BEFORE THE PUBLIC SERVICE
COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Eighth Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of KCP&L Greater Missouri Operations Company	))))	**File: EO-2019-0067**
In the Matter of the Second Prudence Review of Costs Subject to the Commission-Approved Fuel Adjustment Clause of Kansas City Power and Light Company	))))	**File: EO-2019-0068**
In the Matter of the Application of KCP&L Greater Missouri Operations Company Containing Its Semi-Annual Fuel Adjustment Clause True-Up	)))	**File: ER-2019-0199**

REPLY BRIEF OF
KANSAS CITY POWER & LIGHT COMPANY
AND KCP&L GREATER MISSOURI OPERATIONS COMPANY

COME NOW Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") (collectively "Company"), and respectfully submit their *Reply Brief* ("Reply Brief") in this matter:

ISSUE NO. 1 – Was it imprudent, or in violation of its Rider FAC tariff, for KCP&L to allow 722,628 renewable energy credits ("RECs") to expire during the review period of File EO-2019-0068 rather than take action which would have allowed KCP&L to generate revenues from those RECs?

Reply to the Office of the Public Counsel

In its Brief, the Office of the Public Counsel (OPC) doubles-down on its flawed gambling metaphor, suggesting that KCP&L's decision to not sell its renewable energy certificates (RECs) in excess of those necessary for renewable energy standard (RES) compliance was "to just leave this money 'lying on the table'". (OPC Brief at 4). Obviously no prudent person would simply leave "money on the table" – unless there was an actual economic transaction involved. For instance, if a person goes to sell her car and a prospective buyer puts "money on the table" for half

the value of the car, then most reasonable people would "leave money on the table" and not sell the car. In other words, just because something is "sellable" does not mean that the prospective seller must sell it, regardless of price to be prudent. OPC rejects the idea that the environmental attributes (the value represented in RECs) has any value to KCP&L or its customers and thus KCP&L acted imprudently by not selling its RECs.

OPC had the burden of proof that KCP&L acted imprudently.[1] To do so OPC would have needed to show that KCP&L and its customers value the environmental attributes of renewable energy less than the potential revenues from the RECs at issue in this case. OPC did not even try to satisfy this burden with evidence. Lacking evidence, OPC and Staff took the extreme position that KCP&L's decision to not sell its RECs is "intrinsically imprudent." (OPC Brief at 4) Under this policy, a prudent decision to not sell RECs *could not be made* regardless of REC price, customer desires and expectations, or KCP&L representations and claims to its customers.

KCP&L, on the other hand, provided evidence that its customers do value the environmental attributes of clean energy. (KCP&L Brief at 4, citing Ex. 1 and 2, Martin Direct and Surrebuttal) Further KCP&L's decision to not sell the RECs remaining after RES compliance resulted from an analysis of the market price for RECs, customer expectations and desires, and representations made by KCP&L to its customers regarding clean energy. (Id.) OPC did not satisfy its threshold burden of raising a "serious question"[2] as to prudence, but KCP&L rebutted the claim

[1] *State ex rel. Associated Natural Gas Company v. Public Service Commission*, 954 S.W.2d 520, 528-529 (Mo. App., W.D. 1997).
[2] Id.

with more than sufficient evidence showing that its decision to not sell the RECs passed the "reasonable person"[3] standard of a prudence review.

Remarkably, OPC also argues that KCP&L acted imprudently with regards to its shareholders, as well as customers. (OPC Initial Brief, p. 4) They argue that KCP&L's decision to not sell the excess RECs resulted in lost *profits*, not merely *revenue*. (Id.) OPC provided no evidence regarding the *cost* of compulsory REC sales, the impact to customer growth, or the trend in REC prices. OPC's conflation between revenues and profits underscores the lack of any evidence supporting its claim that KCP&L acted imprudently by not unbundling and selling the environmental attributes of its renewable energy. It is absurd to assume the net profitability (or loss) of REC sales without an analysis of multiple variables.

OPC concedes that its preferred policy would turn the Missouri RES into a cap on the environmental attributes KCP&L customers could receive. "The concept of RECs only limits who can lay claim to the "renewable attributes" of the energy being **consumed**." (emphasis in original; OPC Initial Brief, p. 11) KCP&L agrees with this statement. Compulsory REC sales would "limit" (i.e. cap) the "renewable attributes" that KCP&L's energy consuming customers could lay claim to. It would limit the customer claim to the percentage of renewable attributes achieved through RES compliance. KCP&L does not believe that this was the intent of Missouri voters when they passed the RES. OPC's concession is obviously contrary to its refusal to recognize that the City of Kansas City is one of KCP&L's largest customers and that compulsory RECs sales would

[3] Id.

impact the City's claimed emission reduction. (OPC Brief at 8) The City consumes power purchased from KCP&L.

