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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing
February 6, 2017
Jefferson City, Missouri
Volume 6

In The Matter of Kansas)
City Power & Light)
Company's Request For) File No. ER-2016-0285
Authority To Implement A)
General Rate Increase For)
Electric Service,)

RONALD D. PRIDGIN, Presiding
DEPUTY CHIEF REGULATORY LAW JUDGE

DANIEL Y. HALL, Chairman,
STEPHEN M. STOLL,
SCOTT T. RUPP,
COMMISSIONERS

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1 PROCEEDINGS

2 JUDGE PRIDGIN: Good morning. We are on
3 the record. This is File No. ER-2016-0285, in the
4 matter of Kansas City Power & Light Company's request
5 for authority to implement a general rate increase for
6 electric service. I am Ron Pridgin.

7 I am the Regulatory Law Judge assigned to
8 preside over this matter. We are beginning this
9 hearing on February 6, 2017 at approximately 8:45 in
10 the morning. We are in the Governor Office Building
11 in Jefferson City, Missouri.

12 If I could, I would like to get oral
13 entries of appearance from counsel. Let me go through
14 the order in which you are going to do opening
15 statements. Let me get an entry from KCP&L please?

16 MR. FISCHER: Thank you, Judge. On behalf
17 of Kansas City Power & Light, my name is James
18 Fischer. To my left, for the benefit of the court
19 reporter, is Roger Steiner. He will be appearing.
20 And behind me is Karl Zobrist. Later in the
21 proceeding, Josh Harden may also show up. Let the
22 record reflect the appearance of these attorneys. We
23 have given the court reporter our contact information.

24 JUDGE PRIDGIN: Mr. Fischer, thank you. On
25 behalf of the Staff of the Commission, please?

1 MS. MERS: Nicole Mers for Staff counsel.
2 Kevin Thompson, Nathan Williams, Marcella Forck,
3 Whitney Payne, Cassie Aslan, Bob Berlin, Jamie Meyers.
4 Mark Thompson will also be participating in this case.
5 And my information has been provided to the court
6 reporter.

7 JUDGE PRIDGIN: Ms. Mers, thank you. On
8 behalf of the Office of the Public Counsel, please?

9 MR. OPITZ: Thank you, Judge. For Office
10 of Public Counsel, Tim Opitz. My address is PO Box
11 2230, Jefferson City, Missouri 65102.

12 MR. PRIDGIN: Mr. Opitz, thank you. On
13 behalf of the Missouri Division of Energy, please?

14 MR. ANTAL: Thank you, Judge. Appearing on
15 behalf of the Missouri Division of Energy, Alexander
16 Antal, PO Box 1157, Jefferson City, Missouri 65102.

17 JUDGE PRIDGIN: Mr. Antal, thank you. On
18 behalf of the United States Department of Energy? No
19 appearance. I have had a few lawyers ask me if they
20 could be excused, and I have granted those requests.
21 But just in case I miss somebody, I will try to go
22 through everybody, even though I have already excused
23 them. On behalf of MIEC, please?

24 MR. DOWNEY: Good morning, Judge. Edward
25 Downey on behalf of the MIEC. The court reporter has

1 my contact information.

2 JUDGE PRIDGIN: Mr. Downey, thank you. On
3 behalf of MECG, please?

4 MR. WOODSMALL: Good morning, Your Honor.
5 David Woodsmall, on behalf of MECG.

6 JUDGE PRIDGIN: Mr. Woodsmall, thank you.
7 On behalf of -- I believe Mr. Zoellner (phonetic) has
8 already been excused. On behalf of the City of Kansas
9 City, Missouri, please?

10 MR. COMLEY: On behalf of the City of
11 Kansas City, Missouri, I would like the entry of Mark
12 W. Comley of Newman, Comley & Ruth. I have supplied
13 our business address to the court reporter,
14 previously.

15 Judge, the City of Kansas City is not
16 sponsoring a witness in this matter. It has not taken
17 a position on any of the issues yet. I have no
18 cross-examination of the witnesses. I was going to
19 respectfully request that I be excused from the
20 remainder of the hearing.

21 JUDGE PRIDGIN: Any objection? Hearing
22 none. Thank you, Mr. Comley. That request is
23 granted. On behalf of CCM, please?

24 MR. COFFMAN: On behalf of the Consumers'
25 Council of Missouri, let the record reflect the

1 appearance of John B. Coffman. My address is with the
2 court reporter. It is not my intent to be here every
3 day of the hearing. I plan to be here just on certain
4 issues. If necessary, I asked to be excused
5 throughout the hearing.

6 JUDGE PRIDGIN: Certainly, Mr. Coffman.
7 Thank you. Any objections? That request is granted.
8 On behalf of Sierra Club, please? I think they have
9 asked to be excused, if I recall correctly. On behalf
10 of NRDC? No appearance. On behalf of Renew Missouri?

11 MR. LINHARES: Good morning, Judge.
12 Appearing on behalf of Renew Missouri Advocates,
13 Andrew Linhares. The court reporter has my
14 information. Thank you.

15 JUDGE PRIDGIN: Mr. Linhares, thank you.
16 On behalf of Ameren Missouri? I believe they have
17 also asked to be excused. Did I overlook anyone?
18 Before we get to openings, let me just alert Staff, in
19 particular the other parties.

20 I believe I received a notice of correction
21 late Friday, alerting the Commission that there were
22 additional witnesses. Those additional witnesses were
23 not listed with that notice. So if I could get that
24 information at some point. It doesn't have to be this
25 moment. But just to kind of get an idea of

1 scheduling.

2 That segways well into what I understand
3 the parties want to do today. And that is to present
4 opening statements, and then put on witnesses that
5 would address the Commission raised issues that are
6 listed on today's schedule. And then recess for the
7 day to negotiate. Then we will see where we are
8 tomorrow morning. Is that what I am understanding
9 from the parties?

10 MR. STEINER: That's right, Judge.

11 JUDGE PRIDGIN: I understand that the
12 notice of corrected witnesses may or may not change,
13 depending on what gets discussed and resolved later
14 today. Is there anything further from the parties,
15 before we proceed to opening statements?

16 MR. OPITZ: Yes, Your Honor. I have two
17 matters I will like to bring up.

18 JUDGE PRIDGIN: Mr. Opitz.

19 MR. OPITZ: First is, I would like to
20 inquire about the status of Public Counsel's Motion to
21 Declassify, that was filed last week. I have not seen
22 an order one way or the other.

23 JUDGE PRIDGIN: Haven't we granted that.
24 Let me double-check that. I recall granting that
25 Friday, but I could be wrong.

1 MR. OPITZ: I may have overlooked it, so I
2 apologize.

3 JUDGE PRIDGIN: That's alright. Let me see
4 if I can find that real quickly. I recall granting
5 it, but I don't see it. So perhaps I did not. I
6 think I even drafted the order. If I recall, KCP&L
7 responded saying they did not object. I will grant
8 that motion. I apologize. I recall writing the
9 order, but apparently failed to issue it. That's my
10 failure. My apologies.

11 MR. OPITZ: Thank you, Judge.

12 JUDGE PRIDGIN: Anything else?

13 MR. OPITZ: I have one additional matter.
14 If you prefer I do it in an alternative situation, I
15 am more than happy to do so. But I would, at this
16 time, move to offer into evidence the public comments
17 that are filed for this case. When I checked this
18 morning, there were 58 comments filed. So I would
19 move to admit those into evidence, at this time.

20 JUDGE PRIDGIN: Any objection?

21 MR. FISCHER: Judge, I think we would
22 object to having them actually introduced as evidence.
23 They are certainly part of the file. I think
24 historically, comments have been reviewed by the
25 Commission, but not necessarily put into evidence.

1 JUDGE PRIDGIN: Mr. Opitz?

2 MR. OPITZ: There was a recent case -- a
3 recent order in an ongoing case right now that
4 discussed this. I did a little bit of research.
5 There was a Laclede case, in the past, where customer
6 comments were sent out and received by the Commission.

7 Public counsel had made a motion to offer
8 them into evidence. And ultimately, the Commission
9 admitted them into evidence in its order in that case.
10 It is stated that -- well, first of all, the
11 Commission is not bound by the rules of evidence under
12 386.410.2, that the comments of customers were
13 relevant, and to the extent that there may be a
14 hearsay objection that they would otherwise be
15 admissible as the state of mind of customers,
16 regarding the increase, and not for the fact of the
17 matters asserted contained in those documents.

18 MR. COFFMAN: You Honor.

19 JUDGE PRIDGIN: Go ahead.

20 MR. COFFMAN: I would like to second the
21 motion of public counsel. I think it is important
22 that the comments are in the record. Clearly, they
23 don't have the same status as sworn testimony, but
24 they are relevant to the case. I think that folks
25 that entered those believe that they are part of the

1 record, and that they will be received by the
2 commission.

3 I think it would be good to have the
4 Commission acknowledge them in some way. It is not
5 clear to me yet what it means to be part of the case
6 file. You know, can I cite to them? I think it would
7 be helpful, at least for the public record to know
8 that those comments are in the public record. And
9 part of the case in some way.

10 I think that the Commission is
11 sophisticated enough to understand that some comments
12 are expert testimony, some are sworn testimony, and
13 some are comments. That is clear from the way they
14 have been submitted.

