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-2016-0285
a General Rate Increase for Electric Service.	)	

REPLY AND TRUE-UP BRIEF OF KANSAS CITY POWER & LIGHT COMPANY

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Kansas City Power & Light Company ("KCP&L" or the "Company") submits this Reply and True-Up Brief ("Brief") in accord with the Missouri Public Service Commission's ("Commission" or "PSC") Order Setting Procedural Schedule issued August 10, 2017.

I. INTRODUCTION

1. KCP&L understands and respects its customers' frustration with electric rate increases since 2007. But however understandable, this customer frustration cannot displace the necessity of maintaining KCP&L's financial integrity so that it can continue providing safe and reliable electric service that meets the expectations and demands of its customers. The reasons driving the rate increase in this case should not be forgotten. First, since the May 31, 2015 true up date in KCP&L's last general rate case, the Company has made infrastructure investments in its works and systems to ensure the reliability, security, and service customers require and expect. Second, the Company continues to experience significant increases in the transmission costs paid to RTOs, primarily SPP, year-over-year and continues to forecast increases post the effective date of rates in this case. Third, the Company is continuing to see increases in state assessed property taxes. Fourth, KCP&L is experiencing flat to declining average use per customer since 2010 whereas in years prior to 2008, KCP&L average use per customer was increasing per year (Ex. No. 130, Ives Direct, pp. 8-10). KCP&L has also devoted considerable funds to help customers use electricity more efficiently and to assist customers with the installation of solar facilities that reduce their reliance on KCP&L's service. Through December 31, 2015, KCP&L spent $26.8 million with 126.1 million kWh in energy savings and 42 MW of demand reduction in its MEEIA Cycle 1. The Company expects to achieve an additional 59.3 million kWh in Cycle 1 energy savings that is attributable to carryover projects from its Custom Business Energy Efficiency Rebate program. The Commission has approved KCP&L's MEEIA Cycle 2 Stipulation and

Agreement which includes further investment of $50.4 million over the 36-month portfolio period. KCP&L's MEEIA Cycle 2 plan includes 198.1 million kWh of energy savings and 44 MW of demand reduction (Ex. No. 125 Heidtbrink Direct, pp. 5-6).

2. Several important policy issues are raised in this proceeding, including the adoption of a residential inclining block rate proposal, future proposals for residential time of use rates, and issues related to the plug-in electrical vehicles and the "make-ready" model for regulation of the EV charging station marketplace. As explained below, KCP&L believes these are extremely important policy issues which need additional study before these issues are finally resolved. On March 24, 2017, the Staff of the Commission asked the Commission to open a workshop docket to permit Staff to gather information from interested parties and provide a report on these issues, among others. See Agenda and Request for Workshop Docket, MPSC Case No. EW-2017-0245). KCP&L believes this workshop docket proposed by Staff is worthwhile and should be pursued.

II. COST OF CAPITAL

A. Return on Common Equity

3. Trapped in an apparent time warp, both Staff and MECG comment extensively on the decline in returns on equity over the past ten years, but pay scant attention to the unchallenged data showing growth in the economy, as well as increases in both Federal Funds rates and Treasury bond yields.

4. Although both MECG and Staff acknowledge that the Federal Reserve Board raised the Federal Funds rate on December 14, 2016, they fail to mention that the Fed boosted interest rates again on March 15, 2017. On that date the Federal Open Market Committee of the

Federal Reserve Board raised the Federal Funds interest rate from a range of ½ to ¾ percent to a range of ¾ to 1 percent (Ex. 1, Federal Reserve Press Release), KCP&L Request to Take Official Notice (Mar. 16, 2017). As KCP&L noted in its request, the courts have commonly taken judicial notice of interest rates, including whether they have increased or decreased. See Havens Steele Co. v. Randolph Engineering Co., 813 F.2d 186, 189 (8th Cir. 1987); Gershman Investment Corp. v. Danforth, 475 S.W.2d 36, 37 (Mo. en banc 1971). Under Section 536.070(6), the Commission can take "official notice of all matters of which the courts take judicial notice." See also § 408.040.2 (trial courts directed to take notice of Federal Funds rates when issuing monetary judgments).

5. Such economic trends are contrary to MECG's assertion that it "is indisputable that capital costs remain low." (MECG Brief at 27). Figure 1 on page 28 of the MECG Brief actually demonstrates that state utility commissions have recognized the changing economic conditions, and have recently increased authorized electric returns on equity from 9.60% to higher levels.

6. Staff also fails to recognize this clear trend, arguing that "authorized ROEs continue to trend downward nationally," citing MECG witness Gorman's Direct Testimony (Ex. 650 at 13) which was filed in November 2016 (Staff Brief at 38). It is noteworthy that Staff has ignored Mr. Gorman's Rebuttal Testimony where he re-examined his Direct Testimony range of 8.80% to 9.20%, and increased it to 8.90% to 9.50% (Ex. 650 at 53, Gorman Direct; Ex. 651 at 29, Gorman Rebuttal). After conducting this analysis, Mr. Gorman recommended an ROE 20 basis points higher form his Direct Testimony (9.00%) and endorsed an ROE of 9.20%. Id.

7. With his new analysis, Mr. Gorman's high-end ROE recommendation of 9.50% is only 25 basis points from KCP&L witness Robert Hevert's low-end recommendation of 9.75% (Ex. 127 at 63, Hevert Direct; Ex. 129 at 28, Hevert Surrebuttal). Based on these experts' analysis and recommendations, it is clear that the Commission should set KCP&L's return on equity above the Company's current ROE of 9.50% and adopt Mr. Hevert's recommendation of 9.90%.

8. This would be consistent with the unchallenged evidence provided in the RRA Regulatory Focus Report (Ex. 155) of January 18, 2017 which summarized the authorized ROEs granted during 2016:

1. Vertically integrated electric utility cases	9.77%
2. Electric utility cases (without Limited Issue Rider Cases)	9.60%
3. Natural gas utility cases	9.50%

9. There are only two expert witnesses whose recommendations fall within the zone of reasonableness surrounding these numbers. As shown below, those witnesses are KCP&L's expert Mr. Hevert and MECG's witness Mr. Gorman, but not Staff's expert Professor Woolridge:

Witness	Recommendation	Range
Hevert	9.90%	9.75 - 10.50%
Gorman	9.20%	8.90 - 9.50%
Woolridge	8.65%	7.90 - 8.85%

10. Staff witness Dr. Woolridge has provided ROE recommendations that do not deserve serious consideration. His suggestion of an ROE of 8.65% for KCP&L makes no sense

in light of the evidence presented on current economic and fiscal data. At the evidentiary hearing Chairman Hall requested that he acknowledge that "a number of commissions have awarded ROEs significantly higher than that in the last year or so, correct?" Dr. Woolridge's first response ("Yeah. And I – I address this issue in my report.") was met by the Chairman's request: "Please answer my question." Dr. Woolridge stated: "Yeah. I agree." (Tr. 751). In response to his 8.65% ROE recommendation, the Commission understandably reacted with incredulity.[1]

11. The Commission's reaction is similar to that expressed by the Maryland Public Service Commission in a recent case (Ex. 166, Order No. 88033, In re Delmarva Power & Light Co., No. 9424 (Md. P.S.C., Feb. 15, 2017)). The Maryland Commission's order noted that the preliminary opinion presented to the Commission by its chief judge criticized Dr. Woolridge's recommendations as "result-oriented." (Ex. 166 at p. 20). Dr. Woolridge's recommendation in the Delmarva case was 8.60% (Id. at 22). After reviewing Dr. Woolridge's recommendation, as well as that of the utility and of its Staff, the Commission concluded "that an ROE of 9.60% [100 basis points higher than the Woolridge proposal] is both adequate and appropriate for Delmarva, considering the risks associated with its electric distribution operations in Maryland" as well as "the capital market conditions at the time of this proceeding." (Id. at 22-23).

12. Given the observation by Dr. Woolridge's client in the Maryland case that distribution-only electric utilities like Delmarva "have been about 20 basis points below those for integrated electric utilities" (Id. at 20-21), it would be appropriate for the Commission in this

[1] Commissioner Kenney: "I looked at that, and I thought, that's got to be an outlier. Where did that come from? And there's nothing that's been said today that's convinced me otherwise." (Tr. 755).

case to award an ROE of at least 9.80%, which is only 10 basis points below Mr. Hevert's recommendation.

13. Although Staff attempts to justify Dr. Woolridge's unreasonably low ROE recommendation based upon an investment bank's valuation of another utility (Staff Brief at 37), this Commission had never relied upon values assigned to a target's assets or operations in a merger transaction. This Commission has traditionally relied upon Discounted Cash Flow models, the Risk Premium method, and the Capital Asset Pricing method to estimate a utility's fair return on equity. See Report and Order at 18, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015). It has also paid close attention to authorized returns issued by other state public utility commissions, understanding that a company like KCP&L "must compete with other utilities all over the country for the same capital." Id. at 19. Using valuations prepared in the course of assessing a utility acquisition is not relevant or meaningful to the ROE determination that must be made in this case.

14. Setting the Company's ROE between 9.60% (the national average for all electric utilities) and 9.90% (Mr. Hevert's recommendation) would meet the requirements set forth in Bluefield Waterworks & Improvement Co. v. Public Service Comm'n of West Virginia, 262 U.S. 679, 692 (1923) ("Bluefield") and Federal Power Comm. v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944) ("Hope").

15. It would also assure that KCP&L's returns will be comparable to the returns that investors would expect to earn on investments of similar risks in the current market which has recently seen the Florida, South Carolina and North Carolina utility commissions approve ROEs

of 10.55% (Florida Power & Light), 10.1%, and 9.9%, respectively, to electric utilities (Tr. 129, 140-41 [Hevert]).

16. MECG and Staff continue to impugn the professional judgment of Mr. Hevert who prepared both a Constant Growth and Multi-Stage DCF analysis, as well as detailed CAPM and Bond Yield Plus Risk Premium studies (Ex. 127 at 15-42 (Hevert Direct)). There is no factual basis for their accusations.

17. Like MECG's witness Michael Gorman, Mr. Hevert re-examined his models and conclusions in rebuttal testimony in light of improvements in the economy, as well as rising interest rates and bond yields. He revised his ROE ranges, maintaining his overall recommendations (Ex. 128 at 2-11 (Hevert Rebuttal)). However, Staff witness Woolridge made no effort to revise his analysis, offering the weak explanation that "I was not asked to, and I didn't update it." Tr. 729.

18. Unlike the other witnesses, Mr. Hevert carefully explained the current state of the economy, and how Treasury yields have markedly changed since the Company's previous rate case. Since July 6, 2016, near the time when this case was first filed, Treasury Yields have increased by over 100 basis points. Id. at 9 (Hevert Rebuttal). As MECG's March 17, 2017 Response to KCP&L's Request to Take Official Notice observed, Treasury bond yields have fluctuated above 3.00% during March.

19. Although all three ROE witnesses are qualified to present their opinions, this Commission has not always found Dr. Woolridge or Mr. Gorman to be the most credible witness. When Dr. Woolridge last appeared before this Commission in a KCP&L rate case, his ROE recommendation was found to be outside the zone of reasonableness and was discarded.

See Ex. 167, Report and Order at 21-22, In re Kansas City Power & Light Co. , No. ER-2006-0314 (Dec. 21, 2006).

20. In another KCP&L rate case, the Commission found that the Company's testimony was "more credible than [Staff's witness] and Gorman's [testimony] …." See Report and Order, In re Kansas City Power & Light Co. , No. ER-2007-0291 (Dec. 6, 2007). In explaining why Mr. Gorman's analysis was rejected, the Commission concluded: "OPC witness Gorman fails to explain that in his own risk premium data, there is not one government bond risk premium as low as the 5.15% he recommends, and that his own data actually supported an ROE range of 10.5% to 11.0%." Id. at 23.

