

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

June 18, 2015

Jefferson City, Missouri

Volume 13

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In The Matter Of Kansas City     )  
Power & Light Company's Request) File No. ER-2014-0370  
for Authority To Implement a     )  
General Rate Increase for     )  
Electric Service                     )

MICHAEL BUSHMANN, Presiding  
SENIOR REGULATORY LAW JUDGE

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STEPHEN M. STOLL,  
WILLIAM P. KENNEY,  
DANIEL Y. HALL,  
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FOR: Staff of the Missouri Public Service Commission

1 JUDGE BUSHMANN: Today is June 18th, day  
2 four of the Kansas City Power & Light rate case. I  
3 understand there was some settlement talks yesterday.  
4 And can someone give me a brief status report as to  
5 where we are on that?

6 MR. HACK: Yes, your Honor. Rob Hack for  
7 KCP&L. We've had discussions since the close of the  
8 hearing yesterday with Staff. We just brought a  
9 discussion paper to Staff this morning at eight  
10 o'clock. They've not had a chance to digest it and  
11 see if it's in the ball park yet.

12 And what we would like is to ask the  
13 Commission's indulgence and the other parties'  
14 indulgence for about a 30-minute recess to see if  
15 we're perhaps on the right track with the discussion  
16 points.

17 JUDGE BUSHMANN: I have no problem with  
18 that. What issues are under consideration?

19 MR. HACK: The one we're supposed to try  
20 this morning is on the list, the La Cygne construction  
21 accounting. And there's -- there's a host of others  
22 for both this week and next week. So it's not  
23 insubstantial, but it would not resolve everything.

24 JUDGE BUSHMANN: Right. That will be  
25 fine. I will give you the 30-minute recess. Why

1 don't we reconvene at about nine o'clock?

2 MR. HACK: Thank you.

3 MR. WILLIAMS: Thank you.

4 (A recess was taken.)

5 JUDGE BUSHMANN: We're back on the  
6 record. While we were off the record, I was informed  
7 by the parties that there is a pending settlement  
8 being discussed involving quite a few issues that  
9 remain in the case. And to give the parties a chance  
10 to look at that, especially some of those who might  
11 not be here today, might need to be contacted, I've  
12 agreed that we would go into recess until eleven  
13 o'clock.

14 At eleven o'clock, we'll come back and  
15 whatever issues that remain, we will try and complete  
16 today. So we will be in recess until 11:00 a.m.

17 (A recess was taken.)

18 JUDGE BUSHMANN: Let's go back on the  
19 record. Would someone like to give me a status  
20 update?

21 MR. HACK: Yes, your Honor. We have had  
22 conversations. The conversations are -- I would  
23 characterize them as promising but not conclusive.  
24 And we are certainly trying to be respectful of your  
25 time and the Commissioners' time and the time we have

1 for hearing. So my recommendation at this point is --  
2 is to go ahead and try this issue.

3 JUDGE BUSHMANN: You're talking about the  
4 next one?

5 MR. HACK: La Cygne construction  
6 accounting issue. It is possible that it would be  
7 settled after we try it. But I think we have a  
8 schedule and my view is we should just go forward and  
9 maintain our schedule.

10 JUDGE BUSHMANN: Some of the other issues  
11 today -- for today were also, I think, being talked  
12 about. Are you in the same position on those as that  
13 one you just mentioned?

14 MR. HACK: Yes, sir.

15 JUDGE BUSHMANN: Okay. Well, let's just  
16 get started then and hopefully we'll be able to  
17 continue to work on it.

18 MR. HACK: And we certainly will.

19 JUDGE BUSHMANN: So the next issue up  
20 would be Issue Number 8, La Cygne Environmental  
21 Construction Project Accounting Deferrals. So we'll  
22 have mini opening statements beginning with Kansas  
23 City Power & Light

24 MR. HACK: Good morning. This issue is  
25 stated in two parts that I'll paraphrase as follows:

1 Should the construction accounting deferrals be  
2 included in rate-base with an amortization amount  
3 included in expense; and two, over what period of time  
4 should the deferrals be amortized?

5 KCP&L's position is simple: La Cygne  
6 environmental project construction accounting  
7 deferrals should be included in rate-base with an  
8 amortization to expense based on the 25 years  
9 remaining life of the La Cygne generating station.

10 The rationale for KCP&L's position is  
11 also simple. The La Cygne environmental retrofit  
12 project is a substantial rate-base addition, totaling  
13 more than \$300 million for KCP&L's Missouri  
14 jurisdictional operations or approximately 15 percent  
15 increase in rate-base compared to the rate-base used  
16 to set rates in KCP&L's last case, the rates from  
17 which took effect in January of 2013.

18 The project was required to meet  
19 environmental regulations and emissions requirements  
20 in order for the station to continue operating. The  
21 project does not provide the opportunity to serve new  
22 load or new customers and generate additional revenue,  
23 so it's a non-revenue producing capital project.

24 Finally, KCP&L's earning situation  
25 currently and since its last rate increase took effect



1 has been well below the Commission-authorized level.  
2 2013 actual earnings -- actual ROE, 6.5 percent; 2014,  
3 5.69 percent; 2015, earnings will be no better than  
4 2014 until new rates take effect from this case. For  
5 comparison, current authorized ROE from this  
6 Commission is 9.7 percent.

7 The combination of these factors fully  
8 justifies inclusion of the La Cygne environmental  
9 project construction accounting deferrals in rates  
10 based on a 25-year amortization.

11 Staff recommends exclusion from rates of  
12 the construction accounting deferrals recorded by  
13 KCP&L in compliance with the Commission's January 7,  
14 2015 order in Case No. EU-2014-0255. Adoption of  
15 Staff's recommendation would result in an earnings  
16 write-off for KCP&L of \$7 million at a time when  
17 KCP&L's earnings are already substantially below the  
18 Commission-authorized level.

19 Staff's position is based on a flawed  
20 assessment of the nature and impact of the La Cygne  
21 environmental project and wholly ignores the Company's  
22 current earnings position. As a result, the  
23 Commission should include the La Cygne construction  
24 accounting deferrals in rates in this case and use the  
25 25-year amortization period based on the remaining

1 life of the La Cygne plant. That's all I have.

2 COMMISSIONER STOLL: No questions. Thank  
3 you.

4 COMMISSIONER HALL: Good morning.

5 MR. HACK: Good morning.

6 COMMISSIONER HALL: It is still morning.

7 My understanding is that what we're  
8 talking about here is \$8.2 million; is that --

9 MR. HACK: Approximately, yes. There  
10 will be -- there will be an accumulated deferred  
11 income tax offset to that. So the ultimate rate-base  
12 amount is something between 5.5 and 6 million dollars.

13 COMMISSIONER HALL: Okay. Do you believe  
14 or does the Company take the position that the  
15 position that Staff is taking on this issue is in any  
16 way contrary to their -- to the non-unanimous stip  
17 that governed the agreement?

18 MR. HACK: It is certainly, in my view,  
19 inconsistent with the non-unanimous stip. My  
20 characterization of the Staff's arguments is that,  
21 Commission, you should not grant rate -- the  
22 rate-making treatment the Company has requested  
23 because the Construction Accounting Authority Order  
24 did not meet the qualifications we think should have  
25 been applied to it. So --

1                   COMMISSIONER HALL: In other words,  
2 they -- Staff is re-litigating the issue as to whether  
3 or not it was appropriate to grant an AAO in the first  
4 place? Because they're arguing materiality and  
5 whether it's an extraordinary expense or not.

6                   MR. HACK: That's certainly what it  
7 appears to be to me. I don't view those as  
8 rate-making arguments.

9                   COMMISSIONER HALL: So is your position  
10 that those arguments were -- should have been waged on  
11 the issue of whether or not we should grant the AAO  
12 and that they are inappropriate for this issue at this  
13 juncture of the process?

14                  MR. HACK: That issue has been decided,  
15 in my view.

16                  COMMISSIONER HALL: So what is -- what is  
17 the standard that we should apply when determining  
18 whether or not to take a deferral and put it into  
19 rates?

20                  MR. HACK: Has there been any imprudence  
21 with respect to the subject project? Is the subject  
22 project necessary for the Company's service to  
23 customers?

24                  COMMISSIONER HALL: So prudence is  
25 really --

1 MR. HACK: No, prudence is one. Has the  
2 Company recorded the deferrals properly? Is the  
3 project in service? Substantive rate-making issues.  
4 Not issues associated with should or should not the  
5 deferral have been granted in the first place.

6 COMMISSIONER HALL: So let me ask you  
7 this and make sure I understand where we are.  
8 Yesterday we -- there was -- there was a discussion  
9 and testimony presented about whether or not the  
10 Commission should put into rate-base the entirety of  
11 the Missouri jurisdictional amount for the project,  
12 the 200-and-some-odd million dollars; is that correct?

13 MR. HACK: Yes, sir.

14 COMMISSIONER HALL: And So the issue  
15 there is whether we should put it into rates and  
16 whether the Company should get a return on that  
17 investment and also a return of its investment through  
18 depreciation?

19 MR. HACK: Correct.

20 COMMISSIONER HALL: And today what we are  
21 looking at is whether or not it's appropriate for the  
22 Company to get depreciation on the project from the  
23 date that the project was in service until the date  
24 of -- that new rates are effective?

25 MR. HACK: Depreciation, as well as

1 recognition of AFUDC or carrying costs that -- that  
2 cease to be booked as of the in-service date of the  
3 units.

4           And what I would -- if I could anticipate  
5 your question, if -- we view this as unlikely, but if  
6 the Commission were to make a disallowance of a  
7 portion of -- or even the entirety of the La Cygne  
8 environmental project amount, then -- then a  
9 proportion-- proportional share of the La Cygne  
10 construction accounting deferrals would -- would  
11 also -- it would also be consistent to exclude those  
12 from rate-base and rate recognition.

13           COMMISSIONER HALL: You made a point in  
14 your -- in your mini opening that the Company has  
15 been -- has been under-earning.

16           MR. HACK: Yes, sir.

17           COMMISSIONER HALL: And you're raising  
18 that as a -- as one argument for why we should put  
19 this deferral into rates.

20           MR. HACK: Yes.

21           COMMISSIONER HALL: Why? Why is that  
22 relevant?

23           MR. HACK: The -- the impact of bringing  
24 a large capital investment on line or in service  
25 without concurrent rate treatment is to dramatically

1 increase the Company's investment, capital, rate-base,  
2 as well as depreciation expense.

3 And at a time when a Company like KCP&L  
4 is already substantially under-earning its authorized  
5 rate of return, the ability to sustain -- and the  
6 Company's not going to go under, I'm not saying that,  
7 but the ability to continue to have strong financials  
8 is already compromised. And it would be further  
9 compromised by the bringing -- on that on line --  
10 bringing in service of that plant.

11 On the flip side, if the Company was in a  
12 very, very healthy earning situation with plenty of  
13 revenue growth, if this was a revenue-producing plant,  
14 if its cost-of-service was otherwise trending in a  
15 downward position, there may be a reason to say, you  
16 know what; the current earning situation of the  
17 subject company doesn't require this special  
18 treatment.

19 COMMISSIONER HALL: I think I agree with  
20 you on that point.

21 MR. HACK: Thank you, sir.

22 COMMISSIONER HALL: Now, I'm in a -- in a  
23 somewhat difficult situation on this issue because  
24 I -- I voted no on the -- on approval of the  
25 stipulation because I did not believe that the

1 expenses for this facility were extraordinary or  
2 material.

3 Now that the Commission has granted the  
4 deferral, then the -- then the issue -- then the issue  
5 is whether materiality and -- whether it's  
6 extraordinary expense, whether those are issues that  
7 should be taken into account in putting the deferral  
8 into rates. So I look forward to hearing from other  
9 counsel and witnesses on that issue.

10 MR. HACK: Thank you.

11 COMMISSIONER HALL: Thank you.

12 COMMISSIONER KENNEY: I just had one  
13 question quickly. What was the total amount of  
14 depreciation and the carrying costs?

15 MR. HACK: The aggregate amount of  
16 construction accounting deferral is approximately  
17 \$8.2 million, but that will be offset by a cumulated  
18 deferred income taxes. And the overall rate-base  
19 value that we're talking about is between 5 and  
20 6 million dollars, probably closer to 5.5.

21 COMMISSIONER KENNEY: Thank you.

22 JUDGE BUSHMANN: Thank you.

23 Opening by Staff?

24 MR. WILLIAMS: May it please the  
25 Commission. It sounds like from the opening of the

1 Company and the questions that came up, that the  
2 Commission's well aware of the issues in this case and  
3 has a firm grasp on them.

4 The only thing I'd like to add is that  
5 when the Staff entered into the Stipulation and  
6 Agreement regarding the Accounting Authority Order, it  
7 specifically provided that no party was prejudiced in  
8 the rate case as to what positions it might take or  
9 any other case.

10 And basically what Staff viewed the  
11 stipulation with regard to the Accounting Authority  
12 Order which allowed the Company to book these costs in  
13 the way it has, it would leave basically until the  
14 rate case for the Staff to take up the issues about  
15 whether or not there should be recovery and whether or  
16 not the circumstances meet the Commission's standard  
17 that it has applied for allowing recovery of whether  
18 or not the project was extraordinary, unusual or  
19 infrequent.

20 So the fact that the Staff entered into a  
21 Stipulation and Agreement in the Accounting Authority  
22 Order case should have no bearing on -- or prejudice  
23 its position with regard to whether or not there  
24 should be recovery for those costs in this case.

25 JUDGE BUSHMANN: Questions?



1 COMMISSIONER KENNEY: Not right now, no.

2 COMMISSIONER HALL: Good morning.

3 MR. WILLIAMS: Morning.

4 COMMISSIONER HALL: So it's Staff's  
5 position that it is appropriate to debate the issue --  
6 the issues of materiality and whether it's an  
7 extraordinary expense at this point in the process?  
8 Once there -- there has been a deferral, the parties  
9 agreed to it, the Commission approved it and now the  
10 Commission is determining whether or not to put that  
11 deferral into rates.

12 And so I just want to make sure I  
13 understand. Staff believes it's -- it's -- it is  
14 appropriate to raise those two issues at this point in  
15 the process?

16 MR. WILLIAMS: Yes. This is where the  
17 rubber hits the road. This is where it's going to  
18 have an impact on Kansas City Power & Light Company's  
19 customers.

20 COMMISSIONER HALL: Can you direct me  
21 to -- and I hope you can. Can you direct me to  
22 precedent for -- for that proposition, that it -- that  
23 materiality and whether it's an extraordinary expense  
24 are issues, are factors, are standards that we should  
25 take into account at this point in the process?

1 MR. WILLIAMS: I think what I would point  
2 you to is the Ameren Missouri rate case where Ameren  
3 Missouri was seeking recovery for the amounts that it  
4 had gotten for -- I'll use the term lost revenues,  
5 revenues it didn't receive because Noranda was not --

6 COMMISSIONER HALL: The ice storm.

7 MR. WILLIAMS: Yeah, the ice storm.

8 COMMISSIONER HALL: Yeah.

9 MR. WILLIAMS: That's what I think is the  
10 most recent pertinent related matter.

11 COMMISSIONER HALL: When you -- when you  
12 file briefs in this case, if you could -- if you could  
13 direct our attention to any other examples, that  
14 would -- on that issue, that would be helpful.

15 MR. WILLIAMS: I know it long predates  
16 me, but it's my understanding that there have been  
17 prior circumstances where an Accounting Authority  
18 Order was granted but recovery was not permitted in  
19 the case.

20 COMMISSIONER HALL: Right. I mean, I  
21 think there's a number of those, but I think counsel  
22 for KCP&L correctly points out that those, at least my  
23 understanding, were based upon prudence. And what  
24 you're arguing here is materiality and extraordinary  
25 expense. And so if there are examples where those

1 were the standards applied to disallow an AAO in  
2 rates, I would -- I at least would -- myself would  
3 find that helpful.

4 MR. WILLIAMS: I understand.

5 COMMISSIONER HALL: Okay. Going back to  
6 the -- to the non-unanimous stip -- and I'm looking  
7 through it here. I thought that there were  
8 essentially two issues, one where -- where the Company  
9 was seeking an AAO and one where Staff was seeking  
10 some type of deferral for Department of Energy fees.  
11 Wasn't there a connection between those two in this  
12 non-unanimous stip or did I --

13 MR. WILLIAMS: I believe there was.  
14 There -- Staff was making sure that it was not going  
15 to be precluded from raising the fact that the DOE  
16 fees were no longer being collected, that it would be  
17 able to deal with that issue in this case because it  
18 did not actually -- there was not an order issued by  
19 the Commission addressing Kansas City Power & Light  
20 Company having to create a -- let's see, it would be a  
21 regulatory liability, I guess.

22 COMMISSIONER HALL: So is that issue  
23 still alive and well in this case?

24 MR. WILLIAMS: Yes. And we didn't want  
25 to be prejudiced from somebody arguing that it wasn't

1 because there was no order from the Commission to  
2 create a regulatory liability.

3 COMMISSIONER HALL: Okay. Okay. And how  
4 much money is involved in that issue?

5 MR. WILLIAMS: I don't know off the top  
6 of my head. If you give me a minute, I think I can  
7 probably find out.

8 COMMISSIONER HALL: I don't -- one of  
9 your witnesses can tell me. That's fine.

10 MR. WILLIAMS: I'm hoping he can tell me  
11 just momentarily.

12 I think the total -- I've been informed  
13 that it's something like 2.5 million total. That's  
14 not how much would be included in the revenue  
15 requirement. We propose five years, so something like  
16 500,000 per year.

17 COMMISSIONER HALL: If the Commission  
18 were to grant KCP&L's request to put this reg asset  
19 into rates, what is Staff's position as to the -- the  
20 time period?

21 MR. WILLIAMS: The remaining life of the  
22 La Cygne generating station.

23 COMMISSIONER HALL: Which is what?

24 MR. WILLIAMS: I don't know offhand. I  
25 think the company said something like 25 years.

1                   COMMISSIONER HALL: Oh, so you're in  
2 agreement with KCP&L on that? They're seeking  
3 25 years and you agree?

4                   MR. WILLIAMS: If that's the remaining  
5 life, then yes, we do agree. I'm not certain about  
6 that.

7                   COMMISSIONER HALL: Okay. All right.  
8 Thank you.

9                   JUDGE BUSHMANN: Thank you.

10                  MR. WILLIAMS: Thank you.

11                  JUDGE BUSHMANN: Mini opening by Public  
12 Counsel?

13                  MR. OPITZ: May it please the Commission.  
14 Public Counsel opposes the inclusion of this amount in  
15 rate-base. And just to be brief, these costs are a  
16 normal construction project that is neither unusual  
17 nor unique. KCPL is continually building, retiring  
18 old plant, building new plant, making capital  
19 improvements in all aspects of its generation,  
20 transmission and distribution systems.

21                  Public Counsel's position is that  
22 including this amount in this case benefits the  
23 Company's shareholders only and is an unwarranted  
24 departure from traditional, historical cost-of-service  
25 rate-making, and I'm happy to answer your questions.

1                   COMMISSIONER STOLL: No questions. Thank  
2 you.

3                   JUDGE BUSHMANN: Commissioner Hall?

4                   COMMISSIONER HALL: Just a few,  
5 Mr. Opitz. OPC was not a signatory to the  
6 Non-unanimous Stip and Agreement on this issue.  
7 Correct?

8                   MR. OPITZ: We were not, Commissioner.

9                   COMMISSIONER HALL: But OPC did not  
10 oppose it. Why did OPC not oppose it?

11                  MR. OPITZ: Well, there were a variety of  
12 reasons we didn't oppose that stipulation in that  
13 case. I will tell you that our understanding of what  
14 the Company and what the Staff had agreed to and the  
15 reason that we did not object was because it was our  
16 understanding that the parties intended to consider  
17 this issue in the rate case fully; just as the parties  
18 agreed to consider Staff's DOE issue in the rate case,  
19 which was filed in the separate complaint docket or  
20 AAO request docket.

21                  And so from my understanding, we didn't  
22 oppose because rather than litigating this issue  
23 twice, we would have rather argued it when the rubber  
24 meets the road, when it was being requested in rates.  
25 And so that's why we didn't oppose, understanding that

1 we believe the parties were agreeing that everything  
2 would be on the table for arguments here.

3 COMMISSIONER HALL: Okay. Thank you.

4 JUDGE BUSHMANN: Thank you.

5 MR. OPITZ: Thank you.

6 JUDGE BUSHMANN: Mini openings by MECG.

7 MR. WOODSMALL: Very briefly, your Honor.  
8 You'll notice, if you look at our statement of  
9 positions, that we didn't weigh in on this issue.  
10 Similarly, we didn't weigh in on the DOE spent nuclear  
11 fuel fees that you talked about.

12 We filed testimony of Mr. Brosch on a  
13 number -- on the FAC and on a number of trackers.  
14 That testimony lays out the criteria that we believe  
15 that the Commission should apply in addition to the  
16 extraordinary criteria required by the Court of  
17 Appeals. It is our belief that when you apply those  
18 criteria both to this issue and the DOE nuclear spent  
19 fuel fees, that both should be denied.

20 It's a purity of issue. We're not  
21 picking and choosing which ones help us. We believe  
22 that both should be denied. First off, they're not  
23 extraordinary. The fact that this isn't extraordinary  
24 is found by the fact that when Empire was facing the  
25 same event in their recent case, the -- the -- they

1 put Asbury into rates. They didn't ask for an AAO.

2 In fact, if you look at the testimony of  
3 Ms. Walters there, they said, We want to leave enough  
4 time for the Staff to consider this. So they didn't  
5 seek an AAO. This isn't extraordinary. These things  
6 happen.

7 Finally, I want to address an issue  
8 Mr. Hack brought up. He talked about KCP&L's historic  
9 earnings and that they haven't been sufficient, they  
10 haven't made their authorized ROE. I believe I took  
11 care of that in my opening statement. There's a  
12 number of issues that make their reported earnings  
13 somewhat suspect.

14 But the other point that's important is  
15 the Commission found in its Ameren complaint case last  
16 year when there was allegation of over-earnings, the  
17 Commission found that surveillance reports and those  
18 reported ROEs are inherently suspect. Those numbers  
19 aren't normalized. There's no one going in to check  
20 those numbers to see if the costs were prudent.  
21 There's no one checking to see if the allocation of  
22 costs was appropriate.

23 So it's interesting that the Commission  
24 found that when a surveillance report found there was  
25 over-earnings, that those surveillance reports are



1 inherently suspect. Similarly, you should find  
2 complaints by the utility that they're under-earning  
3 also inherently suspectly. It has to go both ways.  
4 So that was all my comments I had on this issue.

5 JUDGE BUSHMANN: Questions?

6 COMMISSIONER STOLL: No.

7 COMMISSIONER KENNEY: No.

8 COMMISSIONER HALL: Good morning.

9 MR. WOODSMALL: Good morning.

10 COMMISSIONER HALL: So you believe that  
11 it is appropriate at this juncture in the process to  
12 look at the materiality of the expense and also  
13 whether or not it's extraordinary?

14 MR. WOODSMALL: Absolutely. And maybe  
15 we've been reading this all wrong for a long time, but  
16 I agree with both OPC and Staff on that. The granting  
17 of the AAO and deferring those costs into this case  
18 were done purely as a matter of administrative  
19 convenience; not only for the parties, but for the  
20 Commission. When they asked for the AAO --

21 COMMISSIONER HALL: But isn't there an  
22 expectation that -- that once the AAO is granted,  
23 that -- that that will be put into rates?

24 MR. WOODSMALL: There may be an  
25 expectation. I think it's inappropriate for the

1 utility to expect that. Certainly I would say Ameren,  
2 when they got the AAO from the Commission to defer  
3 those costs associated with the ice storm, I'm sure  
4 they had an expectation, but there was never a  
5 guarantee.

6 So I think that was done solely as  
7 administrative convenience. They had a case already  
8 scheduled, the case was going, why ask for a decision  
9 from the Commission then? Deal with it all now. You  
10 know, after all, La Cygne was only finished just a  
11 month ago. So it -- if you tell us that there is  
12 greater significance underlying the granting of an  
13 AAO, we need to know that.

14 COMMISSIONER HALL: Well, doesn't the  
15 case law indicate that the standard for granting an  
16 AAO is materiality and whether it's extraordinary?

17 MR. WOODSMALL: Absolutely. But --

18 COMMISSIONER HALL: So then when we grant  
19 an AAO, aren't we making a proclamation that it's  
20 material and extraordinary?

21 MR. WOODSMALL: I would say you are if  
22 it's contested. It wasn't contested in that case.  
23 There is the language saying that we're -- I read it  
24 the same way Staff does, that we were allowing them to  
25 defer the costs; no rate-making findings, no findings

1 of anything else, that we're just punting this issue  
2 forward, kicking the can forward.

3 So, you know, maybe we need to know that  
4 the Commission views this as a more critical issue so  
5 we will contest those things harder when you grant  
6 AAOs, but I think it was the expectation of the  
7 parties, as reflected in the language, that you would  
8 be making those determinations here.

9 COMMISSIONER HALL: Okay. Thank you.

10 MR. WOODSMALL: Thank you.

11 COMMISSIONER KENNEY: Just to follow up  
12 on that, on Mr. Hall's questioning, wouldn't  
13 historical evidence show that the granting of an AAO  
14 usually leads towards recovery?

15 MR. WOODSMALL: His-- well, I haven't  
16 gone back and done a survey of every AAO granted.

17 COMMISSIONER KENNEY: Well, the ones I've  
18 seen, the high majority of them do.

19 MR. WOODSMALL: Absolutely.

20 COMMISSIONER KENNEY: So when an AAO is  
21 granted, wouldn't -- to follow up on Mr. Hall's  
22 question, the assumption is it will be granted.

23 MR. WOODSMALL: I wouldn't say  
24 assumption, but I would certainly say the utility gets  
25 some warm and fuzzy feeling and expectation.

1           COMMISSIONER KENNEY: And I -- I've heard  
2 two comments now about the Ameren case and this. I  
3 look at those as just not even comparable to discuss,  
4 because they're completely different scenarios, in my  
5 mind. But I think when an AAO is granted, I would  
6 agree, the assumption is -- I think on all parties --  
7 that it's probably going to be given. That's if you  
8 look at just the -- the past.

9           MR. WOODSMALL: Well, I would disagree  
10 with you when you talk about the Ameren AAO from the  
11 standpoint you just mentioned two things. When an AAO  
12 is granted, isn't it just assumed that it will be  
13 recovered? There's a classic example. Whether the  
14 facts are different, I --

15           COMMISSIONER KENNEY: Well, I didn't mean  
16 it like that, but the assumption would be from most  
17 parties, if you just study the history, that the  
18 chances are that that will be granted. It will become  
19 a part of the rates.

20           MR. WOODSMALL: Well, I will agree there  
21 because the vast majority of AAOs involve  
22 extraordinary events like floods, ice storms, things  
23 like that where the extraordinary nature is not  
24 debated, responses to the Commission's vegetation  
25 management rule, responses to the Commission's gas

1 safety rule. The majority of AAOs that are asked for  
2 are never even contested.

3 So the ones that are contested, I think  
4 should be treated differently. You shouldn't let the  
5 response to the uncontested ones change your view as  
6 to this one since it is contested.

7 COMMISSIONER KENNEY: Thank you.

8 JUDGE BUSHMANN: Commissioner Stoll?

9 COMMISSIONER STOLL: I might just comment  
10 on that too. So what you're saying seems to be that  
11 the Accounting Authority Order defers the decision  
12 until let's say -- until the rate case and then it's  
13 the -- incumbent on the company to prove to the  
14 Commission -- they have the burden of proof to show  
15 that the costs were prudent and material and other  
16 factors; is that right?

17 MR. WOODSMALL: I would agree with you.

18 COMMISSIONER STOLL: So the expectation  
19 may be there, but it really depends on having this  
20 kind of full discussion of the granting of the AAO and  
21 so on?

22 MR. WOODSMALL: I would agree with you.  
23 And I think that was the expectation, at least given  
24 what Staff has said and OPC has said, that just out of  
25 administrative convenience, we were saying go ahead

1 and defer the costs, but everything is game when we  
2 get into the rate case. We knew the rate case was  
3 here and we were expecting all those decisions to be  
4 in front of the Commission, so I agree with you.

5 COMMISSIONER STOLL: Okay. Thank you.

6 MR. WOODSMALL: Thank you.

7 JUDGE BUSHMANN: Thank you. Did Ameren  
8 Missouri want to make any opening?

9 MR. LOWERY: No, thank you.

10 JUDGE BUSHMANN: That concludes all the  
11 openings. KCPL, call its witness please.

12 MR. HACK: Yes. Call Ron Klote to the  
13 stand.

14 (Witness sworn.)

15 JUDGE BUSHMANN: You may be seated.

16 RONALD A. KLOTE, testified as follows:

17 DIRECT EXAMINATION BY MR. HACK:

18 **Q. State your name for the record and spell**  
19 **your last name, please.**

20 A. Yeah. It's Ronald A. Klote, K-l-o-t-e.

21 **Q. And where are you employed, Mr. Klote?**

22 A. I'm employed at Kansas City Power &  
23 Light.

24 **Q. And did you cause to be prepared and**  
25 **filed in this docket certain exhibits, Direct**

1 **Testimony, Rebuttal Testimony and Surrebuttal**  
2 **Testimony that have been marked as Exhibits 124, 125**  
3 **and 126?**

4 A. Yes.

5 MR. HACK: I would note to the reporter  
6 that Exhibit 125 is both in highly confidential and  
7 nonproprietary version.

8 BY MR. HACK:

9 **Q. Do you have any changes that need to be**  
10 **made to those testimonies at this time?**

11 A. Yes. I have two small changes. On  
12 page 11 of my Rebuttal Testimony, line 11, there's a  
13 percent of 5.9 percent that should be 5.69 percent.  
14 And then on page 43, line 18, there's a percentage of  
15 5.9 percent that should be 5.69 percent.

16 **Q. If I were to ask you today the questions**  
17 **posed in those testimonies, would the answers be**  
18 **substantially the same?**

19 A. Yes.

20 **Q. And are those answers true and correct,**  
21 **to the best of your knowledge and belief?**

22 A. Yes.

23 MR. HACK: Your Honor, I would tender the  
24 witness for cross.

25 I would ask your indulgence for maybe two

1 quick questions. I think I misspoke in responding to  
2 Commissioner Hall and Commissioner Kenney about the  
3 value of the construction accounting deferrals. So if  
4 I might just ask Mr. Klote to correct that.

5 JUDGE BUSHMANN: That's fine.

6 BY MR. HACK:

7 **Q. I think I agreed with Commissioner Hall**  
8 **that the value of the construction accounting deferral**  
9 **was \$8.2 million. What is the actual value of the**  
10 **construction account deferral?**

11 A. Yeah, we've just completed our true-up  
12 adjustments. And the reg asset would be 9 million  
13 dollars -- excuse me, 9,044,194.

14 **Q. And when you apply the accumulated**  
15 **deferred income tax offset, what is the ultimate net**  
16 **rate-base amount?**

17 A. The deferred taxes are 3.4 million. Let  
18 me provide the net number. Be 5,572,128.

19 MR. HACK: All right. Tender Mr. Klote  
20 for cross-examination.

21 JUDGE BUSHMANN: MECG?

22 MR. WOODSMALL: No questions.

23 JUDGE BUSHMANN: Public Counsel?

24 MR. OPITZ: Just a few, your Honor.

25 CROSS-EXAMINATION BY MR. OPITZ:



1 Q. Good morning, Mr. Klote.

2 A. Good morning.

3 Q. If I could direct you to your Rebuttal,  
4 page 43.

5 A. I'm there.

6 Q. And on line 5 you say, The La Cygne  
7 environmental project is necessary for KCPL to meet  
8 governmentally mandated emission requirements.  
9 Correct?

10 A. That's correct.

11 Q. Do you agree that KCPL has been required  
12 to comply with environmental regulations in the past?

13 A. Yes.

14 Q. And do you agree that KCPL will be  
15 required to comply with environmental regulations in  
16 the future?

17 A. I can't speak for the future, but I would  
18 expect that -- requirements that are already in place,  
19 that we will be required to stand by those.

