

**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)

REPLY BRIEF

OF

SOUTHERN UNION COMPANY

D/B/A MISSOURI GAS ENERGY

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As an initial matter, MGE would note that none of the various settlements which KCP&L/GMO have entered into with various parties to this proceeding has resolved or in any way compromised the rate design issues MGE has raised and which are addressed in this Reply Brief.¹

I. The Class Cost of Service Studies Warrant the Elimination or Freezing of Residential Space Heating Rates.

A. Staff and OPC Agree that KCP&L and GMO's Residential Space Heating Rates are Not Cost-Based.

Staff notes simply and accurately that KCP&L's and GMO's space heating rates "do not meet their cost of service."² Staff advocates "adjusting these rates to bring the winter season rates closer to its class cost of service."³ The OPC agrees with Staff's position, noting that the need to increase KCP&L's Space Heating Residential rate is "strongly supported by the CCOS⁴ performed by KCP&L witness Normand."⁵ OPC points out the significant seasonal disparities between summer and winter rates of return and that these "discrepancies" are particularly "pronounced" in the Residential class.⁶

All of Staff and OPC's arguments are consistent with MGE's position in this case. The difference between MGE's position compared to Staff and OPC is not whether a problem exists,

¹ On October 29, 2012, certain parties filed a Non-Unanimous Stipulation and Agreement Regarding Class Cost of Service/Rate Design in Case Nos. ER-2012-0174 and ER-2012-0175 (CCOS Stipulation). The CCOS Stipulation contains provisions related to class revenue shifts and how any overall increase is to be applied to the base rate revenues of each class, among other things. The CCOS Stipulation defines "class" as "residential, small general service, medium general service, large general service and large power service" in Case No. ER-2012-0174 and "residential, small general service, large general service and large power service" in Case No. ER-2012-0175. The use of the word "class" throughout the stipulations has this same meaning. The rate design issues taken to hearing by MGE (and addressed by its Initial and Reply Briefs) concern "intra-class" shifts within the residential customer class and the assignment of any increase to the various rates within the residential class. Because the CCOS Stipulation only addresses rate design at the class level, it has no impact on the issues which MGE has addressed (KCP&L Issues I.6.d, I.6.f and I.6.g and all pending GMO issues regarding residential rate design, including Issues III.7.d "Residential Rate Adjustment," and III.7.a- [sec] "Residential Space Heating Services").

² Staff Initial Brief, p. 99 (referencing KCP&L) and p. 102 (referencing GMO).

³ *Id.* at p. 99-100 (referencing KCP&L) and p. 102 (referencing GMO).

⁴ Class Cost of Service Study. Alternatively as used herein, "CCOS" refers to "Class Cost of Service."

⁵ OPC Initial Brief, p. 7.

⁶ *Id.*

but rather what remedy to apply. While well-intentioned, Staff's recommended 5% increase in Space Heating rates for KCP&L (only on the winter first block rate),⁷ 6% increase for all winter energy charges for L&P,⁸ and 0% increase for MPS (even though Staff's own CCOS study supports an increase)⁹ are inadequate and only serve to prolong an existing disparity.

B. KCP&L and GMO's Shifting Cost of Service Arguments Lack Credibility.

In the context of MGE's consistent arguments that KCP&L Space Heat and GMO's Space Heating rates are not cost-based, KCP&L and GMO's statement that MGE's is attempting "to prevent KCP&L from providing cost-based rates for these services,"¹⁰ is astounding. In fact, the existing specially-discounted Space Heat and Space Heating rates are not cost-based. KCP&L and GMO's own, current CCOS studies definitively show this.

KCP&L and GMO argue that "there is no cost justification for increasing the first block of the Residential Space Heating rates."¹¹ The cost justification which KCP&L and GMO are unable to find is contained in KCP&L's and GMO's own CCOS studies.¹²

KCP&L's and GMO's CCOS studies show that Residential Space Heating rates result in the subsidization of Residential rates seasonally and the subsidization of Residential Space Heating customers by all other Residential customers in the winter.¹³ KCP&L and GMO's claim that discounted winter Residential Space Heat prices are justified based on the other parties' CCOS studies (Staff and USDOE) is misplaced.¹⁴ KCP&L's and GMO's argument - that Residential Space Heat rates provide a higher rate of return than General Use rates¹⁵ - is based solely on annual CCOS results of Staff and the USDOE for the Residential rate schedules, not

⁷ Staff Initial Brief at p. 99.

⁸ Id. at p. 103.

⁹ MGE Initial Brief, GMO, p. 14, with record cites.