21. Although MECG refers this Commission to the 9.30% ROE authorized by the Kansas Corporation Commission in a recent KCP&L rate case, it fails to explain the circumstances under which that return was authorized (MECG Brief at 19). The Kansas Court of Appeals found the 9.30% ROE reasonable specifically in the context of rate mechanisms that are not available in Missouri, such as a Transmission Delivery Charge Rider and an Energy Efficiency Rider. Kansas City Power & Light Co. v. KCC, 371 P.3d 923, 936 (Kan. App. 2016). The Transmission Delivery Charge Rider itself had "an estimated annual value of over $33 million." Id. at 940. Mr. Gorman failed to take any of these factors into consideration when commenting on KCP&L's Kansas ROE (Tr. 253-54).

22. Considering all of the evidence presented to the Commission, it should conclude that KCP&L's requested 9.90% ROE recommendation, based on Mr. Hevert's range of 9.75% to 10.50%, is a just and reasonable rate that reflects improvements in the economy and both higher

Federal Funds interest rates and Treasury bond yields. Such a conclusion will allow KCP&L to continue to operate in a financially sound manner.

B. Customer Service Response

1. In past cases, the Commission has only made ROE adjustments for serious customer service problems, none of which are present in this case

23. MECG attempts to bolster its weak ROE argument by suggesting that the Commission use the low end of Mr. Gorman's ROE range to incent improved customer service. MECG alleges that KCP&L has problems with customer service and satisfaction, compliance with commission rules and settlement provisions and the level of Administrative and General ("A&G") costs (MECG Initial Brief at 31). An ROE adjustment for customer service problems is not appropriate in this case as there is no evidence that the Company is not providing adequate and reliable customer service. The Commission has typically only made this type of ROE adjustment when serious customer service problems exist.[2] There is no evidence of serious customer service issues in this case.

24. MECG cites no MPSC case regarding ROE adjustments for past rule violations or A&G cost levels. Indeed, in a 2004 case, the Commission noted the inherent problems with making an ROE adjustment for management efficiency or inefficiencies and indicated that it had moved away from such ROE adjustments.[3] Instead, MECG resorts to a 2010 Indiana case[4] for support of its extreme position. In that case, the Indiana Utility Regulatory Commission had

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[2] See, for example, Re Missouri Gas Energy, 1998 Mo. PSC LEXIS 56 *20 where the Commission specifically found that Missouri Gas Energy provided less than satisfactory customer service and that the utility had not complied with the customer service commitments made in its prior rate case.

[3] See, In the Matter of Missouri Gas Energy's tariffs to Implement a General Rate Increase for Natural Gas Service, 2004 Mo. PSC LEXIS 1446 *36.

[4] Re Petition of Northern Indiana Public Service Company, 2010 Ind. PUC LEXIS 294.

made a previous finding regarding Northern Indiana Public Service Company's ("NIPSCO") three year trend of falling customer service levels.[5] The Indiana commission relied on two examples of NIPSCO not consulting with its customers prior to new programs and tariffs[6] as well as a separate case where the Commission specifically found that NIPSCO's three year trend of poor customer satisfaction warranted some consideration in its cost of equity determination.[7] The NIPSCO case provides no guidance for the Commission in this case, especially since the utility in question was at that time one of the worst rated utilities in the country.

C. <u>MECG's Customer Service Allegations Are Not Supported by the Record</u>

25. If KCP&L had customer service problems as alleged by MECG, the four public hearings held in this case would have been filled with customer complaints. In fact, there were almost no instances of customers complaining about their service during these hearings. Moreover, there was only one formal customer complaint filed against KCP&L with the Commission during 2015-2016.[8] The number of informal customer complaints in 2016 (110) dropped from the level in 2015 (160).

26. There was no mention of KCP&L customer service issues in Staff's cost of service report filed in this case. OPC specifically acknowledged that KCP&L is providing adequate or reasonable customer service (Ex. 303, p. 37, Hyneman Rebuttal). The fact that the Staff voiced no concerns about KCP&L's customer service and that OPC indicated that the Company is providing adequate service speaks volumes about the hollowness of MECG's allegations.

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[5] *Id*. at *97.

[6] *Id*. at *96-*97.

[7] *Id*. at *97.

[8] *Samantha Blackmon v. KCP&L*, EC-2015-0204, June 2, 2015.

27. The only party complaining about the Company's customer service is MECG[9], which is not a customer of KCP&L. In fact, the actual customer make-up of MECG is a mystery, as there is no record evidence of which KCP&L customers, if any, are represented by MECG. Mr. Gorman, who was hired by MECG as its ROE witness, could not provide the name of a single KCP&L customer that MECG represents (Tr. 229). Mr. Gorman further explained that a list of customers represented by MECG does not exist. (Id.)

28. MECG cites KCP&L's JD Power rankings as evidence that KCP&L's approach to customer service is not working (MECG Initial Brief at 32). The fact that KCP&L's ranking fell as compared to other companies' rankings is not evidence of a decline in KCP&L customer service. In fact, KCP&L's JD Power customer perception score was up 17 points (722 to 739) which is a statistically valid improvement (Tr. 1492). There are a number of drivers to explain KCP&L's dip in comparative ranking, despite an increase in the raw score, such as the fact that the ranked companies are numerically ranked very closely together, the number and frequency of KCP&L rate cases, energy efficiency charges on business customer bills and storms that impacted some major manufacturers and business (Tr. 1491-1492). OPC indicated that it does not believe that JD Power results are a valid measure of customer service performance (Id.). Staff also believes that JD Power scores are not strongly correlated with a utility's customer service performance (Id. at 35).

[9] MECG was described by its counsel as an incorporated entity and indicated that "it used to be that MECG had members." (Tr. 228)

D. MECG's Examples Do Not Show That Problems Exist with KCP&L's Provision of Customer Service and Do Not Warrant A Reduction in ROE

29. In support of its allegation of inferior service and performance, MECG cites three examples which have very little to do with the provision of customer service by KCP&L.

1.) AllConnect. The AllConnect Order does not say that the Company does not provide good customer service. In fact, the Order provides evidence that the Company is meeting its customer service needs. Staff's AllConnect complaint alleged that KCP&L and GMO violated 4 CSR 240-13.040(2)(A) which requires a utility to have qualified personnel available to respond to customer inquiries and complaints. The Commission found that KCP&L and GMO have adequate numbers of trained customer service representative available to serve the needs of their customers.[10] There were no complaints filed by any customer regarding AllConnect representatives providing service start date information to KCP&L customers. Moreover, the Commission, in determining that penalties were not appropriate in the AllConnect case, stated: "There is nothing inherently wrong with the service that AllConnect is offering to KCP&L and GMO customers. It is a service that many customers seem to appreciate, based on the favorable reaction measured by the customer surveys reported by the utilities."[11] The Company was attempting to exceed customer expectations by providing

[10] See EC-2015-0309, Report and Order, April 27, 2016, p. 19.
[11] See EC-2015-0309, Report and Order, April 27, 2016, p. 21.

additional information to its customers who were relocating. The Commission found that there was nothing wrong with trying to meet customer demands in this way as long as the Commission's rules were followed. Since the Commission determined that it could not penalize the Company in the AllConnect case for poor customer service, there is no basis to use the AllConnect case as a reason to penalize the company through a low ROE award.

2.) Interpretation of Settlement Provisions: This allegation involves Great Plains Energy Incorporated ("GPE") and not KCP&L. In addition, it does not involve a customer service or management deficiency. GPE did not believe that the Commission had authority to exercise jurisdiction to approve or disapprove GPE's acquisition of Westar Energy based on the language of the First Amended Stipulation and Agreement that the Commission approved in 2001 when it authorized the establishment of a holding company structure. GPE was upfront with the Commission concerning its belief and informed the Commission of its view the day the acquisition was announced.[12] In Case No. EC-2017-0107, the Commission determined that it did have jurisdiction and GPE accepts the decision of the Commission. A disagreement on interpretation of language in a Stipulation is just that, a disagreement, not a malicious act worthy of penalty.

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[12] See, EC-2017-0107, Report and Order, February 22, 2017 at 10.

3.) A&G costs: While the level of A & G costs were not an issue in this case, MECG attempts to use the Commission's order in the last rate case to make an ROE adjustment in this case. The fact that the Commission ordered a staff audit to investigate A&G costs does not warrant a ROE reduction. The Staff's Management Audit Report indicated that KCP&L's comparatively high A&G expenses were driven primarily by pension expense and noted that KCP&L has taken specific actions to better control pension expense which are anticipated to eventually lower A&G costs.[13] MECG misguided attempt to penalize KCP&L for attempting to reduce its A&G costs should be rejected by the Commission.

E. Capital Structure

30. KCP&L proposes that the Commission set the capital structure of the Company as of December 31, 2016, with common equity at 49.72% and long-term debt at 50.28% (Ex. 170 at 6-7, Bryant True-Up Rebuttal). However, Staff proposes to use the capital structure of GPE as of June 30, 2016 (49.0% common equity; 50.41% long-term debt; and 0.52% preferred stock), but with the application of adjustments to arrive at a hypothetical capital structure of 49.2% common equity and 50.8% long-term debt (Staff Brief at 40-41; Ex. 170 at 5, Bryant True-Up Rebuttal). OPC offers a similar hypothetical capital structure as of a different date (September 30, 2016) with adjustments leading to a recommendation of 48.5% debt and 51.5% equity (OPC Brief at 4).

[13] See, EO-2016-0124, Management Audit Report, January 17, 2017 at 58.

31. As an initial matter, both the Staff and OPC recommendations violate the matching principle, given all parties' agreement that KCP&L's proposed test year of December 31, 2015 would be subject to a true-up through December 31, 2016 (Ex. 170 at 3, Bryant True-Up Rebuttal; Staff Response to KCP&L's Proposed Test Year (July 22, 2016) (agreeing to true-up date of Dec. 31, 2016); OPC's Statement of Support for Jointly Proposed Procedural Schedule (Aug. 4, 2016)). Staff's use of a capital structure and debt cost rate that fails to match the accounting period agreed upon by the parties for all other major cost of service components creates a significant mismatch and a substantial risk that KCP&L will not recover its costs (Ex. 170 at 4, Bryant True-Up Rebuttal).

32. Neither Staff nor OPC offer any compelling argument why the actual capital structure of KCP&L should not be used, except for the fact that in the past GPE's consolidated capital structure has been used. Indeed, Staff witness David Murray stated that he "agree[d] with Mr. Bryant that it is desirable to attempt to reconcile costs to each utility in setting the revenue requirement." (Ex. 220 at 3, Murray Rebuttal). As Mr. Bryant explained, any departure from KCP&L's actual capital structure as of December 31, 2016 would require a series of adjustments to accurately portray a capital structure that is relevant to KCP&L (Ex. 170 at 7-8, Bryant Surrebuttal). Using GPE's capital structure would require such adjustments because of the significant changes in GPE's capital structure over the past nine months as a result of its raising capital for the proposed acquisition of Westar (Id. at 5, 7-8).

33. However, if the capital structure now reflected on the books and records of KCP&L is adopted by the Commission, there is no need for an adjustment process to properly depict the Company's capital structure utilized in funding its utility investments. Id. at 8. This is

consistent with the opinion of MECG's Mr. Gorman who agreed that KCP&L's recommendation was "in line with the common equity ratio for the electric utility industry as authorized by regulatory commissions in setting rates." (Ex. 650 at 23, Gorman Direct).