20 Q. Thank you. Do you expect that any future  
21 compliance would require the utility to construct any  
22 utility plant?

23 A. If the requirement is -- I would agree  
24 with that.

25 Q. Thank you. Do you agree that KCPL's

1 **shareholders earn a return on the money invested**  
2 **constructing utility plant?**

3 A. Yes. We earn a return on the investments  
4 that we make.

5 Q. **And would you agree that the investors**  
6 **are able to earn a return on that investment even if**  
7 **the investment in plant is made to an existing**  
8 **generator?**

9 A. Yes.

10 Q. **If you'd look at line 7, still on page 43**  
11 **of your Rebuttal, you state that, The La Cygne**  
12 **environmental project will not enable KCPL to supply**  
13 **additional kilowatt hours or new customers.**

14 **Did I read that correctly?**

15 A. Yes.

16 Q. **But would you agree that the Company will**  
17 **be able to earn a return on the La Cygne environmental**  
18 **upgrade plant?**

19 A. Yes. If it's granted in this case, we  
20 would earn a return on it, yes.

21 Q. **To clarify, you're saying that if the**  
22 **Commission determines the expenditure was prudent, the**  
23 **shareholders would be able to earn a return?**

24 A. That's correct.

25 Q. **And do you agree with me that KCPL**

1 **regularly makes investment in its plant?**

2 A. Yes.

3 **Q. And would you agree that KCPL must do so**  
4 **to operate as a utility whether or not there are**  
5 **government environmental regulations?**

6 A. Could you repeat that?

7 **Q. Wouldn't you agree that KCPL must invest**  
8 **continually in its plants whether or not there are**  
9 **increased environmental regulations?**

10 A. I would agree that we have to make  
11 investments in our plant to ensure their reliability  
12 going forward.

13 **Q. Would you agree that the recovery of this**  
14 **amount in rate-base would primarily benefit**  
15 **shareholders?**

16 A. We would earn a return and the return  
17 that we do earn does go to our shareholders, yes.

18 **Q. That's all I have. Thank you.**

19 JUDGE BUSHMANN: Cross by Staff?

20 MR. WILLIAMS: No questions.

21 JUDGE BUSHMANN: Commissioner questions?

22 COMMISSIONER STOLL: No questions. Thank  
23 you.

24 COMMISSIONER KENNEY: No questions.

25 Thank you.

1 JUDGE BUSHMANN: Commissioner Hall?

2 QUESTIONS BY COMMISSIONER HALL:

3 Q. Good morning.

4 A. Good morning.

5 Q. On page 9 of your Rebuttal Testimony, you  
6 characterize Staff's tracking and rate-making  
7 proposals or certain tracking and rate-making  
8 proposals as retroactive rate-making. The title is  
9 Retroactive.

10 A. Yes.

11 Q. Are you making the assertion or is the  
12 Company making the assertion that that would  
13 constitute retroactive rate-making and, therefore, be  
14 illegal? And if you'd like to defer to a different  
15 witness or counsel for that answer, that would be fine  
16 with me.

17 A. Yes, we could -- you know, you say  
18 illegal. I'm not a lawyer so I hate to opine on that.

19 Q. Okay. But you do view it as retroactive?

20 A. I do.

21 Q. Do you view the regulatory asset at issue  
22 here as retroactive rate-making?

23 A. I agree that -- we agreed in a  
24 stipulation to be able to defer those costs. And in  
25 this case, we received testimony as to the leg--

1 legitimacy of deferring those costs. And because of  
2 that, that's what surprised us in our -- in testimony.  
3 But there was within that testimony -- or excuse me,  
4 in that stip, that arguments could be made going  
5 forward.

6 **Q. Regardless of whether or not there**  
7 **were -- there were agreements, isn't there -- isn't**  
8 **there some consistency between retroactive --**  
9 **retroactive rate-making on -- strike that.**

10 **I have no further questions. Thank you.**

11 JUDGE BUSHMANN: Recross based on  
12 Commission questions. MECG?

13 MR. WOODSMALL: Yes. Very briefly.

14 RE-CROSS-EXAMINATION BY MR. WOODSMALL:

15 **Q. Commissioner Hall asked you about your**  
16 **section entitled Staff's Retroactive Tracking. Do you**  
17 **recall that?**

18 A. Yes.

19 **Q. And if you flip the page to page 10,**  
20 **there are five issues that Staff has addressed under**  
21 **this subheading. Would you agree with that?**

22 A. Yes.

23 **Q. Okay. The costs that are in concern in**  
24 **each of those five points, would you agree that those**  
25 **are costs that occurred before the test year?**

1 A. On A? During the test year, we were  
2 paying those fees so those costs were in the test  
3 year.

4 Q. On A, you said?

5 A. Yes.

6 Q. The -- okay. And the -- and the fees  
7 stopped --

8 A. Yeah.

9 Q. -- in the test year?

10 A. They stopped in May of '14, the test year  
11 went through March of '14.

12 Q. Okay. The other four are all costs --  
13 all involve costs that were incurred before the test  
14 year; is that correct?

15 A. That's correct.

16 Q. Thank you. No further questions.

17 JUDGE BUSHMANN: Public Counsel

18 MR. OPITZ: No cross.

19 JUDGE BUSHMANN: Staff?

20 MR. WILLIAMS: No questions.

21 JUDGE BUSHMANN: Redirect?

22 MR. HACK: Thank you.

23 REDIRECT EXAMINATION BY MR. HACK:

24 Q. Mr. Opitz of OPC asked you whether the  
25 company would earn a return on the La Cygne

1 **environmental project. Do you recall that question?**

2 A. Yes.

3 **Q. And when would that return begin to be**  
4 **earned?**

5 A. It would begin when rates go effective  
6 for this case, which I believe are in late September.

7 **Q. And when did the plant go in service --**  
8 **the environmental retrofit project go in service, to**  
9 **your knowledge?**

10 A. The La Cygne 2 went in service in March  
11 of 2015. And La Cygne 1 went into service in April of  
12 2015.

13 **Q. So it is providing service to customers**  
14 **today. Correct?**

15 A. Yes.

16 **Q. Are customers paying for it today?**

17 A. No.

18 **Q. Mr. Opitz also asked you a line of**  
19 **questions about regular capital expenditures by the**  
20 **Company on its production, transmission and**  
21 **distribution facilities. Do you recall that question?**

22 A. Yes.

23 **Q. The La Cygne environmental retrofit**  
24 **project is of what magnitude to KCP&L Missouri on a**  
25 **dollar basis?**

1           A.     The project to Missouri was  
2 approximately -- through May will be about  
3 \$300 million on a KCPL Missouri jurisdictional basis.

4           **Q.     And is that -- does KCP&L Missouri**  
5 **routinely deploy projects that are sized at capital**  
6 **expenditures of \$300 million?**

7           A.     Not single projects. You know, this  
8 project in total was a \$1.2 billion project. And I  
9 think we saw in opening just the magnitude of what was  
10 added to this generation facility. We don't routinely  
11 enter into projects that are in the billions of  
12 dollars, so --

13          **Q.     And instead of a dollar magnitude to KCPL**  
14 **Missouri, what is the rough percentage increase of**  
15 **that rate-base addition represented by the La Cygne**  
16 **environmental project?**

17          A.     It's just over -- through May, it's just  
18 over about 14 percent.

19          **Q.     And that compares to the rate-base used**  
20 **in current rates?**

21          A.     That's correct.

22          **Q.     The questions related to the Staff's --**  
23 **what is characterized in your Rebuttal Testimony as**  
24 **Staff's retroactive rate-making proposals, to your**  
25 **knowledge for Item B on page 11, which is the Wolf**



1 **Creek Nuclear Refueling Outage 16, Item C, Research**  
2 **and Development Tax Credit Amortization on page 13,**  
3 **Item D, Amortization of Regulatory Liabilities and**  
4 **Assets on page 14, are there any Accounting Authority**  
5 **Orders on the books with respect to those items?**

6 A. I don't think there's specific Accounting  
7 Authority Orders, but there are orders that are the  
8 result of a previous rate case.

9 **Q. And those orders specify that**  
10 **amortization of these matters is to -- is to occur,**  
11 **the expense is to be included in rates and the**  
12 **amortization period specified?**

13 A. Yes.

14 **Q. But there has been no order to defer any**  
15 **costs upon the conclusion of these amortization**  
16 **periods. Correct?**

17 A. That's correct.

18 **Q. No further questions.**

19 JUDGE BUSHMANN: Thank you, Mr. Klote.  
20 You may step down for now.

21 Staff can call its witness.

22 MR. WILLIAMS: Keith Majors.

23 JUDGE BUSHMANN: You're still under oath,  
24 Mr. Majors.

25 (Witness previously sworn.)

1 KEITH MAJORS, testifies as follows:

2 DIRECT EXAMINATION BY MR. WILLIAMS:

3 Q. Would you please state your name?

4 A. Keith Majors.

5 Q. And by whom are you employed and in what  
6 capacity?

7 A. The Missouri Public Service Commission.  
8 I'm a regulatory auditor.

9 Q. And has your testimony in this case  
10 already been entered into the record?

11 A. I believe it has.

12 Q. That was yesterday, was it not?

13 A. Yes.

14 MR. WILLIAMS: No further questions,  
15 offer witness for examination.

16 JUDGE BUSHMANN: First cross by Public  
17 Counsel?

18 CROSS-EXAMINATION BY MR. OPITZ:

19 Q. Good morning, Mr. Majors.

20 A. Good morning.

21 Q. Has KCPL completed other construction  
22 projects without using construction accounting?

23 A. Yes. They've completed many large  
24 construction projects without the use of construction  
25 accounting.

1           **Q. Did any of those projects represent a**  
2 **larger portion of KCPL's rate-base than the current**  
3 **project?**

4           A. I think in some -- in the -- I have a  
5 table in my testimony that details the magnitude of  
6 the -- if you'll allow me to look.

7                   In terms of magnitude in the -- if you go  
8 to page 19 of my Rebuttal Testimony, in the early  
9 2000's period, KCPL completed \$170 million worth of  
10 plant compared to the rate-base in which they were  
11 included in rates at 1.25 billion. And that was  
12 13.7 percent of the rate-base in which they were  
13 included in rates. And if you add the Spirvo  
14 (phonetic) 1 facilities that was also included in  
15 rates, it brings it up to 20.5 percent.

16                   So while I can't -- I don't think you  
17 could point to a -- one specific project, but those in  
18 total combined didn't -- all those projects didn't  
19 receive construction accounting and they were -- they  
20 were completed. In fact, the -- all the combustion  
21 turbines listed there weren't -- completed without a  
22 rate case.

23           **Q. And for those construction projects, was**  
24 **the accumulated depreciation and -- scratch that.**

25                   **For those construction projects, were**

1 **they completed before being included in rates?**

2 A. Yes, they were. By -- some of these were  
3 several years before being included in rates. The  
4 effective date of rates in the 2006 case was January 1  
5 of 2000-- 2007, I believe. And these were completed  
6 in -- it's here on the table 03/97, 2000. And I will  
7 also add this is also during the period during the  
8 Hawthorn 5 explosion and rebuild project, which did  
9 not receive construction accounting treatment. It was  
10 also completed without the need of a rate case.

11 **Q. And lastly, is it unusual for a utility**  
12 **not to earn a return on the plant until it's in rates?**

13 A. No, it's not unusual.

14 **Q. That's all I have. Thank you.**

15 JUDGE BUSHMANN: Cross by MEGC?

16 CROSS-EXAMINATION BY MR. WOODSMALL:

17 **Q. Very briefly. You heard my opening**  
18 **statement. Are you familiar with Empire's recent**  
19 **construction at Asbury?**

20 A. Yes, I am. I'm somewhat familiar. I  
21 wasn't involved in that rate case.

22 **Q. Do you know whether Empire asked for an**  
23 **Accounting Authority Order for the costs that it**  
24 **incurred at Asbury?**

25 A. No, they did not. In fact, I have the

1 relative plant amounts that -- the impact to Empire's  
2 rate-base of the Asbury environmental construction  
3 project, which I'm sure the Commission's well aware.  
4 Asbury project involved the completion of a scrubber  
5 for SO2 emissions and also what's called a baghouse  
6 for particulate emissions.

7 And I'm reading the Direct Testimony in  
8 that case, was 122 million -- 122.4 million dollars  
9 was the budget for that project. And the rate --  
10 Staff's rate-base in that case was 1.1 billion and the  
11 relative impact rate-base jurisdictional was  
12 9.5 percent -- 9.56 percent, excuse me

13 **Q. No further questions. Thank you.**

14 JUDGE BUSHMANN: Cross by Kansas City  
15 Power & Light?

16 CROSS-EXAMINATION BY MR. HACK:

17 **Q. Good morning, Mr. Majors.**

18 A. Good morning.

19 JUDGE BUSHMANN: Mr. Hack, just double  
20 check and make sure your microphone is on.

21 MR. HACK: Thanks for the reminder.

22 BY MR. HACK:

23 **Q. Staff's position that the La Cygne**  
24 **environmental project construction accounting**  
25 **deferrals should not be included in KCP&L's revenue**

1 requirement is not based on any allegation that the  
2 Company's decision to undertake the project was  
3 imprudent. Correct?

4 A. That's correct.

5 Q. Nor has Staff yet made any allegation  
6 that KCP&L has managed the La Cygne environmental  
7 construction project imprudently. Correct?

8 A. That's correct.

9 Q. Similarly, Staff's proposed treatment of  
10 the La Cygne environmental project is -- accounting  
11 deferrals is not based on any allegation that the  
12 units have not met the in-service criteria. Correct?

13 A. The -- that's correct, yes. The reason  
14 why we're opposing the recovery in rates of the  
15 deferral isn't related to the in-service.

16 Q. Right. And instead, on page 5 of your  
17 Rebuttal, you provide the three reasons that you  
18 oppose rate treatment of these construction accounting  
19 deferrals. Correct?

20 A. Yes, that's correct.

21 Q. And first, is Staff's belief that the La  
22 Cygne environmental project does not rise to the level  
23 of other KCP&L projects that have received  
24 construction accounting authority?

25 A. Yes, that's correct.

1           **Q.     And second, it is Staff's belief that the**  
2 **La Cygne environmental project is part of the ordinary**  
3 **normal course -- normal cost of providing electric**  
4 **service?**

5           A.     Yes, that's correct.

6           **Q.     And last, is Staff's belief that the La**  
7 **Cygne environmental project does not meet the**  
8 **Commission's AAO standards?**

9           A.     That are extraordinary, unusual and  
10 frequent, yes.

11           **Q.     So Staff really is in opposition to the**  
12 **company's use of construction accounting authority**  
13 **for -- for the La Cygne environmental project.**  
14 **Correct?**

15           A.     I -- I think we're opposing a recovery in  
16 rates.

17           **Q.     Based upon opposition to construction**  
18 **accounting?**

19           A.     I think that's -- that would be a correct  
20 characterization, yes.

21           **Q.     And you take this position with full**  
22 **knowledge that the Commission has already granted to**  
23 **KCP&L, in Case No. EU-2014-0255, the authority to use**  
24 **continued construction accounting for the La Cygne**  
25 **environmental project?**

1           A.     Well, I think that you've got to take  
2     that -- Staff's agreement with that -- the agreement  
3     of the stipulation in context.

4           **Q.     I would ask that you answer the question**  
5     **yes or no and then tell me any explanation.**

6           A.     Yes. I would say that when Staff agreed  
7     to the Stipulation and Agreement, it was with -- it  
8     was -- it was somewhat of a unique circumstance that  
9     we -- we came to that stipulation.

10           The Company had filed this AAO in  
11     approximately June of last year. I think there was a  
12     general knowledge that -- in fact, they may have filed  
13     their 60-day notice, that there was a rate case  
14     pending -- or not pending, but there was an impending  
15     rate case on the approach.

16           So Staff evaluated the AAO filing, filed  
17     Rebuttal Testimony. But when KCPL filed the general  
18     rate case on October 30th, they had included the La  
19     Cygne deferrals as an adjustment in both rate-base and  
20     amortization.

21           So we were put in somewhat of a  
22     precarious situation that we would absolutely be  
23     required to litigate this issue twice. Once in the  
24     AAO filing, if it came to that point; and by  
25     necessity, since the Company had included those



1 amounts in the rate case, it would be in this current  
2 proceeding right now.

3 So that's how we came to the conclusion  
4 of simply allowing the -- or agreeing that they could  
5 defer the expenses and including language in the  
6 stipulation that it did not preclude Staff from making  
7 any arguments in the rate case against recovery of  
8 those deferrals, and that's how we got here today.

9 **Q. But Staff didn't ask for reconsideration**  
10 **of the order in EU-2014-0255. Correct?**

11 A. Not that I'm aware of.

12 **Q. Nor did anyone else. Correct?**

13 A. That's correct.

14 **Q. So the order's final. Correct?**

15 A. The order incorporating the language of  
16 the stipulation is final.

17 **Q. If the Commission adopts your**  
18 **recommendation, do you know where KCP&L would be**  
19 **required to take a write-off to its 2015 earnings?**

20 A. Well, I think that would depend on the  
21 definition of write-off, which I think Company and  
22 Staff have -- have different opinions about. I think  
23 that all other things being equal, the depreciation  
24 expense would have been expensed this calendar year.  
25 I think there were -- were some expenses in the last

1 quarter. And I believe the Company has already  
2 released its quarterly earnings, which would have  
3 included a de minimis impact of the La Cygne  
4 deferrals.

5 But those expenses would have been -- if  
6 the Commission adopts Staff's position, those expenses  
7 will be -- would be and should have been anyway  
8 expensed in the current year.

9 **Q. But the Company has the authority to**  
10 **defer those expenses right now; is that correct?**

11 A. That's correct.

12 **Q. And when do you expect the order in this**  
13 **case to be issued?**

14 A. I believe it would be -- typically I  
15 believe the order is about 30 days before the  
16 effective date of rates, but I'm not -- I think you'd  
17 be better off asking counsel about that.

18 **Q. So there will be continued deferrals in**  
19 **compliance with the order. Correct?**

20 A. In compliance with the order in the EU  
21 case, yes.

22 **Q. That's correct. So you don't think that**  
23 **if the Commission does not grant rate recovery of the**  
24 **deferrals recorded in compliance with the Commission**  
25 **order, that the Company will have to make a write-off**

1 **of the deferred amounts?**

2 A. I think those have to be expensed in the  
3 current year. I think -- I think there's some  
4 miscommunication about what exactly a write-off is.  
5 To me, it's -- it's more of long-lived assets that  
6 have now become -- that the Company will no longer  
7 recover. That's -- that's, to me, what a write-off  
8 is.

9 But I mean, you're talking about whether  
10 you should have expensed it in the end of March and  
11 you've got a Commission order in August -- I mean  
12 March to August, that's three or four, five months. I  
13 mean, that's -- that's not a very long-lived  
14 differential where you would have these restatement of  
15 earnings over several years.

16 **Q. Let's talk about it this way: If -- you**  
17 **heard Mr. Klote talk about the net value of the**  
18 **deferral amount is \$5.9 million. Do you have any**  
19 **reason to disagree with that as we sit here today?**

20 A. I think he'd said 5.5 and that's -- other  
21 than the amount that he stated for deferred taxes,  
22 that's what shows in the Company's updated work  
23 papers.

24 **Q. Thanks for correcting me. If the**  
25 **Commission does grant the rate treatment requested by**

1 **KCP&L, that \$5.5 million will not be recognized and**  
2 **expensed this year. Correct?**

3 A. That's right.

4 **Q. And on the other hand, if the Commission**  
5 **adopts your recommendation, that \$5.5 million will be**  
6 **recognized and expensed this year. Correct?**

7 A. That's right.

8 **Q. And as a result, if the Commission adopts**  
9 **your recommendation, the Company's earnings will be**  
10 **reduced by \$5.5 million this year. Correct?**

11 A. All other things being equal, yes.

12 **Q. That would reduce KCP&L's achieved return**  
13 **on equity for 2015 compared to the scenario where rate**  
14 **recovery is granted. Correct?**

15 A. Yes. All other things being equal, yes,  
16 I would agree with that.

17 **Q. Can you provide the Commission with an**  
18 **estimate of how much such a write-off would reduce**  
19 **KCP&L's return on equity for 2015?**

20 A. No, I can't. Offhand, I can't produce  
21 that kind of estimate, no.

22 **Q. Did you not examine the potential impact**  
23 **on KCP&L's 2015 earnings in formulating Staff's**  
24 **position on this issue?**

25 A. No. I think when they -- when you filed

1 the AAO -- when you really file any AAO, you evaluate  
2 the actual expenses incurred on whether those are  
3 extraordinary, unique and unusual. I don't -- I  
4 wouldn't disagree that the -- the earnings is abs--  
5 the earnings of the Company is absolutely not a  
6 consideration.

7 But when you evaluate an AAO, you focus  
8 on the actual expenses incurred, not whether or not --  
9 I think you need to -- to divorce the -- whatever  
10 earnings are occurring during the period and the  
11 actual event that's extraordinary.

12 **Q. So the earnings impact really doesn't**  
13 **matter to you?**

14 A. The earnings impact --

15 **Q. What we're talking about.**

16 A. -- of -- if the Commission adopts Staff's  
17 position?

18 **Q. Yes, sir.**

19 A. I mean, I don't -- I think as a  
20 pejorative, I don't think -- if you're saying as a  
21 pejorative if it doesn't matter to me, I don't know  
22 what you mean by that. I think it's -- I think these  
23 costs are material. I'm not disputing that.

24 **Q. Well, you didn't look at it, did you?**

25 A. The earnings impact?

1 Q. Yes.

2 A. Not specifically, no.

3 Q. On pages 27 and 28 of your Surrebuttal  
4 Testimony, you provide a list of projects.

5 A. Yes. I'm there.

6 Q. And on page 28, lines 3 to 4, you  
7 indicate that Staff considers these projects  
8 significant, in quotes?

9 A. Yes.

10 Q. Does that mean you consider these  
11 projects significant?

12 A. I would look at these projects and  
13 consider them -- those are significant projects, yes.  
14 I think --

15 Q. I'll ask the questions.  
16 What factors did you look at to determine  
17 or to conclude -- to reach your opinion that these  
18 projects were significant?

19 A. Well, I would say that each of these  
20 projects had a -- with the in-service of the project,  
21 there was a -- I can't -- I can't say for all these on  
22 this list, but there was a rate case immediately after  
23 they were completed and in-service to include them in  
24 rate-base.

25 Certainly La Cygne 1 was included in the

1 07-- ER-2007-0291 case. The Sibley 3 SCR GMO was in  
2 the '90 case -- I'm sorry, ER-2009-0090 case. I'm not  
3 entirely sure when the Asbury SCR was -- what case  
4 that was included in. Jeffrey 123 FGD rebuild was in  
5 the 2010 cases. The Jeffrey SCR has not been  
6 included -- has not been considered in a GMO rate case  
7 yet. And the Asbury flue gas project, which I just  
8 earlier discussed, is in Empire's current rate case,  
9 which I don't think it's concluded yet.

10 I also -- considering these projects were  
11 several million dollars on their own merits, I think  
12 those -- that could be -- that would be considered  
13 significant.

14 **Q. Several million dollars?**

15 A. Yes. All these projects were several  
16 million dollars. In fact, I would say the Jeffrey --  
17 well, the Jeffrey 123 project was, if memory serves, I  
18 think 303 million, but GMO only owns 8 percent of the  
19 unit.

20 **Q. So what does that calculate as the dollar**  
21 **amount to GMO?**

22 A. A ball park would be 24 million, but I'd  
23 have to go back to get actual numbers on that.

24 **Q. And you think 24 million compares to**  
25 **300 million for the La Cygne environmental project?**

1           A.     No. I'm not saying that. I'm saying  
2 they were significant.

3           **Q.     Let's talk about the Jeffrey SCR and**  
4 **SNCR. How big was that project?**

5           A.     It's being currently completed by  
6 actually Westar, who owns the three -- who owns the  
7 majority share of the three units. And GMO, of  
8 course, owns 8 percent. I'm not sure of the actual  
9 magnitude of that. Again, it's several million  
10 dollars. It would be 8 percent of the total so --

11          **Q.     Would you quarrel with me if I told you**  
12 **\$20 million to GMO?**

13          A.     I -- I -- I just don't -- I don't know  
14 the answer to that question.

15          **Q.     Let's talk about La Cygne 1.**

16          A.     Yes.

17          **Q.     Would you have any reason to dispute me**  
18 **if I told you that it was 22.1 million to KCP&L**  
19 **Missouri?**

20          A.     If memory serves, it was higher than  
21 that. Oh, to KCPL Missouri?

22          **Q.     Yes, sir.**

23          A.     I think going back, the total was 87 and  
24 it's 50/50 with Westar, so that's 43 and a half. I  
25 wouldn't dispute -- that would be the approximate



1 impact of that.

2 **Q. But these are significant projects to**  
3 **you?**

4 A. Yes.

5 **Q. And comparable to the La Cygne**  
6 **environmental project?**

7 A. I made the -- I would say they are  
8 comparable as the La Cygne project is also  
9 significant. I provided a comparison of other  
10 construction projects that did receive construction  
11 accounting. And I think that provides more of a broad  
12 comparison of the impact of La Cygne.

13 **Q. So should I interpret your answer as no,**  
14 **you don't consider them comparable to La Cygne or yes,**  
15 **you do?**

16 A. Yes. Yes, I do. And it -- I didn't do a  
17 comparison of the impact of these projects to the  
18 comparative rate-base in which they were included, so  
19 I think it could be said that they would be  
20 significant in comparison to La Cygne on the -- with  
21 their impact over the rate-base when they were in  
22 service.

23 **Q. That's all the questions I have.**

24 JUDGE BUSHMANN: Questions from  
25 Commissioners.

1                   COMMISSIONER STOLL: I have no questions.  
2 Thank you for your testimony.

3                   THE WITNESS: Thank you.

4                   COMMISSIONER KENNEY: Thank you.

5 QUESTIONS BY COMMISSIONER KENNEY:

6                   **Q. Hi, Mr. Majors. How are you?**

7                   A. Hello.

8                   **Q. Thank you for being before us again. I**  
9 **just have two questions just for clarification. So is**  
10 **Staff's position that the only reason that they signed**  
11 **onto the second Stipulation and Agreement is because**  
12 **they did not want to litigate that AAO twice?**

13                  A. Yes. I can explain, if you'd like.

14                  **Q. Sure.**

15                  A. Well, I think that if -- if you -- we  
16 looked at what the outcomes would be if we had  
17 litigated in December, and you've got one of two  
18 outcomes. Either the Commission granted the AAO --

19                  **Q. What was the date they asked for the AAO?**  
20 **I forgot. Was it --**

21                  A. I've got the exact date.

22                  **Q. I could probably find it in your**  
23 **Surrebuttal.**

24                  A. It was June 12th, 2014.

25                  **Q. Okay.**

1           A.     At that time I don't think they had filed  
2 the 60-day notice that they were in a rate case --  
3 that they were going to file a general rate case.

4           **Q.     They filed notice of intent to case file**  
5 **on June 25th.**

6           A.     Okay. So it was very shortly after they  
7 filed the AAO application.

8           **Q.     And they filed the application on**  
9 **June 12th. Okay.**

10          A.     Yes. So if the outcome of the AAO would  
11 have been a denial of the AAO, the Company would still  
12 have testimony filed and numbers filed that would have  
13 reflected the AAO amounts in the rate case. So  
14 necessarily they would have wanted those dollars in  
15 the rate case even though they hadn't received an AAO  
16 and we would have had to litigate where we are today.  
17 On -- and that's if the Commission had denied the AAO.

18                   If they had granted the AAO and it was  
19 litigated, I think Staff would have had the same  
20 concerns, that the costs weren't unique and --

21          **Q.     I'll speed you up. So we'd be back here**  
22 **doing the same thing over?**

23          A.     That's exactly right, yes.

24          **Q.     That's what Staff's opinion is?**

25          A.     And that's really the only --

1           **Q.     That's fine. You answered the question.**

2           A.     Yes.

3           **Q.     You did a good job.**

4                   **Okay. My next -- just my last question.**

5           **Would there have been any other way for the Company to**  
6           **have recovered these expenses with the La Cygne**  
7           **retrofit had they not asked for an AAO?**

8           A.     I think -- I think there was nothing  
9           barring them from asking for these for dep-- for  
10          construction accounting in the rate case. That they  
11          didn't have to file the AAO; they could have requested  
12          construction accounting in the rate case process.

13          **Q.     And just delays the -- it delays it.**  
14          **That's all it does. Right?**

15          A.     Right.

16          **Q.     If they are granted that?**

17          A.     Yes. That's correct.

18          **Q.     Okay. Thank you very much. That's my**  
19          **only question.**

20          QUESTIONS BY COMMISSIONER HALL:

21          **Q.     Good morning, Mr. Majors. How are you?**

22          A.     I'm doing fine. Thank you.

23          **Q.     If I could direct your attention to**  
24          **page 30 of your Rebuttal. You delve into the issue of**  
25          **regulatory lag.**

1 A. Yes, that's correct.

2 Q. **And that was in response, I take it, to**  
3 **that issue being raised by Mr. Klote in his Direct**  
4 **Testimony on behalf of KCP&L?**

5 A. Yes, that's correct.

6 Q. **And you give three examples of where**  
7 **regulatory lag serves -- serves to benefit the**  
8 **Company.**

9 A. Yes.

10 Q. **Why did you do that?**

11 A. Well, I think a lot of the -- not only  
12 Mr. Klote's testimony, but a lot of the testimony  
13 filed by Kansas City Power & Light in this case  
14 focused on negative regulatory lag, where there was a  
15 cost that the Company was incurring that wasn't  
16 reflected in the cost-of-service and they were -- it  
17 was taking an impact to earnings.

18 And I think that the Commission needed --  
19 needed to be aware there are other costs of service  
20 items and other cost decreases, what we call -- we  
21 would call positive regulatory lag that the Company  
22 really doesn't make a lot of -- I'm not saying they  
23 try to hide it, but they don't make light of those --  
24 these cost decreases that the Company is retaining.

25 And so this testimony, as well as the

1 testimony of Staff witness Featherstone, was -- was to  
2 make light of those cost decreases.

3 **Q. So in other words, it's your -- it's your**  
4 **view that only looking at the negative aspects of**  
5 **regulatory lag really only shows -- is only half the**  
6 **story?**

7 A. Absolutely I think that's half the story.

8 **Q. So in your first example where KCP&L**  
9 **reduced its employee head count by 169 employees,**  
10 **which resulted in substantial savings, Staff is not**  
11 **trying to retroactively apply those savings in this**  
12 **rate case?**

13 A. No. And I think the example of the  
14 employee reduced -- the reduced employee head counts  
15 is an example of the natural rate-making process where  
16 costs are reduced, that's to the benefit of the  
17 Company and that -- that accrues to the Company and is  
18 not reflected on a on-- on an -- it's reflected when  
19 rates are reset again, those savings.

20 And we're not trying to capture any of  
21 those payroll -- payroll or benefit savings for return  
22 to customers. That's part of -- that's part of the  
23 regulatory process.

24 **Q. And if we did try to capture that**  
25 **savings, that would eliminate the incentive that the**

1 **Company has to find those savings in the first place?**

2 A. I think on -- on payroll savings, I think  
3 it would somewhat eliminate the incentive, yes. On  
4 these kind of --

5 **Q. Maybe not completely, but at least to**  
6 **some extent it would?**

7 A. To some extent, yes.

8 **Q. Your second example, KCP&L was able to**  
9 **refinance significant amounts of its long-term debt**  
10 **which has produced interest savings. Staff's not**  
11 **trying to retroactively recoup those savings in this**  
12 **rate case --**

13 A. No.

14 **Q. -- is it?**

15 **And that -- and it would be inappropriate**  
16 **to do so?**

17 A. I think it would be inappropriate both on  
18 the employee savings and on the interest savings to --  
19 to try to flow those back to ratepayers.

20 **Q. Now, the third example though, the DOE**  
21 **spent fuel fees, Staff is attempting to recoup those**  
22 **savings, is it not?**

23 A. Yes.

24 **Q. Can you explain what the difference is?**

25 A. I think the difference is that when Staff

1 found -- not found out, but when Staff was made aware  
2 that the DO fees -- DOE fees were a reduction in  
3 savings to the Company, I think the -- that Staff's  
4 interpretation of the Commission's historical  
5 standards for deferral was much more applicable to the  
6 DOE fees than -- than was -- then calling La Cygne  
7 construction accounting an extraordinary event.