15 MR. FISCHER: Judge, as I understand the
16 request, it is for the introduction of written
17 comments that were just submitted into either EFIS or
18 to the Public Counsel's Office. None of those -- well
19 probably writing in some form, have been subject to
20 cross-examination by anybody in the case. And
21 therefore, I would argue aren't substantial evidence.
22 But we don't have any objection, and the Commission
23 certainly concluded in the file in reviewing them, for
24 whatever its worth.

25 JUDGE PRIDGIN: I am going to overrule the

1 objection, and allow those into evidence. The
2 Commission can certainly weigh the weight of those
3 comments, as it deems appropriate. Anything further,
4 before going onto opening statements? All right.
5 KCP&L?

6 OPENING STATEMENT

7 MR. FISCHER: Good morning. May it please
8 the Commission. In this opening statement today, I am
9 going to highlight at a high level, some of the big
10 picture issues that you will hear in this hearing.
11 And leave for our mini statements, more detailed
12 discussions of specific issues.

13 The case is a request for authority to
14 implement a general rate increase of \$62.9 million, or
15 7.52 percent in KCP&L's Missouri service area. Now it
16 is also including a request to re-base the fuel, as a
17 part of the fuel adjustment clause. If you include
18 that, then the aggregate annual increase would be
19 \$90.1 million, or 10.77 percent.

20 The company continues to experience cost
21 pressures in a number of areas, specifically bill
22 transmission expense, plus the Southwest Power Pool.
23 And State assessed property taxes continue to increase
24 year-over-year.

25 The primary drivers of the case are as

1 follows; the cost of capital and capital structure.
2 That's about \$7 million. And infrastructure
3 investments across the company, including IT and just
4 general investments. That's about \$21.5 million.
5 Transmission is \$7.7. Property taxes are about \$8.5
6 million. And weather normalized demand issues, about
7 \$15.1 million.

8 The company has also experienced a period
9 in which the average use per customer is flattening
10 out, or declining. From 2000 to 2007, KCP&L's average
11 use per customer was increasing on average 1.4 percent
12 per year, in the residential sector. However, since
13 2010, the average use per customer has declined an
14 average of a half a percent per year, through 2015.

15 This is a significant fact that the
16 Commission should consider as it establishes new rates
17 in this case, since the decline in usage makes it
18 difficult for the company to absorb increases that are
19 occurring to its cost of service.

20 The company is also requesting the
21 continuation of the fuel adjustment clause that is
22 currently in place, with some modifications that are
23 discussed with testimony of Tim Rush.

24 Finally, the company is make a rate design
25 proposal that the proposed rate increase be applied to

1 retail classes on an equal percentage basis, except
2 for the lighting class. The company is suggesting for
3 lighting customers, that they not receive an increase.

4 The company is also opposed to the use of
5 an inclining block rate structure, at this time, for
6 its summer and winter residential customers. The
7 company has a number of studies underway in the rate
8 design area. In particular, we are also looking at
9 time of use rates. And we believe it would be
10 premature to make changes to the existing rate
11 structures, at this time.

12 Marasol Miller is our witness that
13 discusses this issue, and the re-design in general.
14 We will discuss some of the more specific issues in
15 our mini openings, including cost of capital and
16 capital structure issues. The clean charge network.
17 And also the issues that were raised by the
18 commissioners themselves in the order directing
19 consideration of certain questions. I believe it was
20 issued on August 24th of last year.

21 I would also like to conclude by showing
22 you a big picture view of where the issues are. I
23 have an exhibit, if you can't read that. I have also
24 added the slide. If that is adequate, I will just go
25 forward.

1 The company's original request, as I
2 mentioned, was \$90.1 million, including the re-basing
3 of fuel. With the estimated true-up impact included.
4 KCP&L's current case now supports an increase of \$86.5
5 million. And according to the reconciliation that was
6 filed last week, Staff's updated revenue requirement
7 is still at negative 12.9 million.

8 As I understand it, that would be before
9 the true-up estimate data comes in. In its original
10 filing, Staff had included an allowance for known and
11 measurable changes in the true-up estimate of between
12 13.5 million and 30.6 million.

13 Now the major issues that we will hear
14 include rate of return, which is about 25.7 million.
15 And capital structure cost of debt, another 2 million.
16 Fuel is 13.4 million. The depreciation issue is worth
17 about 15 million. Transmission 5.6 million. And
18 property taxes, 6.8. And then revenues and other
19 miscellaneous issues would be roughly 34.7 million.

20 In summary, the case is important not only
21 to review the company's revenue requirement, but it is
22 also critical to consider regulatory policies that
23 will be used to protect both customers and
24 shareholders under the circumstances that exist in the
25 market today.

1 Given the lack of meaningful growth in
2 customer count and usage, and the expected increases
3 to other cost of service components that really aren't
4 disputed, this case will be about the regulatory
5 policies that will be used to address the changing
6 environment, and give the company a realistic
7 opportunity to earn its authorized return.

8 Thank you for your attention. That's
9 really all I have for our general opening statement.
10 I would be happy to answer any of your questions.

11 CHAIRMAN HALL: No questions. Thank you.

12 COMMISSIONER STOLL: I have no questions.
13 Thank you.

14 JUDGE PRIDGIN: Mr. Fischer, thank you.
15 Opening on behalf of Staff please?

16 OPENING STATEMENT

17 MS. MERS: My name is Nicole Mers. I am
18 here on behalf of Staff. Good morning, commissioners.
19 Good morning, Judge. May it please the Commission.
20 Commissioners, I have to say at the outset that I
21 heard the discussion and agenda last week about the
22 amount of issues being tried in this case. And Staff
23 apologizes for the amount of issues.

24 Many of the 27 issues before you have
25 already been decided by this Commission. The proper

1 expenses and revenues to include in an FAC. The
2 impact of regulatory lag on KCP&L's earnings. The
3 denial forcastic costs or trackers for property taxes
4 and transition costs. The use of GPE's capital
5 structure. Rate case expense sharing. Dues and
6 donations. And your judgment on these issues, such as
7 the use or trackers, rate expense sharing, and what
8 items to flow through the FAC have been affirmed by
9 the Western District on September 13th, 2016.

10 Other issues being litigated today have
11 also previously been decided by the Commission. The
12 annualization of MEEIA Cycle-1 that KCP&L argues for
13 in this proceeding is prevented by stipulation, signed
14 by KCP&L Staff and other parties, and was approved by
15 the Commission in MEEIA Cycle-1 and MEEIA Cycle-2
16 cases.

17 OPC's push for the 90/10 sharing mechanism
18 in the FAC is an argument that you guys have heard
19 quite a few times, and have consistently rejected in
20 favor of the 95/5 model. However, to me, the biggest
21 flag that there are too many issues in this case is
22 the simple fact and the divergence in the revenue
23 requirement numbers presented by the party.

24 KCP&L has requested \$90 million in their
25 direct filing. Staff's reconciliation, which was

1 filed Thursday, shows the results of all of Staff's
2 modeling as of June 2016. Staff's revenue
3 requirement, which is the number that Staff suggests
4 KCP&L needs in order to provide safe and adequate
5 service, and earn its authorized return, is negative
6 \$12 million. That's negative \$12 million.

7 So to Staff, none of these issues should be
8 litigated, as KCP&L does not need this case. KCP&L
9 rates set in ER-2014-0370 that went into effect on
10 September 9th, 2015 are more than adequate for KCP&L
11 to continue to provide safe and adequate service to
12 its customers, and earn its authorized return.

13 In fact, KCP&L's last surveillance report,
14 which was filed September 30th, 2016, has them earning
15 over their authorized return. But we do have this
16 case, and Staff must litigate what is before us. I
17 will briefly run down some of the issues in this case,
18 with the reminder that there will be many openings
19 before each issue that will delve deeper into the
20 substance of the issue, as opposed to my brief gloss
21 over.

22 KCP&L is asking for a 10.77 percent
23 increase in rates. In the last 10 years, KCP&L has
24 increased its rates by 65 percent. If this increase
25 is approved as filed, that will mean KCP&L has

1 increased its rates by 75 percent since 2007. As it
2 stands today, KCP&L has had \$372 million in rate
3 increases since 2007.

4 At the other end of the spectrum, the rate
5 payers that KCP&L serves, 468,700 of them being
6 residential customers, are still recovering from the
7 economic downturn our country suffered. Total GDP
8 growth in 2015 in Missouri was 1 percent, which is a
9 tenth of the increase KCP&L asked for in this case.

10 Since 2007, during the same time frame in
11 which KCP&L received a 65 percent increase in its
12 rates, KCP&L residential customers only received a 17
13 percent in their average weekly wages. Approving this
14 rate increase would mean KCP&L residential increased
15 their earnings at one-fifth the amount that KCP&L has
16 increased those customer's rates.

17 So with that context in mind, I will
18 highlight a few of the bigger issues the Commission
19 will be hearing over the next few weeks. As I
20 mentioned earlier, KCP&L is renewing its arguments
21 from the 2014 rate case regarding trackers. This
22 issue was previously decided by the Commission, in
23 which trackers for transmission expense, cyber
24 security, and property taxes were not found to be
25 appropriate expenses to be given to accounting

1 treatment.

2 Again, the Western District upheld that
3 decision. KCP&L will argue largely the same points as
4 last time, that transmission and property taxes are a
5 significant expense, and that the expense is
6 increasing. Staff will respond with the same argument
7 Staff put forth in the 2014 case, in which the
8 Commission agreed with, that property taxes and
9 transmission expenses do not rise to the level of
10 volatile, extraordinary, or non-reoccurring costs that
11 would be suitable for deferral accounting.

