Exhibit No.:
Issue: *Accounting Order – Department of Energy Nuclear Waste Fund Fees*
Witness: *Keith Majors*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Direct Testimony*
File No.: *EU-2015-____*
Date Testimony Prepared: *October 9, 2014*

MISSOURI PUBLIC SERVICE COMMISSION

REGULATORY REVIEW DIVISION

UTILITY SERVICES - AUDITING

DIRECT TESTIMONY

OF

KEITH MAJORS

KANSAS CITY POWER & LIGHT COMPANY

FILE NO. EU-2015-0094

Jefferson City, Missouri
October, 2014

** Denotes Highly Confidential Information **

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DIRECT TESTIMONY

OF

KEITH MAJORS

KANSAS CITY POWER & LIGHT COMPANY

FILE NO. EU-2015-_____

Q. Please state your name and business address.

A. Keith Majors, Fletcher Daniels Office Building, 615 East 13th Street, Room G8, Kansas City, Missouri, 64106.

Q. What are your educational background and work experience?

A. I attended Truman State University in Kirksville, Missouri where I earned a Bachelor of Science degree in Accounting in 2007. I have been employed by the Missouri Public Service Commission ("Commission") since June 2007 within the Auditing Unit.

Q. What is your current position?

A. In 2010, I was promoted to my current position of Utility Regulatory Auditor IV within the Auditing Unit, within the Audits, Accounting, and Financial Analysis Department, Regulatory Review Division, of the Commission.

Q. Have you previously testified before this Commission?

A. Yes. A listing of the cases in which I have previously testified, or authored a Staff recommendation or memorandum, and the issues which I addressed in those filings, is attached as Schedule KM-1 to this direct testimony.

Q. What knowledge, skills, experience, training and education do you have in the areas of which you are testifying here?

A. I have been employed by the Commission as a Regulatory Auditor for 7 years, and have submitted testimony on ratemaking matters several times before the Commission. I have participated in in-house and outside training, and attended seminars on technical and general ratemaking matters while employed by the Commission.

I have been assigned to several Kansas City Power & Light Company (KCPL) and KCP&L Greater Missouri Operations Company (GMO) rate case matters during my employment at the Commission:

Utility	Case No.
KCPL – Electric	ER-2009-0089
GMO – MPS and L&P Electric	ER-2009-0090
GMO – L&P Steam	HR-2009-0092
KCPL – Electric	ER-2010-0355
GMO – MPS and L&P Electric	ER-2010-0356
KCPL – Electric	ER-2012-0174
GMO – MPS and L&P Electric	ER-2012-0175

GMO is an affiliate of KCPL.

Q. What is the purpose of this direct testimony?

A. The purpose of my direct testimony is 1) to provide the history and background of the Department of Energy's (DOE) fees for the long-term storage of spent nuclear fuel from the Wolf Creek nuclear generating station; 2) to explain why Staff is seeking an order from the Commission requiring KCPL to establish a regulatory liability that captures the amounts for DOE fees that KCPL's current Missouri rates were designed to collect from its Missouri retail customers, but which KCPL is no longer ultimately paying to DOE; and 3) to define the specific principles Staff is requesting the Commission determine in this proceeding.

Q. Why does the Commission need to issue an order directing KCPL to establish a regulatory liability?

A. KCPL no longer is required to pay DOE fees for the storage of spent nuclear fuel. As such, KCPL no longer is charging these fees to nuclear fuel expense. However, while KCPL's costs for these fees have been reduced to zero, amounts for these DOE fees are still being collected from KCPL's retail customers in their KCPL rates. KCPL is not recording the revenues paid in rates for the amount of the DOE spent nuclear fuel fees in a regulatory liability account and as I understand it, Commission rule 4 CSR 240-20.030 does not require KCPL to record the revenues paid in rates for the amount of the DOE spent nuclear fuel fees in a regulatory liability account; therefore, the Commission must order it to do so. A copy of the rule is attached as Schedule KM-5.

Q. Has the Commission ever issued an order for a utility to record a cost differently than Commission rule 4 CSR 240-20.030 prescribes?

A. Yes. The Commission has issued a number of orders granting utilities such accounting authority. Those orders are referred to as "accounting authority orders" or "AAOs." Staff witness Mark L. Oligschlaeger of the Auditing Unit presents an overview of the history AAOs in Missouri, including why and how they have been used.

Q. Is that all he testifies about?

A. No. He also explains why KCPL ceasing to pay the DOE fees that are the subject of this application is an extraordinary event.

Q. What is an AAO?

A. An AAO is a Commission order that authorizes a utility to account for a cost in a different manner than is normally prescribed in the Federal Energy Regulatory Commission (FERC) Uniform System of Accounts (USOA) the Commission adopted for regulatory accounting purposes. The Commission may authorize utilities to defer certain changes in

costs resulting from unusual or extraordinary events that occur during the course of utility operations. The USOA has provisions that allow these deferrals to be identified on utilities' regulatory books; therefore, these deferrals will be considered for full, partial or no recovery through rates when a utility's rates are being determined in a rate case. Common examples of AAOs in Missouri are Commission orders that allow a utility to defer on its regulatory books remediation and repair costs associated with natural disasters (or "acts of God") such as weather-related events—ice storms, tornados, floods and hurricanes. The Commission has also issued AAOs for the regulatory accounting of pension and retiree medical (OPEB) expenses, manufactured gas plant (MGP) expenses, "Year-2000" (Y2K) expenses, explosions and fires at power plants and settlements of coal purchases.

Q. The examples you gave all appear to involve increased costs due to an extraordinary event. Are there extraordinary events that reduce utilities' costs?

A. Yes, and it is very important that they be properly accounted for too. While utilities typically make accounting authority order requests for events resulting in cost increases, it is equally important to recognize events of the same nature that go the other way—events that result in cost decreases. As Mr. Oligschlaeger explains, equity and fairness in the setting of utility rates dictates the need to consider both increases and decreases of costs associated with unusual or extraordinary events.

Q. What are the DOE spent nuclear fuel storage fees that caused Staff to file this case?

A. Until May 16, 2014, the DOE was charging a fee of 1 (one) "mil" (1/10 of one cent, or 1/1000 of one dollar) per kilowatt-hour (kWh) of electricity produced by the Wolf Creek nuclear generating station (Wolf Creek) to the owners of Wolf Creek for the storage of

spent nuclear fuel and materials used in the production of electricity at Wolf Creek. This regulatory fee has been assessed since Wolf Creek started operating in September 1985. KCPL's customers indirectly have been paying this fee continuously for over 29 years.

