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Witness/Type of Exhibit:  
Sponsoring Party:  
Case No.:

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Solar Rebate  
Kind/Rebuttal  
Public Counsel  
ET-2014-0059

## **REBUTTAL TESTIMONY**

**OF**

**RYAN KIND**

Submitted on Behalf of  
the Office of the Public Counsel

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

**Case No. ET-2014-0059**

September 16, 2013



**REBUTTAL TESTIMONY**  
**OF**  
**RYAN KIND**  
**KCPL GREATER MISSOURI OPERATIONS COMPANY**  
**CASE NO. ET-2014-0059**

1       **Q.     PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2       A.     Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,  
3       Jefferson City, Missouri 65102.

4       **Q.     PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5       A.     I have a B.S.B.A. in Economics and a M.A. in Economics from the University of  
6       Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as  
7       a Teaching Assistant with the Department of Economics, and taught classes in  
8       Introductory Economics, and Money and Banking, in which I served as a Lab Instructor  
9       for Discussion Sections.

10       My previous work experience includes several years of employment with the Missouri  
11       Division of Transportation as a Financial Analyst. My responsibilities at the Division of  
12       Transportation included preparing transportation rate proposals and testimony for rate  
13       cases involving various segments of the trucking industry. I have been employed as an  
14       economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

15       **Q.     HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

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1 A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several  
2 electric rate design cases and rate cases, as well as other miscellaneous gas, water,  
3 electric, and telephone cases.

4 **Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR**  
5 **LEGISLATIVE BODIES ON THE SUBJECT OF UTILITY REGULATION AND**  
6 **RESTRUCTURING?**

7 A. Yes, I have provided comments and testimony to the Federal Energy Regulatory  
8 Commission (FERC), the Missouri House of Representatives Utility Regulation  
9 Committee, the Missouri Senate's Commerce & Environment Committee and the  
10 Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

11 **Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS,**  
12 **COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC AND GAS UTILITY**  
13 **REGULATION AND POLICY ISSUES?**

14 A. Yes. I am currently a member of the National Association of State Consumer Advocates  
15 (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the  
16 Eastern Interconnection Planning Collaborative (EIPC). I have served on the Missouri  
17 Department of Natural Resources Weatherization Policy Advisory Committee, as the  
18 public consumer group representative to the Midwest ISO's (MISO's) Advisory  
19 Committee and as the small customer representative on both the NERC Operating  
20 Committee and the NERC Standards Authorization Committee. During the early 1990s, I  
21 served as a Staff Liaison to the Energy and Transportation Task Force of the President's  
22 Council on Sustainable Development.

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**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. The purpose of my rebuttal testimony is to respond to the direct testimony of KCPL Greater Missouri Operations (GMO) witnesses Tim Rush and Burton Crawford.

**Q. PLEASE DESCRIBE OPC'S GENERAL REACTION TO GMO'S APPLICATION IN THIS CASE AND TO CASE NO. ET-2014-0026, THE TARIFF FILING CASE THAT PRECEDED THIS CASE AND ALSO ADDRESSED SOLAR REBATES AND THE 1% RATE INCREASE CAP.**

A. At lines 3 – 6 on page 5 of his direct testimony, GMO witness Tim Rush admits that “GMO believes that by its calculation, the Company exceeded the 1% cap in July 2013...” Public Counsel has never seen an adequate explanation about why GMO has continued to pay solar rebates subsequent to the point in time when the amount of payments exceeded the 1% rate increase level permitted by law. GMO has continued to make payments after exceeding (by its own calculations) the 1% cap even though it had a tariff in effect throughout the months of July and August that would have permitted it to stop making additional solar rebate payments up until the time when HB 142 became law in late August.

**Q. PLEASE IDENTIFY THE PROVISIONS THAT WOULD HAVE PERMITTED GMO TO STOP MAKING ADDITIONAL SOLAR REBATE PAYMENTS UP UNTIL THE TIME WHEN HB 142 BECAME LAW IN LATE AUGUST.**

A. Revised Sheet No. R-62.19 of GMO's tariffs became effective on January 7, 2013 and states in paragraph B that “Funds for the Program will be limited by the Company based on the limits of §393.1030 RSMo, 4CSR 240-20.100, or the Company's Net Metering

1           Rider.” This language clearly permitted GMO to cease making solar rebate programs  
2           once the Company had determined that the payments already made had reached the 1%  
3           rate cap.