12 Trackers in general tend to lower the
13 incentive the utility has to control costs, and
14 isolated customs in similarity, without regard to the
15 relationship between investment, revenue, and expense.
16 Single-issue rate making mechanisms, such as trackers,
17 should be used on a limited basis.

18 Staff finds the appropriate circumstances
19 for trackers to be considered are going to be in
20 highly unique and unusual situations, such as when
21 costs demonstrate high volatility over a period of
22 time. Or there are new costs for which there is no
23 historical data to develop an ongoing level of cost.
24 Or when uncertain levels of new costs are imposed on
25 the utility by new Commission rules.

1 Property taxes and transmission expenses
2 are known reoccurring ordinary expenses that a utility
3 must face, and can be handled under traditional writ
4 making principles. Therefore, Staff does not support
5 KCP&L's request for trackers in this case.

6 Forecast at cost for property taxes and
7 transmission are also not support by Staff, as they
8 are not known and measurable, and violate the
9 longstanding Missouri tradition of using historical
10 and actual date. As can be seen by KCP&L withdrawing
11 their request for cyber security forecaster tracker in
12 this case, predictions of extreme escalating costs can
13 be unfounded, or not come into fruition, which
14 eliminates the need for tracking or forecasted
15 treatment.

16 Staff supports a continuation or rate-case
17 expense sharing. This case in particular, with the
18 \$102 million difference between KCP&L's ask and the
19 Staff's results highlights the need to protect rate
20 payers from litigation expenses that will only benefit
21 shareholders.

22 Staff recommends KCP&L keep their existing
23 FAC largely as-is. Staff continues to support the
24 95/5 sharing mechanism. Staff recommends an
25 allocation of the Ringwood Solar Facility between

1 G-Mobile and KCP&L, based on customers, as the company
2 themselves argued in the Greenwood Solar case, KCP&L
3 and G-Mobile both benefit from the knowledge gained by
4 the solar facility, and the experience gained by their
5 employees.

6 Staff believes Staff's allocation is what
7 the Commission recommended during its discussion of
8 the Greenwood Solar Facility, and what it contemplated
9 in that report and order. Another issues between
10 Staff and KCP&L is the revenues in this case. Staff
11 and KCP&L mainly disagree on a MEEIA Cycle-1
12 adjustment KCP&L made, and the methodology to be used
13 when a large power customer leaves a class.

14 KCP&L attempts to make an adjustment to
15 annualize sales, as a result of MEEIA Cycle-1. The
16 plain language of the stipulation in both MEEIA
17 Cycle-1 and MEEIA Cycle-2 cases prohibits KCP&L from
18 doing so. KCP&L agreed to a three-point disincentive
19 in that shared benefit mechanism to address the
20 impacts of MEEIA Cycle-1 on sales.

21 Allowing KCP&L to recover through that
22 disincentive net shared benefit, and to annualize
23 sales in this case, is allowing KCP&L to double-dip
24 its recovery. For large power, Staff currently
25 removes normalized actual demand billing units from

1 the large power class when a customer leaves. KCP&L
2 uses an average.

3 Staff method uses actual known historical
4 data, and not an average, which is in line with
5 traditional Missouri writ making principles. As for
6 Staff's class cost of service and rate design
7 proposal, with Staff's recommendation of no increase,
8 Staff does not recommend any shifts in revenue
9 responsibility.

10 As for rate design, Staff recommends time
11 of use rates to be the most accurate way to recognize
12 cost causation, encourage efficiency, and to protect
13 residential, especially low-income customers, from
14 disproportionate impacts. Staff recognizes that time
15 of use rates cannot be implemented in this case, due
16 to KCP&L's representation about the abilities of their
17 current billing system.

18 However, Staff believes incline in rates
19 could cause more harm than good in the terms of
20 impacts in residential rate payers, and in the
21 relationship between the FAC and utilities earnings.

22 Finally, turning to ROE, and the associated
23 issue of Staff's experts recommending an ROE of 8.65,
24 Staff also recommends using GPE's cost of debt and
25 capital structure, which is typically what the parties

1 agree to and settle on before hearing.

2 I would like to thank everyone for their
3 time. The parties and time spent preparing this case,
4 and providing all the information necessary to do so.
5 And the Judge for hearing this case. And the
6 Commissioners for hearing this case.

7 To close, I will just state that KCP&L has
8 requested numerous items, such as trackers, dues for
9 organizations that don't benefit rate payers,
10 forecasts and expenses, new expenses through the FAC,
11 changes to a stipulation involving MEEIA Cycle-1, a
12 allocation of costs for Greenwood Solar to KCP&L. And
13 most importantly, a \$90 million increase that is not
14 needed.

15 As the great philosopher Jagger says, you
16 can't always get what you want. So giving KCP&L only
17 what they need, which in this case is no increase.
18 Thank you. I will answer any questions you might
19 have.

20 CHAIRMAN HALL: I have no questions. Thank
21 you.

22 COMMISSIONER STOLL: No questions. Thank
23 you.

24 JUDGE PRIDGIN: Thank you. Public counsel.

25 MR. OPITZ: Good morning. May it please

1 the Commission?

2 JUDGE PRIDGIN: When you are ready, sir.

3 OPENING STATEMENT

4 MR. OPITZ: Thank you. For the past year,
5 KCP&L has told you at workshops and at hearings, that
6 the company is unable to earn its authorized rate of
7 return. However, the facts you will hear during the
8 course of this hearing tell a different story.
9 KCP&L's last rate increase became effective on
10 September 29th of 2015.

11 In that case, the Commission authorized an
12 ROE of 9.5 percent. In the 12 months following,
13 KCP&L'S actual earned ROE was 9.88 percent. It is
14 perplexing then that even though for the years since
15 rates were last set, KCP&L has earned above its
16 authorized ROE, they are here asking for more than \$90
17 million.

18 Any increase to KCP&L's rates is
19 unwarranted, and is unjust, and is unreasonable. This
20 case, council for the company said it is about policy.
21 This case, from OPC's perspective, is about the
22 company's attempt to radically shift risk onto
23 customers by encouraging the Commission to depart from
24 sound regulatory principals and past Commission
25 standards.

1 To name a few examples, the company wants
2 to depart from longstanding Commission practice, in
3 order to include in appreciation rates, costs that are
4 not known and not measurable. The company's own
5 position statement refers to these as estimates. This
6 radical change would increase rates by approximately
7 \$10 million alone.

8 The company wants to upend Commission
9 practice and use a new capital structure, rather than
10 continue the use of the GPE consolidated capital
11 structure as set rates. Doing so benefits only GPE,
12 the holding company. And is arguably a long-term
13 detriment to Kansas City Power & Light's rate payers.

14 The company wants to include transmission
15 fees in the FAC, based on projected costs. And absent
16 that, they request a single-issue rate making tracker.
17 The FAC already allows accelerated cost recovery, so
18 it is unclear why they are asking for that change.

19 The company wants to recover projected
20 property taxes and a single-issue rate making tracker.
21 These costs aren't historical or known in metrical.
22 In fact, Staff witness, Ms. Lyons (phonetic) in her
23 surrebuttal at Page 21 informs the Commission that
24 KCP&L's budget for property taxes was inaccurate. If
25 you would like more detail, I would have to go

1 in-camera. I can come back to that, if you wish.

2 Another request, the company wants to
3 recover incentive compensation, based on projections.
4 The company wants to recovery severance expenses in
5 the cost of service, even though those do not benefits
6 customers, and the Commission has decided in the past
7 that they should not be included in rates.

8 The company wants to artificially adjust
9 its kilowatt hour sales, in order to double-charge
10 rate payers for MEEIA Cycle-1. Customers have already
11 paid the net present value of the energy savings, and
12 now the company is asking them to pay again. This
13 issue is approximately \$7 million. The company wants
14 to decrease the funding levels of its economic relief
15 pilot program, because it has accumulated a large
16 reserve.

17 Despite praise from this Commission in the
18 company's last case, KCP&L has not prioritized this
19 program. Despite there being a continuing need in its
20 service territory, a reserve has grown. Instead, the
21 company spent this summer focused on continuing to
22 transfer customer calls and customer information to a
23 tele-marketer, without getting their consent.

24 In this case, the company filed a notice
25 saying it was discontinuing that tele-marketer

1 program, and it explained that it values its
2 relationship with that tele-marketer. I would rather
3 they value their relationship and the privacy and time
4 of their customers.

5 In this case, the company wants to increase
6 its ROE to an outrageous 9.9 percent, when the other
7 witnesses say it should decrease. And on top of all
8 the forgoing drastic shifts in policy, the company
9 wants rate payers to pay for the entirety rate case
10 expense. Even though this case, as you have heard,
11 seems to benefit only the shareholders.

12 To put a finer point on the audacity of
13 this rate case, it is worth comparing it to the
14 company's last rate case. In that case, council for
15 the company explained in his opening statements that
16 the company seeks a rate increase to recover
17 significant capital expenditures since its last rate
18 case, including specifically the environmental
19 retrofit at the La Cygne Plant, and significant
20 improvements at the Wolf Creek Nuclear Power Plant.
21 That is in the case ER-2014-0370, Transcript Volume 9,
22 Page 22.

