

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

In the Matter of the Joint Application of Entergy Arkansas, Inc.,)
Mid South TransCo LLC, Transmission Company Arkansas,) Case No. EO-2013-0396
LLC and ITC Midsouth LLC for Approval of Transfer of Assets)
and Certificate of Convenience and Necessity, and Merger and,)
in connection therewith, Certain Other Related Transactions.)

In the Matter of Entergy Arkansas, Inc.’s Notification of)
Intent to Change Functional Control of Its Missouri Electric)
Transmission Facilities to the Midwest Independent) Case No. EO-2013-0431
Transmission System Operator, Inc. Regional Transmission)
System Organization or Alternative Request to Change)
Functional Control and Motions for Waiver and Expedited)
Treatment.)

**REPLY BRIEF OF KANSAS CITY POWER & LIGHT COMPANY AND KCP&L
GREATER MISSOURI OPERATIONS COMPANY**

COME NOW, Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company (“GMO”) (collectively, the “Companies”), and hereby file a reply brief in the above-captioned matters.

The Companies maintain that Entergy Arkansas, Inc. (“EAI”) and the Joint Applicants¹ have failed to meet their burden to demonstrate that either (1) the transfer of functional control of EAI’s Missouri transmission assets to Midcontinent Independent System Operator, Inc. (“MISO”) or (2) the acquisition by ITC Midsouth LLC (“ITC”) of EAI’s Missouri transmission assets is not detrimental to the public interest. Importantly, there has been no affirmative showing of “no net detriment” in either proceeding and instead the applicants have elected to rely on a nebulous “qualitative” benefit argument. Generally, “not detrimental” is determined by

¹ Entergy Arkansas, Inc. (“EAI”), Mid South TransCo LLC (“Mid South”), Transmission Company Arkansas, LLC (“TC Arkansas”) and ITC Midsouth LLC (“ITC”) (collectively referred to herein as “Joint Applicants”).

netting benefits and detriments, along with any conditions that may be imposed to mitigate detrimental impacts.² Accordingly, the Companies respectfully request that the Missouri Public Service Commission (“Commission”) deny the applications in these matters, or alternatively impose the following conditions upon approval:

(a) The negotiation and approval of a revised Joint Operating Agreement (“JOA”) between Southwest Power Pool, Inc. (“SPP”) and MISO addressing, at a minimum, the loop flow issues and other altered flows related to the Missouri transmission seam between SPP and MISO; and

(b) A requirement that EAI and/or ITC “hold harmless” non-MISO Missouri retail customers from all increased costs due to Entergy’s potential transfer of functional control of its transmission assets to MISO.

The Companies hereby provide the following responses to certain arguments set forth by EAI, Joint Applicants, and Commission Staff (“Staff”),³ to clarify the record.

I. RESPONSE TO EAI

1. Both EAI and Joint Applicants repeatedly attempt to separate the ITC merger transaction from the MISO integration issue. As noted in the Companies’ initial post-hearing brief, however, under either application the end result is the same—*i.e.*, EAI’s Missouri transmission assets will be under the functional control of MISO, and rates and charges for transmission service over those assets will be under the MISO Transmission, Energy, and Operating Reserve Markets Tariff (“MISO Tariff”). Consequently, both the Companies and Empire will suffer rate impacts from both the ITC merger transaction and the MISO integration.

² See *In re Union Elec. Co.*, 13 Mo.P.S.C. 3d 266, 293, Mo.P.S.C. Case No. EO-2004-0108, February 10, 2005.

³ Post-Hearing Briefs were also filed in these matters by The Empire District Electric Company (“Empire”) and the Missouri Joint Municipal Electric Utility Commission (“MJMEUC”).