8 And we filed a -- an order -- I think  
9 it's designated an accounting order to capture those  
10 fees ev-- for the Company to set up a regulatory  
11 liability to return those fees to ratepayers through  
12 the cost-of-service.

13 And I think I draw a distinction. These  
14 were fees that were being paid for nearly 30 years  
15 through the cost-of-service by ratepayers. And by  
16 some -- I would say somewhat indirectly, by no control  
17 of the Company, those fees were set to zero. And so  
18 the benefits should inure to the ratepayers.

19 **Q. Okay. And then lastly, on page 31,**  
20 **there's a Q and A that I just don't understand,**  
21 **line 15 and 16. If the Commission does not grant rate**  
22 **recovery of the La Cygne construction accounting**  
23 **deferrals, is there still a benefit from the deferral**  
24 **and amortization? And you say that there is and I**  
25 **don't understand that.**



1           A.     I think I would draw -- I would draw the  
2 comparison to if the Company is allowed to defer  
3 expenses, I think you have to bifurcate the deferral  
4 from the rate recovery. I would draw the distinction  
5 between this and the 2000 ice storm where those  
6 deferrals related to the ice storm weren't -- weren't  
7 at all included in the cost-of-service.

8                     So they were -- they were somewhat  
9 separated between rate recovery and the deferral  
10 mechanism. And so the deferral mechanism related to  
11 the ice storm was to spread those costs out so where  
12 the earnings impact wouldn't have been all in one  
13 year.

14                    And so I would draw the distinction -- I  
15 would draw that to the La Cygne deferrals to say that  
16 there -- there could be a benefit to defer those  
17 expenses in some manner to provide a benefit of an  
18 ongoing basis. And I guess what I'm saying is that  
19 that the Company didn't have to -- even though the  
20 Company didn't have to charge -- even though -- even  
21 though KCPL didn't receive the ice storm recovery in  
22 rates, that they still received an impact from  
23 spreading that deferral out over multiple counting  
24 periods.

25           **Q.     Okay.   Okay.   Thank you.**

1 JUDGE BUSHMANN: Recross based on  
2 Commission questions. Public Counsel?

3 MR. OPITZ: No, your Honor.

4 JUDGE BUSHMANN: MEGG?

5 MR. WOODSMALL: No questions.

6 JUDGE BUSHMANN: Kansas City Power &  
7 Light?

8 RECCROSS-EXAMINATION BY MR. HACK:

9 **Q. Do you know, Mr. Majors, whether the 2002**  
10 **ice storm deferrals, any part of those, was ever**  
11 **included in KCPL's revenue requirement?**

12 A. I did go back and examine to the 2006  
13 case and there was a test year amount and it was  
14 removed from the cost-of-service. So the Company did  
15 not receive any of those deferrals in rates.

16 **Q. So -- but the first case -- rate case for**  
17 **KCP&L after that ice storm was in 2006. Correct?**

18 A. Yes. That's correct.

19 **Q. And the first case for KCP&L in this**  
20 **situation is in the year in which the deferrals are**  
21 **recorded. Correct?**

22 A. That's -- that's correct.

23 **Q. So really the 2002 ice storm has no**  
24 **applicability to this situation here. Correct?**

25 A. I would say it has some -- some

1 applicability in terms of the Company received a  
2 benefit of spreading those costs over several years.

3 **Q. What years?**

4 A. The years of 2002 --

5 **Q. No, sir. Let's talk about the deferral**  
6 **of the La Cygne construction accounting project.**

7 JUDGE BUSHMANN: Is your microphone on,  
8 Mr. Hack?

9 MR. HACK: It is now. Thank you, your  
10 Honor.

11 THE WITNESS: Well, I think that -- I  
12 think this was generally based on -- on deferrals in  
13 general. I think you -- you would have to consider  
14 whether the Company would have the amount to spread  
15 the construction accounting amount over several --  
16 several years and recover that over several years.

17 BY MR. HACK:

18 **Q. We've already talked about what would**  
19 **happen if your position is adopted, haven't we, today?**

20 A. Yes. They would be expensed in the year  
21 incurred.

22 **Q. The same year incurred. Correct?**

23 A. Yes.

24 **Q. So the 2002 ice storm situation has no**  
25 **applicability to what we're talking about here.**

1           A.     I still maintain that it does have some  
2 degree of applicability.

3           **Q.     You were talking with Commissioner Kenney**  
4 **about how we could have processed the construction**  
5 **accounting request in the context of the rate case.**  
6 **Correct?**

7           A.     Yes, that's correct.

8           **Q.     Do you recall that the Staff made a**  
9 **motion to consolidate EU-2014-0255, which was the**  
10 **Company's application for construction accounting**  
11 **deferral authority, with the rate case?**

12          A.     Yes. That was -- that was similar to --

13          **Q.     Yes is enough.**

14          A.     Yes.

15          **Q.     And what -- how did the Commission**  
16 **resolve that motion?**

17          A.     If I can recall, the motion was denied.

18          **Q.     So it was not consolidated? The cases**  
19 **were not consolidated?**

20          A.     That -- that's correct.

21          **Q.     Commissioner Hall also asked you about**  
22 **page 30 of your Rebuttal Testimony and three examples**  
23 **of historical savings. Do you recall those questions?**

24          A.     Yes.

25          **Q.     Now, each of those examples would be**

1 reflected in -- those savings would be reflected in  
2 the Company's actual earnings for the years in  
3 question. Correct?

4 A. Could you repeat that one more time?

5 Q. Yes. The employee head count reductions  
6 that occurred after 2012-174, the Company's last rate  
7 case, do you believe there was savings associated with  
8 those employee head count reductions?

9 A. Yes. And those would have been included  
10 in the earnings period in which those reductions  
11 occurred.

12 Q. And to the extent those savings continue  
13 to exist today, they will be reflected in lower rates  
14 going forward than otherwise would have been the case.  
15 Correct?

16 A. Yes.

17 Q. The long-term debt interest savings,  
18 would those savings also be reflected in the Company's  
19 actual earnings during the periods in question?

20 A. Yes.

21 Q. And to the extent those savings continue,  
22 those savings will be enjoyed by customers when rates  
23 are set in this case. Correct?

24 A. Yes.

25 Q. The DOE fees, those savings are reflected

1 **in the Company's actual earnings results during the**  
2 **periods in question. Correct?**

3 A. Yes.

4 **Q. And to the extent those savings continue**  
5 **after rates are set in this case, those savings will**  
6 **be reflected in lower rates to customers than**  
7 **otherwise would be the case; is that right?**

8 A. Yes.

9 **Q. No further questions. Thank you,**  
10 **Mr. Majors.**

11 A. Thank you.

12 JUDGE BUSHMANN: Redirect?

13 MR. WILLIAMS: Thank you.

14 REDIRECT EXAMINATION BY MR. WILLIAMS:

15 **Q. Mr. Majors, you remember Commissioner**  
16 **Kenney asking you questions about the Stipulation and**  
17 **Agreement and not litigating issues twice?**

18 A. Yes.

19 **Q. What issues was Staff not wanting to**  
20 **litigate twice?**

21 A. I think that Staff would have had the  
22 same concerns that Staff prevented -- or presented in  
23 its Rebuttal Testimony; that these expenses really  
24 aren't extraordinary, unique or unusual. I think that  
25 we would be having those same discussions here,

1 especially if the Company had not received deferral  
2 authority of those amounts in the EU case.

3 **Q. Well, exactly what was that deferral**  
4 **authority?**

5 A. The deferral authority in the EU case was  
6 simply to defer the costs, not that they were  
7 extraordinary or that they should be recovered through  
8 rates.

9 **Q. You're talking about the depreciation and**  
10 **carrying costs on the La Cygne environmental retrofit**  
11 **project?**

12 A. Yes.

13 **Q. And that would be from the date they went**  
14 **in service until new rates in this case?**

15 A. Yes.

16 **Q. No further questions. No further**  
17 **questions. I'm sorry.**

18 JUDGE BUSHMANN: Thank you, Mr. Majors.  
19 That completes your testimony for now.

20 THE WITNESS: Thank you.

21 JUDGE BUSHMANN: Seems like a good time  
22 to take a lunch break. We'll be in recess until 1:30.

23 (A recess was taken.)

24 JUDGE BUSHMANN: Back on the record.  
25 Parties have proposed a slight schedule change, I

1 understand. Like to do rate case expense as the next  
2 issue; is that correct?

3 MR. STEINER: That's correct.

4 JUDGE BUSHMANN: Commissioners are fine  
5 with that.

6 MR. HACK: Thank you.

7 JUDGE BUSHMANN: The first opening  
8 statement for rate case expense will be by Kansas City  
9 Power & Light.

10 MR. STEINER: May it please the  
11 Commission. KCPL requests the Commission recognize  
12 full recovery of prudently incurred rate case expense  
13 as customers benefit from the rate case process that's  
14 required by law.

15 The Company's property is dedicated to  
16 public -- providing public service. Customers demand  
17 and expect a level of service quality and reliability  
18 that requires the Company to make sufficient financial  
19 wherewithal to deliver. It is periodically necessary  
20 for the Company to increase rates to maintain this  
21 financial wherewithal.

22 Customers are the ultimate beneficiaries  
23 of the rate case process that determines the just and  
24 reasonable rates that are -- that are to be paid for  
25 safe, adequate and reliable service. Under the



1 regulatory system under Missouri law, the only manner  
2 in which these objectives may be accomplished is  
3 through the rate case process.

4 Allegations have been made regarding the  
5 prudence of certain rate case expenses for the first  
6 time in Surrebuttal Testimony. These allegations are  
7 unreasonable and should be rejected by the Commission.  
8 The Commission should continue to recognize its  
9 long-standing policy of full recovery of prudently  
10 incurred rate case expense. Thanks.

11 JUDGE BUSHMANN: I have no questions.  
12 Thank you.

13 Commission Staff?

14 MS. MUETH: May it please the Commission.  
15 The issue of rate case expense can be broken down into  
16 three major areas of contention. The first is whether  
17 any of KCPL's claimed rate case expenses were  
18 imprudently incurred. The second is whether the  
19 Commission should require KCPL shareholders to cover  
20 any portion of KCPL's rate case expense. And the  
21 third is what level of rate case expense for this  
22 proceeding the Commission should recognize in KCPL's  
23 revenue requirement.

24 Staff recommends including 50 percent of  
25 prudently incurred rate case expense to be normalized

1 over three years. Staff will continue to examine this  
2 case -- this case's rate case expense through the  
3 filing of briefs for this rate case, but the rate case  
4 expense should not be tracked for over- or  
5 under-recovery after this rate proceeding.

6 Staff's position regarding rate case  
7 expense is that KCPL ratepayers and shareholders  
8 should split 50/50 the entire cost of KCPL's actual  
9 prudently incurred rate case expenses. This would be  
10 a fair allocation of rate case expenses to the parties  
11 who benefit from rate case expense.

12 Staff chose a 50/50 mechanism rather than  
13 a different ratio because it is Staff's position that  
14 ratepayers and shareholders both benefit in  
15 approximately equal measure from the filing of a rate  
16 case. Ratepayers should bear some portion of the  
17 utility's cost of prosecuting a rate case because they  
18 benefit from having just and reasonable rates.

19 The rate case process has been  
20 established under Missouri law in order to set these  
21 just and reasonable rates. In order to litigate a  
22 rate case, a utility must incur certain expenses.

23 With that in mind, it is also noteworthy  
24 that rate case expense is different from most other  
25 types of utility operational expenses. The rate case

1 process is adversarial in nature with the utility and  
2 ratepayers usually on opposing sides. Ratepayers  
3 generally seek to lower rates, or at least to restrain  
4 the amount of rate increases, while utilities  
5 generally seek to increase rates in greater amount  
6 than other parties. In fact, KCPL has consistently  
7 sought a higher rate of return than its ratepayers or  
8 the Commission has been willing to support.

9 Any amount sought over a reasonable rate  
10 of return is solely sought to benefit shareholders.  
11 Accordingly, those shareholders who are the intended  
12 primary beneficiaries of a utility's effort in this  
13 area should, at the very least, share in the costs  
14 incurred in litigating a rate case.

15 This is not an unusual or unprecedented  
16 recommendation. There are several other costs that  
17 KCPL incurs on an ongoing basis that are typically  
18 not borne in part or at all by ratepayers. The  
19 shareholders bear the cost of such items as incentive  
20 compensation tied to earnings per share and other  
21 financial measures, charitable donations some dues,  
22 political lobbying expenses, board of directors'  
23 retreat expenses, certain executive expenses and half  
24 of the funds dedicated to the Economic Relief Program.

25 These -- these incurred costs, while

1 undisputedly prudent from the Company's perspective,  
2 should nonetheless be assigned to shareholders as by  
3 their very nature, they are not associated with the  
4 direct benefit to utility customers.

5 Requiring a 100 percent of rate case  
6 expense to be paid by ratepayers would provide KCPL  
7 with an inequitable financial advantage over other  
8 participants in rate case process.

9 Staff and OPC operate within tight annual  
10 budgets. Intervenor consumer groups pay their own  
11 legal expenses. In contrast, if KCPL expects to be  
12 able to recover 100 percent of its rate case expenses  
13 in rates, it has no real incentive to constrain its  
14 budget.

15 In recent cases, KCPL has incurred rate  
16 case expenses substantially higher than historical  
17 levels and higher than other utilities in Missouri. A  
18 50/50 sharing in rate case expense, if applied now and  
19 potentially in the future, would encourage KCPL to  
20 reasonably contain the costs incurred as part of  
21 future rate cases. This acts more directly as a  
22 financial incentive than would a full prudency review  
23 alone.

24 The Commission has opened a working case  
25 on this issue in File Number AW-2011-0330. Staff

1 witness Mark Oligschlaeger primarily authored the rate  
2 case expense report that was filed in that working  
3 case and he can address recommendations contained  
4 within the report and how they are applied in this  
5 case further when he takes the stand.

6 Under Missouri law, the Commission must  
7 set just and reasonable rates. Rates that assign  
8 100 percent of the utility's rate case expense to  
9 customers may not be just and reasonable. Therefore,  
10 the Commission should adopt Staff's position of a  
11 50/50 sharing in prudently incurred rate case expenses  
12 between shareholders and ratepayers in this  
13 proceeding.

14 The Commission should then normalize this  
15 amount over a span of three years for recovery in  
16 KCPL's revenue requirement. Thank you.

17 COMMISSIONER STOLL: Thank you for your  
18 opening. And maybe I should save this for  
19 Mr. Oligschlaeger, but I was wondering -- and I  
20 probably should know this, but is this position  
21 typical of Staff as far as the sharing of rate case  
22 expense or --

23 MS. MUETH: It's not typical of Staff.  
24 It is something that has been considered. And I  
25 believe that as a result of some more recent things --

1 and I know Mark can speak more to this, but Staff has  
2 understood that the Commission is more interested in  
3 that type of recommendation so --

4 COMMISSIONER STOLL: And so your  
5 recommendation is that if we do split the rate case  
6 expense, you're suggesting 50/50, although I'm sure  
7 you'd be happy with --

8 MS. MUETH: Correct. Yes.

9 COMMISSIONER STOLL: -- satisfied with,  
10 yeah, a different percentage. Okay. Thank you.

11 MS. MUETH: Thank you.

12 COMMISSIONER KENNEY: Thank you. How are  
13 you?

14 MS. MUETH: Good.

15 COMMISSIONER KENNEY: So it's -- I've  
16 only been here three years and I've never heard of  
17 Staff produce -- or coming up with this idea of a rate  
18 case expense split. And I know -- I don't know about  
19 the Commission, but I know a Commissioner or now I  
20 guess two have signed on as something that they would  
21 like to consider it. So Staff's --

22 MS. MUETH: Correct.

23 COMMISSIONER KENNEY: -- taken that  
24 position because of Commissioner inquiry?

25 MS. MUETH: In part, yes.

1                   COMMISSIONER KENNEY: What's the other  
2 part?

3                   MS. MUETH: Well, I know that for this  
4 Company in particular, Staff was concerned that more  
5 recent rate cases have incurred significantly higher  
6 rate case expense than in the past and as well as  
7 significantly higher rate case expense than other  
8 large utilities.

9                   And based on some -- I believe it's based  
10 on some comments from the Commission at the conclusion  
11 of those rate cases, that they were not too thrilled  
12 with the amount of rate case expense incurred, I know  
13 that that had something to do with this recommendation  
14 as well.

15                   COMMISSIONER KENNEY: So I guess would  
16 Mr. Oligschlaeger be the one to ask about the  
17 percentages of rate case expense and -- for each  
18 electric utility that's had over -- over the previous  
19 years and --

20                   MS. MUETH: I know Mr. Oligschlaeger --

21                   COMMISSIONER KENNEY: -- and if it's gone  
22 down or up?

23                   MS. MUETH: I know he has a good  
24 background of this issue and kind of the origins of  
25 it. So he would be the good one to ask.

1                   COMMISSIONER KENNEY: Okay. Can you tell  
2 me of an instance where rate case expense has been  
3 shared in recent memory from anybody here that you  
4 know of?

5                   MS. MUETH: I believe that there was a  
6 case that I have written down, if you don't mind me  
7 looking up.

8                   COMMISSIONER KENNEY: Oh, please.

9                   MS. MUETH: So I don't remember what --  
10 what the parties were in this case, but it's Case  
11 Number ER-85-265. My understanding is the Commission  
12 authorized a sharing of rate case expense in that  
13 case. There might perhaps be more, but I have to look  
14 into that.

15                   COMMISSIONER KENNEY: I do recall that --  
16 I believe it was 2009 that a working docket was opened  
17 to study sharing rate case expense.

18                   MS. MUETH: Are you referring to  
19 AW-2011-0330?

20                   COMMISSIONER KENNEY: Was that 2011?

21                   MS. MUETH: Yes.

22                   COMMISSIONER KENNEY: Was that a working  
23 docket?

24                   MS. MUETH: Yes.

25                   COMMISSIONER KENNEY: Okay. I do



1 remember seeing that take place. Now, originally when  
2 I kind of looked at this -- I saw our last rate case  
3 we had with Ameren. And I noticed Noranda brought in  
4 somebody from Britain. And then Ameren brings  
5 somebody in from Britain to go against them and I  
6 thought that was kind of ridiculous, was just a waste  
7 of taxpayer -- or ratepayer money, but that being  
8 said, I'm done.

9                   It's your issue.

10                   COMMISSIONER HALL: Yeah, we went a  
11 little out of order, I guess. Could I get a  
12 two-minute recess?

13                   JUDGE BUSHMANN: Yes. We'll be in recess  
14 for five minutes.

15                   (A recess was taken.)

16                   JUDGE BUSHMANN: Commissioner?

17                   COMMISSIONER HALL: Appreciate yours and  
18 everybody else's indulgence.

19                   My understanding is that Staff is  
20 pursuing a 50/50 split of rate case expense in this  
21 case.

22                   MS. MUETH: Yes.

23                   COMMISSIONER HALL: But you have two  
24 alternative processes by which you would -- you would  
25 ask us to look at sharing rate case, but they're

1 not -- but they're fall-back positions?

2 MS. MUETH: Correct.

3 COMMISSIONER HALL: Let me start with  
4 this. What does Staff believe the legal basis is for  
5 sharing of rate case expense?

6 MS. MUETH: I would say that the purpose  
7 of ratepayer contribution to the rate case expense is  
8 so that they can be provided that safe and adequate  
9 service; however, they're not the primary  
10 beneficiaries of the expenses that utilities put into  
11 their rate cases.

12 I would have to look into what the actual  
13 Missouri authority is. I don't have that right in  
14 front of me.

15 COMMISSIONER HALL: To what extent does  
16 Staff believe that it is unnecessary to institute such  
17 a policy by rule as opposed to doing it in the rate  
18 case?

19 MS. MUETH: I don't think Staff is  
20 opposed to doing it by rule, per se. I believe that  
21 Staff understands that there are unique circumstances  
22 surrounding various utilities and various rate case --  
23 rate case filings. And so Staff believes it's  
24 appropriate to be addressed in a rate case, so that  
25 if -- if that circumstance warrants it, it doesn't

1 need to wait until the rulemaking could occur.

2 COMMISSIONER HALL: Does Staff have any  
3 reason to believe that establishment of a rate -- of a  
4 rate case expense sharing mechanism would result in  
5 the Company, utilities generally, prosecuting their  
6 cases any differently?

7 MS. MUETH: I believe so. I -- I think  
8 that part of the reason for the recommendation is that  
9 there's a perception that companies do not necessarily  
10 have a great incentive to control the costs that they  
11 incur in litigating their rate case. And while it  
12 wouldn't cause them to stop incurring all costs, it  
13 might cause them to reconsider some of the costs that  
14 might be deemed excessive.

15 COMMISSIONER HALL: Do all the parties  
16 now agree with the three-year normalization?

17 MS. MUETH: I believe so, yes.

18 COMMISSIONER HALL: Okay. At one point  
19 in time the Company sought an amortization and at one  
20 point in time OPC sought a two-year period, but now  
21 everybody is on board for three-year normalization?

22 MS. MUETH: I know the three years  
23 everyone's on board with. I believe that the  
24 normalization also is agreed to at this point.

25 COMMISSIONER HALL: Okay. Let me ask

1 about the 2012 rate case expense issue. Has there  
2 been agreement on that or is Staff still trying to  
3 disallow any expenses from the 2012 rate case?

4 MS. MUETH: Staff is still disallowing  
5 that. I don't believe that that is something that's  
6 still considered an issue to be heard. Am I correct  
7 with that?

8 MR. STEINER: I think it's still an  
9 issue.

10 MS. MUETH: Is it still an issue? Okay.

11 COMMISSIONER HALL: Yeah. I mean it's my  
12 understanding that Staff believes that that particular  
13 expense cannot be sought per the -- per the settlement  
14 agreement.

15 MS. MUETH: Correct.

16 COMMISSIONER HALL: Okay. And your  
17 witness will be able to --

18 MS. MUETH: Yes.

19 COMMISSIONER HALL: -- shed additional  
20 light on that issue?

21 MS. MUETH: Yes.

22 COMMISSIONER HALL: Staff is also seeking  
23 disallowance in toto for the expenses of one KCP&L  
24 consultant, a Mr. Overcast; is that correct?

25 MS. MUETH: Yes, that's correct.

1                   COMMISSIONER HALL: Can you explain to me  
2 the rationale for that?

3                   MS. MUETH: I can briefly. I know that  
4 Staff witness Keith Majors can speak more to this. My  
5 understanding is Dr. Overcast testified to many issues  
6 that were already being covered by other KCPL  
7 witnesses, so his testimony's duplicative. And again,  
8 Mr. Majors can speak more to that.

9                   COMMISSIONER HALL: Okay. All right.  
10 Thank you.

11                   MS. MUETH: Thank you.

12                   JUDGE BUSHMANN: Thank you.

13                   Opening by OPC.

14                   MR. OPITZ: Good afternoon. May it  
15 please the Commission. As you heard in Staff's  
16 opening, the Commission's charged with setting just  
17 and reasonable rates. In this case for this Company,  
18 it is just and reasonable that the necessary and  
19 prudent rate case expense be shared equally between  
20 KCPL's shareholders and the ratepayers.

21                   The Commission has done this in the past  
22 in Case Number ER-85-265. And in that case, the  
23 Commission determined that Public Counsel's proposal  
24 for a one-half sharing was persuasive. In its  
25 opinion, the Commission stated, quote, That it

1 considers the sharing of rate case expense appropriate  
2 in this case, since the Company has increased its rate  
3 case activity to protect the shareholders.

4 In addition to its experienced and  
5 capable attorneys and internal employees, KCPL, in  
6 this case, has hired additional attorneys, advocate  
7 and consultants in presenting its case. These  
8 additional lawyers and experts are very good and their  
9 rates are significant.

10 It is unreasonable that ratepayers bear  
11 the entirety of these costs in this case.  
12 Particularly when they -- when they are incurred to  
13 benefit the KCPL shareholders. And this is especially  
14 true when KCPL has in-house expertise available.

15 It is true that KCPL had sought recovery  
16 of certain expenses required to provide safe and  
17 adequate service to customers. However, in this case,  
18 KCPL has also incurred expenses pursuing issues --  
19 pursuing multiple issues that benefit and protect only  
20 shareholders. In particular, the Company has pursued  
21 a fuel adjustment clause, multiple cost trackers,  
22 construction accounting, an increased customer charge  
23 and a substantial increase to its return on equity.

24 On every one of these issues, the  
25 consumer advocates in this case and parties that

1 generally advocate on behalf of ratepayers oppose the  
2 Company. It is the opinion of Public Counsel that all  
3 of those mechanisms that I listed shift risk onto the  
4 ratepayers and protect the Company's shareholders.

5 In -- in this case, Public Counsel's  
6 witness has offered testimony that an equal sharing of  
7 rate case expense is reasonable because shareholders  
8 benefit from a rate case by way of an approved return  
9 on their investments and customers benefit by  
10 improvements in service.

11 The Commission Staff also recommends  
12 equal sharing. Staff's witnesses have testified that  
13 50/50 sharing creates an incentive and eliminates a  
14 disincentive on the utility's part to control rate  
15 case expense to reasonable levels.

16 And although Staff's witness,  
17 Mr. Oligschlaeger, discusses alternatives to the 50/50  
18 sharing in his Surrebuttal, he ultimately concluded  
19 that utilization of a 50/50 sharing approach from the  
20 first dollar of rate case expense incurred provides  
21 stronger incentives for the utility to limit its rate  
22 case expenses to the lowest amount -- lowest  
23 reasonable amount. He continued, It also recognizes  
24 the fact that rate case expenses separately benefit  
25 both the customers and the shareholders from different

1 perspectives.

2           The Commission should consider that  
3 customers already pay all of the rate case expenses  
4 for the Commission, for the Commission Staff and for  
5 all rate case expenses incurred by Public Counsel.  
6 Customers should not also have to pay for all of the  
7 rate case expenses incurred by KCPL, especially when  
8 KCPL's investors, who benefit most from the issues  
9 sought in this particular rate case, pay nothing.

10           A 50/50 sharing introduces a level of  
11 fairness that the customers deserve. However, I will  
12 note that before rate case expense is shared 50/50,  
13 the necessary, reasonable and prudent amount must be  
14 determined. Imprudent costs of course should be  
15 disallowed. It is only the necessary and prudent  
16 expenses that should be shared between ratepayers and  
17 shareholders.

18           And in this case, Public Counsel  
19 recommends that the Commission, first, disallow --  
20 excuse me, first, that we adjust certain costs related  
21 to legal fees paid to outside counsel; and second,  
22 that the Commission disallow costs related to services  
23 provided by Black and Veatch, in particular the  
24 testimony of Dr. Overcast. And after determining  
25 that, the remaining amount should then be shared



1 between ratepayers and the shareholders.

2 First, for the adjustment related to  
3 legal fees, Public Counsel believes that the rates for  
4 the outside attorneys retained by KCPL are  
5 unreasonable. And, Judge, at this time out of an  
6 abundance of caution, I'd like to go in-camera for one  
7 moment.

8 (REPORTER'S NOTE: At this point, an  
9 in-camera session was held, Volume 14, pages 926 to  
10 929.)

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1 JUDGE BUSHMANN: We're now back in public  
2 session. You may proceed.

3 MR. OPITZ: Thank you, Judge. This fee  
4 is substantially in excess of what is charged by other  
5 attorneys. You may recall that in Ameren's rate case,  
6 an outside attorney hired by Ameren stated that his  
7 office charged rates that were effectively \$200 an  
8 hour for the lawyers that were working on that case.  
9 Public Counsel believes that the rate charged by  
10 Ameren Missouri's outside counsel is a reasonable  
11 proxy in determining the rates for KCPL's outside  
12 counsel.

13 Further, the Missouri Bar 2013 Economic  
14 Survey Report shows that the median hourly rate  
15 charged by sole practitioners for office work and  
16 trial work is 151 to 200 dollars and 201 to 250  
17 dollars charged by attorneys in private practice firms  
18 with more than one attorney. Rates substantially in  
19 excess of \$200 per hour are unreasonable in this case  
20 for the public to have to pay.

21 The Commission has adjusted the  
22 recoverable rate for attorney fees in the past. In  
23 GR-2004-0209, although the Commission noted that the  
24 attorneys in that case did a good job of representing  
25 their client at the hearing, it adjusted the rate for

1 one firm to \$200 per hour and disallowed the fees for  
2 a second outside firm entirely. The Commission  
3 explained that the Company is certainly entitled to  
4 hire lawyers with whom it is comfortable, but it would  
5 not be fair to require ratepayers to pay such high  
6 rates.

7 In Public Counsel's second point, we  
8 recommend that the Commission exclude the Black and  
9 Veatch costs for the work of Dr. Overcast. That  
10 witness provided pre-filed testimony that is  
11 duplicative of the testimony filed by other KCPL  
12 witnesses. If certain duties can be performed by  
13 in-house personnel, the Commission has expected the  
14 utility to utilize that in-house personnel in the  
15 past.

16 In ER-2010-0355, the Commission  
17 disallowed expenses for services that were duplicative  
18 of other services that were performed or should have  
19 been performed by the Company's employees. In this  
20 case, there was no need to retain the services for  
21 this outside consultant and so it is unreasonable for  
22 the ratepayers to bear any of this cost.

23 In this case, a 50/50 sharing approach  
24 for necessary and prudent rate case expense reasonably  
25 balances the interest of KCPL's shareholders and its

1 ratepayers. The Company has pursued a  
2 cost-is-no-object approach to its rate case  
3 presentation, apparently believing that the ratepayers  
4 should be required to pay for any costs that the  
5 company incurs.

6 In this case, absent sharing rate case  
7 expense, KCPL ratepayers will be unreasonably forced  
8 to pay for a case strategy that largely benefits the  
9 Company's shareholders.

10 And I'm happy to answer any questions you  
11 might have.

12 COMMISSIONER STOLL: No questions. Thank  
13 you.

14 COMMISSIONER KENNEY: Thank you.  
15 Appreciate your opening. I have a question. Did  
16 Office of Public Counsel take a position on rate case  
17 expense during the Empire -- recent Empire hearing --  
18 excuse me, the sharing of rate case expense?

19 MR. OPITZ: Commissioner, while I wasn't  
20 working directly in that case, it's my understanding  
21 that there was a stipulation -- a partial Stipulation  
22 and Agreement that encompassed that issue in the  
23 Empire case.

24 COMMISSIONER KENNEY: What about Ameren?  
25 I know you did not work that Ameren case, but --



1 MR. OPITZ: Well, I worked on it a little  
2 bit.

3 COMMISSIONER KENNEY: I thought you were  
4 still with the Commission.

5 MR. OPITZ: For this most recent Ameren  
6 case?

7 COMMISSIONER KENNEY: Yeah.

8 MR. OPITZ: Office of Public Counsel in  
9 that case as well entered into a -- I believe it was a  
10 partial Stipulation Agreement that also encompassed  
11 the rate case expense.

12 COMMISSIONER KENNEY: So did the Office  
13 of Public Counsel come in and have a position for a  
14 split rate case expense at that time?

15 MR. OPITZ: I don't believe we did in the  
16 Ameren case or Empire case.

17 COMMISSIONER KENNEY: Just making this a  
18 little broader, would it be Office of Public Counsel's  
19 position that we should look at split rate case  
20 expense for all cases that come before the Commission?

21 MR. OPITZ: No. That's not what we're  
22 asking here. We're saying this particular case and  
23 these facts and circumstances for this Company -- and  
24 that's based on the evidence in the record -- supports  
25 that a 50/50 sharing is just and reasonable.

1 COMMISSIONER KENNEY: For this case only.

2 MR. OPITZ: For this case.

3 COMMISSIONER KENNEY: So your vi -- Office  
4 of Public Counsel believes we should take a  
5 case-by-case scenario?

6 MR. OPITZ: I believe that within the  
7 Commission's duty to set just and reasonable rates, it  
8 has the ability to look at the facts and  
9 circumstances, and to the extent that it's supported  
10 by the evidence in the record, make a decision that  
11 rate case sharing is appropriate in that case on a  
12 case-by-case basis.

