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 Implement its Regulatory Plan.	)))))	**Case No. ER-2010-0355**
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**

STATEMENT OF POSITION OF KANSAS CITY POWER & LIGHT COMPANY AND KCP&L GREATER MISSOURI OPERATIONS COMPANY

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Table of Contents

Page

I. STATEMENT OF THE CASE 1

II. STATEMENT OF POSITION ON ISSUES 4

A. Iatan 1, Iatan 2 and Iatan Common Plant Issues 4

1. Iatan 1 and 2: 4

2. Iatan Common Costs: 27

B. KCP&L Only Issues. 28

1. Cash Working Capital-Gross Receipts Taxes: 28

2. Cash Working Capital- Injuries and Damages: 29

3. Additional Amortizations 29

4. Off-System Sales Margins: 31

5. Talent Assessment: Should the severance costs and related costs associated with the Talent Assessment program be amortized over a five-year period as authorized in Case No. ER-2007-0314, or should the amortization be terminated in this case? 32

6. Production Maintenance: What is the appropriate amount of production maintenance costs to include in rates in this case? 32

7. SO2 Amortization: What is the appropriate amortization period? 32

8. Transmission Tracker: 33

9. Hawthorn Settlement Payments: Should Hawthorn settlement payments be included in either the depreciation reserve or plant cost? 34

10. Jurisdictional Allocations: What Methodology Should be Used to Allocate KCP&L's Off-System Sales Margins Between Missouri, Kansas and FERC Jurisdictions? 35

11. Rate Design/Class Cost of Service Study 36

C. KCP&L - GMO Common Issues 37

1. Demand-Side Management: 37

2. Economic Relief Pilot Program: Should deferred ERPP costs be included in rate base and annualized amortization expense? 39

3. Cost of Capital: 40

4. Supplemental Executive Retirement Pension (SERP) Costs: What level of SERP costs should be included in KCP&L's cost of service for purposes of setting rates? 43

5. Fuel & Purchased Power Expense: 43

6. Severance: What is the appropriate amount of severance cost to include in rates in this case? 45

7. Merger Transition Costs: What is the appropriate amount of merger transition costs to include in rates in this case? 45

8. Depreciation: 46

9. Bad Debt Expense: Should bad debt expense included in rates in this case include a provision for write-offs resulting from the revenue increase in this case? 53

10. Rate Case Expenses: Should rate case expenses be included in the cost of service in the proceeding? If so, how should the appropriate amount of rate case expense be determined? 54

11. KCMO Earnings Tax: What is the appropriate amount of earnings tax to be included in rates? 54

12. Advanced Coal Credit: Should the Commission allocate the advanced coal investment tax credit to GMO even though this would likely result in significant IRS penalties? 55

13. Arbitration Fees: Should fees incurred in the advanced coal credit arbitration case be recoverable? 56

14. Advertising Costs: What is the appropriate level of advertising costs to be included in KCP&L's cost of service in this proceeding? 56

15. Iatan O&M Tracker: Should the Commission adopt an O&M tracker for the case? 56

16. RESRAM/Prop. C: 56

17. Wagner Issues: Should the Commission adopt Mr. Wagner's tariff proposals? 57

D. GMO Only Issues 58

1. Crossroads: 58

2. Jeffrey Energy Center: 60

3. Iatan 2 allocation (MPS vs. L&P): What is the appropriate supply allocation? 60

4. Cash Working Capital: 61

5. Transmission Costs: 62

6. Rebasing: Should the Company be required to rebase its fuel and purchase power expenses, net of off system sales, in excess of such amounts built into base rates? 63

7. Fuel Adjustment Clause Sharing Mechanism: Should the FAC sharing mechanism be changed from 95/5 to 75/25, as proposed by Staff? 63

8. Off-System Sales Margins: How should OSS margins be determined? 64

9. Rate Design/Class Cost Of Service Study: 65

BEFORE THE PUBLIC SERVICE COMMISSION
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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
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

STATEMENT OF POSITION OF
KANSAS CITY POWER & LIGHT COMPANY AND
KCP&L GREATER MISSOURI OPERATIONS COMPANY

Kansas City Power & Light Company ("KCP&L" or "Company") and KCP&L Greater Missouri Operations Company ("GMO" or "Company") submit this Statement of Position in accord with the Commission's *Order Setting Procedural Schedules* issued August 18, 2010.

I. STATEMENT OF THE CASE

Fulfilling the commitments that it made in the Regulatory Plan approved by the Commission as part of the 2005 Stipulation and Agreement in Case No. EO-2005-0329 ("Stipulation"), KCP&L has embarked upon a series of infrastructure and customer enhancement projects valued at over $2.6 billion. In this last of four rate cases contemplated by the Stipulation, KCP&L seeks a decision that appropriately reflects the risks the Company has undertaken in this endeavor, grants necessary increases in revenue, and sets a rate of return that will permit KCP&L to remain financially healthy.

In this case, the Company will request inclusion in permanent rates of its investments in the Iatan 1 AQCS, the supercritical coal-fired unit at Iatan 2, and 48 mega-watts of additional wind turbines located at Spearville, Kansas. This is the critical issue in this proceeding.

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However, traditional rate case issues such as Cost of Capital, Depreciation, Fuel and Purchased Power, and DSM Issues are also critically important.

The task of the Commission in this case is to fashion a fourth rate order that correctly balances the risks with the benefits as they affect customers, shareholders and creditors. Two major factors that are unique to KCP&L among Missouri electric utilities continue to be important: (1) The Company's completion of multi-million dollar construction projects, including the Iatan 1 Air Quality Control System (AQCS), the supercritical coal-fired Iatan 2 unit, and additional wind generation requires that KCP&L be permitted to generate sufficient revenues to earn a reasonable rate of return; and (2) The risk and uncertainty of the off-system sales (OSS) market which in recent years has accounted for a substantial amount of KCP&L's revenues.

These two factors continue to pose major risks to the Company. However, the Company believes that if the Commission continues the policies established in the previous rate cases on these and other traditional issues, a proper balance will again be struck that will permit KCP&L to achieve the goals embodied in the Regulatory Plan.

In this case, the Company is requesting a Return on Equity ("ROE") of 10.75%, based upon the upper end of Dr. Samuel Hadaway's recommended range of ROEs. In his updated analysis, Dr. Hadaway is recommending an ROE in the range of 10.2% to 10.8%, based upon the most recent market data, and KCP&L has reduced its ROE request in this case from 11.0% to 10.75%. KCP&L continues to request, however, a return on equity commensurate with the top of Dr. Hadaway's range to reflect the Company's reliability and customer satisfaction achievements.

KCP&L's T&D systems continued to perform at Tier 1 reliability levels. In addition, the PA Consulting Group awarded KCP&L the ReliabilityOne best performer award for the Plains

Regions for the fourth consecutive year in 2010, as well as the National Reliability Excellence award in 2007.

In addition, KCP&L is ranked as one of the highest rated electric utilities in Customer Satisfaction, according to JD Power and Associates. In 2010, JD Power recognized KCP&L as No. 1 in Customer Satisfaction among business customers in the Midwest Large electric utilities. Based upon these results, the Company believes the Commission should utilize the top end of Dr. Hadaway's range.

The Company also believes that the OSS margins should again be established at the 25th percentile with a continuation of the OSS tracker mechanism, as determined in KCP&L's previous rate cases. Under that mechanism any margins in excess of the 25th percentile determined in this case will be credited to ratepayers through the establishment of a regulatory liability, lowering their energy bills in the next rate case. This methodology has been adopted by the Commission for the Off-system sales issue in the past three KCP&L rate cases. KCP&L proposes to establish the Off-System Sales Contribution Margin at the 25th percentile level of Michael Schnitzer's probabilistic analysis for the April 1, 2010-March 31, 2011 period, with the tracking mechanism previously approved by the Commission. This approach to Off-system sales has proven to be critically important as the Off –system sales markets have continued to be very volatile.

The Additional Amortizations mechanism utilized in previous rate case and which is similar to accelerated depreciation, will not be utilized in this case. See Stipulation, § III(B)(1)(i) at 19. Instead, the Additional Amortizations that have accrued from previous cases will be used as an off-set to rate base.

Proper consideration of these issues, as well as the issues discussed below, will lead to a decision that sets just and reasonable rates that properly balance the interests of shareholders and

customers, and will give the Company an opportunity to earn a reasonable rate of return following the conclusion of the Regulatory Plan.

II. STATEMENT OF POSITION ON ISSUES

A. Iatan 1, Iatan 2 and Iatan Common Plant Issues

1. Iatan 1, 2 and Common:

   a. Should the Iatan 1 and 2 Rate Base Additions be included in rate base in this proceeding?

Yes. Based upon the competent and substantial evidence that will be submitted in this case, the Commission should include the prudently incurred Iatan 1 and 2 Rate Base Additions in rate base in this proceeding. This is one of the most critical issues to be resolved in this proceeding. Unless the Commission includes the Iatan 1 and 2 Rate Base Additions in permanent rates in this proceeding, KCP&L's financial health will be jeopardized.

   b. Should the Commission presume that the costs of the Iatan 1 and 2 Rate Base Additions were prudently incurred until a serious doubt has been raised as to the prudence of the investment by a party to this proceeding?

Yes. There is an initial presumption that a public utility's expenditures are prudent. However, when some other participant in the proceeding creates a "serious doubt" (based upon competent and substantial evidence) as to the prudence of an expenditure, then the public utility has the burden of dispelling these doubts and proving the questioned expenditure to have been prudent. In re Union Electric Company, 27 Mo.P.S.C. (N.S.) 183, 193 (1985)("*Callaway I*"); In re Kansas City Power & Light Company, 28 Mo.P.S.C. 228, 279-82 (1986)("*Wolf Creek*"). The prudence standard adopted in the *Callaway I* and *Wolf Creek* cases has been recognized and approved by reviewing courts. See State ex. rel. Associated Natural Gas Co. v. PSC, 954 S.W.2d 520, 529 (Mo. App. W.D. 1999).

The Commission interpreted the prudence standard in In re Missouri-American Water Co., Report and Order, Case No. WR-2000-281 (Mo. P.S.C., Aug. 31, 2000) as follows:

> In the context of a rate case, the parties challenging the conduct, decision, transaction or expenditures of a utility have the initial burden of showing inefficiency or improvidence, thereby defeating the presumption of prudence accorded the utility. The utility then has the burden of showing that the challenged items were prudent. Prudence is measured by the standard of reasonable care requiring due diligence, based on the circumstances that existed at the time the challenged item occurred, including what the utility management knew or should have known. In making this analysis, the Commission is mindful that the company has a lawful right to manage its own affairs and conduct its business in any way it may choose, provided that in so doing it does not injuriously affect the public.

In Re Missouri Gas Energy, *Report & Order*, Case No. GR-2003-0330, pp. 16-17, the Commission recognized that the prudence standard as set forth in the *Callaway I* has been generally accepted by parties before the Commission:

> The Commission established its prudence standard in a 1985 case involving the costs incurred by Union Electric Company in constructing its Callaway nuclear plant. In determining how much of those costs were to be included in Union Electric's rate base, the Commission adopted a standard for determining the prudence of costs that had been established by the United States Court of Appeals, District of Columbia, in a 1981 case. The standard adopted by the Commission recognizes that a utility's costs are presumed to be prudently incurred, and that a utility need not demonstrate in its case-in-chief that all expenditures are prudent. "However, where some other participant in the proceeding creates a serious doubt as to the prudence of an expenditure, then the applicant has the burden of dispelling those doubts and proving the questioned expenditures to have been prudent."
>
> The Commission, in the Union Electric case, further recognized that the prudence standard is not based on hindsight, but upon a reasonableness standard. The Commission cited with approval a statement of the New York Public Service Commission that:
>
> > . . . the company's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company.

> Since its adoption, the Commission's prudence standard has been recognized by reviewing courts and has been accepted by all parties as the standard to be applied in this case. (*footnotes omitted*)

Consistent with its past rulings in the *Callaway I* and *Wolf Creek* cases, and appellate decisions addressing the prudence standard, the Commission should presume that the costs of the Iatan 1 and 2 Rate Base Additions were prudently incurred until a serious doubt has been raised as to the prudence of the investment by another party to this proceeding.

c. Has a serious doubt regarding the prudence of the Iatan 1 and 2 Rate Base Additions been raised by any party in this proceeding?

In this case, the Commission Staff has commenced a construction audit of Iatan 1 and 2, and recommended specific disallowances related to these construction projects. (See Schedule 1-1, *Construction Audit And Prudence Review—Iatan Construction Project For Costs Reported As Of June 30, 2010* (filed November 3, 2010) (hereafter referred to as *Construction Audit Report*), and has made specific allegations of imprudence, unreasonableness, or lack of benefit to the ratepayers related to certain of the Iatan 1 and 2 construction costs. (Hyneman Direct at 2-3;) Featherstone Direct at 6-7). The specific disallowances recommended by Staff are approximately $70 Million for Iatan 1 and $37 Million for Iatan 2. Additionally, the Missouri Retailers Association has retained a consultant, Mr. Walter Drabinski of Vantage Energy Consulting, LLC who has recommended a disallowance of approximately $231 million. These specific disallowances will be addressed below. The Company believes that the competent and substantial evidence will demonstrate that the Company's construction expenditures for Iatan 1 and 2 have been prudent and necessary to complete the construction projects, and should therefore be included in rates in this case.

