

*Exhibit No.:*  
*Issue:* Severance Costs  
*Witness:* Paul R. Harrison  
*Sponsoring Party:* MoPSC Staff  
*Type of Exhibit:* Surrebuttal Testimony  
*Case No.:* ER-2009-0089  
*Date Testimony Prepared:* April 7, 2009

**MISSOURI PUBLIC SERVICE COMMISSION**  
**UTILITY SERVICES DIVISION**

**SURREBUTTAL TESTIMONY**

**OF**

**PAUL R. HARRISON**

**Great Plains Energy, Incorporated**  
**KANSAS CITY POWER & LIGHT COMPANY**

**CASE NO. ER-2009-0089**

*Jefferson City, Missouri*  
*April 2009*

**\*\*Denotes Highly Confidential Information\*\***

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**TABLE OF CONTENTS**  
**SURREBUTTAL TESTIMONY OF**  
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EXECUTIVE SUMMARY ..... 1  
EMPLOYEE SEVERANCE COSTS ..... 2

1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **PAUL R. HARRISON**

4 **KANSAS CITY POWER & LIGHT COMPANY**

5 **CASE NO. ER-2009-0089**

6 Q. Please state your name and business address.

7 A. Paul R. Harrison, P. O. Box 360, Jefferson City, Missouri 65102.

8 Q. By whom are you employed and in what capacity?

9 A. I am a Regulatory Auditor with the Missouri Public Service Commission  
10 (Commission).

11 Q. Are you the same Paul R. Harrison who filed direct testimony in this case?

12 A. Yes, I am.

13 Q. With reference to Case No. ER-2009-0089, please provide a summary of your  
14 surrebuttal testimony.

15 A. The purpose of my testimony is to respond to the rebuttal testimony  
16 of Kansas City Power & Light Company (KCPL) witness Barbara Curry involving employee  
17 non-talent assessment program severance costs in this proceeding.

18 **EXECUTIVE SUMMARY**

19 Q. In summary, what does your testimony cover?

20 A. In the rebuttal testimony of KCPL witness Barbara Curry, KCPL has raised the  
21 issue again that KCPL employee non-talent assessment severance costs should be recovered  
22 in its cost of service and included in rates for this case. The Staff is opposed to including

1 employee non-talent assessment program severance costs in KCPL's rates in this case,  
2 Case No. ER-2009-0089, for the same reasons the Staff was opposed to the inclusion of these  
3 costs in KCPL's last two rates cases, Case Nos. ER-2006-0314 and ER-2007-0291. In both of  
4 those prior rate proceedings, this issue was litigated. The Commission addressed this issue in  
5 its *Report and Orders* in each of these rate cases and rejected the Company's position that  
6 these costs should be borne by KCPL's customers. Relevant excerpts from the Commission's  
7 *Report and Orders* for Case Nos. ER-2006-0314 and ER-2007-0291 are included below.

8 **EMPLOYEE SEVERANCE COSTS**

9 Q. What amount of non-talent assessment program severance cost  
10 did KCPL include in its cost of service for this case?

11 A. KCPL included a three-year average of its non-talent assessment program  
12 severance costs in the amount of \$381,013 in its cost of service for this case.

13 Q. How did KCPL calculate this average for its non-talent assessment program  
14 severance costs?

15 A. According to the Company's work papers (Adj. 20b), during calendar years  
16 2005, 2006 and 2007 the test year, KCPL severed fourteen employees with twenty-four  
17 severance payments of \$804,116, eight employees with severance payments of \$455,539 and  
18 three employees with severance payments of \$102,898 respectively for a total of \$1,362,554.  
19 The Company used a three-year total of severance costs, divided that number by 36 and  
20 multiplied the result by twelve months ( $\$1,362,554 / 36 * 12$ ) to arrive at an annual amount of  
21 \$381, 013 of severance payments for inclusion in its cost of service for this rate case.

1 Q. Even if the Staff was recommending recovery of non-talent assessment  
2 program severance costs in this case, would the Staff be in agreement with the method in  
3 which the Company annualized this cost for rates in this case?

