -- in my pleading on
23 GMO -- it's on Page 4. It's the very last line, my
24 pleading on GMO, which is the 0356 case. The last line,
25 which reads, Numbers calculated by Mr. Majors in 15 lines

1 of Hyneman true-up direct, Schedule 1 HC. For GMO, instead
2 of 15 lines, it should be five lines.

3 Because what I'm referring to is Hyneman --
4 the true-up, Schedule 1. And for the KCPL case, the one
5 paragraph in the true-up direct testimony of Mr. Hyneman,
6 which addresses the true-up numbers for KCPL direct cost
7 (property tax, AFUDC, KCPL-only) -- those numbers
8 calculated by Mr. Majors are reflected in 15 lines on
9 Schedule 1 of Mr. Hyneman's true-up direct, which has the
10 heading KCPL direct costs (Property tax, AFUDC, KCPL-only).

11 But for GMO the true-up numbers calculated
12 by Mr. Majors for GMO AFUDC adjustments are reflected below
13 that in a separate section, which constitute five lines and
14 not 15 lines. In all there -- they're numbered. There's
15 no -- there's no narrative.

16 And that one paragraph of updated numbers
17 for the true-up that Mr. Majors identified in one paragraph
18 in his true-up direct and Mr. Hyneman addressed in a
19 schedule with numbers prompted pages of testimony by
20 Mr. Ives. So --

21 COMMISSIONER DAVIS: Mr. Dottheim, can I
22 inquire of you?

23 MR. DOTTHEIM: Yes.

24 COMMISSIONER DAVIS: And this is a -- this
25 is a basic question and it's to all the parties. And I've

1 looked in our rules; I don't see anything in our Commission
2 rules that say what true-up is. Is that correct?

3 MR. DOTTHEIM: That is correct. To my
4 recollection, there's nothing -- there's -- there's rules
5 that address direct, rebuttal and surrebuttal, but not --
6 but not true-up.

7 MR. WILLIAMS: Commissioner, if I might?
8 The only place I've seen true-up has been in the context of
9 the environmental cost recovery mechanism and the fuel rate
10 adjustment mechanism for fuel clauses. There is a mention
11 of true-up there.

12 COMMISSIONER DAVIS: Okay. Okay. So that
13 would be potentially some guidance. And then --

14 MR. DOTTHEIM: But Commissioner --

15 COMMISSIONER DAVIS: Go ahead.

16 MR. DOTTHEIM: And I don't know whether --
17 whether -- and also, too, one might say environmental cost
18 recovery mechanism or fuel adjustment clause -- I don't
19 know if it's literally addressed in the context of --

20 COMMISSIONER DAVIS: Right.

21 MR. DOTTHEIM: -- of testimony or what's
22 proper testimony or --

23 COMMISSIONER DAVIS: Right. Now -- and I
24 did not bring my copy of the comprehensive energy plan down
25 here with me today. Is -- was -- I mean, obviously there

1 was some language in the -- in the CEP about true-up
2 relating to -- you know, you were supposed to agree on a
3 list of issues et cetera.

4 I mean, is there any other authoritative
5 guidance on what true-up is supposed to be?

6 MR. DOTTHEIM: No, Commissioner, other than
7 convention and other than what I would -- I would say to
8 you that -- that some -- in some cases efforts have been
9 made to --

10 COMMISSIONER DAVIS: To try to get there and
11 you couldn't?

12 MR. DOTTHEIM: Well, there are -- there are
13 some --

14 COMMISSIONER DAVIS: I see at least one
15 person nodding their head.

16 MR. DOTTHEIM: There are -- I think, if for
17 example, you would go to the AmerenUE or now Ameren
18 Missouri procedural schedule, which is from November of
19 2010 and you then -- in the -- in the ER-2011-0028 case or
20 if you would go to the stipulation and agreement on
21 procedural -- well, that was the Commission order.

22 I don't know if the Commission addressed it
23 in the order, but in the stipulation and agreement that the
24 parties submitted to the Commission, I believe true-up was
25 addressed in an attempt to define true-up.

1 And in the prior case I believe of AmerenUE,
2 ER-2010-0036, in the stipulation and agreement that was
3 submitted to the Commission, that -- and the Commission
4 issued an order adopting a procedural schedule. I don't
5 know if the Commission adopted the language on true-up.

6 And of course, there was -- the language the
7 parties submitted to the Commission on true-up were
8 stipulations and agreements. And therefore, they were
9 limited to those cases. So they have no effect as
10 stipulations and agreements on -- on this case.

11 But if the Commission, on a forward-looking
12 basis were -- were looking for something or trying to
13 address what are the proper bounds of a true-up, the
14 Commission might want to look there amongst any number of
15 other places and take -- and take comments from -- from
16 parties or participants before -- before the Commission.

17 COMMISSIONER DAVIS: Okay. All right.
18 Mr. Fischer, Mr. Woodsmall -- okay. Let's go to
19 Mr. Woodsmall and then to Mr. Fischer.

20 MR. WOODSMALL: Just to provide you with
21 some background on this, you may recall in the 2008 Empire
22 case the Commission quashed some subpoenas, which I
23 attempted to get some subpoenas of some Empire witnesses so
24 that I could cross them in the context of the true-up case.
25 The Commission at that time quashed those subpoenas and

1 said basically that if you -- if you could -- if you should
2 have and could have addressed the issue in the evidentiary
3 hearing, then you should have done it.

4 That you can't use the true-up hearing to
5 pick up what you should have done at the evidentiary
6 hearing. And so the Commission ordered those subpoenas to
7 be quashed at that time as you may recall.

8 COMMISSIONER DAVIS: Uh-huh.

9 MR. WOODSMALL: So using the same theory, I
10 don't know the exact context of the issue that's being
11 addressed here, but if it could have been and should have
12 been done in the evidentiary hearing, that's where it
13 should have been.

14 COMMISSIONER DAVIS: Okay. Mr. Fischer?

15 MR. FISCHER: Yes. Commissioner, I would
16 just say related to specifically to this case -- and
17 Mr. Dottheim actually cites it in his motion -- the KCPL
18 regulatory plan stipulation related to this case, case 4,
19 did indicate that the sign-- the signatory parties
20 anticipated that -- and I'm going to quote -- the true-up
21 will include, but not necessarily be limited to revenues
22 including off-system sales, fuel prices and purchase power
23 costs, payroll and payroll related benefits, plant
24 in-service, depreciation and other items typically included
25 in true-up proceedings before the Commission.

1 I would agree with Mr. Woodsmall that
2 typically these true-up proceedings have been updating of
3 numbers and not bringing in new substantive issues to be
4 tried in the true-up. And we believe that the Company is
5 following those guidelines.

6 I can address specifically the question in
7 Mr. Ives' testimony at your convenience.

8 COMMISSIONER DAVIS: Well, okay, that's --
9 all right. I'm sorry. We've digressed, but I'll let
10 you -- thank you, Mr. Woodsmall.

11 Thank you, Mr. Fischer.

12 Mr. Mills, did you or --

13 MR. MILLS: I'll stay out of this one.

14 Thank you.

15 COMMISSIONER DAVIS: Okay. All right.

16 Mr. Coffman?

17 Mr. Thompson?

18 MR. THOMPSON: No, thank you, sir.

19 COMMISSIONER DAVIS: All right. Thank you,
20 Judge.

21 JUDGE DIPPELL: Okay. I have no actually
22 let the Company have an opportunity to respond to the
23 motion, so at this time I'd like to hear what they have to
24 say.

25 MR. FISCHER: Thank you, Judge. I

1 appreciate that opportunity. KCPL did not know until the
2 Staff's true-up direct the total amount of the Staff's
3 Iatan disallowances. We knew they would be bigger, but we
4 didn't know what they were going to be.

5 Mr. Ives, using the disallowances now
6 provided in the Staff's true-up direct calculated in his
7 true-up rebuttal, the amount of the write-offs that the
8 Company would experience should the Commission adopt this
9 specific Staff disallowances that are being proposed in the
10 true-up proceeding.

11 Now, these write-off amounts are not found
12 anywhere else in the record as they couldn't have been
13 calculated prior to the time the Staff filed what their
14 Iatan disallowances were going to be as part of the
15 true-up.

16 But I agree with Mr. Dottheim that this is
17 not a new issue. As a matter of fact, I discussed the
18 importance of the write-off issue and SFAS 90 in the very
19 first day of the hearings in the KCPL case in my opening
20 statement.

21 If you look back on Page 122 of the
22 transcripts, I go on at some length, but let me just quote
23 a little bit of it. The Commission should also consider
24 what the adoption of a prudence disallowance would mean to
25 the Company. Every dollar of that disallowance that's

1 adopted by the Commission and upheld by the courts will
2 mean that the Company will have write-off -- will have to
3 write-off the amount of the disallowance from its books.

4 So unlike other rate case adjustments, which
5 we typically deal with, which are only in effect from
6 perhaps this rate case until the next rate case, a prudence
7 disallowance of a power plant expenditure will mean that
8 under SFAS opinion number 90 the Company will permanently
9 lose its ability to earn a return on or otherwise recover
10 those disallowed -- disallowed expenditures used to build
11 that power plant.

12 It becomes a permanent write-off of actual
13 dollars spent to build the plant and that's why this
14 prudence case -- this prudence issue in this case is so
15 important to the Company and its investors who will be
16 called upon in the future to put up additional funds for
17 future projects that will need -- that will need to be
18 constructed to serve customers.

19 Now, that's not the only place. Then in the
20 rebuttal testimony of Curtis Blanc, which is Exhibit --
21 KCPL Exhibit 8 at Page 6, he again addresses the importance
22 of these write-off issues from an investor prospective and
23 why it's so important that the Commission understand the
24 importance of what these disallowances will mean to the
25 Company.

1 Now again, at that time the Company did not
2 know the full amounts of the Staff's Iatan disallowances
3 and therefore we couldn't calculate the amount of the
4 write-offs. But Staff did cross in the hearings KCPL
5 witness John Weisensee on the issue of write-offs and
6 specifically asked about the Wolf Creek situation. And if
7 you want to look at that, I can direct you to transcript
8 Page 3236 through 3240.

9 And then on the AFUDC and the coal credit
10 issues, again those amounts -- those adjustments were not
11 known until the true-up either, and so we couldn't
12 calculate and impact on the write-offs. And that's what
13 we're doing here. That's -- Darrin Ives is available to
14 answer the questions on how -- how he calculates that based
15 upon the true-up numbers that the Staff has provided.

16 And we think it's totally appropriate that
17 we're now addressing the number impacts of their
18 adjustments as a part of that.

19 JUDGE DIPPELL: Okay. Along those lines
20 then, I want to -- before I rule on Mr. Ives motion, I want
21 to also hear the second motion to -- but made by the
22 Company to strike the testimony of Mr. Murray.

23 COMMISSIONER DAVIS: Can -- can I inquire of
24 Mr. Fischer before we go --

25 JUDGE DIPPELL: Yes. Yes.

1 COMMISSIONER DAVIS: -- to that issue?

2 Mr. Fischer, if you read Mr. Giles's true-up
3 rebuttal testimony, I mean, he almost -- I mean, it looks
4 to me like he's making the same argument about Chuck
5 Hyneman's testimony that -- that he is injecting new
6 issues. But you didn't make a motion to strike
7 Mr. Hyneman's -- even any portion of Mr. Hyneman's
8 testimony.

9 MR. FISCHER: No, Judge. I am going to make
10 a point in my opening that there are many issues,
11 unfortunately in this true-up, which from our perspective
12 are new substantive issues, but we didn't move to strike
13 all of those. We did file a motion to strike one
14 particular issue that -- that Mr. Steiner may address
15 related to some testimony filed by Mr. Murray on a cost of
16 capital issue, which we truly believe is raising a totally
17 new issue and it's very difficult to understand how it
18 could be possibly viewed as just an updating of numbers.

19 So some of the other issues that the Staff
20 is raising -- they are updating their numbers, but they're
21 also raising new issues, but we didn't move to strike any
22 of those.

23 COMMISSIONER DAVIS: Okay. I'm sorry.

24 JUDGE DIPPELL: That's fine. I'm sorry,
25 Mr. Dottheim, you had --

1 MR. DOTTHEIM: And the only further comment
2 I would -- well, make, is that even giving the Company
3 anything in its argument as far as updating numbers, the
4 testimony has gone well beyond updating numbers. In
5 particular, Mr. Majors' testimony, which Mr. Hyneman
6 reflects, updates numbers, and if you take a close look at
7 Mr. Ives's testimony and you look at what numbers appear in
8 that -- in that -- depending on which version, either KCPL
9 or GMO -- the numbers appear in a couple of paragraphs.

10 The rest is narrative, much of which is
11 repetitive of the case in chief. And despite what the
12 arguments that the Company's made about Mr. Hyneman and
13 Mr. Majors, the Staff has attempted to adhere and believes
14 it has to what it believes is the conventional and true and
15 narrow definition of what a true-up is supposed to be.

16 JUDGE DIPPELL: Okay. And with that, I
17 would like to hear what the Company has to say about their
18 motion to strike Mr. Murray's testimony. Specifically, I
19 would like while you are addressing this, I'd like to know
20 how either one of these are different from -- can be
21 distinguished from the other, these motions.

22 MR. STEINER: Your Honor, the big factor
23 that's different is the cost of debt issue and we believe
24 Staff has changed its methodology that used to calculate
25 the cost of debt for the first time in its true-up rebuttal

1 testimony.

2 The cost of debt was not an issue for KCPL
3 in the direct, rebuttal and surrebuttal. The Company and
4 Staff agreed on that. The Staff did propose for GMO to use
5 Empire as a proxy for cost of debt. Mr. Murray had
6 testimony on that. And KCPL addressed that in its rebuttal
7 testimony, that that was not appropriate.

8 For the first time in true-up rebuttal,
9 Mr. Murray had made some adjustment based on -- for both
10 companies, KCPL and GMO, based on something called a
11 consolidated cost of debt, which had not appeared before in
12 the context of an adjustment to the cost of debt.

13 He raises his cost of debt number for the
14 first time in true-up rebuttal and we have no chance to
15 respond in prefiled testimony. He totally abandoned his
16 Empire proxy theory. I should say he doesn't abandon it,
17 but he gives the Commission an alternative based on his
18 consolidated cost of debt.

19 We believe it's unfair, we didn't have -- we
20 don't have a chance to address that in prefiled testimony
21 because it appeared for the first time in true-up rebuttal.
22 But that's the difference; it's a totally new way to
23 calculate cost of debt. It never appeared in Staff
24 testimony before true-up rebuttal.

25 So that's the difference; new methodology,

1 first time in true-up rebuttal.

2 JUDGE DIPPELL: Okay. And who is going to
3 respond for Staff to the motion?

4 MR. THOMPSON: I am, Judge. Thank you. If
5 Mr. Steiner had read Mr. Murray's true-up rebuttal
6 testimony carefully, then he would have noted that
7 Mr. Murray has not abandoned his suggestion that the
8 Commission use Empire's embedded cost of debt as a proxy
9 for GMO. That is still Staff's position and that is still
10 the position espoused by Mr. Murray in his true-up rebuttal
11 testimony.

12 However, as Mr. Steiner did, I think, say --
13 although I'm not sure he gave it the emphasis that it
14 requires -- what Mr. Murray provided was an alternative, a
15 fall back position, if you will. In the event that the
16 Commission does not accept Staff's suggestion that Empire's
17 embedded cost of debt be used as a proxy for GMO's cost of
18 debt, then Mr. Murray proposes, suggests, advises the
19 Commission of some things to think about in using the
20 actual figures, which is what the Company has proposed.

21 And that has to do with the way the Company
22 at the Great Plains level is financing itself and the
23 inherent unfairness of its financing tactics to the KCPL
24 ratepayers. That's all.

25 JUDGE DIPPELL: And how is this different

1 than Mr. Ives bringing up the write-offs?

2 MR. THOMPSON: I think it's different in it
3 is simply addressing a possibility in the event that
4 Staff's direct position isn't adopted.

5 COMMISSIONER DAVIS: But couldn't you have
6 done that -- couldn't these issues have all been raised in
7 the regular hearing?

8 MR. THOMPSON: No, they could not have been
9 because at that time, we didn't know what the numbers were
10 going to be, the final embedded cost of debt numbers
11 suggested by the Company in Mr. Cline's true-up direct
12 based on its treatment of 250 million bond issue from
13 August of 2010.

14 COMMISSIONER DAVIS: And so you're saying
15 allow this in because Mr. Murray didn't know what the
16 numbers were going to be and they're saying, allow
17 Mr. Ives's testimony in because we didn't know what those
18 numbers were going to be. I mean, that's kind of what I
19 heard then in essence.

20 MR. THOMPSON: Maybe the two cases are
21 similar.

22 MR. STEINER: Can I address when Staff had
23 knowledge of the \$250 million bond issue?

24 JUDGE DIPPELL: Go ahead, Mr. Steiner.

25 MR. STEINER: Mr. Thompson just noted it was

1 done in August 2010, well before any testimony was due by
2 Staff. We believe Staff knew that at least -- the latest
3 they knew about it was September of 2010. That was plenty
4 of time for them to make the adjustment in their testimony.
5 It's not new information that was just recently released by
6 the Company. It was a SCC filing.

7 Mr. Murray's testimony says he learned about
8 it in a data request 0159, which they got back in August.
9 So this isn't new information that's -- it is a completely
10 new methodology. Mr. Thompson couches it as an alternative
11 for the Commission. It's still their position, which we
12 don't get to address in prefiled testimony. That's the
13 unfairness.

14 MR. THOMPSON: If I may respond,
15 Commissioner?

16 COMMISSIONER DAVIS: Sure. Go ahead.

17 MR. THOMPSON: What we knew at the time of
18 the direct case was that there was going to be a bond
19 issue. We didn't know who was going to issue it and we
20 didn't know who was going to get the debt, and we didn't
21 know what they were going to do with the money. We didn't
22 know those things until Mr. Cline filed his true-up direct.
23 And that's important information.

24 COMMISSIONER DAVIS: Okay. Mr. Steiner, the
25 bonds were issued back on August/September 2010. Correct?

1 MR. STEINER: That's correct.

2 COMMISSIONER DAVIS: They were -- you would
3 acknowledge, Mr. Thompson, that they were SCC filings?

4 MR. THOMPSON: GMO is not registered with
5 the SCC.

6 COMMISSIONER DAVIS: Okay.

7 MR. THOMPSON: That's why the bonds, in
8 fact, were issued over to KCPL.

9 COMMISSIONER DAVIS: Right.

10 MR. THOMPSON: The money, however, went to
11 GMO to pay down GMO's short-term debt and improve GMO's
12 embedded cost of debt.

13 COMMISSIONER DAVIS: Okay. So you knew that
14 GM-- okay. So it's your position that you knew that GMO
15 was -- not GMO, but you knew that KCP&L has to issue the
16 debt because they're the -- the SCC --

17 MR. THOMPSON: GPE is also registered with
18 the SCC.

19 COMMISSIONER DAVIS: Yes.

20 MR. THOMPSON: KCPL and GPE --

21 COMMISSIONER DAVIS: Right.

22 MR. THOMPSON: -- are both registered.

23 COMMISSIONER DAVIS: So you knew who
24 issued -- you knew who issued, you just didn't know where
25 the money was going or for what; is that --

1 MR. THOMPSON: I believe that to be true.
2 You would have to inquire of Mr. Murray to know exactly
3 what he knew when.

4 COMMISSIONER DAVIS: Okay.

5 MR. THOMPSON: I would suggest this: why
6 don't you take both motions with the case, hear the
7 evidence, receive the evidence on both sides, take the
8 motions with the case and make your decisions on the
9 motions when you issue your report and order. That way you
10 have time to look it over and in a less pressured
11 environment, make your decision as to what's permissible
12 and what's not.

13 JUDGE DIPPELL: Sounds like a very
14 reasonable suggestion, Mr. Thompson. Is there anything
15 further on either one of these motions?

16 I'm not --
17 Mr. Steiner?

18 MR. STEINER: No.

19 JUDGE DIPPELL: With that, I am going to
20 reserve ruling at this time and it may be that the
21 Commission will, in deed, take that with the case.

22 So we will proceed with testimony and
23 Mr. Ives will be allowed to put on his testimony and stand
24 cross-examination and those objections will be pending.

25 MR. WILLIAMS: Judge?

1 JUDGE DIPPELL: Mr. Williams?

2 MR. WILLIAMS: Before we do that, I'd like
3 to bring up that in the Kansas City Power and Light Company
4 case the Company filed a late-filed exhibit in response to
5 a request of Commissioner Kenney on February 22nd.

6 JUDGE DIPPELL: Yes.

7 MR. WILLIAMS: And the Company had
8 represented during the hearing that the information it was
9 providing in that exhibit was information it provided to
10 Staff in response to discovery.

11 JUDGE DIPPELL: Yes.

12 MR. WILLIAMS: I'm not asserting that it is
13 not, but Staff has not yet been able to confirm that it is.

14 JUDGE DIPPELL: All right.

15 MR. WILLIAMS: And I have inquired of the
16 Company, at least for the data request responses, it says
17 that information's contained. And thus far I have not
18 received that. I just want to make the Commission aware of
19 that.

20 JUDGE DIPPELL: And there was another
21 late-filed exhibit, I believe, filed yesterday.

22 MR. STEINER: That's correct.

23 JUDGE DIPPELL: And I have not had an
24 opportunity to look at that one. And then I was expecting
25 one more late-filed exhibit from Staff. Has --

1 MS. OTT: Are you talking about the one
2 regarding Mr. Richard Engel (ph.)?

3 JUDGE DIPPELL: Yes.

4 MS. OTT: It has been ordered. We haven't
5 received it yet back from the court.

6 JUDGE DIPPELL: Okay.

7 MS. OTT: So I'm hoping to have it in the
8 next few days. I will file it if that's okay with you?

9 JUDGE DIPPELL: Okay. Because we have
10 briefing schedule coming up real fast and it appears that
11 we don't have all of the exhibits in yet or have had an
12 opportunity for anyone to object to those.

13 Mr. Dottheim?

14 MR. DOTTHEIM: Yes. While you were
15 mentioning late-filed exhibits you may recall that I'd, on
16 the last day of the hearings, had brought up the matter of
17 the three depositions?

18 JUDGE DIPPELL: Yes.

19 MR. DOTTHEIM: And I was waiting for the
20 Company to get back with me and Mr. Steiner has visited
21 with me earlier today. I've attempted to contact -- well,
22 I did contact the Company earlier this week and I've been
23 waiting for an indication as to what the Company would
24 designate as highly confidential and we're -- I'm still
25 waiting to get the designations.

1 And I'm told that they will be forthcoming
2 and I hope to be able to give you some further indication
3 before these true-up hearings close. But those are still
4 outstanding. I've been trying to work with the Company so
5 that we would file just the deposition once with the
6 Company having indicated from their perspective what's HC.

7 JUDGE DIPPELL: And it would be helpful for
8 those things as quickly as we can and hopefully by the end
9 of this true-up proceeding, so if there are any further
10 arguments, they could be heard.

11 MR. STEINER: I've been look-- I looked at
12 the transcripts and unfortunately I've had trouble getting
13 the exhibits, but I have those coming to me today. It
14 shouldn't take me that long to get through them, but I
15 apologize for the delay.

16 JUDGE DIPPELL: No -- no problem there. And
17 with regard to the late-filed exhibit that Mr. Williams
18 mentioned --

19 MR. STEINER: We are researching what DRs
20 information was provided to Staff. We also believe that
21 some of the information is in the prefiled testimony. So
22 we're trying to figure out which is which and we're
23 endeavoring to do that now.

24 JUDGE DIPPELL: Okay. Because again, I
25 would like to get any objections to any of that information

1 taken care of before we go off the record on Friday.

2 MR. WOODSMALL: Your Honor?

3 JUDGE DIPPELL: Mr. Woodsmall?

4 MR. WOODSMALL: You mentioned earlier -- on
5 a different matter, you mentioned earlier the upcoming
6 briefing schedule. Excuse me. And this may be a good time
7 to alert you that I've talked with a number of the parties
8 and I believe that we'll be filing a pleading today asking
9 for an extension of the briefing schedule just as it
10 applies to the GMO-only issues.

11 You'll recall that as a result of a
12 stipulation there was a one-month extension on the
13 effective date of those tariffs. So what we'll be asking
14 for is an extension just for the GMO-only issues. I think
15 it's four issues. But all the KCP&L-only issues and the
16 common issues would still proceed on the same briefing
17 schedule. I'm hoping to have that pleading put together
18 and filed today, but I just wanted to alert you to that.

19 JUDGE DIPPELL: That does not thrill me.

20 MR. WOODSMALL: Okay. And like I say, it's
21 only because of the additional month --

22 JUDGE DIPPELL: I understand, but as you
23 know, GMO has the issue of the allocation issue and I
24 believe will have more significant tariff issues following
25 the Commission's order than KCPL will. And therefore, I

1 believe that everyone, unless you all are going to agree
2 that whatever KCPL or GMO files is going to be an accurate
3 tariff, without having sufficient time to review that --
4 so -- but anyway, I'll look at your motion --

5 MR. WOODSMALL: Okay.

6 JUDGE DIPPELL: -- and we'll deal with that
7 at that time.

8 JUDGE DIPPELL: Any -- anything else to do
9 with late-file exhibits? I had intended to premark
10 exhibits before we went on the record and we didn't do
11 that. I got distracted by your motions. And -- but I
12 don't believe that's necessary. We can mark them as we go
13 with the witnesses. They've essentially be premarked in
14 the order -- continuing in the order that we had assigned
15 with the original case.

16 Staff did provide me with a list of their --

17 MR. WILLIAMS: And hopefully we didn't
18 conflict with any existing numbers.

19 JUDGE DIPPELL: I've not had a chance to
20 compare that, so --

21 Is there anything else before we begin
22 with -- will there be true-up opening statements?

23 MR. FISCHER: Yes.

24 JUDGE DIPPELL: I'm seeing heads nodding
25 yes. Will there be mini statements between the true-up

1 issues?

2 MR. FISCHER: Judge, we'd like to reserve
3 the ones for tomorrow since another lawyer's handling the
4 substantive issue. We'd like to have the opening on the
5 off-system sales and on the actual cost of the long term
6 debt to be reserved until tomorrow. But otherwise, I'd
7 like to take the others today.

8 JUDGE DIPPELL: Okay. The Company may do
9 that and anyone else that wants to break it up that way may
10 do so as well.

11 Then let's begin with opening statements.
12 And I believe the Company goes first.

13 MR. FISCHER: May it please the Commission.
14 As you know, my name's Jim Fischer and I'll be representing
15 the companies in this case. I was informed by Daniel Smith
16 this morning that the projector crashed last night. And I
17 had hoped to be able to put up a couple slides for
18 illustration purposes today.

19 I was also told by Daniel that if there were
20 any commissioners or other parties that wanted to look at
21 the slides that I could do that if I had someone sit at the
22 desk and turn the slides as I -- as I go through it.

23 I've made hard copies for the bench and for
24 the parties. And perhaps that's the easiest way to get
25 around the problem, the logistical problem. And I guess

1 I'd ask permission to hand out those slides. I also have
2 one other illustrative exhibit that shows the differences
3 in the numbers at the true-up. And I'll go ahead and hand
4 that out right now too, if that that'd be appropriate.

5 JUDGE DIPPELL: That's fine, Mr. Fischer.
6 Either way is fine, but I believe the hard copies are just
7 as good as the PowerPoint.

8 MR. FISCHER: I'll give the court reporter
9 one. I don't know that you'll want to mark that or not,
10 but --

11 JUDGE DIPPELL: This is relating to both
12 cases?

13 MR. FISCHER: Yes, it is.

14 JUDGE DIPPELL: Just so that we have
15 everything in the record that was before the Commission,
16 I'll go ahead and mark it as an exhibit. I'm looking for a
17 number here.

18 MR. FISCHER: I've got a second exhibit,
19 Judge, that I'll just to at the end of the opening, so I'll
20 hand it out now. This particular exhibit, the second page
21 contains highly confidential information regarding the
22 write-offs contained in Mr. Ives's testimony. So I'd ask
23 that it be marked as HC.

24 JUDGE DIPPELL: Okay. I have on my list,
25 premarked the prefile testimony and so that brings me up to

1 KCPL No. 119 for the first of these exhibits, and KCPL No.
2 120 for the second -- 120HC.

3 (Wherein; KCP&L Exhibit Nos. KCPL 119 and
4 KCPL 120 HC were marked for identification.)

5 MR. FISCHER: Thank you, Judge. May it
6 please the Commission.

7 Thank you for indulging me. Mr. Steiner, do
8 you want to switch the slides for me?

9 MR. STEINER: I will do that. I didn't know
10 if you were going to do that or not.

11 MR. FISCHER: I don't know if anyone is
12 watching on the Internet or not, but that would be a way
13 that they could view these things according to Mr. Smith.

14 JUDGE DIPPELL: Yes. Go ahead.

15 MR. STEINER: Which button do I push?

16 MR. FISCHER: I think you push -- this
17 little arrow down here. Did you test that? Well, maybe it
18 won't work. Let's see. Let's go back.

19 MR. STEINER: I usually change --

20 MR. FISCHER: Let's try Escape.

21 JUDGE DIPPELL: I can see it. Can't get it
22 to move?

23 MR. FISCHER: Well, I can't get it to
24 change. I can't get it to move. Can you get it to move?

25 well, it's not that important. I'll just

1 describe what we're doing. It's --

2 JUDGE DIPPELL: Okay.

3 MR. FISCHER: I apologize. It's --

4 JUDGE DIPPELL: No. I -- we apologize. The
5 one time somebody wants to use --

6 MR. FISCHER: Okay. Well, I'll proceed, if
7 that's okay.

8 JUDGE DIPPELL: Go ahead.

9 MR. FISCHER: Commissioners and Judge
10 Dippell, we're finally nearing the end of the KCPL and the
11 GMO rate cases. Today and tomorrow the Commission will
12 hear testimony regarding the true-up of the numbers to a
13 test year ending December 31, 2010.

14 As I mentioned in our oral argument or our
15 discussion before we started today, the KCPL regulatory
16 plan did address the concept of the true-up in this case
17 and we agreed that the true-up would include, but not
18 necessarily be limited to revenues including off-system
19 sales, fuel prices and purchase power costs, payroll and
20 payroll related benefits, plant in-service, which of course
21 is a big one here, depreciation and other items typically
22 included in true-up proceedings before the Commission.

23 The Company has followed those guidelines
24 and will be presenting witnesses that sponsored the
25 information necessary for the -- to update the Company's

1 numbers as a part of the true-up proceeding.

2 Now, typically new issues are not injected
3 into a true-up proceeding. But the true-up hearing is
4 limited to merely updating the numbers for issues that have
5 already been tried in the main rate case part of the
6 hearing.

