



FILED<sup>2</sup>

NOV 4 2015

Missouri Public Service Commission  
(Date File Stamp) *MA 8:36am*

**Missouri Public Service Commission**

Judge or Division:	Appellate Number:	
Appellant: The Office of the Public Counsel		Missouri Public Service Commission File Number: ER-2014-0370

vs.

Respondent:  
The Missouri Public Service Commission

**Notice of Appeal**

Notice is given that The Office of the Public Counsel appeals to the Missouri Court of Appeals  Western  Eastern  Southern District.

11/4/15  
Date Notice of Appeal  
(to be filled in by Secretary of Commission)

*[Signature]*  
Filed Signature of Attorney or Appellant

The notice of appeal shall include the appellant's application for rehearing, a copy of the reconciliation required by subsection 4 of section 386.420, a concise statement of the issues being appealed, a full and complete list of the parties to the commission proceeding, and any other information specified by the rules of the court. The appellant(s) must file the original and (2) two copies and pay the docket fee required by court rule to the Secretary of the Commission within the time specified by law. Please make checks or money orders payable to the Missouri Court of Appeals. At the same time, Appellant must serve a copy of the Notice of Appeal on attorneys of record of all parties other than appellant(s), and on all parties not represented by an attorney.

**CASE INFORMATION**

Appellant Attorney / Bar Number: Dustin Allison #54013 & Marc Poston #45722		Respondent's Attorney / Bar Number: Shelley Brueggemann #52173	
Address: 200 Madison Street, Suite 650 PO Box 2230 Jefferson City, MO 65102		Address: 200 Madison Street, Suite 800 PO Box 360 Jefferson City, MO 65102	
Telephone: 573-751-4857	Fax: 573-751-5562	Telephone: 573-751-7393	Fax: 573-522-4016
Date of Commission Decision: 09/02/2015	Date of Application for Rehearing Filed: 09/11/2015	Date Application for Rehearing Ruled On: 10/22/2015	

**DIRECTIONS TO COMMISSION**

A copy of the notice of appeal and the docket fee shall be mailed to the clerk of the appellate court. Unless otherwise ordered by the court of appeals, the commission shall, within thirty days of the filing of the notice of appeal, certify its record in the case to the court of appeals.

**Certificate of Service**

I certify that on 11/4/2015, I served a copy of the notice of appeal on the following parties, at the following address(es), by the method of service indicated.

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Appellant or Attorney for Appellant

**FORM 1. CIVIL CASE INFORMATION FORM SUPPLEMENT**

MISSOURI COURT OF APPEALS  
WESTERN DISTRICT

No. WD \_\_\_\_\_

The Office of the Public Counsel,  
Petitioner/Appellant

Dustin Allison, MBN 54013  
Marc Poston, MBN 45722  
P.O. Box 2230  
Jefferson City, MO 65102

vs.

Missouri Public Service Commission  
Defendant/Respondent

Shelly Brueggemann, MBN 52173  
P.O. Box 360  
Jefferson City, MO 65102

Date Notice filed with the Public Service Commission November 4, 2015

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The Record on Appeal will consist of a Legal File Only. (This will include records filed pursuant to Rules 81.13 and 81.16)

FACTUAL BACKGROUND: (Events Giving Rise to Cause of Action)

Judicial Review of the Missouri Public Service Commission's September 2, 2015 *Report and Order* issued in Case Number ER-2014-0370, In the Matter of Kansas City Power & Light Company's Request for Authority to Implement a General Rate Increase for Electric Service

ISSUE(S): (Anticipated to be Presented by the Appeal; Appellant is Not Bound by this Designation)

OPC challenges the lawfulness and reasonableness of the Public Service Commission's findings and conclusions issued in its September 2, 2015 *Report and Order* issued in Case Number ER-2014-0370.

