Exhibit No.:
Witness: Maurice Brubaker
Type of Exhibit: Rebuttal Testimony
Issue: Revenue Requirement
Sponsoring Parties: Industrials
Case No.: ER-2009-0089

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City Power and 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-2009-0089**

Rebuttal Testimony of

Maurice Brubaker
on Revenue Requirement Issues

On behalf of

NNSA
Midwest Energy Users Association
Missouri Industrial Energy Consumers
Praxair, Inc.

March 11, 2009

BRUBAKER & ASSOCIATES, INC.
CHESTERFIELD, MO 63017

Project 9050

BEFORE THE PUBLIC SERVICE
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STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

Affidavit of Maurice Brubaker

Maurice Brubaker, being first duly sworn, on his oath states:

1. My name is Maurice Brubaker. I am a consultant with Brubaker & Associates, Inc., having its principal place of business at 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017. We have been retained by NNSA, Midwest Energy Users Association, Missouri Industrial Energy Consumers and Praxair, Inc. in this proceeding on their behalf.

2. Attached hereto and made a part hereof for all purposes is my rebuttal testimony which was prepared in written form for introduction into evidence in the Missouri Public Service Commission Case No. ER-2009-0089.

3. I hereby swear and affirm that the testimony is true and correct and that it shows the matters and things that it purports to show.

Maurice Brubaker

Subscribed and sworn to before me this 10th day of March, 2009.

TAMMY S. KLOSSNER
Notary Public - Notary Seal
STATE OF MISSOURI
St. Charles County
My Commission Expires: Mar. 14, 2011
Commission # 07024862

Tammy S Klossner
Notary Public

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Rebuttal Testimony of Maurice Brubaker

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, Missouri 63017.

Q WHAT IS YOUR OCCUPATION?

A I am a consultant in the field of public utility regulation and president of Brubaker & Associates, Inc., energy, economic and regulatory consultants.

Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A This information is included in Appendix A.

Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

A I am appearing on behalf of NNSA, Midwest Energy Users Association, Missouri Industrial Energy Consumers and Praxair, Inc. (collectively "Industrials"). These companies purchase substantial amounts of electricity from Kansas City Power &

Light Company (KCPL) and the outcome of this proceeding will have an impact on their cost of electricity.

Q WHAT IS THE SUBJECT OF YOUR TESTIMONY?

A In this testimony I respond to some of the points on jurisdictional cost allocation raised by KCPL witness Larry Loos.

Q PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

A My conclusions and recommendations may be summarized as follows:

1. The Commission should continue to allocate steam plant environmental control equipment on a demand basis.

2. The Commission should continue to allocate non-labor costs associated with steam plant boiler maintenance on a demand basis.

3. The Commission should continue with the allocation methodology for the margin on off-system sales that it adopted in Case No. ER-2006-0314 on December 21, 2006, namely allocation of these margins on an energy allocation factor.

Q WHAT IS THE NATURE OF MR. LOOS' TESTIMONY?

A Mr. Loos addresses jurisdictional cost allocations and makes recommendations for several changes from the Commission's current practice.

Q ARE MR. LOOS' RECOMMENDATIONS BASED ON COST OF SERVICE OR COST-CAUSATION CONSIDERATIONS?

A Only in part. In fact, Mr. Loos makes the following statement at page 11 of his testimony in response to a question of how he would evaluate the fairness of an allocation:

> "Regardless of the nature of costs and cost drivers, an allocation that does not permit the utility a reasonable opportunity to earn its allowed

rate of return, I believe is patently unfair. KCP&L currently finds itself in this situation."

In a similar vein, he states the following at page 12:

"I do believe, however, that when either Commission (Missouri or Kansas) evaluates allocation alternatives, one consideration should be whether using that allocation allows (or increases the probability that) the Company to recover all of its costs. After all, whether it is Kansas or Missouri making the allocation it is the same total pool of cost. The allocation of that pool of cost needs to be allocated so the Company recovers 100 percent of it."

Q DO YOU AGREE WITH MR. LOOS?

A No, I do not. Mr. Loos' recommendation obviously stems from the fact that for certain cost of service categories the Missouri Commission has chosen one allocation method while the Kansas Commission has chosen another, and the sum of the two does not equal 100%. While it is understandable that a utility would want to have its regulating commissions adopt consistent allocation factors so that the allocators would total to 100%, I do not believe that individual commissions should select allocation factors in an effort to ameliorate that situation. The possibility for a lack of consistency among regulatory jurisdictions is an inherent characteristic of multi-jurisdictional operations.