7 Unfortunately, this is not the case in this
8 true-up proceeding. As I'll discuss in a moment, there are
9 new substantive issues that are being injected into this
10 case at the 11th hour that we believe should have been
11 addressed at the main evidentiary hearing in January and
12 February.

13 Now, at this point, I would have asked that
14 the second slide show up on the screen. At the time that
15 KCPL filed its original case in June 2010, the Company
16 requested the rate increase of \$92.1 million. And as I
17 discussed in the opening in January, KCPL's case was
18 primarily driven by KCPL's share of Iatan 2, which of
19 course is the 850-megawatts super critical coal-fired
20 generation facility that's now fully operational and used
21 for service as of August 26 of 2010.

22 And also increase freight costs for the
23 transportation of coal to the majority of the Company's
24 coal-fired units. And additionally, the Company completed
25 in December the construction of 32 wind turbines as

1 Spearville, Kansas.

2 Now, today the KCPL's true-up case now
3 reflects a revenue deficiency for Kansas City Power and
4 Light Company of \$66.1 million. At this point I would
5 switch to the third slide where I give the reasons for the
6 declining revenue requirement from our perspective.

7 while there are many reasons for the decline
8 in KCPL's revenue requirement request, the most significant
9 reasons are listed on that slide; lower fuel and purchase
10 power cost, primarily driven by new freight rates, which
11 are lower than -- and happily -- than we anticipated;
12 congressional extension of bonus depreciation, which
13 significantly increases accumulated deferred income taxes,
14 which of course is an offset to rate base; cutting off of
15 the true-up Iatan 2 and the common plant as of October 31,
16 2010 as we agreed to at the other parties in the case; and
17 finally, the lowering of the requested rate of return on
18 equity from 11 percent to 11.75.

19 The fourth slide addresses the Staff's
20 revenue requirement. At this case, as of -- the revised
21 reconciliation that was filed last night, it indicates as I
22 understand it, that the Staff is now recommending a rate
23 increase of \$3.4 million at the Staff's midpoint ROE
24 recommendation of 9 percent.

25 The fifth slide addresses the true-up of

1 GMO. At the time GMO filed its original case in June of
2 2010, the Company requested \$75.8 million for the Missouri
3 Public Service or MPS jurisdiction and a \$22.1 million rate
4 increase for the L&P jurisdiction. The MPS increase was
5 driven by GMO's proposed allocation of Iatan 2. The L&P
6 increase was driven by not only the allocation of Iatan 2,
7 but also an inclusion of additional Iatan 1 air quality
8 control system costs.

9 GMO's true-up numbers today reflect a
10 revenue deficiency of \$66 million for the MPS division or
11 jurisdiction and 23.1 million for L&P.

12 My slide six addresses the reasons for the
13 change on GMO. The main decline in MPS's revenue
14 deficiency is primarily attributable to lower than
15 anticipated transmission costs, a factor which really
16 didn't impact the L&P jurisdiction that much and lower than
17 anticipated non-Iatan plant additions.

18 The seventh slide would address the Staff's
19 revenue requirement for GMO as a part of the true-up. For
20 MPS Staff's recommendation as I understand it is for a rate
21 increase of \$2 million at the Staff's midpoint on the ROE
22 recommendation. For L&P the Staff's proposed revenue
23 requirement is \$27.1 million at the Staff's midpoint.

24 Now, as you'll recall GMO asked for a \$22.1
25 million increase for the L&P service area at the time we

1 filed our tariffs. Much of the reason that Staff's revenue
2 requirement is higher than the Company's requested increase
3 for L&P relates to the fact that Staff is proposing to
4 allocate about 240 percent more of Iatan 2 to the L&P
5 service area than what the Company has recommended.

6 slide eight just kind of lists what the
7 major true-up issues are today. Those include Iatan
8 construction audit and prudence issues, Iatan common plant,
9 Spearville wind farm legal costs, Iatan regulatory assets,
10 particularly Iatan 2 and common, rate case expenses,
11 off-systems sales margins and recovery of actual long term
12 debt costs. That's -- that's the topics you're going to
13 hear about today and tomorrow.

14 From the Company's perspective, most of
15 these issues should have been tried during the main
16 evidentiary hearings and are improper true-up proceeding
17 issues, but the Company believes that most of these issues
18 involve more than merely updating the numbers for the
19 updated test year. However, we will be presenting seven
20 witnesses to address the merits raised by the Staff and the
21 Industrial intervenors in this true-up proceeding.

22 Looking at slide nine, that one talks about
23 the Iatan construction audit and prudence review issues.
24 The Staff testimony does not allege any new facts or
25 provide any support for their positions that was not

1 readily available months or even years prior to the June
2 30, 2010 audit cut-off date.

3 Instead, Staff appears to be using this
4 true-up as an opportunity to reargue the prudence of some
5 of KCPL's decisions and substantially increase their
6 proposed disallowances related to the Iatan project. For
7 example, Staff's true-up testimony now increases the
8 proposed disallowance by 15 times its originally proposed
9 disallowance related to the Alstom 2 settlement.

10 Staff's true-up testimony now proposes to
11 substantially increase the proposed disallowances related
12 to the liquidated damages issue associated with that
13 adjustment and also the AFUDC adjustments are now higher.

14 But the major increase in the Staff's
15 proposed disallowance relates to the Staff's plug
16 disallowance for unexplained cost overruns. Buried in
17 Schedule 1 of Mr. Hyneman's true-up direct testimony is an
18 increase in the Staff's proposed disallowances of the Iatan
19 projects.

20 while the numbers on that page are still
21 confidential, I think, I can indicate that the proposed
22 disallowance for the Iatan projects have now increased an
23 additional \$60 million above the amount in the Staff's
24 construction audit and prudence review report, which was
25 the basis for their direct case.

1 slide ten addresses the Iatan common plant
2 issues. With regard to those issues, the Staff has
3 proposed five adjustments to common plant. KCPL agrees
4 with the first four adjustments since they reflect a fair
5 and reasonable allocation of common costs including the
6 indirect costs. And frankly, KCPL's amenable and
7 indifferent to any reasonable and fair allocation of common
8 plant.

9 However, Staff is proposing for the first
10 time in the true-up proceeding a \$19.6 million disallowance
11 of common costs because the projects and the associated
12 costs were not contained in what is referred to as "The
13 Jones Binder".

14 Staff has not suggested that these projects
15 were not necessary to be built at Iatan or that the costs
16 were unreasonable or imprudent. The apparent basis for the
17 Staff's new adjustment is that the costs were not included
18 in a document that was filed in the last KCPL rate case,
19 Case ER-2009-0089.

20 The Jones binder was also called what is
21 referred to as the common system asset valuation
22 methodology. And that's the explanation of the valuation
23 methodology that was going to be used for the common plant.
24 It was attached to the rebuttal testimony of KCPL witness
25 Steve Jones and therefore it's called the Jones binder.

1 The projects that are being disallowed by
2 Staff in this proposed disallowance include a bridge
3 replacement, site finishing work at Iatan and a 345 kv line
4 needed to transport power out of Iatan and a couple of
5 others. Now, the Jones binder clearly contemplates that
6 there would be additional projects that could be included
7 in common plant when the plant was finally completed.

8 The Company has made available all the
9 invoices, the purchase power -- the purchase orders and any
10 other documentation that the Staff had requested related to
11 these projects, but Staff apparently is disallowing the
12 costs because they are not identified in the Jones binder.

13 The Company adamantly disagrees with this
14 adjustment. Staff had the same documentation for these
15 projects that they had available for all the other Iatan
16 project costs. This new adjustment's inappropriate because
17 there's no allegation that -- by Staff -- that these
18 projects are not fully operational and used for service or
19 that they're somehow imprudent.

20 The only basis for the adjustment as far as
21 I can tell is that they were not contained in the Jones
22 binder that as filed in the last KCPL rate case.

23 Moving on to slide 11 on the Spearville
24 legal costs; turning to the legal -- that legal cost issue,
25 this -- this issue involves the proposed disallowance of

1 legal costs associated with the completion of the
2 Spearville 2 wind farm. This project was successfully
3 completed on time and on budget, yet Staff in its true-up
4 proceeding is recommending for the first time the
5 disallowance of legal costs associated with the Spearville
6 2 wind farm.

7 In their testimony Staff really doesn't
8 explain why these costs were incurred, but more importantly
9 the Staff doesn't explain the basis that these legal costs
10 should be found to be imprudent and disallowed. We
11 disagree, of course.

12 Slide 12 addresses the Iatan regulatory
13 assets. You'll recall on the main evidentiary hearing,
14 Staff proposed to disallow the Iatan 1 regulatory asset.
15 Now, in the true-up proceeding Staff is proposing a new
16 issue with regard to Iatan 2 and the common plant
17 regulatory assets.

18 They're now proposing to partially disallow
19 costs associated with both the Iatan 2 and the common
20 regulatory assets. As we discussed in the main evidentiary
21 hearings on the Iatan 1 regulatory asset, by excluding all
22 or a portion of the various Iatan regulatory assets, Staff
23 has proposed additional disallowances over and above the
24 prudence disallowances that are proposed in the prudence
25 portion of the case.

1 Turning to slide 13 I address the rate case
2 expense issue. For the first time in the true-up
3 proceeding, staff is introducing completely new
4 disallowance theories related to rate case expenses. Staff
5 is now proposing to exclude certain legal expenses that
6 were incurred in Case No. EO-2010-0259. Now, that's the
7 construction audit case, Commissioner, that occurred in
8 April of 2010, which was rolled into and consolidated into
9 this rate case by the Commission.

10 Staff is apparently alleging that there was
11 a duplication of efforts by the KCPL lawyers even though
12 each of the lawyers in that proceeding took a very active
13 role in the case. Staff is also substituting as a part of
14 that adjustment, as I understand it, and non-legal
15 consultants hourly rate for the law firms hourly rate
16 without giving any basis for that.

17 Staff is also proposing to exclude for the
18 first time in its true-up proceeding certain expenses
19 associated with witness preparation and training without
20 any basis for the exclusion except for their belief that
21 the lawyers should have done that part of the process.

22 There are two other issues that we'll
23 address tomorrow as I've already mentioned; the off-system
24 sales issue and the recovery of actual cost of debt. Now
25 those are very important issues, but in the interest of

1 brevity I'm going to ask my co-counsel to give a brief
2 opening on those tomorrow.

3 I'd also like to address at this time the
4 overview exhibit, Exhibit KCPL 120 HC. This is a brief
5 exhibit that identifies and quantifies the major issues
6 that exist in the case at this point broken down according
7 to the KCPL MPS and L&P jurisdictions.

8 As you can see from the exhibit, the main
9 issues continue to be ROE, Iatan prudence issues,
10 off-system sales for KCPL, the fuel adjustment clause
11 rebasing for GMO, Crossroads or phantom turbines for GMO,
12 Iatan 2 allocations between L&P and MPS for the GMO case,
13 the merger transition costs, DSM costs and a few
14 miscellaneous costs.

15 Since many of these issues, if adopted by
16 the Commission would cause substantial write-downs of the
17 Company's assets, we've also prepared a summary on Page 2,
18 which shows the write-down effect on a pre-tax basis of the
19 adoption of the -- of these proposed adjustments.

20 I ask you that you take a hard look at
21 those. Those are very important numbers and they are
22 confidential, but we wanted to put them in front of you.
23 And Darrin Ives will be available to answer any questions
24 that you might have about any of those.

25 As I mentioned in the very first day of the

1 hearings in this opening statement, the write-down issue of
2 asset-- the write-down of assets related to the regulatory
3 disallowances, not only Iatan issues, but all of these
4 other issues, are very important from the Company's
5 perspective.

6 Such write-downs could occur if the
7 Commission adopts the Staff's proposals related to Iatan 1,
8 Iatan 2, merger transition costs, Hawthorn 5, Crossroads,
9 Jeffrey, the Iatan regulatory assets and rate case
10 expenses.

11 with that, I think I will conclude and I'd
12 be glad to answer any of your questions and my witnesses
13 certainly can answer them too. Thank you.

14 JUDGE DIPPELL: Thank you. Are there any
15 questions at this time for Mr. Fischer?

16 I'm not seeing any. Thank you.

17 Staff, did you want to make any opening?

18 Public counsel, did you have any opening?

19 MR. MILLS: I do not. Thank you.

20 JUDGE DIPPELL: Do the industrials?

21 MR. WOODSMALL: we'll be making an opening
22 tomorrow, Your Honor.

23 JUDGE DIPPELL: Okay. Did anyone else have
24 an opening statement that they'd like to make at this time?

25 All right. I had one other issue that I

1 should have asked you all before and that is I had directed
2 that a reconci-- a true-up reconciliation be filed and
3 Staff did that. I wasn't certain if that was just Staff or
4 if you all had had any collaboration on that, if anyone
5 agreed to those numbers other than Staff.

6 MR. WILLIAMS: I'm not sure that Staff would
7 say it's entirely correct even now. But I know we got
8 input from the Company and I assume -- well, and some other
9 parties on that reconciliation. And I believe -- I don't
10 remember which company, but my understanding is we didn't
11 get everything we intended to file filed. We have a
12 summary, but not a full version of the reconciliation --

13 JUDGE DIPPELL: Okay.

14 MR. WILLIAMS: -- on one of the cases.
15 we'll provide that.

16 JUDGE DIPPELL: Thank you. Anything else
17 with the reconciliation?

18 Okay. Thank you.

19 with that then, we can go ahead and proceed
20 to the first witness, which I have in the proposed order
21 that was emailed to me, Mr. Giles for the Company.

22 MR. FISCHER: Yes. We would call Mr. Giles.

23 JUDGE DIPPELL: Thank you.

24 Mr. Giles, would you please raise your right
25 hand?

1 (Witness sworn.)

2 JUDGE DIPPELL: Thank you. Go ahead when
3 you're ready, Mr. Fischer.

4 CHRIS GILES testifies as follows:

5 DIRECT EXAMINATION BY MR. FISCHER:

6 Q. Please state your name and address for the
7 record.

8 A. Chris Giles. My business address is 1201
9 Main, Kansas City, Missouri.

10 Q. Mr. Giles, did you cause to be filed in this
11 proceeding certain true-up rebuttal testimony, that I guess
12 would be marked KCPL Exhibit 121; is that correct?

13 JUDGE DIPPELL: No. I'm sorry. I had
14 already marked the exhibits --

15 MR. FISCHER: Okay.

16 JUDGE DIPPELL: -- before I got to -- so I
17 gave those illustrative exhibits afterwards. I have
18 Mr. Giles as 112.

19 MR. FISCHER: 112. Okay.

20 JUDGE DIPPELL: KCPL 112.

21 MR. FISCHER: 112 HC and 112 NP?

22 (Wherein; KCP&L Exhibit No. KCPL 112 HC and
23 KCPL 112 NP were marked for identification.)

24 JUDGE DIPPELL: Yes.

25 BY MR. FISCHER:

1 Q. Mr. Giles, did you have any corrections to
2 that testimony that you needed to make?

3 A. No.

4 Q. If I were to ask you the questions that are
5 contained in that prefiled testimony, would your answers be
6 the same today?

7 A. Yes.

8 Q. Are they true and accurate to the best of
9 your knowledge and belief?

10 A. They are.

11 MR. FISCHER: Judge, I would move for the
12 admission of 112 NP and HC and tender the witness.

13 JUDGE DIPPELL: Thank you. Would there be
14 any objection to KCPL Exhibit 112?

15 Seeing none, then I will receive it into
16 evidence.

17 (Wherein; KCP&L Exhibit No. KCPL 112 HC and
18 KCPL 112 NP were received into evidence.

19 JUDGE DIPPELL: And we can begin then with
20 cross-examination. Is there -- let me see who I'm going to
21 have cross-examination from. Staff and industrials.
22 Anyone else?

23 All right. Then let's just go forward with
24 Staff.

25 CROSS-EXAMINATION BY MS. OTT:

1 Q. Good morning, Mr. Giles.

2 A. Good morning.

3 Q. Now, isn't it true Staff's cutoff date for
4 its November 3rd, which would have been Staff's direct case
5 related to the Iatan construction and prudence review was
6 June 30th, 2010?

7 A. That's correct.

8 Q. And provisional acceptance wasn't met for
9 Iatan 2 until September of 2010. Correct?

10 A. What do you mean by provisional acceptance?

11 Q. The provisional acceptance date?

12 A. No. That's not correct. It was met on
13 August 26th.

14 Q. Then are -- so is it your testimony that
15 provisional acceptance date is the same as Staff's
16 in-service criteria date?

17 A. Yes.

18 Q. Okay. So but given that -- if you're using
19 provisional acceptance to mean the in-service criteria
20 date, Staff is -- so let's go back.

21 In relationship to the Alstom contract
22 provisional acceptance date, that was met in September of
23 2010. Correct?

24 A. As I stated in my testimony, that was the
25 date that KCPL authorized the provisional acceptance

1 provisions of the contract. That is --

2 Q. So --

3 A. -- not the date that we could have
4 authorized. We could have authorized August 26th.

5 Q. That's not my question, though. In
6 relationship to the Alstom contract, provisional acceptance
7 was met in September of 2010. Correct?

8 A. No. That's not correct. As I just stated
9 the provisional acceptance could have been given to Alstom
10 on August 26th. KCPL deliberately extended that in order
11 to have an outage on the unit.

12 Q. I'm not asking if they could have granted it
13 in August of 2006. In relationship to the Alstom contract,
14 provisional acceptance in that contract was in September of
15 2010. Correct?

16 A. That is not correct.

17 Q. Well, isn't it true Staff's adjustment in
18 relationship to liquidated damages based on the provisional
19 acceptance date that is post the June 30th, 2010 cutoff
20 date?

21 A. I don't understand your question.

22 Q. So Staff's adjustment for the Alstom 2
23 settlement in relationship to liquidated damages is based
24 on numbers for provisional acceptance achieved after the
25 June 30th, 2010 cutoff date?

1 A. I'm still not following your question.

2 Q. Provisional acceptance wasn't met prior to
3 the June 30th, 2010 --

4 A. No. It was --

5 Q. -- cutoff date --

6 A. -- August 26th.

7 Q. And that was after the June 30th, 2010
8 cutoff date --

9 A. Correct.

10 Q. -- that was based on the November 3rd
11 report? Okay.

12 Can you agree with me liquidated damages are
13 not penalties?

14 A. No.

15 Q. So it is your opinion that liquidated
16 damages are penalties?

17 A. No.

18 Q. Then what are liquidated damages?

19 A. Liquidated damages are incentives or -- to
20 get the contractor to perform, or you could say
21 disincentives.

22 Q. Okay. Now, you've worked with Schiff
23 Hardin, have you not?

24 A. I have.

25 Q. Are they providing any training to you in

1 relationship to liquidated damages?

2 A. I have been in many meetings where those
3 were discussed. Yes.

4 Q. Did they ever provide any literature for you
5 to read?

6 A. No.

7 MS. OTT: I would like to have an exhibit
8 marked.

9 JUDGE DIPPELL: Now, this is in relation to
10 both or one --

11 MS. OTT: Yes.

12 If you could take a moment to look over
13 this, Mr. Giles.

14 JUDGE DIPPELL: Okay. For Staff I have the
15 next exhibit number as KCPL 313.

16 (Wherein; Staff Exhibit No. KCPL 313 was
17 marked for identification.)

18 BY MS. OTT:

19 Q. Are you still reviewing the document,
20 Mr. Giles?

21 A. I am. Do you want me to read this entire
22 document?

23 Q. Well, can you tell me what you're reading
24 right now? What you're looking at.

25 A. It is a document. Schiff Hardin is at the

1 title; Law and Practice Contractor Marketing - Penalty
2 Clauses, dated January/February 2001.

3 Q. And this has been authored by a Schiff
4 Hardin employee?

5 A. It indicates it was written by Mark C.
6 Friedlander. The e-mail address indicates he's an
7 employee, I guess, of Schiff Hardin.

8 Q. Now, if you go into the text of the document
9 it proceeds to discuss what liquidated damages are.

10 MR. FISCHER: Judge, unless the counsel can
11 lay a foundation for this, I don't think there's -- it's
12 proper cross-examination to cross this gentleman on a
13 document he's probably never seen, doesn't know anything
14 about.

15 JUDGE DIPPELL: Ms. Ott?

16 MS. OTT: Judge, having him review it, he's
17 asserted that Schiff Hardin has educated him on what
18 liquidated damages are. This is a document provided by
19 Schiff Hardin. It describes what liquidated damages mean.

20 MR. FISCHER: I think all he said is that he
21 attended a meeting where they talked about liquidated
22 damages with someone at Schiff Hardin. He didn't say
23 anything about talking to Mark Friedlander or knowing
24 anything about a document that talks about penalty clauses.

25 JUDGE DIPPELL: Ms. Ott, maybe you'd like to

1 ask him if he has seen this document or continue to lay a
2 foundation for questioning of this document.

3 BY MS. OTT:

4 Q. Now, Mr. Giles, you testified in
5 relationship to liquidated damages in your true-up direct.
6 where did you obtain your information on what liquidated
7 damages are?

8 A. My experience on the Iatan project.

9 Q. And did you -- and was Schiff Hardin
10 involved in educating you or informing you what liquidated
11 damages were?

12 A. Schiff Hardin and a number of other
13 individuals, yes.

14 Q. Okay. Did they just verbally tell you what
15 liquidated damages were or did they provide any literature
16 or any training?

17 A. No. My discussion with those individuals
18 centered around how were liquidated damages determined. I
19 was informed they're simply a negotiated amount and you can
20 never set that amount to equal any actual damages.

21 Q. Okay. And reading this exhibit, KCPL 313,
22 you go to paragraph -- the very last paragraph in the first
23 column and it defines what the three requirements for
24 liquidated damages are. It says: 1, it is likely that the
25 owner would suffer some damages; 2, the owner's damages are

1 not capable of precise calculation; and 3, at the point in
2 time in which the contract is agreed upon the liquidated
3 damages sum is a reasonable proximation of the owner's
4 likely actual damages. Do you see that?

5 A. I do.

6 Q. Do you agree with that?

7 A. Not in the context of the Iatan project, no.

8 Q. Okay. I'll move on. Now, in regards to the
9 common plant, is there any documentation that shows that
10 the estimate contained in the Jones book was frozen?

11 A. Yes. There is a -- there is a -- in the
12 Jones book itself it indicates there will be additional
13 common outside of the Jones book.

14 Q. And is that the only documentation that says
15 that the estimate in the Jones book is frozen?

16 A. I don't know.

17 Q. Now, did you provide any work papers in
18 relationship to your true-up direct testimony?

19 A. I did not.

20 Q. Do you know what page in the Jones book it
21 says that the estimate contained therein is frozen?

22 A. I do not.

23 Q. If I hand you a copy of the Jones book could
24 you find it for me?

25 A. I can try. Yes. I found it.

1 Q. Okay. What page is that on?

2 A. It's on Page 4 of 5 under the title Out of
3 Scope Assets.

4 MS. OTT: Okay. Thank you.

5 If I could just have one moment?

6 JUDGE DIPPELL: You may.

7 MS. OTT: If I could have a moment, I may
8 come back to that question, but Mr. Williams is handling
9 the Spearville issue so he can go ahead and start his cross
10 if that would be more timely.

11 MR. FISCHER: No objection.

12 JUDGE DIPPELL: That's fine. Go ahead,
13 Mr. Williams.

14 MS. OTT: I'm sorry.

15 MR. WILLIAMS: Thank you, Judge.

16 BY MR. WILLIAMS:

17 Q. Good morning, Mr. Giles.

18 A. Good morning.

19 Q. In your rebuttal testimony on Page 14, you
20 make a statement, Schiff Hardin provided many of the same
21 legal services on the Spearville 1 project that was
22 successfully completed on time and on budget. Do you
23 recall that?

24 A. Yes. I see that.

25 Q. Exactly what services did Schiff Hardin

1 provide on the Spearville 1 project?

2 A. They negotiated the contract, which is the
3 same thing they did on the Spearville 2 project, drafted
4 the contract.

5 Q. Were they also involved in the request for
6 proposals?

7 A. I don't know.

8 Q. Do you know if they had any involvement
9 other than drafting the actual contracts that were
10 executed?

11 A. I know they were as involved in that unit as
12 they were in Unit 2. I don't know the details of what
13 exactly they did. I know they negotiated contracts, they
14 provided legal advise to, at the time, Mr. John Grimwade,
15 who was in charge of both projects.

16 Q. Now, Spearville 1 was done as what's known
17 as an EPC contract, was it not?

18 A. I'm not sure. The contract was with enXco.
19 The actual contractor was Mortenson Company. So I'm not
20 sure if you can call it an EPC contract or not.

21 Q. Well, for Spearville 1, Kansas City Power
22 and Light Company didn't act as a general contractor, did
23 it?

24 A. No.

25 Q. And enXco was responsible for what's known

1 as a turnkey operation at the end?

2 A. I don't know.

3 Q. Well, did Kansas City Power and Light
4 Company have to do anything to get the wind turbines up and
5 running to provide power after enXco was done with the
6 contract, it concluded it?

7 A. I believe so, but I don't know specifically.

8 Q. Was there any litigation surrounding
9 Spearville 1?

10 A. I don't know. I'm not aware of any.

11 Q. Do you know what legal costs Kansas City
12 Power and Light Company incurred with regard to Spearville
13 1?

14 A. I don't.

15 Q. Not even a ballpark amount?

16 A. No.

17 Q. Do you now what legal costs Kansas City
18 Power and Light Company incurred with regard to Spearville
19 2?

20 A. According to Mr. Hyneman's testimony, it was
21 approximately \$2 million.

22 Q. But you don't have any idea whether or not
23 the costs that Kansas City Power and Light Company incurred
24 for legal fees in connection with Spearville 1 was of the
25 same order and magnitude?

1 A. No.

2 Q. Do you know if the legal costs associated
3 with Spearville 2 included legal fees that were involved in
4 litigation surrounding Spearville 2?

5 A. I don't believe there were any -- was any
6 litigation with Spearville 2. There was a mediation and it
7 did include costs -- legal costs concerning that mediation.

8 Q. Let's back up a little bit and see what you
9 know about Spearville 1 and Spearville 2. Did --
10 originally did enXco develop what's now known as Spearville
11 1 and Spearville 2?

12 A. They did Spearville 1. I don't know that
13 they did Spearville 2.

14 Q. Well, did Kansas City Power and Light
15 Company go out and acquire the Spearville 1 site or did
16 someone else have it?

17 A. I believe it was in conjunction with enXco.

18 Q. I'm not sure what you mean by you believe it
19 was in conjunction with enXco. Can you explain your
20 answer?

21 A. Well, to the -- to the best of my
22 recollection enXco had already secured a lot of the
23 property rights to that site. Those were transferred to
24 KCP&L at some point. That's the best I can recall.

25 Q. Well, isn't enXco a wind farm developer?

1 A. I don't know how to characterize them. I
2 mean, they're a -- they develop wind projects, yes.

3 Q. Well, don't they go out and acquire sites
4 and either sell the sites or build and sell the facilities?

5 A. I don't know their business model.

6 Q. Didn't Kansas City Power and Light
7 Company -- well, first of all, isn't the Spearville 1 site
8 a 67-1.5 megawatt wind turbine generator site for a total
9 capacity of 100.5 megawatts?

10 A. Correct.

11 Q. And didn't Kansas City Power and Light
12 Company enter into a contract with enXco to build a second
13 site of the same size?

14 A. I believe so, yes.

15 Q. And wasn't that done in July of 2008?

16 A. The date sounds about right. I don't know
17 the exact date.

18 Q. And then later didn't Kansas City Power and
19 Light Company seek to terminate that contract?

20 A. Yes.

21 Q. And wasn't there a dispute with enXco over
22 whether or not Kansas City Power and Light Company had the
23 right to terminate that contract without -- well, just the
24 right to terminate that contract.

25 A. Yes. That's the impetus to the mediation.

1 Q. And as a result of that mediation, did
2 Kansas City Power and Light Company acquire 32 wind -- 1.5
3 megawatt wind turbine generators, which it's now installed?

4 A. Yes.

5 Q. And it also obtained some land rights?

6 A. I don't know the details. I know the 32
7 turbines were obtained by KCPL.

8 Q. But Kansas City -- Kansas City Power and
9 Light Company did incur legal fees with Schiff Hardin with
10 regard to that mediation?

11 A. Yes.

12 Q. Do you know what those legal fees amounted
13 to?

14 A. No, I don't.

15 Q. And after that mediation was resolved, did
16 Kansas City Power and Light Company incur a termination fee
17 as well?

18 A. I don't know.

19 Q. After Kansas City Power and Light Company
20 resolved its issued with enXco through mediation, did it
21 make a filing with this Commission seeking for the
22 Commission to disclaim jurisdiction over the 32 wind
23 turbines?

24 A. I don't recall that. It may have.

25 Q. Did it make a filing either in May or June

1 of 2010 asking the Commission to allow it -- well, didn't
2 it assert it was in the process of finalizing negotiations
3 for a wind energy power purchase agreement, which would
4 include transfer by it of ownership of the 32 wind turbine
5 generators that it had acquired through the negotiations
6 with enXco?

7 A. I was no longer an employee in 2010 and had
8 no direct involvement of filings or with the wind project,
9 so I don't know.

10 MR. WILLIAMS: Judge, may I have an
11 exhibit -- two exhibits marked?

12 JUDGE DIPPELL: Yes. And are these
13 KCPL-only?

14 MR. WILLIAMS: Yes.

15 JUDGE DIPPELL: Staff's next KCPL numbers
16 would be 314 and 315. Do they need to be HC?

17 MR. WILLIAMS: I believe so.

18 (Wherein; Staff Exhibit Nos. KCPL 314 HC and
19 KCPL 315 HC were marked for identification.)

20 MR. WILLIAMS: 314 would be a response to
21 staff data request 0092 -- a portion of a response. And
22 315 would be a portion of a Schiff Hardin Invoice No.
23 1434914.

24 MR. MILLS: Thank you.

25 MR. WILLIAMS: Judge, may I approach.

1 JUDGE DIPPELL: Yes. Mr. Williams, can you
2 tell me again the DR number on 315, that's responsive to?
3 Okay. Are they both --

4 MR. WILLIAMS: Oh, you're talking about -- I
5 have no idea.

6 JUDGE DIPPELL: Okay.

7 BY MR. WILLIAMS:

8 Q. Mr. Giles, I'm handing you what's been
9 marked for identification as KCPL 314 and KCPL 315. Have
10 you had an opportunity to review what's been marked for
11 identification as KCPL 314?

12 A. Well, I mean, I can look at the title, but
13 it's an extensive document. Both of these are.

14 Q. Actually, it's much more extensive than what
15 I've provided you. I've only given you a very small
16 portion of it. What I want to direct your attention to in
17 particular is the question on the second page, 6d. And I
18 don't -- I believe that question shouldn't be highly
19 confidential.

