

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

In the Matter of)
Kansas City Power & Light Company's)
Request for Authority to Implement) Case No. ER-2012-0174
A General Rate Increase for Electric Service)

In the Matter of KCP&L Greater Missouri)
Operations Company's Request for Authority to)
Implement a General Rate Increase for Electric) Case No. ER-2012-0175
Service)

**SOUTHERN UNION COMPANY D/B/A MISSOURI GAS ENERGY'S APPLICATION FOR
REHEARING**

COMES NOW Southern Union Company d/b/a Missouri Gas Energy ("MGE")¹, by and through the undersigned counsel, pursuant to RSMo Section 386.500, 4 CSR 240-2.080, and 4 CSR 240-2.160, and for its Application for Rehearing respectfully states as follows to the Public Service Commission of the State of Missouri (the "Commission"):

1. On January 9, 2013, the Commission issued its Report and Order in the above-captioned cases, to be effective January 19, 2013 (the "Order").
2. On pages 33 to 40 of the Order, the Commission sets forth its findings of fact and conclusions of law with respect to Winter, Space Heat, and All-Electric rates. As discussed herein, MGE respectfully suggests that the Commission's findings, conclusions, and decisions on Residential Space Heat rates are in error and, further, that the Commission's findings and conclusions of law on this issue are unlawful, unjust, unreasonable, are not based on competent and substantial evidence, are arbitrary and capricious, and constitute an abuse of discretion.

¹ Referred to as "Southern Union" in the Order. "MGE" is used herein for consistency with its briefs and testimony.

CLASS COST OF SERVICE AND RATE OF RETURN FOR RESIDENTIAL RATE CLASSES

3. The Commission made the following findings of fact at pp. 34-35 of the Order regarding KCP&L/GMO's cost of service studies and rates of return for various costs of service:

1. All of Applicant's customer classes recover their costs but some recover more than others. Recovery is among the focuses of experts in rate design because how much the class recovers determines how much other classes must recover. That creates the mechanism for one class to subsidize another, the use of which experts in rate design determine based on economic conditions, including those described in section IV.A.i of this report and order.
2. Because winter is Applicants' off-peak season, certain of Applicants' rate schedules recover less than their class's cost of service. Those schedules are, for KCPL:
 - Residential general use and space heat – one meter ("RESB"),
 - Residential general use and space heat – two meters separately metered, space heat rate ("RESC"),
 - All-electric Small General Service ("SGS"), and
 - All-electric Medium General Service ("MGS");

and for GMO:

- Residential service with space heating ("L&P MO 920 rate schedule"),
 - Residential space heating / water heating – separate meter ("L&P MO 922 Frozen rate schedule"), and
 - Non-residential space heating/water heating – separate meter ("L&P MO 941 Frozen rate schedule").
3. For example, KCPL's RESB generates a 5.859% return in the summer, but only 2.922% in the winter, and RESC generates 4.161% in the summer and only 2.284% in the winter.
 4. Nevertheless, those rates recover their costs of service over the course of a year, do not constitute a discount or promotion, and do not constitute a subsidy of all-electric and space heat customers.

The Commission's finding that these rates do not constitute a discount or promotion, and do not constitute a subsidy of Residential Space Heat customers is – based on the other findings in the order – mathematically impossible and therefore unreasonable and unsupported by competent and substantial evidence. While acknowledging the disparity in rates of return, the Commission ignores it and does nothing to correct it.

4. Regarding finding of fact #3, the Commission does not mention that KCP&L's General Use RESA rates generate a 6.797% rate of return in the summer but only a 5.174% rate of return in the winter.² Similar imbalances exist for L&P and MPS in the seasonal Space Heat returns and between the Residential Space Heat and General Use returns at current rates.³

5. Given the disparities in rate of return derived from KCP&L and GMO's Residential Space Heat and non-space heat customers, it is inaccurate to conclude, as the Commission has in finding of fact #4, that these rates are not a discount or a subsidy. The Commission's determination that Residential Space Heat rates "recover their cost of service" but are not discounts or subsidies is contradicted by KCP&L and GMO's own cost of service study which the Commission appears to rely upon for finding of fact #3. These different rates of return demonstrate that these rates are not cost-based. The simple fact is that residential customers who use electric heat on KCP&L's and GMO's special rates pay less for their electricity than residential customers who use natural gas heat and KCP&L and GMO recover a lower rate of return for Space Heat residential service. This is the very definition of a discount or a subsidy.