In addition, the Staff has recommended that any remaining costs (above the Staff's specific disallowances) that exceed the Company's 2006 Control Budget Estimate which constituted the Iatan Unit 1 and 2 projects' "Definitive Estimate," be disallowed as a "Unidentified/Unexplained Cost Overrun" adjustment. These "plug" adjustments for Iatan 1 and Iatan 2 are approximately $18 Million and $93 Million, respectively, as of June 30, 2010. However, Staff has indicated that their recommended "Unidentified/Unexplained Cost Overrun" adjustments will increase during the True-Up Proceeding as additional construction costs are reviewed. (*Construction Audit Report*, p. 5)

With regard to "plug" adjustments related to costs that exceed the 2006 Control Budget Estimate, the Staff witnesses have stated in depositions that they do not know whether these costs are imprudent, unreasonable, inappropriate, or of benefit to the customer, but should be disallowed by the Commission simply because they exceeded the original Definitive Estimate. The mere fact that KCP&L exceeded its Definitive Estimate does not create serious doubt and does not overcome the legal presumption of prudence. See Report and Order, *Re AmerenUE*, Case No. ER-2007-002 at 69, as affirmed in State ex rel. Public Counsel v. PSC, 2009 WL 68124 (Mo. App. W.D., Jan.13, 2009). The Company does not believe that the Staff's "evidence" on this "unexplained" cost overrun adjustment raises a "serious doubt" as to the expenditures that Staff is recommending be disallowed. Therefore, the Commission should reject Staff's "Unidentified/Unexplained Cost Overrun" adjustments, as more fully discussed below.

d. Should the Company's conduct be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the Company had to solve its problem prospectively rather than in reliance on hindsight? ("prudence standard")

Yes. As the Commission recognized in the *Callaway I*, *Wolf Creek*, and *MGE* decisions discussed above, the public utility's conduct should be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the company had to solve its problem prospectively rather than in reliance on hindsight. "In effect, our responsibility is to determine how reasonable people would have performed the tasks that confronted the company." *Callaway I* at 193. This means that it is more important to judge the quality of the decision-making process and the information available at the time the decision was made rather than the results of the decision or a determination that another course of action would have ultimately been better based upon the events after they have occurred. Both Staff and Mr. Drabinski have engaged in hindsight analyses with respect to their proposed disallowance amounts.

e. Has KCP&L demonstrated that it prudently managed this complex project and prudently managed matters within its control?

Yes. In this proceeding, KCP&L will present ten (10) witnesses who will each address at length the issues related to the Iatan 1 and 2 construction project, the legal standards that should be used to judge prudence issues, the extensive cost controls and management processes that were in place to control construction costs, the reasons for a review and re-forecast of the costs, and a host of other issues related to the management of this project.

The following KCP&L witnesses will address these important subjects at length in their testimony:

1. Mr. William Downey, KCP&L's President, will testify regarding the corporate governance and oversight of the Comprehensive Energy Projects, including Iatan 1 and 2.

He will explain the early procurement options for the Iatan project, and KCPL's active management of the performance of the major contractors of ALSTOM Power Inc. (ALSTOM), Kiewit Power Constructors Co. (Kiewit), and Burns & McDonnell, the Iatan Project's Owner's Engineer. He will also discuss KCP&L's prudent decision-making process with respect to the settlements reached with ALSTOM Power Inc. and the costs associated with the Crane Incident that Staff alleges are imprudent. Mr. Downey also responds to the analysis and recommendations contained in the testimony of the Missouri Retailers Association's consultant, Walter Drabinski. Mr. Downey's testimony demonstrates that the management processes that KCP&L put into place to obtain information, understand that information resulted in reasonable and prudent decisions throughout the management of the Iatan Project.

2. Mr. Curtis Blanc, KCP&L's Senior Director of Regulatory Affairs, will give the Commission an overview of the case, and specifically rebut Staff's "plug" disallowance of all costs above the Control Budget Estimate. Mr. Blanc also addresses certain of Staff's recommended disallowances and describes how KCP&L has sought to be fully transparent in its reporting on the Iatan Project to the Staff.

3. Mr. Chris Giles, KCP&L's former Vice President for Regulatory Affairs, will explain the regulatory history of the Iatan Projects, the extensive information that has been proactively and transparently provided to the Signatory Parties to the Regulatory Plan case, and explain how the Company kept the Staff and Signatory Parties continuously updated on significant developments related to the Iatan plants. He will also explain that KCP&L met the requirements of the Regulatory Plan by developing the Cost Control System, discuss the Control Budget Estimate (also referred to as a "Definitive Estimate"), and how the Company's team effectively identified, explained and controlled the risks

associated with this project. Mr. Giles also provides context that while the Iatan Project experienced cost increases over the Control Budget Estimate, those increases were substantially lower than other plants constructed during the same period of time that was characterized by rising costs, scarcity of resources and limited contracting options. Mr. Giles discusses the review of the Iatan Project's change orders performed by Staff Engineer Mr. David Elliott in which Mr. Elliott concluded that the additions to the Project's scope after the Control Budget Estimate was approved were necessary for the safe and reliable operation of the plants. Finally, Mr. Giles explains that Mr. Drabinski overemphasizes and over-inflates the accuracy and quality of the PDR and the 2006 interim estimate.

4. Mr. Brent Davis, the former Iatan Unit 1 and Unit 2 Project Director, describes the scope of the Iatan Project; KCPL's prudent and active management of the major contractors on the Project including ALSTOM, Kiewit and other contractors; he compares the Iatan 2 Project to other projects on which he has worked during his career; he explains the formation of the contract with Kiewit for the remaining balance of plant work on Iatan 2, and explains that upon successful completion of the Iatan 2 in-service criteria, the Iatan Generating Station is now producing more than twice the electricity and emitting less NO_X, SO_2, mercury, and particulate than the previous emissions of Iatan Unit 1. Mr. Davis provides factual responses to many sections of Staff's Report addressing specific recommended disallowances as well as aspects of Mr. Drabinski's testimony.

5. Mr. Robert Bell, KCP&L's Senior Director of Construction for the Iatan 2 Unit, a manager with 30 years of national and international power plant construction experience, discusses how the day-to-day management of the Iatan Project compares favorably with his experience; he responds to criticisms of the Company's cost control, management,

risk mitigation, and oversight of Iatan 2, concluding that the completion within 3 months of the original target and 16% of the original budget demonstrates that the Iatan Project was a well-run and well-managed Project, and he responds to criticisms of the Missouri Retailers Association witness Mr. Walt Drabinski.

6. Mr. Forrest Archibald, the Senior Manager of Cost for the Iatan 2 Project, directly rebuts Staff's assertions that KCP&L "failed to justify" "$200 million in Iatan Project cost overruns" and that there are deficiencies in the Cost Control. Mr. Archibald testifies as to how KCP&L's cost processes and documentation identify and explain cost overruns in accordance with the Regulatory Plan; and he addresses Staff's allegations regarding the allocation of costs between Iatan Unit 1, Iatan Unit 2 and the Common Plant.

7. Mr. Steve Jones, a former Senior Procurement Director of KCP&L, discusses (1) the process and procedures that he helped to develop to ensure timely procurement of major equipment and contractor services and resolve contractor claims, and (2) the procurement of the contract for Kiewit for the bulk of the Balance of Plant work.

8. Dr. Kris Nielsen of the Pegasus-Global management consulting firm, performed an independent and objective evaluation of the effectiveness of KCP&L management regarding the Iatan 2 project and the prudence of the decisions made by the Company's Senior Management. After an extensive review, Pegasus-Global concluded that KCP&L's management showed a good understanding of the initial conditions and circumstance and the management effort required in regards to Iatan 2, made appropriate adjustments to the decisions as the project unfolded, and found KCP&L's management to be prudent and reasonable. Global-Pegasus has identified any areas where Dr. Nielsen believes KCP&L acted imprudently.

9. Mr. Kenneth Roberts is a lawyer with Schiff Hardin, LLP, a law firm that specializes in

construction law, project oversight, complex commercial negotiations and project controls. KCP&L engaged Schiff Hardin to help the Company develop project control procedures to monitor the costs and schedule for the Iatan Project and other Comprehensive Energy Plan projects. His firm including industry-experienced consultants working for Schiff Hardin monitored the Comprehensive Energy Plan's progress and costs, negotiated contracts with vendors, and resolved disputes with vendors that might arise. He will describe the effectiveness of KCP&L's Project Controls for the Iatan Project and how those tools assisted in the prudent management of the projects. He also discusses the prudence standard itself, and two settlements with ALSTOM, the Iatan Projects major contractor. He also discusses KCP&L's contracting strategy which essentially allowed construction to begin before the final design of the entire project was complete, without adverse consequence. Finally, he addresses Staff criticisms of Schiff Hardin's fees and services. Mr. Roberts also responds to Mr. Drabinski's allegations and rebuts allegations that KCP&L imprudently managed the project or that comparison of the Iatan Project's cost with other projects can be used to determine imprudence on the part of KCP&L.

10. Mr. Daniel Meyer is an outside consultant with 50 years of experience in the construction industry and 40 years of experience in cost analysis work and project oversight. He discusses (1) the development of KCP&L's control budget for the Iatan Project; (2) the process used for establishing the Control Budget Estimate for Iatan 2 in December 2006, and the subsequent cost reforecast completed when the Project was 70-75% engineered in 2008, (3) that based on his experience, KCP&L's external reporting and project controls systems is in the top quartile of large, complex construction projects; and (4) that the balance of plant contracting methodology employed on the Iatan Project was prudent. As

evidence of his conclusions, Mr. Meyer testifies to the accuracy of KCP&L's budget projections, including the fact that KCP&L's projected final costs for Iatan Unit 2 is within 16% of a budget (the Definitive Estimate or Control Budget Estimate) developed at the time 20-25% engineering was completed , 2.5% of the reforecast developed when the project was 70-75% engineered and completed within 4% of a target date set 5 years ago. Mr. Meyer also rebuts Mr. Drabinski's proposed $231 million disallowance and identifies numerous fatal flaws in Mr. Drabinski's analysis.

KCP&L believes that the competent and substantial evidence will show that KCP&L has prudently managed the construction associated with the Iatan 1 and 2 Rate Base Additions. Based upon this competent and substantial evidence, the Commission should find that the KCP&L has demonstrated that it prudently managed this complex project and prudently managed matters within its control.

f. In order for the Commission to disallow a utility's recovery of costs from Iatan Unit 1 or Unit 2, does the Commission need to find that a party has proven both that (1) the utility acted imprudently and (2) such imprudence resulted in an avoidable cost to the KCP&L's customers?

Yes. Both findings are required before an imprudence disallowance may be lawfully made. See State ex. rel. Associated Natural Gas Co. v. PSC, 954 S.W.2d 520, 529-30 (Mo. App. W.D. 1999)

Staff agrees with this test in it Prudence Section of the Construction Audit And Prudence Review—Iatan Construction Project For Costs Report As Of June 30, 2010 (filed November 3, 2010)(hereafter *November 3 Audit Report*) at page 10:

> Ultimately the Court held in Associated Natural Gas that "in order to disallow a utility's recovery of costs from its ratepayers, a regulatory agency must find both that (1) the utility acted imprudently (2) such imprudence resulted in harm to the utility's ratepayers." 954 S.W.2d at 529.

The Missouri Retailers Association consultant, Mr. Drabinski, fails to provide the Commission with competent evidence that his proposed $231 million disallowance establishes a nexus between alleged imprudent acts by KCP&L and an avoidable cost.

g. Is the December 2006 Control Budget Estimate the "Definitive Estimate"? Should KCP&L's prudent management of the Iatan Units 1 and 2 Projects be measured against the Control Budget Estimate?

Yes. KCP&L has tracked cost variances for both Iatan Units 1 and 2 from the December 2006 Control Budget Estimate. (Giles Rebuttal, pp. 20-21) The December 2006 Control Budget Estimate for Unit 1 is $376.8 million and $1,685 million for Unit 2. Staff agrees with this position as it has proposed its disallowances based upon costs that exceed the December 2006 Control Budget Estimate.

h. Do the disallowances proposed by Staff in its construction audit and prudence review establish any imprudent expenditures by KCPL?

