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SURREBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

Submitted on Behalf of the Office of the Public Counsel

KANSAS CITY POWER & LIGHT COMPANY
KCP&L GREATER MISSOURI OPERATIONS COMPANY

CASE NO. EC-2015-0309

**

**

Denotes Highly Confidential Information that has been Redacted

December 18, 2015

OPC Exhibit No. 6-NP
Date 1-19-16 Reporter MT
File No. EC-2015-0309

NP

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

Staff the Missouri Public Service)
Commission, Complainant,)
)
vs.)
)
Kansas City Power & Light Company and)
KCP&L Greater Missouri Operations)
Company, Respondents.)


Case No. EC-2015-0309

AFFIDAVIT OF CHARLES R. HYNEMAN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

Charles R. Hyneman, of lawful age and being first duly sworn, deposes and states:


1. My name is Charles R. Hyneman. I am the Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.


Charles R. Hyneman, C.P.A.
Chief Public Utility Accountant

Subscribed and sworn to me this 18th day of December 2015.



JERENE A. BUCKMAN
My Commission Expires
August 23, 2017
Cole County
Commission #13754037


Jerene A. Buckman
Notary Public

My Commission expires August 23, 2017.

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1 Administration) from Indiana State University in Terre Haute, Indiana. Finally, I
2 earned Associates in Applied Science degree in Contracts Management from the
3 Community College of the Air Force.

4 On December 1, 2015, I began my employment with the OPC as Chief Public Utility
5 Accountant. Prior to that, I was employed with the Commission in various regulatory
6 auditor and manager positions from April 1993 through November 2015. As a
7 member of the Staff I held the position of Regulatory Auditor V, which is a senior-
8 level professional and supervisory position in the Commission's Auditing Department.
9 As a Regulatory Auditor V, I performed, supervised and coordinated regulatory
10 auditing work for the Staff.

11 **Q. Are you a Certified Public Accountant?**

12 A. Yes, I am a Certified Public Accountant licensed in the State of Missouri. I am also a
13 member of the American Institute of Certified Public Accountants ("AICPA").

14 **Q. Have you previously testified before this Commission?**

15 A. Yes, I have testified before the Commission on numerous occasions over the past 22
16 years.

17 **Q. In your work history, have you obtained significant experience and developed an**
18 **expertise in the areas of utility affiliate transactions and the application of the**
19 **Commission's Electric Affiliate Transactions Rule, 4 CSR 240-20.015 ("Affiliate**
20 **Transactions Rule" or "Rule")?**

1 A. Yes, I have significant experience as a regulatory auditor and expert witness in the
2 area of regulated utility affiliate transactions. I have filed testimony with the
3 Commission on affiliate transactions and utility parent company cost allocation issues
4 in several utility rate case audits and other proceedings. These cases include cases
5 involving Kansas City Power & Light Company ("KCPL") and KCP&L Greater
6 Missouri Operations Company ("GMO").

7 Q. Over the past several years have you been involved in reviews of Affiliate
8 Transactions Rule compliance and the sufficiency of the Cost Allocation Manuals
9 (CAMs) of major Missouri utility companies?

10 A. Yes, I was the Staff expert witness in the Affiliate Transactions Staff Complaint (Case
11 No. GC-2011-0098) against Laclede Gas Company. In that case, Laclede, Staff, and
12 the OPC filed a *Unanimous Partial Stipulation And Agreement And Waiver Request
13 And Request For Approval Of Cost Allocation Manual* which, among other things,
14 resolved certain affiliate transaction issues raised in that Staff complaint case. The
15 Commission issued an order approving the partial stipulation and agreement on
16 August 14, 2013.

17 I was also the Staff expert witness in File No. EO-2014-0189 ("0189 Case"). In the
18 0189 Case, KCPL and GMO filed an *Application for Approval of its Cost Allocation
19 Manual*, which is required by the Commission's Affiliate Transactions Rule. The
20 Staff, OPC, KCPL and GMO have made significant progress in the design of a revised
21 CAM for KCPL and GMO. As of November 30, 2015, the Staff, OPC and KCPL
22 appeared to be in agreement on all issues in the KCPL and GMO CAMs.

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1 Finally, I was the Staff expert witness in File No. File No. AO-2012-0062. On
2 August 23, 2011, The Empire District Electric Company ("Empire") and Empire Gas
3 filed for Commission approval of its CAM pursuant to an agreement in Empire's rate
4 case, File No. ER-2011-0004. Until recently, I was involved in a review of Empire's
5 affiliate transactions policies, procedures, and internal controls and the sufficiency of
6 its CAM policies, procedures and controls.

7 **Q. Did you participate in prior Commission cases concerning KCPL and GMO's**
8 **involvement with a marketing company based in Atlanta, Georgia named**
9 **Allconnect, Inc. ("Allconnect")?**

10 A. Yes, although I am not one of the authors of the *Report of Staff's Investigation File*
11 *No. EO-2014-0306 Allconnect Direct Transfer Service Agreement Between*
12 *Allconnect, Inc. and Great Plains Energy Services Incorporated Respecting Itself and*
13 *Its Affiliates Kansas City Power & Light Company and KCP&L Greater Missouri*
14 *Operations Company* ("Staff Report"), I did actively participate in the investigation
15 which led to the Staff Report and Staff Complaint that forms the basis of this
16 complaint case. I also addressed KCPL's involvement with Allconnect and testified
17 before the Commission in KCPL's last rate case, No. ER-2014-0370.

18 **Q. What is the purpose of this testimony?**

19 A. The purpose of this testimony is to respond to the rebuttal testimonies of KCPL
20 witnesses Darrin Ives, Chuck Caisley, Jean Trueit, and Ronald Klote.

1 While this case involves GPES' relationship with both KCPL and GMO, in this
2 testimony I may at times refer only to KCPL. GMO has no employees or management
3 and all of its operations are controlled by KCPL management. My reference to KCPL
4 in this case includes GMO's relationship with GPES as an affiliate transaction and
5 KCPL's control of GMO's business operations.

