

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

October 3, 2007  
Jefferson City, Missouri  
Volume 7

In the Matter of the )  
Application of Kansas City )  
Power & Light Company for )  
Approval to Make Certain ) Case No. ER-2007-0291  
Changes in Its Charges for )  
Electric Service to Implement )  
Its Regulatory Plan )

RONALD D. PRIDGIN, Presiding,  
SENIOR REGULATORY LAW JUDGE  
JEFF DAVIS, Chairman,  
CONNIE MURRAY,  
TERRY JARRETT,  
ROBERT CLAYTON,  
LINWARD "LIN" APPLING,  
COMMISSIONERS.

REPORTED BY:

PAMELA FICK, RMR, RPR, CCR #447, CSR

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

2 JUDGE PRIDGIN: Good morning. We're  
3 back on the record. It is roughly 8:30 a.m.,  
4 October 3rd, 2007. We are resuming KCPL rate  
5 hearing, and next on the schedule is Talent  
6 Assessment Program employee severance cost and  
7 employee severance cost.

8 And let me inquire of counsel if there's  
9 anything you need to bring to my attention before we  
10 proceed with the next witnesses?

11 MR. BRUDER: Unless you ruled on my  
12 petition for admission pro hac vice, sir?

13 JUDGE PRIDGIN: I thought I already  
14 granted it. If I have not, I apologize. I'll  
15 certainly grant that.

16 MR. BRUDER: Thank you.

17 JUDGE PRIDGIN: You're quite welcome.  
18 Mr. Williams?

19 MR. WILLIAMS: I think not at this point  
20 in time.

21 JUDGE PRIDGIN: All right. Is Ms. Cheatum,  
22 then, ready to come forward?

23 MR. FISCHER: Yes. Kansas City Power &  
24 Light would call Ms. Cheatum. We're ready to go.

25 JUDGE PRIDGIN: All right. Would you

1 please come to the stand, Ms. Cheatum?

2 (THE WITNESS WAS SWORN.)

3 JUDGE PRIDGIN: Anything from counsel  
4 before she is tendered for cross?

5 DIRECT EXAMINATION BY MR. FISCHER:

6 Q. You didn't have any corrections to your  
7 testimony; is that correct?

8 A. I did not.

9 MR. FISCHER: We would tender her for  
10 cross, then, Judge.

11 JUDGE PRIDGIN: Okay. Mr. --  
12 Mr. Williams, will you have cross for this witness?

13 MR. WILLIAMS: Yes, I do.

14 JUDGE PRIDGIN: Any other counsel have  
15 cross?

16 (NO RESPONSE.)

17 JUDGE PRIDGIN: All right. Mr. Williams,  
18 when you're ready, sir.

19 CROSS-EXAMINATION BY MR. WILLIAMS:

20 Q. Are you aware of KCPL's response to data  
21 request 267?

22 A. I don't know that I have that in front  
23 of me. If you could read that to me.

24 Q. Let me move on to something else.

25 Ms. Cheatum, who is your employer?

1           A.       Kansas City Power & Light.

2           Q.       And how long have you been employed by  
3   Kansas City Power & Light Company?

4           A.       I've been there approximately six years.

5           Q.       I want to refer you to page 1 of your  
6   rebuttal testimony.

7           A.       Okay.

8           Q.       And there at the bottom of that page you  
9   indicate that you've testified before the Missouri  
10   Public Service Commission in Case No. ER-2006-0314  
11   which was KCP&L's last rate case before this  
12   Commission; is that not correct?

13          A.       That's true.

14          Q.       Have you testified in any other cases  
15   before regulatory bodies such as the Missouri Public  
16   Service Commission?

17          A.       No, I have not.

18          Q.       Have you ever testified before a  
19   regulatory body in the past on the issue of severance  
20   costs?

21          A.       No, I have not.

22          Q.       Have you attended any training on  
23   ratemaking or development of cost to -- cost of  
24   service or any related classes -- related subject  
25   matter?

1           A.       No, not to my knowledge.

2           Q.       Have you ever had any training on  
3       ratemaking issues?

4           A.       No, I have not.

5           Q.       I want to turn your attention to the  
6       second page of your rebuttal testimony. And towards  
7       the bottom of that page, you indicate that the  
8       purposes of the Talent Assessment Program was to  
9       determine if employees had the skills, ability and  
10      desire to assist the company in reaching its  
11      strategic objectives, do you not?

12          A.       Okay.

13          Q.       I'm sorry?

14          A.       Was there a question? I'm sorry.

15          Q.       Is that not correct?

16          A.       That is correct.

17          Q.       Can you provide me -- specifically state  
18      the objectives that are directly related to the  
19      Talent Assessment Program?

20          A.       I can certainly set the stage for you,  
21      and I think that I -- in my testimony we stated that  
22      we undertook a -- a initiative in the company to  
23      ensure that we had the right skills and abilities of  
24      our folks to move us into a comprehensive energy  
25      plan, for one.

1                   We were undertaking things, obviously  
2     building our coal-fired plant, our wind, and looking  
3     at some energy efficiency projects. It wasn't the  
4     typical regulated utility industry standard that we  
5     had done in the past.

6                   And so because of that, we felt it was  
7     necessary that we were honest with our employees,  
8     told them what the expectations were to ensure that  
9     as we moved in the future towards building this new  
10    company and strategic plan, that they understood what  
11    our expectations were and that we could help them if,  
12    in fact, there were any gaps that were identified in  
13    terms of helping us achieve our strategic intent.

14           Q.     Let me try it this way: What specific  
15    strategic objectives were furthered by the Talent  
16    Assessment Program?

17           A.     What specific strategic objectives?

18           Q.     Yes.

19           A.     Well, again, back in 2004 when we -- we  
20    embarked on a new direction within KCP&L to build a  
21    coal-fired plant, we knew that -- I believe it had  
22    been almost 30 years since we had, you know, built a  
23    coal-fired plant or built wind energy, and certainly,  
24    the skills, talents, abilities and background of  
25    folks to do that was something that we didn't -- we



1 didn't at the time know if we had those skills.

2           So certainly, in order for us to achieve  
3 those objectives, we felt as though it was necessary  
4 to find out if we had the appropriate staff, if we  
5 had the willingness of the staff to help move us into  
6 the next millennium, if you will.

7           Q.     I believe at pages 2 to 3 of your  
8 rebuttal testimony regarding the Talent Assessment  
9 Program, you indicated that employees were identified  
10 as being, quote, role models, closed quote; quote,  
11 well-placed, closed quote; or quote, not keeping  
12 pace, closed quote; is that not correct?

13          A.     That is correct.

14          Q.     How many KCPL employees were identified  
15 as being, quote, role models, closed quote?

16          A.     You know, off the top of my head, I  
17 don't remember the exact number we had -- we had at  
18 the time. I remember -- remember this was management  
19 employees. We had about a little over 800 management  
20 employees, so I --

21          Q.     That's total number of employees was 800  
22 or approximately?

23          A.     Management, which is nonunion.

24          Q.     Let me ask it this way: There were  
25 about 800 employees of KCPL that were reviewed under

1 the Talent Assessment Program; is that not correct?

2 A. That's correct.

3 Q. And do you know how many of those  
4 employees were identified as role models?

5 A. I don't remember off the top of my head.

6 Q. No idea at all? It could have been 800?

7 A. I know it wasn't 800.

8 Q. Do you know how many KCPL employees were  
9 identified as being well-placed?

10 A. Off the top of my head, I don't -- I  
11 don't recall what number.

12 Q. Do you know how many KCPL employees were  
13 identified under the Talent Assessment Program as  
14 being -- not keeping pace?

15 A. I believe it was approximately a little  
16 over 200 employees.

17 Q. And of those approximately a little over  
18 200, 119 were eventually severed from KCP&L?

19 A. That is correct. They -- they either  
20 voluntarily or involuntarily were severed.

21 Q. And were all of KCP&L's management  
22 employees reviewed under the Talent Assessment  
23 Program?

24 A. All management employees other than  
25 officers of the company.

1           Q.       Do you know why officers of the company  
2 were excluded from the Talent Assessment Program?

3           A.       Well, officers of the company in this  
4 specific instance of talent assessment were not  
5 involved. However, there were other mechanisms that  
6 the board and senior officers used to assess  
7 officers.

8           Q.       So they were assessed under some other  
9 program or criteria?

10          A.       I don't know that there was a program,  
11 but it's certainly something that's ongoing.

12          Q.       Of the -- in connection with the 119  
13 employees that were -- left Kansas City Power & Light  
14 under the Talent Assessment Program, was there any  
15 resultant reduction in payroll due to their leaving  
16 the company?

17          A.       No. As a matter of fact, at the end of  
18 2006 -- let me look. The end of 2006 we had  
19 approximately 2,198 employees, and as of September of  
20 this year, we have 2,235. So it actually resulted in  
21 a net increase in employees of approximately 37.

22          Q.       Other than being managers, do you know  
23 anything about the specific job duties of the 119  
24 employees who left Kansas City Power & Light Company  
25 under the Talent Assessment Program?

1           A.       Do I personally know their --

2           Q.       Yes.

3           A.       I mean, I -- I would have to go line by  
4 line of all 119, but, you know, I wouldn't say  
5 specifically I could reiterate to you each individual  
6 objective.

7           Q.       Do you know if any of them had customer  
8 service duties?

9           A.       Again, I could look that up. Most of  
10 our customer service employees are union employees.  
11 The majority of our CSRs are covered under one of our  
12 collective bargaining agreements.

13          Q.       Do you know what the performance  
14 expectations were of the 119 employees who were  
15 severed from KC Power & Light Company under the  
16 Talent Assessment Program?

17          A.       Individual employees of the -- each of  
18 the 119 of the individual employees had specific  
19 goals and objectives that were set based upon their  
20 skills and abilities, their role in the company and  
21 their roles going forward in the company, so they  
22 were individually managed and set.

23          Q.       And if I understand your testimony  
24 correctly, they were meeting those expectations at  
25 the time they were severed, were they not?

1           A.       The 119?

2           Q.       Yes.

3           A.       That is correct.

4           Q.       Before you joined Kansas City Power &  
5 Light Company, did you ever work in the public  
6 utility industry?

7           A.       No, I did not.

8           Q.       Do you think it's reasonable for a  
9 company to do a cost benefit analysis before spending  
10 \$9 million on a project?

11          A.       I think as any publicly traded company,  
12 that we have an obligation to our ratepayers,  
13 shareholders, our customers, our employees to ensure  
14 that we're making the appropriate business decision  
15 no matter what that business decision is.

16                   MR. WILLIAMS: Judge, would you instruct  
17 the witness to answer that question either yes or no  
18 or I don't know?

19                   JUDGE PRIDGIN: If you could ask the  
20 question again. And I believe he is asking a yes or  
21 no question, so ...

22           BY MR. WILLIAMS:

23           Q.       In your opinion, is it reasonable for a  
24 company to do a cost benefit analysis before spending  
25 \$9 million on a project?

1           A.       I would say in general that would be  
2   yes.

3           Q.       Did Kansas City Power & Light Company  
4   perform a cost benefit analysis before it did its  
5   Talent Assessment Program?

6           A.       I did not personally do a cost benefit  
7   analysis so I can't answer the question if it was  
8   done by someone else.

9           Q.       Is your answer I don't know?

10          A.       I don't know.

11                   MR. WILLIAMS: May I approach the witness?

12                   JUDGE PRIDGIN: You may.

13   BY MR. WILLIAMS:

14          Q.       I have a data request response from  
15   Kansas City Power & Light to Staff, data request  
16   number 304. Would you take a look at that? Have you  
17   had an opportunity to review that data request  
18   response?

19          A.       I just did, yes.

20          Q.       And what was that data request inquiring  
21   of Kansas City Power & Light Company?

22          A.       Well, there are three pieces to this.  
23   The first was asking --

24          Q.       Let's focus on the first piece.

25          A.       Okay. Asked if there was a cost benefit

1 analysis performed for the Talent Assessment Program.

2 Q. Are you familiar with the person who  
3 indicated to have provided the response to that data  
4 request?

5 A. I am.

6 Q. And do you have any reason to believe he  
7 would have given an incorrect response?

8 A. Mart is a she, and I would have no  
9 reason to believe that she would -- would not be  
10 truthful.

11 THE COURT REPORTER: I didn't hear you.  
12 What?

13 THE WITNESS: Mart is a she.

14 THE COURT REPORTER: Thank you.

15 THE WITNESS: And I don't believe that  
16 she would give an incorrect response.

17 BY MR. WILLIAMS:

18 Q. I apologize for mischaracterizing her  
19 gender. I was unaware. Is she an employee of  
20 yours -- or a subordinate of yours, or what's her  
21 relationship to you?

22 A. At the time of the talent assessment,  
23 yes, she was a direct report to me.

24 Q. Did you review any of the data request  
25 responses that Kansas City Power & Light provided

1 to -- Company provided to the Staff in this case?

2 A. I did.

3 Q. Did you review this particular data  
4 request response?

5 A. This looks relatively new, and I have  
6 not seen this one. I'm not sure when this was  
7 presented to us.

8 Q. Well, in response to the first query  
9 which was regarding cost benefit analysis --

10 A. Uh-huh.

11 Q. -- and the Talent Assessment Program,  
12 what response did Mart provide?

13 A. Mart states that -- that there were --  
14 there was not a cost benefit analysis done because  
15 this was not a reduction in force in order to achieve  
16 cost savings.

17 THE COURT REPORTER: I didn't hear the  
18 last part of your answer.

19 THE WITNESS: Sorry.

20 THE COURT REPORTER: Reduction in force  
21 what?

22 THE WITNESS: Do you want me to turn it  
23 this way?

24 THE COURT REPORTER: Yes.

25 THE WITNESS: This was not a reduction



1 in force in order to achieve cost savings. Is that  
2 better?

3 THE COURT REPORTER: Yes, thank you.

4 THE WITNESS: You're welcome.

5 THE COURT REPORTER: Sorry.

6 BY MR. WILLIAMS:

7 Q. Do you have any reason to disagree with  
8 that response?

9 A. I do not. It was not a reduction in  
10 force and, in fact, I believe I have stated earlier  
11 that we actually have increased our head count since  
12 the end of 2006.

13 Q. Am I to understand that Kansas City  
14 Power & Light Company only does cost benefit analyses  
15 in connection with talent assessment programs if they  
16 are being done to -- for the purpose of reducing  
17 workforce, then?

18 A. The talent assessment that we did in  
19 2004 was -- first of all, it was not a reduction in  
20 force.

21 Q. I'm not asking about that. My question  
22 is more generic and I think it calls for a yes or no  
23 answer or I don't know.

24 A. Would you repeat the question, please?

25 MR. WILLIAMS: Could the court reporter

1 read the question back, please?

2 (THE COURT REPORTER READ BACK THE  
3 PREVIOUS QUESTION.)

4 THE WITNESS: We have not done a  
5 reduction in force. This is the first talent  
6 assessment we've done in, gosh, probably 25 years.  
7 So, again, if you're asking me if a cost benefit  
8 analysis has been done before, that would have been  
9 before my time, and this clearly states that we did  
10 not do a cost benefit analysis relative to this  
11 talent assessment because it was not a reduction in  
12 force.

13 BY MR. WILLIAMS:

14 Q. And I'm asking you if you only do cost  
15 benefit analyses, if the purpose of the talent  
16 assessment is to reduce workforce.

17 A. Again, I can't answer the question  
18 because that wasn't the intent of the talent  
19 assessment.

20 Q. So your answer is you don't know?

21 A. I don't know.

22 Q. Am I not correct there were 119  
23 employees that were severed under the Talent  
24 Assessment Program?

25 A. Yes, I believe the number was 119.

1           Q.       And those were terminations or were some  
2 of those voluntary severances?

3           A.       They were a combination of voluntary and  
4 involuntary.

5           Q.       Why did Kansas City Power & Light  
6 Company pay severance to employees that voluntarily  
7 severed their employment with Kansas City Power &  
8 Light Company under the Talent Assessment Program?

9           A.       When -- again, we undertook the program  
10 to identify and help people identify their  
11 willingness and ability to help us move forward with  
12 our strategic intent. We thought that it was  
13 appropriate, fair and reasonable to lay out the plans  
14 for our employees, ask them if they understood what  
15 those plans were, evaluated them relative to their  
16 willingness and ability to help us move the company  
17 into a Tier 1 status that, you know, provided  
18 customer focus for -- rely -- to be a  
19 customer-focused reliable utility.

20                   We thought it was fair and reasonable  
21 that we were asking our employees to possibly do  
22 things differently than they'd done in the past. We  
23 were looking at a different skill set. Again, you  
24 know, building a coal-fired plant, building wind  
25 energy was something that we had not done in the

1 past, and ensuring that we had the -- the staff with  
2 the right skills and abilities we thought was -- was  
3 fair.

4 Q. Was any part of that retirement package  
5 to not pursue any litigation against Kansas City  
6 Power & Light Company for wrongful termination?

7 A. This was not a retirement package, it  
8 was a -- it was a severance package. And certainly,  
9 part of our objective is to ensure that -- that we  
10 are prudent and -- and try to mitigate any risk  
11 relative to exiting of employees; thus, a severance  
12 and a waiver of release when we sever employees.

13 Q. So if I understand you correctly, those  
14 employees who were severed under the Talent  
15 Assessment Program as part of that severance, they  
16 agreed not to pursue any litigation they might be  
17 able to pursue against Kansas City Power & Light  
18 Company related to the ending of their employment  
19 with Kansas City Power & Light Company; is that  
20 correct?

21 A. For those employees that signed the  
22 waiver, then they did receive their severance, and  
23 yes, they agreed to -- in exchange for a severance  
24 which was what the contract was, agreed to certain  
25 pieces in the contract.

1           Q.       Did any of the 119 employees who severed  
2       their employment with Kansas City Power & Light  
3       Company under the Talent Assessment Program not sign  
4       the waiver that you referred to?

5           A.       You know, I honestly don't recall.

6           Q.       Do you know if Kansas City Power & Light  
7       Company sought rate recovery of the Talent Assessment  
8       Program in its last rate case? And that would be  
9       Case No. ER-2006-0314.

10          A.       I -- I do not recall unless you have  
11       something in front of you that I could look at.

12          Q.       Well, that, I believe, probably would  
13       have been program cost in 2005. Do you know if  
14       Kansas City Power & Light Company included any of its  
15       Talent Assessment Program costs that it incurred in  
16       2005 in its last rate case?

17          A.       I don't know.

18          Q.       Did you receive any incentive  
19       compensation based on Kansas City Power & Light  
20       Company's or Great Plain Energy, Inc.'s earnings per  
21       share in the year 2006?

22          A.       Did I personally?

23          Q.       Yes.

24          A.       Yes, I did.

25          Q.       Did Kansas City Power & Light Company or

1 Great Plains Energy, Inc. include any of the expense  
2 of the Talent Assessment Program in calculating  
3 earnings per share for 2006 for incentive  
4 compensation purposes?

5 A. I'm sorry. Would you repeat that?

6 Q. Did Kansas City Power & Light Company or  
7 Great Plains Energy include any of the expense of the  
8 Talent Assessment Program in calculating earnings per  
9 share for 2006 for incentive compensation purposes?

10 A. My understanding was that this was a -- we  
11 believe this was a one-time, not-recurring-or-ongoing  
12 cost of operations, and therefore, we excluded that  
13 from our earnings per share.

14 Q. Do you agree that for utilities such as  
15 Kansas City & Power -- Power & Light Company whose  
16 rates are set based on the utility's cost of  
17 providing utility service, those rates should be  
18 based on the utility's ongoing cost of operation?

19 A. I'm not -- I'm not sure I'd be the one  
20 to answer that question. I'm not the expert in that  
21 area, so I don't know.

22 Q. Thank you. I want to turn to just  
23 severance, not the Talent Assessment Program for a  
24 moment.

25 A. Okay.

1           Q.       In its last rate case, did Kansas City  
2 Power & Light Company seek to recover an average of  
3 severance expense?

4           A.       I don't know.

5                   MR. WILLIAMS:  If you'll give me just a  
6 moment.

7                   JUDGE PRIDGIN:  Certainly.

8 BY MR. WILLIAMS:

9           Q.       Ms. Cheatum, I want to turn your  
10 attention to the lower part of page 3 of your  
11 rebuttal testimony.

12          A.       Okay.

13          Q.       And in an answer there, you indicate a  
14 cost -- dollar figures for costs that were incurred.  
15 Do you know if those figures are still accurate or if  
16 they've been revised since you prepared your  
17 testimony?

18          A.       I don't know that they have been  
19 revised.

20          Q.       As far as --

21          A.       I assume they're accurate.

22          Q.       As far as you know, those are still the  
23 correct numbers?

24          A.       Yes, sir.

25                   MR. WILLIAMS:  No further questions.

1 JUDGE PRIDGIN: Mr. Williams, thank you.

2 Let me see if we have any questions from the bench.

3 Commissioner Murray?

4 COMMISSIONER MURRAY: I don't believe I  
5 do, thank you.

6 JUDGE PRIDGIN: All right. Thank you.

7 Commissioner Jarrett?

8 COMMISSIONER JARRETT: Thank you.

9 QUESTIONS BY COMMISSIONER JARRETT:

10 Q. Good morning.

11 A. Good morning.

12 Q. I have just a couple of quick questions.  
13 Again, looking at page 3, those numbers that counsel  
14 had referred you to, the severance number, eight  
15 million -- a little over \$8 million, about how many  
16 employees -- do you know about how many employees  
17 that covered?

18 A. That was approximately the 119 that were  
19 severed.

20 Q. And then the outplacement, I assume  
21 that's for helping folks find other jobs?

22 A. Correct. That's for transitional  
23 services in looking for a new job.

24 Q. And as I understand your testimony, the  
25 reason for the Talent Assessment Program is because



1 the company was moving into some new projects and new  
2 areas, and you wanted to make sure that your current  
3 employees were aligned and able to kind of move into  
4 those new areas; is that --

5 A. That is correct.

6 Q. -- is that accurate?

7 A. Yes.

8 Q. I guess my -- my next question is,  
9 shouldn't -- shouldn't supervisors/managers of  
10 employees, shouldn't they be doing, I guess, really,  
11 a Talent Assessment Program on their employees every  
12 day? I mean, if their employees aren't performing or  
13 the supervisor or the manager doesn't think they're  
14 going to be able to perform, shouldn't a manager be  
15 able to know that without any sort of formal talent  
16 assessment?

17 I guess my question is, why was a formal  
18 talent assessment necessary when it seems to me the  
19 role of management is to be doing that anyway on a  
20 daily basis to make sure their employees are doing  
21 what they're supposed to be doing or are able to do  
22 what they will be asked to do in the future? Sorry  
23 for that long-winded question.

24 A. That's all right. Certainly an  
25 expectation of managers is to ensure that employees

1 are meeting the expectations of the -- of the job  
2 that was set forth for them in the prior year. As we  
3 were -- as we were looking towards a five-year  
4 comprehensive plan and stating that these were the  
5 skills, abilities and talents we needed for the  
6 future, in many cases, and obviously in the 119 --  
7 actually, we had originally in that group a little  
8 over 200, I believe, as I stated earlier -- we  
9 recognized, and I think our employees recognized that  
10 what we were asking for them to help us achieve in  
11 the future, they either -- pardon me -- didn't have  
12 the skills or didn't have the willingness to move us  
13 relative to our strategic intent.

14 And, you know, back in 2004 when we  
15 undertook this, you know, certainly I don't know that  
16 we knew what the future horizon was, but we're very  
17 proud of the fact that -- yeah, and I think that  
18 you've all seen the J.D. Power's residential index  
19 that states that we're Tier 1.

20 I think that, you know, moving forward,  
21 we have a lot of good things that have happened  
22 because we took a reasonable approach to ensure we  
23 had the right people with the right skills in the  
24 right jobs.

25 You know, additionally, this past year

1 we were recognized as the best -- one of the best  
2 utilities, I should say, in the nation by EEI, which  
3 is the Edison Electric Institute. That's a -- that's  
4 a -- that's a high honor, and we were one that -- one  
5 of the two companies that won that.

6 And again, we believe that, you know,  
7 undertaking this talent assessment, ensuring we had  
8 the right people helped us in many ways achieve what  
9 we've been able to achieve over the last few years.

10 COMMISSIONER JARRETT: Thank you. I  
11 have no further questions, Judge.

12 THE WITNESS: You're welcome.

13 JUDGE PRIDGIN: Commissioner, thank you.  
14 I have no questions. Any -- sorry, Commissioner  
15 Murray.

16 COMMISSIONER MURRAY: Yes, I do have one  
17 now.

18 QUESTIONS BY COMMISSIONER MURRAY:

19 Q. I decided I do have a question.

20 A. Oh, yes, ma'am.

21 Q. In the last rate case, the Commission  
22 did not include the unfilled positions for which  
23 there were offers outstanding; is that correct?

24 A. That is correct.

25 Q. And do you know what -- if there is a

1 similar issue in this case for any positions that are  
2 unfilled, or is the company in a -- in a status where  
3 they're really -- most things -- most of the  
4 positions are filled at this time? Do you know?

5 A. You know, I don't know, but at any given  
6 time we have numerous open positions. It's kind of  
7 the course of business that we have. And -- and our  
8 workforce is not unlike many other workforce, you  
9 know, groups that we have. Many folks that are able  
10 to retire and have a relatively low turnover level,  
11 about 3 and a half to 4 percent every year. But  
12 specifically for this case, I don't know that they're  
13 asking for that.

14 Q. All right. And then the severance  
15 costs, there -- there is a level of severance costs  
16 that is just in the ordinary course of business; is  
17 that correct?

18 A. In general, that's correct, yes.

19 Q. And the Staff's position on the level of  
20 severance costs that the company is claiming over an  
21 average, is it an average of three years?

22 A. I believe we asked for a five-year  
23 amortization, but let me check.

24 Q. But it was based on, I believe, a  
25 three-year average?

1           A.       That is correct.

2           Q.       And is Staff suggesting that none of the  
3 severance costs be recovered?

4           A.       I believe that that was, yes, the  
5 recommendation.

6           Q.       All right. Now, in determining that  
7 three-year average, do you know if that -- the three  
8 years that was -- that were included, were they  
9 typical years or was there an aberration within those  
10 three years?

11          A.       I don't know that anything's typical,  
12 but certainly if I were to -- and I did look at net  
13 of the talent assessment for the year 2006, the  
14 average severance was about \$60,000.

15                   And when I say average severance, that's  
16 not including outplacement or taxes, so that's just  
17 the pure cost of -- of severance for the individuals,  
18 which is approximately \$540,000 a year, if I use  
19 2006's as a basis.

20          Q.       All right. But was there anything  
21 unusual about 2006?

22          A.       No, other than, again, I backed out 119  
23 that were in Talent Assessment, so pretty typical.  
24 And again, goes really with our attrition levels  
25 which were really quite low.

1 COMMISSIONER MURRAY: All right. Thank  
2 you.

3 THE WITNESS: You're welcome.

4 JUDGE PRIDGIN: Commissioner, thank you.  
5 Further bench questions?

6 (NO RESPONSE.)

7 JUDGE PRIDGIN: All right. Recross  
8 based on bench questions?

9 MR. WILLIAMS: Yes.

10 JUDGE PRIDGIN: Mr. Williams.

11 RE-CROSS-EXAMINATION BY MR. WILLIAMS:

12 Q. Ms. Cheatum, Commissioner Jarrett asked  
13 you if the Talent Assessment Program was in  
14 connection with moving into new areas. My question  
15 to you is, is there any relationship between the  
16 Talent Assessment Program and Great Plains Energy's  
17 proposed acquisition of Aquila, Inc.?

18 A. Was there a connection between the  
19 talent assessment, if I understand the question, and  
20 the acquisition of Aquila?