23 In that case, the company saw to increase
24 rates by \$120 million. The Commission decision
25 permitted an increase of approximately \$89.6 million.

1 To be clear, that is a significant increase. But
2 importantly, in that case, the company did have large
3 plant additions at La Cygne and Wolf Creek come
4 online. No party in that case, to my knowledge,
5 disputed that some increase was necessary. That is
6 not the case here.

7 There is no large capital expenditure. And
8 the company has earned 9.88 percent in the year since
9 its last rate increase. It appears that there is no
10 need for an increase here. However, having told the
11 Commission in numerous workshops and hearings that
12 they are unable to earn their authorized rate of
13 return, what is the company to do?

14 Now you as Commissioners have quite a bit
15 of experience under your belts. You have seen a lot
16 of cases. And you know that whenever this issue comes
17 up, that the utility is unable to earn sufficiently,
18 the Office of Public Council or myself respond that of
19 course the utility can file a rate case. That's how
20 they recover increasing costs.

21 So with that in mind, it appears the
22 company has adopted a different approach. Now without
23 large capital expenditures, and when they are earning
24 their authorized ROE, the company says that you should
25 look into the future. They ask for an increase in

1 rates, based on projections and estimates, and
2 anything else that can attempt to justify this \$90
3 million increase. Because you are seasoned
4 Commissioners, you know that KCP&L and KCP&L Greater
5 Missouri Operations, also known as GMO, are
6 affiliates.

7 GMO has no employees. The employees of
8 KCP&L are the employees that work there. You also
9 know that KCP&L and GMO are both wholly owned direct
10 subsidiaries of GPE. In my view, that means the same
11 management decided to file GMO's last rate case. In
12 GMO's recent rate case, ER-2015-0156, KCP&L management
13 sought to increase by almost \$60 million.

14 The parties in that case settled for an
15 increase of roughly \$3 million. In this case, you
16 have heard that company management is asking for \$90.1
17 million more from the people of the Kansas City area.
18 In its direct case, the Staff recommended no increase.
19 By looking at the reconciliation filed this Friday,
20 the Staff revenue requirement is at a negative \$12.9
21 million.

22 Included on that reconciliation are the
23 approximation of the value of Public Council's issues.
24 OPC's revenue requirement, according to that
25 reconciliation, is at negative \$19.3 million. And

1 that is just to bring the company's rates into what is
2 just and reasonable cost of service. I urge you to
3 reject any increase.

4 In addition, since we are here, I will
5 point out some issues that the Commission should take
6 this opportunity to consider and address. First, I
7 would like you to note that Public Council, in its
8 direct testimony, proposed an FAC in this case, to
9 reduce risk to the company and increase transparency.

10 To my knowledge, this is the first time
11 Public Council has proposed an FAC in its direct case.
12 Second, Public Council has made a management expense
13 adjustment in this case. This is to remove
14 unreasonable and imprudent management costs from
15 rates. OPC witness, Amanda Conner, describes the
16 adjustment that was made.

17 Further, OPC witness, Mr. Charles Hyneman
18 recommends the Commission direct or encourage the
19 company to adopt certain policies designed to protect
20 rate payers from these imprudent and excessive
21 management expenses.

22 Third, Public Council recommends removing
23 the dues from rates. The company has not demonstrated
24 any benefit to customers from this cost. Given their
25 recent hearings minimizing the value of any study in

1 favor of hands-on experience, incurring and charging
2 this cost to rate payers is unreasonable.

3 Fourth, Public Council opposes the
4 inclusion of including Greenwood Solar Facility in
5 rates. Our opposition to this issue is
6 well-documented in other cases. I understand that our
7 office is in the process of an appeal.

8 Fifth, Public Council opposes including the
9 electric vehicle charging stations in rates. This is
10 not a regulated service. The Commission should not
11 force rate payers to subsidize this concept.

12 Sixth, we ask the Commission to exclude
13 expense trackers from rate base. These are simply
14 direct rate recovery by the utility of normal and
15 recurring operating expenses. These deferred
16 recurring operating expenses should not be classified
17 as shareholder investments, and included in the rate
18 base. OPC witness, Mr. Hyneman, offers our testimony
19 on that issue.

20 Seventh, the Commission should adopt and
21 approve a cost allocation manual in this case. Public
22 Council proposed a cost allocation manual for KCP&L in
23 direct, and the company countered in rebuttal in the
24 testimony of Mr. Klote, with its own proposal.

25 The CAM rebuttal testimony of Mr. Klote is

1 acceptable to Public Council, and we urge the
2 Commission approve that CAM in this case. There is no
3 reason for delay.

4 In closing, I urge this Commission to find
5 that any increase is unwarranted, is unjust, and is
6 unreasonable. We request that the Commission reject
7 KCP&L's proposals to shift risk onto customers
8 unnecessarily, and to depart from sound regulatory
9 principals, and past standards. With that, I am happy
10 to answer any questions.

11 CHAIRMAN HALL: No questions. Thank you.

12 COMMISSIONER STOLL: No questions. Thank
13 you.

14 JUDGE PRIDGIN: Mr. Opitz, thank you.
15 Commission of Energy, please?

16 OPENING STATEMENT

17 MR. ANTAL: May it please the Commission.
18 As I said earlier, my name is Alex Antal. I am
19 appearing today on behalf of the Missouri Division of
20 Energy. You have already heard from several
21 counselors this morning, and have gotten a good flavor
22 of the issues the Commission will have before it
23 during this rate case proceeding.

24 I wanted to take a few moments of my
25 opening statement time to discuss a legal principle,

1 that in my opinion hasn't gotten a whole lot of
2 coverage in the three and a half years that I have
3 been practicing before this Commission.

4 You will find a copy of my slides in front
5 of you. I distributed them earlier this morning. The
6 legal topic that I would like to discuss this morning
7 is that of the burden of proof.

8 Black's Law Dictionary defines burden of
9 proof as the obligation of a party to establish, by
10 evidence of a requisite degree of belief, concerning a
11 fact in the mind of the trier of fact of the courts.
12 Except as otherwise provided by law, the burden of
13 proof requires proof by a preponderance of the
14 evidence.

15 Now what does a preponderance of the
16 evidence mean? Black's Law Dictionary defines a
17 preponderance of the evidence as evidence which is of
18 greater weight or more convincing than the evidence
19 which is offered in opposition to it. That is
20 evidence which as a whole shows that the fact sought
21 to be proved is more probable than not.

22 You are the triers of facts. You have to
23 weigh the evidence that is presented to you on the
24 various issues in this case, and determine which
25 position has more weight to it. Now I would like to

1 turn to some of the Missouri Court of Appeals
2 decisions -- not decisions. But rather, opinions on
3 the burden of proof in Public Service Commission
4 cases.

5 The Court of Appeals has held that in rate
6 making cases, the utility receives the benefit of a
7 presumption of prudence with regard to its costs,
8 until another party raises a serious doubt regarding
9 the prudence of its expenditure. That is to say that
10 the utility does not have to show the prudence of its
11 cost and expenses as its case in chief. There is a
12 presumption that they are prudent.

13 Now the Court of Appeals has observed, and
14 the Commission has held, that mere speculation does
15 not create a serious doubt about the prudence of
16 expenditures. The Court of Appeals has also said that
17 in order to disallow a utility's recovery of cost from
18 its rate bearers, the PSC must find both that the
19 utility acted imprudently, and two, that such
20 imprudence resulted in harm to its utility rate
21 bearers.

22 Essentially, what we have here is a
23 two-part test. On the various issues that the
24 Commission will hear throughout this proceeding, the
25 Commission must determine one, does the evidence

1 presented to it show the raising of serious doubts, or
2 is it mere speculation that the utility's costs or
3 expenses were imprudent.

4 If in the latter case the Commission finds
5 that the evidence shows that serious doubt has been
6 raised of imprudence, then the Commission must
7 determine if that imprudence resulted in harm to
8 utility rate bearers.

9 Now in doing this analysis, the Commission
10 must take the position as the Court of Appeals has
11 held of what would reasonable actors do with the facts
12 known to them at the time they were making such
13 decisions. Hindsight cannot be determinative in that
14 consideration.

15 Now why do I raise this issue of the burden
16 of proof? There are a vast many revenue requirements
17 issues that the Commission will hear in these
18 proceedings. Some discussion of how many of those
19 will be heard has been the subject of counselors'
20 remarks, just this morning.

21 This two-part test is applicable to all of
22 those costs and expense items. I raise it in one
23 issue in particular. That is the utility's clean
24 charge network. It is seeking to be in base rate
25 portions to recover the costs associated with the

1 electric vehicle charging stations that it has
2 constructed throughout its territory.

3 I will discuss the merits of the evidence
4 on those issues when the Commission hears that
5 testimony, which is currently scheduled for February
6 22nd. I want to turn now to another burden of proof
7 standard that the Commission should be aware of. That
8 is in regards to the burden of proof, and issues of
9 rate design.

10 Missouri's Supreme Court has held that
11 under the statutory standard of just and reasonable is
12 the result reached, not the method employed -- I'm
13 sorry. Let me back up just a second here. The
14 Supreme Court has previously held that a utility has
15 the burden of proof to show that its proposed tariffs
16 are just and reasonable, including the reasonableness
17 of its rate design.