2. EAI requests that the Commission dismiss the case for lack of jurisdiction, claiming that EAI joining MISO does not require Commission approval under Mo.Rev.Stat. § 393.190.⁴ EAI stresses, as it has repeatedly done throughout the course of these proceedings, that it serves no retail customers in Missouri and does not maintain a tariff on file in Missouri offering service to the public in Missouri.⁵ EAI makes numerous misguided claims in its brief that the intervenors⁶ have failed to cite to any evidence that EAI's integration into MISO involves an agreement to "sell, assign, lease, transfer, mortgage or otherwise dispose of or encumber the whole or any part of its franchise, works, or system, necessary or useful in the performance of its duties to the public."⁷ EAI goes so far as to state that its Missouri transmission facilities are "not necessary or useful in the performance of its duties to the public" because it has no duties to the public in Missouri within the meaning of the statute.⁸ Finally, EAI submits that "there simply is no statute conferring jurisdiction to the Commission under the distinct facts set forth in this matter."⁹

3. EAI is mistaken. The Companies agree with Staff's assessment that, while the electric plant in question is not used to make retail sales in Missouri, it is unquestionably devoted to a public use and coupled with a public interest.¹⁰ The operations of the electric plant at issue here are necessarily a matter of sufficient public interest to support the imposition of regulation by the state of Missouri to protect that interest, to the extent that state regulation is not displaced

⁴ EAI Brief at 4.

⁵ *Id.* at 9-10.

⁶ *Id.* at 11-13.

⁷ Mo.Rev.Stat. § 393.190.1.

⁸ EAI Brief at 16-17.

⁹ *Id.* at 13.

¹⁰ Staff Brief at 8.

by federal regulation.¹¹ Further, under Mo.Rev.Stat. § 393.190, Commission approval is required before an entity can transfer or encumber the whole or any part of its assets. The transfer of functional control to MISO is a transfer or encumbrance within the plain meaning of the statute, and EAI's arguments to the contrary should be disregarded.

4. Further, EAI asserts that the Federal Energy Regulatory Commission ("FERC") has exercised its jurisdiction and "approved the rate aspects of the integration of the Entergy Operating Company transmission system into MISO."¹² This is not an accurate statement, as substantial rate issues remain unresolved as of the date of this filing.¹³ Specifically, in its June 20, 2013 orders (Docket Nos. ER12-2681, ER13-948, and ER13-782), FERC conditionally accepted certain tariff revisions, accepted and suspended others and established hearing and settlement judge procedures to resolve all issues not summarily addressed in the order.¹⁴ Notably, FERC failed to address the MISO through-and-out transmission rate issue in spite of the fact that it was raised by intervenors.¹⁵ Therefore, multiple Missouri parties, including KCP&L, GMO, Empire and Associated Electric Cooperative, Inc. ("AECI"), have requested rehearing on the issue. In addition, the FERC has encouraged parties to continue to work

¹¹ *Id.*

¹² EAI Brief at 13.

¹³ See, e.g., *ITC Holdings Corp., et al.*, 143 FERC ¶ 61,257 (2013) ("Order Conditionally Accepting Certain Proposed Tariff Revision, Accepting and Suspending Certain Proposed Tariff Revisions, and Establishing Hearing and Settlement Judge Procedures").

¹⁴ *Id.*

¹⁵ See, e.g., Request for Rehearing and Clarification of Kansas City Power & Light Company, KCP&L Greater Missouri Operations Company, and The Empire District Electric Company, FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013) (seeking clarification and rehearing of the Commission's failure to address concerns raised by the parties regarding the application of MISO's regional through and out rates to Entergy's existing customers once Entergy's facilities are placed under the MISO Tariff); Request for Rehearing and Clarification of Arkansas Electric Cooperative Corporation, FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013) (same); Request for Rehearing of Associated Electric Cooperative, Inc., FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013); Motion for Leave to Answer and Answer of Associated Electric Cooperative, Inc., FERC Docket No. ER12-2681-000, *et al.* (filed July 29, 2013) (clarifying Associated Electric has the same concern about the application of MISO's regional through and out rates as KCP&L, GMO, Empire and Arkansas Electric Coops.).

together to resolve issues through renegotiation of provisions in the JOA between SPP and MISO. FERC has directed MISO to report on the status of negotiations regarding the JOA on or before November 1, 2013.¹⁶ EAI acknowledges that this status report is required to be filed by November 1, 2013.¹⁷