21 Q. Yes. Is that one of the new areas that  
22 is being moved into?

23 A. In 2004 I don't think that we had  
24 knowledge that we were looking at an acquisition of  
25 Aquila, so I don't believe that that would have been

1 a reasonable assumption.

2 Q. And then Commissioner Murray asked you  
3 about Staff's position on the severance aside from  
4 the Talent Assessment Program.

5 A. Uh-huh.

6 Q. Without speculating, what benefit did  
7 the -- those severed employees have to ratepayers --  
8 or what benefit did severing those employees have to  
9 ratepayers?

10 A. I think some are certainly intrinsic. I  
11 talked a little bit about the fact that our  
12 reliability numbers have continued to be very good  
13 and continued to increase. We've been -- we've now  
14 moved into Tier 1 in many aspects of our business,  
15 including a residential customer service, and have  
16 been recognized by the preeminent utility industry  
17 group, EEI, for being a top -- top-rated utility for  
18 leadership, management and providing service.

19 Q. Well, in connection with that, are you  
20 familiar with Kansas City Power & Light Company's  
21 J. D. Power and Associates' ratings from 2003 through  
22 2007?

23 A. Am I familiar with those?

24 Q. Yes.

25 A. I'm -- I mean, I'm aware that we have

1 ratings, yes.

2 Q. If I told you that Kansas City Power &  
3 Light Company's overall score in 2003 was 721, would  
4 that surprise you?

5 A. I don't -- I don't know that -- I don't  
6 know that relative number.

7 Q. Well, do you know what the trend has  
8 been for Kansas City Power & Light Company's J. D.  
9 Power and Associates' ratings from 2003 through 2007?

10 A. A pure number, I don't know. I know --

11 Q. Trend, I asked for the trend, ma'am.

12 A. I don't know what the trend is in terms  
13 of pure numbers. I do know that then we moved into  
14 the top quartile of all companies that were rated in  
15 the J.D. Power's residential customer survey.

16 Q. Do you know when that occurred?

17 A. When we moved into Tier 1? It was just  
18 this past rating period.

19 Q. Is that the only one you're familiar  
20 with?

21 A. In terms of what our ranking was?

22 Q. Yes.

23 A. I know we were never Tier 1 before that.

24 MR. WILLIAMS: No further questions.

25 JUDGE PRIDGIN: If there's no further



1 recross, redirect?

2 MR. FISCHER: Yes, your Honor.

3 REDIRECT EXAMINATION BY MR. FISCHER:

4 Q. Let's go just backwards a little bit --

5 A. Sure.

6 Q. -- and start with that last question  
7 about the J.D. Power's rankings. Ms. Cheatum, are  
8 you aware of what Kansas City Power & Light's ranking  
9 in that particular survey was during the 2007 period  
10 in terms of out of the -- out of the Midwest  
11 utilities, where did we rank?

12 A. I think -- I think we were fourth, third  
13 or fourth --

14 Q. Fourth?

15 A. -- yeah, in -- of all the utilities.

16 Q. And can you tell the Commission, was  
17 that an improvement over previous years in terms of  
18 your rankings for other -- as compared to other  
19 Midwest utilities?

20 A. It absolutely was. It was the first  
21 time we'd moved into the top quartile of -- of like  
22 utilities.

23 Q. I believe that information may be  
24 included in Staff's case, and we can get into that a  
25 little bit later. And you also mentioned on that

1 topic that Kansas City Power & Light had received an  
2 award from, I believe you said the Edison Electric  
3 Institute --

4 A. Yes.

5 Q. -- this year?

6 A. EEI.

7 MR. FISCHER: Your Honor, I'd like to  
8 have an exhibit marked.

9 JUDGE PRIDGIN: Yes, sir.

10 (EXHIBIT NO. 33 WAS MARKED FOR  
11 IDENTIFICATION BY THE COURT REPORTER.)  
12 BY MR. FISCHER:

13 Q. Ms. Cheatum, I put in front of you  
14 what's been marked as Exhibit 33. Can you explain to  
15 the Commission what this appears to be?

16 A. This appears to be a news-related -- a  
17 new release, pardon me, announcing that Great Plains  
18 Energy --

19 MR. WILLIAMS: Judge, I'm gonna object  
20 to her just reading -- reading what this is. I mean,  
21 she's just doing hearsay. If she's just explaining  
22 what this document is, I mean, if they want to try to  
23 introduce the document, that's fine, but I don't --  
24 it indicates that it's something that was created by  
25 Edison Electric Institute, and I don't think she's

1 going to be able to lay any kind of a foundation for  
2 admitting this document.

3 JUDGE PRIDGIN: Mr. Fischer, what is  
4 your question, asking her what it was?

5 MR. FISCHER: Yes. I was trying to lay  
6 a foundation, Judge.

7 JUDGE PRIDGIN: I don't see any hearsay,  
8 at least yet, so I'll overrule.

9 THE WITNESS: I believe that what I have  
10 before me is a press release by EEI announcing that  
11 Great Plains Energy and AES were receiving the Edison  
12 Electric Institute Award for 2007.

13 BY MR. FISCHER:

14 Q. This is the Edison Award that you were  
15 talking about?

16 A. Yes, it is.

17 Q. Can you explain what the Edison Award  
18 does, what it's intended to do?

19 A. Certainly. The Edison Award really  
20 recognizes leadership, innovation and advancement in  
21 the electric utility industry. That's an  
22 important -- they look at the impact to the  
23 communities, obviously the customers' electric needs  
24 and how we serve those communities.

25 Q. Would they look at things like

1 leadership, innovation and advancement in the  
2 industry?

3 A. Absolutely. In fact, those are --

4 MR. WOODSMALL: Your Honor, may I voir  
5 dire the witness in aid of an objection? I think I  
6 have an objection, but I have some questions.

7 JUDGE PRIDGIN: That's fine. Go ahead.

8 VOIR DIRE EXAMINATION BY MR. WOODSMALL:

9 Q. Have you ever seen this document before?

10 A. I saw this -- yeah, I've seen it before.  
11 I saw it yesterday as well.

12 Q. So prior to being prepared for this  
13 testimony, you had never seen this document before?

14 A. When we won the award, a news release  
15 came out, and at that time we had a synopsis of this,  
16 I would guess you would say, that was given to all of  
17 our --

18 Q. Whose news release, KCP&L had a news  
19 release?

20 A. You know, I'd have to go -- I'd have to  
21 go back and refresh my memory.

22 Q. So a news release came out, but you  
23 don't know whose news release?

24 A. I don't recall.

25 Q. Do you -- prior to seeing this document,

1 did you have any understanding what criteria EEI  
2 used?

3 A. Yes, I did, yes. We've -- we obviously  
4 were quite excited that we had the opportunity to be  
5 one of the companies in the running for this, this --

6 Q. Did you have any understanding of what  
7 the criteria was that EEI used in their rankings?

8 A. No, not prior to this.

9 Q. Okay. So when you were just asked those  
10 questions by counsel, you were merely reading this  
11 press release; is that correct?

12 A. That is correct.

13 MR. WOODSMALL: Thank you, your Honor.  
14 I'd object to this exhibit. She says she's never --  
15 she has seen a press release, but not this. She has  
16 no understanding of what the criteria is; she's  
17 merely reading this press release.

18 To that extent, it is certainly hearsay,  
19 it is certainly being offered now for the truth of  
20 the matter asserted, and we don't know who it is. So  
21 I think it's improper at this point, your Honor.

22 JUDGE PRIDGIN: Mr. Fischer?

23 MR. FISCHER: Your Honor, I'm just  
24 following up on the fact that she -- she indicated  
25 that the company had received the Edison Award, and

1 I'm asking her what -- what is the Edison Award and  
2 give the Commission more information about that  
3 Edison Award.

4 MR. WOODSMALL: And I believe the fact  
5 that they received the award may be one thing, but  
6 for her to read a press release as to the criteria  
7 when she has no knowledge of that criteria, is  
8 certainly outside -- outside the scope of her  
9 expertise here.

10 JUDGE PRIDGIN: Well, I don't -- I don't  
11 know that this exhibit has been offered yet and I  
12 don't -- I don't know if it will be offered, so I'll  
13 certainly allow you to launch --

14 MR. WOODSMALL: Well, I think it's  
15 improper, then, to just have her read something when  
16 she has no idea of the criteria, just to have her  
17 read something is certainly inappropriate too. If  
18 she's an expert, let her testify on things that she's  
19 an expert on, not the fact that she's an expert on  
20 her ability to read.

21 JUDGE PRIDGIN: Okay. Mr. Fischer?

22 MR. FISCHER: Your Honor, I haven't  
23 asked her to read anything, I think.

24 MR. WOODSMALL: You -- you asked her  
25 questions to which she just started to read.

1                   MR. FISCHER: Your Honor, I have the  
2 right to redirect this witness regarding matters that  
3 were brought up during the -- during the  
4 cross-examination and questions from the bench. That  
5 clearly came up during questions from the bench, and  
6 I have the opportunity to elaborate upon that, and  
7 that's what we're trying to do here.

8                   MR. WOODSMALL: And that's not my  
9 objection. I agree with that. My objection is she  
10 is not an expert on EEI and its criteria. She -- she  
11 just stated that she had no idea the criteria. So if  
12 she is to be asked questions, she needs to be an  
13 expert on the topic, and she's not.

14                  JUDGE PRIDGIN: Okay. I'm -- I'm going  
15 to overrule and allow Mr. Fischer to continue, and I  
16 want you to ask questions about what she knows.

17                  MR. FISCHER: Okay.

18                  JUDGE PRIDGIN: And if this document  
19 contains information that she knows, I mean, you can  
20 certainly get into that on redirect. If it's a  
21 matter of simply reading, I'd rather not get into  
22 that.

23 DIRECT EXAMINATION (RESUMED) BY MR. FISCHER:

24                  Q.       Ms. Cheatum, would you explain for  
25 the -- for the bench particularly what the Edison

1 Electric Institute is?

2 A. The Edison Electric Institute is -- is  
3 an organization that electric utilities belong to.  
4 It's a preeminent electric utility organization that  
5 is recognized by most public -- publicly traded  
6 utilities in the United States.

7 Q. What's your understanding of what the  
8 Edison Award is?

9 A. My understanding of the award is that  
10 the Edison Award recognizes shareholder-owned  
11 utilities and international utilities that  
12 distinguish themselves in leadership, innovation and  
13 advancement of the industry.

14 MR. WOODSMALL: Your Honor, I'd point  
15 your attention to sentence 3 of paragraph -- or  
16 sentence 1 of paragraph 3, "Leadership, innovation  
17 and advancement of the industry." She is reading out  
18 of a document that she has no understanding -- no  
19 expert understanding of this topic.

20 JUDGE PRIDGIN: Mr. Fischer?

21 MR. FISCHER: Your Honor, I'm just  
22 asking what her understanding is, whether -- you  
23 know, counsel over here is speculating about what  
24 that is. She has the right to testify about what her  
25 understanding is about the Edison Electric Institute



1 and the Edison Award.

2 MR. WOODSMALL: Well, let's take the  
3 document away from her and then have her answer the  
4 questions.

5 JUDGE PRIDGIN: That's a great idea.  
6 Let's do that.

7 BY MR. FISCHER:

8 Q. Ms. Cheatum, I believe you testified  
9 that Kansas City Power & Light received the Edison  
10 Award; is that correct?

11 A. That is correct.

12 Q. And when did that happen, what year?

13 A. It was this year, earlier this year.

14 Q. Okay. And to your knowledge, were there  
15 other utilities that received that award?

16 A. Yes, AES. I'm not familiar with them,  
17 but yes, there was another utility we shared the  
18 award with.

19 Q. Okay. So Kansas City Power & Light was  
20 one of two to receive basically the utility of the  
21 year award?

22 A. Correct.

23 MR. FISCHER: Okay. You know, Judge,  
24 I'm not gonna pursue this if this is such a sensitive  
25 topic. We're quite proud of the fact that Kansas

1 City Power & Light got the utility of the year award  
2 in nineteen -- in 2007.

3 MR. WOODSMALL: Your Honor, I believe  
4 now counsel is attempting to testify. If he's not  
5 going to pursue it, he can move on.

6 MR. FISCHER: And so therefore --

7 MR. WOODSMALL: Your Honor, I have an  
8 objection here. Counsel is testifying.

9 JUDGE PRIDGIN: I'm waiting to hear  
10 what's after the "therefore." What --

11 MR. FISCHER: And therefore, I will move  
12 on, but -- and we will pursue this in another way.

13 JUDGE PRIDGIN: That's fine. Any  
14 further redirect?

15 MR. FISCHER: Yes, your Honor.

16 BY MR. FISCHER:

17 Q. I think the question came up regarding  
18 the average routine severance payment that was made,  
19 and I believe you indicated it was around -- averaged  
20 about \$60,000?

21 A. That's correct. That was for 2006.

22 Q. Ms. Cheatum, can you explain whether  
23 there was a formula that was used for those severance  
24 payments generally?

25 A. We don't have a -- an -- pardon me, an

1 ERISA plan which would specifically lay out a formula  
2 for severance plans. However, we have guidelines  
3 that we have followed for severance plans based upon  
4 one's job in the company.

5 Q. I believe you indicated in your  
6 testimony today that you -- prior to being with  
7 Kansas City Power & Light, you were with other --  
8 other nonutility industries; is that correct?

9 A. That's correct.

10 Q. Would you explain your background  
11 related to other industries?

12 A. Certainly. I've spent almost 15 years  
13 with PepsiCo and/or Wal-Mart in many different  
14 capacities, generally in HR half of that time, and  
15 half of the 15 years probably in operations.

16 Q. In your capacity with those unregulated  
17 companies, did you have the occasion to -- to witness  
18 the use of severance payments by those companies  
19 routinely?

20 A. In my past experience it was -- it was  
21 customary and ordinary, I would tell you, to use  
22 severance as a mechanism to help people exit the  
23 organization.

24 Q. So it's not an uncommon practice?

25 A. It's quite customary in -- in the

1 nonregulated world that I worked in for many years.

2 Q. I believe you were also asked a question  
3 regarding the history of the Talent Assessment  
4 Program by counsel. Could you explain the history of  
5 this type of program with Kansas City Power & Light?  
6 Have you had this every two years or every three  
7 years or what's been your history there?

8 A. The Talent Assessment -- and as -- I've  
9 been here approximately six years. During that  
10 six-year time, we have -- we have not undertaken an  
11 annual talent assessment. And my understanding was  
12 it's been many years, 25 or 30 years since any kind  
13 of assessment of current talent has been executed in  
14 the company.

15 Q. Okay. I think you had some questions  
16 regarding the 119 employees that were severed under  
17 the program. Can you tell the Commission how many of  
18 those -- how many more than the 119 severance --  
19 severed employees were not keeping pace at the  
20 beginning of the program when you first looked at  
21 those employees?

22 A. If I understand the question, you're  
23 asking me how many people were in the group that were  
24 not keeping pace?

25 Q. Yes.

1           A.       Okay.

2           Q.       Compared to, then, the 119 that were  
3 severed.

4           A.       I'm just -- okay. We had approximately  
5 200, a little over 200 employees that fell into the  
6 not-keeping-pace. I think what's interesting is  
7 almost 43 percent of those ended up staying with the  
8 company.

9                    So we had a great majority that chose to  
10 close the gaps, that wanted to be a part of -- of our  
11 ongoing strategic intent and continue to be employed  
12 today.

13          Q.       And how many employees were terminated  
14 during the test year that were not related to the  
15 Talent Assessment Program?

16          A.       I believe we had nine employees that  
17 were terminated outside of the Talent Assessment  
18 Program.

19          Q.       Okay. And were some of those terminated  
20 for cause?

21          A.       In some cases they were terminated for  
22 cause, yes.

23          Q.       And I believe you were asked a question  
24 about whether the talent assessment costs had been  
25 requested for recovery in the previous rate case. Do

1     you know when the bulk of the talent assessment costs  
2     would have been incurred, in what year, what test  
3     period?

4             A.       I believe most of the costs were  
5     incurred in 2006.

6             Q.       Which is the test year in this case --

7             A.       That is correct.

8             Q.       -- is that your understanding?

9             A.       That is my understanding.

10            MR. FISCHER:   Okay.  I believe that's  
11     all the questions I have, your Honor.

12            JUDGE PRIDGIN:  All right.

13            MR. FISCHER:  Thank you.

14            COMMISSIONER MURRAY:  Judge, I hate to  
15     do this, but I want to ask her a couple more.

16            JUDGE PRIDGIN:  Absolutely.

17     QUESTIONS BY COMMISSIONER MURRAY:

18            Q.       I apologize, but --

19            A.       Uh-huh.

20            Q.       -- I was just -- I'm sitting here  
21     wondering a couple of things.  Isn't there a well-  
22     recognized impending shortage nationwide of utility  
23     management talent, well-trained utility talent?

24            A.       I don't know that there's a recognized  
25     national shortage.  I believe that in some specific

1 cases we have most recently seen that there's been a  
2 shortage in some of our skilled labor, i.e., our  
3 crafts. And again, the talent assessment was  
4 really -- didn't include our union membership, it  
5 included our management membership.

6 Q. All right. So this impending shortage  
7 that we keep hearing about and reading about is not  
8 at the management level?

9 A. Well, I think as we -- probably many of  
10 us know in this room, the baby boomer era is coming,  
11 you know, to an end, and certainly just the pure  
12 numbers of folks that are eligible to work in the  
13 workforce is declining.

14 So clearly, we're going to have fewer  
15 people, but, you know, again -- and I didn't get into  
16 this, but many of the things that we looked at when  
17 we were looking towards the future was -- was  
18 obviously the skills and ability.

19 And many -- much of that deals with our  
20 ability to find new technology so that we can have  
21 efficiencies, and, again, you know, computers and  
22 things to help us do things, you know, better and in  
23 some cases replace that skill.

24 Q. So would you say that KCP&L, as a result  
25 of this Talent Assessment Program, has become leaner

1 and meaner, or is KCP&L routinely replacing all of  
2 those management employees?

3 A. Well, I believe as I testified, we've  
4 actually increased our head count since 2006 by  
5 approximately 37 employees. But again, we -- we  
6 embarked on building a coal-fired plant, we needed to  
7 build a management infrastructure to ensure that we  
8 could get that built, wind, you know, our energy  
9 efficiency. So I think it's normal course of  
10 business given what we have in front of us that we  
11 would increase the full-time employee head count.

12 Q. And that would have happened regardless  
13 because of the new things that were being taken on?

14 A. Correct. Absolutely, yes. Yes, ma'am.

15 Q. Okay. When you're looking -- as an --  
16 as an HR person, when you are looking at improving  
17 the performance of management overall, what is the  
18 purpose of improving that performance? Who does it  
19 serve?

20 A. Well, first of all, I guess I would say  
21 that we have a -- I believe a very robust,  
22 disciplined performance management system in our  
23 company, and that disciplined performance management  
24 system we believe benefits certainly the employee,  
25 the shareholder, the customers, the ratepayers.



1                   When -- when they have an expertise in  
2   their job, we find better, faster, more efficient  
3   ways of doing things, we believe that that's in the  
4   benefit of all of our constituents.

5                   COMMISSIONER MURRAY: All right. Thank  
6   you.

7                   THE WITNESS: You're welcome.

8                   JUDGE PRIDGIN: Mr. Chairman?

9   QUESTIONS BY CHAIRMAN DAVIS:

10           Q.       Good morning, Ms. Cheatum. I apologize  
11   if any of the questions I ask you are redundant. I  
12   haven't had an opportunity -- I was absent for about  
13   a half an hour this morning in a division directors  
14   meeting. So anyway, I will read the transcript.

15                   When an employee is severed from KCP&L,  
16   does KCP&L fill that position immediately?

17           A.       You know, it would be on a case-by-case  
18   basis. I would, you know, have to look at the reason  
19   for the severance -- I mean, why they were severed,  
20   so I can't --

21           Q.       Okay. Well, let's look at the 119  
22   people that were severed because of the Talent  
23   Assessment Program.

24           A.       Uh-huh.

25           Q.       And based on what you know of those

1 positions, were they -- were they filled immediately  
2 or was there some lag?

3 A. There was some lag in filling positions,  
4 albeit, we didn't -- our objective was not for  
5 reduction in force, and we had -- we never said that,  
6 I don't believe.

7 But more importantly, this wasn't about  
8 filling like job for like job. Again, as we looked  
9 at the skills and talents, we needed to go forward,  
10 we filled the jobs relative to what our expected need  
11 was in the future and the skill set that was needed.

12 Q. Okay. Well, I guess what I'm trying to  
13 get at here is, you know, if there was some lag in  
14 filling those positions or, you know, creating  
15 subsequent positions for what we call here at the  
16 state those full-time equivalent slots --

17 A. Uh-huh.

18 Q. -- or those slots, you know, did -- in  
19 the \$8.96 million that KCP&L is seeking for severance  
20 costs due to the Talent Assessment Program, was there  
21 any offset for those employee salaries that were  
22 in -- being recovered in base rates while there was  
23 no one in them?

24 A. I think I understand. So you're asking  
25 because of the impending vacancy, did we account for

1     that?

2           Q.     Uh-huh.

3           A.     I don't know the answer to that --

4           Q.     Who would know --

5           A.     -- off the top of --

6           Q.     Who would know the answer to that?

7           A.     I don't have that information in front

8     of me at this time. I could get that information for

9     you.

10          Q.     Okay. That would -- that would be

11     wonderful.

12          A.     Okay.

13          Q.     Now, I think when I came in here, I

14     heard Mr. Fischer ask you about the formula for

15     determining severance packages. Could -- could you

16     review that for me again one more time?

17          A.     I believe Mr. Fischer asked me for

18     the -- I believe the question was -- I don't know,

19     you can read it back -- but for the formula we used

20     for the nontalent assessment employees formula.

21          Q.     Okay. Well, yes. Well, give me the --

22     give me the nontalent assessment employees formula,

23     and then I want the talent assessment employees

24     formula as well, just so I have an understanding.

25          A.     We -- we -- we -- we have guidelines

1     that we use in the HR Lexicon in order to have a  
2     severance plan that's an ERISA plan which we do not  
3     have. It's not an ERISA plan. We use a formula  
4     that's based on one's level in the company,  
5     professional level, manager level. So there's a base  
6     number of weeks, and then you receive a certain  
7     number of weeks for every year of service.

8           Q.     Okay. So for instance, can you give me  
9     an example of a mid-level manager that has been at  
10    the company 15 years? I mean, how many --

11          A.     An example would be they would probably,  
12    under our severance plan, have between four and six  
13    weeks of base and receive two weeks of pay for every  
14    year of service. So they would have a base of four  
15    plus 30.

16          Q.     Base of four plus 30. So --

17          A.     Two weeks of pay.

18          Q.     -- 34 weeks -- you know, so it would  
19    be -- okay. Now, there were 100 -- 119 employees who  
20    left the company as a result of the Talent Assessment  
21    Program. How many more employees were designated as  
22    not keeping pace and then closed the gap?

23          A.     We had approximately 207 that were in  
24    the not-keeping-pace, so --

25          Q.     Uh-huh.

1           A.       -- 43 percent of those folks -- of the  
2   207, closed the gap and chose to stay. Now -- if  
3   that was the question.

4           Q.       How many employees does KCP&L have?

5           A.       A little over 2,200.

6           Q.       2,200?

7           A.       Correct.

8           Q.       And what's KCP&L's total payroll? Is  
9   that an HC number? No. Okay. So you could --

10                  MR. FISCHER: You can answer to the  
11   extent you know, in round figures, I guess.

12                  THE WITNESS: I don't know. I don't  
13   know.

14   BY CHAIRMAN DAVIS:

15           Q.       Do you know what the total payroll is?

16           A.       No, I do not.

17           Q.       Do you know what the average KCP&L  
18   employee makes in a year?

19           A.       We --

20           Q.       Ballpark it.

21           A.       Yeah, ballpark, about -- without --  
22   again, sorry, I have to qualify this. Without loaded  
23   benefits, just base pay is around 55 to 60.

24           Q.       Okay. So base pay is around 55 to  
25   \$60,000 a year?

1           A.       Now, that is all employees, including  
2 union and management.

3           Q.       That's all employees, including --

4           A.       Correct, including overtime --

5           Q.       So the Talent Assessment project was  
6 just for management employees?

7           A.       That is correct.

8           Q.       Okay. So what's the average salary for  
9 a management employee if you had to guess?

10          A.       Again, I don't know. Do you want a  
11 range?

12          Q.       You have no idea?

13          A.       I would say it's somewhere, you know, in  
14 that range again, 60-ish.

15          Q.       60-ish. And that's base. And then are  
16 they -- how much of a bonus are they eligible for?

17          A.       Well, the bonuses range anywhere from  
18 6 percent of their base salary up to 20 percent of  
19 their base salary at the highest level of management.

20          Q.       Okay. And the severance packages are  
21 just based on base salary, though, correct?

22          A.       That's correct.

23          Q.       Okay. So by my calculations, if you had  
24 roughly \$8.96 million divided by 119 employees,  
25 you're looking at an average severance payment of

1 roughly \$75,000 per employee; does that sound about  
2 right?

3 A. For the talent assessment, that was  
4 around 68,000.

5 Q. Okay. Well --

6 A. That's -- you know --

7 Q. So basically the average -- assume it's  
8 68,000 --

9 A. Uh-huh.

10 Q. -- the average severance package was  
11 more than a year's worth of average salary for  
12 management employees at KCP&L?

13 A. The maximum amount we -- for the  
14 severance package was 52 weeks. So clearly an  
15 average is what it is, so it would --

16 Q. Okay.

17 A. -- be relative to the number of people  
18 and their salary at the time. So, I mean, an average  
19 is an average.

20 Q. Okay. So I wasn't aware that there was  
21 a 52-week maximum.

22 A. That is correct.

23 Q. Okay. And you're in charge of HR; is  
24 that correct?

25 A. That's a tougher question. Actually,

1 day-to-day HR operations is being managed by someone  
2 else right now because I'm doing the Aquila  
3 acquisition, HR merger.

4 Q. Okay. But you have been in charge of  
5 HR; you have HR experience?

6 A. That is very true.

7 Q. Okay. So you're familiar with the term  
8 at-will employment?

9 A. Yes, sir.

10 Q. Okay. What does the term at-will  
11 employment mean to you?

12 A. It means my employment is -- is at will.  
13 I can be terminated for -- for cause or not for cause  
14 at the employer's discretion.

15 Q. Do you know if Missouri is still an  
16 at-will employer state?

17 A. Yes, sir. Yes, it is.

18 Q. It is?

19 A. I believe that is correct.

20 Q. So KCPL didn't -- didn't owe these  
21 employees any obligation, did it?

22 A. No, we did not.

23 CHAIRMAN DAVIS: Thank you. No further  
24 questions.

25 JUDGE PRIDGIN: Mr. Chairman, thank you.



1 Any further bench questions?

2 (NO RESPONSE.)

3 JUDGE PRIDGIN: Recross based on bench

4 questions?

5 MR. WILLIAMS: I think I have one

6 question.

7 RECROSS-EXAMINATION BY MR. WILLIAMS:

8 Q. You indicated that 52 weeks was the

9 maximum for the Talent Assessment Program? 52 weeks

10 of your base pay was the amount of the severance

11 package at max; is that not correct?

12 A. Yeah, yeah. We would pay up to 52 weeks

13 of pay, yeah.

14 Q. Did you pay any employees that were

15 severed anything less than the maximum?

16 A. We did, yes.

17 Q. Do you know what the low end of it was?

18 A. You know, off the top of my head, I do

19 not.

