

1 STATE OF MISSOURI
2 PUBLIC SERVICE COMMISSION
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6 TRANSCRIPT OF PROCEEDINGS
7 Hearing
8 October 4, 2007
9 Jefferson City, Missouri
Volume 9

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

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RONALD D. PRIDGIN, Presiding,
17 REGULATORY LAW JUDGE.

18

LINWARD "LIN" APPLING,
TERRY JARRETT,
19 COMMISSIONERS.

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

2 JUDGE PRIDGIN: Good morning. We are on
3 the record. When we convened yesterday, I understood that
4 we have left for today Mr. Dittmer, who will take the
5 stand on Hawthorn 5, on long-term incentive compensation,
6 on short-term executive compensation, and then we would
7 move on to nuclear fuel overcharge refund, which Mr. Giles
8 and Mr. Hyneman would take the stand, and that would wrap
9 up the issues for this week. Is my understanding correct?
10 I'm seeing some nods.

11 Is there anything from counsel before
12 Mr. Dittmer takes the stand? Okay. I'm not hearing
13 anything.

14 One thing, I'll give you a heads up, since
15 you're obviously here and don't have computer access, I've
16 issued an Order Directing Filing concerning the stip that
17 KCPL and Staff filed, and I simply shortened the time I
18 think by one day in which parties might have to comment or
19 launch any objections on that nonunanimous stip.

20 The Commission rules allow for seven days,
21 but because we're already in the hearing room, I wanted to
22 give you time to object and read the stip and still give
23 us time should the Commission find an on-the-record is
24 needed or more hearing is needed to get that figured out
25 while we're still in the hearing room together. So that

1 Order has been issued, I think, this morning, but it would
2 give you until Tuesday noon, I believe, to object to that
3 nonunanimous stip. I just thought I'd let you know about
4 that.

5 Okay. Anything further before we go on to
6 the next witness? All right. In that case, Mr. Dittmer,
7 if you'll come forward to be sworn, please, sir.

8 (Witness sworn.)

9 JUDGE PRIDGIN: Thank you very much.
10 Please have a seat. Mr. Bruder or Mr. Campbell, anything
11 to clear up before he's tendered for cross?

12 MR. BRUDER: We've provided DOE
13 Exhibits 801, 802, 803, Mr. Dittmer's testimonies,
14 respectively direct HC version, direct public version and
15 surrebuttal.

16 JAMES R. DITTMER testified as follows:

17 DIRECT EXAMINATION BY MR. BRUDER:

18 Q. Sir, please state your name for the record.

19 A. James R. Dittmer.

20 Q. And are there any changes or additions that
21 you'd like to make in any of the testimonies we've
22 provided at this time?

23 A. Yes. I have a few typographical errors to
24 correct.

25 Q. Please state them.

1 A. Okay. First with regard to Exhibit 801,
2 which would be the HC version, and 803, which would be --
3 excuse me, 802, the direct public version, if you refer to
4 page 3, line 3, the word tax should have been capitalized.

5 If you go to page 6, now, the correction is
6 actually to a confidential section. I don't think what
7 I'm going to insert would probably concern the company,
8 but I should warn the parties, including the company and
9 the Commission, that there's an insert to one of the
10 confidential sections on line 19. So I guess I'm asking,
11 can I go ahead and put it in even though we're not in a
12 closed session?

13 JUDGE PRIDGIN: I don't know if you need to
14 consult with KCPL and see if that's something they're
15 comfortable having done in a public forum. If not, we
16 need to go in-camera so we can do that.

17 THE WITNESS: I can show them very quickly
18 what it is.

19 I'm told they want to make that correction
20 in-camera.

21 JUDGE PRIDGIN: All right. If you bear
22 with me just a second, we'll go in-camera, please. And
23 while we're still in public forum, if we can make whatever
24 highly confidential corrections you need to make all at
25 once so we can just go in-camera once, if that's possible.

1 THE WITNESS: I think this is the only one.

2 JUDGE PRIDGIN: Okay. Just a moment,
3 please.

4 THE WITNESS: Unless my memory is failing,
5 I think it's the only one.

6 JUDGE PRIDGIN: I understand.

7 (REPORTER'S NOTE: At this point, an
8 in-camera session was held, which is contained in
9 Volume 10, pages 647 through 648 of the transcript.)