18 Now I point this difference out because in
19 issues or rate design, Missouri's courts have held
20 that there is no such presumption of prudence. The
21 burden of proof lies with the utility from the outset.
22 A party does not necessarily have to raise a serious
23 doubt as to the just and reasonableness of the rate
24 design that the utility is proposing.

25 Now Missouri's courts have also held, as I

1 started to mention, that under the statutory standard
2 of just and reasonable is the result reached, not the
3 method employed, which is controlling. It is not
4 theory, but the impacts of the rate order which
5 counts. You will be presented with at least a couple
6 different rate design proposals for the residential
7 rate class, later in this proceeding.

8 I pointed out that Missouri's courts have
9 held that burden of proof is with the utility. The
10 Commission has observed that. The Commission will
11 have to weigh the evidence presented to it, as to
12 which of the rate designs proposed has a more just and
13 reasonable impact, based on the evidence presented. I
14 point that the Commission should pay particular
15 interest and attention to any of the bill impact
16 analyses presented by the various parties.

17 Which ones are more equitable? Which
18 promotes public policy goals? Particularly, the
19 public policy goal of promoting energy efficiency.
20 With that, that is my prepared remarks for this
21 opening statement. I will entertain any questions
22 from the bench.

23 CHAIRMAN HALL: Good morning, Mr. Antal. I
24 am a little confused as to why you provided this
25 education on burden of proof. Do you believe that we

1 have been inappropriately dealing with this issue?

2 MR. ANTAL: I think it has been brought to
3 the Commission's attention, at least in my experience,
4 that there are two different burden of proof
5 standards. One that is related to revenue requirement
6 issues. And then one that deals with rate design
7 issues.

8 CHAIRMAN HALL: And do you believe that we
9 have failed to honor that distinction? If so, I would
10 like to know more about that.

11 MR. ANTAL: I don't think it's been -- it
12 hasn't been clear to me in the Commission's report and
13 orders that I have reviewed, that there is a
14 distinction. I am not saying that the Commission has
15 come to any wrong conclusions. I don't know that --
16 it is not clear to me that the clarification is being
17 observed.

18 CHAIRMAN HALL: Okay. Thank you.

19 COMMISSIONER STOLL: No questions. Thank
20 you.

21 JUDGE PRIDGIN: Mr. Antal, thank you. US
22 Department of Energy, any opening? What about MIEC?

23 OPENING STATEMENT

24 MR. DOWNEY: Very briefly, Judge. Ed
25 Downey on behalf of the MIEC. We have two witnesses

1 in this case, Jim Dophinae (phonetic), who addresses
2 FAC issues and transmission issues. And Morris
3 Brubaker (phonetic), who addresses class cost of
4 service and rate design issues. I propose to present
5 to you detailed opening statements for each of those
6 issues, which will be coming up later this month. I
7 realize my timing is not the best here, Judge, but
8 could I be excused from the other parts of this
9 proceeding?

10 JUDGE PRIDGIN: Any objection? That
11 request is granted. Mr. Downey, thank you. MECG?
12 Whenever you are ready.

13 OPENING STATEMENT

14 MR. WOODSMALL: Good morning,
15 Commissioners. David Woodsmall on behalf of Midwest
16 Energy Consumers. I am going to be very brief. I
17 commend Staff and OPC for their opening statements.
18 They addressed many of the issues that I will address
19 later in the mini opening statement. So I will breeze
20 through this pretty quickly.

21 I want to hit on the rate increases that
22 KCP&L has experienced since 2006. What you see or
23 hear on the six rate decisions that the Commission has
24 ordered, you see that total, and not counting this
25 case, that the Commission has ordered rate increases

1 of 76.23 percent for KCP&L.

2 Down at the bottom you see KCP&L is
3 requesting another 10.77 percent. So if granted,
4 KCP&L rates will have gone up 95 percent since 2006.
5 Basically, doubled in 10 years. So let's try to put
6 that in perspective. You see here a chart taken from
7 Staff's cost of service report.

8 It shows, as Ms. Mers pointed out, on the
9 far right side, what KCP&L's increase would be with
10 the rate increase in this case. A 95.2 percent rate
11 increase. If you look at the other bars on this
12 chart, you can kind of put that in perspective. As
13 Staff noted, over the same period of time weekly wages
14 for households in this service area have only gone up
15 17.6 percent.

16 So what all of this means is that electric
17 costs are becoming an ever increasingly larger piece
18 of every household's budget. In this case, almost
19 five times larger than they were just 10 years ago.
20 Where is this money going? You see here Great Plains'
21 dividends to its shareholders over the last six years.
22 Great Plains has increased its dividends several
23 times.

24 Since 2010, the GPE dividends have gone up
25 28 percent. So it is not surprising that with these

1 numerous rate increases, what has happened to KCP&L
2 rates, as you compare them to national and regional
3 averages. This is taken from Staff's surrebuttal
4 testimony. You see KCP&L rates. This is an average
5 rate. It has gone up 65 percent since 2005. That is
6 more than double what has happened with the national
7 rate, that has only gone up 30.2 percent.

8 So KCP&L isn't tracking even the national
9 average. They are increasing more and more. Just to
10 kind of date myself, I can remember back in 2006 and
11 2007 when we were doing these rate cases, and KCP&L
12 would brag about how much below the national average
13 their rates were. You don't see that as part of their
14 testimony anymore. Their rates, in many cases, have
15 already past the national average.

16 Rates aren't competitive. That's bad for
17 industrial customers and business customers. So OPC
18 and Staff pointed out that this case is about a number
19 of policy changes. It has to be about policy, because
20 it can't be about money. The Commission authorized a
21 9.5 percent rate increase that went into effect on
22 September 29th, 2015. In that same order, the
23 Commission rejected a number of policy matters.

24 While they implemented an FAC, they
25 rejected trackers for transmission costs, property

1 taxes, and cyber security costs. KCP&L now relies on
2 regulatory lag to try to get these policy changes.
3 But we see that regulatory lag isn't a problem for
4 this company. You see there on the fourth bullet, in
5 the 12 months ending September 30th, 2016, KCP&L
6 earned a return on equity of 9.88 percent.

7 They are earning more than their authorized
8 return. Regulatory lag isn't affecting them. They
9 have brought out many charts repeatedly to show that
10 they don't earn their authorized return. But that was
11 before they had a fuel adjustment clause. Now that
12 they have a fuel adjustment clause, you can see things
13 are going well for this company.

14 As Staff points out, they don't need a rate
15 increase. So what would have happened if the
16 Commission had granted those trackers in the last
17 case? What would have happened was you would have had
18 costs taken from the past and moved into this case.
19 So their return that they earned would have been even
20 greater than the 9.88 percent. And rates coming out
21 of this case would be even higher.

22 So we urge you to reject these policy
23 changes. We don't see any need for significant change
24 in the regulatory paradigm in Missouri. I am not
25 going to go through the individual issues with any

1 great detail. We presented two witnesses in this
2 case. In addition, we rely on MIEC for a third
3 witness.

4 On return on equity, we supplied the
5 testimony of Mike Gorman. The Commission is well
6 aware of Mr. Gorman's credentials, and have relied
7 upon him as the most reasonable witness, repeated
8 times. Mr. Gorman recommends a return on equity of
9 8.9 to 9.5 percent, with a midpoint of 9.2 percent.
10 This is a slight reduction from the 9.5 percent the
11 Commission ordered in the last case.

12 And it is significantly different than the
13 9.9 that the company is asking for. In addition, we
14 supplied the testimony Mike Brosh on trackers and
15 forecasted costs. Our position is demonstrated there.
16 Like the Commission found in the last case, these
17 costs aren't extraordinary. These costs are built
18 into rates already.

19 They are not extraordinary. There is no
20 reason to track them. So we urge the Commission to
21 reject those tracker proposals. And then third, we
22 rely in MIEC's witness, Morris Brubaker, for the class
23 cost of service study. His cost of service study
24 relies upon what is called the average and excess
25 production allocator to allocate the cost for

1 regenerating plants, and things like that.

2 The A&E methodology is used by multiple
3 Commissions and multiple utilities. We believe it is
4 the most reasonable. Fourth, Mr. Brubaker proposes
5 some changes to the large general service and large
6 rate design. What this is designed to do is collect
7 more of the fixed costs through demand charges. It's
8 the appropriate rate design methodology. We will talk
9 more about that in two weeks.

10 I don't have anything further, unless the
11 Commission has questions.

12 CHAIRMAN HALL: No questions. Thank you.

13 COMMISSIONER RUPP: No questions.

14 JUDGE PRIDGIN: Brightergy? City of Kansas
15 City?

16 MR. COMEY: Thank you, Judge. The City has
17 no opening remarks.

18 JUDGE PRIDGIN: Mr. Comey, thank you. CCM?
19 Mr. Coffman, when you are ready, sir.

20 OPENING STATEMENT.

21 MR. COFFMAN: Good morning, may it please
22 the Commission? I will be brief. I commend to you
23 the evidence being presented today by Staff and by the
24 Office of Public Council. I have been involved in I
25 think almost all of the rate cases for the last 10

1 years, and helped negotiate the Iatan-II KCP&L State
2 Energy Plan.

3 Of all the cases in that period, I think
4 this has the least umph to it. I think you can see
5 from the Staff's thorough audit that there really
6 isn't a need for a rate increase. I am kind of
7 surprised that KCP&L filed it the way they did.

