

*Exhibit No.:*

*Issue:* *Transition Costs, Talent  
Assessment Program, SERP,  
STB Recoveries, Settlements,  
Refueling Outage, Expense  
Disallowance*

*Witness:* *Charles R. Hyneman*

*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**

**SUREBUTTAL TESTIMONY**

**OF**

**CHARLES R. HYNEMAN**

**Great Plains Energy, Inc.  
KANSAS CITY POWER & LIGHT COMPANY**

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

*Jefferson City, Missouri*

*April 7, 2009*

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

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**OF**  
**CHARLES R. HYNEMAN**  
**KANSAS CITY POWER & LIGHT COMPANY**  
**ER-2009-0089**

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1 **SURREBUTTAL TESTIMONY**

2 **OF**

3 **CHARLES R. HYNEMAN**

4 **KANSAS CITY POWER & LIGHT COMPANY**

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

6 **EXECUTIVE SUMMARY**

7 Q. What is the purpose of this testimony?

8 A. The purpose of this testimony is to respond to the rebuttal testimonies of  
9 several KCPL witnesses on the issues noted above on the table of contents page of this  
10 testimony.

11 **TRANSITION COSTS**

12 Q. Please provide a summary of your surrebuttal testimony on the transition cost  
13 recovery issue.

14 A. The Staff is proposing the regulatory lag recovery method instead of the  
15 direct rate recovery method for GPE's transition costs in this case. The basis of this position  
16 is that GPE, Aquila, and KCPL, (the Joint Applicants in GPE's July 14, 2008 acquisition of  
17 Aquila, Inc.), have not lived up to the commitments made to the Commission and relied upon  
18 by the Commission to approve GPE's acquisition of Aquila in Case No. EM-2007-0374 (the  
19 Acquisition Order). Specifically, the Joint Applicants failed to implement a synergy savings  
20 tracking mechanism with a 2006 base year as ordered by the Commission in its  
21 Acquisition Order.

1 Q. Please provide a brief summary of how this issue developed.

2 A. On April 4, 2007, the Joint Applicants filed an application with the  
3 Commission seeking authority for a series of transactions whereby Aquila's Missouri electric  
4 operating divisions of Aquila Networks-MPS (MPS) and Aquila Networks-L&P (the former  
5 Saint Joseph Light & Power Company) would become a direct, wholly-owned subsidiary of  
6 GPE. On July 1, 2008, the Commission approved the acquisition.

7 In the Commission's Acquisition Order), the Commission concluded that it is not a  
8 detriment to the public interest to allow recovery of transition costs of the acquisition.  
9 In paragraph 6c. of the Ordered Section of the Acquisition Order, the Commission directed  
10 the Joint Applicants to implement a synergy savings tracking mechanism using a base year  
11 of 2006.

12 The Staff's position is that through the language of Paragraph 6c of the  
13 Acquisition Order, the Commission ordered GPE to create this synergy savings tracking  
14 mechanism to prove that the overall costs of operating the combined KCPL and the former  
15 Aquila electric operations (MPS and L&P) was less than the cost of operating KCPL and  
16 Aquila  
17 on a pre-acquisition stand alone basis and that net integration synergies would be realized by  
18 both KCPL and Aquila (now GMO).

19 The Staff also believes that by ordering GPE to produce this document the  
20 Commission is also requiring GPE to provide this document as evidence to support its current  
21 and subsequent transition cost rate recovery proposals.

22 Staff contends that the Joint Applicants proposed and the Commission adopted the  
23 provision that the burden of showing that the GPE acquisition of Aquila had resulted in a

1 level of reduced operating costs greater than the amount of transition costs that the  
2 Joint Applicants would seek to recover in future rate cases.

3 Contrary to the Staff's understanding of the Acquisition Order, KCPL, through the  
4 rebuttal testimony of Mr. Darrin Ives, has taken the position that the Commission required no  
5 such synergy savings tracking mechanism be produced to support rate recovery of its  
6 transition costs in this rate case or any future rate case.

7 The Staff is requesting that the Commission find that the failure to produce the  
8 required documentation is evidence that KCPL has not met the burden of proof standard that  
9 it committed to in the Acquisition Case. This standard was adopted by the Commission and  
10 was to be met by KCPL prior to charging its customers for the transition costs.

11 In the Acquisition Order, the Commission agreed that there was the potential for  
12 significant savings as a result of the acquisition and was supportive of the recovering of costs  
13 incurred in combining the operations of KCPL and Aquila (transition costs). While the  
14 Commission was supportive of recovery of the transition costs in general, the Commission did  
15 not specify any method in which this recovery is to be accomplished.

16 In fact, its Ordered paragraphs 13 of the Acquisition Order, the Commission stated  
17 that "nothing in this order shall be considered a finding by the Commission of the value for  
18 ratemaking purposes of the transactions herein involved." And in paragraph 14 it said that the  
19 Commission "reserves the right to consider any ratemaking treatment to be afforded the  
20 transactions herein involved in a later proceeding."

21 Because it has not met the standard required for direct rate recovery, the Staff  
22 recommends that the Commission order KCPL to recover its transition costs by using the

1 same method as KCPL proposed that it be allowed to recover its integration  
2 synergies – natural regulatory lag.

3 Q. Does KCPL in general support the use of natural regulatory lag as a  
4 cost recovery mechanism?

5 A. Yes. KCPL, for reasons that are not clearly supported or explained, supports  
6 the use of regulatory lag to recover the benefits of the acquisition – integration synergies,  
7 but rejects the use of regulatory lag to recover the costs to achieve the synergies – transition  
8 costs. The Staff believes that GPE’s proposal is inconsistent, is not adequately supported in  
9 testimony, and is not supported by the evidence in which the Commission ordered it to  
10 produce.

11 Q. What is the basis of the Staff’s position that transition costs should be  
12 recovered by GPE through natural regulatory lag?

13 A. As described above, the Staff’s position is based on the fact that KCPL has not  
14 produced the synergy savings tracking mechanism so ordered by the Commission.  
15 The synergy savings tracking mechanism was a Joint Applicant proposal that was adopted by  
16 the Commission as a requirement to show net acquisition benefits have been realized before  
17 direct rate recovery would be allowed.

18 Q. Are there other reasons why the natural regulatory lag method is the preferred  
19 method for transition cost recovery in this case?

20 A. Yes. As noted by GPE itself, any attempt to accurately track integration  
21 savings is difficult in the best of conditions. This is position also supported by Staff.  
22 KCPL, however, by its management deciding to file four separate rate cases in less than

1 two months following the closing date of the acquisition, has created the worst conditions  
2 under which any analysis of acquisition synergies can take place.

3 The KCPL management decision to file rate cases so soon after the acquisition closing  
4 has forced KCPL into a position where it physically cannot produce any actual evidence of  
5 the existence of actual net acquisition synergies. The appropriate course of action for the  
6 Commission to take is to allow KCPL the opportunity to recover its transition costs in the  
7 same manner KCPL proposes it be allowed to recover integration synergies, through natural  
8 regulatory lag.

9 Q. Since KCPL did not implement the synergy tracker ordered by the  
10 Commission in case Number EM-2007-0374, does actual information show that KCPL and  
11 GMO reflect that the level of operations and maintenance costs KCPL is incurring today is  
12 less than the level it incurred in the 2006 base year?

13 A. No. In 2006 KCPL filed for a rate increase. It's updated operations and  
14 maintenance (O&M) expense as of the September 2006 true-up filing in that case showed that  
15 KCPL's adjusted total company O&M expense was \$392 million (see the attached Schedule  
16 1). KCPL's most recent revenue requirement workpapers in this case shows an adjusted  
17 O&M expense level of \$467 million, for an increase of \$75 million or 19 percent (see the  
18 attached Schedule 2).

19 KCPL's O&M expense levels are not decreasing as promised in the Acquisition case,  
20 but significantly increasing. Even if you assume a 3 percent across the board inflation rate for  
21 each dollar of O&M expense for 2007 and 2008, the O&M increase is still \$51 million  
22 or 13 percent.

1           While the Company can point to isolated examples of costs reductions, such a method  
2 is deficient in that it fails to examine areas of the operations that increased as a result of the  
3 GPE acquisition. The Joint Applicants proposed and the Commission accepted a 2006 tracker  
4 as a calculation to indicate when synergies would be determined. The Commission understood  
5 the faults in this approach but protected consumers from paying transition costs from a flawed  
6 acquisition by accepting the Joint Applicants' proposal to only seek recovery of these costs  
7 when and if the acquisition produced actual net synergies, not estimated or budgeted  
8 synergies. KCPL and GMO have failed to produce the required documentation to prove the  
9 existence of net synergies and the Staff is holding the Joint Applicants to the commitment  
10 made in the Acquisition case.

11           Q.     Did the Joint Applicants promise to achieve a significant level of integration  
12 synergies?

13           A.     Yes.   At paragraph 34 of its Joint Application of Great Plains Energy  
14 Incorporated, Kansas City Power & Light Company and Aquila, Inc., in Case No.  
15 EM-2007-0374, the Joint Applicants stated "that the Merger will result in significant  
16 synergies, economies of scale, and efficiencies from the elimination of duplicate corporate  
17 and administrative services, all of which will ultimately result in a lower cost of operations.  
18 In its Acquisition Order (paragraph 273), the Commission said that "the range of 7-10%  
19 is a reasonable general expectation for total nonfuel synergy savings."

20           Q.     Has there been any evidence in this case or any evidence at all put forth by  
21 KCPL that the acquisition has yet resulted in a lower cost of operations?

22           A.     No.   KCPL has not produced any document which shows that the total costs of  
23 operating KCPL and GMO post acquisition is lower than its pre acquisition operations.



1 The only evidence in this rate case that is based on the actual costs of providing utility service  
2 shows, not a decrease, but an increase in O&M expense of 19 percent.

3 Q. Does the GPE witness Ives appear to agree that the Commission was not  
4 making any finding on the subsequent ratemaking treatment of transition costs in its  
5 Acquisition Order?

6 A. He apparently does, although his rebuttal testimony at page 2, lines 14 through  
7 25 on this point is not clear. Here Mr. Ives tries to explain that he knows why the  
8 Commission attached a footnote to language at page 241 of its Acquisition Order and that the  
9 Commission did this to “align” ordered paragraphs 13 and 4 described above with language it  
10 included at page 241 of its Acquisition Order.

11 The Staff does not understand the point Mr. Ives is trying to make here or how he  
12 came to know the reasons why, when the Commission was drafting the Acquisition Order,  
13 it attached a specific footnote to a particular paragraph to “align” it with subsequent ordered  
14 paragraphs. However, while the point Mr. Ives was attempting to make is unclear, what is  
15 absolutely clear is the fact that the Commission ordered no finding of ratemaking treatment of  
16 transition costs in its Acquisition Order.

17 Q. At page 3 of his rebuttal testimony Mr. Ives quotes from the Conclusions  
18 of Law – Final Conclusions Regarding Projected Synergy Savings section on pages 237 and  
19 238 of the Commission’s Acquisition Order:

20 The Commission further determines that substantial and competent  
21 evidence in the record as a whole supports the conclusions that ... (3)  
22 the synergies exceed transaction and transition costs and the method  
23 proposed for recovery of transaction and transition costs does not place  
24 the ratepayers at risk ... and (4) because the Applicant’s have agreed to  
25 recover any merger savings through ‘regulatory lag’ as part of the  
26 traditional ratemaking process there is no net detriment to customers....

1 Q. Please comment on this portion of Mr. Ives' rebuttal testimony.

2 A. It appears Mr. Ives is quoting this language to support his conclusion that the  
3 Commission's intent is that integration synergies should be recovered through regulatory lag,  
4 but not the associated transition costs that were incurred to achieve the integration synergies.  
5 According to Mr. Ives, the Commission intended that the transition costs to achieve the  
6 integration synergies should receive special treatment by receiving direct rate recovery.

7 Mr. Ives' conclusion is contradicted by the language contained in the  
8 Commission's order.

9 Q. How does Mr. Ives' conclusion conflict with the language in the  
10 Commission order?

11 A. At paragraph 14, page 284 of the Ordered Section of the  
12 Commission's Acquisition Order, the Commission ordered that it reserves the right to  
13 consider any ratemaking treatment to be afforded the transactions herein involved in a later  
14 proceeding. The Staff interprets this language to mean that the Commission would consider  
15 the Staff's proposed method of recovery of transition costs, which can be described as  
16 the indirect, or "natural regulatory lag" method as well as the Company's proposed method of  
17 transition cost recovery, the direct rate recovery method. In addition, the Commission would  
18 consider any proposed recovery method put forth by any party to this rate proceeding.

19 Q. Explain further how GPE has not complied with the Commission's Acquisition  
20 Order concerning a demonstration that integration savings are greater than its transition costs?

21 A. At paragraph 6c, page 282 of the Ordered Section of the Commission's  
22 Acquisition Order, the Commission ordered that the parties shall implement a synergy savings

1 tracking mechanism as described Applicants, and in the body of this order, utilizing a base  
2 year of 2006.

3 GPE's acquisition of Aquila closed on July 14, 2008. Over eight months have passed  
4 since this transaction closed and GPE has yet to produce any synergy savings tracking  
5 mechanism that shows actual net synergies actually exist. As stated in Paragraph 1 of the  
6 Ordered Section on pages 282 and 283, the transaction was approved subject to the conditions  
7 in ordered paragraphs 2 through 15. KCPL has failed to comply with paragraph 6c shown  
8 below:

9 6. Authorization of the transactions described in Ordered  
10 Paragraphs Number One through Five are subject to the  
11 following conditions:

12 c. Great Plains Energy, Incorporated, Kansas City Power & Light  
13 Company, and Aquila, Inc., shall, upon closure of the  
14 authorized transactions, implement a synergy savings tracking  
15 mechanism as described by the Applicants, and in the body of  
16 this order, utilizing a base year of 2006.

17 Q. Did Staff request and receive a synergy savings tracking mechanism tracking  
18 actual costs incurred with a base year of 2006?

19 A. No. KCPL filed this rate case on September 5, 2008, over seven months ago.  
20 Throughout its cost of service audit the Staff repeatedly requested that it be provided with a  
21 copy of the synergy savings tracking mechanism using a base year of 2006 that the  
22 Commission ordered KCPL and GMO to implement in Case No. EM-2007-0374.

23 KCPL responded that no such tracking mechanism was implemented to support  
24 transition cost recovery in this rate case. Upon prodding by the Staff, KCPL began to make  
25 an effort to produce this document. Finally, on Thursday, April 2 2009, the Staff received this  
26 document, two business days prior to filing this surrebuttal testimony.  
27 Because of the time commitments of this surrebuttal testimony, both in writing testimony and

1 reviewing the surrebuttal testimony of other Staff auditors, I have not yet started an analysis  
2 and audit of the data provided. I just began my review of this data on April 7, 2009. As I  
3 noted in my direct testimony in the Staff's Cost of Service Report, there is no possible way  
4 for this document to be adequately analyzed, audited and conclusions reached prior to the  
5 conclusion of this rate case.

6 Q. What does the summary of this information show?

7 A. KCPL used a 2006 base year O&M expense level for KCPL and GMO.  
8 Added to this amount was \$48 million of inflation dollars, which represents an inflation  
9 increase of 3.1 percent for 2007, 2008 and 2009. Also added to this amount was \$86 million  
10 in baseline adjustments for a total adjustment to 2006 baseline expenses of \$134 million, or a  
11 27 percent increase. Included in this \$86 million adder is \$36 million for increased pension  
12 and benefits. To calculate its expected synergies, KCPL did not use any actual incurred  
13 costs, but 2009 budgeted costs. KCPL's conclusion was that its 2009 budgeted  
14 O&M expense levels for KCPL and GMO is \$40 million less than the 2006 base year  
15 O&M expense level after including the \$134 million of additional costs. Just from the  
16 summary page of this document the Staff has serious concerns about the levels of inflation  
17 assumed and the amount of additional expenses added to 2006 base year O&M expenses.

18 Q. At page 5 lines 33 of his rebuttal testimony Mr. Ives describes how your  
19 testimony in the Staff's Cost of Service Report indicated that KCPL has already enjoyed the  
20 benefits of synergy savings through regulatory lag. Is he correct?

21 A. Yes. In the Staff's Cost of Service Report I provided an example of how,  
22 under KCPL's belief as to the level of current synergies being realized, KCPL has already

1 recovered and is currently recovering through natural regulatory lag a significant portion of its  
2 transition costs

3 Q. Has GPE indicated by its testimony in the Acquisition case that it believes,  
4 by September 2009, it will have received integration synergy revenues in an amount sufficient  
5 to pay for all of the transition costs it has incurred to date?

6 A. Yes. In the Additional Supplemental Direct Testimony provided by  
7 Terry Bassham in Case No. EM-2007-0374 at page 3, he stated that on a Missouri  
8 jurisdictional basis total synergies are equal to \$222 million over the first five years. Using  
9 Mr. Bassham's own calculations and assuming the savings are realized ratably, GPE will have  
10 already recovered 22 percent of the \$222 million five year synergies, or \$48 million by the  
11 time the rates are changed in this case in September 2009. This \$48 million of transition costs  
12 that according to GPE will be recovered by September 2009 exceeds the \$42.8 million  
13 Missouri portion of the total transition costs that GPE will incur in the first five years. This  
14 amount is shows at page 5 of Mr. Bassham's Additional Supplemental Direct Testimony.

15 Q. Has GPE already publicly announced that it has realized significant integration  
16 synergies due to natural regulatory lag?

17 A. Yes. William Downey, President and COO, Great Plains Energy and KCPL in  
18 a EEI Conference Webcast on November 11, 2008 stated that GPE has already achieved a  
19 net \$23 million of operating synergies that accrued to GPE's shareholders in just the  
20 four-month period from July 15, 2008 through November 11, 2008, or almost 40 percent of its  
21 anticipated total company transition costs.

22 Q. Is it normal practice for a utility or for any company to first use revenues  
23 received to pay expenses and then allocate any remaining revenues to profit?

1           A.     Yes, it is.

2           Q.     Is that how KCPL is planning to treat its synergy savings revenues?

3           A.     No.    KCPL is planning to allocate all of the additional synergy savings  
4 revenues that it has realized from August 2008 to September 2009 to profit and not allocate  
5 one dollar of this estimated \$48 million in revenues to the transition costs of the acquisition.  
6 This proposal makes no sense from either an accounting or a ratemaking standpoint and is  
7 directly contrary to accounting and ratemaking principle of matching, which requires that  
8 there be recognition in the same period of the revenues received and the expenses incurred to  
9 generate those revenues.

10           In contrast to KCPL, the Staff is proposing that KCPL, through natural regulatory  
11 lag, would recover these integration synergies and apply them to pay down the deferred  
12 transition costs. All the remaining synergies it achieves in between rate cases can be assigned  
13 as profit to its shareholders. This natural regulatory lag as proposed by the Staff is simple and  
14 straightforward. If KCPL is correct that the synergies have occurred, are occurring today and  
15 will continue to occur over the next ten years, this method is an easily achievable way for  
16 KCPL to recover all of its transition costs.

17           Q.     Has GPE attempted to match any of the additional integration synergy  
18 revenues that it has realized and is currently receiving with the transition cost expenses that  
19 were necessary to generate the additional revenues?

20           A.     No.    In its original Application to the Commission in the Acquisition Case  
21 KCPL proposed that it be allowed to defer as a regulatory asset its transition costs and  
22 amortize these costs over five years beginning the month following the July 2008 closing.  
23 This would mean that the amortization would have started in August 2008.

1 | However, GPE changed this proposal from starting the amortization the month following  
2 | closing of the transaction to starting the amortization when rates from the current rate cases  
3 | become effective, currently estimated to be September 2009.