20 A. Did you say the second page, 6b?

21 Q. 6d.

22 A. 6d? Okay.

23 Q. And then turning to the response, which I
24 believe would be HC -- or is HC, on Page 2 of 4, do you see
25 the response to 6d?

1 A. I do.

2 Q. And is that -- and that response refers back
3 up to the response to 5, does it not?

4 A. I don't know that it does or not. I can
5 only tell you what it says. It doesn't refer to 5.

6 Q. Doesn't 6 -- doesn't the question ask for
7 every wind energy request for proposal that's identified
8 above to provide certain information?

9 A. 6d question is a copy of each and every
10 communication between KCPL and any consultant or advisor
11 who participated in any way in or made any recommendation
12 related to the RFP or responses to the RFP.

13 Q. And doesn't it have a modifier for each wind
14 energy RFP identified above, please provide that
15 information?

16 A. Yes.

17 Q. And doesn't the preceding question ask to
18 identify wind energy RFPs?

19 A. It says, Please identify and provide a copy
20 of each and every wind energy request for proposals RFP
21 that KCPL has issued since January 1, 2004 including, but
22 not limited to build, turn-key build and PPAs.

23 Q. And in the response on Page 2 of the
24 response doesn't Kansas City Power and Light Company
25 identify those request for proposal -- proposals?

1 A. On which item did you say?

2 Q. Under item 5.

3 A. Yes. It indicates to see attached 2005 RFP
4 April 16th, 2007.

5 JUDGE DIPPELL: Do we need to -- excuse me
6 just a minute, Mr. Giles. Are we getting into anything HC?
7 Okay.

8 MR. STEINER: I don't believe so, yet, Your
9 Honor.

10 JUDGE DIPPELL: I'm sorry, Mr. Giles. Go
11 ahead.

12 THE WITNESS: August 17th, 2007 RFP, 2009
13 Spearville 2 RFP and 2009 2010-11 RFP.

14 BY MR. WILLIAMS:

15 Q. Then isn't the response under 6d referring
16 back to those requests for proposals identified in the
17 response to 5?

18 A. It says, No consultant or advisor was used
19 to develop any of the RFPs or evaluate any of the RFP
20 responses.

21 Q. And is there a verification included as part
22 of Exhibit KCPL 314 at the end of that?

23 A. There is.

24 Q. And does it reflect the date of July 1st,
25 2010?

1 A. It does.

2 MR. WILLIAMS: Judge, with that I offer
3 Exhibit 314 -- KCPL 314.

4 JUDGE DIPPELL: Will there be any objection
5 to Exhibit 314 HC?

6 MR. FISCHER: No objection.

7 JUDGE DIPPELL: Then KCPL Exhibit 314 HC is
8 entered.

9 (Wherein; Staff Exhibit No. KCPL 314 HC was
10 received into evidence.)

11 BY MR. WILLIAMS:

12 Q. Mr. Giles, I'd like to turn your attention
13 now to what's been marked for identification as KCPL 315.

14 A. Okay.

15 Q. And this is an invoice that Kansas City
16 Power and Light Company received from Schiff Hardin --
17 portions of an invoice that Kansas City Power and Light
18 Company received from Schiff Hardin, is it not?

19 A. It appears so, yes.

20 Q. And would you look at the pages that are
21 provided.

22 A. Okay.

23 MR. WILLIAMS: Now we may need to go in HC.
24 I think we need to go in HC at this point.

25 JUDGE DIPPELL: Okay. We can go in camera.

1 Give me just one moment.

2 (REPORTER'S NOTE: At this point an
3 in-camera session was held, which is in volume 44, page
4 4592 to 4597.)

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1 JUDGE DIPPELL: We're back on the record.

2 And we are not adjourned even though I hit the wrong

3 button. Okay. We're back in public session.

4 And Mr. Williams, you were going to continue

5 your questioning. Let us know if we need to go back in

6 camera.

7 MR. WILLIAMS: Judge, may I have another

8 exhibit marked. It would be, I believe, 316?

9 JUDGE DIPPELL: Yes.

10 MR. WILLIAMS: And it is, unless the Company

11 says otherwise, highly confidential.

12 MR. STEINER: Yes, it would be.

13 JUDGE DIPPELL: All right. And

14 Mr. Williams, handed me copies of that during the break.

15 MR. WILLIAMS: And I think we can identify

16 it by the date and the title. Right?

17 MR. STEINER: Yes.

18 (Wherein; Staff Exhibit No. KCPL 316 HC was

19 marked for identification.)

20 (REPORTER'S NOTE: Staff Exhibit No. KCPL

21 316 HC was changed to KCPL 316 NP on March 4th, 2011.)

22 MR. STEINER: I mean, I can -- I just

23 have -- it's marked highly confidential. I need to look at

24 it to see if it still is, but at this point I'd rather just

25 start with -- leave it HC, so I can have a chance to look

1 at it.

2 MR. WILLIAMS: And it's a request for
3 proposals for 2010 to 2011 resources, dated December 1,
4 2009.

5 MR. MILLS: Judge, I don't have an objection
6 to leaving it confidential for now, but almost by
7 definition a request for proposal is disseminated publicly,
8 so I have difficulty understanding how it could be
9 confidential, but I appreciate the Company's offer to check
10 and hopefully we will get a response on that quickly, so we
11 can modify the record accordingly.

12 MR. WILLIAMS: I expect probably that when
13 we -- it may have been at the time we received this, it
14 hadn't been released publicly.

15 JUDGE DIPPELL: All right. Mr. Steiner,
16 you'll look at that quickly and clarify --

17 MR. STEINER: I will. I don't know how
18 widely it was distributed or if it was distributed, but I
19 will find out.

20 JUDGE DIPPELL: Thank you.

21 MR. WILLIAMS: I will also inform and advise
22 it this was part of -- additional part of the response to
23 Data Request No. 0092, which has been marked as Exhibit
24 No. -- KCP&L 314.

25 Judge, may I approach?

1 JUDGE DIPPELL: Yes.

2 BY MR. WILLIAMS:

3 Q. Mr. Giles, I'm handing you what's been
4 marked for identification as KCP&L 316. Have you ever seen
5 that request for proposals before?

6 A. I don't believe so, no.

7 JUDGE DIPPELL: Mr. Williams, can I get you
8 to speak into the microphone just a little bit more?

9 MR. WILLIAMS: Thank you. I'll try.

10 JUDGE DIPPELL: Your voice got softer over
11 the break.

12 MR. WILLIAMS: My throat's a little dry. I
13 didn't get a drink. I was drinking coffee.

14 THE WITNESS: No, I have not.

15 BY MR. WILLIAMS:

16 Q. Well, what does it purport to be?

17 A. Indicates on the cover page it is a Request
18 for Proposals RP 2010 - 2011 Wind Resources dated December
19 1, 2009.

20 Q. And does the December 1, 2009 mean anything
21 to you?

22 A. No.

23 Q. That wouldn't indicate to you that that was
24 when the request for proposal was issued or created?

25 A. Well, yes. That's what it says.

1 Q. And if --

2 A. I thought you meant did that have any
3 historical reference to me personally. No. It was just
4 December 1.

5 Q. So that means to you that that request for
6 proposal would have been issued on or about that date?

7 A. Yes.

8 Q. And I'll represent to you that Exhibit 316
9 was provided as part of a response to the data request
10 that's been marked for identification as Exhibit 314.

11 A. Okay.

12 Q. And if it is part of that exhibit, you turn
13 to Page 2 of Kansas City Power and Light Company's
14 response. There's a reference there to 2009 2010-11 RFP.
15 And it may be 2009 Spearville RFP and 2009 2010-2011 RFP
16 the way it's written. But it appears it may be two
17 together or two separate.

18 Do you see that?

19 A. I do.

20 Q. And if that document was provided -- Exhibit
21 KCP&L 316 was provided as part of the response to Data
22 Request No. 0092, it would correspond to that
23 identification under No. 5, would it not?

24 A. I believe so.

25 Q. And therefore the response on 6d would be

1 referring back to that particular exhibit too, as well?

2 A. Correct.

3 Q. And if that request for proposals was issued
4 on or about December 1st of 2009, then the preparation of
5 that request for proposal would have been done preceding
6 that date, would it not?

7 A. Yes.

8 Q. And would it -- do you know if it would have
9 been done in the month preceding, days preceding or what
10 kind of timeframe in advance?

11 A. I have no idea.

12 Q. But it might very well have been in
13 September of 2009?

14 A. I have no idea.

15 MR. WILLIAMS: Judge, I'll offer Exhibit
16 KCP&L 316 at this time.

17 JUDGE DIPPELL: Would there be objection to
18 316, which is currently marked as HC?

19 MR. STEINER: Well, no objection with the
20 understanding that this was provided in the data request
21 that's in Exhibit 314 HC as counsel represented. I mean,
22 I'm assuming that's right, so no objection.

23 JUDGE DIPPELL: All right. I will ask
24 counsel to have a look at that and see if it remains HC and
25 if possible let me know by Friday --

1 MR. STEINER: Okay.

2 JUDGE DIPPELL: -- by the close of the
3 hearing. And just as a reminder, there were a few other
4 exhibits during the course of the regular hearing that were
5 also going to be reviewed by the Company to see if they
6 were still HC and -- anyway, just a reminder.

7 MR. STEINER: All right. I'll -- I'll take
8 a closer look at the transcript. I don't -- I'm sure there
9 were.

10 JUDGE DIPPELL: Okay.

11 MR. WILLIAMS: Mr. Steiner, are you going to
12 confirm that that Exhibit 316 was part of the response
13 that's been marked for identification as 314?

14 MR. STEINER: No. I'll take your
15 representation that it was.

16 JUDGE DIPPELL: All right. Mr. Williams,
17 did you have additional questions?

18 MR. WILLIAMS: I think just a few.

19 BY MR. WILLIAMS:

20 Q. Mr. Giles, it seems to me that it's
21 inconsistent for the Company to have said that there were
22 no consultant or advisor used to develop any of the RFPs or
23 evaluate any of the RFP responses and the invoice from
24 Schiff Hardin that has been marked for identification as
25 Exhibit 315. Can you explain that apparent discrepancy?

1 A. I -- I don't know what the thought process
2 was when someone prepared this, but Schiff Hardin was
3 evidently providing legal services. I wouldn't
4 characterize that, myself, as a consultant or an advisor,
5 it's legal services.

6 Q. So you don't get advise from attorneys?

7 A. As I said, I don't know who -- how the
8 individual interpreted this that responded. From my
9 perspective, it would be legal services. I would make that
10 distinction.

11 MR. WILLIAMS: I don't have any further
12 questions, but I believe Ms. Ott does.

13 JUDGE DIPPELL: All right. Thank you.
14 Ms. Ott?

15 MR. WILLIAMS: Judge, may I approach and
16 retrieve the exhibit?

17 JUDGE DIPPELL: Yes.

18 MR. WILLIAMS: Thank you.

19 JUDGE DIPPELL: Ms. Ott, you had additional
20 questions?

21 MS. OTT: I did.

22 BY MS. OTT:

23 Q. I want to go back to the provisional
24 acceptance of the Alstrom contract.

25 A. Okay.

1 MS. OTT: And I'd like to have an exhibit
2 marked.

3 JUDGE DIPPELL: All right. We're at 317.
4 KCPL 317. And is this one highly confidential?

5 MS. OTT: Yes.

6 (Wherein; Staff Exhibit No. KCPL 317 HC was
7 marked for identification.)

8 BY MS. OTT:

9 Q. Mr. Giles, I just handed you Staff Data
10 Request 658 issued on January 30th, 2011.

11 A. Okay.

12 Q. Do you see that?

13 A. I do.

14 Q. Okay. And under question No. 5 Staff asked
15 KCPL, Please provide -- we might need to go in camera.
16 Sorry. Before I start reading from it.

17 JUDGE DIPPELL: Give me just one moment and
18 we'll go in camera.

19 (REPORTER'S NOTE: At this point an
20 in-camera session was held, which is at volume 44, Pages
21 4606 to 4608.)

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1 JUDGE DIPPELL: We're back in to public
2 session. Go ahead, Ms. Ott.

3 CHRIS GILES testifies as follows:

4 BY MS. OTT:

5 Q. Okay. On Line 6 you begin a question with
6 Mr. Hyneman alleges that the project was 14 -- 114 days
7 late based on the Alstom meeting substantial completion on
8 September 23rd, 2010. Do you see that question?

9 A. I do.

10 Q. Did you review Mr. Hyneman's true-up direct?

11 A. I did.

12 Q. Okay. Can you point to me where in
13 Mr. Hyneman's true-up direct testimony he uses the phrase
14 substantial completion?

15 A. I don't believe he does.

16 Q. Okay.

17 A. I don't believe this testimony says he does.

18 Q. Now, do you use the phrase provisional
19 acceptance and substantial completion synonymously?

20 A. No.

21 MS. OTT: I have no further questions.

22 Thank you.

23 JUDGE DIPPELL: Okay. Thank you. Are there
24 questions from the bench for Mr. Giles?

25 Commissioner Davis?

1 QUESTIONS BY COMISSIONER DAVIS:

2 Q. Good aftern-- good morning, Mr. Giles.

3 A. Good morning.

4 Q. Can you help me understand the point that
5 you think that the Commission staff counsel was trying to
6 make and respond to it.

7 A. With regards to --

8 Q. well, whatever they were just
9 cross-examining you about, because --

10 A. I was trying to distinguish between
11 Mr. Williams and Ms. Ott. So you're referring to Ms. Ott?

12 Q. Yes.

13 A. I believe what they are attempting to
14 indicate here is that as Mr. Hyneman describes in his
15 testimony that the unit was 114 days late and they're
16 calculating that from an original PA date, provisional
17 acceptance of June 1 to the date September 23rd of 2010.

18 And it's my testimony that we never -- the
19 project actually wasn't late. The -- some of the agreement
20 with Alstom extended their PA date to November 1, 2010 and
21 the unit actually was in service. They had accepted it as
22 provisional acceptance by the Commission staff on August
23 26th.

24 At that time KCPL withheld provisional
25 acceptance from Alstom intentionally because KCPL wanted to

1 have a major outage and make sure that boiler came back,
2 that it didn't have any issues with it. So in reality, PA
3 date as August 26th, 2010 and KCPL gave that letter to
4 Alstom on September 23rd.

5 So I think it has to do with how many days
6 they're using to calculate the liquidated damages, which
7 it's my testimony that the liquidated damages never entered
8 into the picture in the first place. I hope that helps.

9 COMMISSIONER DAVIS: No further questions,
10 Judge.

11 JUDGE DIPPELL: Thank you. Commissioner
12 Jarrett?

13 COMMISSIONER JARRETT: Thank you, Mr. Giles.
14 I have no further questions.

15 THE WITNESS: Thank you.

16 JUDGE DIPPELL: And I will point out that, I
17 guess, Commissioner Davis had asked Mr. Giles a couple of
18 questions earlier about his start and end dates and I will
19 allow any additional recross on those questions as well.

20 Is there anything further from anyone?

21 Mr. Mills, did you have anything?

22 MR. MILLS: No, thank you.

23 JUDGE DIPPELL: Okay. From Staff, is there
24 additional cross-examination based on the commissioner's
25 questions?

1 MS. OTT: No. Thank you.

2 JUDGE DIPPELL: Is there redirect?

3 MR. FISCHER: Just briefly, Judge.

4 REDIRECT EXAMINATION BY MR. FISCHER:

5 Q. Let's go back to that last point that you
6 had with Commissioner Davis and make sure the record is
7 clear related to the provisional acceptance date related to
8 the Alstom Unit 2 settlement. Do you recall that?

9 A. Yes.

10 Q. would you explain what the Alstom settlement
11 did with regard to the provisional acceptance date from
12 your perspective?

13 A. Yes. The Alstom settlement first extended
14 the provisional acceptance date to August 1, 2010.
15 Subsequently, that was extended to November 1, 2010. And
16 the rationale behind that was to get the unit in service as
17 quickly as possible at the lowest cost.

18 Q. Had the settlement of the Alstom settlement
19 unit 2 not occurred, what, in your opinion, would have been
20 the result?

21 A. I truly don't believe that unit would be
22 operating today.

23 Q. Unit 2?

24 A. Unit 2.

25 Q. And why would that be?

1 A. The contractors in this case, the main
2 contractors, Alstom and Keiwit were not in sync as far as
3 construction turnover packages. They were already two to
4 three months behind and what was one of the many things
5 that was accomplished with the settlement to get Keiwit and
6 Alstom both on the same page working together because
7 otherwise Alstom was going to be late. Keiwit then was
8 going to incur additional cost.

9 Keiwit indicated to KCPL that they would
10 charge an additional \$60 million to meet that June 1 date
11 and didn't believe it could ever be met even if they --
12 even if they incurred the \$60 million.

13 Q. Do you know whether a notice of default was
14 ever issued against Alstom?

15 A. No. It was not because the way these
16 projects work is you want to manage the contractors as you
17 go. To sit by and idly do nothing as the project falls
18 farther and farther behind and incurs more costs, would be
19 deemed imprudent. And would certainly, in my opinion, be
20 imprudent. And KCPL actively managed on a day-to-day basis
21 both Alstom and Keiwit to ensure that didn't happen.

22 Q. Staff counsel early on in your cross, I
23 think, asked you about the Jones book. Do you recall that?

24 A. I do.

25 Q. And I believe you were asked to point to a

1 provision. And I think she called it "frozen". Do you
2 recall that?

3 A. I do.

4 MR. FISCHER: I'd like to approach, Judge,
5 if that'd be okay.

6 JUDGE DIPPELL: All right.

7 BY MR. FISCHER:

8 Q. Mr. Giles, I believe you pointed to a
9 paragraph on Page 4 of 5. I'd like for you to read that
10 into the record if you would.

11 A. Assets considered out of scope for the
12 common systems allocation include: 1, all project costs
13 directly attributable to the construction of Iatan 1 and 2;
14 and 2, any project costs that may ultimately be
15 identifiable as common costs in support of the Iatan
16 facility at the time of completion and readiness for
17 service of Iatan 2, that either have not yet been expended
18 or are as of the time of this analysis not readily
19 identifiable by the individuals with professional
20 experience completing the analysis as common facility
21 costs.

22 Q. In layman's words, what does that mean to
23 you?

24 A. What that means is the estimating that was
25 ongoing as part of this Jones book, or the common systems

1 asset valuation methodology, only pertained to the assets
2 that had been identified at that time. And any other
3 assets that would be deemed common, KCPL would track and
4 book separately as common, so there wouldn't be a need for
5 a methodology of allocation. It would actually be
6 identifiable.

7 Q. Do you recall when the Jones book was filed
8 with this Commission?

9 A. It was in the Iatan Unit 1 rate case.

10 Q. That would have been ER-2009-0089?

11 A. Correct.

12 Q. The previous rate case?

13 A. The previous rate case. Yes.

14 Q. Was Iatan Unit 2 completed by that time?

15 A. No. It was not completed.

16 Q. Can you give some examples of -- what's the
17 title? Out of scope projects?

18 A. Right.

19 Q. Could -- off the top of your head, would
20 you -- do you know of some projects that would be
21 considered in that category?

22 MS. OTT: I'm going to object. This is
23 beyond the scope of the questioning related to the Jones
24 book.

25 MR. FISCHER: No. It's going directly to

1 the paragraph that she asked about.

2 JUDGE DIPPELL: I'm going to overrule.

3 THE WITNESS: Yes. For instance, site
4 finishing. Once the plant was completed, we had to close
5 out the site, repair the roads, create the roads, haul the
6 trailers out. There was a substation transmission
7 expansion that occurred at the completion of the plant. An
8 auxiliary boiler, you know, that type.

9 I believe Mr. Hyneman actually lists those
10 in a DR response attached to his testimony.

11 BY MR. FISCHER:

12 Q. would that be schedule 8-2?

13 A. Yes.

14 Q. would you turn to that? Do you have that in
15 front of you?

16 A. I do. Okay.

17 Q. There are -- there's a paragraph there at
18 the bottom called Additional Common Projects. Is that what
19 you were referring to?

20 A. Yes. That's exactly the items that I was
21 referring to; highway improvements, plant communication,
22 site finishing, bridge replacement, permanent aux boiler,
23 345 kv north bus expansion.

24 Q. were those out of scope projects completed?

25 A. They were completed and they were tracked

1 and booked as common facilities.

2 Q. But they weren't in the Jones book?

3 A. No. They were not in the Jones book. And
4 this is the items that we referred to in the Jones book
5 that are out of scope. We also, as I state in my testimony
6 on numerous occasions, Staff requested is the -- or asked
7 rather, Is the Jones book going to be updated. KCPL
8 repeatedly responded no, it's frozen other than these
9 additional common plants that were accepted from that book.
10 And we've said that consistently.

11 Q. Is that 345 kv line that's listed at the
12 bottom, which is the largest number there, was that
13 necessary for the project?

14 A. Absolutely.

15 Q. Why?

16 A. It is an expansion to be able to serve the
17 load of both units.

18 Q. Were the other projects also necessary?

19 A. Absolutely, yes. And Staff has not
20 indicated they have any qualms that they weren't necessary.

21 Q. Okay. Staff counsel also asked you about a
22 Schiff Hardin document, I believe. It looks like it came
23 from the Internet. Do you recall that?

24 A. I do.

25 Q. Would you flip to the back page of that

1 particular document at Page 4 at the bottom?

2 A. Okay.

3 Q. would you read into the record the
4 sentence -- two sentences above the website address?

5 A. Sure. This article has been prepared for
6 general information. It is not meant to provide legal
7 advise with respect to any specific matter. The reader
8 should consult a lawyer regarding specific legal advise.

9 Q. Mr. Giles, if you were wanting consulting or
10 technical advise would you go to a lawyer?

11 A. No.

12 Q. Typically, are RFPs related to wind projects
13 largely developed in-house at KCPL, do you know?

14 A. Yes, for the most part. Other than legal.

15 Q. You were also asked some questions, I think,
16 regarding Staff -- from Staff counsel regarding Schiff
17 Hardin's work with the wind project and specifically enxco,
18 I think. Do you recall that?

19 A. Correct. Yes.

20 Q. what's your understanding of the services
21 they provided? what did KCPL get out of that?

22 A. well, ultimately a resolution of a dispute
23 and 32 wind turbines at a very low cost that has been
24 constructed on schedule and on budget.

25 Q. Do you think that would have happened if you

1 hadn't had lawyers involved?

2 A. Absolutely not.

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

4 Thank you very much.

5 JUDGE DIPPELL: Thank you. I think that's
6 all, Mr. Giles. You may step down.

7 (Witness excused.)

8 JUDGE DIPPELL: Was there any need for a
9 short break to regroup before Mr. Ives?

10 MR. WILLIAMS: Yes. Change of attorneys.

11 JUDGE DIPPELL: Okay. Let's go off the
12 record just for a couple of minutes then.

13 (Off the record.)

14 JUDGE DIPPELL: Okay. All right. Then,
15 KCPL has their next witness and he is on the stand.

16 And let me go ahead and swear you in, sir.

17 (Witness sworn.)

18 JUDGE DIPPELL: Thank you. Mr. Fischer?

19 MR. FISCHER: Thank you.

20 DARRIN IVES testifies as follows:

21 DIRECT EXAMINATION BY MR. FISCHER:

22 Q. Please state your name and address for the
23 record.

24 A. Darrin Ives. I work at 1200 Main, Kansas
25 City, Missouri.

1 Q. Are you the same Darrin Ives that caused to
2 be filed in this case a true-up rebuttal testimony.

3 MR. FISCHER: Which, Judge, I don't know
4 what you're premarked number was.

5 JUDGE DIPPELL: I'm sorry. I should have
6 given that to you before you got up here. Sorry. I have
7 KCPL 113.

8 (Wherein; KCP&L Exhibit No. KCPL Nos. 113 HC
9 and KCPL 113 NP were marked for identification.)

10 BY MR. FISCHER:

11 Q. Did you caused to be filed what's now been
12 marked as KCPL Exhibit 113 HC and NP?

13 A. I did.

14 Q. Do you have any changes or corrections that
15 need to be made to any of those exhibits?

16 A. I do not.

17 Q. If I were to ask you the questions contained
18 in KCPL Exhibit 113, would your answers be the same?

19 A. They would.

20 Q. And are they accurate to the best of your
21 knowledge and belief?

22 A. They are.

23 MR. FISCHER: Judge, I'd move for the
24 admission of KCPL Exhibit 113 HC and 113 NP and tender the
25 witness.

1 JUDGE DIPPELL: All right. We have a
2 pending motion to strike.

3 MR. FISCHER: That's right. I'm sorry.
4 with that reservation, Judge.

5 JUDGE DIPPELL: Anything further,
6 Mr. Dottheim?

7 MR. DOTTHEIM: Yes. From -- well, no I
8 assume since we have the pending motion to strike, it won't
9 be received at this time since it's being taken with the
10 case and that Mr. Fischer, right now, is going to go
11 through the GMO version of the testimony because the
12 questions I have for Mr. Ives -- since we have the pending
13 motion, I have questions that deal with the different
14 versions of his testimony, of his true-up rebuttal.

15 So we're going to -- we're going to need in
16 addition to KCPL 113, we're going to need the GMO
17 testimony.

18 JUDGE DIPPELL: I'm sorry. Yes. And I
19 didn't realize that he had the two different -- I have the
20 KCPL 113 and then for the 356 testimony, I have GMO 57 is
21 what I have that marked as.

22 MR. FISCHER: Judge, I apologize because I
23 didn't realize I had two versions of that myself. Perhaps
24 I should ask the same questions on that one.

25 JUDGE DIPPELL: Why don't you go ahead,

1 Mr. Fischer.

2 (Wherein; KCP&L Exhibits Nos. GMO 57 NP and
3 GMO 57 HC were marked for identification.)

4 BY MR. FISCHER:

5 Q. Mr. Ives, do you have any changes to your
6 GMO testimony version, which has now been marked as 57 HC
7 and 57 NP?

8 A. I do not.

9 Q. And those are all accurate too; is that
10 right?

11 A. They are.

12 MR. FISCHER: Judge, pending the -- the
13 determination of the motion to exclude, I guess I would
14 tender him for cross.

15 JUDGE DIPPELL: Okay. Let me ask: Is there
16 any other objections besides the pending motions to strike
17 to this testimony?

18 Seeing none, at this time -- I -- I -- when
19 Mr. Thompson offered for the Commission to consider taking
20 it upon the case, I said at that time that I was going to
21 reserve my ruling on those motions, but I did not intend to
22 say that I was -- that the Commission was going to take it
23 with the case.

24 And at this time I'm prepared to rule on
25 those motions. So I'm going to go ahead and overrule the

1 motion to strike -- or deny the motion to strike and allow
2 this testimony. And I'm also going to do the same on the
3 motion to strike Mr. Murray's testimony. That will also be
4 overruled or denied.

5 so if there are no other objections to the
6 testimony of Mr. Ives both the KCPL 113 and GMO 57, then
7 those will be admitted at this time.

8 (Wherein; KCP&L Exhibit Nos. KCPL 113 NP,
9 KCPL 113 HC, GMO 57 NP and GMO 57 HC were received into
10 evidence.)

11 JUDGE DIPPELL: All right. Will there be
12 cross-examination from anyone other than Mr. Dottheim for
13 Staff?

14 Okay. Then, Mr. Dottheim.

15 MR. DOTTHEIM: Judge, I have some general
16 questions for Mr. Ives that I don't think will take
17 terribly long. Ms. Ott has -- there -- Mr. Ives also, of
18 course, has some testimony on some discrete adjustments and
19 those discrete adjustments, Ms. Ott was the attorney on and
20 she has some questions on those.

21 JUDGE DIPPELL: If there are no objections
22 from counsel, we'll allow the same procedure.

23 MR. FISCHER: Judge, I don't have an
24 objection and I would hope we would take care of one lawyer
25 and then go to the next and not go back and forth.

1 MR. DOTTHEIM: Yes. That -- that was --
2 that's the intention that I get through my questions, which
3 again I don't think is going to take very long.

4 JUDGE DIPPELL: All right. Then,
5 Mr. Dottheim, would like to proceed when one attorney, is
6 fine.

7 CROSS-EXAMINATION BY MR. DOTTHEIM:

8 Q. Good morning, Mr. Ives.

9 A. Good morning.

10 Q. Mr. Ives, you have with you copies of both
11 your KCPL and your GMO -- at least, I'm going to question
12 you on your true-up rebuttal. You have both KCPL Exhibit
13 113 NP and HC and KCPL GMO 57 NP and HC?

14 A. Yes, sir. I do.

15 Q. Okay. If -- if your responses to any of my
16 questions actually get into any of the sections that are
17 HC, I don't really think it's going to require you to
18 respond with any of the HC information. And -- and
19 hopefully me going back and forth between the two versions
20 won't be too -- too confusing.

21 I'm going to try to refer to both versions
22 when I can and be distinct as possible when I'm referring
23 to one version as opposed to the other.

24 A. Okay.

25 Q. And please, if I'm not being clear please

1 ask for clarification.

2 A. Okay.

3 Q. And I -- I know your counsel will. If he's
4 vaguely understanding or not understanding what I'm asking,
5 he'll -- he'll jump in.

6 I'd like to direct you to start off with
7 both versions. And I'd like to direct you to Page 1. And
8 these are really just general questions. On Page 1 on both
9 versions you deal with general introductory information, do
10 you not?

11 A. That's correct.

12 Q. And you also deal in a summary fashion with
13 the statement of financial accounting standards SFAS No.
14 90, do you not?

15 A. Yeah. High level I summarize it.

16 Q. Okay. And I'd like to refer you to Page 2
17 of your true-up rebuttal testimony in both the KCPL and the
18 GMO version. And on Page 2 you identify with aggregate
19 numbers, the Staff's proposed disallowances, do you not?

20 A. I do. I pulled those from Schedule 1 and
21 separate them into the discrete categories.

22 Q. Okay. You also, on that -- on that page
23 identify topics that other KCPL/GMO witnesses have
24 addressed in these proceedings, do you not? For example,
25 I'm referring to like Lines 12 and 13.

1 A. Yeah, in general, I identify that other
2 Company witnesses are directing the direct disallowances
3 proposed by Staff.

4 Q. I'd like to refer you again to both versions
5 because both versions for the following pages, I believe,
6 are the same. I'd like to refer you to Page 2, Line 19 to
7 Page 7, Line 30, which I believe is the section that covers
8 write-downs and SFAS No. 90, if you could verify that for
9 me for both versions of your testimony. That is KCPL and
10 GMO.

