

requirement deficiency – estimated at \$1,478,969 on the basis of the November 2017 surveillance report – even when the reduced federal tax rates are included in the revenue requirement calculation. If the Commission requires deferral of the cost of service impact of the lower tax rates of the TCJA as of the effective date of the January 1, 2018 this would drive GMO’s steam revenue requirement deficiency even higher, and would, in all likelihood, require GMO to file a rate case sooner than it otherwise would.

4. There are also other ongoing matters which will likely affect the cost of service of GMO’s steam operations: (1) The GMO electric case (Case No. ER-2018-0146) may result in a change in the electric/steam cost allocations that could have a material impact on the cost of steam service; and (2) Significant capital expenditures are planned in 2018 for the Lake Road facility (which is used to serve both GMO’s steam service and electric service customers) that would also increase the cost of steam service. These factors may warrant a rate case for the GMO Steam service that could be filed in the first quarter of 2019. In light of TCJA and these other factors, GMO is willing at this time to commit to filing a general rate case for its steam business no later than March 31, 2019.

5. As part of its response to order to show cause opening this docket, GMO has advised the Commission as to its position on whether the impact of the TCJA is like the gross receipts tax analyzed in *State ex rel. Hotel Continental v. Burton*, 334 S.W.2d 75 (Mo. 1960) (“*Hotel Continental*”) and the natural gas commodity costs considered in *State ex rel. Midwest Gas Users’ Association v. Public Service Commission*, 976 S.W.2d 470, 478 (Mo. App. W.D. 1998) (“*Midwest Gas Users*”), such that the Commission may order a reduction in utility rates without considering all relevant factors in an extended general rate case. The cases cited above do not permit the Commission to order a reduction in utility rates due to the impact of TCJA without considering all relevant factors in a general rate case. Unlike income taxes which are considered in general rate

cases and are embedded in base rates, gross receipts taxes (for all utilities) and gas commodity costs (for natural gas local distribution companies) are treated separately from base rates and recovered through a tax adjustment (TA) and a purchased gas adjustment (PGA), respectively. Such disparate treatment clearly distinguishes the costs subject to the TA and PGA mechanisms addressed, respectively, in *Hotel Continental* and *Midwest Gas Users* from the income tax expenses which are the subject of this proceeding.

6. In the past, the Commission has rejected the positions of KCP&L and GMO that AAOs and trackers were appropriate for such items as property taxes, transmission expenses, and critical infrastructure protection and cyber-security expenses. See Report and Order, Re Kansas City Power & Light Company, Case No. ER-2014-0370, pp. 50-59 (Sept. 2, 2015); Report and Order, Re: Kansas City Power & Light Co./KCP&L Greater Missouri Operations Company, Case Nos. ER-2012-174/ER-2012-0175, pp. 28-32 (January 9, 2013). In such cases, the Commission has found that AAOs and trackers were not appropriate since they did not involve “extraordinary expenses.” Instead, the Commission has rejected such AAOs and trackers on the grounds that the expenses were “normal, ordinary and recurring costs.” *Id.*

7. In the pending Liberty Utilities natural gas case, Case No. GR-2018-0013, Staff witness Mark Oligschlaeger has explained the Commission’s past practice related to AAOs as follows:

Typically, AAOs have been used to allow utilities to capture certain unanticipated and “extraordinary” costs that are not considered to be included in their ongoing rate levels. The term “extraordinary costs” has been defined as costs associated with an event that is unusual, unique, and non-recurring in nature. The classic example of an extraordinary event is the occurrence of a natural disaster, such as a wind or ice storm, or major flood that affects a utility’s service territory. (Oligschlaeger Rebuttal, pp. 6-7)

8. Federal income taxes are not extraordinary, unusual, unique, and non-recurring costs. Nor are they analogous to natural disasters such as wind or ice storms, or major floods.

Instead, they are “normal, ordinary and recurring operation costs” as the Commission has used the terms in past rate cases. Fairness and equity require the Commission decline to authorize or establish an AAO or tracker for normal income taxes that happen to be declining when the Commission has routinely rejected the requests of public utilities for AAOs or trackers for similar expenses that have been volatile and/or increasing. That GMO’s steam business is currently operating with a revenue requirement deficiency which is expected to increase in the near future is one more reason the Commission should not order an AAO regarding TCJA for GMO’s steam business, particularly in light of GMO’s willingness to commit to filing a general rate case for its steam business no later than March 31, 2019.

WHEREFORE, for all the foregoing reasons, the Commission should not issue an accounting authority order in this case regarding GMO’s steam business.

Respectfully submitted,

/s/ James M. Fischer

James M. Fischer, MBN 27543
Fischer & Dority, P.C.
101 Madison, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758
Facsimile: (573) 636-0383
E-Mail: jfischerpc@aol.com

Robert J. Hack, MBN 36496
Roger W. Steiner, MBN 39586
Kansas City Power & Light Company
1200 Main Street, 19th Floor
Kansas City, MO 64105
Telephone: (816) 556-2314
Facsimile: (816) 556-2110
E-Mail: Rob.Hack@kcpl.com
Roger.Steiner@kcpl.com

**Attorneys for KCP&L Greater Missouri
Operations Company**

CERTIFICATE OF SERVICE

I do hereby certify that on the 17th day of May, 2018, I electronically filed via the Electronic Filing Information System (EFIS), a true and correct copy of the above and foregoing with a copy emailed to counsel for all parties of record.

/s/ Roger W. Steiner _____
**COUNSEL FOR KCP&L GREATER MISSOURI
OPERATIONS COMPANY**