Q CAN YOU PROVIDE SOME REGULATORY BACKGROUND REGARDING THE ISSUE OF JURISDICTIONAL COST ALLOCATION?

A Jurisdictional cost allocation is a method by which the costs of a multi-jurisdictional utility are allocated between its various jurisdictions. In this case, the costs of KCPL are allocated between Missouri and Kansas. To the extent that both jurisdictions utilize the same allocation methods, the utility will see all of its costs considered for recovery by one or the other jurisdiction. To the extent that the jurisdictions use

differing allocations, however, the utility faces the possibility of over- or under-recovery of its costs. In this case, KCPL claims to be under-recovering its costs because of the differing jurisdictional allocations used by Missouri and Kansas. As a result, KCPL seeks to eliminate this under-recovery by asking the Missouri Commission to modify its allocation factors. Interestingly, KCPL only asks the Missouri Commission to remedy this gap and accept more costs for its ratepayers. KCPL has not made similar proposals asking the Kansas Commission to accept any further cost responsibility.

Q WHAT IS THE HISTORICAL BACKGROUND OF THIS ISSUE FOR KCPL?

A Possible cost under-recovery for KCPL has been an issue for almost 25 years. What is readily apparent is that KCPL continually asks the Missouri Commission, not the Kansas Commission, to remedy this situation. In the early 1980s, Missouri used a 1 CP demand allocator while Kansas used a 12 CP demand allocator. In 1986, Missouri did make movement in an effort to help KCPL bridge this gap. As the following quotation demonstrates, while Missouri did not adopt the Kansas 12 CP methodology, Missouri moved to the 4 CP methodology, at KCPL's request, to help bridge this gap.

> Company asserts that 4CP is the appropriate allocation method since it represents a compromise position between what it views as two extremes: the 1CP approach taken by the Missouri Staff and the 12 CP approach taken by the Kansas Corporation Commission Staff. [Report and Order, Case No. EO-85-185, 75 P.U.R.4th 1, 18 (1986)].

Ultimately, the Commission agreed with KCPL and determined "that the 4 CP method should be used for purposes of this case."

As a result of the declining cost nature of the electric industry at the time, KCPL did not have another rate case for 20 years. That aside, in its next case in

2006, KCPL again asked Missouri to further close the gap. Without asking Kansas to counter the Missouri movement from 20 years previous by moving to the 4 CP methodology, KCPL again asked Missouri to accept a higher allocation of costs by moving to the Kansas 12 CP demand allocator. The Missouri Commission ultimately rejected KCPL's request and found that the 4 CP method continued to be appropriate.

That said, however, KCPL exacerbated its multi-jurisdictional cost recovery problem by seeking to change the methodology for allocation of off-system sales margins. Specifically, KCPL proposed a methodology in both states which would allocate a greater amount of the off-system sales margins to Kansas through an "unused energy allocator" that it invented. Kansas immediately jumped on the KCPL proposed allocator while Missouri properly rejected that allocator.

> The Commission finds that the competent and substantial evidence supports Staff's position, and finds this issue in favor of Staff. A primary concern is the underlying philosophy implied by utilization of the unused energy allocator. Specifically, the unused energy allocator rewards the lower load factor of KCPL's Kansas retail jurisdiction by allocating a greater percentage of the profit from non-firm off-system sales to that jurisdiction. Load Factor is average energy usage divided by peak demand. The higher the load factor, the closer the average load is to peak demand. The lower load factor of KCPL's Kansas jurisdiction causes the Company to build higher energy cost combustion turbines, which provide KCPL with less opportunity to make off-system sales. (Report and Order, Case No. ER-2006-0314, Footnotes omitted).

Q WHAT CONCLUSIONS CAN YOU DRAW FROM THIS BACKGROUND?

A This background demonstrates two key points. First, KCPL has continuously looked to Missouri to bridge the gap with Kansas. While Missouri made an effort to solve this problem by moving to the 4 CP demand allocator, KCPL has never asked Kansas to make a similar movement. Second, KCPL further exacerbated this

problem by proposing its unused energy allocator in Kansas. By proposing and allowing Kansas to adopt that unique method for allocating off-system sales margins, KCPL has increased the possibility that it will under-recover costs that fall in the gap between its multi-jurisdictional operations.

Q HOW DO YOU RECOMMEND THE MISSOURI COMMISSION APPROACH THESE ISSUES IN THIS CASE?