No. Staff's "Construction Audit and Prudence Review," sponsored by Staff witness Hyneman, contains no evidence upon which this Commission could enter a finding that any costs incurred by the Companies were imprudently incurred. Staff appears to announce a standard that expands the definition of a prudence review to include not only imprudent charges, but unreasonable or "inappropriate" charges without an analysis of prudence. Regardless of whether the staff applies the correct standard, the disallowances suggested by Staff simply contain no specific evidence that would allow this Commission to enter a finding that the identified expenditures were imprudently incurred. For many of the disallowances staff does not even use the phrase "imprudent." Even if this Commission believes staff raises a serious question about prudence, the Companies' witnesses have successfully met their burden of establishing prudence. The disallowances suggested by Staff are discussed in turn below:

1. "Inappropriate Charges" (p. 25 of audit -- $25,000 for Iatan 1 and $75,000 for Iatan 2). Staff suggests there were "inappropriate charges" and that "the audit encountered events where personal expenses were charged to the Iatan Project by high level KCPL personnel." (P. 25). Staff spends almost a full page discussing a previous "lunch charge" for which the Company is not seeking recovery in this case. But rather than identify specific charges as inappropriate, staff simply "proposes" a flat $25,000 of adjustments to Iatan 1 and $75,000 of adjustments to Iatan 2. Without specific evidence that certain amounts are imprudent, this Commission simply has insufficient evidence to make the disallowance proposed by Staff.

2. "Unexplained Cost Over-runs." (p. 33 -- $18,261,836 for Iatan 1 and $93,400,296 for Iatan 2). This proposed disallowance is discussed separately below. Because Staff never even opines that the costs it identifies were imprudently incurred, there is no evidence to support a disallowance in this category.

3. "Iatan 1 AQCS Indirect Costs Related to Common Plant" (p. 38). Staff alleges that KCP&L incorrectly allocated common costs on a unitized basis and the correct calculation would result in the indirect costs of Iatan Unit 1 to increase.

4. "May 23, 2008 Crane Accident Iatan 1." (p. 41 -- ** [redacted] **for Iatan 1). Staff proposes a disallowance for costs associated with a crane accident. Again Staff's report contains no finding that the costs were imprudently incurred, but simply suggests that the costs be removed "until such time in the future it is determined that KCPL is responsible for these costs." Because the company is entitled to a presumption of prudence, Staff's simple suggestion, without any evidence of imprudence, is insufficient to overcome the presumption.

5. "Project Development Costs." (p. 42 -- $426,017). This recommendation by Staff is not a disallowance, but rather an allocation issue between Iatan 1 and Iatan 2. Staff claims that the work performed by a former subsidiary to KCP&L regarding project development should not be charged to both Iatan 1 and 2. This is merely an accounting issue, as Staff does not question the expense itself but whether it is proper to charge Iatan Unit 1 some portion of this amount.

6. "Severance Adjustment." (p. 42 -- $41,568 for Iatan 1, $35,953 for Iatan 2). Staff proposes a disallowance for severance agreements involving employees who worked on the Iatan Project. Staff never opines that the severance costs were imprudently incurred. Rather Staff recommends the disallowance because the Commission has previously disallowed severance costs and because the charges are "capital costs" that will not provide long term benefit. Without any testimony that the charges were imprudent, they are presumed prudent and must be allowed.

7. "Campus Relocation for Unit 2 Turbine Building." (p. 43 -- ** ** for Iatan 1, ** ** for Iatan 2). Staff proposes a disallowance for expenses incurred to relocate trailers for safety reasons. As explained by Company witness Brent Davis, the relocations were necessary due to changes in the design of the campus. Staff "finds that the allocation of any costs of the campus relocation to the Iatan Project is *inappropriate,*" but never explains what is meant by that. Curiously, Staff says that the relocation was the result of a "significant design error" but never explains why the engineering portion of the report appears to contradict this section when it found no engineering errors. Without testimony that the expenses were imprudent, the Commission cannot disallow them.

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8. "JLG Accident August 25, 2007." (p. 45 -- ** ** for Iatan 1, ** ** for Iatan 2). In August of 2007, an accident occurred at the Iatan Plant when a boom lift tipped over and crashed. As a result, KCP&L paid ** ** to a contractor. Unlike in other disallowances, Staff does actually testify that "Staff does not believe it was reasonable or prudent for KCPL to enter into this settlement agreement." But Staff gives no explanation for its belief other than to say that KCP&L had developed a case that it was not responsible for the accident or costs associated with it. Given the circumstances, and the amount involved, the evidence establishes that, at the time the decision was made, it was not unreasonable of KCP&L to settle the matter for a relatively small amount of money.

9. "Construction Resurfacing Project." (p. 47 -- ** ** for Iatan 1, ** ** for Iatan 2). In the fall of 2007, KCP&L decided to conduct resurfacing in order to solidify soil conditions and ensure the safety of heavy equipment operating at the Project. This project totaled ** ** Unlike its recommendation concerning the JLG accident, Staff's audit section on the Resurfacing Project never so much as opines that costs for the project were imprudently incurred nor does Staff say the costs were unreasonable. Staff simply "believes" the costs should not be included in the Iatan project.

10. "Employee Mileage Charges." (p. 48 -- $59,136 for Iatan 1). Staff proposes a disallowance of mileage reimbursement for employees who were reimbursed mileage to travel from their home to the Iatan project. Staff never claims that the decision to reimburse mileage was imprudent so there is no evidence of an imprudent decision. Staff simply says the charges were "inappropriate" without any

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analysis of the benefits of the reimbursement nor explanation of what is meant by the term "inappropriate."

11. "KCP&L's July 18, 2008 Alstom Settlement Iatan 1." (p. 54 --** ** for Iatan 1). Staff proposes a disallowance of ** ** KCP&L paid to Alstom to settle contract claims related to Iatan 1 and another ** ** for Staff's estimate of the amount of liquidated damages Staff estimates KCP&L could have collected from ALSTOM. ** ** Staff's position on why the disallowance should be made is unclear. In his surrebuttal testimony, Staff witness Hyneman states "Staff does not characterize KCPL's decision to enter into a settlement agreement with ALSTOM as imprudent. However, KCPL's decision to ...[recover the costs in rate base] is not reasonable, just, or appropriate." (Hyneman surrebuttal, p. 38). As explained by company witnesses Downey and Roberts, the settlement reflects a mediated agreement to resolve the ** ** and was a prudent settlement under the circumstances at the time. Staff also proposes a disallowance of another ** ** Staff seems to rely on internal KCP&L documents estimating that KCP&L might have been entitled to liquidated damages of ** ** (p. 54). But there is no evidence provided by staff that ALSTOM continued to fall behind schedule or to justify the ** **. In fact, but for the impact of unforeseen conditions on the Iatan Unit 1 Outage, ALSTOM would have completed its construction work in

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accordance with the schedule, in part due to the prudently reached settlement agreement. Staff concludes by saying that "Staff is not convinced that Alstom's claims against KCPL were not the fault of KCPL's project management, raising the question of KCPL's prudence." The fact that Staff is not convinced is not sufficient to raise even a question, much less a "serious question" and Staff's uncertainty is certainly not evidence on which this Commission can disregard the Companies' evidence and make a disallowance.

12. "KCP&L's Iatan 2 ALSTOM Settlement." (p. 63 -- ** ** for Iatan 2). In 2010, KCP&L entered into another agreement with contractor ** ** Again, Staff never says this decision was imprudent, rather they criticize the decision because they say Alstom would have been required to perform the work ** ** KCP&L witnesses have established that the settlement terms were reasonable and prudent. The value of the settlement and final cost will be $15 million, the remainder of which will be subject to the true-up Rate Case.

13. "Schiff Hardin, LLP" (p. 65). Staff proposes several adjustments related to Schiff Hardin, a law firm hired by KCP&L to assist with the Iatan project. These adjustments total approximately $1.66 million for Iatan 1 and $7.58 million for Iatan 2. Staff proposes disallowances for expenses, for the rates charged for "project management work" (which Schiff Hardin did not perform), for the rates charged for legal work and for expenses charged without invoices. Staff has no expertise in the proper hourly rate for law firms or project management, incorrectly characterizes the work that Schiff Hardin performed on the Iatan Project, presents no credible evidence on these points and disputes the evidence that KCP&L has

presented without any evidence that KCP&L is wrong. Staff's testimony is insufficient to create a "serious question" on the issue, but even if it did KCP&L has met its burden of establishing the prudence of these rates (See testimony of Curtis Blanc), Staff's expense adjustments are similarly unsupported. These adjustments unfairly and without basis stand the presumption of prudence on its head by assuming that expenses were not properly incurred.

14. "Cushman Project Management Rate Adjustment" (p. 95, ** ** for Iatan 1 and ** ** for Iatan 2). Staff opines that the rate paid to a consultant was excessive. Staff does not opine that it was imprudent to hire Cushman but simply compares Cushman's rates to another contractor on the job and finds that Cushman's rates were higher. Because staff has provided no evidence of the market rate for these services or of any imprudent decision, the Commission cannot disallow these costs.

15. Pullman Adjustments. (Unit 1 ** ** and Unit 2 ** **) Staff includes in Schedule 1-1 of its Report two proposed disallowances related to Pullman, the Iatan Project's chimney vendor, with no supportive explanation or testimony.

16. Adjustments from KCC Staff Audits ($438,200 for Iatan 1 and $1,509,915 for Iatan 2) Staff proposes adjustments based on a KCC Staff audit. The audit is not before this Commission and is non-credible hearsay. Staff does not purport to have reached any independent determination about the items listed in KCC's audit nor does staff offer any evidence other than the audit to support Staff's recommendations.

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Mr. Drabinski's testimony and prudence review also do not establish any imprudent expenditures by KCP&L. Company witnesses Mr. Davis, Mr. Roberts, Mr. Meyer and Mr. Nielsen show that Mr. Drabinski's proposed $231 million disallowance amount is not supported by any competent evidence. Instead, Mr. Drabinski bases his opinions primarily upon Mr. Drabinski's "gut feel" with no data or support for his conclusions as to the amounts he states are imprudent. Additionally, Mr. Drabinski never attempts to establish how KCP&L's imprudent actions caused the increase in costs he recommends disallowing. In fact, Mr. Drabinski's imprecise methodology resulted in his recommended disallowance of amounts even he agrees were for scope that would always have to be performed and did not increase the cost of the Project. This is not the type of analysis or evidence upon which the Commission can rely to support an imprudence disallowance.

i. Should the Commission disallow any cost overruns above the Control Budget Estimate for Iatan 1 and 2?

The Commission should not disallow costs for Iatan 1 and 2 simply because they exceed the 2006 Control Budget Estimate. In addition to the specific disallowances related to Iatan 1 and 2, Staff has raised another totally unprecedented disallowance related to all other costs that exceed the original "definitive estimate" or 2006 Control Budget Estimate that was completed when the Iatan 2 project was 20-25% engineered. Staff is recommending that any costs above the initial definitive estimate should be disallowed because, in their opinion, KCP&L has failed to meet one of its commitments in the Regulatory Plan.

As of June 30, 2010, the total cost overruns from the 2006 Control Budget Estimate are $70 million for Iatan 1 and $130 million for Iatan 2. Of these amounts, Staff has argued that $18 million for Unit 1 and $93 million for Unit 2 in overruns have not been adequately "explained" by KCP&L. In order to get to these amounts, Staff has simply subtracted its specific

disallowance amounts from the total overrun for each Unit, resulting in a proposed "plug" disallowance. It should be noted that by the end of the True-up proceeding, the Staff's proposed "plug" disallowance will grow as additional costs are included in Staff's construction audit. If Staff's approach to the cost overrun issue were adopted for all costs that exceed the 2006 Control Budget Estimate of $1.6 Billion, then Staff's total disallowance for Iatan 2 could eventually approach $200-300 million.

In the KCP&L Regulatory Plan Stipulation And Agreement, KCP&L agreed to the following sentence:

> "KCPL must develop and have a cost control system in place that identifies and explains any cost overruns above the definitive estimate during the construction period of the Iatan 2 project, the wind generation projects and the environmental investments."

(Stipulation And Agreement, p. 28, Case No. EO-2005-0329).

This sentence is the basis for Staff's "Unidentified /Unexplained Cost Overrun Adjustment." While this commitment is only one sentence, KCP&L has taken this commitment very seriously, not only to meet it regulatory commitments, but more importantly, to help it prudently control its costs of construction of the Iatan Project progressed through the years. KCP&L relied heavily upon its Cost Control System to understand and prudently manage the project on a day-to-day basis. It was critical to this management process, and it was one of the reasons that the Company was able to successfully complete the plant within 15.6% of the 2006 Control Budget Estimate.

Additionally, KCP&L has provided Staff with information from its Cost Control System to ensure that Staff had everything at its disposal necessary to understand the amount and reasons for all cost overruns and all of KCP&L's management decisions. This included documents containing varying degrees of detail from summary lists and reports to extremely detailed

supporting documentation. KCP&L met with Staff quarterly to provide an update on the Iatan Projects' costs as well as discuss risks to both the schedule and the budget. KCP&L met with Staff on at least 41 occasions to answer any questions Staff had with respect to the Definitive Estimate, project costs, reforecasts, change orders and Cost control System.