4 |         If KCPL actually began its amortization in August 2008, then there would be a  
5 | matching of the additional revenues (integration synergies) being realized currently with the  
6 | costs incurred to generate these additional revenues. Because KCPL is not currently  
7 | amortizing its transition costs against current integration synergy revenues, all of the  
8 | integration synergies realized from August 2008 until September 2009 will be enjoyed as  
9 | profit by GPE's shareholders.

10 |         Q. By delaying its amortization of transition costs until September 2009 when,  
11 | according to KCPL, the incurred transition costs started to produce integration synergy  
12 | benefits in August 2008, is KCPL improperly matching its additional integration synergy  
13 | revenues with the expenses it incurred to generate these revenues?

14 |         A. Yes. KCPL is improperly applying the accounting and ratemaking matching  
15 | principle that says costs should be matched with the revenues generated from the incurrence  
16 | of the costs, or stated another way, the costs should be matched over the period in which the  
17 | associated benefits are received. According to KCPL, significant integration synergy  
18 | revenues (benefits) are currently being received, yet no matching of the additional revenues  
19 | are being made with the costs that were incurred to generate these benefits. This is a clear  
20 | failure on the part of KCPL to properly apply the requirements of the matching principle.

21 |         Q. When did GPE change its proposal from the correct amortization start date of  
22 | August 2008 (the month following the acquisition closing) to its revised and incorrect  
23 | September 2009 start date?

1           A.     In the Additional Supplemental Direct Testimony provided by Terry Bassham  
2 in Case No. EM-2007-0374 at page 5, Mr. Bassham changed the Joint Applicants request for  
3 the date to start the amortization from the month following the transaction closing date,  
4 which is August 2008 to the date the rates change in this rate case, which is estimated to be  
5 September 2009.

6           Also at page 4 of the Additional Supplemental Direct Testimony of GPE witness  
7 Chris B. Giles he states that “we propose to allocate the merger integration costs over a period  
8 of five years (beginning with the effective date of rates ordered by the Commission in the first  
9 rate case after the close of the merger).” This change in GPE’s proposal is also shown at  
10 page3 line 21 through page 4 line 10 of Mr. Ives’ rebuttal testimony.

11           Q.     What is the effect of KCPL changing its transition cost amortization start date?

12           A.     The effect of this changed proposal is that KCPL, according to its  
13 own estimates will reaping the benefits of \$48 million in integration savings by charging its  
14 regulated customers rates that are based on recovering \$48 million in expenses that no longer  
15 exist. These transition costs that are currently being recovered by KCPL are being recovered  
16 through regulatory lag. The net result is that by delaying the start date of the transition cost  
17 amortization, 100 percent of the benefits of the savings that KCPL has enjoyed and will enjoy  
18 through natural regulatory lag until rates are changed in this rate case, in which Mr. Bassham  
19 estimates to be \$48 million, flows directly to net profit for GPE’s shareholders.

20           Q.     Do the 13 months that will have elapsed between the time the transaction  
21 closed in July 2008 and the date that rates will change in this rate case, September 2009 have  
22 the same effect as a rate moratorium period?



1           A.     Yes, it does. This time period between rate cases is an example where  
2 natural regulatory lag allows for the merged entities to enjoy any cost savings from  
3 lower combined expenses that, according to KCPL, are currently being incurred (such as  
4 reduced payroll, medical insurance and other benefits) over the higher level of expenses that  
5 are embedded in current rates.

6           Q.     Does KCPL anywhere in its testimony in this case address how it is proposing  
7 to treat this \$48 million in additional revenues that it will receive through natural  
8 regulatory lag?

9           A.     No.     KCPL is silent on the issue of associating any current  
10 integration synergies with the costs incurred to obtain the synergies. However, if KCPL kept  
11 to its original proposal in the Acquisition Case it would have been amortizing 1/60<sup>th</sup> of its  
12 transition cost deferral to expense beginning in August 2008. When rates change as a result  
13 of this rate case KCPL's books and records would have recognized that it had already  
14 recovered 22 percent of its transition cost deferral (13 months divided by the total  
15 amortization period of 60 months).

16          Q.     You've been describing how KCPL is already recovering transition costs  
17 through natural regulatory lag. If the Commission ordered KCPL to continue this method of  
18 transition cost recovery, instead of starting the amortization process over again beginning in  
19 September 2009 through direct rate recovery, in your opinion would it prevent a lot of rate  
20 case issues and litigation that is likely to arise over the accuracy of any integration tracking  
21 study?

1 A. Yes. In its Acquisition Order, based on GPE testimony, the Commission  
2 agreed that it would be very difficult to track synergy savings with any degree of accuracy.

3 The following is a finding of fact from page 97 of the Commission's Acquisition Order:

4 244. Tracking synergy savings with any degree of accuracy is  
5 problematic at best. Business operations are not conducted in a static  
6 environment, but rather under constant change, including customer  
7 growth, technological improvements, etc. Tracking will become more  
8 difficult each successive year after the merger. 353

9 353 (GPE/KCPL Exhibit 29, Wright Direct p. 5; GPE/KCPL Exhibit 1,  
10 Bassham Direct, p.10).

11 Q. At page 4 line 27 of his rebuttal testimony, Mr. Ives begins a description of  
12 how Staff has addressed transition cost recovery in previous merger and acquisition cases  
13 before the Commission. Were you involved in many of these cases?

14 A. Yes, I have participated in the following merger or acquisition cases before the  
15 Commission.

16	EM-96-149	Union Electric/CIPSCO, Inc.
17	EM-97-515	Western Resources, Inc. /Kansas City Power & Light Co.
18	GM-2000-312	Amos Energy Corp/Associated Natural Gas Company
19	EM-2000-369	UtiliCorp United Inc./Empire District Electric Company
20	EM-2000-292	UtiliCorp United Inc./St. Joseph Light & Power Company
21	GM-2000-502	Southern Union Company/Valley Resources, Inc.
22	GM-2000-0043	Southern Union Company/Pennsylvania Enterprises, Inc.
23	GM-2000-500	Southern Union Company/Providence Energy Corporation
24	GM-2000-503	Southern Union Company/Fall River Gas Company
25	GM-2003-238	Southern Union Company / Panhandle Eastern Pipeline Projects

26 Q. Do you agree with Mr. Ives' characterization of the Staff's general position on  
27 recovery of transition costs?

28 A. Yes. As noted in Mr. Ives' rebuttal testimony, the Staff has been supportive of  
29 transition cost recovery in rates over a reasonable period of time, which in the past the Staff  
30 has found to be ten years. However, the facts and circumstances surrounding the merger and

1 acquisition cases cited in Mr. Ives' rebuttal testimony are quite different from the facts and  
2 circumstances that are unique to this transaction.

3 Q. Please explain.

4 A. Mr. Ives, at page five, beginning on line one of his rebuttal testimony quotes  
5 my testimony in Case No. ER-2005-0436. In that case the Staff independently calculated fuel  
6 and purchase power savings (integration savings) from the joint dispatch of SJLP's and MPS'  
7 generation units to be in excess of the total \$4.9 million in transition costs that Staff and  
8 Aquila agreed should be recovered.

9 In the transaction where Aquila acquired SJLP, Staff was able to make its proposal on  
10 the appropriate transition cost recovery method based upon a showing that the actual net  
11 integration synergies did exist and the amount of net synergies were well in excess of the total  
12 approximately \$5 million in transition costs that Aquila was seeking to be recovered in rates.  
13 The joint dispatch integration savings from Aquila's acquisition of SJLP in just one year  
14 exceeded the total amount of transition costs in which it was seeking to recover over 10 years.  
15 This fact lessened the concern that the combined costs of the post acquisition Aquila and  
16 SJLP were greater than the costs of the pre-acquisition stand alone utilities. These facts and  
17 circumstances are totally different from those now presented by GPE's acquisition of Aquila.

18 Q. How were they different?

19 A. Unlike the evidence of the existence of a significant amount of net integration  
20 synergies with Aquila's acquisition of SJLP, KCPL has failed to provide until April 2, 2009  
21 documentation of a synergy savings tracking mechanism on which the Staff and other parties  
22 to this case could start an analysis of whether or not any net integration synergies actually  
23 have occurred.

1           The facts are that KCPL's costs have dramatically increased, not decreased, over the  
2 level of costs contained in the 2006 base year in the Commission's order in the Acquisition  
3 Case and KCPL has not provided any evidence to the contrary.

4           In addition, Aquila agreed to seek recovery of less than \$5 million in transition costs  
5 over five years. The potential harm from incorrectly concluding the actual existence of net  
6 acquisition benefits in the Aquila – SJLP acquisition, which was \$5 million over ten years is  
7 significantly less than the risk in the KCPL case where KCPL will seek recovery on an  
8 unspecified amount of transition costs possibly exceeding \$50 million and is seeking to  
9 recover these costs over a very short and unsupported five-year amortization period.

10           Q.     Earlier you stated that the Staff has found ten years to be an appropriate  
11 amortization period for transition costs. Does the Staff consider KCPL's proposed five-year  
12 amortization or recovery period to be excessively short?

13           A.     Yes. If GPE wanted to amortize the transition costs on its books and records  
14 for five years without seeking direct rate recovery, that would not be an issue. However, by  
15 seeking direct rate recovery of the transition costs, as described above under the matching  
16 principle, GPE is obligated to match the expense side of its income statement (amortization of  
17 transition costs) with the revenue side (realization of integration synergy revenues).  
18 Since GPE estimates that it will be able to achieve integration synergies over at least ten years  
19 (GPE/KCPL Exh.37, Bassham Additional Supp. Direct p.3) then it should match its  
20 amortization of transition costs over a minimum of a ten year period as well. GPE's proposed  
21 five-year amortization period results in a significant mismatch between anticipated savings  
22 and expenses.

1           Q.     Starting at page 6 line 11 of his rebuttal testimony, Mr. Ives list four reasons  
2 why he does not agree with the indirect or natural regulatory lag recovery method proposed  
3 by Staff. Please comment on each Mr. Ives' four concerns.

4           A.     Mr. Ives' first concern is that reliance on regulatory lag to generate sufficient  
5 revenues to cover transition costs "would in effect shift the burden for all of the costs to  
6 achieve synergies (i.e. transition costs) to shareholders."

7           While I agree that the burden of transition cost recovery should be squarely placed on  
8 KCPL shareholders until the existence of net acquisition benefits in rates is demonstrated to a  
9 level satisfactory to the Commission, I disagree that this is what has occurred.  
10 Mr. Ives' conclusion that GPE's shareholders would bear the entire burden of transition cost  
11 recovery is wrong.

12           As noted above, if actual synergies are being realized, GMO ratepayers and  
13 KCPL ratepayers are paying dollars in current rates for a level of O&M expenses that no  
14 longer exists due to integration synergies. In actuality, these customers are bearing the burden  
15 of paying utility bills based on costs that are not being incurred by the utility in the hopes that  
16 eventually this prepayment of higher rates now will lead to future lower rates. Contrary to the  
17 concern raised by Mr. Ives, it is not GPE's shareholder, but KCPL's and GMO's ratepayers  
18 who are bearing 100 percent of the burden of transition cost recovery to the extent of  
19 \$48 million.

20           Q.     Please continue with Mr. Ives' second concern that he believes the Staff's  
21 position in this case is inconsistent with its position in other merger proceedings and rate  
22 cases in which the Staff has provided testimony on transition cost recovery.

1           A.     At page five of his rebuttal testimony Mr. Ives' describes Staff testimony in  
2 two rate cases, Case Nos. ER-2005-0436 and ER-2001-672 and one merger case,  
3 EM-2000-292. All three cases related to the recovery of transition costs incurred by Aquila  
4 during the period it was integrating Saint Joseph Light & Power Company (SJLP) with its  
5 MPS electric utility operations.

6           As described above, there was a strong indication of significant integration savings  
7 that resulted from Aquila's acquisition of SJLP in the area of fuel expense and purchased  
8 power expense. Significant cost savings were expected to be achieved as a result of the joint  
9 dispatch of Aquila's and SJLP's generation units. Fuel and purchased power savings in one  
10 year alone under joint dispatch was sufficient to cover the total amount of transition costs  
11 agreed upon by Staff and Aquila in Case No. ER-2005-0436. As it relates to  
12 GPE's acquisition of Aquila, there is no joint dispatch of generation units and therefore no  
13 joint dispatch synergies. This is a potentially significant level of synergies that is not  
14 available to KCPL's customers as it was to Aquila's and SJLP's customers. All the synergies  
15 that GPE purports have been realized and will be realized are associated with non-fuel and  
16 non purchased power operations and maintenance expenses, commonly referred to as NFOM.

17           This clear indication of potentially significant integration synergies was the reason  
18 why the Staff ultimately agreed to direct rate recovery of transition costs in the  
19 Aquila – SJLP acquisition. The fact for KCPL is that it has experienced significant cost  
20 increases not decreases since the acquisition. The total lack of evidence of any integration  
21 synergies in this case, and the absence of any potentially significant joint dispatch synergies,  
22 form the basis for the Staff's proposed regulatory lag recovery method for GPE to recover any  
23 integration synergies, if these synergies do, in fact, exist.

1           Unlike the portrayal by Mr. Ives in his rebuttal testimony, there is no inconsistency on  
2 the part of Staff on its position on transition cost recovery. Like most issues, the Staff makes  
3 its ratemaking recommendations to the Commission based on the facts and circumstances of  
4 each case. In this case, KCPL has not merged into Aquila. In the prior Aquila cases cited by  
5 Mr. Ives, the acquired entities were merged into Aquila and separate entities no longer  
6 existed. The facts and circumstances of the instant case do not support direct rate recovery.

7           Q.     Explain why you believe that the Staff position on this issue as outlined in the  
8 testimony cited by Mr. Ives at page 5 of his rebuttal testimony and the Staff position in this  
9 case are consistent?

10          A.     In my rebuttal testimony in Case No. ER-2001-0672 at page 33 I state that  
11 transition costs are incurred after the merger in an attempt to run the combined utility more  
12 efficiently. I also state, "If attained, these efficiencies should be reflected in a lower cost of  
13 providing utility service, thereby providing a potential benefit to utility customers".  
14 The Staff position taken in my rebuttal testimony in Case No. ER-2001-0672 concerning  
15 recovery of transition costs contemplates the fact that actual integration savings have been  
16 attained. I would certainly never recommend, and I do not believe the Staff would ever  
17 recommend, rate recovery of transition costs in a utility rate case when there was not  
18 convincing evidence that actual integration synergies have been achieved.

19               Significant portions of the transition costs at issue in this case were incurred before  
20 GPE acquired Aquila. This is unusual. Prior to the transaction, these costs are normally  
21 defined as transaction costs. Transition costs addressed by the Staff in other cases were  
22 primarily incurred after the transaction closed and are directly related to the operation of the  
23 entities after the transaction has been completed. The Staff found evidence that

1 savings existed as a result of the Aquila-SJLP acquisition in 2000, and as a result, the Staff  
2 did recommend rate recovery of the transition costs to achieve these savings in rates in  
3 Case No. ER-2005-0436.

4 Q. Please continue with Mr. Ives' third concern with the natural regulatory lag  
5 approach the Staff is recommending for transition cost recovery in this case, that it was the  
6 Commission's intention to allow the Company to defer transition costs and amortize these  
7 costs over five years.

8 A. The Staff does not disagree that the Commission authorized a deferral of  
9 transition costs to be amortized over a five year period in its Report and Order in  
10 Case No. EM-2007-0354. However, the Staff disagrees with any interpretation of this  
11 Report and Order that assumes, contradictory to express language in the ordered section of the  
12 Report and Order, that the Commission authorized any type of ratemaking treatment.  
13 The Commission's Report and Order specifically disproves Mr. Ives testimony.

14 Mr. Ives should recognize that the authorization of a deferral of transition costs  
15 and a set amortization period was provided by the Commission so that the transition costs  
16 could be deferred on GPE's books and records and the process of amortization could begin.  
17 Once the transition costs were deferred, parties in subsequent rate cases would have the  
18 opportunity to recommend the appropriate recovery methods for these costs. GPE entered into  
19 the transaction to acquire Aquila with no assurance of any rate recovery of these costs unless  
20 it could prove that the acquisition had produced savings to justify such recovery. While KCPL  
21 can show isolated examples of possible savings, it has not balanced these examples of cost  
22 increases in other areas. A 19% increase in costs over the 2006 base period provides no  
23 comfort that this transaction has produced cost benefits to KCPL.



1           If KCPL is not able to defer these costs on its books and records, it would have to  
2 charge these expenses to income in the period in which they are incurred. The Commission  
3 authorizes this same type of deferral authority all the time in accounting authority order  
4 (“AAO”) cases without authorizing any type of ratemaking treatment. AAOs granted in the  
5 past to KCPL and Aquila provided no guarantee of cost recovery from customers. AAOs  
6 provide utilities with an opportunity to seek future rate recovery from customers and nothing  
7 more. The Commission’s exact same deferral authority granted in its Acquisition Order  
8 granted an opportunity for KCPL to seek rate recovery of transition costs in future rate cases,  
9 and nothing more.

10           Q.     Please comment on Mr. Ives’ fourth and final concern about the Staff’s  
11 proposed regulatory lag method of transition cost recovery.

12           A.     Mr. Ives states that he believes the Commission acknowledged the “regulatory  
13 lag” approach proposed by the Applicants was intended to provide the shareholders an ability  
14 to share in synergy savings before new rates are in place thereby transferring the benefits of  
15 the synergy savings from the shareholders to the ratepayers.

16           The Staff does not disagree at all with Mr. Ives’ understanding of KCPL’s position  
17 and how this position was characterized in the Commission’s Acquisition Order. In fact, the  
18 Staff is supportive of KCPL’s position as described by Mr. Ives, with just one exception.

19           Q.     What is that one exception?

20           A.     The Staff’s proposal is that all of the benefits of the acquisition that have  
21 accrued to KCPL to date, all of the benefits that will accrue to KCPL to September 2009, and  
22 all future integration synergies that are achieved in between rate cases should be kept by  
23 KCPL’s shareholders. It will be the responsibility of KCPL’s shareholders through

1 their representation by GPE's Board of Directors to encourage KCPL management to attain a  
2 level of integration synergies that first pays off the transition costs and then provides a  
3 satisfactory level of profit to the shareholders.

4 The Staff's proposal is very similar to KCPL's proposal except that it corrects  
5 KCPL's proposal by reassigning to KCPL's shareholders the responsibility to pay down the  
6 transition costs before they can enjoy the fruits of the acquisition. As I described earlier, a  
7 business must pay expenses first before it can record profits.

8 The Staff agrees with Mr. Ives that it wasn't the Commission's predetermined intent  
9 to use regulatory lag to recover transition costs because the Commission did not address any  
10 appropriate ratemaking treatment in its Acquisition Order. The Commission did not say  
11 whether regulatory lag was an appropriate mechanism or an inappropriate mechanism to  
12 recover transition cost because it did not even address the appropriate ratemaking treatment  
13 for recovery of transition costs. The Commission, appropriately so, left it to the parties in  
14 future rate cases to put forth their proposal on transition cost recovery. That is what the Staff  
15 is doing in this case.

16 **SYNERGY SAVINGS TRACKING PROCESS**

17 Q. At pages 7-10 of his rebuttal testimony, Mr. Ives describes KCPL's new  
18 synergy savings tracking mechanism or the "Project Charter Synergy Tracking Mechanism."  
19 Was this the synergy savings tracking process described by Mr. Ives in his direct testimony in  
20 the case?

21 A. No. This is a completely new and different process. Mr. Ives' direct testimony  
22 never mentioned the terms "Project Charter" and never addressed the new Phase 1 and Phase  
23 2 tracking process he describes in his rebuttal testimony.