6 **I. REBUTTAL OF KCPL WITNESS IVES**

7 **Q. Is Mr. Ives correct when he states at page 4 line 9 of his rebuttal testimony that**
8 **GPES is a non-regulated subsidiary of Great Plains Energy?**

9 A. Yes, Great Plains Energy Services ("GPES") is a nonregulated entity which holds
10 itself out to be a service company for KCPL and GMO and other GPE entities.
11 However, GPES, unlike other utility service companies, has no employees and
12 provides no actual services. GPES is highly unusual, if not unique, in this respect.
13 GPES is an affiliate of KCPL and GMO and all entities are owned and controlled by
14 Great Plains Energy as the parent company.

15 **Q. Please comment on Mr. Ives' assertion at page 4 of his rebuttal testimony that**
16 **GPES is a "contracting vehicle" for KCPL and GMO.**

17 A. GPES may act in this capacity for KCPL and GMO. There may be times when it may
18 make sense from an efficiency perspective for GPES to negotiate and enter into
19 contracts for itself and its affiliates.

20 However, the fact that GPES may, at times, be used by Great Plains Energy as a
21 contracting vehicle does not negate the fact that KCPL's involvement in the

1 transaction with GPES is an affiliate transaction that is governed by the Commission's
2 Affiliate Transaction Rule.

3 The stated purpose of the affiliate transaction rule is to "prevent regulated utilities
4 from subsidizing their nonregulated operations." The Rule sets forth financial
5 standards, evidentiary standards, and record-keeping standards applicable to any
6 Commission-regulated utility.

7 Paragraph (1) of the Rule defines an affiliated entity as any entity which directly or
8 indirectly, through one or more intermediaries, "controls, is controlled by, or is under
9 common control with the regulated electrical corporation." GPES and KCPL/GMO
10 are under the common control of Great Plains Energy. Great Plains Energy is the
11 parent company that controls KCPL and GMO and GPES, amount other entities. The
12 Rule establishes that KCPL/GMO and GPES are affiliates.

13 In addition, the Rule establishes that KCPL/GMO and GPES engage in an affiliated
14 transaction. Rule Paragraph 1(B) defines an affiliate transaction as any transaction
15 between a regulated electric utility and an affiliate. It also defines an affiliated
16 transaction as any transaction between the regulated and nonregulated operations of a
17 utility.

18 **Q. Please explain business transactions between KCPL/GMO and GPES and GPES'**
19 **contract with Allconnect.**

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1 A. KCPL and GMO have no contract or written agreement with Allconnect. The contract
2 that governs KCPL and GMO's interaction with GPES, and GPES' contractual
3 obligations to Allconnect is the contract signed by GPES and Allconnect.

4 Regardless of why Mr. Ives says GPES only acts as a "contracting vehicle" the
5 transaction is structured as an affiliate transaction between KCPL/GMO and GPES. It
6 is through the GPES-Allconnect contract that GPES commits KCPL/GMO to provide
7 the services to Allconnect.

8 Q. Even if the Commission concludes that KCPL/GMO's affiliate GPES is not
9 involved in the Allconnect transaction and the transaction is simply an
10 arrangement between KCPL/GMO's regulated and nonregulated operations,
11 does the Affiliate Transaction Rule still apply?

12 A. Yes, as defined by the Commission's Affiliate Transactions Rule, 4 CSR 240-
13 20.015(1)(B), an "affiliate transaction" means any transaction for the provision,
14 purchase or sale of any information, asset, product or service, or portion of any
15 product or service, between a regulated electrical corporation (KCPL and GMO) and
16 an affiliated entity (GPES). The Rule also states that affiliated transaction shall
17 include all transactions carried out between any unregulated business operation of a
18 regulated electrical corporation and the regulated business operations of an electrical
19 corporation.

20 As is described in this testimony, in its transactions with GPES, KCPL's management
21 is using KCPL and GMO's regulated assets and employees, which are a part of its

1 regulated business operations, and transferring all of the profits of the transaction to
2 non-regulated operations.

3 Therefore, even if the Commission believes that KCPL/GMO (both regulated and
4 nonregulated parts of the companies) have a business relationship with Allconnect,
5 instead of GPES having the business relationship with Allconnect, then the Affiliate
6 Transaction Rule, by definition, still applies to the transactions between KCPL/GMO
7 and Allconnect as it involves transactions between KCPL and GMO's regulated and
8 nonregulated operations.

9 If the Commission believes that the KCPL/GMO - Allconnect relationship is restricted
10 to only transactions between KCPL and GMO's regulated utility operations and
11 Allconnect, then the Affiliate Transaction Rule would not apply. However, in this
12 situation the Commission would error if it did not order KCPL management to record
13 all of the profits from the Allconnect transaction to regulated operations for both
14 KCPL and GMO.

15 **Q. What is the significance of the fact that KCPL's involvement in the transaction**
16 **between GPES and Allconnect is an affiliate transaction?**

17 **A.** KCPL/GMO's transactions with GPES results in several violations of the
18 Commission's Affiliate Transaction Rule. These violations include providing
19 preferential service to GPES, providing GPES with an unfair advantage over
20 competitors, and providing GPES with a financial advantage by subsidizing an
21 affiliate. In addition KCPL/GMO is violating various evidentiary standards listed in
22 Paragraph (3) of the Rule and most, if not all, of the record keeping requirements

1 listed in Paragraph (4). I do not go into detail on these specific Rule violations as they
2 are not specifically included in the Staff Complaint.

3 **Q. If the Commission determined that KCPL/GMO's relationship with GPES was**
4 **not subject to the affiliate transaction rule, would the OPC still have significant**
5 **concerns with this business relationship?**

6 **A.** Yes, OPC has three overall concerns with the relationship that currently exists
7 between KCPL and GPES. These concerns exist whether or not the Commission
8 believes the Affiliate Transaction Rule applies to this transaction.

9 1. KCPL's management is misleading KCPL/GMO customers into being
10 transferred to Allconnect, a high pressure non-regulated marketing company
11 that provides no value to customers. As concluded by Staff, and by OPC by
12 listening to customer calls, and as admitted by KCPL, Allconnect agents have
13 acted in an aggressive manner toward KCPL and GMO utility customers.