Q. Who are the owners of Wolf Creek?

A. Wolf Creek is owned by KCPL (47% share), Kansas Gas & Electric (KGE—owned now by Westar Energy) (47% share), and Kansas Electric Power Cooperative (KEPCO) (6% share).

Q. Would you briefly explain the background and history of this DOE fee?

A. The Nuclear Waste Policy Act of 1982 authorized the DOE to enter into contracts for the collection and disposal of spent nuclear fuel and high level waste. On October 10, 1984, the owners of Wolf Creek entered into a Standard Contract with the DOE which required them to pay fees into the Nuclear Waste Fund, in exchange for which the DOE would begin to dispose of the spent nuclear fuel and high level waste associated with Wolf Creek not later than January 31, 1998. The Standard Contract is attached as Highly Confidential, Schedule KM-2.

The DOE failed to meet its 1998 obligation and has not accepted any nuclear materials for permanent storage. The fee was challenged in the courts and in late 2013, the United States Court of Appeals issued its decision in *National Association of Regulatory Utility Commissioners v. United States Department of Energy*, where it ordered that the Secretary of the DOE submit to the United States Congress a proposal to change the fee to $0. The DOE reduced the fee to the current level of $0 (zero dollars) effective May 16, 2014. The court's opinion is attached as Schedule KM-3. Despite being reflected in utility rates

which customers continue to pay, KCPL is no longer incurring this fee resulting in a cost savings to it.

Q. What level of DOE fees was included in KCPL's cost of service that was used for its current Missouri retail rates?

A. The current level was established in KCPL's last general rate increase case, Case No. ER-2012-0174. That case used a test year ending March 31, 2012, and a true-up period ending August 31, 2012. The DOE fees were included in the fuel price Staff used in its fuel dispatch modeling. Staff included fuel costs for Wolf Creek annual generation of 4,485,176 megawatt hours (MWh), which translates to $4,485,176 (one dollar per MWh) in DOE fees. Nuclear fuel expense is charged to Account 518, Nuclear Fuel Expense. KCPL separately tracks the DOE spent nuclear fuel fees in a sub account it set up—FERC Account 518.201 Nuclear Fuel – Disposal Cost. Staff's energy allocation factor in that case, which it used to allocate certain costs between Missouri, Kansas, and Federal Energy Regulatory Commission (FERC) jurisdictions for Account 518, was 57.12%, resulting in $2,561,932 being included annually in the Missouri jurisdictional cost of service of KCPL for the DOE spent nuclear fuel fees. In each of KCPL's rate cases going back to its 1985 rate case where the Commission first authorized the inclusion of Wolf Creek in rate base, KCPL's rates have included a level of costs relating to Wolf Creek's operations, including the DOE spent nuclear fuel fees.

Q. How does Staff propose the amount to be deferred into the regulatory liability account be calculated?

A. Staff proposes that the $2,561,932 it included in KCPL's annual cost of service in its last rate case be divided by 365 days and the result— $7,019 per day ($2,561,932 ÷ 365 days) — be accrued into the account for each day after May 15, 2014.

Q. Is there an alternative approach to calculating the deferred amount?

A. Yes. Another approach would be to calculate the amount of the DOE fees that KCPL would have incurred after May 15, 2014, had the DOE fee been left at 1/10 cent per kWh and not reduced to zero. This calculation would be made by multiplying the actual net generation of Wolf Creek by 47% (KCPL's ownership in Wolf Creek) by 1 mil per kwh (the DOE fee rate before May 16, 2014). This amount would be the quantification of actual savings to KCPL from the reduction of the DOE fee to zero. In essence, this would require KCPL to calculate on a monthly basis what the DOE fees would have been had the fee not be reduced to zero.

Q. What is Staff requesting that the Commission do about the current level of DOE spent nuclear fuel fees?

A. Staff is requesting the Commission to order KCPL to establish a regulatory liability subaccount in **FERC Account 254 – Other Regulatory Liabilities** to capture the Missouri jurisdictional portion of the DOE fees being paid in Missouri customer rates for disposition in a future KCPL general rate proceeding. The amount that would be included in that subaccount would be calculated from the date the fee went to zero—May 16, 2014—through the date new rates take effect that reflect the reduction in the fee. The amount to be booked into that account is $7019 per day ($2,561,932 ÷ 365 days) starting May 16, 2014.

Prior to May 16, 2014 KCPL recorded a liability to DOE for the amount of the Nuclear Waste Fund fees which was paid with cash collections from its customers

KCPL recorded as revenues. Staff requests the Commission order KCPL to record a liability for those fees paid in rates in the same manner as a regulatory asset which utilities periodically request through an issuance of an AAO. KCPL currently has several subaccounts in Account 254. Staff recommends the Commission order this liability to be established in the next available code block ("Account 254###") with the description, "**KCPL – MO DOE Fees Regulatory Liability**".

Q. What is Account 254 – Other Regulatory Liabilities?

A. The USOA definition of Account 254 is as follows:

254 Other Regulatory Liabilities

A. This account shall include the amounts of regulatory liabilities, not includible in other accounts, imposed on the utility by the ratemaking actions of regulatory agencies. (*See* Definition No. 30)

B. The amounts included in this account are to be established by those credits which would have been included in net income, or accumulated other comprehensive income, determinations in the current period under the general requirements of the Uniform System of Accounts but for it being probable that: Such items will be included in a different period(s) for purposes of developing the rates that the utility is authorized to charge for its utility services; or refunds to customers, not provided for in other accounts, will be required. When specific identification of the particular source of the regulatory liability cannot be made or when the liability arises from revenues collected pursuant to tariffs on file at a regulatory agency, account 407.3, regulatory debits, shall be debited. The amounts recorded in this account generally are to be credited to the same account that would have been credited if included in income when earned except: All regulatory liabilities established through the use of account 407.3 shall be credited to account 407.4, regulatory credits; and in the case of refunds, a cash account or other appropriate account should be credited when the obligation is satisfied.

C. If it is later determined that the amounts recorded in this account will not be returned to customers through rates or refunds, such amounts shall be credited to Account 421, Miscellaneous Nonoperating Income, or Account 434, Extraordinary Income, as appropriate, in the year such determination is made.

D. The records supporting the entries to this account shall be so kept that the utility can furnish full information as to the nature and amount of each regulatory liability included in this account, including justification for inclusion of such amounts in this account.