1 Q. Does the Staff have an opinion on the merits of the new tracking process?

2 A. Not at this point. The first time the Staff learned about this process was in  
3 Mr. Ives' rebuttal testimony. However, the Staff will agree with Mr. Ives statements at page 7  
4 line 12 and page 8 line 22 of his rebuttal testimony that because of the acquisition closing in  
5 July 2008 it would be impossible to calculate any actual integration synergies achieved in  
6 2008 to compare to a base year 2006. This problem was created by GPE's management in its  
7 decision to file four rate cases in Missouri less than two months after the acquisition  
8 close date.

9 Q. Did GPE, GMO, or KCPL seek any waiver or variance regarding the  
10 Commission's order in Case No. EM-2007-0374 respecting the requirement to implement a  
11 synergy tracking system using a 2006 base year?

12 A. No. KCPL just failed to comply with the Acquisition Order and decided to  
13 substitute a different approach without consultation with the parties or Commission approval  
14 to do so.

15 Q. At page 8, line 21 of this rebuttal testimony, Mr. Ives states that the new  
16 tracker compares actual results to the 2006 base year, adjusted for known and measurable  
17 changes, including inflation. Has KCPL ever provided to Staff any synergy savings tracking  
18 reports that compare actual costs incurred with 2006 base year costs?

19 A. No. Staff, despite several attempts to obtain this data, has never been provided  
20 any synergy savings tracking report that compares base year 2006 results with actual incurred  
21 costs.

22 As noted in my rebuttal testimony on this issue, because of the number of assumptions  
23 made to increase 2006 base year costs and the sheer volume of data required to be reviewed

1 and analyzed, it would take two Staff auditors approximately 45 to 60 audit work days  
2 working solely on this issue to reach a conclusion about whether or not it was likely that any  
3 actual integration synergies have been realized and provide an estimate of the approximate  
4 size of the integration synergies if it was concluded that, any were in fact, realized.

5 Q. Above you reference where the Commission ordered KCPL to implement a  
6 synergy savings tracking mechanism as described by the Applicants and as described in the  
7 body of the Commission Acquisition Order. How did the Applicants describe the synergy  
8 savings tracking mechanism and did they commit to doing one?

9 A. In the Supplemental Direct Testimony provided by  
10 Terry Bassham in Case No. EM-2007-0374 at pages 6 and 7, he committed to the  
11 Commission that Great Plains Energy would track synergy savings that have actually been  
12 achieved. On pages 6 and 7, he stated:

13 If the Commission so desires, Great Plains Energy is willing to  
14 track synergy savings achieved. The synergies achieved can be  
15 compared to the transaction and transition cost amortization and  
16 to the extent the synergies do not cover the amortization, the  
17 cost would continue to be deferred until such time that the  
18 demonstrated savings from the merger exceeds the related cost.

19 Q. How does GPE define “synergy savings” as it relates to the GPE-Aquila  
20 acquisition?

21 A. At page 3 of his direct testimony Mr. Ives defines synergies as “a reduction in  
22 costs, and avoided costs, as a result of the operational integration of utility operations  
23 of GMO and KCPL as compared to the combined costs of the entities operating standing  
24 alone absent the operational integration.

25 Q. At page 10 of his rebuttal testimony Mr. Ives makes the statement  
26 that GPE does not believe that the 2006 baseline tracking mechanism was intended to

1 specifically provide the value of synergy savings to be flowed through to customers in the  
2 ratemaking process. Do you agree?

3 A. No. The portions of the Commission's Acquisition Order cited to support this  
4 belief do not even reference a synergy savings tracking mechanism. The Staff believes the  
5 more appropriate references in the Commission's Acquisition Order which support its  
6 position that GPE must prove the existence of actual synergies achieved using the tracking  
7 mechanism and the 2006 base year as follows:

8 245. If the Commission requires synergy tracking, the  
9 Applicants suggest a simple approach, noting that additional  
10 complexity does not improve accuracy. The Applicants suggest  
11 establishing base period costs and then comparing each  
12 subsequent year's actual costs to the base year costs, as adjusted  
13 for inflation. The net decrease in expense would be considered  
14 synergy savings. (Emphasis added; Footnote omitted).

15  
16 247. Applicants recommend 2006 as the base year for  
17 synergy savings tracking because that year represents the last  
18 full year of operations unaffected by the merger. It is also the  
19 test period for Aquila's most recent rate case, Case No. ER-  
20 2007-0004, and the test period of KCPL's most recent rate case,  
21 Case No. ER-2007-0291. Consequently, the base year of 2006  
22 provides a good test period for both Aquila and KCPL to  
23 evaluate synergy savings to be accomplished as a result of the  
24 merger. (Footnote omitted).

25 IT IS ORDERED THAT:

- 26 6. Authorization of the transactions described in Ordered Paragraphs  
27 Number One through Five are subject to the following conditions:
- 28 c. Great Plains Energy, Incorporated, Kansas City Power & Light  
29 Company, and Aquila, Inc., shall, upon closure of the authorized  
30 transactions, implement a synergy savings tracking mechanism as  
31 described by the Applicants, and in the body of this order,  
32 utilizing a base year of 2006. (Emphasis added)

33 The Staff believes that a correct interpretation of the Commission's Acquisition Order  
34 is that the Commission ordered GPE to implement a synergy savings tracking mechanism and

1 use 2006 to establish a base year level of expenses. As GPE incurs actual costs in subsequent  
2 years, it is required to compare the actual costs incurred  
3 to the 2006 base year level to determine if any integration synergies exist, and if they exist,  
4 do they exceed the level of transition costs proposed to be passed on to ratepayers.

5 If and when KCPL demonstrates through this Commission-mandated tracker that  
6 actual synergies, the net decrease in O&M expenses comparing a year's actual cost to the base  
7 year costs, exceed transition costs, then KCPL can propose rate treatment for the transition  
8 costs in a rate case. This is the basis on which the Commission determined that if the  
9 synergies did not exceed the transition costs, GPE committed to not seek recovery of the  
10 transition costs and thus no ratepayer detriment would occur.

11 Q. At pages 12 through 14 of his rebuttal testimony Mr. Ives tries to justify the  
12 reasons why KCPL is increasing its 2006 base year expenses by \$93 million. Please comment  
13 on this adjustment.

14 A. As stated earlier, when GPE eventually completes its 2006 base year synergy  
15 savings tracking mechanism, this \$93 million adjustment in one of the reasons why an audit  
16 of GPE's tracking mechanism will require so much time.

17 Q. While the Staff may have concerns about what costs and factors are included in  
18 the \$93 million that GPE is proposing be added to the 2006 base year costs, does it also have  
19 concerns with what GPE excluded from its \$93 million adjustment?

20 A. Yes. What is of serious concern to the Staff at this point is that KCPL has not  
21 included in its analysis any efficiency gains or other cost savings measures that have occurred  
22 by the stand alone KCPL and by the stand alone GMO. The Companies' analysis concludes  
23 that no efficiency gains of any type would have been realized by the stand alone entities.

1 Such an omission in the calculation of the \$93 million adjustment does not speak well of the  
2 management efficiency of either GPE or KCPL.

3 Q. Please explain what you mean by efficiency gains.

4 A. By efficiency gains I am referring to reduction in expenses caused by things  
5 such as improvements in technology, design of more efficient work processes, and more  
6 effective and efficient employment of human capital.

7 For example, in recent years Aquila put a very strong emphasis on process  
8 improvement and cost reductions through its Six Sigma Program. Six Sigma is a  
9 management philosophy developed by Motorola that emphasizes setting extremely high  
10 objectives, collecting data, and analyzing results to a fine degree as a way to reduce defects in  
11 products and services. The Staff became aware in recent Aquila rate cases and the acquisition  
12 case that Aquila was expecting significant cost savings in future years as a result of changes  
13 that will be put in place by the Six Sigma Program. These costs savings that Aquila was  
14 creating and planned to create in the future as a stand alone entity were completely ignored  
15 by GPE's calculations of adjustment to 2006 base year costs. Further, KCPL does not use Six  
16 Sigma and instead uses an informal, unspecified internal process to attempt to introduce  
17 productivity into its operations. The abandonment of Aquila's formal Six Sigma Program is  
18 likely to lead to higher, not lower costs than Aquila could achieve on a stand-alone basis.

19 Q. What is the effect of not including efficiency gains in the adjustments  
20 to 2006 base year stand alone costs of KCPL and GMO?

21 A. The effect is that without appropriate adjustments to help offset some of the  
22 \$93 million in cost increases KCPL is adding to its 2006 base year level of stand alone costs,  
23 any calculation of integration synergies will be overstated. When and if the Staff is provided

1 with such an analysis, this is one of the areas that it will look at very closely.  
2 But for now, the Staff can just point out to the Commission that KCPL has a serious flaw in  
3 its calculation of 2006 base year stand alone GMO and KCPL costs.

4 Q. Why is it critical to any attempt to calculate integration synergies that actual  
5 costs incurred post-acquisition, which represents the costs of the combined entity, be  
6 compared with pre-acquisition costs?

7 A. Assuming that integration synergies can be tracked with any degree of  
8 accuracy, which is a highly debatable assumption, then the only way to track synergies is to  
9 compare total costs of a combined company with previously established costs of the two stand  
10 alone companies. This comparison has to be done on a total, not a piecemeal basis to obtain  
11 any meaningful results.

12 KCPL has to date failed to complete a comprehensive total cost analysis and has  
13 instead relied on a completely inadequate piecemeal process of calculating integration  
14 synergies. Mr. Ives, who is sponsoring KCPL's integration savings adjustment, Adjustment  
15 78, in this case has admitted in his rebuttal testimony that an actual costs savings calculation  
16 cannot be done. What he has chosen to do instead is to look at specific and isolated purported  
17 costs reductions, such as reduced employee levels salaries and benefits, reduced insurance  
18 premiums and reduced facilities ownership costs. What he has failed to include in this  
19 assessment is any analysis comparing GMO and KCPL on items such as procurement  
20 policies, employee and officer expense account policies, salary levels, employee benefits,  
21 medical insurance, other postretirement benefits, supplemental pension benefits and a host of  
22 other costs. All of these items, the effect of which would be reflected in an analysis of actual



1 2006 base year costs compared to actual post-acquisition costs, are not being considered in  
2 Mr. Ives' piecemeal approach to calculating integration synergies.

3 Q. At page 50 of his rebuttal testimony Mr. Giles states that you have cast aside  
4 any notion of tracking acquisition-related synergy savings and comparing those savings to  
5 merger-related transition costs. Do you agree with Mr. Giles' assertions?

6 A. No. My experience has shown that there is no effective method for tracking  
7 acquisition/merger-related synergy savings and thus comparing those savings to merger-  
8 related transition costs is a contrived process at best. The Company's testimony in the  
9 Acquisition Case and the Commission's Acquisition Order acknowledges the same fact.

10 I do believe that under the right circumstances a methodology for tracking  
11 acquisition-related synergy savings can be accepted by parties impacted by a transaction  
12 based upon unique and specific facts and circumstances. The primary reason I have rejected  
13 the notion of tracking acquisition synergy savings is that GPE has failed to comply with the  
14 Commission's Acquisition Order and produce documentation that shows the existence of  
15 actual integration synergies. GPE/KCPL has made no effort to engage in collaborative  
16 processes to attempt to build a consensus of agreement regarding how this synergy savings  
17 tracking mechanism could be employed. It is my experience that Aquila would have sought  
18 input from the parties before it attempted such an endeavor. As described above, this failure  
19 on the part of GPE/KCPL is a direct result of the fact that it filed four Missouri rate cases  
20 within two months of the closing date of the acquisition. Because of its timing of the filing of  
21 this rate case, which was completely at the discretion of GPE/KCPL, GPE/KCPL was unable  
22 to produce any document that even purports to show that lower costs, on a post-acquisition  
23 basis in 2008, as compared to base year 2006, actually exists and was the result of GPE's

1 acquisition of Aquila. The Staff has explained in detail why natural regulatory lag is the only  
2 realistic option for the Commission to allow recovery of transition costs in this case.

3 Q. Also at page 50 of his rebuttal testimony Mr. Giles quotes the Commission's  
4 Acquisition Order and states that the Commission found that: "There is no credible evidence  
5 in the record that weighs against allowing the Applicants to recover transition costs if the  
6 Commission approves the Applicant's merger proposal." He uses this quote to support his  
7 statement that your recommendation is inconsistent with the Commission's Acquisition  
8 Order. Please comment.

9 A. If Mr. Giles is testifying that this language in the Commission's Acquisition  
10 Order means that the Commission is ordering specific rate treatment for KCPL's transition  
11 costs, he is wrong. For example, at paragraph 14, page 284 of the Ordered Section of the  
12 Commission's Acquisition Order, the Commission ordered that it reserves the right to  
13 consider any ratemaking treatment to be afforded the transactions herein involved in a later  
14 proceeding. This means the Commission reserves the right to consider the ratemaking  
15 treatment, or lack thereof, proposed by the parties to subsequent rate cases.

16 Q. At page 50 line 22 of his rebuttal testimony, Mr. Giles states that you do not  
17 suggest that the Staff's proposal for GPE to recover transition costs using the regulatory lag  
18 approach is as the Commission deemed appropriate in its Acquisition Order. Do you agree  
19 with Mr. Giles' characterization of Staff's proposed method for GPE to recover transition  
20 costs in this proceeding?

21 A. No. The Staff's proposal for the use of regulatory lag to recover transition  
22 costs clearly suggests that GPE be allowed to recover and retain an adequate amount of  
23 integration synergies to pay off its transition costs. Staff's approach to recover transition costs

1 is exactly the same as GPE's proposal to recover integration synergies. Mr. Giles fails to  
2 explain why two different approaches, one to retain integration synergies and one to recover  
3 transition costs are necessary; he simply relies on his reading of the Commission's  
4 Acquisition Order that there is a guarantee of direct ratemaking treatment of  
5 KCPL's transition costs, a guarantee that just does not exist and was specifically not made by  
6 the Commission and that conflicts with the express terms of the Acquisition Order.

7 Q. Please comment on Mr. Giles' statements at page 51 of his rebuttal testimony  
8 concerning the statements made in testimony before this Commission by GPE's  
9 Vice President and Controller, Lori Wright concerning GPE's ability to track  
10 merger synergies.

11 A. In her direct testimony in Case No. EM-2007-0374 (Exhibit 29),  
12 Ms Wright explained:

13 Great Plains Energy does not recommend that synergy savings  
14 be tracked. Instead, Great Plains Energy recommends using the  
15 synergy savings identified in the Joint Application and the  
16 pre-filed testimony in support thereof. Tracking synergy savings  
17 with any degree of accuracy is problematic at best as business  
18 operations are not conducted in a static environment, but rather  
19 under constant change, including customer growth,  
20 technological improvements, etc. Tracking will become more  
21 difficult each successive year after the Merger.  
22 (Emphasis added)

23 Mr. Giles, while confirming that the statements made by Ms Wright are true, attempts  
24 to give the impression that she was just saying it is difficult to track synergy savings. That is  
25 not at all what Ms Wright was saying. Before this Commission, Ms Wright made the  
26 following three points:

- 27 1. GPE does not recommend that synergy savings be tracked;
- 28 2. Tracking synergy savings with any degree of accuracy is problematic at best;
- 29 3. Tracking synergy savings will become more difficult each successive year.

30

1 Staff agreed and continues to agree completely will all three points made by  
2 Ms. Wright. The fact that GPE/KCPL is trying to track synergy savings in an environment  
3 where it filed four rate cases within two months of the acquisition creates the worst of all  
4 possible circumstances.

5 Q. At page 52 line 6 Mr. Giles states that the quote of Terry Bassham, Executive  
6 Vice President, Finance and Strategic Development & CFO, Great Plains Energy and KCPL  
7 in the Staff's Cost of Service Report concerning the benefits of regulatory lag was taken out  
8 of context. Please comment.

9 A. I have reviewed the quote of Mr. Bassham and my comments on this quote and  
10 I cannot find where I have taken this quote out of context. I included this quote by  
11 Mr. Bassham in the Staff's Cost of Service Report to show that GPE's strong support of the  
12 use of regulatory lag for its shareholders to retain acquisition synergies is also consistent with  
13 the Staff's position that the allocation of some portion of the retained synergies be used to pay  
14 off the incurred transition costs.

15 **TALENT ASSESSMENT PROGRAM**

16 Q. At page 49 of his rebuttal testimony Mr. Giles describes why he disagrees with  
17 the Staff's position that KCPL should conclude the amortization of its  
18 Talent Assessment Program costs in September 2009, when rates from this rate case become  
19 effective. What are his reasons for disagreement?

20 A. Mr. Giles presents two reasons. First, he says that the Staff's position is  
21 inconsistent with prior findings by the Commission. His second reason is that he believes the  
22 Staff's position is based on flawed analysis.

1 Q. Is the Staff's position in this case inconsistent with the Commission prior  
2 findings on this issue?

3 A. No.

4 Q. Please explain why there is no inconsistency.

5 A. The Staff opposed rate recovery of the Talent Assessment Program in KCPL's  
6 last rate case, Case No. ER-2007-0291 for four reasons. The Commission listed these reasons  
7 in the body of its Report and Order on this issue:

8 (1) There is no evidence that KCPL was not providing safe and  
9 adequate service with the employee base that existed prior to  
10 the talent assessment severance program;

11 (2) There is no evidence that the costs of this talent assessment  
12 program has yet or will ever provide any benefit to KCPL's  
13 customers;

14 (3) KCPL's management is responsible for the hiring of employees  
15 and training of employees. If the employees who were  
16 terminated under this program did not meet KCPL's  
17 management's performance expectations, then KCPL's  
18 management should bear the primary responsibility for this  
19 result;

20 (4) Severance costs of the talent assessment program were removed  
21 from KCPL's 2006 earnings in the determination of KCPL's  
22 management incentive compensation.

23 Q. Is the Staff using these same four reasons as the basis for its position  
24 in this case?

25 A. No. In Case No. ER-2007-0291, the Commission allowed direct rate recovery  
26 of the Talent Assessment Program because the Commission believed it would lead to  
27 customer benefits. The Commission rejected arguments 1, 3 and 4 above, and when it  
28 addressed the Staff's 2nd and primary argument, the Commission said it has not seen  
29 evidence that the Talent Assessment Program has not or will not produce customer benefits.

1           Since the effective date of the Commission's Report and Order in Case  
2 No. ER-2007-0291, the Staff has been made aware of and has obtained new evidence which,  
3 upon analysis, led the Staff to conclude that the Talent Assessment Program has not produced  
4 any benefits to KCPL's ratepayers. The purpose of my direct testimony was to present this  
5 new evidence and the Staff's findings to the Commission.

6           Q.     Please elaborate on the reason why the Commission decided to allow rate  
7 recovery of the Talent Assessment Program in the 2007 rate case.

8           A.     The Commission's decision to allow rate recovery was based on preliminary  
9 evidence and testimony from KCPL witnesses that the Program will produce benefits in the  
10 future. In its Report and Order in Case No. ER-2007-0291, the Commission found:

11                               When a company improves the performance of its employees,  
12                               both the shareholders and ratepayers benefit. Common sense  
13                               dictates that a company that is run more efficiently makes more  
14                               money, at least in part because a higher level of efficiency  
15                               results in happier customers. Indeed, the record is replete with  
16                               evidence that KCPL's customer service is excellent. What is  
17                               more, KCPL's ranking among Midwestern public utilities rose  
18                               from eighth to fourth in 2006, according to a J.D. Powers and  
19                               Associates survey, with those rankings measuring such  
20                               components as power quality and reliability and customer  
21                               service. (Emphasis added)

22           Q.     What was the evidence put forth by KCPL in Case No. ER-2007-0291 that it  
23 believed showed the benefits of the Talent Assessment Program?

24           A.     The only evidence provided in the 2007 rate case was KCPL's belief that its  
25 customer satisfaction levels have improved since KCPL implemented the Talent Assessment  
26 Program and that these increased customer satisfaction levels were directly influenced by the  
27 Talent Assessment Program.