14
15 2. KCPL's management is selling specific customer information through
16 GPES to Allconnect in direct violation of Commission's Affiliate Transaction
17 Rule 4 CSR 240-20.015 Paragraph (2)(C) Standards. This requirement is that:

18
19 Specific customer information shall be made available to
20 affiliated or unaffiliated entities only upon consent of the
21 customer or as otherwise provided by law or commission rules
22 or orders. (Emphasis added)

23 3. KCPL's management is acting in an imprudent manner toward KCPL
24 and GMO's regulated utility operations and is acting in a manner that is
25 financially detrimental to regulated utility ratepayers. KCPL/GMO's regulated
26 utility operations provide services to GPES using regulated assets and utility
27 employees. KCPL/GMO's regulated operations also sell specific utility
28 customer information to GPES who then provides this information to
29 Allconnect. However, all of the revenues and all of the profits from the
30 Allconnect transaction are recorded by KCPL's management to nonregulated
31 operations. KCPL/GMO's nonregulated operations provide no services to
32 GPES to earn these revenues and profits.
33
34
35

1 **Q. Please describe how KCPL management is acting imprudently and how KCPL**
2 **management is acting to the detriment of its electric utility ratepayers.**

3 **A.** Prudence is a standard that is placed on KCPL management when they discharge their
4 duties with respect to the operations of the regulated utility. When operating the
5 business of a regulated utility the utility's management must act with a standard of
6 care that a prudent person would use in conducting the operations of a business. KCPL
7 does not act prudently with respect to utility operations when it takes actions not to
8 increase utility revenues and profits after it provides services to an entity using
9 regulated utility assets and regulated utility employees. KCPL management gives
10 away the revenues and profits it receives through its affiliate relationship with GPES
11 to a different entity – KCPL's non-utility business. This is how KCPL management is
12 acting imprudently in respect to the financial aspects of the Allconnect transaction.

13 KCPL management acted imprudently when they made the decision not to match the
14 utility expenses of providing this service to GPES with the revenues it received from
15 providing this service. KCPL's management made the decision not only to 1) prevent
16 any profits from the GPES-Allconnect transaction to be retained by the utility, but also
17 to 2) not allocate a reasonable amount of the expenses it incurs in providing this
18 service to GPES to non-regulated operations. I will address this under-allocation of
19 utility expenses in my rebuttal to KCPL witness Klote's rebuttal testimony.

20 **Q. How could KCPL management have acted prudently in respect to the Allconnect**
21 **transaction?**

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1 A. Assuming that KCPL's participation in the GPES- Allconnect transaction was actually
2 beneficial to customers, KCPL management could have acted prudently. KCPL
3 management could have allowed KCPL's utility business to receive the revenues and
4 profits it earns from providing the service to GPES.

5 Q. At pages 14 through 17 of his rebuttal testimony, Mr. Ives discusses the issue of
6 providing specific customer information to GPES and then to Allconnect through
7 the GPES-Allconnect contract and asserts that a "common sense" reading of the
8 Commission's Affiliate Transaction Rule would result in a conclusion that KCPL
9 does not have to obtain customer consent before KCPL sells this information.
10 How is Mr. Ives wrong?

11 A. Paragraph (2)(C) of the Affiliate Transaction Rule states "Specific customer
12 information shall be made available to affiliated or unaffiliated entities only upon
13 consent of the customer or as otherwise provided by law or commission rules or
14 orders." It also states that general or aggregated customer information shall be made
15 available to affiliated or unaffiliated entities upon similar terms and conditions.

16 Mr. Ives is wrong because his interpretation is that customer consent is required only
17 when the specific customer information is used for unregulated purposes. This is not
18 what the Rule says.

19 Q. Assuming KCPL's interpretation of the Rule is correct, would customer consent
20 still be required because this KCPL-GPES affiliate transaction that involves
21 selling customer information to Allconnect is a non-regulated transaction?

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1 Yes, even if Mr. Ives' strained interpretation is correct, customer consent would still
2 be required prior to being transferred to Allconnect.

3 KCPL's relationship with GPES is a nonregulated business relationship. This fact is
4 confirmed by KCPL's charging its expenses to serve Allconnect (through the GPES
5 contract) to nonregulated operations and recording all of the revenues to nonregulated
6 operations. If Mr. Ives views as a "regulated utility operation" a transaction where all
7 of the expenses of the transaction are charged to nonregulated operations and all of the
8 revenues and profits of the transaction accrue to nonregulated operations, his view is
9 certainly unique in the field of utility accounting and ratemaking.

10 A statement that a transaction where expenses, revenues and profits are recorded to
11 nonregulated operations should be viewed as a regulated operation is counter-intuitive.
12 It is difficult for me to see how such a conclusion can be reached.

13 **Q. What is Mr. Ives' rationale for KCPL not complying with Paragraph (2)(C) of**
14 **the Affiliate Transaction Rule that specific customer information shall be made**
15 **available to affiliated or unaffiliated entities only upon consent of the customer?**

16 **A.** His rationale is simply that no utility in Missouri (according to his testimony)
17 complies with this requirement and, therefore, it is not a requirement that KCPL has to
18 meet.

19 **Q. How do you respond?**

20 **A.** The requirement of the Commission's rules is clear. "Specific customer information
21 shall be made available to affiliated or unaffiliated entities only upon consent of the

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1 customer or as otherwise provided by law or commission rules or orders.” 4 CSR 240-
2 20.015(2)(C). Just because Mr. Ives believes that no Missouri utility complies with
3 this requirement does not excuse KCPL’s failure to comply with this requirement.

4 **Q. At page 17 line 6 of his rebuttal testimony, Mr. Ives states that “On the other**
5 **hand, Staff’s interpretation of 4 CSR 240-20.015(2)(C), if adopted and enforced**
6 **by the Commission upon utility service providers across the State of Missouri,**
7 **would severely restrict the ability of utilities in the state to make use of third**
8 **party contractors in support of regulated operations...” Is Mr. Ives correct?**

9 **A.** First, as an initial matter, KCPL is required to follow the Commission’s rules as
10 currently effective, regardless of any perceived non-compliance by other entities.
11 Second, to accommodate for circumstances where strict adherence to the rule is
12 unduly burdensome, Paragraph (10), *Variances*, of the Commission’s rule contains
13 broad and easy to adopt variance provisions. In fact, the Rule’s variance procedures
14 even allow for a utility to continue with a transaction that is not in accordance with the
15 Rule’s provisions as long as the utility believes the transaction is in the best interest of
16 the customer and the utility follows up with filing for approval of a Rule variance.