6. The Commission's finding that Space Heat rates are not discounted or subsidized is inconsistent with the Commission's decision to increase Space Heat rates by an amount greater than the system average increase in order to move toward cost-based rates. In the Order, the Commission ultimately decides to follow Staff's recommendation to "gradually move recovery toward winter costs by increasing certain rates."⁴

7. KCP&L and GMO's subsidies have persisted since at least KCP&L's and GMO's last rate case.⁵ Staff's recommendation, accepted by the Commission, focuses only on Residential winter revenue collection inequities. However, the record shows that Commission's winter revenue shift recommendations do not go far enough to correct these inequities. While the Staff recommendation was shown to have increased KCP&L's space heat winter revenue (before applying the Commission- approved general rate increase) by approximately \$1.0 million, a \$4.5 million winter revenue increase was required to end the subsidy paid by General Use customers.⁶ For GMO-L&P, Staff's recommendation, adopted by the

² Exh. 625, Cummings Direct, p. 11, line 3.

³ Exh. 628, Cummings Direct, p. 12, lines 9-19.

⁴ Order, p. 39-40.

⁵ Exh. 625, Cummings Direct, p. 11, line 11 – page 12, line 12 and Exh. 628, page 13, line 1 – page 14, line 9.

⁶ Exh. 626, Cummings Rebuttal, p. 3, line 1- page 4, line 8 and Rebuttal Schedule FJC-1.

Commission, would have the effect of increasing winter space heating revenue by \$1.1 million (before applying a Commission-approved general rate increase), while an increase of almost \$4.7 million was called for.⁷ For GMO-MPS, Staff recommended (and the Commission adopted) no space heat winter revenue shift even though a \$3.2 million winter revenue increase was needed.⁸ If cost-based rates are appropriate, as the Commission indicates, the rates should be moved to cost as MGE advocated in this case.

8. The Commission's decision not to eliminate this disparity permits KCP&L and GMO to remain outliers among investor-owned electric utilities in Missouri. KCP&L's and GMO's Residential Space Heating discounts are unique among Missouri electric utilities regulated by the Commission in that neither of the other investor-owned Missouri electric utilities have a separate all-electric or space heat rates.⁹ The standard Residential services of Ameren Missouri and The Empire District Electric Company have declining block winter energy charges as do KCP&L's, MPS' and L&P's Residential General Use schedules. KCP&L, MPS and L&P already have a strong potential to add winter load through their current Residential General Use schedules with their more-sharply declining winter energy prices than Ameren's or Empire District's rates, without the need for separate, significantly lower-priced Space Heating schedules.¹⁰ Having a special rate that further promotes the use of electricity is inconsistent with good energy policy, is unjust, unreasonable, capricious, and an abuse of discretion.

9. In these cases, MGE proposed to first correct seasonal and winter inequities among Residential customers and then eliminate or freeze KCP&L and GMO's Residential Space Heat rates. The Commission has previously acted to eliminate all-electric rates that could not be cost-justified – and its reasoning for a departure from that position remains unexplained in the Order. The Commission froze KCP&L's separate all-electric space and separately-metered space heating services in Case No. ER-2007-0291 after an intervention by Trigen-Kansas City, a district energy network which provides steam and chilled water to customers in the central business district of Kansas City. KCP&L's all-electric and space heating services were limited to existing customers' locations and the price advantage of these

⁷ Exh. 629, Cummings Rebuttal, p. 3, line 8 – page 4, line 3 and Rebuttal Schedule FJC-1.

⁸ Exh. 629, Cummings Rebuttal, p. 4, line 5 – page 6, line 12.

⁹ Exh. 628, Cummings Direct, p. 15, lines 12-17 and Schedule FJC-4.

¹⁰ Exh. 628, Cummings Direct, p. 15, line 19 – p. 16, line 17.

services over the general service schedules was reduced. In that case, the Commission's findings and decisions were that:

- Waiting until anywhere from 2009 to 2012 to address the rate disparities that the separately-metered space heating and all-electric tariff customers pay compared to the general service tariff customers is waiting too long.
- Trigen's and Staff's argument that increasing all class' rates the same percentage would effectively increase the size of the general service-space heating discounts, and exacerbate the current problem, is compelling.
- In a future rate case, the Commission might be willing to consider eliminating the discounts altogether. Allowing even more customers to use those discounts flies in the face of a possible move, supported by Staff, towards eliminating them entirely.¹¹

MGE presented similar evidence and arguments in its testimony and briefs in this matter. The Commission's conclusion that Residential Space Heat rates are appropriate here is an abuse of discretion, is arbitrary and capricious, is unlawful, unjust, unreasonable, and is not founded on competent and substantial evidence.