5. EAI next argues that state jurisdiction over safety matters will not be altered or affected by a change in FERC-jurisdictional transmission provider. EAI stresses that it is transferring only functional control to MISO and retaining the direct, physical control of the transmission facilities. EAI notes that the direct, physical control includes the responsibility for safety, and also claims that this responsibility is not being transferred to MISO.¹⁸ EAI appears to concede that the Missouri Commission has certain jurisdiction over safety issues, and that the Missouri Commission will retain such jurisdiction subsequent to any integration into MISO.¹⁹

6. While it is true that the Missouri Commission's legal jurisdiction over safety does not change, the Companies submit that the facts around which that responsibility must be exercised will be dramatically altered with the integration of the Entergy Operating Companies' assets into MISO. As noted in the Companies' initial brief, thousands of megawatts of new or altered flows are anticipated across Missouri transmission facilities.²⁰ This results from the transfer of functional control of EAI's transmission facilities to MISO and the integration into MISO of the Entergy Operating Companies' generation and load, which occurs under either docket. MISO, due to this transfer of functional control, will be responsible for congestion management of Missouri transmission facilities that will be impacted by the new flow patterns,

¹⁶ 143 FERC ¶ 61,257 at PP 128, 152.

¹⁷ EAI Brief at 7-8; 15.

¹⁸ *Id.* at 16.

¹⁹ *Id.* at 15.

²⁰ *See, e.g.*, Post-Hearing Brief of KCP&L and GMO at ¶¶ 28-31.

including the coordination of such congestion management with SPP. Without timely and effective congestion management, safety and reliability issues can arise. Therefore, the Commission should address this major change in utilization of Missouri facilities by insisting that a revised and uncontested JOA between SPP and MISO be established and approved by FERC prior to the requested transfers. Such a requirement would address the Commission's responsibilities with respect to safety and reliability of Missouri electric facilities.

7. EAI claims that the transfer of functional control of its facilities to MISO is not detrimental to the public interest in Missouri. EAI further claims that EAI witness Richard Riley has estimated that there will be \$9 million in annual savings to Missouri utilities and their customers as a result of EAI's integration into MISO.²¹ This statement is inaccurate. As discussed in the Companies' initial post-hearing brief, the alleged annual savings only accrue to retail customers of MISO load serving entities in Missouri.²² In other words, customers in the MISO region, which are primarily those served by Ameren, are the only Missouri customers who may potentially see any of these savings.²³

8. Further, no credible methodology has been offered by EAI to explain either its calculation of the alleged \$9 million in annual savings, or why this amount of savings should be credited to Ameren customers. Mr. Riley acknowledged that he simply calculated the \$9 million figure by assuming that benefits in MISO would be distributed proportionately to load.²⁴ Without a sound analytical basis, it is unclear whether the \$9 million number is accurate, or whether it should be \$1 million, or zero, or a negative number. In addition, the underlying study from

²¹ EAI Brief at 21.

²² Post-Hearing Brief of KCP&L and GMO at ¶¶ 24-26.

²³ Tr. at 74-75.

²⁴ Post-Hearing Brief of KCP&L and GMO at ¶¶ 24-26.

which the aggregate dollar amount of alleged savings was calculated has not even been presented to the Commission or the parties in this proceeding, so there is no way to verify its accuracy or completeness.²⁵ Instead, only a one-page MISO promotional document was presented by Mr. Riley as evidence.

9. Even assuming for purposes of argument that the \$9 million value is a reasonable proxy for benefits to Ameren, the Companies submit that it still is not in the public interest to permit a transaction that provides a benefit to the portion of the state served by MISO members, while creating a detriment to the portion of the state served by SPP and AECI. EAI has not presented an analysis regarding the impact on Missouri customers outside of the Ameren system that would result from EAI's integration into MISO. Such an analysis would need to account for the congestion impact on those Missouri customers' power supply costs, the resulting lack of availability of transmission facilities in the SPP and AECI regions, and much higher transmission charges.

10. The Entergy Operating Companies currently have approximately 30,000 MW of company-wide generation that will be integrated into the MISO market.²⁶ With this amount of generation in the south, and an even larger amount in the current northern MISO system, the amount of new flows across Missouri transmission facilities easily could reach thousands of megawatts as MISO jointly dispatches the entire fleet. Thus, effective congestion management and coordination with SPP is imperative and necessitates a revised JOA. Further, there are several pending FERC dockets and court cases in which transmission congestion and rate issues

²⁵ Tr. at 73.