17 **Q. What is the position of OPC on this issue?**

18 **A.** OPC believes Rule 2(C) is an important and necessary consumer protection which
19 affords customers with the right to refuse specific and personal information from
20 being released outside of the utility. KCPL seeks to dilute this requirement. As
21 written, this requirement is specific and clear, and it needs no modifications or
22 additions. If KCPL believes it is appropriate to sell or otherwise transfer specific

1 customer information without customer consent, it has a simple and expedient option
2 available to get the authority to do it.

3 **II. REBUTTAL OF KCPL WITNESS CAISLEY**

4 **Q. At page 2 line 18 of his rebuttal testimony, Mr. Caisley states that KCPL and**
5 **GMO seek ways to improve the way they do business with their customers in**
6 **order to "enhance the overall customer experience". Does the relationship**
7 **between GPES and Allconnect enhance KCPL/GMO's customer experience?**

8 **A. No, if KCPL management wanted to enhance KCPL/GMO's customers' experience, it**
9 **would allow its customers with a choice or an option not to be transferred to a non-**
10 **regulated high-pressure marketing firm.**

11 **Q. Is Mr. Caisley's testimony about KCPL partnering with Allconnect though its**
12 **affiliate relationship with GPES as a way to enhance the customer experience**
13 **very similar to the reasons why KCPL said it first partnered with Allconnect in**
14 **2005?**

15 **A. Yes, the following was a quote from Allconnect's August 8, 2005, press release**
16 **announcing the 2005 KCPL-Allconnect Partnership.**

17 **"In our efforts to continue delivering a great customer**
18 **experience,** we're now offering the KCP&L Connections
19 program to assist movers who need to arrange for new
20 household services such as local phone, cable/satellite TV,
21 Internet access, and the Kansas City Star," said Bill Herdegen,
22 Vice President, Customer Operations, KCP&L. (emphasis
23 added).
24

1 KCPL first formed a relationship with Allconnect in 2005. It is my understanding that
2 at that time KCPL customers were provided with an option not to be transferred to
3 Allconnect. Many KCPL customers, when given this option in 2005, declined to be
4 transferred to Allconnect. Overall, not enough KCPL customers were transferred to
5 Allconnect to make the relationship sustainable, so it was discontinued.

6 Now, Mr. Caisley has testified that the new 2013 KCPL-GPES partnership where
7 GPES contracts with Allconnect is once again a part of KCPL's attempt to enhance
8 customer experience. But the difference between the 2005 KCPL-Allconnect
9 partnership (which failed) and the 2013 KCPL-GPES-Allconnect relationship is that
10 KCPL is now denying its customers the choice whether or not to be transferred to
11 Allconnect. Specific and intentional denial of regulated utility customer choice,
12 especially a choice that customers were previously afforded is far from good customer
13 service.

14
15 **Q. In his Rebuttal testimony, Mr. Caisley states that the transfer of regulated**
16 **electric utility customer-specific information from KCPL to Allconnect without**
17 **customer authorization is "consistent with the requirements in Missouri." Is this**
18 **transfer of regulated utility customer information consistent with the**
19 **Commission's Affiliate Transaction Rule?**

20 **A. No. The Rule requires (absent a law or Commission rule or order that waives this**
21 **requirement) that before KCPL releases customer-specific information to either an**
22 **"unaffiliated entity" such as Allconnect or an affiliated entity such as GPES, it must**

1 obtain the regulated electric utility customer's consent. KCPL makes no attempt to
2 obtain any consent from its customers. Rather, the company informs customers that
3 they will be transferred to Allconnect in order to receive a "confirmation number."

4 **Q. At page 4 line 21 of his rebuttal testimony, Mr. Caisley states that Allconnect**
5 **provides verification of customer account information at no charge to the**
6 **company. Does Allconnect's verification of account information provide any**
7 **value to utility customers?**

8 **A. No. To generate nonregulated revenue using regulated assets and regulated**
9 **employees, KCPL has to create some type of pretense that this transaction provides a**
10 **regulated utility purpose or function. KCPL's existing customer service**
11 **representatives are sufficient and do not need the assistance of an outside entity to**
12 **accurately and effectively process new service, or transfer of service, calls. For many**
13 **years KCPL call center representatives verified the information with the customer and**
14 **provided the confirmation number to the customer without the use of a third party.**

15 **Q. At page 4 line 22 of his rebuttal testimony, Mr. Caisley states that without**
16 **Allconnect, KCPL would have to replace this "account verification" process in**
17 **some other way at a higher cost that would lead to higher rates. Please comment.**

18 **A. To my knowledge, KCPL did not use any entity to provide any "account verification"**
19 **process in its history as a public utility.**

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1 The need for this "verification service" did not arise until 2013 when the company
2 needed to create some "legitimate" reason to transfer its regulated customers to a
3 nonregulated company without the customer's consent.

4 Outside of these unsupported and self-serving comments by Mr. Caisley and other
5 KCPL witnesses, KCPL provided no support that ending its relationship with GPES as
6 it relates to GPES' relationship with Allconnect could increase costs to the utility to
7 provide satisfactory customer service.

8 **Q. At page 5 line 11 of his rebuttal testimony, Mr. Caisley states that KCPL's desire**
9 **for non-regulated profits was a factor in partnering with GPES in GPES'**
10 **contract with Allconnect, but not the most important factor. Please comment.**

11 **A.** Mr. Caisley is a member of Great Plains Energy's and KCPL's Senior Leadership
12 Team. In a PowerPoint Presentation at the January 19, 2013, Great Plains Energy and
13 KCPL Senior Leadership Team Meeting the risks and opportunities of partnering with
14 Allconnect were discussed.

