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 a General Rate Increase for Electric Service	))))	Case No. ER-2012-0174

STATEMENT OF POSITION OF
MIDWEST ENERGY CONSUMER'S GROUP

COMES NOW the Midwest Energy Consumer's Group, pursuant to the Commission's April 26, 2012 Order Consolidating Cases for Hearing and Setting Procedural Schedule and Amending Notice of Hearing, and provides the following Statement of Positions. MECG provides this Statement of Positions for issues on which it filed testimony or has already formed a position. MECG reserves the right to cross-examine, provide evidence or file briefs on additional issues.

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2011 Missouri River Flood Costs and Losses

ISSUE: Should the off-system sales margins shortfall associated with the 2011 flood be deferred and amortized over five years?

If so, what amount of off-system sales margins should be deferred and amortized?

Position: No. MECG supports the recovery of increased O&M expenses associated with the 2011 flood. Given the unique nature of the 2011 flood, there has not been an ongoing level of such costs previously included in rates. Given this, MECG believes that these limited costs should be deferred and amortized as requested by KCPL.

That said, however, MECG does not support the recovery of off-system sales ("lost revenues") allegedly lost as a result of this weather. Off-system sales have been previously included in rates. It would be unlawful retroactive ratemaking to ask ratepayers to compensate KCPL simply because it had past expenses that were not covered by past rates.

Additionally, MECG's position is consistent with the Commission's order denying the recovery of lost revenues to MGE in response to a comparable weather event in Joplin. There the Commission stated, "ungenerated revenue never has existed, never does exist, and never will exist. Revenue not generated, from service not provided, represents no exchange of value."

Finally, KCPL's approach to weather is very hypocritical. In the context of the current issue, KCPL is asking that ratepayers protect it against the detrimental effects of weather. On the other hand, when weather is beneficial, KCPL wants to keep the entirety of such benefits. For instance, the heat wave during the summer of 2012 resulted in increased profits of $14.7 million for KCPL. While KCPL wants to be completely

protected against the downside of 2011 weather, it seeks to keep the entirety of the benefits associated with the 2012 weather.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 26-27; Surrebuttal, pages 20-23.

Off-System Sales:

ISSUE: Should KCPL's off-system sales margins be calculated based upon forecasted assumptions or normalized test year assumptions?

Position: In order to properly comply with the ordered test year and the concept of matching, the Commission should calculate off-system sales based upon normalized test year assumptions. By proposing to forecast a single item of revenues, KCPL has destroyed the proper matching of expenses, revenues and rate base. As the Commission has recently explained in its Report and Order in ER-2007-0002:

> In Missouri, rates are set using a historical test year. The Commission examines the utility's revenues and expenses for that test year and uses that information to set rates to be charged in the future. The Commission does not use a forward-looking test year based on budgets and projections to set those rates. If it did, AmerenUE would no doubt appreciate an opportunity to base its rates on what it believes will be higher fuel costs in the coming years. Since the Commission uses historical expenses and revenues to set rates, it would be fundamentally unfair to reach forward to grab a single budget item to reduce AmerenUE's cost of service, while ignoring other anticipated costs that might increase that cost of service.

Furthermore, in order to maintain a proper relationship with native load fuel expense, it is important that the normalized test year assumptions match the assumptions utilized in the fuel and purchased power model. In its Report and Order in KCPL's last case (ER-2010-0355), the Commission expressly recognized the problem when the off-system sales assumptions do not match the assumptions in the fuel model.

> In making this determination, MEUA compared KCP&L's Firm Load Obligation in its off-system sales model against the actual firm load obligation contained in the KCP&L fuel model. Again, KCP&L's assumption in its wholesale model is unnecessarily high. As Mr. Meyer explains, ―by causing the off-system sales model to believe that these units are needed to provide energy for native load that does not truly exist, KCP&L has artificially lowered the projected off-system sales margins. (pages 137-138).

For these reasons, the Commission should utilize normalized test year assumptions in the off-system sales model and those assumptions should mirror the assumptions included in the fuel model.

Witness: Greg Meyer

Testimony: Meyer Direct, page 35; Surrebuttal, pages 28-30.