KCPL believes it has met its commitment in the Regulatory Plan Stipulation. KCP&L witnesses Forrest Archibald, Ken Roberts, and Dan Meyer explain and fully address issues related to the Company's Cost Control System. In fact, Mr. Meyer, an experienced consultant with nearly a half century in the power plant construction business, testifies that KCP&L's Cost Control System "set up for the Iatan Project so as to document and identify cost variances and related explanations and justifications fall within the top quartile of all power projects that I have seen my career." (Meyer Rebuttal, p. 9)

As explained by the KCP&L witnesses, KCP&L's Cost Control System is a robust tracking system that documents all variances (both increases and decreases) from the Control Budget Estimate for both Iatan 1 and Iatan 2. It was developed in July 2006 and provided to the Staff and other Signatory Parties to the Regulatory Plan Stipulation and Agreement at that time.

The overall system is based on a Cost Portfolio which includes all information needed for cost, cash flow and change order tracking and management. The Cost Report Summation or the "K Report" has been submitted to the Staff and the other Signatory Parties to the Regulatory Plan Stipulation beginning in 2006.

There are three processes that can explain, justify and document the cost variances to the Control Budget Estimate. First, on most of the major procurements there are Recommendations to Award Letters which explain why a contract was awarded for a specific amount that exceeded the Control Budget Estimate. Second, KCP&L performed four "Re-forecasts" of the Control Budget Estimate that provided updated Estimates to Complete which identified the reasons and

accounted for changes to the Control Budget Estimate. These include what are called Risk & Opportunity Analysis Sheets, and Cost Project Folders which contain the detail and narratives identifying and explaining changes to the Control Budget Estimate. These were part of the Cost Re-forecasts that were done in 2008 and later in the project as it neared completion. Finally, and most importantly, there are the Change Orders and Purchase Orders that document the specific justification and corresponding documentation for each change to the Control Budget Estimate.

Staff engineers, Mr. David W. Elliott and Mr. Shawn Lange, reviewed various Cost Control System documents, including 645 change orders over $50,000. After their extensive review, the Staff Engineers concluded that there were no engineering issues at Iatan 1 and 2 that needed to be addressed in this case:

For Iatan 1AQCS:

> "Staff has determined there are no engineering issues regarding the change orders reviewed" (*August 6, 2010 Construction Audit Report*, p. 10).

For Iatan 2:

> "Based on its Engineering Review of KCPL's change orders, Engineering Staff found no engineering concerns with any of the Iatan 2 or Iatan common plant change orders reviewed." (*Construction Audit Report*, p. 14)

The Company does not understand why the Staff has not followed the conclusions of Mr. David Elliott who concluded that the there were no engineering issues that needed to be addressed. The resulting conclusion from Mr. Elliott's review is that the change orders incorporated work necessary for the construction, operation and maintenance of Iatan Units 1 and 2. However, despite this conclusion, the rate case auditors have recommended substantial disallowances of Iatan 1 and 2 costs, even though they do not have any engineering expertise, construction management expertise, or any other construction-related expertise that would

support an expert opinion that their proposed disallowances related to Iatan 1 and 2 should be adopted.

The Staff Auditors' recommendations regarding the "Unidentified /Unexplained Cost Overrun Adjustment" should be rejected since they are unreasonable, unlawful and unprecedented.

Staff's and Mr. Drabinski's proposed disallowances for Unit 2 are unreasonable especially in light of this Commission's Order relative to the construction of Wolf Creek in the 1980s. The Wolf Creek project was completed more than two years behind schedule and cost almost 200% more than its definitive estimate. By comparison, Iatan 2 satisfied its in-service criteria on August 26, 2010, less than three months after the June 1, 2010 target date provided in the Regulatory Plan. In addition, Iatan 2 is forecasted to cost only about 15.6% more than the December 2006 CBE. Despite these differences and the relative success of the Iatan Unit 2 Project, Staff and Mr. Drabinski proposes to disallow much more severe disallowance as a percentage of the cost above the definitive estimate. The following table compares the cost, schedule, and ultimate ratemaking treatment of Wolf Creek to Staff's and Mr. Drabinski's proposal for Iatan 2:

	Wolf Creek	Iatan 2
Definitive Estimate	$1.033 billion	$1.685 billion (December 2006 CBE)
Cost to Complete	$2.9 billion	$1.948 billion (current estimate)
Costs Above the Definitive Estimate	181%	15.6%
Schedule	> 2 years late	< 3 months after June 1, 2010 Regulatory Plan Target Date
Prudence Disallowance (in Dollars)	$200 million	Staff: $130 million (potentially $263 million); Drabinski $231 million
Disallowance (% of Cost to Complete)	7%	Staff: 7% (potentially 14%); Drabinski 12%
Disallowance (% of Costs Above the Definitive Estimate)	11%	Staff: 100%; Drabinski: 88%.

The larger Staff's unsupported "plug" disallowance becomes, the more unreasonable Staff's recommendation also becomes when compared to what this Commission did in Wolf Creek.

j. Has Iatan 2 met its in-service criteria?

Yes. Iatan 2 met its in-service criteria on August 26, 2010, as demonstrated by KCP&L witness Brent Davis (Davis Rebuttal Testimony, pp. 7-8) and confirmed by the Staff witness David W. Elliott (*November 3 Audit Report*, p. 32).

k. Should the Iatan 1 and 2 regulatory assets be included in rate base in this case, as well as the annualized amortization expense?

Yes. The Non-Unanimous Stipulation and Agreement in the 2009 KCP&L Rate Case, approved by the Commission on June 10, 2009, included a provision that allowed the Company to record in a regulatory asset carrying costs related to Iatan 1 AQCS and Iatan Common plant additions not included in rate base in the 2009 Case, through the effective date of new rates in the 2010 rate case (current case). Additionally, the regulatory asset provision allowed KCP&L to defer to this regulatory asset depreciation charges on these plant additions, also through the effective date of new rates in this case. The combined effect

of these two provisions is essentially to treat plant additions not included in the 2009 Rate Case similar to construction work in progress, until new rates are established in this rate case. (Weisensee Surrebuttal, p. 13) All Iatan 1 AQCS and Iatan Common costs should be included in rate base prior to any decision as to possible prudence disallowance. By excluding the carrying cost component of the regulatory asset, Staff has proposed an additional Iatan 1 disallowance over and above the prudence disallowance it has proposed in this case. (Id.)

In summary, the Iatan 1 regulatory asset should be included in rate base in this case, as should capitalized Iatan 1 costs. Any Commission-authorized disallowance should relate to prudency issues and should be reflected as a reduction in total Iatan 1 costs, including the regulatory asset and capitalized costs.

Staff's position on the Iatan 2 regulatory asset is less clear. Mr. Majors indicates on p. 53 of the Cost Report that Staff will, at the time of the true-up in this case, "review and evaluate the calculations made for Construction Accounting, including the test power calculations for Iatan Unit 2." The Regulatory Plan Stipulation and Agreement (pages 43-44) authorized Iatan 2 construction accounting and the resulting regulatory asset and the Company believes this asset should accordingly be included in rate base in this case, with the annualized amortization expense included in cost of service.

2. Iatan Common Costs:

a. Should the Iatan Project Common Costs be included in rate base in this proceeding?

Yes.

b. If so, what is the appropriate amount of Iatan Project Common Costs to be included in rate base in this proceeding?

All of the Iatan Project Common Costs should be included in rate base in this proceeding. KCP&L does not have a preference as to how indirect costs are allocated as long as the method is reasonable and equitable to each of the owners of the project. KCP&L did not allocate Unit 1 indirect costs to Common. Staff's *November 3 Audit Report* indicates that this is the only issue with the Company's allocation of indirect costs. However, in its allocation of indirect costs Staff incorrectly lumps the two units indirect costs together and allocates when they should be done separately. In addition, Staff allocates all actual indirect costs through June 30, 2010 rather than cutting off actual indirect costs as of December 2008 consistent with the Company's allocation of direct construction costs. This results in a substantial over-allocation of indirect costs to Common facilities. KCP&L has discussed these differences with the Staff and believes a reasonable and equitable method of allocation of indirect costs can be agreed to among Staff, KCP&L, and other owners of the project. As of the date of the filing of this Position Statement, no agreement has been reached. In the event an agreement cannot be reached, it is the Company's position that its allocation of indirect costs results in a more reasonable and equitable allocation of indirect costs to Common facilities than that proposed by the Staff. (Giles Rebuttal, pp. 41-42).

B. KCP&L Only Issues.

1. Cash Working Capital-Gross Receipts Taxes:

a. Are the 6% gross receipts taxes paid to the City of Kansas City and the gross receipts taxes paid to other Missouri cities excluding Grain Valley prepayments or payments in arrears?

The 6% gross receipts taxes paid by the Company to the City of Kansas City and the gross receipts taxes paid to other Missouri cities excluding Grain Valley are prepayments because they are payments to the taxing authorities in accordance with city ordinances for a

license to do business in subsequent months, and accordingly should be included in the prepayments component of rate base. (Hardesty Rebuttal at 6-8.)

b. What should be the proper CWC expense lag?

The proper CWC expense lag for the gross receipts tax paid to the City of Kansas City is 57.56 days and for other Missouri cities is 38.93 days. (Weisensee Rebuttal at 19.)

c. What should be the proper CWC revenue lag?

The proper CWC revenue lag is 10 days. (Weisensee Rebuttal at 20.)

2. Cash Working Capital- Injuries and Damages:

a. Should Injuries & Damages be a component of Cash Working Capital? If so, what are the appropriate lag days?

No. Beginning with the 2009 rate case, normalized Injuries & Damages expense has been based on actual claims paid. Therefore, customers are now reimbursing the Company for its I&D expense only after the Company has made cash payments in settlement of the claims. Therefore, I&D should not be a separate component of CWC. (Weisensee Rebuttal at 21.)

3. Additional Amortizations

a. How should accumulated additional amortization expense be flowed back to ratepayers?

The $168.9 million in accumulated Additional Amortizations should be allocated to all of KCP&L's depreciable plant accounts. This is consistent with the Nonunanimous Stipulation and Agreement Regarding Regulatory Plan Additional Amortizations that was entered into in Case No. ER-2006-0314 ("2006 Additional Amortizations Stipulation"), which the Commission approved in its Report and Order issued December 31, 2006 in that case.

This stipulation provided that the Additional Amortizations would be used as a reduction to rate base for the longer of either (a) ten years from the effective date of the July 28, 2005 Report and Order in Case No. EO-2005-0329 (the Regulatory Plan Order), or (b) "until the

investment in the plant in service accounts to which the Regulatory Plan additional amortizations are ultimately assigned by the Commission is retired." See 2006 Additional Amortizations Stipulation, ¶ 5 at 3. Given that the Additional Amortizations have served to benefit KCP&L as a whole, the Company believes it is appropriate for these amounts to be allocated to all accounts. Staff has abandoned its initial position in the Staff Report where it sought to reduce the Company's revenue requirement by $168.9 million. Recognizing that this practice was neither systematic nor rational, and therefore in violation of depreciation accounting principles under the Uniform System of Accounts, Staff Witness Arthur Rice's Surrebuttal Testimony now proposes an assignment of the Additional Amortizations to reserve plant accounts, but only those of Iatan 2.

As KCP&L Witness John Weisensee testified in Rebuttal at page 27, the Company's position is generally compatible with that of OPC Witness Ted Robertson who recommends that the Additional Amortizations be spread among all of KCP&L's depreciable assets.

b. Should the associated deferred income tax asset be included in rate base, as a reduction in the accumulated deferred income tax balance?

KCP&L proposes that these accumulated amortizations be spread over the Company's depreciation reserve accounts, thereby reducing net book value/rate base and resulting in decreased depreciation expense going forward. By including the amount in the depreciation reserve, the amount is returned to ratepayers through lower depreciation rates. (Weisensee Rebuttal at 25, 28.) The associated deferred income tax asset, reflecting the timing impact of the difference in accelerated amortization recognition for book and income tax reporting purposes, should be included in rate base as a reduction in the accumulated deferred income tax balance.

4. Off-System Sales Margins:

a. Should KCP&L's Rates Continue to be Set at the 25th percentile of non-firm Off-System Sales Margin as proposed by KCP&L and previously accepted by the Commission?

Yes. Based on the off-system sales (OSS) margin probability analysis conducted by KCP&L witness Michael Schnitzer of the NorthBridge Group, the Commission should continue to set rates for such margins at the 25th percentile level. This would be consistent with the past two KCP&L rate cases that were decided by the Commission. To the extent that KCP&L makes sales in excess of that 25% level, such margins will be credited to ratepayers with interest, as the Commission ordered in the 2007 Rate Case.

The Commission should adhere to these decisions in light of the risks facing KCP&L from the volatile markets in which it sells energy and capacity not needed to serve native load. Prices in the market place have continued to decline over the past several years, with a particularly dramatic drop in the price of natural gas.