15 In the "Issue Overview" of the Allconnect discussion was the **

16
17 ** The issue of customer satisfaction was not mentioned in the Issue
18 Overview. The issue of customer satisfaction **

19 ** The specific
20 "Opportunities" discussed at the Senior Leadership Team meeting on January 19,
21 2013, as listed in the PowerPoint presentation, were: **

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7 The specific "Risks" associated with the Allconnect partnership discussed at this
8 meeting were: **
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15 **
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17 Finally, the "Regulatory Consideration" discussed at this meeting was **
18

19 **
20

21 **Q. At page 6 lines 4 - 15 of his rebuttal testimony, Mr. Caisley attempts to convince**
22 **the Commission that KCPL's relationship with GPES provides opportunities to**
23 **communicate regulated services to customers through transfer of customer calls**
24 **to Allconnect. Please comment.**

25 **A. Mr. Caisley lists one of the services as marketing KCPL's Missouri Energy Efficiency**
26 **Investment Act ("MEEIA") programs. Allconnect would be unnecessary for this**
27 **purpose for several reasons.**

28 First, only KCPL customers who are starting new services or transferring services are
transferred to Allconnect. This, on an annual basis, would only be a small percentage

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1 of KCPL customers. Second, as the Commission is aware, the MEEIA programs are
2 highly complex programs that do not appear to fit well to be marketed by a non-
3 regulated marketing company that is also trying to sell cable television, home security,
4 telephone, and internet services. Finally, KCPL customer service representatives, who
5 are not under pressure to market nonregulated services, are in a much better position to
6 advise utility customers on any opportunities offered by KCPL through its MEEIA
7 program.

8 KCPL customer service representatives currently communicate to these customers
9 about paperless billing, billing programs, online account services, etc. These regulated
10 utility employees are the experts on these issues. Allconnect agents are far from being
11 experts on these issues. It is unclear why KCPL would allow GPES to permit
12 Allconnect marketing company agents to discuss such regulated utility business issues
13 with KCPL customers. These are regulated utility services that are currently being
14 performed by regulated call center utility employees.

15 It is important to note that utility call center representatives are evaluated on how well
16 they provide utility services to customers. Allconnect agents on the other hand are
17 likely evaluated and compensated on how many sales they can make to KCPL
18 customers.

19 **Q. Did OPC attempt to obtain basic information about how Allconnect agents are**
20 **compensated?**

21 **A.** Yes, OPC Data Request No. 2010 asked KCPL to provide basic compensation
22 information about Allconnect agents. Mr. Dwight Scruggs, an employee of Allconnect

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1 and a KCPL witness in this case refused to provide OPC with any of the requested
2 data. Mr. Scruggs replied to this data request, as he did to several data requests, that
3 the requested information was personal and confidential.

4 It is curious why Mr. Scruggs believes KCPL's regulatory agencies should not be
5 allowed access to data about Allconnect that it considers personal and confidential, but
6 he believes that his company, Allconnect, should have information about KCPL's
7 regulated utility customers that is truly personal and confidential.

8 **Q. At page 8 line 18 of his rebuttal testimony, Mr. Caisley indicates that he believes**
9 **customers value choice. Do you agree with Mr. Caisley that customers value**
10 **choice?**

11 **A.** Yes, but oddly enough, KCPL management does not provide such a choice to its
12 utility customers. KCPL management forces customers to be transferred to a
13 nonregulated marketing company.

14 The irony revealed in Mr. Caisley's testimony about KCPL management should not be
15 lost. He recognizes the benefits of choice to KCPL's customers, yet he takes specific
16 action as a member KCPL management to remove that same choice from regulated
17 utility customers.

18 KCPL's explicit offer of choice to its customers – the choice not to be transferred to
19 Allconnect – is the absolute minimum requirement, as it relates to customer service,
20 that OPC believes should be ordered by the Commission in this case.

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1 Q. At page 9 line 7 of his rebuttal testimony, Mr. Caisley admits that Allconnect
2 agents have been “pushy” or “aggressive” with KCPL customers. Do you agree
3 with Mr. Caisley on this point?

4 A. Yes, I do. I have listened to several calls from KCPL customers to KCPL call center
5 representatives and the calls that have been transferred to Allconnect. While I have not
6 experienced one instance of pushy or aggressive behavior on the part of a KCPL call
7 center employee, I have listened to several aggressive and pushy Allconnect marketing
8 agents interacting with KCPL ratepayers.

9 Q. What are your concerns after listening to how Allconnect agents treat
10 KCPL/GMO customers?

11 A. My concern is that when KCPL/GMO utility customers call KCPL call center
12 representatives about a regulated electric utility service issue, KCPL/GMO customers
13 should not be transferred to a high pressure marketing company.

14 Q. Do you believe the comparison Mr. Caisley makes at page 9 line 21 that a mistake
15 by a KCPL customer service employee is equivalent to a “mistake” such as pushy
16 and “aggressive” behavior by Allconnect agents?

17 A. No, in my opinion this statement is nothing more than an attempt by Mr. Caisley to
18 downplay the seriousness of the aggressive and pushy Allconnect agent behavior
19 toward KCPL customers.

20 Q. Does the behavior of Allconnect agents toward KCPL’s utility ratepayers
21 continue to be pushy and aggressive?

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1 A. Yes, and I believe if the Commission listened to these calls they would agree. I
2 recommend the Commission request copies of the audio phone calls that KCPL call
3 center representatives transfer to Allconnect. I think it would be appropriate for the
4 Commission to request from Staff, OPC, and KCPL copies of calls that each party
5 believes would allow the Commission to gain an understanding of the interaction
6 between Allconnect and KCPL's utility customers.

7 **Q. Despite Mr. Caisley's testimony at page 9 line 11 that the aggressive and pushy**
8 **behavior on the part of Allconnect was limited to 2013, have you personally**
9 **listened to pushy and aggressive behavior by Allconnect agents after 2013?**

10 A. Yes, I recently listened to a discussion between an Allconnect agent and a KCPL
11 utility customer who was transferred to Allconnect on April 9, 2014.

12 The particular call I am referring to is labeled as "Q0050_HC_Alison_(last name
13 redacted)_Sales Call 4.9.14." In this call you can hear the frustration on the part of a
14 KCPL customer who does not want to commit to any contractual agreements with
15 Allconnect. At the end of the call, this utility customer had to specifically ask the
16 Allconnect agent for the utility service confirmation number (the number needed by
17 the customer and withheld by KCPL) and the Allconnect agent acted like the
18 confirmation number was not important and not needed by the customer. It is my
19 understanding that this confirmation number is important and may be required by
20 landlords prior to KCPL customers being allowed to move into an apartment complex.

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1 My conclusion after listening to this call was that the customer was treated poorly by
2 the Allconnect agent and by KCPL for forcing this customer to be subjected to this
3 treatment.

