

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

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Continue the Implementation of Its Regulatory Plan))	Case No. ER-2010-0355
))	Tariff No. JE-2010-0692

In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Electric Service))	Case No. ER-2010-0356
))	Tariff No. JE-2010-0693

**KANSAS CITY POWER & LIGHT COMPANY
AND KCP&L GREATER MISSOURI OPERATIONS COMPANY'S
MOTION TO STRIKE TRUE-UP REBUTTAL TESTIMONY OF DAVID MURRAY**

Applicants Kansas City Power & Light Company (KCP&L) and KCP&L Greater Missouri Operations Company (GMO) move to strike the True-up Rebuttal Testimony of Staff witness David Murray, and state the following in support of this motion:

A. Procedural history.

1. On August 18, 2010, the Commission ordered a procedural schedule in the above dockets. True-up direct testimony was set for February 22, 2011 and true-up rebuttal testimony was set for February 28.

2. Staff witness David Murray was responsible for that portion of the Staff Report related to the cost of debt of both KCP&L and GMO. He also filed rebuttal and surrebuttal testimony in both the KCP&L and GMO rate cases. In these filings, Mr. Murray's position on the cost of debt issue for GMO was to use the Empire District's cost of debt as a proxy for GMO' cost of debt. The Company responded to this theory in the rebuttal testimony of Michael Cline. KCP&L's cost of debt has never been a contested issue, as confirmed by the following Staff filings.

3. Staff's direct case advised: "While Staff continues to believe that matching the consolidated capital structure with the consolidated cost of debt is ideal, Staff does not believe it

is appropriate in this case because of the uncertainty involved in evaluating GMO's cost of debt." See Staff Report for KCP&L (Nov. 10, 2010) at 23. Therefore, Staff excluded GMO's cost of debt and used a long-term debt cost as of June 30, 2010 of 6.825%. Id. There was no discussion of cost of debt in Mr. Murray's Rebuttal Testimony. In surrebuttal he reaffirmed his adherence to the 6.825% cost of debt figure. See Murray Surrebuttal at 18 and Corrected Sched. 16 (Jan. 5, 2011).

4. In Staff's Statement of Position there is no issue listed regarding KCP&L's cost of debt. See Staff's Position Statements at 15. In Mr. Murray's true-up direct testimony, he continues to recommend 6.825%. See Murray True-up Direct at 3 & Sched. 2 (HC).

5. Suddenly, in true-up rebuttal, he abandons the 6.825% that Staff has recommended throughout the history of the KCP&L case, and now recommends not one, but two long-term debt figures for the Commission's consideration: Either 6.598%, under one new theory, or 6.659%, under another new theory. See Murray KCP&L True-up Rebuttal at 7-8 & Sched. 1-2.

6. He also suggests these new numbers, which are not "trued-up" figures, for GMO as well. See Murray GMO True-up Rebuttal at 7-8 & Sched. 1-2.

B. Staff changed its Methodology regarding Cost of Debt at the 11th Hour in its True-up Rebuttal Testimony.

7. On August 13, 2010, Great Plains Energy Incorporated (GPE) issued \$250 million of three-year Senior Notes with an annual coupon rate of 2.75 percent. GPE made a public announcement of this issuance in a Form 8-K filed with the SEC on August 13, as well as in his Form 10-Q filed with the SEC on October 28, 2010. In his True-up Direct Mr. Murray notes this transaction and states that "a majority of the proceeds of this debt issuance were used to refinance outstanding cash borrowings under GMO's short-term credit facility." See Murray True-up Direct at 3, lines 15-16. He testified that he became aware of this debt issuance and its

use for GMO's benefit as a result of GPE's SEC filings, as well as KCP&L's responses to Staff DR-0159. Id. at 2-4.

8. As noted above, Mr. Murray continued to recommend in his True-up Direct the debt cost figure of 6.825%, testifying: "I chose to exclude the \$250 million 2.75 percent debt issuance from KCPL's embedded cost of debt for purposes of this case." See Murray KCP&L True-up Direct (Feb. 22, 2011) at 3, lines 11-12. He advised the Commission and all parties that he was not changing his cost of debt methodology, as indicated by this Q&A:

Q. If you are not proposing to change your methodology in this case, why are you providing testimony on this matter?

A. To notify the Commission that Staff will need to reevaluate its approach in subsequent cases based on the manner in which GPE chooses to finance its KCPL and GMO operations. ..."

See Murray KCP&L True-up Direct at 5, lines 6-10 (emphasis added).