11 A. I'm sorry. Just one clarification; you said
12 Page 2 starting on Line 19?

13 Q. Yes.

14 A. Yeah, that's correct.

15 Q. Okay. And in that -- those pages from Page
16 2, Line 19 to Page 7, Line 30, is there anything contained
17 in those pages that could not have been submitted by the
18 Company in rebuttal or surrebuttal testimony?

19 A. Yeah. I think probably the most important
20 thing that's contained in here that couldn't have been done
21 at that time is the highly confidential data that's in here
22 that actually quantifies the financial implications of
23 Staff's final disallowances to the Company. That couldn't
24 have been done earlier.

25 Q. Okay. And -- and when you say the highly

1 confidential, are you referring then to on Page 3, Lines 4
2 to 6?

3 A. That -- that's one of the places that I'm
4 referring to, which then feeds a couple other parts of --

5 Q. Okay.

6 A. -- my testimony. I think on Page 5.

7 Q. Okay. And -- all right. And on page --
8 Page 5, you're referring to Line 22, 23, 27?

9 A. Yes. And then on Page 6, there's another
10 component on Line 2.

11 Q. Okay. Now --

12 A. Those are the -- those are the specific
13 things that couldn't have been done. Obviously, the
14 remainder of the discussion on these pages that we cited
15 are the context of how you get to where we are with those
16 highly confidential numbers.

17 Q. In the Company's case in chief in the
18 Company's rebuttal or surrebuttal, could you have submitted
19 these pages with the Staff's quantification of its
20 disallowances based on those disallowances as quantified at
21 that time?

22 MR. FISCHER: Judge, I think I'm going to
23 just object on relevance. Now that the testimony's been
24 admitted, I'm not sure where we're going with this.

25 JUDGE DIPPELL: I'm going to overrule. Go

1 ahead, Mr. Dottheim.

2 THE WITNESS: Could you repeat the question?

3 BY MR. DOTTHEIM:

4 Q. Yes. I'm asking whether you've, I think,
5 identified -- and correct me if I'm mistaken -- what is
6 unique to your true-up testimony is the quantification of
7 some or all of the numbers that appear as highly
8 confidential in the pages that I've identified for you?

9 A. Correct.

10 Q. Could you have used, instead of the numbers
11 that you used, the numbers that were contained in the
12 Staff's case in chief that was filed on November 4, 2010?

13 A. Those -- those numbers probably could have
14 been used although I would say that wouldn't have been
15 meaningful at the time. I think it was mentioned earlier
16 in the opening that the increase in disallowance proposed
17 by Staff from that time is pretty significant, maybe in the
18 range of \$60 million.

19 So it would have looked very different from
20 a financial impact and what it does, where the final
21 numbers came out that Mr. Hyneman's sponsoring at this
22 stage of the case.

23 Q. Can you identify yourself, what are the
24 increases that comprise the \$60 million?

25 A. I can only go, in this case, from what

1 Mr. Hyneman put in. And I think in large part, they are in
2 the unquantified/unexplained line item of his schedule.
3 I'm not sure he's quantified them, I guess, is --
4 specifically.

5 Q. Do you know whether there has been an
6 increase in the amount of the Staff's quantification of
7 unexplained/unidentified costs?

8 A. Yes. The line item in that Schedule 1
9 that's unexplained/unidentified increased from the direct
10 case to the true-up schedule.

11 Q. Okay. And the amount is --

12 A. I don't know that I have the exact in front
13 of me. I would -- in openings it was referenced at about
14 60 million.

15 Q. Do you know yourself what it is as opposed
16 to the opening statement? And again, I'm asking whether
17 you, yourself know.

18 A. whether I know --

19 Q. what the --

20 A. -- what Staff's unexplained increased by?

21 Q. what that increase is as opposed to just
22 having heard it from the opening statement.

23 A. I believe that's in the range. I don't have
24 the schedule from the earlier testimony from Mr. Hyneman to
25 do that math. I have the schedule from his true-up that --

1 that I utilized in putting my analysis together.

2 Q. Do you know whether the Alstom settlement
3 item that appears in his -- the Iatan Unit 2, Alstom
4 settlement item that appears in his true-up testimony is a
5 increase in the disallowance amount proposed by the Staff?

6 A. It is -- it is a component of the increase.
7 I'm sorry. I do have the other -- the other schedule in
8 there, further back in my binder. So I could probably
9 could do some of those relationship items.

10 Q. Do you know whether it's -- do you know
11 whether part of the quantification of that item in
12 Mr. Hyneman's true-up direct testimony is a
13 reclassification from unidentified/unexplained to a
14 discrete disallowance by the Staff?

15 A. I'm not sure I can answer that. I haven't
16 seen any detail on what makes up the unexplained, so I
17 can't tell if there's been a reclass or not.

18 Q. Mr. Ives, if your testimony that appears
19 starting on Line 19, Page 2 and continues to Page 7, Line
20 30 were based upon numbers in the Staff's Iatan
21 construction audit prudence review report that was filed on
22 November 4th, 2010, had been submitted by KCPL/GMO in the
23 Company's case in chief, would that have been relevant do
24 you think?

25 A. Relevant in what context?

1 Q. Relevant to KCPL/GMO's case pending before
2 the Commission?

3 A. I'm an accountant responsible for SCC
4 filings to investors, so I don't think it's highly relevant
5 throughout the context.

6 Q. Do you know any reason why such information
7 was not submitted in the Company's case in chief?

8 A. Well, I mean, I would say we did discuss the
9 importance of write-offs to the Company from disallowances
10 a couple different times in the case in chief in the
11 opening and questionings with Company witnesses, Blanc and
12 Weisensee. So I wouldn't say it wasn't discussed.

13 I think what I've done is quantify the
14 amounts at the appropriate time because now we have the
15 number -- final numbers that Staff's proposing so we can
16 put context around what it really means for the conclusion
17 of the case.

18 Q. I'd like to refer you to your KCPL specific
19 testimony, Exhibit No. 113 and I'd like to refer you to
20 Page 8, Line 12 of your true-up rebuttal. And the question
21 states, does it not, what are you specifically going to
22 address in this section of your true-up rebuttal testimony,
23 does it not?

24 A. That's correct.

25 Q. And what you address is the -- and it's

1 actually the heading for that section was KCP&L direct cost
2 adjustments.

3 A. Yeah. There's some words in the paren in
4 that heading as well; property tax, AFUDC, KCPL-only.

5 Q. Yeah. I was actually referring to the
6 heading up at the top of the page of Page 8, which doesn't
7 have the parenthetical that you referred to. But you're
8 referring to the parenthetical, for example, on Line 15,
9 that's part of Line 15?

10 A. Yes.

11 Q. And in the section KCP&L direct costs
12 adjustments, it goes to Page 16, Line 11, does it not?

13 A. That's correct.

14 Q. And again on Page 8, Line 14 and 15 you
15 state, do you not, I will be addressing Staff's continued
16 support of the adjustments including the section titled
17 KCPL direct cost (property tax, AFUDC, KCPL-only)?

18 A. That's right.

19 Q. I'd like to refer you to your GMO testimony,
20 which is Exhibit 57, GMO 57. And if you go to Page -- Line
21 11. The question at Line 11 is, what are you specifically
22 going to address in this section of your true-up rebuttal
23 testimony, is it not?

24 A. It is.

25 Q. And again, I'd like to refer you to the top

1 of the page. This section of your testimony is titled GMO
2 AFUDC adjustments.

3 A. It is.

4 Q. And this section goes to Page 13, Line 19,
5 does it not?

6 A. Yes, through Line 19.

7 Q. And again, I'd like to refer you to Page 8,
8 Lines 13 and 14. And you state, do you not, I will be
9 addressing Staff's continued support of the adjustments
10 included in the section titled GMO AFUDC adjustments, do
11 you not?

12 A. I do.

13 Q. Okay. And let's -- let's stay with the GMO
14 testimony. I probably should have stayed with your KCPL
15 testimony. In that I'm in your GMO testimony, why don't I
16 stay there. That section GMO AFUDC adjustment, that goes
17 from Page 8, Line 4 to Page 13, Line 19. Is there anything
18 that prevented KCPL/GMO from submitting that testimony on
19 those pages in the KCPL/GMO cases in chief, in the rebuttal
20 or surrebuttal testimony?

21 A. Well again, I think the only thing that
22 would have been different is the magnitude of the
23 adjustments between direct and now or the case in chief, as
24 you call it, and now and the -- I guess I would say the
25 magnitude of difference in positions between the Company

1 and the Staff on those disallowances because those
2 decisions as my testimony states on this disallowances in
3 large part impacts a lot of these AFUDC adjustments.

4 So as that magnitude of differences has
5 grown, it's even more relevant today than it has been
6 previously.

7 Q. And I'd like to refer you -- and excuse me,
8 but I'd like to refer you back to your KCPL testimony,
9 Exhibit 113, KCPL Exhibit 113, Page 8, Line 1 to Page 16,
10 Line 11, and ask you is there anything that would have
11 prevented KCPL/GMO from submitting that testimony in KCPL's
12 case in chief on rebuttal or surrebuttal testimony?

13 A. I think my answer's the same on that; it's
14 the magnitude of the change that becomes more relevant
15 today than it was at that time.

16 Q. And I'd like to -- let's stay with the KCPL
17 testimony. I'd like to refer you to Page 16, Line 12 to
18 Page 17, Line 17. That answer is just a summary of your
19 true-up rebuttal testimony, is it not?

20 A. It is.

21 Q. Okay. And one last time, if I could refer
22 you to your GMO true-up rebuttal testimony, GMO Exhibit 57.
23 I'd like to refer you to Page 13, Line 20 from -- Page 13,
24 Line 20 to Page 14, Line 17. The answer that appears on
25 those pages, those lines that is just a summary of your GMO

1 true-up rebuttal, is it not?

2 A. It is.

3 MR. DOTTHEIM: Mr. Ives, that's all the
4 questions I have. Ms. Ott has some questions. Thank you.
5 you've been very patient.

6 THE WITNESS: Thank you.

7 JUDGE DIPPELL: Thank you. Ms. Ott, you
8 have some further questions?

9 MS. OTT: Yes. This first portion is going
10 to need to go in camera due to the subject matter.

11 JUDGE DIPPELL: Okay. Is there anyone in
12 the room that is not allowed to hear confidential
13 information?

14 (REPORTER'S NOTE: At this time an in-camera
15 session was held, which is at volume 44, Pages 4636 to
16 4638.)

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1 JUDGE DIPPELL: Okay. We're back on public
2 session. Go ahead.

3 DARRIN IVES testifies as follows:

4 BY MS. OTT:

5 Q. Now Mr. Ives, you've discussed the advanced
6 tax coal credit in your true-up rebuttal testimony.

7 Correct?

8 A. I discuss Staff's adjustment about free
9 utilization of cash as a result of the advanced coal
10 credit.

11 Q. GPE files consolidated tax returns.

12 Correct?

13 A. We do.

14 Q. Now, would it be fair to say that had GPE
15 not been able to use -- let me strike that and go back.

16 Now, in 2008 and 2009 GPE utilized the net
17 operating losses from the acquisition of Aquila. Correct?

18 MR. FISCHER: Judge, I'm going to interpose
19 an objection. We tried the advanced coal issue and I think
20 it was two weeks ago in the GMO case. And this gentleman,
21 while he addresses the write-off effect of that adjustment,
22 he didn't get into the substance of that issue. It's
23 beyond the scope of this testimony.

24 MS. OTT: He does get into the issue of
25 advanced tax coal credit and into the write-offs and it's

1 relevant to his testimony.

2 JUDGE DIPPELL: I'm going to overrule the
3 objection. Go ahead.

4 BY MS. OTT:

5 Q. Mr. Ives, in 2008 and 2009 GPE was able to
6 utilize the net operating losses from the acquisition of
7 Aquila. Correct?

8 A. That's correct.

9 Q. Now, would it be fair to say that had GPE
10 not been able to utilize those losses, they could have used
11 the advanced tax coal credits to offset their taxable
12 income?

13 MR. FISCHER: I'm going to just ask for a
14 continuing objection along that line.

15 JUDGE DIPPELL: So noted and overruled. Go
16 ahead, Ms. Ott.

17 THE WITNESS: I think it's fair to say that
18 we might not have carrier forward the coal credits if they
19 would have been utilized in that year. I guess my point in
20 my testimony is it doesn't make a difference.

21 MS. OTT: I have nothing further.

22 JUDGE DIPPELL: Thank you. Are there any
23 questions from the bench? Commissioner Davis?

24 COMMISSIONER DAVIS: I was just thinking.

25 QUESTIONS BY COMMISSIONER DAVIS:

1 Q. Mr. Ives, with regard to the coal credits;
2 so basically, it is the thrust of your testimony that
3 there's no difference in how it gets apportioned as long as
4 we do it lawfully. You don't get the whole thing revoked?

5 A. Well, yeah. The purpose of my testimony was
6 to talk about the adjustment that Staff made, what they --
7 their position is is that if we would have utilized those
8 coal credits, it would have been like a free source of cash
9 that would have reduced AFUDC costs on the construction
10 project in '08 and '09.

11 Q. Uh-huh.

12 A. My position is we paid virtually no cash
13 taxes in '08 or '09 anyway, so there were no incremental
14 borrowings that the Company -- with or without utilizing
15 the advanced coal credits. And the ratepayers are going to
16 ultimately get the benefit of those coal credits over the
17 life of the project.

18 So the benefit's still out there for the
19 ratepayers and there wasn't any increased borrowing cost
20 because we carried forward these credits and utilized
21 another set of credits to not have cash taxes.

22 COMMISSIONER DAVIS: Thank you. No further
23 questions.

24 JUDGE DIPPELL: Thank you. Is there any
25 additional cross-examination based on the commissioner's

1 question?

2 MS. OTT: I just have one question following
3 what Commissioner Davis just asked.

4 JUDGE DIPPELL: Go ahead.

5 RE-CROSS-EXAMINATION BY MS. OTT:

6 Q. what was the nature of the other credits you
7 could have carried -- you could have utilized?

8 A. I'm not sure I understand your question.
9 what we utilized in '08 and '09 were NOLs. I suspect we
10 had wind and other production credits that we utilized,
11 possibly others. But the point was as a result of what we
12 did, we didn't pay cash taxes, so we didn't have to borrow
13 additional funds to fund operations or Iatan 2.

14 Q. And just for the record, what's an NOL?

15 A. Net operating loss.

16 Q. And those net operating losses GPE acquired
17 through the acquisition of Aquila. Correct?

18 A. Correct.

19 Q. Now, are you aware if this Commission has
20 ever shielded customers from the operating loss of the
21 non-regulated operating losses of Aquila?

22 A. I've read that in testimony of parties.

23 MS. OTT: I have nothing further. Thank
24 you.

25 JUDGE DIPPELL: Thank you. Is there

1 redirect?

2 MR. FISCHER: Yes, Judge.

3 REDIRECT EXAMINATION BY MR. FISCHER:

4 Q. Mr. Ives, did you indicate in answer to one
5 of the questions that you did have a copy of the original
6 schedule of Iatan adjustments?

7 A. I did.

8 Q. Do you have that handy?

9 A. I've had my finger on it earlier. I do
10 right here. It says it's from Mr. Hyneman's direct
11 testimony.

12 Q. I'm always concerned whenever someone
13 challenges my arithmetic because it's often wrong. I'd
14 like to have you take a look at the current schedule 1
15 attached to his testimony, which lists all of the Iatan
16 adjustments. And I'd like to have you compare that to the
17 original schedule 1 that listed the adjustments in the
18 primary, direct case of Staff.

19 A. Okay. We're looking at in particular, which
20 column?

21 Q. Well, I'd like -- I'd like for you to look
22 at -- the current schedule 1, it's a highly confidential
23 number, but it has a note A gross unidentified/unexplained
24 cost overrun adjustment. Do you see that number?

25 A. I do see that.

1 Q. would you compare that number to the total
2 Staff proposed disallowances joint owner costs on the
3 original schedule 2 in the direct case and just tell me
4 what the difference in dollars is roughly?

5 A. The total from schedule 1 to the
6 unidentified and --

7 Q. Gross unidentified, yes.

8 A. The gross unidentified, the dollar
9 difference is about 56 and a half million.

10 Q. Okay. Now, do the same thing for the gross
11 unidentified/unexplained cost overrun adjustment in the
12 current schedule 1, the number that's there. And please
13 compare that to the Staff total -- total Staff proposed
14 disallowance under unit 1 in the original schedule 2.

15 A. I think it's a little -- rough math, it's a
16 little over 3 and half million higher than the original
17 schedule.

18 Q. Okay. So tell me, is 3 and a half million
19 plus the other number, what did that equal?

20 A. I think I had 56 and a half, so that'd be
21 approximately 60.

22 Q. Okay. Good. Now, on -- let's compare the
23 number that is on the original schedule 2 for Iatan 2, the
24 Alstom settlement Unit 2 costs. Do you see that line?

25 A. I do.

1 Q. And would you compare that number to the
2 Alstom settlement 2 costs that are now contained in
3 schedule 1 and tell me how many times that original number
4 is listed now in Schedule 2? Excuse me, Schedule 1.

5 A. It's 15 times higher than what was in the
6 schedule 2.

7 Q. Okay. Even for lawyers that was easy. You
8 were asked some questions about the Company's previous
9 discussion, I think, of the write-down issue. And you
10 answered -- you mentioned that Curtis Blanc had filed
11 testimony. Do you recall that question and answer?

12 A. I do.

13 Q. I'd like to show you KCPL Exhibit 8, which
14 is the rebuttal testimony of Curtis Blanc, Page 6, and ask
15 you if this is what you're referring to? I've highlighted
16 a portion of that. Would you read that into the record?

17 A. Sure. It says, Staff simplistic approach
18 also irresponsibly jeopardizes KCPL's financial integrity.
19 Under accounting rules KCPL would have to immediately write
20 off its books any portion of Iatan 2 cost that this
21 Commission concludes could not be included in the Company's
22 Missouri rates.

23 To so cavalierly put a utility in the
24 position of having to write-off such significant sums is
25 irresponsible, particularly when that recommendation comes

1 from the Staff that was suppose to balance the interest of
2 KCPL and its customers.

3 Q. To your knowledge, did the staff file any
4 surrebuttal challenging that portion of his testimony?

5 A. Not that I'm aware of. And to answer your
6 question earlier, this is the one. This is what I was
7 referring to.

8 Q. Okay. Great.

9 MR. FISCHER: That's all I have. Thank you,
10 Judge.

11 JUDGE DIPPELL: Thank you. I believe that
12 concludes you testimony then, Mr. Ives. I think that's the
13 only issue you were scheduled to testify on. You may be
14 excused.

15 THE WITNESS: Thank you.

16 (Witness excused.)

17 JUDGE DIPPELL: And that's a convenient
18 place to take a lunch break. Before we do that though, I
19 just wanted to ask because there was a scheduling issue for
20 Mr. Mills for later this afternoon.

21 Do we know at this time whether there will
22 be questions for Mr. Robertson?

23 MR. STEINER: No. There is none.

24 MR. MILLS: Staff told me earlier they had
25 none. So unless they're questions from the bench on that

1 issue --

2 JUDGE DIPPELL: Okay.

3 MR. MILLS: -- I don't plan to call
4 Mr. Robertson and simply ask that his testimony be
5 admitted.

6 JUDGE DIPPELL: Okay. I just wanted to make
7 sure we go that taken care of before you had to leave. It
8 looks like we're going a little slow this morning at this
9 point. But I suspect things will pick up once we get
10 passed this original issue.

11 MR. MILLS: So Judge, by your leave I will
12 plan to offer his testimony after lunch and if it turns out
13 that there's questions from the commissioners, hopefully we
14 can take those up before 3:00 or we can simply take them
15 tomorrow.

16 JUDGE DIPPELL: That's fine. All right.
17 Then lunch break, is an hour and 15 minutes sufficient?

18 Okay. Then let's take a break until 1:15.
19 we can go off the record.

20 (Off the record.)

21 JUDGE DIPPELL: All right. We're back after
22 our lunch break and I believe we're ready then to begin
23 with staff's first witness, Mr. Elliott.

24 (Witness sworn.)

25 JUDGE DIPPELL: Thank you. Go ahead,

1 Ms. Kliethermes.

2 DAVID ELLIOTT testifies as follows:

3 DIRECT EXAMINATION BY MS. KLIETHERMES:

4 Q. Good afternoon, Mr. Elliott.

5 A. Good afternoon.

6 Q. Are you the same Dave Elliott who submitted
7 true-up direct testimony in these cases?

8 A. Yes.

9 Q. Is there both a highly confidential and a
10 public version of those testimonies in each case?

11 A. Yes.

12 Q. And to the best of your knowledge are those
13 designated as 292 HC and NP in both cases?

14 A. As far as I know.

15 Q. Do you have any corrections to make to that
16 testimony?

17 A. No, I do not.

18 Q. Do you have any corrections to any schedules
19 to that testimony?

20 A. No, I do not.

21 Q. If I were to ask you the same questions
22 today, would you have the same answers?

23 A. Yes.

24 Q. And are those answers true to the best of
25 your knowledge?

1 A. Yes.

2 MS. KLIETHERMES: Judge, with that, I'd
3 offer Mr. Elliott's prefiled true-up direct testimony
4 consisting of Exhibits 292 HC and 292 NP in each of these
5 cases.

6 JUDGE DIPPELL: Okay. Let me double check
7 those numbers because --

8 MS. KLIETHERMES: Please do.

9 JUDGE DIPPELL: -- that is not -- I'm sorry,
10 you had 292?

11 MS. KLIETHERMES: That's what I wrote down
12 off of a sheet I saw earlier today. I do not know the
13 source of that sheet.

14 JUDGE DIPPELL: I should have compared
15 Mr. Williams e-mail schedules over the lunch, but I did not
16 do so.

17 MS. KLIETHERMES: The copies I have here are
18 labeled 292 HC and 292 NP. This is for 355 and it doesn't
19 appear we have printed copies for 356 unless we've already
20 given them to the court reporter.

21 JUDGE DIPPELL: Okay. I had that staff
22 started -- would start its GMO numbering with 267, so I'm
23 going to -- I'm going to go with my list here and I'm going
24 to remark that -- the --

25 MS. KLIETHERMES: And Judge, since we only

1 have the printed copies in the 355 case --

2 JUDGE DIPPELL: Yes?

3 MS. KLIETHERMES: -- I'm wondering if that
4 was only filed in 355.

5 JUDGE DIPPELL: Okay. I started to say I
6 didn't actually have Mr. Elliott having testimony in the
7 GMO.

8 MS. KLIETHERMES: Okay.

9 JUDGE DIPPELL: So -- and in the KCPL
10 numbering, I had Staff into the 300s starting with this.
11 So for Mr. Elliott's testimony, I have it -- I have marked
12 it as KCPL 303, so let's go with that.

13 MS. KLIETHERMES: Okay. I guess I would
14 just ask the record to reflect that there's already exhibit
15 numbers written on these documents.

16 JUDGE DIPPELL: Okay.

17 MS. KLIETHERMES: I suspect the court
18 reporter will strike them to the correct numbers.

19 JUDGE DIPPELL: Okay. Thank you. I
20 apologize for that confusion and I should have gotten that
21 straightened out this morning before we began. But I have
22 the list in front of me so I'm going to go with that, which
23 is the list that I made up before I got Mr. Williams' list.
24 So I'm just going to continue with that because I know that
25 way we won't have any repeated numbers.

1 MS. KLIETHERMES: Okay. And those numbers
2 were based off of -- the numbers that I had were based off
3 of Mr. Williams' list, so that's probably the source of the
4 confusion.

5 JUDGE DIPPELL: Okay. Blame it on him, he's
6 not in the room right now.

7 MS. KLIETHERMES: There we go.
8 Inconsistency.

9 (Wherein; Staff Exhibit Nos. KCPL 303 NP and
10 KCP&L 303 HC were marked for identification.)

11 JUDGE DIPPELL: So did you -- I'm sorry.
12 You offered that testimony?

13 MS. KLIETHERMES: I believe I did, and if
14 not I do so now.

15 JUDGE DIPPELL: Is there any objection to
16 Mr. Elliott's true-up direct testimony, which has now been
17 labeled KCPL 303?

18 MR. FISCHER: No objection.

19 JUDGE DIPPELL: Then I will admit that into
20 evidence.

21 (Wherein; Staff Exhibit Nos. KCPL 303 NP and
22 KCP&L 303 HC were received into evidence.)

23 MS. KLIETHERMES: I tender the witness for
24 cross-examination.

25 JUDGE DIPPELL: All right. Will we have any

1 cross-examination other than the Company?

2 All right. Then, Mr. Fischer?

3 MR. FISCHER: None from the Company either.

4 JUDGE DIPPELL: All right. You're going to
5 make this easy on me. Were there any questions for
6 Mr. Elliott from the bench?

7 COMMISSIONER DAVIS: No questions.

8 JUDGE DIPPELL: Okay. It's going to be
9 really easy then. Mr. Elliott, I believe that concludes
10 your testimony and you may step down.

11 THE WITNESS: Okay.

12 (Witness excused.)

13 JUDGE DIPPELL: And just to avoid the
14 confusion for Mr. Hyneman, I had marked his direct as KCPL
15 308. I guess that's the only piece. Right?

16 MS. OTT: It's the same piece of testimony,
17 but it was filed in both cases.

18 JUDGE DIPPELL: But it's the identical --

19 MS. OTT: It is.

20 JUDGE DIPPELL: Okay.

21 MS. OTT: And we have the GMO number marked
22 as 256. I'm not sure if that's the correct number or not.

23 JUDGE DIPPELL: Okay. If it's identical,
24 then we really just only need it the one -- the one time.
25 If -- are you saying that there are different numbers or

1 different pages?

2 MS. OTT: No. It's the same document. We
3 just filed it separately in both cases.

4 JUDGE DIPPELL: Right. Okay. So let's just
5 have it in there as one exhibit because all of the exhibits
6 are going into both -- both cases as are all of the
7 transcripts. So let's mark it as KCPL 303.

8 (Wherein; Staff Exhibit Nos. KCPL 308 HC and
9 KCPL 308 NP were marked for identification.)

10 JUDGE DIPPELL: I'm sorry, sir. Could you
11 raise your right hand?

12 MR. HYNEMAN: Yes.

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you. Go ahead,
15 Ms. Ott.

16 CHARLES HYNEMAN testifies as follows:

17 DIRECT EXAMINATION BY MS. OTT:

18 Q. Could you please state your name for the
19 record?

20 A. It's Charles Hyneman.

21 Q. And by whom are you employed and in what
22 capacity?

23 A. The Missouri Public Service Commission as a
24 regulatory auditor.

25 Q. And are you the same Charles Hyneman who has

1 caused to be prepared true-up direct testimony that was
2 filed in both the 355 and 356 case that has been marked as
3 KCPL 308 HC and 308 NP?

4 A. Yes.

5 Q. Do you have any corrections to make to this
6 testimony?

7 A. No.

8 Q. If I were to ask you the same questions
9 would they be the same today?

10 A. Yes.

11 MS. OTT: with that, I'd like to offer KCPL
12 308 HC and NP into the record.

13 JUDGE DIPPELL: would there be any objection
14 to KCPL 308?

15 Seeing none then, I will receive it into
16 evidence.

17 (Wherein; Staff Exhibit Nos. KCPL 308 HC and
18 KCPL 308 NP were received into evidence.)

19 MS. OTT: And I'll tender Mr. Hyneman for
20 cross-examination.

21 JUDGE DIPPELL: Okay. Is there
22 cross-examination for Mr. Hyneman? Anyone from the
23 Company?

24 MR. FISCHER: No, thank you.

25 JUDGE DIPPELL: All right then. You all are

1 making this easy on me. Are there questions from the bench
2 for Mr. Hyneman?

3 QUESTIONS BY COMMISSIONER DAVIS:

4 Q. I'm going to try and do this without going
5 in camera. Mr. Hyneman, in Mr. Giles's testimony he
6 insinuates that your -- let's see here -- I'm going to read
7 from Page 1 to Mr. Giles's true-up rebuttal testimony.

8 You have used the true-up case to file
9 untimely testimony in an attempt to reargue the prudence of
10 KCP&L's decision-making on the Iatan project.

11 He alleges that you do not allege any new
12 facts or provide any support for positions that were not
13 readily available months or even years prior to the June
14 30, 2010 cutoff date. How do you respond to that?

15 A. That -- those assertions are just completely
16 false.

17 Q. Okay. So basically, you took the -- you
18 guys took everything up through June 30th, 2010 and then
19 anything after that you didn't put that in the direct part
20 of the case; that came after. Correct?

21 A. Correct. And I think as Mr. Dottheim has
22 expressed, the Staff applied a very strict interpretation
23 of what it would include in its true-up testimony.

24 Q. Uh-huh.

25 A. KCPL didn't go that route, but we did. We

1 adhered to a very strict rule. I had new adjustments to
2 propose in this case based on an updating of the Staff
3 audit of Iatan, but the decision was made because this is a
4 true-up, not to include those.

5 So the adjustments that are in my true-up
6 testimony are basically a true-up of the numbers for the
7 Alstom 2 settlement only. And that settlement could not be
8 defined because as of June 30th a substantial amount of the
9 settlement was not determined.

10 The basis of the settlement is -- is one of
11 the key components is a provisional acceptance date where
12 that date was September 15th, 2010. That date was not
13 known June 30th. So the only thing that the Staff did on
14 that was update the Iatan 2 -- the Alstom settlement.

15 The other issue on common plant is at June
16 30th, we thought we had an agreement with KCPL on common
17 plant, the numbers; that they would use the numbers that
18 are referred to as the Jones binder.

19 Q. Uh-huh.

20 A. When we started looking at the numbers for
21 our updated October 2010 filing, we noticed that there was,
22 I think, approximately \$19 million of additional projects
23 that KCPL decides to classify as common based on -- well,
24 an unknown factor. I mean, I think a part of it was a
25 bridge, a road improvement or site development. Projects

1 that were well known, you know, from the beginning of
2 construction that they would have to complete.

3 And it was kind of like a last minute
4 assertion that these would fall into the common bucket, and
5 that's why the Staff raised issues with that adjustment.

6 Q. Okay.

7 A. But that common plant adjustment, those
8 numbers were not known at June 30th. They were only known
9 very recently.

10 COMMISSIONER DAVIS: Okay. No further
11 questions, Judge.

12 Thank you, Mr. Hyneman.

13 JUDGE DIPPELL: Thank you. Commissioner
14 Jarrett?

15 COMMISSIONER JARRETT: No questions.

16 JUDGE DIPPELL: Thank you. Is there further
17 cross-examination based on the commissioner's questions?
18 From Staff? I'm sorry, from the Company?