¹⁰ KCP&L and GMO's Initial Brief, p. 6, para. 9.

¹¹ Id. at p. 7, para. 11.

¹² MGE's Initial Brief, pp. 11-13, including record evidence citations (KCP&L case) and pp. 11-13 (GMO case).

¹³ Id.

¹⁴ KCP&L and GMO's Initial Brief, pp. 7-8, para. 12.

¹⁵ Id. at p. 7, para. 12.

on seasonal results.¹⁶ Of course, what KCP&L and GMO fail to tell the Commission is that the only way to ascertain whether seasonal rates are themselves cost-justified is to use a seasonal CCOS study.

The KCP&L and GMO CCOS studies provide the seasonal results needed to support MGE's recommended revenue shift.¹⁷ No other party's CCOS study is structured to enable accurate measurement and correction of the current Residential revenue inequities.¹⁸ OPC, Staff, and MGE recognize this – but KCP&L and GMO ask the Commission to ignore it.

In explaining its support for the KCP&L and GMO CCOS Stipulation elsewhere in its Initial Brief, KCP&L and GMO state that they support cost-based rates and support eliminating rate discrepancies, “consistent with the CCOS studies which demonstrated that the Residential class was not paying its appropriate share of the Company's cost of service.”¹⁹ While their own CCOS studies are deemed appropriate when the results suit KCP&L and GMO's argument, they ignore their own studies when presented with irrefutable evidence that the Space Heating classes are not paying their appropriate share of the Company's cost of service. There simply is no basis for the Commission to disregard the disparity that KCP&L's and GMO's own studies establish.

KCP&L and GMO's argument that MGE should have conducted its own study is meaningless.²⁰ KCP&L and GMO's CCOS studies are a more than sufficient basis for MGE's recommendations, because MGE's recommendations retain KCP&L and GMO's current rate design.²¹ There is no requirement that MGE conduct a study in order to validate KCP&L and GMO's own findings. No other studies are needed.

¹⁶ Id.

¹⁷ The same CCOS approach by KCP&L was adopted by the Kansas Corporation Commission in KCP&L's 2010 rate case to shift winter revenue collection away from Residential General Use customers towards Space Heat customers. MGE's Initial Brief, p. 14 including record evidence citations.

¹⁸ MGE's Initial Brief, pages 13-14 including record evidence citations.

¹⁹ KCP&L and GMO's Initial Brief, p. 3, para. 4.

²⁰ KCP&L and GMO Initial Brief, p. 9, para. 12.

²¹ Exh. 627, Cummings Surrebuttal, pages 3, line 16 – page 5, line 2; Exh. 625, Cummings Direct, page 4, line 12 - page 5, line 3, page 23, line 3 – page 25, line 18 and Schedule FJC-8.

Shifting from their argument that their rates are cost-based – and casting aside any pretense of consistency in argument - KCP&L and GMO next admit that their own CCOS studies show that all-electric rates have lower indices of return as compared to other Residential customer rates.²² KCP&L and GMO describe these lower returns as “slightly lower” and “a small differential,”²³ implying that the differences are too inconsequential to merit attention. This begs the question – if KCP&L and GMO truly believe that these differences are insignificant, and if KCP&L and GMO believe, as they state elsewhere in their Initial Brief, that classes should pay their “appropriate share of the Company’s cost of service,”²⁴ why not just eliminate these specially-discounted rates?²⁵

Once again, the facts paint a far different picture than KCP&L and GMO’s arguments suggest. KCP&L and GMO’s CCOS studies show that Space Heating customers provide KCP&L and GMO with a significantly lower index of return as compared to overall Residential rates, not the “small” difference that they assert exists. Even on an annual basis, KCP&L and GMO’s own CCOS studies²⁶ show the significant difference in rates of return:

	<u>KCP&L</u>	<u>GMO</u>	
		<u>MPS</u>	<u>L&P</u>
Residential Class	0.98	0.96	0.83
Regular (General Use)	1.08	1.04	1.06
All Electric (Space Heat – 1 meter)	0.75	0.84	0.60
Separately Metered (Space Heat – 2 meters)	0.53	--	--

²² KCP&L and GMO’s Initial Brief at pp. 7-8.

²³ KCP&L and GMO’s Initial Brief at p. 8.

²⁴ Id. at p. 3, para. 4.