34. However, Staff continues to misrepresent Mr. Bryant's position, accusing him of "attempting to misinform the Commission" regarding how KCP&L manages its finances (Staff Brief at 42). Such an accusation is groundless, given Mr. Bryant's extensive explanation of how KCP&L and GMO have each been managed in the best interests of their respective financial needs and interests (Ex. 106 at 2-3, Bryant Rebuttal; Ex. 108 at 3-6, Bryant Surrebuttal). Furthermore, Staff's claim that "GPE also guarantees GMO's debt and commercial paper" is contrary to the correction that Mr. Murray himself offered at the evidentiary hearing (Staff Brief at 43). Mr. Murray corrected his rebuttal testimony to indicate that GPE only guarantees some of GMO's debt and its commercial paper program (Tr. 178, 186-87). For example, GPE does not guarantee any of the Series A, B, and C notes issued by GMO, which total $350 million (Tr. 182-83).

35. Staff's hypothetical and complicated proposal for KCP&L to use a capital structure based on GPE's structure as of nine months ago, plus adjustments, is premised on Staff's long-rejected notion that GPE has manipulated in some improper fashion the finances of both KCP&L and GMO (Staff Brief at 41-43). As noted in KCP&L's initial brief, Staff's proposals to engage in such hypothetical adjustments in the past have been soundly rejected by this Commission. (KCP&L Initial Post-Hearing Brief at 21-22). Utilizing KCP&L's capital structure will reflect its utility operations, as well as its actual revenues and expenses that are considered for ratemaking purposes. The efforts of Staff and OPC to utilize a hypothetical

capital structure that does not correspond with the Company's actual capital structure and cost should be rejected.

F. Cost of Debt

36. Staff devotes one paragraph of its brief to the cost of debt issue, once again raising the issue of double-counting with regard to debt issuance expenses and discounts (Staff Brief at 44). As KCP&L proposed, the Company's actual cost of debt using a yield-to-maturity calculation is 5.51% (Ex. 108 at 5; Bryant Surrebuttal). However, given Staff's preference to use the simple interest/amortization method, the Company has no objection to the cost of debt being set two basis points lower at 5.49% (Id. at 7-8).

37. However, Staff's lower recommendation of 5.42% is a product of relying on the GPE consolidated cost of debt as of June 30, 2016, instead of the Company's actual cost of debt (Ex. 220 at 14-15, Murray Rebuttal). Just as Staff's proposed adjustment to the capital structure should be rejected because of its hypothetical nature and numerous adjustments, there should be no similar adjustments to the cost of debt. The Commission should set the cost of debt at 5.51% (or at 5.49% under the simple interest/amortization method).

III. FUEL ADJUSTMENT CLAUSE

A. KCP&L Has Met the Criteria for the Commission to Authorize it to Continue its FAC

38. OPC is the only party alleging that KCP&L did not meet the necessary criteria to continue its FAC. It claims that the Company failed to offer a "complete explanation" of all of the costs and revenues that it requested to be included in the FAC under 4 CSR 240-3.161(3)(H)-(I) (OPC Brief at 14). However, a very complete explanation of all of these costs and revenues is set forth on pages 3 through 9 of Schedule TMR-1 of the Direct Testimony of KCP&L Witness

Tim Rush (Ex. 142). This information is further set forth in the Company's current and proposed FAC tariffs contained in Schedule TMR-3 to Mr. Rush's Direct Testimony. Detailed descriptions of the costs and their respective amounts are contained in Schedule TMR-4 to Mr. Rush's Direct Testimony, consisting of 13 separate pages.

39. Staff agrees, concluding in the Staff Report that KCP&L met the necessary criteria and that the FAC should be continued with modifications that will allow the FAC Base Factor to be reset with updated costs and loss factor information (Staff Brief at 45; Ex. 200 at p. 162).

40. OPC also complains that a sufficient explanation regarding rate volatility mitigation features was not provided, as required by 4 CSR 240-3.161(3)(K). However, the Direct Testimony of KCP&L witness W.E. Blunk explained in detail the market risk mitigation measures that KCP&L has employed, including establishing a laddered portfolio of forward contracts with staggered terms that allows it to anticipate market price increases (Ex. 103 at 24-25). He discussed how KCP&L updates its fuel procurement and planning process to adjust for changes in the market, as well as its program to manage natural gas market uncertainty through various hedging strategies. Id. at 25-32. Mr. Blunk addressed volatility issues in other portions of both his direct testimony (Ex. 103(HC) at 17-21) and his rebuttal testimony (Ex. 104 at 12-14). No party other than OPC has challenged this showing.

41. Finally, OPC asserted that the heat rate testing information provided by the Company was inadequate under 4 CSR 240-3.161(3)(Q). To the contrary, Company witness Burton Crawford included heat rate test results in Schedule BLC-6 to his Direct Testimony Ex. 116. Furthermore, as Staff witness J Luebbert stated in his Surrebuttal testimony, KCP&L

demonstrated that it had conducted heat rate tests for all generating units for which it is requesting recovery of fuel costs through the FAC (Luebbert Surrebuttal, Ex. 214 at 1-3; Tr. 587-88).

42. There is no factual basis to conclude that KCP&L has not met the Commission's criteria to authorize it to continue its FAC.

B. <u>The Commission Should Authorize KCP&L to Have an FAC</u>

43. Staff agrees that KCP&L's Actual Net Energy Costs continue to be large, and that its proposed Base Energy Costs in this case represents 37% of the Company's total cost to be recovered in rates (Staff Brief at 45). Because these costs "continue to be volatile and beyond the control of the Company," Staff recommends that the Commission authorize KCP&L to continue its FAC. <u>Id.</u>

44. OPC similarly "recommends the Commission order an FAC for KCPL." (OPC Brief at 5). However, it then proceeds for another eight pages to complain about the Company's proposed continuation of the FAC in a philosophical discourse that appears to advocate redefining fuel and purchased power costs to include only "direct" costs, a word not found in Section 386.266.1. Notably absent from its discussion is any analysis of the FERC Uniform System of Accounts ("USoA") which governs the accounting practices of all Missouri electric utilities, including KCP&L.

45. Although its brief references "the FAC proposed by OPC" (OPC Brief at 5), there is no such proposal anywhere in the record. To the contrary, OPC's position is a series of random recommendations to re-define fuel and purchased power costs, and to mandate the reporting of costs at the corporate resource code level with detailed cost descriptions.

46. OPC raises minor issues such as KCP&L having stated in a response to a data request that it intended to include costs gathered in USoA subaccount 501510 in the FAC. However, OPC conceded that, in fact, this subaccount was not included in the Company's tariff (OPC Brief at 13). Obviously, if a subaccount is not included in the tariff, KCP&L will not be able to recover any cost recorded in that account. OPC also complains about the lack of any costs being collected in subaccount 501505 (OPC Brief at 13-14). But, any concern related to this subaccount with no amounts being collected in it (and, therefore, nothing to pass through an FAC) is no longer of any consequence since all of these subaccounts relate to fuel handling costs which KCP&L has agreed will not flow through the FAC. This is consistent with KCP&L's statement in Paragraph 9 of the Non-Unanimous Partial Stipulation and Agreement, which the Commission approved on March 8, 2017.

47. Throughout this discussion, OPC makes no allegation that any cost which it has reviewed was imprudent or inappropriate. Importantly, KCP&L believes and agreed during the hearing that the Company is obligated to procure fuel at the lowest total cost regardless of whether a particular cost is included or excluded from the FAC (Tr. 477, 480-81 (Blunk)).

48. In the end, OPC has raised no particular issue or concern that negates its initial recommendation that the Commission authorize KCP&L to continue to have an FAC, which no party in the case opposes.

C. The Costs Currently Flowing through KCP&L's FAC pursuant to the Uniform System of Accounts Should be Continued with No Re-Definition of "Costs"

49. All of the costs currently flowing through its FAC should continue, consistent with Paragraph 9 of the Non-Unanimous Partial Stipulation and Agreement approved by the

Commission on March 8, 2017. In that paragraph KCP&L agreed that it will not recover any administration charges (such as those assessed by Southwest Power Pool), or any FERC or NERC assessment charges.

50. Staff supports the current approach, noting that it "continues to recommend no change" to the current costs that are flowing through KCP&L's FAC (Staff Brief at 45-46). Given the Commission's order approving the Non-Unanimous Stipulation and Agreement filed by the Company and other parties, KCP&L agrees.

51. However, as discussed in KCP&L's initial post-hearing brief in Section III(D) at pages 26-29, OPC seeks to redefine "fuel" in a manner that is contrary to the USoA definition found in Account 501 (OPC Brief at 20-24). In its effort to adopt what OPC defines as "the purest" and most narrow definition of fuel and transportation costs (Ex. 305 at 6, Mantle Direct), OPC proposes to substitute for FERC USoA Account 501 (Fuel) the definitions included in a more narrow definition in a USoA Asset Account, No. 151 (Fuel Stock) which have never been utilized by either KCP&L or its sister company, KCP&L Greater Missouri Operations Company.

52. It is important to recognize that as a USoA Asset Account, No. 151 regarding fuel stock, as well as the related Asset Account 152 (Fuel Stock Expenses Undistributed) are used in the presentation of a utility's balance sheet. They are not used to keep track of income and expenses which are found in USoA Accounts 440-457 (for income) and in USoA Accounts 500-935 for operation and maintenance expenses, such as fuel. It is in this latter category where Account 501 (Fuel) is found, and that is the account that has collected KCP&L's fuel costs related to the FAC since it was first implemented.

53. Although OPC stated for the first time in Surrebuttal that this Commission should follow FERC's wholesale FAC and only allow Account 151 (Fuel Stock) costs to flow through the KCP&L FAC, OPC witness Mantle conceded that she had not cited the FERC FAC in her longstanding white paper describing her views and opinions on the history and purpose of the Missouri fuel adjustment clauses (Tr. 672-73). She acknowledged that there is no mention in Section 386.266 regarding a federal fuel adjustment clause.

54. Ms. Mantle agreed that in the past OPC had opposed the recovery of certain costs described as the "total cost of the purchase" that the FERC FAC permits to be flowed through to wholesale customers. FERC's FAC rule defines "total cost" as a term that includes "but is not limited to capacity, reservation charges, energy charges, adders, and any transmission or wheeling charges associated with the purchase." See 18 CFR § 35.14(a)(11)(ii) [FERC's fuel adjustment clause regulation]. She noted that OPC had always opposed such language when proposed by Missouri utilities (Tr. 674). Ms. Mantle also admitted that the FERC fuel adjustment clause was established to deal with wholesale situations, not FACs relating to the retail provision of electricity (Tr. 674-75). Given these distinctions, there is no basis for this Commission to incorporate a federal FAC designed for different purposes and containing provisions far different from those approved in Missouri. The arguments to the contrary by OPC should be rejected (OPC Brief at 20-22).

55. OPC's efforts, continuing through last-minute proposals brought up in Surrebuttal, to radically redefine and revise KCP&L's FAC should be rejected.

D. <u>The Costs and Revenues Currently Flowing through KCP&L's FAC Should be Continued</u>

56. KCP&L agrees with Staff that there should be no changes to the revenues currently flowing through the Company's current FAC.

57. OPC is "not recommending" that "other Southwest Power Pool revenues" be included in the FAC because they are "indirect off-system sales revenues." (OPC Brief at 24). As KCP&L has explained, all of the costs and revenues related to the SPP energy markets, known as the Integrated Marketplace ("IM"), work in tandem and are essential to making off system sales and purchased power possible (Ex. 148 at 6, Tucker Surrebuttal).