28           The specific information selected by KCPL to gauge whether or not the  
29 Talent Assessment Program produced customer benefits was KCPL's scores in the

1 2007 JD Power Residential Customer Service survey. Survey results showed that  
2 KCPL's overall Customer Satisfaction Index rose from 679 in 2006 to 697 in 2007, an  
3 increase of 18 points.

4 Q. Is the Staff asking the Commission to reverse the decision it made on this issue  
5 in the 2007 rate case?

6 A. No. The Staff is not in anyway trying to re-litigate the issue that was decided  
7 in the 2007 rate case. The Staff is not asking the Commission to reverse itself, but is asking  
8 the Commission to re-evaluate the appropriate ratemaking treatment, on a going forward  
9 basis, of the cost of the Talent Assessment Program. This evaluation should be based on  
10 new evidence presented in this rate case. The Staff believes such an evaluation will lead the  
11 Commission to the same conclusion reached by the Staff – the Talent Assessment Program  
12 has not resulted in customer benefits.

13 The Staff believes that the new evidence introduced in this case will convince the  
14 Commission that KCPL's Talent Assessment Program amortization must end because such  
15 program has not produced any customer benefits. In the alternative, if the Commission finds  
16 that the Talent Assessment Program has produced customer benefits, but the benefits are  
17 substantially less than envisioned in the 2007 rate case, then the appropriate action for the  
18 Commission to take is to order KCPL to end its Talent Assessment Program expense  
19 amortization. By the time rates from this rate case go into effect in September 2009,  
20 KCPL will have already directly recovered over one-third of the program's cost.

21 Q. Would a Commission decision to order KCPL to discontinue its  
22 Talent Assessment Program amortization still result in a substantially higher rate recovery for  
23 this program than KCPL originally sought?

1           A.     Yes.  KCPL originally sought no rate recovery of the severance costs for this  
2 Program.  In KCPL's 2006 rate case, KCPL's Controller, Lori Wright, advised the Staff in  
3 response to Data Request No. 240 that KCPL would not seek rate recovery of the  
4 Talent Assessment Program.  Ms. Wright stated that the Company would only seek recovery  
5 of the pension impact.  Ms. Wright stated:

6                   KCPL will not seek recovery of the severance costs associated with the  
7 alignment.  However, KCPL is requesting recovery of pension  
8 settlement costs calculated pursuant to SFAS 88.  Response provided  
9 by: Lori Wright

10          Q.     Would it have been appropriate for the Staff to have ignored the evidence  
11 related to the Talent Assessment Program that it found in its cost of service audit in this rate  
12 case and not raised this issue for the Commission to consider?

13          A.     No.  The Staff believes that it would have been inappropriate and potentially  
14 unethical if, after evaluating the results of this program based on new evidence and  
15 determining that no actual Talent Assessment Program benefits exist, the Staff did not convey  
16 this information to the Commission for its consideration.

17          Q.     Please explain.

18          A.     The Staff auditors have a responsibility to bring to the Commission  
19 all appropriate and relevant evidence the Staff discovers during its rate audit that it believes  
20 will prevent the implementation of rates that are not just and reasonable.

21                During its rate audit, the Staff performs functions and has responsibilities similar to  
22 KCPL's external auditors as certified public accountants (CPAs).  The auditors in the auditing  
23 firm that KCPL engages to audit its external financial statements have a specific responsibility  
24 to review the carrying amount of assets to make sure that the value of the assets carried on the  
25 financial statements are at least equal to be benefits expected to be realized by the use of the



1 assets. If these auditors find that the cost of an asset recorded on KCPL's books and records  
2 are overstated compared to the expected future benefits of the asset, the auditors are required  
3 to make KCPL's management aware of this fact and insist on an appropriate write-down of  
4 this asset. If these auditors, after reaching this conclusion, fail to take the appropriate action,  
5 they may be subject do disciplinary actions based on unethical conduct.

6 The Staff also has this responsibility in developing its revenue requirement  
7 recommendation for the Commission. The Staff has a responsibility to recommend to the  
8 Commission a revenue requirement that it believes will result in just and reasonable rates  
9 based upon a Company's actual cost of providing service to its customers. Including in its  
10 revenue requirement proposal the cost of assets that it believes have not and are not producing  
11 benefits to customers could be considered unethical behavior.

12 Q. Is it common for utility company accountants to assess the carrying value of  
13 assets based on current and expected future benefits and to write-down or reduce the carrying  
14 amount of assets that do not continue to produce real economic benefits?

15 A. Yes, very common. In fact, this type of asset evaluation is required  
16 by generally accepted accounting principles (GAAP) and is an action that is performed  
17 annually by KCPL's accountants.

18 Q. Will KCPL recover a significant amount of its deferred costs if the  
19 Commission orders it to cease its amortization?

20 A. Yes. KCPL began to recover these costs in rates in January 2008 and will have  
21 recovered over one-third of this deferral when rates from this case become effective.

1 Q. Do you have any other comments on the statement by Mr. Giles that the Staff's  
2 position on the Talent Assessment Program is inappropriate because it is inconsistent with  
3 prior findings by the Commission?

4 A. Yes. If Mr. Giles was sincere, and if he believed his own sworn testimony,  
5 he would use his authority to require KCPL to drop its position on non-Talent Assessment  
6 severance costs in this case.

7 Q. Please explain.

8 A. As explained in the surrebuttal testimony of Staff witness Paul Harrison,  
9 in both of KCPL's recent rate cases, Nos. ER-2006-0314 and ER-2007-0291, the Commission  
10 stated that KCPL's non Talent Assessment severance costs do not produce a customer benefit  
11 and should not be included in cost of service. This Commission was clear and explicit on this  
12 point. However, KCPL, without a providing a shred of new evidence either in its  
13 2007 rate case or in this 2009 rate case, continues to propose the same severance cost  
14 recovery adjustment in exactly the same manner.

15 While I agree with Mr. Giles that cost recovery adjustments inconsistent with prior  
16 Commission decision could be considered inappropriate if not supported, I am not challenging  
17 KCPL's right to continue, even with out any new evidence or support, to repeatedly seek  
18 recovery of a cost that has consistently and explicitly been rejected by this Commission.  
19 This behavior while characterized by Mr. Giles as "inappropriate" is exactly the type of  
20 behavior KCPL continues to engage in. Apparently Mr. Giles has a different definition of the  
21 word "appropriate" for KCPL than he does for the Staff.

22 Q. Does this conclude your surrebuttal testimony addressing the rebuttal  
23 testimony of KCPL witness Giles on the Talent Assessment Program?

1 A. Yes, it does.

2 Q. Is there any other testimony concerning the Talent Assessment Program to  
3 which you would like to respond?

4 A. Yes. I would also like to respond to the Company position as found in the  
5 rebuttal testimony of witness Herdegen.

6 Q. At page 9 of his rebuttal testimony Mr. Herdegen states that the Staff proposes  
7 that KCPL's quality of service has declined since the implementation of the  
8 Talent Assessment Program. Is this a correct statement?

9 A. No. Mr. Herdegen misreads my testimony found in the Staff's Cost of Service  
10 Report on this issue. I made no conclusion of a decline in quality of service. In my direct  
11 testimony I conclude that the Talent Assessment Program has not resulted in any increase in  
12 customer benefits as reflected by the fact that the Program has not led to any increases in  
13 customer satisfaction. This customer satisfaction criterion, as selected by KCPL, was the basis  
14 upon which the Staff believes the Commission allowed rate recovery of these costs.  
15 I have not asserted that the Talent Assessment Program has caused a decrease in overall  
16 customer service at KCPL. In the Staff's Cost of Service Report,  
17 I specifically stated:

18 The Staff recommends that the Commission find, based on the  
19 above described evidence, that KCPL's cost of severing the 119  
20 employees, referred to as the cost of the Talent Assessment  
21 Program, did not result in the expected customer benefit and,  
22 therefore, not include the \$968,000 annual amortization of the  
23 5-year deferral as an adjustment to increase KCPL's revenue  
24 requirement in this case. (Emphasis added)

25 Q. At page 10 of his rebuttal testimony Mr. Herdegen states KCPL's reliability  
26 has improved which is clearly in opposition to your testimony. Please comment.

1           A.     This part of Mr. Herdegen's rebuttal testimony is non-responsive to my direct  
2 testimony. In my direct testimony I did not mention reliability or reliability metrics,  
3 the sole subject of Mr. Herdegen's rebuttal testimony. I am not in a position to evaluate the  
4 specific reliability metrics Mr. Herdegen included in his rebuttal testimony and therefore  
5 cannot attest to their correctness or relevance to this issue.

6           The criterion I used in my evaluation of KCPL's Talent Assessment Program in my  
7 direct testimony was the criterion selected by KCPL in the 2007 rate case, which were  
8 JD Power Survey results as an indication of customer satisfaction. As additional support,  
9 I provided a review of recent KCPL customer complaint increases in Missouri.

10          Q.     Does this conclude your surrebuttal testimony addressing the  
11 rebuttal testimony of KCPL witness Herdegen on the Talent Assessment Program?

12          A.     Yes, it does.

13          Q.     Is there any other testimony concerning the Talent Assessment Program  
14 to which you would like to respond?

15          A.     Yes. I would also like to respond to the Company position as found in the  
16 rebuttal testimony of witness Barbara Curry.

17          Q.     Please continue with your concerns with the rebuttal testimony of  
18 KCPL witness Curry on this issue.

19          Q.     At page 8 of her rebuttal testimony KCPL witness Barbra Curry makes the  
20 following statement "Not only do ongoing severance costs benefit the Company's customers  
21 in the same manner as the Talent Assessment...." Does Ms. Curry have any evidence that the  
22 alleged benefits of the Talent Assessment Program exceed the program's cost?

1           A.     No.   Ms Curry readily admitted this fact in her response to Data Request  
2 No. 589, where she said “while I do not have any studies that definitively prove that the  
3 benefits received as a result of the Talent Assessment (ie., getting the right people who will be  
4 able to drive high levels of customer service, power quality, reliability, etc. in the right roles)  
5 exceed the cost of the Program, I believe a reasonable person would conclude that it was  
6 advantageous to customers.”

7           Q.     Does the Staff believe it to be an appropriate practice for a utility to cost justify  
8 a program, especially a program the size of the \$10 million Talent Assessment Program, prior  
9 to its implementation?

10          A.     Yes.  Any significant utility expenditure, especially one of an extraordinary  
11 and unusual nature such as a major employee reorganization, should be incurred only to  
12 address a specific need.  If the expenditure is significant, such as the \$10 million  
13 Talent Assessment Program, then the need must be equally significant.

14          The criteria selected by KCPL to evaluate the effectiveness its \$10 million investment  
15 in the Talent Assessment Program was JD Power customer survey results for residential and  
16 business customers.  Since this was the only criteria selected by KCPL and used by the  
17 Commission in approving rate recovery of this Program, this is the criteria that the Staff must  
18 use in evaluating whether or not the Talent Assessment Program has created any  
19 customer benefits.

20          Noted expert in the field of regulation, Charles F. Phillips, Jr., author of  
21 *The Regulation of Public Utilities Theory and Practice* (3rd edition p. 172), states that  
22 “the job of a public utility is to provide the public with as much and as good service as the  
23 public wants and is willing to pay for.  The goal of regulation, within the limits set by its

1 authority and its capacity, is to translate this task into operating terms, and see to it that it is  
2 carried out.”

3 To undertake a significant employee reorganization plan and commit to spending  
4 \$10 million to replace 119 current management employees with potentially better  
5 management employees, KCPL should have made a determination that its customer  
6 satisfaction levels were deficient and were in need of such a significant improvement.  
7 The Staff is not aware that KCPL ever made any such a finding or engaged in such an  
8 analysis of objective criteria on which it measured a need for improvement

9 The Staff has also not seen any attempt on the part of KCPL to determine  
10 if KCPL’s customers were willing to spend an additional \$10 million for the chance of better  
11 customer service, which, according to Mr. Phillips, is the job of a utility. KCPL could have  
12 accomplished this by seeking customer feedback through surveys, town hall meetings, or  
13 other methods.

14 Q. Has KCPL ever indicated that its customer satisfaction level was substandard  
15 or was in need of improvement?

16 A. No. I have had several discussions with KCPL personnel on this issue,  
17 I wrote several data requests and reviewed KCPL’s responses and I read and listened  
18 to KCPL witness testimony on this issue in rate case proceedings. I have not seen where  
19 KCPL has ever said its customer satisfaction levels were unsatisfactory.

20 Q. If it did not believe that its customer satisfaction levels were unsatisfactory,  
21 why would KCPL invest \$10 million in a program to improve performance in an area that was  
22 not recognized as needing improvement?

1           A.     In recent years KCPL has adopted a goal to attain what it refers to as “Tier 1”  
2 performance levels in certain areas, such as customer service. This means that KCPL wants  
3 to be recognized as a premier performer in the industry. While this is an admirable goal,  
4 any significant cost incurred solely to attain or retain Tier 1 status has to be justified on the  
5 basis that the benefits of the program will exceed its costs. With its \$10 million investment in  
6 the Talent Assessment Program, KCPL, as noted above by Barbra Curry, is unable reach such  
7 a conclusion.

8           Because KCPL apparently 1) did not do an analysis to determine if there was a  
9 significant problem with KCPL’s customer satisfaction levels, 2) did not do a an analysis of  
10 what would be a reasonable level of costs to spend to improve these satisfaction levels,  
11 and 3) did not seek feedback from its customers to determine if they believed KCPL should  
12 invests \$10 million to improve customer satisfactions levels, KCPL has put itself in an  
13 indefensible position from a cost benefit perspective. According to KCPL witness Curry,  
14 KCPL is unable to affirmatively state that the cost of the Talent Assessment Program exceed  
15 the Program’s cost.

16           Q.     Does this conclude your surrebuttal testimony addressing the rebuttal  
17 testimony of KCPL witness Curry on the Talent Assessment Program?

18           A.     Yes, it does.

19           Q.     Is there any other testimony concerning the Talent Assessment Program  
20 to which you would like to respond?

21           A.     Yes. I would also like to respond to the Company position as found in the  
22 rebuttal testimony of witness Jimmy Alberts.

1 Q. Please describe your concerns with the rebuttal testimony of KCPL's last  
2 witness on this issue, Jimmy Alberts.

3 A. Mr. Albert does not take issue with any of my factual statements concerning  
4 KCPL's performance in the JD Powers customer satisfaction surveys, and Mr. Alberts does  
5 not deny the fact that KCPL's Missouri customer complaints are on the rise. The only thing  
6 Mr. Alberts does do in his rebuttal testimony is to deflect the blame  
7 for KCPL's performance.

8 Q. How does Mr. Alberts refuse to accept responsibility for  
9 decreased performance?

10 A. At page 2 of his rebuttal testimony, instead of accepting responsibility for poor  
11 customer service during KCPL's integration with Aquila, Mr. Alberts attempts  
12 to "provide clarity" to what "impacted" KCPL's call center operations. This clarity is that  
13 KCPL believes it "experienced technical difficulties beyond its control." Mr. Alberts advises  
14 the Commission that all of the "technical difficulties" KCPL experienced were the fault of  
15 some other party or the fault of some process, not the fault of KCPL.

16 Q. Also at page 2 of his rebuttal testimony Mr. Alberts says that he wants to offer  
17 "perspective" on the "slight increase" in customer complaints filed with the Missouri Public  
18 Service Commission. Please comment.

19 A. Mr. Alberts implies that it is not the number of customer complaints that is  
20 important, but KCPL's speed in identifying the issue and fixing the problem. He states that  
21 KCPL has a long history of improving service over time.

22 Q. Could Mr. Alberts have any first hand knowledge of how KCPL has improved  
23 service over time?



1           A.     No. Not unless the time period to which he was referring to was July 2008  
2 to March 2009 when he filed his rebuttal testimony. Prior to July 2008 Mr. Alberts had no  
3 affiliation with KCPL, as he was an employee of Aquila, Inc.

4           Q.     What is the “slight increase” in the number of complaints filed with the  
5 Missouri Public Service Commission to which Mr. Alberts was referring?

6           A.     Mr. Alberts shows at page 6 of his rebuttal testimony that the number  
7 of KCPL complaints filed with the Missouri Public Service Commission increased  
8 from 217 in 2007 to 248 in 2008. This is an increase of over 14 percent, well in excess of its  
9 growth in residential customers during this period. I would not think that the Manager of  
10 Customer Service at KCPL would characterize a 14 percent increase in Missouri customer  
11 complaints as “slight”. I would expect that a Customer Service Manager would first accept  
12 responsibility for such failure and then immediately create a plan to address the problem.  
13 Following Mr. Alberts reasoning, since none of the problems with KCPL’s decreased  
14 performance are the fault of KCPL, there is no need to create any plan to try to fix these  
15 problems.

16          Q.     At page 3 of his rebuttal testimony Mr. Alberts describes how a natural  
17 outcome of trying to manage two separate companies (KCPL and Aquila, now GMO) as one  
18 company results in a leveling or averaging effect between KCPL’s and GMO’s past  
19 performance. What is the impact of this averaging effect on GMO’s customer service?

20          A.     The effect, as shown in the chart at page 6 of Mr. Alberts rebuttal testimony,  
21 is that KCPL is dragging down GMO’s customer service performance. During both 2007 and  
22 2008 GMO had fewer Missouri customer complaints per 1000 customers

1 | than KCPL. GMO's superior results in 2007 cannot be attributed to the KCPL's problems  
2 | with the integration of GMO, as this did not take place until July 2008.

3 | Q. Also at page 3 of his rebuttal testimony Mr. Alberts acknowledged the  
4 | customer service problems KCPL encountered in July through September 2008. Is this  
5 | recognition of responsibility by KCPL of these customer service problems?

6 | A. No. Mr. Alberts does not state that KCPL accepts responsibility for these  
7 | problems or even that the customer service levels were not satisfactory. He just  
8 | acknowledges that they were "below expectations."

9 | Q. At page 5 line 5 of his rebuttal testimony does Mr. Alberts continue to blame  
10 | other companies and factors other than KCPL, for KCPL's decreased customer service  
11 | performance?

12 | A. Yes. Here he blames power outages, telephone companies and the weather.

13 | Q. Also on page 5 of his rebuttal testimony does Mr. Alberts include another  
14 | scapegoat for KCPL's customer service problems?

15 | A. Yes. Here he blames the economy for KCPL's customer service problems.

16 | Q. Could any and possibly all of the factors listed by Mr. Alberts in his rebuttal  
17 | testimony contributed, at least to some extent, to KCPL's customer service problems?

18 | A. Yes, they all could have had some influence. The point of this surrebuttal  
19 | testimony is not to assign blame, but to illustrate KCPL's refusal to accept any responsibility  
20 | for its decreased customer service performance. This refusal to accept responsibility reflects  
21 | poorly on the credibility of KCPL and this witness on this issue.

22 | Q. Please explain.

1           A.     If KCPL cannot accept responsibility for decreases in its customer service,  
2 even if temporary, then it cannot be relied upon to be objective in its assessment of whether or  
3 not actual customer service problems exist. More importantly to this issue, KCPL cannot be  
4 relied upon to provide an objective measurement of whether or not actual benefits from  
5 programs designed to increase customer satisfaction, such as the Talent Assessment Program,  
6 have actually produced benefits.

7           Q.     At page 7 of his rebuttal testimony, Mr. Alberts addresses your analysis  
8 of JD Power customer satisfaction metrics. He states that your contention  
9 is that KCPL's quality of service has declined since the implementation of the  
10 Talent Assessment Program. Is this testimony accurate?

11          A.     No. As noted earlier in response to the testimony of Mr. Herdegen, I made no  
12 such conclusion and Mr. Alberts cannot point to any such conclusion in my direct testimony  
13 in this case. The point that I make in my direct testimony, and the point that cannot be  
14 refuted, is that the criterion KCPL selected to measure the effectiveness of the  
15 Talent Assessment Program has not shown any improvement.