4           **Q.    DOES PUBLIC COUNSEL BELIEVE GMO ACTED CONSISTENTLY WITH THE LAW WHEN**  
5           **IT CONTINUED TO PAY SOLAR REBATES AFTER IT HAD CONCLUDED THAT ITS**  
6           **PAYMENTS BEGAN TO EXCEED THE 1% RATE CAP IN SPECIFIED §393.1030,RSMo,**  
7           **4CSR 240-20.100?**

8           A.    Counsel advises me that GMO’s actions in continuing to make solar rebate payments  
9           after it had concluded that its payments began to exceed the 1% rate cap in specified  
10           §393.1030 RSMo and 4CSR 240-20.100 were not consistent with the law.

11           **Q.    WILL PUBLIC COUNSEL OPPOSE FUTURE RATE RECOVERY FOR ANY UNLAWFUL**  
12           **SOLAR REBATE PAYMENTS MADE BY GMO?**

13           A.    Yes, GMO should not be permitted to recover from customers the cost of payments in  
14           excess of the 1% cap. If the Commission permitted GMO the future recovery of rebates  
15           paid by GMO after it determined that the cap had been reached, then the rate increase  
16           protection that was provided by the 1% cap, which was one of the key provisions of  
17           Proposition C (later codified as §393.1030 RSMo (Cum. Sup. 2009)), would not be  
18           implemented as intended when voters adopted this proposition.

19           **Q.    YOUR PREVIOUS ANSWER STATED THAT THE COMMISSION SHOULD NOT PERMIT “THE**  
20           **FUTURE RECOVERY OF REBATES PAID BY GMO AFTER IT DETERMINED THAT THE CAP**  
21           **HAD BEEN REACHED.” DOES THIS MEAN THAT IN THE FUTURE, THE COMMISSION**  
22           **SHOULD PERMIT FUTURE RECOVERY OF ALL SOLAR REBATES PAID BY GMO PRIOR TO**  
23           **ITS DETERMINATION THAT THE 1% RATE CAP HAD BEEN REACHED?**

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1 A. Not necessarily. Questions have already been raised about whether all GMO's solar  
2 rebate payments were properly made and whether KCPL has had a process in place that  
3 includes the appropriate level of scrutiny (due diligence) on the part of the Company  
4 prior to making solar rebate payments, especially for one of the solar installation  
5 contractors that has been receiving rebates. The Commission Staff has also raised  
6 questions about whether GMO has properly calculated the amount of solar rebates and  
7 based on input from Staff or other parties the Commission may determine that GMO's  
8 calculation of the amount of solar rebates that could lawfully be made in 2013, within the  
9 limit of the cap, was too high.

10 **Q. IN MR. RUSH'S TESTIMONY AT LINES 1 – 5, THERE IS A QUESTION AND ANSWER THAT**  
11 **DISCUSSES THE SCOPE OF ISSUES THAT SHOULD BE ADDRESSED BY THE**  
12 **COMMISSION IN THIS CASE. IN HIS ANSWER AT LINES 3 – 5, MR. RUSH STATES "THIS**  
13 **CASE IS ONLY DEALING WITH THE DETERMINATION OF WHETHER THE COMPANY**  
14 **SHOULD CEASE PAYING SOLAR REBATES IN 2013 AND THE DETERMINATION OF THE**  
15 **1% CAP AS DEFINED IN THE RULES." DOES PUBLIC COUNSEL AGREE THIS**  
16 **STATEMENT BY GMO WITNESS TIM RUSH?**

17 A. Public Counsel generally agrees with this statement except for one important exception.  
18 That exception is that while future ratemaking determinations are beyond the scope of  
19 issues that should be addressed in this case, it is important to ensure that all  
20 documentation related to solar rebate payments and the calculation of the cap be retained  
21 for use in a future ratemaking proceed where ratemaking issues associated with GMO's  
22 solar rebate payments are addressed. OPC recommends that the Commission order GMO  
23 and its affiliates to retain all documents pertaining to solar rebate payments and the  
24 calculation of the cap so the documents will be available for use in future ratemaking

1 proceedings that address possible recovery of GMO expenditures related to compliance  
2 with §393.1030 RSMo and 4CSR 240-20.100.