Finally, OPC suggests that somehow KCP&L's decision to not sell its RECs is antithetical to the "Corporate Energy Buyers Principles' discussed by KCP&L witness Jeffrey Martin. (OPC Brief, at 7-8) This is intentional obfuscation. Companies like Walmart and Google straightforwardly declare that they don't want to just purchase stand-alone (i.e. *unbundled*) RECs to meet their renewable energy goals. (Ex. 100, Marke Rebuttal, Pg. 8, ll. 2-3) These companies base this position on the desire to promote *additional* renewable energy, and not just syphon-off the environmental attributes of already existing renewable energy sources. OPC bizarrely attempts to interpret this position as: "Google and Walmart have even taken positions that expressly reject the non-sale of RECs as means of meeting the companies' state renewable energy goals." (OPC Brief at 8) No, they have not. Those companies have rejected purchasing unbundled RECs as a way of achieving their goals. As recognized by Commissioner Hall in the evidentiary hearing, when discussing the issue with Witness Marke, those companies' position support keeping RECs ***bundled*** with the renewable energy.

> A. So when ESG is talking about this, when IPCC, when any white paper that comes out that's talking about the risk inherent out there or what people can do, they're talking prospectively about moving more. They're not talking in the past tense as far as some financial tool just to create a brand new market. It's not RECs at the end of the day. The RECs isn't going to change your ESG or your corporate profile. There's no inherent reduction in risk as a result of that.
>
> Q. I don't understand why that argument doesn't support the company's position.

(Tr. 117, ll. 3-17.)

The Corporate Energy Buyer's Principles ***do*** support the company's position that selling its excess RECs would reduce the attractiveness of KCP&L from a clean energy perspective. It is

true that neither the bundling, nor the unbundling of RECs creates additional renewable energy, except to the degree that customer preferences for clean energy (renewable energy bundled with its environmental attributes) incentivizes KCP&L to invest in additional renewable energy resource beyond that required by the Missouri RES. Requiring KCP&L to divest of the environmental attributes of its renewable energy generation will negatively impact the attractiveness of KCP&L's service territory to those companies abiding by the Corporate Energy Buyer's Principles.

Reply to Staff

Staff is not very subtle in its "by hook or by crook" approach to implementing its preferred policy of compulsory REC sales. "However, it should be noted that the Commission does *not* need to find that KCPL was *both* imprudent in its management of RECs *and* that it violated its FAC tariff. Rather, a finding of either imprudence or tariff violation is sufficient for ordering the adjustment recommended by Staff." (Staff Brief at 4) What is equally notable is the need for an evidentiary basis for a finding of imprudence and a legal basis for a finding of a tariff violation. Neither of these bases exist.

On the question of whether or not KCP&L's Rider FAC tariff requires the selling of excess RECs, it clearly does not. Neither Staff, nor OPC can point to any language in the tariff that could remotely be interpreted to impose such a requirement. Rather, their position is entirely based on a leap of faith and a logical fallacy that because the Rider FAC tariff contemplates the treatment of *revenues* from REC sales that there is an *implied* requirement to *sell* all RECs. (Staff Brief at 6) The treatment of revenues that may (or may not) be generated does not imply a required sale of all

RECs, any more so than the treatment of revenues from off-system sales require particular off-system sales. Staff's position is without legal merit.

On the issue of imprudence, Staff substitutes evidence of imprudence for the same flawed and inapplicable gambling metaphor ("leaving money on the table") used by OPC. (Staff Brief at 7) As previously discussed, this denies the value that a buyer of RECs receives and the value a seller of RECs transfers in exchange for revenues – the environmental attributes of renewable energy. Staff mistakenly points to the Commission's Report and Order in GMO's 2012 rate case, case (ER-2012-0175), in which the Commission instructed, "If GMO has more RECs than it needs to satisfy the requirement of law ("excess RECs"), it is prudent practice to sell them."[4] Here again is another logical fallacy: The Commission's confirmation that selling excess RECs, from purchased power, is prudent does not mean that keeping the RECs bundled with the renewable energy is *necessarily* imprudent. In 2012, another Commission, simply stated that selling RECs garnered from purchased power agreements was prudent. This is hardly support for a blanket requirement to sell all RECs in excess of RES compliance.

Staff concedes that KCP&L made a "conscious" decision to not sell the RECs, but concludes that the rationale for such a decision is "baffling on its face." (Staff's Brief at 8). It is not baffling at all if one recognizes the underlying value of a REC – the environmental attributes of renewable energy. To Staff and OPC the environmental attributes of KCP&L's renewable energy do not have value other than as a potential revenue source from their sale. With this belief it is not hard to see why Staff is baffled. But this position ignores what value a purchaser of REC receives. It is the same value received by KCP&L customers for KCP&L not selling the RECs. As KCP&L has explained, its decision to sell or not sell the RECs is a business decision with

[4] Report and Order, Docket No. ER-2012-0175, p. 63.

multiple factors that need to be considered (REC price, customer desires/expectations, and transactional costs). Staff and OPC are not basing its claim of imprudence on KCP&L's business decision. They are basing their claim on the belief that KCP&L should not be allowed to make a business decision on this issue at all.