10. Only MGE's recommendation addresses both the inequities in the collection of Residential revenue between the summer and winter season and among the various Residential customers taking service on various rate schedules within the winter.¹² The Commission's findings to the contrary are arbitrary, capricious, unreasonable, and unsupported by competent and substantial evidence.

RATE IMPACT ANALYSIS.

11. The Commission made the following findings of fact #6 at p. 35 of the Order related to customer bill impacts:

6. For example, a typical KCP&L customer's bill would increase 24.83%. A typical GMO's L&P customer's bill would increase 12.58%. For GMO's space heating customers, \$50.88 per year at the low-use end and \$674.88 for customers at the higher usage level of 4,000 kilowatt hours

¹¹ Report and Order, Case No. ER-2007-0291, issued December 6, 2007, pages 77, 78, and 82. The Commission also froze Residential General Use and Space Heat - 2 Meters in that case.

¹² Exh. 625, p. 17, line 3 – p. 18, line 14 and Schedule FJC-3; Exh. 628, p. 19, line 11 – p. 20, line 23 and Schedules FJC-3A and FJC-3B.

per month, or 17.53%. Those increases do not consider any increase ordered in this action.

The Commission's decision to move toward cost-based rates rather than to eliminate the disparity is based on concerns driven by rate impact findings that are unsupported by competent and substantial evidence and, therefore unreasonable. The Commission's findings do not cite to record evidence, but it appears that the Commission, in the first two sentences, has adopted estimated bill impacts propounded by KCP&L/GMO witness Tim Rush – calculations that were rife with error on Mr. Rush's own admission at hearing. Furthermore, the remaining bill differences were calculations that Staff witness Scheperle explained at hearing were not typical bill impacts resulting from MGE's recommendations. The Commission's reliance on these flawed calculations is unreasonable.

12. The Commission's findings that the cited bill impact percentages were for a "typical" KCP&L customer is incorrect, since the majority of KCP&L/GMO customers are not Space Heat customers. Under MGE's proposal in this matter, the majority of KCP&L/GMO's customers (General Use customers, which comprise 64.9% for MPS, 62.4% for L&P, and 79% for KCP&L) would have seen a rate reduction or no increase in rates prior to any Commission-authorized rate increase.¹³ Only Residential Space Heat customers, the minority of KCP&L and GMO customers, would have seen rates increase in order to remove the historical inequities in KCP&L and GMO rates.¹⁴ The Commission's finding that "typical" customers would receive substantial rate increases is not a matter of semantics, but indicates a clear misapplication of the evidence in this case, as well as a misunderstanding of the impact of MGE's proposal.

13. Although the percentage lacked a record citation, the Commission's findings of a 24.83% "typical" impact for a KCP&L customer presumably refers to KCP&L witness Rush's incorrect calculation of the supposed bill impact on customers in the frozen Space Heat – Two Meters rate.¹⁵ MGE's evidence in this case was that the bill impact for this rate class was

¹³ MGE Initial Briefs, p. 22-23, with record citations.

¹⁴ *Id.*

¹⁵ Rush Surrebuttal Sch. TMR-8, page 4 in ER-2012-0174

8.35%, much less than the impact KCP&L/GMO asserted and what the Commission relied upon.¹⁶

14. The Commission's findings of "typical" GMO's L&P customer's bill impact of 12.58% also lacks a record citation, but appears to be derived from Mr. Rush's testimony as to the Space/Water Heating- Separate Meter bill impact.¹⁷ Of note, the Commission's finding as to a "typical" bill impact for GMO refers to a schedule that has been frozen since 1995 and has only 51 customers on it.¹⁸

15. KCP&L/GMO witness Rush's calculation of the bill impacts – which the Commission adopted - were incorrectly calculated, inflated, and inaccurate.¹⁹ Many of KCP&L's calculation errors were caused by using incorrect data and completely omitting the reduction in summer rates that were part and parcel of MGE's seasonal rate adjustments.²⁰ Accordingly, KCP&L's and GMO's rate impact calculations – and therefore the Commission's findings as to rate impact - are incorrect. At hearing, when asked "given that number that's used is incorrect, and that means that your bill impact analysis is not correct, is that right?" - Mr. Rush responded, "That's correct. I don't know what it would be at this state....".²¹

¹⁶ MGE Reply Brief at p. 13-14, with record citations.

