PUBLIC

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Kansas City Power & Light Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2015-0240
In the Matter of KCP&L Greater Missouri Operations Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2015-0241

INITIAL POST-HEARING BRIEF OF KANSAS CITY POWER & LIGHT COMPANY AND KCP&L GREATER MISSOURI OPERATIONS COMPANY

Robert J. Hack MBN 36496
Roger W. Steiner MBN 39586
Kansas City Power & Light Company
1200 Main Street, 16th Floor
Kansas City, MO 64105
(816) 556-2785 (Phone)
(816) 556-2787 (Fax)
rob.hack@kcpl.com
roger.steiner@kcpl.com

James M. Fischer MBN 27543
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
(573) 636-6758 (Phone)
(573) 636-0383 (Fax)
jfischerpc@aol.com

Attorneys for Kansas City Power & Light Company
and KCP&L Greater Missouri Operations Company

Table of Contents

Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") (collectively, the "Company") submit this Initial Post-Hearing Brief ("Brief") in accord with the Missouri Public Service Commission's ("Commission" or "PSC") Order Revising Procedural Schedule issued December 3, 2015.

I. Introduction.

Energy efficiency is at a crossroads in Western Missouri. The Company's Missouri Energy Efficiency Investment Act ("MEEIA") Cycle 1 was very successful in helping customers use less energy. MEEIA Cycle 1 aligned the interests of the Company with the customers' interest in using less energy and saving money. However, the Company's Cycle 1 energy efficiency programs expired on December 31, 2015. The Company wishes to continue providing energy efficiency programs and has filed a Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings ("Stipulation") that would allow it to offer MEEIA Cycle 2 programs. The Company and the signatory parties worked hard to craft an agreement that could be approved by the Commission in sufficient time for a seamless transition between Cycle 1 and Cycle 2. However, due to the objection to the Stipulation by Brightergy, LLC, Cycle 1 MEEIA programs expired before the Cycle 2 programs could be approved. This gap in the availability of MEEIA programs will likely lead to customer, trade ally and vendor uncertainty and has stopped Missouri's energy efficiency momentum.

This gap in the offering of MEEIA programs is unfortunate, not only because of missed opportunities, but because there is no reason, other than Brightergy's self-serving objection, why the Cycle 2 programs should not be currently in place. The Stipulation crafted by the parties was designed to meet all of the requirements recently enunciated by the Commission regarding MEEIA programs as well as the MEEIA statute.

II. The Commission Should Approve the MEEIA Cycle 2 Programs and Demand-Side Investment Mechanism ("DSIM") As Set Forth in The Stipulation Filed November 23, 2015.

MEEIA Cycle 2 will continue to build on the success of MEEIA Cycle 1 programs and leverage the experience gained from Cycle 1 to broaden the Company's demand-side management ("DSM") offerings, continue to improve customer participation and enhance customer experience. Ex. 100, Rush Direct, p. 4, ll. 13-16. The overall benefits from the MEEIA plan are $137 million for KCP&L and $139 million for GMO. Id. at ll. 9-10.

The Cycle 2 programs pass the total resource cost test and other evaluations that demonstrate that they are cost effective. Ex. 100, Rush Rebuttal, p. 9, ll. 11-12. The MEEIA 2 recovery mechanism allows for the contemporaneous recovery of program costs and the throughput disincentive. The Company is able to receive a financial incentive if it is able to demonstrate both energy savings and demand savings through its programs. Id. at p. 10, ll. 6-9.

The objection to the Stipulation by Brightergy does not criticize the majority of Cycle 2's demand side portfolio, technical resource manual, Evaluation, Measurement and Verification ("EM&V") plan and DSIM nor does the objection change the fact that every one of these elements meets all requirements of the MEEIA statute. Ex. 202, Rogers Surrebuttal, p. 5, ll.14-15. Brightergy objects to two aspects of the MEEIA plan that Brightergy believes will have a negative financial impact on its bottom line. Brightergy asks the Commission to either reject the Stipulation or order the parties to continue negotiating. The Commission should reject Brightergy's attempt to hijack this proceeding for its benefit.