Q. Why must the Commission order KCPL to book these amounts into the regulatory liability subaccount?

A. KCPL, as an electrical corporation, operates under Commission Rule 4 CSR 240-20.030 Uniform System of Accounts – Electrical Corporations. This rule requires KCPL to keep all of its regulatory accounting records in conformity with the USOA, as prescribed by FERC, unless it is authorized or ordered by the Commission to do otherwise. The USOA dictates that all items of expense and revenue are recognized in the period in which they occur, unless other treatment is provided within the accounting system. An example of such other treatment is the capitalization of amounts paid for plant items. Instead of the entire amount of construction costs or purchased plant asset costs being charged to expense in the period in which it is incurred, the amount is captured in plant accounts to be ratably charged to expense over the useful life of the asset.

In this case, there is no provision in the USOA, and therefore the Commission's rule, for the amounts being collected in rates for the DOE fees to be treated in any manner other than recognition in current period expense and revenue. Therefore, Staff is requesting the Commission order KCPL to establish a regulatory liability subaccount to record and defer, for future disposition in KCPL's next rate case, the difference between the amount of DOE fees

currently included in KCPL's Missouri retail customer rates and the amount currently due to DOE for these fees for which KCPL is responsible.

Q. Why is Staff requesting the Commission order KCPL to set up a regulatory liability subaccount for this difference?

A. As Staff witness Mr. Oligschlaeger testifies, the Court order declaring that the DOE fee be reduced to zero from the 1 mil per kWh assessment is an extraordinary event, and KCPL's Missouri retail customers should not suffer because of it.

Q. Are there any timing issues the Commission should be aware of regarding Staff's request?

A. Ideally, recording a regulatory liability should be started as close as possible to the date the change in cost occurred. KCPL's books and records are reported on a calendar-year basis. The DOE spent nuclear fuel fees KCPL stopped incurring May 16, 2014, is a decrease in KCPL's expenses that will increase KCPL's income in 2014, all other things being equal. This is also true into 2015, but the year 2015 likely can be addressed in KCPL's soon to be filed general rate case, Case No. ER-2014-0370—KCPL's 2015 rate case. For KCPL to accurately record its expense and revenue items on its books and records for calendar year 2014, it should record a regulatory liability in the same 2014 calendar year reporting period. To do so requires that the Commission issue an order to record the regulatory liability before KCPL closes it financial books for the calendar year ending December 31, 2014—likely sometime in February 2015. While a Commission order directing KCPL to establish a regulatory liability subaccount before February 2015 is not an absolute requirement, if the Commission orders the regulatory liability to be established after this date, the entire amount of the regulatory liability would be charged to KCPL's 2015 financial

statements, which would somewhat distort the impact on KCPL between its 2014 and 2015 reporting periods.

Q. Is Staff requesting the Commission make any rate determination now?

A. No. When authorizing AAOs in the past, the Commission has traditionally and consistently reserved ratemaking treatment of the deferred costs for future ratemaking proceedings. Just as the Commission's granting of a regulatory asset typically requested by utilities preserves their ability to seek recovery of the full amount of deferred expenses in future rate proceedings, the establishment of a regulatory liability also preserves the ability of the party requesting the accounting order to seek full recognition of deferred cost decreases in future rate proceedings. Mark L. Oligschlaeger describes several possible future ratemaking treatment options available should the Commission order KCPL to establish the regulatory liability.

Q. Does KCPL have a pending AAO application on file with the Commission?

A. Yes, in Case No. EU-2014-0255. KCPL's application in that case requests the "continuation of construction accounting" (construction accounting) for the current environmental upgrades at LaCygne Units 1 and 2. KCPL has requested the Commission allow it to establish a regulatory asset for the depreciation expense and carrying costs related to these projects which, if the Commission authorizes it, will total several million dollars. See the direct testimony of KCPL witness Ronald A. Klote in that case for a detailed description of KCPL's application.

Q. Should Staff's proposed accounting treatment for the DOE fees and KCPL's AAO for LaCygne construction accounting be evaluated together?

A. While the applications are separate matters, for a balanced approach the applications could stand or fall together. Staff supports combining or consolidating these two cases.

Q. What costs does KCPL incur for spent nuclear fuel long-term storage?

A. As a result of the inaction of the DOE regarding spent nuclear fuel and high level waste, KCPL and the other owners of Wolf Creek have used other means to deal with spent nuclear fuel. In anticipation that the DOE would not accept spent nuclear fuel by 1998, the owners of Wolf Creek contracted a spent fuel study that concluded in 1995. The report evaluated six options, one of which was increasing the onsite capacity for storage of spent nuclear fuel. The owners of Wolf Creek ultimately decided to "rerack" the storage pool. Under this option, they removed the existing racks from the pool, replaced them with higher density racks, and placed them closer together while still maintaining adequate cooling. This reracking of nuclear fuel was completed in the spring of 2000. The cost associated with this capital upgrade is included in Wolf Creek's plant in service for KCPL and its rate base. Any costs relating to the maintenance of the racking of nuclear fuel is included in KCPL's Missouri retail rates. KCPL's customers have been paying the costs for this additional storage in rates.

Depending on the remaining capacity of the on-site spent nuclear fuel pool, the owners of Wolf Creek may be required to build additional on-site storage, such as a dry cask facility, assuming the DOE does not accept spent nuclear fuel in the foreseeable future. The costs of this facility would be split between the owners of Wolf Creek, including KCPL, and would be paid in part by KCPL's Missouri ratepayers. The DOE fees they have paid for through rates were for a storage facility they have not benefitted from to date and may never benefit from.

Customers, which have paid the DOE fees through rates, and will also certainly be asked to pay for the temporary storage of nuclear materials, should be protected from overpayment through issuance of this Commission order.

Q. Have there been any other issues regarding the storage of spent nuclear fuel at Wolf Creek?

A. Yes. As a result of the DOE's failure to accept spent nuclear fuel, as described above, the owners of Wolf Creek filed suit against the DOE for damages related to the DOE's failure. The owners of Wolf Creek were eventually awarded $12,685,015, $5,961,957 of which is KCPL's 47% share. KCPL recorded that amount as a credit to plant; therefore, it will be returned to customers through reduced depreciation expense and reduced carrying costs—the "return on" and "return of" concept of ratemaking. The final judgment of the United States Court of Appeals awarding this amount is dated July 12, 2012.