13 COMMISSIONER KENNEY: Okay. Because I  
14 know there's some Commissioners who may believe  
15 differently, that we should just have it -- there  
16 should be rate case expense shared on, you know, all  
17 of our major investor-owned utilities. And I would --  
18 I just thought that OPC might have that same stance.

19 MR. OPITZ: I believe that our office  
20 might support something like that, but there may be  
21 implications with the Administrative Procedures Act  
22 where a blanket rule would require a rulemaking.

23 COMMISSIONER KENNEY: So do you think  
24 that would be more appropriate, to do a rulemaking  
25 instead of doing it on a case-by-case basis? Just

1 have a rulemaking?

2 MR. OPITZ: Well, I think that primarily  
3 the Commission is charged with setting just and  
4 reasonable rates. And if that -- if there were a  
5 rulemaking, Public Counsel would certainly participate  
6 and take positions in that rulemaking.

7 But in our role right now as trying to  
8 protect the ratepayers in this case, we believe that a  
9 just and reasonable rate means that the ratepayers and  
10 shareholders should share this rate case expense  
11 50/50, particularly when many of these costs are  
12 incurred to benefit the shareholders.

13 COMMISSIONER KENNEY: Well, I understand.  
14 You spelled out some imprudent ones that I could --  
15 that could be understandable as being imprudent  
16 because they might be excessive, but I would think  
17 that a rulemaking might be the better place to solve  
18 all this instead of -- have a rulemaking, come up with  
19 a plan and go from there. But that's just my  
20 thoughts. That wouldn't be a piece -- it wouldn't be  
21 a case-by-case scenario. Thank you.

22 MR. OPITZ: I understand. Thank you.

23 JUDGE BUSHMANN: Commissioner Hall?

24 COMMISSIONER HALL: Good afternoon.

25 MR. OPITZ: Good afternoon.

1                   COMMISSIONER HALL: Could you explain to  
2 me what the Office of Public Counsel's understanding  
3 is for the legal basis for rate case expense sharing?

4                   MR. OPITZ: Certainly. I believe that --  
5 and I mentioned to Commissioner Kenney that the  
6 Commission is charged with setting just and reasonable  
7 rates. And so I would point to the statute -- and I  
8 hadn't written it down, but I -- my best recollection  
9 is it's 393.270.2 is the section where the Commission  
10 is charged with setting just and reasonable rates.

11                   I would ask that you in -- allow me to  
12 substantiate that in briefs and -- but I believe that  
13 it's statutory -- that setting just and reasonable  
14 rates allows us to do this.

15                   COMMISSIONER HALL: So that's the basis,  
16 that the Commission is charged with setting just and  
17 reasonable rates and if sharing a rate case expense  
18 results in just and reasonable rates, then it is  
19 authorized by statute is your position?

20                   MR. OPITZ: Yes. That's our position.

21                   COMMISSIONER HALL: Okay. So before we  
22 even get into rate case expense sharing, your office  
23 is asking the Commission to disallow a host of  
24 expenses related to rate case expense; Black and  
25 Veatch, Overcast and the attorney's hourly rate.

1 MR. OPITZ: If I may, I believe Black and  
2 Veatch and Overcast are the same.

3 COMMISSIONER HALL: Oh, okay.

4 MR. OPITZ: He works for them is my  
5 understanding.

6 COMMISSIONER HALL: Okay. Thank you for  
7 that correction. Well, let me ask you this: I mean  
8 because it seems to me that one of the rationales for  
9 rate case expense sharing is how difficult it is to  
10 look at the Company's rate case expense items and make  
11 an objective determination as to whether or not that  
12 particular item is reasonable or prudent.

13 You have one paralegal who spends  
14 15 hours answering some discovery. Well, should that  
15 paralegal have only spent 10 hours? Or should -- or  
16 should that have been done by an intern or -- I mean  
17 it seems like it's inherently difficult to Monday  
18 morning quarterback rate case expense.

19 So, for example, Mr. Overcast, what --  
20 OPC believes that that was an imprudent expenditure.

21 MR. OPITZ: Yes.

22 COMMISSIONER HALL: And is it -- I mean  
23 is it not possible that -- how do you know that he did  
24 not provide valuable information to the Company to  
25 help them prosecute the rate case?

1 MR. OPITZ: Well, ultimately that's up to  
2 the Commission to decide. But our position in that is  
3 he provided testimony on issues that other Kansas City  
4 Power & Light witnesses who were in-house already  
5 provided testimony on. So in our mind, the ratepayers  
6 are already paying for those other witnesses through  
7 the revenue requirement. They should not be forced to  
8 pay for this additional and duplicative witness.

9 COMMISSIONER HALL: But do we know if the  
10 in-house personnel were as knowledgeable as  
11 Mr. Overcast on those particular issues?

12 MR. OPITZ: Whether he is as  
13 knowledgeable or less or more knowledgeable may be up  
14 for debate. But our position is that the testimony  
15 was du-- substantially duplicative and so there was no  
16 benefit added for the ratepayers, although I would say  
17 that it's Public Counsel's position that that issue is  
18 one that benefits shareholders altogether.

19 But their in-house experts are paid for  
20 by ratepayers and are more than capable of offering  
21 the particular testimony that was offered in this case  
22 by that outside witness.

23 COMMISSIONER HALL: It's my understanding  
24 that rate case expense sharing serves multiple  
25 purposes, but one of them is to avoid this

1 line-by-line analysis of the Company's rate case  
2 expense and trying to make objective determinations  
3 over what is an inherently subjective discretionary  
4 decision, which is why I personally -- I mean I  
5 support rate case expense sharing in some cases,  
6 though not -- not all cases, Commissioner Kenney, and  
7 I do support it in this case based on the record so  
8 far. But I don't -- it seems like it's somewhat  
9 duplicative to first go in and pull out individual  
10 items that -- that you believe are imprudent and then  
11 split 50/50 the rest.

12           What seems appropriate to me if we're  
13 going to do rate case expense sharing, then we do rate  
14 case expense sharing and we don't try to Monday  
15 morning quarterback every single item in the utility's  
16 rate case strategy. Do you have a response to that  
17 concept?

18           MR. OPITZ: I would say our response is  
19 the devil might be in the details in how that's  
20 implemented. There may be cases where -- as occurred  
21 prior to the Commission opening that working docket,  
22 where the rate case expense exceeds I believe it was  
23 somewhere in the range of \$10 million. Obviously  
24 that's something that we wouldn't want to just split  
25 50/50 because, in our mind, we need to examine that

1 large amount to see if it was reasonable, necessary  
2 and prudent.

3 And I don't -- I don't believe the facts  
4 in this case support just simply splitting it 50/50.  
5 I believe we need to look at whether those expenses  
6 are reasonable, necessary, prudent. And once we  
7 exclude those, then we look at the 50/50 split  
8 supported by the fact that -- the record in this case  
9 as a way to set just and reasonable rates.

10 COMMISSIONER HALL: And am I correct in  
11 my understanding that all the parties have now agreed  
12 to a three-year normalization of whatever the rate  
13 case expense is?

14 MR. OPITZ: In part. I believe that  
15 there is a depreciation study cost where our office  
16 recommends a five-year amortization for that  
17 particular cost. For the rest of it, three-year  
18 amortization -- or normalization, I should say.

19 COMMISSIONER HALL: Three-year  
20 normalization.

21 MR. OPITZ: Yes.

22 COMMISSIONER HALL: And the difference  
23 between normalization and amortization is that in a  
24 normalization there is no adjustments made for under-  
25 or over-recovery; is that correct?



1 MR. OPITZ: Correct.

2 COMMISSIONER HALL: Why is it appropriate  
3 to normalize as opposed to amortize?

4 MR. OPITZ: I would say that for the  
5 specific details on that, certainly inquire of the  
6 witnesses, but I will give you a general answer. And  
7 I will say that rate-making isn't about dollar for  
8 dollar recovery. It's about setting a reasonable  
9 level of revenue requirement on a going-forward basis.

10 So when you normalize it, you're saying,  
11 well, we think that you're going to come in for  
12 another rate case in this amount of time or it's  
13 reasonable to think that you're going to come in for a  
14 rate case in that amount of time so that is the time  
15 over which we should normalize that expense.

16 Dollar for dollar, as in the case of --  
17 you're suggesting with amortization, could harm  
18 ratepayers significantly. If there were multiple rate  
19 cases back to back to back to back to back, those  
20 would continue to accumulate and you would see that  
21 the rate case expense that is being recovered from  
22 ratepayers is -- I would say far outweighs any benefit  
23 that they would be getting from those rate cases.

24 COMMISSIONER HALL: But if, for example,  
25 KCP&L were to get everything they wanted in this case,

1 including an FAC and didn't come back for four years,  
2 then they'd get an extra year -- they'd get an extra  
3 for the rate case expense. So that would harm  
4 ratepayers, would it not?

5 MR. OPITZ: That's -- that's my  
6 understanding. But part of the reality of historical  
7 cost-of-service rate-making like we do in Missouri is  
8 that there are opportunities that can benefit the  
9 shareholders and there's opportunities that can  
10 benefit the ratepayers. And so as -- in your  
11 hypothetical there, that's one where it would benefit  
12 the shareholders.

13 COMMISSIONER HALL: Let me -- let me ask  
14 you about the 2012 rate case expense item. What is  
15 OPC's position on that?

16 MR. OPITZ: Commissioner, I -- I -- I  
17 looked again at the issues list and I did not see that  
18 on there so I -- I don't have a written one. And I  
19 would ask that if it is truly on the issue list in  
20 this case, that we reserve the right to answer that --  
21 assert a position on briefs.

22 COMMISSIONER HALL: I mean I guess it's  
23 possible that it got resolved during the written --  
24 written testimony. I'll inquire of witnesses. Thank  
25 you.

1 MR. OPITZ: Thank you.

2 JUDGE BUSHMANN: Thank you.

3 Mini opening by MEG?

4 MR. WOODSMALL: Thank you, your Honor.

5 In the issues list, you'll notice that there's three  
6 separate issues, but I want to focus on the first two.

7 A talks about were any costs imprudently incurred?

8 And then the second one, B, says after that, what  
9 percent do you do on sharing?

10 I want to focus on the first part,  
11 whether any costs were imprudently incurred. And as  
12 Mr. Opitz said, that is certainly for your decision as  
13 the trier of fact to look and see what costs were  
14 imprudently incurred. In my mind, there's a couple of  
15 them that jump out.

16 On Monday we tried return on equity.  
17 After -- I guess this is the fourth case you've seen  
18 Mr. Hevert, but in three previous cases across the  
19 board you said his opinions are too high and you just  
20 rejected them. To then have KCP&L ask a fourth time  
21 for him to be allowed to re-- well, he'll get his  
22 money.

23 For KCP&L to be allowed to recover  
24 \$100,000 for a witness that you've said repeatedly is  
25 too high and then he doesn't listen to your

1 criticisms, should ratepayers pay for that? You heard  
2 he's going to charge a minimum of \$100,000. But then  
3 you heard Mr. Gorman, who you found repeatedly to be  
4 credible, is only charging \$30,000. Certainly in my  
5 mind there's a question of prudence there.

6 So we would ask for to you make those  
7 decisions upfront. And there's going to be tough  
8 times where you can't make those decisions. There are  
9 things going on behind the scenes that you can't peer  
10 in to determine if there's value. And I think the  
11 sharing addresses that. But there are times where you  
12 can see imprudence and that's one example.

13 You talked about -- and the question is  
14 why does KCP&L continue to hide what they charge --  
15 what their attorney -- what they pay attorneys. And I  
16 think part of that is they're ashamed to let the  
17 general public know. But you can look at that and say  
18 are some of these attorneys worth these amounts? And  
19 I would ask you to turn to Mr. Addo from Public  
20 Counsel, his Surrebuttal, page 27, which has those  
21 amounts.

22 The other question to consider is -- you  
23 said is the point of sharing so that you don't have to  
24 Monday morning quarterback? Well, I think part of the  
25 question that you need to ask is once there's a

1 question of prudence raised, isn't the real question  
2 whether KCP&L can meet its burden to show that those  
3 costs are reasonable? Certainly in this case there  
4 have been questions as to the prudence of ROE  
5 consultants, the prudence of the attorneys' fees.

6 You know, that -- once that issue has  
7 been raised, then there is a burden of proof. And you  
8 have to ask yourself has KCP&L met its burden of proof  
9 of showing that these individual expenses are prudent?

10 The other questions about sharing that  
11 I'd like to address, first off, I think sharing needs  
12 to be done on a case-by-case basis. You may have a  
13 case -- if KCP&L came in next time where they did the  
14 entire case in-house, they used their two attorneys,  
15 they did ROE in-house -- which is done, it's being  
16 done in Westar's case in Kansas right now. If they  
17 did all their costs in-house, you know, you have to  
18 question a 50 percent sharing.

19 But if they come in in the next case and  
20 they completely abrogate that issue to outside  
21 consultants, use nothing but consultants, use nothing  
22 but outside attorneys, maybe the sharing needs to be  
23 higher. So I think 50 percent sharing, while  
24 attractive on its face, won't apply across the board.  
25 So I question whether a general rulemaking is the

1 appropriate way to do it.

2           The other thing is if you apply just a  
3 blanket sharing percentage, does that give the Company  
4 and its consultants an incentive to pump up their  
5 cost? You know we're going to hit -- the ratepayers  
6 are going to get hit -- get half of this anyway.  
7 Instead of using one consultant, let's use two. Let's  
8 duplicate all the work.

9           So I have a hesitancy to say that a  
10 50 percent sharing is appropriate across the board in  
11 all circumstances and, therefore, I hesitate whether  
12 to say that should be in a general rule.

13           Finally, you asked questions about  
14 normalization versus amortizations and I think you hit  
15 it exactly. Normalizations are just the set amount  
16 designed to reflect the normal amount of that cost to  
17 be put in rates.

18           Amortizations, in my mind, implies more  
19 of an absolute recovery, penny for penny. And that  
20 gets into an incentives issue. If you do an  
21 amortization, which implies absolute recovery, aren't  
22 we, in essence, doing a tracker? And where is the  
23 Company's incentive then?

24           If you do a normalization, then the  
25 Company says, okay, we have this much in our rates.

1 If we stay out, we continue to pocket that amount. So  
2 there is an incentive there for them to stay out  
3 because they have that in rates. So those are my  
4 questions.

5 Again, I'd point you to Mr. Addo's  
6 Surrebuttal Testimony. He addresses a number of the  
7 expenses in this case at pages 25 of his Surrebuttal,  
8 and specifically the legal fees at page 27. You have  
9 the authority to declassify information. You do it in  
10 agenda all the time.

11 And to the extent you need it, I will  
12 make a verbal motion to declassify these legal fees  
13 cost. If you need a written motion, I will do it, but  
14 I agree with you. It is ludicrous that the general  
15 public cannot see what they're paying their outside  
16 attorneys and asking for the ratepayers to cover. So  
17 I would make that motion to declassify the table on  
18 page 27 of Mr. Addo's Surrebuttal.

19 JUDGE BUSHMANN: I'm not going to rule on  
20 that right now. I suggest you file it in EIFS, if you  
21 want to do that.

22 MR. WOODSMALL: I'll do that. Any  
23 questions?

24 COMMISSIONER STOLL: No. Thank you for  
25 your testimony though.

1                   COMMISSIONER KENNEY: Thank you very  
2 much.

3                   COMMISSIONER HALL: I was confused by one  
4 item in your -- in your opening and that was that  
5 your -- your concern that if we instituted the rate  
6 case sharing -- rate case expense sharing, that that  
7 could actually provide an incentive to the Company to  
8 increase its rate case expense. And I don't  
9 understand why that would be.

10                   If -- if they had to pay half of their  
11 rate case expense, why would that be an incentive to  
12 increase what they have to pay?

13                   MR. WOODSMALL: I guess what I'm saying  
14 is they know the worst case scenario. If they come in  
15 with one consultant now, that's understandable. But  
16 if they say, you know, we're only going to have to pay  
17 half of this, the ratepayers are going to pay the  
18 other half, let's come in with eight consultants on  
19 ROE and then -- you're taking away our ability to ask  
20 for more in a specific --

21                   COMMISSIONER HALL: But if they come in  
22 with eight and we have a 50/50, they're going to have  
23 to pay for four of them.

24                   MR. WOODSMALL: Right. But --

25                   COMMISSIONER HALL: So isn't that a



1     disincentive?

2                     MR. WOODSMALL: The real disincentive is  
3     the threat -- if you don't have a specific amount, the  
4     real disincentive is that we can come in and say they  
5     don't need eight, disallow seven of them. So by -- by  
6     nailing down 50 percent, you take away any downside  
7     risk above that, if you understand what I'm saying.

8                     COMMISSIONER HALL: Okay.

9                     MR. WOODSMALL: I'm saying everything  
10    needs to be done case-by-case.

11                    COMMISSIONER HALL: Yeah. And I agree  
12    with you on that.

13                    One of the arguments in the Direct  
14    Testimony of Staff's witness, I believe it was  
15    Mr. Majors, was that rate case expense is unique -- or  
16    at least it's different from most expenses of the  
17    utility in that -- in that it is inherently  
18    discretionary.

19                    Not that there has to be an expense --  
20    and I think that's what Mr. Ives takes issues with,  
21    but the fact that do I hire eight consultants, do I  
22    hire seven? Do I use a paralegal, do I use an intern?  
23    A lot of this stuff is inherently discretionary.

24                    And that's relatively persuasive to me as  
25    to at least one way that rate case expense is

1 different from customer service expense or -- or  
2 operation and maintenance or the whole gamut of  
3 expenses that a utility incurs. What do you think  
4 about that?

5 MR. WOODSMALL: I think there is some  
6 truth to that. Certainly there are some other rate  
7 case expenses that aren't discretionary. You have to  
8 try your case here in Jeff City. So to that extent,  
9 travel, meals, those type of things aren't  
10 discretionary. You have to incur those.

11 COMMISSIONER HALL: Right. But how you  
12 prosecute your rate case expense is discretionary.  
13 That's the point of Mr. Majors, I believe.

14 MR. WOODSMALL: I agree. I would agree  
15 with that.

16 COMMISSIONER HALL: And so do you believe  
17 that that is one thing that makes rate case expense  
18 different from routine expenses of the -- of the  
19 Company?

20 MR. WOODSMALL: I think there's that.  
21 The other thing is rate case expense is easy to  
22 understand. You get it. Everybody understands hiring  
23 an attorney and everybody understands paying an  
24 attorney. Understanding how you take coal and the  
25 cost of turning coal into electricity and all the

1 various implications -- because it has tentacles all  
2 through the Company -- is more difficult to  
3 understand. So I don't want to make it more remedial  
4 than it is, but it's very easy to understand. So  
5 maybe that's another difference.

6 COMMISSIONER HALL: Okay. Thank you.

7 MR. WOODSMALL: Thank you.

8 JUDGE BUSHMANN: Thank you.

9 MR. WOODSMALL: Thank you.

10 JUDGE BUSHMANN: Opening by Ameren,  
11 Missouri.

12 MR. LOWERY: Good afternoon. And I guess  
13 I'll enter my appearance too, Judge. James B. Lowery,  
14 Smith Lewis, LLP, PO Box 918, Columbia, Missouri  
15 65205, appearing on behalf of Ameren, Missouri.

16 May it please the Commission. If I  
17 could, I'd like to address a couple of the questions  
18 that have come up -- or at least one of them. The one  
19 case that this Commission did -- did agree with OPC  
20 and had 50/50 sharing of rate case expense, that case  
21 was 30 years ago and it involved the Grand Gulf  
22 Nuclear Plant that Arkansas Power & Light, which used  
23 to be a regulated utility in this state, was putting  
24 into rate-base at the time.

25 Arkansas Power & Light started -- filed

1 essentially four cases in nine months because the  
2 timing of the in-service date of the plant kept  
3 moving. So they filed a rate case, withdrew it, filed  
4 another rate case. It was an extraordinary  
5 circumstance.

6 And on those particular facts, it's true  
7 that OPC proposed 50/50 sharing and the Commission  
8 adopted it. The case wasn't appealed. I don't think  
9 that case really tells you much of anything other than  
10 the fact that the Commission's never done that before  
11 or since. And I know not since. And I'm pretty sure  
12 if I were to go and dig back in the old MoPSC reports,  
13 I'd find that it hasn't done it before then either,  
14 although I can't stand here and tell you that I've  
15 done that or that I could completely attest to that.

16 Because the rate case expense sharing  
17 proposal that's been made in this case -- it's really  
18 one of policy, it's really one of law, it's really one  
19 of practice and it's really not so much about the  
20 particular facts. I'm going to focus on my remarks on  
21 policy. And some of these issues have already been  
22 brought up to some extent.

23 The Commission acknowledged in its order  
24 that started the workshop that Commissioner Kenney was  
25 referring to earlier that the Commission's current

1 rules and practice are such that regulated utilities  
2 generally do recover all the costs they incur in  
3 presenting rate cases to the Commission.

4 The Commission has also stated in orders  
5 in the last ten years or so that it, quote, is  
6 hesitant to disallow expenses incurred by a utility in  
7 prosecuting its rate case, end quote. And the  
8 Commission was talking about prudently incurred  
9 expenses when it made that statement.

10 The Commission goes on to say in that  
11 order, which was a 19-- or 2004 order, The Company is  
12 entitled to present its case as it sees fit and the  
13 Commission will not likely intrude into the Company's  
14 decision about how best to present its case.

15 We fully acknowledge that utilities  
16 should not, quote, automatically be able to recover  
17 all of their rate case expense. The Commission has  
18 always recognized, however, that such costs are  
19 accepted as a cost of doing business.

20 In my view, what the Commission should be  
21 doing is the Commission should be disallowing  
22 imprudently allowed rate case expenses, as it would  
23 with any other imprudently incurred expense as it has  
24 done for decades.

25 The Commission I think has recognized

1 that very directly. And this was from a 1994 -- at  
2 the time it was St. Joseph Light & Power, it's now the  
3 L&P division of GMO. But what the Commission said  
4 about this issue then -- and the Commission expressed  
5 concerns about not recognizing all prudently incurred  
6 rate case expense or expressed concerns about whether  
7 that would violate a utility's procedural rights.

8           And this is what the Commission had to  
9 say, quote: The Commission does not want to put  
10 itself in the position of discouraging necessary rate  
11 case expense. This is a particularly treacherous area  
12 for the Commission to be addressing in that the  
13 Commission cannot be viewed as having a dampening  
14 effect upon a regulatory company's statutory  
15 procedural rights to seek out a rate increase when it  
16 believes the facts justify it to do so. Disallowing  
17 prudently incurred rate case expense can be viewed as  
18 violating a company's procedural rights.

19           So over the last several decades the  
20 Commission's looked at these issues and, again, except  
21 for that one case, which I would submit is highly  
22 unusual, the Commission has consistently recognized  
23 that the test is whether or not the expenses are  
24 prudently incurred.

25           Now, that the Commission has not

1 arbitrarily imposed sharing, whether it be 50/50 or  
2 something else and has treated rate case expense like  
3 other operating expenses with prudence disallowance as  
4 appropriate, should not be a surprise and it doesn't  
5 make Missouri unique. In fact, it reflects a well  
6 accepted and mainstream treatment of rate case expense  
7 in this country.

8           As I think you know, in that workshop  
9 docket we were talking about, the Staff filed a  
10 report. They filed a draft of that report in Ameren's  
11 rate case a couple rate cases ago and they were very  
12 similar. And what Staff's report says, which was  
13 commissioned by the Commission -- commissioned by the  
14 Commission -- requested by the Commission I guess I  
15 should say, what that report shows is that rate case  
16 sharing of the type being proposed in this case is  
17 virtually unheard of in the United States.

18           I see there's a couple stipulated cases  
19 that OPC has put in their testimony, but you can't  
20 take much from a stipulated case. Compromises are made  
21 by utilities and other parties when they reach a  
22 stipulation and so there was some reason that there  
23 was a stipulation about sharing a rate case in  
24 those -- I think they were New Jersey cases, but it  
25 doesn't really tell you much about policy.

1           And to be clear, a proposal to, quote,  
2 share rate case expense is not really sharing at all.  
3 Rather it is simply a proposal to disallow one-half of  
4 the costs that a utility has incurred to prepare, file  
5 and handle a rate case without any proof of  
6 imprudence, without even any allegation of imprudence.

7           With the exception of the specific issues  
8 that OPC I think primarily has raised, maybe Staff has  
9 one as well, of expenses that are actually imprudent  
10 in this case, the basis for the sharing proposal in  
11 this case, it's not an allegation of imprudence. It's  
12 simply an allegation that we've made this subjective  
13 judgment -- I think Ms. Muthe said something about  
14 there's a, quote, perception that costs might be  
15 controlled more.

16           We've made this judgment -- a judgment  
17 that I would submit that they're not qualified to  
18 make, that there ought to be 50/50 sharing, but it has  
19 nothing to do with whether the utility has acted  
20 appropriately or not acted appropriately.

21           This Commission is required to make its  
22 decisions based on competent and substantial evidence  
23 of record and is prohibited by law from making them  
24 without that evidence and is prohibited by law from  
25 making arbitrary decisions.



1           Sharing of the type advocated for in this  
2 case, as evidenced by the fact that it is arbitrary --  
3 and that's I think evidenced by the fact that you  
4 can't -- rate case expense is not divisible in some  
5 50/50 proportion in the way that I guess these  
6 proposals assume that it is. It can't be said that  
7 some percentage of rate case expense is for the  
8 shareholder's benefit while some percentage of rate  
9 case expense is for the customer's benefit.

10           Nor, I would submit, is it unfair to  
11 recognize rate case expense as a cost of a utility  
12 providing service to its customers. Like other costs,  
13 rate case expense is a normal operating cost of a  
14 regulated monopoly. And a regulated monopoly that, by  
15 the way, has an obligation to serve.

16           Non-utility parties -- I've been in a lot  
17 of cases and they spend a lot of time hammering on the  
18 fact that the utility has a monopoly. Well, that's  
19 true, the utility does have a monopoly. But the  
20 utility has something that goes along with that  
21 monopoly that other firms don't have and that's an  
22 obligation to serve.

23           Utilities can't choose not to do business  
24 with a particular customer. Utilities can't cut the  
25 third shift at the power plant when times are tough.

1 Utilities have significant limitations on their  
2 ability to cut capital expenditures because they have  
3 to meet mandated investment requirements and they have  
4 to provide safe and adequate service.

5 Taken together, that monopoly and the  
6 obligation that goes along with it means utilities  
7 must -- indeed it's in everyone's interest, I would  
8 submit -- I'm sure my colleagues would disagree, but I  
9 would submit from where you sit, over a long-term  
10 basis it's in everyone's interest for the utilities to  
11 file rate cases when necessary. And the cost to do so  
12 is a cost of doing business.

13 Moreover, by definition, when this  
14 Commission approves rate increases, as it has done on  
15 many occasions and I'm sure it will do again, the  
16 Commission is setting those rates. Utilities don't  
17 set rates. Utilities ask you to set rates, but at the  
18 end of the day, you are setting the rates. And when  
19 you set those rates, they are, by definition, just and  
20 reasonable.

21 While customers may not like paying  
22 higher rates in the short term, customers don't like  
23 inadequate service either. Utilities and this  
24 Commission should and must take a long-term view of  
25 making sure that essential utility services can be

1 delivered, and at times that requires rate increases  
2 and that requires rate cases and rate case expense.

3 I also want to talk a little bit about  
4 this concept of profits that we hear a lot about and  
5 that you see prominently displayed in the testimony on  
6 this issue in this case.

7 Part of the revenue requirement upon  
8 which rates are based, as you know, is the cost of  
9 capital and that includes the cost of equity. Utility  
10 has to incur that cost. Utility has to have access to  
11 equity. Now, others refer to that cost of equity as  
12 profits and they act as though profits are a bad thing  
13 and they act as though if a rate increase comes along  
14 and a utility is able to make more profit, that that's  
15 a bad thing.

16 I submit that it's not. Why is the cost  
17 of equity, why are those profits a legitimate part of  
18 a utility's cost-of-service? Because the Commission  
19 knows that equity isn't free and the Commission knows  
20 the utility has to utilize equity. I suppose the  
21 utilities could have extraordinarily high  
22 debt-to-equity ratios, but I don't think anybody wants  
23 that. I don't think the customers want that, I don't  
24 think the Commission wants that.

25 We don't see much controversy about

1 capital structure in these rate cases so if folks  
2 really wanted that, I think they would be advocating  
3 that the utility should have more debt.

4 What the Commission wants -- or I believe  
5 it does -- and I think what customers ultimately want  
6 is utilities that are financially healthy and, yes,  
7 that are profitable. Utilities that are able to  
8 compete for the huge sums of capital that they need,  
9 including equity, on reasonable terms.

10 We have relatively low rates in Missouri.  
11 We have well-operated utilities, I believe. I believe  
12 you also believe that, in general. But we have  
13 challenges too. Infrastructure in this state is not  
14 getting any younger and there are a great deal of  
15 mandated investments, both driven by state  
16 requirements and federal requirements. To attract  
17 capital in reasonable terms requires rate increases  
18 and rate increases require the in occurrence of cost.

19 Finally, I would submit to you that an  
20 arbitrary disallowance of one-half or some other  
21 percentage of rate case expense in the absence of a  
22 finding of imprudence would be unlawful. The courts  
23 have recognized time and time again that a utility is  
24 entitled to have reflected in its rates all of its  
25 prudently incurred expenses.

1           There's no exception for rate case  
2 expense, there's no exception for expenses that may be  
3 harder to audit than other expenses. Unless somebody  
4 creates a serious doubt -- not just a doubt, but a  
5 serious doubt about the prudence of a utility  
6 expenditure, the utility's entitled to a presumption  
7 of prudence.

8           And then the Commission has -- and if  
9 somebody creates a serious doubt, then that  
10 evidentiary burden shifts back to the utility. The  
11 utility has to put on evidence. But at the end of the  
12 day, that process has to take place.

13           I'm not going to get the quote in the  
14 cases quite right, but there are -- Missouri case law  
15 is replete in this area with statements that --  
16 something along the lines of that the Commission has  
17 the authority that it has, but -- something like  
18 neither convenience, expediency or necessity expand  
19 the Commission's role, relieve the Commission of its  
20 duties.

21           I heard discussion earlier about -- and,  
22 Commissioner Hall, I appreciate what you had to say  
23 about, you know, the paralegal and the 15 hours. I  
24 get what you're saying. I honestly do. But the fact  
25 that it may be difficult, maybe work has to be done

1 doesn't allow the Commission to simply say 50/50, if  
2 that isn't justified by something other than an  
3 arbitrary number. And would I submit that the  
4 proposal in this case and the other ones that I've  
5 heard have essentially been arbitrary proposals.

6 Appreciate your time and thank you for  
7 your attention, and I'd be happy to answer any  
8 questions as well.

9 COMMISSIONER STOLL: I really don't have  
10 any questions, but I do thank you for your testimony.

11 MR. LOWERY: Thank you.

12 COMMISSIONER KENNEY: Thank you for your  
13 testimony. And I'm not trying to be flippant here,  
14 but I'm curious. Are you being paid -- are you being  
15 paid -- are your fees covered by Ameren ratepayers or  
16 shareholders right now?

17 MR. LOWERY: Well, I guess I would have  
18 to answer that they're being covered by Ameren  
19 shareholders, unless I suppose this is a test year for  
20 another rate. And I'm not suggesting that it is.

21 COMMISSIONER KENNEY: Honestly, I was  
22 just curious.

23 MR. LOWERY: I think that's generally the  
24 way that it works, Commissioner. That when a rate  
25 case test year comes along, there will be so much

1 legal expense and unless it's out of line, that's  
2 going to be built into rates. But unless there's a  
3 test year going on right now -- and I'm not suggesting  
4 that there is -- then I'm being paid for by the  
5 shareholders.

6 COMMISSIONER KENNEY: Thank you very  
7 much. Appreciate your testimony.

8 COMMISSIONER HALL: To follow up on  
9 that -- on that inquiry, so the Company is paying your  
10 law firm for -- for you to be here today?