Brightergy first requests the Commission to order the parties back to negotiations as the Commission did in the recent Ameren MEEIA case. Ex. 500, Blake Rebuttal, p. 1, ll. 38-39. The Commission did order the Ameren parties back to the negotiating table and the results were not successful. The same result would likely happen in this case. The parties have already

engaged in months of negotiations which resulted in numerous versions of the Stipulation, with give and take on all sides. Tr. 216. The Stipulation is the result of extensive negotiations which included detailed evaluations of programs and recovery mechanisms. Ex. 101, Rush Surrebuttal, p. 2, ll. 9-13. Following the filing of the Stipulation, the Company and Brightergy engaged in further negotiations. Tr. 253. The Company does not believe that further discussions will be of value. Id.

Brightergy also asks the Commission to order the Company to continue the existing MEEIA Cycle 1 C&I Custom Rebate program. Ex. 500, Blake Rebuttal, p. 2, ll. 1-2. As explained below, the Company will not continue the Commercial and Industrial ("C&I") program at the Cycle 1 level because this would mean that the incentive is higher than necessary and would put an increased burden on non-participating customers. Tr. 119. Brightergy has no complaints with the other Cycle 2 programs yet it asks the Commission to reject all the Company's Cycle 2 programs if it does not get its way regarding the C&I program. Ex. 500, Blake Rebuttal, p. 2, ll. 1-2. The Commission should ignore Brightergy's request, as Brightergy admitted at the hearing that it would participate as a trade ally in the C&I Custom Rebate program contained in the Stipulation if it was approved by the Commission. Tr. 252.

A. Legal Standard.

The Commission recognized on page 16 of its Ameren MEEIA order[1], that no party has a legal right to receive, or a duty to give, energy efficiency programs. Energy efficiency is optional under the MEEIA statute. Section 393.1075.4 states: "The Commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings."

[1] Report and Order, October 22, 2015, Case No. EO-2015-0055 ("Ameren Order").

Commission Rule 4 CSR 240-20.094(3) recognizes that the Commission must approve the Company's MEEIA plan contained in the Stipulation, approve the MEEIA plan with modifications acceptable to the Company or reject the MEEIA plan.

As set forth above, the Company does not believe that further negotiations will be productive. The Company is not willing to continue the C&I Custom Rebate at the Cycle 1 incentive level because it believes that the Cycle 1 incentive levels are excessive. Ex. 101, Rush Surrebuttal, p. 3, ll. 1-2. The Company is also not willing to offer MEEIA programs without the regulatory flexibility provision contained in the Stipulation due to the uncertainty regarding the recovery and timing of its MEEIA investment among other unknown variables. Should the Commission adopt Brightergy's positions in this case, there will be no MEEIA programs in the Company's service territory.

B. The Stipulation's Demand-Side Programs and DSIM Are Expected to Provide Benefits for All Customers.

In the Ameren Order, the Commission indicated at pages 16-17 that it would approve a MEEIA plan if non-participating ratepayers would be better off paying to help some ratepayers reduce usage than they would be paying a utility to build a power plant. This criteria is met by the Stipulation's MEEIA plan. Staff witness Rogers calculates that KCP&L non-participating residential customers have expected benefits of $55 million while expected costs of $20 million. Ex. 210, Rogers Direct, p. 4, l. 26. Similarly, GMO non-participating residential customers have expected benefits of $64 million with expected costs of $25 million. Id. at p. 5, ll. 1-2. The Stipulation's demand-side programs and DSIMs are clearly expected to provide benefits for all KCP&L and GMO customers, even those customers who do not participate directly in a program. Id. at p. 6, ll. 9-10.

C. Retrospective EM&V Will Be Used to Determine Savings That Actually Occur.

Page 17 of the Ameren Order also required that MEEIA plans contain a retrospective EM&V. The Stipulation requires a retrospective EM&V be used to determine the energy savings that actually occurred for the true up of the Company's Cycle 2 earnings opportunities. In this way, the Commission can be assured that the Company will receive compensation for actual energy savings through the DSIM.