19 MR. FISCHER: Yes. Just following up a
20 little bit with Commissioner Davis's questions.

21 CROSS-EXAMINATION BY MR. FISCHER:

22 Q. Mr. Hyneman, would you turn to Schedule 8-2
23 of your testimony.

24 A. Yes.

25 Q. Is it correct that the adjustment that you

1 proposed to common is basically a subtraction of the number
2 that is listed at the end of the column under additional
3 common projects? If you take that gross number that's a
4 summation of all of those and you subtract off the number
5 that is related to the permanent auxiliary boiler, then you
6 get to your adjustment?

7 A. That's correct.

8 Q. Now, why did you not include the permanent
9 auxiliary boiler?

10 A. well, that was an issue that was known and
11 discussed prior to the -- the Staff has addressed that
12 prior in Staff's reports. That issue was known. In fact,
13 that issue was separately identified on the Iatan cost
14 report or K-report. So that was not a new surprise issue
15 for the Staff. We had already addressed that.

16 The rest of these projects seem to come out
17 of the blue after Staff -- what we thought we reached an
18 agreement on the common plant numbers, then we were hit
19 with additional 19 million, which we, you know, have not
20 even vetted to see -- to see if it really applies to common
21 plant at all.

22 Q. And so because those weren't included in the
23 Jones binder, you have disallowed them?

24 A. well, first of all we recommended that they
25 not be included in the Iatan project. We haven't had time

1 to review the appropriateness or the prudence of the costs.

2 Q. You're recommending that 345 kv line not be
3 built?

4 A. well, I'm recommending that these costs not
5 be included in the common. And a big part of that is the
6 common plant has different allocations among the different
7 parties. We're recommending that that cost not be included
8 in the common plant.

9 Q. Are you recommending that 345 line not be
10 built?

11 A. No.

12 Q. You recognize it's necessary in order to
13 take the power from that plant out. Right?

14 A. We have no opinion on that at this time,
15 whether that's an appropriate dollar amount cost for that
16 unit. We haven't looked at that. At least I haven't.

17 Q. But because it wasn't in the Jones binder,
18 you're asking --

19 A. No. That's not true.

20 Q. -- that it be disallowed?

21 A. The staff had an understanding -- I believe
22 they had an understanding with the Company.

23 Q. And where was that understanding --

24 A. It developed --

25 Q. -- memorialized?

1 A. It developed over two years of discussions
2 between the Staff and KCP&L. KCPL has never made the
3 assertion that it will have late additions to the common
4 plant category. We did not find out about it until it was
5 either in the October cost report.

6 Q. Does the -- does the Staff question the need
7 for the highway improvements?

8 A. The Staff is not questioning the need for
9 the highway improvements, whether they should be included
10 in the project or whether they should be included in common
11 plant. The Staff has not had the opportunity to audit
12 those costs.

13 Q. Okay. Well, let me ask you about that. You
14 got a number here for the permanent auxiliary boiler. Did
15 you audit that?

16 A. Yes. That was a condition that was known
17 from Staff for several months. In fact, it was even
18 identified, I believe, in the testimony of Dr. Kris
19 Nielson.

20 Q. And that was based on the invoices and
21 purchased orders and other documentation related to the
22 permanent auxiliary boiler; is that right?

23 A. Yes.

24 Q. Okay. Now, did the Company deny you access
25 to the invoices and the purchase orders and the other

1 documentation related to the highway improvements?

2 A. No. The permanent auxiliary boiler, as I
3 mentioned, was separately identified with a cost code, X035
4 or --

5 Q. I think --

6 A. -- cost code.

7 Q. -- you answered my question. You said you
8 didn't have access to the highway improvement invoices and
9 purchase orders?

10 A. Staff was not aware they were being included
11 in the common plant.

12 Q. You did have access to those documents; is
13 that right?

14 A. We could have asked for them. Whether KCPL
15 would have provided them, I don't know.

16 Q. Do you have access to the plant
17 communications invoices and purchase orders?

18 A. We could have asked for the invoices, yes.

19 Q. Did you have access to the site finishing
20 invoices and purchase orders?

21 A. I believe we could have asked for any
22 invoices had we known that they were included in the common
23 plant costs, yes.

24 Q. And that's true of the bridge replacement
25 and the 345 kv line. Correct?

1 A. Correct.

2 Q. So staff hasn't alleged that there's any
3 imprudence related to those? It's just that they're not --
4 you weren't aware because they weren't in the binder; is
5 that right?

6 A. No. As I said, the Staff was of the
7 understanding with KCPL through Mr. Jones when he
8 introduced that cost --

9 Q. That was introduced back in the 89 case.

10 A. I believe it was he, either direct or
11 rebuttal in that case. And from that amount, the total
12 number that the Staff and KCPL had agreement on, we never
13 knew that KCPL planned to add these late-minute additions
14 to the common plant. And it's hard to conceive how KCPL
15 would have not known that site finishing or bridge work
16 would not be a part of the project or that would be part of
17 the common plant.

18 Q. But you haven't investigated that; is that
19 right?

20 A. No. That's correct.

21 Q. So the basis for the adjustment is the fact
22 that KCPL didn't tell you that we were going to be doing
23 those common plant additions?

24 A. No. The basis for the adjustment is that
25 KCPL has not provided documentation.

1 Q. well, didn't you testify that we gave you
2 the same documentation for all of these projects that we
3 gave you for the permanent auxiliary boiler?

4 A. No. The documentation that was provided in
5 the Jones binder was substantial documentation. That is
6 support of your common plant number. You didn't provide
7 that documentation for the discrete projects.

8 Q. So it's the support that's in the binder
9 that is what's the concern to you?

10 A. No. The support in the binder supports
11 KCPL's common plant numbers.

12 Q. And if it's not in the binder, there's no
13 support. Is that your position?

14 A. No. What I'm saying is you provided support
15 for the dollar amount that's included in the Jones binder.
16 You've made last minute discrete additions to common plant,
17 which you have not supported with same or similar
18 documentation in the Jones binder.

19 Q. But we've given you all the invoices, all
20 the purchases orders and everything else just like we gave
21 you for all the other Iatan project costs. Correct?

22 Yes?

23 A. I don't know that to be a fact.

24 Q. You don't -- you didn't ask for it so we
25 didn't give it to you?

1 A. I don't know if you have provided all the
2 invoices for this. I can't --

3 Q. We didn't deny you any acces to them, did
4 we?

5 A. To the extent that any of these costs
6 related to KCPL's claiming of attorney/client privilege, I
7 don't know if that was involved or not.

8 Q. At one point in your testimony you indicate
9 KCPL didn't tell you about it in the quarterly reports; is
10 that right?

11 A. I don't recall that.

12 Q. The CEP quarterly reports?

13 A. Can you direct me? I don't recall that.

14 Q. Would you turn to Page 12 of your testimony?

15 A. Yes.

16 Q. Line 9. Excuse me, Line 10. I don't see
17 anything confidential there even though it's marked
18 confidential.

19 KCPL never identified any additional common
20 plant projects other than a permanent auxiliary boiler at
21 its quarterly meetings discussions with Staff. Do you see
22 that?

23 A. Starting on Line 9?

24 Q. Starting on Line 10.

25 A. Okay. Correct.

1 Q. would it be correct to conclude that because
2 we did discuss the permanent auxiliary boiler in the
3 quarterly meetings, you've allowed that?

4 A. we've addressed the permanent auxiliary
5 boiler as far as making a transfer, I believe from Unit
6 1 --

7 Q. And you've allowed --

8 A. -- to common.

9 Q. -- and you've allowed it in rates; is that
10 right?

11 A. Yes.

12 Q. But because we discussed that, but not the
13 others, you've disallowed --

14 A. No. There's no nexus whatsoever to those
15 two. We reviewed the permanent auxiliary boiler and we
16 determined there was no -- there was no issues with that.
17 We didn't have an opportunity nor were we made aware of
18 these last-minute, separate discrete common plant projects
19 that obviously should have been known months ago that KCPL
20 was going to include in common plant.

21 And KCPL had the opportunity to support the
22 Jones binder to supplement the Jones binder and provide the
23 documentation, which it did not do.

24 Q. well, is it correct that you're making these
25 adjustments, this \$19.6 million adjustments because KCPL

1 did not specifically tell you they were going to be in
2 common plant?

3 A. No. The adjustment is proposed is because
4 KCPL, even though it had had sufficient opportunity, did
5 not provide any documentation support why these projects
6 needed to be included in common plant by supplementing the
7 agreement upon Jones binder, the number we agreed to in the
8 Jones binder.

9 Q. But Mr. Hyneman, haven't you said you don't
10 have a basis for declaring these costs to be imprudent.
11 Right?

12 A. Correct.

13 Q. You do have the invoices and the purchases
14 orders and every other documentation that we provided on
15 Iatan project costs, if you wanted it?

16 A. Yes.

17 Q. The only thing you don't have is something
18 in the Jones binder that identifies these projects?

19 A. Which is the basic documentation support of
20 all KCPL common plant. It's basically a binder that we
21 showed this morning, that supports common plant.

22 Q. That was provided in 2009 --

23 A. Right.

24 Q. -- rate case, long before Iatan 2 was ever
25 completed?

1 A. Right. And we've gone all along to this
2 time agreeing that that's the number, that's the support.
3 We were fine with it. And at the last minute KCPL made the
4 decision to introduce last-minute common plant projects
5 without updating the Jones binder to provide any
6 documentation support for that.

7 Q. The Staff audits other construction audits;
8 is that right?

9 A. It certainly does.

10 Q. Do you require companies to provide that
11 kind of documentation in any other case that you've been
12 involved with?

13 A. I can't recall a case that had such a \$380
14 million common plant number, so this is basically unique in
15 that respect.

16 Q. And I guess it is your first construction
17 audit, so that probably isn't a fair question. Do you know
18 if the Staff has asked --

19 A. And it's not. I've been involved in other
20 construction audits too, the Plum Point construction audit.

21 Q. Okay. At Plum Point did you have a Jones --
22 anything equivalent to the Jones binder at Plum Point?

23 A. Plum Point didn't have common plant.

24 Q. What about La Cygne?

25 A. I have not been involved in La Cygne.

1 Q. Okay. Mr. Hyneman, you were talking about
2 the Alstom settlement. Your testimony on Page 4 indicates
3 that the Alstom settlement -- or this document was signed
4 by Alstom on January 14, 2010; is that right?

5 A. Yes.

6 MR. FISCHER: Okay. That's all I have,
7 Judge. Thank you very much.

8 JUDGE DIPPELL: Thank you. Commissioner
9 Gunn, did you have any questions for this witness? You
10 came in right after we had --

11 CHAIRMAN GUNN: I just have one and it's a
12 clarifying question. I apologize for coming in late.

13 QUESTIONS BY CHAIRMAN GUNN:

14 Q. So you're making the distinction here -- and
15 I just want to be clear on this point -- the documentation
16 for the additions to the plant -- are you -- you're making
17 the distinction between access to those and receipt? So
18 you have not -- even though they existed somewhere and no
19 one ever said you couldn't see them, they were never sent
20 to you by the Company, they were never provided to you?

21 Or were they provided to you in some other
22 form and yet you -- and so they were in the possession of
23 the staff, you just didn't review them for purposes of
24 determining them for common plant?

25 A. No. KCPL provided that we go off the Jones

1 book or the Jones binder. It's a binder this thick. We
2 had it here this morning.

3 Q. But we call all can see --

4 A. Right.

5 Q. -- that the Jones binder -- these documents
6 were not included in the Jones binder. Correct?

7 A. Correct.

8 Q. So my question is: were they provided
9 outside of the Jones binder and you did not review them for
10 purposes of common plant because -- for whatever reason, or
11 were they just at KCP&L and you just -- and no one because
12 of there being no determination this was going to be
13 included in common plant, no one ever asked for those
14 documents?

15 A. That's correct. We didn't specifically ask
16 for these -- support for these projects. We weren't aware
17 that they existed.

18 Q. So they weren't -- the actual -- all the
19 backup documentation was never in possession of the staff?

20 A. That's correct.

21 Q. Even though you may have access to it?

22 A. That's correct. And we were -- and we
23 operated under the assumption that if that common plant
24 book is going to be inclusive, that if there were additions
25 to it then that would be updated. That was not updated and

1 we just had no documentation or was even made aware that
2 there were additional common plant projects.

3 COMMISSIONER DAVIS: Okay. Thank you for
4 that clarification. I don't have anything else.

5 JUDGE DIPPELL: Thank you. Is there
6 anything additional from the Company on those questions?

7 MR. FISCHER: Yes, Judge.

8 RECROSS-EXAMINATION BY MR. FISCHER:

9 Q. Commissioner Gunn just asked you about the
10 documentation you received, I believe. Did -- are you
11 familiar with what's called Code 50?

12 A. The Code 50?

13 Q. Yes.

14 A. No.

15 Q. Are you familiar with the report that the
16 Company provided every month with the invoices from those
17 months?

18 A. I'm aware that the Company updates the data
19 request with the vouchers, yes.

20 Q. And that happened every month pretty much?

21 A. Yes.

22 Q. And that would have included those invoices?

23 A. It does not include all invoices. I know it
24 doesn't -- for example, it doesn't include invoices that go
25 to the general counsels. Now whether these went there or

1 went straight to accounts payable. We get them straight
2 from accounts payable. But the ones that go and reviewed
3 separately we don't get. So I -- I --

4 Q. Those are the legal bills. Right? The ones
5 that --

6 A. Legal and Schiff Hardin and those type.

7 Q. But the invoices associated with bridges or
8 finishing work, all that, that would have been included in
9 that report?

10 A. I would assume it would be in those monthly
11 vouchers.

12 Q. So in answer to the commissioner's
13 questions, you had access to it?

14 A. If it was provided by KCPL and it's kind of
15 like an unnamed voucher with like a random number assigned,
16 if it was without identified -- we get those -- those
17 invoices. If it was included in that and the data
18 response, then yes. We had an access of discrete invoices.

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

20 Thank you.

21 JUDGE DIPPELL: Thank you. Is there
22 redirect?

23 MS. OTT: Yes.

24 REDIRECT EXAMINATION BY MS. OTT:

25 Q. Mr. Hyneman, Mr. Fischer had you looking at

1 schedule 8-2 of your direct testimony. Are these
2 adjustments here that are challenging -- are you
3 challenging these items as necessary at this time?

4 A. We cannot make a determination on the
5 reasonableness, the prudence or the appropriateness of
6 these costs because of the way that they were proposed to
7 the staff.

8 Q. When did KCPL indicate that these items
9 would be billed to the common plant as opposed to either
10 just Iatan 1 or Iatan 2?

11 A. We -- we first noticed the increase in the
12 common plant numbers in the October 2010 cost report. And
13 since then we issued a data request for the Company. We
14 tried to arrange a meeting to get this resolved, preferably
15 by today, but I think the meeting because of schedules
16 could not be held.

17 So we anticipated having this meeting. We
18 tried to get, you know, the issue resolved before the
19 hearing and we were unable to do that.

20 Q. Now, does KCPL bear the same financial
21 responsibility for cost in the common plant as it does for
22 Iatan 1 or Iatan 2?

23 A. No.

24 Q. And is that because they have different
25 ownership interests in each of the facilities?

1 A. Yes.

2 Q. Now, I think when Mr. Fischer was asking you
3 some questions, you said that there was no basis for
4 declaring these adjustments imprudent. Has KCPL provided
5 any documentation to support, identify or explain these
6 costs?

7 A. No. And Mr. Fischer indicated they may have
8 provided some invoices from a company, but as far as the
9 rationale for the project, how the project was completed,
10 the reasons why these projects were determined to be common
11 to both units -- I mean, if you have a road improvement,
12 would that necessarily be a common plant cost. Or site
13 finishing.

14 I mean, all those questions out there to
15 really get an understanding of these costs were not
16 addressed. So as Mr. Fischer indicated, we may have had an
17 invoice provided here and there, but the real supportive
18 explanation was not available.

19 Q. Okay. So these monthly invoices or vouchers
20 as stated earlier, would they indicate where the costs were
21 being allocated, whether it was to Iatan 1, Iatan 2 or
22 common?

23 A. Many don't, no. I mean sometimes you may --
24 KCPL may write on an invoice to where it charged, but it
25 would be -- you know we could get an invoice from a

1 contractor for doing road work and we had no indication
2 where that cost, if it was charged to Unit 1, Unit 2 or
3 even a separate KCPL project. There'd be no indication
4 where those costs were charged.

5 Q. Now, Mr. Fischer was also asking you about
6 any other construction project that had had these
7 requirements. Are you aware of any other cases where
8 contractual obligations to identify, explain cost and cost
9 tracking were a part of the case in the Company's
10 requirements for regulatory plan?

11 A. No. As far as I'm aware, the regulatory
12 plan requirements at KCPL's cost control system were unique
13 to KCPL.

14 Q. Okay. And also in talking about when staff
15 might have learned of the additions to common plant, did
16 KCPL identify these additions to common plant anywhere
17 other than possibly telling you them in a CEP meeting?

18 A. I think the issue was raised at the last CEP
19 meeting, there was an increase in common costs. I don't
20 believe we -- we didn't have the individual projects, I
21 don't believe, until we got -- we received the response of
22 that data request when staff first learned of the increase.

23 Q. Do you know when that last CEP meeting was
24 held?

25 A. I can't recall.

1 Q. Was it in the last three months?

2 A. I don't know the answer to that. That's --
3 that's been at least a few months ago.

4 Q. But it was after -- it would have been after
5 the November 3rd report?

6 A. Yes.

7 Q. Now going back, there was discussion on the
8 Jones binder. Can you just explain Staff's use of the
9 Jones binder as it relates to common plant?

10 A. Yes. The Staff -- and we've met with KCPL
11 at the Iatan site and actually visited and talked with
12 Mr. Brent Davis about what facilities they determined were
13 common and what's the current status of completion to get
14 an understanding of the common plant functions and to get
15 an understanding of the costs.

16 The Staff has worked with KCPL for a period
17 of time -- in fact, I think Mr. Giles referred -- we're
18 making five adjustments to common plant and KCPL agrees
19 with four of the five. It's just this one they don't agree
20 with it. And the basis of this is -- excuse me -- we
21 thought we had an understanding of the common plant.

22 I think we're very close to reaching that
23 final agreement and we find out there's another \$19 million
24 dollars charged to the project. And that kind of threw up
25 everything in the air. We haven't had time to even look at

1 those projects, never mind do we have any information
2 available. And when we found out about it, we immediately
3 issued a DR. We wanted to get a meeting to try to get the
4 issue resolved quickly, but the schedules did not permit
5 that meeting.

6 Q. So that meeting hasn't occurred yet?

7 A. No.

8 Q. So would this Jones binder contain
9 documentation of existing known parts of the common plant?

10 A. Yes. The Jones binder describes that the
11 contract -- and it was primarily Mr. Jones who was in
12 charge of procurement. All the known common plant systems
13 were identified; the buildings it would house units from
14 both or facilities that were used by both, for example, the
15 chimney.

16 The different components of the project were
17 analyzed and identified and determined which ones were
18 common. And there was a lot of justification on, you know,
19 the rationale and the purpose and function that the Staff
20 reviewed and got a good understanding of. And the Staff
21 reached an agreement that those would be costs. We didn't
22 take issues with the dollars in the Jones binder. Those
23 would be the costs.

24 And to add to that we should have at least
25 the same level of documentation and explanation to the

1 Jones binder to the additional projects.

2 MS. OTT: I have nothing further. Thank
3 you.

4 JUDGE DIPPELL: Thank you. Just as a
5 clarification on the schedule 8-2 to Mr. Hyneman's
6 testimony, is it just the numbers on that schedule that are
7 highly confidential? Are the line items also highly
8 confidential?

9 MR. STEINER: No. I don't believe so,
10 Judge.

11 JUDGE DIPPELL: Okay. So when the
12 Commission is considering this document we can cite
13 basically anything but the numbers without it having to be
14 highly confidential?

15 MR. STEINER: That's right.

16 JUDGE DIPPELL: Okay. Thank you. All right
17 then. Mr. Hyneman, thank you very much.

18 (Witness excused.)

19 COMMISSIONER DAVIS: Can I inquire of
20 Mr. Fischer?

21 JUDGE DIPPELL: Certainly.

22 COMMISSIONER DAVIS: Okay. Mr. Fischer?

23 MR. FISCHER: Yes, sir.

24 COMMISSIONER DAVIS: Okay. What evidence do
25 you have in the record to support recovery of the -- of the

1 amount that Mr. Hyneman is disputing?

2 MR. FISCHER: I think you may have been here
3 when Chris Giles, particularly today in the hearing,
4 testified that all those costs were necessary, prudent and
5 reasonable and that those should be included.

6 COMMISSIONER DAVIS: Okay.

7 MR. FISCHER: There's no basis. There's a
8 presumption of prudence, of course. No serious doubt has
9 been raised except that they weren't part of some binder
10 that the Staff thought they should be included in.

11 COMMISSIONER DAVIS: Okay. All right. Does
12 anybody want to respond to that?

13 MS. KLIETHERMES: I think the crux of
14 Staff's adjustment on this has a lot more to do with the
15 allocation as to whether this goes to common or as to
16 whether it goes into another issue and as that relates to
17 the level of documentation and the timing that the Staff's
18 understanding what would be provided.

19 MR. FISCHER: Judge, if it was an allocation
20 issue the Company wouldn't have a problem with a reasonable
21 allocation. It's the fact they're disallowing \$19.6
22 million out of the case. And that would be written off.
23 If we could just move it around in the bucket, that's
24 not -- you know, we can reach an accommodation of what's
25 reasonable allocation. This is actual disallowance as I

1 understand Staff's position.

2 MS. KLIETHERMES: And if I may put a --

3 COMMISSIONER DAVIS: Go ahead,

4 Ms. Kliethermes.

5 MS. KLIETHERMES: The placing of it in an
6 initial bucket I think guided Staff's audit as to the level
7 of scrutiny and the timing of scrutiny it received. And so
8 the failure of these dollars to be placed into the common
9 bucket until the timing at which they were, I think is at
10 issue here.

11 COMMISSIONER DAVIS: Okay. I guess what I'm
12 trying to determine here is do we need to get an aerial
13 photograph of the road? Do we need to study the road and
14 the bridge and look at it and see if it's common plant or
15 if it's not common plant? And are you saying that you
16 haven't had an opp-- and I guess Mr. Hyneman's saying he
17 hasn't had a full opportunity to examine the invoices for
18 said construction.

19 MR. KLIETHERMES: That's my understanding.

20 COMMISSIONER DAVIS: Okay. Mr. Fischer, did
21 you want to respond to that anymore or --

22 MR. FISCHER: well, Judge I would say that
23 the Company has provided what's called project ID and No.
24 50 is the common. Those are where the invoices go every
25 month and have been provided to Staff throughout the

1 project.

2 Mr. Elliott, I think, has been out there at
3 the project and looked it from an engineering basis and
4 didn't find a problem from an engineering perspective. And
5 we just don't understand how there's a standard that it has
6 to be included in the Jones binder before the Commission
7 can grant approval of a 345 kv line that's necessary to get
8 the power out of that plant, a bridge that's needed out
9 there and all the other finishings that's done. Nobody's
10 questioning that. And we just --

11 COMMISSIONER DAVIS: All right. Let's go to
12 Ms. Kliethermes here.

13 MS. KLIETHERMES: If I could respond to
14 that. I think that's a complete mischaracterization of
15 Staff's position. Staff could care less whether these
16 items were three-hole punched and placed into a binder.
17 Staff is saying that a certain treatment was standardized,
18 essentially, between Staff and KCPL as regards to items
19 that were included in common plant.

20 That treatment was not observed with respect
21 to these invoices and therefore Staff didn't have an
22 opportunity to give an additional -- any real scrutiny to
23 them because they didn't know that these items were being
24 placed into common plant.

25 COMMISSIONER DAVIS: Okay. And

1 Ms. Kliethermes, how are you alleging that they didn't
2 know? What practice did they allegedly not follow?

3 MS. KLIETHERMES: And as -- I have to defer
4 to Mr. Hyneman for that. My understanding is, is that they
5 had agreed upon certain items, those items or invoices had
6 been included in what they're referring to as the Jones
7 binder. But again, whether we're talking about a
8 physical -- a physically bound set of three-hole punches, I
9 really don't think that's the issue here. And the phrase
10 red herring has been overused in this case, but that's a
11 red herring.

12 And we were repeatedly told there were no
13 updates to the contents of the Jones binder. You know,
14 whether that was the physical binder or the --

15 COMMISSIONER DAVIS: The metaphorical
16 binder?

17 MS. KLIETHERMES: -- the metaphorical
18 binder, yes. Thank you.

19 COMMISSIONER DAVIS: All right. Now,
20 Mr. Fischer. I think Mr. Fischer wants to say something
21 here.

22 MR. FISCHER: Well, Judge, I was just going
23 to go back to the fact that the Jones binder itself
24 recognized that there would be additional costs that could
25 be. We talked about it on cross today, where the -- we

1 talked about the paragraph where there would be additional
2 scope added and we -- we -- and the examples were given by
3 Mr. Giles that were specific to the ones that are being
4 disallowed by Staff.

5 And I -- the standard is still the same.
6 The legal standard is still the same as the presumption of
7 prudence until serious doubt is raised. The only serious
8 doubt that I can understand that's been raised is that it
9 wasn't included in this binder. And that binder always
10 reflected the fact that there could be additional costs
11 beyond the scope that was filed in 2008 -- or 2009.

12 Now, we understand for the first time in the
13 true-up testimony of Mr. Hyneman that they want to disallow
14 \$19.6 million because it wasn't -- I guess I'm sorry if I'm
15 mischaracterizing Staff's position. I just don't
16 understand it otherwise.

17 CHAIRMAN GUNN: Can I --

18 COMMISSIONER DAVIS: Sure. Go ahead,
19 Chairman Gunn.

20 CHAIRMAN GUNN: But that's -- but that's --
21 that's not -- I mean, I understand what you're saying, but
22 that's not what they're saying. What they're saying is
23 that the timing of when these updates were entered into
24 common plant or determined to be in common plant was such
25 that it is possible that the Comp-- and I'm not -- I'm not

1 saying that this is true, I'm just merely characterizing
2 the argument.

3 Is that it would be possible for the Company
4 to essentially pull a fast one where they're saying we're
5 going to allow -- we're going to say that this group of
6 common plant -- everybody agrees here. All right? And
7 then there's -- there's a certain level of scrutiny that's
8 going to be taken with everything else.

9 And then all of the sudden at the last
10 minute you drop these certain expenses into -- into common
11 plant, so -- at such a point in time that there's no
12 ability to do a kind of thorough review of those. So while
13 they may be perfectly acceptable if they had known at the
14 time earlier that these were going to be updated, when the
15 Company knew that they were going to be part of common
16 plant, and there was no explicit acknowledgement that these
17 things were going to be in common plant, that there isn't
18 the ability of Staff to be able to kind of make sure and
19 have the ability to raise a doubt as to whether or not that
20 they were -- that there be a question about prudence.

21 Now, I'm not saying that they're accurate.
22 I'm not saying they're right. I'm saying, but -- just
23 there clearly, at some point was not a meeting of the minds
24 as to when this stuff should have been talked about as part
25 of common -- and agreed upon as common plant.

1 MR. FISCHER: That -- yes. Judge --
2 Commissioner. The Jones binder was filed as part of
3 rebuttal testimony in Case No. ER-2009-0089, the last KCPL
4 rate case.

5 CHAIRMAN GUNN: Right.

6 MR. FISCHER: That was well beyond -- or
7 well before there was a completion of common and all the --
8 all the other things out at Iatan 2. And --

9 CHAIRMAN GUNN: What was testified to was
10 that there was never an exp-- until very recently, there
11 was never discussion when people asked when this was going
12 to get updated, there was no updates, no updates.

13 And from what I understand what some of your
14 questions were saying was, well we sent you the invoices
15 and they were coded with a number that said that they were.

16 MR. FISCHER: The binder was a methodology
17 for valuation of it. It was not -- it was not the dollars
18 that -- the final dollars that --

19 CHAIRMAN GUNN: I understand that.

20 MR. FISCHER: And the -- there was always an
21 understanding --

22 CHAIRMAN GUNN: I'm not saying --

23 MR. FISCHER: -- or the -- we went through a
24 paragraph where it clearly indicates that there would be
25 things beyond the scope that was included in that, in that

1 binder. And these are the kinds of things that were added
2 later in the process and that there's no question that's
3 been raised about their access to the invoices that are
4 provided on a monthly basis and there's no question being
5 raised about the prudence of those expenditures.

6 A 345 kv line was required in order to get
7 that power out. Now, I guess -- I guess there's -- there
8 must have been an understanding that we were supposed to
9 tell the staff everything related to the common plant at
10 some point that they're now quarelling with.

11 CHAIRMAN GUNN: well, let me ask you that
12 question: Are you -- you don't think that you are under an
13 obligation to tell them that this stuff is going to be
14 included in common plant?

15 MR. FISCHER: The Company --

16 CHAIRMAN GUNN: They're just supposed to
17 figure it out because the invoices come in and you're --
18 they're supposed to recognize what these invoices are for
19 and be able to assume that that's going to be in common
20 plant.

21 MR. FISCHER: The Company has tried to be as
22 transparent as it can be throughout this.

23 CHAIRMAN GUNN: I understand that. I was
24 suggesting --

25 MR. FISCHER: Apparently -- apparently

1 they're -- because they were transparent entered into a
2 regulatory plan that we've done --

3 CHAIRMAN GUNN: I understand. I wasn't --

4 MR. FISCHER: It seems that we're getting
5 more scrutiny than other projects.

6 CHAIRMAN GUNN: That wasn't my question.

7 MR. FISCHER: I know.

8 CHAIRMAN GUNN: My question was -- and the
9 answer may be no and that's fine. I'm not making any
10 judgments here, but I'm asking the question: when the
11 Company believes that they had an obligation at some point
12 to tell staff beyond just sending them invoices and having
13 the staff allocate it towards common plant that these
14 projects were going to be included in common plant.

15 And if the answer's no, that's fine. we'll
16 make a judgment based on that. I'm just trying to figure
17 out whether they thought they had an obligation to do it or
18 not.

19 MR. FISCHER: Commissioner, I guess we've
20 had a lot of disputes in this case on a lot of different
21 issues and I regret that in some ways. The Company thinks
22 that we've talked about these kinds of topics with the
23 staff, but we have a \$19.6 million disallowance because
24 apparently they feel that we didn't communicate it well
25 enough.

1 CHAIRMAN GUNN: Well, okay. I mean, so --
2 so whether or not -- what you're saying is whether or not
3 there was an obligation is irrelevant to whether these
4 projects are prudent and reasonable under the -- under the
5 legal standards?

6 MR. FISCHER: Under the legal standard,
7 there's a presumption of prudence until a serious doubt's
8 raised. And we gave the -- the documentation on these
9 projects just like we gave the documentation on all of the
10 other \$2 billion worth of projects out there.