ISSUE: What amount should be included in KCPL's revenue requirement for off system sales?

Position: As demonstrated by the testimony of Nicholas Phillips, when using consistent normalized test year assumptions, both the RealTime and the NorthBridge models provide consistent quantifications of KCPL's off-system sales margins. Specifically, the RealTime model provides for off-system sales of $71.3 million (Phillips Direct, pages 18-19) and the NorthBridge model, when corrected for consistent normalized assumptions, provides for off-system sales of $78 million (Phillips Direct, pages 18-19 (as corrected)).

KCPL argues that, given its recent performance in the wholesale market, these levels of off-system sales are unattainable. KCPL's recent performance is not reflective of normal conditions. As Mr Phillips explains, in the last 2 years, the following events occurred which makes KCPL's previous performance abnormal: (1) Iatan 2 became operational in August 2010; (2) a one in 2500 year Missouri river flood occurred in 2011; (3) in spring of 2011, Wolf Creek's outage was extended for 800 hours beyond the original planned outage; (4) the summer of 2012 saw record heat which displaced off-system sales to native load sales and led to increased corporate profits; and (5) in the spring of 2012, there was an unplanned outage for Wolf Creek that lasted 73 days. (Phillips Surrebuttal, page 22).

For these reasons, MECG asserts that given normalized conditions that are included all other aspects of the Missouri ratemaking process, the Commission should include $71.3 to $78.0 million (total company basis) of off-system sales in KCPL rates.

Witness: Greg Meyer; Nicholas Phillips

Testimony: Meyer Direct, page 35; Phillips Direct, pages 9-19; Phillips Surrebuttal, pages 2-25.

ISSUE: Should the Commission continue the off-system sales tracker?

Position: No. The tracker mechanism was created at KCPL's sole request. The tracker, as with all trackers, eliminates KCPL incentive to minimize costs or, in this case, to maximize OSS revenues. By eliminating the tracker mechanism, KCPL is provided incentives to maximize its OSS revenues. Therefore, the elimination of the tracker mechanism is good for the utility as well as for ratepayers.

Witness: Greg Meyer

Testimony: Meyer Direct, page 36, Surrebuttal, page 34.

Off-System Sales Adjustments:

ISSUE: Should the amount of off-system sales included in KCPL revenue requirement include adjustments for purchases for resale?

Position: The Commission should reject KCPL's proposed adjustment to remove the costs of wholesale purchases that are later resold. As reflected in the example provided at pages 22-23 of Mr. Meyer's Direct Testimony, KCPL is attempting to separate the gain from these sales and assign that gain entirely to the shareholders. On the other hand, KCPL seeks to take the cost of such transactions and assign it entirely to ratepayers. Instead, the costs and benefits of these transactions should be treated in a similar manner.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 21-24; Surrebuttal, pages 17-19.

ISSUE: Should the amount of off-system sales included in KCPL revenue requirement include adjustments for SPP line losses?

Position: No. KCPL's adjustment to reduce off-system sales margins to account for line loss charges incurred when it makes sales outside of SPP should be rejected. In its off-system sales analysis, KCPL assumes that all off-system sales will be made in SPP North or into Entergy. In reality, however, a large amount of its wholesale transactions are made outside of SPP. When KCPL makes a sale outside of SPP, it is charged a line loss charge by SPP. Therefore, KCPL maintains that off-system sales should be reduced to reflect this charge.

KCPL's adjustment, however, is one-sided. While it is true that KCPL is charged this line loss charge when it makes sales outside of SPP, KCPL fails to account for the increased profits that also arise whenever it makes sales outside of SPP. A review of all

the off-system sales transactions during 2011 indicated that KCPL realized a premium for its sales outside of SPP North. This premium was greater than the line loss charge. Therefore, it is inappropriate for KCPL to seek to decrease its off-system sales for line loss charges realized when it makes sales outside of the area modeled by Mr. Schnitzer, but then fail to account for the increased profits realized when KCPL makes these same sales. In 2011, the increased profits associated with these sales exceeded the line loss charges. As such, KCPL's one sided adjustment should be rejected.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 18-20; Surrebuttal, pages 15-17.

ISSUE: Should the amount of off-system sales included in KCPL revenue requirement include adjustments for revenue neutrality uplift charges?