20 MR. WILLIAMS: No further questions.

21 JUDGE PRIDGIN: Further recross?

22 Redirect?

23 MR. FISCHER: No, thank you, your Honor.

24 JUDGE PRIDGIN: All right. Thank you.

25 Ms. Cheatum, thank you very much.

1 THE WITNESS: Thank you.

2 MR. FISCHER: We would move for the  
3 admission of Ms. Cheatum's rebuttal testimony and ask  
4 that she be excused.

5 JUDGE PRIDGIN: I have that marked as  
6 Exhibit No. 2. Okay. Exhibit No. 2 has been  
7 offered. Any objections?

8 (NO RESPONSE.)

9 JUDGE PRIDGIN: Hearing none, Exhibit  
10 No. 2 is admitted.

11 (EXHIBIT NO. 2 WAS RECEIVED INTO  
12 EVIDENCE AND MADE A PART OF THE RECORD.)

13 JUDGE PRIDGIN: Ms. Cheatum, thank you  
14 very much. You are excused. We're ready to go on to  
15 Mr. Hyneman. And if I'm correct, sir, you had  
16 testified earlier in the hearing?

17 THE WITNESS: That is correct.

18 JUDGE PRIDGIN: All right. So you're  
19 still under oath.

20 Mr. Williams, anything to clean up  
21 before he's tendered for cross on this issue?

22 MR. WILLIAMS: No, Judge.

23 JUDGE PRIDGIN: All right. We're ready  
24 for cross-examination. Mr. Fischer, will KCP&L have  
25 cross?

1 MR. FISCHER: Yes, I will.

2 JUDGE PRIDGIN: Any other parties have  
3 cross?

4 (NO RESPONSE.)

5 JUDGE PRIDGIN: Hearing none,  
6 Mr. Fischer, when you're ready.

7 CROSS-EXAMINATION BY MR. FISCHER:

8 Q. Good morning, Mr. Hyneman. I'm Jim  
9 Fischer. I think you know I represent Kansas City  
10 Power & Light in this case. I just have a few  
11 questions I'd like to address to you today.

12 On the -- let's start with the Talent  
13 Assessment Program, for starters. I believe this  
14 item's listed in the reconciliation on line 77 with  
15 the notation, "Adjust talent assessment severance  
16 costs." I believe the number is 1,195,784. Is that  
17 your understanding of --

18 THE COURT REPORTER: I'm sorry. Can you  
19 repeat it again?

20 MR. FISCHER: I'm sorry. Sure.

21 THE COURT REPORTER: One million --

22 MR. FISCHER: 1,195,784.

23 THE COURT REPORTER: Thank you.

24 BY MR. FISCHER:

25 Q. Is that the correct amount for the

1 Staff's adjustment on this issue?

2 A. I don't have that document in front of  
3 me, but that sounds like it's a reasonable number.

4 Q. Okay. Well, it will be reflected on  
5 that document.

6 A. Uh-huh. Yes, it will.

7 Q. Okay. And I believe, similarly, there's  
8 a -- an item on the reconciliation for the -- what's  
9 entitled Regular Severance Costs which would be in  
10 the range of 356,102. Does that sound about right?

11 A. Yes, it does.

12 Q. Okay. I'd like to have you turn to your  
13 surrebuttal testimony, page 15. And let's look at  
14 line 21 where you state, "The first point is that the  
15 Talent Assessment Program was not needed. There's no  
16 evidence that KCPL was not providing safe and  
17 adequate service with -- with the employee base that  
18 existed prior to the Talent Assessment Program." Is  
19 that your testimony?

20 A. Yes, it is.

21 Q. Would it be correct for me to conclude  
22 from your statement there that Staff believes that  
23 KCPL was providing safe and adequate service with the  
24 employee base that existed prior to the Talent  
25 Assessment Program?

1           A.       That is correct.

2           Q.       In fact, Staff's cost of service report  
3       that I believe Mr. Traxler testified about indicated  
4       that Staff had been monitoring KCPL's call center  
5       performance and its overall reliability indices, and  
6       that Staff has not identified any long-term trends in  
7       this data that should be cause for concern for the  
8       Commission. Are you familiar with that?

9           A.       Yes. And I've also spoken with other  
10       Staff witnesses who are familiar with that area, and  
11       they have not indicated any -- any problems in that  
12       area.

13          Q.       Okay. Do you happen to have that Staff  
14       cost of service study with you there?

15          A.       I have a certain piece. I may not have  
16       the section that you --

17          Q.       I was going to refer you to page 54.  
18       Were those items are discussed?

19          A.       I do not have that.

20                   MR. FISCHER: Okay. Can I approach the  
21       bench?

22                   JUDGE PRIDGIN: You may.

23       BY MR. FISCHER:

24          Q.       If you turn to page 54 of the Staff's  
25       cost of service study, it indicates that "Staff has

1 reviewed five years of data containing the following  
2 foremost common reliability indices."

3 MR. WILLIAMS: Judge, I'm gonna raise an  
4 objection, and it's just because I think Mr. Fischer's  
5 misspoken. He's called it the Staff's class [sic]  
6 cost of service study as opposed to --

7 BY MR. FISCHER:

8 Q. I apologize. I've been doing rate  
9 design too long. It's Staff's cost of service study,  
10 I believe it's entitled. But on page 54 there, I  
11 believe it indicates that, "Staff has reviewed five  
12 years of data containing the following foremost  
13 common reliability indices and has not identified any  
14 long-term trends in this data that should be cause  
15 for concern for the Commission"; is that right?

16 A. That is correct.

17 Q. And then if you look down below, I get  
18 into some of those acronyms I was talking about in my  
19 opening: SAIFI, SAIDI, CAIDI and MAIFI. Do you know  
20 what those are?

21 A. I've had brief interaction with them in the  
22 past. I know basically they're call-center-related,  
23 customer-service-related indices.

24 Q. They're four of the most common  
25 reliability indices for monitoring electric

1 companies; is that your understanding?

2 A. That is correct.

3 Q. Okay. Is it correct, then, to conclude  
4 that Staff and Kansas City Power & Light are in  
5 agreement that KCPL was providing safe and adequate  
6 service to its customers prior to the Talent  
7 Assessment Program?

8 A. That is my understanding.

9 Q. Okay. And based upon that fact, you've  
10 concluded that there was no need for a Talent  
11 Assessment Program; is that true?

12 A. That was one fact on which I based my  
13 conclusion.

14 Q. Mr. Hyneman, would you agree, though,  
15 that KCPL does have a continuing responsibility, as I  
16 believe Commissioner Jarrett indicated, to provide  
17 safe and adequate service to its customers and to  
18 assess the workforce as it goes along?

19 A. I agree with the former part of that  
20 statement; I'm not sure I understand the second.

21 Q. Okay. Well, let me just limit it.  
22 Would you agree that KCPL has a continuing  
23 responsibility to provide safe and adequate service  
24 to its customers?

25 A. Absolutely.

1 Q. Today and in the future?

2 A. Yes, it does.

3 Q. In your opinion, is it prudent for KCPL  
4 to rest on its laurels and assume that if it's  
5 providing safe and adequate service now, management  
6 doesn't have any responsibility to take steps to  
7 ensure it has safe and adequate service in the  
8 future?

9 A. And I'm trying to -- I agree that they  
10 do have the responsibility. I'm not sure how you  
11 want me to respond.

12 Q. Okay.

13 A. I agree they have that responsibility.

14 Q. Management should take whatever is  
15 appropriate steps to ensure that safe and adequate  
16 service continues in the future?

17 A. Yes, it should.

18 Q. And in fact, wouldn't Staff be concerned  
19 if KCPL's management wasn't assessing what workforce  
20 was necessary to provide safe and adequate service in  
21 the future?

22 A. I don't know how such -- the Staff could  
23 ascertain that that's what's in the minds of KCPL  
24 management. But, I mean, if they stated that they  
25 weren't concerned with that, then, yes, the Staff



1 would have a concern with that statement.

2 Q. If you or the management audit staff  
3 became aware that KCPL was just happy with the way  
4 things were and weren't worrying about improving the  
5 quality of service in the future, wouldn't that be a  
6 concern?

7 A. Maintaining a responsible level or  
8 improving, yes, I would expect them to do that.

9 Q. It's not okay with Staff if KCPL just  
10 barely meets the standard of providing adequate  
11 service?

12 A. I'm not in a position to make that  
13 determination, but I would -- I am in a position to  
14 say that management should strive to perform at its  
15 best level.

16 Q. Okay. Wouldn't Staff want the company  
17 to strive to improve the quality of service and  
18 reliability if possible?

19 A. Yes.

20 Q. Wouldn't Staff want the company to  
21 strive to be the best that it can in its efforts to  
22 provide good service to customers?

23 A. On a cost benefit basis, yes.

24 Q. Are you aware that the Commission just  
25 issued new vegetation management rules yesterday?

1           A.       Not yesterday, but I am aware that they  
2       were in the process of doing that.

3                   MR. FISCHER:   Okay.   Your Honor, I'd  
4       like to have an exhibit marked.   It would be 34.

5                   JUDGE PRIDGIN:   Yes.

6                   (EXHIBIT NO. 34 WAS MARKED FOR  
7       IDENTIFICATION BY THE COURT REPORTER.)

8                   MR. FISCHER:   Your Honor, I'd ask the  
9       Commission to take administrative notice of the  
10      agency's press release that it issued yesterday  
11      regarding the vegetation management rules which has  
12      been marked as 34.

13                  JUDGE PRIDGIN:   Any objections?

14                  (NO RESPONSE.)

15                  JUDGE PRIDGIN:   Hearing none, we'll take  
16      notice.

17      BY MR. FISCHER:

18           Q.       Mr. Hyneman, I'd like to show you the  
19      press release which has been marked 34 that was  
20      issued yesterday.   And according to the second  
21      paragraph of the Commission's press release referring  
22      to the rules, "These rules adopted today are designed  
23      to increase electric service reliability for Missouri  
24      consumers"; is that correct?

25           A.       That is correct.

1           Q.       Would you agree that it's important to  
2       increase electric service reliability for Missouri  
3       consumers in the future?

4           A.       I would agree that if reliability  
5       service was not adequate, then, yes, the consumers  
6       should be provided with adequate reliability service.

7           Q.       So you would -- we agreed that I think  
8       KCPL was providing adequate service in your mind  
9       before, correct?

10          A.       That's what the report indicated, yes.

11          Q.       Would you agree that it's important to  
12       increase electric service reliability for Missouri  
13       consumers in the future?

14          A.       I would say on a cost benefit basis,  
15       yes.

16          Q.       Okay. Now, let's turn to your  
17       surrebuttal at page 17. On that page you discuss the  
18       J.D. Power and Associates' surveys of the overall  
19       satisfaction of electric utility residential  
20       customers across the United States; is that right?

21          A.       That's correct.

22          Q.       And on line 9 you state, "In 2007, a  
23       total of 29,042 telephone interviews were conducted  
24       measuring 48 satisfaction attributes with the  
25       following six components: Power, quality and

1 reliability, company image, price and value,  
2 communications, billing and payment and customer  
3 service"; is that right?

4 A. Yes, it is.

5 MR. WILLIAMS: Judge, I'm gonna object  
6 to that question only in that he said that  
7 Mr. Hyneman has said that, and if you read the  
8 testimony, what, in fact, he said is that Kansas City  
9 Power & Light Company's data response says that.

10 JUDGE PRIDGIN: Mr. Fischer?

11 MR. FISCHER: I can clarify the  
12 question. I was just reading from his testimony.

13 JUDGE PRIDGIN: All right. If you'll  
14 clarify, please.

15 BY MR. FISCHER:

16 Q. I guess your source was Kansas City  
17 Power & Light on that; is that right?

18 A. Yes, data request response No. 287.

19 Q. Okay. And do you have any reason to  
20 have concern about that statement?

21 A. No.

22 Q. Okay. Would it be correct to conclude,  
23 as you understand that survey, that J.D. Power's --  
24 that that survey is designed to measure a wide range  
25 of satisfaction attributes for electric utilities

1 across the country?

2 A. Again, to the extent I'm familiar, I'm  
3 not familiar with the design of the survey; I am only  
4 familiar with the statement and the response of the  
5 DR. And so I have no independent knowledge of the  
6 design of that survey.

7 Q. Okay.

8 A. I do know there was a telephone survey  
9 conducted by J. D. Power and Associates, and I do  
10 know it's the only evidence in the record provided by  
11 KCPL to support its Talent Assessment Program.  
12 That's the extent of my knowledge.

13 Q. And it's your understanding based on  
14 your review of that, that it does attempt to measure  
15 satisfaction attributes of electric utilities?

16 A. Yes.

17 Q. Okay. And you've listed the Midwest  
18 region index rankings on page 17 of your surrebuttal  
19 testimony?

20 A. Yes, I did.

21 Q. That data show that for the year 2007,  
22 KCPL was tied for fourth among the utilities surveyed  
23 in the Midwest region; is that your understanding?

24 A. That's what the data response indicated.

25 Q. Okay. The 2007 rankings was -- was an

1 improvement over KCPL's previous rankings against  
2 other Midwest utilities in the years 2003, 2004, 2005  
3 and 2006; is that your understanding of the data?

4 A. No. In 2003 -- again, if you're using  
5 the metric as you compare it to other Midwest  
6 utilities --

7 Q. I'm asking you to look at the rankings.

8 A. Right, not the numbers?

9 Q. Not the numbers, just the rankings.

10 A. Okay. It -- KCPL's performance  
11 decreased in 2004, it decreased in 2005 and is about  
12 the same in 2006; it went from nine to eight. And  
13 then it went -- it increased in 2007 compared to  
14 other Midwest utilities.

15 Q. In 2003 KCPL was tied for fifth, and  
16 then they dropped -- tied for eighth in 2004, ninth  
17 in 2005, 2006 it was eighth, and then there was a  
18 recovery to the fourth, tied for fourth in 2007.

19 A. Yeah. And my analysis didn't use the  
20 comparative statistics, it used the number that  
21 J.D. Power awarded KCPL.

22 Q. You just looked at the raw scores; is  
23 that right?

24 A. As an indication that the service  
25 quality was decreasing, correct.

1           Q.       And on page 17, line 24, you state, "I  
2       conclude these results refute the conclusion reached  
3       by Ms. Cheatum. I see the KCPL scores on this survey  
4       in 2006 and 2007 have actually decreased from the  
5       levels KCPL attained before it implemented the Talent  
6       Assessment Program in 2003 through 2005"; is that  
7       correct?

8           A.       Yes, and I explained that statement.

9           Q.       Well, in that part of your testimony,  
10       you're really pointing out that KCPL's raw scores on  
11       the index declined during this period; is that what  
12       you're saying?

13          A.       It declined from the pre-talent  
14       assessment to the post-talent assignment, correct.

15          Q.       On the raw scores?

16          A.       On the scores.

17          Q.       But the rankings have improved; is that  
18       correct?

19          A.       The rankings include -- improved from  
20       2006 through 2007.

21          Q.       And you don't dispute that KCPL's  
22       ranking, when compared to other Midwest utilities,  
23       improved in 2007, correct?

24          A.       Well, I want to clarify that. I  
25       don't -- I don't give any credibility to this survey

1 as to KCPL's actual service. This was the survey  
2 results included in Ms. Cheatum's rebuttal testimony.  
3 This is the evidence she's using. I'm just saying  
4 when I look at the evidence she uses, I also see  
5 numbers decreasing after talent assessment.

6 Q. Have you investigated whether the  
7 criteria for obtaining the raw scores changed during  
8 this period?

9 A. Can you repeat that question?

10 Q. Yes. Have you investigated whether the  
11 criteria for obtaining the raw scores changed during  
12 this period?

13 A. No. Again, this is not anything that  
14 I'm attaching any credibility towards.

15 Q. Okay.

16 A. So I didn't do that investigation.

17 Q. In any event, isn't it true that KCPL's  
18 current ranking as evidenced by this -- this J.D.  
19 Power survey is in the top quarter of the Midwest  
20 utilities on the overall satisfaction of electric  
21 residential customers in the Midwest using those 48  
22 satisfaction attributes if you take the power survey  
23 at its -- on its face?

24 A. From 2006 to 2007?

25 Q. I'm talking about 2007 alone.



1           A.       The question was, did it improve in the  
2 relative rankings?

3           Q.       No.  Isn't it true that KCPL's current  
4 ranking is in the top quarter, top 25 percent of the  
5 Midwest utilities that were surveyed?

6           A.       Again, I don't know if that's a quartile  
7 ranking or a numerical ranking, that type of fourth  
8 out of 16 utilities.  So I guess that's a top 25  
9 percent.

10          Q.       Okay.  Yeah, that's really what I'm  
11 referring to.

12          A.       But I -- but that fourth is not a  
13 quartile, that's just a relative number.  Okay.

14          Q.       Right.  It's the top four out of about  
15 16?

16          A.       16, yes, that's correct.

17          Q.       Okay.  Then on page 18 of your  
18 surrebuttal on line 3, you're asked the question,  
19 "Are J.D. Power and Associates' overall satisfaction  
20 measures of KCPL's residential customers conclusive  
21 that Talent Assessment Program benefits KCPL  
22 ratepayers?"

23                   And then you go on to answer the  
24 question, "No.  Based on the foregoing survey results,  
25 if the surveys were conclusive, they would conclude

1 that KCPL's Talent Assessment Program has been a net  
2 detriment to KCPL's customer service"; is that  
3 correct?

4 A. That is correct.

5 Q. Are you testifying there that you  
6 believe KCPL's quality of service has been declining  
7 and is a detriment to the KCPL customers?

8 A. No. I am saying that the survey  
9 results, the numerical scores obtained by KCPL have  
10 declined since the implementation of the Talent  
11 Assessment Program.

12 Q. And its -- and its relative ranking has  
13 improved?

14 A. Well, I'm going on a numerical score.  
15 That was the basis of my statement.

16 Q. And if I understand, you didn't  
17 investigate how those raw scores were developed?

18 A. I know a little bit about these type of  
19 surveys. If J.D. Power and Associates was gonna list  
20 survey results that differed in -- in the questions  
21 asked of rankings, then they would adjust them to  
22 make them comparative. Any reputable organization  
23 would do that, so I assume that J.D. Power would do  
24 that.

25 Q. That's an assumption on your part. You

1 indicated you hadn't investigated whether the  
2 criteria changed; is that correct?

3 A. I would assume that if KCPL selected  
4 J.D. Power and Associates or is using that as  
5 evidence, that it's a reputable statistical firm.

6 Q. I don't have a quarrel with you there,  
7 Mr. Hyneman, but isn't it true you testified earlier  
8 that you don't know whether the raw scores -- the  
9 criteria for using the raw scores have changed during  
10 that period?

11 A. I would assume they did not.

12 Q. But that's an assumption on your part?

13 A. Yes, it is.

14 Q. Okay. Are you also aware that Great  
15 Plains Energy was awarded the Edison Award in the  
16 year 2007?

17 A. Yes.

18 Q. Were you aware of this Edison Award when  
19 you filed your direct testimony on July 24th,  
20 recommending the disallowance of the company's Talent  
21 Assessment Program cost?

22 A. Yes. What I did, I -- and on -- KCPL's  
23 web site is a -- you can get access to a list of  
24 awards. And KCPL over the past several years have  
25 won many, many awards. I think it lists two or three

1 pages. So I did review those awards, and I did note  
2 that that award was among them.

3 Q. What's your understanding of what that  
4 Edison Award was about?

5 A. Just -- I didn't investigate it. I  
6 just -- I think I read the press release when it was  
7 issued, and it was just that the EEI, the Electric  
8 Utility Industry Group, awarded KCPL and other  
9 utilities awards for being an outstanding utility.  
10 That's the extent of my knowledge.

11 Q. Is it your understanding that it focused  
12 on leadership and innovation?

13 A. Yes. I mean, those were -- I recollect  
14 that that was a part of it.

15 Q. And was there also a part about meeting  
16 the customers' electricity needs?

17 A. I -- I -- I wouldn't dispute it, but I  
18 can't attest to that.

19 Q. Okay. And was it your understanding  
20 there was also a criteria for the commitment to  
21 operation excellence or reliability and other  
22 innovation in generating delivery and electricity to  
23 the customer?

24 A. I would have the same response. I  
25 wouldn't deny that, but I can't attest to it.

1           Q.       Okay. Did you take that award into  
2 account when you decided to recommend a disallowance  
3 of the Talent Assessment Program?

4           A.       Yes, and I put no association  
5 whatsoever, and I think it's actually  
6 counterintuitive to associate the Talent Assessment  
7 Program with this award.

8                   JUDGE PRIDGIN: And if I could  
9 interrupt, and I think the question was -- and I've  
10 given you some leeway, but I think the question was  
11 something to the extent of, did you give -- take that  
12 award into account. And I think you -- the answer  
13 after yes is becoming a narrative. And if you could  
14 cut short the narrative and simply answer a yes or no  
15 question.

16                  THE WITNESS: Yes, I'm sorry. I was  
17 trying to explain how I took it into account.

18                  JUDGE PRIDGIN: I understand. And if he  
19 wants to ask you to explain, that's certainly his  
20 prerogative.

21                  THE WITNESS: Okay.

22                  JUDGE PRIDGIN: But he's not asking you  
23 to explain.

24                  THE WITNESS: Okay. Yes, I did.

25 BY MR. FISCHER:

1           Q.       On page 15 of your surrebuttal testimony,  
2     you state that, "The Talent Assessment Program was  
3     not needed. There's no evidence that KCPL was not  
4     providing safe and adequate service with an employee  
5     base that existed prior to the Talent Assessment  
6     Severance Program." Is that your testimony?

7           A.       That is correct.

8           Q.       As long as KCPL is providing safe and  
9     adequate service, there's no need for KCPL management  
10    to assess the performance of its workforce and take  
11    steps to improve that performance; is that -- is that  
12    Staff's position?

13          A.       No.

14          Q.       As long as KCPL is providing safe and  
15    adequate service, there's no need for KCPL management  
16    to have a Talent Assessment Program; is that your  
17    testimony?

18          A.       Yes.

19          Q.       If KCPL's management did not take steps  
20    to improve the quality of its workforce, do you  
21    believe that KCPL can continue to be ranked in the  
22    top quarter of the electric companies in the Midwest?

23          A.       I have no opinion on that question.

24          Q.       If Great Plains Energy and Kansas City  
25    Power & Light did not take steps to improve the

1 quality of its workforce through such programs as the  
2 Talent Assessment Program, do you believe it's likely  
3 they'll ever receive the Edison Award again?

4 A. I have no opinion on that question.

5 Q. Is it Staff's position that severance  
6 payments to public utilities is never a legitimate  
7 business expense?

8 A. No.

9 Q. Is it Staff's position that severance  
10 payments to public utilities is not a legitimate  
11 business expense if such severance payments will help  
12 position the company to provide better customer  
13 service in the future?

14 A. Could you repeat that question?

15 Q. Sure. Is it Staff's position that  
16 severance payments to public utility employees is not  
17 a legitimate business expense if such payments will  
18 help position the company to provide better customer  
19 service in the future?

20 A. Again, I don't want -- I'll give you my  
21 opinion on that. I see no relation to the two, so  
22 it's hard to answer that question yes or no. I see  
23 no relation to the occurrence of severance payments  
24 to a positioning of KCPL in the future.

25 Q. Okay. I think that's the fundamental

1 difference we have with Staff probably in this case.

2 A. It might be.

3 Q. Have you provided any evidence in your  
4 testimony that KCPL's management was imprudent when  
5 it decided to initiate the Talent Assessment Program  
6 to improve the quality of the workforce?

7 A. Define "imprudent."

8 Q. Unreasonable.

9 A. That the management was unreasonable?

10 Q. Yes.

11 A. I would -- management's proposal to  
12 include the -- these costs in cost of service with  
13 the surrounding circumstances is unreasonable, yes.

14 Q. It's okay for the company to do the  
15 program, but just as long as shareholders pay for it?

16 A. It is Staff's position that the  
17 \$9 million cost incurred which is -- that KCPL is  
18 going to charge to its customers with no  
19 accountability by its management its compensation is  
20 unreasonable.

21 Q. As long as KCPL is providing some level  
22 of safe and adequate service, is it your testimony  
23 that KCPL should not be undertaking talent assessment  
24 programs to ensure that its workforce will be able to  
25 provide safe and adequate service in the future?



1           A.       My testimony is if KCPL -- my personal  
2     experience with KCPL is they've been providing higher  
3     level than the minimum. In fact, I heard counsel for  
4     the company yesterday saying that KCPL's performance,  
5     based on a 2005 test year, was so high that it should  
6     be awarded very high levels of return on equity,  
7     so --

8           Q.       And we won't disagree with you there,  
9     Mr. Hyneman.

10          A.       So I also consider that in my  
11     determination whether this \$9 million cost incurrence  
12     was necessary. And I didn't feel it was, and the  
13     Staff does not feel it was.

14          Q.       Okay. So it's your testimony that KCPL  
15     should not be undertaking a Talent Assessment Program  
16     if it's providing a high level of -- of service at  
17     reasonable rates; is that what you're saying?

18          A.       I would agree that management should  
19     continually evaluate its management. The senior  
20     management should continually evaluate its management  
21     on a day-to-day basis to ensure they are performing  
22     the required levels.

23          Q.       But if it takes a severance payment to  
24     get your workforce to the best workforce it can be,  
25     you're opposed to that?

1           A.       I am -- if an employee is not performing  
2 up to required standards, I see no obligation where  
3 the share -- where the ratepayers of KCPL should pay  
4 for that severance.

5                   JUDGE PRIDGIN: So is the answer to the  
6 question -- I think the question was essentially  
7 you're opposed to that? Is that yes, no, I don't  
8 know?

9                   THE WITNESS: I'm sorry. If you could  
10 repeat the question.

11                  MR. FISCHER: I think that one maybe the  
12 court reporter could read back.

13                   (THE COURT REPORTER READ BACK THE  
14 PREVIOUS QUESTION.)

15                  THE WITNESS: It's a -- it's a  
16 question -- it's a disconnect in my opinion, so I  
17 don't know if I can answer that yes or no.

18 BY MR. FISCHER:

19           Q.       Okay. Mr. Hyneman, would you agree that  
20 KCPL has embarked on a very substantial construction  
21 program including the construction of Iatan 2, new  
22 wind generation and numerous environmental upgrades  
23 to the existing plants?

24           A.       Yes.

25           Q.       Would you also agree that KCPL has

1 embarked upon numerous customer programs, energy  
2 efficiency programs and demand response programs that  
3 were included in the regulatory plan?

4 A. Yes.

5 Q. Would you agree with me that if KCPL is  
6 to successfully complete the construction of Iatan 2,  
7 add new wind generation facilities, install  
8 environmental upgrades of LaCygne 1 and Iatan 1 and  
9 implement the two affordability programs, the seven  
10 energy efficiency programs, the two demand response  
11 programs contemplated by the regulatory plan, it's  
12 going to need a quality workforce to do that?  
13 Wouldn't you agree with that?

14 A. Yes, I would.

15 Q. Wouldn't you agree that KCPL is going to  
16 need a workforce that has the appropriate skills and  
17 experience to complete these challenges?

18 A. Yes.

19 Q. Doesn't it seem reasonable to you that  
20 KCPL's management should conduct an assessment of its  
21 workforce to determine if the workforce is ready,  
22 willing and able to meet those challenges?

23 A. Conduct an assessment?

24 Q. Yes.

25 A. I have no issue with that.

1           Q.       If KCPL's management had merely rested  
2     on its laurels and made no attempt to assess whether  
3     it had a quality workforce that was up to those  
4     challenges, would you expect the Commission or the  
5     Staff to have had some concerns about that passive  
6     approach?

7           A.       If that resulted in below standard  
8     performance by KCPL, yes, the Commission --

9           Q.       So as long as you can meet that minimum  
10    bar, we're okay, we shouldn't try to get it above  
11    that bar?

