

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

In the Matter of Kansas City Power & Light )  
Company's Request for Authority to Implement ) ER-2012-0174  
General Rate Increase for Electric Service. )

In the Matter of KCP&L Greater Missouri )  
Operations Company's Request for Authority to ) ER-2012-0175  
Implement General Rate Increase for Electric )  
Service. )

**THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE  
TO MOTION TO STRIKE**

COMES NOW the Office of the Public Counsel (Public Counsel) and for its Response to Motion to Strike states as follows:

1. On November 14, 2012, Kansas City Power & Light and KCP&L Greater Missouri Operations Company (the Companies) filed a Motion to Strike True-Up Direct Testimony of Michael P. Gorman in each of the above stated cases. In the filings, the Companies claim that Mr. Gorman's testimony is not proper true-up testimony and asks that the Missouri Public Service Commission (Commission) strike his testimony in the true-up proceedings for these cases.
2. On November 15, 2012, the Commission issued a Corrected Order Setting Time for Filing which ordered any response to the Companies' motions to strike to: (1) cite authority defining a true-up; and (2) show that the definition cited in the response includes the testimony challenged in the motion.

3. In its Order Determining Relevant Periods and Other Matters, issued April 19, 2012, in both the above stated cases, the Commission determined the relevant time periods as:

- Test year: 12 months ending September 31, 2011;
- Update for known and measurable changes: period through March 31, 2012; and
- True-up: period ending August 31, 2012.

4. As stated in the Companies' motion, a true-up is defined as an adjustment of the test year established in a rate case to take into account known and measurable changes up to a specific date.<sup>1</sup>

5. Mr. Gorman's testimony meets the definition for true-up testimony because it is focused on adjustment of the test year capital structure established in these rate cases to take into account known and measurable changes up to the end of the true-up period. In his True-Up Direct Testimony for each of these cases, Mr. Gorman indicates that the purpose of his testimony is to comment on the need for a balanced capital structure for the Companies' true-up period in this proceeding.

6. Capital structure is a common true-up item in a rate case. The effect of a company's capital structure often changes during the timeframe between the test year and the end of the true-up period. To that end, the body of Mr. Gorman's testimony explains his concern regarding the effect of the Companies' decisions regarding the use of short-term debt on the capital structure at the end of the test-year period:

Since the objective is to set a revenue requirement to allow KCPL and KCP&L GMO to recover their actual and reasonable cost of service, this short-term debt must be included in the ratemaking capital structure because it represents a component of the utilities' capital that is being used to fund their rate base investments.

Therefore, it is clear that Mr. Gorman's testimony meets the definition for true-up testimony.

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<sup>1</sup> *State ex rel. GTE North, Inc. v. PSC*, 835 S.W.2d 356, 368 (Mo. App. W.D. 1992); *State ex rel. Missouri PSC v. Fraas*, 627 S.W.2d 882, 888 (Mo. App. W.D. 1981).

7. Seemingly as justification for their motion, the Companies state:

Nevertheless, Mr. Gorman improperly responds to Mr. Bryant's hearing testimony during the one post-hearing opportunity that the Commission provides merely to add to the record more timely and accurate figures that were not available during the case-in-chief.

However, this goes against the idea that a true-up is defined as an adjustment of the test year established in a rate case to take into account known and measurable changes up to a specific date.

8. A true-up period takes into account all changes that occur on relevant issues up to and including the end date of the true-up period.<sup>2</sup> As such, a true-up is not restricted to information that was not available during the case-in-chief, but also includes the effects of known and measurable changes to an issue which occur up to and including the end date of the true-up period. For example, the true-up period may include plant that would not go into use during the test-year but may go into use before the end of the true-up period. The information pertaining to the plant was available during the case-in-chief, but the effect of the addition of the plant as useful is a true-up item which adjusts the test year.

9. In this case, by the Companies using short term debt to fund long term debt until after the rate case is over, it is clear that the timing would avoid true-up treatment. The true-up period reflects the first opportunity for the parties to offer testimony on the effect of this decision on a capital structure which reflects the long term debt refinancing the way the Companies asserted it actually happened.

10. Because Mr. Gorman's testimony meets the definition for true-up testimony in that it is focused on adjustment of the test year capital structure established in these rate cases to take into account known and measurable changes up to the end of the true-up period, Public Counsel asks

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<sup>2</sup> ER-2009-0090, Order Modifying Procedural Schedules for True-Up Proceedings and Formally Adopting Test Year and Update Period, March 18, 2009.

the Commission to deny the Motion to Strike True-Up Direct Testimony of Michael P. Gorman filed in each of the above stated cases.

11. However, if the Commission grants the Companies' motion to strike Mr. Gorman's true-up direct testimony, Public Counsel asks that the Commission also strike all true-up rebuttal testimony filed in response to Mr. Gorman's true-up direct testimony.

**WHEREFORE**, Public Counsel respectfully submits its Response.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the parties of record this 16<sup>th</sup> day of November 2012:

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