D. The Earnings Opportunity has a Component Relating to the Reduction of Supply-Side Investment.

The Commission also determined on page 18 of the Ameren Order that a utility's performance incentive should contain a component relating to a reduction in supply-side investment. The MEEIA plan contained in the Stipulation is targeted to reduce energy and demand for KCP&L by 198,097,872 kWh and 66,328 kW and for GMO 184,549,652 kWh and 105,855 kW. Ex. 100, Rush Direct, p. 4, ll. 12-13. These expected energy and demand savings are anticipated to reduce the Company's need for supply side investment. The MEEIA plan contained in the Stipulation has an earnings opportunity component relating to this expected supply-side investment reduction. Ex. 203, Stahlman Direct, p. 4-5, ll. 14-19; 1-2.

III. The Commission Should Approve the C&I Custom Rebate Program.

The C&I Custom Rebate program contained in the Stipulation should be approved by the Commission as it meets the requirements of the MEEIA statute, is expected to result in energy savings and recognizes that all rebates are ultimately paid by customers.

A. The Cycle 2 C&I Custom Rebate Program's Rebates Are Similar to Other Utility Program Rebates, Including Ameren.

Like the Cycle 1 program, the Cycle 2 C&I Custom Rebate program provides a rebate for installing qualifying high efficiency equipment or systems, replacing or retrofitting heating,

ventilating or air conditioning systems, motors, pumps with higher energy efficiency equipment. Ex. 102, Winslow Direct, p. 2, ll. 14-17. The Company proposes a flat rate incentive of 10 cents per first year kWh saved and that the amount of rebate is capped at $500,000 per customer per year. Id. at p. 7, ll. 3-5. In Cycle 1, the incentive provided much more money to the customer as it was the lesser of the buy down to a two year payback or 50 percent of the incremental cost of the higher efficiency equipment. Id. at p. 3, ll. 3-4. By the end of Cycle 1, the average rebate paid was 22 cents per kWh. Id. at p. 4, l. 17.

This level of incentive contributed to the Company exceeding its Cycle 1 budget by greater than 120 percent. Id. at p. 5, l. 7. Due to the impact of this program on the Cycle 1 budget, the Company re-evaluated the level of incentive for Cycle 2. After consulting with its third party implementer and program design consultant regarding how similar programs are set up in other states, the Company determined to offer a flat rate incentive for Cycle 2.

The flat rate incentive offers a clear basis for customers and contractors to understand how the Company will incent its energy efficiency projects. Ex. 102, Winslow Direct, p. 8, ll. 6-7. The flat rate incentive ties the customer incentive directly to the amount of kWh saved, instead of project cost. This ensures that projects are rebated in an equitable manner since similar projects will receive similar rebates not influenced by contractor costs. Id. at ll. 7-9.

The flat rate incentive of 10 cents is greater than Ameren's Cycle 1 incentive rate of 6 cents per kWh (lighting) and 7 cents per kWh (non-lighting). It is also in line with other regional utilities. Ex. 103, Winslow Surrebuttal, p. 2, l. 15. Ameren had an extremely successful program based on its flat rate incentive structure. Ex. 103, Winslow Surrebuttal, p. 6, ll. 8-10. Ameren achieved a net to gross ("NTG") ratio of over 92 percent in 2013 and 2014 with these measures. Id. p. 11, ll. 7-11. The NTG adjusts the impacts of the programs so that they only reflect those energy efficiency gains that are the result of the energy efficiency program.

Therefore, the NTG deducts energy savings that would have been achieved without the efficiency program (also known as "free-riders") and increases savings for any "spillover" effect that occurs as an indirect result of the program. Therefore, the higher the NTG, the more efficient an energy efficiency program is. The Ameren example shows that a flat incentive rate can achieve savings targets and keep program free ridership low. Id. at p. 11, ll. 14-15.