12          A.       I -- I'm saying if you want to get above  
13    the bar, and I think the buzz word used by KCPL is  
14    Tier 1, if you want to get to a Tier 1, then you  
15    ought to do a cost benefit analysis to determine if  
16    the cost that you're charging to your customers is  
17    reasonable in relation to any concrete benefits that  
18    can be obtained from that.

19          Q.       Okay. Let's turn for just a few minutes  
20    to your position on regular severance payments. On  
21    page 22 of your surrebuttal at lines 9 through 11 you  
22    state, "It's been my experience that KCPL makes  
23    severance payments to terminate employees and secure  
24    their agreement not to file lawsuits or other charges  
25    against KCPL"; is that correct?

1           A.       That is correct.

2           Q.       Mr. Hyneman, would you agree that most  
3 businesses today, including unregulated businesses in  
4 competitive industries, make severance payments to  
5 terminate employees and secure their agreement not to  
6 file lawsuits or other charges against those  
7 companies?

8           A.       I would agree that's a reasonable  
9 statement.

10          Q.       Is it -- isn't it extremely common for  
11 businesses to make severance payments to avoid  
12 litigation as the companies exit the -- the door?

13          A.       Yes. And I'm not taking issue with the  
14 commonality of it.

15          Q.       So make -- making severance payments is  
16 not a new practice that KCPL's management has  
17 initiated that somehow is unique to KCPL; is that  
18 right?

19          A.       That's correct.

20          Q.       Would you agree that an employee that is  
21 given some amount of severance as he's exiting the  
22 company is less likely to be disgruntled?

23          A.       As a general statement I would agree  
24 with that.

25          Q.       Or bring a lawsuit related to the

1 termination?

2 A. Under KCPL's policy he would be  
3 prohibited from filing a lawsuit.

4 Q. Would you agree with me that the  
5 existence of disgruntled employees, whether they're  
6 current employees or were recently terminated  
7 employees, is not gonna improve the morale of the  
8 existing workforce, is it?

9 A. If the existing workforce -- if the  
10 employee who is terminated had a legitimate complaint  
11 against management, I would see him being able to  
12 file that complaint would have a positive impact on  
13 the workforce.

14 Q. So bringing on litigation is gonna make  
15 everybody feel better?

16 A. Well, hopefully, if they're successful  
17 in litigation and KCPL is found at fault, they would  
18 probably terminate the behavior that caused litigation.

19 Q. Okay. Well, let's go back to the bottom  
20 line, Mr. Hyneman. Would you agree that KCPL's  
21 management should initiate practices that will ensure  
22 that the company has a quality workforce that will be  
23 ready, willing and able to provide customers with  
24 quality service?

25 A. Yes.

1           Q.       And that that be at the level that  
2 they're accustomed to receiving in this 21st century?

3           A.       Yes.

4           Q.       And in this day and age, public  
5 utilities like KCPL shouldn't be content to just plod  
6 along the same performance levels in past decades,  
7 but wouldn't you agree they need to assess the  
8 quality of their workforce and their employee  
9 performance levels to ensure that they will be able  
10 to provide the type of service that's expected by  
11 customers today?

12          A.       They should continue to do that, that's  
13 correct.

14          Q.       And these utilities should use prudent  
15 business practices that are commonly used in  
16 unregulated businesses to ensure that they're  
17 satisfying their -- their customers' needs and  
18 desires; wouldn't you agree?

19          A.       Could you rephrase that question?

20          Q.       And would you agree that these utilities  
21 should use prudent business practices that are  
22 commonly used in unregulated businesses to ensure  
23 they're satisfying their customers' needs and  
24 desires?

25          A.       Well, I would have to -- you would have

1 to provide me with what measures you're talking  
2 about.

3 Q. Okay. So just as a -- as a general  
4 matter, you're not willing to concede that utilities  
5 ought to use prudent business managers -- business  
6 practices to satisfy their customers' needs and  
7 desires?

8 A. Again, your -- your definition of a  
9 prudent business measure may be different from mine.  
10 That's -- that's why I may have --

11 Q. I understand. Would you also agree that  
12 there -- there is a cost to providing a quality  
13 workforce that is ready, willing and able to satisfy  
14 the needs and desires of KCPL's customers?

15 A. Yes.

16 MR. FISCHER: Okay. That's all I have,  
17 your Honor. I appreciate the time and patience.

18 JUDGE PRIDGIN: All right, Mr. Fischer,  
19 thank you. I normally hate to break in the middle of  
20 a witness, but we've been going close to a couple of  
21 hours. I show that the clock in the back of the  
22 hearing room shows 10:20. Let's resume at 10:35. We  
23 are off the record.

24 (A RECESS WAS TAKEN.)

25 JUDGE PRIDGIN: All right. We're back



1 on the record. But before we begin, I believe we're  
2 up to bench questions of Mr. Hyneman. If I could  
3 redirect and refocus the parties a little bit. I  
4 tried to be patient and certainly let counsel try  
5 their cases as they wanted and let witnesses answer  
6 as they wanted, but because we're starting to slip  
7 behind schedule a little bit, if I -- and I think  
8 counsel's largely doing a good job of asking leading  
9 questions, but a lot of times witnesses are not  
10 answering the questions.

11 And I've tried to let that go, and I  
12 want witnesses, and that's all witnesses, and I think  
13 all of the witnesses are trying their best to answer  
14 the questions, but if they're asked a yes or no  
15 question, they need to give a yes or no answer, and  
16 anything else is likely unresponsive.

17 And if counsel's not going to move to  
18 strike, I may start to interrupt and interject to  
19 move things along. And that's -- redirect is for  
20 explaining those answers, and counsel is welcome to  
21 redirect and witnesses are welcome to explain their  
22 answers. That's the entire purpose of redirect. So  
23 I'm hoping we can start to move things along a little  
24 bit.

25 And with that in mind, Mr. Chairman, did

1     you have questions for this witness?

2                     CHAIRMAN DAVIS:   Just a couple.

3     QUESTIONS BY CHAIRMAN DAVIS:

4             Q.       Good morning, Mr. Hyneman.

5             A.       Good morning, Chairman.

6             Q.       Just a second here.  Mr. Hyneman, going  
7     back to the -- to the group of people that were non-  
8     Talent Assessment Program severance packages, and I  
9     think three -- the three-year average severance  
10    payment that KCP&L is seeking is \$520,000 a year,  
11    roughly.  Is that correct or is that close to  
12    correct, do you remember?

13            A.       That sounds close to correct.

14            Q.       Okay.  Now, I think I heard Ms. Cheatum  
15    testify that there were nine people total in that  
16    group; is that correct?  Do you know what that actual  
17    number is?

18            A.       No, sir, I don't.

19            Q.       Okay.  Did you review any of the -- the  
20    individual cases to determine the individual merits  
21    of those severance packages?

22            A.       No, sir.  And I can explain why if you  
23    want.

24            Q.       Sure, sure, go ahead.

25            A.       The position taken by KCPL on the

1 average severance was the same exact issue they tried  
2 in the 2006 case.

3 Q. Right.

4 A. No issues have changed.

5 Q. Which we rejected, correct?

6 A. Yes, sir.

7 Q. Okay.

8 A. They provided no new evidence as to why  
9 the result should be different. So because of that,  
10 I reiterated the position Staff took in the last case  
11 that the Commission reject the company's position, so  
12 I didn't spend a lot of time on the nuts and bolts of  
13 the issue.

14 Q. Okay. All right. Mr. Hyneman, do you  
15 have a copy of your -- your surrebuttal testimony in  
16 front of you?

17 A. Yes, sir.

18 Q. Can -- can you go to page 3?

19 A. Yes.

20 Q. Okay. Could you just briefly restate  
21 your testimony on the graph on page 3? I think, you  
22 know, it would just -- it would help crystallize some  
23 of the Staff's, I guess, sort of methodology for  
24 treatment of these amortizations in this case that  
25 have been requested. Can you just briefly restate,

1     you know, your position in light of that graph?

2             A.       Yes, sir.  These are cost items that  
3     could be considered nonrecurring and extraordinary in  
4     nature that are not part of the routine operations of  
5     running a utility.  And the -- some of them are costs  
6     to how they were treated in the 2006 rate case and in  
7     this rate case.

8                     And I did a little analysis of what the  
9     company's position is on the extraordinary costs  
10    compared to their position on extraordinary revenues,  
11    and I contrasted that with the Staff's position on  
12    those issues.  And the top -- top chart was the  
13    positions that KCPL has taken on each of those  
14    issues.  And to the side, I listed what the impact of  
15    that cost of revenue would have on revenue  
16    requirement.

17                    Now, if the item increases revenue  
18    requirement, KCPL is seeking to include it in rate  
19    base and recover it as an amortization.  If the item  
20    is an extraordinary revenue, they say it's  
21    nonrecurring, it should not be included in the case.  
22    And I contrasted that with the Staff's position where  
23    the Staff has recommended because these costs were  
24    related to providing service, they weren't normal  
25    recurring costs, they were extraordinary but they

1    were reasonable costs, that they should be recovered  
2    through an amortization cost of service, but they did  
3    not rise to the level of an asset to be included in  
4    rate base.

5                    So the Staff's position on all these  
6    costs is consistent where -- and that's what I was  
7    trying to demonstrate where the company's position on  
8    extraordinary costs are. If they increase revenue  
9    requirement, they want rate base treatment and an  
10   amortization. If they decreased, they should be  
11   excluded. And that was just what I was trying to  
12   reflect in the chart.

13            Q.        Okay. Mr. Hyneman, I guess, you know,  
14   my impression of KCP&L's argument is one of time, and  
15   it basically says that, you know, back during the  
16   20-year period but before they came in for their 2006  
17   rate increase, I guess, that was filed on or about  
18   February 1st of 2006, that they were paying all --  
19   you know, aside of, you know, any increases that were  
20   over the amount that was set in their original order  
21   and base rates in the '85 rate case, you know, they  
22   were assuming all of the additional expenses as well  
23   as reaping all the benefits from their off-system  
24   sales.

25                    So as a matter of theory, based on time,

1 then, you know, any -- any subsequent revenues that  
2 they would derive from that period, they're entitled  
3 to, you know, insurance proceeds or whatever.

4 But now on a going-forward basis, you  
5 know, they're seeking amortizations for these  
6 expenses that are going forward. And as a result,  
7 then, you know, customers are also entitled to a  
8 share of those benefits going forward, for instance,  
9 with the Surface Transportation Board. Do you see  
10 any -- any problems with that theory? And if so,  
11 what are they?

12 A. Well, in the theory that KCPL witness  
13 Giles espoused in his testimony and on the witness  
14 stand, that if the company does not file a rate  
15 increase, then any cost it incurs are borne by the  
16 shareholders. That -- that's what he's saying.

17 To me, that's a total illogical  
18 argument, and to me it makes absolutely no sense  
19 whatsoever from a ratemaking perspective. And what I  
20 put in testimony is when rates are set in a rate  
21 case, on a going-forward basis, unless the company  
22 files for an accounting authority order for  
23 extraordinary costs or files for the rate increase,  
24 it's assumed that the expenses it incurring [sic] are  
25 being recovered through rates through decreases in

1 costs, increases in revenues, declining rate base.  
2 All these things could cause the company to be  
3 recovering its expenses and earning a reasonable rate  
4 of return, a rate of return that is sufficient for  
5 its shareholders.

6 Q. Okay.

7 A. So all the cost of the Hawthorn 5  
8 explosion have been recovered by KCPL's ratepayers.

9 Q. Okay. Now, prior to KCP&L's 2006 rate  
10 case, their rates had not increased since 19 --  
11 approximately 1986; is that correct?

12 A. Yes, sir.

13 Q. And in fact, they might have even  
14 decreased over that 20-year period, correct?

15 A. I think there were a few rate decreases.

16 Q. Okay. During that period, did KCP&L get  
17 to keep all of their off-system sales revenue above a  
18 base amount in rates?

19 A. Yes.

20 Q. Okay. And if KCP&L hadn't made that  
21 base number imputed into rates, they wouldn't have  
22 been able to come back to the Commission and get  
23 their money back, would they?

24 A. I'm sorry, sir. I don't understand that  
25 question.

1           Q.       Okay. For instance -- and I don't  
2 know -- I actually have a copy of the order in Case  
3 No. EO-85-224 here, but I haven't -- I haven't read  
4 through it. So let's say hypothetically speaking,  
5 KCP&L had \$30 million in net off-system sales margins  
6 built into base rates.

7           A.       Okay.

8           Q.       And this is, you know, in, say, 2000,  
9 2001, during the -- during the Hawthorn period. If  
10 they hadn't made that \$30 million number, they're  
11 still on the hook for it, right?

12          A.       Yes.

13          Q.       Okay. And if Hawthorn 5 had been  
14 operating during the period in question and KCP&L  
15 were selling that electricity into the market, would  
16 the State be entitled to -- or would customers be  
17 entitled to any refund of those revenues?

18          A.       No.

19          Q.       Okay. And if there were a remedy, it  
20 would be to file an earnings complaint and lower  
21 rates prospectively, correct?

22          A.       Yes, sir.

23          Q.       Okay. Now, my impression of your  
24 argument is, in essence, that the ratepayers paid for  
25 it and they're entitled to it; is that correct?



1           A.       They're entitled to share in it. The  
2 Staff's position is a sharing of the benefit.

3           Q.       Okay. Bottom page 6, line 20 through 22  
4 of your surrebuttal testimony, you stated, "There was  
5 no evidence that KCP&L's shareholders absorbed higher  
6 expenses."

7           A.       That's correct.

8           Q.       So is it your position that over the --  
9 over the period that Hawthorn was down, that KCP&L's  
10 expenses actually declined?

11          A.       Its expenses -- fuel expenses for  
12 Hawthorn 5 declined. Now, its purchased power  
13 expenses as a whole increased.

14          Q.       Right.

15          A.       Okay.

16          Q.       Well, do you know whether or not all of  
17 their expenses in total either increased or declined  
18 over that period?

19          A.       Not for a fact. I would assume that --

20          Q.       Yes, no, maybe, I don't know. One, two,  
21 three, four --

22          A.       Maybe.

23          Q.       Maybe?

24          A.       I would -- I would indicate, yes, they  
25 increased because of the purchased power increase.

1           Q.       Okay. Okay. That's ...

2                   Now, looking at that -- at that answer  
3   on page 6, lines 20 to 22, do you think anything in  
4   that answer conflicts with the traditional approach  
5   taken by the PSC Staff that over a long-term period,  
6   say, 30 or 40 years, it's cheaper to build your own  
7   generation, own the asset and attempt to extend the  
8   useful life of that asset as opposed to buying on the  
9   open market?

10          A.       I see no contradiction, sir. And that's  
11   because this statement is not related to that  
12   concept. I don't see the relationship.

13          Q.       Well, isn't everything here sort of  
14   interrelated?

15          A.       Well, the statement was made that KCPL  
16   has provided no evidence that its earnings were not  
17   sufficient to recover the -- any increased expenses  
18   from the Hawthorn 5 explosion. It's -- it had gone  
19   through several rate decreases, you know, assuming  
20   robust earnings.

21          Q.       Uh-huh.

22          A.       And its reported earnings to the Staff  
23   in response of a DR I have in my testimony show that  
24   even after the explosion, its earnings were at least  
25   a reasonable level. So I looked for evidence that

1 they were not recovering their expenses, and there  
2 are absolutely none in this case to support that.

3 Q. All right. But isn't it -- but isn't it  
4 a fact that they were entitled to keep all of their  
5 off-system sales margins above the base amount set in  
6 rates?

7 A. Yes.

8 Q. Okay. Now, they wouldn't have been able  
9 to do that under a traditional cost of service  
10 regulation, would they? Or would they?

11 A. Yes, sir, under traditional cost of  
12 service regulation, once you specify a certain amount  
13 of off-system sales revenues, they take the risk. If  
14 they have an increases [sic], they keep those; if  
15 they're decreased, then they have to absorb that.

16 But under traditional rate of return  
17 regulation, they are entitled to keep any excess of  
18 off-system sales revenues unless the Commission  
19 determines that their earnings are so high that they  
20 have to, you know, do an audit and do a earnings  
21 complaint. But during that period, they are allowed  
22 to keep 100 percent of the increases in revenues.

23 Q. Okay. Now, going back to the -- to the  
24 severance payments associated with the Talent  
25 Assessment Program, you don't know -- was there ever

1 any analysis done of the -- the length of service of  
2 those 119 individual employees? Was that ever, you  
3 know, added up and divided by 119 to determine, you  
4 know, what the average length of service for one of  
5 those employees was, do you know?

6 A. No, sir, there's no analysis on the  
7 Staff's part, and I know of no analysis on KCPL's  
8 part.

9 Q. Uh-huh. On page 29, line 16 through 22  
10 of your surrebuttal testimony, you note that -- do  
11 you recall stating that, "It could be argued that a  
12 utility paying \$500,000 for a rate case where they're  
13 seeking \$50 million ought to have their compensation  
14 cut in half if this Commission only gives them 25  
15 million"? Do you stand behind that statement?

16 A. No, sir, that is not a statement of a  
17 Staff position. It's just an indication of the lower  
18 level of scrutiny on rate case expense that are  
19 provided to other cost that the Staff includes in  
20 rate base. The company comes in and seeks a  
21 \$50 million rate increase but the Commission orders  
22 five, the Staff in my knowledge in the past has not  
23 based any disallowance based on that.

24 Now, we have questioned certain  
25 attorneys' hourly rate --

1 Q. Right.

2 A. -- but as far as payment for rate case  
3 expense, it doesn't go -- undergo the scrutiny that  
4 rate base assets do. And that's the only point I was  
5 trying to make in this analysis.

6 Q. Okay. Do you recall what -- what  
7 Staff's final recommendation was in the last KCPL  
8 rate case?

9 A. I'm sorry, sir, I don't.

10 Q. Wasn't it -- wasn't it a negative  
11 adjustment?

12 A. That may be and that may have been a  
13 direct filing. I don't know if that was the updated  
14 true-up recommendation.

15 CHAIRMAN DAVIS: Okay. All right.

16 Well, I will -- I will move on, Mr. Hyneman. Give me  
17 just a second, Mr. Hyneman, and we will ...

18 No further questions, Judge.

19 JUDGE PRIDGIN: All right, Mr. Chairman,  
20 thank you. Commissioner Murray?

21 COMMISSIONER MURRAY: Thank you.

22 QUESTIONS BY COMMISSIONER MURRAY:

23 Q. Good morning, Mr. Hyneman.

24 A. Good morning, Commissioner.

25 Q. On page 7 of your direct testimony, you

1 list the four reasons that Staff is opposed to rate  
2 recovery of the talent assessment severance cost; is  
3 that correct?

4 A. Yes, ma'am.

5 Q. Okay. I want to look at item No. 1. I  
6 know Mr. Fischer asked you some questions about that,  
7 but I'd really like to know policy-wise how you feel  
8 about this -- an answer to this question.

9 Is providing the base level of safe and  
10 adequate service all that the company should be  
11 expected to do and all that customers should be  
12 required to pay for? The most basic level of safe  
13 and adequate service.

14 A. I wouldn't -- I would not think that  
15 that would be an acceptable goal of management. Is  
16 that what your question is?

17 Q. All right. Let me ask you this. If a  
18 company were to -- wished -- wished to exceed that  
19 basic level of service, wished to excel and did  
20 excel, should the ratepayers at least share in some  
21 of the cost to do so?

22 A. And I would have to say that depends on  
23 the cost and the -- and if the level of service  
24 provided to a utility customer increases  
25 significantly and the cost to increase that service

1 are reasonable and prudent, then I would not  
2 recommend nonrecovery of those costs.

3 Q. All right. So that would be qualified.  
4 Your answer would be qualified by whether the  
5 additional costs were within a reasonable -- a level  
6 of reasonableness?

7 A. Right, and -- yes.

8 Q. All right. Now, do you consider a  
9 \$1.9 million a year for five years a reasonable cost  
10 to improve the quality of management going forward  
11 for all of the new -- new activities that KCP&L is  
12 engaged in in the next five -- in the next few years?

13 A. No, and I can explain that.

14 Q. All right. Please do.

15 A. It has been my experience and with  
16 some -- talking with other members, that KCPL has  
17 provided much better than a base-level service.  
18 Their service to their customers has been, I would  
19 say, good. And customers I don't know are saying  
20 that they are not receiving good service [sic].

21 So when I couple that -- and KCPL is on  
22 a program now. They try to reach Tier 1 status on  
23 everything. Now, that's taking something to the top.  
24 Do ratepayers need to be at the top level of customer  
25 service? Well, it would be nice. But \$9 million

1 cost for them to absorb while its management and  
2 their compensation are not absorbing it, they're not  
3 taking responsibility for it. They're pushing the  
4 responsibility to their customers.

5 So your question, is that amount  
6 reasonable, I would say no. There has been no  
7 indication of any benefit of the Talent Assessment  
8 Program, and I see potential detriments out there.

9 Q. All right. Now, has KCP&L also had, in  
10 your opinion, an adequate level of reliable service  
11 overall?

12 A. Yes.

13 Q. And that was prior to this Commission  
14 issuing vegetation management rules that were just  
15 sent out for -- the final order was just sent out  
16 yesterday; is that correct?

17 A. Yes.

18 Q. Okay. Now, those costs to KCPL --  
19 estimated costs to KCP&L were right at \$2 million  
20 annually.

21 A. Which costs?

22 Q. For compliance with that new vegetation  
23 management rule.

24 A. Okay. I'm not aware of those costs.

25 Q. Okay. Are you aware that the Commission



1 didn't do a cost benefit analysis prior to passing  
2 that rule?

3 A. I am not aware of that. I'm sorry. I  
4 was not involved in that issue whatsoever.

5 Q. All right. Well, would you be surprised  
6 if I told you that the rule as originally imposed was  
7 going to impose something close to \$14 million for  
8 implementation, and over 44 million, almost \$45  
9 million annually for KCP&L to comply? Would that  
10 surprise you?

11 A. Those are high numbers. I haven't seen  
12 any support for those, so I really don't know if it  
13 would surprise me or not. I'd have to look at some  
14 analyses to show that.

15 Q. Okay. Well, in relation to your  
16 analysis that ratepayers should pay for a reasonable  
17 level of cost to provide safe and adequate service  
18 and not necessarily just the lowest level of service,  
19 but a level of service that can be reasonably  
20 affordable, would it be your opinion that when the  
21 Commission imposes costs on utilities, that it also  
22 measure the degree of reasonableness that those costs  
23 are going to impose?

24 A. When the Commission imposes cost on  
25 utilities, is it going to ensure that the costs are

1 reasonable? Is that --

2 Q. Well, I didn't phrase that very well.  
3 What I'm asking you, you indicated that you would  
4 consider it appropriate for the company to recover  
5 costs that allowed it to provide service above a very  
6 basic level --

7 A. Yes.

8 Q. -- of safe and adequate service, so long  
9 as those costs were reasonable and that the  
10 improvements were somewhat measurable, the  
11 improvements in relation to costs above just a basic  
12 level of safe and adequate service were measurable  
13 and reasonable; is that --

14 A. Yes.

15 Q. -- what you said? Okay. Well, in -- in  
16 the same light, would you agree that when the  
17 Commission imposes rules that require a company to  
18 provide service that goes above the level that it has  
19 been providing, when there's no question that it  
20 already has been providing safe and adequate service,  
21 that those additional costs should also be reasonably  
22 affordable and reasonably related to the benefit that  
23 will ensue?

24 A. And those costs are ones that the  
25 Commission are imposing on KCPL, yes.

1 Q. Okay.

2 A. Yes.

3 Q. So basically that same philosophy would  
4 apply, that the ratepayers -- it's reasonable for  
5 ratepayers to pay for a level of service that is  
6 probably -- probably exceeds a basic level of safe  
7 and adequate service so long as those costs to do so  
8 are affordable?

9 A. Yes. And I'm -- where with KCPL,  
10 there's been no indications the service wasn't  
11 exemplary. With the -- in the vegetation example,  
12 there's been significant evidence that there's a  
13 problem in Missouri with vegetation management.

14 Q. With KCPL?

15 A. No. With vegetation management. I'm  
16 not aware of anything with KCPL that haven't --

17 Q. Okay.

18 A. But there is a problem that needs to be  
19 addressed in Missouri, and that's, I believe, what  
20 the Commission is doing. With KCPL service there's  
21 no problem that needs to be addressed at a level  
22 where they would incur \$9 million of cost. They are  
23 performing well as a regulated utility. So that's --  
24 that's why I would make that statement.

25 Q. All right. And I understand what --

1    what it is you're saying, and I just wanted to find  
2    out that if -- if you agreed that if -- rather than  
3    voluntarily exceeding a level of basic performance,  
4    the utility were mandated to exceed that level, that  
5    the cost to do so should also be considered to be  
6    reasonable?

7           A.     Yes, absolutely.

8           Q.     Now, do you see any reason that the  
9    Commission should, rather than adopt Staff's proposal  
10   where there would be no recovery of these costs  
11   related to the talent assessment severance, that we  
12   should adopt a position somewhere in between where  
13   the ratepayers would pay for some of that? Because  
14   don't the ratepayers benefit from strategic  
15   performance improvement?

16          A.     Yes, Commissioner, but I -- I have seen  
17   no evidence that there has been a benefit, and I have  
18   a concern that in her rebuttal testimony, Ms. Cheatum  
19   said that the employees who were terminated under the  
20   Talent Assessment Program were meeting expectations.  
21   They were performing at the level expected of them,  
22   most of them were. That's what she said in her  
23   testimony.

24                   Now, it's their upper management who  
25   made a determination that they don't think they would

1 perform at an acceptable level in the future. I  
2 mean, and that's -- you know, to me, that's not a  
3 reasonable presumption to make to increase -- incur  
4 \$9 million worth of cost based on what an individual  
5 or a set of individuals think that the performance  
6 level of the employees will be in the future. The  
7 basis is just not supported.

8 I would -- I recommend cost recovery  
9 incurred by a utility that would be reasonably  
10 assumed to provide ratepayer benefit. I see none in  
11 this case, and I see potential detriments. And  
12 that's the loss of experience of the 119 people who  
13 were let go and replaced.

14 I don't know if they've been replaced  
15 by people of equal experience, but under an  
16 assumption that they're not, there's a potential of  
17 decrease in corporate knowledge of running a utility,  
18 and that's a potential detriment -- detriment in my  
19 opinion.

20 So there are zero benefits of this  
21 program. None. And I cannot recommend recovery of  
22 one dollar under that assumption.

23 COMMISSIONER MURRAY: Okay. Thank you.

24 JUDGE PRIDGIN: Commissioner Murray,  
25 thank you. Commissioner Jarrett?

1 COMMISSIONER JARRETT: Thank you.

2 QUESTIONS BY COMMISSIONER JARRETT:

3 Q. Well, I would say it's not exactly true  
4 that they haven't presented some evidence. I mean,  
5 Mr. Fischer and you talked at length about the J.D.  
6 Power and Associates survey and the fact that KCPL  
7 increased in their ranking, I believe, from eight in  
8 2006 to four in 2007.

9 Now, it may be true that you don't  
10 believe that evidence is dispositive as to whether  
11 any -- whether the ratepayers received any benefit,  
12 but they did offer that evidence and inferred that  
13 that increases the customer satisfaction, and  
14 therefore, the fact that they did this Talent  
15 Assessment Program and increased the quality of the  
16 employees, and this is a benefit of that; isn't that  
17 correct?

18 A. Yes, sir. I would not characterize that  
19 as evidence. I would say it's -- they provided a  
20 statistic which they believe supports it. I don't  
21 see any correlation between that survey, telephone  
22 survey and KCPL's Talent Assessment Program. I see  
23 no correlation at all.