Staff has accepted Mr. Schnitzer's projection of OSS margins at the 25th percentile. See V.W. Harris Rebuttal at 3. The contrary recommendation from the Industrial Intervenors to set the level at the 40th percentile should be rejected. See G. Meyer at 5. Mr. Meyer's recommendation is not based on a study similar to the forward-looking analysis of the NorthBridge Group, which has been accepted by the Commission. Additionally, his recommendations fail to take into consideration the volatility in prices which has continued.

b. Should the Commission include the Adjustments to the 25th percentile projection recommended by KCP&L as components to the Off-System Sales Margin calculation?

Yes. KCP&L's Burton Crawford recommends adjustments related to (1) Purchases for Resale, (2) Southwest Power Pool (SPP) line loss charges, and (3) SPP Revenue Neutrality Uplift charges.

5. Talent Assessment: Should the severance costs and related costs associated with the Talent Assessment program be amortized over a five-year period as authorized in Case No. ER-2007-0314, or should the amortization be terminated in this case?

The Company should be allowed to continue recovery of the amortizations associate with the Talent Assessment program. As the Commission previously recognized, the Talent Assessment program provided customer benefit and the remaining amortization should be recognized in rates. Staff has proposed that the remaining amortized costs of the Talent Assessment program be removed from the Company's cost of service. Staff's use of customer complaint and JD Power data to support this removal does not provide a sufficient nexus to determine customer benefit from the Talent Assessment program or the success of the program.

6. Production Maintenance: What is the appropriate amount of production maintenance costs to include in rates in this case?

The Commission should adopt KCP&L's seven-year indexed average proposed by the Company as it is representative of the ongoing maintenance expense of the Company. Because the seven-year average covers multiple years, indexing is necessary so that "like dollars" can be averaged. Turbine service maintenance is scheduled roughly every seven years and, thus, Staff's proposed two-year average will not reflect KCP&L's costs to serve its customers.

7. SO2 Amortization: What is the appropriate amortization period?

The appropriate amortization for the SO2 emission allowance regulatory liability is 21 years, as recommended by Company Witness John Weisensee and discussed in his Rebuttal Testimony beginning at page 1. Staff agrees with this recommendation, although it is opposed by OPC Witness Robertson who proposes a 5-year period.

KCP&L's recommendation is consistent with the Stipulation approved in the Regulatory Plan (Case No. EO-2005-0329), which linked the allowances with environmental asset construction financing at the time the Regulatory Plan was approved, as well as with the useful

life of the environmental plant. Moreover, as Mr. Weisensee explains, amortization of this regulatory liability over a longer period will benefit more ratepayers with a rate base offset.

8. Transmission Tracker:

a. Should the Commission adopt a transmission tracker for the recovery of certain transmission expenses incurred by KCP&L?

As GMO Witness Tim Rush states in his Rebuttal Testimony, the Company proposes a mechanism to ensure appropriate recovery of transmission expenses as a result of charges from Southwest Power Pool and other providers of transmission service. GMO believes that these transmission expenses are appropriate candidates for a tracker mechanism because they are material, expected to change significantly in the near future, and are primarily outside the control of GMO.

However, the Company opposes Staff's proposal for a transmission tracker because it includes changes in wholesale transmission revenue as an offset to the changes in expense included in the GMO tracker. As explained below, the mismatch between these revenues and expenses shows why the Company's proposal should be accepted by the Commission.

b. If so, should changes in wholesale transmission revenue be used to offset transmission expense as proposed by Staff?

No. As Mr. Rush states in his Rebuttal, Staff's proposal would create a mismatch between revenue and cost. The revenue received by GMO offsets its actual total cost of owning and operating transmission facilities. The amount of such transmission costs will not change until the next rate case and will be a fixed amount, unaffected by the tracker proposed by either GMO or Staff.

However, Staff proposes to include changes in wholesale transmission revenue in its tracker as an offset to the fixed costs of owning and operating transmission facilities. Thus, there will be a mismatch between the costs included and rates, which will be fixed, and the Staff's

proposed revenue offset, which will vary over time. As Mr. Rush explains in his Rebuttal, Staff's proposed tracker will likely have the long-term effect of pushing retail rates in the opposite direction of actual costs.

If Staff's proposal is considered by the Commission, it should be supplemented with a mechanism whereby retail rates can be adjusted to reflect changes in the cost of owning and operating transmission facilities.

9. Hawthorn Settlement Payments: Should Hawthorn settlement payments be included in either the depreciation reserve or plant cost?

In 2007, two years prior to the test year in this case, KCP&L was awarded $2,800,000 in damages related to increased costs incurred by the Company during the Hawthorn outage and subsequent litigation. The damages primarily related to reimbursement of incremental purchased power costs, increased ammonia consumption, increased catalyst cleaning and increased frequency of catalyst replacements. It is Staff's position that this settlement should be flowed back to customers. The Company does not believe the proceeds should be given to customers. First, the proceeds are well outside the test year in this case. Second, the cost of replacement power and additional ammonia expenses that resulted from the H5 catalyst outage (representing about 90% of the settlement proceeds) was never paid by customers. Third, to the extent KCP&L personnel were included in the process, there would not have been any incremental costs to the Company, or in turn to its customers. Finally, Staff's position violates the prohibition against retroactive ratemaking. It is unlikely that Staff would support the Company attempting to reach back to 2007 and now charge customers for the cost of replacement power and additional ammonia expense during that period. (Blanc Rebuttal at 49.)

10. Jurisdictional Allocations: What Methodology Should be Used to Allocate KCP&L's Off-System Sales Margins Between Missouri, Kansas and FERC Jurisdictions?

The Commission should adopt a capacity based approach using the 4 coincident peak (4-CP) capacity allocation factor. As the Company's outside expert Larry Loos of Black & Veatch explains, this allocation of off-systems sales margins will be the same as the allocation of fixed costs of the generating units used to produce the electricity sold off-system. The 4-CP capacity cost allocator is appropriate because KCP&L is clearly a summer-peaking utility and the demands of the four summer months (June - September) are the most reasonable measure of maximum demand based on the average of the four monthly coincident peaks of those months. Therefore, Mr. Loos' recommendation is to allocate off-system sales margins based on the allocation of the fixed costs associated with the generating stations used to produce electricity sold off-system.

The Company's recommendation is in contrast to Staff which has proposed using an energy-based allocator, which is also supported by certain Industrial Intervenors.

The Commission's goal should be to adopt an allocation method that permits KCP&L to recover its total revenue requirement, whatever that may be. Today there are differences in allocation methodologies used by this Commission and the Kansas Corporation Commission that result in an under-recovery of costs. This shortfall results from the jurisdictional allocation percentages not adding up to 100%. Currently Kansas relies on a 12-CP capacity cost allocator, based on the average of all 12 months in a year.

The Commission should return to the capacity-based allocation method that was used prior to the Company's suggestion that the unused energy allocator be adopted in 2006. Returning to a capacity-based allocator will eliminate the larger under-recovery which is caused by the unused-energy allocator at the present time.

11. Rate Design/Class Cost of Service Study

a. What is the appropriate class cost of service study to be used?

The Company's class cost of service study is the appropriate study to be used in this case. Staff's CCOS is flawed, resulting in a flawed rate design proposal. The Company also maintains that the Industrials' and DOE's CCOS's are incorrect. (Rush Rebuttal at 12-13.)

b. What is the appropriate rate design to be used?

As explained in the Rebuttal Testimony of KCP&L witness Rush, the rate design proposals offered by the other parties are flawed and expose the Company to serious risks to revenue recovery. In some cases, the proposals expose customers to excessive price increases. In short, the proposals have not been completely analyzed to the level required by such changes in rate design. KCP&L's proposed rate design was based on a comprehensive, stand-alone rate design proceeding that took place about 10 years ago and should be used in this case. If the Commission desires further modification to KCP&L's rate design, the Company recommends that the Commission order a separate proceeding not artificially tied to a rate case time schedule. (Rush Rebuttal at 18-19.)

c. Should the Commission adopt MGE's proposal to eliminate residential space heating rates?

No. MGE's argument for eliminating residential space heating rates appears to be based on nothing more than an anti-competitive attempt to prevent KCP&L from providing cost-based rates for customers who choose to use electricity to heat their homes. (Rush Rebuttal at 15.)

d. Should the Company be allowed to implement an IEC in this case?

Yes. While the Company has not recommended a specific IEC, the provisions of the regulatory plan allow the Company to implement an IEC.

C. KCP&L - GMO Common Issues

1. Demand-Side Management:

a. Should DSM investments be included in rate base in this proceeding?

Yes. The Company has not taken any action in this rate case beyond what is currently in place and was established in the Regulatory Plan with regard to DSM investments.

From the Company's perspective, the current regulatory accounting mechanism does not adequately address the policy goals set out in MEEIA. Specifically, the current mechanism does not provide timely recovery or earnings opportunities, nor does it sufficiently encourage the implementation of energy efficiency programs by the utility. It is KCP&L's expectation that the rule that comes out of the MEEIA rulemaking process will address these goals and will more adequately address energy efficiency programs and cost recovery. (Rush Direct, pp. 21-22)

b. Should 50% of Connections program costs and certain other advertising costs be transferred from a recoverable expense to the DSM rate base balance?

No. Staff proposes two reductions to the amount of advertising costs included in KCP&L's cost of service 1) a $86,406 (total company) reduction of general advertising costs pertaining to energy efficiency programs and 2) elimination of $347,000 (total company) representing 50% of the Company's cost of its Connections Program. For both of these items, the Staff proposes transfer of the Missouri jurisdictional portions to the deferred DSM regulatory asset for recovery over a ten-year amortization period.

These costs were incurred to benefit our customers currently as well as in the immediate future. The Company expects costs of a similar nature to be incurred on an ongoing basis. Consequently it is not appropriate to delay recovery of them over a ten-year period, and the costs should be allowed in current cost of service. (Blanc Rebuttal, pp. 53-54)

c. How should DSM amortization expense be determined in this case?

From the Company's perspective, the current regulatory accounting mechanism does not adequately address the policy goals set out in MEEIA. Specifically, the current mechanism does not provide timely recovery or earnings opportunities, nor does it sufficiently encourage the implementation of energy efficiency programs by the utility. It is the Company's expectation that the rule that comes out of the MEEIA rulemaking process will address these goals and will more adequately address energy efficiency programs and cost recovery. (Rush Direct, pp. 21-22)

Until the rulemaking is completed, the Company's revenue recovery mechanism should be consistent with the recent Order approving Stipulation And Agreement in the AmerenUE rate case (ER-2010-0036). This would change the Company's current amortization period for the DSM regulatory asset from 10 years to 6 years and include the unamortized balance in rate base for actual expenditures booked to the DSM regulatory asset up through the period of December 31, 2010. The six year amortization period would be applied to DSM program expenditures referred to by Staff as being incurred in "Vintage 4", that is, those subsequent to September 30, 2008. Prior expenditures would continue to be amortized over the originally authorized ten-year period. Additionally, the Company would defer the costs of the DSM programs in Account 182 and beginning with the December 31, 2010 True Up date in this case, calculate allowance for funds used during construction (AFUDC) monthly using the monthly value of the annual AFUDC rate. (Rush Rebuttal, pp. 5-6)

d. Should the Commission adopt MGE's fuel switching proposal?

No. As explained in the Rebuttal Testimony of Gary L. Goble, MGE's fuel switching proposal seeks to a greater market saturation for natural gas appliances by regulatory mandates rather than market interactions. MGE's proposal will result in KCP&L failing to recover its fixed costs associated with the lost revenues of customer switching. Moreover, MGE's analyses

are flawed, do not reflect accurate information, and provide results that are not credible. Finally MGE's proposal would seriously undermine energy efficiency (EE), DSM and demand response (DR) programs that have previously been shown to be beneficial to all parties and would stifle development of additional EE, DSM and DR program activity.

The Commission Staff also opposes MGE's proposal since KCP&L has not analyzed the proposal as a part of its IRP process, and it is not being proposed by KCP&L but by a competitor who would benefit from the proposal. (See Rebuttal Testimony of John A. Rogers, pp. 8-12)

e. Should the Company be required to fund DSM programs at the current level?

No. The Commission should reject Staff's and MDNR's recommendations to direct the Company to invest in DSM programs without any assurance that the full costs and lost revenues associated with these programs will be recognized in rates. Instead, the Commission should move forward to address the cost recovery issue expeditiously.

f. Should KCP&L be required to make a compliance filing with the Commission regarding MEEIA legislation as proposed by Staff?

No. KCP&L believes it is complying with the requirements of MEEIA as well as the Integrated Resource Planning rule regarding DSM programs. The Company is active with many parties, including the Staff in addressing the Company's IRP, as well as the Customer Program Advisory Group (CPAG) in addressing planning and the status of all DSM programs. At this time, the Company is continuing its DSM programs contained in its tariffs.

2. <u>Economic Relief Pilot Program: Should deferred ERPP costs be included in rate base and annualized amortization expense?</u>

The Companies propose that ERPP costs deferred through the true-up date in this case, be included in rate base and amortized in cost of service over two years, in accordance with the Non-Unanimous Stipulation and Agreement in File No. ER-2009-0089. Staff agrees that the program is fully subscribed.