The facts of this case do not justify a finding of imprudence. KCP&L believes that there may be times when selling excess RECs is the prudent decision based on an analysis of multiple variables. But that was not the case here. It should also be noted that this was the first time since the passage of the Missouri RES in 2007 that KCP&L has been confronted with Staff and OPC's extreme position, which they have articulated for the first time in this case. If the Commission were unfortunately to adopt this position it should only do so on a going forward basis and not punish KCP&L for its failure to predict this policy.

ISSUE NO. 2 – STEAM AUXILLARY POWER

A. Has GMO appropriately allocated the costs associated with the auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant?

The Staff confirmed in its Initial Brief that "Staff found no indication that GMO imprudently included steam auxiliary power costs in the FAC during the Review Period…" (Staff Initial Brief, p. 10) GMO agrees with the Staff on this ultimate conclusion. Staff succinctly noted that "GMO has allocated the costs associated with auxiliary power between the electric operations and steam operations at GMO's Lake Road plant in accordance with agreements contained in the Stipulations and Agreement from previous general rate cases which have been approved by the Commission." (Id.)

The Commission should adopt the position as summarized by Staff and GMO in their Initial Briefs on the auxiliary power allocations issue. There is simply no basis for a prudence adjustment in this case related to the allocation of costs between electric and steam operations

since GMO appropriately allocated the costs associated with the auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant in the same manner that it has done, by agreement of the parties, since 2009. (Tr. 138-39)

No party to the 2009 electric and steam cases, including OPC, disputed the use of the seven-factor allocation method for separating the costs of the electric and steam businesses. (Ex. 3, Nunn Direct, p. 4) Rather than disputing the use of the seven-factor allocation method, OPC signed a global settlement which resolved all issues in the cases. (Tr. 206-07) In its order approving the Non-Unanimous Stipulations and Agreements, the Commission stated that "[N]o party objected to the Agreements within the deadlines set by the Commission. Consequently, pursuant to the Commission's rules, the Agreement shall be treated as unanimous…"[5]

While GMO has not filed a general rate case for its steam operations since the resolution of Case No. HR-2009-0092, GMO has filed a number of general rate cases for its electric operations since June 10, 2009 (the date on which the Commission issued its decisions in Case Nos. ER-2009-0090 and HR-2009-0092). The rates finally established for electric service in each general rate case for GMO's electric operations since 2009, have been based on the seven-factor allocation methodology proposed by GMO in Case Nos. ER-2009-0090 and HR-2009-0092 which did not involve direct assignment of auxiliary power costs to the steam operation as set forth in the Allocation Procedures manual from Case No. EO-94-36. In fact, when GMO proposed in GMO's most recently concluded general rate case a more detailed allocation methodology involving direct assignment of auxiliary power costs that was more akin to the methodology used in Case No. EO-94-36, Staff objected and the electric/steam allocations issue was resolved by GMO agreeing to the continued use of the allocators developed by Staff in the immediately preceding general rate

[5] Order Approving Non-Unanimous Stipulations and Agreements and Authorizing Tariff Filing, Case No. ER-2009-0090, p. 8 (June 10, 2009). (Ex. No.3, Nunn Direct, p. 5)

case, Case No. ER-2016-0156. (Ex. 3, Nunn Direct, p. 6; Tr. 146-47) From the 2009 rate case to the present, GMO has used the seven-factor allocation method, not the direct assignment methodology approved in ER-94-36, to distribute costs between its electric and steam operations. (Ex. 3, Nunn, p. 8)

ARGUMENT

1. The Seven-factor Allocation Method Has Been Agreed To By All Parties and Properly Allocates the Costs of Operation of the Lake Road Plant, Including Auxiliary Power, Between the Steam and Electric Operations.

Contrary to the arguments of OPC (OPC Brief at 14-33), the allocation method used by GMO in the last five electric rate cases as well as GMO's last industrial steam rate case appropriately allocates the costs of auxiliary power to its steam operations, and is not recovered in GMO's Fuel Adjustment Clause (FAC). Public Counsel's brief demonstrates that Public Counsel is basing its position on the incorrect claim that GMO is not allocating auxiliary power costs to its steam operations. OPC did not recognize or even address in its Initial Brief the settlement agreements which govern how steam customers have been allocated costs in GMO's last six rate cases. The Commission has approved the use of the seven-factor allocation method. By ignoring these agreements, OPC has incorrectly argued that "there can be no question that KCP&L Greater Missouri Operations Company ("GMO") has not appropriately allocated the costs associated with auxiliary power between the electric and steam operations at its Lake Road plant." (OPC Brief at 14)

As explained by Ms. Nunn in answer to Commissioner Hall's questions, there is no separate line item or account for auxiliary power. (Tr. 166) However, a representative amount of overall operations and maintenance costs are allocated to cover a variety of costs, including the cost of auxiliary power, by allocating other non-fuel steam O&M costs out of the electric base

rates to produce steam. (Ex. 4, Nunn Surrebuttal, p. 5) (Tr. 156-57) These costs were apportioned between steam and electric operations by using the seven-factor allocation method used in settlements agreed to by many parties, including OPC, and approved by the Commission in GMO's 2009 industrial steam general rate case and five previous GMO electric general rate cases.