²⁵ Further, if the differences are only “slightly lower” and “small,” as KCP&L asserts, why does KCP&L then state on the same page that eliminating residential all-electric space heating rates would be “a radical step?” With this logic, wouldn’t any step taken to eliminate these rates be similarly “slight” or “small” as opposed to “radical?” The Commission has previously chosen to freeze all-electric rates in KCP&L’s Case No. ER-2007-0291. There are no other Missouri investor-owned utilities with these rates. KCP&L’s concern over what it calls a “radical” change is, in point of fact, quite mainstream. As discussed on p. 6 of this brief, however, KCP&L is yet again not content with letting facts get in the way of its argument, because the differences in rates of return are quite significant, not “slightly lower” or “small.”

²⁶ See Exh. 38, Normand Direct Testimony, p. 23, table 3 and Exh No. 132, Normand Direct Testimony, pp. 25-26, Tables 3A-MPS and 3B-L&P.

Referring to the KCP&L columns, this table shows that the Residential class as a whole has a rate of return which is 98% of KCP&L's overall rate of return. General Use customers (KCP&L customers who choose natural gas or propane to primarily heat their home) have a rate of return which is 108% of the overall rate of return. The space heat rate classes have rates of return which are 75% for 1-meter and 53% for 2-meters of the overall rate of return. The MPS and L&P tables show similar results. They are not the "slightly lower" rates of return that KCP&L and GMO suggest, nor do they comprise "a small differential."²⁷ These disparities show that customers who choose to heat their homes primarily with fuel sources other than electricity are paying for their neighbor's electric space heating discounted electric rates.²⁸ The disparities are even more prevalent on a seasonal basis, which is discussed more fully below.

C. The Cost of Service Disparity Cannot Be Ignored.

The fact that KCP&L and GMO's Residential Space Heat and Space Heating rates are underpriced cannot be characterized as a temporary or fleeting situation – or one in need of further study. These inequities within the Residential schedules, both seasonally (i.e., between the summer and winter rates) and in the winter (i.e. between Space Heating and General Use rates), have persisted since at least KCP&L and GMO's last rate case, when KCP&L's and GMO's own CCOS in that case showed similar inequities.²⁹ This situation also existed in KCP&L's last Kansas rate case.³⁰ There, as here, the disparity was well-illustrated by KCP&L and GMO's own studies.

²⁷KCP&L Initial Brief at p. 8.

²⁸ The Office of Public Counsel in their initial brief points out that KCP&L witness Normand in his CCOS summary in Table 3 of his direct testimony (Exh 38, p. 23) shows that the residential all-electric generates a return of 5.859% in the summer season but only 2.922% in the winter season while the separately-metered space heating customers generate a return of 4.161% in the summer but only 2.284% in the winter. These are not slight differences.

²⁹ MGE's Initial Brief, pp. 11-12 including record evidence citations.

³⁰ MGE's Initial Brief, pp. 14 including record evidence citations.

II. The Evidence Shows that Residential Space Heating Rates Should be Eliminated or Frozen.

A. Staff and OPC Recognize the Problem But Offer No Adequate Solution.

While Staff and OPC recognize that KCP&L and GMO's Residential Space Heat and Space Heating rates are not cost-based, Staff's recommendation to increase those rates for KCP&L and GMO does not adequately address the issue, nor does it address the concerns that MGE has raised.³¹ While Staff's recommended revenue shift moves somewhat toward cost-based rates for Residential Space Heating service, it does not move very far in correcting the inequities in the collection of current Residential revenue.³² Staff's recommendation in no way should serve as a reasonable "middle ground" or "compromise position" that the Commission should choose. While Staff's recommendation increases Residential Space Heat winter revenue by \$1.1 million, a \$4.5 million increase is required to remove all of the current Residential revenue collection inequities.³³ Similarly, Staff's recommendation would not increase MPS' Residential Space Heating rates at all, when \$3.2 million is required and would increase L&P's rates by \$1.1 million when \$4.7 million is required.³⁴

Importantly, a portion of Staff's recommended movement toward cost-based Residential rates would be negated if after making the Staff's shift, the overall revenue increase is spread across the board on an equal percentage basis to all Residential rate elements.³⁵ Staff's proposal, while attempting to make headway, is not enough and does little to correct the imbalance. Thus, MGE has recommended that in addition to the proposed shift, any approved overall increase be assigned to Residential rates in a way that preserves the movement to cost-based rates resulting from MGE's recommended current rate adjustments.³⁶

³¹ Staff's Initial Brief, p. 101.

³² MGE's Initial Brief, p. 14-15 including record evidence citations.

³³ *Id.*, p. 15 including record evidence citations.

³⁴ MGE's Initial Brief (GMO) at pp. 14-15.