This judgment against the DOE was crafted to compensate the Wolf Creek owners, and ultimately their ratepayers, for costs they incurred from the DOE's failure. The judgment can also be seen from the viewpoint of a return of a small portion of the funds KCPL ratepayers have paid into the Nuclear Waste Fund from initial production of electricity at Wolf Creek through 2012. These same customers have been required to pay for the higher costs of on-site storage due to the DOE's failure to perform its statutory obligations embodied in the DOE Standard Contract the DOE and KCPL signed in 1984. A rough estimate of the amount KCPL's Missouri retail customers have paid, assuming $2.4 million[1] per year for 29 years, is $71 million. Staff is not aware of any pending or actual refund to KCPL of this amount, other than the damages awarded by the court. In the case of the DOE spent nuclear

[1] Assumes 545 MW KCPL share of Wolf Creek, operating 24 hours per day, 365 days per year, capacity factor of 90%, & 57% Missouri Jurisdictional share. However, both the capacity factor and Missouri Jurisdictional share would have varied year to year during Wolf Creek's 29 years of operation.

fuel fees customers are paying in rates, there will be future expenses related to the storage of spent nuclear fuel for which KCPL ratepayers will certainly be responsible.

Q. Does KCPL have any control of its responsibility for paying DOE spent nuclear fuel fees?

A. Since the fee is assessed on a mil per kWh basis, when the fee is not zero, KCPL can affect its responsibility by how much electricity it gets from Wolf Creek, but KCPL really has no other control over it. In fact, the fee can be viewed as a "tax" or "surcharge" on the electricity generated by Wolf Creek.

Q. Historically, how has the fee assessment varied?

A. The 1 mil per kWh fee did not vary until May 16, 2014, when it went to zero.

Q. Then were KPCL's quarterly fees constant until May 16, 2014?

A. No, like any other expense, the DOE fees varied quarter-to quarter based on the output of Wolf Creek during the quarter.

Q. Are the DOE fees for Wolf Creek voluntary?

A. No, the owners of Wolf Creek, as well as the owners of all other civilian nuclear reactors were mandated to remit these fees to the DOE.

Q. Does KCPL have expenses that vary?

A. Yes, KCPL incurs many expenses that vary day-to-day, month-to-month and year-to-year. Increases and decreases in expenses and revenues offset one another when viewing the overall earnings picture of a utility in any given year. For example, a Staff data request in the pending KCPL Case No. EU-2014-0255 revealed KCPL's employee headcounts have decreased substantially, with an associated decrease in employee benefits, which results in several million dollars reduction to those costs since KCPL's last Missouri

rate case. ** _____

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_____ ** The savings related to this program is ** _____ **, total company. Rates were set in KCPL's 2012 rate case, which went into effect January 2013, which were based on including in KCPL's cost of service the higher costs for the higher level of employee headcount and the ** _____

_____ **.

These two cost reductions are examples of regulatory lag providing benefits to a utility that offset against increases in other expenses and decreases in revenues. As payroll and benefits are part of the many normal expenses and revenues that form the entire picture of a utility's cost of service, Staff does not believe it would be appropriate to capture these expense reductions in a regulatory liability account, unlike in the more unique circumstances of the DOE fees.

Q. Has the Commission ever ordered a utility to flow to its customers in rates the return to it of an expense that previously was used in the costs of service of that utility used to set its rates?

A. Yes. In the recent Ameren Missouri rate Case No. ER-2012-0166, the Commission ordered the return of a property tax refund to Ameren Missouri customers over two years. This decision was the result of the Commission ordering Ameren Missouri to track any property tax refund amounts in Case No. ER-2011-0028.

Rate adjustment clauses, such as the Fuel Adjustment Clause (FAC) and the Infrastructure Replacement Surcharge (ISRS), provide for return to customers of any amounts over- or under-collected from customers regarding the subject expenses covered by these

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mechanisms. These clauses have been enacted by the Missouri Legislature to adjust customer rates outside of a general (base) rate proceeding, which is a departure from traditional ratemaking. In its purest form, traditional cost of service ratemaking, applying the filed-rate doctrine, would exclude any type of adjustment clause that operated outside of general rate cases, as well as any form of AAO that would ultimately have a ratemaking effect, and also the numerous pension and other regulatory trackers employed by the large utilities in the state.

Q. How have other Missouri utilities addressed the DOE fees changing to zero mils per kWh?

A. Staff is aware of only one other Missouri utility that is directly responsible for the fee—Union Electric Company d/b/a Ameren Missouri. Ameren Missouri is the sole owner and operator of the Callaway Nuclear Plant in Fulton, Missouri. Ameren employees have informed Staff that Ameren Missouri intends to reflect the reduction of the DOE fees through its FAC.

Q. Does Staff know when the reduction of the DOE fees will likely be reflected in KCPL Missouri retail customer rates?

A. No, not for sure. However, KCPL filed a *Notice of Intended Case Filing* on June 25, 2014, notifying the Commission of its intent to file a general rate case no earlier than 60 days after that date. At this time, KCPL has not filed that rate case, but it is Staff's understanding that KCPL will file sometime in the 4th quarter of this year. If KCPL were to file that rate case on November 1, 2014, and if the Commission orders it to record the regulatory liability, the amount accumulated to the regulatory liability would be $3.5 million, Missouri jurisdictional, assuming the effective date of KCPL's new rates is October 1, 2015.

Q. Has KCPL estimated the financial impact of the reduction of the DOE spent nuclear fuel fees?

A. Yes. In its response to Staff Data Request 20 KCPL estimated its cost savings to be approximately $1.6 million for 2014 and approximately $2.3 million each year for 2015 and 2016. This data request response is attached as Schedule KM-4.

The difference between Staff's and KCPL's quantifications of the DOE spent nuclear fuel fees is Staff's number is the difference between the amount paid in rates and the actual amount paid to DOE beginning May 16 ($0), whereas KCPL's number is an estimate of what would have been paid to the DOE if the fee was still in effect. Staff is requesting the Commission require KCPL to calculate the amounts that are in Missouri rates that would have been paid for the DOE spent nuclear fuel fees but are no longer required to be paid starting on May 16, 2014.

Q. Would you summarize Staff's request?

A. Staff is requesting that the Commission to order KCPL to record in a new regulatory liability subaccount in **FERC Account 254— Other Regulatory Liabilities** labeled "**KCPL – MO DOE Fees Regulatory Liability**" for the amount of $7,019 for each day after May 15, 2014, for the amount KCPL is recovering in Missouri retail customer rates for the DOE Nuclear Waste Fund fees. This liability would be addressed in a future KCPL general rate proceeding. Staff recommends that the Commission order KCPL to begin recording into this liability subaccount prior to when KCPL closes its 2014 books in the first quarter of 2015—on or about the end of February 2015—in order to preserve a more accurate presentation of KCPL's books and records.

Alternatively, another approach would be to calculate the amount that of the DOE fees that would have been paid by KCPL had the DOE fee not been discontinued. In essence, this would require KCPL to calculate on a monthly basis what the DOE fee would be had it continued to be paid.