3 **Q. AT LINES 16 – 18 ON PAGE 12 OF HIS DIRECT TESTIMONY, GMO WITNESS TIM RUSH**  
4 **STATES “...THE COMPANY IS TAKING THESE STEPS TO FOLLOW THE MANDATES OF**  
5 **THE RES LAW AND PROTECT OUR CUSTOMERS WHO DO NOT RECEIVE SOLAR**  
6 **REBATES PAYMENTS FROM PAYING A SUBSIDY RELATED TO THE SOLAR MARKET. ARE**  
7 **THE SOLAR REBATE PAYMENTS AUTHORIZED BY §393.1030 RSMo AND**  
8 **SUBSEQUENTLY REVISED BY HB 142 A SUBSIDY TO THE SOLAR MARKET THAT HAS**  
9 **BEEN AUTHORIZED BY MISSOURI LAW?**

10 A. Yes.

11 **Q. HOW COULD GMO FULLY “PROTECT [ITS] CUSTOMERS WHO DO NOT RECEIVE SOLAR**  
12 **REBATES PAYMENTS FROM PAYING A SUBSIDY RELATED TO THE SOLAR MARKET?”**

13 A. GMO could protect its customers “customers who do not receive solar rebates payments  
14 from paying a subsidy related to the solar market” by never seeking rate recovery of any  
15 of the solar rebate payments that it makes.

16 **Q. HOW COULD GMO “PROTECT [ITS] CUSTOMERS WHO DO NOT RECEIVE SOLAR**  
17 **REBATES PAYMENTS FROM PAYING A SUBSIDY RELATED TO THE SOLAR MARKET”**  
18 **WHERE SUCH SUBSIDIES ARE NOT AUTHORIZED BY LAW?”**

19 A. GMO could “protect [its] “customers who do not receive solar rebates payments from  
20 paying a subsidy related to the solar market,” where such subsidies are not authorized by  
21 law, by never seeking rate recovery of any of the solar rebate payments that the



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1 Commission determines were not consistent with the mandates of §393.1030 RSMo and  
2 4CSR 240-20.100.

3 **Q. WILL THE AMOUNT OF SOLAR REBATE PAYMENTS MADE BY GMO AFFECT THE**  
4 **AMOUNT OF DOLLARS THAT ARE AVAILABLE FOR EXPENDITURES ON OTHER**  
5 **RENEWABLE RESOURCES?**

6 A. Yes. §393.1030 RSMo and 4CSR 240-20.100 place limits on the amount expenditures  
7 that can be made on renewable resources to meet RES requirements by capping such  
8 expenditures at the level that would lead to a 1% increase in customer rates. The  
9 calculation of the cap is not affected by the type of renewable resources that are acquired  
10 so when a utility spends most of the funds available under the cap on solar rebates, then  
11 less money will be available for more cost effective renewable resources such as utility  
12 scale wind farms. Since a dollar spent on investments in wind energy will create  
13 significant amounts of energy available to serve all customers at a very low cost per kWh,  
14 once the investments are made, this type of expenditure has a much greater beneficial  
15 impact on decreasing the energy costs and the fossil fuel emissions associated with  
16 serving the load of all GMO customers than solar rebate expenditures. The benefits from  
17 GMO's solar rebate expenditures accrue primarily to the customers that obtain solar  
18 installations at discounted prices due to the rebates and to the contractors that perform the  
19 solar installations.