Position: No. The Commission should reject KCPL's proposal to adjust off-system sales to account for revenue neutrality uplift charges. It has been demonstrated that these revenues and charges are not associated with off-system sales, but instead are a product of KCPL's participation in SPP. Recognizing that KCPL will be susceptible to these charges and revenues whether it makes any off-system sales, these charges and revenues should be reflected in the overall fuel expense annualization. KCPL's adjustment is merely an attempt to extend the scope of the off-system sales tracker mechanism to include other cost and revenue items that are more properly accounted for elsewhere.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 25-26; Surrebuttal, pages 19-20.

Rate Design / Class Cost of Service Issues

ISSUE: How should the class cost of service studies be relied on for determining shifts in customer class revenue responsibilities that are revenue neutral on an overall company basis?

i. What methodology should be used to allocate demand-related (fixed) production costs in KCPL's class cost-of-service study?

Position: The Average and Excess methodology proposed by Industrial Witness Brubaker is clearly superior to the other methodologies proposed in this case. Under this superior methodology, consideration is given to both the maximum rate of use (demand) and the duration of use (energy). When looking at the system peak then, each customer class' average demand (the total kWh usage divided by the total number of hours in the year) is allocated on the basis of energy. The difference between the system peak and the system average demand is then allocated to the classes on the basis of their variability in usage.

As Mr. Brubaker points out, his Average & Excess methodology is consistent with recent Commission decisions on this issue. As the Commission recently held in the AmerenUE Report and Order, the Average and Excess method proposed by Brubaker is superior to the other class cost of service methodologies.

> Some customer classes, such as large industrials, may run factories at a constant rate, 24 hours a day, 7 days a week. Therefore, their usage of electricity does not vary significantly by hour or by season. Thus, while they use a lot of electricity, that usage does not cause demand on the system to hit peaks for which the utility must build or acquire additional capacity. Another customer class, for example, the residential class, will contribute to the average amount of electricity used on the system, but it will also contribute a great deal to the peaks on system usage, as residential usage will tend to vary a great deal from season to season, day to day, and hour to hour.

> To recognize that pattern of usage, the Average and Excess method separately allocates energy cost based on the average usage of the system by the various customer classes. It then allocates the excess of the system peaks to the various customer classes by a measure of that class' contribution to the peak. In other words, the average and excess costs are each allocated to the customer classes once.
>
> **Since the class cost of service studies offered by Staff and Public Counsel are unreliable, the Commission must choose between the Average and Excess method studies submitted by AmerenUE and MIEC.** [Emphasis added.] (Report and Order, Case No. ER-2010-0036, May 28, 2010, pp. 84-86)

In contrast, the Commission recognized that the methodologies that are heavily dependent on energy usage for the allocation of generation costs, including that advocated by KCPL, are inherently unreliable.

> As a first step, the Commission will discard the Staff and Public Counsel studies that utilize a Peak and Average Demand production demand allocation method. … The Peak and Average demand method double counts the average demand of the customer classes. (Report and Order, Case No. ER-2010-0036, May 28, 2010, p. 84)

As Mr. Brubaker further explains, the class cost of service methodology advocated by KCPL witness Normand is similar with those methodologies previously rejected by this Commission. (Brubaker Rebuttal, pages 3-6). While he has been advocating the Base, Intermediate, Peak ("BIP") methodology for over 30 years, Mr. Normand has only been able to reference one case where it has been adopted. As Mr. Brubaker notes, "[t]he BIP method is certainly not among the frequently used mainstream cost allocation methodologies, and lacks precedent for its use." (Brubaker Rebuttal, page 4).

As Mr. Brubaker continues to point out, the primary flaw in the BIP methodology is that is attempts to allocate baseload plant costs and transmission costs on the basis of a measure of class energy usage. This allocation methodology fails to recognize the

obvious capacity value of these plants. It is unquestioned that utility planners make decisions based upon the peak demand (capacity) placed on the system. (Brubaker Rebuttal, pages 3-6).

For all these reasons, the Commission should continue to recognize the logic expressed in its recent AmerenUE decision and again adopt the results of the Average & Excess methodology for allocating generation and transmission costs between the classes.