Staff's request is based upon fundamental fairness, and the need to maintain consistency and symmetry in the ratemaking process by recognizing that cost reductions due to extraordinary events are just as important cost increases due to extraordinary events.

Q. Does that conclude your direct testimony?

A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

Staff of the Public Service Commission of the State of Missouri,	)	File No. EU-2015-_____
Petitioner,	)	
v.	)	
Kansas City Power & Light Company,	)	
Respondent.	)	

AFFIDAVIT OF KEITH MAJORS

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

Keith Majors, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Direct Testimony in question and answer form, consisting of 18 pages to be presented in the above case; that the answers in the foregoing Direct Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

Keith Majors

Subscribed and sworn to before me this 8th day of October, 2014.

Notary Public

NOTARY PUBLIC NOTARY SEAL STATE OF MISSOURI

TAMMY MORALES
My Commission Expires
January 7, 2018
Clay County
Commission #14451086

Keith Majors
SUMMARY OF CASE PARTICIPATION

Case Name	Case Number	Issues	Exhibit
Veolia Kansas City	HR-2014-0066	Income Taxes, Revenues, Corporate Allocations	Staff Report
Missouri Gas Energy	GR-2014-0007	Corporate Allocations, Pension & OPEB, Incentive Compensation, Income Taxes	Staff Report, Rebuttal, Surrebuttal
Missouri Gas Energy ISRS	GO-2013-0391		Staff Memorandum
KCP&L & KCP&L GMO	ER-2012-0174 & ER-2012-0175	Acquisition Transition Costs, Fuel, Legal and Rate Case Expense	Staff Report, Rebuttal, Surrebuttal
Missouri Gas Energy ISRS	GO-2011-0269		Staff Memorandum
Noel Water Sale Case	WO-2011-0328		Staff Recommendation
KCP&L & KCP&L GMO	ER-2010-0355 & ER-2010-0356	Acquisition Transition Costs, Rate Case Expense	Staff Report, Rebuttal, Surrebuttal
KCP&L Construction Audit & Prudence Review	EO-2010-0259	AFUDC, Property Taxes	Staff Report
KCP&L, KCP&L GMO, & KCP&L GMO – Steam	ER-2009-0089, ER-2009-0090, & HR-2009-0092	Payroll, Employee Benefits, Incentive Compensation	Staff Report, Rebuttal, Surrebuttal
Trigen Kansas City	HR-2008-0300	Fuel Inventories, Rate Base Items, Rate Case Expense, Maintenance	Staff Report
Spokane Highlands Water Company	WR-2008-0314	Plant, CIAC	Staff Recommendation
Missouri Gas Energy ISRS	GO-2008-0113		Staff Memorandum

SCHEDULE KM-2

HAS BEEN DEEMED

HIGHLY CONFIDENTIAL

IN ITS ENTIRETY

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

Argued September 25, 2013 Decided November 19, 2013

No. 11-1066

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS,
PETITIONER

v.

UNITED STATES DEPARTMENT OF ENERGY,
RESPONDENT

Consolidated with 11-1068

On Petitions for Review of Final Actions or
Failures to Act by the United States Department of Energy

Jay E. Silberg argued the cause for petitioner. With him on the briefs were *Timothy J.V. Walsh, James Bradford Ramsay, Holly Rachel Smith*, and *Anne W. Cottingham*.

Joseph A. McGlothlin, Cynthia B. Miller, and *Richard C. Bellak* were on the brief for amici curiae Florida Public Service Commission, et al., in support of petitioners.

Allison Kidd-Miller, Senior Trial Counsel, U.S. Department of Justice, argued the cause for respondent. With her on the brief

were *Stuart F. Delery*, Acting Assistant Attorney General, and *Jeanne E. Davidson*, Director.

Before: BROWN, *Circuit Judge*, and SILBERMAN and SENTELLE, *Senior Circuit Judges*.

Opinion for the Court filed by *Senior Circuit Judge* SILBERMAN.

SILBERMAN, *Senior Circuit Judge*: Petitioners, a group of nuclear power plant operators, appear again before us to claim, essentially, that so long as the government has no viable alternative to Yucca Mountain as a depository for nuclear waste they should not be charged an annual fee to cover the cost of that disposal. We agree.

I.

Last year we decided that the Secretary of Energy had not complied with his statutory obligation to determine annually the adequacy of the fee petitioners pay to the government. *Nat'l Ass'n of Regulatory Util. Comm'rs v. U.S. Dep't of Energy*, 680 F.3d 819 (D.C. Cir. 2012). We rejected the government's argument that the Secretary was not obliged to determine the fee's adequacy unless someone (a "deus ex machina"?) brought to the Secretary evidence that the fee was excessive or inadequate. *Id.* at 824. We held that the Secretary had an affirmative obligation to examine the facts himself and come to a determination as to the adequacy of the fee.

We noted also that the Department of Energy's opinion had abandoned, without explanation, its previous policy of producing sophisticated analyses of potential costs. It had ignored the enormous amount of interest – $1.3 billion – accruing annually in the fund built up by previous assessments,

and it had not excluded costs already paid and costs associated with the disposition of defense-related waste for which the generators are not responsible. And we thought that using Yucca Mountain's depository cost as a proxy was unreasonable because the government had abandoned that program. But the key defect in the government's position was its failure to make the statutorily required determination as to whether the fee was adequate. We remanded to the Secretary with instructions to conduct a new fee assessment within six months; the panel retained jurisdiction to expedite any further review.

II.

On remand the Department has again declined to reach the statutorily required determination. Instead, we are presented with an opinion of the Secretary that sets forth an enormous range of possible costs. According to the Secretary, the final balance of the fund to be used to pay the costs of disposal could be somewhere between a $2 trillion deficit and a $4.9 trillion surplus. This range is so large as to be absolutely useless as an analytical technique to be employed to determine – as the Secretary is obligated to do – the adequacy of the annual fees paid by petitioners, which would appear to be its purpose. (This presentation reminds us of the lawyer's song in the musical, "Chicago," – "Give them the old razzle dazzle.") Thus, the Secretary claims that the range is so great he cannot determine whether the fees are inadequate or excessive, which is essentially the same position we rejected only last year as in derogation of his responsibility under the statute. The Secretary may not comply with his statutory obligation by "concluding" that a conclusion is impossible. *See Pub. Citizen v. Fed. Motor Carrier Safety*, 374 F.3d 1209, 1221 (D.C. Cir. 2004) ("[R]egulation would be at an end if uncertainty alone were an excuse to ignore a congressional command to 'deal with' a

particular regulatory issue."); *Consolidated Edison Co. of N.Y., v. U.S. Dep't of Energy*, 870 F.2d 694, 698 (D.C. Cir. 1989).