11 And in the true-up for the first time we're
12 seeing a disallowance of this -- of these projects, which
13 are clearly prudent and necessary and apparently it's based
14 upon a misunderstanding about whether the Company was
15 supposed to come forward and tell them a bridge it being
16 built out there when they've been going out there for
17 months, whether there's going to be a 345 kv line out
18 there.

19 CHAIRMAN GUNN: But that's -- but the
20 question isn't really whether the bridge was being built;
21 it's whether the bridge was going to be included for the
22 number in common plant.

23 MR. FISCHER: If they wanted it Iatan 2
24 bucket or Iatan 1 bucket, that is certainly a big
25 difference from disallowing it from recovery.

1 CHAIRMAN GUNN: I think -- I mean, I think
2 that's a fair point, but I -- I just want to be clear that
3 it's not -- it's not so much that -- I think everybody
4 acknowledges everybody knew this stuff was being built.

5 MR. FISCHER: I'm not sure that that's true,
6 but maybe -- I hope so. They should have if -- it was out
7 there and they've been going out there for months.

8 CHAIRMAN GUNN: Okay. Fair point. I
9 appreciate it. Thank you.

10 I don't have anything else.

11 JUDGE DIPPELL: Commissioner Jarrett?

12 COMMISSIONER JARRETT: I just want to make
13 sure Mr. Fischer, you said that you believe that the
14 company did tell staff about these?

15 MR. FISCHER: Yes.

16 COMMISSIONER JARRETT: Is there a witness
17 that can come forward under oath?

18 MR. FISCHER: Chris Giles may have been our
19 witness and I let him go. But we've had meetings, many
20 meetings in this case. And but again, I don't think the
21 legal standard is whether you had a meeting to tell the
22 staff about it.

23 COMMISSIONER JARRETT: well, maybe we can
24 recall Mr. Giles and he can testify by phone or something
25 and we can ask him these questions. I'd like to get

1 something on the record.

2 MR. FISCHER: We can get a witness to talk
3 about it.

4 COMMISSIONER DAVIS: Well, let me just
5 follow-up on that question. I mean, there were monthly
6 reports, written reports that went to the Staff, were there
7 not?

8 MR. FISCHER: Yes, sir.

9 COMMISSIONER DAVIS: And would that
10 information like, Hey we're building a new road, we're
11 building a new 345 kv like, would that be included in those
12 monthly reports?

13 MR. FISCHER: They probably are in there. I
14 think those are actually in the record in this case now.
15 We can go back and search that to see where there was a
16 first indication that something like that was being
17 discussed. But that -- we did quarterly reports throughout
18 the process and --

19 COMMISSIONER DAVIS: Well, if it was in a
20 monthly or quarterly report I would certainly like to see
21 it.

22 JUDGE DIPPELL: I was just pulling Mr. Giles
23 testimony to see if there was any mention of that in his
24 already filed rebuttal. Do -- are you aware of --

25 MR. FISCHER: I know he discussed it in the

1 cross today.

2 JUDGE DIPPELL: Before we went to the
3 necessity of calling him, I wanted to make sure he hadn't
4 already testified on that.

5 MR. FISCHER: Judge, I'd refer you to his
6 Page 13, Line 5. He says, Contrary to Mr. Hyneman's
7 assertion KCPL informed Staff repeatedly that these common
8 costs identified in Mr. Hyneman's Schedule H-2 would be
9 above what had been identified and estimated in the Jones
10 book. Staff asked on numerous occasions if KCPL planned on
11 updating the Jones book.

12 KCPL was consistent in its response on each
13 occasion. KCPL explained in the estimated -- estimate
14 contained in the Jones book was frozen and any additional
15 common plant would be identified in the necessary account
16 codes established to track the additional actual costs.

17 This is exactly what KCPL did. All of the
18 documentation exists that support this additional amount of
19 common plant. For Mr. Hyneman to now state that the
20 documentation is inadequate is absolutely unsubstantiated
21 and certainly untimely.

22 Staff has been provided or has had access to
23 each document that supports the amount Mr. Hyneman is
24 proposing to disallow.

25 JUDGE DIPPELL: Okay. Thank you.

1 Commissioner Jarrett, does that answer your questions or do
2 you still have specific questions that you'd like to ask
3 Mr. Giles?

4 COMMISSIONER JARRETT: No. That answers my
5 questions. Thank you.

6 JUDGE DIPPELL: Okay. Is there anything
7 else from any of the commissioners on this matter?

8 COMMISSIONER DAVIS: No mas. No.

9 JUDGE DIPPELL: All right then. Okay.
10 Mr. Hyneman, you may step down.

11 (Witness excused.)

12 JUDGE DIPPELL: And I believe then that we
13 are ready to go forward with Staff's next witness.

14 MS. KLIETHERMES: Actually, Judge, as a
15 matter of housekeeping, it just occurred to me I don't
16 think I've entered an appearance. I haven't actually
17 intended to say anything really. So Sarah Kliethermes,
18 Staff's counsel's office for Staff.

19 JUDGE DIPPELL: Thank you. I just assumed
20 that you were entered earlier this morning.

21 MS. KLIETHERMES: I think Nathan entered
22 himself twice, but omitted myself.

23 JUDGE DIPPELL: Once again, Mr. Williams
24 gets the blame. Oh, he's in the room this time.

25 Okay. Do we have a changing of the guard

1 between witnesses? Are we ready for Staff's --

2 MR. STEINER: No one's at Staff's counsel
3 table, so apparently there is a changing of the guard.

4 JUDGE DIPPELL: And Mr. Williams, earlier I
5 decided that I have a different numbering system than you
6 had provided to me, so I apologize for messing up your
7 organization. But --

8 And I don't want to mispronounce your last
9 name, so can you pronounce it for me?

10 MR. GHOMSI: Sure. It's pronounce Ghomsi.

11 JUDGE DIPPELL: Ghomsi.

12 Could you please raise your right hand?

13 (Witness sworn.)

14 JUDGE DIPPELL: Thank you. And for
15 Mr. Ghomsi?

16 THE WITNESS: Yes.

17 JUDGE DIPPELL: I have marked his true-up
18 direct as KCPL 306.

19 (Wherein; Staff's Exhibit No. KCPL 306 was
20 marked for identification.)

21 JUDGE DIPPELL: And Mr. Williams, whenever
22 you're ready.

23 MR. WILLIAMS: Have you sworn Mr. Ghomsi in?

24 JUDGE DIPPELL: I have.

25 MR. WILLIAMS: I'm sorry. I missed it.

1 Thank you.

2 NOUMVIG GHOMSI testifies as follows:

3 DIRECT EXAMINATION BY MR. WILLIAMS:

4 Q. what is your name?

5 A. Noumvig Ghomsi.

6 Q. Mr. Ghomsi, did you prepare true-up direct
7 testimony that's been marked for identification as KCPL
8 306?

9 A. Yes, I did.

10 Q. And before I ask you if that's your
11 testimony here today, would you have any corrections or
12 changes to your true-up direct testimony that's been marked
13 as Exhibit KCPL 306?

14 A. No.

15 Q. Then is Exhibit KCPL 306 your testimony here
16 today?

17 A. Yes.

18 MR. WILLIAMS: with that, I'll offer Exhibit
19 KCPL 306.

20 JUDGE DIPPELL: will there be any objection
21 to KCPL 306?

22 Seeing none, I will admit it into evidence.

23 (Wherein; Staff Exhibit No. KCP&L 306 was
24 received into evidence.)

25 MR. WILLIAMS: I offer Mr. Ghomsi for

1 examination by the Commission and other parties.

2 JUDGE DIPPELL: Is there any

3 cross-examination for Mr. Ghomsii?

4 MR. STEINER: No questions from Company.

5 MR. MILLS: No questions.

6 JUDGE DIPPELL: Are there any bench

7 questions?

8 COMMISSIONER DAVIS: No.

9 CHAIRMAN GUNN: No questions.

10 JUDGE DIPPELL: All right. Well, at least I

11 learned how to pronounce your last name. So I guess that

12 concludes your testimony and you may be excused.

13 THE WITNESS: Thank you.

14 JUDGE DIPPELL: Thank you.

15 (Witness excused.)

16 JUDGE DIPPELL: And so that brings up to

17 Mr. Robertson's testimony.

18 MR. MILLS: I think if that's where we are

19 in the schedule, yes. And unless the bench has questions

20 for him, I don't plan to call him.

21 JUDGE DIPPELL: I don't believe that there

22 were any Commission questions for Mr. Robertson either.

23 MR. MILLS: Next time we break I will go get

24 his testimony and provide it to the court reporter.

25 JUDGE DIPPELL: Okay.

1 MR. MILLS: Can I go ahead and offer it now
2 while we're on the record?

3 JUDGE DIPPELL: Yes, you may. And I will --
4 let me look up the number for you. Is Mr. Robertson's
5 testimony a joint -- in both or is it just --

6 MR. MILLS: I believe we filed two separate
7 pieces that are identical.

8 JUDGE DIPPELL: Right. Okay. Again, are
9 they identical?

10 MR. MILLS: Well, except for the numbers,
11 the text is essentially the same thing.

12 JUDGE DIPPELL: Okay. I have marked his
13 direct as GMO 401 and his surrebuttal -- I'm sorry. I'm
14 looking at the original exhibits.

15 MR. MILLS: He has true-up direct only.

16 JUDGE DIPPELL: Right. I had marked his
17 true-up direct as GMO 406 and let me check the KCPL. And
18 his KCPL as also 406, so GMO and KCPL 406.

19 (Wherein; OPC Exhibit Nos. KCPL 406 and GMO
20 406 was marked for identification.)

21 MR. MILLS: At this time I would like to
22 offer Exhibit GMO 406 and KCPL 406.

23 JUDGE DIPPELL: Will there be any objection
24 to the true-up direct of Mr. Robertson?

25 MR. WILLIAMS: Staff has no objections.

1 JUDGE DIPPELL: Seeing none, then I will
2 admit both GMO 406 and KCPL 406.

3 (Wherein; OPC Exhibit Nos. KCPL 406 and GMO
4 406 were received into evidence.)

5 JUDGE DIPPELL: And Mr. Mills will provide
6 that to the court reporter --

7 MR. MILLS: I will.

8 JUDGE DIPPELL: -- at the next break or
9 whenever he returns from Kirksville, whichever occurs
10 first.

11 All right. Then I think that takes us on
12 then to rate case expense and regulatory assets. And does
13 anyone need a break before we switch gears there?

14 MR. WILLIAMS: I think the answer to that is
15 yes.

16 JUDGE DIPPELL: Okay. Let's take a short
17 ten-minute break. Let's go off the record and come back at
18 20 after.

19 (Off the record.)

20 JUDGE DIPPELL: All right. So we have moved
21 on then to the next issue, which was rate case expense and
22 regulatory assets. And Mr. Weisensee has already taken the
23 stand.

24 will you please raise your right hand?

25 (Witness sworn.)

1 JUDGE DIPPELL: Thank you. And just for
2 counsels' information, I have marked the testimony as GMO
3 59 and 60 and KCPL 117 and 118 for the -- each of the two
4 pieces.

5 MR. FISCHER: I'm sorry. One more time?

6 JUDGE DIPPELL: GMO 59 and GMO 60.

7 MR. FISCHER: Thank you.

8 JUDGE DIPPELL: And KCPL 117 and KCPL 118.

9 (Wherein; KCP&L Exhibit Nos. KCPL 117 HC,
10 KCPL 117 NP, KCPL 118, GMO 59 and GMO 60 were marked for
11 identification.)

12 MR. FISCHER: Thank you.

13 JUDGE DIPPELL: And whenever you're ready,
14 Mr. Fischer.

15 MR. FISCHER: Thank you.

16 JOHN WEISENSEE testifies as follows:

17 DIRECT EXAMINATION BY MR. FISCHER:

18 Q. Please state your name and address for the
19 record.

20 A. John Weisensee at 12th and Main in Kansas
21 City, Missouri.

22 Q. Are you the same John Weisensee that caused
23 to be filed in the KCPL case true-up direct testimony that
24 has been marked as KCPL 117, both a HC version and NP
25 version?

1 A. Yes, I am.

2 Q. And did you also caused to be filed rebuttal
3 testimony in the true-up proceeding marked 118?

4 A. Yes, I did.

5 Q. And did you also caused to be filed in the
6 GMO part of the case true-up direct testimony that has been
7 marked as GMO 59?

8 A. Yes, I did.

9 Q. And rebuttal testimony that's been marked as
10 GMO 60?

11 A. Yes. Yes, that's correct.

12 Q. Mr. Weisensee, do you have any changes that
13 you need to make to any of those pieces of testimony?

14 A. No, I don't.

15 Q. Are the -- if I were to ask you the
16 questions contained in that prefiled testimony would your
17 answers be the same and are they true and correct to the
18 best of your knowledge and belief?

19 A. Yes, they are.

20 MR. FISCHER: Judge, with that then I would
21 move for the admission of KCPL Exhibits 117 and 118 and GMO
22 59 and 60.

23 JUDGE DIPPELL: Would there be any objection
24 to those exhibits?

25 MS. HERNANDEZ: No objection.

1 JUDGE DIPPELL: Seeing no objection then I
2 will admit them.

3 (Wherein; KCPL Exhibit Nos. KCPL 117 HC,
4 KCPL 117 NP, KCPL 118, GMO 59 and GMO 60 were received into
5 evidence.)

6 JUDGE DIPPELL: And I'm sorry. You tendered
7 the witness?

8 MR. FISCHER: I did.

9 JUDGE DIPPELL: All right. Then is there
10 cross-examination from Staff?

11 MS. HERNANDEZ: Yes. And I believe I need
12 to enter my appearance, as well.

13 JUDGE DIPPELL: All right.

14 MS. HERNANDEZ: Jennifer Hernandez appearing
15 on behalf of staff of the Public Service Commission.

16 CROSS-EXAMINATION BY MS. HERNANDEZ:

17 Q. Good afternoon.

18 A. Good afternoon.

19 Q. Mr. Weisensee, did you prepare a DR
20 responses in this case related to rate case expense?

21 A. I was --

22 Q. DR responses, I'm sorry.

23 A. I was involved in DR responses. I don't
24 know if I prepared them necessarily, but I would have
25 reviewed them, yes.

1 Q. You would have reviewed all of them related
2 to rate case expense?

3 A. I would say that's probably correct, yes.

4 Q. Do you have your rebuttal testimony in front
5 of you?

6 A. My --

7 JUDGE DIPPELL: Ms. Hernandez, I'm sorry.
8 Just a moment. Is your microphone on?

9 MS. HERNANDEZ: Yes. The light -- the green
10 light's on.

11 JUDGE DIPPELL: Okay.

12 MS. HERNANDEZ: Am I just not speaking into
13 it?

14 JUDGE DIPPELL: Maybe just get a little
15 closer. Yeah. Thank you.

16 I'm sorry, sir.

17 THE WITNESS: It's okay. Were you referring
18 to the regular rebuttal or the true-up rebuttal?

19 MS. HERNANDEZ: True-up rebuttal.

20 THE WITNESS: True-up rebuttal? Yes, I have
21 that. I'm sorry. I got Mr. Majors. Let me get mine. And
22 this is for KCP-- in the KCPL case?

23 MS. HERNANDEZ: Yes, sir.

24 THE WITNESS: Yes, I have that.

25 BY MS. HERNANDEZ:

1 Q. Okay. On Page 6, Line 1 through 2 you state
2 that your belief that the Staff's proposed adjustments have
3 been made too late in this process for rate case expense.
4 Does that summarize your testimony?

5 A. Okay. Let me see. I'm sorry. You're
6 talking about Page 6.

7 Q. Yes. The top two lines.

8 A. I'm sorry. I had the wrong document. Oh,
9 yes. That's correct.

10 Q. Okay. And how did you come to that
11 assumption?

12 A. Well, the Staff had proposed three specific
13 vendors that -- adjustments related to three vendors that
14 they were concerned about in terms of rate case costs. And
15 I didn't see any reason why those concerns couldn't have
16 been brought up earlier in the case.

17 Q. Now, both you and Mr. Rush raised some
18 lateness argues [sic], I guess, if you will. Would you be
19 the appropriate witness to ask for would Mr. Rush be in
20 terms of each particular DR that the Staff asked and the
21 response that was given by the Company in terms of rate
22 case expense?

23 A. Well, in terms of specifics about, you know,
24 why we utilize certain firms or it's questions like that
25 Mr. Rush would probably be better for. But it's possible I

1 can answer some of the questions, too, related to these
2 DRs.

3 Q. Let me ask it a little differently. In
4 terms of timeliness of the Staff requesting and the Company
5 responding, would you be the one I should ask or Mr. Rush?

6 A. No. I think I would be a good on in that.

7 Q. I hand you that copy.

8 A. All right.

9 Q. And when we enter that as an exhibit, I'll
10 have you give that to the court reporter.

11 A. Do you want that now?

12 JUDGE DIPPELL: Are you wanting this one
13 marked as an Exhibit Ms. Hernandez?

14 MS. HERNANDEZ: Yes. What number would that
15 be?

16 JUDGE DIPPELL: Is this a joint issue?

17 MS. HERNANDEZ: Yes, joint issue.

18 JUDGE DIPPELL: KCPL 318. And is this
19 highly confidential?

20 MS. HERNANDEZ: No, it is not.

21 (Wherein; Staff Exhibit No. KCPL 318 was
22 marked for identification.)

23 BY MS. HERNANDEZ:

24 Q. So you have in front of you Data Request No.
25 141 requested by the Staff; is that correct?

1 A. Yes, that's correct.

2 Q. Okay. And that data request was requested
3 on behalf of the Staff on June the 25th of 2010; is that
4 correct?

5 A. That's what it says. Date requested, June
6 25th. That's correct, yes.

7 Q. Okay. And if you would look down to the
8 description, no. 4, the description of the request.

9 A. Okay.

10 Q. would you mind reading that sentence?

11 A. Does it start with, For all costs?

12 Q. Yes. No. 4.

13 A. Okay. For all costs charged to accounts
14 182.450 through 182.453 from January 1st, 2009 through the
15 current date, please provide the invoice submitted by the
16 vendor and a copy of the complete work product provided to
17 KCPL and/or GPE.

18 Q. Okay. Thank you. So would you agree that
19 the Staff in this data request was asking for invoices
20 submitted by the vendor?

21 A. That's what it says there, yes.

22 Q. Okay. Okay. And then if you would turn to
23 the Company's response. It should be three pages in.

24 A. Okay.

25 Q. The date of the Company's response is July

1 12th, 2010. would you agree with that?

2 A. That's correct.

3 Q. And the response column no. 4, can you read
4 that sentence?

5 A. Yes. This request is voluminous in nature,
6 see attachment provided in response to 1 above. If a
7 specific vendor invoice or invoices is required please
8 advise.

9 Q. And would you agree that the Company in
10 response to this Staff data request 141 provided only to
11 the Staff a summary of the accounts and the sum total owed
12 on each account?

13 A. well, I don't know if I'd use those terms
14 exactly. we did provide what the staff is referring to
15 as -- has referred to as face sheets, which are the cover
16 sheet, so to speak, from -- particularly from law firms.
17 They -- there's a cover sheet that shows the amount that's
18 due.

19 All the detail behind that, in terms of the
20 hours charged and what type of projects they were working
21 on were not provided initially on this consistent with the
22 way that we've done this in the past. But we did point out
23 that that is available. It's voluminous in nature, but
24 it's available if Staff has certain ones they wanted to
25 look at.

1 Q. But you agreed earlier that the Staff did
2 request invoices?

3 A. Yes. That's what it said.

4 MS. HERNANDEZ: I'm going to have several
5 exhibits, so I don't know if you prefer if we just go
6 through them and then -- do you have any preference if I
7 offer this one now or wait until --

8 MR. STEINER: No preference.

9 MS. HERNANDEZ: Okay. Maybe for the sake of
10 time it might be quicker just to go through them.

11 (Wherein; Staff Exhibit KCPL 319 was marked
12 for identification.)

13 MS. HERNANDEZ: This would be 319?

14 JUDGE DIPPELL: Yes, KCPL 319.

15 THE WITNESS: I don't know what that is.

16 THE COURT REPORTER: It was here this
17 morning.

18 THE WITNESS: Okay.

19 BY MS. HERNANDEZ:

20 Q. Okay. Now, would you agree this is Data
21 Request 154 asked in the GMO case, asked by the Staff to
22 the Company?

23 A. Yes, that's correct.

24 Q. And that data request was issued July 20th,
25 2010?

1 A. Yes.

2 Q. In terms of the description of the question
3 can you -- would you agree that it states, Please provide a
4 copy of all invoices and payment vouchers for all rate case
5 expense charges incurred to date for this case?

6 A. That's correct.

7 Q. And would you mind turning to the Company's
8 response --

9 A. Okay.

10 Q. -- on the second page.

11 A. All right.

12 Q. would you agree that that is the Company's
13 response?

14 A. Yes, I would.

15 Q. Okay. And what did -- would you agree that
16 the date of the response is 08/08/2010?

17 A. Yes, I would.

18 Q. And to the Staff's data request 154?

19 A. Yes.

20 Q. would you agree that the Company's response
21 was, see attached file that lists all 2010 deferred rate
22 case expenses as of June 30th, 2010. To provide all
23 invoices is a voluminous request. If a specific vendor
24 invoice or invoices is required please advise.

25 A. That's exactly what it says, yes.

1 Q. And if you wouldn't mind turning the page.
2 would you agree that that is Mr. Rush's signature verifying
3 the response from the Company?

4 A. Yes, I would.

5 Q. And if you look again at the information
6 provided in this data request --

7 A. Yes, I see it.

8 Q. Are those again the list of accounts and
9 description of the vendor and the amount owed?

10 A. I don't know if I'd used the word "again,"
11 but those -- that's exactly what this listing is, yes.

12 Q. Okay. Let me ask a follow-up question on
13 141. Do you still have that in front of you?

14 A. No, I don't. But I'll get that. Thank you.

15 Q. There would be the same verification by
16 Mr. Rush as well?

17 A. Yes. He did verify that data request
18 response.

19 Q. That was July 12th, 2010?

20 A. Let me see. Yes, that's correct.

21 Q. In terms of the information that the Company
22 provided in Data Request 141 and 154, would you agree that
23 there's no specific listing of services that were provided
24 and the hours spent on each service?

25 A. The vendors who were paid are listed, but as

1 far as what exactly they did and how many hours they spent,
2 what their billing rates were, whatever, that's not listed
3 there. That's correct.

4 Q. would you agree that the Company would not
5 pay a vendor based on this information, that you would have
6 more detailed invoices to look at explaining the hours and
7 rates and who did the services and what type of service was
8 performed before you would pay the sum due?

9 A. That's correct. And we do, in each of these
10 instances, have more detailed information. That's correct.

11 Q. I'm going to hand you another document.
12 This would be 141.1. This one was previously admitted in
13 the KCPL direct case, so I'm not going to have it as an
14 exhibit in this true-up part.

15 But would you agree this is Staff's Data
16 Request 141.1?

17 A. Yes. That's correct.

18 Q. And does Staff again -- Number 6, it reads,
19 Data Request 141 the Staff asked to see rate case invoices
20 and KCPL's response was that this data was voluminous for a
21 first review of invoices. Please provide a copy of each
22 and every individual invoice in the amount of 5,000 or
23 greater that was charged to account 928 or related balance
24 sheet account and for which KCPL is seeking or proposes to
25 seek rate recovery in this rate case.

1 A. That's what it says, yes.

2 Q. Okay. And just for the record, if you would
3 turn to -- I guess it would be the fourth or fifth page in
4 that exhibit.

5 A. Yes. I've got the response you're talking
6 about?

7 Q. Yes. Would you agree that the Company in
8 response to the Staff data request only provided face
9 sheets for review?

10 A. It's not entirely clear it. It says a CD
11 will be provided with this response that contains the
12 requested invoices. And there's some attachments. It's
13 not really clear to me at this point whether the face
14 sheets were provided at this point or the complete
15 invoices. I just can't remember. I mean I can't tell from
16 this and I can't remember.

17 Q. Okay. Well, let me hand you the copy that
18 was admitted as an exhibit. On the last -- it should be --
19 why don't you look at -- this one was admitted as an
20 exhibit in the KCPL case. If you look at those -- those
21 responses, would you agree that that's a face sheet?

22 A. Yeah. Let me look for a minute. The 141.1
23 there were a series of, as I recall, kind of a recurring
24 DRs on this, so I want to make sure I'm looking at the same
25 data request that you asked about.

1 Q. I mean, you're correct that those -- not
2 every pdf was printed off. We -- for that exhibit there
3 were only certain face sheets.

4 A. There are face sheets attached to this data
5 response, but it appears to also state that there's a CD
6 provided with vendor invoices over \$5,000. Of course I --
7 of course we don't have the CD with this here, so I would
8 assume the CD had detailed invoices whereas we had some
9 attached face sheets as you referred to them as.

10 It's not clear whether these attachments
11 were attached to the data request response or whether
12 they're just something that you provided to look at. I
13 can't tell whether these -- what these are really.

14 Q. In terms of those face sheets that are
15 attached to that data response, if I told you that the
16 Company only provided face sheets similar to the ones that
17 are in that original exhibit, would you agree with that
18 statement?

19 A. If I understand you correctly, there's a --
20 it states here there's a highly confidential CD that has,
21 like, maybe 30 or 40 vendors listed or something. And
22 you're saying these are just copies of certain ones --
23 certain items from that CD. Is that what you're saying?

24 Q. Correct. That everything on that CD was a
25 face sheet and not a full invoice.

1 A. well, I don't know that I agree with that.
2 My recollection is that particularly for the law firms
3 that's true. We have face sheets because of the
4 confidential nature of those invoices. Not that we
5 wouldn't want to give those to Staff. I'm not saying that.
6 But we don't make those available throughout the Company
7 and accounts payable or whatever.

8 But I think a lot of these other vendors,
9 they're just simple invoices that have -- that do discuss
10 what the services are if you want to call them face sheets.
11 That's -- there just simple one-page inv-- documents or
12 whatever.

13 Q. Okay. So just to make sure I understood you
14 correctly in terms of a legal invoice, legal services,
15 those would be face sheets?

16 A. I think generally that's true. I don't know
17 if it's true in all cases. But generally that's true.

18 (Wherein; Staff Exhibit No. KCPL 320 HC was
19 marked for identification.)

20 MS. OTT: And this one I'm gonna mark --
21 this would be 320.

22 JUDGE DIPPELL: I'm sorry. You had another
23 exhibit you needed marked?

24 MS. OTT: Yes.

25 JUDGE DIPPELL: Yes. KCPL 320 is the next

1 number.

2 MS. OTT: And this is Data Request No.
3 141.2. Do you want the extras?

4 JUDGE DIPPELL: I do, if you have them.

5 MS. OTT: I keep skipping. Sorry.

6 JUDGE DIPPELL: That's okay. But actually I
7 don't need this many, Ms. Hernandez.

8 MS. OTT: Okay.

9 JUDGE DIPPELL: Thank you.

10 MS. OTT: I was just going to have you give
11 the -- or have the witness's copies, but you want that one?

12 THE COURT REPORTER: Okay.

13 BY MS. OTT:

14 Q. And would you agree this is Staff's Data
15 Request 141.2 and it was asked on November 9, 2010?

16 A. Yes. That's correct.

17 Q. Okay. And the description of the question
18 says, Refer to Data Request 141.1. Please provide a
19 complete copy of all vendor invoices over 5,000 provided in
20 this data request in addition to the face sheets already
21 provided.

22 A. Yes.

23 Q. And it also goes on to continue for all
24 legal invoices please provide supporting documentation
25 detailing hourly rates, receipts, FERC expense

1 reimbursement and detailed breakouts for the charges to
2 support the total amount of Missouri rate case expense.

3 A. Yes. That's correct.

4 Q. And then in terms of -- if you look at the
5 next page, that's the Company's response dated November 29,
6 2010. would you agree with that?

7 A. Yes. That's correct.

8 Q. And in terms of the documents attached to
9 that data request, can you look at that exhibit?

10 A. Okay. I've got those. Yes.

11 Q. would you agree that those -- so would you
12 agree that there were certain invoices provided in this
13 data request, but there's others that remain listed as face
14 sheets?

15 A. I don't know. It looks like -- I'd have to
16 look over every page. It looks like in general these are
17 the detailed invoices, but if you want I can look over
18 every page to see. They all appear to be the detailed
19 invoices that provide the hours worked and services
20 performed and that sort of thing.

21 Q. Okay. And then Mr. Rush's signature's on
22 the last page as well verifying the --

23 A. Yes. That's correct.

24 Q. -- Company's response?

25 I'm sorry. The Company's response was

1 November 29, 2010?

2 A. Yes. That's the date. Yes.

3 Q. Okay. One more question on the 141.2, was
4 this the Company's response to this data request, did it
5 provide all of the invoices originally requested in the
6 June 2010 data request?

7 A. Well, no. As it says the data request
8 descriptions states that -- I should say the response
9 states a phone conversation was held with Mr. Majors that
10 kind of limited the amount of the -- the items that were
11 going to be included in this response. So it certainly is
12 not at all what was originally asked in June data request,
13 no.

14 (Wherein; Staff Exhibit No. KCPL 321 HC was
15 marked for identification.)

16 MS. HERNANDEZ: This is data request 141.3
17 and I guess this would be 321?

18 JUDGE DIPPELL: Yes. KCPL 321.

19 BY MS. HERNANDEZ:

20 Q. And you would agree this is Staff's Data
21 Request 141.3?

22 A. Yes, I would.

23 Q. This is -- the front page of this exhibit is
24 the Company's response that's dated 12/27/2010?

25 A. Yes. That's correct.

1 Q. If you could look at the Company's response.

2 A. Okay.

3 Q. If you could look at the last sentence of
4 the Company's response, would you agree that that reads,
5 Legal invoices are not available at this time and will be
6 provided in a supplemental response?

7 A. Yes. That's correct.

8 Q. Okay. Would you agree that that statement
9 was given on the Staff's request asking for complete and
10 comprehensive invoice packages including all approvals and
11 account allocations for each and every invoice charged in
12 rate case expense from 5,000 to 1,000?

13 A. Yes, I would. And there's a reason for that
14 response if you would care to know that.

15 Q. For the Company's --

16 A. The reason that the legal invoices were not
17 made available at that time.

18 Q. Sure. What's your response?

19 A. We were -- we had to go through those
20 invoices to make sure there was not any confidential
21 information and that proper redacting was done and that
22 sort of thing, so it took quite a bit of time to go through
23 those legal invoices to get those ready.

24 we did respond to that a little bit later.
25 I can't remember the exact date.

1 Q. All right. Will you turn four pages in.
2 would you agree that that's Mr. Rush's signature verifying
3 the data response from the Company?