4 A. No. During the past three years the non-talent assessment program severance  
5 payments have been constantly trending downward (2005 - \$804,116, 2006 - \$455,539 and  
6 2007 - \$102,898). Since these costs have been trending downward for three consecutive years,  
7 the appropriate method to normalize these severance costs would be to use the test year  
8 ending balance. In other words the correct amount that should be included in rates, if the Staff  
9 was recommending recovery of severance costs (which it is not), would be the test year  
10 amount of \$102,898, instead of the three-year average of \$381,013.

11 Q. What other concerns does the Staff have with KCPL's proposal regarding non-  
12 talent assessment program employee severance cost?

13 A. In her rebuttal testimony at pages 7 to 8, KCPL witness Curry responds to the  
14 Staff's position presented in the Staff Cost of Service Report that KCPL's non-talent  
15 assessment program severance costs should not be recovered from KCPL's ratepaying  
16 customers. KCPL takes the position that its customers should bear this cost.

17 Q. Has the Commission recently addressed this issue?

18 A. Yes. This is the exact same issue that KCPL and the Staff litigated in  
19 KCPL's 2006 and 2007 rate cases. Although this position was clearly rejected by the  
20 Commission in the last two KCPL rate cases, KCPL decided to raise the issue again in this  
21 case. In its *Report and Order* in Case No. ER-2006-0314, KCPL's 2006 rate case, the  
22 Commission, at page 62, stated:

23 The Commission finds that the competent and substantial evidence  
24 supports Staff's position, and finds this issue in favor of Staff. Staff's

1 witness on this issue, Charles Hyneman, testified that KCPL answered  
2 one of his data requests by admitting that severance costs protect KCPL  
3 against such issues as sexual harassment or age discrimination, and that  
4 such costs are not recoverable in rates.[118] He contrasted those  
5 severance payments, made only to protect shareholders, with severance  
6 payments made to decrease payroll, which could be included in cost of  
7 service because of the benefit to ratepayers. Moreover, Staff points out  
8 that KCPL excluded its 2005 severance costs from its earnings per  
9 share calculation that determines its management's incentive  
10 compensation payment.[119] The Commission sees no equity in  
11 allowing KCPL to recover these costs from ratepayers when its own  
12 management excludes those same costs from its EPS calculation, to the  
13 enrichment of its executives via the incentive compensation plan.

14 In its *Report and Order* in Case No. ER-2007-0291, KCPL's 2007 rate case, the  
15 Commission, at page 55, stated:

16 As it found in KCPL's last rate case, the Commission again finds that  
17 these severance costs largely protect shareholders against litigation, and  
18 they did not have the effect of decreasing payroll; therefore, these costs  
19 should not be included in cost of service. KCPL did not seek to  
20 eliminate those positions and, indeed, the pay for those positions was  
21 still being recovered from ratepayers in rates. In fact, KCPL is  
22 increasing payroll, not decreasing it. 194  
23 The severance costs of KCPL employees terminated for reasons other  
24 than KCPL's talent assessment program should not be included in cost  
25 of service for setting KCPL's rates.

26  
27 Q. In this case, the Staff submitted data request No. 0593 asking the Company:  
28 if its proposal for the recovery of severance costs in this case was  
29 consistent with the Commission's Report and Order in Case Nos.  
30 ER-2006-0314 and ER-2007-0291. If not, what new evidence is the  
31 Company proposing in this case that the Commission has not  
32 considered in the last two rate cases?

33  
34 A. In Response, KCPL stated that:

35  
36 In the prior rate case the Commission allowed Talent Assessment  
37 severance costs to be recovered over five years. The Commission did  
38 not allow certain other severance costs to be recovered in either the  
39 2006 or 2007 cases. Company witness Barbara Curry introduces into  
40 evidence in the current rate case the similarities between the Talent  
41 Assessment severance and "other" severance, a position that the  
42 Company believes may result in the allowed recovery of these expenses  
43

1 Q. What new evidence has KCPL introduced into this case?

2 A None. However, since the Commission has allowed recovery of  
3 Talent Assessment Program Severance costs in its last case, Ms. Curry is attempting to  
4 convince the Commission that the two severance programs are similar and if the Commission  
5 allowed recovery of the Talent Assessment Severance Program costs in KCPL's previous case  
6 then they should also allow the other severance costs at issue in this and previous cases.

7 Q. Do you agree with Ms. Curry that the non-talent assessment program  
8 severance costs are similar with the Talent Assessment Severance Program costs and benefit  
9 the Company's customers?