3. Cost of Capital:

a. Return on Common Equity: What Return on Common Equity Should be Used for Determining KCP&L's Rate of Return?

The Companies' outside expert witness Dr. Samuel C. Hadaway recommends that the Commission set the return on equity (ROE) at 10.75%. He presented this revised ROE recommendation in his December 8, 2010 Rebuttal Testimony. Dr. Hadaway discounted the results of his previous Risk Premium Analysis as they were negatively skewed by the U.S. Government's continuing expansionary monetary policies. As a result, KCP&L and GMO have reduced their requested ROE from 11.0% to 10.75%.

This methodology follows the same principles that Dr. Hadaway presented to the Commission and which it accepted in KCP&L's previously litigated rate proceedings: Case No. ER-2007-0314 (Dec. 21, 2006) and Case No. ER-2007-0291 (Dec. 6, 2007).

Dr. Hadaway's current recommendation of 10.75% is based on the 10.2% to 10.8% range of his Discounted Cash Flow (DCF) analysis. His Equity Risk Premium studies indicate an ROE range of 10.05% to 10.24%, although he discounted these results because current utility bond yields are artificially depressed by government monetary policy and investors' continuing flight to safety away from the continuing relative turbulence in the equity capital market. Dr. Hadaway did not include a Capital Asset Pricing Model analysis because it understates the market cost of equity capital and is mainly used in academic cost of capital research.

The Companies request an ROE toward the top of Dr. Hadaway's DCF range to reflect their reliability and customer satisfaction achievements, as explained in the Direct and Surrebuttal Testimony of Senior Director of Regulatory Affairs Curtis D. Blanc.

The other ROE recommendations provided to the Commission are those of Staff's David Murray (range of 8.50% to 10.50%, with a midpoint of 9.00%) and the Industrial Intervenors'

expert witness Michael Gorman (9.65%, reduced to 9.5% in rebuttal). Each of these recommendations, but particularly Staff's, is well below the Companies' market cost of equity capital. Staff's 9.0% midpoint ROE is more than 100 basis points below national average returns allowed by regulatory commissions during the past year. These ROE recommendations also fail to consider adequately the continuing effects of the recent financial crisis and artificially low, government policy-induced interest rates, rather than the cost of equity capital. The adoption of either of these recommendations would severely and negatively affect the ability of KCP&L and GMO to finance their operations, particularly as KCP&L reaches the end of the Comprehensive Energy Plan approved by the Commission in 2005 and the significant projects that it has encompassed.

b. Capital Structure:

(1) What Capital Structure Should be Used for Determining KCP&L's Rate of Return?

The Company recommends the following capital structure, based upon the actual capital structure of its holding company Great Plains Energy Inc. (GPE), projected as of December 31, 2010:

KCP&L Proposed Capital Structure	
Debt	48.69%
Equity-Linked Convertible Debt	4.53%
Preferred Stock	0.62%
Common Equity	46.16%
Total	100.00%

See S. Hadaway Direct Testimony at 7; M. Cline Rebuttal Testimony at 6.

The Companies understand that Staff has agreed to the approach to capital structure proposed in the direct testimony sponsored by KCP&L, subject to Staff and KCP&L's plans to true-up the capital structure when data is available for December 31, 2010.

KCP&L understands that Staff agrees that KCP&L's cost of debt estimate is 6.82%.

(2) Equity Units: Should the Equity Units be Included in KCP&L's Capital Structure and at what Rate?

Yes. The equity-linked convertible debt known as Equity Units should be part of KCP&L's capital structure and should be included at their cost of 13.59%. As explained in the Rebuttal Testimony of KCP&L Treasurer Michael W. Cline, the Company's cost of 13.59% reflects what the Company actually paid for the Equity Units offering which was determined by the dividend yield paid to investors.

Contrary to Staff's view, the rate that a company pays in an Equity Units offering is not a function of its credit rating. As Mr. Cline's Rebuttal states in detail, the Equity Units in this case are financial instruments with two components: (1) an ownership interest in a GPE subordinated debt obligation, and (2) a commitment on the part of the investor to purchase GPE stock at a fixed date in the future at a predetermined price based on the actual price of GPE's common stock on that date. This combination of debt and equity elements requires higher periodic payments by KCP&L to the investor than for subordinated debt alone. Supporting Mr. Cline's testimony are reports from Goldman Sachs and JP Morgan Securities that confirm investors require a higher yield than common stock and which clearly support the pricing of the GPE Equity Units in this case.

There is no basis for Staff's recommended cost of the Equity Units to be 11.14%, 245 basis points below the cost to the Company. As a result, the Units' actual cost of 13.59% should be utilized in setting the capital structure.

4. <u>Supplemental Executive Retirement Pension (SERP) Costs: What level of SERP costs should be included in KCP&L's cost of service for purposes of setting rates?</u>

SERP payments are made by annuity and lump sum. Staff's adjustment only includes annuity payments. Because the Company will likely experience both annuity and lump sum payments on a going forward basis, the Company has requested that both types of payments, averaged over a 9-year period, be recovered in rates. (Weisensee Direct at 58; Fairchild Rebuttal at 3.)

5. <u>Fuel & Purchased Power Expense:</u>

a. <u>How should natural gas costs be determined?</u>

The Company's natural gas costs should be set based upon the forecasting process described by KCP&L Witness W. Edward Blunk. Gas prices are based on the first of the month index price published in Platt's *Inside FERC*, as well as NYMEX closing prices related to Henry Hub natural gas futures contracts. As Mr. Blunk explains in his Direct Testimony, the Company expects to true-up 2010 natural gas prices for its cost of service to actual prices during the course of this case.

b. How should Wolf Creek fuel oil expense be determined? (KCP&L only).

Fuel oil is used at the Wolf Creek Nuclear Plant for multiple purposes, such as building heat and the start-up of operations. These costs are continuing expenses incurred in the normal course of station operations and should be included in this case.

It appears from the Surrebuttal Testimony of Staff Witness V. William Harris that Staff has updated its case to include KCP&L's test-year fuel oil expense at Wolf Creek, which it has agreed to true-up for the 12 months ended December 31, 2010.

c. Should Missouri Joint Municipal Electric Utility Commission (MJMEUC) margin be included in native load and off-system sales margins? (KCP&L only).

No. The analysis of off-system sales conducted by KCP&L Witness Michael Schnitzer of the NorthBridge Group included the former MJMEUC megawatts as being available for sale in their model. Therefore, any revenue from that contract was not included in the NorthBridge analysis.

By contrast, Staff's Cost of Service study, which uses the NorthBridge model, has included sales revenues from the MJMEUC contract in its wholesale calculations, but also counted revenue from this former wholesale customer in its retail analysis. As a result, Staff has double-counted the revenue and costs associated with the MJMEUC contract.

d. How should spot market purchased power prices be determined?

KCP&L's use of the MIDAS™ price forecasting model should be used to forecast spot market electricity prices. This model utilizes a sizeable input data set, which includes information from FERC Form 1 submissions, Energy Information Administration 411 reports, and Continuous Emissions Monitoring system data compiled by the U.S. Environmental Protection Agency. The demand data includes projected hourly demand for virtually every utility in the Eastern Interconnection. The supply data contains a representation of all generating units within those utilities, including capacity, heat rate, fuel type and outage information.

The model performs an hourly chronological dispatch of all generation resources to meet projected hourly demand in each region defined in the MIDAS model's geographic topology. It is a very comprehensive model.

Staff's proposes to utilize a procedure developed in 1996 to ascertain hourly market prices using the relationship between historical market prices and loads. As KCP&L's Burton

Crawford explains in his Rebuttal, this procedure is inferior to the MIDAS model and should be rejected.

Additionally, in Staff's modeling to determine fuel costs and purchased power expense, it included in total energy sources the energy provided by other utilities to serve KCP&L's border customers and by small generators under KCP&L's parallel generation tariff. However, purchased power expense in the cost of service does not include the cost of these energy sources, which should be excluded.

6. Severance: What is the appropriate amount of severance cost to include in rates in this case?

The payment of severance costs is a common business practice which shields the company from significant litigation expenses and should be included in KCP&L's cost of service. It is KCP&L's practice to fill positions as soon as the position becomes vacant, and therefore the Company does not recover its severance costs through regulatory lag, as suggested by Staff. (Fairchild Rebuttal at 4-5.) The Company requested recovery of severance costs, excluding the Talent Assessment program costs incurred in 2006, by averaging the costs over the period 2007-2009. (Weisensee Direct at 55.)

7. Merger Transition Costs: What is the appropriate amount of merger transition costs to include in rates in this case?

The level of amortization reflects recovery over a five-year period of the Companies' Missouri share of transition costs projected through December 31, 2010, incurred during integration and coordination of GMO's operations with KCP&L's. (Ives Direct at 7.) The Companies' requested treatment of merger transition costs is consistent with the Commission's Report and Order in the Merger case. (Ives Rebuttal at 2.)

8. Depreciation:

a. What Life Span should the Commission adopt for Iatan 2?

The best available data demonstrates that the appropriate estimated Life Span for Iatan 2 is 50 years. Given the unit's current design and configuration, Mr. Spanos concluded that the unit was constructed to stay operational and efficient for 50 years, based upon his study of the plant and analysis of available operational data. The accuracy of this estimate was confirmed by Mr. Spanos in his Surrebuttal Testimony at 4, where a review of five other recently constructed coal-fired generating units revealed that their aggregate Life Span was estimated at 47.4 years, a composite depreciation rate that was higher than that recommended by Staff for Iatan 2.

The Industrial Intervenors, through the testimony of Greg R. Meyer, has proposed a 60-year life estimate, which Staff has endorsed without any independent study or analysis. Mr. Meyer's opinion is based mainly on the aging coal-fired steam units of AmerenUE, none of which was installed after 1977. It is important to understand that the current estimates for plants that were installed over 30 years ago reflects additional major capital improvements which have extended their service lives. Today, there is no basis to know what kinds of improvements will be appropriate and whether they will, in fact, be made to Iatan 2.

As Mr. Spanos' examples at pages 20-21 of his Rebuttal Testimony make clear, adjustments to depreciation will occur at the time a major plant improvement occurs. If such adjustments are not made properly or carefully, they could result in substantial increases for ratepayers in the latter years of a plant's life, as the scenarios described by Mr. Spanos clearly indicate. The life spans of plants are revised over time due to changes in functionality, environmental and other regulatory requirements, as well as improved efficiency. However, the proper time to reflect these revisions in depreciation is at the time of the change, <u>not</u> when estimating the initial Life Span of a unit, as suggested by Mr. Meyer and Staff.

Therefore, based upon the best available current data, the Life Span of Iatan 2 is best estimated today at 50 years.

b. Should the Commission adopt the Remaining Life method, in lieu of the Whole Life method?

Yes. The Commission should permit the Company to implement the Remaining Life method to depreciate the Company's accounts, rather than the Whole Life method endorsed by Staff.

In his depreciation study Mr. Spanos, after estimating the service life and net salvage characteristics of each depreciable property group, calculated the annual depreciation accrual rates for each group based on the straight-line Remaining Life method. This method allocates the original cost of the property, less accumulated depreciation and net salvage value, in equal amounts to each year of remaining service life. As the NARUC Depreciation Practices treatise states at page 65: "The desirability of using the remaining life technique is that any necessary adjustments of depreciation reserves, because of changes to the estimates of life on net salvage, are accrued automatically over the remaining life of the property."

By contrast, the Whole Life method has no checks for full recovery, over-recovery or under-recovery. The NARUC treatise states at page 63: "However, to the extent that the estimated average service life turns out to be incorrect (and precision in these estimates cannot reasonably be expected), the Whole Life technique will result in a depreciation reserve imbalance." As a result, changes in the life or net salvage parameter over the life of an asset will not ensure recovery of the full service value under the Whole Life method.

Remaining Life is the superior method and should be adopted.

c. Should the Commission adopt the "Life Span" Approach or the "Mass Property" Approach for generation facilities?

All of the Company's generation fleet should be subject to the Life Span approach to depreciation. There is no rational basis to treat the Companies' Iatan 1, Sibley and other steam generation units differently from the Wolf Creek nuclear plant, the new Iatan 2 plant or the rebuilt Hawthorn 5 plant, which Staff now concedes are appropriately treated under the Life Span technique.

The Companies' depreciation witness is John Spanos, Vice President of the Valuation and Rate Division of Gannett Fleming, a firm that advises utilities and regulators nationally on depreciation issues. Gannett Fleming's depreciation analysis software and other resources are regularly utilized by Staff in its work. Mr. Spanos is recognized by Staff as a competent and qualified depreciation engineer and analyst. He has testified that during the life of a power plant, interim additions, replacements and retirements occur regularly. When final retirement occurs, all of the structures and equipment are retired, whether they were part of the original installation or added as recently as a year or two prior to retirement. The Life Span approach reflects the unique average lives that are experienced each year by recognizing the period of time between each installation and the final retirement of a plant.