8 So please take a look at that. Don't just
9 grant this utility a rate increase because they filed
10 a case. Make sure you do examine the evidence. I
11 would also ask that you look at the Office of Public
12 Council's testimony on the fuel adjustment cause.

13 Linda Mantle (phonetic) has decades of experience, and
14 has spent most of this time thinking about the issue.

15 She has some very, I think, well thought
16 out ideas about how to reform and revise the fuel
17 adjustment clause. I understand this is the first
18 time they have formally proposed one. My client,
19 Consumers' Council of Missouri, on behalf of
20 residential customers, would just assume we not have a
21 fuel adjustment clause. We don't believe it's
22 necessary for this utility to earn its rate of return.

23 But if you do have one, we would ask that
24 you pay particular attention to the incentive to be
25 cost-efficient. We don't believe that the 95

1 percent/5 percent sharing has been fair, nor has it
2 really encouraged the utility to be as cost-efficient
3 as they were for the many decades that they did not
4 have a fuel adjustment clause.

5 So if you are going to grant it, please
6 consider Public Council's request that you move it to
7 a 9 or 10 percent sharing, which would give the
8 utility a little more skin in the game. They really
9 do have a lot of control. There are a lot of things
10 that the utility can control. If they aren't allowed
11 to pass 95 percent of it through, then I think they
12 will pay a little more attention to it.

13 Again, we are just talking about the
14 variation. We are not talking about 95 percent of the
15 cost. It goes both ways. It is the risk of
16 variation. The residential customers, which have
17 absolutely no control over these decisions, are
18 bearing 95 percent of the risk. If you do continue to
19 go that way with that percentage, please consider a
20 reduction on the rate of return.

21 There really is a link between how much
22 risk is bourn and the return on equity. As we are
23 talking about rate design, we support the company's
24 proposal to spread costs equally amongst the customer
25 classes. We are opposed to the average in excess

1 method that the large industrials are proposing.

2 Perhaps the issue that Consumers' Council
3 feels strongly about is the fixed cost. We urge you
4 to keep the fixed cost for residential customers low.
5 We oppose the \$11.88 charge. We believe that there is
6 strong public opposition. We see that every time we
7 have public hearings or speak on this topic. It does
8 run counter to the State's policy of encouraging
9 energy efficiency. It just gives consumers more
10 control, that any rate increase that there is, be
11 applied to the energy component. That's all I have.

12 JUDGE PRIDGIN: Commissioner?

13 CHAIRMAN HALL: No questions.

14 COMMISSIONER RUPP: I have a question. I
15 have already learned a lot this morning. Great legal
16 pontifications from one presenter. I learned from
17 Staff that Mick Jagger is a poet. Now I would like
18 for you to define umph?

19 MR. COFFMAN: Competent and substantial
20 evidence.

21 MR. RUPP: I did not know that.

22 JUDGE PRIDGIN: Opening from Sierra Club?
23 NRDC? Renew Missouri? Mr. Linhares, when you are
24 ready.

25 OPENING STATEMENT

1 MR. LINHARES: Good morning. May it please
2 the Commission? My name is Andrew Linhares. I
3 represent Renew Missouri. Renew Missouri is a
4 non-profit corporation. We are based in Columbia,
5 Missouri. We are committed to transforming the State
6 into a leading state in renewable energy and energy
7 efficiency, for the benefit of all Missourians.

8 Our interest in this case focuses primarily
9 on issues of rate design, which depending on the
10 Commission's decision on these issues, will affect
11 whether Kansas City Power & Light customers have more
12 or less control over their own bills. And whether
13 customers are encouraged to consume more or less
14 energy.

15 Renew Missouri has filed both direct and
16 surrebuttal testimony, jointly with Sierra Club, in
17 this case. It is authored by our witness, Douglas
18 Jester. And offered in this case as Exhibits 400 and
19 401. Mr. Jester's testimony is concerned with these
20 three rate design issues. KCP&L's proposed increase
21 to the fixed customer charge. A residential inclining
22 block rate structure proposed by the Division of
23 Energy. And a general discussion of time of use
24 rates.

25 These issues are by all no means new in

1 Missouri, nor are they unique to our state. So first
2 in requesting the KCP&L's proposed increase to the
3 fixed customer charge be rejected, Renew Missouri
4 joins a majority of the parties to this case who have
5 taken a position on this issue. That includes the
6 Office of Public Council, the Division of Energy, the
7 Consumers' Council, Sierra Club, and the Natural
8 Resources Defense Council. All of which, with the
9 exception of those last two, you have heard from
10 already today.

11 There is a larger longstanding debate in
12 this country regarding what costs are to be considered
13 fixed, and whether customer charges should be designed
14 to recover more than the customer-specific costs of
15 providing service to a particular meter. But outside
16 of this ideological conversation, there are clear
17 public policy reasons here to refrain from raising
18 KCP&L's current customer charge, which is currently
19 set at \$11.88.

20 A higher customer charge erodes a
21 customer's ability to control their monthly bill.
22 Through conservation, through energy efficiency
23 measures, through distributed generation. In all of
24 these customer adaptation strategies, they are more
25 important today than ever before.

1 As rates continue to rise, and as
2 environmental concerns become greater, and as new
3 technologies offer less expensive ways to install
4 local energy that benefits the grid and lowers all
5 costs. As Douglas Jester notes in his direct
6 testimony, which is Exhibit 400, higher fixed customer
7 charges disproportionately affect low-income and
8 low-usage customers, as well as apartment dwellers.

9 Despite a recent nationwide effort to raise
10 customer charges, most utilities are failing to
11 convince public utility commissions that more of their
12 fixed costs should be recovered through the customer
13 charge. Just as some context.

14 A recent report by NC Clean Energy Tech
15 Center found that of the 46 utilities that requested a
16 10 percent or higher increase, or more than that to
17 their customer charge in 2016, that regulatory bodies
18 gave 79 percent of those utilities no increase, or a
19 partial increase. That is for national context.

20 We come to the inclining block rate
21 proposal. You will find that in Martin Hyman's direct
22 testimony, offered as Exhibit 800 in this case. Renew
23 Missouri is also asking that the Commission order
24 KCP&L to adopt a residential inclining block rate
25 structure.

1 In general, inclining block rates are
2 structured so that a customer's per kilowatt hour rate
3 increases as their usage increases. This better
4 reflects the added cost that high users contribute to
5 the grid, in the form of higher peak demand.
6 Inclining block rates incentive the customer to
7 conserve energy and lower their usage. As each
8 kilowatt hour saved or avoided reduces the volumetric
9 charge at the higher block rate.

10 Declining block rates, by contrast, fail to
11 send this price signal to customers. And each
12 kilowatt hour avoided through conservation or energy
13 efficiency, comes out of that lower block rate. KCP&L
14 customers currently have no rate incentive to save
15 energy, but rather a disincentive.

16 Renew Missouri and the Division of Energy
17 ask that the Commission adopt a very modest first step
18 toward inclining block rates by ordering the company
19 to implement an IBR rate for residential general use
20 customers during the summer. And then a flat
21 volumetric rate during the winter. This proposal was
22 specifically developed and crafted to be a gradual
23 change, and protect against rate shock.

24 The cutoff between these two blocks has
25 been conservatively set to limit the monthly bill

1 impacts to 5 percent at the 95th percentile of usage.
2 So when Staff raises a concern here about bill impacts
3 for customers, keep in mind that this proposal, as you
4 will see in testimony of Martin Hyman and Douglas
5 Jester, is crafted so no more than a 5 percent bill
6 impact is being experienced by the 95th percentile of
7 users. This is a very, very conservative rate here.

8 It's true that some high-end users will be
9 impacted. However, low-end users and low-income users
10 are disproportionately affected by the current
11 declining block rate structure. There is currently a
12 negative rate impact being experienced at the lower
13 end. The proposed inclining block rate would benefit
14 this low-end users, while sending the correct price
15 signal for all customers.

16 We are simply asking the Commission to make
17 a decision. Should we set rates to benefit
18 McMansions, or should we set rates to benefit lower
19 income users while incentivizing behaviors to limit
20 usage and benefit the entire grid. We shouldn't be
21 surprised that KCP&L would prefer to maintain its
22 current declining block rate structure, as even a
23 modest inclining block rate may reduce the company's
24 revenues.

25 However, the commission must concern itself

1 with interests beyond maximizing the company's profit
2 here. Particularly, when there are numerous public
3 benefits that may be addressed. The Laclede Gas case
4 establishes that a rate design must be just and
5 reasonable. And Missouri courts, along with this
6 Commission in the 2010 NGE case, have previously held
7 that the utility bears the burden of proof to show
8 that its rate design is just and reasonable. You
9 heard from Mr. Antal on the burden of proof earlier.

10 KCP&L fails to show why its current
11 declining block rate, as opposed to a inclining block
12 rate, is just and reasonable. KCP&L will claim that
13 no adjustment to its residential rate design is needed
14 at this point, as there are ongoing studies that must
15 be completed, prior to experimenting with a new rate.

16 We disagree. No new studies are needed to
17 move forward with DEE's modest proposal that would
18 maybe true of time of use rates that additional
19 studies are needed. Inclining block rates have
20 decades of successful track records across the
21 country, and in other vertically integrated states.

22 Inclining block rates simply better reflect
23 cost causation. They incent conservation and energy
24 efficiency. (Room audio interruption.)