¹⁷ Exh. 136, Rush Surrebuttal, table on page 11.

¹⁸ Exh. 628, Cummings Direct, page 6, footnote 4.

¹⁹ Both the winter and summer rates upon elimination of Space Heat used by KCP&L witness Rush for his bill impacts (Exh. 43, Rush Surrebuttal TMR-8, p. 3) differ from those developed and recommended by MGE (Exh. 625, Cummings Direct, Schedule FJC-8, lines 14, 15, and 22). See also FN 20 herein.

²⁰ Transcript, p. 1007 and 1010. See also FN 65 in MGE's Reply Brief, which notes that Mr. Rush incorrectly uses a separate meter winter energy rate of \$0.09914 when MGE recommends \$0.06910. (Exh. 43, Rush Surrebuttal TMR-8, page 4 and Exh. 625, Cummings Direct, Schedule FJC-8, lines 14 and 22.) Based on 750 kWh winter usage on this meter and 8 winter months, Mr. Rush's winter season bill is overstated by \$180.24, or $(\$0.09914 - \$0.06910) \times 750 \text{ kWh} \times 8 \text{ months} = \180.24 . In the summer, Mr. Rush uses a rate of \$0.11028 when MGE recommends a \$0.10416 rate. (Transcript, Volume 19, page 1006, line 7- page 1008, line 9; Exh. 625, Cummings Direct, page 24, lines 14-18 and Schedule FJC-8, line 23) Based on 900 kWh summer usage and 4 summer months, Mr. Rush's summer season bill is overstated by \$22.04, i.e., $(\$0.11028 - \$0.10416) \times 900 \text{ kWh} \times 4 \text{ months} = \22.04 . Mr. Rush's typical annual bill is overstated by \$202.28, an overstatement of 15.68%, or $\$202.28 / \$1290.32 - 1 = 15.68\%$. The typical Space Heat – 2 Meter bill impact is, thus, 8.35% , or $24.03\% - 15.68\% = 8.35\%$. When asked about the bill impact with an assumed 10% overall revenue increase, KCP&L witness Rush incorrectly concludes that the impact would be 34%. (KCP&L's Initial Brief, paragraph 16) Not only is his starting point wrong, but also KCP&L witness Rush fails to recognize that MGE does not recommend an across-the-board assignment of the revenue increase to rate elements within the Residential class. Quite the contrary, MGE recommends that the approved Residential increase be assigned to energy charges to preserve the seasonal equity in the collection of Residential revenue achieved with the recommended current rate adjustments. (Exh. 625, Cummings Direct, page 5, lines 5-11; page 26, line 3 – page 27, line 3; and Schedule FJC-9). MGE's detailed testimony and schedule shows how these seasonal energy charges must be developed.

²¹ Transcript, Volume 19, p. 1011, lines 16-20.

16. In its Initial Brief, KCP&L pointed out one instance at hearing in which Mr. Rush admitted to underestimating one calculation - which proves nothing other than giving another example of error in an analysis that cannot be relied upon.²² Mr. Rush's additional calculation error may be the source of the Commission's uncited statement "such hardship [referring to bill impacts] would be even greater under Southern Union's calculations."²³ If this was the source of the Commission's statement, which is unclear from the Order, the Commission's conclusion is inaccurate and is not based on competent and substantial evidence. Mr. Rush's underestimation of one calculation did not apply to his entire analysis of rate impact – only that one calculation. By using inflated energy charges for summer and winter, as Mr. Rush admitted at hearing,²⁴ his estimated bill impacts were similarly inflated. Upon questioning by his own counsel, after having been presented with the numerous errors in his bill impact analysis in cross-examination, Mr. Rush claimed confusion and stated, "I could redo all of this. I'd be happy to do that."²⁵ Mr. Rush's statement that he could "redo all of this" is simply further confirmation that the rate impact calculations that the Commission relied upon were inaccurate.

17. The Commission's finding that MGE's proposal to freeze or eliminate rates would result in increases "for GMO's space heating customers, \$50.88 per year at the low-use end and \$674.88 for customers at the higher usage level of 4,000 kilowatt hours per month, or 17.53%" also lacks a record citation, but appears to be derived from Staff witness Scheperle's surrebuttal testimony.²⁶ Staff witness Scheperle's calculations were not based on MGE's proposal, but rather on Staff's own illustration, which purported to show impacts from the outright elimination of Residential Space Heat rates.²⁷ MGE's proposal first made seasonal adjustments to rates which resulted in the

²² KCP&L and GMO Initial Brief, p. 10, FN 1.