## LIST OF PARTIES TO THE COMMISSION PROCEEDING

(As required by § 386.510 RSMo)

The following parties participated in Public Service Commission Case Number ER-2014-0370:

<p><b>Kansas City Power &amp; Light Company:</b></p> <p>Robert Hack, MBN 36496 1200 Main, 16th Floor P.O. Box 418679 Kansas City, MO 64141-9679 rob.hack@kcpl.com</p> <p>Attorney for Kansas City Power &amp; Light Company</p>	<p><b>Office of the Public Counsel:</b></p> <p>Dustin J. Allison, MBN 54013 P O Box 2230 Jefferson City, MO 65102 (573) 751-4857 (573) 751-5562 (Fax) Dustin.Allison@ded.mo.gov</p> <p>Attorney for the Office of the Public Counsel</p>
<p><b>Public Service Commission Staff:</b></p> <p>Nathan Williams, MBN 35512 200 Madison Street, Suite 800 P.O. Box 360 Jefferson City, MO 65102 Nathan.Williams@psc.mo.gov</p> <p>Attorney for the Staff of the Missouri Public Service Commission</p>	<p><b>Sierra Club:</b></p> <p>Henry B Robertson, MBN 29502 319 N. Fourth St., Suite 800 St. Louis, MO 63102 hrobertson@greatriverslaw.org</p> <p>Attorney for Sierra Club</p>
<p><b>Union Electric Company:</b></p> <p>Wendy Tatro, MBN 60261 1901 Chouteau Avenue St. Louis, MO 63103-6149 AmerenMOService@ameren.com</p> <p>Attorney for Union Electric Company</p>	<p><b>United States Department of Energy:</b></p> <p>Robert E Sauls, MBN 61466 625 East 26th St Kansas City, MO 64108</p> <p>Attorney for the United States Department of Energy</p>
<p><b>Brightergy, LLC:</b></p> <p>Andrew Zellers, MBN 57884 1712 Main Street, 6th Floor Kansas City, MO 64108 andyzellers@brightergy.com</p> <p>Attorney for Brightergy, LLC</p>	<p><b>City of Kansas City, Missouri:</b></p> <p>Mark W Comley, MBN 28847 601 Monroe Street., Suite 301 Jefferson City, MO 65102-0537 comleym@ncrpc.com</p> <p>Attorney for the City of Kansas City, Missouri</p>

<p><b>Consumers Council of Missouri:</b></p> <p>John B Coffman, MBN 36591 871 Tuxedo Blvd. St. Louis, MO 63119-2044 john@johncoffman.net</p> <p>Attorney for Consumers Council of Missouri</p>	<p><b>Federal Executive Agencies:</b></p> <p>Robert E Sauls, MBN 61466 625 East 26th St Kansas City, MO 64108</p> <p>Attorney for Federal Executive Agencies</p>
<p><b>IBEW Local Union 1464:</b></p> <p>Michael E Amash, MBN 58478 753 State Ave, Suite 475 Kansas City, KS 66101 mea@blake-uhlig.com</p> <p>Attorney for IBEW Local Union 1464</p>	<p><b>IBEW Local Union 1613:</b></p> <p>Michael E Amash, MBN 58478 753 State Ave, Suite 475 Kansas City, KS 66101 mea@blake-uhlig.com</p> <p>Attorney for IBEW Local Union 1613</p>
<p><b>IBEW Local Union 412:</b></p> <p>Michael E Amash, MBN 58478 753 State Ave, Suite 475 Kansas City, KS 66101 mea@blake-uhlig.com</p> <p>Attorney for IBEW Local Union 412</p>	<p><b>Midwest Energy Consumers Group:</b></p> <p>David Woodsmall, MBN 40747 807 Winston Court Jefferson City, MO 65101 david.woodsmall@woodsmallllaw.com</p> <p>Attorney for Midwest Energy Consumers Group</p>
<p><b>Missouri Division of Energy:</b></p> <p>Alexander Antal, MBN 65487 301 West High St. P.O. Box 1157 Jefferson City, MO 65102 Alexander.Antal@ded.mo.gov</p> <p>Attorney for the Missouri Division of Energy</p>	<p><b>Missouri Gas Energy (Laclede):</b></p> <p>Rick E Zucker, MBN 49211 700 Market Street, 6th Floor St. Louis, MO 63101 rick.zucker@thelacledegroupp.com</p> <p>Attorney for Missouri Gas Energy (Laclede)</p>
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## STATEMENT OF THE ISSUES