16          When a complete review of the recent results of the JD Power Survey results is made,  
17 while it would not be unreasonable to conclude that actual overall customer service levels  
18 have declined, I am not making that conclusion in this rate case.

19          Q.     Does Mr. Alberts dispute any of your statements concerning  
20 the JD Power Survey results you made in direct testimony?

21          A.     No. He just states that my analysis was not complete and he will complete my  
22 analysis in his rebuttal testimony.

1 Q. Does Mr. Albert's general theme of absolving KCPL of any responsibility for  
2 Missouri customer service complaints continue with his analysis of the JD Power Survey  
3 results?

4 A. Unfortunately, yes. In his attempt to refute my analysis of KCPL's performance in  
5 the JD Power Customer Surveys, Mr. Alberts blames \*\* \_\_\_\_\_

6 \_\_\_\_\_ \*\*

7 Q. At page 7 of his rebuttal testimony Mr. Alberts states that KCPL's  
8 "performance in 2008 remained strong compared to the industry and Midwest region despite  
9 the fact that \*\* \_\_\_\_\_ \*\*

10 Is it possible for Mr. Alberts to know that KCPL's decreased customer satisfaction scores can  
11 be attributed to anything other than a decrease in the satisfaction levels of KCPL's customers?

12 A. No.

13 Q. In addition to blaming the decrease in KCPL's customer satisfaction scores to  
14 \*\* \_\_\_\_\_ \*\*, has Mr. Alberts found something else on which  
15 he can blame the results of the survey?

16 A. Yes. At the bottom of page seven of his rebuttal testimony Mr. Alberts blames  
17 an \*\* \_\_\_\_\_

18 \_\_\_\_\_ \*\*

19 Q. Finally, to conclude his testimony, does Mr. Alberts find one last factor to  
20 blame for KCPL's decreased customer satisfaction scores?

21 A. Yes. To end his testimony on this subject Mr. Alberts blames "pressures in the  
22 marketplace that are affecting business customer satisfaction at some systemic level without  
23 discrimination or bias."

1 Q. Did KCPL's Residential Customer Satisfaction Index increase in 2008  
2 over 2007?

3 A. No, it decreased. According to JD Power & Associates' July 17, 2008  
4 press release, "overall satisfaction with electric utility companies has increased in 2008  
5 marking the first time since 2005 that the industry has improved." KCPL's residential  
6 customer satisfaction scores, however, went against this general industry trend and actually  
7 decreased from 697 to 667. What is significant here is that KCPL's residential customer  
8 satisfaction index dropped significantly when the general electric industry trend was up.

9 Q. Please describe JD Power's 2009 Electric Utility Business Customer  
10 Satisfaction Study.

11 A. The 2009 Electric Utility Business Customer Satisfaction Study released on  
12 February 5, 2009 was based on responses from 15,434 online interviews among business  
13 customers of the 90 largest utility brands across the United States.

14 The study was fielded from April to June 2008 and September to December 2008  
15 and was based on interviews with representatives of more than 15,400 U.S. businesses that  
16 spend between \$500 and \$50,000 monthly on electricity. Overall customer satisfaction was  
17 measured by examining six factors: power quality and reliability; billing and payment;  
18 corporate citizenship; price; communications; and customer service.

19 Q. Please describe KCPL trend in the JD Power Business Customer Satisfaction  
20 Index

21 A. KCPL scored high in the 2007 rankings (725 out of a 1000 point scale, or 8.2%  
22 above the Midwest average score). This study was released in March 2007.

1 KCPL's Business Customer Satisfaction Index achieved with the new Talent Assessment  
2 Program employees decreased considerably since 2007.

3 In 2008 when the actual average score of Midwest electric utilities increased from  
4 670 to 686 on a 1,000 point scale, KCPL's score actually decreased from 725 to 704,  
5 a significant 21 point decrease. With the new Talent Assessment Program employees,  
6 KCPL's rankings among Midwest utilities dropped from 3<sup>rd</sup> out of 17 in 2007 to 7 out of 16  
7 in 2008. As a note of comparison, Aquila's business customer satisfaction index in 2008 was  
8 719, or 15 points better than KCPL. This is a clear indication that KCPL cannot attribute its  
9 declining business customer satisfaction to general industry trends.

10 The success achieved by KCPL in 2007 failed to show up in the JD Power Business  
11 Customer surveys again in 2009. KCPL's score dropped from 704 in 2008 to 632 in 2009.  
12 Admittedly, the average score of Midwest utilities did decrease in 2009. However, as another  
13 point of comparison, KCPL's joint operating utility partner in the Wolf Creek Generating  
14 Station, Westar, Inc.'s index only decreased by four points from 641 in 2008 to 637 in 2009.

15 Q. What is your conclusion about the Talent Assessment Program?

16 A. My conclusion is that KCPL's new Talent Assessment Program employees  
17 have not produced additional benefits and that KCPL's actual customer satisfaction levels,  
18 taken as a whole, have actually decreased since these employees assumed their positions at  
19 KCPL. Because of the lack of benefits produced, the Commission should not allow the  
20 continuation of the Talent Assessment Program expense amortization.

1 **SURFACE TRANSPORTATION BOARD LITIGATION**

2 Q. At page five of his rebuttal testimony KCPL witness Weisensee states that  
3 KCPL wants to award the city of Independence with 17.65 percent of the reparations,  
4 although they paid only 10.59 percent of the costs. Is that appropriate?

5 A. No. The allocation of the net proceeds (which include costs KCPL incurred to  
6 prosecute the Surface Transportation Board (STB) case less monies collected from its  
7 customers to that end and less reparations KCPL received from Union Pacific  
8 Railroad (UPRR)) should be allocated ratably to the parties who funded this litigation, which  
9 include Missouri ratepayers, Kansas ratepayers and the City of Independence. The allocation  
10 of the net proceeds, as reflected in the Staff's adjustment, should be based on the ratio funds  
11 contributed by each party to the total funds contributed.

12 Q. Please explain the basis of the Staff's allocation and how it calculated the  
13 allocation of STB net proceeds to Missouri customers.

14 A. As noted on page 4 of Mr. Weisensee's rebuttal testimony, the Commission  
15 included specific language in its Report and Order in Case No. ER-2006-0314 on how the  
16 balance of the monies KCPL received in rates to pursue this litigation must be treated.

17 The Commission stated:

18 The treatment that KCPL and Staff request would first allow  
19 KCPL to recover the cost of the STB litigation, with any  
20 balance being applied to fuel costs as determined in a future  
21 proceeding. This solution appears just and reasonable as KCPL,  
22 Staff, and OPC could all voice their views in that future  
23 proceeding on exactly what STB litigation costs were prudent,  
24 and on how much money should flow back to ratepayers.  
25 (emphasis added)

1           In this Report and Order the Commission ordered that the balance of the total amount  
2           KCPL collected in rates, less the cost to pursue the STB litigation, be refunded to ratepayers  
3           through a reduction to expense in a future proceeding.

4           In its calculation, the Staff simply took the dollar amount of KCPL's net proceeds  
5           and multiplied this dollar amount by the ratio of the dollar amount Missouri ratepayers paid in  
6           rates for this litigation to the total amount KCPL collected in rates (from Missouri ratepayers  
7           and Kansas ratepayers) and charges to the City of Independence.

8           The Staff calculated that Missouri ratepayers contributed a total of 56 percent of the  
9           monies KCPL received to prosecute this litigation. The Staff, therefore, believes that  
10          Missouri ratepayers should received 56 percent of the net proceeds received to date.  
11          The Staff believes that its method of allocating KCPL's net STB proceeds to its customers is a  
12          simple, straightforward, fair and equitable allocation.

13          Q.     Do you understand the rationale behind KCPL's net proceeds allocation  
14          methodology as described at pages 5 through 7 of Mr. Weisensee's rebuttal testimony?

15          A.     Not completely. It appears that Mr. Weisensee states in his rebuttal testimony  
16          at page 5 line 15 that KCPL treats the City of Independence with a higher priority than  
17          Missouri and Kansas regulated customers. He states that KCPL first assigned the amount due  
18          to Independence and then allocated the remainder to Missouri and Kansas. The Staff does not  
19          understand, nor does KCPL explain, why it gives this preferential treatment to the  
20          City of Independence.

21          The Staff is also having difficulty understanding Mr. Weisensee's statement  
22          at page 5 line 18 of his rebuttal testimony that \*\* \_\_\_\_\_

23          \_\_\_\_\_ \*\* The Staff does not believe this



1 is appropriate. As explained above, fair and equitable treatment requires that the net proceeds  
2 (KCPL's costs less amounts recovered in rates and other charges less UPRR reparations)  
3 be allocated, not on the basis of any complex formula created by KCPL, but simply on the  
4 relative contributions of the parties who funded the prosecution of the litigation that secured  
5 these reparations.

6 Finally, for some unexplained reason KCPL is going out in the future to the year 2015  
7 to calculate future freight benefits of this STB litigation, and including these future benefits  
8 somehow into the amount of refunds due to the City of Independence. Future benefits dollars,  
9 even if they can be measured, should not be included in this simple refund calculation. If the  
10 City of Independence ends its business relationship with KCPL at some point in the future,  
11 then it should not be entitled to any of the subsequent UPRR reparations that may be received  
12 by KCPL after that date. As long as the City of Independence is a customer of KCPL and, as  
13 has been established, contributed toward the successful prosecution of the STB case, then it  
14 should be entitled to its annual pro rata refund, just like Missouri and Kansas customers,  
15 nothing more.

16 Q. Other than the difference between the Staff's and KCPL's method to allocate  
17 the STB net proceeds, is there another difference between the Staff and KCPL in their  
18 respective refund calculations?

19 A. Yes. Mr. Weisensee describes KCPL's position on this difference at  
20 pages 7 and 8 of his rebuttal testimony. Basically this issue can be described as  
21 KCPL's refusal to give its Missouri ratepayers credit for the dollars that were explicitly  
22 included in revenue requirement to prosecute this STB complaint case.

23 Q. Please explain.

1           A.     In KCPL's 2006 rate case, Case No. ER-2006-0314, as described above, the  
2 Staff and KCPL agreed in a stipulation and agreement to create a deferral of expenses  
3 incurred to prosecute the STB case and amortize this deferral over five years beginning in  
4 January of 2007. The bulk of these costs were paid to a law firm hired by KCPL that is  
5 located in Washington, DC. The same agreement was reached in KCPL's 2007 rate case,  
6 Case No. ER-2007-0291, and its amortization of the 2006 deferred expenses continued,  
7 and another deferral of the 2007 costs was created and amortized to expense beginning in  
8 January of 2008.

9           Not satisfied with a deferral and five-year amortization of the STB expenses,  
10 KCPL sought rate base treatment for these legal expenses. Because legal expenses are not the  
11 type of cost that should be included in rate base, the Staff opposed rate base treatment.  
12 However, in an effort to provide KCPL with the appropriate motivation to prosecute  
13 this STB complaint case with sufficient zeal to protect the interests of its ratepayers,  
14 the Staff included as an additional expense the increase in revenue requirement that would  
15 result if these deferrals were included in KCPL's rate base in the 2007 rate case.  
16 This additional expense was made as a separate adjustment as an increase to account 501,  
17 Fuel expense, exactly as other amortizations of the STB deferrals were made in the 2006 and  
18 2007 rate cases.

19           Q.     Were you the Staff witness on this issue in the 2006 and 2007 rate cases and  
20 were you directly involved in all previous Staff and KCPL negotiations related  
21 to the STB litigation issue?

22           A.     Yes, I was.

1 Q. In your opinion is there any justification whatsoever for KCPL's refusal to  
2 include in the STB refund calculation the additional expense recoveries that were negotiated  
3 in good faith between KCPL and the Staff and included in KCPL's revenue requirement in  
4 the 2007 rate case?

5 A. No. In his rebuttal testimony Mr. Weisensee provides no justification at all,  
6 which is a concern. If there is no fair and equitable basis for KCPL's position, and none was  
7 provided by KCPL, the Commission should reject this position outright.

8 **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN (SERP)**

9 Q. At page 7 of her rebuttal testimony, KCPL witness Barbra Curry referenced  
10 your testimony on Supplemental Executive Retirement Plan costs in the Staff's Cost of  
11 Service Report and stated that you recommend that "only KCP&L's 2007 annuity-related  
12 SERP expenses of \$168,140 meets the known and measurable test, which coincidentally  
13 happens to be the lowest year of SERP payment in eight years." Is this an accurate  
14 representation?

15 A. No. My statement was "KCPL does not make lump sum SERP payments on  
16 an annual basis as evidenced that no lump sum payments were made in 2007, the test year and  
17 no payments were made in 2008." KCPL's 2007 SERP expense was the same as its  
18 2008 SERP expense.

19 My point in this statement was that KCPL has not made a lump sum SERP payment in  
20 over two years and it does not know when or if it will ever make another lump sum payment.  
21 While it has not made a lump sum SERP payment in over two years, KCPL continues to make  
22 recurring SERP annuity payments to seven of its former executives. The Staff has included

1 all of the cost of these SERP payments, which is the total SERP expenses incurred in  
2 2007 and 2008, in its SERP expense adjustment in this case.

3 Q. At page 7 of her rebuttal testimony Ms. Curry states that it is appropriate to  
4 include in rates expenses that accurately reflect the Company's cost going forward.  
5 Do you agree with this statement?

6 A. Yes. That is the basis of the Staff's adjustment. The Staff's SERP expense  
7 level is based on the actual costs KCPL incurred in the test year. To attest to the  
8 reasonableness of the Staff's adjustment, it is the same exact cost KCPL incurred in the  
9 calendar year following the test year.

10 Q. Does KCPL's proposed SERP adjustment even approach accurately reflecting  
11 the Company's cost going forward?

12 A. No. Very simply, KCPL's adjustment includes over \*\* \_\_\_\_\_ \*\* in  
13 SERP payments for two former employees who retired within three years of each other.

14 \*\* \_\_\_\_\_  
15 \_\_\_\_\_ \*\* If this is a cost KCPL will  
16 incur going forward, which is highly unlikely, it is certainly not an appropriate cost to pass on  
17 to customers.

18 Q. Please explain

19 A. The payments to these two former employees were determined and approved  
20 by GPE's Board of Directors. In my opinion they are clearly excessive SERP costs and  
21 include bonus payments and other adders that are not appropriately included in a  
22 SERP designed to be included in rates. Although in its adjustment KCPL attempted to carve  
23 out a portion of the bonus payment to \*\* \_\_\_\_\_ \*\* in the amount of approximately

1   \*\* \_\_\_\_\_ \*\*, KCPL's SERP actuaries cannot certify to the Staff that the actual lump  
2   sum payments made to KCPL's executives were based strictly on the IRS salary limitations  
3   and may include payments based on factors other than actual years of credited service.  
4   These costs should not be included in any portion of a SERP expense included in cost of  
5   service.

6           Q.     What is the basis of your assertion that KCPL's SERP adjustment in this case  
7   includes costs that are not true SERP costs and should be excluded?

8           A.     KCPL provided this information to the Staff in response to data request  
9   No. 292, the appropriate sections are shown below:

10                   Staff question.

11                           Please certify that the lump sum payments paid to each of these  
12                           individuals represents only the dollars of benefits that this  
13                           individual would be entitled to under the terms and conditions  
14                           of the regular pension based on his/her base salary (excluding  
15                           bonus and incentive compensation and stock compensation) had  
16                           there been no salary restriction imposed by the IRS on the  
17                           amount of salary that can be used to calculate pension benefits.  
18                           If not, please describe why it is different.

19                           KCPL response.

20                                   \*\* \_\_\_\_\_  
21                                   \_\_\_\_\_  
22                                   \_\_\_\_\_  
23                                   \_\_\_\_\_  
24                                   \_\_\_\_\_  
25                                   \_\_\_\_\_ \*\*

26           Q.     Can the level of lump sum SERP payments made by KCPL over the past  
27   several years be quantified as a known and measurable expense and therefore be eligible to be  
28   included in KCPL's revenue requirement?

29           A.     No. KCPL's revenue requirement is the sum of operating and maintenance  
30   expenses, depreciation expense, taxes and a fair and reasonable return on the net value of

1 property used and useful in serving its customers. This revenue requirement is based on a test  
2 year. In order that the test year reflect conditions existing at the end of the test year as well as  
3 significant changes that are known or reasonably certain to occur, it is necessary to make  
4 certain "pro forma" adjustments.

5 KCPL's lump sum SERP payments are highly irregular both in frequency and  
6 amounts. There is no reasonable way to quantify this type of payment and thus it is not  
7 eligible for a "pro forma" adjustment in that the level of expenses are neither known or  
8 reasonably certain to occur. As noted above, KCPL has not even made a lump  
9 sum SERP payment in over two years.

10 Q. Are there other concerns about the appropriateness of including lump sum  
11 SERP payments in a revenue requirement as a reflection of a known and measurable cost?

12 A. Yes. For example, if a KCPL executive retires at age 50 and receives a lump  
13 sum payment in 2008, that lump sum payment was designed to represent pension annuity  
14 payments over the life of that executive, which could be as much as 25 to 30 years.  
15 Including all of the cost of the 25 year annuity payments in a single year distorts  
16 the expense level.

17 Q. What limitations does KCPL have on who may receive SERP payments?

18 A. \*\* \_\_\_\_\_

19 \_\_\_\_\_

20 \_\_\_\_\_ \*\*

21 Q. Do these employees get to choose whether they will receive SERP payments in  
22 a lump sum or like payments received under a normal pension plan?

1           A.     Yes. In response to data request No. 481 in Case No. ER-2006-03114,  
2 KCPL stated that under the SERP plan, participants have the option of receiving a lump-sum  
3 payment or a monthly annuity.

4           Q.     Why did KCPL go back seven years to 2001 to calculate its SERP adjustment?

5           A.     KCPL made SERP payments prior to 2001 but began to allow its executives  
6 the option to choose annuity payments or lump sum payments in 2001.

7           Q.     Could it be a coincidence that KCPL began to offer lump sum distributions in  
8 2001, the same year that one of its CEOs retired and received a lump sum SERP distribution  
9 in the amount of \*\* \_\_\_\_\_ \*\*?

10          A.     It could be a coincidence. However, since KCPL made a \*\* \_\_\_\_\_ \*\*  
11 SERP payment to \*\* \_\_\_\_\_ \*\* in that year, it is likely that KCPL wanted to make  
12 sure this payment was included in its adjustment. This could be the primary reason why  
13 KCPL went all the way back to 2001 to develop its adjustment. All that KCPL witness  
14 John Weisensee said in his direct testimony in the case explaining KCPL's SERP adjustment  
15 was that "SERP expense varies considerably from year-to-year; therefore, this expense was  
16 normalized for ratemaking purposes. KCP&L used average SERP cash payments for the  
17 period 2001-2007."

18          Q.     What is the Staff's policy on rate recovery of SERP expense?

19          A.     As I stated in the Staff's Cost of Service Report, the Staff's policy has been,  
20 and continues to be, that it will recommend SERP costs to be included in cost of service if  
21 1)they are not significant, 2) they are reasonable and only include the amount that would have  
22 been accrued by the employee as pension credits absent the IRS compensation limitations,  
23 and 3) the expenses are able to be quantified under the known and measurable standard.

1 Q. Has KCPL met any of these standards?

2 A. No. Because SERP is an additional pension compensation benefit over and  
3 above what is provided for in the KCPL's regular pension plan, and is completely  
4 discretionary on the part of KCPL's board of directors, KCPL has a lot of flexibility in  
5 designing its SERP to meet the requirements to include SERP expenses in cost of service.