ISSUE: What methodology should be used in the CCOS to allocate OSS margins?

Position: Off-system sales margins should be allocated between the customer classes in the same manner that it is allocated between the various KCPL jurisdictions. In several recent decisions, the Commission has held that off-system sales margins should be allocated on the basis of the energy allocator.

Witness: Maurice Brubaker

Testimony: Brubaker Direct, pages 22-23; Rebuttal, pages 6-7.

ISSUE: How should Administrative and General costs be allocated among the various customer classes?

Position: A&G expenses consist of costs for supervision of employees and property, employee pensions and benefits, general plant expenses, and selected other items. Administrative and General (A&G) costs should be allocated based upon salaries and wages. The first step in developing this allocator is to determine the labor component of the generation, transmission, distribution, etc. functions allocated to each customer class in the cost of service study. The second step is to add together those labor components

allocated to each class and determine what percentage each class's allocated labor is of the total. This produces the salaries and wages allocator.

In contrast, Staff allocates A&G expenses primarily on the basis of energy. Hardly any of these costs, however, vary with energy, but instead are a function of operating, maintaining and supervising the generation, transmission and distribution system, and the related pensions, benefits and other employee-related costs. Staff's allocation of A&G is also logically incorrect, it is also inconsistent with the NARUC Cost Allocation Manual and the Staff methodology for allocating the same costs between jurisdictions.

Witness: Maurice Brubaker

Testimony: Brubaker Rebuttal, pages 8-11.

ISSUE: How should any rate increase be allocated among the various customer classes?

Position: The Average & Excess methodology used in conjunction with the allocation of off-system sales based upon relative energy usage results in the following revenue neutral class allocations. (Brubaker Direct, Schedule MEB-COS-5)

Residential	18.5% Increase
Small General Service	19.9% Decrease
Medium General Service	10.2% Decrease
Large General Service	9.9% Decrease
Large Power Service	8.5% Decrease
Total Lighting	21.3% Decrease

For several reasons, Mr. Brubaker recommends that the Commission move each class 25% of the way toward cost of service. (Brubaker Direct, page 28).

Witness: Maurice Brubaker

Testimony: Brubaker Direct, pages 26- 28 and Schedule MEB-COS-5 and 6.

ISSUE: Should the Commission adopt Mr. Brubaker's LGS / LP rate design methodology?

Position: Yes. KCPL and MECG agree that the Commission should adopt Mr. Brubaker's LGS / LP rate design. Mr. Brubaker's analysis shows that a significant amount of the demand costs for this class are being collected through the energy charges. Mr. Brubaker, therefore, proposes to exempt the tail-block energy charge from any increase in this case. Instead, any rate increase would be allocated to the other LGS / LP rates by increasing the middle blocks (hours use from 181 to 360) by three quarters of the average percentage increase, and to collect the balance of the revenue requirement for the tariff by applying a uniform percentage increase to the remaining charges in the tariff. This includes the customer charge, the reactive demand charge, the facilities charges, the demand charges and the initial block energy charges.

While KCPL agrees to Mr. Brubaker's proposal, Staff states that it has concerns regarding potential migration of customers. The evidence indicates, however, that this same rate design was implemented in the last case and no migration was noticed resulting from this proposal.

Witness: Maurice Brubaker

Testimony: Brubaker Direct, pages 29-35.

Fuel and Purchased Power Expense:

ISSUE: What is the equivalent forced outage rate for Iatan 2?

Position: KCPL's equivalent forced outage rate for Iatan 2 is unnecessarily high. This understates the generating unit's historical availability when not down for scheduled outages. MECG recommends using an Iatan 2 equivalent forced outage rate of 5.5%, as compared to KCPL's unreasonably high 10.5%. In its rebuttal testimony, KCPL admits that the Iatan 2 equivalent forced outage rate "needs to be reduced." (Crawford Rebuttal, page 11). Rather than make such correction immediately, however, KCPL chose to wait until true-up direct. Therefore, given the rate included in KCPL's true-up direct, this may still be an issue.

Witness: Nicholas Phillips

Testimony: Phillips Direct, pages 8-9.