On the other hand, Staff in its Case A (Staff Report at 160) utilizes the imprecise Mass Property approach. This technique applies a single average life or average survivor curve to all installation years of an entire power plant account, failing to recognize the unique survivor characteristics of each installation year of a plant.

The Companies' position on the Life Span approach is consistent with this Commission's May 2010 decision in the AmerenUE rate proceeding, Case No. ER-2010-0036. There the Commission rejected Staff's approach that treated power plants like Mass Property, the

traditional approach applied to assets like meters, poles and line transformers. Electric generating plants are significantly different from mass plant assets that are installed and retired each year. The Commission's decision in the AmerenUE case brought Missouri in line with virtually every other regulatory commission in the United States.

The Life Span approach is also endorsed in Public Utility Depreciation Practices, a comprehensive depreciation treatise published by the National Association of Regulatory Utility Commissions (NARUC). Life Span is also the accepted approach in the leading depreciation treatise entitled Depreciation Systems, by Professors Frank K. Wolf and W. Chester Fitch, published by the Iowa State University Press.

Similarly, Staff's own manual entitled "Contents & Outline of a Depreciation Study," authored by Staff's senior depreciation analyst Guy Gilbert, states:

> Unlike mass utility properties such as poles, mains, conductors, etc., there exists utility property that requires some forecast as to its date of retirement. Types of plant applicable to this type of analysis are buildings, electric power plants, telephone switching equipment, gas storage fields, etc. [Staff Manual at 45 (emphasis added)]

Staff's notion that combustion turbines should be treated as Mass Plant, and not like the generating units that they are, should also be rejected. The life characteristics of all electric generating units will reflect interim retirements and additions for many years until it is determined that a particular facility will be retired. Although combustion turbines are smaller than steam units, their life characteristics are quite similar. Like steam production facilities, combustion turbines will be subject to smaller interim retirements over the life of each turbine, with one final retirement occurring at a future point in time.

As a result, it is not appropriate or reasonable to depreciate similar generating assets with comparable life characteristics using two different methodologies. If use of the Life Span approach and remaining life is appropriate for Wolf Creek, Iatan 2 and Hawthorn 5, it should be

appropriate for all other generating facilities, including combustion turbines. Such an approach has been adopted by other utility regulatory commissions that have studied the question, and have rejected the piecemeal application of Life Span to certain units and Mass Property to combustion turbines.

Because the life characteristics of generating facilities, whether they be steam, nuclear or combustion turbines, are the same, the Life Span approach under the Remaining Life method should be applied to all of them.

d. Should the Commission adopt the Companies' Proposal to Amortize the Small Asset General Plant Accounts, including the Amortization of an Unrecovered Reserve?

(i) Should KCP&L be Allowed to Adopt General Plant Amortization?

Yes. Establishing a General Plant Amortization methodology for the eight small-asset accounts that represent approximately 2% of all of the Companies' depreciable plant is reasonable and consistent with the majority of policies adopted by regulatory commissions in the United States.

It is important to recognize that "amortization accounting" has been adopted by other utility regulators, including the Federal Energy Regulatory Commission (FERC), to deal with General Plant accounts that contain a large number of units with small asset values. Under amortization accounting these units of property are capitalized in the same manner as in depreciation accounting. However, depreciation accounting is problematic for these assets because periodic time-consuming manual inventories are required to reflect these small assets as plants in service. As a result, under General Plant Amortization concept, retirements are recorded with a vintage of assets (for example, all cell phones purchased in 2000) that is fully amortized, rather than when each individual unit is removed from service. Therefore, all units are retired when the age of the vintage reaches the end of the amortization period.

Under this system each General Plant account or group of assets is assigned a fixed period which represents an anticipated life during which the asset will render service. The use of General Plant Amortizations is designed to smooth depreciation expense, consistent with capital investment. In order to establish constant rates consistent with amortization accounting and the Remaining Life method, Mr. Spanos has set the accumulated reserve equal to the theoretical reserve of these assets. The first component of the reserve produces an amortization rate which will match the amortization period of the class of assets. Any positive or negative excess from the accumulated reserve amount is recovered over a 10-year amortization period separately from the plant in service.

Contrary to Staff's position, General Plant Amortization is not prohibited by the Uniform System of Accounts, which has been adopted by this Commission pursuant to 4 CSR 240-20.030. FERC Accounting Release No. 15 (AR-15), issued in April 1997, specifically permits General Plant Amortization when certain requirements are met, all of which the Companies have agreed to abide by. AR-15 specifically permits "vintage year accounting" for the General Plant accounts 391 through 399, which include the eight accounts that KCP&L proposes to apply the concept to in this case.

Mr. Spanos noted in his Surrebuttal Testimony that FERC's adoption of vintage year accounting methods for General Plant accounts is identical to his General Plant Amortization proposal in this case. As FERC has noted in AR-15, use of this system "would eliminate the utilization and recordkeeping requirements associated with individual items of property and allow such companies to record only the total cost of plant additions for the year as a vintage group for each account."

(ii) Should KCP&L be Ordered to Conduct an Inventory of Property in these General Plant Accounts?

No. As Mr. Spanos stated in his Surrebuttal Testimony, the biggest challenge of General Plant account assets is that there are so many of them with a low individual value. Given the issues in keeping track of each of these individual assets, an extensive inventory would consume much employee time, but add little value or information to the Company's accounting records. More importantly, it would not improve the future practices of asset retention, and would leave the Companies in the same position they are today in a few years.

The solution is to establish a reasonable useful life for each General Plant account or group of assets that fall into the amortization criteria, and retire all assets installed prior to that period. Such action will assure that virtually all assets that are not used and useful will be taken off the books of the Company. This can be accomplished with a limited number of employee hours, and will establish and improve the process for future recovery of these small assets, at the same time as stabilizing depreciation rates.

General Plant Amortization creates improved accounting processes and minimizes the costs to manage a small percentage of a utility's capital investment. Simply raising capitalization thresholds with regard to these assets, as suggested by Staff, only increases the amount of dollars being expensed.

e. Should Wolf Creek Rates Reflect an Adjustment to the Net Salvage Rates?

No. An adjustment is not required. In an eleventh hour issue raised for the first time in the Surrebuttal Testimony of Staff Witness Arthur Rice, Staff modified the net salvage rates for the nuclear plant accounts without an understanding of how KCP&L calculated its net salvage estimate.

As Mr. Spanos will explain to the Commission, the Company has properly calculated its net salvage estimates.

> f. Should an amortization of the difference between the theoretical reserve and the actual reserve be a component of the depreciation rate? (GMO issue only)

No. Staff has recommended that a reserve amortization be established to address under-accrued and over-accrued depreciation reserves. However, such a reserve amortization is only appropriate when depreciation rates are developed on the basis of the Whole Life method.

Because the Remaining Life methodology recommended by the Companies addresses any theoretical reserve differences within the depreciation accrual rate, a manual adjustment to the accumulated depreciation is only needed if a utility is using the Whole Life method.

For these reasons, the Remaining Life method should be adopted to address any issues regarding over- and under-accrued reserves. The correcting component of the Remaining Life methodology is appropriate for all accounts, including addressing accrual issues.

Any attempt to address accrual issues through the selective use of asset transfers would violate the Uniform System of Accounts as neither systematic nor rational. The Companies' current accrued reserves are either the result of depreciation rates approved by this Commission or of other authorized activity, such as KCP&L's use of the Additional Amortizations pursuant to the Regulatory Plan Stipulation approved by the Commission. Any steps taken to address the Company's accrued reserves must respect USOA principles, as well as past decisions under which the Company has operated.

9. <u>Bad Debt Expense: Should bad debt expense included in rates in this case include a provision for write-offs resulting from the revenue increase in this case?</u>

KCP&L contends that the revenue requirement in this case should include estimated bad debt write-offs on the revenue increase granted in this case, as it is logical that additional

revenues will result in additional bad debt write-offs. Staff agrees that this is logical, but states that the amount cannot be determined with any degree of exactness and that it is not reasonable to simply multiply the rate increase by the normalized bad debt write-off factor (about ½ of 1% for KCP&L). KCP&L agrees that the amount cannot be determined with exactness, such as the income tax impact of a rate increase can be; however, that is not an appropriate justification to not include any dollars. Both the Company and Staff agree that if bad debt expense is included for the rate increase, that forfeited discount revenue should also be included. That is, it is logical that late payment charges will increase as revenue increase. The Company's position on bad debt expense is consistent with the Commission's determination in the 2006 Case.

10. Rate Case Expenses: Should rate case expenses be included in the cost of service in the proceeding? If so, how should the appropriate amount of rate case expense be determined?

Yes. It is long-standing Commission policy to allow the recovery of prudently incurred expenses, including rate case expenses. In this case, the Company annualized rate case costs by including an amortization of costs incurred in the 2009 rate case and projected costs for the current rate proceeding. Costs incurred in prior Regulatory Plan rate cases will have been fully recovered by the time rates become effective in the current rate proceeding; therefore, associated test year amortization was removed from the cost of service in this case. Consistent with ratemaking treatment in previous cases under the Regulatory Plan, rate case expenses incurred are deferred in a regulatory asset and amortized over a two-year period. (Weisensee Direct at 61.)

11. KCMO Earnings Tax: What is the appropriate amount of earnings tax to be included in rates?

The Kansas City Code imposes a tax for general revenue purposes of 1.0 percent per year on "net profits of all corporations earned as a result of work done or services performed or rendered or business or other activities conducted in the city." Net profits are defined by the City

as "the gross receipts from the operation of a business less deductions for ordinary and necessary business expenses as determined for the purposes of federal taxable income with adjustments." The net profits are allocated to Kansas City, Missouri based on a three-factor apportionment formula using property, payroll and gross receipts generated or located in Kansas City, Missouri compared to total property, payroll and gross receipts of the Company. (Hardesty Rebuttal at 13-14.) Staff used the actual 2009 Kansas City earnings tax paid, and allocated a portion of that expense to general taxes. Staff's methodology ignores cost of service adjustments which impact KCP&L's earnings, thereby including an improper amount of earnings tax in its case. (Hardesty Rebuttal at 14-15.) Also, Staff has not included a KCMO Earnings Tax impact on the revenue requirement in this case, an adjustment that Staff makes for both federal and state income tax impacts.

12. Advanced Coal Credit: Should the Commission allocate the advanced coal investment tax credit to GMO even though this would likely result in significant IRS penalties?

The Company believes it would be a violation of the Internal Revenue Service normalization rules under Internal Revenue Code Section 46(f) to allocate advanced coal ITC directly or indirectly to an entity that did not claim the credit on its tax return. The penalty is the repayment to the IRS the greater of ITC claimed in all open tax years as of the date of the violation or the amount of ITC tax credit remaining on the taxpayers' books of account. For KCP&L, this equates to a repayment of $52,294,411. In addition, $77,957,534 of advanced coal ITC would not be available to offset future tax liabilities. It is KCP&L's recommendation that if the Commission believes it is appropriate to allocate advanced coal ITC to GMO, KCP&L should first be given the opportunity to request a ruling from the IRS. (Hardesty Rebuttal at 9-12.)

13. Arbitration Fees: Should fees incurred in the advanced coal credit arbitration case be recoverable?

Yes. The advanced coal credit arbitration was for the purpose of maximizing the Company's advanced coal ITC. This advanced coal ITC is flowed back to the ratepayers, much like the investment tax credits that have been flowed back in prior years. Therefore, since KCP&L entered into the arbitration to maximize the benefit to ratepayers, it is only logical and reasonable that costs incurred associated with the arbitration should be included in costs recovered by the Company.

14. Advertising Costs: What is the appropriate level of advertising costs to be included in KCP&L's cost of service in this proceeding?

The Company has requested recovery of advertising costs related to safety, customer assistance and energy efficiency. The Company has not included costs related to institutional or image advertising. Additionally, the Company has included costs related to its Connections program. Connections is a program started in 2009 to help customers manage through financially challenging times. Programs include payment flexibility, assistance programs, energy efficiency programs and links to service agencies and community groups. (Weisensee Direct at 63-64.)

15. Iatan O&M Tracker: Should the Commission adopt an O&M tracker for the case?

The Companies and Staff are supportive of establishing an O&M tracker.

16. RESRAM/Prop. C:

a. Should Prop. C expenses be included in the cost of service in this proceeding?

b. Should KCP&L's 2010 Prop. C expenses be amortized over a two-year period beginning with the implementation of rates in this case?

Yes. The Companies recommend that an annualized amount equivalent to the expenses incurred in 2010 be included in cost of service as an ongoing expense level and that the expenses

incurred in 2010 be included in cost of service to be amortized over a 2-year period beginning with the implementation of rates in this case.