6 The first standard is that SERP costs should not be significant. It is an additional  
7 benefit plan, not a primary benefit plan. Secondly, the SERP payments must be reasonable,  
8 which means that they should only include a dollar benefit that would exist and be paid under  
9 the normal pension plan without the IRS compensation limits. KCPL's SERP does not meet  
10 this standard. Finally, KCPL's SERP payments must meet the known and measurable  
11 standard, which means they must be normal, recurring costs that are known to occur and be  
12 capable of being measured with a high degree of accuracy. KCPL can meet this requirement  
13 by removing the lump sum option from its SERP and only make SERP payments on an  
14 annual basis, as it is currently doing with approximately seven former KCPL executives.

15 **HAWTHORN 5 SCR WARRANTY SETTLEMENT**

16 Q. At page 51 of his rebuttal testimony, Mr. Giles states the he does not believe  
17 KCPL's regulated customers should receive any benefit from the financial settlement  
18 concerning the defective selective catalytic reduction system (SCR) plant currently installed at  
19 KCPL's Hawthorn 5 coal plant. Please discuss the reasons put forth by Mr. Giles to support  
20 his position that all the benefits of the proceeds should flow to KCPL's shareholders.

21 A. In his rebuttal testimony at page 51, Mr. Giles makes four arguments in  
22 support of his shareholder only benefit argument. They are:

- 23 1. All costs incurred by KCPL from the defective SCR plant were paid  
24 for by KCPL's shareholders and not KCPL's ratepayers.



- 1                   2. Any ratemaking recognition of the settlement dollars that were  
2                   received by KCPL and recorded on its books and records in the test  
3                   year in this rate case constitutes retroactive ratemaking.
- 4                   3. The warranty settlement is a one-time event that does not reflect  
5                   KCPL's cost going forward.
- 6                   4. The Hawthorn 5 SCR warranty settlement issue is nearly identical to  
7                   the Hawthorn 5 subrogation issue and the Wolf Creek Department  
8                   of Energy (DOE) refund issue that were litigated in  
9                   Case No. ER-2007-0291.

10           Q.     Does the Staff agree with any of the four arguments Mr. Giles makes at  
11 page 51 of his rebuttal testimony?

12           A.     No. In my testimony I will introduce facts and other significant evidence that  
13 will demonstrate how each of Mr. Giles arguments is not only incorrect factually,  
14 but also violates basic ratemaking theory.

15           Q.     What is the Staff's position on this issue and the primary basis for this  
16 position?

17           A.     The Staff's position is that the settlement dollars received by KCPL in the test  
18 year represent a reimbursement to KCPL for the portion of Hawthorn 5's SCR plant that is  
19 defective and not meeting performance standards. These settlement dollars should be used to  
20 reduce KCPL's net plant investment in this defective plant because KCPL's ratepayers should  
21 not pay for the extra cost of defective plant in utility rates.

22           The following five facts form the basis of the Staff's position:

- 23                   1. The settlement dollars were received by KCPL in the test year in this case.
- 24                   2. The settlement dollars were paid to KCPL as a direct result of defective  
25                   performance of the SCR at the Hawthorn 5 coal plant.
- 26                   3. This is defective plant that KCPL paid for and included in rate base in this  
27                   rate case and in KCPL's prior two rate cases, Nos. ER-2006-0314 and ER-  
28                   2007-0291.
- 29                   4. The defective SCR plant has resulted in increased costs of fuel additives  
30                   and other operations and maintenance expense. These cost increases have

1           been reflected explicitly in utility rates in the past and will be reflected in  
2           utility rates in this rate case and in future rate cases.

3           5. KCPL's ratepayers should not pay for extra costs due to defective utility  
4           plant in utility rates.

5           Q.     Please describe the Hawthorn 5 SCR warranty settlement.

6           A.     In 1999, Babcock & Wilcox (B&W) entered into an engineering, procurement  
7           and construction agreement with KCPL for the construction of Hawthorn Unit 5 boiler island  
8           (Agreement). The Agreement required B&W to install a selective catalytic reduction system  
9           at Hawthorn Unit 5. As noted in response to data request No. 271, under the Agreement,  
10          as amended, B&W guaranteed certain performance standards, including an ammonia slip test.  
11          After the SCR was placed in service in 2001 it failed the ammonia slip test.

12           In 2002 both KCPL and B&W tried to resolve the issues by B&W doing additional  
13          work. In 2004 B&W and KCPL entered in to a Memorandum of Understanding (MOU),  
14          and revised downward the ammonia slip test standards. B&W subsequently failed to meet  
15          even the revised lower standards. At this point KCPL decided to seek liquidated damages  
16          from B&W based on the difference between the costs KCPL would incur if the standards  
17          were met and what costs KCPL incurred because the standards were not met.

18           Because of B&W's failure to meet the ammonia slip test standards, KCPL experienced  
19          increased replacements of catalysts, increased usage of ammonia, plus additional cleaning and  
20          maintenance expense.

21           In 2007, the test year in this case, KCPL received a settlement from B&W.  
22          The settlement agreement was for the Company incurring significant incremental fuel and  
23          purchased power costs because of the SCR problem. The proceeds were recorded as an offset  
24          to ammonia, O&M and purchased power expense. This information was provided in response  
25          to data request No. 533.

1 Q. Have KCPL's ratepayers been overcharged because of this defective  
2 SCR plant?

3 A. Yes. KCPL's ratepayers have been overcharged in the past, are being  
4 overcharged in current rates, and if KCPL and Mr. Giles prevail on this issue,  
5 KCPL's ratepayers will be overcharged in the future because of this defective plant.  
6 As I explained in the Staff's Cost of Service Report, KCPL received in December 2007  
7 a settlement from the plant's contractor. This settlement appears to be insufficient compared  
8 to the extra costs of the defective plant KCPL is passing on to its ratepayers.

9 However, the Staff is proposing that this settlement amount be used to reduce the  
10 amount of the defective plant in KCPL's rate base. The Staff is making this proposal to  
11 provide some relief to KCPL's ratepayers for environmental plant equipment that has never  
12 and will never perform to contract specifications resulting in higher operation and  
13 maintenance expenses. These increased costs have occurred and will continue to occur as long  
14 as this SCR is operating at Hawthorn 5. As long as this plant is included in KCPL's rate base,  
15 at a minimum, customers should receive some reduction, however small and insufficient, in  
16 the amount of these costs.

17 Q. What issue led to the claim against KCPL's Hawthorn 5 contractor?

18 A. This issue is described in KCPL's response to data request  
19 No.530 (Highly Confidential):

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Q. KCPL's ratepayers have paid a financial rate of return, depreciation expense and property taxes on defective plant in the past, are paying currently and potentially will continue to pay in the future. Are KCPL's ratepayers forced to pay additional fuel and maintenance expense as a result of this defective plant?

A. Yes. Because the SCR plant did not meet the required ammonia slip standards, the plant consumed, is consuming, and will consume significantly more ammonia fuel additive than it was designed to consume. In addition, because of the defective SCR plant, KCPL has had to incur additional maintenance and cleaning expense.

In addition, the original equipment contract for the SCR had a warranty on the performance of the plant which, the cost of such warranty was embedded in the contract price of the plant that KCPL put in rate base. These increased plant costs have been recovered in rates since the 2001 installation. The customers are paying for the cost of this warranty provision and should receive the benefits of any proceeds from the negotiated settlement of this defective plant between KCPL and the plant contractor.

Q. Have KCPL's customers paid plant-related costs as a result of this defective plant being included in rate base in all of KCPL's three recent rate cases, No. ER-2006-0314, No. ER-2007-0291, and No. ER-2009-0089?

A. Yes. Ratepayers have paid, are currently paying, and will continue to pay investment-related costs that were designed to recover the capital costs and pay a profit to

1 KCPL's shareholders on a level of plant costs that was assumed to be non-defective.  
2 KCPL's shareholders are currently being made whole on the costs and earning a profit on the  
3 defective plant in KCPL's rate base. This is an overcharge to KCPL's customers.

4 Q. Has KCPL quantified the amount of increased costs it will incur over the life  
5 of this plant that will be passed on to its ratepayers?

6 A. No. KCPL has indicated that a part of the future increased costs of this  
7 defective plant cannot be easily quantified. In response to data request No. 133, KCPL stated:

8 \*\*—  
9 \_\_\_\_\_  
10 \_\_\_\_\_  
11 \_\_\_\_\_  
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19 \_\_\_\_\_ \*\*

20 Q. Does KCPL recognize that its customers are currently incurring and will  
21 continue to incur additional capital costs, additional fuel expense and additional maintenance  
22 expenses as a result this defective plant being included in KCPL's rate base?

23 A. Yes. As noted in the quote above KCPL recognizes that the additional costs  
24 caused by this defective plant will be paid for by its customers.

25 Q. Did Mr. Giles' rebuttal testimony address any of the substantive points on this  
26 issue in the Staff's Cost of Service Report in this case?

1           A.     No. The Staff put forth the following testimony on this issue in its Cost of  
2 Service Report. Mr. Giles, in what appears to be an attempt to mischaracterize this issue,  
3 failed to address these key points:

4                     The increased costs for the ammonia slip tests, more frequent  
5 replacements of catalysts, and increased cleaning and  
6 maintenance expense continue to exist today. KCPL has and is  
7 experiencing higher costs and passing them to its customers, but  
8 is passing on all of these settlement proceeds to its shareholders.

9                     Staff's position is that KCPL's customers should receive the  
10 benefit of the settlement with B&W since they paid the costs  
11 KCPL incurred because of the substandard performance of the  
12 plant. All the increased costs to KCPL were and are currently  
13 being paid by KCPL customers in utility rates.

14                    These costs include the salaries and benefits, office space, and  
15 all employee-related costs of KCPL's attorneys and employees  
16 who worked on this dispute between KCPL and B&W.

17                    It is Staff's position that since the capitalized cost to plant in  
18 service did not meet the contract specifications, the amount of  
19 plant on KCPL's books and records is overstated and should be  
20 reduced at least by the amount of the settlement agreement.

21           Q.     You've provided sworn testimony that KCPL's customers have paid and are  
22 paying in current rates for excessive amounts of very expensive ammonia used as a fuel  
23 additives and are also paying for a higher level of maintenance expense because of the  
24 defective Hawthorn 5 SCR plant. Did KCPL's customers also pay in the past and currently  
25 are paying for the salary and benefits of the KCPL employees who identified the problems  
26 with this plant and negotiated the settlement with the plant's contractor?

27           A.     Yes. As shown below in response to data request No. 271, KCPL provided a  
28 long list of senior KCPL executives and employees who were involved with the  
29 Hawthorn SCR performance issues, litigation, settlement discussions and settlement  
30 agreement over several years. It is KCPL's regulated customers who are paying the salaries

1 and benefits to these executives and employees who worked to get this defective plant  
2 settlement, not KCPL's shareholders. Yet it is KCPL's position to take the fruit of their labor  
3 and give it to the shareholders. This is not a fair, reasonable or logical position:

4 **Question No. 0271:**

5 Please provide a list of all KCPL/GPE employees who were  
6 directly or indirectly involved with the Hawthorn SCR  
7 performance issues, litigation, settlement discussions and  
8 settlement agreement. For each, please describe this  
9 involvement.

10 **Response:**

11 Steve Easley's (Senior Vice President, Supply) involvement was  
12 lead negotiator regarding the settlement and was involved with  
13 George Burnett (Consulting Engineer, Production Engineering  
14 Services), Gerald Reynolds (Assistant General Counsel, Law  
15 Department) and Peter Vanderwarker (Senior Attorney, Law  
16 Department) in developing the "damages" KCP&L was  
17 expected to incur due to the SCR/catalyst's inability to meet its  
18 ammonia slip performance guarantee. The following  
19 individuals had indirect involvement in this process: Lora  
20 Cheatum (Vice President of Procurement, Procurement), David  
21 Price (Vice President of Construction, Construction  
22 Management) and William Riggins (Vice President of Legal  
23 and Environmental Affairs and General Counsel, Law  
24 Department).

25 Q. Please respond to Mr. Giles' first argument against including the  
26 Hawthorn 5 warranty settlement as an increase to the plant reserve account.

27 A. At page 51 of his rebuttal testimony, Mr. Giles makes the following statement:

28 The settlement payment reimburses KCPL for increased expenses it  
29 incurred going back to 2001. Because KCPL did not increase its rates  
30 until January 2007, it is incorrect to say that the Company's customers  
31 bore those costs.

32 Mr. Giles' argument is wrong on several counts. To begin with, Mr. Giles' basic  
33 premise that KCPL's shareholders have paid for its fuel and other operating expenses is  
34 illogical. There is only one way shareholders can pay for a utility's operating costs and that is

1 if, during the relevant period the utility's expenses of running the company exceeded its  
2 operating revenues paid by its customers. In periods where KCPL reported even one dollar in  
3 earnings, KCPL's customers have paid for each and every dollar of expense the company  
4 incurred during that period. Since 2001, when this defective plant was installed, KCPL has  
5 not experienced any operating losses for its electric operations. To the extent  
6 that KCPL recovered sufficient revenues from 2001 to January 2007 when rates were changed  
7 from KCPL's 2006 rate case, KCPL's customers paid for the higher plant costs of defective  
8 plant that has never performed to contract specifications.

9 Q. Did KCPL's shareholders pay the higher operating costs and increased plant  
10 equipment costs since the 2001 installation of the SCR equipment?

11 A. No. KCPL's earning levels for the period 2001 to 2006 indicate the Company  
12 earned sufficient equity returns which means that it was recovering all its operating costs and  
13 earning a return on invested plant. Any increased costs relating to the SCR equipment  
14 problems were being recovered in rates from KCPL's customers. The Company experienced  
15 significant revenue growth during this period which contributed to the earnings levels of the  
16 Company. KCPL's regulated ratepayer paid for each and every dollar of expenses incurred  
17 by KCPL during this period and it also paid for all of its capital costs and a profit  
18 on KCPL's investment in rate base.

19 Q. What level of profit was being paid to KCPL's shareholders  
20 by KCPL's regulated ratepayers during the period 2006 through 2006?

21 A. In response to Data Request 91 in Case No. ER-2007-0291, KCPL reported the  
22 following total Company actual average returns on equity (ROE) for the period 2001 through  
23 2006. These returns were:



	<u>Year</u>	<u>ROE-KCPL</u>
1		
2	2001	14.24%
3	2002	12.85%
4	2003	14.64%
5	2004	14.66%
6	2005	12.82%
7	2006	11.83%

8 Q. Is there a basic ratemaking principle that directly refutes Mr. Giles' argument  
9 that KCPL's shareholders paid for the defective SCR plant costs from 2001 to 2006?

10 A. Yes. There is a basic principle of ratemaking that unless a utility files for a  
11 change in rates, its current and existing rates are assumed to be recovering all of its expenses  
12 and providing its shareholders with a reasonable rate of return. Since KCPL did not seek to  
13 increase its rates from 2001 through 2005, it is clear that the dollar amount of revenues it  
14 collected from its ratepayers was more than sufficient to cover each and every dollar of  
15 expenses KCPL incurred but was also able to provide a very hefty level of profit  
16 to KCPL's shareholders.

17 Q. Please comment on Mr. Giles' second argument that "the facts surrounding the  
18 Hawthorn 5 SCR warranty settlement and the Staff's argument concerning the settlement are  
19 nearly identical to the issues involving the Hawthorn 5 subrogation proceeds and Wolf Creek  
20 Department of Energy refund issues that were litigated in Case No. ER-2007-0291."  
21 Are these issues similar to the Hawthorn 5 defective SCR plant issue being discussed here?

22 A. No. The Hawthorn 5 subrogation issue that was litigated in Case No.  
23 ER-2007-0291 involved costs that were incurred in prior years. The costs associated with the  
24 defective Hawthorn 5 SCR plant that KCPL is passing on to its ratepayers, by KCPL's own  
25 admission is being incurred currently and will be incurred over the life of this defective plant.  
26 These higher operating and maintenance costs that occurred during the last two rate cases

1 have been reflected in KCPL's rates. Customer rates today reflect these higher costs.  
2 The Hawthorn 5 subrogation issue is a completely different issue of the defective SCR plant.

3 The Department of Energy (DOE) nuclear fuel refund was an issue in both KCPL's  
4 Missouri and Kansas rate cases in 2007. The following is a description of this issue by  
5 Kansas Corporation Commission (KCC) witness Laura Bowman at page 9 of her Redacted  
6 Direct Staff Testimony in Docket No. 07-KCPE-905-RTS filed with the KCC on  
7 August 3, 2007:

8 During fiscal years 1986-1993 Wolf Creek and other utilities  
9 claimed they were overcharged by the government for uranium  
10 enrichment services. In December 2006, KCPL accrued an  
11 expense for the Wolf Creek nuclear fuel refund, for money that  
12 was to be received from the Department of Energy in a  
13 settlement related to the enrichment overcharges lawsuit.  
14 Because KCPL recorded a credit (refund) on its books during  
15 the test year, but the service related to prior years, KCPL  
16 believed it was necessary to reverse the credit in order to  
17 properly state the test year cost of service. Reversing the credit  
18 (refund) resulted in an increase to KCPL's operating expense.

19 KCC witness Bowman explained why the KCC Staff was proposing a three-year  
20 amortization for the Wolf Creek Department of Energy Settlement as follows:

21 Some adjustment is necessary to provide ratepayers with the  
22 benefit of this refund. KCPL customers already paid for the  
23 uranium enrichment services through fuel expenses during  
24 fiscal years 1986-1993. Ratepayers are entitled to any refunds  
25 related to these services. A three-year amortization period  
26 would correspond to KCPL's required rate case filing in 2009.  
27 Second, the refund is an unusual event that is recorded in the  
28 test year, but related to services purchased during prior years.  
29 Therefore, amortizing the refund over three-years will result in  
30 a more accurate view of KCPL's normal, ongoing operations.

31 The DOE nuclear fuel refund issue relates to overcharges by the DOE to KCPL in the  
32 years 1986 through 1993. It is completely different from the Hawthorn 5 defective SCR plant  
33 issue as the defective plant is causing increases in costs to be passed on to KCPL's ratepayers,

1 not only since it was placed in service in 2001, but ever since that date and as KCPL states,  
2 will continue into the future.

3 Q. Has KCPL agreed to refund these DOE overcharges to its Kansas customer  
4 but has refused to refund these overcharges to its Missouri customers?

5 A. Yes. Apparently KCPL believes that its Kansas ratepayers paid for these  
6 overcharges in rates but not its Missouri ratepayers. As noted on Schedule JPW 2,  
7 page 1 of 4 to his direct testimony in this case, KCPL witness John Weisensee is including  
8 adjustment KCPL adjustment 11 a refund to KCPL's Kansas customers. This Kansas only  
9 adjustment reads "adjust 2007 expenses resulting from the establishment of KS regulatory  
10 liability for 2006 DOE refund."

11 Q. At page 52 of his rebuttal testimony, Mr. Giles makes the statement that  
12 "the Commission agreed with the Company that reaching back to prior years outside the test  
13 period, in order to apply a "refund" going forward constitutes retroactive ratemaking,  
14 and is not appropriate. Did the Commission ever make such a statement?

15 A. No. Nowhere in its Report and Order in Case No.ER-2007-0291 did the  
16 Commission state that the position taken by the Staff on the Hawthorn 5 subrogation payment  
17 issue or the DOE refund issue was retroactive ratemaking. This statement by Mr. Giles,  
18 as many other statements in his rebuttal testimony is clearly false.

19 In Case No. ER-2007-0291, in both the issues of Hawthorn 5 subrogation payments  
20 and the DOE nuclear fuel refund the Staff had to decide the appropriate ratemaking treatment  
21 of revenues received in the test year in that rate case. There was nothing retroactive at all in  
22 determining the appropriate rate treatment for dollars KCPL received in the test year and  
23 booked in its test year books and records.