Not only did Ameren's C&I program result in energy savings, it also did so in a cost effective manner. Schedule JAR-SR-2, which is attached to the Surrebuttal Testimony of John Rogers, shows that Ameren achieved over three times as many benefits as the Company's C&I program at a lower cost. By Ameren offering a low, flat rate incentive of 6 cents per kWh (lighting) and 7 cents per kWh (non-lighting), which also lowered their program costs, Ameren was still able to achieve much higher benefits than the Company at an average rebate level of 22 cents per kWh. A higher rebate level does not mean greater benefits will result. Ex. 201, Rogers Direct, p. 10, ll. 3-5.

Schedule JAR-SR-2 shows that the Company's Cycle 1 incentives are not sustainable and need to be changed. The Cycle 2 C&I rebate program is designed to increase net benefits and lower program costs. The Company performed a rigorous review both externally and internally to understand the impact of the changes to the Custom Rebate Program. The Company is not willing to pay more than twice what it needs to do to incent the same behavior, as this will have a harmful impact on the customer's DSIM charge as it includes recovery of program costs. Ex. 103, Winslow Surrebuttal, p. 10, ll. 16-17.

B. Brightergy's Self-Serving Criticisms Are Not Well Founded.

Brightergy claims that the level of free ridership would increase under the Company's flat rate incentive level and that this would result in a waste of money. This was not the case with Ameren, where the free ridership levels with its flat rate incentive were near that of the

Company. Tr. 120. Brightergy's criticism also implies that a program cannot have free riders in order to be effective and approved by the Commission. In actuality, all MEEIA programs will have some level of free ridership. This is why all MEEIA programs undergo a retrospective EM&V. If the EM&V determines that the level of free ridership was too high, the Company will receive a lower earnings opportunity. The level of free ridership determines the earnings opportunity that the Company can achieve. Tr. 206. Thus, the Company has an economic incentive (up to $35 million in earnings opportunity (Tr. 121)) to minimize free ridership. Tr. 206. The Company has no incentive to propose a program that will result in high levels of free ridership. Tr. 121.

This is why the Company carefully examined its options in setting the MEEIA 2 incentive rates. The Company worked with Applied Energy Group (program design consultant), CLEAResult (program implementation contractor) as well as industry research to determine how best to deliver the MEEIA 2 portfolio of programs. Ex. 102, Winslow Direct, p. 7, ll. 12-16. In addition, the Company told its trade allies at July and December 2015 trade ally forums and the DSM advisory group of its plan to move to a flat rate incentive. Id. at ll. 14-15. The DSM advisory group determined that a flat rate incentive as appropriate. Id. at p. 12, ll. 16-17. Brightergy did not address any concern at the trade ally forums. Ex. 103, Winslow Surrebuttal, p. 7, ll. 4-6.

Not only does the Company have no incentive to propose a program with high free ridership rates, it has no incentive to minimize cost of the incentives. Tr. 119. Incentives are recovered as program costs. Under MEEIA, program costs are a direct pass through to customers. Thus, the Company is not rewarded by lowering the incentive level. In fact, it has every reason to raise incentives. Tr. 119. Instead, the Company believes that it must act responsibly when it is spending its customers' money. The Company would not be acting as a

responsible steward if it offered an incentive rate that is higher than necessary since it would put an increased burden on the rest of its customers. Tr. 119.

Brightergy, on the other hand, is very interested in maximizing the level of C&I Custom Rebate program incentives. **[redacted]** Tr. (HC) 240. The rebate check, which in Cycle 1 could be greater than $250,000 per customer, was sometimes signed over by customers directly to Brightergy. Tr. 272. In addition, the higher the rebate check from the Company the lower the cost of a project that Brightergy can propose to a potential customer. Tr. 269. This pricing advantage is not paid by Brightergy but by the Company's customers. The Company, by going to a flat rate, not only recognizes that all customers pay for the rebates but also that spending more dollars on program incentives does not necessarily increase cost effective energy savings. Staff witness Rogers, who does not have a private interest in favor of higher incentives, testifies that lowering the customer incentives for Cycle 2 program is clearly not a step backwards for energy efficiency in Missouri. Ex. 202, Rogers Surrebuttal, p. 10, ll. 12-14.