A The inter-jurisdictional allocation issues were, for the most part, discussed extensively in Case No. ER-2006-0314. I would recommend that the Commission consider whether there are compelling cost-based reasons to change any of the allocation methods that it adopted in that case. Newly proposed changes that were not a part of the consideration in Case No. ER-2006-0314 should be considered on their merits in terms of cost-causation and consistency with generally accepted allocation procedures.

The Commission should not be influenced by allocation proposals which attempt to assure 100% recovery from the Kansas and Missouri jurisdictions. KCPL was keenly aware of the allocation methodologies utilized in Missouri when it negotiated the last rate case settlement with Kansas, which included 12 CP and other allocators less favorable to Missouri and more favorable to Kansas. KCPL must have ignored those differences and is now attempting to assure 100% recovery through the ratepayers of Missouri.

New Proposals

Q WHAT NEW PROPOSALS DOES MR. LOOS MAKE?

A He makes new proposals with respect to the treatment of steam plant environmental control equipment and the non-labor costs of steam plant boiler maintenance. Both of these costs have historically been classified as demand-related and allocated on the demand allocation factor. Mr. Loos wants to change the approach to use the energy allocation factor. The consequence is to shift about $1.9 million of costs into Missouri.

Q WHAT IS THE USUAL TREATMENT OF CAPITAL COSTS ASSOCIATED WITH ENVIRONMENTAL CONTROL EQUIPMENT?

A The conventional regulatory treatment has been to recognize the fixed cost nature of these investments and allocate them on a demand basis, along with all of the rest of the plant investment.

Q WHAT IS MR. LOOS' ARGUMENT FOR CLASSIFYING THESE COSTS AS ENERGY-RELATED?

A He makes two arguments. The first is that KCPL incurs these costs in order to supply the total energy generated at each station. The second argument is that the alternative to the pollution control equipment would be the purchase of emission allowances – the cost of which would be directly related to the kilowatthours generated.

Q DO YOU AGREE WITH MR. LOOS?

A No. With respect to the first argument, Mr. Loos overlooks the fact that compliance with environmental regulations is not a function of how much energy is generated, the requirement exists when the first kilowatthour is generated. Accordingly, the capital cost to install the pollution control equipment is necessary to the operation of the plant, is integral to the plant, and is demand-related.

As to his second argument concerning the alternative of purchasing emission allowances, the fact that some other compliance strategy would have created costs of a different nature is irrelevant because that represents an alternative that KCPL did not elect. As a result, these costs do not appear on KCPL's books, the environmental cleanup costs which he is addressing do not vary with kilowatthours generated, and should not be allocated on an energy-related basis.

Q WHAT IS THE IMPACT OF MR. LOOS' RECOMMENDATION WITH RESPECT TO THE ALLOCATION OF ENVIRONMENTAL COSTS?

A It would shift approximately $1.7 million of additional cost into Missouri.

Q WHAT IS MR. LOOS' RECOMMENDATION WITH RESPECT TO STEAM GENERATION PLANT BOILER MAINTENANCE COSTS?

A He recommends that these costs be allocated on an energy basis.

Q HOW ARE THESE COSTS NORMALLY ALLOCATED?

A As Mr. Loos correctly notes at page 35 of his testimony:

> "These maintenance expenses are ***usually*** considered fixed, classified as demand related, and allocated based on peak demands." [Emphasis added.]

Q DO YOU BELIEVE THAT THESE COSTS SHOULD CONTINUE TO BE TREATED AS DEMAND-RELATED AND ALLOCATED BASED ON PEAK DEMANDS?

A Yes. The reason for this treatment is that maintenance on steam plants is generally periodic, and is scheduled on a time elapsed or maintenance interval basis, and not on the basis of the number of kilowatthours generated. Consequently, these costs do not vary directly as a function of kilowatthours generated, and should continue to be classified and allocated on demand as historically has been the practice.

Q WHAT IS THE DOLLAR AMOUNT ASSOCIATED WITH THE CHANGE WHICH MR. LOOS WANTS TO MAKE?

A It appears from his exhibit that it would increase the allocation of costs to Missouri jurisdictional customers by about $200,000.

Previously Litigated Issues

Q WHAT PREVIOUSLY LITIGATED ISSUE DOES MR. LOOS ADDRESS?

A He addresses the issue of the appropriate allocation of the margin from off-system sales.

Q WHAT DOES MR. LOOS RECOMMEND?

A He recommends allocating the margin from off-system sales using the generation demand allocation factor.

Q HOW HAS THE COMMISSION PREVIOUSLY ALLOCATED THESE MARGINS?

A The Commission has allocated them using the energy allocation factor.