20 **Q. DOES 4CSR 240-20.100 PLACE LIMITS ON THE AMOUNT OF SOLAR REBATE**  
21 **EXPENDITURES THAT CAN BE MADE WHEN IT HAS BEEN DETERMINED THAT THE 1%**  
22 **CAP WILL PREVENT THE UTILITY FROM MEETING THE RES REQUIREMENTS?**

23 A. Yes. Section (2)(F) of 4CSR 240-20.100 states:

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1 (F) If an electric utility is not required to meet the RES requirements of  
2 subsection (C) of this section in a calendar year, because doing so would  
3 cause retail rates to increase on average in excess of one percent (1%) as  
4 calculated per section (5) of this rule, then the RES solar energy  
5 requirement specified in subsection (2)(D) shall be two percent (2%) of  
6 the renewable energy that can be acquired subject to the one percent  
7 (1%) average retail rates limit as calculated per section (5) of this rule.

8 The above requirement, which is referenced in (5)(D) of 4CSR 240-20.100 makes it clear  
9 that when the rate cap calculation shows that the 1% cap will become binding before the  
10 RES requirements can be met, then expenditures on solar rebates should be reduced to  
11 the level where it is equal to “two percent (2%) of the renewable energy that can be  
12 acquired subject to the one percent (1%) average retail rates limit as calculated per  
13 section (5) of this rule.”

14 **Q. DID GMO’S TESTIMONY IN THIS CASE ADDRESS ANY ACTIONS THAT IT HAS TAKEN OR**  
15 **WILL TAKE TO COMPLY WITH THE REQUIREMENTS REFERENCED ABOUT IN SECTIONS**  
16 **(2)(F) OR (5)(D) OF 4CSR 240-20.100?**

17 A. No.

18 **Q. WHAT IS YOUR RESPONSE TO THE STATEMENT OF GMO WITNESS BURTON**  
19 **CRAWFORD AT LINES 5 AND 6 ON PAGE 5 OF HIS DIRECT TESTIMONY WHERE HE SAYS**  
20 **“THE COMPANY CALCULATED THE RRI FOR 2013, 2014, AND 2015 IN ITS 2013 RES**  
21 **COMPLIANCE PLAN?”**

22 A. Mr. Crawford says in lines 4 and 5 on page 5 that GMO’s analysis was limited to only  
23 three years because of the rule language in section (7)(B) OF 4CSR 240-20.100. This is  
24 an obvious misinterpretation of the rule since section (5) is the portion of the RES rule  
25 that prescribes the manner in which the Retail Rate Impact (RRI) should be calculated  
26 and it clearly states in section (5)(B) that the calculations should be performed for a time  
27 period of “the next ten years.”

1       **Q.     WHAT IS YOUR RESPONSE TO THE STATEMENT OF GMO WITNESS BURTON**  
2       **CRAWFORD AT LINES 7 AND 8 ON PAGE 6 OF HIS DIRECT TESTIMONY WHERE HE SAYS**  
3       **“GIVEN THAT THE PROJECTED AMOUNT OF THE SOLAR REBATES EXCEEDS THE 1%**  
4       **RRI LIMIT IN 2013...”?**

5       A.     Mr. Crawford accepts a level of solar expenditures that never should have occurred due  
6       to the provisions in (2)(F) of 4CSR 240-20.100 (as discussed above) as a given so any  
7       analysis or conclusions that follow from that premise cannot be valid. Even if his  
8       premise was valid, he proceeds to completely ignore the solar rebate expenditure  
9       limitations in (2)(F) of 4CSR 240-20.100 and the RRI calculation provisions in section  
10      (5) of the 4CSR 240-20.100 when he assumes that solar expenditures in 2014 would only  
11      be reduced by the amount of excess expenditures that had occurred in 2013.

12      **Q.     BEGINNING ON PAGE 6 OF HIS TESTIMONY, MR. CRAWFORD ADDRESSES THE STAFF’S**  
13      **VIEW OF HOW THE RRI SHOULD BE CALCULATED. DO YOU HAVE ANY RESPONSE TO**  
14      **HIS DESCRIPTION OF THE STAFF’S VIEW OF HOW THE RRI SHOULD BE CALCULATED?**

15      A.     No. I will address Staff’s view of the how the RRI should be calculated after the Staff  
16      files testimony regarding this issue.

17      **Q.     DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

18      A.     Yes.