³⁵ *Id.*, p. 15.

³⁶ *Id.*, p. 5 including record evidence citations.

The series of KCP&L and GMO rate cases with across-the-board rate increases has created the growing Residential Space Heating subsidization problem that exists today.³⁷ As long as KCP&L and GMO continue to file rate cases and increases are spread across-the-board, Staff's approach will not fix the problem. It is evident that waiting to correct the Residential revenue collection inequities will only result in larger Space Heat and Space Heating bill impacts in the future. The Commission expressed a similar concern in adjusting KCP&L's General Service Space Heat rates in Case No. ER-2007-0291.³⁸

The majority of KCP&L's and GMO's customers (79% for KCP&L,³⁹ 65% for MPS,⁴⁰ and 62% for L&P⁴¹ under the General Use rates) who have subsidized KCP&L and GMO's provision of specially-priced Space Heating rates deserve to have these rates eliminated now, or at least frozen, after a cost-based shift has been made. Correspondingly, the customers served under these discounted rates should have their rates adjusted now – rather than adjusted later with a much higher impact.

B. The Commission Should Not Accept KCP&L and GMO's Invitation to Ignore a Growing Problem.

KCP&L and GMO ask the Commission to authorize an across-the-board increase in rates and retain their specially-discounted rates.⁴² In doing so, KCP&L and GMO ask the Commission to ignore the increasing disparity in what Residential customers pay for electric service.

As noted above, KCP&L's and GMO's own CCOS studies show that Residential General Use customers – the majority of their customers -- are subsidizing the cost to serve Space Heat and Space Heating customers in the winter. In addition, KCP&L and GMO's CCOS studies

³⁷ MGE's Initial Brief, pp. 8-9 and 11-12, including record evidence citations.

³⁸ Id., p. 7, including record evidence citations. The Commission's findings stated that waiting to address rate disparities was inappropriate, that using across-the-board percentage rate increases only exacerbates the problem, and that the Commission was inclined to consider eliminating discounts entirely in the future. The same considerations apply here.

³⁹ MGE'S Initial Brief, (KCP&L) p. 6, with record evidence citations.

⁴⁰ MGE's Initial Brief (GMO), p. 7, with record evidence citations.

⁴¹ Id. at p. 6.

⁴² KCP&L's Initial Brief, p. 11, para. 20

show that for the Residential class as a whole, current rates and the resulting revenue produce differing seasonal rates of return. The winter price advantage of Space Heat and Space Heating has increased over time through a series of KCP&L and GMO rate increases that generally resulted from stipulations and across-the-board increases, or equal percentage increases for all rate elements.⁴³ By once again proposing to increase all rate elements by an equal percentage across the board, KCP&L and GMO propose to further enlarge this Space Heat and Space Heating winter price discount.⁴⁴

C. MGE's Proposal is the Most Appropriate Way to Solve the Problem.

KCP&L and GMO's explanation of MGE's proposal is incomplete at best and jumbles together two distinct recommendations.⁴⁵ MGE's first recommendation involves revenue-neutral current Residential rate adjustments to move to cost-based rates seasonally and among the various schedules in the winter.⁴⁶ The second, distinct recommendation pertains to the availability of Residential Space Heat and Space Heating services based on ratemaking and policy considerations.⁴⁷ MGE's recommended revenue shift to eliminate current inequities in the collection of Residential revenue should be adopted whether the Commission eliminates Residential Space Heat and Space Heating altogether or just freezes the availability of these services.

MGE's recommended revenue-neutral shift eliminates the seasonal inequities in KCP&L's and GMO's current Residential rates and resulting revenue collection and corrects the current relative underpricing of the discounted Space Heating services in the winter based on the KCP&L and GMO's CCOS studies.⁴⁸ As discussed below and more fully in MGE's testimony in this case, these seasonal shifts cause significantly smaller rate impacts – and in

⁴³ MGE's Initial Brief at pp. 8 and 12 including record evidence citations.

⁴⁴ Id.

⁴⁵ KCP&L Initial Brief, p. 8 at paragraph 12, p. 9 at para. 14 and 15.

⁴⁶ MGE Initial Brief, pp. 4-5 and 9-15 including record evidence citations.

⁴⁷ Id., p. 5, and 16-18 including record evidence citations.

⁴⁸ Id., p. 4-5, 12-13, and 23-24 including record evidence citations.

most cases outright rate reductions – for the majority of KCP&L's⁴⁹ and GMO's⁵⁰ Residential customers.