(As required by § 386.510 RSMo)

Appellant Public Counsel will raise the following issues on appeal:

OPC challenges the lawfulness and reasonableness of the Public Service Commission's findings and conclusions issued in its September 2, 2015 Report and Order issued in Case Number ER-2014-0370 regarding:

- (1) the lawfulness and reasonableness of the Report and Order's findings and conclusions regarding Kansas City Power & Light's (KCPL) request for a fuel adjustment clause;
- (2) the lawfulness and reasonableness of the Report and Order's findings and conclusions regarding the rate case expense to be recovered in rates;
- (3) the lawfulness and reasonableness of the Report and Order's findings and conclusions regarding the decision to approve an increase to KCPL's residential customer charge; and
- (4) the lawfulness and the reasonableness of the Report and Order's findings and conclusions regarding the decision to approve a return on equity for KCPL of 9.5%.

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Kansas City Power & Light            )  
Company's Request for Authority to Implement        )  
A General Rate Increase for Electric Service        )        Case No. ER-2014-0370

**PUBLIC COUNSEL'S APPLICATION FOR REHEARING**

COMES NOW the Office of the Public Counsel ("Public Counsel"), and for its Application for Rehearing, respectfully requests rehearing of the Commission's September 2, 2015 Report and Order ("Order") as follows:

1. Public Counsel seeks rehearing of the Order's findings of fact and conclusions of law regarding Kansas City Power & Light's ("KCPL") request for a fuel adjustment clause ("FAC"). The Order's findings and conclusions, that KCPL's request for an FAC did not violate the terms of the 2005 Stipulation, is unlawful and unreasonable. The plain and ordinary meaning of the limitation agreed to by the parties and ordered by the Commission prohibited KCPL from requesting an FAC prior to June 1, 2015.

2. The Order unlawfully and unreasonably concludes that even if KCPL was bound by the 2005 Stipulation, the agreement is to be disregarded for public policy reasons and its terms not followed.

3. The Commission's Order is in error in that its finding that KCPL's fuel, purchased power and transmission costs have increased substantially, resulting in KCPL's inability to earn its authorized return on equity, is unreasonable in that it is not supported by competent and substantial evidence, it is contrary to the weight of the evidence, and is otherwise arbitrary, capricious and constitutes an abuse of the Commission's discretion. The Order relies



upon these findings to conclude that even if the 2005 Stipulation prohibited KCPL from requesting an FAC, “public policy and public interest” reasons support approval because “KCPL’s costs related to fuel, purchased power, and transmission have all increased substantially while actual revenues have decreased, resulting in KCPL’s inability to earn its authorized return on equity.” The overwhelming weight of the evidence shows that the fuel, purchased power and transmission costs approved for recovery through the FAC have not increased substantially; and the reasons KCPL earned below its authorized return on equity were due primarily to factors other than the fuel, purchased power, and transmission costs the Order approved for FAC recovery. Accordingly, the Order is unreasonable and this matter should be reheard.

4. The Order is unlawful because it violates Commission rule 4 CSR 240-20.090(2)(C) in that, when considering which cost components to include in the FAC, the Commission did not consider “the magnitude of the costs, the ability of the utility to manage the costs, the volatility of the cost component and the incentive provided to the utility as a result of the inclusion or exclusion of the cost component.” To the extent these considerations were addressed by the Commission, the conclusions contained in the Order are unreasonable in that they are not supported by competent and substantial evidence, they are contrary to the weight of the evidence, and they are otherwise arbitrary, capricious, and are an abuse of the Commission’s discretion.

5. The Order is unlawful and unreasonable in that the Commission’s decision to set a return on equity (ROE) of 9.5% did not consider the reduced risk that will occur by allowing KCP&L to levy a new surcharge on customer bills to ensure recovery of 95% of fuel, purchased power, and transportation costs incurred between rate cases.