²⁶ EAI Brief at 23.

related to the Entergy integration into MISO are yet unresolved.²⁷ Filings were made by SPP, SPP member companies, AECI, Arkansas Electric Cooperative Corporation, Tennessee Valley Authority, and other parties within the past two weeks to advocate for resolution of these matters.²⁸

11. EAI argues that the intervenors want to place their private rights above the public interest.²⁹ The reverse is actually true—it is EAI and ITC that would place their interests over the welfare of retail customers. This is perhaps best illustrated by the negative reaction of parties in other state regulatory dockets where the ITC/Entergy transmission merger has been addressed.³⁰ It is also illustrated by the fact that the applicants are citing the benefits of the transaction outside of Missouri while failing to address or propose meaningful mitigation of the detriments to the public interest in Missouri.

²⁷ See, e.g., *ITC Holdings Corp.*, 143 FERC ¶ 61,256 (2013) (“Merger Order”); *ITC Holdings Corp.*, 143 FERC ¶ 61,257 (2013) (“Tariff Order”); and *Midwest Independent Transmission System Operator, Inc.*, 143 FERC ¶ 61,258 (2013) (“Module B-1 Order”). See *Tariff Order*, 143 FERC ¶ 61,257 at P 150 (“[I]n conditionally approving SPP’s Integrated Marketplace, the Commission required SPP to begin negotiations with MISO on developing a market-to-market coordination process for managing congestion across the seam of MISO and SPP, and required SPP to file a phase 2 MISO-SPP JOA by June 30, 2012. . . . Interested parties will be free to challenge the terms of the revised MISO-SPP JOA when it is filed with the Commission.”); Protest of the SPP Transmission Owners to the amendments to the JOA between SPP and MISO, FERC Docket No. ER13-1864-000 (the “M2M Filing”); *Midwest Independent Transmission System Operator, Inc.*, Petition for Declaratory Order, FERC Docket No. EL11-34-000 (filed Apr. 8, 2011), 136 FERC ¶ 61,010 at P 64 (2011) (“Section 5.2 Order”) (“MISO and SPP have an obligation to negotiate in good faith in response to revisions (including deleting, adding, or revising requirements or protocols) either MISO or SPP may propose.”), *order on rehearing*, 138 FERC ¶ 61,055, *appeal docketed* No. 12-1158 (D.C. Cir. Mar. 23, 2012).

²⁸ See, e.g., Request for Rehearing of Southwest Power Pool, Inc., FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013); Request for Clarification and Motion for Settlement Judge Proceedings or, in the Alternative, Request for Rehearing of the Southwest Power Pool Transmission Owners, FERC Docket NO. ER12-2681-000, *et al.* (filed July 22, 2013); Request for Rehearing of Associated Electric Cooperative, Inc., FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013); Request for Rehearing and Clarification of Arkansas Electric Cooperative Corporation, FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013); Request for Rehearing of June 20, 2013 order of Tennessee Valley Authority, FERC Docket No. ER12-2681-000, *et al.* (filed July 22, 2013).

²⁹ EAI Brief at 24.

³⁰ See Post-Hearing Brief of KCP&L and GMO at 20-22 for examples of this negative reaction of parties in other state regulatory dockets.

12. EAI repeatedly complains that the intervenors' claims are not based on the MISO integration of only the EAI facilities located in Missouri.³¹ EAI's argument that the cases should be focused only on the effects of transferring the EAI Missouri facilities is obfuscation and is plainly inconsistent with the costs that EAI and ITC would impose on the intervenors. For example, the Companies would be thrilled if present and future transmission rates for service through Entergy were based only on the EAI facilities located in Missouri. Clearly, however, the rates are not calculated in this manner, because current rates are based on facilities across the entire Entergy system, and EAI/ITC apparently would have future rates based on facilities across the entire MISO footprint. Rather than being based on 87 miles of line within Missouri, which the applicants claim to be the only issue in the case, the rates faced by GMO and Empire under the applicants' proposal actually would be based on tens of thousands of miles of line. Therefore, these transfer applications must take into account the broader, integrated transmission system because EAI and ITC would force higher rates and additional costs on the intervenors that result from that larger system. Furthermore, this concept of focusing only on the facilities to be transferred ignores the impact of the proposed transactions on the entire transmission system in Missouri, all of which is of concern to the Commission.

13. EAI states that five other regulatory bodies have granted permission to Entergy to join MISO.³² However, it is critical to note that, as EAI admits, state regulatory approvals were granted only subject to conditions that were deemed necessary by those commissions to protect

³¹ *See, e.g.*, EAI Brief at 25.

³² EAI Brief at 22.

the public interest in those states.³³ Similarly, if this Commission grants approval of the requested transfer of functional control, it should impose conditions necessary to protect the public interest in Missouri.

14. EAI erroneously states that FERC has approved the integration of EAI's transmission lines into MISO.³⁴ This is misleading as the SPP-MISO JOA revisions have not yet been resolved, and FERC has repeatedly recognized that provisions of the JOA must be addressed if either party has concerns about the JOA.³⁵ In addition, settlement proceedings are ongoing for rate issues related to the integration.³⁶

II. RESPONSE TO JOINT APPLICANTS

15. Many of the benefits repeatedly cited by the Joint Applicants³⁷ are simply the hoped-for future result of increased investment or expectations of savings. ITC witness Cameron

³³ APSC Order No. 68 may be found at http://www.apscservices.info/pdf/10/10-011-u_918_1.pdf

APSC Order No. 72 may be found at http://www.apscservices.info/pdf/10/10-011-u_956_1.pdf

The Council of the City of New Orleans issued Resolution R-12-439, dated November 15, 2012 in Docket no. UD-11-01.

The Louisiana Public Service Commission Order may be found at <http://lpscstar.louisiana.gov/star/ViewFile.aspx?Id=7d9a988e-e3f0-49c2-8e45-5e03ac8fb31d>

The Mississippi Public Service Commission Order may be found at http://www.psc.state.ms.us/InsiteConnect/InSiteView.aspx?model=INSITE_CONNECT&queue=CTS_ARCHIVEQ&docid=298280

The Public Utility Commission of Texas order may be found at http://interchange.puc.state.tx.us/WEBAPP/Interchange/Documents/40346_410_740074.PDF

³⁴ EAI Brief at 22.

³⁵ See, e.g., Section 5.2 Order, 136 FERC ¶ 61,010 at P 64 (2011) (“MISO and SPP have an obligation to negotiate in good faith in response to revisions (including deleting, adding, or revising requirements or protocols) either MISO or SPP may propose.”); Tariff Order, 143 FERC ¶ 61,257 at P 150 (“[I]n conditionally approving SPP’s Integrated Marketplace, the Commission required SPP to begin negotiations with MISO on developing a market-to-market coordination process for managing congestion across the seam of MISO and SPP, and required SPP to file a phase 2 MISO-SPP JOA by June 30, 2012. . . . Interested parties will be free to challenge the terms of the revised MISO-SPP JOA when it is filed with the Commission.”).

³⁶ See Order Setting Second Settlement Conference and Procedural Schedule, FERC Docket No. ER12-2681-000, *et al.* (issued July 17, 2013).

³⁷ See, e.g., Joint Applicants’ Brief at 4, 18.

Bready acknowledges that many of the savings claimed by ITC are speculative in nature.³⁸ With 60 percent equity in capitalization and a 12.38 percent return on equity, this investment by the applicants will come at a considerable cost to customers, including Missouri load. This increased financing cost is one reason why the merger transaction has faced strong resistance in other states' regulatory proceedings. Joint Applicants suggest that the intervenors want the Commission to consider only quantifiable benefits and costs and suggest that both quantitative and qualitative evidence must be considered. Once again, this is a reversal of the true situation. The intervenors have not argued against looking at the totality of evidence and actually have advocated that approach. The real problem is that the applicants have not met the burden of proof by attempting to ignore quantitative evidence and by not explaining how their qualitative points outweigh the detriments that have been quantified by the intervenors.

16. An example of why it is important to carefully examine claims of qualitative benefits by the Joint Applicants can be found in the statistics provided in their post-hearing brief regarding outages subsequent to 2008, which was IPL's last year of operations prior to transfer to an ITC affiliate. The key fact underlying those numbers, which is not disclosed by the Joint Applicants, is that 2008 was a year of severe storm and tornado activity in Iowa, with over 70 Iowa counties having been declared a disaster area by Presidential order. Of the 99 counties in Iowa, IPL serves in approximately 90 of these. Therefore, the baseline year against which the Joint Applicants are claiming outage reductions was, in fact, distorted by extreme weather. This simple example illustrates the need for careful review of claims of qualitative benefits. There is no supporting evidence in the record of such a careful review having been undertaken in this proceeding.

³⁸ Tr. at 159-160.

17. Like EAI, Joint Applicants cite FERC's "approval" of the merger transaction.³⁹ Again, this is a mischaracterization of FERC's decision. FERC's "approval" is only partial in that there are numerous issues still being litigated, including the JOA and rates for transmission service over the Entergy system. In addition, FERC is not looking at the public interest specifically in Missouri. That is the responsibility of the Commission in Missouri. It is significant that other key states in which Entergy operates have not approved the merger transaction.

18. Joint Applicants make multiple references to "modest rate impacts" and suggest that the rate impact is a necessary part of the overall benefits of the transaction.⁴⁰ ITC Midsouth witness Cameron Bready estimates that in 2014 wholesale transmission rates will increase by approximately 8.1% over projected wholesale transmission rates for the Arkansas pricing zone, which includes Missouri facilities. (Bready Surrebuttal at pp. 8-9; ITC Ex. 17 at pp. 8-9.) As noted in the Companies' initial brief, however, this 8.1% figure quoted by Mr. Bready is merely the incremental percentage increase in ITC Arkansas zonal transmission service rates after Entergy is under the MISO tariff. (Tr. at 184.) The Commission must look instead at the overall cost increases of Entergy moving to the MISO Tariff, which in the Companies' case is over a 100% price increase. In other words, for certain transmission paths, the Companies' transmission rates are expected to more than double. (Tr. at 184.) This is also discussed in the Post-Hearing Brief of KCP&L and GMO at pages 8-10. Empire is also facing a dramatic increase in the transmission rate it would be charged as a result of the transfers requested by the Joint Applicants.⁴¹

³⁹ Joint Applicants' Brief at 10.

⁴⁰ Joint Applicants' Brief at 32.

⁴¹ Empire Brief at 7.

III. RESPONSE TO COMMISSION STAFF

19. Staff states that “those asserting a specific detriment have the burden of going forward as to that allegation.”⁴² The intervenors *have* supported their allegation of specific detriments. Throughout these proceedings, the Companies have demonstrated that EAI’s voluntary choice to place its facilities under the functional control of MISO will have direct, substantial, and quantifiable impacts on the Companies’ dependence on Missouri transmission facilities and on the Companies’ cost of power delivery to its retail customers. The estimated annual financial impact to GMO for the increases in transmission service alone as a result of the application of the MISO Tariff is \$6,095,917. (Carlson Rebuttal at pp. 5-6; KCP&L/GMO Ex. 18 NP at pp. 5-6.) Empire and MJMEUC also have provided evidence of substantial increases in transmission rates that would result from the transfers requested by the applicants.⁴³ Further, the transfer of EAI’s Missouri transmission assets to MISO will have a significant and quantifiable impact upon the Companies’ off-system sales margin. Decreases in off-system sales have a direct impact upon Missouri retail customers, as off-system sales are used to reduce power supply costs for Missouri retail customers. The increases in transmission service rates when transmission service is moved to the MISO Tariff will result in counterparties offering lower prices for the same energy, in order to recover their increased transaction costs. (Carlson Rebuttal at pp. 9-10; KCP&L/GMO Ex. 18 NP at pp. 9-10.)