10 A. No. The Talent Assessment Program was a one-time restructuring program and  
11 is part of KCPL's Comprehensive Energy Plan (CEP). KCPL's non-Talent Assessment  
12 program severance payments have nothing to do with KCPL's CEP.

13 The Staff is opposed to rate recovery of these severance payments for five reasons.  
14 First, severance payments are designed to protect shareholders from litigation when  
15 employees are terminated. Secondly, these payments do not have the effect of decreasing  
16 payroll or creating any cost savings to pass on to ratepayers. Third, through regulatory lag,  
17 KCPL can potentially recover most if not all of these severance payments. Fourth, although  
18 the Commission rejected outright KCPL's position on this issue in its 2006 and 2007 rate  
19 cases, the Company is again, without any new supporting evidence, asking the Commission to  
20 accept this twice rejected argument. Finally, KCPL has not introduced any evidence that these  
21 non-talent assessment program severance costs provide any benefit to KCPL customers.

22 Staff witness Charles R. Hyneman will address Ms. Curry's comments related to the  
23 Talent Assessment Program severance cost issue in more detail in his surrebuttal testimony. .

1           Q.     Ms. Curry states on page 8 lines 2-5 of her rebuttal testimony the following:  
2     “but such costs also shield the Company from significant litigation expenses. Defending a  
3     meritless or frivolous labor or employment claim against the Company is expensive”.  
4     Please respond to this statement.

5           A.     Based on Ms. Curry’s statement, it is clear that these non-talent assessment  
6     program severance costs are paid to protect the Company’s shareholders from possible  
7     lawsuits and protection against claims of improper conduct on the part of KCPL management.  
8     Since regulated customers should not be charged for penalties, fines, or other damages that  
9     are incurred due to improper actions by utility management, they should also not be charged  
10    for protection against such costs.

11          Q.     Ms. Curry states on page 8, line 8 through 15, of her rebuttal testimony that the  
12    Company disagrees with the Staff position that the Company already recovers its non-talent  
13    assessment program severance costs through regulatory lag. She suggests that when an  
14    employee is terminated and their position remains unfilled in nearly all cases, the position  
15    does not remain unfilled long enough for the Company to recover its severance costs through  
16    regulatory lag. Do you agree with these assertions?

17          A.     No. Regulatory lag is the passage of time between when a utility’s financial  
18    results change, and when that change is reflected in the utility’s rates. By proposing an  
19    adjustment to recover a level of non-talent assessment program severance costs, KCPL has  
20    decided to ignore the positive regulatory lag financial benefits that continue to accrue to the  
21    Company as a result of terminating an employee and paying severance benefits.

22                As an example, assume as a result of this rate case, KCPL recovers payroll, pension,  
23    OPEB and other benefit costs for an employee in the amount of \$100,000. After rates are set



1 from this case in September 2009, KCPL terminates a certain employee and provides non-  
2 talent assessment program severance benefits to him in the amount of \$50,000. In the first  
3 12 months that rates are in effect KCPL will collect \$100,000 in utility rates (payroll and  
4 other benefit costs) and only pay out \$50,000 in severance. The Company has a net pre-tax  
5 gain of \$50,000 to income. In the second year that these rates are in effect, all \$100,000 of the  
6 employee's salary and benefits that KCPL's regulated customers are paying in rates will  
7 accrue to the benefit of the shareholders. This simple example shows how severance costs are  
8 often, at a minimum, recovered dollar for dollar by a utility without explicit recognition in  
9 utility rates.

10 Relating to the question of KCPL's ability to recover severance costs through the  
11 operations of regulatory lag, the Staff submitted data request No. 0592 asking the Company:

12 Per the Company's response to DR No. 0140, other than talent  
13 assessment, KCPL severed twenty-four employees, eight employees,  
14 and three employees respectively during calendar years 2005, 2006,  
15 and 2007. Please provide the following information for each of these  
16 employees: 1) Was severance paid as part of a negotiated agreement in  
17 which the former employee was paid severance in exchange for a full  
18 release of any and all claims against the Company? 2) Was a new  
19 employee hired to replace the severed employee, if so, how much time  
20 elapsed between the time the employee was terminated and the time of  
21 the new hire, if not, were there any cost savings realized by the  
22 Company?