6. The Order unlawfully and unreasonably based rate case expense on the percentage of requested revenue that KCPL was granted by the Commission. This decision failed to consider that a substantial portion of this case involved litigation of issues that did not impact KCPL's revenue requirement and afforded no benefit to the public.

7. The Order is unlawful and unreasonable in that it raised the residential customer charge from \$9.00 to \$11.88, despite concluding just four months earlier in the Ameren Missouri rate case that raising the customer charge from \$8.00 to \$8.50 is contrary to the public interest because, "Residential customers should have as much control over the amount of their bill as possible so that they can reduce their monthly expenses by using less power, either for economic reasons or because of a general desire to conserve energy" (Case No. ER-2014-0258, Report and Order, p.76) .

WHEREFORE, the Office of the Public Counsel respectfully requests rehearing on these matters pursuant to Mo. Rev. Stat. § 386.500 (2000).

By: /s/ Marc D. Poston  
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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all counsel of record this 11<sup>th</sup> day of September 2015.

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/s/ Marc D. Poston

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI**

In the Matter of Kansas City Power & Light                    )  
Company's Request for Authority to Implement            )  
A General Rate Increase for Electric Service            )        Case No. ER-2014-0370

**KANSAS CITY POWER & LIGHT COMPANY'S  
MOTION TO APPROVE RECONCILIATION**

COMES NOW Kansas City Power & Light Company ("KCP&L" or the "Company"), by and through counsel and, pursuant to Section 386.420.4, RSMo. (Cum. Supp. 2011), hereby files this Motion to Approve Reconciliation. In support thereof, the Company states as follows:

1. On September 2, 2015, the Commission issued its Report and Order in this proceeding authorizing KCP&L to increase rates to permit it to collect an additional amount of approximately \$89.7 million from its Missouri electric customers.

2. Pursuant to certain provisions of Section 386.420.4 RSMo., the Commission is required as part of a rate case such as this one to approve a reconciliation, "sufficient to permit a reviewing court and the commission on remand from a reviewing court to determine how the public utility's rates and charges, including the rates and charges for each customer class, would need to be temporarily and, if applicable, permanently adjusted to provide customers or the public utility with any monetary relief that may be due ...." The Commission is required to afford the parties to the case a reasonable opportunity to provide written input prior to approving the reconciliation.

3. In consultation with other parties, the Company has prepared a reconciliation addressing the monetary impact of issues raised in the various applications for rehearing, attached hereto as Exhibit A, which it believes satisfies the requirements of Section 386.420.4 RSMo.

4. KCP&L notes that in preparing and proposing the attached reconciliation for the Commission's approval, neither KCP&L nor any other party nor the Commission itself should be deemed as taking any position regarding what monetary relief may be due upon the issuance of a final non-appealable order resolving this proceeding. KCP&L therefore suggests that in its order approving the attached reconciliation, the Commission so indicate.

5. Counsel for the Midwest Energy Consumers Group ("MECG") has authorized undersigned counsel to represent that MECG has no objection to the contents of this pleading.

**WHEREFORE**, KCP&L respectfully requests that after providing the other parties a reasonable opportunity to provide input, the Commission approve this reconciliation.

Respectfully submitted,

*/s/ Robert J. Hack*

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**Attorneys for Kansas City Power & Light Company**

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 8<sup>th</sup> day of October, 2015.

*/s/ Robert J. Hack*

Robert J. Hack

**Kansas City Power & Light**  
**MPSC Case No. ER-2014-0370**  
**Reconciliation of Issues Decided by the Commission**  
**Revenue Requirement Impact**