4 **Q. Even given a situation where KCPL was required to offer its utility customers the**
5 **option of whether or not to be transferred to Allconnect, do you believe that**
6 **Allconnect provides any benefit to KCPL's customers?**

7 **A.** No. Allconnect is not capable of offering KCPL customers with a complete list of
8 home service providers. It is also not able to offer information on what options are
9 available to people who live in KCPL's service territory for them to be able to select
10 the best available service provider for internet and cable television service.

11 Mr. Caisley even admits at page 10 lines 14 through 19 of his rebuttal testimony that
12 Allconnect's service offerings are not as attractive or convenient than if Allconnect
13 offered KCPL customers with all of the options that KCPL customers actually have
14 from service providers in their local area.

15 As an example, Google Fiber has recently offered services in the KCPL service
16 territory. By not offering Google Fiber services to KCPL customers, Allconnect is
17 actually withholding valuable information from KCPL customers that would be
18 beneficial to them in their decision to select an internet service provider. Allconnect
19 will advertise the services of internet service providers to which they are affiliated, but
20 will not advertise the services of Google Fiber. That, in my opinion, is a customer
21 service detriment and is a reason why, even with customer choice, Allconnect
22 provides no beneficial services to KCPL and GMO customers.

1 Q. Does it appear likely that many consumers in KCPL's service territory agree
2 with you about Google Fiber?

3 A. Yes, in 2015 Bernstein Research performed a survey in Kansas City, Missouri. The
4 results of this survey show that Google Fiber has become a popular choice among
5 consumers in KCPL's service territory "selling to 80 percent of customers in some
6 Kansas City neighborhoods." The following is a quote from a March 12, 2015 article
7 shown on the Kansas City Star website (kansascity.com).

8 A survey released last spring by Bernstein Research suggested
9 that Google Fiber was selling better than the Copyright Office
10 numbers suggest. Bernstein acknowledged its numbers,
11 showing Google Fiber selling to 80 percent of customers in
12 some neighborhoods, reflected those areas that most
13 aggressively courted the service. It also found the Google
14 product especially popular with more wealthy households.

15
16 Still, other industry analysts have said their surveys found
17 Google Fiber capturing close to 40 percent of the business in
18 neighborhoods where it chooses to expand its network.

19
20 The fiber-optic-based service was started by Google as a
21 showcase for high-speed Internet service and advanced video
22 features to help spur competition.

23
24 Kansas City now has what are likely the cheapest and most
25 robust broadband offers in the country.

26 (<http://www.kansascity.com/news/business/article13799168>)

27 The article also states that with Google Fiber "Kansas City now has what are likely the
28 cheapest and most robust broadband offers in the country."

29 Q. At page 11 of his rebuttal testimony, Mr. Caisley states that Staff witness
30 Hyneman's direct testimony (adopted by Staff witness Keith Majors) incorrectly

1 states that the GPES-Allconnect contract was signed by Mr. Caisley as a member
2 of GPES and not KCPL. Please comment.

3 A. There is no question that Mr. Caisley signed the Allconnect contract acting in his
4 capacity as a representative of GPES and an officer of Great Plains Energy. Great
5 Plains Energy is the parent company of GPES as well as KCPL.

6 Mr. Caisley does not offer in his rebuttal testimony that he is an officer of Great Plains
7 Energy as well as being an officer of KCPL. However, the GPE webpage clearly states
8 that Mr. Caisley is "Vice President, Marketing and Public Affairs, Great Plains Energy
9 and KCP&L."¹ Mr. Caisley attached his signature to the Allconnect contract acting on
10 behalf of GPES, Inc. and affiliates. Please refer to Schedule CRH-d2 page 9 of 20
11 Attachment 2 HC, attached to Staff's direct testimony in this case that was adopted by
12 Mr. Keith Majors.

13 There is no indication that Mr. Caisley signed this contract as an officer of KCPL. If
14 Mr. Caisley has any documentation that he signed this contract as an officer of KCPL,
15 documentation that would contradict the only reasonable conclusion that anyone who
16 reads the Allconnect contract can reach, KCPL should provide this information.
17 However, as it stands now, the only evidence in this case, the actual contract
18 document, clearly shows that Mr. Caisley signed this contract as a representative of
19 GPES and an officer of Great Plains Energy, and not KCPL.

¹<http://www.greatplainsenergy.com/caisley.html> (last viewed December 17, 2015).

1 **III. REBUTTAL OF KCPL-GMO WITNESS TRUEIT**

2 **Q. At page 7 of her rebuttal testimony, KCPL witness Trueit attempts to present the**
3 **impression that KCPL affords its customers with a choice on whether or not to**
4 **be transferred to Allconnect. Please comment.**

5 **A. Ms. Trueit is wrong. KCPL call center representatives read scripts provided to them by**
6 **KCPL management. The call center employees are required to portray to customers**
7 **that the transfer of the call to Allconnect is a part of the regulated utility service**
8 **provided by KCPL. The KCPL customer is led to believe that in order for it to**
9 **complete the transaction and receive the service transfer and confirmation number, he**
10 **or she has to be transferred to Allconnect. It is my opinion that these scripts are**
11 **specifically designed not to provide customers with any way to opt out of the transfer**
12 **to Allconnect.**

13 **IV. REBUTTAL OF KCPL-GMO WITNESS KLOTE**

14 **Q. At page 3 line 14 of his rebuttal testimony, Mr. Klotz states that the transaction**
15 **between KCPL and Allconnect and is not an affiliate transaction. Does he**
16 **provide any reasons or any support for this statement?**

17 **A. No. Mr. Klotz makes this statement but provides no evidence, support or rationale**
18 **why he believes it to be true. Mr. Klotz simply makes the statement and defers to**
19 **another KCPL witness, Mr. Ives. It is not clear that Mr. Klotz has any basis to believe**
20 **the Allconnect transaction is not an affiliate transaction, other than what he was told**
21 **by Mr. Ives.**

1 **Q. Please explain why this transaction is an affiliate transaction covered by**
2 **Commission Rule 4 CSR 240-20.015 Affiliate Transactions.**

3 A. There should be two transactions. The first transaction is between KCPL/GMO and
4 GPES where GPES transacts with KCPL/GMO for the right to use KCPL's utility
5 assets and employees. The second transaction is between GPES and Allconnect
6 where GPES, having secured the ability to use KCPL assets and employees through its
7 affiliate transaction with KCPL, commits contractually with Allconnect to provide
8 service to Allconnect using its affiliate KCPL's regulated assets and employees.