Q WHAT HAS BEEN THE BASIS FOR USING THE ENERGY ALLOCATION FACTOR?

A This approach recognizes that capacity is not installed in order to make off-system sales, but is only utilized for that purpose when the capacity is not required to serve native load.

Q HAS THE COMMISSION RECENTLY CONSIDERED THIS ISSUE?

A Yes, in Case No. ER-2006-0314.

Q WHAT WAS THE COMMISSION'S FINDING?

A In its December 21, 2006 Order in that case, the Commission found that the energy allocation factor was appropriate for the allocation of off-system sales margins. At page 39 of the Report and Order, the Commission stated as follows:

> "The only costs assigned to non-firm off-system sales is the fuel and purchased power costs – the variable costs – hence the appropriateness of using the energy allocator."

I do not believe that Mr. Loos has provided a compelling reason for departing from this recent finding of the Commission.

Q DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?

A Yes, it does.

Qualifications of Maurice Brubaker

Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A Maurice Brubaker. My business address is 16690 Swingley Ridge Road, Suite 140, Chesterfield, MO 63017.

Q PLEASE STATE YOUR OCCUPATION.

A I am a consultant in the field of public utility regulation and President of the firm of Brubaker & Associates, Inc. (BAI), energy, economic and regulatory consultants.

Q PLEASE SUMMARIZE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

A I was graduated from the University of Missouri in 1965, with a Bachelor's Degree in Electrical Engineering. Subsequent to graduation I was employed by the Utilities Section of the Engineering and Technology Division of Esso Research and Engineering Corporation of Morristown, New Jersey, a subsidiary of Standard Oil of New Jersey.

In the Fall of 1965, I enrolled in the Graduate School of Business at Washington University in St. Louis, Missouri. I was graduated in June of 1967 with the Degree of Master of Business Administration. My major field was finance.

From March of 1966 until March of 1970, I was employed by Emerson Electric Company in St. Louis. During this time I pursued the Degree of Master of Science in Engineering at Washington University, which I received in June, 1970.

In March of 1970, I joined the firm of Drazen Associates, Inc., of St. Louis, Missouri. Since that time I have been engaged in the preparation of numerous

studies relating to electric, gas, and water utilities. These studies have included analyses of the cost to serve various types of customers, the design of rates for utility services, cost forecasts, cogeneration rates and determinations of rate base and operating income. I have also addressed utility resource planning principles and plans, reviewed capacity additions to determine whether or not they were used and useful, addressed demand-side management issues independently and as part of least cost planning, and have reviewed utility determinations of the need for capacity additions and/or purchased power to determine the consistency of such plans with least cost planning principles. I have also testified about the prudency of the actions undertaken by utilities to meet the needs of their customers in the wholesale power markets and have recommended disallowances of costs where such actions were deemed imprudent.

I have testified before the Federal Energy Regulatory Commission (FERC), various courts and legislatures, and the state regulatory commissions of Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Guam, Hawaii, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Missouri, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Texas, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

The firm of Drazen-Brubaker & Associates, Inc. was incorporated in 1972 and assumed the utility rate and economic consulting activities of Drazen Associates, Inc., founded in 1937. In April, 1995 the firm of Brubaker & Associates, Inc. was formed. It includes most of the former DBA principals and staff. Our staff includes consultants with backgrounds in accounting, engineering, economics, mathematics, computer science and business.

Brubaker & Associates, Inc. and its predecessor firm has participated in over 700 major utility rate and other cases and statewide generic investigations before utility regulatory commissions in 40 states, involving electric, gas, water, and steam rates and other issues. Cases in which the firm has been involved have included more than 80 of the 100 largest electric utilities and over 30 gas distribution companies and pipelines.

An increasing portion of the firm's activities is concentrated in the areas of competitive procurement. While the firm has always assisted its clients in negotiating contracts for utility services in the regulated environment, increasingly there are opportunities for certain customers to acquire power on a competitive basis from a supplier other than its traditional electric utility. The firm assists clients in identifying and evaluating purchased power options, conducts RFPs and negotiates with suppliers for the acquisition and delivery of supplies. We have prepared option studies and/or conducted RFPs for competitive acquisition of power supply for industrial and other end-use customers throughout the Unites States and in Canada, involving total needs in excess of 3,000 megawatts. The firm is also an associate member of the Electric Reliability Council of Texas and a licensed electricity aggregator in the State of Texas.

In addition to our main office in St. Louis, the firm has branch offices in Phoenix, Arizona and Corpus Christi, Texas.