Interim Energy Charge:

ISSUE: What is the IEC KCPL is proposing?

Should it be adopted?

Position: KCPL's mechanism should be rejected for several reasons. First, unlike the situation facing Aquila and Empire when they were granted IECs in 2001 and 2004, KCPL is not facing fuel volatility. Specifically, Aquila and Empire were both heavily dependent on natural gas for their generation assets. At the time, natural gas prices were very volatile and the impact of such volatility on Aquila and Empire was significant. In contrast, less than 1% of KCPL's fuel expense in this case is associated with natural gas. While KCPL's fuel expense may be increasing, it is not volatile. Furthermore, these costs may be managed by KCPL. Simply, KCPL does not face the volatility necessary to justify the implementation of an IEC. (Meyer Direct, pages 29-30; Meyer Surrebuttal, page 24).

Second, KCPL's mechanism, since it does not resemble an IEC, is actually a fuel adjustment clause. Specifically, IEC's contain a ceiling which caps the amount of fuel expense it may recover. If fuel expenses decrease, this amount is refunded. If fuel expenses increase above the ceiling, the utility is required to suffer this loss. In contrast, KCPL's proposed IEC contains no ceiling. Rather, contrary to the IEC outlined in the Regulatory Plan, it is designed to provide for a complete pass through of all increased fuel expenses. By all accounts, therefore, KCPL's proposal amounts to a fuel adjustment clause. In its Regulatory Plan, KCPL expressly waived its right to seek a fuel adjustment clause until 2015. (Meyer Direct, page 30, Meyer Surrebuttal, page 25).

Third, contrary to previous IEC's, KCPL's proposed mechanism is not designed to protect against volatility in fuel expense. Rather, KCPL's mechanism is designed to protect KCPL against potential decreases in the off-system sales market. Historically, IEC's are not designed to protect against decreases in off-system sales. In fact, IEC's have historically excluded consideration of wholesale revenues. (Meyer Direct, page 31; Meyer Surrebuttal, pages 25-26).

Fourth, KCPL's proposed mechanism is very unclear. Various witnesses have commented that KCPL's proposal is contrary to previous IECs and contradicts the IEC outlined in its tariffs. Despite the opportunity for rebuttal testimony, KCPL's proposal is still incoherent. (Meyer Surrebuttal, pages 26-27).

Fifth, as set forth in the following issue, the sharing mechanism attached to KCPL's proposed mechanism is contrary to express prohibitions contained in KCPL's 2005 Regulatory Plan. (Meyer Surrebuttal, page 27).

ISSUE: Is KCPL's proposed sharing of off-system sales revenues, within the context of its proposed IEC, prohibited by the KCPL Regulatory Plan?

Position: Yes. The sharing is prohibited by the Regulatory Plan. As set forth in May 25, 2012 Motion to Strike Prefiled Testimony filed by MECG and OPC, KCPL's proposed sharing of off-system sales violates the 2005 KCPL Regulatory Plan. For the reasons stated in that motion to strike, the KCPL's proposed sharing of off-system sales revenues should be rejected.

Witness: Greg Meyer

Testimony: Meyer Surrebuttal, page 27.

ISSUE: Does KCPL's proposal qualify as an IEC within the KCPL Regulatory Plan?

Position: No. The KCPL Regulatory Plan allows KCPL to request the implementation of an Interim Energy Charge. That Regulatory Plan provides specific features of such an IEC. Included is the requirement that the IEC contain a rate ceiling.

As designed, a utility with an IEC collects 2 components: (1) the permanent amount of fuel included in rates and (2) an interim amount (up to the ceiling) that is subject to refund. These features provide the following incentives. First, the collection of the ceiling amount, and no more, provides an incentive for the utility to minimize fuel costs. Second, if the utility is able to reduce fuel costs below the permanent amount in rates, it is permitted to keep the entirety of the amount below this floor. Any amount in between the permanent floor and the ceiling is refunded to customers. Under no circumstances, however, would the utility ask to collect additional funds from ratepayers to account for further increases in fuel costs.

In contrast, KCPL's proposed mechanism contains none of these unique features of an IEC. In fact, under its proposal, KCPL's recognizes that under certain conditions it would ask for the recovery of additional funds to account for further increases in fuel expense. Recognizing that the KCPL proposed IEC is not proposed under SB179, KCPL's mechanism provides for unlawful, retroactive ratemaking.