	<b>Revenue Requirement Change From Order</b>
<b>ROE:</b>	
9.50% Per order	
9.10% Per MIEC/MECG	(\$8,400,218)
10.30% Per KCP&L	\$16,713,621
(Note: A 10 basis point change in ROE equates to \$2.1M in RR)	
<b>Rate Case Expense:</b>	
Per OPC	(\$145,891)
Per KCP&L	\$90,888
<b>Net Operating Losses:</b>	
Per MECG	(\$726,938)
<b>Expiring KMEA Contracts:</b>	
Per MECG	(\$814,083)
<b>SPP Transmission Expense Including IPL - Forecast:</b>	
Per KCP&L	\$5,000,000 (1)
<b>CIP/Cybersecurity O&amp;M Expense - Forecast:</b>	
Per KCP&L	\$3,500,000 (2)
<b>Property Tax Expense - Forecast:</b>	
Per KCP&L	\$5,600,000 (3)

(1) Although approval of a Fuel Adjustment Clause (FAC) for 95% of Southwest Power Pool (SPP) transmission expenses or a tracker for such expenses would not have impacted the level of rates set by the Report and Order, such approval would have affected future rates. Because KCP&L will record the level of SPP transmission expenses actually incurred during the period when the rates set by the Report and Order are in effect, and pending Commission decision on other aspects of this tracker/FAC issue, the impact of this aspect of the Report and Order will be available in the future.

(2) Although approval of a tracker for Critical Infrastructure Protection (CIP) and Cyber-security Operations & Maintenance (O&M) expenses would not have impacted the level of rates set by the Report and Order, such approval would have affected future rates. Because KCP&L will record the level of CIP/Cyber-security O&M expenses actually incurred during the period when the rates set by the Report and Order are in effect, and pending Commission decision on other aspects of this tracker issue, the impact of this aspect of the Report and Order will be available in the future.

(3) Although approval of a tracker for property tax expenses would not have impacted the level of rates set by the Report and Order, such approval would have affected future rates. Because KCP&L will record the level of property tax expenses actually incurred during the period when the rates set by the Report and Order are in effect, and pending Commission decision on other aspects of this tracker issue, the impact of this aspect of the Report and Order will be available in the future.

**Fuel Adjustment Clause:** Although approval of a FAC did not impact the level of rates set by the Report and Order, such approval will affect future rates. KCP&L will track and record (a) amounts billed to customers under the FAC and (b) amounts credited to customers under the FAC. The impact of this aspect of the Report and Order will therefore be available in the future.

**Commission's Order Regarding Compliance Tariff Sheets:** Although the Order Regarding Compliance Tariff Sheets did not impact the level of rates set by the Report and Order, the Commission's Order Regarding Compliance Tariff Sheets implemented an annual rate increase of \$89,671,644 (approximately \$245,676 per day on average) for service rendered on and after September 29, 2015.



**Kansas City Power & Light**  
**MPSC Case No. ER-2014-0370**  
**Reconciliation of Issues Decided by the Commission**  
**Revenue Requirement Impact**

Issue: ROE - 9.10% Per MIEC/MECG  
Value: (\$8,400,218)

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ (1,488,394)	-0.985%
LARGE GEN SVC TOTAL	\$ (1,952,929)	-0.985%
MEDIUM GEN SVC TOTAL	\$ (1,138,493)	-0.986%
SMALL GEN SVC TOTAL	\$ (543,718)	-0.986%
RESIDENTIAL TOTAL	\$ (3,169,639)	-0.986%
LIGHTING TOTAL:	\$ (107,046)	-0.986%
<b>TOTAL</b>	<b>\$ (8,400,218)</b>	<b>-0.986%</b>

Issue: ROE - 10.30% Per KCP&L  
Value: \$16,713,621

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ 2,961,405	1.960%
LARGE GEN SVC TOTAL	\$ 3,885,674	1.960%
MEDIUM GEN SVC TOTAL	\$ 2,265,219	1.963%
SMALL GEN SVC TOTAL	\$ 1,081,816	1.963%
RESIDENTIAL TOTAL	\$ 6,306,521	1.963%
LIGHTING TOTAL:	\$ 212,985	1.963%
<b>TOTAL</b>	<b>\$ 16,713,621</b>	<b>1.962%</b>

Issue: OPC Rate Case Expense  
Value: (\$145,891)