11 MR. LOWERY: Yes.

12 COMMISSIONER HALL: And the Company is  
13 making a decision that it is in its best interest for  
14 you to appear here and make this policy argument in  
15 this case, realizing that it is unlikely or --  
16 realizing that it is unlikely that it will recover  
17 your fees in rates?

18 MR. LOWERY: That's probably fair to say.

19 COMMISSIONER HALL: Okay. So when the --  
20 when the Commission makes a determination at the  
21 conclusion of a rate case that a particular revenue  
22 requirement is appropriate and -- and deems a specific  
23 amount as just and reasonable rates, isn't it -- isn't  
24 it true that any amount sought above that amount was  
25 for the benefit of shareholders?

1 MR. LOWERY: No. I don't think that  
2 follows at all.

3 COMMISSIONER HALL: Why not?

4 MR. LOWERY: Well, for one thing --

5 COMMISSIONER HALL: Let's make clear. I  
6 mean, I know there's some circularity going on here,  
7 but if you take as a given that what the Commission  
8 concludes, that that revenue requirement, that  
9 \$90 million, that that is the amount that results in  
10 just and reasonable rates and 90 million and I would  
11 be above that amount and that -- and that revenue  
12 requirement withstands judicial review so that is the  
13 amount that is -- that results in just and reasonable  
14 rates. The company sought 120 million. Why can we  
15 not sit here and conclude that 30 million was sought  
16 for shareholders?

17 MR. LOWERY: Well, because I don't  
18 think -- it's true that as a matter of law, assuming  
19 the rates withstand judicial review -- and they  
20 normally do, to be candid -- it's true that as a  
21 matter of law, those rates are going to be deemed just  
22 and reasonable.

23 That doesn't mean -- that doesn't prove  
24 the negative though. It doesn't mean that customers  
25 would not have been better off if the utility had --



1 and this will be a controversial statement, but if the  
2 utility had gotten a higher ROE, could have attracted  
3 capital on more reasonable terms, could have invested  
4 more in its system had it done so. It doesn't prove  
5 that that would not have been more beneficial to the  
6 shareholders. It proves that --

7 COMMISSIONER HALL: Well, all you have is  
8 a Commission decision as to what is just and  
9 reasonable rates that withstood judicial review so --

10 MR. LOWRY: But there may not have been  
11 judicial review.

12 COMMISSIONER HALL: Well, okay. So that  
13 is what has been determined under Missouri law for  
14 what is the -- the revenue requirement that results in  
15 just and reasonable rates. So that's it. I mean  
16 that's what the law is. And that's what the process  
17 resulted in.

18 So now looking back at what the utility  
19 sought, if they sought things that we viewed -- that  
20 the Commission viewed as unreasonable, as not in the  
21 public interest, why -- why should the Company get  
22 rate case expense for prosecuting a rate case  
23 including those items?

24 MR. LOWERY: Again, you've made the  
25 decision as what you thought was reasonable, what you

1 thought was appropriate. That doesn't establish as a  
2 matter of fact that that automatically was the best --  
3 in the best interest of ratepayers. You believe that  
4 was and I'm sure you believe that in good faith, but  
5 that doesn't establish that it was.

6 COMMISSIONER HALL: Well, I guess we have  
7 a difference of opinion. In my view, when the  
8 Commission makes a determination as to what is just  
9 and reasonable rates, then that's the end of the  
10 discussion. That is what was -- that was a revenue  
11 requirement that resulted in just and reasonable rates  
12 and it's the next rate case time to determine whether  
13 or not some other scenario would be more appropriate.  
14 But that's okay. We can have a difference of opinion  
15 on that.

16 MR. LOWERY: Sure.

17 COMMISSIONER HALL: There is currently a  
18 working docket on rate case expense and I would  
19 reiterate my invitation to Ameren to submit  
20 information into that working docket.

21 MR. LOWERY: Thank you.

22 I'm going to draw the only question from  
23 Commissioner Rupp on this issue today.

24 COMMISSIONER RUPP: Is the rate that  
25 you're charging Ameren right now today the same rate

1 that you charged them when they were in here in their  
2 rate case?

3 MR. LOWERY: It is a little bit higher  
4 than that. I raised it very recently after three  
5 years of not changing it.

6 COMMISSIONER RUPP: And you did that for  
7 all your clients or is it because --

8 MR. LOWERY: We did actually raise all of  
9 our rates for all of our clients, yes.

10 COMMISSIONER RUPP: It was for all of  
11 your clients?

12 MR. LOWRY: Yes.

13 COMMISSIONER RUPP: So there's no  
14 difference between rate case recoverable expense in  
15 Ameren's case and what you're doing now that would be  
16 on the shareholders' expense?

17 MR. LOWERY: Not sure I understood that  
18 question. I apologize. My rate is higher than what I  
19 was charging during the rate case because I very  
20 recently raised it.

21 COMMISSIONER RUPP: But you did that  
22 across the board?

23 MR. LOWERY: Yes. Yes.

24 COMMISSIONER RUPP: Thank you.

25 MR. LOWERY: Yeah. If your question is

1 do I charge Ameren more because Ameren may be able to  
2 recover it, no. The answer to that question is no.  
3 In fact, because of the amount of work that I do for  
4 Ameren, Ameren's effective rate is less than some of  
5 the rates that I charge -- standard rates I charge  
6 other clients.

7 JUDGE BUSHMANN: Anything further? Thank  
8 you.

9 MR. LOWERY: Thank you.

10 JUDGE BUSHMANN: We've been going almost  
11 an hour and a half now so why don't we take a short  
12 break. We'll be in recess until five minutes after  
13 3:00.

14 (A recess was taken.)

15 JUDGE BUSHMANN: We're back on the  
16 record. First witness is for Kansas City Power &  
17 Light.

18 MR. STEINER: Company calls Darin Ives.  
19 (Witness previously sworn.)

20 JUDGE BUSHMANN: Just a reminder you're  
21 still under oath, Mr. Ives.

22 THE WITNESS: Yes, sir.

23 MR. STEINER: Mr. Ives has already been  
24 on the stand. and I believe that he was -- he had the  
25 opportunity to correct his Supplemental Direct the

1 first time he was on, but I believe he has some other  
2 corrections.

3 DARRIN IVES, testified as follows:

4 DIRECT EXAMINATION BY MR. STEINER:

5 **Q. Is that true, Mr. Ives?**

6 A. That's correct.

7 **Q. Would you do those now?**

8 A. Yes. The first corrections are in my  
9 Rebuttal Testimony. on page 9 of my Rebuttal  
10 Testimony there's the end of a question right at the  
11 top, the last two lines. The last word in that  
12 question is "FAC" and it should be "tracker."

13 I also have a couple of corrections on  
14 page 13 of my Rebuttal Testimony. The first one  
15 starts on line 11, page 13. There's a number of  
16 5.9 percent. That should be 5.69 percent. To lines  
17 below that on line 13, that affects the 8.1 percent  
18 that's listed on line 13. That 8.1 percent should be  
19 changed to 7.89 percent. One line below that, that  
20 same correction affects the 160 basis points that's  
21 listed on line 14. The 160 should be replaced to be  
22 181.

23 In addition, I have corrections to my  
24 Surrebuttal Testimony that are driven by the same  
25 correction to the Rebuttal. The first one being on

1 page 10, on line 14 there's a 5.9 percent that should  
2 be 5.69 percent. On page 13, line 8 there's a  
3 5.9 percent that should be 5.69 percent. On page 25,  
4 line 3, there's a 5.9 percent that should be 5.69  
5 percent. Page 35, line 8, there's a 5.9 percent that  
6 should be 5.69 percent. Last one, page 36, line 1,  
7 there's a 5.9 percent that should be 5.69 percent.

8 **Q. Thank you, Mr. Ives.**

9 MR. STEINER: Tender the witness for  
10 cross.

11 JUDGE BUSHMANN: First cross would be  
12 Ameren Missouri.

13 CROSS-EXAMINATION BY MR. LOWERY:

14 **Q. Good afternoon, Mr. Ives.**

15 A. Good afternoon.

16 **Q. I don't know the details about this,**  
17 **because as I indicated in my opening, I really was**  
18 **here to discuss more on a policy level. But I've**  
19 **heard this discussion today about Mr. Overcast and the**  
20 **discussion about testimony being duplicative. And I'm**  
21 **wondering if you could tell me, in your words, your**  
22 **understanding of what the issue is?**

23 A. Sure. In -- in this case, as the parties  
24 know, we have requested an FAC and a couple of  
25 trackers, three trackers. In our direct filing, the

1 Company supported those items. It became apparent as  
2 the case moved along, that all parties were going to  
3 be in opposition to all facets of those requests.

4 We -- we hired Mr. Overcast to -- to  
5 provide some analysis for us on the nationwide view of  
6 alternative mechanisms by jurisdictions across the  
7 country. That also turned into him providing  
8 testimony in the case, discussing that and producing  
9 the report that Black and Veatch put together looking  
10 at the national usage of FACs, trackers, riders and  
11 other alternative mechanisms.

12 It was something that was broader in  
13 scope and required more time and experience across the  
14 country than our internal resources had to do while we  
15 were continuing on in the prosecution of this case.

16 **Q. All right. Thank you, Mr. Ives.**

17 JUDGE BUSHMANN: Anything further?

18 MR. LOWERY: No further questions.

19 JUDGE BUSHMANN: MECG?

20 CROSS-EXAMINATION BY MR. WOODSMALL:

21 **Q. Thank you. Do you have Mr. Addo's**  
22 **Surrebuttal with you?**

23 A. I don't. I don't believe I have it with  
24 me.

25 MR. WOODSMALL: May I approach the

1 witness, your Honor?

2 JUDGE BUSHMANN: Okay.

3 BY MR. WOODSMALL:

4 Q. Just going to ask you a question about  
5 that.

6 A. Okay. Thanks.

7 Q. And this is highly confidential -- or  
8 it's listed as highly confidential so I'll just be  
9 very generic. There's, I think on line 3 of that  
10 table, a reference to Management Application  
11 Consultants. Do you see that?

12 A. I see that.

13 Q. Can you tell me who Management  
14 Application Consultants is?

15 A. Management Application Consultants is a  
16 group that works on class cost-of-service support for  
17 us.

18 Q. So did they perform the class  
19 cost-of-service study in this case?

20 A. They -- they may have been in discussions  
21 with -- with our internal folks that -- that performed  
22 our class cost-of-service in this case. We've  
23 utilized them in the past and have a relationship with  
24 them so sometimes they -- they are supportive to our  
25 internal process.



1           **Q.     But Tim Rush actually conducted and**  
2 **testified on class cost-of-service; is that correct?**

3           A.     Tim Rush is our witness on that.

4           **Q.     And he performed the class**  
5 **cost-of-service study?**

6           A.     Under his direction, that class  
7 cost-of-service study was performed.

8           **Q.     But you don't know if he did it or was it**  
9 **done -- the study itself, was that done internally?**

10          A.     I believe the study was largely done  
11 internally. We may have had some consultation with  
12 Management Application Consulting as we were  
13 developing it.

14          **Q.     Thank you. Now, quick question, were you**  
15 **here for Mr. Lowery's opening statement?**

16          A.     I was.

17          **Q.     And pretty impressive job he did, isn't**  
18 **it?**

19          A.     I thought he gave a lot of the same  
20 answers that I would have.

21          **Q.     Let me ask you one question. Do you**  
22 **think Mr. Zobrist would do twice as good as**  
23 **Mr. Lowery?**

24          A.     I think Mr. Zobrist would do a fine job.

25          **Q.     Do you think he'd do twice as good, given**

1 **that you pay him twice as much?**

2 A. I think the pay comparison is unfair in  
3 the context of any one topic.

4 Q. **So you can't answer whether you think**  
5 **Mr. Zobrist would do better than Mr. Lowery?**

6 A. I would say I don't pay Mr. Zobrist on  
7 one topic or one issue.

8 Q. **Okay. I think I established my point.**  
9 **Thank you. Nothing further.**

10 JUDGE BUSHMANN: Cross by Public Counsel?

11 CROSS-EXAMINATION BY MR. OPITZ:

12 Q. **Good afternoon, Mr. Ives.**

13 A. Good afternoon.

14 Q. **I had a question about the timing of the**  
15 **hiring of Mr. Overcast. Do you know a date where you**  
16 **decided you needed to contract for his services?**

17 A. I do not recall an exact date. It was in  
18 the context of this case.

19 Q. **If you -- do you have your Rebuttal**  
20 **Testimony with you?**

21 A. I do.

22 Q. **Would you look at page 18, line 8?**

23 A. I'm there.

24 Q. **One moment, please. And in that portion**  
25 **of your testimony you state that KCPL estimated rate**

1 **case cost based on the consultants and attorneys it**  
2 **anticipated it would use in this case. Is that a fair**  
3 **assessment of your testimony there?**

4 MR. STEINER: What line are you at, Tim?

5 MR. OPITZ: I believe 8 -- looks like --  
6 I guess beginning at 6 down to 8.

7 THE WITNESS: I talk about the use of  
8 projected costs for -- for this in preparing our --  
9 our direct case.

10 BY MR. OPITZ:

11 **Q. Can you tell me the actual amount of rate**  
12 **case expense incurred by the Company in this case?**

13 A. At this point?

14 **Q. At this point, yes.**

15 A. I believe the last number I had, which  
16 would have been in advance of coming down here for  
17 hearings, was a little bit over \$500,000, I think,  
18 with -- with the hearings and briefs and things yet to  
19 go.

20 **Q. And what was the projected total amount?**

21 A. I have -- I have that adjustment here.  
22 Our projected total for this case is 1,362,000.

23 **Q. And when will you know the total actual**  
24 **amount?**

25 A. We -- we won't know the total actual

1 amount until the conclusion. I put in my testimony,  
2 and I think Staff has indicated, that at some point  
3 after the preparation of the briefs in this case that  
4 the parties would accumulate their -- their costs and  
5 try and come up with the actual number for -- in  
6 advance of a final Commission order on this.

7 **Q. Would you agree that that actual amount**  
8 **is only known after the hearing and the true-up**  
9 **hearing in this case?**

10 A. Yeah. I don't -- yeah, I would agree it  
11 goes farther than that. I mean the things that don't  
12 get considered in the true-up that we're doing would  
13 be any work that gets done for requests for re-hearing  
14 or reconsideration or request for appeals. Those  
15 would all be incurred by the Company after a cut-off  
16 for inclusion in this case.

17 **Q. So your actual amount that you stated,**  
18 **the approximately 500,000, that doesn't include any of**  
19 **the hearing expenses. Correct?**

20 A. No. I think it was the actual recorded  
21 on the books probably -- probably as we were getting  
22 towards the end of May. I don't know what kind of  
23 invoice lag there would be on that and certainly it  
24 would be before hearings and briefs and the things  
25 that take us to the end.

1           **Q.     And that doesn't include any of the legal**  
2 **fees for post-hearing briefs.   Correct?**

3           A.     That would be correct

4           MR. OPITZ:   Your Honor, may I approach?

5           JUDGE BUSHMANN:   You may.

6           (OPC Exhibit 313-HC was marked for  
7 identification.)

8 BY MR. OPITZ:

9           **Q.     Mr. Ives, I'd hand you what I've asked**  
10 **the court reporter to mark as OPC Exhibit 313.**

11                   **And, Mr. Ives, do you recognize that**  
12 **document?**

13          A.     I have seen this document.

14          **Q.     And would you agree that it is KCPL's**  
15 **response to OPC Data Request 1212?**

16          A.     It is.

17          **Q.     Would you take a moment to look at that,**  
18 **please?**

19                   MR. OPITZ:   Judge, I would also note on  
20 the record that this exhibit is highly confidential so  
21 it should be HC 313.

22                   THE WITNESS:   I've looked at it.

23 BY MR. OPITZ:

24          **Q.     Would you agree that in this data request**  
25 **Public Counsel is requesting information regarding**

1 **in-house attorneys employed by KCPL?**

2 A. That is part of this request.

3 **Q. And it also covers outside attorneys**  
4 **hired by KCPL. Correct?**

5 A. That is the other part of this, correct.

6 **Q. Under --**

7 MR. OPITZ: Judge, I believe this is  
8 highly confidential and I'd ask that we go in-camera  
9 for this line of questioning.

10 (REPORTER'S NOTE: At this point, an  
11 in-camera session was held, Volume 14, pages 979 to  
12 980.)

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1 JUDGE BUSHMANN: We're now in public  
2 session. You may proceed.

3 BY MR. OPITZ:

4 Q. Mr. Ives, if I can ask you to look at  
5 page 20 of your Rebuttal Testimony. And on line 17, I  
6 guess the question beginning on 14, you discuss the  
7 50 percent sharing recommended by Public Counsel.  
8 Correct?

9 A. I do.

10 Q. And is it your testimony that this would  
11 be a different approach from the manner that the  
12 Commission has treated this expense in the past?

13 A. Yes. I think I agree that there's only  
14 been one time that 50 percent sharing has been done,  
15 to my knowledge, in this state.

16 Q. Are you aware of any requirement that the  
17 ratepayers must pay all of the rate case expense?

18 A. I think it's a foundation of  
19 cost-of-service that prudently incurred expenses are  
20 eligible for recovery.

21 Q. Is there a specific requirement that  
22 you're aware of?

23 A. I -- I -- I'm not a lawyer. I think  
24 there may be some stuff in the statute.

25 Q. Thank you. Are you aware of other

1 **expenses that the Company incurs that shareholders**  
2 **bear either all or a portion of the costs incurred by**  
3 **the Company?**

4 A. I am aware that there are -- there are  
5 expenses like that.

6 **Q. And would you agree that those expenses**  
7 **are incurred to the benefit of shareholders?**

8 A. I would agree that they're prudent  
9 business expenses that have been determined to either  
10 not be included or we've determined not to include for  
11 request for recovery from customers.

12 **Q. But do they benefit shareholders, those**  
13 **expenses?**

14 A. I think they benefit -- I think they  
15 benefit customers and shareholders. They are not  
16 always in recovery though.

17 **Q. If you could turn to page 23 of your**  
18 **Rebuttal.**

19 A. I'm there.

20 **Q. And looking at line 20, your testimony is**  
21 **that the Company has a team of three full-time persons**  
22 **largely dedicated to managing data requests, as well**  
23 **as many others working to supply answers to this**  
24 **discovery.**

25 **Is that your testimony today?**

1           A.     In terms of the response that I was  
2 meaning to give there, yes.

3           **Q.     Would you agree that the salaries for**  
4 **each of those employees is already included in the**  
5 **company's cost-of-service?**

6           A.     The three full-time persons I largely  
7 dedicated are. The -- a number -- a number of the  
8 individuals working --

9           **Q.     I think you're anticipating my next**  
10 **question here.**

11          A.     Well, I thought you asked me about the  
12 whole sentence.

13          **Q.     So would -- those three full-time persons**  
14 **are included in the Company's cost-of-service already.**  
15 **Correct?**

16          A.     I know two of them are. One of them may  
17 be a temporary contractor hired to give temporary  
18 support during the -- the context of the case.

19          **Q.     And do you know what amount -- what**  
20 **amount of cost has been incurred for that person for**  
21 **rate case expense?**

22          A.     I don't off the top of my head. I know  
23 we hired that person in the midst of the case as the  
24 discovery load got too large for our two internal  
25 employees to handle. So she hasn't been on board the

1 entire rate case.

2 **Q. Who are the many other workers -- many**  
3 **others working to supply answers to discovery that you**  
4 **mention in your testimony?**

5 A. Well, I think if you look a little  
6 farther up in my testimony, I had mentioned that at  
7 the time that the testimony was put together, we had  
8 answered approximately 905 data requests. Those get  
9 circulated across the company.

10 **Q. And I'm asking you who are those many**  
11 **others? Are they --**

12 A. I don't have a list of that. Some -- a  
13 lot of them, as I started to answer earlier, are  
14 internal employees in our accounting or our  
15 organizations that either are internal witnesses or  
16 people that support them. We also have a couple -- I  
17 think we had three direct outside witnesses and three  
18 rebuttal outside witnesses. They from time to time  
19 have to get involved with discovery specific to their  
20 testimony.

21 **Q. Would you agree that those internal**  
22 **employees working on data requests are already**  
23 **included in the company's cost-of-service?**

24 A. Internal employees are, yes. And they're  
25 not part of our \$1.3 million estimate.

1           **Q.     So what amount of dollars did answering**  
2 **DRs in this case cost for rate case expense?**

3           A.     I have -- I have no idea.

4           **Q.     Is that information that the company**  
5 **keeps track of?**

6           A.     I think it's highly unlikely. I think a  
7 lot of our expert witnesses have -- have given us an  
8 amount that they will charge up to hearings, so that  
9 would include discovery that occurs.

10          **Q.     So responding to discovery is already**  
11 **included in these outside experts' and witnesses' fees**  
12 **that you pay them or --**

13          A.     I would say at least up to -- however  
14 their contracts are structured, which I think normally  
15 is up to kind of hearings. If there were discovery as  
16 we move to true-up or later on, that might not be  
17 included. I would suspect that would be fairly  
18 insignificant at that stage of this case.

19          **Q.     So if your testimony here is -- if your**  
20 **testimony is that rate case expenses increase because**  
21 **of data requests, isn't that cost already factored in**  
22 **either the Company's cost-of-service or these fees**  
23 **that are charged for the witnesses?**

24          A.     I'm not sure that my testimony here is  
25 that rate case expenses increase as a result of these.

1 I don't think I say that in this section.

2 **Q. So why did you offer this testimony on**  
3 **responding to data requests?**

4 A. Well, I think the question that I -- that  
5 I posed here was that the Staff report asserts that  
6 general utility management has a high degree of  
7 control over rate case expense. Do you agree?

8 And I listed some items that make a  
9 difference in how rate case expenses are incurred.

10 **Q. But I believe you just testified that the**  
11 **cost for responding to data requests are either**  
12 **included in the Company's cost-of-service for internal**  
13 **employees or it's included in the fees that are**  
14 **charged by outside witnesses?**

15 A. That's probably not included in zero in  
16 the fees that the outside witnesses give us. They  
17 probably anticipate that there will be discovery,  
18 particularly if they've had experience in this -- in a  
19 particular state.

20 **Q. So do you pay them an additional amount**  
21 **in addition to what you've contracted to pay them for**  
22 **conducting discovery?**

23 A. No. I think what I'm saying is it's  
24 probably an additional amount that's included in the  
25 contract that we're paying them. They probably

1 anticipate that they will have to respond to a level  
2 of discovery in the case.

3 **Q. If you would, turn to page 27 of your**  
4 **Rebuttal, please.**

5 A. I'm there.

6 **Q. And on this page, I believe it's your**  
7 **testimony that when parties re-argue issues that have**  
8 **already been decided in previous cases without any new**  
9 **or different basis for the argument, the Company is**  
10 **forced to address those matters again which causes**  
11 **rate case expense to be higher than if -- than it**  
12 **otherwise would have been. Correct?**

13 A. That's my statement.

14 **Q. That's the -- that's your testimony?**

15 A. That's my testimony.

16 **Q. Let me go back. Mr. Ives, would you**  
17 **agree that rate case expense should only include**  
18 **incremental costs incurred to prosecute the rate case?**

19 A. That's how we reflect it.

20 **Q. Thank you. So back to page 27 of your**  
21 **Rebuttal, you raise the issue of transition costs.**  
22 **Correct?**

23 A. As an example of an issue that gets  
24 re-argued.

25 **Q. And, in fact, this issue was addressed in**

1 **testimony by you only. Correct?**

2 A. That's correct.

3 **Q. And am I correct to believe that your**  
4 **salary is already built into the Company's**  
5 **cost-of-service?**

6 A. It is.

7 **Q. So does the Company incur any additional**  
8 **rate case expense for you prosecuting that issue in**  
9 **the rate case?**

10 A. No. Maybe I should have been clearer.  
11 I'm giving examples of issues that can be  
12 re-litigated. I don't believe we had any this time  
13 that were specific to an external witness that we had.  
14 I'm saying that there's a point that when that happens  
15 and we have an expert, it can increase costs.

16 **Q. But that's an issue that you listed here**  
17 **and you're agreeing that it didn't actually increase**  
18 **rate case cost?**

19 A. I listed it as an issue that's re-argued  
20 here.

21 **Q. The second issue that you list is the**  
22 **construction accounting for La Cygne environmental**  
23 **equipment. Correct?**

24 A. I do.

25 **Q. And that is addressed in testimony only**



1 **by Mr. Klote. Correct?**

2 A. I believe that's right.

3 **Q. And am I correct in believing that he's**  
4 **employed by KCPL?**

5 A. You are.

6 **Q. And would you agree that his salary is**  
7 **already included in KCPL's cost-of-service?**

8 A. I would.

9 **Q. And so I ask you again, how does that --**  
10 **litigating that issue increase the rate case expense**  
11 **for this case?**

12 A. Well, I would answer again, I gave this  
13 as an example of an area where re-argument can create  
14 additional workload, not necessarily as an increase in  
15 cost in this particular case.

16 **Q. So for those two issues that you listed**  
17 **in your testimony, you agree that regardless of the**  
18 **time spent on them -- on those issues, that this cost**  
19 **is the same and does not drive rate case expenses up?**

20 A. They have not impacted the 1,362,000 that  
21 we have projected for this case for rate case expense.

22 **Q. Has KCPL re-litigated any issues that it**  
23 **has previously lost?**

24 A. I suspect from time to time that occurs.

25 **Q. And in doing so, did you hire outside**

1 **experts?**

2 A. The three experts that we put in direct  
3 are a depreciation study expert, an ROE expert, and a  
4 retirement dismantlement study expert. I think -- I  
5 think you could say that we have not always gotten the  
6 ROE that we've requested in a case.

7 **Q. So even though you've litigated those**  
8 **issues in the past and lost, you expect that**  
9 **ratepayers will pay for these experts entirely.**

10 **Correct?**

11 A. I believe it's our responsibility to try  
12 and get a rate of return commensurate with our peers  
13 that we compete for capital for. So we bring ROE in  
14 every time we litigate a rate case.

15 **Q. And that benefits the shareholders, a**  
16 **higher ROE. Correct?**

17 A. Benefits -- to the extent that we can  
18 compete for capital with our peers and keep our  
19 capital costs down, it benefits customers --

20 **Q. Does it -- does it --**

21 A. -- as well.

22 **Q. -- benefit the shareholders?**

23 MR. STEINER: Your Honor, can my client  
24 answer the question or -- besides being interrupted?

25 MR. OPITZ: Your Honor, that was a yes or

1 no question. If he wants to explain further, his  
2 counsel will have an opportunity to allow him to do  
3 so.

4 JUDGE BUSHMANN: Yeah. I think it was a  
5 yes or no question. Do you want to repeat the  
6 question?

7 THE WITNESS: Do you want to repeat the  
8 question?

9 BY MR. OPITZ:

10 Q. Does a higher return on equity benefit  
11 shareholders?

12 A. Yes.

13 Q. Thank you. If you would turn to page 33  
14 of your Rebuttal Testimony.

15 A. I'm there.

16 Q. And looking at line 27, that is a part of  
17 a quote from a case. Correct?

18 A. Yes. Connected with the lines above it  
19 as well.

20 Q. And would you read lines 27 through 29  
21 into the record, please?

22 A. Sure. Starting at the bottom of that  
23 quote on line 27, The Commission considers the sharing  
24 of rate case expense appropriate in this case since  
25 Company has increased its rate case activity to

1 protect the shareholders.

2 **Q. Would you agree that in this case KCPL**  
3 **has sought an FAC, a fuel adjustment clause?**

4 A. I would agree that we have.

5 **Q. And do you agree that KCPL is seeking an**  
6 **FAC to benefit the shareholders?**

7 A. No, I wouldn't agree with that.

8 **Q. Would you agree that an FAC would benefit**  
9 **the shareholders?**

10 A. Shareholders and customers.

11 **Q. You attended all of the public hearings**  
12 **in this case. Correct?**

13 A. I did.

14 **Q. And were you at the -- if you recall, the**  
15 **April 23rd public hearing? It was in Kansas City.**  
16 **Correct?**

17 A. Yes. I attended them all.

18 **Q. And would you agree that at least one**  
19 **person at that hearing expressed their opposition to**  
20 **the fuel adjustment clause?**

21 A. I don't remember each testimony, but I  
22 would not be surprised.

23 **Q. And would you agree that every customer**  
24 **consumer advocate and the Staff in this case is**  
25 **opposed to the fuel adjustment clause?**

1           A.     Yes, I think that's the positions of the  
2 parties.

3           **Q.     What experts provided testimony on the**  
4 **FAC on behalf of the company?**

5           A.     Tim Rush is our primary sponsor of  
6 testimony on that. I believe at some stage in my  
7 testimony, I have some overview policy considerations  
8 in that regard. We have Ed Blunk and probably another  
9 Company witness or two that testified to specific  
10 areas or inputs to an FAC or structure of an FAC and  
11 specifics. And I believe Mr. Overcast discusses an  
12 FAC in relation to his work of the -- the  
13 applicability or use of FACs across the country.

14          **Q.     So were -- do you know how much cost was**  
15 **added to rate case expense for these experts to**  
16 **testify on the FAC?**

17          A.     It would be whatever our final bill from  
18 Mr. Overcast is for his national perspective.

19          **Q.     Did you have any outside counsel work on**  
20 **that issue?**

21          A.     I suspect. We have two outside attorneys  
22 working on the prosecution of this case.

23          **Q.     And would you clarify for me which**  
24 **counsel worked on the FAC issue?**

25          A.     I don't recollect who the sponsoring

1 counsel is for that.

2 **Q. So even though the public at a public**  
3 **hearing and every other party in this case is opposed**  
4 **to KCPL having an FAC, is it the Company's position**  
5 **that ratepayers should pay the entire cost incurred**  
6 **for the Company to seek an FAC?**

7 A. Yes. I believe an FAC statutorily is  
8 allowed in the state of Missouri.

9 **Q. Would you agree that in this case KCPL**  
10 **has sought a variety of cost trackers?**

11 A. We have sought three, I believe.

12 **Q. And do you agree that those trackers**  
13 **primarily benefit KCPL's shareholders?**

14 A. I believe it gives them a better chance  
15 to earn our reasonable authorized return, yes.

16 **Q. And are you aware that every consumer**  
17 **advocate and the Staff is opposed to the requested**  
18 **trackers in this case?**

19 A. I'm aware we haven't had a lot of support  
20 in this room for those.

21 **Q. So even though every consumer advocate**  
22 **and the Staff oppose these trackers, KCL -- KCPL**  
23 **believes that the ratepayers should pay the entire**  
24 **costs incurred by the Company to seek these trackers?**

25 A. Yes. Because I believe we are entitled

1 to a fair and reasonable opportunity to earn our  
2 returns.

3 **Q. Would you agree that KCPL sought to**  
4 **recover the accumulated depreciation expense and**  
5 **carrying costs for the La Cygne environmental project?**

6 A. Yes. We've sought recovery of the  
7 deferral that was provided in an earlier docket, yes.

8 **Q. And are you -- would you agree that**  
9 **regulatory lag can benefit ratepayers? Would you**  
10 **agree regulatory lag can benefit ratepayers?**

11 A. I would agree with that.

12 **Q. And would you agree that regulatory lag**  
13 **can sometimes benefit the Company?**

14 A. I agree that's a possibility.

15 **Q. Do you agree that the special treatment**  
16 **sought by the company for the La Cygne environmental**  
17 **upgrade depreciation and carrying costs would take**  
18 **away the ratepayers' benefit of regulatory lag?**

19 A. I do not. For that particular item it  
20 would, but I think I've got a lot of testimony in this  
21 case --

22 **Q. For that partic-- so let me ask again.**  
23 **Do you believe that the Company's request for special**  
24 **treatment for that item would take away the**  
25 **ratepayers benefit of regulatory lag?**

1 A. For that item, yes.

2 Q. Thank you. Are you aware that Public  
3 Counsel, Consumers Council and Staff have opposed this  
4 proposed cost recovery?

5 A. Again, I'm aware we don't have a lot of  
6 support in this room for that.

7 Q. And so even though Public Counsel,  
8 Consumers Council and the Staff oppose including this  
9 accumulated depreciation and carrying cost in  
10 rate-base, is it the Company's position that  
11 ratepayers should pay the entire cost incurred by the  
12 Company to seek that treatment?