24 COMMISSIONER JARRETT: Okay. That's all  
25 I have. Thank you.

1 JUDGE PRIDGIN: Commissioner, thank you.

2 And I have no questions. Chairman?

3 QUESTIONS BY CHAIRMAN DAVIS:

4 Q. Mr. Hyneman, when -- what -- under what  
5 circumstances would you feel a severance package is  
6 appropriate?

7 A. The Staff, and I, in particular, have  
8 recommended recovery of severance costs in the past  
9 when the company is embarking on a cost-reduction  
10 program. When the company, for example, feels it's  
11 more efficient and it can reduce its employment level  
12 and, therefore, reduce its costs and it pays those  
13 severance, the Staff has recommended full recovery of  
14 those costs when it's designed to reduce costs.

15 So we have, in the past, and I'm sure we  
16 will in the future, propose recovery of those  
17 severance costs.

18 Q. In your career here at the Public  
19 Service Commission or in your, what was it, 12 years  
20 of service in the United States Air Force --

21 A. Yes, sir.

22 Q. -- did you ever encounter employees or  
23 an officer who you thought, man, I wish I could just  
24 write that person a check for \$25,000 and get them to  
25 go away permanently?

1           A.       I definitely wouldn't write them a  
2 check, but especially under the Air Force rules, if  
3 they're not performing, they go away. They are  
4 forced out if they don't perform.

5           Q.       Do we force people out here in State  
6 government for not performing?

7           A.       I think so.

8           Q.       You think so? Does it take a long time?

9           A.       Yes, I believe it does.

10          Q.       And I believe Mr. -- Mr. Fischer already  
11 asked you this question, but -- so it's your position  
12 that KCP&L encouraging its employees to be more  
13 efficient and to make sure that they all have the --  
14 the same mindset or at least the same willingness to  
15 learn and be on the -- and be roughly on the same  
16 page, that has no value at all in your opinion?

17          A.       Again, I'm not saying it has no value.  
18 The employees we're talking about were performing  
19 satisfactorily. So the concern I have on that is  
20 that KCPL's management thinks that they won't in the  
21 future. Now, what they base that on, I don't know.  
22 But they were performing at a satisfactory level.  
23 They were considered good employees.

24          Q.       Mr. Hyneman, do you ever -- do you ever  
25 work with engineers?



1           A.       Yes, sir.

2           Q.       Has -- do you ever work with engineers  
3 who -- who've built coal plants?

4           A.       I work with engineers who were -- worked  
5 at coal plants, but not physically construct them.

6           Q.       Okay. Well, in your opinion, do the  
7 engineers that you've worked with that have worked at  
8 coal plants, do they seem in any way to be -- to be  
9 biased in favor of coal as far as generating  
10 electricity?

11          A.       I have not seen a bias on that. I don't  
12 know that many engineers who have worked at a coal  
13 plant, but the -- I haven't seen a bias.

14          Q.       Okay. So --

15          A.       I -- I do know they respect the coal  
16 industry.

17          Q.       They respect the coal industry. Well,  
18 do you think it's -- do you think it's a reasonable  
19 assumption that, you know, people that work in --  
20 work with coal probably tend to like it a little more  
21 than people that don't? People that work with the  
22 nuclear power plant probably tend to like that more?  
23 And could you foresee a set of circumstances where if  
24 you were asking them to all of a sudden look at  
25 renewable energy and to look at -- at energy

1 conservation as a resource, could you ever foresee  
2 that -- that, you know, people who had grown up in  
3 the power industry in the -- the '80s could have a  
4 problem with that?

5 A. Yes, I believe they -- they very well  
6 could likely have a problem, and it's up to them to  
7 do about the problem, I believe. Now, they could  
8 continue and accept the change, or they could say, I  
9 don't want to work here any longer, and work at a  
10 different utility. I mean, that's -- that's what the  
11 options available are.

12 Q. Uh-huh. But do you -- do you think  
13 that's -- that's really realistic, that they would  
14 either come to that self-realization themselves that,  
15 I don't want to work at KCP&L anymore because  
16 they're -- they might be doing all these renewable  
17 energy and energy efficiency programs, or do you  
18 think it's -- it would be a more likely scenario that  
19 they would just say, you know, I'm gonna stay here,  
20 finish out my time until I can draw my pension,  
21 and -- and they're probably not going to be a happy  
22 employee for the remainder of their tenure?

23 A. And I believe in that scenario, that  
24 they would not be performing at acceptable levels,  
25 and it's incumbent on KCPL's management to terminate

1 the employee for poor performance.

2 Q. Uh-huh.

3 A. I don't believe they should, you know,  
4 pay them a handsome severance package and charge that  
5 to the customers. That's -- to me that's not  
6 reasonable.

7 Q. Okay. Because employees, when they get  
8 terminated from the State of Missouri, they don't get  
9 severance packages, do they?

10 A. Fortunately, I haven't been in that  
11 situation. I don't know --

12 Q. You don't know anyone who's been  
13 terminated?

14 A. I know several who have left. Whether  
15 that was voluntarily or not, I don't know, but I --

16 Q. To the best of your knowledge, does the  
17 State of Missouri give severance packages?

18 A. No, to the best of my knowledge, no.

19 CHAIRMAN DAVIS: Okay. All right.  
20 Thank you, Mr. Hyneman.

21 JUDGE PRIDGIN: Mr. Chairman, thank you.  
22 Any further bench questions? Recross?

23 (NO RESPONSE.)

24 JUDGE PRIDGIN: No recross. Redirect?

25 MR. WILLIAMS: Yes, Judge.

1 JUDGE PRIDGIN: Mr. Williams?

2 REDIRECT EXAMINATION BY MR. WILLIAMS:

3 Q. Mr. Hyneman, there's been quite a bit of  
4 discussion about the J.D. Power and Associates'  
5 rankings and your testimony on that. Did Staff rely  
6 on those rankings at all in developing its position  
7 in this case --

8 A. No.

9 Q. -- in the Talent Assessment Program?

10 A. No.

11 Q. Why did you discuss those rankings in  
12 your testimony?

13 A. Because KCPL witness Cheatum put that in  
14 her rebuttal testimony as evidence that the Talent  
15 Assessment Program has provided tangible benefits, so  
16 I had to address it in my surrebuttal in response to  
17 that.

18 Q. There's also quite a bit of focus on the  
19 rankings that are shown on the far right. Do you  
20 recall that?

21 A. Yes.

22 Q. Do you have -- know of any events that  
23 may have happened in late 2006 or 2007 that might  
24 have affected different utility companies differently  
25 in the Midwest?

1           A.       In the Midwest region, there would be  
2 definitely different weather, storms, whether it be,  
3 you know, tornados, ice storms. Those are the  
4 different things that would impact the utility in the  
5 Midwest for those regions.

6           Q.       Do you know, for example, if there were  
7 any different impacts from storms between the areas  
8 served by Kansas City Power & Light and other utility  
9 companies that provide service in Missouri,  
10 investor-owned utilities?

11          A.       I do know in the past winter that Union  
12 Electric in St. Louis underwent some serious storms.  
13 And I think in the Joplin area, in the Empire  
14 district area there were storms. The significance  
15 of, I don't know.

16          Q.       Is it possible that those could have  
17 affected the rankings?

18          A.       When customers lose power for an  
19 extended period of time, that would affect the  
20 rankings. They will not respond positively.

21                   MR. WILLIAMS: No further questions.

22                   JUDGE PRIDGIN: Mr. Williams, thank you.  
23 Mr. Hyneman, thank you very much.

24                   THE WITNESS: Thank you.

25                   JUDGE PRIDGIN: I understand -- I'm

1     sorry.  Mr. Fischer?

2                   MR. FISCHER:  Yes.  Your Honor, before  
3     we leave this issue, I -- it's been called to my  
4     attention we should have made one change to  
5     Ms. Cheatum's testimony, and I'd like to do that on  
6     the record, to correct a number.

7                   JUDGE PRIDGIN:  All right.

8                   MR. FISCHER:  On page 3 of her rebuttal  
9     testimony at line 18, there's a number for  
10    outplacement.  The number should be 271,941 instead  
11    of the 658,179 that's listed there.

12                   And then when that -- as a result of  
13    that change, the total cost number on line 20 changes  
14    to 8,960,783.  And I apologize for that, for not  
15    bringing that to the Commission's attention.  If we  
16    need to address that in any way, I'd be happy to  
17    bring her back up.

18                   JUDGE PRIDGIN:  All right.  Mr. Fischer,  
19    thank you.  And I don't know if counsel had -- if  
20    that prompts counsel any reason for -- for recross.  
21    You obviously don't have to answer this second.  You  
22    can bring that to my attention later if we need to.

23                   Are we ready to move on, then, to  
24    Mr. Giles for off-system sales?

25                   MR. FISCHER:  That's correct.

1 JUDGE PRIDGIN: Mr. Giles, if you'd come  
2 forward, sir.

3 MR. WILLIAMS: Judge, from the Staff's  
4 perspective, there's no need to bring Ms. Cheatum  
5 back for those changes of the numbers.

6 JUDGE PRIDGIN: Thank you, Mr. Williams.  
7 Mr. Giles, I'll remind you that you're still under  
8 oath.

9 Mr. Zobrist, anything before he stands  
10 cross?

11 MR. ZOBRIST: Yes, your Honor. We've  
12 got two items that we'd like to submit. One was at  
13 the request of, I believe, Chairman Davis to update  
14 off-system sales, gross margin calculations. And  
15 this is a highly confidential document that I'd like  
16 to have marked. I believe it's Exhibit 34. Would  
17 that be the next exhibit for KCPL?

18 JUDGE PRIDGIN: I have 35.

19 MR. ZOBRIST: 35. All right. 35, your  
20 Honor.

21 JUDGE PRIDGIN: And this is HC.

22 (EXHIBIT NO. 35 HC WAS MARKED FOR  
23 IDENTIFICATION BY THE COURT REPORTER.)

24 MR. ZOBRIST: And Judge, the testimony  
25 with regard to this should be in an HC session, but

1 we do have one other correction that I'd like to ask  
2 Mr. Giles about in open session with regard to the  
3 off-system sales tracking mechanism and interest  
4 proposal by Office of the Public Counsel, and I would  
5 be willing to ask Mr. Giles some questions about  
6 that.

7 We can do that in open session and then  
8 go to closed session, and then we could tender him in  
9 the HC portion for cross-examination on that issue  
10 and then come out into the open if there are any  
11 questions on the tracking.

12 Or we can do the tracking issue right  
13 now and then go into the off-system sales in the  
14 highly confidential session, closed session.

15 JUDGE PRIDGIN: And I don't know if any  
16 counsel has any preference or -- I'd like to keep as  
17 much of this public as possible --

18 MR. ZOBRIST: Okay.

19 JUDGE PRIDGIN: -- and to keep from  
20 dancing back and forth.

21 MR. ZOBRIST: Okay. I'll proceed with  
22 the open questions, then.

23 DIRECT EXAMINATION BY MR. ZOBRIST:

24 Q. Mr. Giles, in your surrebuttal  
25 testimony, did you address Office of the Public



1 Counsel witness Ted Robertson's proposal with regard  
2 to a tracking mechanism and a payment of interest on  
3 excess margins?

4 A. Yes. In my -- I believe it was in my  
5 rebuttal testimony, I opposed payment of interest.

6 Q. Okay.

7 A. I don't really think I addressed the  
8 tracking, but after further reflection, I do believe  
9 it's appropriate to pay interest on the amount of  
10 off-system sales that would exceed the 25th  
11 percentile should we achieve that.

12 I think the appropriate rate of interest  
13 would be LIBOR, L-I-B-O-R, plus 32 basis points.  
14 That is the short-term interest rate that the company  
15 pays today to banks. And based on further  
16 consideration and reflection on this issue, I believe  
17 it's appropriate to pay interest on those amounts  
18 based on LIBOR plus 32.

19 Q. LIBOR stands for the London Interbank  
20 Offered Rate?

21 A. Right.

22 Q. And has the company changed its position  
23 on recovery of interest costs as part of the cost of  
24 service?

25 A. Yes. Based on additional reflection on

1     this issue, I think it's appropriate that the  
2     interest be paid and it not be included in the cost  
3     of service.

4                   MR. ZOBRIST:  Judge, that's all I have  
5     for open session at this time.  Tender the witness.

6                   JUDGE PRIDGIN:  Mr. Zobrist, thank you.  
7     Mr. Mills, will you have cross?

8                   MR. MILLS:  I do have some cross.

9                   JUDGE PRIDGIN:  Other counsel have  
10    cross?

11                  MR. DOTTHEIM:  No questions from the  
12    Staff.

13                  JUDGE PRIDGIN:  Okay.  I'm thinking it's  
14    only Mr. Mills, and I'll have to ask if you think  
15    you're gonna get into HC?

16                  MR. MILLS:  It's possible.  I think I'm  
17    gonna -- I'm gonna try to address it in a more  
18    general level to avoid HC, but we may need to get  
19    into it.

20                  JUDGE PRIDGIN:  I understand, and I'll  
21    just rely on you to tell me, and certainly rely on  
22    the witness to tell me whether we need to go into  
23    in-camera.  So Mr. Mills, when you're ready.

24    CROSS-EXAMINATION BY MR. MILLS:

25                  Q.     Mr. Giles, I'll start with the change in

1 your testimony that you just talked about. With  
2 respect to the payment of interest, how would you  
3 calculate the balance on which interest is to be  
4 applied and how would you track that through the  
5 months or years as necessary?

6 A. I would -- I would propose it be tracked  
7 on a cumulative basis so that, for instance, once  
8 we've exceeded -- excuse me -- once we've exceeded  
9 the 25 percent level that's subject to return to  
10 customers, I would track those on a monthly basis.  
11 And every month that -- that those funds are  
12 received, that interest rate would apply.

13 So that, you know, to give you a more  
14 specific example, let's presume we're in October now  
15 and we just now exceeded the 25th percentile level.  
16 We would book the actual amount for October that's  
17 all in excess, then, of the 25 percent. That amount  
18 would be subject to the interest calculation as long  
19 as it continues to be held by the company.

20 So in October we would have an interest  
21 calculation. If we did not return that money to  
22 customers, either through a rate case or a refund, we  
23 would continue to accrue that interest month to month  
24 to month. Likewise, November the same method,  
25 December the same method.

1           Q.       Now, with respect to the flow-back of  
2     those amounts, is it your understanding that the  
3     order in the ER-2006-314 case required you to flow  
4     back any excess amounts in this rate case, that being  
5     ER-2007-0291?

6           A.       I think the -- the order was anticipated  
7     that those costs or those excess would be dealt with  
8     in this rate case.  There's a timing issue there,  
9     obviously, that we won't know what those are until  
10    the end of the year, which is another reason I think  
11    it's appropriate to accrue interest on those funds,  
12    because more than likely, if we did -- should exceed  
13    that level, we will continue to hold those funds  
14    until the next rate case.

15          Q.       So in terms of the prefiled testimony in  
16    this case, KCPL does not have a proposal on how to  
17    flow those -- any funds back in this case; is that  
18    correct?

19          A.       That's correct.

20          Q.       Do you have a proposal on how to flow  
21    them back in a subsequent time?

22          A.       I would take those into account as part  
23    of the revenue requirement in the next case.

24          Q.       Well, let me -- let me rephrase the  
25    question.  Is there anything in the filed testimony

1 that addresses that question?

2 A. No.

3 Q. Okay. So what you've just said is a --  
4 is a new proposal?

5 A. I think it's a consistent proposal with  
6 what the Commission ordered in the last case. It's  
7 just the fact that we've got a time difference here  
8 where there's -- there's not time to know what the  
9 actual off-system margins will be in '07 until this  
10 case is concluded. So I think it's just a matter of  
11 carrying that over until the next rate case.

12 Q. Now, you mentioned, I believe, in one of  
13 your previous answers, the possibility of refunds.  
14 Is that something that KCPL's considered, a refund  
15 outside of the context of a rate case once the  
16 amounts from 2007 are known?

17 A. I think a refund is probably appropriate  
18 if you're not filing rate cases, but if you're filing  
19 rate cases nearly annually, as we are, it makes more  
20 sense to deal with it in the case. The cost of a  
21 refund is not insignificant in terms of  
22 administration and processing.

23 It's also somewhat difficult to refund  
24 money to customers who are no longer on the system.  
25 So there's a lot of issues with refunds that could be

1     avoided by just dealing with a revenue requirement in  
2     the next case.

3           Q.     Is the question of customers who are no  
4     longer on the system different in terms of refund or  
5     in terms of flowing it back to customers in the next  
6     rate case?

7           A.     It's just administratively different. I  
8     mean, in other words, I'm not trying to distinguish  
9     between customers that would receive the refund  
10    versus they may not have been connected to the system  
11    at that time.

12                   What I'm talking about is tracking those  
13    customers down, getting forwarding addresses and  
14    attempting to locate them. It's purely an  
15    administrative issue that I'm -- I'm looking at.

16          Q.     And if you weren't to flow those dollars  
17    back in the next rate case, would you go through the  
18    exercise of finding forwarding addresses, tracking  
19    down customers?

20          A.     No.

21          Q.     Okay. And if you were to do refunds,  
22    would you go through that exercise?

23          A.     We typically do, yes.

24          Q.     Are you -- is there anything that  
25    requires you to do that?

1           A.       I'm not sure if that's a requirement or  
2 not.

3           Q.       Would the -- would the question of  
4 whether you wait until the next rate case or do a  
5 more immediate refund, would the -- would the level  
6 of dollars impact the question of which is better for  
7 customers or better for KCPL?

8           A.       I don't think so.

9           Q.       So regardless of whether it's a small  
10 amount or a huge amount, you would prefer to wait  
11 until the next rate case?

12          A.       Yes. And I base that on, you know, when  
13 you're in an -- in an annual -- roughly annual rate  
14 case filing situation as we are with our investment  
15 program, it wouldn't make a whole lot of sense to me  
16 to refund monies, for instance, six months from now  
17 and then turn around and raise rates six months  
18 later. And it's confusing to the customer, it's not  
19 something I would prefer to do.

20                   And the other aspect of that is if you  
21 refund monies, that would only make the rate increase  
22 potentially higher in the next case so that some of  
23 that money that you would refund would then just  
24 cause a higher increase in the next case. So it just  
25 doesn't make a lot of sense to me.

1 JUDGE PRIDGIN: And if I could  
2 interrupt, I'm sorry. I may -- I may not have heard  
3 the question correctly. I think Mr. Mills asked you  
4 a yes or no question, and you did answer yes and then  
5 you went into an explanation. And I think if  
6 Mr. Mills wants an explanation, he'll ask for it.  
7 But otherwise, if you could just simply try to answer  
8 yes or no to a yes or no question.

9 THE WITNESS: Sure.

10 JUDGE PRIDGIN: Thank you.

11 MR. MILLS: And Judge, I hate to  
12 disagree with you, but this is somewhat of an unusual  
13 situation in which we're hearing about a proposal for  
14 the first time. I'm -- I'm ...

15 JUDGE PRIDGIN: And I understand.

16 MR. MILLS: We're in the mode of trying  
17 to figure out how this would work, and I am trying to  
18 pin him down and trap him with my clever  
19 cross-examination.

20 JUDGE PRIDGIN: I understand.

21 MR. MILLS: But I hope to get to some of  
22 that later.

23 JUDGE PRIDGIN: I understand. And I  
24 know that you'd been asking him to explain, you know,  
25 how would this work and what would you do, and that's



1 fine. And what I heard was a yes or no question, and  
2 that's the only reason. You're certainly free to ask  
3 him open-ended questions.

4 BY MR. MILLS:

5 Q. Now, Mr. Giles, let's -- let's just go  
6 with the -- with the scenario, and it's purely  
7 hypothetical that you mentioned a minute ago, that as  
8 of this month, October 2007, you began to exceed the  
9 25th percentile set in the last case.

10 When, under -- under your proposal,  
11 would a customer first see a refund or a credit in  
12 rates for that overpayment that occurred in this  
13 month?

14 A. It would be the effective date of the  
15 next rate case.

16 Q. And when do you anticipate filing the  
17 next rate case?

18 A. We anticipate filing it April of '08  
19 with rates effective in May of '09.

20 Q. Okay. So customers who begin  
21 overpaying --

22 A. Excuse me, Mr. Mills. I said that  
23 backwards. We would file in May of '08 with an  
24 effective date of April of '09.

25 Q. Okay. So customers who begin overpaying

1 in October of '07 would see some repayment of that  
2 overpayment in -- in April of '09?

3 A. Yes.

4 Q. And what is the -- what is the lag  
5 between the -- the actual end of a month and the time  
6 in which you're able to close the books and figure  
7 out exactly what the margins were from that  
8 particular month?

9 A. It's approximately 21 days.

10 Q. Okay. So as of January 21, 2008, you  
11 should know what the overall off-system sales margins  
12 were from 2007?

13 A. Yes.

14 Q. Approximately?

15 A. Yes.

16 Q. All right. Let me turn to more about  
17 the -- you know, the off-system sales sharing  
18 proposal in this case and turn away from the --  
19 the -- the refund of -- of any overcollections from  
20 the last case.

21 In this case, KCPL witness Schnitzer did  
22 the probability analysis; is that correct?

23 A. That's correct.

24 Q. Did you have any input in how it was  
25 done?

1           A.       No.

2           Q.       Did anyone at KCPL have input into how  
3 it was done?

4           A.       Yes. Our energy management department  
5 works directly with Mr. Schnitzer.

6           Q.       Okay. Did they -- did they influence  
7 the way Mr. Schnitzer created and performed his  
8 modeling, or did they give him data to put into his  
9 model or both?

10          A.       They primarily provide data.

11          Q.       Okay. Now, did Mr. Schnitzer decide to  
12 propose in this case that rates be set at the 25th  
13 percentile of the -- of the probabilities in his  
14 analysis?

15          A.       No. That's my recommendation.

16          Q.       Okay. Your recommendation as in Chris  
17 Giles or your recommendation as in KCPL's?

18          A.       Both.

19          Q.       Okay. And did you do that with input  
20 from anyone else?

21          A.       No.

22          Q.       Is there anything magic about the 25th  
23 percentile?

24          A.       I think I can answer that no. I would  
25 like to explain it, and I'm also going to probably

1     need to go into -- off camera to do that.

2                   JUDGE PRIDGIN: Did you want an  
3     explanation, Mr. Mills?

4                   MR. MILLS: Well, that's -- I would -- I  
5     would prefer that we reserve the explanation to  
6     redirect, if necessary.

7                   JUDGE PRIDGIN: That's fine. Thank you.

8                   MR. MILLS: Because I don't really want  
9     to go in-camera right now.

10                  JUDGE PRIDGIN: Thank you.

11     BY MR. MILLS:

12                 Q.     So it could have been set at the 20th  
13     percentile, the 30th percentile, either of those or  
14     within the realm of reason?

15                 A.     Yes.

16                 Q.     Okay. In this case, what factor should  
17     the Commission look at to decide whether they should  
18     set it at the 25th, the 26th, the 24th, whatever  
19     level? What -- what -- what determines that -- that  
20     level?

21                 A.     What should determine that level is the  
22     volatility and the potential risk of that market.  
23     And in the last case, and again in this case, my  
24     argument and KCPL's argument has been that that  
25     market is not the same as retail revenue, and should

1 not be accorded the same treatment as retail revenue  
2 in calculating the revenue requirement.

3           So largely, that is what the Commission  
4 should take into account, that as Chairman Davis  
5 was -- was alluding to earlier, once -- once a  
6 revenue requirement is established and these  
7 off-system sales margins are included in that revenue  
8 requirement, should the company not hit that  
9 potential level of off-system sales margins, then  
10 both the earnings potential and the cash potential  
11 for the year the rates would be in effect are in  
12 jeopardy, and much more so than the normal retail  
13 revenue requirement.

14           Q.     Now, just -- just to take a  
15 hypothetical, the rates -- if the rates in the last  
16 case -- well, let me approach this a different way.

17                   Assume with me that the company through  
18 the course of 2007 does not hit the 50th percentile  
19 that was -- that Mr. Schnitzer projected in the last  
20 case. There could be several reasons for that; is  
21 that not true?

22           A.     The market is very volatile. It's --

23           Q.     Well, my question was not what the  
24 reasons were.

25           A.     Okay, yes. There are -- there are many

1 reasons, many variables.

2 Q. And let me -- let me back up a step. Is  
3 it your understanding from the way that the  
4 probable -- probabilistic analysis was conducted that  
5 it was to have been expected that the 50th percentile  
6 was the most likely outcome at the time that  
7 Mr. Schnitzer did the analysis?

8 A. I don't believe it's the expected  
9 outcome. It's referred to by Mr. Schnitzer as the  
10 median. So it's -- the 50th percentile is the median  
11 point on the probability curve where you have an  
12 equal chance of being -- an occurrence being higher  
13 or lower than that.

14 Q. Okay. And -- and you answered my  
15 question in terms of whether it was expected; my  
16 question was really, was it -- was it the most  
17 likely. Is there another point on the curve that is  
18 more likely than the 50th percentile to be achieved?

19 A. Well, there -- there is an expected  
20 value, and there's a median value and they are  
21 different. And Mr. Schnitzer's analysis uses a  
22 median value which is a little different than an  
23 expected value, but it's not substantial. I mean,  
24 given -- yeah, I -- I would be willing to accept that  
25 the 50th percentile is what we expect.

1           Q.       And if you don't achieve that, one of  
2     the reasons could be that the analysis was bad; is  
3     that not true?

4           A.       That's true.

5           Q.       One of the reasons could be that the  
6     incentives weren't appropriate to incent KCPL to try  
7     very hard to achieve that percentile; is that not  
8     true?

9           A.       That's not true. I would not agree with  
10    that.

11          Q.       Okay. You don't think incentive has  
12    anything to do with the level of off-system sales you  
13    achieve?

14          A.       No.

15          Q.       Do you talk about incentives in your  
16    testimony?

17          A.       I do.

18          Q.       Do you allude to the -- well, do you  
19    suggest that the level of off-system sales in terms  
20    of the percentile set in this case should be higher  
21    if the sharing mechanism is allowed?

22          A.       I don't believe I state that.

23          Q.       Okay. Do you disagree with that?

24          A.       I'm not sure I understand your question.

25          Q.       If the Commission were to set the level,

1 say, at the 40th percentile but, say, that KCPL would  
2 share according to some percentage with customers,  
3 for example, that dealt between the 25th percentile  
4 and the 40 percentile, would you see that as an  
5 appropriate outcome from this case?

6 A. I think it's another outcome. I don't  
7 know that it's any more or less appropriate. My --  
8 if I may explain my -- my comments in the -- in my  
9 testimony.

10 JUDGE PRIDGIN: Do you want him to  
11 explain, Mr. Mills?

12 MR. MILLS: Sure.

13 JUDGE PRIDGIN: Okay. Go ahead.

14 THE WITNESS: The Commission in the last  
15 case set the off-system sales margin at the 25th  
16 percentile. And initially, the company would have  
17 been assured earnings up to that 25th percentile so  
18 that if we didn't even hit the 25th percentile, we  
19 would still recover -- we would recover that from  
20 customers.

21 On the other side of it, we were going  
22 to refund or account for it in the next rate case to  
23 make customers whole anything we've earned above  
24 that. When the Commission's order came out, there  
25 was some discussion in there that there was no



1 incentive for the company to hit the 25th percentile  
2 level; therefore, they took that asymmetrical  
3 provision out in their final determination so that  
4 the company is at total risk if it's less than the  
5 25th percentile.

6 My comments in my testimony related to  
7 this issue is purely pointing out that there's also  
8 no incentive for the company to do any more than the  
9 25th percentile. And the point of my testimony was  
10 that there's a lot of discussion about incentives and  
11 whether there should be incentives and whether they  
12 should be shared.

13 And all of those can certainly be done  
14 and they have different risk factors or they have  
15 different positions I would take on that. We're not  
16 recommending that in this case. We're recommending  
17 the Commission continue with the same treatment that  
18 it did in the last case.

19 BY MR. MILLS:

20 Q. Okay. Now, under the treatment that you  
21 got in the last case, what do shareholders get if you  
22 exceed the 25th percentile?

23 A. They don't receive any earnings benefit  
24 from exceeding that.

25 Q. Now, in terms of -- and tell me if this

1 is gonna be highly confidential. Now, the Exhibit  
2 that Mr. Zobrist just had marked, 35 HC, has  
3 information through -- and I assume that the date  
4 through which the information shows is not highly  
5 confidential; is that correct?

6 MR. ZOBRIST: I'd ask Mr. Giles, I don't  
7 think the date --

8 THE WITNESS: No.

9 MR. ZOBRIST: Okay. In other words,  
10 it's through August 31, 2007?

11 MR. MILLS: Right, yes. Yes.

12 BY MR. MILLS:

13 Q. Would it be highly confidential to talk  
14 in general terms about whether or not you're on  
15 target to meet the 25th percentile?

16 A. I believe I can talk about that in  
17 general terms, yes.

18 Q. Okay. Are you on target to meet the  
19 25th percentile that was authorized in the last case?

20 A. No. We are substantially below that  
21 target. In fact, we've not even come close to  
22 50 percent of the target of the 25th percentile  
23 number as of through August of 2007. So it's -- it's  
24 going to be nearly impossible and most likely  
25 impossible to even reach the 25th percentile this

1 year.

2 MR. MILLS: And I do have some questions  
3 that go to the specific numbers on this exhibit. I  
4 don't know how you wanted to address, you know, not  
5 breaking up and going into five different highly  
6 confidential sessions, but that's -- that's the last  
7 topic that I wanted that I want to cover with this  
8 witness is the actual off-system sales numbers and  
9 some of the things that go into that.

10 JUDGE PRIDGIN: If we need to bounce  
11 back and forth -- I mean, I have -- I have  
12 commissioners here who are -- who are here listening,  
13 so if we need to bounce back and forth between  
14 in-camera, that's fine.

15 MR. MILLS: Okay.

16 JUDGE PRIDGIN: Do we need to go  
17 in-camera?

18 MR. MILLS: I would like -- at some  
19 point I would like to go in-camera. It's up to you  
20 whether we do that.

21 JUDGE PRIDGIN: I'm okay if -- to keep  
22 your line of questioning going, I'm okay with going  
23 in-camera now.

24 MR. MILLS: Okay. That's fine. Okay.

25 JUDGE PRIDGIN: Okay. Give me just a

1 moment, please. Okay. And I'll ask counsel to check  
2 around to make sure there's nobody in the hearing  
3 room that's not supposed to be. Okay. We are  
4 in-camera.

5 MR. MILLS: Okay.

6 (REPORTER'S NOTE: At this point, an  
7 in-camera session was held, which is contained in  
8 Volume 8, pages 536 through 539 of the transcript.)

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1 JUDGE PRIDGIN: Okay. If there's no  
2 further cross, time for bench questions.  
3 Commissioner Clayton.

4 QUESTIONS BY COMMISSIONER CLAYTON:

5 Q. Welcome back, Mr. Giles.

6 A. Thank you.

7 Q. Can you help me with a -- just a few  
8 basic things here? I don't want to belabor this, but  
9 can you basically just give me a very brief summary  
10 of KCPL's position on off-system sales?

11 A. Sure. Our position is that, first of  
12 all, the off-system sales margin that is essentially  
13 a credit back to the revenue requirement or customers  
14 should first of all be a projected number. It should  
15 look to the year the rates will be in effect, which  
16 in this particular case is 2008, because the history  
17 as we've seen this year, is fairly meaningless in  
18 this market. Unlike a retail revenue requirement  
19 that has some basis for normalcy, this does not.

20 So our first position is, it should be a  
21 projected number. Our next position is that it  
22 should be established at a 25th percentile likelihood  
23 versus a 50 percent likelihood. And the reason for  
24 that is, once you build in that expected value, that  
25 credit into rates, it has a significant impact on the

1 company's earnings in 2008, and particularly also its  
2 cash flow if we don't hit that 25th percentile.

3           And this year has proven how critical  
4 that is. When we were in the last case and we were  
5 estimating for 2007, that number that was at the 50th  
6 percentile was about \$70 million more than we are  
7 right now today.

8           So our position is that it has been  
9 confirmed by our experience this year we would not  
10 have been able to meet our credit metrics and would  
11 likely have been downgraded but for the fact that we  
12 did set this at the 25th percentile.

13           So our position is that we should  
14 continue that approach definitely until we see some  
15 kind of more stability or change in this market.

16           Q.     What change in the market would -- would  
17 increase off-system sales on the part of KCP&L?

18           A.     The direct driver is natural gas prices.  
19 Natural gas prices set the price in most hours for  
20 this market. So a fairly long-term sustainable  
21 increase of natural gas prices will cause this market  
22 for us to increase and we would have more off-system  
23 sales margins.

24           There's a lot of volatility, obviously,  
25 in the gas -- natural gas markets. And since a year

1     ago when we were here, the prices have fairly  
2     plummeted. We were at \$10 MCF. We're down around  
3     five to six today. Will it return and will it be  
4     stable is an open-ended question at this point.

5           Q.       When gas prices were at \$3 back -- I  
6     guess you have to go back to, what, 2003 when -- when  
7     we last time saw \$3 gas, what was the profile of  
8     KCP&L's off-system sales at that time? Did you make  
9     any?

10          A.       We made some, yes. We were probably --  
11     I would say from our peak which was about a year ago,  
12     maybe a year and a half ago, we were probably 60 --  
13     well, 20 percent of that peak. So it increased  
14     probably 80 percent from 2003 until our peak period.

15          Q.       Prior to -- prior to the volatility of  
16     the gas market which really kicked in sometime after  
17     '01 or really kind of permanently after '03, were --  
18     were KCPL's off-system sales over time prior to that  
19     fairly consistent?

20          A.       Fairly consistent, yes.

21          Q.       I mean, within a -- within a certain  
22     range of five or ten million or something like that?

23          A.       Yes.

24          Q.       Okay. So the volatility has -- has  
25     been -- has been a great benefit to KCP&L in recent

1 years?

2 A. It -- it -- it was --

3 Q. In the gas market, I guess I should say.

4 A. Yes, the natural gas market essentially  
5 kept us out of rate cases from 1999 until 2006.

6 Q. It's an interesting way to answer that  
7 question. Has KCP&L benefited from the volatility in  
8 the gas market?

9 A. Yes.

10 Q. Yes. Thank you. Going forward, you're  
11 seeking a projected amount of off-system sales which  
12 is based on the 25th percentile; is that correct?

13 A. That's correct.

14 Q. And could you refresh my memory, what  
15 did we order in the last Report and Order? How was  
16 that amount measured?

17 A. That amount was set at the 25th  
18 percentile.

19 Q. Was it 25th percentile?

20 A. Yes.

21 Q. Okay. And in this case Staff has, I  
22 think, chimed in agreeing with KCPL? Not that you  
23 can speak with Staff -- speak for them, but is that  
24 correct?

25 A. Yes. I believe it was Mr. Traxler's



1 testimony. He indicated that Staff was supportive of  
2 that 25th percentile.

3 Q. Do you recall Staff's position from the  
4 last rate case on off-system sales?

5 A. Yes. In the last rate case, Staff was  
6 advocating a historical position that the off-system  
7 sales margins should be whatever the test year sales  
8 happened to be in that particular test period.

9 Q. What is the test year in this case?

10 A. This case is 2006 test year with a  
11 true-up through September 30th of '07.

12 Q. January 1 through December 31st?

13 A. Yes.

14 Q. Okay. So the calendar year 2006? And  
15 how far off -- and I don't -- I don't know where the  
16 line of HC is, but how far off is the -- is the test  
17 year figure from this 25 percent figure that you're  
18 suggesting?

19 Are they one and the same?

20 A. The actual 2006 versus this 25 percent?

21 Q. Uh-huh.

22 A. No. The actual is probably double.

23 COMMISSIONER CLAYTON: Can we go into  
24 HC, Judge, now?

25 JUDGE PRIDGIN: Absolutely. One moment,

1    please.

2                   (REPORTER'S NOTE:  At this point, an  
3    in-camera session was held, which is contained in  
4    Volume 8, pages 546 through 558 of the transcript.)

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1 JUDGE PRIDGIN: All right. We're back  
2 in public session. Commissioner Clayton, any further  
3 questions?

4 COMMISSIONER CLAYTON: No questions.  
5 But I thought maybe Commissioner Jarrett has  
6 questions maybe before the cross-examinations.

7 COMMISSIONER JARRETT: No questions.

8 JUDGE PRIDGIN: Thank you. And I don't  
9 have any. Recross? Mr. Mills, do you have recross?

10 MR. MILLS: Yes.

11 JUDGE PRIDGIN: All right. And do we  
12 need to go immediately back into in-camera?

13 MR. MILLS: Let me -- let me check. I  
14 think we probably do. Yeah, it will be highly  
15 confidential.

16 JUDGE PRIDGIN: While we're still in  
17 public, can I inquire, do you anticipate this being  
18 fairly lengthy? I'm just trying to think of a place  
19 to break for lunch.

20 MR. MILLS: It's not likely to be  
21 lengthy.

22 JUDGE PRIDGIN: Okay. And as far as  
23 redirect, who will be redirecting?

24 MR. ZOBRIST: I will.

25 JUDGE PRIDGIN: Do you anticipate

1   lengthy questions? We've got just about 12:30. I'm  
2   just trying to give the court reporter a break and  
3   trying to find a place to break for lunch.

4                   MR. ZOBRIST: I think it would be a good  
5   place to break for lunch.

6                   JUDGE PRIDGIN: Okay. In that case,  
7   since we're gonna need to break, if we can just  
8   resume recross after lunch. The clock at the back of  
9   the hearing room says 12:25. Let's plan on being  
10  back at roughly 1:45.

11                  I'm sorry. Mr. Dottheim?

12                  MR. DOTTHEIM: Maybe now is a  
13  appropriate time if we're in open session now for me  
14  to broach this.

15                  JUDGE PRIDGIN: Yes, sir.

16                  MR. DOTTHEIM: I indicated yesterday  
17  that I ask that we not go into today's issues because  
18  of company and Staff were talking, there was a  
19  possibility of resolving some issues.

20                  JUDGE PRIDGIN: Yesterday?

21                  MR. DOTTHEIM: Yes.

22                  JUDGE PRIDGIN: Yes.

23                  MR. DOTTHEIM: And -- and I don't think  
24  we've quite finalized, but I think we are close to  
25  resolving some issues, one of which is the last issue

1 that is scheduled for today, cost of removal --

2 JUDGE PRIDGIN: Okay.

3 MR. DOTTHEIM: -- and some issues that  
4 are scheduled for the remainder of this week. And we  
5 should be able, I think, to report back to the  
6 commissioners and yourself, Judge, on that this, this  
7 afternoon.

8 But I'm under the impression that the  
9 bench might have more questions for Mr. Barnes.  
10 There was that possibility and -- I thought, and I  
11 wanted to inquire what with the possibility that  
12 there may be a resolution of the cost of removal  
13 issue, when -- if there are questions for Mr. Barnes,  
14 when -- when the bench, if that is the case and if  
15 the bench wanted to -- wanted Mr. Barnes to be  
16 available this afternoon at some time?

17 JUDGE PRIDGIN: And let me poll the  
18 commissioners very briefly.

19 COMMISSIONER CLAYTON: Look,  
20 Mr. Dottheim, are you saying that the return on  
21 equity component in this case is settled? Is that  
22 what you just told me?

23 MR. DOTTHEIM: No. No, sir, that is  
24 not --

25 COMMISSIONER CLAYTON: So you-all are

1   gonna settle the \$10,000 issue but not the  
2   \$18 million issue?

3                   MR. DOTTHEIM: We're gonna settle some  
4   issues that -- they are larger than \$10,000.

5                   COMMISSIONER CLAYTON: 15?

6                   MR. DOTTHEIM: No. They -- there are  
7   some that are in the million dollar range, cost of --

8                   COMMISSIONER CLAYTON: Well, let's just  
9   not overdramatize this, but I appreciate the effort.

10                  MR. DOTTHEIM: But the rate of return is  
11   not one of the issues that -- that has been resolved.  
12   So -- so I was really just merely attempting to ask  
13   when the bench might want to talk to Mr. Barnes  
14   because that still is very much an issue pending in  
15   the case, so then we would know when to have  
16   Mr. Barnes available.

17                  COMMISSIONER CLAYTON: Mr. Dottheim,  
18   maybe you can help me with this. I've been  
19   distracted this week with a number of other things  
20   that have been going on, so I haven't been able to be  
21   down here as much as I'd like. Do we anticipate the  
22   hearing going into next week at this point?

23                  MR. DOTTHEIM: Yes, we do. Rate design  
24   is scheduled for next week, and I'm unaware of any of  
25   the rate design issues being resolved. So there are

1 definitely hearings scheduled for next week without  
2 any question.

3 COMMISSIONER CLAYTON: Okay. So  
4 would -- do you anticipate any problems if maybe next  
5 week at some point if there is a lapse in the hearing  
6 of Mr. Barnes being available to discuss ROE?

7 MR. DOTTHEIM: I think he has some  
8 availability problems, but I can check on those -- on  
9 those dates. I believe he is available sometime --

10 COMMISSIONER CLAYTON: I don't know if I  
11 will have questions, and I don't want to -- I don't  
12 want to prejudice any of the parties if the right  
13 attorney isn't gonna be around because I know these  
14 things are split up. And I don't know for sure  
15 whether I'm gonna have questions, but I meant to come  
16 down yesterday and the judge released all the  
17 witnesses, so Barnes is the only poor guy that's  
18 still left around, and I'm not sure if I'm gonna have  
19 questions or not.

20 MR. DOTTHEIM: I can try to check that  
21 as best I can over the lunch break as far as  
22 Mr. Barnes' availability and advise the other parties  
23 as to when he is available and see if that creates a  
24 problem for them.

25 MR. ZOBRIST: Commissioner Clayton --

1 COMMISSIONER CLAYTON: Mr. Zobrist?

2 MR. ZOBRIST: -- if you would -- if you  
3 would like to make inquiries of Dr. Hadaway, I will  
4 see if he's available later this week or next week.  
5 I don't know if he is, but I will certainly make that  
6 inquiry if you want to talk to him.

7 COMMISSIONER CLAYTON: He -- he is not  
8 even close to being local, is he?

9 MR. ZOBRIST: Austin, Texas. That would  
10 not be a suburb of Kansas City.

11 COMMISSIONER CLAYTON: It's not even an  
12 SPP, so you can't even say that. I wouldn't call  
13 that local and I wouldn't presume to bring him back.  
14 The -- the filed testimony and the transcript I'm  
15 sure will give me some information. I just -- with  
16 all the other conflicts in time, I just -- I meant to  
17 be down here and I lost the opportunity.

18 So do you-all have an objection if at  
19 some point in the hearing next week if we get a free  
20 hour or free time, maybe calling Mr. Barnes, or is  
21 that gonna be a problem?

22 MR. ZOBRIST: No. We'll -- we'll be  
23 available. And -- but I would urge the Commissioner  
24 that if you have questions of Dr. Hadaway, please let  
25 me know, and then we'll make every effort to bring



1 him back.

2 COMMISSIONER CLAYTON: Okay. Thank you.  
3 Thank you. Does anyone else have any objection to  
4 that?

5 MR. FISCHER: Judge, I don't have any  
6 objection, but I would, just for informational  
7 purposes, suggest that with the filing of the  
8 stipulation, we may have the rest of the week largely  
9 free.

10 COMMISSIONER CLAYTON: Oh, with this  
11 week? Okay. Thank you.

12 JUDGE PRIDGIN: Do the parties need a  
13 little extra time during lunch? I just kind of  
14 picked a little over an hour. Will that benefit you  
15 to be able to move some of these things around? I  
16 mean, 1:45 is just a number I picked, but I don't  
17 know if it would serve you better to have a little  
18 longer lunch hour.

19 MR. ZOBRIST: As long as we could finish  
20 up with Mr. Giles sometime today, that would be the  
21 company's preference.

22 JUDGE PRIDGIN: Okay.

23 MR. MILLS: I don't -- I don't think  
24 that's a problem.

25 JUDGE PRIDGIN: Okay. So 1:45 or a

1 different time? 1:45?

2 MR. ZOBRIST: That's fine.

3 JUDGE PRIDGIN: All right. If there's  
4 nothing further, we'll stand in recess until 1:45.  
5 All right. Thank you. We're off the record.

6 (THE NOON RECESS WAS TAKEN.)

7 JUDGE PRIDGIN: All right. Good  
8 afternoon. We are back on the record. It's about  
9 ten till 2:00, and we've returned from lunch, and  
10 Mr. Giles is still on the stand. And if I'm not  
11 mistaken, we are at the point where Mr. Mills might  
12 have some further questions for him.

13 Is there anything else from counsel  
14 before we begin? Mr. Dottheim?

15 MR. DOTTHEIM: Yes. When we broke for  
16 lunch or right before lunch, there was a matter as  
17 far as the bench having some additional questions,  
18 Commissioner Clayton, for Staff witness Matt Barnes.  
19 He is available next week, Tuesday through Thursday,  
20 not on Friday, and, of course, Monday is Columbus  
21 Day. So we've checked with him and that is his  
22 schedule for next week.

23 JUDGE PRIDGIN: Okay. Very good. Thank  
24 you.

25 MR. DOTTHEIM: Also, too, I mentioned

1 before we broke about the possibility of a number of  
2 issues settling. I -- I am told that that has  
3 occurred, that we have reached a resolution of a  
4 number of issues, and that the Stipulation &  
5 Agreement is being finalized for, I believe, filing  
6 this afternoon. I can identify those issues.

7 And, of course, we would want to alert  
8 the bench and yourself, Judge, and the commissioners,  
9 because there's one issue that's scheduled for the  
10 remainder of this afternoon and -- and for Thursday  
11 and Friday. And, of course, once we get that  
12 fired -- filed, excuse me, other parties will have an  
13 opportunity to review the Stipulation & Agreement.  
14 The Stipulation & Agreement is between the Staff and  
15 Kansas City Power & Light.

16 There is -- there is one issue which is  
17 an issue that DOE also has testimony filed on. All  
18 the other issues are, I believe, just between Kansas  
19 City Power & Light and the Staff. But, of course,  
20 under the Commission's rules, the other parties will  
21 have an opportunity to file stating their position  
22 relating to the -- the Stipulation & Agreement.

23 JUDGE PRIDGIN: Okay. Did you have some  
24 issues that you believe are settled?

25 MR. DOTTHEIM: Yes. I can -- I can go

1 through the -- the list. The issues are Wolf Creek  
2 refueling outage costs, research and development tax  
3 credits, bad debt expense, cost of removal income  
4 tax, surface transportation board litigation expenses  
5 and rate case expense, Washington employee costs,  
6 organization membership dues, KCPL Supplemental  
7 Executive Retirement Pension, paren, SERP, closed  
8 paren, costs, and meal expenses, and finally -- I  
9 think that is the -- the final issue.

10 JUDGE PRIDGIN: All right. So I would  
11 show -- correct me if I'm wrong. I thought that in a  
12 statement of position that advertising costs had  
13 also, at least perhaps had been settled?

14 MR. DOTTHEIM: Yes, I'm sorry. That  
15 issue is not listed in the Stipulation & Agreement,  
16 but that issue also has settled.

17 JUDGE PRIDGIN: Okay. So correct me if  
18 I'm wrong, Mr. Dottheim. That would leave as far as  
19 issues that are set for hearing the remainder of the  
20 week, that would leave the rest of off-system sales  
21 and Department of Energy nuclear fuel overcharge  
22 refund; is that accurate?

23 MR. WOODSMALL: Yes.

24 JUDGE PRIDGIN: I'm seeing some nods.  
25 Okay.

1                   MR. DOTTHEIM: I would think certainly  
2   DOE would be able to address that in particular.

3                   MR. WOODSMALL: It's not a DOE issue.

4                   MR. DOTTHEIM: Excuse me.

5                   MR. BRUDER: That's correct. That's  
6   correct.

7                   JUDGE PRIDGIN: That appears to still be  
8   a pending issue between Staff and the company.

9                   MR. DOTTHEIM: We -- we also have the  
10   DOE witness who is -- who was not available earlier  
11   this week to testify on some issues that were  
12   heard --

13                  JUDGE PRIDGIN: Yes.

14                  MR. DOTTHEIM: -- who will be -- who  
15   will be available tomorrow to testify on incentive  
16   compensation.

17                  JUDGE PRIDGIN: The Hawthorn file?

18                  MR. DOTTHEIM: Yes.

19                  JUDGE PRIDGIN: That's Mr. Dittmer?

20                  MR. DOTTHEIM: Yes.

21                  JUDGE PRIDGIN: And research and  
22   development. And I don't know. Let me -- let me get  
23   input from other counsel. Is that KCPL's  
24   understanding as well that the only outstanding  
25   issues left for the -- that are scheduled the

1 remainder of the week, would be the DOE nuclear fuel  
2 overcharge refund, plus whatever cross-examination  
3 the parties may have for Mr. Dittmer?

4 MR. FISCHER: That's my understanding,  
5 your Honor.

6 JUDGE PRIDGIN: Okay. Is there any --  
7 any understanding to the contrary from any counsel?

8 (NO RESPONSE.)

9 JUDGE PRIDGIN: Okay. What might be the  
10 best to do is obviously wrap up today off-system  
11 sales, and then Mr. Dittmer would be available  
12 tomorrow. And I'm wondering if we could get the  
13 nuclear fuel overcharge refund plus Mr. Dittmer's  
14 issues complete tomorrow? I'm seeing some nods.

15 Okay. Let's just tentatively plan to  
16 begin at 8:30, and that way, hopefully, we can be  
17 done in time for the Commission to -- to deal with  
18 agenda at noon, and if not, obviously we'll come back  
19 tomorrow afternoon.

20 And I don't know if the parties know for  
21 certain one way or the other. That would leave  
22 Friday free, and if there's some way that we could  
23 begin class cost of service and rate design without  
24 putting anybody in an unreasonable situation, I would  
25 like to do that.

1                   If the parties simply cannot -- and I  
2 understand we have witnesses from out of town,  
3 counsel from out of town, and if we need to wait  
4 until Tuesday, I understand, but I would like to fill  
5 in that -- that free day if possible, and if not,  
6 we'll just begin on Tuesday.

7                   MR. BRUDER: I think it's an appropriate  
8 time for me to say I had talked to the parties  
9 earlier about the availability of our witness,  
10 Mr. Gary Price, and I'm told that he won't be  
11 available until this coming Thursday, that's the  
12 11th. So that may have some bearing upon what's  
13 decided in regard to when to deal with the cost of  
14 service witnesses.

15                   I want to say I haven't put this before  
16 the parties. I had mentioned that there needed to be  
17 a change, but this particular availability of next  
18 Thursday and next Thursday only is something I just  
19 found out in the past hour.

20                   JUDGE PRIDGIN: Okay. So Mr. Price  
21 would only be available on Thursday, the 11th?

22                   MR. BRUDER: That's my understanding,  
23 sir.

24                   JUDGE PRIDGIN: Okay. All right. Any  
25 other preferences from counsel as far as trying to

1 get something else complete Friday? I mean, it's  
2 easy for me to say do it, but I don't have to do the  
3 logistics and try the case. Mr. Dottheim?

4 MR. DOTTHEIM: Yeah, Judge, I don't know  
5 that that's possible, but we'll get back with you on  
6 that.

7 JUDGE PRIDGIN: That's certainly fine.  
8 Mr. Fischer?

9 MR. FISCHER: Yeah. I would just note  
10 that there are already a number of unavailability  
11 times listed, and we've got some folks coming in from  
12 out of town on these.

13 JUDGE PRIDGIN: And I understand. If  
14 it's not feasible, you know, I understand. Like I  
15 said, it would be nice to get some other things done  
16 Friday, but if it can't be done, it can't be done.

17 So unless I hear otherwise from the  
18 parties, we'll just stick with, you know, the class  
19 cost of service and rate design beginning on Tuesday,  
20 and obviously working around whatever schedules we  
21 can, understanding that Mr. Price wouldn't be  
22 available until Thursday, the 11th.

23 MR. BRUDER: Thank you, sir.

24 JUDGE PRIDGIN: You're quite welcome.

25 And Mr. Dottheim, thank you -- thank you for the



1 announcement. Is there anything further from counsel  
2 before we resume cross-examination?

3 (NO RESPONSE.)

4 JUDGE PRIDGIN: All right. Hearing  
5 nothing, Mr. Giles, again, you are still under oath,  
6 and Mr. Mills, do you need to go in-camera?

7 MR. MILLS: No, Judge. Actually, I've  
8 had a chance to look over my notes over the lunch  
9 hour, and I have no further questions for Mr. Giles.

10 JUDGE PRIDGIN: All right. Thank you  
11 very much. Any further recross?

12 (NO RESPONSE.)

13 JUDGE PRIDGIN: Redirect?

14 MR. ZOBRIST: Just briefly, Judge.

15 JUDGE PRIDGIN: Yes, sir. And can this  
16 be public? I'm sorry.

17 MR. ZOBRIST: Yes, I believe it can.

18 JUDGE PRIDGIN: Thank you.

19 MR. ZOBRIST: Mr. Giles advised me to  
20 the contrary of something.

21 REDIRECT EXAMINATION BY MR. ZOBRIST:

22 Q. Exhibit 35 HC is labeled Missouri  
23 Wholesale Gross Margin Calculation; is that accurate?

24 A. No. That should be Total Company  
25 Wholesale Gross Margin.

1           Q.       Okay.  Would you please strike  
2       "Missouri" and write "Total Company" in the exhibit?  
3       Do you have the exhibit before you?

4           A.       I have one but I didn't know it was the  
5       exhibit.  I've written all over it.

6           Q.       I have one.  Does the court reporter  
7       have an exhibit?  I hope so.

8                   THE COURT REPORTER:  What exhibit number  
9       is it?

10                  MR. ZOBRIST:  35 HC.

11                  THE WITNESS:  Yeah, you've -- you've got  
12       one.

13                  THE COURT REPORTER:  I'm sure I do have.

14                  MR. ZOBRIST:  Maybe I have one.

15                  THE COURT REPORTER:  Here it is.

16                  THE WITNESS:  There it is.

17       BY MR. ZOBRIST:

18           Q.       Mr. Giles, would you please correct the  
19       heading on Exhibit 35 HC?

20           A.       (Witness complied.)  Yes, I did that.

21                  MR. ZOBRIST:  All right.  I move the  
22       admission of Exhibit 35 HC.

23                  JUDGE PRIDGIN:  35 HC has been offered.  
24       Any objections?

25                   (NO RESPONSE.)

1 JUDGE PRIDGIN: Hearing none, 35 HC is  
2 admitted.

3 (EXHIBIT NO. 35 HC WAS RECEIVED INTO  
4 EVIDENCE AND MADE A PART OF THE RECORD.)

5 CHAIRMAN DAVIS: This is 35 HC?

6 BY MR. ZOBRIST:

7 Q. And the heading should read "Total  
8 Company Wholesale Gross Margin Calculations"; is that  
9 correct?

10 A. That's correct.

11 Q. Mr. Mills asked you some questions about  
12 the analysis conducted by Michael Schnitzer. Do you  
13 recall that?

14 A. Yes, I do.

15 Q. Does the level of off-system sales that  
16 KCPL actually achieves have anything to do with the  
17 accuracy of the Schnitzer analysis?

18 A. No.

19 Q. You were asked -- and I don't think -- I  
20 think you can answer the question so we don't need to  
21 go into a HC session, but in open session, Mr. Mills  
22 asked you if there was any magic to the 25th  
23 percentile level, and you answered no, but you'd like  
24 to explain during an in-camera session. Have you  
25 done that, Mr. Giles?

1           A.       I believe I did that in response to some  
2 questions from Commissioner Clayton.

3                   MR. ZOBRIST: Okay. Nothing further,  
4 Judge.

5                   JUDGE PRIDGIN: All right. Thank you.  
6 Nothing further?

7                   MR. ZOBRIST: Could you tell me, please,  
8 if Mr. Giles' testimony been admitted into evidence?  
9 I think he may have one more issue, and I'm not -- it  
10 has not?

11                  JUDGE PRIDGIN: I don't show it's been  
12 offered. If he's going to testify on the nuclear  
13 fuel overcharge, do you want to wait?

14                  MR. ZOBRIST: Right, we will. Thank  
15 you.

16                  JUDGE PRIDGIN: Okay. Thank you.

17                  MR. ZOBRIST: Nothing further.

18                  JUDGE PRIDGIN: All right. Mr. Giles,  
19 thank you very much. And the stipulation has been  
20 filed. I just got the e-mail notice. So thank you  
21 very much for your timely work. All right. Well,  
22 that leaves, then, Mr. Robertson for the next  
23 witness.

24                  MR. DOTTHEIM: Mr. Robertson was listed  
25 as the next witness, but in reviewing the order of

1 witnesses and going from less adverse to most  
2 adverse, probably Mr. Traxler should have been listed  
3 next. So the Staff would call Mr. Traxler to the  
4 witness stand.

5 JUDGE PRIDGIN: All right. Thank you.  
6 Mr. Traxler, if you'd come forward, and if I'm not  
7 mistaken, you were sworn earlier in the hearing; is  
8 that correct?

9 THE WITNESS: That's correct.

10 JUDGE PRIDGIN: All right. You're still  
11 under oath. And Mr. Dottheim, anything before he  
12 stands cross?

13 MR. DOTTHEIM: No. The Staff would  
14 tender again Mr. Traxler for cross-examination --

15 JUDGE PRIDGIN: All right. Thank you.

16 MR. DOTTHEIM: -- on off-system sales.

17 JUDGE PRIDGIN: Thank you. Mr. Fischer?

18 MR. FISCHER: Yes, your Honor. My --  
19 upon that filing of that Stipulation & Agreement, I  
20 just wanted to make sure it would be okay with the  
21 bench if we let our accounting witnesses that were  
22 scheduled on those issues go for the day?

23 JUDGE PRIDGIN: Oh, I -- I would  
24 certainly think so.

25 MR. FISCHER: Thank you.

1 JUDGE PRIDGIN: You're welcome.  
2 Mr. Mills, you'll have cross?  
3 MR. MILLS: I will.  
4 JUDGE PRIDGIN: Any other counsel?  
5 Mr. Woodsmall?  
6 MR. WOODSMALL: Briefly, briefly.  
7 JUDGE PRIDGIN: Okay. Fair enough.  
8 Mr. Woodsmall, when you're ready, sir.  
9 MR. WOODSMALL: Thank you.  
10 CROSS-EXAMINATION BY MR. WOODSMALL:  
11 Q. Good afternoon, Mr. Traxler.  
12 A. Good afternoon.  
13 Q. Do you have your direct testimony in  
14 front of you, Exhibit No. 12?  
15 A. Yes, I do.  
16 Q. Turning to pages 8 and 9, you have  
17 denominated three different things there. You talk  
18 about the objectives of determining the revenue  
19 requirement and you talk about selection of a test  
20 year, selection of a known and measurable date and  
21 selection of a true-up date. Do you see those?  
22 A. That's correct.  
23 Q. Can you tell me, do all three of those  
24 objectives, are they based upon the concept of a  
25 historical -- historical data?

1           A.       Yes, they are.

2           Q.       Okay. And, in fact, in your mind, is  
3 the use of projected data inconsistent with each of  
4 those concepts?

5           A.       As a general proposition, that's  
6 correct.

7           Q.       Okay. Can you tell me, is it the  
8 Commission's policy, based upon all the years that  
9 you've worked at the Commission and all the orders  
10 you've read, to use historical data?

11          A.       Again, as a -- as a general proposition  
12 on historical treatment, generally, projected data  
13 has not been included for revenue requirement  
14 treatment.

15          Q.       Can you tell me -- other than the last  
16 KCP&L rate case which the Commission set it at the  
17 25th percentile, can you tell me any other instance  
18 in which the Commission used projected data for any  
19 issue?

20          A.       I cannot think of anything at this point  
21 in time myself.

22          Q.       And how long have you been an auditor  
23 with the Missouri Public Service Commission?

24          A.       Let's see. With the Commission I've  
25 been -- I've got about 25 years in.

1 Q. Okay.

2 A. No, I'm sorry. That's not true. That's  
3 approximately almost 20.

4 Q. Either way it is a lot?

5 A. It's almost 20.

6 Q. Now, I'm a little confused here. You  
7 talk about these objectives that are based upon  
8 historical data, but yet in your testimony, Staff  
9 recommends off-system sales margins that are based on  
10 projected data; is that correct?

11 A. That's correct.

12 Q. Is that your position, sir?

13 A. It's the position of the Staff. The  
14 Staff's made a policy decision for purposes of this  
15 case, that given the fact that we have a Commission  
16 order that's been in print for just a little over  
17 nine months, we made a decision up front that we're  
18 gonna not relitigate any decision that was addressed  
19 specifically in the Commission's order. So that's  
20 the reason that we're recommending a continuation of  
21 the same decision on this issue.

22 Q. Now, did you have any input on that  
23 decision?

24 A. No, I did not.

25 Q. And if it was your decision to take a



1 position on this issue, what would be your position  
2 on this issue?

3 A. Given the -- the Commission's decision  
4 to include a tracking mechanism, that eliminates a  
5 lot of the risk, if you will, with regard to whether  
6 or not you start at 25 or 40 or wherever in the  
7 Staff's view, in my personal opinion. In fact, if a  
8 tracking mechanism would have been recommended last  
9 time by Kansas City Power & Light in its direct  
10 testimony, my own personal opinion is it's very  
11 likely that issue probably would have been settled at  
12 some point before ever going to trial.

13 So the numbers that we have on  
14 Exhibit 35 are actually response to Staff data  
15 request 2006 [sic], the margins for 2007, and it's  
16 directly pertinent in answering your question. If  
17 the margins on this response are accurate, then  
18 certainly the 25th percentile is in the ballpark and  
19 can be justified for purposes of a continuation.  
20 However, I'll state that I've only had this  
21 information since Monday. I've got concerns about  
22 the result.

23 Q. Let me ask you, then, would it be your  
24 position on other issues, then, that you could use  
25 projected data if you established a tracking

1 mechanism?

2 A. As a general proposition, we try to  
3 avoid the use of any kind of projected data, but  
4 certainly when you add a tracking mechanism with the  
5 projected data, you eliminate the risk of the -- of  
6 the projection.

7 Q. So are you saying it is your position as  
8 an expert witness, not a Staff witness, that had it  
9 dictated to you, it is your position as an expert  
10 witness that the use of projected data on this issue  
11 is appropriate?

12 A. My own personal view is because a  
13 tracking mechanism -- I don't have a use of the -- of  
14 the projected data for purposes of an issue that has  
15 this kind of volatility, no, with the tracking  
16 mechanism.

17 Q. Now, you said Staff made its decision on  
18 this issue because of the Commission's decision in  
19 the last case; is that correct?

20 A. That is correct.

21 Q. Have you looked at any other recent  
22 Commission decisions on off-system sales in  
23 determining the Staff position?

24 A. Well, I had nothing to do with the  
25 Staff's position, as I've stated, so I really haven't

1 had a need to do that.

2 Q. Okay. Can you tell me, then, who on  
3 Staff made the decision to use this -- this  
4 methodology?

5 A. Well, that -- that kind of a decision is  
6 made at the division director level and certainly  
7 includes the General Counsel.

8 Q. And none of them are testifying; is that  
9 correct?

10 A. No, they're not.

11 Q. Okay. Do you know in make -- in coming  
12 up with this position, did anybody review any other  
13 Commission decisions on this issue, recent Commission  
14 decisions on this issue?

15 A. I have no idea.

16 Q. Do you know if the Commission has issued  
17 any decisions in any cases on off-system sales,  
18 possibly AmerenUE?

19 A. I don't know if they have or not,  
20 myself.

21 Q. You don't know if the Commission issued  
22 a decision in the AmerenUE case that set rates based  
23 upon a normalized level?

24 A. I'm only familiar with a couple issues  
25 in that case that I was involved in. To be honest

1 with you, I really don't know what the decision was  
2 on that particular issue. I haven't read that entire  
3 order.

4 Q. So you don't know if the position that  
5 Staff is taking here is inconsistent with the  
6 position taken there?

7 MR. DOTTHEIM: I object. Mr. Traxler  
8 has answered the question. It's been asked and  
9 answered.

10 MR. WOODSMALL: Well, I asked him  
11 before if anybody had considered that. Now I'm  
12 asking him if he knows if they're inconsistent.  
13 It's slightly different and it's my last question.

14 JUDGE PRIDGIN: All right.

15 THE WITNESS: Well, I would --

16 JUDGE PRIDGIN: I'm sorry. If you know  
17 the answer, you can -- you can answer.

18 THE WITNESS: I would agree that if  
19 that's -- the decision was made on AmerenUE, that  
20 the -- the recommendation here or the treatment here  
21 is inconsistent.

22 MR. WOODSMALL: Thank you. I have no  
23 further questions.

24 JUDGE PRIDGIN: All right. Thank you.  
25 Mr. Mills?

1 MR. MILLS: Thank you.

2 CROSS-EXAMINATION BY MR. MILLS:

3 Q. Mr. Traxler, I'm gonna -- I'm gonna  
4 ask you some questions about your rebuttal testimony  
5 and specifically the attachment thereto which is  
6 the response to Staff data request 206 which is  
7 highly confidential. And I'm gonna start out by  
8 asking some questions that I don't think are highly  
9 confidential, but I just wanted to let you know that  
10 the material we're talking about is highly  
11 confidential.

12 A. Yes.

13 Q. First of all, just -- just so we have  
14 the sequence right, what's attached to your rebuttal  
15 testimony was the response you got on June 27th,  
16 2007; is that correct?

17 A. That is correct.

18 Q. Did KCPL update this in any way until  
19 October 1st?

20 A. I received a response for the 2007 data  
21 Monday afternoon. Now, if it was filed on EFIS prior  
22 to that point in time, I was not aware of it, but I  
23 received it Monday afternoon.

24 Q. Monday, October 1st?

25 A. That's right.

1           Q.       So until that update, you had not  
2       received any other updates since the original  
3       response back in June?

4           A.       No.

5           Q.       Okay. Now, did the response that was --  
6       did the response, the updated response on Monday,  
7       October 1st, update all of the attachments to the  
8       original response to 0206?

9           A.       To the best of my knowledge, the only  
10      thing that was provided was the 2007 data which is  
11      what we were missing.

12          Q.       Okay. So really, the only response that  
13      we got on October 1 is -- admitted into the record is  
14      Exhibit 35 HC?

15          A.       That's my understanding, yes.

16          Q.       Okay. So, for example, the 2007 budget  
17      numbers that were attached to the original response  
18      have not been updated to your knowledge?

19          A.       Not to my knowledge, no.

20                  MR. MILLS: Okay. Judge, I think  
21      everything else I've got is gonna be highly  
22      confidential.

23                  JUDGE PRIDGIN: All right. If you'll  
24      give me just a moment, we'll go in-camera.

25                  (REPORTER'S NOTE: At this point, an

1 in-camera session was held, which is contained in  
2 Volume 8, pages 588 through 592 of the transcript.)

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1 JUDGE PRIDGIN: All right. We are back  
2 in public session. Let me see if we have any  
3 questions from the bench. Mr. Chairman.

4 CHAIRMAN DAVIS: I'll pass to  
5 Commissioner Jarrett, but I'd like to come back to --  
6 well, why don't we go just ahead and ask Mr. Traxler  
7 here.

8 QUESTIONS BY CHAIRMAN DAVIS:

9 Q. All right. So this is Exhibit 35?

10 JUDGE PRIDGIN: HC.

11 BY CHAIRMAN DAVIS:

12 Q. HC, Exhibit 35?

13 A. Yes, sir.

14 Q. And you got that from KCP&L on Monday,  
15 October 1st?

16 A. Well, let me -- let me clarify that.  
17 That was my initial response. Response to data  
18 request 2006 [sic] --

19 Q. Right.

20 A. -- which is Exhibit 35 --

21 Q. Right.

22 A. -- I received Monday afternoon, but I  
23 had that same information provided in a response to  
24 another data request probably -- I'm guessing  
25 probably another two weeks prior to that point in



1 time --

2 Q. Okay.

3 A. -- I had the data.

4 Q. Okay. So you got it roughly the middle

5 of September?

6 A. Certainly sometime after filing

7 surrebuttal, yes. I would -- I think that's

8 approximately correct.

9 Q. Okay. Mr. Traxler, what issues did you

10 analyze in the Ameren rate case?

11 A. I was involved in the cost removal

12 issue.

13 Q. Uh-huh.

14 A. And what else. Something else. Pension

15 issue.

16 Q. Okay. All right. So off-system sales

17 in the Ameren case wasn't your issue, correct?

18 A. Yeah, I was just brought in on the --

19 just for those two issues at the end of the case.

20 Q. Okay. And then, do you know anything

21 about RTOs?

22 A. Well, maybe the fact that -- in a

23 reasonable transmission organization what they do?

24 Q. Yes.

25 A. Yes.

1           Q.       Okay. Do you know what RTO Kansas City  
2 Power & Light's in?

3           A.       Right off the top, I can't answer that  
4 question.

5           Q.       Okay. Do you know what RTO Ameren is  
6 in?

7           A.       No, sir, I don't.

8           Q.       Okay. So do you know what, if any, any  
9 differences there are between, you know, the  
10 Southwest Power Pool and MISO in terms of electric  
11 utilities being able to realize off-system sales  
12 profits?

13          A.       No, sir, I do not.

14          Q.       Okay. So in this case you didn't do any  
15 sort of prudence analysis to look and see if KCP&L  
16 would be better off in MISO or not in an RTO  
17 altogether as opposed to its membership in SPP, did  
18 you?

19          A.       That was not addressed in this case, no.

20          Q.       Okay. Do you know if the -- do you know  
21 if the Staff's ever gonna look at that issue again?

22          A.       Well, I would think given this  
23 discussion, I'm certainly gonna inquire about that  
24 when I get off the witness stand, I can assure you.

25          Q.       Were you -- given the KCP&L response to

1 Staff data request number 206, were you surprised --  
2 well, first of all, did you read Mr. Giles' -- I  
3 can't remember if it was his rebuttal or surrebuttal  
4 testimony?

5 A. Yes, I did.

6 Q. Okay. So were you surprised -- given  
7 the response to Staff data request No. 206, were you  
8 surprised to see that he was able to put a number to  
9 KCP&L's net off-system sales margins for the period  
10 of January 1st, 2007, through July 30th, 2007?

11 A. No, not at all.

12 Q. Okay. So did you think anything about  
13 it other than they just didn't give you the  
14 information or ...

15 A. Well, I mean, in my views, I expressed  
16 in my testimony the -- the off-system sales margin is  
17 such a major contributor to the bottom line for this  
18 company that it's -- that it's -- it's just a  
19 business requirement that you know at the end of  
20 every single month --

21 Q. Right.

22 A. -- what your margin is. And that  
23 information has always been readily available by this  
24 company and was so in the last case. So no, there  
25 was no -- no explanation as to --

1           Q.       No explanation as to why it didn't --  
2       didn't show up at the end of June?

3           A.       That's correct.

4                   CHAIRMAN DAVIS:   Okay.  I tell you what,  
5       I'm gonna pass to Commissioner Jarrett and see if  
6       he's got anything, but I've just got a few more  
7       questions for Mr. Traxler I just need to get  
8       organized for.

9                   JUDGE PRIDGIN:   Mr. Chairman, thank you.  
10       Commissioner Jarrett?

11                  COMMISSIONER JARRETT:  I don't have any  
12       questions.

13                  JUDGE PRIDGIN:   I'm sorry.

14                  CHAIRMAN DAVIS:   All right.

15                  JUDGE PRIDGIN:   Do you want me to make  
16       some up?

17                  CHAIRMAN DAVIS:   Let me -- bear with me  
18       just a second, Mr. Traxler.

19                  JUDGE PRIDGIN:   I do have something,  
20       Mr. Chairman, something I can get into real quick,  
21       but it's actually kind of not related to the -- to  
22       the hearing.  I did get a bulletin from Jefferson  
23       City Public Schools, and the high school had a gas  
24       leak and all students are being dismissed at 2:10.  
25       There's no report of any kind of injury or anything,

1 but in case that affects anyone in here, you maybe do  
2 not -- I know you don't have e-mail and I do, and I  
3 thought I would at least give people a heads-up in  
4 case you have a student or something at the high  
5 school.

6 QUESTIONS (CONTINUED) BY CHAIRMAN DAVIS:

7 Q. All right. Mr. Traxler, do you have a  
8 copy of your direct testimony in front you?

9 A. Yes, I do.

10 Q. Okay. Can you go to page 13, lines 9  
11 through 13? There's an -- there's an example of you  
12 just grossing up for taxes, just showing an example  
13 of how that works.

14 A. Yes.

15 Q. Okay. And I guess I was just a  
16 little -- I was a little fuzzy because if the -- if  
17 the effective tax rate is 38.39 percent, you know, I  
18 was looking at the actual multiplier which was 1.6231  
19 and the numbers work out here, but there was --  
20 there's about three one-thousandths of a point  
21 difference between the 38.39 and the 1.6231. And  
22 your -- and your math is right. I'm just trying to  
23 figure out how did you know to get there?

24 A. Well, if there's a -- if they don't tie  
25 out, you've found an error in their testimony when --

1 is my answer to your question. The --

2 Q. So should those numbers total 2?

3 A. The -- well, the actual mathematical  
4 calculation is -- is 1 divided by 1, minus the  
5 effective tax rate.

6 Q. Okay.

7 A. If you run that math and it doesn't  
8 generate 1.6231, then I have an error in the  
9 testimony.

10 Q. Okay. All right. Well, I'll go back  
11 and look at that. Thank you, Mr. Traxler.

12 Back at your -- looking at your  
13 reconciliation that you filed as your direct  
14 testimony, I guess that's back on pages 22 and 23.

15 A. Yes, sir.

16 Q. Okay. I think I understood everything  
17 on page 22, but then the information on page 23, the  
18 lines up at the top there, lines 31 through 38, could  
19 you just briefly explain to me what those adjustments  
20 are?

21 A. The -- in the purpose --

22 Q. What's the significance of that?

23 A. The purpose of the additional revenue  
24 requirement that you're referencing is to demonstrate  
25 that based on the capital structure that we were

1     expecting at September, that the Staff was still  
2     expecting a negative revenue requirement under  
3     traditional rate regulation, but a positive total  
4     revenue requirement because of the regulatory plan  
5     amortization.

6                     In other words, the Staff's case was --  
7     was based upon a negative revenue requirement under  
8     traditional regulation, but a significant positive  
9     increase for the regulatory plan amortization. And  
10    that's how we net to a positive \$14.6 million  
11    increase.

12                    And generally, that's driven by the fact  
13    that the negative -- the negative number under  
14    traditional regulation is generally, you know,  
15    attributable mainly to the fact that the difference  
16    in the ROE recommendation is between the Staff and  
17    Kansas City Power & Light.

18                    Now, that situation has completely  
19    changed now because of the capital structure that  
20    we're dealing with now.

21            Q.     Right. Okay. All right. Are you  
22    familiar with the KCP&L regulatory plan?

23            A.     Yes, sir, I am.

24            Q.     Are you familiar with the -- what was  
25    it, the working docket that sort of was the -- I

1     guess the genesis of the KCP&L experimental  
2     regulatory plan?

3             A.       Working docket?

4             Q.       Well, do you remember there was some  
5     open docket here where it was KCP&L --

6             A.       Oh, where the discussions were going on?

7             Q.       Yes.

8             A.       Yes, sir.

9             Q.       Yeah, there were all sorts of -- all  
10    sorts of discussions. Do you remember those  
11    discussions? And then do you recall that -- you  
12    know, sort of, the KCP&L experimental regulatory plan  
13    was sort of the product of those meetings?

14            A.       That's correct.

15            Q.       Okay. Now, was that docket that caused  
16    all those meetings to happen, do you know, did that  
17    occur as a result of a settlement of KCP&L's last  
18    either potential or actual overearnings complaint  
19    that could have been filed by Staff?

20            A.       The results of that earnings  
21    investigation were certainly considered in the  
22    context and at the same time as the regulatory plan  
23    amortization, as I recall. I mean, approximately the  
24    same time frame. We had just recently reviewed the  
25    earnings of Kansas City Power & Light Company, so



1 that was -- that information was certainly being  
2 discussed with the Staff and Kansas City Power &  
3 Light in the context of the discussions of the  
4 regulatory plan docket.

5 Q. Okay. So I'm -- I'm a little sketchy.  
6 Was there -- was there an actual overearning  
7 complaint filed against KCP&L?

8 A. No, no complaint was filed. The Staff  
9 had just completed an investigation.

10 Q. Okay. So they'd completed an  
11 investigation?

12 A. Preliminary investigation, yes.

13 Q. Okay. Were ratepayers harmed by the  
14 Hawthorn 2 outage?

15 A. I'm not sure I understand or recall what  
16 specific outage you're referring to and the timing of  
17 it.

18 Q. Well, the -- the outage was -- the  
19 outage here in question that we've been -- was it  
20 Hawthorn 2 or Hawthorn 5?

21 A. Hawthorn 5.

22 Q. Hawthorn 5. Excuse me. Did ratepayers  
23 suffer any detriment as a result of the Hawthorn 5  
24 outage? Excuse me. I was three numbers off.

25 A. Given the fact that base rates weren't

1 changed, my answer would be no.

2 Q. Okay. Give me just a second,  
3 Mr. Traxler. Has bad debt settled?

4 A. We have an agreement to use updated  
5 information so we don't expect that to be an issue.

6 CHAIRMAN DAVIS: Okay. All right. No  
7 further questions, Judge. Thank you.

8 JUDGE PRIDGIN: Mr. Chairman, thank you.  
9 Mr. Jarrett?

10 COMMISSIONER JARRETT: No questions.

11 JUDGE PRIDGIN: Recross? Mr. Woodsmall.

12 MR. WOODSMALL: Very briefly.

13 RE-CROSS-EXAMINATION BY MR. WOODSMALL:

14 Q. On this issue of Hawthorn 5 and  
15 detriment to ratepayers, would you agree that as a  
16 result of Hawthorn 5 being out of service, that the  
17 company lost revenues associated with off-system  
18 sales margins?

19 A. Yes, they did.

20 Q. And the company had increased expenses  
21 associated with off-system purchases to cover that  
22 power; is that correct?

23 A. That's correct.

24 Q. And if those two items had been at  
25 normal levels had Hawthorn been there, Staff may

1 have -- more earnings may have been realized that had  
2 driven -- that might have driven a Staff complaint;  
3 is that true?

4 A. Well, it would certainly have been more  
5 likely that a -- that would be the only likely  
6 scenario that an earnings -- earnings investigation  
7 would -- probably would have occurred at that point  
8 in time is the fact that that did not happen for  
9 sure.

10 MR. WOODSMALL: Thank you.

11 JUDGE PRIDGIN: Further recross?

12 MR. ZOBRIST: I have one question in  
13 light of a question from Chairman Davis.

14 JUDGE PRIDGIN: Yes, sir.

15 CHAIRMAN DAVIS: Before --

16 JUDGE PRIDGIN: I'm sorry.

17 Mr. Chairman?

18 CHAIRMAN DAVIS: Before you go back to  
19 Mr. Zobrist, can I go back and ask a few more  
20 questions?

21 JUDGE PRIDGIN: Absolutely.

22 QUESTIONS BY CHAIRMAN DAVIS:

23 Q. Mr. Traxler, are you aware, did the  
24 Commission -- do you know if the Commission imputed  
25 any off-system sales revenues to Ameren in their

1 recent rate case?

2 A. I have not read the order. I'm just  
3 assuming from Mr. Woodsmall's questions that you did  
4 not impute revenues, that it was based on some kind  
5 of historical level. But that's just an assumption  
6 based on his question.

7 Q. Okay. But -- so you don't -- you don't  
8 know if we imputed any revenues for, say, Taum Sauk,  
9 then?

10 A. No, I don't -- I'm not aware of that,  
11 sir.

12 Q. Is it -- would it be possible to impute  
13 revenues for a lost generation unit?

14 A. Yes, it would.

15 Q. Okay. So back when Staff was doing its  
16 earnings investigation of KCP&L prior to the working  
17 docket, Staff could have calculated those for  
18 Hawthorn 5?

19 A. Well, there was no earnings  
20 investigation in place or in play at the time of the  
21 Hawthorn 5 incident.

22 Q. Right, but it was -- but it was after?

23 A. It was completed, if I recall the  
24 timing. I think the investigation was complete and  
25 the -- and the event took place after we'd completed

1     our initial investigation, is my recollection of the  
2     timing.

3                     CHAIRMAN DAVIS:   Okay.   All right.  
4     Thank you, Mr. Traxler.

5                     JUDGE PRIDGIN:   Thank you.   No further  
6     bench questions.   Any further recross?

7                     (NO RESPONSE.)

8                     JUDGE PRIDGIN:   Mr. Zobrist.

9     CROSS-EXAMINATION BY MR. ZOBRIST:

10            Q.       Mr. Traxler, is it correct that Kansas  
11     City Power & Light reduced its rates in 1999 before  
12     the Hawthorn explosion pursuant to a Stipulation &  
13     Agreement entered into with Staff and Public Counsel?

14            A.       I believe that timing is correct.

15            Q.       And then back to the question about your  
16     receiving information, updated information on  
17     off-system sales margins, did you receive such  
18     information in response to data request 276 on or  
19     about August 1st of this year?

20            A.       I don't recall the exact date or the DR  
21     at this point, but if this information was supplied  
22     in response to that data request on that date, then  
23     the answer to the question would be yes.

24                     MR. ZOBRIST:   Thank you.   Nothing  
25     further, Judge.

1 JUDGE PRIDGIN: All right. Thank you.

2 Any redirect?

3 MR. DOTTHEIM: Yes, just a question or  
4 two.

5 REDIRECT EXAMINATION BY MR. DOTTHEIM:

6 Q. Mr. Traxler, do you know whether the  
7 Staff in electric cases in the early to mid-1980s  
8 based fuel expense on forecasted fuel prices?

9 A. I recall that now, yes.

10 Q. Do you know whether the Staff in any  
11 electric cases regarding Kansas City Power & Light in  
12 the -- in the early to mid-1980s based fuel expense  
13 on forecasted fuel prices?

14 A. My recollection talking with other Staff  
15 members, that's correct, yes.

16 Q. Mr. Zobrist asked you whether there was  
17 a rate reduction prior to the Hawthorn 5 explosion,  
18 and I think you indicated that there was. Do you  
19 recall whether that rate reduction was part of a  
20 Stipulation & Agreement with Kansas City Power &  
21 Light?