Brightergy also claims that the flat rate incentive will negatively impact non-profit customers such as schools. The Company has proposed a Small Business Direct Install program which should benefit nonprofit customers. This program includes incentives that cover up to 70% of installation costs. Ex. 103, Winslow Surrebuttal, p. 8, ll. 13-18. In addition, Navitas, a trade ally that specializes in working with school districts and schools, supports the proposed flat rate incentive. Id. at p. 7, ll. 16-28. Navitas has submitted over 100 MEEIA applications to the Company. Tr. 108. The Commission must recognize that Brightergy does not speak for all trade allies as over 200 trade allies exist in the Company's service territory. Ex. 103, Winslow Surrebuttal, p. 6, l. 18.

HIGHLY CONFIDENTIAL

It is also evident that Brightergy does not speak for the thousands of business customers that have to pay for the MEEIA programs. The Company has calculated that if it were to move back to the Cycle 1 incentive levels, there would be an $11 million dollar impact to the MEEIA budget. Id. at p. 10, l. 3. This additional money would have to be recovered through the DSIM charge on non-residential customers' bills. This would result in about a 15% increase for KCP&L customers and an 11% increase for GMO customers. Id. at p. 10, ll. 5-7.

Brightergy claims that the Cycle 2 incentives will increase the payback period for energy efficiency investments and that customers will no longer be willing to make energy efficiency investments. Brightergy claims that a two year payback is necessary for most customers to invest in energy efficiency programs. Ex. 500, Blake Rebuttal, p. 5, l. 13. This two year requirement is not supported by the evidence. First, as evidenced by Ameren's successful Cycle 1 C&I program which had a much lower rebate level than the Company's Cycle 1 C&I program. In Ameren's Cycle 1, the lower rebate level incented customers to make energy efficiency investments even with longer payback periods. Moreover, the Company's data shows that there is no "one size fits all" payback period and that energy efficiency investments are made at payback periods ranging from two to ten years. Ex. 103, Winslow Surrebuttal, p. 9, ll. 8-9. Moreover, Brightergy witness Blake admitted that he did not know the average payback time for projects submitted by his company (Tr. 305), that some of Brightergy C&I projects had payback periods of over four years (Tr. 304) and that Brightergy's internal modeling for its potential customers does not reject projects that have payback periods that are longer than two years. Tr. 305.

Brightergy claims that the proposed flat rate C&I rebate will prevent the Company from achieving all cost effective demand-side programs. As shown above, a flat rate C&I incentive, at a lower level proposed by the Company, was successfully employed by Ameren in achieving its

savings targets. Moreover, the Stipulation allows for the Company to adjust the incentive rates for every program to be the most effective and efficient with the customer's money to incent the proper energy efficiency investment behavior. The flexibility contained in the Stipulation provides the best approach to achieve the most savings.

C. The Cycle 2 Incentives Can Be Modified If Necessary.

The Company believes that significant savings can be achieved in custom programs when rebates are directly related to energy savings. The Cycle 2 rebates allow the Company to communicate the program more effectively and apply incentives in an equitable manner as the rebates are in line with neighboring utilities. Id. at p. 10, ll. 4-8. Because this is a change from the Cycle 1 incentive levels, the Cycle 2 incentive levels can change from a minimum (6 cents per kWh) and maximum range (40 cents per kWh). Tr. 188. The Company will evaluate participation levels for its programs and make changes to incentive levels if necessary.

IV. The Commission Should Approve the Regulatory Flexibility Provision in the Stipulation.

The regulatory flexibility provision is consistent with the voluntary nature of energy efficiency programs and is designed to provide the Company the necessary flexibility to discontinue all MEEIA programs should a material, unforeseen event occur while also providing customers and the Commission reasonable notice of and an explanation for the discontinuance.