13 A. It is. I believe we're entitled to our  
14 fair and reasonable opportunity to earn our return.

15 Q. And so is it your testimony that the  
16 ratepayers should have to pay for the Company to try  
17 and remove their benefit of regulatory lag?

18 A. If it's moving us toward a chance to earn  
19 our return, I believe that's appropriate.

20 Q. So that's a yes?

21 A. Yes.

22 Q. In your testimony you indicate that KCPL  
23 has hired Mr. Hevert to present testimony on return on  
24 equity. Correct?

25 A. I'm sure it's in here, yes.



1           **Q. Does the Company propose to include the**  
2 **cost of hiring Mr. Hevert in rate case expense in this**  
3 **case?**

4           A. It is part of our estimate that we  
5 discussed earlier.

6           **Q. And how much has KCPL paid to Mr. Hevert**  
7 **for his testimony and services?**

8           A. I don't know what we've paid today. I  
9 think -- I was here when he was on the stand and I  
10 also believe our estimate is -- has the total cost  
11 estimated at around a hundred thousand dollars. I  
12 think that's the number he also said he was at leading  
13 into hearings for this case. And I used a drawl  
14 there. I meant to say one hundred and I think I said  
15 a hundred thousand.

16           **Q. Thank you. Mr. Ives, were you hearing**  
17 **room on Monday when Mr. Hevert testified?**

18           A. I was.

19           **Q. Were you in the room when the Chairman**  
20 **was inquiring about his rate and whom he had worked**  
21 **for in the past?**

22           A. I was.

23           **Q. And do you agree that Mr. Hevert**  
24 **acknowledged that he hadn't performed any return on**  
25 **equity work for any consumer advocate?**

1 A. I believe that's what he said.

2 Q. **And do you agree that he indicated he**  
3 **wouldn't be opposed to doing it, he just hadn't been**  
4 **asked?**

5 A. I believe that's what he said.

6 Q. **Do you agree that all the consumer**  
7 **advocates and the Staff in this case opposed the**  
8 **recommendation of Mr. Hevert?**

9 A. I believe every ROE witness has a  
10 different ROE proposal in this case, yes.

11 Q. **So is it the Company's request that**  
12 **ratepayers pay the entire amount for Mr. Hevert's**  
13 **fees?**

14 A. Yes. I believe that's appropriate.

15 Q. **And you believe that's appropriate even**  
16 **though the company hired somebody that no consumer**  
17 **advocate, in his entire career, has wanted to present**  
18 **testimony or any consumer advocate in this case? You**  
19 **still believe that's appropriate?**

20 A. I do.

21 Q. **Would you agree that KCPL has sought to**  
22 **increase the customer charge in this case?**

23 A. I would agree that we have.

24 Q. **And do you agree that an increased**  
25 **customer charge benefits KCPL's shareholders?**

1 A. No, I don't agree with that.

2 Q. **On whose behalf do you advocate for the**  
3 **customer charge then?**

4 A. Our customer charge position is moving  
5 dollars from the variable component of rates to the  
6 fixed. It's not adding additional dollars beyond what  
7 our equal distribution across the board has been. Has  
8 no additional impact other than to move it from the  
9 variable to fixed component.

10 Q. **So you don't believe that increasing the**  
11 **customer charge is detrimental to any ratepayers?**

12 A. I believe it more appropriately aligns  
13 the charge with the fixed costs that underlie it.

14 Q. **Is it detrimental to any ratepayers?**

15 A. I believe the ratepayers are all getting  
16 the same overall percentage increase at the class  
17 level.

18 Q. **Let me rephrase. Are there any customers**  
19 **who would be hurt by an increased customer charge?**

20 A. It impacts low-usage customers  
21 differently than high-usage customers.

22 Q. **And does it -- is it worse for low-usage**  
23 **customers?**

24 A. To have a higher fixed charge?

25 Q. **Yes.**

1           A.     It is more of an impact to a low-usage  
2 customer.

3           **Q.     Is that a beneficial impact?**

4           A.     Well, again, my -- my testimony is that  
5 it is aligning the charge with the underlying costs to  
6 serve those customers. So I guess I would call that  
7 beneficial if it's aligned with the cost-of-service  
8 studies.

9           **Q.     But you've said that it's not beneficial**  
10 **to shareholders.**

11          A.     I don't think it -- the place you start  
12 is you put the increase as a result of this case  
13 across at the class level. Whether it -- whether it  
14 comes through the fixed or the variable component is  
15 not impactful to the shareholders.

16          **Q.     You'd agreed earlier that you attended**  
17 **all of the local public hearings?**

18          A.     I did.

19          **Q.     And do you agree that increasing the**  
20 **customer charge was extremely unpopular with the**  
21 **public?**

22          A.     I agree that we had a lot of -- of public  
23 testimony on that.

24          **Q.     And do you agree that all of the consumer**  
25 **advocates in this case and even some of the**

1 **environmental groups are opposed to increasing the**  
2 **customer charge?**

3 A. I would say I don't think we've had a lot  
4 of support in this room for that -- that increase.

5 Q. **And so even though the public is**  
6 **extremely dis-- this proposal is extremely unpopular**  
7 **with the public and all of the consumer advocates are**  
8 **opposed to it, you believe that the ratepayers should**  
9 **pay for that entire cost of seeking that?**

10 A. I do. I think alignment of the rate with  
11 the underlying class cost-of-service study is the  
12 appropriate thing to do.

13 Q. **If you would turn to your Surrebuttal,**  
14 **please, if you have that with you.**

15 A. I do.

16 Q. **And can you turn to page 44?**

17 A. I'm there.

18 Q. **On line 7 through 9, there's a question**  
19 **and answer. And am I correct that it's your testimony**  
20 **that the actual rate case expense amounts should be**  
21 **used in this case?**

22 A. That's my testimony.

23 Q. **You then -- would you agree that you then**  
24 **provide an outline for the process of submitting the**  
25 **final numbers?**

1 A. I do.

2 Q. But there's no opportunity provided for  
3 the review of those true-up costs listed in your  
4 testimony. Correct?

5 A. I provide an outline of how to collect  
6 them.

7 Q. But is there an opportunity listed where  
8 the parties would be able to examine those costs for  
9 prudence?

10 A. I've not proposed how to do that in this  
11 section.

12 Q. Do you think that there should be an  
13 opportunity to do that?

14 A. I think they should be subject to review  
15 by the parties, yes.

16 Q. On page 45, line 17, I guess beginning on  
17 line 15 -- wait, excuse me. Beginning on line 17 on  
18 page 45.

19 A. Okay.

20 Q. In your testimony you indicate that the  
21 Company will not be able to recover its costs incurred  
22 in the appellate process. Correct?

23 A. Starting on line 17?

24 Q. Yes.

25 A. Yes, that's what I'm discussing there.

1           **Q.     But, in fact, the Company does record**  
2 **those costs in an account. Correct?**

3           A.     We do record them on the books, yes.

4           **Q.     And can you tell me what account that is?**

5           A.     It would be an A and G account, I think  
6 probably a 928 account or something like that. I  
7 would say -- if it helps to clarify, I would say  
8 similar to what Mr. Lowery said in his opening. To  
9 the extent that those costs are incurred in a test  
10 year for a future case, those will be part of the  
11 consideration in that test year.

12                     My point here is, is if they're incurred  
13 in conjunction with this particular rate case, they  
14 wouldn't be considered in the rate case expense  
15 recovery that's normalized in this case.

16           **Q.     For this case?**

17           A.     For -- yeah, or any case where you have a  
18 cutoff of actual before the order date.

19           **Q.     But it is still recorded in your books**  
20 **under a legal fees account. Correct?**

21           A.     It is.

22           **Q.     And so if you -- if -- excuse me.**

23                     **So if the Company gets an adverse**  
24 **decision on an issue in this case that the consumer**  
25 **advocate has opposed and you appeal it, those fees are**

1 **going to be recorded into an account?**

2 A. It would work the other direction as  
3 well.

4 **Q. Is it -- are you testifying that if**  
5 **the -- that the Company would appeal a decision that**  
6 **was -- that it lost -- or that it won, I should say?**

7 A. No. I'm suggesting that the Consumer  
8 Council might appeal a decision that the company won.  
9 We would have to incur costs in that appellate process  
10 and that would record to the same account.

11 **Q. And so this account isn't always just one**  
12 **that the shareholders have to bear entirely. Correct?**

13 A. No. It depends on the test year for a  
14 case. If it's not in a test year, then likely the  
15 shareholders are absorbing any amount that would be  
16 what's in -- reflected in rates for that. If it is in  
17 a test year and it's not considered to be abnormal or  
18 one time, then it will be considered in that future  
19 case that that test year's for.

20 **Q. And if it is in that future test year,**  
21 **that entire amount would be paid by the ratepayers.**  
22 **Correct?**

23 A. Subject to a prudence review and audit.

24 **Q. Thank you.**

25 MR. OPITZ: That's all the questions I



1 have, your Honor.

2 MR. STEINER: Tim, are you offering OPC  
3 HC-313?

4 MR. OPITZ: Thank you.  
5 Yes, Judge. I'd like to offer OPC  
6 HC-313.

7 JUDGE BUSHMANN: Any objections?  
8 Hearing none, that will be received into  
9 the record.

10 (OPC Exhibit 313-HC was received into  
11 evidence.)

12 JUDGE BUSHMANN: Next cross is by Staff.

13 MS. MUETH: Thank you, your Honor.

14 CROSS-EXAMINATION BY MS. MUETH:

15 **Q. Mr. Ives, do you recall the Office of**  
16 **Public Counsel's question regarding the date**  
17 **Dr. Overcast was hired for this case?**

18 A. I do recall the question.

19 **Q. If I told you it was February 12th, 2015,**  
20 **would you dispute that?**

21 A. Subject to check, I have no reason to  
22 dispute it.

23 **Q. Okay. Are you familiar with the report**  
24 **Staff filed in Case Number AW-2011-0330 entitled**  
25 **Review of Rate Case Expense Matters?**

1 A. I am somewhat familiar with that.

2 Q. Okay.

3 MS. MUETH: Your Honor, may I approach?

4 JUDGE BUSHMANN: You may.

5 MS. MUETH: I'd like to ask the court  
6 reporter to mark this as a new exhibit for Staff.

7 JUDGE BUSHMANN: Next number would be  
8 243.

9 (Staff Exhibit 243-HC was marked for  
10 identification.)

11 BY MS. MUETH:

12 Q. Okay. Mr. Ives, I just handed you what  
13 has been marked as Staff Exhibit 243. Can you  
14 identify this document?

15 A. It says that it's Case Number  
16 AW-2011-0330, Review of Rate Case Expense Matters,  
17 Staff Report from August of 2013.

18 Q. Would you agree that this is the same  
19 report you referenced on pages 31 and 32 of your  
20 Rebuttal Testimony?

21 A. Yes.

22 JUDGE BUSHMANN: Is that an HC Exhibit?

23 MS. MUETH: Yes. Sorry, Judge.

24 JUDGE BUSHMANN: Thank you.

25 MS. MUETH: I won't be referencing it --

1 in this line of questioning any specific information  
2 contained in this exhibit, however.

3 JUDGE BUSHMANN: All right.

4 BY MS. MUETH:

5 **Q. Before Staff compiled this report, they**  
6 **requested information regarding KCPL rate case**  
7 **expenses incurred between 2006 and 2010; isn't that**  
8 **right?**

9 A. I don't remember the exact dates, but I  
10 do remember there was a request.

11 **Q. And did KCPL provide that data?**

12 A. I'm -- I'm not aware of that. I don't  
13 know the answer to that.

14 **Q. Okay. Can you turn to Attachment 1 in**  
15 **this report and then find page 3 of Attachment 1?**

16 A. I'm at page 3.

17 **Q. I'm sorry. Can you turn to page 4? I**  
18 **apologize. Can you identify generally what is**  
19 **provided on this page?**

20 A. I think generally this must be the  
21 response to the question you asked about whether we  
22 provided rate case expense information for the years  
23 2006 to 2010.

24 **Q. Okay. Do you have any disagreement with**  
25 **the numbers provided here?**

1           A.     I had in my mind a little bit different  
2 number for 2010, but it's not materially different  
3 than what I thought.

4           **Q.     Okay. Thank you.**

5           MS. MUETH: Your Honor, I'd like to offer  
6 Staff Exhibit 243 into evidence.

7           JUDGE BUSHMANN: Any objections?

8           Hearing none, it will be received into  
9 the record.

10          MR. STEINER: Hold on a minute. Never  
11 mind.

12          JUDGE BUSHMANN: No objection?

13          MR. STEINER: No objection.

14          JUDGE BUSHMANN: It is received.

15          (Staff Exhibit 243-HC was received into  
16 evidence.)

17 BY MS. MUETH:

18          **Q.     Okay. Mr. Ives, were you involved in**  
19 **KCPL's 2010 Missouri rate case, Case**  
20 **Number ER-2010-0355 and GMO's 2010 rate case, Number**  
21 **ER-2010-0356?**

22          A.     I was involved in those in a limited  
23 capacity.

24          **Q.     Okay. Would you say it would be fair to**  
25 **characterize these two cases as the Iatan 2 rate**

1 **cases?**

2 A. The 2010 cases?

3 Q. Yes.

4 A. Yes.

5 Q. **Okay. If you know, would you agree that**  
6 **KCPL's and GMO's total combined rate case expense**  
7 **associated with those two rate cases was approximately**  
8 **\$10.7 million?**

9 A. Are you including rate case expense  
10 incurred in Kansas?

11 Q. **No. Just for Missouri.**

12 A. That seemed higher than the numbers that  
13 were presented on the tables that we just referenced.  
14 It looks lower than that based on pages 3 and 4 of the  
15 Attachment 1.

16 Q. **Thank you. Would it be fair to say that**  
17 **some of the costs incurred for those rate cases were**  
18 **not requested for recovery until the following rate**  
19 **case?**

20 A. I'm not sure I know the answer to that  
21 question.

22 Q. **Okay.**

23 A. I know in the following rate case there  
24 was no longer a treatment for defer and amortize.

25 Q. **Okay. Would you agree that KCPL filed a**

1 **rate increase case in Kansas in 2010 to recover costs**  
2 **associated with the Iatan 2 around the same time that**  
3 **KCPL filed for rate case relief in these two cases in**  
4 **Missouri?**

5 A. We had fairly concurrent cases going on  
6 for Iatan 2, yes.

7 Q. Okay. Can you turn to page 10 of, sorry,  
8 **Staff Exhibit 243?**

9 A. I'm sorry. Is 243 this same report?

10 Q. Yes. Yes.

11 A. I'm there.

12 Q. **Do you see on the second full paragraph**  
13 **where it indicates that KCPL claimed to have incurred**  
14 **a total of approximately --**

15 MS. MUETH: I'm sorry, I may need to go  
16 in-camera for this. I apologize.

17 (REPORTER'S NOTE: At this point, an  
18 in-camera session was held, Volume 14, page 1011.)

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1 JUDGE BUSHMANN: We're back in public  
2 session.

3 BY MS. MUETH:

4 Q. Do you see at the end of paragraph 2  
5 where it indicates that the total expense claimed by  
6 KCPL in this Kansas case was approximately  
7 \$7.6 million?

8 A. I see that.

9 Q. Would you say this is a fair  
10 characterization?

11 A. I think this paragraph is a fair  
12 characterization.

13 Q. Okay. Regarding the rate case expenses  
14 incurred by KCPL in Missouri relate to the Iatan 2  
15 case, is it your opinion that the entire amount of  
16 expense was prudently incurred?

17 A. It's my opinion that it was.

18 Q. Okay. Did KCPL and GMO in these two  
19 cases seek to charge the entire amount of its incurred  
20 rate case expense of the -- associated with the  
21 Iatan 2 Missouri rate cases to Missouri customers?

22 A. I honestly don't know the answer to that.  
23 I was not involved in the specifics of the build-up of  
24 those rate case expenses.

25 Q. Okay. If, at the time of the Missouri



1 **I**atan 2 rate cases, a Commission practice of  
2 **allocating rate case expenses equally between its**  
3 **shareholders and its customers would have been in**  
4 **effect, is it possible that KCPL and GMO would have**  
5 **chosen to incur a lesser amount of expense than**  
6 **actually spent on those proceedings?**

7 A. No. I don't believe that would have  
8 happened.

9 **Q. Not possible?**

10 A. I don't think it's possible in that case.

11 **Q. Okay.**

12 A. We had several hundred million dollars of  
13 investment at risk.

14 **Q. Okay. Thank you. Nothing further.**

15 JUDGE BUSHMANN: Questions by  
16 Commissioners. Commissioner Hall?

17 QUESTIONS BY COMMISSIONER HALL:

18 **Q. Good afternoon.**

19 A. Good afternoon.

20 **Q. Do you agree that as a -- as a general**  
21 **proposition, that if the Company is considering**  
22 **incurring an expense, that it would -- it would, first**  
23 **of all, be aware of the fact whether or not that**  
24 **expense would be borne by ratepayers or shareholders**  
25 **before incurring it?**

1           A.     No. Not in all cases. I think there's a  
2 majority of the people in our company that incur  
3 expenditures to complete their job function that are  
4 unaware of whether those expenses are recovered in  
5 rates or recovered from shareholders.

6           **Q.     When the Company is making a decision**  
7 **whether to incur an expense -- and I'm talking about**  
8 **senior management. If they're making a decision**  
9 **should we purchase object A, should we employ**  
10 **person B, will the Company take into account whether**  
11 **or not that expense will be borne by ratepayers or**  
12 **shareholders or is that absolutely irrelevant in all**  
13 **cases?**

14          A.     I think at a senior management level, we  
15 are probably aware of the treatment of that expense.  
16 I don't believe it would impact our operational  
17 decision of whether or not to incur that.

18          **Q.     So you'd be willing to tell your**  
19 **shareholders that -- that you're willing to make**  
20 **decisions on whether to purchase object A or employ**  
21 **person B without any concern whatsoever as to whether**  
22 **or not shareholders will pay that expense or whether**  
23 **ratepayers will pay that expense?**

24          A.     I wouldn't say without any concern at  
25 all, but if we thought it was the right long-term

1 economic decision to make that investment, we would do  
2 it regardless of where it was being recovered. And we  
3 would tell shareholders why we did it.

4 **Q. Okay. So if the Commission were to**  
5 **establish some type of rate case expense sharing**  
6 **process in this case or in some future case, would**  
7 **that affect how you prosecute a case?**

8 A. The short answer is no. I think that  
9 would be an unfortunate decision, but we would put our  
10 case on --

11 **Q. What's the long -- what's long answer?**

12 A. Well, the long answer would be we would  
13 evaluate the -- the facts that we're bringing into  
14 this case. We would determine whether we have the  
15 appropriate internal resources to do the work or not.  
16 And if we need to supplement internal staff with  
17 specific expertise or specific bandwidth, we would do  
18 it so that we could put the best case on to present  
19 facts to the Commission, regardless of the recovery.

20 **Q. So any assertion by the Company that rate**  
21 **case expense sharing would have an unfair effect on**  
22 **their ability to prosecute a case would be unfounded?**

23 A. I don't know that it's an unfair effect  
24 on our ability to prosecute. I think it's unfair on  
25 our ability to recovery our costs.

1           **Q.     You just got done -- okay. So it doesn't**  
2 **affect how you prosecute a case, so it would not**  
3 **unfairly hinder your ability to prosecute a case?**

4           A.     I don't think it would hinder the  
5 ability. It would -- it would cause us to have an  
6 unrecovered disallowed cost that would impact  
7 shareholders without any -- without any determination  
8 of prudence.

9           **Q.     Who at KCPL reviews attorney and**  
10 **consultant time sheets?**

11          A.     It varies by -- by attorney or  
12 consultant. Our attorneys -- our in-house attorneys  
13 review attorneys' rates, contracts, time. For the  
14 consultants, they are usually reviewed by the  
15 individual department that's hiring the consultant.

16          **Q.     And are you aware of any time sheet or**  
17 **any -- any time sheet from a consultant or an attorney**  
18 **in this case that has been -- has been reviewed by the**  
19 **Company and the Company has determined that that**  
20 **amount was inappropriate and refused to pay it to the**  
21 **attorney or to the consultant?**

22          A.     I've not been told of a circumstance.

23          **Q.     Okay. Would you -- would you agree that**  
24 **it is relatively rare historically for the Commission**  
25 **to disallow a particular item of rate case expense?**

1           A.     I think it's been infrequent. We've  
2 experienced it some in the last six years.

3           **Q.     Would you agree with me that one of the**  
4 **reasons why -- and I think there's many, but one of**  
5 **the reasons why it is rare for the Commission to**  
6 **disallow a particular item of rate case expense is**  
7 **because it's -- it's -- it's discretionary and**  
8 **subjective expenses; in that if you have a paralegal**  
9 **at \$85 an hour answering data requests versus an**  
10 **attorney from New York at \$500 an hour, that's a**  
11 **difficult item for Staff to come in and say that**  
12 **that's imprudent and make that argument to us.**

13                     That the paralegal spent two hours, she  
14 should have spent one; the attorney in New York spent  
15 five hours, she should have spent three. That's a  
16 difficult process to undertake. Do you agree with  
17 that?

18           A.     I think that audit process would be  
19 difficult. I think the audit of construction costs at  
20 La Cygne would be difficult for some of the same  
21 reasons.

22           **Q.     Explain to me why you think it would be**  
23 **difficult to audit my example, not yours.**

24           A.     Why it would be difficult to audit the  
25 example of the paralegal compared to the high-priced

1 New York attorney?

2 **Q. New York attorney, yeah.**

3 A. I think it takes at some level an  
4 understanding of the facts and circumstances around  
5 the work that's being performed. You know, I think  
6 Mr. Hevert testified fairly accurately when he was on  
7 that there -- there is some work that he can use  
8 entry-level analysts and interns to develop and put  
9 together supportive documentation.

10 There are analyses that he determines,  
11 since he's -- he's the witness, are more appropriate  
12 for him to spend the time to analyze and understand.  
13 I think the same is true with the attorney question  
14 that -- that you asked.

15 **Q. In your response -- in your responses to**  
16 **a number of questions from Mr. Opitz in your back and**  
17 **forth, there was discussion about how there are**  
18 **certain issues raised by other parties that KCP&L has**  
19 **to respond to and, in your opinion, that drives up**  
20 **rate case expense. Is that -- is that a fair**  
21 **characterization?**

22 A. It can be a factor, yes.

23 **Q. And then you responded that -- I mean I'm**  
24 **sorry.**

25 **And in the testimony of one of Staff's**

1 witnesses, there was the issue of KCP&L bringing up  
2 issues again and again and that also driving up rate  
3 case expense. Is that a fair characterization of that  
4 testimony?

5 A. It can happen, yes.

6 Q. So is it safe to say that -- that all the  
7 parties in a rate case, including the Company, can  
8 raise issues, re-litigate issues that can drive up  
9 rate case expense? It's not just other parties? It's  
10 not just KCPL?

11 A. It is symmetrical, yes.

12 Q. What is the dollar amount that the  
13 Company is seeking in rate case expense here?

14 A. So our projection for this case is  
15 1,362,000 of -- of costs incurred. We have normalized  
16 that set of costs for this case consistent with Staff  
17 over three years. So I think the math on that is 400  
18 and --

19 Q. 54?

20 A. -- 54,000, something like that.

21 Q. Okay. That is a projection though. And  
22 my understanding -- and I guess I can ask Staff's  
23 witnesses, but my understanding is that it's Staff's  
24 position that it needs to be actually incurred amounts  
25 and that there will be a true-up period at some point?

1 A. That's my testimony as well.

2 **Q. So you're comfortable with that approach?**

3 A. Actuals -- I think my testimony said as  
4 late in the process as we can turn those in, because  
5 rate case expenses are -- are frequent -- are mostly  
6 back-loaded in a case situation. And I think that's  
7 what the opening for Staff said is to collect those  
8 costs some time after the briefs have been completed  
9 in this case.

10 **Q. Is it still an issue whether or not the**  
11 **Company can recover certain rate case expenses from**  
12 **the 2010, 2012 rate cases?**

13 A. It is not an issue related to the 2012  
14 case because we and Staff, I believe, both utilized a  
15 three-year normalization in that case with no ability  
16 to -- for -- to address over- or under-collection,  
17 just like -- just like we're proposing in this case.

18 The 2010 case, on the other hand, was at  
19 a time when the parties agreed to defer and amortize  
20 those rate case expenses from the 2010 case. And  
21 we're -- our position is that there are amounts of  
22 those 2010 rate case expenses that were deferred that  
23 have not yet been collected. And we've -- we've  
24 included that amount to move forward in rates in this  
25 case.



1           **Q.     And is that part of your 1.3 million**  
2 **projection or is that separate and apart?**

3           A.     It's separate. The 1.3 is specific to  
4 the costs to be incurred for this case. I believe the  
5 analyzed level of the 2010 cost is around \$260,000 is  
6 what the amortization run rate was for that based on  
7 the -- what came out of the 2010 case. That would be  
8 in addition to the 454 that we just spoke about.

9           **Q.     Turning to page 58 of Mr. Major's**  
10 **Surrebuttal Testimony, and I believe you responded to**  
11 **some questions from Public Counsel on this issue.**  
12 **There are a number of items that you refer to as**  
13 **ordinary business expenses that are not recovered in**  
14 **rates.**

15          A.     I don't have that testimony in front of  
16 me, but I believe I know the section you're referring  
17 to.

18          **Q.     I'm not sure I understood your -- your**  
19 **testimony on this -- on this issue. Do you believe**  
20 **that it is appropriate to recover these items in**  
21 **rates?**

22          A.     No. That wasn't my testimony. What I  
23 was trying to tell --

24          **Q.     Well, no. I mean I understand. You**  
25 **acknowledged that they're not recoverable in rates,**

1 **but what I didn't get was whether they should be?**

2 A. I believe some of them could be  
3 determined to be prudent business expense-- expenses,  
4 yes.

5 **Q. So that's the only standard for you, is**  
6 **whether it's a prudent business expense?**

7 A. I think it -- I think some of these --  
8 and one I will talk about in specific would be  
9 incentive compensation tied to earnings per share. I  
10 don't think tying incentive comp for a group of  
11 employees earnings per share means it's only  
12 beneficial to the shareholder.

13 I think having a well-structured  
14 compensation program that is market based and is a  
15 midpoint market-based approach is reasonable for  
16 consideration. And prudent financial -- prudent  
17 management I think is good for customers if the  
18 utility's run well.

19 **Q. Do you view the rate case process as an**  
20 **adversarial process?**

21 A. I think in here, it certainly can be at  
22 times.

23 **Q. Okay. Thank you.**

24 COMMISSIONER RUPP: I'll wait until he's  
25 up on the stand next time. Thank you.

1 JUDGE BUSHMANN: Recross by Public  
2 Counsel ?

3 MR. OPITZ: No, your Honor.

4 JUDGE BUSHMANN: Staff?

5 MS. MUETH: No, your Honor.

6 JUDGE BUSHMANN: Company?

7 MR. STEINER: Yes, your Honor.

8 RE-CROSS-EXAMINATION BY MR. STEINER:

9 Q. Mr. Ives, you were handed OPC HC-313 by  
10 Mr. Opitz. Do you recall that?

11 A. I do. I don't think -- I don't think I  
12 have it.

13 Q. You got rid of it, huh?

14 A. Yeah. It was sitting up here. I don't  
15 know if it slid down.

16 I have it. Thank you.

17 Q. I think you were asked a listing of the  
18 in-house attorneys at KCPL?

19 A. I was.

20 Q. Do those individuals on that list have  
21 jobs unrelated to regula-- Missouri Public Service  
22 Commission regulation?

23 A. Yes. I would say you and Mr. Hack  
24 have -- a fair amount of your job responsibilities are  
25 Missouri public regulation. You also support Kansas,

1 you also support more than just rate cases. You  
2 support working dockets and any number of other things  
3 that come up. All of the others have jobs primarily  
4 outside of the Missouri regulations.

5 **Q. Do those individuals, besides Mr. Hack**  
6 **and myself, have any expertise or experience in**  
7 **Commission matters?**

8 A. No. I would say Denise Buffington has  
9 experience at a federal level, but she is not versed  
10 in -- in Missouri regulation or statutes.

11 **Q. Do those individuals have time to work on**  
12 **Missouri Public Service Commission matters?**

13 A. They have full-time jobs for the Company  
14 outside of our regulatory work.

15 **Q. I believe you were asked by Mr. Opitz**  
16 **about the reviewing of DRs. Do you recall that?**

17 A. I do.

18 **Q. And I wasn't sure. I think -- did you**  
19 **testify that consultants review DR responses?**

20 A. I did.

21 **Q. Do attorneys review DR responses?**

22 A. They do.

23 **Q. Including outside attorneys?**

24 A. At times. I don't know that our outside  
25 attorneys review all of them, but certainly specific

1 to issues that they're -- they participate in in this  
2 proceeding.

3 **Q. Again, questions by Mr. Opitz regarding**  
4 **recurring -- re-arguing issues.**

5 A. Yes.

6 **Q. Would the Company have to use additional**  
7 **outside counsel expense to re-argue issues that were**  
8 **brought again and again by Staff or other parties?**

9 A. We -- we do use outside counsel on some  
10 of our issues. So to the extent it's a re-argued one  
11 and they've carried it in the past, we would probably  
12 re-use them again, yes.

13 **Q. I believe counsel for Staff asked you**  
14 **about page 10 of the rate case report. Do you recall**  
15 **that?**

16 A. I do.

17 **Q. And I think she said it was just a --**  
18 **second paragraph was just a fair characterization of**  
19 **that final sentence in the second full paragraph. And**  
20 **I just want to be clear. Were you saying that**  
21 **that's -- her reading of it was fair or did you have a**  
22 **different understanding of what fair characterization**  
23 **meant or do you even recall?**

24 A. I -- I think I was talking about her --  
25 her reading of this and whether or not it was a fair

1 characterization of -- of the activity in Kansas City  
2 at the KCC.

3 **Q. Okay. Thank you, Mr. Ives.**

4 JUDGE BUSHMANN: Thank you, Mr. Ives.  
5 You may step down.

6 THE WITNESS: Thank you.

7 JUDGE BUSHMANN: Staff, call their first  
8 witness, please.

9 MS. MUETH: Staff calls Matthew Young.

10 (Witness previously sworn.)

11 JUDGE BUSHMANN: Just as a reminder,  
12 you're still under oath.

13 THE WITNESS: Yes, your Honor.

14 MATTHEW YOUNG, testifies as follows:

15 DIRECT EXAMINATION BY MS. MUETH:

16 **Q. Good afternoon, Mr. Young.**

17 A. Good afternoon.

18 **Q. Please state your name.**

19 A. Matthew Young.

20 **Q. And how are you employed?**

21 A. I'm employed by the Missouri Public  
22 Service Commission as a regulatory auditor.

23 **Q. Okay. And has your testimony in this**  
24 **case already been entered into the record?**

25 A. No, it has not.

1           **Q.     Okay.**

2                   JUDGE BUSHMANN: I don't think it's been  
3 entered because he's testifying several times and  
4 we're going to do it the last time he testifies.

5                   MS. MUETH: It's already been marked?  
6 The exhibits have been marked?

7                   JUDGE BUSHMANN: Yes. Just not offered.

8                   MS. MUETH: Then I tender the witness for  
9 cross.

10                  JUDGE BUSHMANN: First cross by Public  
11 Counsel.

12                  MR. OPITZ: No cross, your Honor.

13                  JUDGE BUSHMANN: Kansas City Power &  
14 Light?

15                  MR. STEINER: Thanks, your Honor.

16 CROSS-EXAMINATION BY MR. STEINER:

17                  **Q.     Good afternoon, Mr. Young.**

18                  A.     Good afternoon.

19                  **Q.     I believe you have some testimony in your**  
20 **Rebuttal around page 3 that utilities, KCPL in**  
21 **particular, has to conduct a depreciation study every**  
22 **five years; is that correct?**

23                  A.     That's right.

24                  **Q.     So there's a rule that requires KCPL to**  
25 **do a study. Correct?**

1 A. Yes, there is.

2 Q. **And that depreciation study is part of**  
3 **rate case expense in this case; is that right?**

4 A. In my adjustment I pulled it out of rate  
5 case expense to exclude it from the sharing mechanism,  
6 but that is still regulatory expense account.