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ (25,850)	-0.017%
LARGE GEN SVC TOTAL	\$ (33,918)	-0.017%
MEDIUM GEN SVC TOTAL	\$ (19,773)	-0.017%
SMALL GEN SVC TOTAL	\$ (9,443)	-0.017%
RESIDENTIAL TOTAL	\$ (55,049)	-0.017%
LIGHTING TOTAL:	\$ (1,859)	-0.017%
<b>TOTAL</b>	<b>\$ (145,891)</b>	<b>-0.017%</b>

Issue: KCP&L Rate Case Expense  
Value: \$90,888

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ 16,104	0.011%
LARGE GEN SVC TOTAL	\$ 21,130	0.011%
MEDIUM GEN SVC TOTAL	\$ 12,318	0.011%
SMALL GEN SVC TOTAL	\$ 5,883	0.011%
RESIDENTIAL TOTAL	\$ 34,295	0.011%
LIGHTING TOTAL:	\$ 1,158	0.011%
<b>TOTAL</b>	<b>\$ 90,888</b>	<b>0.011%</b>

Issue: MECG Net Operating Losses  
Value: (\$726,938)

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ (128,803)	-0.085%
LARGE GEN SVC TOTAL	\$ (169,003)	-0.085%
MEDIUM GEN SVC TOTAL	\$ (98,523)	-0.085%
SMALL GEN SVC TOTAL	\$ (47,052)	-0.085%
RESIDENTIAL TOTAL	\$ (274,294)	-0.085%
LIGHTING TOTAL:	\$ (9,264)	-0.085%

**Kansas City Power & Light**  
**MPSC Case No. ER-2014-0370**  
**Reconciliation of Issues Decided by the Commission**  
**Revenue Requirement Impact**

TOTAL \$ (726,938) -0.085%

Issue: MECG Expiring KMEA Contracts  
Value: (\$814,083)

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ (144,243)	-0.095%
LARGE GEN SVC TOTAL	\$ (189,262)	-0.095%
MEDIUM GEN SVC TOTAL	\$ (110,334)	-0.096%
SMALL GEN SVC TOTAL	\$ (52,693)	-0.096%
RESIDENTIAL TOTAL	\$ (307,177)	-0.096%
LIGHTING TOTAL:	\$ (10,374)	-0.096%
TOTAL	\$ (814,083)	-0.096%

Issue: KCP&L SPP Transmission Expense Including IPL - FAC/Tracker/Forecast  
Value: \$5,000,000

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ 885,926	0.586%
LARGE GEN SVC TOTAL	\$ 1,162,427	0.586%
MEDIUM GEN SVC TOTAL	\$ 677,657	0.587%
SMALL GEN SVC TOTAL	\$ 323,633	0.587%
RESIDENTIAL TOTAL	\$ 1,886,641	0.587%
LIGHTING TOTAL:	\$ 63,716	0.587%
TOTAL	\$ 5,000,000	0.587%

Issue: KCP&L CIP/Cybersecurity O&M Expense - Tracker/Forecast  
Value: \$3,500,000

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ 620,148	0.410%
LARGE GEN SVC TOTAL	\$ 813,699	0.410%
MEDIUM GEN SVC TOTAL	\$ 474,360	0.411%
SMALL GEN SVC TOTAL	\$ 226,543	0.411%
RESIDENTIAL TOTAL	\$ 1,320,649	0.411%
LIGHTING TOTAL:	\$ 44,601	0.411%
TOTAL	\$ 3,500,000	0.411%

Issue: KCP&L Property Tax Expense - Tracker/Forecast  
Value: \$5,600,000

	Impact	
	Amount	Percent
LARGE POWER TOTAL	\$ 992,237	0.657%
LARGE GEN SVC TOTAL	\$ 1,301,919	0.657%
MEDIUM GEN SVC TOTAL	\$ 758,975	0.658%
SMALL GEN SVC TOTAL	\$ 362,469	0.658%
RESIDENTIAL TOTAL	\$ 2,113,038	0.658%
LIGHTING TOTAL:	\$ 71,362	0.658%
TOTAL	\$ 5,600,000	0.657%