III. MGE Provided the Only Reliable Bill Impact Analysis.

In sorting out the various arguments about rate impact, the Commission should note that: 1) Staff's bill calculations do not – and are not intended to – illustrate the impact of MGE's proposal; and 2) KCP&L and GMO's bill impact analysis is so fraught with error as to be completely unreliable.

A. Staff's Bill Impact Concerns Do Not Accurately Illustrate MGE's Proposal.

In arguing against MGE's proposal and advocating its own, Staff submits that the elimination of the Space Heat and Space Heating rates would result in “rate shock” for KCP&L and GMO's customers.⁵¹ While Staff's concern over customer impact is well-intended, its analysis illustrates a recommendation which MGE has not proposed.

MGE's proposal is to first make revenue-neutral Residential rate adjustments to move to cost-based rates seasonally and among the various schedules in the winter.⁵² The rate impact described by the Staff would only result if Space Heat and Space Heating rates were eliminated and all Residential customers were moved to the General Use rate at current rates.⁵³ MGE does not recommend – and has not recommended - this approach because adjusting rates seasonally and among various schedules in the winter is the key to addressing historical inequities of General Use customers and addressing the disparities between rates. MGE's seasonal adjustment lessens the rate impact by first making seasonal shifts. Staff's “rate shock” arguments, therefore, cannot be used to illustrate the impact of MGE's proposals in this case.

⁴⁹ Id. at p. 21 including record evidence citations.

⁵⁰ Id. at p. 22 including record evidence citations.

⁵¹ Staff's Initial Brief, page 100.

⁵² MGE's Initial Brief, pp. 4-5 and 9-15 including record evidence citations.

⁵³ Transcript, 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.

Mr. Scheperle admitted this at hearing.⁵⁴ The Commission should not be confused as to why Staff and MGE have different bill impact calculations – they are simply illustrating different adjustments.

Notably, Staff, in written testimony and in its Initial Brief, does not critique MGE's bill impact analysis and does not argue that MGE's bill impact analysis is incorrect. Further, Staff chose not to cross-examine MGE's witness at hearing.⁵⁵ Staff did not provide any bill impact calculations resulting from MGE's recommendations. Under MGE's proposal, the disparate treatment of electric and non-electric Space Heat and Space Heating customers would be eliminated, with electric Space Heat and Space Heating customers seeing an increase and in most cases, Residential General Use customers (a significant majority of KCP&L's and GMO's customers) seeing a decrease in bills prior to any rate increase authorized in this case.

For KCP&L, the Residential Space Heat – One Meter typical annual bill would increase (before any overall revenue increase awarded by the Commission) by 6.1% if Space Heat is eliminated and 4.0%, if Space Heat is frozen.⁵⁶ (As a point of comparison for assessing these impacts, typical Residential Space Heat annual bills in Kansas increased by 18.4% as a result of KCP&L's 2010 rate case.⁵⁷) MGE's recommendations (before any overall revenue increase awarded by the Commission) result in typical Residential General Use (comprised of 79% of KCP&L's Residential customers) annual bill decreases of 5.6% if Space Heat is eliminated and decreases of 1.9%, if Space Heat is frozen.⁵⁸

For MPS, annual Space Heating bills would increase (before any overall revenue increase awarded by the Commission) by 3.2% if Space Heating is eliminated and 3.4% if Space Heating is frozen.⁵⁹ For L&P, annual Space Heating bills would increase (before any overall revenue increase awarded by the Commission) by 7.8% if Space Heating is eliminated,

⁵⁴Transcript at p. 1059, line 17 and p. 1059-60 (lines 23-1).

⁵⁵Id. at p. 1081.

⁵⁶MGE Initial Brief., p. 22 including record evidence citations.

⁵⁷Id.

⁵⁸Id., page 21 including record evidence citations.

⁵⁹Id., p. 23, including record evidence citations.

and 5.0%, if Space Heating is frozen.⁶⁰ MGE's recommendations (before any overall revenue increase awarded by the Commission) result 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 is eliminated and decreases of 3.0% for MPS and 3.6% for L&P if Space Heating is frozen.⁶¹

MGE encourages the Commission to consider all of KCP&L's and GMO's Residential customers in reviewing the evidence and the fact that the majority of these customers – General Use customers – have inequitably been paying part of the cost to serve specially-priced Space Heat and Space Heating customers. It is only fair that Residential General Use customers now see lower bills. Only MGE's recommendation will accomplish this result.

B. KCP&L and GMO's Bill Impact Analysis is Rife with Error and Therefore Unreliable.

KCP&L and GMO argue that there would be a severe bill impact on Residential customers if MGE's recommendations are adopted,⁶² using calculations that are, on its own admission, rife with error.