58. KCP&L witness Jessica Tucker explained at length during the evidentiary hearing how the IM consists of both an energy component, as well as an operating reserve component which provides ancillary services that "are required to be carried for the sake of ensuring that load is served" (Tr. 442-43). Because KCP&L sells and purchases power "24 hours a day, 7 days a week" (Tr. 451), Ms. Tucker's explanation as to why all of the SPP IM costs and revenues are "inextricably joined" to permit purchase power and sales (Ex. 148 at 9, Tucker Surrebuttal) requires that all of those costs and revenues be reflected in the FAC.

59. Given the manner in which the energy markets operate at SPP, and the IM's elaborate co-optimization process to assure that purchases and sales occur in an efficient fashion, there is no basis for OPC's proposal to exclude any SPP revenues or charges which are essential to the process by which KCP&L sells its generation and purchases power for its customers (Ex. 148-6, Tucker Surrebuttal; Tr. 446-48).

60. With regard to SPP transmission costs (which are a different type of cost than the IM costs discussed above), OPC argues at p. 24 of its Initial Brief that KCP&L's FAC should not

include SPP base plan funding transmission costs because those costs are not directly linked to true purchased power and off-system sales. These SPP base plan funding costs are charged to the Company under transmission schedules just like any other transmission charge that the Company is obligated to pay and are currently included in the Company's FAC (Ex. 143 at 33, Rush Rebuttal). These costs are currently included in the FAC as they are necessary for the Company to make purchase power and off-system sales (Ex. 143 at 33, Rush Rebuttal). These are not costs expended by KCP&L to build transmission assets but are instead transmission charges that KCP&L must pay for the MWhs it purchases to serve its load or with which to make offsystem sales (Id.). OPC cites the Company's response to Data Request 8009 in support of its argument. However, in the Company's response to Data Request 8009, KCP&L explained, "All Transmission Customers taking transmission service under the SPP OATT are required to pay Base Plan Charges (Zonal and Region-wide) associated with these Base Plan Projects" (Ex. 121, p. 42, Frerking Rebuttal). The response goes on to further describe which charges are for Load, or network service and which charges are for offsystem sales or Point-to-Point by saying, "These Base Plan Charges (Zonal and Region-wide) are assessed to Network Customers, Transmission Owners based on Resident Load, and Transmission Customers taking Point-To-Point Transmission Service under the terms of Schedule 11 of the SPP OATT." (Id.). OPC's argument must fail as KCP&L's ability to purchase power or make off-system sales is directly linked to base plan funding (Id.). Finally, the Commission has also recognized that base plan funding is appropriately recovered in Ameren's FAC which included similar charges imposed by its RTO. (Id.).

E. **There Should be no Changes to the FAC's Current Sharing Mechanism**

61. While Staff recommends no change to the current 95%/5% sharing mechanism (Staff Brief at 46), OPC is the only party that filed a brief in support of changing the current ratio to a 90%/10% method (OPC Brief at 24-28). OPC cites no compelling evidence in favor of making KCP&L the only Missouri electric utility with a 90/10 ratio.

62. Although OPC attempts to minimize the effect of changing the ratio by including Base Fuel Costs in a comparison of 90/10 versus 95/5 ratios (OPC Brief at 28), the focus should be on *changes in costs*, not the fixed Base Fuel Costs. The important point that OPC fails to grasp is that changing the sharing mechanism to a 90/10 ratio would actually hurt the consumers it purports to represent by depriving them of an additional 5% of any decreases in costs.

63. OPC's sole argument in favor of changing the ratio is that it would provide more of an incentive to manage fuel and purchased power costs and that this "small step" would be an improvement to the FAC (OPC Brief at 28). But this is no "small step" as no utilities share at the 10% level and KCP&L already has plenty of incentives to properly manage the components of the FAC. The Company could lose the FAC or suffer prudence disallowances, if it does not prudently manage these costs.

64. As KCP&L witness Blunk testified in response to questions from the bench, regardless of the existence of an FAC, the Company's goal is the pursuit of "the lowest total effective cost." (Tr. 477). He agreed that with or without an FAC KCP&L should purchase the fuel it needs at the lowest possible price (Tr. 480). In this context, whether the sharing mechanism is eliminated in its entirety or changed from 95/5 to 90/10, KCP&L's procurement practices to achieve that "lowest total effective cost" remain the same (Tr. 481). However, such

a change in this case would make KCP&L the only Missouri electric utility to have a different sharing mechanism, and bring even a greater contrast between it and the vast majority of electric utilities in the United States that reconcile recoveries under their FACs at the 100% level (Ex. 143 at 45, Rush Rebuttal).

65. Given the lack of evidence to support a change the sharing mechanism, there is no good reason why KCP&L should be treated differently than every other Missouri electric utility.

F. <u>There Should be No Additional FAC-Related Reporting Requirements Imposed upon KCP&L</u>

66. KCP&L agrees with Staff that the nine recommendations contained in the Staff Report (Exhibit 200) at pages 170-71 should be continued.

67. However, OPC recommends two additional reporting requirements. First, it proposes that KCP&L's monthly FAC report include costs and revenues by subaccount for that month and the previous 12 months. OPC also recommends that KCP&L change its FAC to report net sales and purchases pursuant to FERC Order 668, a directive that has nothing to do with a retail fuel adjustment clause (OPC Brief at 30).

68. No other party endorses these additional requirements. As Mr. Rush noted, OPC's proposal "would add another layer of complexity to KCP&L's reporting which, notably, Staff has not requested." (Ex. 143 at 45, Rush Rebuttal). OPC's request seeks this additional information not only by USoA account, but by subaccount as well.

69. For monthly reporting purposes, this is simply not necessary. The charge types for both revenue and expense related to SPP's Integrated Marketplace are already classified by KCP&L pursuant to the USoA (Ex. 143 at 45, Rush Rebuttal). There is no reason to further complicate the monthly reporting process.

70. Finally, OPC requests that the Commission order KCP&L to be the only electric utility in Missouri that would change its FAC Tariff to require the reporting of net sales and purchases pursuant to FERC Order 668. As OPC witness Riley conceded at the hearing, Order 668 contains no requirements regarding fuel adjustment clauses and provides no guidance on how a state utility commission should engage in ratemaking (Tr. 610). He admitted that this Commission has never ordered any other electric utility to follow Order 668 when it administers its FAC (Tr. 616). MECG witness James Dauphinais agreed with each of these points (Tr. 800-802), and did not recommend any change to KCP&L's FAC Tariff in this regard.

71. KCP&L today complies with Order 668 by netting all of its day-ahead purchases and sales from Southwest Power Pool on an hourly basis, and all real-time purchases and sales on a five-minute basis (Ex. 126 at 2, 7, Herrington Surrebuttal) for financial statement presentation. There is no persuasive reason for KCP&L to incorporate the Order 668 netting process into its FAC procedures which currently provide transparency.

G. <u>What is the Appropriate Base Factor?</u>

72. The Staff's recommended true-up base factor of $0.01545 will need to be adjusted based on the Commission's determination of several issues involving the fuel run. First, as explained below in Section VII of this brief, the Company believes the Commission must update KCP&L's unit sales (billing determinants), sales revenues and net system inputs to reflect the decreased demand due to the Company's successful MEEIA 1 programs. In addition, there are two true-up issues discussed in Section IX below, that will impact the Staff's base factor amount as well. KCP&L believes that the Commission should update market prices for purchased power in the fuel run by using the prices determined by the MIDAS model. The

Company also believes that the FAC base factor must reflect the SPP transmission cost increases that occurred at the end of 2016 and the Commission should adopt KCP&L's annualization of these costs.

H. There is no Need for the Commission to Direct the Parties to Determine Baseline Heat Rates for KCP&L's Generators

73. The Commission should not direct the parties to determine base line heat rates for each of KCP&L's nuclear and non-nuclear generators, steam and combustion turbines, and heat recovery steam generators.

74. KCP&L agrees with Staff that Company witness Burton Crawford included heat rate test results in Schedule BLC-6 to his direct testimony, Exhibit 116. Staff witness J Luebbert reviewed information provided by KCP&L in response to data requests, and concluded that the Company had satisfied the requirements of 4 CSR 240-3.161(3)(Q) (Tr. 587-88).

75. Although no party has claimed that KCP&L did not comply with the Commission's heat rate test rules, OPC requests that the Commission order the parties to create baseline heat rates for each of the Company's generating units. As both KCP&L and Staff witnesses have testified, there is no basis in this proceeding to order the Company to provide more information than currently required by the Commission's rules (Ex. 118 at 2-3, Crawford Surrebuttal; Tr. 588-89 (Luebbert)). Any change in the Commission's rules should occur in a general rulemaking proceeding that would permit all Missouri electric utilities, Staff and other parties to express their opinions on whether there is a need for such a change (Ex. 214 at 4-5, Luebbert Surrebuttal).

I. <u>The FAC Should Continue to Allow KCP&L to Add Changes in SPP Costs and Revenue Types, as Currently Permitted</u>

76. Staff agrees that KCP&L's FAC should continue to allow it to add cost and revenue types between rate cases as provided on pages 5 and 6 of Schedule TMR-3 to the Direct Testimony (Ex. 142) of Mr. Rush (Staff Brief at 49). As the existing tariff sheets cited by Staff indicate, as well as the proposed tariff sheet contained on pages 15-16 of Schedule TMR-3 demonstrate, the ability to make these changes is limited to Southwest Power Pool and other RTO cost categories. Both the existing and proposed FAC tariff sheets allow for a challenge to such proposals by any party, including OPC (Sched. TMR-3 at p. 6, 16; Ex. 142, Rush Direct).

77. OPC is the only party that objects to this arrangement, couching its argument as if the Company and Staff were recommending a violation of Section 386.266 (OPC Brief at 18-19).

78. In KCP&L's last rate case the Commission understood that it was not unusual for SPP to change a schedule or a charge code by giving it a new name or reclassifying it. Such changes do not relate to new costs (Ex. 143 at 43, Rush Rebuttal). Given that the Company has no control over changes made by SPP, the existing process which has been approved by the Commission should be continued.

IV. <u>DEPRECIATION</u>

A. <u>Should the Commission allow terminal net salvage in the calculation of KCP&L's depreciation rates?</u>

1. The Commission Should Allow Terminal Net Salvage In The Calculation of KCP&L's Depreciation Rates.

79. As explained in KCP&L's Initial Brief at 36, the policy issue to be determined by the Commission in this case is whether current customers who receive the benefit of using the Company's power plants should pay for the cost of retiring those plants while they are being

used, or whether those retirement costs should be pushed off on future generations who did not receive benefits from the power plants. KCP&L believes the answer is clear that current customers who receive the power from the power plants should pay for retirement costs in their current depreciation rates.

80. Staff's answer to this policy question is found in its one-page response where it states: "Staff opposes the inclusion of any amount for terminal net salvage in depreciation rates because the actual cost that will be incurred is unknown, cannot be measured, and is thus speculative." (Staff Brief at 50). OPC took a similar position (OPC Brief at 34-35). The arguments of Staff and OPC ignore or disregard the fact that almost all of the major inputs into depreciation rates involve estimates, including estimated lives of the electric plants. Informed judgment and estimates of the lives of power plants are the foundation of what depreciation experts use to develop depreciation rates. Yet, the use of estimates has not resulted in a public policy of refusing to recognize that power plants are being depreciated over time and need to be paid for by current customers.