²³ Order, p. 37.

²⁴ See FN 20, supra, with record citations.

²⁵ Transcript, Volume 19, p. 1038.

²⁶ Scheperle Surrebuttal testimony, p. 4 in ER-2012-0175.

²⁷ Transcript, Vol. 19, p. 1063, lines 8-15. A further illustration that Staff witness Scheperle's calculations do not represent bill impacts resulting from MGE's proposal is provided in his example of a 19% L&P annual bill change when, in fact, the change is 5% under MGE's proposal. Exh. 3010, Scheperle Rebuttal, p. 8, lines 6-9; Exh.630, Cummings Surrebuttal, p. 26, lines 1-6 and Surrebuttal Schedule FJC-3.

reduction in most KCP&L and GMO customer bills prior to any approved rate increase.²⁸ Mr. Scheperle simply calculated differences between bills based on *current* General Use rates and bills based on *current* Space Heat rates.²⁹

18. By its reliance on KCP&L and GMO's inaccurate bill impact calculations and Staff's bill calculations, the Commission ignores the only competent and substantial evidence on this issue, which showed that MGE's recommendations result in General Use annual bill *decreases* for the majority of KCP&L and GMO's customers.³⁰ The evidence showed that

- For KCP&L, the Residential Space Heat – One Meter annual bill would have increased (before any overall revenue increase awarded by the Commission) by 6.1% if Space Heat had been eliminated and 4.0%, if Space Heat had been frozen.³¹ MGE's recommendations (before any overall revenue increase awarded by the Commission) would have resulted in Residential General Use (comprised of 79% of KCP&L's Residential customers) annual bill *decreases* of 5.6% if Space Heat had been eliminated and *decreases* of 1.9%, if Space Heat had been frozen.³²
- For MPS, annual Space Heating bills would have increased (before any overall revenue increase awarded by the Commission) by 3.2% if Space Heating had been eliminated and 3.4% if Space Heating had been frozen.³³ For L&P, annual Space Heating bills would have increased (before any overall revenue increase awarded by the Commission) by 7.8% if Space Heating had been eliminated, and 5.0%, if Space Heating had been frozen.³⁴ MGE's recommendations (before any overall revenue increase awarded by the Commission) resulted in typical General Use (comprised of 65% of MPS's Residential customers and 62% of L&P's Residential customers) annual bill *decreases* of 0.0% for MPS and 9.6% for L&P if Space Heating had been eliminated and *decreases* of 3.0% for MPS and 3.6% for L&P if Space Heating had been frozen.³⁵

The Commission, in expressing concern over potential customer rate impact, need have looked no further than MGE's recommendations.

²⁸ Transcript, Volume 19, page 1059, line 23 - page 1060, line 12.

²⁹ Transcript, Volume 19, page 1058, line 18 – page 1059, line 2.

³⁰ MGE Initial Brief, p. 21 including record evidence citations.

³¹ MGE Initial Brief, p. 22 including record evidence citations.

³² *Id.*, page 21 including record evidence citations.

³³ *Id.*, p. 23, including record evidence citations.

³⁴ *Id.*

³⁵ *Id.* at p. 22, including record evidence citations.

FROZEN RATES

19. The Commission made the following finding of fact at p. 35 of the Order regarding MGE's alternate proposal to freeze the availability of all-electric Space Heating rates:

7. To freeze a rate is to close it to new customers. Frozen rate tariff language has proven to be difficult to draft and administer for other services. Such a tariff has caused confusion among the utility, customers, and the Commission. The result was multiple customer complaints and litigation.

The Commissions' sole citation for this finding of fact is found in footnote 62 of the Order, which references the Briarcliff Developments v. Kansas City Power & Light Company, Case No. EC-2011-0383, Report and Order issued Mar. 7, 2012 (the "Briarcliff Complaint"). KCP&L's Residential Space Heat – 2 Meters rate has been frozen for almost 5 years³⁶ and L&P's Residential Water/Space Heating- Separate Meter schedule has been frozen for seventeen years.³⁷ One formal complaint in seventeen years cannot support a finding that frozen rates have resulted in "multiple complaints and litigation."

20. The Commission's finding that "frozen rate tariff language has proven difficult to draft" is belied by facts of the Briarcliff Complaint, which involved the interpretation of the following straightforward tariff language in this frozen rate class: "[this] schedule is available only to Customers' physical locations currently taking service under this Schedule and who are served hereunder continually thereafter."³⁸ This hardly constitutes "difficult" tariff language.