The Secretary's position – his "non determination" – is purportedly predicated on a Departmental report issued in 2011 termed a "Strategy for the Management and Disposal of Used Nuclear Fuel and High-Level Radioactive Waste." Even if that so-called strategy led to a statutorily required determination, it would still be problematic because, as petitioners point out, the strategy is based on assumptions directly contrary to law.

Most glaring is the conflict between the statutory requirement that sites other than Yucca Mountain cannot even be considered as an alternative to Yucca Mountain, 42 U.S.C. § 10172, and the "strategy's" assumption that whatever site is chosen, it will *not* be Yucca Mountain. The other conflicts are related to this prime conflict. The "strategy" suggests that a temporary storage facility might be operational by 2025 and that the temporary facility could be constructed *without* NRC first issuing a license for the construction of a permanent facility. But the statute requires that precondition. The statute is obviously designed to prevent the Department from delaying the construction of Yucca Mountain as the permanent facility while using temporary facilities. 42 U.S.C. § 10168(d)(1). Finally – and this is quite revealing – the strategy assumes that the Department would be required to obtain the consent of the jurisdiction where the permanent depository is to be sited. That is, of course, reflective of the political considerations the Department faces but, unfortunately, it is directly contrary to the statute, which explicitly allows Congress to override a host state's disapproval. 42 U.S.C. § 10135; *accord In re Aiken Cnty.*, 725 F.3d 255, 260 (D.C. Cir. 2013) ("[A]n agency may not rely on political guesswork about future congressional appropriations as a basis for violating existing legal mandates."). Finally, the strategy projects completion of a permanent

depository (located somewhere) not until 2048, in contrast to the statute, which directed completion by 1998. 42 U.S.C. § 10222(a)(5)(B). That is truly "pie in the sky."

In response to petitioners' argument – that a position predicated on a policy that so palpably rejects current law cannot be in accordance with the Secretary's obligation, even if it does lead to a specific determination – the government responds that some of the Secretary's previous determinations had also assumed statutory changes. That is so, but even assuming those prior determinations were legal, it is one thing to anticipate minor statutory additions to fill gaps, and quite another to proceed on the premise of a wholesale reversal of a statutory scheme. The latter is flatly unreasonable.

The government claims it is put in a catch-22 position because our prior opinion said it was unreasonable for the Department to use Yucca Mountain as a proxy to estimate disposal costs, and petitioners now argue that the government cannot assume a hypothetical non-Yucca Mountain depository. But the government's problem is of its own making. It certainly could have used Yucca Mountain's costs if it were still pursuing that site, but it cannot have it both ways. It cannot renounce Yucca Mountain and then reasonably use its costs as a proxy. The government was hoist on its own petard. And it does not follow that the corollary to our previous opinion is that the government can now use non-Yucca Mountain assumptions that are contrary to the statutory scheme.

In our last opinion we noted accounting defects in the Secretary's prior determination that have now been remedied. Specifically, the Department now takes into account the interest accruing on the enormous sums that have already been paid. The Department deducts costs already expended and excludes costs for disposal of defense-related waste for which petitioners are

not responsible. But these are truly peripheral issues; the key defect in the government's position is that the Secretary still declines to carry out his basic statutory obligation.

* * * *

The government asks us, if we conclude the Department's latest position is contrary to law, to, once again, remand rather than order the Secretary to suspend the fee. But the Secretary's position is so obviously disingenuous that we have no confidence that another remand would serve any purpose. As we noted, we are not unaware of the political dilemma in which the Department is placed. But until the Department comes to some conclusion as to how nuclear wastes are to be deposited permanently,[1] it seems quite unfair to force petitioners to pay fees for a hypothetical option, the costs of which might well – the government apparently has no idea – be already covered.

To be sure, as the government contends, if the present fee is suspended, that could mean that the costs of nuclear waste disposal would be transferred to future rate payers. But that possibility is inherent in the statutory scheme which obliges the Secretary to make the annual fee determination. "Intergenerational equity" is implicated any time the fee is adjusted.

Finally, the government argues that we should not order the fee set to zero because petitioners are already being compensated for the government's breach of its statutory and contractual duty to dispose of existing waste, through breach of contract suits in the Court of Federal Claims. The generators are

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[1] It may be that the Secretary simply cannot imagine any permanent depository other than Yucca Mountain, but if that is true the implications are obvious.

currently storing their waste at the generation facilities, and the government is compensating them for the cost of this storage. But the government's failure to dispose of prior wastes on schedule is not the legal wrong that we are remedying, and we do not base our decision on principles of contract. The issue here, rather, is the government's failure to conduct an adequate present fee assessment, as required by the statute. Our ruling here does not provide petitioners with any form of compensation, nor does it relieve them of their obligation to *ultimately* pay for the cost of their waste disposal. When the Secretary is again able to conduct a sufficient assessment, either because the Yucca Mountain project is revived, or because Congress enacts an alternative plan, then payments will resume (assuming that some future determination concludes that further fees are necessary).

III.

Because the Secretary is apparently unable to conduct a legally adequate fee assessment, the Secretary is ordered to submit to Congress a proposal to change the fee to zero until such a time as either the Secretary chooses to comply with the Act as it is currently written, or until Congress enacts an alternative waste management plan.

So ordered.

Missouri Public Service Commission

Respond Data Request

Data Request No.	0020
Company Name	Kansas City Power & Light Company-Investor(Electric)
Case/Tracking No.	EU-2014-0255
Date Requested	7/8/2014
Issue	Expense - Operations - Waste Disposal
Requested From	Lois J Liechti
Requested By	Nathan Williams
Brief Description	DOE Nuclear Waste Fund
Description	A) Has KCPL (through Wolf Creek Nuclear Operating Company) been relieved from making contributions to the Department of Energy (DOE) Nuclear Waste Fund? If not, please explain. B) If KCPL is relieved from making contributions, identify the date KCPL stopped paying contributions. C) Identify the savings KCPL will realize because of this reduction of expense for 2014, 2015, and 2016. Identify the amounts paid in 2012 and 2013. D) Identify if and when KCPL expects any prior contributions to the Nuclear Waste Fund to be refunded and the amount of the refunds. E) If KCPL does not currently make contributions to the Nuclear Waste Fund, does KCPL anticipate making these contributions in the future? If so, identify when the payments will resume. Data Request submitted by Keith Majors (keith.majors@psc.mo.gov)
Response	Please see attached.
Objections	NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **EU-2014-0255** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Kansas City Power & Light Company-Investor(Electric)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Kansas City Power & Light Company-Investor(Electric)** and its employees, contractors, agents or others employed by or acting in its behalf.