4 A. Yes, I would.

5 Q. Okay. And if you look onto the next page,
6 No. 141.3 supplemental.

7 A. Okay.

8 Q. Okay. And this is dated from the Company
9 12/30/2010. Would you agree with that?

10 A. Yes. That's correct.

11 Q. And would you agree that in terms of the
12 Company's response it says, Attached are all legal invoices
13 through November 30th, 2010 that have charges for KCP&L
14 rate case expense over a \$1,000 that were not already
15 provided in DR 141.1 or 141.2?

16 A. Yes. That's correct.

17 (Wherein; Staff Exhibit No. KCPL 322 HC was
18 marked for identification.)

19 MS. HERNANDEZ: All right. This will be
20 322?

21 JUDGE DIPPELL: Yes. That will be marked as
22 KCPL 322. And if you have extra copies, I'll take them to
23 the other three commissioners.

24 MR. STEINER: Judge, can I interrupt?

25 JUDGE DIPPELL: Yes.

1 MR. STEINER: On 320 and 321 those do have
2 HC information that can be marked as 320 HC and 321 HC.

3 JUDGE DIPPELL: Yes. Confidential
4 information, is it marked in there?

5 MR. STEINER: Yes, it is.

6 JUDGE DIPPELL: Okay.

7 MR. STEINER: I believe it is.

8 JUDGE DIPPELL: Yes. Okay. I see it.

9 Thank you.

10 BY MS. HERNANDEZ:

11 Q. You have in front of you data request 141.1?

12 A. What was that number?

13 Q. 141.1.

14 A. No, .4.

15 Q. .4, I'm sorry.

16 A. Yeah, .4, 141.4.

17 Q. And this data request from the Staff on
18 12/18/2010 to KCP&L?

19 A. Yes.

20 Q. All right. And would you agree that -- if
21 you turn the page for 141.4 TS, which is true-up
22 supplemental?

23 A. Okay.

24 Q. That's what it stands for, the TS.

25 A. Okay.

1 JUDGE DIPPELL: Ms. Hernandez, can I get you
2 again to maybe get your microphone more direct so -- I'm
3 having a hard time hearing you over the fans of the air
4 conditioner.

5 MS. HERNANDEZ: Okay.

6 BY MS. HERNANDEZ:

7 Q. Would you agree that the question is this
8 data request is to provide supplemental information refer
9 to DR 141.1, DR 141.2, and DR 141.3? It also reads, Please
10 provide NextSource invoices not previously provided in
11 these data requests that were charged to KCP&L rate case
12 expense and adjustments CS-80?

13 A. Yes. That's correct.

14 Q. And in terms of the Company's response,
15 that's dated January -- January 28th, 2011?

16 A. What was the question?

17 Q. In terms of the date of the Company's
18 response, is that January --

19 A. Oh, yeah. January 28th.

20 Q. -- 28th, 2011?

21 A. Yeah. That's correct. Yes. That's
22 correct.

23 Q. In terms of the Company's response -- this
24 is the third paragraph down. It says attached is a
25 complete list of rate case expenses deferred?

1 A. Yes.

2 Q. Through certain accounts?

3 A. I believe this data request was not really
4 for invoices, it was more for part of the true-up process
5 to provide a listing of rate case costs and that sort of
6 thing, I believe.

7 MS. HERNANDEZ: All right. This can be
8 marked Exhibit KCP&L 323.

9 (Wherein; Staff Exhibit No. KCPL 323 was
10 marked for identification.)

11 BY MS. HERNANDEZ:

12 Q. Do you have a copy of Data Request 151.1 in
13 front of you? I'm sorry. 154.1? I'm having trouble with
14 numbers today.

15 A. Yes, I do.

16 Q. And this is Staff's data request requested
17 November 16th, 2010?

18 A. Yes.

19 Q. And this was issued in the GMO case, would
20 you agree with that?

21 A. Yes, I would.

22 Q. And the question on -- that was asked by
23 staff would you agree it reads, Please provide a complete
24 copy of each and every invoice over 5,000 paid for rate
25 case expenses through June 30, 2010 for the current rate

1 case?

2 A. Yes. That's correct.

3 Q. And then turning into the next page, the
4 Company's response. Would you agree that's dated December
5 3rd, 2010?

6 A. Yes. That's correct.

7 Q. If you look at Page 4 of that data request
8 or this exhibit.

9 A. Okay.

10 Q. Would you agree that this is an example of a
11 face sheet that was provided in response to that data
12 request?

13 A. Yes, I would.

14 Q. And again the last page is Mr. Rush's
15 verification of data response?

16 A. Yes. That's correct.

17 THE WITNESS: Judge, would it be okay of
18 someone brought me a bottle of water? I'm kind of dry
19 here.

20 JUDGE DIPPELL: That would be fine.

21 THE WITNESS: Okay. Thank you.

22 MS. HERNANDEZ: I have this marked as KCPL
23 Exhibit 324.

24 THE WITNESS: Thank you, Randy.

25 RANDY: You're welcome.

1 (Wherein; Staff Exhibit No. KCPL 324 was
2 marked for identification.)

3 JUDGE DIPPELL: This is KCPL 324?

4 MR. STEINER: 324 or 323?

5 JUDGE DIPPELL: 324. DR 154.1 was 323.

6 MS. HERNANDEZ: Okay. So this is 324? This
7 is 15--

8 MR. STEINER: Can I get a copy of 154.1? I
9 have two of the -- sorry.

10 MS. HERNANDEZ: 154.2.

11 BY MS. HERNANDEZ:

12 Q. Okay. Would you agree this is Staff's
13 request dated November 18th, 2010 in the GMO case?

14 A. December 18th. You said November, didn't
15 you?

16 Q. December 18th.

17 A. December 18th, yes.

18 Q. And the description of the request, please
19 provide a full and complete copy of the invoices provided
20 in the response to DR 154.1?

21 A. Yes. That's correct.

22 Q. And turning to the next page, the Company's
23 response was November -- December 28th, 2010?

24 A. Yes. That's --

25 Q. Do you see that date at the top?

1 A. That's correct. Yes.

2 Q. If you could, could you read the response to
3 the first question? It says, Please provide a full and
4 complete copy of the invoices --

5 A. Yes.

6 Q. -- provided in response to DR 154.1?

7 A. Yes. Due to the volume of invoices to be
8 reviewed and limited personnel due to the holidays, we will
9 provide this information in a supplemental response.

10 Q. Okay. So even though this response is dated
11 12/28/2010 those invoices would have been provided to the
12 staff at a later date? Is that your understanding?

13 A. Well, part 1 anyway.

14 Q. Part 1.

15 A. Part 2 is answered on that date, yes.

16 Q. Okay. And again, the -- Mr. Rush's
17 verification's on the last page?

18 A. Yes.

19 (Wherein; Staff Exhibit No. 325 HC was
20 marked for identification.)

21 MS. HERNANDEZ: This would be KCP&L 325.

22 JUDGE DIPPELL: Yes. That one's marked KCPL
23 325.

24 MR. STEINER: Could that be marked as HC?
25 It has HC information on it.

1 MS. HERNANDEZ: Yes.

2 JUDGE DIPPELL: Yes. And I see 324 also.

3 MR. STEINER: It doesn't appear, Your Honor
4 that there's anything HC in --

5 JUDGE DIPPELL: Okay.

6 MR. STEINER: The HC stuff is not in this
7 exhibit, so I'm fine with it.

8 JUDGE DIPPELL: I see. It was the
9 attachment that was HC for that one. So 325 HC.

10 BY MS. HERNANDEZ:

11 Q. would you agree that this is Data Request
12 154.2 asked to GMO by the Staff on December 18th, 2010?

13 A. Yes.

14 JUDGE DIPPELL: Let me interrupt because I
15 had 154.2 as Exhibit 324. Is this different?

16 MS. HERNANDEZ: This would be the
17 supplemental response.

18 JUDGE DIPPELL: Okay. Okay.

19 MS. HERNANDEZ: So it would be actually the
20 second page.

21 JUDGE DIPPELL: Thank you.

22 BY MS. HERNANDEZ:

23 Q. The date of the supplemental response on
24 Page 2 of that exhibit, would you agree that's December
25 30th, 2010?

1 A. Yes. That's correct.

2 Q. And this was, again, a request to provide
3 legal invoices, full and complete copy of the invoices
4 provided in response to DR 154.1?

5 A. Yes.

6 Q. And then it says, Please provide all
7 NextSource invoices charged to rate case expense for MPS
8 and SJLP rate case expense adjustments?

9 A. Yeah. The second part is there though.
10 It's not part of the supplement response, but that's what
11 it says.

12 Q. The second -- you're saying the second
13 request of Staff's --

14 A. Was answered --

15 Q. -- was not part of the response --

16 A. Right. It was --

17 Q. -- by the Company?

18 A. -- answered in that previous document we
19 looked at, I believe.

20 Q. At the end, again, of the supplemental
21 response that's Mr. Rush's verification of the -- of the
22 response on the last --

23 A. Yes. That's correct.

24 Q. -- page?

25 A. That's correct.

1 Q. And if you could turn to the third page of
2 the exhibit.

3 A. Okay.

4 Q. would you agree that this is an example of
5 an invoice provided by a legal vendor?

6 A. well, not just Page 3, but the page behind
7 it, Page 4 of this document provides more -- more details
8 to the work performed and the hours and that sort of thing.

9 Q. So there's an invoice attached, but then
10 also additional document that describes the services that
11 were provided and the hours spent and who performed the
12 service?

13 A. Yeah. You should -- to me it's just all
14 part of the -- part of the invoice, but that's correct.

15 Q. And just for the record I'm just going to go
16 through some dates. would you agree that Staff's direct
17 filing for KCP&L was due November 10th, 2010?

18 A. I know it was in early November. I can't
19 remember the specific date.

20 Q. All right. would you have any reason to
21 doubt that date or November 17th, 2010 for the GMO direct
22 filing on behalf of Staff?

23 A. No. That's sounds right. Yes.

24 Q. Okay. And December 8th, 2010 for the KCP&L
25 rebuttal as well as December 15th, 2010 for GMO rebuttal?

1 A. That sounds right.

2 Q. And then January 5th, 2011 for KCP&L direct
3 and January 12th, 2011 for GMO direct -- surr--

4 A. You talking about surrebuttal?

5 Q. I'm sorry. Surrebuttal. Direct
6 surrebuttal.

7 A. Those sound like the surrebuttal dates, yes.

8 Q. Okay. And then get the true-up filings too
9 of February 22nd for KCP&L and GMO direct true-up filing?

10 A. That's sounds right.

11 Q. would you agree -- okay. And then February
12 28th, 2011 both KCP&L ad GMO rebuttal true-up filing?

13 A. That is correct. Yes.

14 Q. would you agree that a complete response by
15 the Company to Staff's Data Request 141.3 is after the
16 filing of the Staff's direct case?

17 A. There's so many documents I looked at, I
18 can't remember exactly which one is which.

19 Q. which one it's marked as.

20 JUDGE DIPPELL: 141.3 is 321 HC. But
21 Ms. Hernandez, I think the dates will speak for themselves.
22 They're on the DRs. You've questioned the witness about
23 them and now we've gone through and --

24 MS. HERNANDEZ: Okay.

25 JUDGE DIPPELL: -- gotten all the procedural

1 schedule in. So --

2 MS. HERNANDEZ: That's fine.

3 BY MS. HERNANDEZ:

4 Q. would you agree that Fischer and Dority is
5 the local counsel for both the KCP&L and GMO rate cases?

6 MR. FISCHER: we'll stipulate to that.

7 BY MS. HERNANDEZ:

8 Q. And would you agree that the Staff's
9 attorneys are salary while KCP&L or GMO's outside attorneys
10 are on a billable hour basis?

11 A. well, I know the latter is true. I assume
12 the former is. I don't know that for a fact, but they're
13 employees, I assume. I don't know much about the
14 arrangement here.

15 MS. HERNANDEZ: Okay. I believe that's all
16 the questions I have for Mr. Weisensee. Thank you.

17 JUDGE DIPPELL: Thank you. Are there any
18 questions from the bench for Mr. Weisensee?

19 COMMISSIONER DAVIS: Good afternoon,
20 Mr. Weisensee.

21 THE WITNESS: Good afternoon.

22 QUESTIONS BY COMMISSIONER DAVIS:

23 Q. Counsel for Staff just asked you a number of
24 questions.

25 A. Yes.

1 Q. Do you understand the relevance of those
2 questions?

3 A. I think I understand why they asked those
4 questions, yes.

5 Q. Could you explain it to me?

6 A. Yes. I believe they were trying to make a
7 point that -- but let me put it this way: In our true-up
8 direct and true-up rebuttal testimony, we've made a point
9 that Staff has brought up some issues on rate case expense.

10 Q. Uh-huh.

11 A. That we felt were -- could have been brought
12 up earlier. So I think Staff's point here is that they
13 couldn't have brought those points up earlier because we
14 were not timely in our response to data requests, which I
15 don't agree with that, but I think that's where they were
16 headed.

17 Q. Okay. Would you like to add anything about
18 why you don't agree with that?

19 A. Yes. As we -- the first data request she
20 talked about we asked for all the invoices and we stated at
21 that time they're very voluminous and we could provide the
22 specific ones if needed and we provided a listing of all
23 the rate case costs that they can make a selection from at
24 that point.

25 And that's what we've done in prior cases.

1 That's what I've always seen done in all the years I've
2 been in this business. And so we thought that was fine --
3 a fine response. And they came back later and said they
4 needed more information and we provided that. We provided
5 the -- the legal invoices were face sheets only because of
6 Company confidentiality concerns. We thought that might
7 suffice, but they came back and wanted more and we provided
8 that each time on a timely basis.

9 But even when you look at all that, I still
10 think that they had all the information they needed in time
11 to propose these adjustments earlier on in the case.

12 COMMISSIONER DAVIS: Okay. Thank you, sir.
13 No further questions.

14 JUDGE DIPPELL: Commissioner Jarrett?

15 COMMISSIONER JARRETT: No questions.

16 Thanks.

17 JUDGE DIPPELL: Is there anything further on
18 recross from the Commission questions?

19 MS. HERNANDEZ: No. But I would like to
20 move those previous exhibit numbers 318 through 325.

21 JUDGE DIPPELL: Would there -- do I need to
22 take them individually or would there be any objection to
23 exhibits KCPL 318 through KCPL 325 HC?

24 MR. STEINER: I just wanted to make sure
25 that the ones that are marked HC were marked HC but I think

1 I've made that clear, so I'm fine with you just -- we don't
2 have an objection other than I wanted to make sure that the
3 ones --

4 JUDGE DIPPELL: I understand.

5 MR. STEINER: -- that were marked HC are
6 marked HC.

7 JUDGE DIPPELL: And I have -- at this point
8 I have 320, 321 and 325 being marked HC of that group?

9 MR. STEINER: That's what I have.

10 MS. HERNANDEZ: That's what I have as well.

11 JUDGE DIPPELL: All right. Then seeing no
12 other objection, I will admit those documents.

13 (Wherein; Staff Exhibit Nos. KCPL 318, KCPL
14 319, KCPL 320 HC, KCPL 321 HC, KCPL 322, KCPL 323, KCPL 324
15 and KCPL 325 HC were received into evidence.)

16 JUDGE DIPPELL: And is there redirect?

17 MR. FISCHER: No, Judge.

18 JUDGE DIPPELL: All right. Then
19 Mr. Weisensee, you are finished and you may step down.

20 (Witness excused.)

21 JUDGE DIPPELL: That's the only testimony
22 you have in this true-up, so you may be excused.

23 All right. On that note, let's see. We're
24 up to Mr. Rush. Does anybody need a brief intermission
25 before we go?

1 I don't see anybody saying they need a break
2 so let's go ahead with Mr. Rush.

3 MR. STEINER: Could you give me the numbers
4 you have for Rush's testimony?

5 JUDGE DIPPELL: Yes. Let me get those. For
6 Mr. Rush I have KCPL 114 for his direct -- true-up direct,
7 and KCPL 115 for his true-up rebuttal. And does he have
8 GMO?

9 MR. STEINER: Yes. He has true-up direct in
10 that case.

11 JUDGE DIPPELL: And for his true-up direct
12 in the GMO case, I have GMO 58.

13 (Wherein; KCP&L Exhibit Nos. KCPL 114, KCPL
14 115 and GMO 58 were marked for identification.)

15 JUDGE DIPPELL: And Mr. Rush, if you'd raise
16 your right hand.

17 (Witness sworn.)

18 JUDGE DIPPELL: Thank you. Go ahead when
19 you're ready, Mr. Steiner.

20 TIM RUSH testifies as follows:

21 DIRECT EXAMINATION BY MR. STEINER:

22 Q. Please state your name and business address
23 for the record.

24 A. It's Tim Rush, 1200 Main, Kansas City,
25 Missouri.

1 Q. Mr. Rush, did you cause to be filed what's
2 been marked for purposes of identification as Exhibit 114,
3 which is true-up direct in the 0355 case and true-up
4 rebuttal, which is marked Exhibit 115 in the 0355 and 0356
5 cases as well as true-up direct in the GMO case, which has
6 been marked as Exhibit 58?

7 A. I did.

8 Q. Do you have any changes to those
9 testimonies?

10 A. I do. On Page 7 of my -- of Exhibit 115,
11 which is my true-up rebuttal testimony, on Line 19 the full
12 sentence that starts out, The Company believed that he
13 Iatan. It should read "the Iatan".

14 Also on Line 21 the first word "need" should
15 be "needed". And with that, that's all the changes I have.

16 Q. If I were to ask you the same questions that
17 are contained in those testimonies today, would your
18 answers be the same?

19 A. Yes, they would.

20 MR. STEINER: With that I would move the
21 admission of Exhibits 115, 116 [sic] and 58 and tender the
22 witness for cross.

23 JUDGE DIPPELL: And would there be any
24 objection to KCPL 114, 115 and GMO 58 as corrected?

25 MS. HERNANDEZ: No objection.

1 JUDGE DIPPELL: Thank you. Then I will
2 admit those documents.

3 (Wherein; KCPL Exhibit Nos. KCP&L 114, KCP&L
4 115 and GMO 58 were received into evidence.)

5 JUDGE DIPPELL: And I'm sorry. You tendered
6 the witness?

7 MR. STEINER: Yes.

8 JUDGE DIPPELL: Seeing no one but Staff in
9 here, does Staff any cross-examination?

10 MS. HERNANDEZ: Yes. I believe fewer
11 questions than for the last witness, so hopefully that will
12 please everyone.

13 CROSS-EXAMINATION BY MS. HERNANDEZ:

14 Q. Good afternoon.

15 A. Good afternoon.

16 Q. Would you agree that Ms. Van Gelder, while
17 she appeared in the ER-2010-- or EO-2010-0259 case she did
18 not appear in the ER-2010-0355 or 356, these rate case
19 proceedings? would you agree with that?

20 A. Specifically, yes. I think the cases were
21 consolidated however. So I mean, it was a combined case,
22 which she only participated in the 0259 case.

23 Q. She didn't make an appearance?

24 A. She did not.

25 Q. Okay. In your rebuttal testimony, true-up

1 rebuttal on Page 5, Lines 10 and 11, do you see that
2 testimony?

3 A. I do.

4 Q. You state that the Staff did not provide any
5 support that the Schiff Hardin expenses are duplicative of
6 other law firms; is that correct?

7 A. That's correct.

8 Q. And then you base that on your reading of
9 the MGE case; is that correct?

10 A. I think it was a statement Mr. Majors was
11 making and it is part of what was addressed in the MGE case
12 also.

13 Q. But would you agree that that's your
14 argument that some of these expenses should be allowed
15 because there was no proof of duplicity?

16 A. I don't think Mr. Majors is saying to
17 exclude the Schiff Hardin expenses. What he's saying is to
18 reduce their rate to a rate substantially below those
19 costs, those charges that are incurred by Schiff Hardin.

20 Q. Okay. Well, with that correction, you're
21 still --

22 A. I mean, he makes a number of statements and
23 he addresses the MGE case, but he doesn't fully go through
24 and utilize that piece and say I want it excluded in this
25 piece.

1 Q. So maybe I'm misunderstanding your
2 testimony. It was my understanding that you were -- and
3 tell me if this is correct -- were using that duplicative
4 argument that the Staff wasn't showing any support for
5 duplicativeness, so you were saying those charges should be
6 allowed?

7 A. I state -- I'm saying those charges should
8 be allowed. I'm saying that we have a number of attorneys.
9 It's very similar to how the Staff and other parties may
10 utilize attorneys and Schiff was one of those critical
11 natures for the -- for the whole case.

12 Q. And you were basing that rationale on that
13 MGE 2004 rate case, which is cited -- I believe it's cited
14 in your testimony.

15 A. I did not cite the MGE case. I just
16 referenced it. Mr. Majors was the one addressing the MGE
17 case.

18 Q. Okay. You referenced it. Okay. Well,
19 let's go to your reference on Page 3 then. Line 7.

20 A. Reference on 3. I'm sorry. You're going to
21 have to --

22 Q. Page 3.

23 A. Page 3. I'm sorry.

24 Q. Line 7 through 10. That's where your MGE
25 case cite is; is that correct?

1 A. Uh-huh.

2 Q. Were you -- can you point to exactly where
3 in the MGE case you're basing your understanding of the
4 duplicative argument?

5 A. I don't have the case results with me. If
6 you had that --

7 Q. Sure. Here's a copy.

8 MS. HERNANDEZ: I don't plan to offer this
9 as an exhibit. I think it's been judicially noted earlier.
10 But I have copies if you would like to look at it now.
11 Would you like one Commissioner? Report and order. MGE's
12 rate case, 2004.

13 COMMISSIONER DAVIS: I think that was my
14 first one. I'll take a copy of it.

15 BY MS. HERNANDEZ:

16 Q. I think certainly you cited the case you may
17 know exactly where you want to go, but just to narrow it,
18 rate case expenses is listed on Page 72.

19 A. Right.

20 Q. Or starts on Page 72.

21 A. That's correct.

22 Q. Would you agree that there's no holding in
23 this case by the Commission that says you must show why
24 these costs are duplicative for them to be disallowed or
25 modified?

1 A. I was reading all the pieces where they were
2 arguing duplicity in there and whether it was confirmed.
3 I'd have to take a further detail review to really see if
4 the Commission disallowed because it was duplicative. I
5 noted on the testimony of Keith Majors on Lines 27 on Page
6 5 he talks about Eric -- this is a statement from there.

7 Eric Herschmann and Michael Fay of the firm
8 did a good job of representing the client in the hearing,
9 but the firm charged \$690 per hour and it was far too high,
10 typical charges, et cetera. The Company is certainly
11 entitled, it goes on to say. And it says the Commission
12 will reduced the firm. Let's see.

13 And then if you go on it says, Public
14 Counsel urges the Commission to disallow \$47,000 in fees
15 charged to Austin Texas firm of Watson and Bishop London
16 and Brophy. Public Counsel contends that the work done by
17 that firm did was duplicative of the work done by Kasowitz
18 and Benson and Torres.

19 MGE explained that this gentleman was the
20 second chair and she assisted Herschmann in the preparation
21 of witnesses, issues and cross-examination questions. The
22 Commission does not wish to disparage the work done by
23 Watson and Bishop firm, but 47 is more than ratepayers
24 should pay for the service performed by the firm.

25 I can take that as an implication that there

1 was duplication because of the second chair nature of that
2 person.

3 Q. Now if you look at Page 75.

4 A. Okay.

5 Q. I'm sorry. What page were you reading from?

6 A. I was reading from Page 6 of Mr. Majors'
7 testimony.

8 Q. Okay.

9 A. And the one I was reading started on Line
10 13.

11 Q. If you look at Page 75.

12 A. I'm there.

13 Q. would you agree that the top three lines
14 read as, As the Commission indicated when rejecting Staff's
15 proposal, the arbitrary reliance on past rate cases to
16 establish a limit on MGE's rate case expense recovery in
17 this case is improper and therefore Public Counsel's
18 proposal to further adjust its recommended rate case
19 expense will be rejected?

20 A. I did read that. Yes.

21 Q. So it's your understanding on this case
22 there was just a reliance on prior years' rate case expense
23 to support a disallowance or an averaging of prior years'
24 rate case expense to recommend a disallowance?

25 A. Uh-huh.

1 Q. That's your understanding of what the --
2 what Public Counsel was --

3 A. I was simply trying to respond to
4 Mr. Majors' testimony at which he was making a number of
5 statements regarding the MGE rate case.

6 Q. But you spent a lot of your testimony
7 talking about the duplicative argument and why there should
8 be support?

9 A. I didn't think I spent that much time on it,
10 but no. I was trying to explain why Schiff Hardin expenses
11 were critical to the overall case.

12 Q. Okay. Now, would you agree that in terms of
13 as payment that KCP&L or GMO's attorneys are on a billable
14 hour basis or paid on that basis whereas staff members,
15 Staff's attorneys are on a salary?

16 A. I think that's correct.

17 Q. And -- and in terms of KCPL -- KCP&L's
18 in-house counsel, they are also on salary; is that correct?

19 A. Say that -- the first question again. I
20 apologize. I thought you were referring to the in-house
21 attorneys, who were paid under a salary basis.

22 Q. For the -- I'm sorry. The first question I
23 was referring to was Staff of the Commission. Do you
24 understand that we're --

25 A. I'm sorry. I did not -- I took Staff as the

1 staff of the Company. I apologize.

2 Q. I'm sorry.

3 A. Okay. Your question -- your first question
4 is you believe that the Staff --

5 Q. Well, do you understand -- or is it your
6 understanding that the Staff of the Commission is on a
7 salary basis, at least the attorneys for the Staff?

8 A. I believe they are.

9 Q. Versus the payment in this case to KCP&L's
10 and GMO's outside attorneys are on a billable hour basis?

11 A. That's correct.

12 Q. Okay. And then, I guess, the follow-up
13 question just to make sure I understood your answer is that
14 you're KCPL and GMO's in-house counsel, they're salary as
15 well?

16 A. I believe they are.

17 Q. And are you aware that during the direct
18 case and questioning of Mr. Weisensee and Mr. Blanc there
19 were at least five attorneys in -- five attorneys for the
20 Company in the room at that given time? Five attorneys, I
21 should clarify retained by the Company?

22 A. There obviously could have been five
23 attorneys in the room. There was -- typically will be one
24 person responsible for Mr. Weisensee at that time and the
25 other attorneys have other responsibilities.

1 Q. Do you have any reason to -- to disagree
2 that Ms. Cunningham, Mr. Blanc, Mr. Fischer, Mr. Dority and
3 Mr. Steiner were in the room when that questioning was
4 going on during rate case expense?

5 A. I have no disagreement with that, but
6 Mr. Blanc was not an attorney during that time
7 practicing -- not a practicing attorney at that time.

8 Q. Okay. Okay. In terms of cost for legal
9 invoices, does the Company keep these cost certain
10 separated by vendor in house books and records?

11 A. Your question again, help me understand.

12 Q. Well, say for example you receive invoices
13 from five different attorneys from different firms. When
14 you go to keep the accounting of that, do you keep those
15 separate. You know, Attorney A's firm goes in the A
16 folder, B, C, D, and so on and so forth?

17 A. That's retained by the law department.
18 Those invoices -- the detailed -- you're talking about the
19 detail behind it or the face sheets on it?

20 Q. Just in terms of the tracking in terms of
21 rate case expense. You just don't come up with this big
22 global number; you separate it out according to firm?

23 A. Yes.

24 Q. Or vendor or provider?

25 A. Yes. We have it by absolutely by all kinds

1 of details.

2 MS. HERNANDEZ: Okay. I would like this
3 marked 326 if we're just continuing the numbering.

4 JUDGE DIPPELL: Yes. If it is a joint
5 exhibit for both cases?

6 MS. HERNANDEZ: Yes.

7 JUDGE DIPPELL: Then it will be KCPL 326.

8 (Wherein; Staff Exhibit No. KCPL 326 HC was
9 marked for identification.)

10 MR. STEINER: Can we mark this HC? It has
11 HC information in it.

12 JUDGE DIPPELL: Yes. 326 is HC.

13 BY MS. HERNANDEZ:

14 Q. Would you agree that you have data request
15 No. 593 in front of you from the KCP&L case requested by
16 the Staff on December 23rd, 2010?

17 A. I do. Yes.

18 Q. And then in terms of the description for
19 each KCP&L and GMO consultant or vendor or attorney who
20 billed KCP&L for work and KCP&L is including all or part of
21 that charge to rate case expense, would you please provide
22 the following: a, the name of the consultant or vendor; b,
23 the description of each and every significant scope of
24 work; c, number of hours billed by month -- I'm
25 paraphrasing.

1 D, hourly rate charged; e, discounted -- if
2 the hourly rate was discounted in any way, and then a
3 series of other questions down through there.

4 A. Right.

5 Q. Okay. In terms of the -- turn to the third
6 page, the Company's response. You would agree that's
7 January 6th, 2011? Page 3.

8 A. I would.

9 Q. Okay. And can you read the Company's
10 response starting in the bold, items A through E?

11 A. KCPL vendors are available --

12 JUDGE DIPPELL: Let me interrupt just one
13 moment and make sure that there's nothing in that response
14 that's highly confidential.

15 THE WITNESS: That's a good point. It is
16 identified as HC.

17 JUDGE DIPPELL: Do you need to go in camera
18 Ms. Hernandez or --

19 MR. STEINER: That's fine. I think he can
20 read that part.

21 MS. HERNANDEZ: Okay.

22 THE WITNESS: Do you want me to start where
23 it says items A through E?

24 BY MS. HERNANDEZ:

25 Q. Yes. Just read that full paragraph.

1 A. Just the first paragraph?

2 Q. Yes.

3 A. KCPL vendors are available on all invoices
4 provided in the 0141 series of DRs including legal invoices
5 in 0141.2 and 0141.3 which were originally provided in
6 summary form in 0141.1. For instance, the information
7 provided in the response 0141.1 for voucher No. 01146841, a
8 Black and Veatch invoice includes name of
9 vendor/consultant, scope of work, hours and rates per
10 consultant and discount.

11 MS. HERNANDEZ: I think this may be the only
12 exhibit I have with this witness, but I'll move to offer
13 this one at this time, No. 326

14 JUDGE DIPPELL: Sorry. 326 HC, is that --
15 has been offered. will there be any objections?

16 MR. STEINER: No objection.

17 JUDGE DIPPELL: Then I will admit it.

18 (Wherein; Staff Exhibit No. KCP&L 326 HC was
19 received into evidence.)

20 JUDGE DIPPELL: And this is KCPL 327.

21 (Wherein; Staff Exhibit No. KCP&L 327 was
22 marked for identification.)

23 BY MS. HERNANDEZ:

24 Q. And you would agree that this is Data
25 Request No. 627 requested by the Staff on January 1st,

1 2011?