As explained in GMO's Initial Brief, approximately $3.4 million in non-fuel O&M costs were allocated to the steam business in the true-up filing of GMO's most recent rate electric case. In addition, GMO's last filed Steam Management Report included $3.4 million in allocated non-fuel O&M costs as well. (Ex. 4, Nunn Surrebuttal) While there is no direct assignment of auxiliary power under the seven-factor allocation method, this method nevertheless ensures that the costs are properly separated between the steam and electric operations. OPC's brief again demonstrates that it is not willing to follow its previous agreements and it has a fundamental misunderstanding of how the allocation process works, and has therefore incorrectly argued that the cost of auxiliary power used for steam operations is being recovered through GMO's FAC.

In the direct assignment method, each individual cost item or a number of them are directly assigned to the steam operations and the electric operations, respectively. In the seven-factor allocation method which has been agreed to by Staff and Public Counsel over several electric and steam cases, allocation principles were developed to separate all of the non-fuel operations and maintenance costs which results in a representative amount of costs being allocated away from electric operations to steam operations. (Ex. 4, Nunn Surrebuttal, pp. 3-6; Tr. 156-57)

In answer to Commissioner Hall's questions, Ms. Nunn elaborated on the approved method of allocating costs between the steam and electric operations at the Lake Road Plant. She explained that auxiliary power costs are subsumed within the other costs in the operations and maintenance category of the Lake Road plant. GMO therefore cannot specifically identify how auxiliary power

was allocated because it is subsumed into the O&M categories. The auxiliary power costs are not identified individually, but they have been allocated using the seven-factor method in every rate case since 2009. This allocation method does not affect the FAC since this allocation process is done in a general rate case and not in the FAC ratemaking process. (Tr. 165-68)

Based upon the competent and substantial evidence in the record, the Commission should reject OPC's assertions that auxiliary power costs are being recovered through the GMO's FAC. While the seven-factor method is different from the previously used direct assignment method, both methods ensure that a representative amount of costs are allocated from the electric operations to the steam operations.

2. OPC's Allegation Does Not Involve the Prudence of Auxiliary Power Expenses but Is A Dispute Over the Proper Allocation Method Which Is A Rate Case Issue and Not an Issue For a FAC Prudence Review Case.

In its Initial Brief, OPC alleges that GMO "has not appropriately allocated the costs associated with auxiliary power between the electric and steam operations at its Lake Road plant. This is because it has not allocated **any** of the **fuel** costs related to auxiliary power used at its Lake Road plant to its steam operations when determining the actual net energy costs for purposes of the FAC." (OPC Brief at 14) This issue is fundamentally a disagreement about the allocations method which has historically been an issue for rate cases. (Tr. 200) However, OPC goes on to argue "Because it was imprudent for GMO to have collected fuel costs related to the production of auxiliary power for its steam operations at its Lake Road facility from its electric ratepayers, the Commission should order a negative prudence adjustment…." (OPC Brief at 31) With all due respect to Public Counsel, this is simply not a prudence issue at all.

Public Counsel has not argued in its brief that the use of auxiliary power is not necessary and reasonable for the production of steam service. Nor has any party suggested that the level of

auxiliary power was too high or that the Company made any imprudent decisions to use auxiliary power to provide industrial steam service. Staff specifically observed that:

> Staff witness Charles Poston testified at the evidentiary hearing that "the method is currently in use and that was in use following the 2016 electric rate case was deemed to be appropriate once it was agreed to by parties and approved by the Commission. When asked whether the methodology was prudent, Mr. Poston responded, "[if] the company follows what they have been directed to do, then yes." Stated differently, GMO is doing what it has agreed to do since 2009; further, in terms of opportunities for revising allocations in the future, GMO has agreed to work with Staff, OPC and MECG to develop new allocation procedures prior to GMO's next electric general rate case. (Staff Brief at 11-12)

GMO agrees with Staff that the appropriate way to resolve any issues related to the allocation of costs between the steam operations and the electric operations at the Lake Road plant is through the Commission-approved collaborative discussions between the parties. There is no prudence issue at all, but just a disagreement about which approach—direct assignment or the seven-factor allocation method (or some modified version of it) should be used in the future. This attempt to argue that this difference of opinion about the appropriate method of allocating costs is a prudence issue is misplaced, and should be rejected.