Security :	Public
Rationale :	NA

Schedule KM-4 (Page 1 of 5)

Company Name: KCPL

Case Description: KCPL - AAO

Case: EU-2014-0255

Response to Williams Nathan Interrogatories – Set MPSC_20140708

Date of Response: 07/28/2014

Question No. :0020

A) Has KCPL (through Wolf Creek Nuclear Operating Company) been relieved from making contributions to the Department of Energy (DOE) Nuclear Waste Fund? If not, please explain. B) If KCPL is relieved from making contributions, identify the date KCPL stopped paying contributions. C) Identify the savings KCPL will realize because of this reduction of expense for 2014, 2015, and 2016. Identify the amounts paid in 2012 and 2013. D) Identify if and when KCPL expects any prior contributions to the Nuclear Waste Fund to be refunded and the amount of the refunds. E) If KCPL does not currently make contributions to the Nuclear Waste Fund, does KCPL anticipate making these contributions in the future? If so, identify when the payments will resume. Data Request submitted by Keith Majors (keith.majors@psc.mo.gov)

RESPONSE: (do not edi

t or delete this line or anything above this)

A) Yes. Effective May 16, 2014 the Department of Energy set the Nuclear Fuel Disposal Fee to zero.

B) May 16, 2014

C) KCPL estimates that the reduction of expense for the Missouri jurisdictional share would be $1.6 million for 2014 and $2.3 million for each of 2015 and 2016. The Missouri jurisdictional share of the amounts paid were $2.0 million in 2012 and $1.7 million in 2013.

D) KCPL is not expecting prior contributions to the Nuclear Waste Fund to be refunded.

E) KCPL cannot predict if or when the Department of Energy would set the Nuclear Fuel Disposal Fee to an amount greater than zero.

Attachment: Q0020_Verification.pdf

Verification of Response

Kansas City Power & Light Company
AND
KCP&L Greater Missouri Operations

Docket No. ER-2010-0355

The response to Data Request #____0020_____ is true and accurate to the best of my knowledge and belief.

Signed: Tim Rush

Date: July 28, 2014

(A) The determination of a regulated electric corporation's cost in this section is defined in subsection (1)(D) of this rule.

(4) A regulated electric corporation may not use or allow any affiliated entity or utility contractor to use the name of such regulated electric corporation to engage in HVAC services unless the regulated electric corporation, affiliated entity or utility contractor discloses, in plain view and in bold type on the same page as the name is used on all advertisements or in plain audible language during all solicitations of such services, a disclaimer that states the services provided are not regulated by the commission.

(5) A regulated electric corporation may not engage in or assist any affiliated entity or utility contractor in engaging in HVAC services in a manner which subsidizes the activities of such regulated electric corporation, affiliated entity or utility contractor to the extent of changing the rates or charges for the regulated electric corporation's services above or below the rates or charges that would be in effect if the regulated electric corporation were not engaged in or assisting any affiliated entity or utility contractor in engaging in such activities.

(6) Any affiliated entities or utility contractors engaged in HVAC services shall maintain accounts, books and records separate and distinct from the regulated electric corporation.

(7) The provisions of this rule shall apply to any affiliated entity or utility contractor engaged in HVAC services that is owned, controlled or under common control with a regulated electric corporation providing regulated services in the state of Missouri or any other state.

(8) A regulated electric corporation engaging in HVAC services in the state of Missouri five (5) years prior to August 28, 1998, may continue providing, to existing as well as new customers, the same type of services as those provided by the regulated electric corporation five (5) years prior to August 28, 1998.

(A) To qualify for this exemption, the regulated electric corporation shall file a pleading before the commission for approval.

1. The commission may establish a case to determine if the regulated electric corporation qualifies for an exemption under this rule.

(9) The provisions of this section shall not be construed to prohibit a regulated electric corporation from providing emergency service, providing any service required by law or providing a program pursuant to an existing tariff, rule or order of the commission.

AUTHORITY: sections 386.760.1, RSMo Supp. 1998 and 393.140, RSMo 1994. Original rule filed Dec. 17, 1998, effective Aug. 30, 1999.*

**Original authority: 386.760.1, RSMo 1998 and 393.140, RSMo 1939, amended 1949, 1967.*

4 CSR 240-20.020 Residential Electric Underground Distribution Systems
(Rescinded August 15, 1983)

AUTHORITY: section 386.310, RSMo 1978. Original rule filed June 28, 1971, effective July 14, 1971. Amended: Filed Oct. 26, 1971, effective Nov. 4, 1971. Amended: Filed May 27, 1975, effective June 6, 1975. Rescinded: Filed Jan. 12, 1983, effective Aug. 15, 1983.

4 CSR 240-20.030 Uniform System of Accounts—Electrical Corporations

PURPOSE: This rule directs electrical corporations within the commission's jurisdiction to use the uniform system of accounts prescribed by the Federal Energy Regulatory Commission for major electric utilities and licensees, as modified herein. Requirements regarding the submission of depreciation studies, databases and property unit catalogs are found at 4 CSR 240-3.160 and 4 CSR 240-3.175.

(1) Beginning January 1, 1994, every electrical corporation subject to the commission's jurisdiction shall keep all accounts in conformity with the Uniform System of Accounts Prescribed for Public Utilities and Licensees subject to the provisions of the Federal Power Act, as prescribed by the Federal Energy Regulatory Commission (FERC) and published at 18 CFR Part 101 (1992) and 1 FERC Stat. & Regs. paragraph 15,001 and following (1992), except as otherwise provided in this rule. This uniform system of accounts provides instruction for recording financial information about electric utilities. It contains definitions, general instructions, electric plant instructions, operating expense instructions, and accounts that comprise the balance sheet, electric plant, income, operating revenues, and operation and maintenance expenses.

(2) When implementing section (1), each electrical corporation subject to the commission's jurisdiction shall—

(A) Keep its accounts in the manner and detail specified for electric utilities and licensees classified as major at Part 101 General Instructions 1.A. and paragraph 15,011.1.A.; and

(B) Assemble by July 1, 1996, and maintain after that, a property unit catalog which contains for each designated property unit, in addition to the provisions of Part 101 General Instructions 6. and paragraph 15,016—

1. A description of each unit;

2. An item list; and

3. Accounting instructions, including instructions for distinguishing between operations expense, maintenance expense and capitalized plant improvements.