21. KCP&L's own written testimony in the Briarcliff Complaint contains no mention of administrative difficulty in administering a frozen rate.³⁹ KCP&L's witnesses in that case, which included Mr. Rush, merely describe how they applied the tariff and why they thought that their application of the tariff was correct.⁴⁰ Similarly, the Commission makes no mention, finding of fact, or conclusion that frozen rates were administratively burdensome or difficult to interpret in

³⁶ This rate was frozen by the Commission in ER-2007-0291, see discussion on pp. 4-5 above.

³⁷ Exh. 628, Cummings Direct, FN5, referring to the Space/Water Heating - Separate Meter rate for GMO-L&P which has been frozen since 1995.

³⁸ Briarcliff Complaint Order, p. 10, para. 34

³⁹ See the testimony of KCP&L witnesses Rush and Mr. Henrich in EC-2011-0383

⁴⁰ Id.

its order in the Briarcliff Complaint case. The Commission's findings on this point in the Order in this case are unsupported by competent and substantial evidence, are arbitrary, capricious, and unjust.

POLICY CONSIDERATIONS

22. The Commission correctly notes one policy consideration for the elimination of specially-priced residential space heating rates – the recent drop in natural gas prices⁴¹ – but ignores the numerous other policy considerations that should have dictated the elimination of KCP&L and GMO's discounted Residential Space Heating rates, including:

- a. The current KCP&L and GMO General Use winter declining block rate structure encourages winter load additions. By offering an even lower-priced Space Heat service, customers are not incented to conserve electricity used for both heating and non-heating purposes.
- b. The additional electricity production and delivery caused by discounted Space Heat services results in adverse environmental impacts.
- c. Encouraging the use of electricity through discounted Space Heat services ignores the fact that natural gas is more efficient than electricity for space heating purposes.
- d. Space heating with natural gas is less expensive than heating with electricity from KCP&L and GMO.
- e. KCP&L's and GMO's Residential General Use schedules have declining winter energy rates. Through these price signals, KCP&L and GMO have a stronger potential to encourage winter usage through their General Use schedule than does Ameren Missouri and Empire District through their Residential rates - rates that do not offer discounts for Space Heating. KCP&L's and GMO's discounted Space Heat services are not needed for winter-load building.
- f. Customers choose electricity rather than natural gas for space heating simply because they receive winter price breaks not only for space heating purposes but also for lighting their homes, operating their televisions and refrigerators, and using other electric appliances. Aside from promoting false price signals, these rates are not sustainable in the long term.
- g. Elimination of Space Heating services is consistent with factors that KCP&L and GMO articulated as being important in assessing rate design proposals.⁴²

⁴¹ Order, p. 38.

⁴² MGE Initial Briefs, pp. 16-18, including record citations.

These factors are key policy, customer impact, and energy considerations that the Commission should have considered in its Order. Ignoring these critical factors result in an Order that is unlawful, unreasonable, unjust, arbitrary, and capricious.

LOST MARGIN ARGUMENTS

23. The Commission concluded that raising Residential Space Heat rates would harm other customers due to KCP&L and GMO's need for further rate increases to recover lost margins from Space Heat and Space Heating customers.⁴³ A service priced below its cost of service cannot make up the difference with greater volume. This unsupported, uncited, and unreasonable finding is dispelled by the substantial evidence to the contrary provided by MGE.⁴⁴ KCP&L and GMO provided no analyses or quantification to support this claim in testimony. In contrast, MGE showed that KCP&L and GMO's revenue will increase in Residential Space Heat rates.⁴⁵ Similarly, KCP&L and GMO's testimony in this case anticipated increased margins with no loss in sales associated with its proposed 15% increase in Residential Space Heat rates for KCP&L, 11% for L&P, and 8% for MPS.

24. KCP&L's recent experience in Kansas provided another point of reference. As a result of a substantial Residential Space Heat rate increase in its 2010 Kansas rate case, KCP&L's Residential Space Heat winter retail sales revenues increased by 35%.⁴⁶ The Commission's speculation about lost margins is not based on competent and substantial evidence, is unreasonable, is arbitrary and capricious, and constitutes an abuse of discretion.

⁴³ KCP&L's Initial Brief, paragraph 13.

⁴⁴ Exh. 630, Cummings Surrebuttal, p. 17, line 6 – p. 21, line 6 and Exh. 627, p. 16, line 6 – p. 20 line 2.