81. As Mr. Spanos explained and Staff witness Patterson confirmed, all depreciation studies are based upon estimates and estimated lives of the plants (Tr. 356-57). Mr. Spanos also made the point that retirement costs are less speculative today than dismantlement costs since "many, many, many units have been retired since 2005. . . Today we know that generating facilities are being retired; we know that there are many more planned to be retired in the next five years. . . So because of the fact that you have these retirements and expectations for them to retire, they're no longer speculative." (Tr. 326).

82. Perhaps more importantly, the responses of Staff and OPC ignores the fact that the Commission's rules require that the retirement estimates, as well as other inputs into depreciation studies, must be periodically reviewed and updated—at least every five (5) years. See 4 CSR 240-3.175(1)(B) (Tr. 330). In addition, the Commission rules require a full blown Integrated Resource Plan compliance filing be completed every three (3) years and annual update reports. See 4 CSR 240-22.080(1). These triennial IRP studies show the Company's plans for the future, including the closure of power plants. The Commission's IRP rules also require a notification filing if the Company's resource acquisition plans (including retirements) have changed. See 4 CSR 240-22.090(3)(B). Finally, the Commission's rules related to the continuation of the Company's fuel adjustment clause ("FAC") requires that the Company must file a rate case within 4 years of the effective date of the previous rate case order approving the FAC. This required rate case filing to continue the FAC allows the review and refinements to the depreciation rates. 4 CSR 240-20.090(6). As a result of these periodic depreciation study filings, triennial IRP filings and update filings, and periodic rate cases, the estimated retirement costs as well as the other components of the depreciation study, will be updated periodically as time goes by. The Commission should not be concerned that retirement costs are estimated or not known to the exact dollar. The fact that informed professional judgment is used to develop all depreciation rates, based upon rigorous studies, is no reason to saddle future generations of customers with the costs of retiring power plants that are being used for the benefit of today's customers.

83. While noting that the Commission has previously excluded terminal net salvage from rates, citing Re The Empire District Electric Company, Case No. ER-2004-0570, Staff and

OPC fail to explain that the primary assumption underlying the Commission's decision in the *Empire* case (i.e. power plants are "rarely" retired) is no longer correct. Contrary to Staff's unabashed assertion that "[n]othing has changed in the interim" since the *Empire* decision (Staff Brief at 50), the undisputed and uncontroverted competent and substantial evidence clearly shows that power plants are frequently retired in Missouri and across the country (Ex. No. 146, Spanos, pp. 9-14; Tr. 325, 346). It is simply not true that power plants are only "rarely" retired. In their briefs, Staff and OPC did not dispute that the underlying assumption of the *Empire* decision is no longer true in today's world of routine retirements of older, coal-fired power plants (Staff Brief at 50-51; OPC Brief at 31-35). However, these parties prefer to ignore the changing world related to power plant retirements.

84. Given the circumstances today with regard to plant retirements, the *Empire* decision for terminal net salvage is no longer applicable and should not apply to KCP&L's instant case. The Commission should not maintain its previous practice when the underlying premise for the past practice is gone.

85. Instead of denying that there is intergenerational inequity in the current system of leaving retirement costs to be fully recovered until many years after the power plants are retired, Staff paints the picture that there might be "no feasible way to return that money to the ratepayers that paid too much" (Staff Brief at 50) if estimated costs are too high. Again, this ignores the periodic depreciation studies, triennial IRP filings and update filings, and required rate case filings in order to continue the FAC that are required by the Commission that will update the costs of retirement as time goes by. Such consumer safeguards ensure that the Company won't be over-recovering retirement costs. Such unfounded fears should not keep the

Commission from joining the vast majority of state public service commissions in recognizing that current customers should pay for the full cost of their electric service.

86. As explained in KCP&L's Initial Brief at 36-47, the terminal net salvage costs included in KCP&L's proposed depreciation rates are extremely conservative since they do not include the cost of dismantling the power plants. The terminal net salvage used for KCP&L's depreciation study, however, are based only on the retirement components of the Sega report, and do not include other costs for site remediation or dismantlement that may potentially occur. In other words, the depreciation rates that KCP&L is proposing in this case include the cost of shutting the doors to the power plants upon retirement and ensuring the safety of the site, but not the full cost of dismantling the power plants. According to the Sega report, the retirement costs represent less than one-half of the total terminal net salvage expected for the power plants if dismantlement costs are considered. (Ex No. 140, Rogers Direct, Schedule CRR-2, page 1-7).

87. In this proceeding, KCP&L is requesting that the Commission join the overwhelming majority of states that include a portion of the terminal net salvage costs (i.e. retirement costs of power plants) in the depreciation rates so that current customers that receive the benefit of the energy and power from those plants will pay those retirement costs through depreciation expense as the power plants are used.

88. Staff and OPC also fail to note that the other factor that has changed since the *Empire* decision is that the Commission's overall approach to depreciation rates for power plants has changed. Since the Commission last considered this issue in the *Empire* case in 2005, the Commission has changed its overall approach to depreciation rates for power plants. In its *Report And Order* in Re Union Electric Company, ER-2010-0036, p. 30 (May 28, 2010), the

Commission decided to adopt the "life span" method for depreciation rates rather than the previously used "mass accounting" method. This change of depreciation policy to adopt the life span method also suggests that it is now appropriate to include terminal net salvage in the Company's depreciation rates. Previously, under the mass accounting method, such retirement costs were reflected in depreciation rates (Tr. 372-74). However, under the life span method, the retirement costs should be explicitly recognized and included in depreciation rates.

89. By including the cost of retirements in the current depreciation rates, the Commission will ensure that the current generation of customers that receive the benefit of the power plants will also have the retirement costs of those power plants reflected in their electric rates. Otherwise, these retirement costs will be left for future generations to pay, even though future customers may not have received any benefit from the retired power plants.

90. For all of the foregoing reasons, the Commission should adopt KCP&L's position that the retirement cost component of terminal net salvage should be reflected in KCP&L's depreciation rates in this case. Consumer safeguards exist (i.e. the mandatory filing of revised depreciation studies, triennial IRP filings and annual update filings, and rate cases at least every four years to continue the FAC) that will ensure that the retirement costs will not be over-collected from customers. It is fair and equitable for customers who receive the benefit of the Company's power plants to pay the cost of retiring those power plants as they are being used. Otherwise, future generations of KCP&L's customers will be required to pay for the retirement costs of the power plants, even though they will not receive the benefit of those retired plants. By including retirement costs in the terminal salvage costs, the Commission will move into the

mainstream of state commissions that allow the recovery of retirement costs in current depreciation rates.

V. CLEAN CHARGE NETWORK

91. The Clean Charge Network ("CCN") is an extremely important issue in this case because it will largely determine if KCP&L and GMO make further investments into the electric vehicle ("EV") market, and as a result, may substantially impact the pace of development of the EV market.

A. Is the Clean Charge Network a regulated public utility service?

92. The Company agrees with Staff's statements that the Commission's recent case discussion in Case No. ET-2016-0246, Ameren Missouri's Electric Vehicle Charging Station Tariff case, raises serious concerns about the legality of the approach being considered for the EV Charging Station issue in Missouri (Staff Brief at 74). The Commission's Agenda discussion seemed to indicate that a majority of Commissioners believe that the provision of EV charging provided by public utilities in their certificated areas is not a regulated service. This conclusion is contrary to the positions be espoused by KCP&L, GMO, Staff, DE, Sierra Club, Renew Missouri, and the Natural Resource Defense Council in this case (KCP&L Brief at 48-49; Staff Brief at 74; DE Brief at 9-10; Renew Missouri Brief at 10-12), and Ameren Missouri (Ameren Initial Brief at 7-12) in ET-2017-0246. As explained in KCP&L's Initial Brief, this position is incorrect as a matter of law (KCP&L Brief at 48-49).

93. The Commission's approach being considered is likely to drive public utilities such as KCP&L and GMO out of the market of installing EV charging stations in their respective service areas. From a public policy perspective, the unfortunate result of this policy will be that

the growth of the EV market will be stunted, and may not develop in a robust manner at all without the participation of public utilities.

94. DE recognizes the importance of allowing public utilities to recover their prudently incurred capital and operations and maintenance expenses associated with the CCN (DE Brief at 10). KCP&L also agrees with DE that "to the extent that revenues from this service do not cover its incremental costs, any shortfall should be recovered from the general body of ratepayers, as would be true for other services." (Id. at 10). This is necessary, especially for an emerging market such as EV charging.

95. The Commission should conclude that KCP&L is providing electrical service through the electric vehicle charging stations as a public utility service in its certificated service area. The service will be available to any electrical vehicle driver that wishes to avail themselves of the electric service. The Commission should also conclude that the electric vehicle charging stations are part of the public utility's regulated local distribution network which is necessary to provide electricity to electric vehicles. As such, KCP&L's CCN facilities should be treated as "electric plant" needed to provide electric service through electric vehicle charging stations to electric vehicle drivers as a public utility service. The EV charging station is the physical connection that allows the electricity to flow to the EV itself.

96. Contrary to the position espoused by OPC and MECG, EV charging stations provided by KCP&L in its service area are "electric plant" as defined by Section 386.020(14) (OPC Brief at 40-41). EV charging stations provided by KCP&L within its service area are "used for furnishing electricity for light, heat, or power" as defined by Section 386.020(14). Power is required to energize the electric batteries of EV, just as power is required to provide

energy for light bulbs, provide electricity for electric furnaces for heat, or provide power for equipment and appliances to operate them. It is incongruous to suggest, as OPC does (OPC Brief at 40-41), that EV charging to electric vehicles is something different from the provision of power to other equipment or appliances which is a regulated service.

97. MECG raises the analogy to the telephone industry as competition began to evolve into the telephone equipment markets (MECG Brief at 88-89). This may be a useful analogy since privately-owned telephone equipment was allowed to connect to the regulated telephone network without extensive regulation by the Missouri Public Commission, but the telephone equipment provided by the regulated telephone companies was still considered part of the telephone companies' regulated rate base. Similarly, private pay telephone equipment was allowed to connect to the regulated telephone network without extensive regulation, but the pay telephones owned by the telephone companies was still treated as "telephone facilities" under Section 386.020(53). See State ex rel. International Telecharge, Inc. v. Missouri Public Service Commission, 806 S.W.2d 680, 686 (February 13, 1991).. The Commission could decline jurisdiction over privately-owned EV charging stations as it did with private pay telephones and Shared Tenant Services in the 1980s. See Re Provision of Local Exchange Telephone Service by Entities Other Than Certificated Telephone Corporations, 1985 WL 1160118 (Mo.P.S.C.), 70 P.U.R.4th 344, 27 Mo.P.S.C. (N.S.) 602 (September 23, 1985). However, those EV charging stations owned by electric corporations holding themselves out to serve the public should be treated as "regulated" services under Chapters 386 and 393. Eventually, the state legislature may need to clarify the treatment of such providers, but in the interim, the Commission should not

adopt a policy that is likely to result in electric corporations declining to participate in this market in the future.

B. Should capital and O&M expenses associated with the Clean Charge Network be recovered from ratepayers?

98. KCP&L agrees with DE that, as a regulated public utility service, all prudently incurred capital and operations and maintenance costs associated the CCN should be recovered from ratepayers (DE Brief at 10-11). As DE notes, a public utility is entitled to receive the presumption of prudence with regard to its costs until another party raises a serious doubt regarding the prudence of its expenditures. State ex rel. Associated Natural Gas Company, 954 S.W.2d at 528. In the case of EV charging station equipment, all customers will derive benefits from the program in the form of cleaner air, state economic development and increased electric usage over which KCP&L's fixed costs are spread.