KCP&L erroneously claims that the typical Space Heat annual bill impact would be 24.83% before any increase is granted,⁶³ presumably referring to KCP&L witness Rush's incorrect calculation of the frozen Space Heat – Two Meters annual bill impact of 24.83%.⁶⁴ In fact, this bill impact is 8.35%, a much lesser impact than KCP&L asserts.⁶⁵ The bill impact

⁶⁰ Id.

⁶¹ Id. at p. 22, including record evidence citations.

⁶² KCP&L's and GMO's Initial Brief, paragraphs 15 and 16.

⁶³ Id., p. 9, para. 16.

⁶⁴ Id.

⁶⁵ 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

referenced by KCP&L is not for a typical Space Heating customer. It pertains to a frozen schedule that serves only 22% of the Residential Space Heat customers,⁶⁶ or 5% of all KCP&L's customers. KCP&L witness Rush's calculation of the Space Heat – One Meter bill impacts is also wrong, as are all references to bill impacts in KCP&L's Initial Brief.⁶⁷ The typical bill impact (before any overall increase is awarded) for most Residential Space Heating customers, i.e., Space Heat – One Meter, would be 6.1%, if Space Heating is eliminated, and 4.0%, if Space Heating is frozen.⁶⁸

Much 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.⁶⁹ Accordingly, KCP&L's and GMO's rate impact calculations are inflated or 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....".⁷⁰ KCP&L points out in its Initial Brief that in one instance and in one calculation, Mr. Rush underestimated the bill impact - which proves nothing other than giving another example of error in an analysis that cannot be relied upon.⁷¹ 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

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.

⁶⁶ Percentage based KCP&L Application, Appendix 1 which shows an average of 38,938 Space Heat – One Meter customers and 10,712 Space Heat – 2 Meters (frozen) customers.

⁶⁷ 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).

⁶⁸ MGE Initial Brief., p. 22 including record evidence citations.

⁶⁹ Transcript, p. 1007 and 1010.

⁷⁰ *Id.*, p. 1011, lines 16-20.

⁷¹ KCP&L and GMO Initial Brief, p. 10, FN 1.

of this. I'd be happy to do that."⁷² The time for preparing testimony has passed. KCP&L's and GMO's bill impact analysis is inaccurate and cannot be relied upon by the Commission.

When given the opportunity at hearing to question MGE's witness as to his bill impact calculations, explore MGE's proposal, or cross examine MGE's witness on any aspect of MGE's proposal, KCP&L and GMO stood silent.⁷³ KCP&L and GMO instead ask the Commission to rely on incorrect bill impact calculations that their own witness agreed were wrong. KCP&L and GMO ignore the fact that MGE's recommendations result in typical General Use annual bill decreases for the majority of KCP&L and GMO's customers.⁷⁴

IV. KCP&L and GMO's Arguments of Administrative Difficulty are Meritless.

KCP&L and GMO argue unpersuasively that MGE's alternate proposal to freeze Residential Space Heat and Space Heating rates will "substantially complicate the administration of its rate schedules and cause customer complaints."⁷⁵ KCP&L's Residential Space Heat – 2 Meters rate has been frozen for almost 5 years and L&P's Residential Water/Space Heating- Separate Meter schedule has been frozen for seventeen years. Apart from Mr. Rush's unsupported and vague comments at hearing on potential customer complaints, KCP&L has managed to present precisely one instance of a formal complaint, the "Briarcliff Complaint," in those seventeen years.⁷⁶ This hardly provides support for "substantial" complications and customer complaints.

Tellingly, KCP&L's own written testimony in that formal complaint contains no mention of administrative difficulty in administering a frozen rate.⁷⁷ KCP&L's witnesses in that case, which

⁷² Transcript, p. 1038.

⁷³ *Id.*, at p. 1081.

⁷⁴ MGE Initial Brief, p. 21 including record evidence citations.

⁷⁵ KCP&L and GMO Initial Brief, paragraphs 18 and 19.

⁷⁶ *Id.* at p. 10, paragraph 18, citing Re: Kansas City Power and Light Company, Case No. EC-2011-0383.