20. Ratemaking for KCP&L includes a credit for off-system sales, which is embedded in the overall rates for KCP&L’s retail customers and serves to reduce those overall costs. Because KCP&L retail electric customers receive a credit for off-system sales, any reduction in off-system sales will have a direct and negative effect on Missouri retail rates, increasing rates to

⁴² Staff Brief at 11.

⁴³ Empire Brief at 7; MJMEUC Brief at 2.

the retail electric customer. (Carlson Rebuttal at pp. 9-10; KCP&L/GMO Ex. 18 NP at pp. 9-10.) Mr. Carlson has quantified the impact on KCP&L's off-system sales as approximately \$5.5 million per year.⁴⁴

21. Staff refers to ITC witness Cameron Bready testimony suggesting that 58% of the rate increase impact would be addressed by the proposed mitigation plan.⁴⁵ However, this 58% grossly overstates the mitigation that GMO and Empire might receive under the proposed plan. As explained in the Companies' initial brief,⁴⁶ these credits would be of very little benefit to Missouri customers on the MISO through and out rate. This is because of two factors. First, it is not clear that the portion of these credits now being offered by EAI to Arkansas customers would be available to wholesale transmission customers. It is likely that only the ITC portion would be available for that purpose. Even more significantly, the MISO region-wide rate structure as discussed above would largely dilute the effect of those credits through the process of averaging across all MISO pricing zones. As a result of these factors, it appears that the credit offer to EAI's Arkansas customers is of very little benefit to transmission customers in another state. This offer does not serve to mitigate in any meaningful fashion the rate increase of more than 100% that results from EAI's and ITC's voluntary decision to place the transmission facilities owned by EAI under the MISO Tariff.

22. In addition, Staff notes that approximately \$6.0 million in savings are predicted due to ITC's more robust credit quality.⁴⁷ However, the Commission should be aware that this is

⁴⁴ Post-Hearing Brief of KCP&L and GMO at ¶ 23.

⁴⁵ Staff Brief at 15.

⁴⁶ Post-Hearing Brief of KCP&L and GMO at ¶¶ 43-45.

⁴⁷ Staff Brief at 15.

not a net savings, but rather is more than offset by the higher cost resulting from the shift to a 60% Equity/40% Debt capital structure. The net impact is a rate increase.

23. Although they have had every opportunity to do so, the Joint Applicants have failed to propose a rate mitigation plan for Missouri customers. Instead, they have attempted to hide behind FERC rate jurisdiction. This despite the fact that, if the merger transaction is ultimately approved, ITC would be a FERC-jurisdictional provider of service to customers in Arkansas and other states where ITC has offered substantial mitigation.

24. While Staff recognizes that the Joint Applicants were not able to quantify the benefits that the transaction will produce, Staff concludes that any increases in rates must be weighed against the value of any benefits conferred.⁴⁸ This conclusion by Staff is of particular concern as no evidence has been submitted that Staff has conducted the type of careful review of the applicants' claims of qualitative benefits that would justify Staff's reliance on them. Given that there has been insufficient demonstration of tangible benefit to offset the quantifiable detriment to KCP&L and GMO customers, the Companies cannot fathom Staff's recommendation that the Commission approve the proposed transactions as in the Missouri public interest.

CONCLUSION

For the foregoing reasons, the Companies respectfully request that that the Commission deny the applications in these matters. Alternatively, the Commission should impose conditions upon approval that require an affirmative showing by the applicants of no net detriment to the public interest. Any Order issued by the Commission approving EAI's integration of its

⁴⁸ Staff Brief at 15, 17.

facilities into MISO or approving EAI's transfer of its Missouri transmission assets to ITC should be conditioned upon the following:

(a) The negotiation and approval of a revised JOA between SPP and MISO addressing, at a minimum, the loop flow issues and other altered flows related to the Missouri seam between SPP and MISO; and

(b) A requirement that EAI and/or ITC "hold harmless" non-MISO Missouri retail consumers from all increased costs due to Entergy's potential transfer of functional control of its transmission assets to MISO.

Respectfully submitted,

/s/ Roger W. Steiner

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to all counsel of record in this case this 2nd day of August, 2013.

/s/ Roger W. Steiner

Roger W. Steiner