A. The Regulatory Flexibility Provision Tracks the Commission's Rule Regarding Changes to MEEIA Programs.

Section 13 of the Stipulation contains the regulatory flexibility provision, including the restrictions on the exercise of the provision. This provision permits the Company to discontinue all MEEIA programs after the Company demonstrates that changed factors or circumstances have materially negatively impacted the economic viability of the MEEIA programs. The Company cannot pick and choose what programs to discontinue, if the regulatory flexibility

provision is exercised by the Company. The provision specifies that 30 days' notice must be provided before the programs can be discontinued. The Company negotiated for the regulatory flexibility provision in the Stipulation. The Company believes that the risks of operating MEEIA programs are too high without having the flexibility to terminate the programs on its own accord. The Company is not willing to undertake MEEIA programs without this flexibility.

The operation of the regulatory flexibility provision is spelled out in the Stipulation. The Company must notify the Commission, as well as the signatories to the Stipulation, at least 30 days before discontinuance of all programs. Ex. 101, Rush Surrebuttal, p. 3. It must advise customers of discontinuance by newspaper publication at least 30 days in advance. The Commission notice will explain the reasons for the discontinuance of all Cycle 2 programs and provide workpapers that support its determination that implementation of the Cycle 2 portfolio is unreasonable. Id. at p. 4. The Stipulation provides that if any party has concerns regarding the discontinuance of the MEEIA portfolio, the party can file a pleading in this case and the Company will schedule a meeting where it shall attempt to answer all questions regarding the discontinuance. The Company will also appear at a hearing or Agenda to address those concerns. The Company must honor all commitments made to Cycle 2 program participants prior to the effective date of the discontinuance. Id. Staff witness Rogers believes that the Regulatory Flexibility provision meets or exceeds all of the requirements of the Commission's rule on the changing of MEEIA programs (4 CSR 240-20.094(5)) with the exception of the opportunity of a formal hearing. Ex. 201, Rogers Direct, p. 9, ll. 7-11.

The Company's discretion to discontinue the Cycle 2 programs is not unlimited. Not only does the Company have to provide 30 days' notice and explain its rationale for discontinuance as explained above, the Company also forfeits any recovery of an earnings opportunity that may have been achieved. Ex. 101, Rush Surrebuttal, p. 4. When evaluating

whether to discontinue Cycle 2, the Company cannot afford to make a hasty decision since the termination of the programs comes with a significant financial consequence. Ex. 101, Rush Surrebuttal, p. 4. As Cycle 2 continues, the Company's potential earnings opportunity will grow, making it even less likely that the regulatory flexibility provision will be utilized. Tr. 153.

B. Uncertainty Exists Regarding the Recovery of MEEIA Investment and the Proper Timing of Energy Efficiency Programs.

While the potential that the regulatory flexibility provision will be used is low, the uncertainty faced by the Company is real. The entire MEEIA process is new. There is much the Company does not understand, including how the Commission will administer the incentive program for Cycle 1 and how other parties will attempt to challenge this administration. Tr. 146. The Company is concerned that parties may attempt to chip away at the incentive program for Cycle 1 since those incentives are paid after the benefit of the programs has already been realized by customers.

In addition to the above uncertainty, there is significant uncertainty regarding the Clean Power Plan. The U.S Environmental Protection Agency's Final Clean Power Plan Rule-Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generation Units[2] became effective on December 22, 2015. The state of Missouri has not yet developed and submitted its state plan as required under the Clean Power Plan rules. When the Plan first came out, it appeared that utilities should not be implementing energy efficiency programs until 2019. Tr. 147. If the Missouri state plan gives a utility an advantage for establishing energy efficiency programs in a later year, the Company needs the flexibility to discontinue the programs so they can be re-established in an optimal year. Ex. 100, Rush Direct, p. 13, ll. 7-9.

[2] 80 Fed. Reg. 64,662 (October 23, 2015)

The Company does not take the regulatory flexibility provision lightly and will not cancel its MEEIA programs for a trivial reason. The Company fully expects to implement and deliver its MEEIA Cycle 2 programs for the entirely of the Cycle 2 three year term. Ex. 100, Rush Direct, p. 13, l. 21. However, due to the uncertainty surrounding energy efficiency programs, the Company must have the ability to discontinue the programs without Commission approval.