1           On the same issue where Mr. Giles characterized the Missouri Staff's position on the  
2 DOE nuclear fuel overcharge refund as retroactive ratemaking, KCPL agreed to share these  
3 refunds with its Kansas customers. As described above, KCC witness Bowman described the  
4 KCC Staff's proposal to amortize the DOE refunds to Kansas customers:

5                       Second, the refund is an unusual event that is recorded in the test year,  
6                       but related to services purchased during prior years. Therefore,  
7                       amortizing the refund over three-years will result in a more accurate  
8                       view of KCPL's normal, ongoing operations.

9           Amortizing this refund to Kansas customers is exactly what KCPL agreed to do in its  
10 Kansas rate case. However, Missouri customers have not benefited from the DOE refund  
11 which Mr. Giles characterizes as retroactive ratemaking in Missouri.

12           Q.     Has KCPL had a history of seeking rate recovery of costs that were incurred  
13 several years prior to even initiating a rate case in that rate case?

14           A.     Yes. In KCPL's 2006 rate case, No. ER-2006-0314, the Commission ordered  
15 that KCPL be allowed to recover an annual level of \$4.5 million for ice storm costs that were  
16 incurred by KCPL in 2002 and deferred under an Accounting Authority Order (AAO).  
17 The closest test year to the year KCPL incurred the ice storm cost in 2002, was three years  
18 later in the 2005 test year ordered by the Commission in KCPL's 2006 rate case.

19           At page 60 of its Report and Order in Case No. ER-2006-0314, the Commission  
20 characterized KCPL's position on ice storm expense recovery as follows "because the  
21 amortization allowed by the AAO case was in effect during the test year and true-up period,  
22 KCPL asserts that it should be able to recover those costs."

23           To illustrate the inconsistency of his argument, Mr. Giles says that providing  
24 ratemaking treatment to refund or settlement revenues received in a test year that he believes  
25 relates to expenses incurred in prior years is retroactive ratemaking. However, seeking

1 rate increases for costs that were incurred several years prior to a rate case is appropriate.  
2 This inconsistency presented by KCPL results in KCPL's shareholders getting favor to the  
3 detriment of KCPL's Missouri ratepayers and represents an implicit bias on the part  
4 of KCPL to favor its shareholders over its customers on ratemaking issues.

5 Q. Please summarize the Staff's position on this issue.

6 A. The primary basis for the Staff's position that this warranty settlement should  
7 be reflected as a decrease to the SCR plant was stated clearly in the Staff's Cost of Service  
8 Report, but was understandably ignored by Mr. Giles in his rebuttal testimony. The basis of  
9 the Staff's position is that KCPL purchased defective plant when it purchased  
10 the Hawthorn 5 SCR from Babcock & Wilcox. Ever since this plant was placed in service it  
11 has never performed up to contract specifications and continues not to meet either the original  
12 specifications or the lowered standards agreed to by KCPL and B&W.

13 The result of this failure is that KCPL customs have paid, are currently paying, and  
14 will pay for many years to come higher costs in fuel additives, such as ammonia and  
15 maintenance because of this defective plant. KCPL's customers have been paying for higher  
16 returns and depreciation for this sub-standard plant in service.

17 The original equipment contract had warranty on the performance of the plant which  
18 was embedded in the contract price that KCPL has been recovering in rates since  
19 the 2001 installation. The customers are paying for this warranty provision and should,  
20 therefore, receive the benefits from such. Yet, KCPL, whose management signed off and  
21 accepted this defective plant, is attempting to keep all of the settlement received from the  
22 plant's manufacturer for its shareholders and avoid giving any of the warranty proceeds to the

1 actual group of people who continue to pay higher costs for the defective plant and  
2 paying a rate of return on utility plant that is in KCPL's rate base.

3 **HAWTHORN V TRANSFORMER**

4 Q. Please explained how this issue developed.

5 A. On August 29, 2005, Hawthorn Unit No. 5 generating step-up transformer  
6 (GSU or transformer) faulted and caught on fire. The transformer had to be removed and  
7 replaced. A spare GSU was installed in September 2005. During the period of June 5, 2006,  
8 through June 18, 2006 a new generator purchased from General Electric was installed.

9 KCPL sued the contractors and subcontractors that it claimed were responsible for the  
10 transformer failure. The case settled at the end of 2007, and was finalized in 2008. Similar to  
11 the Hawthorn 5 defective SCR plant, this is another instance where KCPL, by opposing  
12 appropriate rate treatment for defective plant cost reimbursement is attempting provide the  
13 benefit of the settlement to the party (its shareholders) who did not bear the burden of any of  
14 the cost and is proposing to deny any benefit of the monetary settlement to the party (its  
15 regulated ratepayers) who paid all of the costs of the defective plant.

16 All the increased costs to KCPL of operating the Hawthorn 5 plant caused by the  
17 transformer failure were paid for by KCPL customers in utility rates. These costs include not  
18 only the higher capital costs of the new transformer plant by inclusion in rate base, but also  
19 the incremental fuel and purchased power and operations and maintenance expenses during  
20 the plant outage. In addition, KCPL's internal labor cost to achieve the settlement, the  
21 salaries and benefits, office space, and all employee-related costs of KCPL's attorneys and  
22 employees who worked on KCPL's dispute with the contractors and subcontractors were paid  
23 for by ratepayers in utility rates.

1           As described above for the defective Hawthorn SCR plant issue, the Staff is not  
2 proposing to defer and amortize the settlement proceeds as a reduction to cost of service,  
3 but is proposing to decrease the depreciation reserve for the Hawthorn V transformer account,  
4 which will have the effect of reducing KCPL's rate base for the dollar amount of the  
5 settlement.

6           Q.     At pages 52 and 53 of his rebuttal testimony, Mr. Giles explains the he does  
7 not believe KCPL's regulated customers should receive any benefit from the financial  
8 settlement associated with the defective transformer plant. Please discuss the reasons put  
9 forth by Mr. Giles to support his position that all the benefits of the proceeds should flow to  
10 KCPL's shareholders.

11          A.     In his rebuttal testimony Mr. Giles makes four arguments in support of his  
12 shareholder only benefit argument. They are as follows:

- 13                   1. All costs incurred by KCPL as a result of the defective Hawthorn  
14                   transformer plant were paid for by KCPL's shareholders and not  
15                   KCPL's ratepayers.
- 16                   2. Any ratemaking recognition of the settlement dollars that were  
17                   received by KCPL and recorded on its books and records in the  
18                   updated test year in this rate case constitutes retroactive ratemaking.
- 19                   3. The warranty settlement is a one-time event that does not reflect  
20                   KCPL's cost going forward.
- 21                   4. The Hawthorn transformer warranty settlement issue is nearly  
22                   identical to the Hawthorn subrogation issue and the Wolf Creek  
23                   Department of Energy (DOE) refund issue that were litigated in  
24                   Case No. ER-2007-0291.

25          Q.     Does the Staff agree with any of the four arguments Mr. Giles makes  
26 at page 53 of his rebuttal testimony?

1           A.     No. As I did in my earlier testimony on the Hawthorn 5 defective SCR plant  
2 issue, I will introduce facts and other significant evidence that will demonstrate how each of  
3 Mr. Giles arguments is not only incorrect factually, but also violates basic ratemaking theory.

4           Q.     What is the Staff's position on this issue and the primary basis for  
5 this position?

6           A.     The Staff's position is that the settlement dollars received by KCPL in the  
7 updated test year represent a reimbursement to KCPL for the costs of the defective  
8 transformer plant. These settlement dollars should be used to reduce KCPL's net plant  
9 investment in this plant account because KCPL's ratepayers should not pay higher costs for  
10 replacement plant that was performing the same function as the original defective plant.

11           The following five facts, which should be undisputed by KCPL, form the basis of the  
12 Staff's position:

- 13                   1. The settlement dollars were received by KCPL in the updated test year in  
14                   this case.
- 15                   2. The settlement dollars were paid to KCPL as a direct result of a defective  
16                   transformer at the Hawthorn 5 coal plant.
- 17                   3. All costs associated with the defective transformer and all costs of the  
18                   replacement transformer were included in KCPL's rate base in KCPL rate  
19                   case, Nos. ER-2006-0314 and ER-2007-0291 and this current rate case No.  
20                   ER-2009-0089. All plant outage costs and other O&M costs were included  
21                   in cost of service in Case No. ER-2006-0314.
- 22                   4. KCPL's ratepayers should not pay for the costs associated with defective  
23                   utility plant in utility rates.

24           Q.     Have KCPL's ratepayers paid higher utility rates in the past and will they  
25 continue to pay higher utility rates because of this defective Hawthorn 5 transformer?

26           A.     Yes. According to KCPL's response to data request No. 366.1 in Case  
27 No. ER-2006-0314 \*\* \_\_\_\_\_



1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_ \*\*

5 KCPL Response to Staff DR 366 .1 in ER-2006-0314

6  
7 \*\* \_\_\_\_\_  
8 \_\_\_\_\_  
9 \_\_\_\_\_  
10 \_\_\_\_\_ :  
11 \_\_\_\_\_  
12 \_\_\_\_\_ \*\*

13 Q. Please respond to Mr. Giles' first argument against including the Hawthorn 5  
14 warranty settlement as an increase to the plant reserve account.

15 A. At page 52 of his rebuttal testimony Mr. Giles makes the following statement:

16 The settlement payment reimburses KCPL for increased expenses it  
17 incurred going back to 2005. Because KCPL did not increase its rates  
18 until January 2007, it is incorrect to say that the Company's customers  
19 bore those costs.

20 Mr. Giles' argument is wrong on several counts. Before I begin to address the serious  
21 conceptual flaws in Mr. Giles' testimony, let me first state that all of the fuel and purchased  
22 power costs associated with this plant outage were directly included in the Staff's revenue  
23 requirement in Case No. ER-2006-0314. This fact was confirmed with discussion with the  
24 Staff engineer who was responsible for developing the level of purchased power expense in  
25 that case. The analysis period used to develop this expense was August 2005 through  
26 July 2006. The outage began on August 29, 2005, within the test period used to develop  
27 purchased power expense in the 2006 rate case.

1           The Staff is not aware of any cost either directly or indirectly related to  
2 Hawthorn Transformer failure that was not directly included in the Staff cost of service  
3 accounting schedules in the 2006 rate case.

4           Now that I have established that Mr. Giles is wrong factually about the costs of this  
5 defective plant being directly included in rates, I will also address why he is wrong  
6 theoretically.

7           Mr. Giles' basic premise that KCPL's shareholders can pay for a utility's expenses is  
8 illogical. There is only one way shareholders can pay for a utility's operating costs, and that  
9 is if, during the relevant period, the utility's expenses of running the company exceeded its  
10 operating revenues paid by its customers. I am not aware that KCPL has ever reported a net  
11 loss instead of net income on its income statement. In periods where KCPL reported even one  
12 dollar in earnings, KCPL's customers have paid for each and every dollar of expense the  
13 company incurred during that period.

14           Given that KCPL has always earned a net profit through rates paid for by its  
15 customers, at least in recent memory, Mr. Giles may be making a different argument. He may  
16 be stating that because of the defective transformer plant that failed in August of 2005,  
17 KCPL's shareholders have been paying higher expenses of this defective plant  
18 for the 16 months from the date of the failure, August 29, 2005 until rates were changed as a  
19 result of KCPL's 2006 rate case, which occurred in January 2007.

20           Q.     Is there any consistency in Mr. Giles' argument?

21           A.     No. This argument, to be consistent, would have to assume that KCPL did not  
22 experience a growth in revenues or a decrease in expense during this period, which is clearly  
23 wrong. If KCPL's shareholders paid for any increases in expenses over and above the amount

1 explicitly included in rates from August 2005 to December 2006 (which clearly they did not),  
2 a key question needs to be answered. This question is who paid the increase in revenues  
3 KCPL experienced during this period? These increased revenues were not paid to KCPL by  
4 its shareholders just as these same shareholders paid for the higher defective SCR plant costs.  
5 KCPL's regulated ratepayers paid for all expenses incurred by KCPL during this period and it  
6 also paid for all of its capital costs and a very hefty profit on KCPL's investment in rate base.

7 Q. What level of profit (return on equity or ROE) was being paid to  
8 KCPL's shareholders in 2005 and 2006?

9 A. In response to data request No. 91 in Case No. ER-2007-0291, KCPL reported  
10 that its ROE for 2005 was 12.82% and for 2006 was 11.82%. These returns are higher than  
11 the ROEs authorized by the Commission for KCPL in its 2006 rate case (11.25%) and its  
12 2007 rate case (10.75%) and even higher than the ROE KCPL is seeking in this current  
13 rate case.

14 Q. In 2006 did KCPL's actual return on equity significantly exceed the average  
15 authorized returns on equity as noted in the Commission's Report and Order at page 21 in  
16 Case No. ER-2006-0314?

17 A. Yes. In that order the Commission noted that the average authorized ROE for  
18 electric utilities in the first three quarters of 2006 was approximately 10.37%. For 2006,  
19 KCPL earned 11.82%.

20 In a survey of regulatory decisions from around the country, as  
21 reported by Regulatory Research Associates, the average  
22 allowed return in the electric utility industry for the third quarter  
23 of 2006 was 10.06%. That same study revealed that for the first  
24 quarter of 2006, the average ROE for electric utilities was  
25 10.38%; for the second quarter, 10.69%.<sup>19</sup> The average of those  
26 three ROEs is approximately 10.37%....

1           In addition, the Commission noted in its ER-2007-0292 Report and Order at page 14  
2 that the highest authorized ROE in the nation for the first 6 months of 2007 was 10.9%. For  
3 the full year 2006, KCPL earned 11.82%.

4           Q.     Please comment on Mr. Giles' second argument that "the facts surrounding the  
5 Hawthorn transformer settlement and the Staff's argument concerning the settlement are  
6 nearly identical to prior retroactive ratemaking issues litigated before the Commission in Case  
7 No. ER-2007-0291 involving the Hawthorn 5 subrogation proceeds and the Wolf Creek  
8 Department of Energy refunds". Are these issues litigated in the 2007 rate case even similar  
9 to the Hawthorn defective transformer issue being discussed here?

10          A.     No.    The Hawthorn 5 subrogation issue that was litigated in Case  
11 No. ER-2007-0291 involved costs that were incurred in prior years. The costs associated with  
12 the defective Hawthorn transformer plant were included in KCPL's rate base in its  
13 2006 rate case, its 2007 rate case. KCPL is seeking that this plant be included in this current  
14 rate case. The only thing similar about the issues addressed in this rate case with the issues  
15 addressed in the 2007 rate case is that KCPL is again trying its best to avoid any of the benefit  
16 of the settlements received in the past cases and the current cases from being passed on to  
17 its ratepayers.

18          The DOE nuclear fuel refund was an issue in both KCPL's Missouri and Kansas rate  
19 cases in 2007. The following is a description of this issue by Kansas Corporation  
20 Commission (KCC) witness Laura Bowman at page 9 of her Redacted Direct Staff Testimony  
21 in Docket No. 07-KCPE-905-RTS filed with the KCC on August 3, 2007:

22  
23                           During fiscal years 1986-1993 Wolf Creek and other utilities  
24                           claimed they were overcharged by the government for uranium  
25                           enrichment services. In December 2006, KCPL accrued an

1 expense for the Wolf Creek nuclear fuel refund, for money that  
2 was to be received from the Department of Energy in a  
3 settlement related to the enrichment overcharges lawsuit.  
4 Because KCPL recorded a credit (refund) on its books during  
5 the test year, but the service related to prior years, KCPL  
6 believed it was necessary to reverse the credit in order to  
7 properly state the test year cost of service. Reversing the credit  
8 (refund) resulted in an increase to KCPL's operating expense.

9 KCC witness Bowman explained why the KCC Staff was proposing a three-year  
10 amortization for the Wolf Creek Department of Energy Settlement as follows:

11 Some adjustment is necessary to provide ratepayers with the  
12 benefit of this refund. KCPL customers already paid for the  
13 uranium enrichment services through fuel expenses during  
14 fiscal years 1986-1993. Ratepayers are entitled to any refunds  
15 related to these services. A three-year amortization period  
16 would correspond to KCPL's required rate case filing in 2009.  
17 Second, the refund is an unusual event that is recorded in the  
18 test year, but related to services purchased during prior years.  
19 Therefore, amortizing the refund over three-years will result in  
20 a more accurate view of KCPL's normal, ongoing operations.

21 The DOE nuclear fuel refund issue relates to overcharges by the DOE to KCPL in the  
22 years 1986 through 1993. It is completely different from the Hawthorn 5 defective SCR plant  
23 issue as the defective plant is causing increases in costs to be passed on to KCPL's ratepayers,  
24 not only since it was placed in service in 2001, but ever since that date and as KCPL states,  
25 will continue into the future.

26 Q. Has KCPL agreed to refund these DOE overcharges to its Kansas customers  
27 but has refused to refund these overcharges to its Missouri customers?

28 A. Yes. Apparently KCPL believes that its Kansas ratepayers paid for these  
29 overcharges in rates but not its Missouri ratepayers. As noted on Schedule JPW 2, page 1 of 4  
30 to his direct testimony in this case, KCPL witness John Weisensee is including adjustment  
31 KCPL adjustment 11 a refund to KCPL's Kansas customers. This Kansas only adjustment

1 reads “adjust 2007 expenses resulting from the establishment of KS regulatory liability for  
2 2006 DOE refund.”

3 Q. At page 52 of his rebuttal testimony Mr. Giles makes the statement that  
4 “the Commission agreed with the Company that reaching back to prior years outside the test  
5 period, in order to apply a “refund” going forward constitutes retroactive ratemaking,  
6 and is not appropriate. Did the Commission ever make such a statement?

7 A. No. Nowhere in its Report and Order in Case No.ER-2007-0291 did the  
8 Commission state that the position taken by the Staff on the Hawthorn subrogation payment  
9 issue or the DOE refund issue was retroactive ratemaking.

10 In Case No. ER-2007-0291, in both the issues of Hawthorn 5 subrogation payments  
11 and the DOE nuclear fuel refund the Staff had to decide the appropriate ratemaking treatment  
12 of revenues received in the test year in that rate case. There was nothing retroactive at all in  
13 determining the appropriate rate treatment for dollars KCPL received in the test year and  
14 booked in its test year books and records.

15 On the same issue where Mr. Giles characterized the Missouri Staff’s position on the  
16 DOE nuclear fuel overcharge refund as retroactive ratemaking, Mr. Giles agreed to share  
17 these refunds with KCPL’s Kansas customers. As described above, KCC witness Bowman  
18 described the KCC Staff’s proposal to amortize the DOE refunds to Kansas customers:

19 Second, the refund is an unusual event that is recorded in the test year,  
20 but related to services purchased during prior years. Therefore,  
21 amortizing the refund over three-years will result in a more accurate  
22 view of KCPL’s normal, ongoing operations.

23 Amortizing this refund to Kansas customers is exactly what Mr. Giles agreed to do in  
24 its Kansas rate case. However, in Missouri he denied Missouri customers this benefit by  
25 characterizing the exact same proposal of the Missouri Staff as retroactive ratemaking.

1 Q. Does KCPL have a history of seeking rate recovery of expenses incurred  
2 several years prior the test year in subsequent rate cases?

3 A. Yes. In KCPL's 2006 rate case, No. ER-2006-0314, the Commission ordered  
4 that KCPL be allowed to recover an annual level of \$4.5 million for ice storm costs that were  
5 incurred by KCPL in 2002 and deferred under an Accounting Authority Order (AAO).  
6 The closest test year to the year KCPL incurred the ice storm cost in 2002, was three years  
7 later in the 2005 test year ordered by the Commission in KCPL's 2006 rate case.

8 At page 60 of its Report and Order in Case No. ER-2006-0314, the Commission  
9 characterized KCPL's position on ice storm expense recovery as follows: "because the  
10 amortization allowed by the AAO case was in effect during the test year and true-up period,  
11 KCPL asserts that it should be able to recover those costs."