2 A. Yes. I would.

3 Q. And the question being, Please provide the
4 hourly billing rates for certain attorneys paid between
5 2005 and 2010 and also asking for any amounts of monthly
6 retainer paid to those vendors; is that correct?

7 A. Yes.

8 Q. Okay. If you would turn to Page 2, that's
9 the Company's res-- would that be the Company's response?

10 A. That's correct.

11 Q. And that response was -- or may I ask was it
12 the Company's response that those answers were previously
13 provided in invoices?

14 A. That's right.

15 Q. So it's your understanding that you were
16 asking the Staff to go and compile -- or the effect of that
17 would be for the Staff to compile the hourly billing
18 rates --

19 A. No.

20 Q. -- of these attorneys?

21 That's not your understanding?

22 A. No.

23 Q. Was it your understanding that you provided
24 any document to the Staff that would have had listed all of
25 those hourly billing rates between 2005 and 2010 for this

1 specific vendor?

2 A. I believe all of the invoices -- first of
3 all, I'm not sure how far the invoices went back. My
4 assumption is from the DR that we have provided to you
5 invoices from Fischer and Dority's law firm dating back to
6 2005 through 2010. And that information would simply be on
7 the invoice the minute you look at it.

8 Q. But you didn't -- but that would be assuming
9 that you provided those invoices to Staff?

10 A. That's correct. That would be my
11 understanding that we must have done that.

12 Q. Okay. And then that's your signature at the
13 end verifying the --

14 A. I'm simply verifying that the information is
15 true and accurate to the best of my knowledge and belief.

16 Q. Okay. Is it your understanding that the
17 rate case expenses in this case were significantly higher
18 than the 2006 expenses?

19 A. Significantly, yes.

20 Q. 2007?

21 A. Yes.

22 Q. And 2009?

23 A. Yes.

24 Q. Okay. would you agree with the statement by
25 the end of this rate case those rate case expenses in this

1 case were actually about five times what the Company or the
2 Staff proposed in the Company's last rate case, the 0089
3 rate case?

4 A. You said proposed. Are you referring to --
5 the case was a settled case is why I'm asking the question.

6 Q. Right. So through the, you know -- the
7 income statements that were filed by the Company and the
8 Staff, would you agree that the expense in this case will
9 be about five times that of what was proposed by either the
10 Staff or the Company in the 0089 case?

11 A. I don't know the math, but my -- I would
12 guess that you're correct. And there are a lot of reasons
13 for that.

14 Q. Now, with that expense would you also agree
15 there would be additional work in terms of review of
16 invoices and data since there is a higher cost in this case
17 for rate case expense? There would be more documents for
18 the Staff to review versus those other cases?

19 A. I know that the expenses for the rate case
20 have covered a substantially longer period of time simply
21 because the construction audit of Iatan has gone on since
22 the completion of the last rate case. We've had a case
23 between now -- between that time and this ordered by the
24 Commission to do an investigation into the construction.

25 And I guess I'd call it the data request,

1 the prudence and the cost control system. As far as more
2 invoices, there's essentially the same firms that have been
3 acquired with some specialty areas that have been required,
4 maybe some additional ones, but very few. So as far as --
5 it would be a longer time frame, which may be more
6 invoices, but it's not radically different.

7 Q. So maybe not the number of invoices, but the
8 level of expenses, that is radically different?

9 A. Yes.

10 MS. HERNANDEZ: I'm going to offer the
11 exhibit that we marked.

12 JUDGE DIPPELL: KCPL 327?

13 MS. HERNANDEZ: 327 at this time.

14 JUDGE DIPPELL: Would there be any objection
15 to KCPL 327?

16 MR. STEINER: No objection.

17 JUDGE DIPPELL: Then I will admit it.

18 (Wherein; Staff Exhibit No. KCPL 327 was
19 received into evidence.)

20 MS. HERNANDEZ: That's all the questions I
21 have. Thank you.

22 JUDGE DIPPELL: Thank you. Are there any
23 question for Mr. Rush. Commissioner Davis?

24 QUESTIONS BY COMMISSIONER DAVIS:

25 Q. Mr. Rush, first of all refresh for my

1 recollection --

2 A. Okay.

3 Q. -- did you see anything new here?

4 A. In this case?

5 Q. No. On the issue of -- I'm sorry. On the
6 issue of the Schiff Hardin fees that was presented in the
7 regular rate case? Did you see anything new in this
8 true-up proceeding?

9 A. Yes. A lot of stuff because Staff
10 essentially changed their whole position on it to deal with
11 some different disallowances in a much different way. In
12 the GMO case, for example, Staff did not include any rate
13 case expense at all in their direct case. And so they said
14 they will look at it later.

15 Q. Uh-huh.

16 A. And then in this case, in the KCPL case,
17 they said we're going to disallow all these expenses and
18 then they come back and said, well we're just -- you know,
19 basically they changed their position on things. It was
20 actually -- if you look at it, it was for the benefit of
21 KCPL and GMO because it put more dollars into it, into the
22 case. But it is definitely a change.

23 Q. Okay. Do you know anything about the MGE
24 rate case that you were asked -- Ms. Hernandez asked you
25 about, GR-2004-209?

1 A. I know very little about it, but I did read
2 about the rate case expense area. I know that there was a
3 dispute about rate case expenses at that time about the
4 rates being paid and about some law firm from New York and
5 I've just about -- and I think even one from Texas that
6 probably was associate of Southern Union at the time.

7 Q. Uh-huh.

8 A. But I've probably exhausted my knowledge of
9 it at that point.

10 Q. All right. So would it -- would it sup-- I
11 mean, can you recall any rate case that went to hearing in
12 the preceding years prior to the MGE rate case,
13 GR-2004-209?

14 A. I remember a lot of rate cases back then.

15 Q. You remember a lot, but do you remember a
16 lot going to hearing there in the period between say 2000
17 and 2004?

18 A. No, hardly any went to -- I mean, there were
19 a lot of -- from our experience at KCPL, for example,
20 between 1985 and --

21 Q. Right.

22 A. -- probably, we didn't have anything.

23 Q. Right.

24 A. At St. Joe Light and Power, where I came
25 from prior, we had lots of cases but none of them went to

1 trial.

2 Q. Right.

3 A. So that would --

4 Q. Is it your recollection that that was a
5 fairly common practice, industry-wide?

6 A. Yes.

7 Q. You don't know what -- what Staff's ROE
8 recommendation was in the MGE case, do you?

9 A. I don't remember. I can find it, but --

10 Q. No. No.

11 A. -- recollect.

12 Q. That's -- that's okay. And you don't
13 remember that Mr. Herschmann's law firm was brought in
14 specifically to cross-exam Staff's ROE witness on that
15 issue?

16 A. No. No, I do not.

17 COMMISSIONER DAVIS: No further questions,
18 Judge.

19 JUDGE DIPPELL: Thank you. Is there any
20 further cross-examination based on Commissioner Davis's
21 question?

22 MS. HERNANDEZ: Yes. Just a few.

23 RE-CROSS-EXAMINATION BY MS. HERNANDEZ:

24 Q. In terms of -- were you here this morning?

25 A. I was.

1 Q. Okay. Did you hear the discussion about
2 whether issues should be tried in the main case or in
3 true-up --

4 A. I did hear that.

5 Q. Okay.

6 A. Yes.

7 Q. Particularly your counsel's -- I believe it
8 was your counsel's summary or his understanding that issues
9 that should have or could have been tried during the direct
10 case, should be done at that time? Is that -- do you
11 remember that?

12 A. That was a general -- yes. That was a
13 general statement, yes.

14 Q. Okay.

15 A. I think -- I think more clearly in the CEP
16 agreement it talked about identifying costs that should be
17 trued up and it was very specific about each item and then
18 it said we're supposed to reach an agreement on what items
19 should be trued up. And I believe you would look at like,
20 rate case expense and simply be saying, Yes, we should true
21 that up.

22 And so I think the concept there was let's
23 get the issue out in the case, let's talk about the issues,
24 what do you have, what's the problems, et cetera. And then
25 let's just simply true the numbers up. I think the same

1 thing holds true in a lot of those pieces of the case.

2 Q. But the explanation was should have or could
3 have. Is that what you recall?

4 MR. STEINER: I'm not seeing how this
5 relates to Commissioner Davis's questions. She's
6 referencing a statement of KCPL's counsel.

7 MS. HERNANDEZ: Well, he was --

8 JUDGE DIPPELL: Go ahead, Ms. Hernandez.

9 MS. HERNANDEZ: Should I explain? I believe
10 the Commissioner was asking him about new expenses, new
11 adjustments, anything different from a particular account.
12 If the information was not available to staff until after
13 surrebuttal filed in the direct case, that certainly would
14 be an argument that the staff could not have looked at that
15 information even though it was requested in early June of
16 2010. Therefore it has to be a true-up issue because the
17 information wasn't there.

18 THE WITNESS: And I think the example that
19 you --

20 JUDGE DIPPELL: Just a minute, Mr. Rush.
21 Let me rule on the objection first.

22 I'm going to overrule the objection and
23 allow Mr. Rush to answer. Go ahead, Ms. Hernandez.

24 BY MS. HERNANDEZ:

25 Q. I think the question was that the

1 understanding was that issues that should be tried in the
2 direct case are those that -- I guess there was an
3 explanation that they should have or could have. And is
4 that --

5 A. Now, I understand your question.

6 Q. I mean, you wouldn't --

7 A. Your question to me is --

8 Q. I mean, that was part of the explanation
9 that issues in the direct case -- or the typical issues
10 tried should have or could have been in the direct case,
11 focusing on the could have. Could have is part of that
12 explanation?

13 A. If you extend it to the rate case expense
14 issue, that would be very appropriate. I know in June
15 25th, 2010 Staff asked for information, they received it
16 within 20 days, in fact, substantially then. They waited
17 two more months and September 3rd they asked for additional
18 information. They received that in 20 days.

19 And then the next step -- this is on the
20 same data request. And then they waited until another two
21 months --

22 Q. But that was --

23 A. -- to ask for information. And then they
24 said it's too late. And so to me when Staff received the
25 material, they should look at it. Say, Am I meeting the

1 obligations, do I have enough information, rather than the
2 delay of two months in between each one of them.

3 Q. But is it your understanding that the Staff
4 asked at least five times from the beginning of the June
5 2010 to the final receipt of invoices, which would be
6 January 27th, 2011 -- there was at least five requests in
7 there. All of them specifically saying in those priorly
8 admitted exhibits, Please provide the invoices and the
9 summaries for those costs?

10 A. And I believe in each case of them we
11 provided the details that were asked and we said we would
12 like to meet with you and provide any additional
13 information that you want. If there was a clarity issue,
14 for example, I think the legal fees is the one in question.

15 Q. Yes.

16 A. We would obviously have gone through and
17 pulled, extended beyond the detail of the face sheet if
18 asked that information. And we obviously did. It
19 mattered -- you know, it just dealt with a time process
20 that apparently Staff didn't come forth and say, wait a
21 second. I need to go beyond -- I want to see the hourly.
22 I don't just want to see the bill. And so, I mean, I look
23 at that as the information was always available. However,
24 the information through December was not available until
25 the true-up.

1 Q. But did -- just so I understand your
2 testimony. It's your testimony that when through those
3 requests and the Staff was asking for invoices each time,
4 the Company then responded with an offer to discuss that
5 with the Staff?

6 A. Yes.

7 Q. And make those available.

8 A. Right.

9 Q. Each time?

10 A. I'm not sure each time, but obviously, I
11 mean I've made my phone number -- and we have a whole group
12 of folks that are available to answer questions. And we've
13 had numerous meetings with the Staff about any kind of
14 subject. I mean, we've had meetings about even issues
15 discussed today. We've had lots of meetings about those
16 subject matters. And if it were simply they wanted to get
17 more detail, if we didn't understand it we obviously
18 couldn't provide it.

19 MS. HERNANDEZ: That's all we have. Thank
20 you.

21 JUDGE DIPPELL: Thank you. Is there
22 redirect?

23 MR. STEINER: There's a little, Your Honor.

24 JUDGE DIPPELL: Go ahead.

25 REDIRECT EXAMINATION BY MR. STEINER:

1 Q. Let's start at the beginning. Do you
2 remember being asked the question about whether
3 Ms. Van Gelder entered an appearance in this rate case?

4 A. I did.

5 Q. Do you believe that the fees she charged for
6 her work in the 0259 case are proper rate case expenses?

7 A. Absolutely, yes they are.

8 Q. why is that?

9 A. Because that was ordered -- it was part of
10 the construction audit and prudence investigation
11 associated with Iatan 1 and 2 and the common associated
12 with it. It was part of the review being done by Staff.
13 It was a result of an order issued by the Commission
14 associated with the investigation on Iatan, associated with
15 the report that the Staff put together in, I believe, it
16 was in December of 2009.

17 I'm trying to remember times. And so I
18 believe it was absolutely should be included.

19 Q. Do you recall Staff counsel asking you
20 questions about the level of rate case expense in this case
21 compared to the last KCPL rate case?

22 A. I do, yes.

23 Q. And I believe you were indicating that there
24 were lots of reasons why the amounts of rate case expense
25 in that case would be different from the amount experienced

1 by the Company in this case. Do you recall that?

2 A. I do.

3 Q. Can you give me those reasons?

4 A. First of all, this was -- has been a very
5 complex case associated with the implementation of and
6 construction of Iatan 1 and the common associated with it.
7 The majority of this case has revolved around the
8 investigation by Staff and some of the complexities
9 associated with Iatan 2's construction, whether it's -- all
10 kinds of complexities.

11 These data requests and data processes have
12 been at an all time high for our company and we actually
13 testified that last -- last year during the prudence case
14 EO-0259 case. Quite frankly, when you look at the case
15 this is a very complex case. There's a lot of pieces,
16 parts to it. There's been a lot of contention between the
17 parties -- between the Staff and the Company regarding, you
18 know, data request process et cetera.

19 we actually have quarterly -- pardon me,
20 monthly reports from the Staff. We've had hearings
21 throughout the case from the Commission addressing if we're
22 complying with data requests and if there are any issues
23 outstanding. I think we've had four hearings on that. And
24 so it's just been an awful lot of things going on.

25 And there's been a lot of introduction of

1 new subject matter. We've gone through a lot of different
2 new issues that we've not had before that may have happened
3 in the past.

4 Q. And of course the 089 case -- 0089 case and
5 the 0090 case did not go to hearing; is that correct?

6 A. That's correct. A large part of what is
7 included in rate case expense in this case is a result of
8 what was completed in the last case. The Staff and the
9 Company had an agreement that allowed us to -- we had a
10 defined time period that -- where rate case expenses were
11 cut off and the costs after that were actually included in
12 this case. And so that added to this cost also.

13 Q. You were asked some questions about what's
14 been marked as Exhibit 327. Do you have that in front of
15 you?

16 A. I do.

17 Q. Did Staff ever tell the Company that it's
18 response to data request was insufficient?

19 A. To my knowledge, no. I mean, it could have
20 come back in another data request digging more detail, but
21 no.

22 Q. You were asked some questions by Staff
23 counsel regarding the requesting of information regarding
24 legal expenses in June of 2010. Do you recall that?

25 A. I don't. You got to help refresh --

1 Q. Then I guess I can't ask you any questions.

2 A. I'm sorry.

3 MR. STEINER: That's all I have, Your Honor.

4 Thank you.

5 JUDGE DIPPELL: All right. Thank you,

6 Mr. Rush. I believe that concludes your testimony.

7 (Witness excused.)

8 JUDGE DIPPELL: Okay. Let's take just a
9 brief break between these witnesses. Why don't we come
10 back at 20 after, that's just about seven minutes. It will
11 give everybody a chance to get a drink and come back for
12 our next witness, which I believe is the last witness. No.
13 Two more witnesses today.

14 So let's go ahead and go off the record.

15 (Off the record.)

16 JUDGE DIPPELL: And we're back on the record
17 after a short break. And Mr. Woodsmall asked that I take
18 up an issue for him before we begin with the next witness.

19 MR. WOODSMALL: Quick issue, same issue on
20 rate case expense. We'd ask that you'd take official
21 notice of some certain portions of the transcript from the
22 last litigated KCP&L Case ER-2007-0291 and I'll give you
23 specific cites.

24 The purpose of this is to show that KCP&L
25 in-house counsel, unlike this case, actually litigated a

1 fair number of issues in that case. And it provides a good
2 comparison, so I'd ask that since it's a Commission record
3 that you take official notice of these transcript sections.
4 Again, it's Case No. ER-2007-0291 transcript pages 69
5 through 134 and 160 through 179 in which KCP&L attorney
6 Riggins tried the issue of policy.

7 Transcript Page 644 through 654 in which
8 KCP&L attorney Riggins tried the Hawthorn 5 issue in that
9 case. Transcript Pages 654 to 658 in which KCP&L attorney
10 Riggins tried the uranium enrichment overcharge issue in
11 that case. And transcript Pages 1246 through 1266 in which
12 KCP&L attorney Blanc tried the OSS margins issue.

13 JUDGE DIPPELL: Okay. would there be any
14 objection to the Commission taking official notice of those
15 portions of ER-2007-0291 transcript?

16 MR. FISCHER: Judge, I'm going to express an
17 objection to that. I don't see any relevance to that. We
18 have no information in the record about the relative
19 experience of those gentleman at the time and what their
20 role was at the Company at the time, or what other issues
21 the in-house folks were having to deal with or not having
22 to deal with or how much discovery was being dealt with and
23 how much time was being taken by in-house folks or any of
24 those things. I just don't think that's relevant. And I
25 don't think it's proper to take official notice of a record

1 like that.

2 MR. WOODSMALL: Your Honor, we've taken
3 official notice of many things in this case. And taking
4 official notice of the Commission's record in that case is
5 certainly appropriate. Whether KCP&L wants to raise
6 questions about that in a reply brief, that's certainly
7 appropriate.

8 But the fact that KCP&L's general counsel
9 actually came down here and tried issues in that case and
10 the one in this case hasn't, I think is very relevant.

11 You heard Mr. Rush talk about how rate case
12 expense in this case are substantially higher, so I think
13 it's an appropriate comparison and it's an official record
14 of Commission record.

15 JUDGE DIPPELL: Okay. I'm going to -- I'm
16 going to take this one under advisement because I want to
17 think about it just a little bit before I rule and I see no
18 reason to rule on this immediately.

19 MR. WOODSMALL: Thank you, Your Honor.

20 COMMISSIONER DAVIS: Can I inquire of
21 Mr. Woodsmall?

22 JUDGE DIPPELL: Yes.

23 COMMISSIONER DAVIS: Just one question.

24 Mr. Woodsmall, can we take official notice that KCP&L has
25 difficulty keeping a general counsel?

1 MR. WOODSMALL: I don't know. I know
2 they've changed one. I don't know the situation, so I
3 can't --

4 COMMISSIONER DAVIS: Okay. All right.
5 Thank you, Mr. Woodsmall.

6 MR. WOODSMALL: You're welcome.

7 JUDGE DIPPELL: Okay. Is there anything
8 else before we begin with Mr. Majors?

9 Then seeing none, Mr. Majors raise your
10 right hand.

11 (Witness sworn.)

12 JUDGE DIPPELL: Thank you.

13 (Wherein; Staff Exhibit Nos. KCPL 309 HC,
14 KCPL 309 NP, and KCPL 310 were marked for identification.)

15 KEITH MAJORS testifies as follows:

16 DIRECT EXAMINATION BY MS. OTT:

17 Q. Can you please state your name for the
18 record.

19 A. Keith A. Majors.

20 Q. And whom are you employed and what capacity?

21 A. I'm employed by the Missouri Public Service
22 Commission as a utility regulatory auditor.

23 Q. Are you the same Keith Majors who has
24 previously caused to have filed/prepared true-up direct
25 testimony marked for identification as KCPL 309 HC and NP?

1 A. I am.

2 Q. And true-up rebuttal testimony identified as
3 KCPL 310?

4 A. I am.

5 Q. Do you have any corrections to either KCPL
6 309 or KCPL 310?

7 A. I do not.

8 Q. And if I were to ask you the same questions
9 contained therein today, would they be the same?

10 A. Yes.

11 MS. OTT: with that, I'd like to offer KCPL
12 309 HC and NP and KCPL 310 into the record.

13 JUDGE DIPPELL: would there be any objection
14 to KCPL 309 HC and KCPL 310?

15 Seeing none then I would admit those.

16 (Wherein; Staff Exhibit Nos. KCPL 309 HC,
17 KCPL 309 NP, and KCPL 310 were received into evidence.)

18 ' MS. OTT: And with that I'll tender
19 Mr. Majors for cross-examination.

20 JUDGE DIPPELL: And is there
21 cross-examination from the Company.

22 MR. FISCHER: Just a couple, Judge.

23 CROSS-EXAMINATION BY MR. FISCHER:

24 Q. Mr. Majors, does Staff agree the Iatan 1 and
25 the Iatan common regulatory asset balances as determined by

1 the Commission in this case should be amortized over 26
2 years for KCPL and 27 years for GMO?

3 A. I do.

4 Q. And if I asked you the same question
5 regarding the Iatan 2 regulatory asset would the year --
6 would you agree it ought to be amortized over 47.7 years?

7 A. The Company particularly employees the
8 Company, myself, in discussions have come to an agreement
9 for this specific case that the amortization rate for the
10 Iatan 2 regulatory assets should be 47.7 years.

11 Q. And that's in agreement now with the
12 Company?

13 A. It's been a verbal agreement that's been
14 reflected in Staff's EMS run.

15 Q. Okay. That's okay with the -- that's okay
16 with the Staff?

17 A. Yes.

18 MR. FISCHER: Okay. That's all I have,
19 Judge. Thanks.

20 JUDGE DIPPELL: All right. Are there any
21 questions for Mr. Majors from Commissioner Davis?

22 COMMISSIONER DAVIS: No.

23 JUDGE DIPPELL: All right. Then there are
24 no questions from the bench. Is there any redirect?

25 MS. OTT: Just a couple questions.

1 REDIRECT EXAMINATION BY MS. OTT:

2 Q. Mr. Majors, that agreement that you have
3 between KCPL for the amortization rates, is that for this
4 case only, the agreement?

5 A. It is. And between -- only as it applies to
6 the Iatan 2 as adjusted by Staff, regulatory asset
7 amortization for this case only. It would be the two
8 cases; KCPL and the GMO cases.

9 Q. And why did Staff come to that agreement?

10 A. We had agreed with the Company's witness to
11 use the amortization rate in the work papers that they had
12 provided. Initially those work papers were incorrect.
13 Subsequently those have been corrected. The amortization
14 rate went from a 60-year to a 47.7-year, which as I said,
15 has been reflected in Staff's updated EMS cost of service
16 models for this case only.

17 Q. And is the reason that you only agreed to it
18 for this case because is the regulatory asset number
19 completed?

20 A. No. The regulatory asset will grow until
21 the effective date of rates in the Kansas City Power and
22 Light and GMO rate cases, which would be projected at this
23 point would be May 4th, 2011 and June 4th, 2011. It will
24 grow until that time when they will stop accruing carrying
25 costs and depreciation expenses and regulatory assets. And

1 those will be addressed in the next rate case.

2 MS. OTT: I have nothing further. Thank
3 you.

4 MR. FISCHER: Judge, with the indulgence of
5 staff counsel, can I ask just one question to clarify our
6 agreement?

7 JUDGE DIPPELL: Staff?

8 MR. FISCHER: Would that be okay? It's not
9 really cross. I just want to make sure we're together of
10 what happens. Is that all right?

11 MS. OTT: That's fine.

12 MR. FISCHER: Mr. Majors, in the next case
13 once the regulatory assets balances are finalized, the
14 balances will be transferred to the plant accounts as been
15 requested by KCPL and depreciated using the authorized
16 depreciate rates? Is that your understanding?

17 THE WITNESS: I think that is what the
18 Company has proposed. I think it should be evaluated in
19 the next case whether those balances should be -- or
20 whether those -- the regulatory assets should be spread
21 over the balances of plant in-service.

22 MR. FISCHER: Okay. Thank you very much.

23 JUDGE DIPPELL: Ms. Ott, did you have
24 anything following up on that?

25 MS. OTT: No. Thank you.

1 JUDGE DIPPELL: All right. Then Mr. Majors,
2 I believe that concludes your testimony. You may step
3 down.

4 (Witness excused.)

5 JUDGE DIPPELL: I think that that concludes
6 the rate case expense and regulatory assets issue and the
7 next issue on our list is fuel and purchase power.

8 MR. STEINER: Our witness is not available
9 until 8:30 tomorrow morning by phone.

10 JUDGE DIPPELL: We have -- I had Ms. Maloney
11 down today, is that --

12 MR. STEINER: I'm sorry. I got mixed up.
13 Yes. She is next.

14 JUDGE DIPPELL: Okay.

15 MR. FISCHER: Judge we have no questions.

16 MS. OTT: Those are official -- those are
17 the exhibits --

18 JUDGE DIPPELL: All right. All right. Let
19 me call --

20 Let's go off the record for just a minute.

21 (Off the record.)

22 JUDGE DIPPELL: Ms. Maloney, raise your
23 right hand.

24 (Witness sworn.)

25 JUDGE DIPPELL: Thank you. Mr. Thompson, I

1 have a different numbering scheme, if you maybe haven't
2 heard that earlier today. So let me look up what numbers I
3 have for Ms. Maloney.

4 MR. THOMPSON: Judge, having served on that
5 side of the bench for some time, I knew that only your
6 numbers mattered, so I came with none.

7 JUDGE DIPPELL: Okay. And I'm having
8 trouble -- is her testimony only GMO?

9 MR. THOMSON: Her testimony, in fact, is
10 only GMO, true-up direct in the 0356 case.

11 JUDGE DIPPELL: And apparently I somehow
12 skipped Ms. Maloney. I'm looking at Company exhibits. I
13 apologize.

14 Okay. For Ms. Maloney I have GMO 268.

15 MR. THOMPSON: Thank you, Your Honor.

16 JUDGE DIPPELL: That's HC. Correct?

17 MR. THOMPSON: HC and NP.

18 (Wherein; Staff Exhibit Nos. GMO 268 HC and
19 GMO 268 NP were marked for identification.)

20 JUDGE DIPPELL: Okay. Go ahead,
21 Mr. Thompson.

22 ERIN MALONEY testifies as follows:

23 DIRECT EXAMINATION BY MR. THOMPSON:

24 Q. Thank you. Please state your name.

25 A. My name's Erin Maloney.

1 Q. Ms. Maloney, are you the same Erin Maloney
2 that has previously filed testimony in this case and been
3 cross-examined?

4 A. I am.

5 Q. And did you cause to be prepared or did you
6 prepare a piece of testimony referred to as GMO 268 HC and
7 NP?

8 A. I did.

9 Q. And do you have any corrections to that
10 testimony?

11 A. I do not.

12 Q. And if I were to ask you those questions
13 today, would your answers be the same?

14 A. Yes, sir.

15 Q. And are they true to the best of your
16 knowledge and belief?

17 A. Yes.

18 MR. THOMPSON: At this time I would move the
19 admission of GMO 268 HC and NP.

20 JUDGE DIPPELL: And would there be any
21 objection to GMO 268?

22 MR. FISCHER: No objection.

23 JUDGE DIPPELL: All right. I will receive
24 it into evidence.

25 (Wherein; Staff Exhibit Nos. GMO 268 HC and

1 GMO 268 NP were received into evidence.)

2 MR. THOMPSON: Thank you, Judge. And I will
3 tender Ms. Maloney for cross-examination.

4 JUDGE DIPPELL: All right. And it's my
5 understanding the Company has no cross-examination?

6 MR. FISCHER: That's correct.

7 JUDGE DIPPELL: Any questions from the
8 bench, Commissioner Davis?

9 COMMISSIONER DAVIS: No questions for
10 Ms. Maloney.

11 JUDGE DIPPELL: Thank you. Then,
12 Ms. Maloney, that will conclude your testimony. We
13 appreciate it.

14 THE WITNESS: Thank you.

15 JUDGE DIPPELL: You may step down.

16 (Witness excused.)

17 JUDGE DIPPELL: And with that, that was the
18 last witness that I had for today's hearing?

19 MR. FISCHER: That's our understanding.

20 JUDGE DIPPELL: It's my understanding that
21 then we will begin with Mr. Schnitzer first thing in the
22 morning?

23 MR. STEINER: That's right.

24 JUDGE DIPPELL: And --

25 MR. STEINER: I wanted to --

1 JUDGE DIPPELL: Go ahead, Mr. Steiner.

2 MR. STEINER: I have two witnesses that need
3 to appear by phone, Mr. Schnitzer at 8:30. And then
4 Mr. Cline, he has a window also. So he is requesting that
5 he be taken out of order at eleven o'clock because that's
6 when he's available.

7 JUDGE DIPPELL: And I have no problem with
8 that. I will assume that you will -- will you provide me
9 with a phone number at which we can reach those witnesses
10 in the morning or are they --

11 MR. STEINER: Yes.

12 JUDGE DIPPELL: Yes. Okay. And with regard
13 to Mr. Meyers' testimony, can you enlighten me a little
14 more on why it would matter to the Company in which order
15 he went, whether he went before or after Staff.

16 MR. STEINER: It is traditional that -- that
17 the most adverse to least adverse -- excuse me -- least
18 adverse to most adverse -- and we think he's just as
19 adverse as Staff is, so that's our reason.

20 JUDGE DIPPELL: So -- all right.

21 MR. THOMPSON: Can I respond, Your Honor?

22 JUDGE DIPPELL: Yes, Mr. Thompson.

23 MR. THOMPSON: I think that the order of
24 presentation of witnesses by the parties adverse to the
25 Company should be a matter of our discretion and we concur

1 with Mr. woodsmall that Mr. Meyer should go last. Thank
2 you.

3 JUDGE DIPPELL: All right. And I don't
4 believe the order of the witnesses is that critical in this
5 particular event and so I'm willing to allow Mr. Meyer to
6 go after Staff.

7 MR. WOODSMALL: Thank you, Your Honor.

8 JUDGE DIPPELL: So I will set that and let
9 that be known now so that everybody can prepare for
10 tomorrow.

11 And with that is there anything else before
12 we go off the record?

13 Seeing nothing further, we will adjourn for
14 the evening and return at 8:30 in the morning. Thank you.

15 we're off the record.

16 (Off the record.)

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CERTIFICATE OF REPORTER

I, Lisa M. Banks, CCR within and for the State of Missouri, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; the testimony of said witness was taken by me to the best of ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this deposition was taken, and further, that I am not a relative employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the of the action.

Lisa M. Banks, CCR

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21	Exhibit No. KCPL 1216 NP True-up rebuttal testimony of Greg Meyer	4526	
22	Exhibit No. KCPL 1216 HC True-up rebuttal testimony of Greg Meyer	4526	
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