⁷⁷ See the direct and rebuttal testimony of KCP&L witness Mr. Rush and the rebuttal testimony of KCP&L witness Mr. Henrich in EC-2011-0383.

included Mr. Rush, merely describe how they applied the tariff and why they thought that their application of tariff was correct.⁷⁸

With no mention of administrative burden in KCP&L's testimony in the Briarcliff Complaint, the case does not – in any way – “serve as an example of the complications and difficulties that can result from an order to freeze a rate schedule...”⁷⁹ KCP&L and GMO's arguments on this point are completely unsupported. One complaint case in seventeen years – a case with a unique set of circumstances (involving questions of whether an agent would be classified as a customer)⁸⁰ – does not support KCP&L and GMO's assertion that freezing rates is in any way administratively burdensome. In any event, administrative burden would be outweighed by the need for cost-based, non-discriminatory rates.

If the Commission believes KCP&L and GMO's assertions that they cannot administer a frozen Residential Space Heat or Space Heating schedule effectively, MGE submits that the Commission can solve this problem by eliminating Space Heat and Space Heating services in this case based on the ratemaking and policy considerations supporting their elimination.⁸¹

V. KCP&L and GMO's Lost Margin Argument is Unsupported.

KCP&L and GMO argue that raising Residential Space Heat and Space Heating rates will harm other customers due to rate increases needed to recover lost margins from Space Heat and Space Heating customers.⁸² KCP&L and GMO's unsupported claim is dispelled by the substantial evidence to the contrary provided by MGE.⁸³ KCP&L and GMO provided no analyses or quantification to support this claim. In contrast, MGE has shown that KCP&L and GMO's revenue will increase with an increase in Residential Space Heat rates. Similarly,

⁷⁸ *Id.*

⁷⁹ KCP&L Brief, p. 11, at paragraph 20.

⁸⁰ Report and Order of the Commission, *Briarcliff Development Company v. KCP&L*, EC-2011-0383, dated March 7, 2012, 2012 WL 899590, at *6. The Commission's Report and Order also make no mention of “administrative difficulty.”

⁸¹ MGE's Initial Brief, pp. 16-18 including record evidence citations.

⁸² KCP&L's Initial Brief, paragraph 13.

⁸³ Exh. 625, Cummings Surrebuttal, p. 16, line 12 – page 19, line 2.

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.

KCP&L's recent experience in Kansas provides 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%.⁸⁴ KCP&L's speculation about lost margins is totally without merit.

VI. KCP&L and GMO's Effort to Distract Attention from the Merits of MGE's Arguments Should Be Ignored.

The plain truth is that KCP&L and GMO are faced with an uphill battle to convince the Commission to retain these specially-discounted rates. KCP&L and GMO's own CCOS studies show that Residential Space Heat and Space Heating rates are not cost-based. KCP&L and GMO support cost-based rates in other circumstances, but not this one. KCP&L and GMO try to insist – all evidence to the contrary – that their Residential Space Heat and Space Heating rates are cost-based. KCP&L and GMO's rate impact calculations are filled with calculation errors and are unreliable. KCP&L and GMO argue for more study – when current and past studies have consistently shown the same disparity. KCP&L and GMO ignore and leave un rebutted in testimony the substantial evidence that these rates do not represent good energy policy.

Left with little other option, KCP&L and GMO resort to *ad hominem* arguments – questioning MGE's motives rather than substantively addressing the merits of MGE's arguments. KCP&L and GMO call MGE's proposals "anti-competitive," dismiss MGE arguments

⁸⁴ The Residential Space Heating winter retail sales revenues were \$32.2 million in KCPL'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 in revenue from \$32.2 million to \$43.6 million represents a 35% increase, or $\$43.6 \text{ million} / \$32.2 \text{ million} - 1 = 35\%$.

as coming from a “competitor,” and suggests that MGE’s intervention was “an unusual step.”⁸⁵ KCP&L and GMO’s message? Ignore the message because of the messenger.

The Commission should see KCP&L and GMO’s “red-herring” tactics for what they are. The Commission ignored similar tactics in Case No. ER-2007-0291, when it reduced the KCP&L General Service Space Heating price advantage and froze the availability of these services based on evidence provided by Trigen, a KCP&L competitor.⁸⁶ For all of the reasons affirmed by the Commission in ER- 2007-0291, these specially-priced Residential rates should be frozen or eliminated in this case.

KCP&L and GMO miss the irony of labeling efforts to eliminate underpriced Space Heat and Space Heating rates as “anti-competitive.” Simply put, KCP&L and GMO are currently using their dominant position in the marketplace to encourage consumers to use electric space heat by offering discounted electric rates. In doing so, KCP&L and GMO ignore how unfair it is to charge its customers who heat with natural gas or propane more for electricity for eight months of the year. KCP&L and GMO ignore the inherent unfairness of encouraging customers to make substantial investments (and long-term choices) in space heating equipment by providing false price signals for what that electricity truly costs – and what it ultimately will cost when these rates are eventually eliminated.