⁴⁵ *Id.*

⁴⁶ The Residential Space Heating winter retail sales revenues were \$32.2 million in KCP&L's 2010 rate case and \$43.6 million in its 2012 Kansas rate case. These revenues are contained in Direct Testimony of Paul M. Normand, Schedule PMN-2, Schedule 1, page 1 in Docket No. 10-KCPE-415-RTS and Docket Nos. 12-KCPE-764-RTS. These schedules are filed with the Kansas Corporation Commission (KCC), available on the KCC's website at <http://estar.kcc.ks.gov/estar/portal/kcc/page/Dockets/portal.aspx>. The increase is revenue from \$32.2 million to \$43.6 million represents a 35% increase, or $\$43.6 \text{ million} / \$32.2 \text{ million} - 1 = 35\%$.

CONCLUSION

25. On p. 37 of the Order, the Commission states that MGE has asked “whether it is fair that two of [KCP&L and GMO’s] customers pay different amount for electricity just because one is all-electric? The answer is yes, if the record supports that result.” As discussed above, the record does not support that result and the Commission’s decision to the contrary is in error.

26. The Commission questions MGE’s “obvious incentive to make electricity less attractive than natural gas.” The real issue here is that KCP&L’s and GMO’s Residential Space Heat rates are under-priced – and intentionally so in order to provide discounts to entice customers to install electric space heat equipment. Had MGE proposed increases to electric Space Heat rates that were unsupported by and higher than warranted under cost of service studies, the Commission’s critique may have been appropriate – but that conclusion is unfounded. The simple fact is that KCP&L and GMO’s class cost of service study – the same cost of service study that the Commission relied upon in the Order – shows that its Residential Space Heat customers have a reduced and discounted rate. MGE seeks to level the playing field, not to gain an unfair advantage.

27. An example of KCP&L and GMO’s efforts to encourage customers to sign up for these specially-discounted rates may be found at the “High Efficiency Heat Pumps” section of their website and attached as Appendix 1.⁴⁷ The website references the “reduced, eight-month winter electric space heating rate that is ideally suited for energy-efficient heat pumps and electric resistance heating” and shows the rate differences between Residential Space Heat and General Use rates. As illustrated by this material, KCP&L’s and GMO’s rates serve as an incentive to switch to electric space heating even though, as MGE has shown in this case, electricity is not the most efficient or effective fuel source for space heat, these rates are not cost-based, and the disparity is unfair to customers who use fuel sources other than electricity

⁴⁷ http://kcplsave.com/residential/programs_and_services/heat_pumps/heat_pump_rates.html. The “Missouri” links on this page bring up the pdf’s found at Appendix 1.

to heat their homes.

28. The Commission points to the “investment that customers have made in reliance on those classifications” (i.e. specially-priced Space Heat rates) and that the “Commission will not abandon its part of that commitment.” Commitment to a flawed and unsustainable rate is unreasonable. In a previous KCP&L rate case, the Commission found that there were inherent disparities in having specially-priced space heating rates, that across-the-board increases only exacerbate the problem, and that good cause existed to eliminate them entirely.⁴⁸ MGE provided competent and substantial evidence that 1) across-the-board increases between Residential General Use and Space Heat would continue to increase the disparity between these rates⁴⁹ and 2) KCP&L and GMO’s Residential General Use customer base has steadily declined while its Residential Space Heating customer base continues to grow.⁵⁰ Since the shrinking number of Residential General Use customers will be unable to support discounts for growing numbers of Residential Space Heat customers, the Commission is permitting customers to make long-term energy appliance decisions based on an unsustainable, artificially-priced rate – and the growing disparity in rates will cause greater customer bill impacts the longer the Commission waits. Based on the evidence, the Commission should have frozen or eliminated these specially-priced rates. Its decision not to do so was flawed and was not based on competent and substantial evidence.

⁴⁸ Report and Order, Case No. ER-2007-0291.

⁴⁹ MGE Initial Briefs, p. 12, with record citations.

⁵⁰ Exh. 628, Cummings Direct, page 19, lines 1-7 and Schedule FJC-6 and Exh. 625, Cummings Direct, page 16, lines 10-17 and Schedule FJC-6. Even Space Heat - 2 Meters has added some customers since the Commission froze the schedule in 2007.

WHEREFORE, MGE respectfully requests that the Commission consider this Application for Rehearing and, thereafter, issue such orders as it should find to be just and reasonable.