9 The transaction between KCPL and GPES is clearly an affiliate transaction and I have
10 covered that point in other sections of this testimony. If the Commission agrees with
11 this view of the transaction, then the KCPL-GPES transaction is covered by the
12 Affiliate Transaction Rule as explained by Paragraph 1 *Definitions*, subparagraph 1(A)
13 and 1(B).

14 KCPL, however, disagrees with this interpretation of the GPES-KCPL transaction and
15 KCPL witness Ives explains that GPES is not really a party to the transaction but
16 merely acts as a "contracting vehicle." I have described above in my response to Mr.
17 Ives' testimony the serious flaw in his argument.

18 However, if the Commission accepts that the transaction is between KCPL and
19 Allconnect then it should also accept the fact that this transaction involves KCPL's
20 regulated operations and nonregulated operations and is thus covered by the Rule.

21 **Q. Please explain.**

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1 A. KCPL's regulated utility operations provide the utility employees and many of the
2 assets used in providing the service to Allconnect but all of the revenues and the
3 profits of the transaction are pulled out of the KCPL regulated utility operations and
4 transferred to KCPL non-utility nonregulated operations. This transaction, as designed
5 and specifically structured by KCPL, is specifically addressed by and subject to the
6 Affiliate Transaction Rule as explained in Rule paragraph 1(B) which states:

7 (B) Affiliate transaction means any transaction for the
8 provision, purchase or sale of any information, asset, product or
9 service, or portion of any product or service, between a
10 regulated electrical corporation and an affiliated entity, and
11 shall include all transactions carried out between any
12 unregulated business operation of a regulated electrical
13 corporation and the regulated business operation of a electrical
14 corporation...(emphasis added)
15

16 Q. At page 4 line 2 of his rebuttal testimony, Mr. Klote states "Mr. Hyneman's
17 assertions are simply wrong. Revenues and costs related to the Allconnect
18 relationship are charged below the line to nonregulated accounts, meaning that
19 neither the revenues nor the costs related to the Allconnect relationship are used
20 to determine rates paid by KCPL /GMO customers." Please comment.

21 A. I would agree that some of expenses incurred by KCPL to service Allconnect are
22 recorded below the line. But as Mr. Klote explains later in his testimony, even he
23 admits KCPL erred in this cost allocation and understated the level of Allconnect
24 expenses that should have been charged to nonregulated company operations. An
25 under-allocation of expenses to nonregulated operations increases the level of
26 expenses in regulated operations and increases rates to customers in a rate case.

1 However, this cost allocation is not one of the main issues in this case. The level of
2 expense under-allocation to nonregulated operations will be addressed in KCPL and
3 GMO's next rate case. The point I want to make on this issue is that KCPL has
4 understated the level of KCPL utility expenses related to Allconnect that should have
5 been charged to KCPL's nonregulated company operations.

6 **Q. At page 4 line 12 of his rebuttal testimony, Mr. Klote states that revenues**
7 **generated by its affiliate transaction with GPES and GPES association with**
8 **Allconnect are being matched with the costs incurred to produce those revenues**
9 **and both the revenues and costs are recorded below the line in nonregulated**
10 **accounts. Please comment.**

11 **A. KCPL has failed to apply appropriately the matching principle to this transaction.**
12 Since 2013, a disproportionately high level of expenses have been charged to utility
13 customers, meaning that KCPL's nonregulated operations continue to be subsidized by
14 the regulated business operations of the KCPL.

15 **Q. Please explain.**

16 **A. The Financial Accounting Standards Board ("FASB") describes the matching**
17 **principle at Paragraph 86 of Statement of Financial Accounting Concepts No. 3**
18 **("CON3"). The FASB states that "Matching of costs and revenues is combined or**
19 **simultaneous recognition of the revenues and the expenses that result directly and**
20 **jointly from the same transactions or other events." The matching principle states that**
21 **expenses are recognized in the same period as the related revenues. There is a cause-**
22 **and-effect relationship between revenue and expense recognition implicit in this**

1 definition. The matching principle then requires that all expenses incurred in
2 generating that same revenue also be recognized. The net result is a measure—net
3 income.

4 A proper matching of revenues and expenses requires all expenses incurred in
5 generating the revenue are matched against that revenue and the result, if positive, is
6 net income and, if negative, is net loss. It is common practice for utilities who seek to
7 match an appropriate level of expense against a revenue source to use what is referred
8 to as a “loaded cost” or a “fully distributed cost.” It is apparent KCPL did not attempt
9 to develop a fully distributed cost methodology when it created its Allconnect expense
10 allocations.

11 A description of a “fully distributed cost” is shown at Paragraph 1 Definitions
12 subparagraph 1(F) of 4 CSR 240-20.015:

13 (F) Fully distributed cost (FDC) means a methodology that
14 examines all costs of an enterprise in relation to all the goods
15 and services that are produced. FDC requires recognition of all
16 costs incurred directly or indirectly used to produce a good or
17 service...

18 **Q. At pages 5 and 6 of his rebuttal testimony, Mr. Klote describes the Allconnect**
19 **startup costs including a software package, internal labor, consulting fees, KCPL**
20 **employee training costs, and other miscellaneous costs. Do you have any concern**
21 **with how these costs were treated?**

1 A. No, Mr. Klote testifies that all of these costs were booked directly to nonregulated
2 operations and have no impact on KCPL's regulated accounts or cost of service. I
3 have no reason to doubt Mr. Klote's testimony on where these charges were recorded.

4 **Q. What is your concern with KCPL's accounting for the Allconnect transactions**
5 **and why do you believe KCPL fails to reasonably apply the matching principle?**

6 A. As noted above, the matching principle requires a matching of all costs incurred to
7 produce a revenue. The definition of a fully distributed cost is the methodology
8 needed to be used to capture all of the costs to produce a revenue. Mr. Klote explains
9 at page 6 line 19 through page 7 line 13 the types of costs that KCPL included in its
10 attempt to match expenses with Allconnect revenues.