9. In the GMO case, Mr. Murray followed a similar pattern. In the Staff Report for GMO (Nov. 17, 2010), he used the 6.52% cost of debt of Empire District Electric Company as a proxy for GMO. See Staff Report at 21 (Nov. 17, 2010). He continued to recommend the Empire debt figure of 6.52% figure earlier this year. See Murray GMO Surrebuttal, Corrected Sched. 16 (Jan. 12, 2011). In his GMO true-up direct, he made the same representation regarding the \$250 million bond offering, continuing to use Empire's cost of debt. His updated figure of 6.36% was the result of an Empire debt offering that occurred in August 2010, which could have been presented in a more timely fashion in rebuttal or surrebuttal. See Murray GMO True-up Direct (Feb. 22, 2011) at 3, lines 2-17 & Sched. 2. He testified that he was alerting the Commission to "future rate cases" (Id. at 3, line 22), and "that Staff believes it will need to re-evaluate its approach in subsequent cases" Id. at 4, lines 8-9.

10. Then, again without any justification, Mr. Murray sidelined his long-held Empire proxy, and now offers two new higher cost of debt figures for GMO in his True-up Rebuttal: Either the 6.598% or the 6.659%, based on the same new methodology related to the 2.75% Senior Notes issued on August 13, 2010. See Murray GMO True-up Rebuttal (Feb. 28, 2011) at 7-8 & Sched. 1-2.

11. In preparing its true-up rebuttal testimony, both KCP&L and GMO relied on Mr. Murray's sworn testimony and stated methodology contained in his testimony in the case in chief, as well as in his true-up direct. Mr. Cline addressed the 2.75% Senior Notes issuance in his true-up direct, updating the projected \$250 million debt of 5.54% that had been used in the case in chief, with the actual cost of the issuance, which was 3.86%. See Cline GMO True-up Direct at 3. Mr. Cline had no indication that Staff was about to advocate a change in both companies' cost of debt and introduce a new methodology on true-up rebuttal.

12. Even though Mr. Murray stated in both his KCP&L and GMO true-up direct testimony that his analysis of the \$250 million bond offering was to "notify the Commission" that "its approach" will be re-evaluated "in subsequent cases,"¹ Mr. Murray introduces a new Staff position in true-up rebuttal testimony. He now advocates a GPE consolidated cost of debt for both GMO and KCP&L. See Murray KCP&L True-up Rebuttal (Feb. 28, 2011) at 6, lines 15-16; Murray GMO True-up Rebuttal (Feb. 28, 2011) at 6, lines 9-10.

13. This position directly contradicts his previous opinion -- given only 6 days earlier in February 22 true-up direct testimony -- where he asked himself whether the companies' "financing decisions ... provide support for consideration of a GPE consolidated cost of debt to be used for both KCPL's and GMO's ratemaking ROR, at least for future cases?" His answer: "Yes." See Murray KCP&L True-up Direct at 4, lines 14-17.

¹ Murray KCP&L True-up Direct at 5; Murray GMO True-up Direct at 4.

14. Because Staff's new cost of debt adjustment was made in true-up rebuttal testimony, there is no opportunity to respond in prefiled testimony. The practice of pre-filing testimony is designed to give parties notice of the claims, contentions and evidence in issue, and to avoid unnecessary objections and delays caused by allegations of unfair surprise at the hearing. Staff has been aware of the \$250 million bond issuance and assignment to GMO since at least September of 2010. There is no justification for Staff wait until true-up rebuttal to embrace a new methodology and propose new adjustments to the companies' cost of debt.

15. Since Staff has waited until the last prefiled testimony filing opportunity to present its new theory regarding cost of debt, it has circumvented the Commission's reasons for ordering testimony to be prefiled.

16. Given these deficiencies, the Commission should strike pages 2-8 of Mr. Murray's GMO and KCP&L True-up Rebuttal testimony on the grounds that they are not proper true-up and improperly assert new positions in these cases, all in derogation of the Commission's procedural order and the companies' fundamental right to due process.

WHEREFORE, KCP&L and GMO request that the Commission (a) strike from Mr. Murray's KCP&L True-up Rebuttal Testimony the questions and answers beginning on page 2, line 4 through page 8, line 9, and (b) strike from Mr. Murray's GMO True-up Rebuttal Testimony the questions and answers beginning on page 2, line 4 through page 8, line 3.

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing was served upon counsel of record on this 3rd day of March, 2011.

/s/Karl Zobrist
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