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1 JUDGE PRIDGIN: All right. We're back in
2 public forum.

3 THE WITNESS: Okay. Now referring to
4 page 7 of Exhibits 801 and 802, line 5, the word employee
5 is listed as singular. It should be plural, employees.

6 On page 12, line 17, the word effective
7 should be effect. On page 13, line 7, KCP's should be
8 KCPL's. Still on page 13, line 23, the word suite should
9 be suit. And there's going to be a number of changes to
10 the year. 2005 should be 2004 on the following
11 references: On page 16, line 24, 2005 should be 2004.
12 Page 17, line 5, 2005 should be 2004. Still on page 17,
13 line 19, 2005 should be 2004. And one more time on
14 page 19, line 9, 2005 should become 2004. And that's the
15 last of the changes to the 801/802 exhibits.

16 Now moving on to Exhibit 803, my
17 surrebuttal testimony, page 3, line 12, shareholder is
18 singular. It should be plural, shareholders. On page 9,
19 line 12, the word be should be being. And on page 11,
20 line 8, between the words consider and earnings, the word
21 whether, w-h-e-t-h-e-r, should be inserted. And on
22 page 13, line 16, the language in bold there in the middle
23 that says that party should be that no party ever could.
24 And that concludes all my corrections.

25 MR. BRUDER: We have nothing further. This

1 witness is available for cross-examination.

2 JUDGE PRIDGIN: Mr. Bruder, thank you. Let
3 me see who has cross-examination. Mr. Riggins, cross for
4 this witness?

5 MR. RIGGINS: Yes, sir.

6 JUDGE PRIDGIN: Staff?

7 MR. WILLIAMS: No.

8 JUDGE PRIDGIN: OPC? No cross.

9 Mr. Riggins, when you're ready, sir.

10 CROSS-EXAMINATION BY MR. RIGGINS:

11 Q. Good morning, Mr. Dittmer.

12 A. Good morning.

13 Q. Would you turn, please, to page 15 in your
14 direct testimony.

15 A. I am there.

16 Q. And on that page, you set forth your
17 rationale for amortizing the subrogation proceeds
18 associated with the Hawthorn 5 explosion, correct?

19 A. I do.

20 Q. And as I understand it, paraphrasing
21 somewhat, your rationale is essentially that because the
22 Commission in the past has allowed amortization of
23 significant and extraordinary expenses, it's fair to
24 permit amortization of significant and nonrecurring income
25 in essence; is that correct?

1 A. Income, benefits, yes.

2 Q. Did KCPL ever seek or obtain an Accounting
3 Authority Order to amortize the expenses associated with
4 the Hawthorn explosion?

5 A. No, it did not. It specifically had
6 authority to come in to request rate relief if a
7 significant outage occurred, but it did not ask for rate
8 relief or an Accounting Authority Order.

9 MR. RIGGINS: Thank you, Mr. Dittmer.
10 That's all I have, your Honor.

11 JUDGE PRIDGIN: Mr. Riggins, thank you.
12 See if we have any questions from the Bench. Commissioner
13 Appling?

14 COMMISSIONER APPLING: I just got here,
15 Judge. No questions at this time.

16 JUDGE PRIDGIN: Commissioner Jarrett?

17 COMMISSIONER JARRETT: No questions.

18 JUDGE PRIDGIN: I have no questions.

19 Redirect?

20 MR. BRUDER: Nothing, sir.

21 JUDGE PRIDGIN: All right. Thank you.

22 Nothing further. Mr. Dittmer, thank you very much.

23 If I'm not mistaken, we would then move on
24 to Mr. Giles on the nuclear fuel overcharge.

25 Mr. Williams?

1 MR. WILLIAMS: Judge, I thought we were
2 going to do Mr. Dittmer on the other issue.

3 JUDGE PRIDGIN: I'm sorry?

4 MR. WILLIAMS: Long-term incentive
5 compensation and short-term executive compensation.

6 JUDGE PRIDGIN: Okay. I'm sorry. I
7 thought he was on the stand for those issues. Do counsel
8 have cross for those issues?