22 A. Yes, it was.

23 Q. Do you recall whether there was a rate  
24 moratorium that was part of that Stipulation &  
25 Agreement?

1           A.       I believe there was.

2                   MR. DOTTHEIM:  No further questions.

3                   MR. WOODSMALL:  Your Honor?

4                   JUDGE PRIDGIN:  Mr. Woodsmall.

5                   MR. WOODSMALL:  In response to some of  
6 my questioning, Mr. Traxler said he wasn't aware of  
7 the Commission's use of any forecasted expense items  
8 or revenue items.  He just changed his position on  
9 that in response to some questions, and I'd like to  
10 ask some cross-examination now based upon that.  And  
11 I certainly have no problems on -- for redirect, but  
12 he changed his position in response to the question.

13                   MR. DOTTHEIM:  I don't think that it's  
14 been the Commission's policy just to have completely  
15 open-ended cross-examination and redirect and what  
16 have you.  I think we've completed the full rounds of  
17 cross-examination and redirect.

18                   MR. WOODSMALL:  And I'm not talking  
19 about open-ended.  I'm talking about a couple  
20 specific questions on the question that he changed  
21 his answer to.

22                   JUDGE PRIDGIN:  I'll allow that,  
23 assuming it's brief and it's just going back to what  
24 happened at redirect, and I'll give Mr. Dottheim one  
25 last chance for redirect.

1                   MR. WOODSMALL: Certainly.

2       RE CROSS-EXAMINATION BY MR. WOODSMALL:

3           Q.       Mr. Traxler, in response to one of my  
4       questions, you said that in your 20, 25 years, you  
5       were not aware of the Commission ever using  
6       forecasted expense and revenue items; is that  
7       correct?

8           A.       That was my initial answer, yes.

9           Q.       And what was your updated answer in  
10      response to redirect?

11          A.       That the Staff, in fact, on some of the  
12      Kansas City Power & Light cases that I wasn't  
13      involved in personally, did use forecasted fuel in  
14      some of those cases.

15          Q.       And how long ago was that?

16          A.       It was back in the '80s, I believe. It  
17      was a long time ago.

18          Q.       So to your knowledge in your time that  
19      you've been on the Commission, approximately 25  
20      years, are you aware in that time period of the  
21      audits you've done that -- the Commission ever using  
22      a forecasted item?

23          A.       I believe the forecasted fuel at least  
24      on one of those cases was in play during my first  
25      tenure with the Commission, and --



1 Q. What year was that?

2 A. Well, I don't know --

3 Q. Was that --

4 A. -- the exact year, but I think -- I  
5 think I was here for at least one of these instances  
6 that Mr. Dottheim raised where the audit department  
7 was involved in that case where there was projected  
8 fuel involved. I wasn't personally involved, but I  
9 recall now that that did occur.

10 Q. Okay. One last question: In the  
11 approximately 25 years since that time period, are  
12 you aware of the Commission ever using projected  
13 expenses or revenues or rate base?

14 A. Those are the only instances that I  
15 can -- I can recall.

16 MR. WOODSMALL: Thank you. Thank you,  
17 your Honor, for indulging me.

18 JUDGE PRIDGIN: Thank you. Any further  
19 recross?

20 (NO RESPONSE.)

21 JUDGE PRIDGIN: Redirect?

22 MR. DOTTHEIM: Thank you.

23 REDIRECT EXAMINATION BY MR. DOTTHEIM:

24 Q. Mr. Traxler, in the last 30 years, you  
25 haven't been continually in the employ of the

1 Missouri Public Service Commission, have you?

2 A. No, I have not.

3 Q. Can you indicate over what period of  
4 time in the last approximately 30 years you have not  
5 been in the employment of the Missouri Public Service  
6 Commission?

7 A. I was not employed by the Missouri  
8 Public Service Commission between February of 1983  
9 and November of 1989.

10 Q. Mr. Traxler, in your employment with the  
11 Missouri Public Service Commission, have you  
12 regularly been assigned to audit Union Electric  
13 Company?

14 A. I've never been --

15 MR. WOODSMALL: Your Honor, I believe  
16 that goes outside the scope of the cross that I just  
17 performed. I don't know where we're headed here, but  
18 it sounds like a whole new level of redirect.

19 MR. DOTTHEIM: I believe Mr. Woodsmall  
20 has raised questions regarding forecasting using  
21 forecasted prices, he's previously asked Mr. Traxler  
22 questions about AmerenUE, and I'm just establishing  
23 Mr. Traxler's length of employment and the range of  
24 that employment. And I believe that is -- is  
25 relevant to the questions that Mr. Woodsmall has

1 posted to Mr. Traxler.

2 JUDGE PRIDGIN: I'll overrule and let  
3 you continue, and I understood that the scope of the  
4 questioning was essentially his memory on when he  
5 knew of the Staff using projected prices, and I  
6 assume we're gonna stick with that --

7 MR. DOTTHEIM: Yes.

8 JUDGE PRIDGIN: -- questioning? All  
9 right.

10 THE WITNESS: I'm sorry. Could you  
11 repeat the question?

12 BY MR. DOTTHEIM:

13 Q. Mr. Traxler, in the length of your  
14 employment at the Missouri Public Service Commission,  
15 have you regularly been assigned to the audits of  
16 Union Electric Company?

17 A. No, I have not.

18 Q. Have you ever been assigned when you  
19 have been assigned to Union Electric Company to  
20 perform an audit of fuel prices?

21 A. I was involved in the elimination of the  
22 fuel adjustment clause for every major electric  
23 utility in the state, but other than that, no.

24 Q. And could you identify the date that  
25 that assignment occurred?

1           A.       Shortly after the elimination of the  
2 fuel adjustment clause in the State of Missouri. I  
3 don't recall the exact year, but that's ...

4           Q.       Could you provide us with a decade?

5           A.       1970.

6           Q.       In the 1970 decade?

7           A.       That's right.

8           Q.       So you've never sponsored testimony on  
9 fuel in a Union Electric Company Staff audit, have  
10 you?

11          A.       No, I have not.

12                   MR. DOTTHEIM: Thank you.

13                   JUDGE PRIDGIN: Mr. Dottheim, thank you.

14 Mr. Traxler, thank you very much.

15                   Mr. Robertson would be the final witness  
16 on this issue and then also the final witness for  
17 today; is that correct?

18                   MR. MILLS: Yes.

19                   (THE WITNESS WAS SWORN.)

20                   JUDGE PRIDGIN: Thank you, sir. If you  
21 would please have a seat. Mr. Mills, anything before  
22 he stands cross?

23                   MR. MILLS: No, he has no corrections to  
24 his testimony so he's good to go.

25                   JUDGE PRIDGIN: All right. Thank you.

1 Mr. Dottheim, will you have cross of this witness?

2 MR. DOTTHEIM: No questions.

3 JUDGE PRIDGIN: Any from other parties?

4 KCPL?

5 MR. ZOBRIST: I have a few.

6 JUDGE PRIDGIN: Any other parties?

7 (NO RESPONSE.)

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

10 MR. ZOBRIST: Okay.

11 CROSS-EXAMINATION BY MR. ZOBRIST:

12 Q. Mr. Robertson, your proposal to the  
13 Commission is that rates for off-system sales margins  
14 be set at the 40 percent level; is that correct?

15 A. That's correct.

16 Q. Now, have you had an opportunity to  
17 study Exhibit 35 which has been admitted into  
18 evidence?

19 A. I have seen it, yes.

20 Q. Okay. Have you changed your testimony?  
21 Do you wish to offer any amendment to your testimony  
22 today based in line with the data that's contained in  
23 Exhibit 35?

24 A. I do not.

25 Q. And so even in light of the figures that

1 are contained in the exhibit that have been discussed  
2 in both open and closed sessions, it's still your  
3 recommendation to the Commission that rates be set at  
4 the 40 percentile level?

5 A. It is.

6 Q. Okay. And that is in opposition to the  
7 company's recommendation of 25 percent; is that  
8 correct?

9 A. That is correct.

10 Q. Okay. And that's also in opposition to  
11 the recommendation that has come from the Staff of  
12 the Commission, correct?

13 A. That is correct.

14 MR. ZOBRIST: Nothing further, your  
15 Honor.

16 JUDGE PRIDGIN: Mr. Zobrist, thank you.  
17 There's no further cross. Any questions from the  
18 bench? Mr. Chairman.

19 QUESTIONS BY CHAIRMAN DAVIS:

20 Q. I'm gonna -- Mr. Robertson, I'm gonna  
21 try to stay out of the highly confidential  
22 information, but this is basically speaking in  
23 generalities. Have you seen, I guess, what's been  
24 marked as, what is it, Exhibit 35?

25 A. I -- I have it.

1           Q.       Now, have you had the opportunity to  
2       thoroughly review those numbers to determine if you  
3       think they're correct or if there's -- and I know  
4       Mr. Mills has had some questions about them. Do you  
5       have questions about them?

6           A.       Insofar as you say "thoroughly  
7       reviewed," we haven't audited them, but I've seen  
8       them. I've looked at the spreadsheet numbers, yes.

9           Q.       Okay. Is there anything on that  
10       spreadsheet that -- that jumps out at you as not  
11       being accurate or that you find questionable, any  
12       patterns that you see that -- that -- that cause you  
13       heartburn?

14          A.       There is.

15          Q.       Go ahead.

16          A.       The gross sales, and I won't get into  
17       numbers, the -- the gross sales are approximately  
18       what they were in the year 2006. If they continue on  
19       the same trending as the year 2006, they will  
20       probably meet or exceed the amount of gross sales for  
21       2006.

22          Q.       Uh-huh.

23          A.       But when you look at the net margin  
24       that's -- that's associated with the -- the numbers  
25       here in this exhibit, it's extremely low as compared

1 to the year 2006. Of course, the cost of the sales  
2 are what drives that margin, so we do have concerns  
3 about why those sales -- or those costs are what they  
4 are.

5 Q. Okay. So what you're saying is, if I'm  
6 understanding this right, in terms of the sales,  
7 prices haven't -- haven't changed in terms of what  
8 their gross sales were January through August of this  
9 year, haven't changed that much from '06 to '07.  
10 However, their net margins have -- have changed  
11 substantially?

12 A. The gross sales, yes. You said prices,  
13 and I really can't address the prices that they  
14 got --

15 Q. Okay. You can't address the prices, but  
16 the actual month-to-month sales numbers from '06 to  
17 '07?

18 A. That's correct.

19 Q. Okay. If -- like Mr. Traxler said, if  
20 there is a tracking mechanism in place, how are --  
21 how are customers harmed?

22 A. Well, when we prepared the testimony for  
23 this case, even though the Commission had -- had  
24 ordered that the excess of what they imputed in the  
25 revenues would be returned to ratepayers, there was



1 no language about how that would actually occur. The  
2 order stated that they would return the excess in  
3 this rate case.

4 Q. Uh-huh.

5 A. Of course, the timing of that, as  
6 Mr. Giles said earlier, there's a problem with that  
7 because this rate case and the amount will be --  
8 there's a mismatch of when that will occur. So how  
9 you return in this rate case would concert with how  
10 that would be accomplished.

11 We were also concerned that if they did  
12 exceed or achieve an excess over what was imputed in,  
13 that there would be no interest included on that.  
14 The company has now conceded that they would include  
15 interest. They also conceded that --

16 Q. Okay. So interest is no longer an  
17 issue?

18 A. Well, they -- they -- they've changed  
19 their position to where they had stated they would  
20 pay interest on any excess at a certain rate. I  
21 believe it's our position that the rate that they  
22 stated would be acceptable to us to reach settlement.

23 Q. Is Staff still opposing that?

24 A. I haven't heard Staff's position on  
25 that, but ...

1 Q. Okay.

2 A. So -- but anyhow, in -- continue the --  
3 the answering your question, that -- that was part of  
4 the reason how we -- we thought that the ratepayers  
5 might be harmed. We didn't know how the money was  
6 gonna be calculated, when it was gonna be calculated,  
7 if there would be interest on it or when it would  
8 even be returned to ratepayers, assuming there is an  
9 excess amount.

10 Mr. Giles suggested that they return the  
11 amount at the end of the next rate case. We find  
12 that to be a little too long because the problems  
13 with the intergeneration and equity associated with  
14 the ratepayers paying it now but maybe not being on  
15 the system later. So we'd like to see the money  
16 refunded earlier than what he suggested.

17 The company closes its books  
18 approximately somewhere around the end of January  
19 after the calendar year, and we think you could  
20 probably do a refund shortly thereafter once they've  
21 determined what the amount is if there is an excess  
22 amount.

23 Q. So would you just put a line item on  
24 customers' bills and give them --

25 A. True.

1 Q. Right.

2 A. Just give them a refund.

3 Q. And -- and for people who are no longer  
4 on the system -- or people -- people who weren't --  
5 weren't on the system during the period, and people  
6 who have left the system, how would you handle that?

7 A. Well, and I really don't have an answer  
8 to that right now except to say that if we resolved  
9 that earlier, there would probably be fewer people  
10 now than there would be somewhere in the -- in the  
11 spring or early summer of 2009. It would be less of  
12 a problem now than it would be then. So that's why I  
13 say I propose that we should do the refund earlier,  
14 assuming there is an excess.

15 The other part I would say as far as  
16 repairs being harmed is, part of the reason that we  
17 requested that the Commission impute a level of  
18 revenues or net margin at the 40th percentile was  
19 because to some degree, ratepayers are being harmed  
20 because we think the Commission -- the company could  
21 achieve a slightly higher level of off-system sales  
22 than what -- what the -- what the Commission imputed  
23 in the last rate case.

24 And part of the reason we thought this  
25 was because that what it shows on this -- this

1 schedule 35 HC, what the gross -- what the gross  
2 wholesale sales are now in 2007 versus what they were  
3 in 2006, and partly because of what Mr. Giles wrote  
4 in his direct testimony where he stated that the  
5 company could perhaps achieve a higher level than the  
6 25th percentile if they were provided with an  
7 incentive to do so. So ...

8 Q. He -- he restated that here on the stand  
9 today, didn't he?

10 A. It's on page 12 of his direct testimony.  
11 It's the -- like the third sentence from the bottom.

12 Q. Right, right. So do you think during  
13 the -- the test period, the initial test period  
14 versus, I guess, the revised test period, do you  
15 think that KCP&L hasn't been -- been diligent in  
16 trying to generate -- or to trying -- trying to  
17 generate net off-system sales margins or ...

18 A. That's a big one. The only way I can  
19 answer that is -- is to say to look at the schedule  
20 35 HC and you can see what the gross sales are and  
21 then what the net margin is. There's -- there's a  
22 big disconnect there when you look at -- and compare  
23 the same numbers for calendar year 2006 where they --  
24 the gross sales were -- should be very close, right  
25 in the same ballpark.

1 Q. Uh-huh.

2 A. To -- to sit there and say that they  
3 haven't been diligent --

4 Q. Right.

5 A. -- I have no evidence to present that,  
6 to state that's correct.

7 Q. Do you know what portion of their --  
8 their fuel costs are -- are coal?

9 A. No, I don't.

10 Q. So have you ever -- you ever looked at  
11 their coal contracts or their rail contracts?

12 A. Over the years I've probably read them,  
13 but I -- a few occasionally, but I don't remember.

14 Q. Is it -- is it fairly common that --  
15 that those contracts have escalated clauses?

16 A. Specific to KCPL, I don't know. But I  
17 have read contracts where that occurred.

18 Q. Okay. So it's possible that some of  
19 these higher expenses could be increased coal and  
20 rail costs, whatever, but you really don't know?

21 A. Well, I would add -- I would state that  
22 the cost that you're -- you're defining or you're  
23 describing right now, when -- when you look at this  
24 schedule, those aren't the costs that are necessarily  
25 increasing.

1           Q.     Right.  Is it -- is it purchased power  
2     cost?

3           A.     Yes.  As shown on this schedule, yes.

4           Q.     Have you looked at -- at KCP&L's load  
5     growth at all?

6           A.     I haven't, no.

7           Q.     You haven't?

8           A.     No.

9           Q.     So you wouldn't know if they've -- if  
10    they've hit any new peaks or -- this year or would  
11    you know?

12          A.     I would not.

13          Q.     You would not.  Would that -- that be a  
14    reason why they would need to purchase more power?

15          A.     It's my understanding that this power is  
16    the power they're purchasing for resale.

17          Q.     Okay.

18          A.     So it's specific to the power they  
19    purchase for the use of their base-load customers.

20          Q.     Okay.  So they're -- they're purchasing  
21    and reselling it to their existing customers or to  
22    their other customers?

23          A.     It's my understanding it's being resold  
24    to others.

25          Q.     Okay.  So -- so their theory that they

1   aren't able to realize the same net margins on these  
2   transactions may be true, then?  If they're having to  
3   buy more -- to buy more power to get what they've  
4   got, then doesn't that sort of track with their  
5   theory that -- that the margins aren't what they were  
6   even though -- even though the numbers are -- the  
7   wholesale numbers may be -- the sales numbers may be  
8   roughly the same?

9           A.       Well, and that's a possibility.  Like I  
10   said, the costs are something to be looked at in --  
11   further in detail.  It also could be that the --  
12   maybe the lower cost power created from their own  
13   generation is not being sold versus power to buying  
14   out on the open market and then reselling.  It's --

15          Q.       Well, but don't they have an obligation  
16   to use their -- use their existing base load to serve  
17   their native load first unless they can buy power  
18   cheaper somewhere else and then sell it to their  
19   customers?

20          A.       I would agree with that, yes.

21                   CHAIRMAN DAVIS:  Okay.  Mr. Robertson,  
22   no further questions.  Thank you.

23                   THE WITNESS:  Thank you.

24                   JUDGE PRIDGIN:  Mr. Chairman, thank you.

25                   COMMISSIONER JARRETT:  No questions.

1 JUDGE PRIDGIN: All right. Thank you,  
2 Commissioner. Recross?

3 (NO RESPONSE.)

4 JUDGE PRIDGIN: No recross?

5 MR. ZOBRIST: No questions.

6 JUDGE PRIDGIN: All right. Redirect?

7 MR. MILLS: Yes, I have a few.

8 REDIRECT EXAMINATION BY MR. MILLS:

9 Q. Mr. Robertson, do you have -- do you  
10 have a copy of Mr. Traxler's rebuttal testimony there  
11 with you?

12 A. I'm sorry to say I do not.

13 MR. MILLS: May I approach?

14 JUDGE PRIDGIN: You may.

15 BY MR. MILLS:

16 Q. Now, Mr. Robertson, Chairman Davis asked  
17 you some questions about the fuel costs. Is there  
18 information that was provided in response to Staff  
19 data request 206 that will allow you to compare the  
20 fuel costs so far in 2007 with the fuel costs in  
21 2006?

22 A. Yes, there is. The response to data  
23 request -- Staff data request 206 provides the -- the  
24 monthly gross sales, the purchased power costs and  
25 the fuel cost generation costs for -- for the year.



1 Q. And how do the two years compare?

2 A. As I said, the -- the -- I believe the  
3 wholesale costs even -- not only through the year  
4 itself, although 2007 was not done, so you'd go  
5 through August for it, compare, they're very nearly  
6 the same amounts for the wholesale. And the  
7 difference in the -- in the power costs  
8 themselves ...

9 Q. And some of these numbers are gonna be  
10 highly confidential, so I'm not trying to get you to  
11 give the absolute number --

12 A. Right.

13 Q. -- but just an order of magnitude for  
14 fuel costs for 2006 versus fuel cost for 2007.

15 A. Okay. If I'm reading this correctly,  
16 and I believe I am -- well, I believe the -- I  
17 believe the purchased power costs for 2006 for the  
18 entire year are about -- about two-thirds of what  
19 they are in the schedule 35 HC for just -- and of  
20 course, that just goes through August currently.

21 The generation costs, I believe, are  
22 approximately in line with what they should be. It's  
23 for the same time period, 2006, 2007.

24 Q. Okay. So that indicates to you that  
25 KCPL is not necessarily running its own generation

1 any less; is that correct?

2 A. For 2007?

3 Q. For 2007 versus 2006.

4 A. That is correct, yes.

5 Q. Okay. Now, Chairman Davis also asked

6 you a question about whether or not KCPL set any --

7 any new peaks in 2007. If the overall level of

8 off-system sales is roughly the same from 2006 to

9 2007, would that make any difference to the -- that

10 in and of itself make any difference to the

11 calculation of the net margin on off-system sales?

12 A. Say that again, please.

13 Q. If the -- if the actual gross off-system

14 sales revenues are approximately the same for 2006,

15 2007, would the level of KCPL's peak from 2006 to

16 2007 make any difference in calculating the margin

17 from off-system sales difference between the two

18 years?

19 A. I don't believe it would, no.

20 Q. Okay. Now, sort of working backwards,

21 Mr. Zobrist asked you a question about whether in

22 light of the information in 35 HC, which is -- which

23 is relatively new, whether or not you still recommend

24 the 40th percentile as the level on which rates

25 should be based. Do you recall that question?

1           A.       That is correct, we do.

2           Q.       And why has the information in 35 HC not  
3     caused you to change your mind on that -- on that  
4     issue?

5           A.       Well, as I stated, the reason we  
6     recommended the 40th percentile was based primarily  
7     on the fact -- the information the company gave us  
8     what their gross sales were, and that those are still  
9     in line with what they were in 2006, in addition to  
10    Mr. Giles testimony, his direct testimony where he at  
11    least implied that the company could do better than  
12    the 25th percentile.

13                   The information on this schedule 35 HC  
14    has not changed that position.  If it's done  
15    anything, the -- the amount of the net margin that it  
16    shows has raised some flags to us about why the  
17    amount is so low.

18                   MR. MILLS:  Okay.  No further questions.

19                   JUDGE PRIDGIN:  Mr. Mills, thank you.  
20    Mr. Robertson, thank you very much.  You may step  
21    down.  If I'm not mistaken, that is the last witness  
22    for the day.

23                   MR. MILLS:  And I believe that is  
24    Mr. Robertson's last appearance in this case, and so  
25    I would like to offer his testimony.

1 JUDGE PRIDGIN: I show that as being  
2 Exhibit 205 NP and HC and Exhibit 206.

3 MR. MILLS: That's correct.

4 JUDGE PRIDGIN: All right. Exhibits 205  
5 NP and HC and Exhibit 206 have been offered. Are  
6 there any objections?

7 (NO RESPONSE.)

8 JUDGE PRIDGIN: Hearing none, Exhibit  
9 205 NP and HC and Exhibit 206 are admitted.

10 (EXHIBIT NOS. 205 NP, 205 HC AND 206  
11 WERE RECEIVED INTO EVIDENCE AND MADE A PART OF THE  
12 RECORD.)

13 JUDGE PRIDGIN: Mr. Dottheim?

14 MR. DOTTHEIM: Judge Pridgin, I believe  
15 off-system sales concludes the issues that  
16 Mr. Traxler has testimony on, but he does, for  
17 example, have testimony on cost of removal. And the  
18 Stipulation & Agreement was filed today, and that's  
19 not been resolved.

20 So -- and, of course, tomorrow  
21 Mr. Dittmer will be here on incentive compensation,  
22 so that issue hasn't necessarily closed either. So  
23 given that, I won't offer Mr. Traxler's testimony at  
24 this point, so excuse me.

25 JUDGE PRIDGIN: All right. That's quite

1 all right. Thank you. Anything further from  
2 counsel? Mr. Williams?

3 MR. WILLIAMS: Judge, I have a hard copy  
4 of the Stipulation & Agreement that was just filed  
5 today.

6 JUDGE PRIDGIN: Thank you very much,  
7 Mr. Williams, and thanks for your speedy work,  
8 everyone, to get this filed so quickly.

9 MR. WILLIAMS: Judge, do you want it  
10 marked as an exhibit? It is filed in EFIS.

11 JUDGE PRIDGIN: I see no need to. I  
12 mean, it's just part of the -- of the EFIS filing.  
13 Thank you very much. Is there anything further from  
14 counsel?

15 (NO RESPONSE.)

16 JUDGE PRIDGIN: What I'd like to do is  
17 briefly go off the record and just discuss scheduling  
18 matters with counsel. I don't see any reason to do  
19 that on the record. And then once we have some sort  
20 of idea of how we'll proceed, we can go back on the  
21 record and I'll confirm everyone's understanding to  
22 make sure that -- that we've got the schedule filled  
23 out. So if we could go off the record for just a  
24 moment, please.

25 (DISCUSSION HELD OFF THE RECORD.)

1 JUDGE PRIDGIN: All right. We're back  
2 on the record. We went off the record briefly to  
3 discuss with counsel basically how to proceed from  
4 here. And it was my understanding that tomorrow we  
5 would begin with Mr. Dittmer from Department of  
6 Energy and he would stand cross-examination on  
7 Hawthorn 5, long-term incentive compensation,  
8 short-term executive compensation.

9 We would then proceed to the DOE nuclear  
10 fuel overcharge refund issue which we have a KCPL  
11 witness and a Staff witness, and that would complete  
12 Thursday and also the entire week. And we would  
13 resume Tuesday morning with the class cost of service  
14 and rate design issues and just continue on as  
15 scheduled, and the -- and the parties' list of  
16 issues.

17 Does counsel have any comment on that?  
18 Is that counsels' understanding? Okay. I'm  
19 seeing -- I'm seeing some nods.

20 MR. DOTTHEIM: Yes, that's --

21 JUDGE PRIDGIN: Okay.

22 MR. DOTTHEIM: -- that's the Staff's  
23 understanding.

24 JUDGE PRIDGIN: I'm sorry.  
25 Mr. Williams?

1                   MR. WILLIAMS: I'd just point out that  
2 Mr. Price is to be taken out of order next Thursday.

3                   JUDGE PRIDGIN: Yes, sir, that's  
4 correct. Thanks for pointing that out. I think we  
5 didn't discuss that off the record, but Mr. Price  
6 would not be available until Thursday, the 11th.  
7 Okay. Is there anything -- anything further from  
8 counsel?

9                   MR. BRUDER: Are we going to try to do  
10 all of the rate structure and rate design witnesses  
11 on Tuesday, or do you want to schedule some of them  
12 for Tuesday and some for Wednesday? I just wasn't  
13 clear on that.

14                  JUDGE PRIDGIN: As far as I'm concerned,  
15 I would -- I would assume we would be sticking with  
16 the schedule as filed by the parties, and that would  
17 be taking all of the issues -- excuse me -- the  
18 witnesses on issues 21 and 22 except for Mr. Price on  
19 Tuesday, assuming we can get those done, and then  
20 issue 23, the Trigen issue, I think it's been called,  
21 on Wednesday.

22                  MR. BRUDER: Okay. Thank you.

23                  JUDGE PRIDGIN: All right. Anything  
24 further from counsel before we go off the record?

25                         (NO RESPONSE.)

1                   JUDGE PRIDGIN: All right. Thanks very  
2 much. We stand in recess. We will readjourn at 8:30  
3 in the morning. Thank you.

4                   (WHEREUPON, the hearing of this case was  
5 recessed until October 4, 2007, at 8:30 a.m.)

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TALENT ASSESSMENT PROGRAM EMPLOYEE  
SEVERANCE COST & EMPLOYEE SEVERANCE COST

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34	* Marked in a previous volume.		
35	** Commission took notice of this exhibit.		
36	*** Not yet received into evidence.		
37			

## 1 CERTIFICATE OF REPORTER

2 STATE OF MISSOURI )  
3 ) ss.  
4 COUNTY OF COLE )  
5

6 I, PAMELA FICK, RMR, RPR, CSR, CCR #447,  
7 within and for the State of Missouri, do hereby  
8 certify that the foregoing proceedings were taken by  
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12 parties to the action to which this hearing was  
13 conducted, and further that I am not a relative or  
14 employee of any attorney or counsel employed by the  
15 parties thereto, nor financially or otherwise  
16 interested in the outcome of the action.

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21 \_\_\_\_\_  
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