C. Since Offering a MEEIA Program is Voluntary, Ending a Program Should Also Be Voluntary.

This Commission has recognized that the MEEIA programs are voluntary programs on the part of the utility- "MEEIA is permissive in nature and, by its express language, does not require utilities to offer demand-side programs."[3] MEEIA allows the offering of demand-side programs only so long as those programs are approved by the Commission, result in demand or energy savings and are beneficial to all customers regardless of whether the programs are utilized by all customers.[4] The MEEIA statute does not require Commission authority for a Company to discontinue MEEIA programs. MEEIA programs do not cease being voluntary once the Commission approves MEEIA tariffs. Since the MEEIA programs are voluntary, it follows that the discontinuance of all MEEIA programs is also voluntary.

The Commission's rules do contain a provision that a utility must seek Commission approval before discontinuing programs. 4 CSR 240-20.094(5) provides that a utility may file an application with the commission to discontinue demand side programs. The Stipulation requests a waiver of this rule for good cause. Good cause exists for a variance as the Company has agreed in the Stipulation to meet or exceed all of the requirements of this rule prior to discontinuing all MEEIA programs. Ex. 201, Rogers Direct, p. 9, ll. 8-10. The one exception is

[3] Report and Order, October 22, 2015, Case No. EO-2015-0055.
[4] 393.1075.4 RSMo.

the opportunity for a hearing before the Commission; however, the Company is not willing to offer the MEEIA programs without the regulatory flexibility provision for the reasons discussed above.

The Company believes that while 4 CSR 240-20.094(5) requires a commission decision in 30 days, in practice, such a proceeding would take much more time because the rule requires a hearing. Tr. 148. The Company can envision parties seeking a waiver of this rule for good cause. This situation would be similar to rule 4 CSR 240-20.094(3), which requires the Commission make a determination on a MEEIA plan within 120 days. The Company is not aware of any MEEIA plan that has been approved in 120 days as the parties, including the utility, usually request additional time for the case to be processed. Should a material, unforeseen event occur, the Company needs to be able to move quickly to discontinue the MEEIA programs. The Commission's existing rule does not allow it to manage its business effectively and the Commission should grant the waiver requested in the Stipulation.

Brightergy complains that 30 days' notice is not enough time for a business that plans its investments weeks or months in advance. First, it is important to note that this is not a concern of Brightergy. It is an alleged concern of Brightergy's clients. The Company believes that for these types of investments, 30 days is sufficient time, especially because many businesses already know what they need to do in terms of energy efficiency and can put together an application in a 30 day time period. Tr. 150-151. Note that all a business needs to submit in 30 days is the application; the actual installation can take place after the application is filed. Moreover, the 30 days' notice period is the same period of time that the Commission has under the 4 CSR 240-20.094(5) to decide whether a utility can discontinue a program. Thus, businesses have the same amount of time to make a decision about an energy efficiency

investment and file an application for rebates with the Company under the Stipulation as under the Commission's rules.

V. Conclusion.

Approval of the Stipulation will allow the Company to move forward with energy efficiency in a manner that will provide real and valuable benefits to customers. The Company believes that Stipulation provides the right framework so that energy efficiency can be valued alongside supply-side resources and KCP&L and GMO have the opportunity to help customers find energy solutions to new challenges from technological advances and changing environmental regulations. Without Commission approval of the Stipulation, this opportunity is lost.

Respectfully submitted,

/s/ Roger W. Steiner

Robert J. Hack MBN 36496
Roger W. Steiner MBN 39586
Kansas City Power & Light Company
1200 Main Street, 16th Floor
Kansas City, MO 64105
(816) 556-2785 (Phone)
(816) 556-2787 (Fax)
rob.hack@kcpl.com
roger.steiner@kcpl.com

James M. Fischer MBN 27543
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
(573) 636-6758 (Phone)
(573) 636-0383 (Fax)
jfischerpc@aol.com

Attorneys for Kansas City Power & Light Company
and KCP&L Greater Missouri Operations Company

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 29th day of January, 2016, to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner