BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Implement its Regulatory Plan.	)	<u>File No. ER-2010-0355</u> Tariff No. JE-2010-0692
In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Electric Service.	)	<u>File No. ER-2010-0356</u> Tariff No. JE-2010-0693

MISSOURI DEPARTMENT OF NATURAL RESOURCES' REPLY BRIEF

COMES NOW the Missouri Department of Natural Resources (MDNR) and for its initial brief in these cases states as follows:

I. Demand Side Management

A. Should the companies be required to continue their current demand-side programs and, if so, at what level? Should the Commission require KCPL and GMO to expand their DSM programs if the current DSM portfolios do not meet the Act's goal of achieving all cost-effective demand-side savings?

MDNR disagrees with Kansas City Power & Light (KCPL) and KCPL Greater Missouri Operations' (GMO) conclusion in their Initial Brief that "[t]he Commission should reject Staff's and MDNR's recommendations to direct the Companies to invest in DSM programs without any assurance that the full costs and lost revenues associated with these programs will be recognized in rates (page 193)." As MDNR stated in its Initial Brief, the Commission should direct KCPL and GMO to follow the intent of the MEEIA goal of achieving all cost-effective demand-side savings, and should further require KCP&L and GMO to expand their Demand Side Management (DSM) programs toward the Missouri Energy Efficiency Investment Act (MEEIA) goal of achieving all cost-effective demand-side savings during the "gap" period between the end

of these current rate cases and the establishment of the MEEIA rules. This gap could be relatively lengthy, possibly years (Bickford Direct, Ex. KCPL 601, p. 4 and Bickford Direct Ex. GMO 601, p. 4). Regardless of whether or when the MEEIA rules become effective, KCP&L and GMO are required to abide by the MEEIA, which includes the goal of achieving all cost-effective demand-side savings. (Rogers Rebuttal Ex 14, page 4; Vol. 32, Tr. 3546-7). The need for Commission action is heightened by the companies' actions and statements regarding unwillingness to commit to continuing and expanding DSM programs, action by the KCPL to close its MPower tariff and not accept additional customer participation, etc. The Commission needs to provide guidance with regard to appropriate DSM investment or energy savings targets, continuation/expansion of existing programs—such as reopening the Mpower tariff to interested customers—and considering additional new programs during this gap (Staff Cost of Service Report, Ex. 210, p. 127, Bickford Rebuttal, Ex. 602, p. 3).

B. How should DSM expense recovery be determined in these cases?

DSM Cost Recovery:

In its Initial Brief Staff proposes a 10 year amortization period for the energy efficiency regulatory asset account (p. 121-126). However, to apply a 10-year amortization to DSM expenses incurred after the end of the regulatory plan for KCPL and after the test year in GMO's rate case would be a clear disincentive to KCPL and GMO to invest in DSM programs. A 10-year amortization does not provide timely recovery of DSM program costs by the companies, and does not encourage the implementation of additional cost-effective energy efficiency programs. MDNR does not support such disincentives. Instead MDNR supports a temporary adjustment from 10 years to 6 years amortization with a carrying cost equal to the AFUDC rate applied to the unamortized balance for new and ongoing DSM expenses incurred during the gap

period until KCPL and GMO have DSM plans and DSIM recovery methods in place under MEEIA rules. This would reduce the disincentive and allow the companies to recover their DSM program costs in a more timely manner.

Staff's Netting Adjustment:

Regarding the ratemaking treatment of DSM costs incurred during the course of the regulatory plan by KCPL, MDNR does not support the netting of off-system sales margins and other amortizations against KCPL's DSM deferrals as proposed by Staff (Staff Report, Ex. 210, page 133) and addressed in its Initial Brief (p. 125-126). Staff states that "Staff's method does not require KCPL to make any changes to its books and records; Staff merely reflected netting in its own work papers." (Initial Brief p. 125). The effect of this netting of DSM regulatory asset account amortization with three unrelated accounts is not entirely clear. However, to the extent it either does put or can be perceived as putting DSM cost recovery at risk, it could serve as a disincentive to future DSM spending by utilities, and MDNR recommends the Commission not adopt that adjustment. As a matter of public policy, MDNR prefers that DSM costs (whether in a regulatory asset or not) be treated on a stand-alone basis and not be subjected to this type of commingling with unrelated accounts.

KCPL's Vintage 4 proposal:

MDNR does not endorse KCPL's recommendation in its Initial Brief (pp. 192-193) that DSM expenses referred to as "Vintage 4," be amortized for six years rather than for ten years, as that appears to be inconsistent with the KCPL regulatory plan. To the extent that costs included in Vintage 4 were incurred as early as September 30, 2008 (Rush Rebuttal, Ex. 57, p. 6) the regulatory plan would apply to the recovery of Vintage 4 costs.

II. Low Income Weatherization Program

A. Should the companies continue to fund their low-income weatherization programs at the current levels of funding, and if so, should the funds continue to be administered under current procedures, or should the Commission order they be deposited into an account with the Environmental Improvement and Energy Resource Authority (EIERA) to be administered by MDNR and EIERA?

In its Initial Brief (p. 157-159), Staff requests the Commission to order KCPL and GMO to deposit low income weatherization funds into an account with the Environmental Improvement and Energy Resources Authority (EIERA) to be administered by EIERA and MDNR. MDNR shares Staff's concerns with the Companies' failure to fully expend the low income weatherization funding budgeted during the regulatory plan, with GMO's expenditure levels of great concern. MDNR also recognizes the benefit of placing utility weatherization funds into an EIERA account. A change from KCPL and GMOs current weatherization funding practices should be considered. It is unclear from Staff's brief whether their recommendation is to place all weatherization funds for both companies in an EIERA account or whether their recommendation is to place only budgeted but unexpended funds with EIERA. If Staff is proposing the latter (only unexpended funds to be deposited with EIERA), MDNR has several concerns. For instance, there may be significant program design differences between the federal low-income weatherization program and the companies' current low-income weatherization programs that would make program management and monitoring more difficult for MDNR. As described in MDNR witness Bickford's testimony, there are a number of administrative burdens for MDNR and EIERA that must be considered and KCPL and GMO would need to commit to annual up-front funding for low-income weatherization programs for the Staff's proposed approach to be workable and the additional burdens to be justified (Bickford Surrebuttal, Ex KCPL 605, p. 3).

The benefits of the former would provide a definite amount of weatherization funding on an up-front basis, and provide for unspent funds, including interest, to be available to local weatherization agencies so that the funds remain available for the purpose for which they are dedicated, especially after American Recovery and Reinvestment Act funds are expended. However, no other public utility--gas or electric--has been ordered by this Commission without the utility's consent and support to deposit weatherization funds with EIERA. In every other case it has been the utility that requested such an arrangement.

Furthermore, while the EIERA is affiliated with MDNR, EIERA is a separate and distinct entity—a quasi-governmental agency--and is not a party to these cases. Contrary to Staff's statement that "(EIERA) was established to manage and disburse funds for MDNR to Weatherization Agencies according to MDNR guidelines" (Staff Initial Brief p 158), EIERA has a much broader scope and mission. EIERA is "involved in numerous projects and programs including providing bond financing for environmental projects such as water and wastewater treatment facilities, energy efficiency loans and other pollution control projects. . . .EIERA has broad statutory authority that goes significantly beyond managing and disbursing federal and other weatherization funding for MDNR." (Bickford Surrebuttal, GMO Ex. 603, p. 3).

Therefore, the Commission should 1) require KCP&L and GMO to continue their respective low-income weatherization programs at their current levels of funding, 2) permit the companies to continue working with local community action agencies for the time being, and 3) instruct the companies to evaluate transition of the low income weatherization funds to the EIERA and administration of the programs to MDNR and present that evaluation to the CPAG for consideration. If it is determined that MDNR administration of funds to be provided to EIERA is appropriate, further steps can be taken, including preparation of a Cooperative Funding

Agreement among the companies, the Commission, MDNR and EIERA, consistent with the method of funding other utility weatherization programs.

WHEREFORE, the Missouri Department of Natural Resources submits this Initial Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, electronically, this 18th day of March, 2011, to counsel for the parties to this case.

/s/ Sarah Mangelsdorf
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