(3) Regarding plant acquired or placed in service after 1993, when implementing section (1), each electrical corporation subject to the commission's jurisdiction shall—

(A) Maintain plant records of the year of each unit's retirement as part of the "continuing plant inventory records," as the term is otherwise defined at Part 101 Definitions 8. and paragraph 15,001.8.;

(B) State the detailed electric plant accounts (301 to 399, inclusive) on the basis of original cost, estimated if not known, when implementing the provisions of Part 101 Electric Plant Instructions 1.C. and paragraph 15,051.1.C.;

(C) Record electrical plant acquired as an operating unit or system at original cost, estimated if not known, except as otherwise provided by the text of the intangible plant accounts, when implementing the provisions of Part 101 Electric Plant Instructions 2.A. and paragraph 15,052.2.A.;

(D) Account for the cost of items not classified as units of property as it would account for the cost of individual items of equipment of small value or of short life, as provided in Part 101 Electric Plant Instructions 3.A.(3) and paragraph 15,053.3.A.(3);

(E) Include in equipment accounts any hand or other portable tools which are specifically designated as units of property, when implementing the provisions of Part 101 Electric Plant Instructions 9.B. and paragraph 15,059.9.B.;

(F) Use the list of retirement units contained in its property unit catalog when implementing the provisions of Part 101 Electric Plant Instructions 10.A. and paragraph 15,060.10.A.;

(G) Estimate original cost with an appropriate average of the original cost of the units by vintage year, with due allowance for any

difference in size and character, when it is impracticable to determine the original cost of each unit, when implementing the provisions of Part 101 Electric Plant Instructions 10.D. and paragraph 15,060.10.D.;

(H) Charge original cost less net salvage to account 108., when implementing the provisions of Part 101 Electric Plant Instructions 10.F. and paragraph 15,060.10.F.;

(I) Keep its work order system so as to show the nature of each addition to or retirement of electric plant by vintage year, in addition to the other requirements of Part 101 Electric Plant Instructions 11.B. and paragraph 15,061.11.B.;

(J) Maintain records which classify, for each plant account, the amounts of the annual additions and retirements so as to show the number and cost of the various record units or retirement units by vintage year, when implementing the provisions of Part 101 Electric Plant Instructions 11.C. and paragraph 15,061.11.C.;

(K) Maintain subsidiary records which separate account 108. according to primary plant accounts or subaccounts when implementing the provisions of Part 101 Balance Sheet Account 108.C. and paragraph 15,110.108.C.;

(L) Maintain subsidiary records which separate account 111. according to primary plant accounts or subaccounts when implementing the provisions of Part 101 Balance Sheet Accounts 111.C. and paragraph 15,113.111.C.; and

(M) Keep mortality records of property and property retirements as will reflect the average life of property which has been retired and will aid in estimating probable service life by actuarial analysis of annual additions and aged retirements when implementing the provisions of Part 101 Income Accounts 403.B. and paragraph 15,404.403.B.

(4) In prescribing this system of accounts, the commission does not commit itself to the approval or acceptance of any item set out in any account for the purpose of fixing rates or in determining other matters before the commission. This rule shall not be construed as waiving any recordkeeping requirement in effect prior to 1994.

(5) The commission may waive or grant a variance from the provisions of this rule, in whole or in part, for good cause shown, upon a utility's written application.

AUTHORITY: sections 386.250 and 393.140, RSMo 2000. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976. Amended: Filed Feb. 5, 1993, effective Oct. 10, 1993. Amended: Filed March 19, 1996, effective Oct. 30, 1996. Amended: Filed Aug. 16, 2002, effective April 30, 2003.*

**Original authority: 386.250, RSMo 1939, amended 1963, 1967, 1977, 1980, 1987, 1988, 1991, 1993, 1995, 1996 and 393.140, 1939, amended 1949, 1967.*

4 CSR 240-20.040 Minimum Filing Requirements

(Rescinded October 10, 1993)

AUTHORITY: section 393.140, RSMo 1986. Original rule filed Dec. 10, 1979, effective Sept. 1, 1980. Rescinded: Filed Feb. 4, 1993, effective Oct. 10, 1993.

4 CSR 240-20.050 Individual Electric Meters—When Required

PURPOSE: This rule prescribes individual metering for new multiple occupancy buildings and new mobile home parks for all electric corporations under the jurisdiction of the Public Service Commission. This rule is aimed at compliance with Sections 113(b)(1) and 115(d) of Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), PL 95-617, 16 USC 2601.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. Therefore, the material which is so incorporated is on file with the agency who filed this rule, and with the Office of the Secretary of State. Any interested person may view this material at either agency's headquarters or the same will be made available at the Office of the Secretary of State at a cost not to exceed actual cost of copy reproduction. The entire text of the rule is printed here. This note refers only to the incorporated by reference material.

(1) For the purposes of this rule—

(A) A building is defined as a single structure, roofed and enclosed within exterior walls, built for permanent use, erected, framed of component structural parts and unified in its entirety both physically and in operation for residential or commercial occupancy;

(B) Commercial adjacent buildings are defined as buildings on a contiguous plot of land owned by one (1) person, which buildings are occupied and used by one (1) person for single type of commercial operation. A person for the purpose of this definition includes any type of business entity;

(C) A commercial unit is defined as that portion of a building or premises which by appearance, design or arrangement is normally used for commercial purposes, whether or not actually so used;

(D) Construction begins when the footings are poured;

(E) A mobile home park is defined as a contiguous parcel of land which is used for the accommodation of occupied mobile homes;

(F) A multiple-occupancy building is defined as a building or premises which is designed to house more than one (1) residential or commercial unit; and

(G) A residential unit is defined as one (1) or more rooms for the use of one (1) or more persons as a housekeeping unit with space for eating, living and sleeping, and permanent provisions for cooking and sanitation.

(2) Each residential and commercial unit in a multiple-occupancy building construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each residential or commercial unit.

(3) Each mobile home unit in a mobile home park, construction of which has begun after June 1, 1981 shall have installed a separate electric meter for each mobile home unit.

(4) For the purposes of carrying out the provisions of sections (2) and (3), the following exceptions apply and separate metering will not be required:

(A) For transient multiple-occupancy buildings and transient mobile home parks—for example, hotels, motels, dormitories, rooming houses, hospitals, nursing homes, fraternities, sororities, campgrounds and mobile home parks which set aside, on a permanent basis, at least eighty percent (80%) of their mobile home pads or comparable space for use by travel trailers;

(B) Where commercial unit space is subject to alteration with change in tenants as evidenced by temporary versus permanent type of wall construction separating the commercial unit space—for example, space at a trade fair;

(C) For commercial adjacent buildings;

(D) For that portion of electricity used in central space heating, central hot water heating, central ventilating and central air-conditioning systems;

(E) For buildings or mobile home parks where alternative renewable energy resources are utilized in connection with central space