

Exhibit No.:
Issue: Property Tax Expense
Crossroads Deferred Income Tax
Reserve
Witness: Melissa K. Hardesty
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: KCP&L Greater Missouri
Operations Company
Case No.: ER-2009-0090
Date Testimony Prepared: April 9, 2009

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO. ER-2009-0090

SURREBUTTAL TESTIMONY

OF

MELISSA K. HARDESTY

ON BEHALF OF

KCP&L GREATER MISSOURI OPERATIONS COMPANY

**Kansas City, Missouri
April 2009**

SURREBUTTAL TESTIMONY

OF

MELISSA K. HARDESTY

CASE NO. ER-2009-0090

1 **Q: Are you the same Melissa K. Hardesty who submitted Rebuttal Testimony in this**
2 **case on behalf of KCP&L Greater Missouri Operations Company (“GMO” or the**
3 **“Company”), on or about March 13, 2009?**

4 **A: Yes, I am.**

5 **Q: What is the purpose of your Surrebuttal Testimony?**

6 **A: The purpose of my testimony is to rebut testimony of Staff’s Utility Regulatory Auditors,**
7 **Karen Herrington concerning property taxes and Chuck Hyneman concerning**
8 **accumulated deferred income tax reserves related to the Crossroads Energy Center**
9 **(“Crossroads”).**

10 **PROPERTY TAXES**

11 **Q: Please address the concerns regarding Ms. Herrington’s property tax rebuttal**
12 **testimony.**

13 **A: While I disagree with many points Ms. Herrington has made regarding the GMO**
14 **approach used in its direct filing to annualize property tax expense, most of her points are**
15 **not relevant at this point in the case and therefore I am not going to address them in my**
16 **surrebuttal. In the true-up for this case, the Company is simply going to utilize actual**
17 **2008 property tax costs billed and paid as of December 31, 2008; that is, known and**
18 **measurable costs. Staff has indicated a willingness to do likewise, although in its**
19 **Rebuttal Testimony Staff has kept its options open to other methods.**

1 **Q: If both parties utilize 2008 actual property tax costs incurred, will there then be any**
2 **property tax expense differences between the parties at true-up?**

3 A: There is likely to be one difference, as Ms. Herrington expressed concern in her Rebuttal
4 Testimony regarding the inclusion of 2008 property tax expense actually incurred in 2008
5 related to the Iatan 1 Air Quality Control System (“AQCS”). These property taxes were
6 capitalized to Iatan 1 construction work orders in 2008 and are being used as a basis for
7 estimating the amount of property tax expense related to the AQCS for 2009.

8 **Q: What is Ms. Herrington’s concern about including in cost of service in this case 2008**
9 **cost actually incurred on the AQCS?**

10 A: Ms. Herrington indicated (page 4, lines 21–23 and page 5, lines 1-3) that “if Staff
11 included the estimated property taxes for Iatan I plant additions, which GMO-L&P will
12 be partial owner, Iatan 1 is currently expected to be completed in April 2009, the
13 Company would receive funds from the ratepayers even though the property tax on the
14 Iatan I additions (or any other additions places in service after January 1 assessment date)
15 would not be paid to the taxing authorities until December 31, 2010.” References were
16 also made to several Commission rulings that concluded that certain projected property
17 taxes were not known and measurable and therefore were not includable in the revenue
18 requirement.

19 **Q: Do you agree with Ms. Herrington’s concerns?**

20 A: No, I do not. The taxes at issue on the Iatan 1 AQCS in the amount of \$126,425 are not
21 projected but rather actual property taxes that were paid in December 2008. Furthermore,
22 not only will these taxes be incurred in future years just as other property taxes that were
23 expensed in 2008, but they will be significantly higher as the project costs of the AQCS

1 as of January 1, 2009 (the assessment date for the 2009 taxes to be payable in 2009) was
2 almost three times the cost of the project at January 1, 2008 (the assessment date for the
3 2008 taxes which were paid in 2008).

4 **Q: Does Ms. Herrington make any other comments which you disagree with?**

5 A: Yes. Ms. Herrington states (page 5, lines 10 – 13) that “the construction related costs for
6 Iatan 1 (and all other construction costs) were assessed January 1, 2009 (to be paid
7 December 31, 2009) and were capitalized to the Iatan 1 construction work order.”
8 Although not entirely clear, it appears that Ms. Herrington is stating that the entire
9 amount of 2009 property taxes on construction costs related to Iatan 1 would be
10 capitalized to Iatan 1 construction work orders.

11 **Q: Why do you disagree with statement?**

12 A: Since the AQCS project will be completed in April 2009, the vast majority of the 2009
13 property taxes will be expensed in 2009. Again, not only will the amount of the 2009
14 taxes (to be paid in 2009) on the AQCS greatly exceed the actual 2008 taxes (all paid in
15 2008), but it is clear that the amount of 2009 taxes paid and expensed in 2009 will also
16 exceed the amount of the actual 2008 taxes at issue.