99. On March 24, 2017, the Staff of the Commission asked the Commission to open a workshop docket to permit Staff to gather information from interested parties and provide a report on plug-in electrical vehicles and a "make ready system" for EV charging stations. See Agenda And Request For Workshop Docket, Case No. EW-2017-0245. KCP&L believes this workshop docket proposed by Staff to gather information and study the Commission's role in promoting the development of plug-in electrical vehicles and related issues is worthwhile and should be pursued.

100. In this proceeding, KCP&L has filed a tariff in Schedule TMR-5 which presents the proposed new tariff titled Public Electric Vehicle Charging Station Service. The tariff is designed to address the new mobile customer electric needs within our service territory. It is specific to KCP&L-owned charging stations available to the public throughout its Missouri

service territory. The proposed tariff does not address charging of EVs at customer single-family residences or at privately owned and operated charging stations like some businesses have provided at their sites specifically for their employees and guests. The CCN is designed to address the Company's service territories and to service KCP&L's mobile customers when they are in KCP&L's certificated territory (Ex No. 142, Rush Direct at 21) .

101. As explained in KCP&L's Initial Brief at 55-56, KCP&L respectfully requests that the Commission adopt its EV tariffs proposals in this case (without the session charge) and include the costs and revenues associated with the CCN in its rate base and rates. The Company will provide ongoing information to the Commission so that at right time and under the right conditions, entities other than regulated utilities should be permitted to provide and charge for electric vehicle charging station service. The data gathered from the CCN project can also be used by the Commission and legislature in making more informed decisions on the future of EV in the State of Missouri. KCP&L is willing to provide periodic reports to the Commission on data gathered from the CCN project.

VI. CLASS COST OF SERVICE, RATE DESIGN

102. As explained in KCP&L's Initial Brief at 56-57, the most important rate design issue to be resolved is the Inclining Block Rate ("IBR") Structure issue. For the reasons stated below, both Company and Staff are opposed to abandoning the time-tested rate structures of the Company in favor of the IBR at this time (KCP&L Brief at 62-68; Staff Brief at 69-72).

103. Contrary to the position of DE and Renew Missouri (DE Brief at 5-8; Renew Missouri at 23-34), KCP&L believes that the IBR and its impact upon customers has not been adequately reviewed in Missouri, and therefore its adoption in this case is premature. It is also

interesting to note that CCM, another consumer representative, has not taken a position on the adoption of the IBR in this case (CCM Position Statement, p. 5). As explained in KCP&L's Initial Brief at 62-63, KCP&L and GMO have numerous rate studies underway, and it is clearly premature to make a significant change in rate design policy before these studies have been completed. Therefore, KCP&L, with the support of the Staff, requests that the Commission decline to adopt IBR proposals of the Division of Energy and other intervenors in this case.

A. What interclass shifts in revenue responsibility, if any should the Commission order in this case?

104. As explained in KCP&L's Initial Brief at 57-62, the Company is proposing that the requested increase be applied to all metered retail classes on an equal percentage basis, with the exception of the Lighting class (Ex No. 136, Miller Direct, p. 16). Nothing in the briefs of other parties has changed KCP&L's position on this issue.

B. How should any increase ordered in this case be applied to each class?

105. The Company is proposing that the requested increase be applied to all metered retail classes on an equal percentage basis, with the exception of the Lighting class (Ex No. 136, Miller Direct, p. 16). Nothing in the briefs of other parties has changed KCP&L's view of this issue.

106. As previously pointed out by KCP&L witness Miller, review of the CCOS results cited by other parties (MIEC Brief at 3-6; US DOE Brief at 14; MECG Brief at 47-48; OPC Brief at 38) reveals some consistent themes. The Residential rates provide results at or below their relative rate of return under all studies except for Staff's BIP study. The Small, Medium, and Large General Service rates are consistently shown to provide a higher relative rate of return than the average. The Large Power relative rates of return are less consistent across the studies.

Further, the relationship between the residential relative rate of return and the Large Power relative rate of return varies based on the method used to allocate production plant. Production allocation methods that rely more heavily on peak demands allocate more cost to the residential class while methods that rely more heavily on energy allocate more cost to the Large Power class. The Lighting class shows extreme variation in results which has been common in previous cases and is likely due to the unique characteristics of lighting (Ex No. 137, Miller Rebuttal, p. 6).

107. From KCP&L's perspective, each CCOS study holds value and that some collective view might be warranted. KCP&L believes that the CCOS results should only be used as a guide and that bill impacts, revenue stability, rate stability and public acceptance must be considered. In making KCP&L's proposal, the Company considered the rates of return between the classes and determined the KCP&L study would support some opportunity for a class shift from the General Service Classes to the Residential and Large Power classes. However, in reviewing the magnitude of change needed to move the residential and Large Power rates of return and the potential impact of those shifts combined with the proposed revenue increase, the Company recommends no shift in revenues to classes based on the outcome of KCP&L's class cost of service study at this time (Id. at 10). Nothing contained in the briefs of other parties has changed this conclusion.

C. Should KCPL be permitted to increase the fixed customer charge on residential customers?

108. As explained in KCP&L's Initial Brief at 60-62, there should be an across the board percentage increase to all rate elements, including the customer service charge. If the Commission approved the requested increase, then the Company's recommended residential

customer charge would be $13.18 per month (Tr. 942; 959). However, the Company would also support an increase to the level supported by the Company and/or Staff cost of service study, even if the full increase is not granted.

109. Several parties including OPC, Renew MO and DE, recommended denial of any increase in the customer service charge or a desire to keep customer charges artificially low, irrespective of associated customer related costs (OPC Brief at 38-39; Renew Missouri at 18-23; and DE Brief at 4-5). These parties' positions largely ignore the latest CCOS study completed by the Company that supports a modest increase in the customer service charge. The Company's current CCOS supports an increase to the monthly Residential Customer Charge to $16.68, significantly more than the charge proposed by the Company (Ex. No. 135, Miller Direct, p. 14). However, if the MEEIA and RESRAM costs are removed from the cost study, then the Company's customer charge level would be similar to Staff's calculation of the customer-related costs of $12.62 per month (Tr. 941-42).

110. As explained in KCP&L's Initial Brief at 61, the Company believes that opposition from consumer representatives to any increase in the customer charge is short-sighted and not consistent with the principles of "cost causer-ratepayer." The Commission should rely heavily upon the cost causation principles of rate design, including establishing the customer service charge at a level to recover customer-related costs, as established by the competent and substantial evidence in the record.

111. Based upon the competent and substantial evidence in the whole record, KCP&L continues to believe it would be appropriate to spread any increase to the customer service charge on an equal percentage basis. Alternatively, the Commission could reasonably accept the

results of the Company and/or Staff cost of service study for the customer charge and establish the customer charge in the range of $12.62 to $13.18 per month (Tr. 830, 890, 1050, 1068).

D. Should KCPL be required to implement the block rate structure proposed by the Division of Energy for residential customers?

112. Contrary to the position of DE, OPC, and Sierra Club, the Company is opposed to proposals to take steps toward adopting an inclining block rate ("IBR") structure for the residential class in the summer and winter periods at this time. Staff is also opposed to this proposal (Ex No. 210, R. Kliethermes Rebuttal, pp. 3-5). As explained in KCP&L's Initial Brief at 62-68, there are numerous rate design studies underway that will address the residential rate structures, including IBR rates, and time-of-use rates, and the Company believes that it would be inappropriate to make significant policy decisions or changes in its rate design before those studies are completed and the customer impacts are fully considered. No party in their respective briefs has explained why such rate design changes should be made before the studies are completed.

113. On March 24, 2017, the Staff of the Commission asked the Commission to open a workshop docket to permit Staff to gather information from interested parties and provide a report on inclining block rates, among other issues. See Agenda and Request for Workshop Docket, Case No. EW-2017-0245. KCP&L believes this workshop docket proposed by Staff to gather information and study the impacts of inclining block rates is worthwhile and should be pursued. However, it is inappropriate to take action in this case before this study is completed.

114. DE argues that "As a step toward rates that send improved price signals for efficiency, DE recommends the Commission order the Company move towards the adoption of flat volumetric rates for residential general use customers during the winter, and that the

Company implement an inclining block rate for residential general use customer during the summer. . ." (DE Brief at 5). DE is assuming that its proposal would "send improved price signals for efficiency", but DE has not sustained its burden to show this change in rate design policy would result in a more efficient use of electricity. Quite to the contrary, it has been the long standing practice of this Commission to move toward cost-based rate structures which promote the "efficient use" of scarce resources. It has not been the practice of this Commission to engage in social engineering to discourage the use of electricity by artificially inflating rates to above cost levels. Cost of service-based rates should be the goal, and not rates that are designed to artificially dampen demand for KCP&L's electric service.

115. KCP&L agrees with DE, however, that if the Commission adopts DE's IBR proposal and is rightly concerned about the revenue impacts of the DE proposal, then "the Commission could order the Company to adjust its new rate design to account for the price elasticity of demand, i.e., the change in consumption which would be expected with a change in price." (DE Brief at 6-7). KCP&L believes it would certainly be prudent to take into account such price elasticity effects before a new IBR rate design is implemented. Otherwise, unless there is a price elasticity adjustment made, it is likely that the Company's new rates would not produce the authorized revenue requirement, due to the dampening of demand expected by the proponents of the IBR rate structure.

116. DE goes on to minimize KCP&L's concerns about the impact of its proposal on space heating customers by pointing out that DE's proposal is limited to residential general use classes (DE Brief at 7). While it is true that some electric space heating customers are on a separate residential space heating rate, this is not true for all customers who heat with electricity.

Some customers, especially customers that do not qualify for the electric heating rate but use electric heat for portions of their home or apartment are on the residential general use rate (Tr. 1072). Therefore, it is incorrect to argue that the DE IBR proposal will not impact space heating customers.

117. DE also argues that "DE's block rate design proposal is also in the public interest in that it results in bill savings to all customers in the long run by reducing peak-demand, with minimal short-term impact on the Company's earnings." (DE Brief at 8). KCP&L is concerned that by flattening the rate structure during the winter, off-peak season, DE's IBR proposal could actually reduce the overall load factor of the system, and have the unintended consequence of making the electric system less efficient and more costly for all customers over the long-term. It is also not clear that by changing the summer blocks, that customers will react to the changes since, in the words of Dr. Marke, they "have no clue how their blocks are set or how they're being charged for electricity." (Tr. 1166). However, higher usage customers may be angry or unhappy about their increasing bills, especially when they use their air-conditioners in hot summer months.

118. The Company agrees with Staff witness Robin Kliethermes[14] that given the current billed usage data in the test year, and the number of residential customers whose energy falls at or below the first energy block, moving costs, particularly non-energy costs, to the second and third block to create an IBR will result in greater volatility in both revenue recovery, and

[14] Ms. Kliethermes testified: "If the majority of revenue recovery not directly related to energy occurs in the first block, there is less volatility in revenue recovery – positive or negative – associated with weather variations. Moving revenue recovery to the second and third block will result in a greater level of volatility in revenue recovery and customer bills than is currently experienced due to weather." (Ex No. 201, Kliethermes Rebuttal, p. 5)

may adversely affect customers in years with abnormal weather (Ex No. 136, Miller Rebuttal, p. 9).

119. The Company's current rate structure has been developed and improved over many years, after numerous rate design cases and general rate cases. The Commission should not adopt a new rate design policy based upon unsupported assertions that the new rate structure will improve efficiency or incent consumers to conserve electricity. Rather the Commission should strive to adopt cost-based rate structures that will recover fixed costs through fixed customer charges and the initial blocks of the rate structure, and establish tailblock rates to recover incremental fuel and variable costs and make a contribution to fixed costs (Tr. 1103).