9 MR. WILLIAMS: I don't. If we covered
10 both, that's fine.

11 JUDGE PRIDGIN: Just to make sure, no
12 further questions for Mr. Dittmer on any issue?

13 MR. RIGGINS: That's correct, your Honor,
14 from KCPL.

15 JUDGE PRIDGIN: All right. Thank you very
16 much. Then we'll move on to Mr. Giles.

17 MR. BRUDER: Excuse me. I should ask that
18 the testimonies be admitted to the record. Thank you.

19 JUDGE PRIDGIN: Mr. Bruder I believe has
20 offered Exhibits 801, which is 801HC, that's what I have,
21 801HC, 802 and 803 have been offered. Is that correct,
22 Mr. Bruder?

23 MR. BRUDER: Yes.

24 JUDGE PRIDGIN: Any objections?

25 (No response.)

1 JUDGE PRIDGIN: All right. Hearing none,
2 Exhibits 801HC, 802 and 803 are admitted.

3 (EXHIBIT NOS. 801HC, 802 AND 803 WERE
4 RECEIVED INTO EVIDENCE.)

5 JUDGE PRIDGIN: And Mr. Giles is back on
6 the stand, and you are still under oath. We will -- is
7 there anything from KCPL before he stands cross?

8 MR. BLANC: Just quickly, this is
9 Mr. Giles' last scheduled appearance in the hearing, so
10 we'd like to offer his testimony.

11 JUDGE PRIDGIN: I show that as Exhibit 8NP
12 and HC and Exhibit 9NP and HC, and those have been
13 offered. Any objections?

14 (No response.)

15 JUDGE PRIDGIN: Hearing none, Exhibits 8NP
16 and HC, Exhibit 9NP and HC are admitted.

17 (EXHIBIT NOS. 8NP AND HC AND 9NP AND HC
18 WERE RECEIVED INTO EVIDENCE.)

19 JUDGE PRIDGIN: Nothing further?

20 MR. BLANC: No. I tender him for
21 cross-examination.

22 JUDGE PRIDGIN: Cross-examination,
23 Mr. Williams?

24 MR. WILLIAMS: No cross.

25 JUDGE PRIDGIN: Any cross on nuclear fuel

1 overcharge refunds? Seeing none. Any Bench questions?

2 Commissioner Appling?

3 COMMISSIONER APPLING: I have no questions.

4 JUDGE PRIDGIN: Commissioner Jarrett? I
5 have no questions. Mr. Giles, thank you very much, sir.

6 And before we make Mr. Hyneman maybe
7 unnecessarily walk up just to leave, will any counsel have
8 cross-examination for him?

9 MR. BLANC: KCPL has a couple questions for
10 him.

11 JUDGE PRIDGIN: Very good. Is Mr. Hyneman
12 available? Thank you. Mr. Williams, anything before he
13 stands cross?

14 MR. WILLIAMS: No, Judge.

15 JUDGE PRIDGIN: All right. Thank you.

16 Mr. Hyneman, you're still under oath, sir. Any other
17 counsel other than KCPL have cross? All right.

18 Mr. Blanc?

19 CHARLES HYNEMAN testified as follows:

20 CROSS-EXAMINATION BY MR. BLANC:

21 Q. Good morning, Mr. Hyneman.

22 A. Good morning.

23 Q. The refund issue pertains to KCPL's claim
24 that DOE was overcharging KCPL for uranium enrichment
25 services; is that correct?

1 A. Yes.

2 Q. And you recommend that this issue be
3 treated like the Hawthorn 5 subrogation proceeds issue; is
4 that correct?

5 A. For ratemaking purposes, exactly the same,
6 yes.

7 Q. Now, over what period did KCP&L claim the
8 overcharging occurred?

9 A. I believe the period was 1986 through 1992.

10 Q. Is it through '93 perhaps, '86 to '93?

11 A. Yes, '93. I'm sorry. '93.

12 Q. And do you recall if KCPL filed a lawsuit
13 against DOE to recover these overcharges?

14 A. I know there was a lawsuit, and I know the
15 name of the lawsuit, but I don't know if KCPL was a party
16 to it or just a beneficiary of the -- of the results of
17 the lawsuit.

18 Q. That's a fair distinction. But a lawsuit
19 was filed against DOE concerning these refunds?

20 A. Yes.

21 Q. And do you know when that suit was filed?

22 A. The only thing I know, it was probably
23 after 1993.

24 Q. Fair enough. Would it be surprising to
25 learn that it was filed in 2004? Does that sound

1 reasonable?

2 A. Yes, it is reasonable.

3 Q. And I won't ask you to stipulate that, but
4 let's just assume that that was the case. Do you recall
5 if DOE paid a refund to settle the lawsuit we're talking
6 about?

7 A. Yeah. I believe they paid a \$29.5 million
8 refund.

9 Q. Now, assuming that suit was filed in 2004,
10 had it settled quickly and KCPL had received the refund in
11 2004, would you still be seeking to include the refund
12 proceeds in this case?

13 A. No.

14 Q. Thank you. Now, if we could focus on the
15 period of the overcharges, 1986 to 1993 period for a
16 moment. Did KCPL seek any rate increases during that
17 period?

18 A. No.

19 Q. Did KCP&L's base rates increase during the
20 period as a result of the overcharges?

21 A. No.

22 Q. Did KCPL have a fuel adjustment clause in
23 place at the time?

24 A. No.

25 Q. Did KCPL seek an Accounting Authority Order

1 concerning the overcharges?

2 A. No.

3 Q. Did Staff file an overearnings complaint
4 against KCPL during the period?

5 A. File a complaint? I don't know. I know
6 that there was a rate reduction that --

7 Q. Did Staff file a complaint?

8 A. I'm not sure technically if they did or if
9 they reached a Stipulation & Agreement to reach rates
10 outside of a formal complaint issuance. I don't know the
11 technicalities of it. I do know rates were reduced during
12 that period.

13 Q. But you don't know whether a formal
14 complaint was filed?

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

16 Q. Now, what's the test year in this case?

17 A. The test year in this case is the 12 months
18 ending December 31st, 2006, updated through known and
19 measurable changes through September 30th, 2007.

20 Q. Has KCPL made any attempt in this case to
21 recover the overcharges from DOE that were the subject
22 matter of the lawsuit?

23 A. Yes.

24 Q. KCPL, can you show me in the reconciliation
25 where KCP&L sought to recover the amounts that DOE

1 overcharged it during the 1986 to 1993 period?

2 A. Well, the refund is designed to compensate
3 for those, and KCPL is seeking recovery of the refund in
4 this case.

5 Q. But KCPL isn't seeking to directly recover
6 the amount of the overcharges? You're referring to the
7 refund, I understand, but to the extent those amounts
8 differed, KCPL, the issue in this case is focused on the
9 refund?

10 A. Right. But I wouldn't assume that those
11 amounts differed materially.

12 Q. Okay. Has KCPL -- I guess the only tie --
13 I guess you testified earlier that had the settlement been
14 received in 2004, you wouldn't be seeking to include the
15 refund as an issue in this case, correct?

16 A. That is correct.

17 Q. So the only tie to the test year in this
18 case is that KCPL happened to receive the refund in 2006?

19 A. Yes.

20 MR. BLANC: No further questions.

21 JUDGE PRIDGIN: Mr. Blanc, thank you. See
22 if we have any Bench questions. Commissioner Appling?
23 Commissioner Jarrett, any questions?

24 COMMISSIONER JARRETT: No questions.

25 JUDGE PRIDGIN: I have none. Redirect?

1 MR. WILLIAMS: Yes, Judge.

2 REDIRECT EXAMINATION BY MR. WILLIAMS:

3 Q. You mentioned a figure of a \$29.5 million
4 refund. To whom was that refund issued?

5 A. That refund was issued to a group called
6 the Uranium Enrichment Refund Group, and it's a group of
7 utilities who were party to the suit seeking recovery from
8 DOE for the overcharges.

9 Q. Do you know what part of that refund
10 actually went to Kansas City Power & Light Company?

11 A. Yes. I know it was 427,000, right
12 approximately that amount.

13 Q. And how much is at issue in this case for
14 cost of service on this issue?

15 A. When you take the 427,000 divided by a
16 five-year amortization, multiplied by the allocation
17 factor, it only rounds out to about \$49,000 for -- on an
18 annualized level.

19 Q. And if I were to look on the
20 reconciliation, where would I find that figure?

21 A. Well, the exact amount is embedded in the
22 number, I believe, on reconciliation with the Hawthorn 5
23 amortization. Those two were -- the Staff consolidated
24 those two numbers in its adjustments.

25 Q. And I heard you speak about a five-year

1 amortization. How is Staff proposing that that refund be
2 treated?