7 Q. **So it's not in the sharing mechanism --**

8 A. It is not.

9 Q. **-- in your proposal for 50/50 sharing?**

10 A. That's right.

11 Q. **And Staff isn't alleging that the costs**  
12 **to conduct the study are imprudent, are they?**

13 A. I'm sorry?

14 Q. **Staff is not alleging that the costs to**  
15 **conduct that study are imprudent?**

16 A. No. No. We never made that allegation.

17 Q. **And Staff doesn't have a problem that a**  
18 **consultant conducted that study. Right?**

19 A. I looked into it. I had some questions  
20 about it, but it did not affect my adjustment, no.

21 Q. **So for this -- this cost of pursuing a**  
22 **rate case, there should be no 50/50 adjustment.**  
23 **Right?**

24 A. I believe that's how we have put it into  
25 our case.



1           **Q.     Because the Company can't file a rate**  
2 **case without doing a depreciation study. Is that the**  
3 **reason?**

4           A.     The Company is required to do a  
5 depreciation study if it files a rate case -- if it  
6 hasn't done one five years prior to filing a rate  
7 case.

8           **Q.     So depreciation study is just like every**  
9 **other requirement of filing a rate case. Correct?**  
10 **It's something you have to do to prosecute the case?**

11          A.     It is not exactly like every other  
12 requirement. There are some exceptions in the statute  
13 for when the Company does not have to file -- conduct  
14 a study.

15          **Q.     Okay. That's the difference?**

16          A.     That is the difference.

17          **Q.     I think that's all I have. Thank you.**

18                 JUDGE BUSHMANN: Questions by  
19 Commissioners? No need for recross. Redirect?

20                 MS. MUETH: Nothing, your Honor.

21                 JUDGE BUSHMANN: You may step down.

22                 MS. MUETH: Staff calls Keith Majors.

23                 (Witness previously sworn.)

24                 JUDGE BUSHMANN: I'll give you the same  
25 reminder that you're still under oath.

1 THE WITNESS: Thank you.

2 MS. MUETH: Your Honor, I believe  
3 Mr. Majors' testimony in this case has also already  
4 been marked.

5 JUDGE BUSHMANN: It has. Just not  
6 offered.

7 MS. MUETH: Okay. And Mr. Majors has  
8 future testimony so we'll withhold that.

9 JUDGE BUSHMANN: Correct.

10 MS. MUETH: I tender the witness for  
11 cross.

12 JUDGE BUSHMANN: First cross by Public  
13 Counsel.

14 CROSS-EXAMINATION BY MR. OPITZ:

15 Q. Good evening, Mr. Majors.

16 A. Good evening.

17 Q. In your testimony you discuss the idea of  
18 an incremental witness. Can you tell me what is an  
19 incremental witness?

20 A. Right. That would be any rate case  
21 expense that was incurred by someone hired outside of  
22 the Company and also external legal fees. There's  
23 also some temporary labor involved in processing the  
24 rate case, as Mr. Ives testified earlier. And there's  
25 also class cost-of-service study and a line loss study

1 that are incremental rate case expenses.

2 But the expenses related to witnesses who  
3 are KCPL employees aren't incremental rate case  
4 expenses. And there's also -- incremental would be  
5 items claimed on expense reports; meals, mileage,  
6 hotels, things -- things of that nature.

7 **Q. In your Surrebuttal you recommend removal**  
8 **of any expense related to KCPL witness Overcast.**  
9 **Correct?**

10 A. Yes. That's correct.

11 **Q. And why do you recommend removal of that**  
12 **expense?**

13 A. Well, I think if you do an objective  
14 evaluation of the issues brought by Mr. Overcast --  
15 excuse me, Dr. Overcast, the bulk of the testimony is  
16 a laundry list of regulatory mechanisms that most of  
17 which haven't been tried in Missouri and are not  
18 particularly -- they don't particularly mix with the  
19 cost base rate-making that we have here in Missouri.

20 And I think I would -- I would  
21 differentiate that as opposed to -- and also, the  
22 testimony itself is duplicative of several other of  
23 KCPL's witnesses. So that's why Staff made its  
24 recommendation to remove those dollars before the  
25 50/50 sharing.

1           As an -- as an update to the amount that  
2 Staff recommends for removal -- pardon me -- Staff  
3 received some more current information on rate case  
4 expense and there was an additional invoice that was  
5 \$21,265 on the May batch of invoices. So that would  
6 take the total for expense to Black and Veatch of --  
7 if I'm doing my math right -- about \$36,000.

8           **Q. And is it your recommendation that that**  
9 **amount also be excluded?**

10          A. Yes.

11           **Q. Is it your position that in this case**  
12 **rate case expense should be split 50/50?**

13          A. I think net of Staff's recommended  
14 adjustments and I -- we didn't divide the depreciation  
15 expense -- I'm sorry, depreciation expense study --  
16 depreciation study expenses 50/50. Those were  
17 amortized over five years at the full amount. So  
18 it's -- it's kind of a -- somewhat of a mixed bag, but  
19 for the residual, yes, it's 50/50.

20           **Q. And why do you recommend 50/50?**

21          A. Well, I think if you look at the total --  
22 totality of what it takes to prosecute the rate case  
23 for all parties, you've got the expenses for Staff and  
24 the Commission and those are paid by ratepayers  
25 through the assessment. You've got the expenses for

1 yourself, OPC. Those are now a part of the  
2 Commission's assessment.

3 And then you've got the expenses related  
4 to all the intervenors. And the intervenors have to  
5 determine what the benefit for them is in -- in  
6 participating in the rate case process. And they --  
7 they set a budget and all those expenses are paid by  
8 intervenors, who are assumedly ratepayers.

9 And then you've got the expenses that the  
10 Company incurs to prosecute its -- prosecute its rate  
11 case. And I think if you were to objectively look at  
12 those expenses, you would see that there is some  
13 benefit for ratepayers in that they -- in the future,  
14 they will -- it's -- part of that cost is for safe and  
15 adequate service, but also the shareholders have a  
16 direct benefit in that -- in that they have the  
17 opportunity to receive a reasonable return on their  
18 investment. And so that was Staff's rationale for the  
19 50/50 sharing.

20 **Q. Do you agree that in a rate case -- in**  
21 **this rate case, KCPL has pursued issues that benefit**  
22 **only the shareholders?**

23 A. I -- I -- I think there were some  
24 elements of the rate of return recommendation that --  
25 that would be beneficial to shareholders.

1           **Q.     You offered testimony on the La Cygne**  
2 **construction accounting issue. Correct?**

3           A.     Yes, I did.

4           **Q.     And is the treatment sought by the**  
5 **Company on that issue beneficial only to the**  
6 **shareholders?**

7           A.     I -- I would say that that treatment  
8 completely ameliorates the regulatory lag involved in  
9 that investment and that would inure strictly to the  
10 shareholders.

11           **Q.     And so that would remove any benefit**  
12 **that -- that -- excuse me. So the treatment sought by**  
13 **the company on that issue would remove any benefit**  
14 **that the ratepayers received from regulatory lag.**  
15 **Correct?**

16           A.     Yes. For that issue, it would.

17           **Q.     That's all the questions I have. Thank**  
18 **you.**

19                     JUDGE BUSHMANN: Kansas City Power &  
20 Light?

21 CROSS-EXAMINATION BY MR. STEINER:

22           **Q.     Mr. Majors, good af-- evening --**  
23 **afternoon.**

24           A.     Good evening.

25           **Q.     I believe you assert that Mr. Overcast's**

1 **testimony is largely duplicative of KCPL witnesses**  
2 **Ives, Hardesty, Blunk, Carlson, Crawford and Roper; is**  
3 **that correct?**

4 A. I -- I don't know about -- where are you  
5 getting -- I'm sorry. Excuse me.

6 Q. **From your testimony, but I don't have a**  
7 **page reference in front of me, but let me see if I can**  
8 **get one.**

9 A. Okay. I can probably find it.

10 Oh, yes. I'm sorry. The Roper threw me  
11 off. I think witness Roper is supporting the CIP  
12 cyber security tracker. So -- so yes. You said Ives,  
13 Hardesty, Blunk, Carlson, Crawford and Roper, yes.

14 Q. **Right. And then I believe you said in**  
15 **response to a question by OPC that the bulk of**  
16 **Mr. Overcast's testimony is -- deals with regulatory**  
17 **mechanisms that are -- have not been tried in**  
18 **Missouri?**

19 A. Right.

20 Q. **Right. So how would KCPL witnesses know**  
21 **anything about regulatory mechanisms that haven't been**  
22 **tried in Missouri?**

23 A. Well, I think every witness does research  
24 into his or her issue. I'm sure they could have  
25 become aware of other regulatory mechanisms that

1 haven't been attempted or -- or used in Missouri at  
2 one point or another.

3 **Q. So they might be aware of it, but they**  
4 **haven't been a witness advocating that position.**  
5 **Would you agree with that?**

6 A. I -- I would -- I would agree.

7 **Q. So you would agree that Mr. Overcast**  
8 **brings a lot more experience with regard to how these**  
9 **mechanisms in other states work than internal KCPL**  
10 **employees?**

11 A. Experience that -- that really -- yes, I  
12 wouldn't disagree that he brings a lot of witness  
13 experience. I think he's been in the regulatory arena  
14 for quite some time.

15 **Q. But experience in those issues that we**  
16 **don't see in Missouri, those regulatory issues --**  
17 **those regulatory mechanisms we don't see in Missouri.**  
18 **He has a lot more experience in how those work than**  
19 **KCPL internal witnesses. Correct?**

20 A. I wouldn't say -- no, I think that really  
21 when you bring someone in from the outside, they don't  
22 have as much -- they certainly don't have as much  
23 familiarity with Kansas City Power & Light and the  
24 internal workings of the company. I know --

25 **Q. That wasn't my question.**



1 A. Can you repeat the question?

2 Q. **Doesn't he have more experience on how**  
3 **these regulatory mechanisms that are employed in other**  
4 **states, how they actually work, than internal Kansas**  
5 **City Power & Light employees?**

6 A. I wouldn't know. I think you'd have to  
7 go on a case-by-case basis whether he has experience  
8 in each issue. I think he has a broader -- certainly  
9 a -- he's testified in many more jurisdictions. I  
10 would agree with that.

11 Q. **Well, to testify about a regulatory**  
12 **mechanism in another jurisdiction, don't you have to**  
13 **know something about it?**

14 A. Sure.

15 Q. **Let's -- let's stay on this topic. I'm**  
16 **talking about -- you said that Ives, Hardesty, Blunt,**  
17 **Carlson, Crawford and Roper, that his testimony's**  
18 **duplicative -- largely duplicative of their testimony.**  
19 **Which of those witnesses address what other states are**  
20 **doing with regard to regulatory mechanisms?**

21 A. I think certainly Ives explores some  
22 elements of cost recovery of the electric car  
23 chargers. I'm not --

24 Q. **Does Mr. Overcast talk about the electric**  
25 **car charging stations?**

1           A.     No.  But you asked if any of these  
2 witnesses address regulatory mechanisms in other  
3 states.

4           **Q.     Okay.  Any other examples?**

5           A.     I can't recall any specific.

6           **Q.     Mr. Majors, do you know how many data**  
7 **requests have been asked of the Company by Staff?**

8           A.     Individual data requests, I think the  
9 number's up to probably 640.  And a fair number of  
10 those have supplementals, maybe in the ballpark of  
11 700.  I think Mr. Ives uses a figure that's in the  
12 900s at his -- in his Rebuttal Testimony.

13          **Q.     And a lot of those questions are**  
14 **multipart questions.  Would that be correct?**

15          A.     A lot of those questions are multipart  
16 questions based on the unique tracking and -- unique  
17 and new tracking mechanisms that the Company has  
18 requested in this case.  And yes, they're multipart  
19 questions.

20          **Q.     Do you know how many data requests other**  
21 **parties have asked of the Company?**

22          A.     No.  Not offhand.

23          **Q.     Do you know how many DRs the Company**  
24 **asked Staff?**

25          A.     Not offhand.  I know there was a couple

1 batches -- well, I don't know if there were multiple  
2 batches. I know there was a batch of them.

3 **Q. Would you be surprised if it was less**  
4 **than 20?**

5 A. No. KCPL typically doesn't do a lot of  
6 discovery -- a lot of discovery on Staff in terms of  
7 data requests.

8 **Q. Do other utilities do a lot of discovery**  
9 **on Staff?**

10 A. From memory, I think Ameren does a lot of  
11 depositions. I've been deposed twice by Kansas City  
12 Power & Light. Ameren does a lot of depositions. I  
13 think they do some discovery in terms of data  
14 requests, but I think a lot of theirs more -- is more  
15 focused on depositions.

16 **Q. Just to be clear, you have not been**  
17 **deposed in this rate case we're here today for.**  
18 **Correct?**

19 A. No. Not in this rate case.

20 **Q. Were any other Staff members deposed by**  
21 **the Company in this rate case?**

22 A. I don't think so. Not that I know of.

23 **Q. Were there any discovery disputes brought**  
24 **before the Commission in this case?**

25 A. There were none brought before the

1 Commission. They were resolved before -- before that  
2 point. That's not to say there weren't any discovery  
3 disputes.

4 **Q. I meant formal disputes before the**  
5 **Commission.**

6 A. No.

7 **Q. So thanks for the clarification.**  
8 **Besides Mr. Overcast, does Staff contend**  
9 **that there are other rate case costs that are**  
10 **imprudent?**

11 A. Well, I think you need to make the  
12 distinction -- Staff's not alleging that Dr. Overcast  
13 is imprudent. I think Staff's recommendation is that  
14 the fair-- it should be fairly allocated to  
15 shareholders. So I wouldn't call his costs imprudent  
16 from the Company's perspective. And no, we're not  
17 making any other adjustments other than the  
18 amortization of the five years for the depreciation  
19 study.

20 **Q. So I agree. I misspoke. I mean I'm not**  
21 **saying that you're saying that he, the man, is**  
22 **imprudent. I -- but the rates that we're trying to**  
23 **recover as rate case expense are -- does Staff**  
24 **contends that any of those costs besides**  
25 **Mr. Overcast's costs are imprudent?**

1           A.     No.  And I would state again that  
2  Dr. Overcast's costs are -- are not imprudent.  I  
3  think it would be more of a fair share -- fairly  
4  allocated to shareholders.  I don't think Staff is  
5  alleging that it was imprudent for the Company to  
6  retain Dr. Overcast.

7           **Q.     But you're throwing out 100 percent of**  
8 **his costs.  What basis are you doing it on besides**  
9 **imprudence?**

10          A.     I'm -- I -- in the review of his  
11  testimony and the fact that he's duplicative of other  
12  witness testimony and he has, you know, a veritable  
13  grab bag of regulatory mechanisms, I think it's more  
14  appropriate that you would allocate those to  
15  shareholders like other costs that are borne by the  
16  shareholders.

17          **Q.     Okay.  So it wasn't imprudent for us to**  
18 **hire Mr. Overcast?**

19          A.     No.  I'm not saying that.

20          **Q.     Okay.  And so all of the other costs --**  
21 **Staff is making some sort of adjustment outside of the**  
22 **50/50 sharing for Mr. Overcast.  Correct?**

23          A.     Yes.

24          **Q.     Okay.  Mr. Overcast's costs.  Excuse me.**

25          A.     Yes.

1           **Q.     Now, this -- you are -- Staff is**  
2 **proposing to disallow 50 percent of the Company's rate**  
3 **case expense. Correct?**

4           A.     I -- I -- I would -- I would somewhat  
5 bicker with the term "disallow." I think it's more of  
6 a sharing.

7           **Q.     Well, we aren't able to recover -- if**  
8 **Staff's gets its way, we won't be able to recover**  
9 **50 percent of those costs of those rate case expenses.**  
10 **Correct?**

11          A.     Through rates, that's correct.

12          **Q.     And Staff has made no allegation that any**  
13 **of those costs are imprudent. Correct?**

14          A.     That's correct.

15          **Q.     So Staff's position acts as a**  
16 **disallowance of costs that are prudent. Correct?**

17          A.     I -- again, I would -- I would dispute  
18 the word -- term "disallowance." I think it's more  
19 correctly termed a sharing mechanism. But if you'd  
20 like to call it disallowance --

21          **Q.     Then would you agree with that?**  
22 **50 percent of costs that Staff believes are prudent**  
23 **will not be able to be recovered in rates by the**  
24 **Company. Correct?**

25          A.     Yes.

1           **Q.     Thanks, Mr. Majors.**

2           JUDGE BUSHMANN:   Commi ssi oner Hall?

3           COMMI SSIONER HALL:   I have no questi ons.

4           JUDGE BUSHMANN:   Redi rect by Staff?

5           MS. MUETH:   Yes, your Honor.   Just a few.

6   REDI RECT EXAMI NATION BY MS. MUETH:

7           **Q.     Mr. Majors, do you recall KCPL attorney**  
8 **asking you a question about Dr. Overcast's expertise**  
9 **regarding regulatory mechanisms that are not in place**  
10 **in Missouri and his expertise regarding how those are**  
11 **used in other states?**

12          A.     Yes, I do.

13          **Q.     Do you know if other KCPL witnesses**  
14 **address regulatory mechanisms in Kansas?**

15          A.     I -- I believe so.   I -- at -- I mean at  
16 some point or another they've testified that under the  
17 Kansas version of the FAC, it's called the ECA, I  
18 believe, it's 100 percent mechanism as opposed to  
19 what's recently been approved in Missouri FAC of  
20 95/5 split.

21                 I think there's some di scussi on of Ives.  
22 I think Kansas has a property tax rider that might  
23 have been di scussed by Mr. Ives.   And if it was  
24 property tax related, I woul dn't be surpri sed if  
25 wi tness Hardesty di scussed that topic, but -- but it's

1 been a while since I've reviewed their testimonies.  
2 Blunk, as I recall, he's a manager -- or at one point  
3 was the manager of fuel so he would also -- might --  
4 might have some commentary on the Kansas ECA. And  
5 certainly Mr. Crawford would as well. I'm not -- I'm  
6 not entirely sure about witness Roper.

7 But certainly they reference Kansas --  
8 Kansas earnings, Kansas regulatory mechanisms, things  
9 of that nature in their testimonies at one point or  
10 another.

11 **Q. Okay. Thank you. I have nothing**  
12 **further.**

13 JUDGE BUSHMANN: Thank you. Mr. Majors,  
14 you may step down.

15 We're going to take a short break and  
16 then we're going to -- when we come back from recess,  
17 we'll take up the final two witnesses for today. Be  
18 in recess until about 10 minutes after 5:00.

19 (A recess was taken.)

20 JUDGE BUSHMANN: Ready for our final  
21 Staff witness.

22 MS. MUETH: Staff calls Mark  
23 Oligschlaeger.

24 (Witness sworn.)

25 JUDGE BUSHMANN: You may proceed.



1 MARK OLIGSCHLAEGER, testified as follows:

2 DIRECT EXAMINATION BY MS. MUETH:

3 **Q. Please state your name and spell it for**  
4 **the record.**

5 A. Mark L. Oligschlaeger,  
6 O-l-i-g-s-c-h-l-a-e-g-e-r.

7 **Q. How are you employed?**

8 A. I'm employed by the Missouri Public  
9 Service Commission as the manager of the auditing  
10 unit.

11 **Q. Are you the same Mark Oligschlaeger who**  
12 **filed Rebuttal and Surrebuttal Testimony in this case**  
13 **marked as Exhibits 235 and 236?**

14 A. I am.

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

17 A. I do not.

18 **Q. If I were to ask you the same questions**  
19 **contained in that testimony here today, would your**  
20 **answers be same?**

21 A. They would.

22 **Q. Is your testimony true and accurate, to**  
23 **the best of your knowledge and belief?**

24 A. It is.

25 MS. MUETH: Your Honor, I don't know

1 whether you all have copies of those Staff exhibits.  
2 If not, can I get them marked?

3 JUDGE BUSHMANN: They should have been  
4 provided at the beginning. And I believe  
5 Mr. Oligschlaeger's going to testify again.

6 MS. MUETH: He will be testifying again.

7 JUDGE BUSHMANN: So we'll hold off on  
8 offering them.

9 MS. MUETH: Okay. So with that, I tender  
10 the witness for cross.

11 JUDGE BUSHMANN: First cross will be  
12 Public Counsel.

13 MR. OPITZ: Thank you, Judge.

14 CROSS-EXAMINATION BY MR. OPITZ:

15 Q. Good evening, Mr. Oligschlaeger.

16 A. Good evening.

17 Q. You were the primary author of Staff's  
18 report in AW-2011-0330. Correct?

19 A. I was, yes.

20 Q. And in that -- in creating that report,  
21 you investigate -- did you investigate rate case  
22 expense sharing mechanisms?

23 A. Well, that was one of the options that  
24 were considered and discussed within that report.

25 Q. And what were the other options that were

1 **discussed?**

2 A. Those can be found at the bottom of  
3 page 15 and the top of page 16 of the report. In  
4 general, they would involve different types of sharing  
5 mechanisms other than a straight 50/50 split;  
6 allocating rate case expense recovery in proportion to  
7 the rate relief ordered for a company compared to the  
8 amount sought by the company, establishing a  
9 presumptive level of recoverable rate case expense for  
10 a utility with an expectation of the utility to  
11 justify any amounts above that level, possible  
12 capitalization of rate case expenses associated with  
13 large construction projects, and also a particular  
14 policy associated with assignment of appeals made by  
15 utilities, the cost associated with those to the  
16 company and to its shareholders.

17 **Q. In your Surrebuttal in this case, you**  
18 **discuss several alternative sharing mechanisms as**  
19 **possibilities. Correct?**

20 A. If the Commission were to reject our  
21 primary recommendation, yes.

22 **Q. And so for this case, it's your**  
23 **recommendation that a 50/50 sharing mechanism be**  
24 **implemented?**

25 A. It is.

1           **Q.     And why is 50/50 the recommendation of**  
2 **Staff in this case?**

3           A.     Why that option or why that percentage?

4           **Q.     Why that option compared to the other**  
5 **possibilities you discussed?**

6           A.     We believe -- partly our goal is a --  
7 what we consider a more appropriate allocation of rate  
8 case expenses between the Company's customers and its  
9 shareholders. But also our goal is to perhaps obtain  
10 treatment that provides a company, a utility, with  
11 stronger incentives to make reasonable and economical  
12 decisions in terms of the amount of rate case expense  
13 it incurs.

14           **Q.     You mentioned the proper allocation of**  
15 **rate case expenses is one of the goals. Why is 50/50**  
16 **the proper allocation or recommended allocation in**  
17 **this case?**

18           A.     The way we view rate case expense is it  
19 is a very unique and unusual item in several respects.  
20 One of those respects is in terms of the question of  
21 benefit, who rate case expense benefits, what parties.

22                   It can be thought that in a sense, all  
23 rate case expense is incurred in relation to a rate  
24 case process that companies must undergo by statute,  
25 by law and with the ultimate goal of protecting

1 customers from possible monopoly abuse. In that  
2 sense, it can be thought that all rate case expenses,  
3 obviously that are prudent, reasonable and so on,  
4 should be recoverable.

5 On the other hand, the more specific  
6 context in which rate case expenses are incurred by a  
7 utility is to represent one set of goals, policies and  
8 approaches to setting their rates, which generally  
9 should not be expected to be in alignment and often is  
10 not in alignment, with the interests of other parties  
11 to the rate case proceeding, customers of various  
12 natures and so on, all of the parties to a rate case.  
13 A company's interest should be expected to diverge  
14 from other parties, and obviously, in experience, it  
15 does.

16 **Q. And so when you make your recommendation**  
17 **for a 50/50 sharing of rate case expense in this case,**  
18 **it's because you've considered those factors that you**  
19 **just described?**

20 A. Well, and I'd say it's hard to reconcile  
21 those two aspects of what I just laid out, the  
22 benefit -- overall benefit to customers, the specific  
23 benefit to a utility's customers. And our best effort  
24 to reconcile them is to say 50/50 recognizes the kind  
25 of unique delineation between those different aspects

1 of rate case expense and how it's incurred.

2 **Q. Are you aware of how Staff recommends to**  
3 **treat the expense related to Dr. Overcast?**

4 A. In general terms, yes.

5 **Q. And what is your understanding of how**  
6 **Staff recommends to treat that particular expense?**

7 A. Our recommendation is to remove his cost  
8 from the pool of allowable expenses prior to the  
9 application of the 50/50 sharing mechanism.

10 **Q. Are there costs that are incurred by**  
11 **Kansas City Power & Light that are prudent but the**  
12 **Company still cannot recover them in rates?**

13 A. Yeah. Prudence is obviously one aspect  
14 you want to look at in allowing a particular cost  
15 recovery or not. It is not the only aspect. Among  
16 the other aspects are benefit to customers. That  
17 would be the -- largely the other rationale that needs  
18 to be looked at. And we don't believe that rate case  
19 expense in entirety can be or should be thought of as  
20 all -- as 100 percent being beneficial to customers  
21 because of, again, the unique factors we discussed  
22 earlier.

23 **Q. That's all the questions I have. Thank**  
24 **you.**

25 JUDGE BUSHMANN: Cross by Kansas City

1 Power & Light.

2 MR. STEINER: Thanks.

3 CROSS-EXAMINATION BY MR. STEINER:

4 Q. Good evening, Mr. Oligschlaeger.

5 A. Good evening.

6 Q. I believe on page 9 of your Surrebuttal  
7 you mention the Staff report on rate case expense  
8 matters and you trumpet that you were the primary  
9 author of that report; is that right?

10 A. I do.

11 Q. Did your report review the approaches of  
12 other state Commissions in regard to rate case  
13 expense?

14 A. Certain other commissions, yes.

15 Q. Did the Commission want to see the  
16 approaches of other state commissions in the report?

17 A. I believe they asked us to make -- I  
18 don't know if they specifically asked us to make a  
19 survey, but they -- they did ask us to review, to the  
20 extent we could, the approaches taken by other  
21 commissions.

22 Q. And do you think that was something that  
23 the Commission was wise to ask the Staff to do?

24 A. That's certainly one aspect of the  
25 question I think a Commission -- and certainly we were

1 as well -- interested in looking at.

2 **Q. Looking at other regulatory approaches?**

3 A. Well, just seeing what other  
4 jurisdictions do, you know.

5 **Q. Right. So how did Staff get that**  
6 **information?**

7 A. I believe we obtained a LISTSERV from the  
8 NARUC subcommittee on accounts, and that's the  
9 subcommittee that mostly deals with auditors,  
10 accountants, those type of people. And using that  
11 LISTSERV, we sent out basically a survey in which we  
12 asked each of the commissions to respond to.  
13 Ultimately I believe we received responses from 22 or  
14 perhaps 23 of the other commissions.

15 **Q. Of the 50 states?**

16 A. And the District of Columbia, yes.

17 **Q. Okay. So no one on Staff had the**  
18 **expertise to know what other states did with regard to**  
19 **rate case expense; is that correct?**

20 A. I don't think anyone on Staff had a  
21 reason to particularly be a repository of that  
22 knowledge. But no, we needed to reach out to other  
23 commissions to make that determination.

24 **Q. Okay. And so did you follow up with**  
25 **those commissions then?**



1 A. Follow up once they responded?

2 Q. Right.

3 A. I think there may have been one or two in  
4 which I made further communication if something was  
5 unclear or something like that.

6 Q. So you may not have understood what their  
7 e-mail response said with regard to how they treat  
8 rate case expense?

9 A. I recall that in general terms, yes.

10 Q. Okay. Now, I believe that in response to  
11 questions from counsel for OPC you said that costs  
12 should be looked at to see if they're prudent and then  
13 the other factor was to see if there was a benefit to  
14 customers. Do you recall that?

15 A. Correct. Yes.

16 Q. Wouldn't the other test, besides  
17 prudence, be whether they're necessary for the  
18 provision of utility service?

19 A. I think that's part of it, yes.

20 Q. Is filing a rate case something that the  
21 utility must do in order to raise its rates?

22 A. To raise its general level of rates.  
23 There are other mechanisms that are in place for  
24 single issue rate-making.

25 Q. Okay. That's all I have. Thank you.

1 JUDGE BUSHMANN: Commissioner Hall?

2 QUESTIONS BY COMMISSIONER HALL:

3 Q. Good evening. What type of factual  
4 record do you believe is necessary to support this  
5 Commission's determination that a 50/50 sharing is  
6 appropriate, if any?

7 A. Well, I think obviously it's a policy  
8 call which can be generally applicable. I don't think  
9 we're recommending that in each and every rate case  
10 that comes before us in the future that a straight  
11 50/50 sharing of rate case expense be recommended. I  
12 think it depends on the facts and circumstances of  
13 each case.

14 For example, I am aware that some utility  
15 companies, as a matter of course, do not hire internal  
16 legal staff. Okay? They rely in the entirety on  
17 outside counsel. For that reason and because use of a  
18 counsel is obviously necessary to prosecute a rate  
19 case, they would have to go and seek assistance from  
20 the outside in order to do that. And for that reason,  
21 it probably would not be appropriate to apply a 50/50  
22 sharing to that cost of otherwise reasonable.

23 So to kind of work around answering your  
24 question, I think just taking a look at the internal  
25 structure of each company, do they have in-house

1 personnel technical and in-house attorney who can  
2 accomplish some or all of the necessary tasks  
3 associated with filing and prosecuting a rate case?

4 And then to the extent that such a  
5 company would choose to engage with outside  
6 consultants and outside attorneys based on, I guess,  
7 their preference or belief that -- you know, well, for  
8 whatever reason, I think that would be the kind of  
9 thing you would want to look at before ordering a  
10 50/50.

11 **Q. Any other factors, any other facts that**  
12 **would be relevant to such a determination?**

13 A. Possibly you may want to look at the  
14 reasons and rationale for the rate case and  
15 particularly the outside activity. To use one example  
16 from the recent Ameren case -- the most recent Ameren  
17 case, there was a lot of attention paid to issues that  
18 were, I would say, more or less raised by Noranda and  
19 not directly by Ameren Missouri.

20 I'm not going to flatly say that none of  
21 the costs that Ameren incurred to respond to that  
22 should not be subject to sharing, but I think that's  
23 at least a question that would need to be explored.

24 **Q. Should we also take into account what our**  
25 **ultimate determination is on what the revenue increase**

1 **should be and compare that to the revenue increase**  
2 **sought by the Company?**

3 A. Well, that is one of the alternatives  
4 that I bring forward in my Surrebuttal Testimony.

5 **Q. Well, that's an alternative that you**  
6 **bring forward that we should use as a basis instead of**  
7 **employing a 50/50. But my question is whether that**  
8 **factor alone is something that we should take into**  
9 **account when determining whether a 50/50 is**  
10 **appropriate?**

11 A. In terms of how much money or what relief  
12 the Commission finds reasonable in comparison to what  
13 the --

14 **Q. Well, let me phrase it this way. If a**  
15 **utility sought a \$10 million increase in its revenue**  
16 **requirement and the Commission determined that the**  
17 **utility was entitled to a \$10 million increase in**  
18 **their revenue requirement, do you believe that revenue**  
19 **sharing would be appropriate?**

20 A. Well, I guess this is kind of a chicken  
21 and the egg question, because obviously we would not  
22 know that result during the pendency of the rate case  
23 of how you would ultimately rule.

24 Now, maybe this is an indirect way of  
25 answering you. If the Company were to file a very

1 tight case -- and by tight I mean something very much  
2 consistent with what the Commission has ruled in the  
3 past, doesn't raise new issues -- not that there's  
4 anything wrong with raising new issues, but just takes  
5 the approach of there's a certain amount of rate  
6 relief we want, based on prior precedent this is what  
7 we would get and that pretty much comes true, I would  
8 suspect that there would be less need, particularly  
9 for outside consultants, to support that kind of case.

10 So there would probably be less costs in  
11 question to begin with. And to the extent a sharing  
12 mechanism was proposed or ordered, less costs would be  
13 shared.

14 **Q. Less costs would be shared. What do**  
15 **you --**

16 A. Well, I mean, if you spend half a million  
17 dollars on rate case expense, sharing -- 50/50 will  
18 give you 250,000.