B. If not, what if any adjustment should the Commission order for the review period of File EO-2019-0067?

As explained above, there is no prudence adjustment that should be made for the review period (December 2016 through May 2018) of File EO-2019-0067. GMO merely followed the approved allocation method that has been used for the last seven GMO rate cases. There was no imprudent decision related to the auxiliary power at the Lake Road plant. Therefore, no prudence disallowance of any kind is reasonable or appropriate.

C. Should the Commission order GMO to calculate the fuel cost of the steam operations auxiliary power that was recovered through the FAC since July 1, 2011, and return that amount plus interest at its short-term borrowing rate back to GMO's customers?

Even if there was some basis for a prudence adjustment in this case (which there is not), Public Counsel provided no authority at all for the Commission to retroactively adjust previously closed prudence periods. OPC's proposed adjustment goes beyond the time frame of the audit in this case. The current audit period covers December 2016 through May 2018. It is inappropriate and unlawful to venture back to periods that have already been prudence reviewed and approved by the Commission.

D. Should the Commission Order GMO to make adjustments to the method by which it allocates auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant for the 23rd Accumulation Period and/or any future FAC rate change cases?

As explained by both Staff and GMO, the Commission has already ordered that GMO work with Staff, OPC, and MECG to develop new allocations procedures before GMO's next rate case. (Staff Brief at 13; Company Brief at 18)(Ex. 4, Nunn Surrebuttal, p. 7) In Case No. ER-2018-0146, the Commission approved a Stipulation and Agreement filed on September 19, 2018 that included the following language in paragraph 10:

> GMO will use the allocations numbers used in Staff's model filed in Case No. ER-2016-0156. These allocation numbers shall be used by GMO in its FAC, QCA and surveillance reporting. <u>GMO agrees to work with Staff, OPC and MECG to develop new steam allocation procedures prior to GMO's next electric general rate case</u>. (<u>emphasis</u> <u>added</u>)

The Commission should allow the collaborative process to progress, as already ordered. It is unnecessary for the Commission to step in at this juncture to mandate any specific adjustments to the method by which GMO allocates auxiliary power between the electric operations and the steam operations at GMO's Lake Road plant for the 23rd Accumulation Period and/or any future FAC rate change cases.

<u>ISSUE NO. 3</u> – Was it prudent for GMO and KCP&L to have entered into Purchase Power Agreements with the Rock Creek and Osborn Wind Projects under the terms of the contracts as executed?

A. Despite its protests to the contrary, OPC's prudence argument employs a hindsight analysis which should be rejected by the Commission.

On pp. 34-35 of its Initial Brief, OPC claims that because the Company was aware in 2015 of two factors (problems with the Company's projected market price modeling and declining wind PPA prices) and entered into the Rock Creek and Osborn wind PPAs with this awareness, the Company's actions were imprudent. But recasting the PPA decision to a consideration of these two factors is in itself a hindsight analysis.

OPC fails to mention what the Company was "aware of' at that time. The Company was facing the expiration of the production tax credit ("PTC") for wind farms, the Environmental Protection Agency's unprecedented Clean Power Plan, and transmission uncertainties for wind farms located outside of the Company's service territory, among other factors when it entered into the Rock Creek and Osborn PPAs. Due to these other factors, the Company did not evaluate the PPAs on price alone. Diversification of the Company's wind fleet into Missouri made the most sense when these decisions were made in 2015, which is when the decision must be assessed.

Under OPC's flawed analysis, it was imprudent of the Company to rely on its forecasts, forecasts developed for the KCP&L and GMO 2014 IRP compliance filings (Crawford Direct, Ex. 5, p. 5) and imprudent as wind PPA prices were declining. OPC appears to argue that the Company should have waited to enter into a wind PPA until more favorable conditions developed. A decision was needed in late 2014/ early 2015 because that is when the projects were available. Waiting could have resulted in more expensive wind since the PTC had expired and resulted in potentially no Missouri wind projects. (Crawford Surrebuttal, Ex. 6, p.8) OPC seeks to punish the Company for acting on the Rock Creek and Osborn projects because OPC believes the Company's

only course should have been either waiting to acquire any Missouri based wind projects or acquiring Kansas based wind. This is second-guessing or a hindsight argument.

Moreover, OPC's claims regarding what the Company knew in 2015 are inaccurate and misleading. On p. 38 of its Initial Brief, OPC claims that the Company chose to enter into the Rock Creek and Osborn PPAs even though it knew that its 2012 forecasts were wrong and its 2014 forecast was "nearly identical" to the 2012 forecast. The Company's 2014 market forecast (see p. 36 of OPC Initial Brief) was not "nearly identical" to the 2012 forecast, as the 2014 forecast shows a significant drop in prices in any given year of the forecast. The Company did not base its decision on one single price forecast. In eight of nine scenarios modeled the expected net present value of revenue requirements ("NVPRR") was reduced. (Crawford Surrebuttal, Ex. 6, p. 6) These same pricing values were used in the Company's 2014 IRP and no party, including OPC, objected to the pricing models at that time.