120. For these reasons, the Company would urge the Commission to be cautious in throwing out its existing and time-tested rate structure without a thorough study of the impacts of new rate structures on KCP&L and its customers.

E. Should KCP&L be required to propose time-varying rate offerings for residential customers in future cases?

121. For the reasons stated in KCP&L's Initial Brief at 69, KCP&L believes it is premature to require KCP&L to propose time-varying rate offerings for residential customers in future cases. With regard to time-of-use rates, multiple studies are underway within KCP&L and GMO to explore these rates. It is unclear at this time if time-of-use rates are the best way to address peak load issues. KCP&L believes that the Commission should allow these studies to be completed before requiring the Company to offer time-varying rates. The Company has had residential time-of-day rates for many years, and there has been little interest in these rates by KCP&L's customers (Tr. 968). In fact, it was not long ago that the Commission authorized

KCP&L to freeze its existing time-of-use rates for residential customers. See KCP&L Tariff Mo.P.S.C. No. 7 Revised Sheet No. 8 (FROZEN)(Effective September 29, 2015).

122. On March 24, 2017, the Staff of the Commission asked the Commission to open a workshop docket to permit Staff to gather information from interested parties and provide a report on residential time of use rates. See Agenda and Request for Workshop Docket, Case No. EW-2017-0245. KCP&L believes this workshop docket proposed by Staff to gather information and study the impacts of residential time of use rates is worthwhile and should be pursued. However, it is inappropriate to take action in this case before this workshop is completed.

F. How should any increase to Rates LGS and LPS be distributed?

123. With regard to the LGS and LPS rates, MIEC recommended: "Brubaker also advocates intra-class rate design for the LGS and LPS classes. He proposes to freeze the energy charge in the tail blocks of the LGS and LPS rates and to assign 75 percent of the classes' overall rate increase to the energy charge for the intermediate block. Those classes' remaining charges would be above the classes' overall rate increase to compensate for the lower than average impact to the intermediate and tail block rates. He proposes this because the current charges in those two blocks are very high relative to the variable costs of production. . ." (MIEC Brief at 4)

124. Staff, on the other hand, disagreed with MIEC, stating: "Staff has determined that all rate components should be increased by an equal percentage. This, consistent with the CCOS study's results on cost causation, would avoid sending a price signal encouraging consumption of energy as a result of the hours use design, and would reduce the likelihood of causing some customers' rates to decrease while other customers' to dramatically increase." (Staff Brief at 73).

125. US DOE also had concerns about MIEC's proposal related to the LGS/LPS classes: "Adoption of Mr. Brubaker' s proposal at this time would burden the initial LGS and LPS blocks with additional costs that may be unwarranted, as it is as yet unknown what the relative responsibilities of each block should be regarding fixed costs. Compounding this burden is the fact that the middle and tail blocks benefitted from the adoption of an identical proposal in KCPL's last rate case before the Commission as a stipulated agreement -again, without the benefit of record evidence. Rather than further pushing additional class costs onto initial block customers, DOE/FEA recommends adopting an equal percentage increase to the LGS and LPS classes, as recommended by Staff and the Company, and revisiting the matter once the Company has examined the intra-class customer blocks." (DOE Brief at 29) (footnote omitted).

126. KCP&L agrees with Staff and US DOE that there should be an across the board percentage increase to all rate elements, including the rates of the LGS and LPS class. The Commission should reject the proposals of MIEC to increase the LGS rates and LPS in the manner suggested by MIEC.

VII. REVENUES

A. Should KCP&L be permitted to make an adjustment to annualize kWh sales in this rate case as a result of KCP&L's Missouri Energy Efficiency Investment Act ("MEEIA") Cycle 1 demand-side programs?

1. Proper Ratemaking Requires The Billing Determinants To Be An Accurate Reflection of the Expected Usage in the Year Following The Conclusion of the Rate Case.

127. Staff, OPC, and MECG have confused the recovery of MEEIA-related costs (i.e. program costs, throughput disincentive, and earnings opportunity) with a proper annualization of energy and demand savings from all active MEEIA programs in the test year and true-up update

period to ensure the billing determinants in this case are accurate and will produce the revenues authorized in this case on a going forward basis.

128. MECG argues: "KCPL fails to recognize that they have already been compensated for revenues lost through MEEIA Cycle 1 programs through the throughput disincentive feature of the Demand Side Investment Mechanism ("DSIM")." (MECG Brief at 39). OPC makes a similar argument and actually suggests the Company is "misrepresenting" the facts in this case: "During the hearing, KCPL witness Rush misrepresented the Cycle 1 cost recovery TD-NSB component by incorrectly conflating its design and purpose with the new throughput disincentive component in Cycle 2." (OPC Brief at 36). Both MECG and OPC are incorrect with these assertions. KCP&L recognizes that it has recovered the throughput disincentive ("TD-NSB), as contemplated by the Cycle 1 Stipulation as well as its program costs. KCP&L is also in the process of recovering its performance incentive from Cycle 1 programs over a two-year period which began February 1, 2017. The fact that the Cycle 1 and Cycle 2 Stipulations have slightly different terms for describing the recovery of lost margins through a "throughput disincentive" or a TD-NSB mechanism is not relevant to this discussion.

129. Staff, OPC, and MECG are totally missing the point of KCP&L's proposed annualization adjustment. This adjustment is not designed to recover the throughput disincentive at all. It is certainly not an attempt by the Company to "double recover its MEEIA Cycle 1 lost revenues", as alleged by Staff and MECG (Staff Brief at 59; MECG Brief at 41). The recovery of the throughput disincentive is not the same as determining the appropriate billing determinants for establishing new rates in this case.

130. This issue involves ensuring that the billing determinants are correct and produce the revenues to meet the Company's authorized revenue requirement (Tr. 1661). As Chairman Hall accurately observed in the hearing (Tr. 1707), KCP&L is not trying to recover its MEEIA-related costs through the proposed revenue annualization adjustment. Instead, KCP&L is attempting to develop accurate billing determinants for establishing rates to ensure that the expected revenues will be produced from the new rates.

131. The Company made an adjustment in its direct filing in this case to reflect the energy efficiency (e.g. MEEIA Cycle 1 and 2 programs) impact on normalized and annualized sales. The Staff has made an annualization adjustment for Cycle 2 energy savings (Tr. 1651), but Staff has not made a similar adjustment in this case to reflect the impact of the MEEIA Cycle 1 programs (Ex No. 143, Rush Rebuttal, p. 12). Staff has not disputed the fact that Staff made the proper annualization adjustment of the MEEIA Cycle 2 programs, but Staff has declined to make a similar adjustment for MEEIA Cycle 1 programs, even though Cycle 1 programs were active and in place during the test year and update period (Staff Brief at 40-41).

132. As a result, Staff is recommending that the Commission intentionally overstate the number of KWHs and KWs in the billing determinants in setting rates in this case (Tr. 1704, 1710-11). The Commission should reject this Staff recommendation.

133. The specific issue to be resolved by the Commission is: "Whether the reduction in KWH sales that occurred as a result of the MEEIA Cycle I programs should be recognized, and adjusted for in the Company's rates?" (Tr. 1679). Staff has reflected the energy efficiency savings from the MEEIA Cycle 2 programs in its revenue annualization adjustment, but it has not included the MEEIA Cycle 1 programs.

134. As explained in KCP&L's Initial Brief at 72, for the billing determinants to be accurate and produce the necessary revenues for the Company to have the opportunity to earn its authorized rate of return, it is necessary for both Cycle 1 and Cycle 2 energy and demand savings to be reflected in the billing determinants through the revenue annualization adjustment (Ex No. 143, Rush Rebuttal, p. 14; Tr. 1648-49). The Company's sales, sales revenues and net system input must be adjusted to reflect actual conditions faced by the Company in the test year and true up period.

135. MECG candidly concedes: "As a part of any rate case, the parties seek to annualize revenues. Given that any rate increase relies upon an accurate assessment of the utility's earnings, an accurate depiction of revenues is necessary. Among other things, parties will annualize revenues to account for changes in the number of customers and customer usage that have occurred in the most recent 12 months as well as to ensure that annualized revenues reflect 12 months of any previous rate increases." (MECG Brief at 38)

136. As the Commission knows, adjustments are made to reflect normal weather, customer annualizations (e.g. establish customer levels at a time closer to when rates go into effect) and adjustments for known and measurable changes from the test period, such as customer usage changes not reflected in the weather normalization process (Tr. 1741). This can include anything from specific customers whose usage has specifically increased or decreased from the test period to where a new customer was added and the respective changes in load, to an adjustment for energy efficiency. Without this adjustment, the Commission is setting rates on a level of revenues that is not achievable by the Company.

137. These MEEIA energy efficiency programs have been successful. As a result, there has been a permanent reduction in KWH sales which will continue in the future (Tr. 1600). This permanent reduction in energy and demand requires an adjustment to the test year sales because the test year sales do not reflect the expected sales in the year following the effective date of the new rates. In other words, the billing determinants need to reflect the reductions in usage brought about by the MEEIA energy efficiency programs.

138. As explained in KCP&L's Initial Brief at 76, the Company's approach is the same as the Staff's approach, except that the Company's adjustment also recognizes that the MEEIA Cycle 1 programs were producing savings during the test period and true-up period. Under the Company's approach, the 2015 sales are decreased for MEEIA Cycle 1 savings as well as the MEEIA Cycle 2 savings. From the Company's perspective, this is the correct, fair and reasonable method of annualizing the MEEIA program savings to capture, on a going forward basis, all of the energy efficiency savings.

139. If Staff's position is adopted by the Commission, the billing determinants will be too high by 100,662,532 KWHs of reduced usage associated with MEEIA Cycle 1 programs (Ex No. 143, Rush Rebuttal, Schedule No. TMR-7; Tr. 1635-37). This is the equivalent of over 1% of the Company's total Missouri sales. It will mean a loss of approximately $6.6 million in revenues to KCP&L on an ongoing basis (Id.).

2. The Non-Unanimous Stipulation and Agreement In Case No. EO-2015-0240 ("MEEIA Cycle 2 Stipulation") Requires A Revenue Annualization of All Active MEEIA Programs, Including Both Cycle 1 and Cycle 2 Programs.

140. Staff's opposition to the Company's MEEIA Cycle 1 annualization adjustment does not rest on traditional ratemaking principles since revenue annualization adjustments have long been the standard practice in the Missouri (Tr. 1662-63).

141. Instead, Staff's position in this case is based upon an incorrect interpretation of the stipulations in Case Nos. EO-2014-0095 ("Cycle 1 Stipulation"), EO-2015-0240 ("Cycle 2 Stipulation") and two related KCP&L tariffs which defined the annualization process in detail (Staff Brief at 51-61; Ex. No. 225, Rogers Surrebuttal, pp. 2-11). While Staff tries to denigrate the Company's straight forward interpretation of the Cycle 2 Stipulation by suggesting that "No person of ordinary intelligence. . . or even a skilled MEEIA programs practioner—can read into the Cycle 1 and Cycle 2 Stipulations or the Cycle 2 DSIM Rider a Cycle 1 annualization requirement" (Staff Brief at 60), the Commission should reject such rhetoric and instead apply traditional principles of contract construction to the provisions of the Cycle 2 Stipulation. If it does so, then it is clear that the Cycle 2 Stipulation as well as traditional ratemaking practices requires the annualization of all active MEEIA programs in the first rate case following the establishment of the MEEIA programs (KCP&L's Initial Brief at 78-85).

(a) MEEIA Cycle 2 Stipulation

142. Staff suggests that "KCPL misapplies the isolated phrase 'all active MEEIA programs' in the Cycle 2 Stipulation to wrongly include a annualization of Cycle 1 programs." (Staff Brief at 56). Unfortunately, it is Staff that is trying to ignore the clear meaning of that the

phrase “all active MEEIA programs” when it ignores the energy efficiency savings of the active Cycle 1 MEEIA programs in its annualization adjustment.

143. Under the Cycle 2 Stipulation, the Company was entitled to recover its program costs, its Throughput Disincentive (a/k/a lost margins), and an Earnings Opportunity Award (Cycle 2 Stipulation, pp. 10-11). Paragraph 10 of the Cycle 2 Stipulation also requires a revenue annualization adjustment for all active MEEIA programs, excluding Home Energy Reports and Income-Eligible Home Energy Reports, determined using the same methodology as set forth in KCP&L’s tariffs:

> 10. Annualizations. Upon filing a rate case, the cumulative, annualized, normalized kWh and kW savings will be included in the unit sales and sales revenues used in setting rates as of an appropriate time (most likely two months prior to the true-up date) where actual results are known prior to the true-up period, to reflect energy and demand savings in the billing determinants and sales revenues used in setting the revenue requirements and tariffed rates in the case. Upon the adjustment for kWh and kW savings in a rate case, the collection of TD will be re-based.
>
> * * *
>
> b. The Adjusted test period sales from above will be annualized for customers and additionally be adjusted further by:
>
> (i) Subtracting the cumulative annual kWh energy savings from the first month of the test period through the month ending where actual results are available (most likely two months prior to the true-up date) by customer class from all active MEEIA programs, excluding Home Energy Reports and Income-Eligible Home Energy Reports, determined using the same methodology as described in Tariff Sheet 49K and 49L (KCP&L) . . . except that calendar month load shape percentages by program by month are converted to reflect billing month load shape percentages by program by computing a weighted average of the current and succeeding month percentages (Cycle 2 Stipulation, pp. 13-14).(emphasis added)

144. During the hearings, Mr. Rush explained the purpose of Paragraph 10 in more detail as follows:

> Paragraph [10] …is designed to simply say, when we file a rate case, we are to deal with a cumulative, annualized, normalized kilowatt hours in kW savings will be included in the unit sales and sales revenues used in setting rates. So it is telling us that we're going to make an adjustment to reflect the cumulative, annualized, normalized sales for that -- for the setting of rates.

145. In this rate case proceeding, KCP&L has made the annualization adjustment for all active MEEIA programs, including both Cycle 1 and Cycle 2, using the same methodology for all active MEEIA programs in the test period and true-up update period as required by the Cycle 2 Stipulation (Tr. 1700-01).

146. In its attempt to support the Staff position, MECG merely recites the "five separate reasons" used by Staff witness John Rogers to justify Staff's interpretation of the Cycle 2 Stipulation provisions (MECG Brief at 42-23; Ex No. 225, pp. 2-11; Tr. 1683-1713). However, MECG makes no real attempt to justify or otherwise explain Staff's rationale for its adjustment. As KCP&L argued in its Initial Brief at 80-85, there is no logical foundation for Staff's interpretation, and it improperly and unfairly ignores 100 million kwhs of savings that resulted from the MEEIA Cycle 1 programs during the test year and true-up period in the Staff's determination of the billing determinants in the case.

147. In its Brief, Staff has changed its rationale for its interpretation by stating that the Cycle 2 Stipulation "provides for KCPL to recover Cycle 1 unrecovered balances." (Staff Brief at 56). Second, Staff suggests that "the Cycle 2 Stipulation provides a clear transition between Cycle 1 and Cycle 2 to accommodate prior approved Cycle 1 C&I Custom Rebate program projects completed after the Cycle 1 time period." And finally, Staff argues that "the Cycle 2

Stipulation paragraph 12.d. sets a bright line condition that further distinguishes the difference in recovery of Cycle 1 DSIM costs from recovery of Cycle 2 costs (Staff Brief at 57).

148. None of the rationales provided by Staff related to the Cycle 2 Stipulation in any way indicate that the term "all active MEEIA programs" in Paragraph 10 of the Cycle 2 Stipulation means that the annualization required by the paragraph is applicable to only Cycle 2 MEEIA programs, as asserted by Staff.

149. In conclusion, if the Staff, OPC, and MECG position is adopted by the Commission, more than half of the energy efficiency savings from the Company's MEEIA programs will be excluded, and the billing determinants will not produce the revenue requirement that will be authorized by the Commission in its final order. For all of the foregoing reasons, the Commission should adopt the Company's revenue annualization adjustment which annualizes "all active MEEIA programs" including both Cycle 1 and Cycle 2 MEEIA programs using the same methodology described in KCP&L tariffs.

VIII. CUSTOMER EXPERIENCE

150. The Company does not agree with OPC's recommendation that the Commission order KCP&L to stop asking political questions in its surveys. Some of these type of questions, such as a customer's political party, can aid the Company in better understanding its customers and what motivates a customer. Better customer understanding can improve the targeting of KCP&L's marketing for energy efficiency programs (Tr. 1478-1479). Customers are not required to participate in the surveys, customers can opt out of particular questions and the Company does not keep track of individual customer survey responses (Tr. 1477). In addition,

as noted in KCP&L's Initial Brief, such a ban would be beyond the statutory authority of the Commission to adopt.

151. KCP&L agrees with OPC that the evidence in the record does not show a violation of the Commission's affiliate transaction rule. However, KCP&L disagrees with OPC's suggestion that a Commission-ordered investigation is needed. First, OPC is always able to conduct an investigation of survey costs in a future rate case, should it choose to do so. Second, an investigation is not needed since the Company, as it stated in its Initial Brief, agrees with the approach suggested by Chairman Hall to remove the cost of the few political questions in future customer surveys and charge these costs below the line.

IX. TRUE-UP ISSUES

A. What party's capital structure, including long term debt, should be used?

152. The Company addressed this issue in the cost of capital section above.

B. Should Staff's or KCP&L's market prices be used?

153. This issue relates to the market prices that should be used in the determination of non-firm off-system sales revenues and non-firm purchased power expense. The Staff did not update its prices and used a March 2014 through July 2016 average which was skewed by higher 2014 prices. Market prices for 2014 were much higher than 2015 and 2016 due to the advent of the SPP IM market, higher than normal load, gas curtailments, forced outages and planned maintenance (Ex. 171 at 3, Crawford True-Up Rebuttal Testimony). All of these circumstances combined to push 2014 prices 20% higher than normal. (Id. at 3)

154. Staff recognized that the 2014 prices were much higher than the prices in 2015 and 2016. Staff attempted to adjust the prices downward to reflect the price decline (Id. at 2-3).

155. Staff's adjusted price of $21.08 per MWhr is too high. The average day ahead market price for the KCP&L Hub was $20.31 for the 2016 test year (Id. at 4). Staff's adjusted market price is not reflective of a normalized test year period. Staff's adjusted market price which does not take into account prices from July through December 2016 also violates the matching principle since all of the other major costs and revenues in the rate case were updated for changes that occurred as of December 31, 2016.

156. The Company updated its market price for the true-up to $20.58 per MWhr (Id.). The market prices are generated by KCP&L's MIDAS market model which has been recognized by the Commission as the appropriate model to determine spot market prices.

157. Staff attempted to defend its lack of adjustment and violation of the matching principle by offering the affidavit of Erin Maloney during the true-up hearing. The affidavit only says that in the witness' professional opinion, no update of prices was needed. This affidavit does not give the Commission any information why Staff did not believe that an update was needed or indeed why Staff chose not to perform an update after indicating in testimony that it would examine the issue in true up. The Commission should not base its decision on an unsupported opinion. The testimony of Mr. Crawford, in contrast, can be relied upon by the Commission as it explains why the market prices were too high and why an adjustment was made for true-up. The record supports the use of KCP&L's market prices and why an update is necessary to reflect the prices the Company experienced in 2016.

C. Should transmission expenses be annualized based on fourth quarter results of 2016 or annualized using the 12-month period ending December 2016?

158. This issue concerns how to best reflect in rates the level of transmission expense so that the expense level included in rates represents the transmission costs that the Company

will experience in the upcoming years when rates are effective. KCP&L annualized transmission expense based on the results of the fourth quarter 2016 which is a better reflection of the increasing transmission costs that the Company faces (Ex. 174, at 5, Klote True-up Rebuttal).

159. Staff based its annualization of transmission expense on twelve months ending December 31, 2016. Staff's approach does not take into consideration the increases that took place in 2016 regarding SPP base plan funding charges. The chart on page 7 of Ex. 174 (Klote True-up Rebuttal) depicts the increase in the fourth quarter of these charges as well as the increased levels in 2017 which at this time are known and measureable and further support the usage of fourth quarter results in 2016 in this rising cost area. The use of fourth quarter data is superior to Staff's 12-month calculation because it is known that the Company's transmission expenses have increased year over year (Ex. 174 at 9).

160. These increased transmission expenses are found in SPP's Revenue Requirement and Rates ("RRR") file which was discussed at the true-up hearing by Company witness Klote (Tr. 1815-1816). The RRR file is what the base plan funding calculations are premised on and show that from January to October, 2016 with the inclusion of Z2 costs, SPP's region wide base plan funding increased from $443 million to $476 million (Id.). In January 2017, SPP's region wide base plan funding amount increased to $510 million. KCP&L region wide load ratio share is approximately seven percent (7%) of these region wide base plan funding costs (Tr. 1816). The use of Staff's approach guarantees that the Company will not recover the level of transmission expenses that it is experiencing as a result of base plan funding increases. Failure to take into account the increased transmission costs experienced by the Company will further the

continued existence of regulatory lag experienced by the Company in the recovery of its transmission costs. The Commission should adopt the Company's position so that the Company can fully recovery its transmission costs.

D. Should Renewable Energy Standard ("RES") costs be amortized over a period of 2.6 years or 3 years?

161. RES was enacted into law as a voter initiative petition in 2008. The law requires utilities to meet certain renewable generation requirements and allows the cost of meeting those requirements to be recovered from ratepayers as long as the cost recovery does not exceed one percent of retail rates. KCP&L and Staff are in agreement as to the amount that has been spent in the RES vintages and that KCP&L is entitled to recover those amounts in rates. The dispute is over how fast the RES costs are to be recovered. The Staff proposes a 3-year amortization which results in a smaller amount of recovery in this rate case and a slower recovery of these costs. The Company is requesting a 2.6-year amortization so that the RES total amortization amount be set at $8,470,587 to reflect one percent of the overall normalized revenue to be recovered in an amortization of RES costs.

162. At the end of the true-up period in this case, the Company had approximately $29.2 million of unrecovered RES costs that had been expended in previous years. The Company's recovery period for Vintage 3 provides for recovery of the RES costs that are close to the one percent that is permitted under law. The Commission should choose the Company's method as it allows KCP&L more timely recovery of RES costs that have already been spent. The RES amortizations are tracked so the Company will only recover RES costs that it has already expended and should be allowed to recover these costs in the most timely manner as possible (Ex 174 at 12, Klote True-up Rebuttal).

X. CONCLUSION

163. The Company believes that competent and substantial evidence on the record as a whole supports its position on the issues as described above. Resolution of these issues as the Company proposes will lead to just and reasonable rates that properly balance the interests of shareholders and customers, and that give KCP&L an opportunity to earn a reasonable rate of return following the conclusion of the case.

Respectfully submitted,

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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, this 4th day of April, 2017, to all counsel of record.

/s/ Roger W. Steiner

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