19 **Q. Okay. I guess where I was headed is it**  
20 **seems reasonable to me that in that scenario that you**  
21 **just laid out with the tight rate case, that the**  
22 **correct inter-- the correct determination would be**  
23 **that there shouldn't be sharing. That that case was**  
24 **brought by the utility in such a way that it should**  
25 **recovery the entirety of its rate case expense.**

1           A.     Okay.  And I guess what I was trying to  
2 address earlier is -- I mean we -- we intend to be  
3 flexible in looking at this ca-- or looking at these  
4 situations in the future and also take into account  
5 obviously what the Commission says as a matter of  
6 policy.

7                     If we perceive that a company is filing  
8 a -- what I called a very tight rate case, that is one  
9 consideration we would take -- might take into account  
10 in making a recommendation to you as to what level  
11 should be recovered.

12           **Q.     Okay.  Do you believe that utilities**  
13 **would prosecute rate cases differently if they**  
14 **believed that it was possible or likely that they were**  
15 **only going to recover half of their expenses?**

16           A.     I believe it is likely that at least in  
17 some instances utilities would, because the economic  
18 calculus would be different under that situation.  If  
19 a utility knows it's going to be responsible for  
20 whatever -- half of what it might choose to spend, I  
21 think rationally and logically you would expect that  
22 company to be somewhat more concerned that the --  
23 making sure the expected level of benefit in incurring  
24 those costs, hiring those consultants, hiring those  
25 outside attorneys was probable enough to justify that

1 expenditure and the fact that it would come out of  
2 their pockets.

3 **Q. So you believe that a 50/50 sharing**  
4 **mechanism would incentivize cost containment on behalf**  
5 **of the utility?**

6 A. Better than a presumptive 100 percent  
7 recovery approach.

8 **Q. And how long have you been in your**  
9 **current position?**

10 A. In my current position since April 2011.

11 **Q. And how long have you been working for**  
12 **the Staff?**

13 A. Since September 1981.

14 **Q. And how many rate cases have you been**  
15 **involved in?**

16 A. I -- I would -- can only guesstimate  
17 that. I would guess probably at least 75.

18 **Q. I have no further questions. Thank you.**

19 JUDGE BUSHMANN: Cross by Public Counsel?

20 MR. OPITZ: No, your Honor.

21 JUDGE BUSHMANN: Kansas City Power &  
22 Light?

23 RE-CROSS-EXAMINATION BY MR. STEINER:

24 **Q. Briefly. Do you recall getting questions**  
25 **about 50/50 sharing incentivizing utilities?**

1 A. Yes, I do.

2 Q. **Hasn't that incentive always been placed**  
3 **in Missouri with the ability of a Commission to**  
4 **disallow imprudent expenditures?**

5 A. I would answer in theory, yes. There are  
6 certain practical difficulties with pursuing prudence  
7 adjustments related to rate case expense or I'd say  
8 other types of expenses that I would have some doubts  
9 as to how effective that would be as a consistent  
10 lever for prudent and efficient behavior.

11 Q. **That's all I have.**

12 JUDGE BUSHMANN: Redirect by Staff?

13 MS. MUETH: No questions, your Honor.

14 JUDGE BUSHMANN: Mr. Oligschlaeger, you  
15 may step down. Thank you for your testimony.

16 OPC witness?

17 MR. OPITZ: OPC calls William Addo.

18 (Witness previously sworn.)

19 JUDGE BUSHMANN: Mr. Addo, you're still  
20 under oath.

21 THE WITNESS: Thank you, your Honor.

22 MR. OPITZ: Judge, he's previously  
23 testified and I believe he'll testify again in two  
24 weeks, so I would tender him for cross now.

25 JUDGE BUSHMANN: All right. First cross



1 will be by Staff.

2 WILLIAM ADDO, testifies as follows:

3 CROSS-EXAMINATION BY MS. MUETH:

4 **Q. Mr. Addo, the Office of Public Counsel**  
5 **proposes a 50/50 sharing of rate case expense between**  
6 **shareholders and ratepayers; is that correct?**

7 A. That's correct.

8 **Q. Is this the first time OPC has made a**  
9 **sharing recommendation for rate case expense?**

10 A. No. To my knowledge, Public Counsel has  
11 been pursuing this cause in the '90s. That's my  
12 understanding. And when the Commission actually  
13 opened the AW case Public Counsel was waiting to see  
14 the outcome, how the Commission was going to implement  
15 the recommendation from Staff. So from then on, we  
16 didn't make any recommendation as to a 50/50 split.

17 **Q. Okay. Has the Commission ever authorized**  
18 **the sharing of rate case expense?**

19 A. On top of my head, I think there was one  
20 case I think in '98 in that case that Commission  
21 actually authorized a 50/50 split.

22 **Q. Okay. Do you agree with KCPL witness**  
23 **Mr. Darrin Ives that OPC's sharing proposal is an**  
24 **arbitrary disallowance?**

25 A. No, I did not agree with him.

1           **Q.     Okay.   Why not?**

2           A.     I mean, I think in his testimony he  
3     likened rate case expense to any other expense that  
4     the Company actually incurs. In his testimony,  
5     Mr. Ives' testimony, he indicated that incurrence of a  
6     rate case expense is just like any other expense, like  
7     a transmission expense of the Company in the case on a  
8     regular basis.

9                     Office of Public Counsel has a different  
10    opinion as to that. With -- rate case expenses are,  
11    you know, discretionary and they are sort of -- rate  
12    case expenses are not incurred on a regular basis.  
13    They are -- it's incurred when one utility files a  
14    case before the Commission. So we think it is -- is  
15    kind of a difference between rate case expense and any  
16    other regular company expense; as probably example,  
17    the example he gave as a transmission expense and any  
18    other expense.

19           **Q.     So how does this difference in the type**  
20    **of expense -- how does that justify using a sharing**  
21    **proposal?**

22           A.     I mean, if you cross out rate case  
23    expense the -- from the perspective of the fact that  
24    the outcome of a rate case benefits both ratepayers  
25    and the shareholder, I think it makes absolute sense

1 to kind of share the cost of the -- of the rate case,  
2 you know, between the shareholders and -- and -- and  
3 the ratepayer.

4 And bearing in mind that Staff, who I  
5 believe are also under statutory obligation to  
6 intervene in the case and Office of Public Counsel and  
7 other intervenors also, incurs cost separately on  
8 their own for which they kind of take responsibility  
9 for those costs 100 percent.

10 I think in fairness -- you might think  
11 that fairness would demand that at least the Company  
12 also, I mean, take a portion of the costs, you know,  
13 in a rate case proceeding, which is -- is -- is  
14 adversarial.

15 **Q. Okay. Would you agree that KCPL has, in**  
16 **recent rate cases, incurred rate case expenses**  
17 **substantially higher than historical levels and higher**  
18 **than other utilities in Missouri?**

19 A. I believe so. I took a casual look at it  
20 from some point, you know, in the past. And I think  
21 the current paper suggests that it's incurring higher  
22 rate case expenses.

23 **Q. Okay. Sir, I'm going to go back to the**  
24 **sharing question that I had previously. Would you say**  
25 **that this sharing mechanism that OPC is recommending**

1 **would balance shareholder and ratepayers interests?**

2 A. Yes. By Office of Public Counsel's  
3 position.

4 Q. Okay. Do you agree that a 50/50 share of  
5 these expenses would create an incentive on the  
6 utility's part to control rate case expense to  
7 reasonable levels?

8 A. Yes, I do.

9 Q. Okay. In your Direct Testimony you  
10 mention Staff's report filed in the rate-making docket  
11 AW-2011-0330. Have you read that report?

12 A. Yes, I did.

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

15 A. No, I don't.

16 Q. Thank you.

17 Okay. Would you please turn to page 11  
18 of the report, which is Exhibit 243, for the record.  
19 Let me know when you get to that page.

20 A. Yes, I'm here. I'm there.

21 Q. Okay. Looking at the third paragraph,  
22 can you read aloud beginning on the fourth line where  
23 it starts with, It may have been prudent, and read  
24 through the end of the paragraph, please?

25 A. Did you say --

1           **Q.     Do you see where I'm -- where I'm talking**  
2 **about?**

3           A.     You said paragraph 3?

4           **Q.     Paragraph 3, four lines in. It begins**  
5 **with, It may have been prudent. Just to clarify,**  
6 **we're on page 11. I don't know --**

7           A.     It's appendix -- Attachment 4, page 11 of  
8 42? Is that what you mean?

9           **Q.     No. The main report, page 11.**

10          A.     Oh, okay. Okay. Okay.

11          **Q.     All right. At the top of the page it**  
12 **says Staff Comments and Recommendations. Is that the**  
13 **same page?**

14          A.     Yeah. Page -- page 11 of 16.

15          **Q.     Yes.**

16          A.     Okay.

17          **Q.     Okay. So the third paragraph, four lines**  
18 **in would you read aloud from, It may have been**  
19 **prudent, through the end of the paragraph?**

20          A.     Yeah. It may have been prudent, in  
21 parenthesis, (from its perspective) for KCPL/GMO to  
22 incur the amount of rate case expense these companies  
23 did in their 2010 rate filing in general, and in  
24 defense of its 12% capital costs in particular,  
25 but was it reasonable to charge that entire amount to

1 its customers?

2 I mean that's a question.

3 Staff asserts that a further  
4 determination in rate proceeding that rate case  
5 expenses not be excessive in amount should be  
6 considered separately from a strict review of  
7 prudence.

8 **Q. Would you agree with that statement?**

9 A. Yeah. Yes.

10 **Q. Okay. And were you here when Mark**  
11 **Oligschlaeger was asked about the page 15 and 16 of**  
12 **this report in which there's a list of possible**  
13 **measures to be used, one of them being that 50/50**  
14 **sharing mechanism?**

15 A. Yes.

16 **Q. And do these measures include OPC's**  
17 **sharing proposal?**

18 A. Yes, it does.

19 **Q. Okay. I have nothing further.**

20 JUDGE BUSHMANN: Cross by Kansas City  
21 Power & Light?

22 MR. STEINER: Thank you.

23 CROSS-EXAMINATION BY MR. STEINER:

24 **Q. Would you go to page 32 of your Direct**  
25 **Testimony?**

1 A. I'm there.

2 Q. Starting about the end of line 11 you  
3 say, The utility company may choose to employ the  
4 services of outside personnel --

5 A. Did you say page 22?

6 Q. 32.

7 A. 32. Okay.

8 Q. We're at line 11 at the end. It says,  
9 The -- and then line 12 -- utility company may choose  
10 to employ the services of outside personnel because  
11 the utility company is oblivious of the exorbitant  
12 fees that outside personnel charge.

13 Do you see that?

14 A. Yes.

15 Q. Do you have any evidence that KCPL has  
16 displayed this obliviousness?

17 A. No.

18 Q. Mr. Addo, are you an attorney?

19 A. I actually use the word "may" so I'm  
20 not -- I cannot.

21 Q. I'm sorry. I thought you said no.

22 A. No. I'm like -- I mean, in my testimony  
23 I said that the utility company may choose to employ  
24 the services of outside personnel because the utility  
25 is oblivious of the exorbitant fees that outside

1 personnel charge.

2 So I'm not saying specifically that KCPL  
3 would -- would hire an outside consultant because the  
4 company is oblivious of -- KCP&L is oblivious of the  
5 higher fees that a consultant charges.

6 **Q. You're not saying that. Correct? I just**  
7 **want to -- do you have evidence that that's -- the**  
8 **company was oblivious of the fees?**

9 A. I do not.

10 **Q. Okay. Mr. Addo, are you an attorney?**

11 A. I am not.

12 **Q. How do you -- do you have any training or**  
13 **have you taken courses or had any kind of education on**  
14 **how attorneys set their rates?**

15 A. No.

16 **Q. Have you ever talked to lawyers about how**  
17 **they set their rates?**

18 A. No.

19 **Q. Do you know how many lawyers are**  
20 **practicing in Missouri?**

21 A. I do not know.

22 **Q. Now, you propose to make an adjustment to**  
23 **the rates charged by KCPL's outside attorneys to**  
24 **reflect the rates charged by Ameren's outside**  
25 **attorneys at the Smith, Lewis law firm. Correct?**



1 A. That's correct.

2 Q. How many timekeepers did that Smith,  
3 Lewis law firm use on Ameren's last rate case?

4 A. I believe four, subject to check.

5 Q. Are you counting the attorneys that made  
6 an appearance before the Commission? Is that the four  
7 you're speaking of?

8 A. Yes.

9 Q. Could there have been Smith, Lewis  
10 lawyers that worked on the rate case that didn't make  
11 an appearance before the Commission?

12 A. I believe so.

13 Q. So there's four. There could have been  
14 four; is that right?

15 A. Yes.

16 Q. Now, for each of those timekeepers, do  
17 you know how many total hours they charged to the  
18 Ameren rate case?

19 A. You mean the hours?

20 Q. Not their rate, but how many hours they  
21 worked?

22 A. I do not know.

23 Q. Did you look at that?

24 A. I look at some of the invoices, but I  
25 didn't think -- I didn't actually calculate the number

1 of hours that they spent on the case.

2 **Q. You did not do that?**

3 A. No.

4 **Q. What level are the timekeepers that**  
5 **charge -- that you found charged time to the Ameren**  
6 **rate case? When I say "level," were they a partner,**  
7 **were they an associate, were they of counsel?**

8 A. I'm not privy to that information.

9 **Q. Not privy to that information?**

10 A. Right.

11 **Q. Was that information on the bills?**

12 A. I believe so.

13 **Q. So you didn't investigate what level the**  
14 **timekeepers were as far as being a partner, an**  
15 **associate, of counsel; is that correct?**

16 A. That's a fair statement.

17 **Q. But you could have -- you could have**  
18 **asked Ameren in a data request, Give me the level at**  
19 **the Smith, Lewis law firm of the people that are**  
20 **charging legal fees to the Ameren rate case. Correct?**

21 A. Can you repeat your question, please?

22 **Q. Could you have asked Ameren to tell you**  
23 **what level the timekeepers were for outside counsel,**  
24 **whether they were partners, associates, of counsel?**

25 A. Yes.

1           **Q. Did you compare the background and**  
2 **experience of those Smith, Lewis timekeepers working**  
3 **on the Ameren case to the lawyers working on this**  
4 **case, the KCPL case?**

5           A. I -- from the Commission database I know  
6 Mr. Lowery has about 15 years of practice before the  
7 Commission. Yeah, I think that's the extent to which  
8 I --

9           **Q. So the other lawyers, you don't know**  
10 **their experience with the Public Service Commission?**

11          A. No.

12          **Q. Do you know how many years they are**  
13 **practicing?**

14          A. No.

15          **Q. Did you look at the tasks that were**  
16 **completed by the Ameren outside attorneys in their**  
17 **last rate case?**

18          A. I believe I took a casual look at it.

19          **Q. So what were those tasks?**

20          A. I mean obviously appearing before the  
21 Commission and presenting Ameren case between --  
22 before the Commission. And I'm not sure, but probably  
23 review of data requests, I think so.

24          **Q. So review of data requests, appearances**  
25 **before the Commission. What else were their lawyers**

1 **doi ng?**

2 A. I think they -- they engage in number of  
3 depositions.

4 **Q. Okay. They took depositions?**

5 A. Yes.

6 **Q. How many depositions were taken in the**  
7 **Ameren rate case?**

8 A. I can't tell you on top of my head  
9 because I wasn't directly involved in that case, so I  
10 wouldn't know. I know -- I have about three people  
11 from our office and that's all I know about.

12 **Q. Three people from your office were**  
13 **deposed?**

14 A. I believe so.

15 **Q. Okay. So does an attorney have to**  
16 **prepare for a deposition?**

17 A. I believe so.

18 **Q. How many hours would that take?**

19 A. I can't tell.

20 **Q. So you don't -- you didn't look at how**  
21 **many hours Ameren outside counsel spent in preparing**  
22 **for the depositions taken in the Ameren rate case?**

23 A. No. I answered no.

24 **Q. No?**

25 A. Yes.

1           **Q.     Okay.  Let's talk a little bit about your**  
2 **survey you attached to the back of your testimony,**  
3 **Missouri Bar -- it's at the back of your Surrebuttal.**  
4 **What cities are represented in that Missouri Bar**  
5 **survey?**

6           A.     The report is entitled Missouri Bar  
7 Economic Survey, so I assume it's covering the whole  
8 of Missouri .

9           **Q.     Whole state.  Okay.**

10          A.     Yes.

11          **Q.     So it would have lawyers that practice in**  
12 **a small town and lawyers that practice in large towns?**

13          A.     You are correct.

14          **Q.     So are the costs to live in a small town**  
15 **the same as costs to live in a large Missouri city?**

16          A.     I don't think so.

17          **Q.     It would be cheaper to live in a small**  
18 **town.  Would you agree with me?**

19          A.     You are correct.

20          **Q.     I want to talk a little bit about OPC**  
21 **HC-313.  I'm going to hand you a copy of it.**

22                 MR. OPITZ:  Mr. Steiner, can I ask you  
23 what request you were referring to?

24                 MR. STEINER:  It's your Exhibit OPC-HC  
25 313 that you admitted into the record.

1 MR. OPITZ: Thank you

2 JUDGE BUSHMANN: Can we talk about this  
3 in general session?

4 MR. STEINER: I do not anticipate going  
5 into camera.

6 JUDGE BUSHMANN: Okay. Very good.

7 BY MR. STEINER:

8 Q. So this is a data request that you asked.  
9 Correct?

10 A. Yes.

11 Q. And you received a response from the  
12 company on March 19th of 2015. Correct? If you look  
13 at the last page.

14 A. Yes.

15 Q. And so in this data request the Company  
16 provided, for number 2, the hourly rates of its  
17 outside counsel. Correct?

18 A. Yes.

19 Q. And those are the hourly rates that you  
20 used to make the adjustment that you make in this  
21 case. Correct?

22 A. Yes.

23 Q. Okay. So you had the information you  
24 needed to make this adjustment in March of this year.  
25 Correct?

1 A. Yes.

2 Q. But your adjustment was filed in your  
3 Surrebuttal Testimony in June; isn't that correct?

4 A. That's correct.

5 Q. I want to talk a little bit about your  
6 adjustment for Mr. Overcast's work. And I believe you  
7 say that it's -- his testimony's duplicative; is that  
8 correct?

9 A. That's correct.

10 Q. Can you tell me what witnesses besides  
11 Mr. Overcast address the differences between an AAO  
12 and a RAM in this case?

13 A. None.

14 Q. Does any KCPL witness besides  
15 Mr. Overcast explain that deferred accounting  
16 treatment may be part of a RAM?

17 A. I -- I can't recall I read anything from  
18 any other in-house witness's testimony.

19 Q. Okay.

20 MR. STEINER: Your Honor, at this time  
21 I'd like to make a Motion to Strike a portion of the  
22 Surrebuttal Testimony of Mr. Addo. His Surrebuttal  
23 Testimony makes an adjustment to the hourly rates of  
24 KCPL's outside counsel. The adjustment should have  
25 been made in Direct Testimony in April.

1           He just admitted that he had that hourly  
2 rate information in response to a data request that  
3 the company made in -- gave to him in March. There's  
4 no reason for OPC to delay that adjustment until this  
5 Surrebuttal Testimony.

6           The rules require that a party's entire  
7 case in chief be included in its Direct. Surrebuttal  
8 is limited to material which is responsive to matters  
9 raised in another party's Rebuttal Testimony. This  
10 delay has prejudiced the Company's ability to respond  
11 to OPC's allegations of imprudence. If imprudence is  
12 alleged, the Company should have the ability to  
13 respond to the allegations in written testimony the  
14 same way that OPC made the allegations. It's unfair  
15 to surprise the Company in Surrebuttal Testimony.

16           JUDGE BUSHMANN: I'm not going to -- I'm  
17 not going to make a ruling on that tonight. I'll  
18 take -- I'll take a deferment on the ruling. What I'd  
19 like you to do is file your motion in writing with  
20 suggestions in support and Office of Public Counsel  
21 can file a response. So we haven't actually offered  
22 Mr. Addo's testimony at this point, but when it is,  
23 I'll do it subject to that objection and that motion.

24           MS. MUETH: Your Honor, will Staff have  
25 the opportunity to respond as well?



1 JUDGE BUSHMANN: Any party can respond.

2 MS. MUETH: Thank you.

3 MR. STEINER: Your Honor, I appreciate  
4 that ruling. I would like to have the opportunity to  
5 do live Sur-Surrebuttal to address what this witness  
6 says. I could put Mr. Ives on the stand to do that.

7 JUDGE BUSHMANN: I don't understand what  
8 you're asking me.

9 MR. STEINER: Just so we could respond to  
10 the allegations of OPC that were only made in  
11 Surrebuttal, I would put a live witness on and he  
12 could respond.

13 JUDGE BUSHMANN: Do you have any  
14 objection to that, Mr. Opitz?

15 MR. OPITZ: I believe Mr. Ives was  
16 testifying earlier.

17 MR. STEINER: That's right.

18 MR. OPITZ: Is that who you intend to  
19 testify on this issue?

20 MR. STEINER: Right. He's up again, but  
21 I'd like to do it tonight so it could be with this  
22 issue.

23 MS. MUETH: Your Honor, if that is done,  
24 would Staff witnesses also be available to respond?

25 JUDGE BUSHMANN: I'm not going to do it

1 tonight. Why don't you make your motion, include  
2 that -- we're going to be here in a week. If we to --  
3 I may decide to go ahead and allow that, but it  
4 wouldn't be tonight. It would be when we reconvene  
5 in, what, ten days. Mr. Ives is going to be up  
6 several times so we'll have an opportunity to do that.

7 MR. STEINER: Thanks, your Honor.

8 JUDGE BUSHMANN: Any further questions of  
9 this witness?

10 MR. STEINER: No.

11 JUDGE BUSHMANN: Commissioner Hall, do  
12 you have any questions?

13 COMMISSIONER HALL: I have no questions.  
14 Thank you.

15 JUDGE BUSHMANN: Redirect by Public  
16 Counsel?

17 REDIRECT EXAMINATION BY MR. OPITZ:

18 **Q. Mr. Addo, Staff's attorney asked you if a**  
19 **sharing mechanism balanced shareholder and ratepayer**  
20 **interests. Did you -- did your response to that mean**  
21 **in this case only?**

22 A. Yes. Everything is in this case.

23 **Q. And to clarify, what level of sharing did**  
24 **you recommend?**

25 A. 50/50 sharing.

1           **Q.     Mr. Steiner asked you about KCPL witness**  
2 **Overcast's work being duplicative. Can you tell me**  
3 **what areas of that work were duplicative, in your**  
4 **view?**

5           A.     I believe Dr. Overcast filed testimony on  
6 FAC and the three trackers that KCPL now requests  
7 or -- I mean seeking in this case. And I believe the  
8 Company made its case using the in-house personnel to  
9 try to make that case that they needed an FAC and  
10 trackers.

11                     And I believe that case is compelling  
12 enough for the Commission to make a decision on. So  
13 they don't need to go for an outside consultant who  
14 has a limited knowledge about operations of the  
15 Company to file testimony on the same issues.

16           **Q.     Did you understand Mr. Steiner's**  
17 **questions about a RAM to be about a fuel adjustment**  
18 **clause?**

19           A.     No.

20           **Q.     What did you understand a RAM mechanism**  
21 **to be?**

22           A.     I mean from Dr. Overcast's testimony,  
23 I -- I believe he -- he tried to liken FAC to the RAM  
24 in a way as it distinguished it from the trackers.

25           **Q.     So is it your understanding that KCPL in**

1 **this case is asking for some sort of RAM as described**  
2 **by Mr. Overcast?**

3 A. That is not my understanding.

4 **Q. Okay. Mr. Steiner asked you about the**  
5 **attorney fee recommendation.**

6 A. Yes.

7 **Q. On what basis did you recommend the \$200**  
8 **amount that you've proposed in your testimony?**

9 A. As I indicated in my testimony, I  
10 researched the Commission database and as well as the  
11 internet where I got this report from. And as you can  
12 see from the report, it indicates the -- I believe the  
13 median hourly rate charged by attorneys in Missouri as  
14 a whole.

15 And comparing that to the hourly rate  
16 that Mr. Lowery stated that his firm was then charging  
17 in the Ameren case, I believe there is an appropriate  
18 proxy to be used to re-price the attorney fees. And  
19 so at the time I was filing my Direct Testimony or  
20 Rebuttal Testimony, I wasn't privy to that hourly  
21 rate. And I can't just make a recommendation based on  
22 a subjective view. I need a supporting documentation  
23 to be able to base my analysis on. So it was during  
24 my Surrebuttal that I was able to find this  
25 information.

1                   And I indicated on -- I indicated in  
2 my -- my Direct Testimony and Rebuttal that Public  
3 Counsel was still reviewing the prudence of the costs  
4 that KCPL actually say constitute rate case expense.

5                   **Q.       So Mr. Steiner asked -- asked you about**  
6 **the date that the Company responded to your data**  
7 **request. And I believe he said it was March 19th,**  
8 **2015?**

9                   A.       Yes.

10                  **Q.       At that time had you had the**  
11 **information -- had you had the opportunity to examine**  
12 **an alternative recommendation for a rate in that case?**

13                  A.       No, I did not.

14                  **Q.       And have you advocated for the sharing of**  
15 **rate case expense in your Direct, Rebuttal and**  
16 **Surrebuttal Testimony?**

17                  A.       Yes, I did.

18                  MR. OPITZ: That's all the questions I  
19 have.

20                  JUDGE BUSHMANN: Thank you, Mr. Addo.  
21 You may step down.

22                  THE WITNESS: Thank you.

23                  JUDGE BUSHMANN: That's all the witnesses  
24 we have scheduled today. We'll go into recess now and  
25 reconvene at 8:30 tomorrow morning.

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(WHEREUPON, the hearing was adjourned  
until Juen 19, 2015 at 8:30 a.m.)

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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

*Tracy Thorpe Taylor*



~~Tracy Thorpe Taylor, CCR~~

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| <b>1051</b> 1084:8    | <b>151</b> 930:16      | <b>2000--</b> 880:5    | <b>22</b> 1052:13     | <b>30</b> 886:15       |
| <b>1054</b> 1084:9    | <b>16</b> 877:1 900:21 | <b>2002</b> 902:9,23   | 1067:5                | 896:24 900:14          |
| <b>1059</b> 1084:9    | 1047:3                 | 903:4,24               | <b>22.1</b> 892:18    | 904:22 951:21          |
| <b>1061</b> 1084:12   | 1065:14                | <b>2004</b> 953:11     | <b>221</b> 838:17     | 964:15                 |

|                               |                       |                       |                         |                       |
|-------------------------------|-----------------------|-----------------------|-------------------------|-----------------------|
| <b>30-minute</b><br>841:14,25 | <b>44</b> 1001:16     | 1032:12,16,19         | 851:20 975:6            | 838:8                 |
| <b>30,000</b> 944:4           | <b>45</b> 1002:16,18  | 1032:20               | <b>6.5</b> 845:2        | <b>816.556.2791</b>   |
| <b>300</b> 844:13             | <b>4520</b> 838:7     | 1033:19               | <b>60-day</b> 884:13    | 838:4                 |
| 876:3,6 891:25                | <b>454</b> 1021:8     | 1041:22               | 895:2                   | <b>816.897.1049</b>   |
| <b>301</b> 838:13             | <b>48</b> 839:24      | 1047:5,23             | <b>601</b> 838:13       | 839:9                 |
| 839:1                         | <b>4th</b> 839:14     | 1048:1,15             | <b>60301</b> 839:21     | <b>843</b> 1083:2     |
| <b>303</b> 891:18             | <b>5</b>              | 1049:17,24            | <b>63102</b> 839:14     | <b>85</b> 839:17      |
| <b>308</b> 838:20             | <b>5</b> 851:19 869:6 | 1050:9 1054:5         | <b>63119</b> 838:24     | 1017:9                |
| <b>30th</b> 884:18            | 880:8 882:16          | 1054:11,21            | <b>640</b> 1038:9       | <b>851</b> 1083:3     |
| <b>31</b> 900:19              | <b>5,572,128</b>      | 1055:10               | <b>64105</b> 838:4      | <b>857</b> 1083:3     |
| 1006:19                       | 868:18                | 1056:7,9              | 839:17                  | <b>859</b> 1083:4     |
| <b>312.257.9338</b>           | <b>5.5</b> 846:12     | 1057:17               | <b>64108</b> 839:8      | <b>866</b> 1083:6     |
| 839:21                        | 851:20 887:20         | 1059:3,25             | <b>64111</b> 838:7      | <b>868</b> 1083:7     |
| <b>313</b> 977:10,21          | 888:1,5,10            | 1061:5,16,21          | <b>65101</b> 838:11,18  | <b>87</b> 892:23      |
| 1073:25                       | <b>5.69</b> 845:3     | 1064:4                | 838:21                  | <b>871</b> 838:23     |
| <b>313-HC</b> 977:6           | 867:13,15             | 1066:13               | <b>65102</b> 838:14     | <b>872</b> 1083:7     |
| 1005:10                       | 969:16 970:2,3        | 1078:25               | 839:2 840:2             | <b>873</b> 1083:8     |
| 1085:5                        | 970:4,6,7             | <b>500</b> 1017:10    | <b>65102-0360</b>       | <b>874</b> 1083:8     |
| <b>314.231.4181</b>           | <b>5.9</b> 867:13,15  | <b>500,000</b> 856:16 | 840:8                   | <b>878</b> 1083:11,12 |
| 839:15                        | 887:18 969:16         | 975:17 976:18         | <b>65201</b> 839:11     | <b>880</b> 1083:12    |
| <b>319</b> 839:14             | 970:1,3,4,5,7         | <b>54</b> 1019:19     | <b>65205</b> 951:15     | <b>881</b> 1083:13    |
| <b>32</b> 1006:19             | <b>5:00</b> 1044:18   | <b>54,000</b> 1019:20 | <b>7</b>                | <b>894</b> 1083:13    |
| 1066:24                       | <b>50</b> 909:24      | <b>573.424.6779</b>   | <b>7</b> 845:13,16      | <b>896</b> 1083:14    |
| 1067:6,7                      | 945:18,23             | 838:24                | 870:10                  | <b>9</b>              |
| <b>33</b> 991:13              | 946:10 949:6          | <b>573.443.3141</b>   | 1001:18                 | <b>9</b> 868:12 872:5 |
| <b>35</b> 970:5               | 981:7,14              | 839:12                | <b>7.6</b> 1012:7       | 969:9 1001:18         |
| <b>36</b> 970:6               | 1042:2,9,22           | <b>573.522.3304</b>   | <b>7.89</b> 969:19      | 1051:6                |
| <b>36,000</b> 1032:7          | 1052:15               | 839:2                 | <b>700</b> 1038:11      | <b>9,044,194</b>      |
| <b>360</b> 840:8              | <b>50/50</b> 892:24   | <b>573.556.6622</b>   | <b>75</b> 1059:17       | 868:13                |
| <b>393.270.2</b> 936:9        | 910:8,12              | 838:18                | <b>8</b>                | <b>9.5</b> 881:12     |
| <b>4</b>                      | 912:18 913:11         | <b>573.634.2266</b>   | <b>8</b> 843:20 891:18  | <b>9.56</b> 881:12    |
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| 1009:14                       | 923:13,17,19          | 838:21                | 970:5 974:22            | <b>90</b> 891:2 964:9 |
| 1065:7                        | 924:10,12             | <b>573.636.6758</b>   | 975:5,6                 | 964:10                |
| <b>400</b> 838:10             | 931:23 933:25         | 838:11                | <b>8.1</b> 969:17,18    | <b>900s</b> 1038:12   |
| 1019:17                       | 935:11 939:11         | <b>573.751.4140</b>   | <b>8.2</b> 846:8 851:17 | <b>902</b> 1083:14    |
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| <b>415.977.5759</b>           | 948:22 951:20         | <b>573.751.5558</b>   | <b>8:30</b> 1081:25     | <b>906</b> 1083:15    |
| 839:18                        | 952:7 955:1           | 840:3                 | 1082:2                  | <b>908</b> 1083:16    |
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| 870:10 892:24                 | 1028:22               | <b>6</b> 839:8 846:12 | <b>816.460.2545</b>     | <b>918</b> 951:14     |
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