OPC hints on p. 37 of its Initial Brief, that the reason the modeling was "off" was that the Southwest Power Pool ("SPP") market was developing. While this may have been true, the Company did not have the luxury of waiting for the SPP market to mature-it needed a forecast to examine the Rock Creek and Osborn PPA prices so that it could act on that opportunity. (Crawford Surrebuttal, Ex. 6, p. 8) Adoption of OPC's position would mean that the Company could never act on resource acquisitions, as market uncertainties exist in any forecast. (Id.) During this time period, the information that the Company relied on showed that the Osborn and Rock Creek PPAs lowered NPVRR in all scenarios but one as well as provide a hedge against future CPP compliance which had the potential to be based on state-specific resources. (Crawford Direct, Ex. 5, p. 4)

OPC is correct when it notes that wind prices were declining when the Company made its decision to enter into the Rock Creek and Osborn PPAs. However, OPC's point and its chart on

p. 40 of its Initial Brief is misleading. That chart shows declining prices for Kansas wind. As explained in the Company's Initial Brief and later in this brief, the Company decided to add Missouri wind resources for many reasons. Missouri wind was also declining in price and the Company took advantage of this price decline. As seen from the chart on p. 11 of Witness Crawford's Surrebuttal Testimony (Ex. 6) the Rock Creek and Osborn PPAs have a lower price than all other Missouri projects and much cheaper than the earlier Rock Creek and Osborn bids. While Missouri wind was more expensive than Kansas wind, Kansas wind did not meet all of the Company's needs. OPC's price comparison argument must be rejected as it is based on Kansas wind prices.

OPC further claims that it was imprudent to make business decisions based on inaccurate information. (OPC Initial Brief, p. 42). The Company knows that forecasts are not always correct, that is why it evaluated its decision against a range of forecasts. In eight of nine of the forecasts the PPAs were shown to be economic. In the one forecast (the one with low gas prices and no CO_2 restrictions) the projects were not economic. (Crawford Surrebuttal, Ex. 6, p. 6) The fact that we are currently living in the low gas price/no CO_2 restrictions scenario, does not mean that the Company should be penalized. These PPAs are 20-year transactions and future CO_2 restrictions alone can significantly impact the market value of renewable energy, one of the many factors considered at the time the contracts were entered. (Crawford Surrebuttal, EX. 6, p. 13)

B. OPC has not proven that cheaper wind was available.

OPC alleges that the Company could have easily found cheaper wind if only it bothered to look. (OPC Initial Brief, p. 41) Notably, OPC does not identify a cheaper wind project and only provides an unsubstantiated claim that "there could very easily be a large number of other Missouri wind projects that were potentially available" (OPC Initial Brief p. 44). But the OPC chart on p.

40 of its Initial Brief do not show any projects that were available to be "discovered by the Company", it only depicts existing wind contracts that were already executed.

OPC alleges that the other unnamed projects would have been the result of Company due diligence and that the Company's Request for Proposal ("RFP") process was flawed because it did not issue a later RFP. This allegation is not supported by the record. There were no cheaper Missouri wind projects available that the Company did not evaluate. (Crawford Surrebuttal, Ex. 6, p. 13) The Company had issued an RFP in 2013 and through this process it understood the available Missouri projects. Tr. 232. There were no other bidders and no cheaper projects available. The Farmers City and Brickyard Hill Missouri wind farms were more expensive than the Rock Creek and Osborn PPAs. (Id.) The Brickyard Hill project was canceled by Ameren in July 2019 due to transmission costs. The Commission should not make a prudence allowance based on OPC's unsupported claim of cheaper wind projects available. The Company cannot be held to the impossible standard of "it could have found a less expensive project" when OPC has provided no evidence that a cheaper Missouri wind project existed.

OPC alleges at pp. 42-46 of its Initial Brief, that the Company was imprudent because it signed the PPAs without receiving competitive bids from a RFP. But the Company did receive competitive bids. Both the Rock Creek and Osborn projects had offers going back 4-5 years. (Tr. 234) As shown by the record the Company was well aware of opportunities in Missouri and, in the event there were cheaper projects (then or even subsequent to the Osborn and Rock Creek PPAs), Ameren would have likely found them. Ameren eventually did the Brickyard Hill project (which had been offered to the Company shortly after the Rock Creek and Osborn contracts were executed at a price significantly higher than the Rock Creek and Osborn PPAs)(Crawford Surrebuttal, Ex. 6, p. 11) only to later cancel it based on cost. OPC also alleges, that the Company offered no

explanation for its "sudden decision" not to issue a RFP. This was no "sudden decision" as the Company had been looking at Rock Creek and Osborn years earlier in earlier RFPs. (Tr. 232) The Company conducted and RFP in late 2013 and evaluated and selected Mill Creek. The Company explained at the hearing that the Rock Creek PPA resulted from the cancelled Mill Creek wind project. (Tr. 233) The Rock Creek price was within the range of the original Mill Creek bid in the 2013 RFP. (Tr. 233) Also as a direct result of halting the Mill Creek project, another wind project developer approached the Company with the Osborn project and it was also in the range of the Mill Creek bid. (Tr. 233-34) Other than the Farmers City and Brickyard Hill projects (which were higher cost), there were no other Missouri projects to consider. Another RFP would not have provided the Company with any more information than what it had about the Missouri market.