17. Wagner Issues: Should the Commission adopt Mr. Wagner's tariff proposals?

Mr. Wagner seeks changes to the Company's tariffs to include a part-time rate for streetlights, ornamental street lighting and private unmetered lighting. Mr. Wagner wants to add 50-Watt high pressure sodium lamps to the Company's tariffs; convert tariff lamp listings from wattage/lumens to illuminance based rates; prohibit the marketing of outdoor lights without a Company guarantee to effectiveness of such lighting in addressing safety, security or crime prevention. The Commission should reject Mr. Wagner's tariff changes. First, no municipality has requested part-time lighting. The Company believes that changes to tariffs should come from actual street light customers. Municipalities have to balance the interests of all citizens with regard to the use of street lights. Similarly, the Company has very little demand for 70W bulbs and thus would not anticipate a demand for 50W bulbs. It is not reasonable for the Company to offer a guarantee regarding its protective area lighting because the Company does not make any representation that lighting is the exclusive remedy for providing safety, security and crime prevention. Mr. Wagner's other proposals are not consistent with the needs and concerns of area lighting customers. Moreover, the Company is already committed to developing new lighting technologies as evidenced by its LED pilot program.

Finally, it is the Company's view that Mr. Wagner's Dark Sky initiatives are best addressed at the legislative level and then through the rulemaking process to ensure all potential stakeholders have a voice in crafting statutory language and administrative rules. Stakeholders could include municipal customers, Customer Program Advisory Group ("CPAG"), law enforcement, Missouri Department of Natural Resources, environmental groups, homeowners' associations, Dark Sky representatives, commercial and industrial customers, municipal and

cooperative electric utilities, other regulated utilities, and so forth. This list is not exhaustive, but it is reasonable that the following stakeholders would wish to be included in the Dark Sky issues discussion.

D. GMO Only Issues

1. Crossroads:

a. Should Crossroads be included in rate base at depreciated net book value in this proceeding? What is the appropriate valuation of Crossroads?

Yes. In March 2007, the Company issued an RFP for supply resources. GMO received both long-term and short-term proposals representing a variety of third party suppliers and fuel sources. Crossroads was also bid into the RFP. GMO then conducted a 20-year analysis to determine a preferred resource plan. The analysis showed that Crossroads would result in the lowest 20-year cost, including the cost of transmission service. Crossroads has met the Staff's in-service requirements and is currently providing service to customers.

Crossroads should be included in rate base at the depreciated net book value which is the approximate price at which it was bid into the RFP. Operating costs have also been included based on current costs. While a lower value was reported in certain GPE financial documents related to the acquisition of Aquila, this valuation was not for an operational facility but rather represented the salvage value of the Crossroads turbines. Therefore, this valuation is not appropriate for ratemaking purposes.

b. If Crossroads is included in rate base, should the accumulated deferred taxes associated with Crossroads be used as an offset to rate base?

Yes. An offset to rate base for accumulated deferred taxes generated after Crossroads was sold to the electric utility parent in 2007 is appropriate. An offset to rate base for accumulated deferred taxes generated prior to the sale is not appropriate in this case because

ratepayers never funded the deferrals when Crossroads was owned by a non-regulated subsidiary (separate legal entity).

c. Was a variance from the Commission's Affiliated Transaction Rule required to move Crossroads into GMO's rate base?

No. As required by the rule, GMO obtained competitive bids to determine the fair market value of long-term capacity and energy, and GMO documented the cost to provide the long-term capacity and energy for itself. GMO's analysis showed that the cost of acquiring Crossroads was less than the fair market value of available alternatives from competitive sources and less than the cost of GMO providing the capacity and energy for itself.

d. Should the GMO cost of service include the hypothetical costs for 2 additional non-existing combustion turbines at South Harper?

No. In 2004, the Company selected its preferred resource plan (construction of three combustion turbines and purchase power agreements that included some level of base load capacity) over a lower cost plan (five combustion turbines). This decision to utilize the preferred plan was prudent in that it reduced the Company's dependence on any one fuel source and ensured the additional capacity included some level of base load supply. The Company completed the three CTs in the summer of 2005 and entered into a long-term 75 MW base load contract for a portion of its resource needs. This long-term contract has benefited ratepayers by providing low cost energy.

Staff contends that the 2004 decision by the Company was imprudent because GMO did not choose the five CT option. Staff's phantom turbines and hypothetical purchase power agreement are based on the faulty premise that a utility must choose the least cost alternative without assessing future risk under a variety of future scenarios. The Company's 2004 preferred plan reduced the risks associated with natural gas prices. In addition, Staff underestimates the cost of the phantom turbines and hypothetical purchased power agreement.

2. Jeffrey Energy Center:

a. Should the Jeffrey Rate Base Additions be included in rate base in this proceeding?

Yes. Based upon the competent and substantial evidence that will be submitted in this case, the Commission should include the prudently incurred Jeffrey Energy Center Additions in rate base in this proceeding. Westar Energy is the primary owner and constructor of this project. GMO owns 8% of the plant. Monthly status reports and cost reports provided by Westar were reviewed and monitored by GMO for prudence and reasonableness. The Staff Engineers, Mr. David Elliott and Mr. Shawn Lange, found there were no engineering issues that need to be addressed. (Hedrick Rebuttal, pp. 1-6) In addition, the Kansas Corporation Commission found there the Jeffrey Rate Base Additions should be included in rates without any disallowances.

b. Should the Commission presume that the costs of the Jeffrey Rate Base Additions were prudently incurred until a serious doubt has been raised as to the prudence of the investment by a party to this proceeding?

Yes. See discussion in Section I(A)(1)(b) above.

c. Has a serious doubt regarding the prudence of the Jeffrey Rate Base Additions been raised by any party in this proceeding?

No.

d. Should the Company's conduct be judged by asking whether the conduct was reasonable at the time, under all the circumstances, considering that the Company had to solve its problem prospectively rather than in reliance on hindsight? ("prudence standard")?

Yes. See discussion in Section I(A)(1)(d) above.

e. Has GMO demonstrated that it properly managed these complex projects and properly managed matters within its control?

Yes. See discussion above.

3. Iatan 2 allocation (MPS vs. L&P): What is the appropriate supply allocation?

The appropriate amortization for the SO2 emission allowance regulatory liability is 21 years, as recommended by Company Witness John Weisensee and discussed in his Rebuttal Testimony beginning at page 1. Staff agrees with this recommendation, although it is opposed by OPC Witness Robertson who proposes a 5-year period.

KCP&L's recommendation is consistent with the Stipulation approved in the Regulatory Plan (Case No. EO-2005-0329), which linked the allowances with environmental asset construction financing at the time the Regulatory Plan was approved, as well as with the useful life of the environmental plant. Moreover, as Mr. Weisensee explains, amortization of this regulatory liability over a longer period will benefit more ratepayers with a rate base offset.

4. Cash Working Capital:

a. Should revenue lag days be adjusted for an imputed Accounts Receivable sales program and expenses accordingly adjusted?

No. GMO does not have an accounts receivable (A/R) sales program in place like KCP&L does. Generally, such programs permit a company to reduce revenue lag days in its cash working capital. Consequently, Staff proposes a cost of service adjustment in this case based upon the existence of a hypothetical A/R sales program.

As GMO Witness Michael Cline explained in his Rebuttal at pages 16-19, GMO has pursued the establishment of an A/R sales facility on several occasions, most recently with JP Morgan. Despite GMO's best efforts, it has been advised by JP Morgan and other financial institutions that it lacks sufficient standalone A/R history to implement such a sales program at this time, so one is not appropriate for the test year of this case. The fact that GMO's predecessor Aquila had such an A/R program in 2002 is irrelevant to this proceeding.

As a result, Staff's proposal to impute an A/R sales program to GMO should be rejected by the Commission.

5. Transmission Costs:

a. Should transmission costs be included in the FAC as recommended by the Company or a tracker established for recovery of transmission costs, as Staff recommends?

As GMO Witness Tim Rush states in his Rebuttal Testimony at 16, the Company proposes a mechanism to ensure appropriate recovery of transmission expenses as a result of charges from Southwest Power Pool and other providers of transmission service. GMO believes that these transmission expenses are appropriate candidates for a tracker mechanism because they are material, expected to change significantly in the near future, and are primarily outside the control of GMO.

However, the Company opposes Staff's proposal for a transmission tracker because it includes changes in wholesale transmission revenue as an offset to the changes in expense included in the GMO tracker. As explained below, the mismatch between these revenues and expenses shows why the Company's proposal should be accepted by the Commission.

b. Should changes in wholesale transmission revenue be used to offset transmission expense, as proposed by Staff?

No. As Mr. Rush states in his Rebuttal beginning at page 17, Staff's proposal would create a mismatch between revenue and cost. The revenue received by GMO offsets its actual total cost of owning and operating transmission facilities. The amount of such transmission costs will not change until the next rate case and will be a fixed amount, unaffected by the tracker proposed by either GMO or Staff.

However, Staff proposes to include changes in wholesale transmission revenue in its tracker as an offset to the fixed costs of owning and operating transmission facilities. Thus, there will be a mismatch between the costs included and rates, which will be fixed, and the Staff's proposed revenue offset, which will vary over time. As Mr. Rush explains at pages 18-19 of his

Rebuttal, Staff's proposed tracker will likely have the long-term effect of pushing retail rates in the opposite direction of actual costs.

If Staff's proposal is considered by the Commission, it should be supplemented with a mechanism whereby retail rates can be adjusted to reflect changes in the cost of owning and operating transmission facilities.

6. Rebasing: Should the Company be required to rebase its fuel and purchase power expenses, net of off system sales, in excess of such amounts built into base rates?

No. The Company has not requested an increase in rates for the portion of fuel and purchased power expenses, net of off-system sales, in excess of such amounts build into base rates. By electing to forgo increasing the FAC to reflect a re-base of the FAC, the Company essentially is agreeing to forgo the 5% increase in fuel and purchased power expenses, net of off-system sales, that could be included in the request if it had elected to re-base in the initial filing. The Staff has included a re-basing of fuel and purchased power expenses, net of off-system sales, in its proposal. (Rush Rebuttal at 3.)

7. Fuel Adjustment Clause Sharing Mechanism: Should the FAC sharing mechanism be changed from 95/5 to 75/25, as proposed by Staff?

No. As discussed by GMO witnesses Tim Rush and Curtis Blanc, there is no reason to change the current program whereby GMO is permitted to pass 95% of its fuel costs to customers, with 5% of such costs being borne by the Company itself. Given that there has been no investigation or even a suggestion that GMO is not properly accounting for its fuel costs or otherwise not competently procuring its fuel supplies, Staff has presented no good reason why a shift in the sharing formula should occur.

Moreover, as stated in the Surrebuttal Testimony of GMO Witness Gary M. Rygh of Barclay's Capital, Inc., changing the formula to a basis where 75% would be charged to ratepayers and 25% absorbed by the Company would effectively punish GMO without good

cause. More seriously, it would communicate to the investment community that the Commission is willing to radically change the 95/5 sharing mechanism without any finding that GMO has failed to carry out its obligations under the FAC or any provision of its tariff. This would be a significantly negative regulatory development for Missouri, considering that the vast majority of state regulators permit investor-owned utilities to recover 100% of their fuel costs though a fuel adjustment clause.

8. Off-System Sales Margins: How should OSS margins be determined?

As discussed in the Direct and Rebuttal Testimony of GMO Witness Burton Crawford, the same model used to normalize test-year fuel and purchased power through the MIDAS™ system should also be used to determine and to normalize off-system sales. This model was configured to simulate OSS for the GMO system, based on the same assumptions used to normalize fuel and purchased power costs.

This model simulates sales to the wholesale market when there is generation capacity available above that which is required to meet native load obligations, and when the market price for power is greater than the available generation capacity's marginal cost.

Staff's use of historical levels of off-system sales revenue and costs from 2007 and 2008 is inadequate. This approach does not take into account changes in electricity market prices from that time to when these rates will go into effect in 2011. Additionally, Staff's approach does not consider the resources available for making sales into the market, which the Company's proposal does.

9. Rate Design/Class Cost Of Service Study:

a. What is the appropriate class cost of service study to be used?

The Company's class cost of service study is the appropriate study to be used in this case. Staff's CCOS is flawed, resulting in a flawed rate design proposal. The Company also maintains that the Industrials' and DOE's CCOS's are incorrect.

b. What is the appropriate rate design to be used?

As explained in the Rebuttal Testimony of KCP&L witness Rush, the rate design proposals offered by the other parties are flawed and expose the Company to serious risks to revenue recovery, primarily due to failure to consider customer shifts (rate switching). In short, the proposals have not been completely analyzed to the level required by such changes in rate design. KCP&L's proposed rate design was based on a comprehensive, stand-alone rate design proceeding that took place about 10 years ago and should be used in this case. If the Commission desires further modification to KCP&L's rate design, the Company recommends that the Commission order a separate proceeding not artificially tied to a rate case time schedule.

c. Should the Commission adopt MGE's proposal to eliminate residential space heating rates?

No. MGE's argument for eliminating residential space heating rates appears to be based on nothing more than an anti-competitive attempt to prevent KCP&L from providing cost-based rates for customers who choose to use electricity to heat their homes.

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 hand delivered, emailed or mailed, postage prepaid, this 12th day of January, 2011, to all counsel of record.

/s/ Roger W. Steiner
Roger W. Steiner