3 A. Similar to Hawthorn 5, the Staff is
4 proposing a sharing of benefits. It is not seeking rate
5 base treatment, so the shareholders have use of the funds
6 until the amortization period is expired. So that cost
7 for use of funds, that's a benefit to the shareholders,
8 and the ratepayers have the benefit of the reduction in
9 service over that period.

10 Q. Do you know if there was any reason why
11 Kansas City Power & Light Company could not have sought a
12 rate increase any time during the period of 1986 through
13 1993 where that would have been included in the test year,
14 any part of that period?

15 A. I do know as a result of the stipulation
16 that was effective in early 1993 that they had a rate
17 moratorium for that one-year period. So other than that,
18 I know of no restriction subsequent to that.

19 MR. WILLIAMS: No further questions.

20 JUDGE PRIDGIN: All right. Mr. Williams,
21 thank you. Anything further? Mr. Hyneman, thank you very
22 much, sir. Appreciate it.

23 MR. WILLIAMS: Judge, at this time I'd like
24 to offer what have been marked as Exhibits 108 and 109,
25 which are Mr. Hyneman's direct testimony and surrebuttal

1 testimony.

2 JUDGE PRIDGIN: Exhibits 108 and 109 have
3 been offered. Any objections?

4 (No response.)

5 JUDGE PRIDGIN: Hearing none, Exhibits 108
6 and 109 are admitted.

7 (EXHIBIT NOS. 108 AND 109 WERE RECEIVED
8 INTO EVIDENCE.)

9 JUDGE PRIDGIN: All right. As far as I can
10 tell, that is the last scheduled witness for the day and
11 indeed for the week. Is there anything else counsel needs
12 to bring to my attention? Mr. Fischer?

13 MR. FISCHER: Yes, Judge. Relating to the
14 accounting stipulation that was filed yesterday, there are
15 two KCPL witnesses that have completed their testimony. I
16 just wanted to offer those into the record.

17 JUDGE PRIDGIN: Yes, sir.

18 MR. FISCHER: They would be Melissa K.
19 Hardesty, No. 15NP, and John Weisensee, he's No. 26HC,
20 26NP and 27NP.

21 JUDGE PRIDGIN: All right. KCPL has
22 offered Exhibit 15NP, Exhibit 26NP and HC, Exhibit 27NP.
23 Are there any objections?

24 MR. WOODSMALL: Your Honor, just to the
25 extent that I don't know what we're going to do on the

1 stipulation, therefore, this may be a little premature to
2 offer it now when we may have cross-examination if not
3 motions to strike on that testimony later. So I'd ask
4 that that be -- your ruling on that wait until after the
5 stipulation is -- we know what it is.

6 JUDGE PRIDGIN: All right. With that,
7 Mr. Fischer, did you want to withdraw your offer with the
8 understanding that you're free to offer that evidence
9 later?

10 MR. FISCHER: I'd rather just leave the
11 offer standing and then we can take it up if we need to.

12 JUDGE PRIDGIN: I'll show it's been offered
13 but not admitted. We have an objection pending. I'll
14 certainly ask counsel to -- and I'm sure you will remind
15 me, Mr. Woodsmall, if you would have an objection later or
16 if you withdraw your objection and we'll deal with that.

17 MR. WOODSMALL: Absolutely.

18 JUDGE PRIDGIN: Thank you. Anything
19 further from counsel? If I'm not mistaken, we are due to
20 begin Tuesday morning at 8:30 with class cost of service
21 and rate design with Mr. Rush from KCP&L being the first
22 witness.

23 All right. Is there anything further from
24 counsel before we adjourn?

25 (No response.)

1 JUDGE PRIDGIN: All right. Seeing nothing,
2 we are off the record. This hearing will resume Tuesday,
3 October 9th at 8:30 a.m. Thank you very much. We're off
4 the record.

5 WHEREUPON, the hearing of this case was
6 adjourned until October 9, 2007.

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I N D E X

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C E R T I F I C A T E

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STATE OF MISSOURI

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COUNTY OF COLE

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) ss.

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I, Kellene K. Feddersen, Certified

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Shorthand Reporter with the firm of Midwest Litigation

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Services, and Notary Public within and for the State of

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Missouri, do hereby certify that I was personally present

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such time and place.

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Given at my office in the City of

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Jefferson, County of Cole, State of Missouri.

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Kellene K. Feddersen, RPR, CSR, CCR

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Notary Public (County of Cole)

My commission expires March 28, 2009.

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