12 Mr. Giles inconsistently argues on the one hand that the Staff's ratemaking treatment  
13 to refund to customers settlement revenues received in a test year related to expenses incurred  
14 in prior years is retroactive ratemaking, but on the other hand, KCPL's seeking rate increases  
15 for costs that were incurred several years prior to a rate case is perfectly appropriate.  
16 This inconsistency reflects a bias in favor of KCPL's shareholders to the detriment of KCPL's  
17 Missouri ratepayers.

18 **RATEMAKING TREATMENT FOR ATYPICAL EXPENSES OR REVENUES**

19 Q. Earlier you referred to KCPL's inconsistency in how it applies ratemaking  
20 principles to its shareholders and its customers. Has the Staff identified to the Commission  
21 previous examples of KCPL's bias on the part of its shareholders as to ratemaking treatment  
22 of atypical revenue or expenses experienced by KCPL?

1           A.     Yes. In my surrebuttal testimony in KCPL's last rate case, No. ER-2007-0291  
2 I included a chart which supported the conclusion that if the atypical (not a normal or  
3 recurring revenue or expense incurred providing utility service) revenue or expense increases  
4 revenue requirement, then it appears that KCPL will automatically propose recovery through  
5 an amortization and seek inclusion of the item in rate base. If the atypical revenue or expense  
6 decreases revenue requirement, then KCPL instinctively asserts that any attempt to include  
7 the item in cost of service is retroactive ratemaking. My update to this chart includes the  
8 proposed treatments of KCPL and the Staff on the issues of Hawthorn 5 SCR settlement and  
9 the Hawthorn Transformer settlement issue addressed in a separate part of this testimony.

10           Q.     Please explain your analysis.

11           A.     Several of the issues center around the question of how the Commission should  
12 treat certain expenses or revenues that KCPL paid or received in the test year that are atypical  
13 because they are incurred on a infrequent or irregular basis. The atypical revenues and  
14 expenses that KCPL recognized on its books and records in the test year in Case  
15 No. ER-2007-0291 were the Hawthorn 5 subrogation proceeds (revenues), Wolf Creek DOE  
16 refund (revenues) and STB deferred expenses.

17           My analysis also included the Staff's and KCPL's proposed rate treatment for  
18 irregular or nonrecurring issues decided by the Commission in KCPL's 2006 rate case,  
19 Case No. ER-2006-0314, and the 2007 rate case. These items were also included in the  
20 analysis and reflected in the chart below. The chart shows how rate recognition of the issue  
21 would affect KCPL's revenue requirement and it shows how KCPL and the Staff are  
22 recommending that the Commission treat these issues for ratemaking purposes in this case.



Surrebuttal Testimony of  
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<b>KCPL Positions</b>	RR Impact	Rate Base	Amortization	No Ratemaking
January 2002 Ice Storm	Increase	X	X	
Deferred Costs-LED-LDI Project	Increase	X	X	
Deferred Costs CROPDP-KCPL Project	Increase	X	X	
STB Litigation Costs	Increase	X	X	
Hawthorn 5 Subrogation Proceeds	Decrease			X
DOE Nuclear Fuel Refund	Decrease			X
Hawthorn 5 SCR Warranty Settlement	Decrease			X
Hawthorn Transformer Settlement	Decrease			X

<b>Staff Positions</b>	RR Impact	Rate Base	Amortization	No Ratemaking
January 2002 Ice Storm	Increase		X	
Deferred Costs-LED-LDI Project	Increase		X	
Deferred Costs CROPDP-KCPL Project	Increase		X	
STB Litigation Costs	Increase		X	
Hawthorn 5 Subrogation Proceeds	Decrease		X	
DOE Nuclear Fuel Refund	Decrease		X	
Hawthorn 5 SCR Warranty Settlement	Decrease	X		
Hawthorn Transformer Settlement	Decrease	X		

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Q. What does your updated analysis in this case show?

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A. My analysis continues to show that when the issue is an atypical expense that increases revenue requirement, KCPL seeks not only to recover the expense through an amortization but also seeks to earn a profit on this atypical expense by seeking rate base treatment of the expense. Including a deferred expense in rate base treats the deferred expense as an asset necessary in the provision of utility service and allows recovery of capital costs, including shareholder profit on the deferred expense.

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Conversely, when the issue is related to an atypical revenue or expense and allowing rate treatment would decrease revenue requirement, KCPL opposes any ratemaking consideration whatsoever and would consider rate treatment to be retroactive ratemaking.

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This chart demonstrates an existence of bias on the part of KCPL in relation to the ratemaking treatment of these unusual or nonrecurring issues. The bias is in favor of its shareholders and detrimental to its customers. KCPL favors its shareholders by seeking the best possible rate treatment (amortization recovery and rate base treatment) on all the issues

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1 listed. Conversely, the positions taken by KCPL reflect a bias against its own customers by  
2 seeking the worst possible ratemaking treatment for them on all of the issues.

3 Q. How do the Staff's positions contrast with KCPL's positions on these issues?

4 A. As the chart above indicates, the Staff's position on each of these issues is  
5 consistent. The Staff believes that all of the issues listed above are related to  
6 KCPL's provision of regulated utility service and therefore should be reflected in rates  
7 through an inclusion of an amortization expense in cost of service or reflected in rate base  
8 when the event is capital in nature.

9 The Staff's recommended ratemaking treatment of these issues is consistent whether  
10 or not the issue increases or decreases revenue requirement. The Commission should  
11 consider the consistency of the Staff's positions and the inconsistency of KCPL's positions as  
12 it rules on the evidence in support of the appropriate rate treatment of each individual issue to  
13 be decided in this case. The Staff also recommends that the Commission consider this  
14 evidence of inherent bias on the part of KCPL when it considers the credibility of the  
15 witnesses on this issue and other related issues.

16 **WOLF CREEK REFUELING OUTAGE**

17 Q. What is the Staff's proposed treatment of the Wolf Creek refueling outage cost  
18 in this case?

19 A. As stated in the Staff's Cost of Service Report, the Staff left the cost at the  
20 2007 test year amount because this amount represented an appropriate normalized cost for this  
21 activity. Based on a proposal from KCPL, the Staff has agreed to take the unusual and  
22 nonrecurring level of Wolf Creek refueling outage costs it incurred in its most recent  
23 2008 refueling, and amortize this unusual and nonrecurring cost over a period of five years.

1 Q. What is KCPL's position on rate recovery of the costs associated with its most  
2 recent unusual and nonrecurring refueling outage?

3 A. KCPL is taking the position that, although the length and cost of its most  
4 recent refueling outage was significantly higher than its average refueling outage and was for  
5 an outage period not experienced in recent history, the cost of this outage should be included  
6 in its cost of service at this extraordinarily high amount. This position is not reasonable.

7 Q. Should KCPL have normalized this cost?

8 A. Yes. KCPL is seeking recovery of the cost of a highly unusual, excessive and  
9 nonrecurring 55-day outage for Refueling No. 16 for Wolf Creek. The average actual  
10 outage days of the previous four outages from 2002 through 2007 was 38.75 days. None of  
11 these outages exceeded 45 days, as confirmed in the rebuttal testimony of KCPL witness  
12 F. Dana Crawford in this proceeding.

13 KCPL included as a normalized level of costs, the cost of an extended refueling outage  
14 the length of which has never been experienced previously. KCPL would have its ratepayers  
15 pay annual refueling costs that are unusual, nonrecurring and excessive considering the  
16 average length of previous refueling outages. KCPL should have normalized this cost to  
17 reflect an ongoing level of expenses. The fact that KCPL did not normalize this cost in this  
18 rate case is contrary to its public statements that it is attempting to keep costs passed on to its  
19 customers as low as possible.

20 Q. How did Mr. Weisensee characterize the Staff's position on this issue?

21 A. At page 19 of his rebuttal testimony Mr. Weisensee states "Mr. Hyneman  
22 proposes that \$3,637,180 (total company amount) of the Wolf Creek spring 2008 outage costs  
23 be disallowed because the outage lasted longer than "normal." (Emphasis added).

1 Q. Has Mr. Weisensee correctly described the Staff's treatment of this cost?

2 A. No. The Staff made a typical rate case normalization adjustment,  
3 not a disallowance adjustment. As stated in the regulatory accounting text *Accounting For*  
4 *Public Utilities* (Hahne, Aliff), page 7-7, normalizing adjustments are adjustments made to  
5 restate the period data for abnormal conditions." At page 7-8 the authors describe  
6 normalization adjustments as follows:

7 Normalization adjustments are usually made to revenues or to expenses  
8 to offset for unusual operating events leading to these adjustments.  
9 Events that lead to normalization adjustments tend to have an  
10 extraordinary and non-recurring impact on operations. For example:

- 11 (1) Extreme weather conditions can create abnormal levels of sales and/or  
12 costs during the period;
- 13 (2) Normal levels of operations may be delayed or may be accelerated  
14 during the period;
- 15 (3) Employee strikes may cause changes in levels of activities; or
- 16 (4) Extended plant outages may create unusual costs.

17  
18 What Mr. Weisensee characterizes as a "disallowance" is referred to as a  
19 "Reclassified item in *Accounting For Public Utilities* at page 7-11.

20 Reclassified items generally concern activities that are included  
21 in operating accounts under the uniform system of accounts  
22 directives but are disallowed for purposes of fixing rates on the  
23 premise that the costs do not benefit ratepayers. The most  
24 common adjustments include the disallowance of various  
25 advertising costs, charitable contributions, and company  
26 involvement in civic affairs, which, although designated as  
27 operating expenses, are frequently assessed against the equity  
28 holders rather than the ratepayers through  
29 reclassification adjustments.

30 Q. At page 20, Mr. Weisensee states that although the outages lasted longer than  
31 usual, he does not believe normalization is appropriate because the costs were necessary.

32 How does Mr. Weisensee's criterion fit the standard for normalizing costs in a rate case?

1           A.     In essence, on this issue Mr. Weisensee has created a new standard. This new  
2 KCPL standard is that it is appropriate to normalize costs if the normalization results in a  
3 higher cost of service. However, when it comes to this issue and as is the case in this  
4 adjustment, his standard is that it is not appropriate to normalize this cost because it will  
5 reduce cost of service.

6           At page 20, line 6 of his rebuttal testimony, Mr. Weisensee readily admits that this is  
7 KCPL's standard for normalizing costs. He states that no matter how large or unusual the  
8 costs in the test year are (in this case he admits the costs for the Wolf Creek refueling outage  
9 were above normal by \$2.9 million), they should be included in cost of service as a  
10 normalized level of recurring cost if the costs are, as Mr. Weisensee states "appropriate".

11     **"BUSINESS EXPENSE" DISALLOWANCES**

12           Q.     At page 21 of his rebuttal testimony Mr. Weisensee states that the Staff has  
13 brought to KCPL's attention costs that should not be included in cost of service. KCPL has  
14 also, subsequent to its rate filing determined that certain other costs should be disallowed.  
15 Despite the fact that KCPL states that these costs are not necessary for a utility in its provision  
16 of utility service, Mr. Weisensee states that all of the costs are appropriate business expenses.  
17 Please comment.

18           A.     As noted in the Staff's Cost of Service Report, the Staff made an adjustment  
19 that reflects its estimate of potential costs charged to KCPL's 2007 books and records as a  
20 result of excessive and or inappropriate charges made by KCPL and GPE officers through  
21 their officer expense reports. These costs were not only excessive and inappropriate from a  
22 regulated utility standpoint, but from a normal business expense standpoint as well.

1 In addition, these excessive and inappropriate charges have been occurring at KCPL at least  
2 since 2005, when the Staff first started reviewing officer expense reports.

3 Q. Is the Staff's concern with KCPL and GPE's officer expense report charges  
4 alleviated as a result of the proposed adjustment noted at page 21 of Mr. Weisensee's rebuttal  
5 testimony?

6 A. No. Staff is concerned not only with the potential for excessive and  
7 inappropriate charges being included in KCPL's cost of service in this case, but with also the  
8 continued lack of internal controls on the officer expense report process and the general lack  
9 of concern on the part of Company management about costs charged to regulated operations  
10 through officer expense reports.

11 In a press release issued on September 5, 2008 announcing the filing of the Missouri  
12 rate case, Michael Chesser, GPE's CEO stated GPE and KCPL will continue to focus on  
13 keeping costs as low as possible. In my experience auditing KCPL over these past three  
14 years, especially in the area of officer expense report expenses, I have not seen any focus on  
15 the part of KCPL's officers on keeping costs as low as possible. In fact, my experience in  
16 auditing KCPL in three successive rate cases leads me to conclude that there is no concern  
17 about the level of costs that KCPL will attempt to pass on to its Missouri ratepayers.

18 Q. Has the Staff accepted KCPL's \$3.6 million total company offer  
19 of disallowances?

20 A. No, not at this time. The Staff has had preliminary discussions with  
21 KCPL about changes in its officer expense report process in which significant deficiencies  
22 have been noted regarding certain costs being charged to regulated operations. As yet,

1 KCPL has been unwilling to commit to the Staff that it will make any specific changes to fix  
2 this problem.

3 In its direct filing the Staff indicated it will continue its audit of officer expense  
4 reports. However, KCPL has refused to provide any information to the Staff in this area as it  
5 has refused to respond to Staff data requests seeking this information.

6 KCPL is being very uncooperative with the Staff on this issue, and this lack of  
7 cooperation does not permit the Staff to verify whether or not KCPL is seeking recovery of a  
8 proper level of costs. Whenever the Staff asks a specific question about a particular officer's  
9 expense report, KCPL's simply refuses to provide the information and states the cost was  
10 incorrectly included in cost of service and will be removed. This is not an appropriate level of  
11 transparency.

12 Q. When KCPL objects to all of the data requests on the officer expense reports and  
13 simply responds that it is not seeking this cost in rates, is this answer sufficient?

14 A. No. A cost can be reflected in utility rates currently or in the future other than  
15 by direct recognition in the expense accounts and rate base. To ensure that the inappropriate  
16 and excessive officer expense report costs will not be passed on to its ratepayers, KCPL must  
17 provide answers to each of the following question for each of the data requests submitted by  
18 the Staff on this issue:

- 19 1. Did KCPL remove the capitalized portion of these costs from its plant in  
20 service and CWIP accounts?
- 21 2. Has KCPL taken any steps to prevent the activities underlying these costs  
22 from being a cash drain on its operations in the future? If "yes," what  
23 steps?
- 24 3. Are any of these costs included in the calculation of its "additional  
25 amortization" in this case? If "yes," will these costs be removed?

1                   4. Has KCPL charged the partners to its Iatan 1 and 2 projects, other Missouri  
2 regulated utilities, a portion of these costs? If so, will its partners, other  
3 Missouri regulated utilities) be reimbursed?

4                   5. Are any of these costs included in the common costs KCPL is proposing to  
5 transfer from Iatan 2 to Iatan 1? If “yes,” will these costs be removed?

6                   Unless KCPL provides answers to the above questions in all of the Staff’s current and  
7 future data requests on this issue and KCPL commits in writing that it will make significant  
8 changes to its officer expense report process and commits to specific changes, the Staff is  
9 unable to accept KCPL’s proposed \$3.6 million adjustment.

10                  The Staff is in the process of pursuing the data request issues. If KCPL continues to  
11 refuse to cooperate with the Staff on this issue, the Staff will be forced to impute an  
12 adjustment based on estimations and projections and present this as a major issue in its true up  
13 hearings in this case. This is not how this adjustment should be addressed, however, due to  
14 KCPL’s refusal to provide answers to Staff data requests or identify how it will fix significant  
15 and recurring officer expense report problems, the Staff is forced to address this issue in this  
16 manner. Because of the nature of the material that will have to be addressed in litigation, the  
17 Staff is not looking forward to this process and hopes that this issue can be resolved soon.

18                  Q.     Is the Staff attempting to dictate to KCPL what specific internal control  
19 procedures it should put in place to fix the problems with officer expense reports that both the  
20 Staff and KCPL have noted exist?

21                  A.     No.    The Staff is not willing to set internal control policies for  
22 KCPL, but is willing to assist KCPL in the development of new internal control procedures.  
23 It is also willing to provide an opinion as to the potential effectiveness and necessity of any  
24 proposed internal control designed to address the officer expense report problem. The officer  
25 expense report problem has been in existence for several years and GPE and KCPL have



Surrebuttal Testimony of  
Charles R. Hyneman

1 failed to correct it. The Staff has been very patient with KCPL but its patience is wearing  
2 thin. The Staff believes the time to fix the problem is now and it will do everything it can to  
3 encourage KCPL in this direction.

4 Q. Does this conclude your surrebuttal testimony?

5 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 CHARLES R. HYNEMAN**

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF COLE )

Charles R. Hyneman, 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 95 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.

  
\_\_\_\_\_  
Charles R. Hyneman

Subscribed and sworn to before me this 7<sup>th</sup> 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

  
\_\_\_\_\_  
Notary Public

**KANSAS CITY POWER & LIGHT COMPANY**  
**CASE NO. ER-2009-0089**  
**MISSOURI REVENUE REQUIREMENT**  
**SCHEDULE 1 - SUMMARY OF OPERATING INCOME & RATE BASE**  
**2005 UPDATED TEST YEAR INCLUDING KNOWN & MEASURED TO 9-30-06 (SEPT TRUE UP)**

DESCRIPTION	SYSTEM TOTAL	ADJUSTMENTS	ADJUSTED TOTAL
<b>OPERATING EXPENSES</b>			
FUEL	207,874,877	(34,586,944)	173,287,933
PURCHASED POWER	61,262,760	(24,159,609)	37,103,151
<b><u>OTHER OPER &amp; MAINT EXPENSES</u></b>	<b><u>355,820,121</u></b>	<b><u>36,135,425</u></b>	<b><u>391,955,546</u></b>
DEPRECIATION EXPENSE	138,042,948	(7,514,266)	130,528,682
AMORTIZATION EXPENSE	8,505,032	12,084,877	20,589,910
INTEREST ON CUSTOMER DEPOSITS - MO	0	457,159	457,159
INTEREST ON CUSTOMER DEPOSITS - KS	0	43,128	43,128
TAXES OTHER THAN INCOME TAXES	104,780,168	(34,728,619)	70,051,549
FEDERAL AND STATE INCOME TAXES	55,964,278	(14,657,073)	41,307,205
TOTAL ELECTRIC OPER. EXPENSES	932,250,184	(66,925,923)	865,324,262

**KANSAS CITY POWER & LIGHT COMPANY**  
**CASE NO. ER-2009-0089**  
**MISSOURI REVENUE REQUIREMENT**  
**SCHEDULE 2 - SUMMARY OF OPERATING INCOME**  
**2007 TEST YEAR INCLUDING KNOWN & MEASURED TO 09-30-2008**

<b>DESCRIPTION</b>	<b>SYSTEM TOTAL</b>	<b>ADJUSTMENTS</b>	<b>ADJUSTED TOTAL</b>
<b>OPERATING EXPENSES</b>			
FUEL	245,522,558	(14,803,753)	230,718,805
PURCHASED POWER	101,035,191	(45,773,290)	55,261,901
<b><u>OTHER OPER &amp; MAINT EXPENSES</u></b>	<b><u>372,994,474</u></b>	<b><u>93,750,526</u></b>	<b><u>466,745,000</u></b>
DEPRECIATION EXPENSE	140,523,111	15,027,980	155,551,091
AMORTIZATION EXPENSE	35,032,043	29,771,905	64,803,948
INTEREST ON CUSTOMER DEPOSITS - MO	0	463,743	463,743
INTEREST ON CUSTOMER DEPOSITS - KS	0	90,512	90,512
TAXES OTHER THAN INCOME TAXES	113,006,328	(36,667,974)	76,338,354
FEDERAL, STATE, & CITY INCOME TAXES	70,364,105	(69,885,440)	478,665
<b>TOTAL ELECTRIC OPER. EXPENSES</b>	<b>1,078,477,810</b>	<b>(28,025,791)</b>	<b>1,050,452,019</b>