17 **Q: Do you have any additional comments on this issue?**

18 A: Yes. While Staff has been willing to consider ratios to determine appropriate levels of
19 property tax expense, it is clear that the Company is taking a conservative approach by
20 only seeking the actual 2008 taxes. Any additional tax which exceeds the 2008 tax
21 assessed and paid on the AQCS for project construction costs incurred after January 1,
22 2008 will be included in future rate cases even though such additional tax will be paid
23 and expensed during 2009.

1 **CROSSROADS ACCUMULATED DEFERRED INCOME TAXES**

2 **Q: Please address concerns with Mr. Hyneman’s testimony related to accumulated**
3 **deferred income taxes associated with Crossroads.**

4 A: Mr. Hyneman is correct when he states in his Rebuttal Testimony on Page 18, line 20-22
5 that GMO is proposing that the accumulated deferred taxes associated with Crossroads
6 recorded while it was owned by the non-regulated subsidiary should not be transferred to
7 GMO’s regulated operations. However, the Company disagrees that it is an unfair
8 attempt to increase its cost of service in this case.

9 **Q: Please explain why the accumulated deferred taxes should not be transferred to the**
10 **regulated operations.**

11 A: As per Staff witness Paul R. Harrison’s testimony on page 142 of the Staff Report,

12 MPS’s and L&P’s deferred income tax reserve represents, in effect, a
13 prepayment of income taxes by MPS’s customers. As an example,
14 because MPS and L&P are allowed to deduct depreciation expense on an
15 accelerated basis for income tax purposes, depreciation expense used for
16 income taxes is significantly higher than depreciation expense used for
17 financial reporting (book purposes) and for ratemaking purposes...The net
18 credit balance in the deferred tax reserve represents a source of cost-free
19 funds to MPS and L&P. Therefore, MPS’s and L&P’s rate base is
20 reduced by the deferred tax reserve balance to avoid having customers pay
21 a return on funds that are provided cost-free to the Company.

22 The deferred taxes related to the Crossroads units prior to the transfer to GMO-MPS were
23 never a prepayment of income taxes by GMO-MPS’s customers or any other customer in
24 a regulated environment. Therefore, the Company does not believe that it is appropriate
25 to reduce its rate base for these deferred taxes.

26 **Q: Are deferred taxes generally transferred on the sale of an asset?**

27 A: If an asset that has been included in a regulated environment since it was constructed or
28 purchased, the deferred taxes associated with that asset are generally required to be

1 included as a reduction to rate base for the purchasing Company. This procedure ensures
2 that customers who provided “cost-free” funds do not have to pay a return on those funds
3 when they are transferred to a different but also regulated entity. In this case, the
4 Crossroads units’ accelerated tax benefits were never a source of “cost-free” funds for
5 GMO-MPS or any other regulated entity. Therefore, it is not appropriate to reduce the
6 rate base of Crossroads by the amount of deferred taxes generated while it was owned by
7 the non-regulated subsidiary.

8 **Q: Mr Hyneman suggests on page 18 of his rebuttal testimony that the Company is**
9 **attempting to unfairly increase its cost of service in this case by not reducing the**
10 **Crossroads rate base by the amount of the deferred taxes, do you agree?**

11 A: No. Since the GMO ratepayers never funded the tax deferrals, there is no danger that
12 they will have to pay a return on “cost-free” funds provided by the ratepayers. GMO’s
13 treatment is fair to both the ratepayers and the shareholders.

14 **Q: Does that conclude your testimony?**

15 A: Yes, it does.

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

In the Matter of the Application of KCP&L Greater)
Missouri Operations Company to Modify Its) Case No. ER-2009-0090
Electric Tariffs to Effectuate a Rate Increase)

AFFIDAVIT OF MELISSA K. HARDESTY

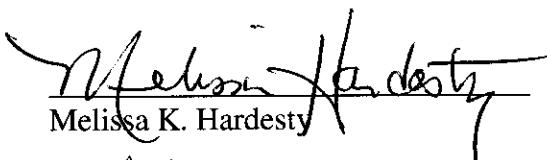
STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Melissa K. Hardesty, being first duly sworn on her oath, states:

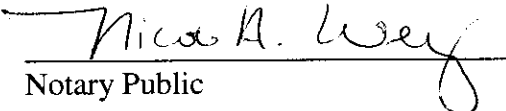
- 1. My name is Melissa K. Hardesty. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company as Director, Taxes.

- 2. Attached hereto and made a part hereof for all purposes is my Surrebuttal Testimony on behalf of KCP&L Greater Missouri Operations Company consisting of five (5) pages ~~and Schedule(s) _____ through _____~~, having been prepared in written form for introduction into evidence in the above-captioned docket.

- 3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.


Melissa K. Hardesty

Subscribed and sworn before me this 9th day of ~~March~~ ^{April} 2009.


Notary Public

My commission expires: Feb 4, 2011