23  
24 In response, KCPL stated that:

25 To clarify, in the original response to DR #0140, there were actually 24  
26 *payments* to 14 employees during the 2005 calendar year. There were  
27 not 24 employees who received severance. Six of those employees  
28 worked for Worry Free Services, which was a subsidiary that was sold  
29 at the beginning of 2005. Additionally, three of the severance  
30 payments in 2005 did relate to the talent assessment program (those  
31 with a termination reason of Voluntary Separation Program).  
32

1 All of the severance agreements (except for the payment for Lawrence  
2 Marullo) include a statement that the severance is paid in exchange for  
3 a release of claims against the Company.  
4

5 The attachment provides additional information regarding  
6 the disposition of the positions related to the severance  
7 payments -- whether the position was eliminated or replaced, the  
8 incumbent (if replaced), date the position was filled, and whether it was  
9 filled by an internal or external candidate. Any costs savings can not  
10 necessarily be quantified if the position was not filled.  
11

12 The data that was included in this attachment included the number of severed  
13 employees, disposition of the position, the date the employee received his last check from  
14 KCPL and the date the Company filled the vacant position. The Staff calculated the following  
15 information based upon the Company's attachment to this data request.

- 16 • During calendar years 2005, 2006, and 2007, there were twenty-five  
17 employees severed at KCPL that received severance payments.  
18
- 19 • Eleven of those 25 employee positions were eliminated.
- 20 • Based upon a three year average of elapsed time between the times the  
21 employees received his last check and the Company filled this position, the  
22 Company continued to recover its payroll and benefits for the other fourteen  
23 employees for more than 24 weeks after the employee was severed.  
24

25 This response from the Company clearly shows that the Company has had an  
26 opportunity to recover, through regulatory lag at least what they have paid out in severance  
27 costs.

28 Q. During calendar years 2007 and 2008, how were the levels of non-talent  
29 assessment program severance payments determined for each KCPL employee?

30 A. I reviewed all of the severance agreements entered into by KCPL in 2007  
31 and I reviewed additional agreements made in 2008. Employee severance agreements and  
32 the associated payments for severance costs ranged from \*\* \_\_\_\_\_ \*\* of the  
33 employee's annual salary.

1 Q. Please summarize your testimony on this issue.

2 A. KCPL is seeking recovery of non-talent assessment program severance costs  
3 that will not result in any payroll savings costs and there is no new evidence in this case that  
4 these non-talent assessment program severance payments will provide any benefit to KCPL  
5 customers. In addition, these severance costs are paid to protect the Company's shareholders  
6 from possible lawsuits and protection against claims of improper conduct on the part of KCPL  
7 management. Since regulated customers should not be charged for penalties, fines, or other  
8 damages that are incurred due to improper actions by utility management, they should also not  
9 be charged for protection against such costs. Additionally, as demonstrated above, KCPL has  
10 had an opportunity to recover, through regulatory lag, at least some, if not all, of the amounts  
11 that they have paid out to employees in severance costs.

12 Q. Does the Staff believe it is within KCPL's rights to relitigate the non-talent  
13 assessment program severance costs issue in this case even though the Company has lost the  
14 same issue in the last two KCPL Missouri rate proceedings?

15 A. Yes. However, the Staff notes that KCPL is asking the Commission to change  
16 the position reflected in its Orders in two successive rate cases without even making the effort  
17 to present new substantive evidence as to why it should change its position.

18 Q. Does this conclude your surrebuttal testimony?

19 A. Yes, it does.

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

In the Matter of the Application of Kansas City )  
Power and Light Company for Approval to ) Case No. ER-2009-0089  
Make Certain Changes in its Charges for )  
Electric Service To Continue the )  
Implementation of Its Regulatory Plan. )

AFFIDAVIT OF PAUL R. HARRISON

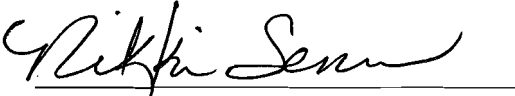
STATE OF MISSOURI            )  
  )  
COUNTY OF COLE            )            ss.

Paul R. Harrison, of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of   9   pages to be presented in the above case; that the answers in the foregoing Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.

  
Paul R. Harrison

Subscribed and sworn to before me this   7   day of April, 2009.

NIKKI SENN Notary Public - Notary Seal State of Missouri Commissioned for Osage County My Commission Expires: October 01, 2011 Commission Number: 07287016
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Notary Public