OPC cites a 1990 Commission order in natural gas case on p. 46 of its Brief to support its argument that there could have been better wind prices during the 20 months between the August 2013 RFP response to the date that the Osborn and Rock Creek RFPs were finalized in April and May of 2015. While both Kansas and Missouri wind prices were falling during this time, there is no evidence that there were cheaper Missouri wind options available than the Rock Creek and Osborn PPAs.

OPC's "profit" allegations are also unfounded. Contrary to OPC's statement on p. 42 of its Initial Brief, the purpose of entering into a PPA is not to "resell them for profit". On p. 41 of its Initial Brief, OPC alleges that "KCPL and GMO claimed that the primary reason for entering into these PPAs was that they were predicted to be profitable. *Crawford Direct* pg. 4-5." Nowhere in his direct testimony does witness Crawford indicate that profit was the primary reason for entering into the PPAs. Mr. Crawford does indicate in his testimony that the PPAs reduced NPVRR for retail customers under eight of nine scenarios modeled. (Crawford Direct, Ex. 5, p. 4-5). OPC

compounds its erroneous allegations when it states that a lower price PPA increases the Company's earnings. (OPC Initial Brief, p. 41) Missouri electric utilities do not make profits on PPAs and earnings are not a factor in the cost/benefit analysis when evaluating PPAs. (Crawford Surrebuttal, Ex. 6, p. 7, p. 9) Whatever the cost of a PPA is, it is included in rates. Base rates are set based on expected costs, so the actual cost could be higher or lower. The relative price of a PPA does not make increased earning more or less likely. Id. Thus, the way the FAC works precludes the Company from increasing its earnings with a PPA. OPC not only misquotes witness Crawford, it also displays its misunderstanding of how the costs of the PPAs are recovered in the FAC.

OPC's allegations that the Company missed an opportunity by entering into the Osborn and Rock Creek wind farms should be rejected by the Commission. There were no cheaper Missouri wind options available.

C. The Company's actions were prudent.

The Company has met its burden to show that its actions were prudent. At the time it entered into the Rock Creek and Osborn PPAs, the Company strove for the lowest possible PPA price while at the same time solving for other factors. Those factors included:

- **The need for Missouri based-wind for CPP Compliance.** In June 2014, the EPA issued its CPP. The CPP set state-specific CO_2 reduction targets for most states, including Missouri and Kansas. The state targets were based in part on the assumption that current renewable resources in the state stayed in the state. In addition, the EPA was seeking comments on only allowing in-state renewables to meet CPP compliance. At that time, it was a reasonable assumption that Missouri-based wind may be needed as part of the Company's future CPP compliance. (Crawford Surrebuttal, Ex. 6, p. 15) The Company explained to the Commission in

2014 that it would likely need to add significant Missouri wind resources. (Ex. 9) Other Missouri utilities shared the Company's concern about their ability to use renewable energy and renewable energy credits generated in one state for compliance in another. (Id.)

- **Expiration of PTC**. At the time the Osborn and Rock Creek wind projects were under consideration, the PTC was set to end for projects beginning construction after 2014. (Crawford Direct, Ex. 5, p. 3) Therefore, procuring wind before the PTC ended and higher PPA contracts occurred was a factor in the decision to add additional wind generation to the Company's supply portfolios. (Id., pp. 3-4)
- **Reduction of NPVRR**. Both projects were evaluated with respect to their projected impact on long-term retail revenue requirements over nine different scenarios. The nine scenarios included various combinations of projected natural gas prices and future CO_2 restrictions consistent with the Company's Integrated Resource Planning process. (Crawford Direct, Ex. 5, p. 4) The Rock Creek and Osborn PPAs both were shown to reduce NPVRR under eight of nine scenarios modeled. The one scenario that increased NPVRR was based on low natural gas prices and no future CO_2 restrictions. (Id., p. 5)
- **Interconnection/transmission issues**. The location of the Rock Creek and Osborn wind farms was advantageous to the Company's customers relative to projects located farther away and the Company was able to procure firm transmission service for both projects at no additional cost. (Crawford Surrebuttal, Ex. 6. pp. 15-16)