11 Mr. Klote states that the only costs that are included in the allocation to nonregulated
12 operations are employee labor, labor loadings (primarily employee benefits), and
13 meals and travel expenses. He includes depreciation on the nonregulated capitalized
14 software costs but since that asset is not recorded below the line it is not relevant to
15 this discussion. Mr. Klotes summarizes the complete list of charges that are recorded
16 below the line at page 9 lines 9 and 10.

17 Mr Klote admits on page 10 line 19 that KCPL's attempt at matching Allconnect
18 expenses with Allconnect revenues is faulty and classifies this failure as an
19 "oversight." In any event, this "oversight" could have been prevented if KCPL simply
20 complied with the Commission's Affiliate Transaction Rule and applied the Rule's
21 Paragraph (2) pricing standards.

1 **Q. What regulated electric utility expenses does Mr. Klote admit that KCPL failed**
2 **to record below the line and match with Allconnect revenues?**

3 **A.** Mr. Klote admits that KCPL failed to include all KCPL facilities costs used by KCPL
4 call center employees when they are servicing Allconnect agents and transferring
5 KCPL customers to Allconnect. These costs include plant-related costs such as
6 property taxes, depreciation expense on buildings, computers, software, and telecom
7 equipment. It would also include rent, lease expense, utilities expenses, and possibly
8 several more types of expenses.

9 **Q. Is there one specific type of expense that KCPL does not match with the**
10 **Allconnect revenues that was not mentioned by Mr. Klote?**

11 **A.** Yes, Mr. Klote's admission that KCPL failed to match utility expenses adequately
12 with Allconnect revenues did not include a recognition that KCPL did not charge
13 capital costs, such as interest costs and equity costs (profit) in the costs that were
14 matched with Allconnect revenues. Costs of equity and interest expense are every bit
15 a cost of providing a service as labor or meals and travel expense.

16 **Q. Does Mr. Klote make any other erroneous statements in his rebuttal testimony?**

17 **A.** Yes, at page 10 line 3 of his rebuttal testimony, Mr. Klote argues that the labor costs
18 related to the Allconnect transaction that KCPL charges to nonregulated operations is
19 priced at the higher of cost or market price and is consistent with the Affiliate
20 Transaction Rule affiliate transaction pricing standard.

1 Mr. Klote's argument is based on the fact that KCPL has determined that the salary
2 and wages of the employees providing the service to Allconnect are comparable to
3 current market salary and wage rates. Setting the fair market price of its service at an
4 amount that only includes employee compensation costs is unreasonable. No
5 company could stay in business for long if its market price did not include a recovery
6 of all of its costs of providing the service including its capital costs. KCPL, in its
7 charges to affiliates, does not include all of its costs to serve Allconnect and does not
8 include any of its capital costs.

9 **Q. At page 3 beginning on line 28, Mr. Klote quotes the direct testimony adopted in**
10 **this case by Staff witness Keith Majors and takes issue with the comment that**
11 **KCPL and GMO were transferring "at no cost" regulated utility assets and**
12 **regulated utility personnel to nonregulated operations.**

13 **A. Mr. Klote is correct. As I explained in this surrebuttal testimony, KCPL significantly**
14 **understates the level of costs it charges to nonregulated operations, but it does charge a**
15 **level that is greater than none.**

16 In that section of testimony to which Mr. Klote refers, I was not considering an
17 expense allocation from regulated to nonregulated operations as part of the discussion
18 on compensation. The point of that testimony was that KCPL's regulated operations is
19 providing all (or substantially all) of the assets and all of the personnel to serve GPES
20 and GPES's contractual commitments to Allconnect, but KCPL the utility is receiving
21 none of the revenues or compensation from the services.

1 KCPL's nonregulated operations provide only a small part of the assets (capitalized
2 software) and none of the personnel to serve Allconnect, but receive 100 percent of the
3 revenues. That is a subsidization of nonregulated operations by a regulated utility, and
4 that was the point I was making in that testimony. However, the statement that no
5 costs were charged to nonregulated operations was a mistake on my part and Mr.
6 Klote was correct to point out that mistake.

7 **Q. Please summarize your Surrebuttal testimony.**

8 **A.** The OPC has concerns with KCPL's communication of private customer information
9 to Allconnect without specific customer approval. KCPL is selling specific regulated
10 utility information without the customer's consent. KCPL's excuse for this violation
11 is akin to "everybody does it." That excuse is not sufficient. KCPL is aware that it
12 could request a variance to the customer information protection section of the
13 Commission's Affiliate Transaction Rule if it wishes to continue releasing customer
14 information to Allconnect.

15 Not only does KCPL not obtain customer approval to sell customer information but
16 KCPL puts its specific customer information at risk by transferring this information
17 from the protections provided by KCPL to the outside world where KCPL depends on
18 Allconnect and the companies which Allconnect shares this information to protect this
19 private information.

20 KCPL forces its regulated utility customers to interact with Allconnect when they
21 simply call KCPL for regulated utility service. Even KCPL has admitted that

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1 Allconnect marketing agents have treated KCPL customers in a pushy and aggressive
2 manner.

3 Allconnect provides no value to KCPL customers and is actually a detriment to
4 KCPL's customer service. Allconnect does not offer to KCPL customers all of the
5 potential internet and television service providers available in KCPL's service
6 territory.

7 KCPL has engaged in an affiliate transaction with GPES and KCPL has failed to
8 comply with several requirements of the Commission's Affiliate Transaction Rule.
9 One of the primary violations in its affiliate transaction with GPES is that KCPL fails
10 to price its services to GPES at the higher of its cost to produce the service or the fair
11 market price of the service. KCPL completely ignores the requirements of the Rule's
12 Paragraph 2 affiliate pricing requirements.

13 GPES and Allconnect determined the fair market price of the services that KCPL will
14 provide to Allconnect through the GPES contract, but KCPL's regulated operations
15 not only does not receive that fair market price as required by Paragraph 2 of the Rule,
16 it does not even receive a recovery of its actual costs to provide that service to
17 Allconnect.

18 Finally, by using the regulated utility assets and employees to provide the service to
19 GPES, GPES should be compensating the KCPL's utility operations with the revenues
20 and profits received from Allconnect. Instead, KCPL's arrangement with GPES
21 subsidizes KCPL's nonregulated operations to the detriment of its regulated utility
22 customers.

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1 Q. Does this conclude your surrebuttal testimony?

2 A. Yes, it does.