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been sent by electronic mail this 18th day of January, 2013, to:

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MISSOURI (KCP&L)

Residential electric space heat rate

At KCP&L, we know you expect electricity to always be there. That is why we've worked hard to build one of the best reliability records in the industry. We also want you to feel comfortable while saving energy and dollars. To help you save, we offer a reduced, eight-month winter electric space heating rate that is ideally suited for energy-efficient heat pumps and electric resistance heating.

As the chart below illustrates, residential consumers save with KCP&L's eight-month winter electric space heat rate.

*KCP&L Residential Electric Rate Comparison	Standard Rate 1RS1A	Electric Space Heat Rate 1RS6A
Monthly Customer Charge	\$ 9.00/mo.	\$ 9.00/mo.
Summer (May 16 - Sept. 15)		
All Customers kWh/mo.	\$ 0.11028/kWh	\$ 0.11028/kWh
Winter (Sept. 16 - May 15)		
First 600 kWh/mo.	\$ 0.09914/kWh	\$ 0.07382/kWh
Next 400 kWh/mo.	\$ 0.05945/kWh	\$ 0.07382/kWh
Over 1,000 kWh/mo.	\$ 0.04968/kWh	\$ 0.04872/kWh

**Taxes are not included.*

Register your heat pump or electric resistance furnace

Whether you are building a new home or replacing equipment in your existing home, you will need to register your electric heating equipment with KCP&L. We'll apply the reduced electric space heat rate to your account upon receipt of your proof of installation. There are two ways to register:

- Ask your dealer to complete the **KCP&L Dealer Heat Pump Notification Form** located on our Web site at www.kcpl.com/apps/heatpump/hpform.cfm, or
- Send us a copy of your heat pump or electric resistance furnace invoice. Make sure it includes your name, address, date installed, your dealer's name and address, and the make, model and serial number. Mail to **KCP&L Billing Services, P.O. Box 418679, Kansas City, MO 64141-9679** or fax to **(816) 654-1391**.

To qualify for KCP&L's eight-month winter electric space heat rate, the electric heating equipment, such as a heat pump or electric resistance furnace, must be permanently installed and used throughout to heat your home. For more information about heat pumps, our complete rate schedules and other KCP&L energy-efficient residential products, visit www.kcpl.com.



MISSOURI (formerly Aquila)

Residential electric space heat rate

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As the chart below illustrates, residential consumers save with KCP&L's eight-month winter electric space heat rate.

*KCP&L Residential Electric Rate Comparison	Summer All Customers (June 1 - Sept. 30)	Winter Standard Rate M0860 (Oct. 1 - May 31)	Winter Electric Space Heat Rate M0870 (Oct. 1 - May 31)
Monthly Customer Charge	\$10.43/mo.	\$10.43/mo.	\$10.43/mo.
First 600 kWh/mo.	\$0.1088/kWh	\$0.1088/kWh	\$0.1088/kWh
Next 400 kWh/mo.	\$0.1120/kWh	\$0.0745/kWh	\$0.0586/kWh
Over 1,000 kWh/mo.	\$0.1176/kWh	\$0.0745/kWh	\$0.0485/kWh

***Notes:** The prices do not include taxes or the Fuel Adjustment Clause (FAC). The FAC is a method of billing costs incurred by KCP&L for purchased power and variable fuel costs in the production of electricity. The FAC amount on customer bills is calculated by multiplying the FAC factor by the kWh used during the month. For more information about the FAC, visit www.kcpl.com/about/MoERates.pdf.

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MISSOURI (formerly Aquila, St. Joseph Light & Power)

Residential electric space heat rate

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As the chart below illustrates, residential consumers save with KCP&L's eight-month winter electric space heat rate.

*KCP&L Residential Electric Rate Comparison	Standard Rate MO910	Electric Space Heat Rate MO920
Monthly Customer Charge	\$9.75/mo.	\$9.75/mo.
Summer (June 1 - Sept. 30)		
All Customers kWh/mo.	\$0.1117/kWh	\$0.1117/kWh
Winter (Oct. 1 - May 31)		
First 650 kWh/mo.	\$0.0993/kWh	
Over 650 kWh/mo.	\$0.0731/kWh	
First 1,000 kWh/mo.		\$0.0776/kWh
Over 1,000 kWh/mo.		\$0.0521/kWh

***Notes:** The prices do not include taxes or the Fuel Adjustment Clause (FAC). The FAC is a method of billing costs incurred by KCP&L for purchased power and variable fuel costs in the production of electricity. The FAC amount on customer bills is calculated by multiplying the FAC factor by the kWh used during the month. For more information about the FAC, visit www.kcpl.com/about/MoERates.pdf.

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