As MGE discussed in its Initial Brief, those false price signals – and these discounted rates – are unsustainable in the long term.⁸⁷ At some point, given the rate of growth of Space Heat and Space Heating customers, General Use customers will not be able to continue “propping up” the discounted rates and KCP&L and GMO will have to eliminate them. If this situation is ignored in the short term, as KCP&L and GMO ask the Commission to do, growing numbers of customers will become captive to long-term space heating appliance choices that

⁸⁵ KCP&L Initial Brief at p. 6, paragraph 8. It’s difficult to say why MGE’s intervention is “unusual,” given Trigen’s intervention against all-electric rates in ER-2007-0291 and other gas companies’ intervention in KCP&L’s recent Kansas case. The only thing “unusual” is KCP&L’s dogged insistence that there is nothing wrong with a discriminatory, archaic rate design.

⁸⁶MGE Initial Brief, p. 7 including record evidence citations.

⁸⁷ *Id.*, p. 3.

are premised on an unsustainable, underpriced rate. These rates need to be eliminated or frozen now to prevent even greater impact in the future. MGE's proposed solution will eliminate this existing disparity for the majority of KCP&L's and GMO's customers.

MGE is a competitor of KCP&L and GMO for space heating, water heating, and other appliances, but this in no way lessens the validity of MGE's arguments. This in no way diminishes the reasoning provided by the previous Commission decision which froze other KCP&L non-Residential space heating or all-electric rates.

It is important to remember that customers in KCP&L's and GMO's service territory do not have a choice when it comes to choosing their electric service. They have no alternative other than to use KCP&L or GMO to light their homes, run their electric appliances, or cool their homes in the summer. KCP&L and GMO customers do, however, have a choice in how to heat their homes and heat water – they can use natural gas, propane, or electricity.

Accordingly, there is simply no basis for the Commission to continue to encourage customers to choose electric space heating over natural gas or propane space heating through discounted electricity pricing. MGE is not asking for a competitive advantage. MGE is not asking for regulatory approval to maintain artificially low prices, as KCP&L and GMO have for years. It is KCP&L and GMO that have used market position and regulation to increase their competitive advantage by offering discounts – discounts that are not based on the cost to serve, but on the desire to increase load and increase electric use. It is KCP&L and GMO that are being "anti-competitive" by seeking to perpetuate a competitive edge over natural gas and propane competition through the continuation (and enlargement) of discounts for electric space heating rates. MGE simply asks that the Commission "level the playing field" by eliminating an improper advantage that has no basis in sound regulation or good energy policy. KCP&L (and GMO) remains the only Missouri investor owned utility which still has separate Space Heating and Space Heating rates. These rates should be frozen or eliminated.

VII. Policy Considerations Show that Space Heating Rates Should Be Frozen or Eliminated.

Neither KCP&L, GMO, nor Staff - nor any other party - rebut the sound ratemaking and policy considerations that support the elimination of Residential Space Heating services, either in this case or alternatively in a subsequent case after freezing their availability now.⁸⁸ In short, the specially-priced space heating rates send false price signals that:⁸⁹

- a. Blunt customer conservation incentives;
- b. Cause adverse environmental impacts;
- c. Encourage an inefficient energy resource choice for space heating;
- d. Discourage the choice of less expensive natural gas for space heating;
- e. Are not needed to encourage winter load building; and,
- f. Provide discounts for all uses of electricity, not just space heating.

Does it make sense, in the year 2012, to have a specially-discounted rate that actually encourages greater use of energy? To have a rate that makes no pretense to promote energy efficiency? To have a rate that encourages consumers to commit to electric appliances, only to have KCP&L and GMO come back – as they must – to eventually eliminate those rates, since they are unsustainable in the long term? MGE respectfully submits that the answers to these questions is “no.”

⁸⁸ *Id.*, pages 16-18 including record evidence citations.

⁸⁹ Other than item f, these same considerations apply to the frozen Residential Space Heat – 2 Meters service.

VIII. Conclusion.

MGE respectfully requests that the Commission adopt its recommendations in this case to address the disparities inherent in KCP&L's and GMO's specially-discounted Space Heat and Space Heating rates. These rate are not cost-based and do not reflect good regulatory policy. MGE requests that the Commission freeze or eliminate these rates consistent with MGE's proposal.

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 11th day of December, 2012 to counsel of record.

/s/

Todd J. Jacobs.