- **Economic benefits for Missouri**. The Osborn wind project was estimated to provide $2.5 million for road and bridge improvements, $21.7 million to support Clinton and DeKalb county schools, $2.4 million to support local emergency services, six to ten full time operations jobs and over $35 million in property taxes and over $26 million in landowner payments. (Crawford Direct, Ex.5, p. 5) The Rock Creek wind project anticipated economic impact to Atchison County and the surrounding area over $100 million through the creation of new jobs, including 16-20 full time employees at the wind farm, increased county tax revenues and landowner royalties. (Id.)
- **Renewable Energy Standard ("RES") incentives**. Missouri law provides for an incentive to locate renewable generation in Missouri by providing additional RES credit for Missouri renewables. Both the Osborn and Rock Creek projects qualify for this incentive. (Crawford Direct, Ex.5, p. 3)

OPC wants the Commission to focus on the NPVRR issue to the exclusion of all the other factors. But it would not have been prudent for the Company not to evaluate all of the factors listed above. Given that the CPP's state targets were based on renewable energy in a state staying in that state and that the EPA requested comments on only allowing in-state resources for compliance, it was reasonable to take the possibility that KCP&L and GMO may need Missouri-based renewable resources under the CPP in consideration when evaluating wind additions to the KCP&L and GMO supply portfolios. (Crawford Surrebuttal, Ex. 6, p. 15) Given the expected reduction in NPVRR over the PPA terms and consideration that they may be needed for CPP compliance, it was reasonable to enter these contracts. (Id.) Thus, the Company's decision to enter

into the Rock Creek and Osborn PPAs meets the Commission's "reasonable person" standard. OPC's prudence adjustment should be rejected.

D. OPC's proposed adjustments must be rejected by the Commission.

At p. 47 of its Initial Brief, OPC requests the Commission either exclude the entire value of the Rock Creek and Osborn PPAs from the FAC or make a negative FAC adjustment based on the losses that could have been avoided with a hypothetical PPA "at prices consistent with the trend for their other PPAs." OPC's adjustment should be rejected since the PPAs as shown above were prudent. OPC's alternative adjustment must also be rejected by the Commission since the adjustment ignores the capacity benefit that the Company receives from the Rock Creek and Osborn PPAs. (Crawford Surrebuttal, Ex. 6, p. 12) In addition to the renewable energy received from the facilities, they provide 85 MW of accredited capacity. (Id.) Moreover, OPC's valuation ignores the Transmission Congestion Rights revenue associated with the wind farms. KCP&L received $2.214 million in revenue from January to June 2018 while GMO received $1.120 million in revenue from December 2016 through May 2018. (Id.)

OPC's analysis improperly values the Rock Creek and Osborn PPAs at the short-term value of spot market energy. This valuation does not reflect the value that the PPAs bring over the life of the contracts, nor does it reflect the market and regulatory conditions at the time the PPAs were evaluated. (Crawford Surrebuttal, Ex. 6, p. 13) In no way is the value of a Missouri based renewable energy resource that provides both fixed price energy and associated accreditable capacity for 20 years equivalent to the hourly SPP spot market energy prices.

For example, in 2014 and 2015 when the Rock Creek and Osborn projects were being evaluated, the future CO_2 emission cost assumptions added approximately $2 to $16/MWh (depending on the scenario) to the market price of energy in just the first year of CO_2 restrictions.

This grew to $15 to $52/MWh (depending on the scenario) after 10 years of CO_2 restrictions. These CO_2 impacts were those assumed in the Company's 2014 IRP analysis, and were reflected in the PPA evaluations. OPC's valuation of the Rock Creek and Osborn PPAs at the short-term value of spot market energy does not reflect the value these PPAs can bring over the life of the contracts, nor does it reflect market and regulatory conditions at the time the PPAs were evaluated. Given the reasonable likelihood of future CO_2 emission restrictions and the reasonable likelihood that the value of these renewable PPAs would increase under such restrictions, the fact that the PPAs have costs in excess of recent SPP revenues does not mean that the PPAs are imprudent. (Crawford Surrebuttal, Ex. 6, p. 13).

E. Conclusion

The Commission should continue to allow recovery of the costs of the Osborn and Rock Creek PPAs in the FACs of KCP&L and GMO. At the time the decisions to enter into these contracts were made, the Company was facing the potential need for Missouri-based wind for CPP compliance, the federal PTC had expired making future wind additions likely more expensive, the projects were projected to reduce the long-term revenue requirements, and the projects were going to be interconnected in the GMO transmission zone. In addition, since these facilities were to be located in Missouri, there would be economic benefits to the state, a state that also provides an incentive in the renewable energy standard for Missouri-based renewable energy. For these reasons, the decision to enter into these wind PPAs was prudent. (Crawford Surrebuttal, Ex. 6, p. 16).

WHEREFORE, Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company respectfully submit their Reply Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been electronically mailed this 4th day of October 2019, to all counsel of record in this proceeding.

/s/ Roger W. Steiner

Roger W. Steiner