25 JUDGE PRIDGIN: You may continue. Sorry

1 about that.

2 MR. LINHARES: As I mentioned before,
3 inclining block rates are more fair to low-income
4 customers as well. Moreover, the Division of Energy's
5 proposal is a gradual change that is specifically
6 crafted to avoid rate shock. Delay to KCP&L's next
7 rate case would only continue sending the wrong signal
8 to customers, while doing nothing to further demand
9 reduction to spur investment in energy efficiency, and
10 to spur other innovative solutions that benefit the
11 grid.

12 The Commission is well within its
13 authority, and has more than enough evidence in the
14 record to support an order requiring KCP&L to
15 implement a residential block rate that moves
16 gradually in the right direction.

17 Finally, I just want to briefly touch on
18 the discussion of time of use rates. Renew Missouri
19 sees tremendous benefit to continuing to investigate
20 and develop -- (Room audio interruption.) I wonder if
21 that will be reflected in the record.

22 We are not requesting that the Commission
23 order KCP&L to implement a time of use rate in this
24 case, but rather we are asking that the Commission
25 encourage the company to develop a workable time of

1 use rate with the input of interested stakeholders,
2 and using the best available studies and data.

3 By the time of the company's next rate
4 case, after current studies have been completed, we
5 hope to be supporting a joint proposal from the
6 company and other parties, and recommend that the
7 Commission approve a broad time of use rate. So thank
8 you very much. I am happy to address any questions
9 you have.

10 CHAIRMAN HALL: I was wondering what your
11 position would be if there could be some kind of deal
12 reached with some kind of modest increase in the
13 customer charge, in conjunction with the
14 implementation of inclining block rates. Could those
15 two be married in a such a way that you could be
16 supportive of both?

17 MR. LINHARES: As our position stands right
18 now in this case, I don't believe that would be a
19 trade off that we would be ready to agree to. We
20 certainly are willing to address settlement of these
21 issues with the company. We believe that an increase
22 in the customer charge, for all the reasons I stated,
23 has very negative consequences on conservation, energy
24 efficiency.

25 CHAIRMAN HALL: Couldn't those consequences

1 be offset by implementing an inclining block rate
2 structure? Couldn't that be set so that a low-income
3 low-energy user was essentially held harmless?

4 MR. LINHARES: Mr. Chairman, I follow your
5 reasoning there. That would be a question that data
6 would have the answer to. That would be an analysis
7 that would need to be done to see whether that
8 offsets. I am not qualified to answer that.

9 CHAIRMAN HALL: I would encourage you and
10 all present to consider that kind of compromise.

11 MR. LINHARES: Noted. Thank you.

12 JUDGE PRIDGIN: Anything further? Any
13 opening from Ameren Missouri? Have I overlooked
14 anyone? This is a perfect time to take a break. We
15 will resume in about 15 minutes. I understand we will
16 be moving on to Commission raised issues A, D, and E.
17 And then taking those six witnesses. Then the parties
18 wish to adjourn for the day and continue. Is that
19 correct?

20 MR. STEINER: That's correct, Judge.

21 JUDGE PRIDGIN: Anything further, before
22 going off the record? Okay. We will go off the
23 record.

24 (WHEREIN, a brief recess was taken.)

25 JUDGE PRIDGIN: We are back on the record.

1 We will resume with Commission raised issues A, D, and
2 E. And I believe the first witness will be Mr. File.
3 Is there anything further, before he takes the stand?

4 MR. STEINER: I don't believe so.

5 JUDGE PRIDGIN: Mr. File, come forward and
6 be sworn, please.

7 * * * * *

8 BRIAN FILE,
9 of lawful age, produced, sworn and examined:

10 DIRECT EXAMINATION

11 QUESTIONS BY MR. STEINER:

12 Q. Please state your name for the record?

13 A. Brian File.

14 Q. Where do you work?

15 A. I work at KCP&L in One Kansas City Place,
16 400 Main, Kansas City, Missouri.

17 Q. What is your title there?

18 A. I am the senior manager of products and
19 services.

20 Q. Mr. File, did you causally file rebuttal
21 testimony in this case, which has been premarked as
22 Exhibit 120?

23 A. I did file rebuttal testimony. Yes.

24 Q. Do you have any changes -- (room audio
25 interruption). We are being recorded. Twice, I

1 guess. Do you have any changes or corrections to that
2 rebuttal testimony?

3 A. No.

4 Q. If I asked you the same questions that are
5 contained in that pre-filed rebuttal testimony, would
6 your answers be the same today?

7 A. Yes.

8 MR. STEINER: With that, Your Honor, I
9 would move for the admission of Exhibit 120, the
10 rebuttal testimony of Brian File, and tender the
11 witness for cross-examination.

12 JUDGE PRIDGIN: That was Exhibit 120, Mr.
13 File's rebuttal?

14 MR. STEINER: That's correct.

15 JUDGE PRIDGIN: Any objection? Hearing
16 none, that is admitted. Let me see if we have any
17 cross. Does anybody wish to cross Mr. File. I'm not
18 seeing anyone. Any bench questions?

19 CHAIRMAN HALL: No questions. Thank you.

20 JUDGE PRIDGIN: Thank you, very much. You
21 may step down. Thank you, sir. The next witness is
22 Mr. Rush.

23 MR. STEINER: That's right.

24 JUDGE PRIDGIN: Mr. Rush, come forward to
25 be sworn, sir.

1 * * * * *

2 TIM RUSH,

3 of lawful age, produced, sworn and examined says:

4 DIRECT EXAMINATION

5 QUESTIONS BY MR. STEINER:

6 Q. Please state your name for the record?

7 A. Tim Rush.

8 Q. Where do you work, and what is your
9 position?

10 A. I work at Kansas City Power & Light
11 Company. My position is director of regulatory
12 affairs.

13 Q. Did you causally file in this case
14 pre-filed direct, rebuttal, and surrebuttal testimony?

15 A. Yes, I did.

16 Q. Do you have any changes or corrections to
17 that testimony?

18 A. I do not.

19 Q. Are the answers contained in that testimony
20 true and accurate, to the best of your knowledge,
21 information, and belief?

22 A. They are. Yes.

23 MR. STEINER: Your Honor, at this time, I
24 will tender the witness for cross on the Commission
25 raised questions issue. We can offer the testimony

1 now or wait until the end. He is on several more
2 issues. What is your preference on that?

3 JUDGE PRIDGIN: I don't think I have a
4 preference. Is there a preference that council has.

5 MR. STEINER: I will offer it into the
6 record at this time. I don't have the exhibit numbers
7 in front of me.

8 JUDGE PRIDGIN: I can find that. I show
9 Mr. Rush's -- do you want all of his?

10 MR. STEINER: Right.

11 JUDGE PRIDGIN: I am showing it as 142
12 HC&NP, 143, and 144.

13 MR. STEINER: Right.

14 JUDGE PRIDGIN: Those are all being
15 offered?

16 MR. STEINER: Yes.

17 JUDGE PRIDGIN: Any objections? Hearing
18 none, Exhibit 142 HC & NP, 143, and 144 are all
19 admitted into evidence. Any cross-examination?
20 Seeing none. Any bench questions?

21 CHAIRMAN HALL: No questions.

22 JUDGE PRIDGIN: Mr. Rush, thank you. The
23 next witness being Mr. Fortson. Please come forward
24 to be sworn.

25 * * * * *

1 BRAD FORTSON,
2 of lawful age, produced, sworn and examined, says:

3 DIRECT EXAMINATION

4 QUESTIONS BY MS. MERS:

5 Q. Can you please state your name for the
6 record?

7 A. Brad Fortson.

8 Q. And by whom are you employed, and in what
9 capacity?

10 A. The Missouri Public Service Commission as a
11 regulatory economist.

12 Q. And did you causally file the portion of
13 Staff's report responding to certain Commission
14 questions?

15 A. Yes.

16 Q. Do you have any corrections?

17 A. I don't.

18 Q. And if I asked you the same questions
19 today, would your answers be the same?

20 A. Yes.

21 MS. MERS: I tender the witness for cross.

22 JUDGE PRIDGIN: Is anyone wishing to cross
23 Mr. Forston? Any bench questions?

24 CHAIRMAN HALL: Mr. Fortson, you indicated
25 that you were responsible -- you were sponsoring

1 portions of Staff's report?

2 THE WITNESS: Yes.

3 CHAIRMAN HALL: Is that the Staff's report
4 responding to certain Commission questions?

5 THE WITNESS: Yes.

6 CHAIRMAN HALL: No further questions.

7 JUDGE PRIDGIN: Any further bench
8 questions?

9 COMMISSIONER STOLL: No.

10 JUDGE PRIDGIN: Thank you, Mr. Forston.
11 You may step down. Mr. Beck.

12 * * * * *

13 DANIEL BECK,

14 of lawful age, produced, sworn, and says:

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. JOHNSON:

17 Q. Could you please state your name?

18 A. Daniel I. Beck.

19 Q. Could you spell that for the court
20 reporter?

21 A. Beck is B-e-c-k.

22 Q. How are you employed, and in what capacity?

23 A. I am the manager of the engineer analysis
24 section, here at PSC.

25 Q. Did you prepare or cause to be prepared a

1 portion of Staff's report responding to certain
2 Commission questions, and marked as Staff Exhibit No.
3 202?

4 A. Yes, I did.

5 Q. And which portions of that report did you
6 prepare?

7 A. The specific sections are Roman Numeral No.
8 2. And then a couple of sections within that.

9 Q. I want to make one correction. I misspoke.
10 It was Staff Exhibit No. 203.

11 A. I will take your word for that.

12 Q. Do you have any changes or corrections to
13 that testimony?

14 A. I do not.

15 Q. Are the answers contained in that testimony
16 true and correct to the best of your knowledge and
17 belief?

18 A. Yes.

19 Q. If I were to ask you those same questions
20 today, would your answers be the same?

21 A. Yes.

22 MR. JOHNSON: I tender the witness for
23 cross.

24 JUDGE PRIDGIN: Mr. Johnson, thank you.
25 Does anyone have any cross? Bench questions?

1 CHAIRMAN HALL: No questions. Thank you.

2 COMMISSIONER STOLL: No questions. Thank
3 you.

4 JUDGE PRIDGIN: Thank you. The next
5 witness is Dr. Marke.

6 * * * * *

7 GEOFF MARKE,

8 of lawful age, produced, sworn, and says:

9 DIRECT EXAMINATION

10 QUESTIONS BY MR. OPITZ:

11 Q. Good morning, Dr. Marke. Will you state
12 and spell your name for the record?

13 A. It's Geoff, G-e-o-f-f. Marke, M-a-r-k-e.

14 Q. And where are you employed, and in what
15 capacity?

16 A. I am employed by the Office of Public
17 Counsel. I am an economist.

18 Q. Are you the same Geoff Marke who pre-filed
19 direct testimony filed on November 30th, 2016,
20 pre-labeled as Exhibit 308, direct testimony of Geoff
21 Marke filed December 14, and pre-numbered Exhibit 309,
22 and rebuttal testimony of Geoff Marke filed December
23 30th, 2016, and labeled 310-HC&NP, the rebuttal
24 testimony of Geoff Marke filed January 6, 2017,
25 labeled 311 HC&NP, and the surrebuttal testimony of

1 **Geoff Marke labeled Exhibit 312?**

2 A. I am.

3 Q. Do you have any corrections to make to that
4 **testimony?**

5 A. I do not.

6 Q. And if I were to ask you those same
7 **questions that are posed in your pre-filed testimony,**
8 **would your answers be the same?**

9 A. They would.

10 Q. And your answers are true and correct, to
11 **the best of your knowledge and belief?**

12 A. Yes.

13 MR. OPITZ: With that, Judge, OPC will move
14 to enter into evidence Exhibits 308, 309, 310 HC&NP,
15 311 HC&NP, and 312. And then tender the witness for
16 cross.

17 JUDGE PRIDGIN: Any objections?

18 MR. STEINER: Your Honor, I would ask that
19 you wait on the admission of rebuttal and surrebuttal
20 until the witness takes a stand on the dues issue.
21 There might be a motion there that there is some
22 improper rebuttal testimony included in that, that
23 should have been in direct testimony.

24 JUDGE PRIDGIN: Let me clarify. You would
25 have no objection then to 308, 309?

1 MR. STEINER: The direct, no objection.

2 MR. OPITZ: That's fine. I will wait to
3 offer those.

4 JUDGE PRIDGIN: So what I am hearing is 308
5 and 309 would be offered without objection, and then
6 you would withdraw the offers of 310, 311, and 312 for
7 now?

8 MR. OPITZ: I believe so. I don't think
9 that there is any testimony in the later -- on this
10 issue in that later testimony filed. So I will
11 withdraw those.

12 JUDGE PRIDGIN: So I will show 308 and 309
13 admitted without objection. Does anyone wish cross of
14 Dr. Marke? Any bench questions?

15 CHAIRMAN HALL: No questions.

16 COMMISSIONER STOLL: No questions.

17 JUDGE PRIDGIN: Thank you. You may step
18 down, sir. That will get us to Mr. Hyman.

19 * * * * *

20 MARTIN HYMAN,
21 of lawful age, produced, sworn, and says:

22 DIRECT EXAMINATION

23 QUESTIONS BY MR. ANTAL:

24 Q. Mr. Hyman, please state your full name for
25 the record?

1 A. Martin Hyman, H-y-m-a-n.

2 **Q. Where are you employed, and in what**
3 **capacity?**

4 A. I am employed in the Missouri Department of
5 Economic Development, Division of Energy, as a Planner
6 III Energy Policy Analyst.

7 **Q. Are you the same Martin Hyman who filed**
8 **direct testimony marked as Exhibit 800, rebuttal**
9 **testimony marked as Exhibit 801, and surrebuttal**
10 **testimony marked as Exhibit 802, in this proceeding?**

11 A. Yes.

12 **Q. Do you have any corrections to those**
13 **exhibits?**

14 A. Yes. Just a few. In my direct testimony
15 on Page 2, Line 9, before the word, company's, at the
16 end it should say, the. So, in the company's. Let's
17 see. Then on Page 14 of direct, Line 14, it should be
18 rate design and not rate designs. Page 22 of direct,
19 Line 16, cross out demand and put in usage.

20 Now turning to rebuttal. On Page 6, Line
21 3, there should be a dash between demand and related.
22 Then on Line 8 of that same page, cross out the first
23 demands where it says, peak demands, and have it read,
24 peak energy. And it should actually be MT units.
25 Then where it says, not demands, it should be

1 non-consumption.

2 And one last one in surrebuttal. On Page
3 2, Lines 5 through 6, cross out electric vehicles, and
4 then the quotes and parens, it should just be EV,
5 since I already introduced that acronym. That's it.

6 **Q. Taking those corrections into**
7 **consideration, if I were to ask you the same questions**
8 **today, would your answers be substantially similar?**

9 A. Yes.

10 **Q. Are your answers to these questions honest**
11 **and accurate, to the best of your knowledge and**
12 **belief?**

13 A. Yes.

14 MR. ANTAL: Judge, I would like to move for
15 the admission of Exhibits 800, 801, and 802 into the
16 record.

17 JUDGE PRIDGIN: Any objection? Hearing
18 none, Exhibits 800, 801, and 802 are admitted.

19 MR. ANTAL: I tender the witness for
20 cross-examination.

21 JUDGE PRIDGIN: Does anyone wish to cross?
22 Any bench questions?

23 CHAIRMAN HALL: No questions. Thank you.

24 JUDGE PRIDGIN: Mr. Hyman, thank you very
25 much. You may step down. Let me clarify with counsel

1 what I understood counsel wanted to do is adjourn for
2 the day to resume negotiations. Then did I understand
3 we were going to go back on the record at roughly 8:30
4 in the morning, probably on cost and capital
5 witnesses?

6 MR. STEINER: That's right. Start with ROE
7 and cost and capital tomorrow morning at 8:30.

8 JUDGE PRIDGIN: And I assume I will have
9 some sort of announcement in the morning, if not
10 sooner, about what if anything has been resolved, and
11 what kind of scheduling changes we need to make?

12 MR. STEINER: That's correct.

13 JUDGE PRIDGIN: I certainly am glad to give
14 you the time to negotiate. It just seems like this
15 was a pretty ambitious schedule to start with. If we
16 are kind of giving up a day, I hope a lot of things
17 get resolved, because otherwise we have a lot of
18 witnesses to get through, and now one less day to get
19 through them.

20 MR. STEINER: We are hopeful we can too. I
21 think those two issues today can probably be slotted
22 for either Thursday or Friday, if negotiations aren't
23 successful.

24 JUDGE PRIDGIN: Of this week?

25 MR. STEINER: Of this week.

1 JUDGE PRIDGIN: Thank you.

2 CHAIRMAN HALL: Which two issues?

3 MR. STEINER: Policy, which was supposed to
4 happen today. And Greenwood Solar allocations.

5 CHAIRMAN HALL: And what about the
6 infrastructure efficiency?

7 MR. STEINER: That's going to be discussed
8 -- that's a Commission raise issue. I think that is
9 going to be discussed on February 22nd. Or maybe the
10 23rd.

11 JUDGE PRIDGIN: Anything else from council
12 or the bench, before we go off the record?

13 MR. ANTAL: Judge, the Division of Energy
14 is only on specific issues in this case, and has other
15 parties have asked, we request to be excused from the
16 portions of the proceedings we haven't filed testimony
17 on.

18 JUDGE PRIDGIN: Any objections? Hearing
19 none, that request is granted.

20 MR. WOODSMALL: Me too.

21 JUDGE PRIDGIN: Any objection? Request is
22 granted. We will then adjourn for the day. We will
23 go back on the record at 8:30 in the morning with cost
24 of capital witnesses. Thank you very much. We are
25 off the record.

1 (WHEREIN, the proceedings were concluded at
2 10:39 a.m. on February 6, 2017.)
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22	(Exhibit 203 was referred to but not offered	
23	or admitted. Exhibits 310HC&NP, 311 HC&NP,	
24	and 312 were offered but withdrawn. All other	
25	exhibits were offered and admitted.)	

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
) ss.
COUNTY OF ST. LOUIS)

I, Matthew Behlmann, a Certified Court Reporter (MO), and a Notary Public within and for the State of Missouri, do hereby certify that I was personally present at the proceedings as set forth in the caption sheet thereof; that I then and there took down the proceedings had at said time and was thereafter transcribed by me, and is fully and accurately set forth in the preceding pages.



Notary Public within and for
The State of Missouri

My commission expires November 28, 2018.

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