KCPL's proposal does not constitute an IEC. It neither resembles the historic IECs granted by the Commission it also does not comply with the express requirements of the KCPL Regulatory Plan. For these reasons, it should be rejected.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 27-29

Payroll (Non-Wolf Creek Overtime)

ISSUE: Payroll: What amount should be included in cost of service for overtime?

Position: The level of non-Wolf Creek overtime has declined since the end of the test year. As such, the use of a multi-year average, such as that proposed by KCPL, will result in overstating the amount of KCPL overtime. MECG recommends that the Commission use the actual level of overtime experienced through May 31, 2012.

Witness: Greg Meyer

Testimony: Meyer Direct, page 18; Surrebuttal, pages 14-15.

Bad Debt Expense

ISSUE: Should bad debt expense and forfeited discount revenue included in rates in this case include a provision for the impacts resulting from the revenue increase in this case?

Position: No. Contrary to KCPL's suggestion, bad debt expense has shown no discernible trend which would allow anyone to conclude that bad debt expense will necessarily increase with the increase in revenues. Since 2007, KCPL's revenues have increased every year. Despite that increase, bad debt expense has only increased one year and decreased the other years. Therefore, it is not "known and measureable" that bad debt expense will increase with the rate increase granted in this case. Finally, the incurrence of any bad debt cost resulting from the rate increase in this case will not be realized until approximately 22 months after the true-up date in this case. Given KCPL's plans for its next case, any increased bad debt expense will be in the test year of KCPL's next rate case.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 14-15; Surrebuttal, pages 10-11.

ISSUE: How should normalized bad debt expense be determined?

Position: KCPL's proposed bad debt write-off factor is significantly greater than any level that it has experienced in the last four years. Given its inflated nature, the KCPL bad debt write off factor should be rejected. Instead, given recent fluctuations in the write-off factor, the Commission should utilize a weighted four-year average bad debt factor for write-offs through June 30, 2011.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 12-14; Surrebuttal, pages 9-10.

Transmission Tracker

ISSUE: Should the Commission implement a tracker mechanism for transmission costs that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. In *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41 (1979), the Missouri Supreme Court stated that:

> The utilities take the risk that rates filed by them will be inadequate, or excessive, each time they seek rate approval. To permit them to collect additional amounts simply because they had additional past expenses . . . is retroactive rate making. . . . Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses, but under the prospective language of the statutes, §§ 393.270(3) and 393.140(5) they cannot be used to set future rates to recover for past losses due to imperfect matching of rates with expenses. *Id.* at page 59.

The KCPL transmission tracker is unlawful in that it seeks to retroactively charge ratepayers "additional amounts simply because [KCPL] had additional past expenses."

Furthermore, tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Specifically, the Commission will not be able to consider whether other cost of service items have decreased or other revenue items have increased in such a manner as to offset the alleged increase in transmission expense. Additionally, because the tracker virtually guarantees recovery of the entirety of a specific cost item, the utility has no incentive to minimize the level of cost incurred. When a utility is allowed to track an expense, it can become indifferent with regard to minimizing that expense.

Finally, KCPL's transmission expenses have not been shown to meet the criteria for the extraordinary treatment of a tracker mechanism. Specifically, KCPL's transmission expenses: (1) are not volatile, (2) are not large enough to pose a threat to KCPL's financial condition, and (3) are capable of being reasonably managed by the utility.

Witness: Jim Dauphinais

Testimony: Dauphinais Direct, pages 5-9; Surrebuttal, pages 2-4.

Property Tax Tracker

ISSUE: Should the Commission implement a tracker mechanism for property taxes that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. In *State ex rel. Utility Consumers Council of Missouri v. Public Service Commission*, 585 S.W.2d 41 (1979), the Missouri Supreme Court stated that:

> The utilities take the risk that rates filed by them will be inadequate, or excessive, each time they seek rate approval. To permit them to collect additional amounts simply because they had additional past expenses not covered by either clause is retroactive rate making. . . . Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses, but under the prospective language of the statutes, §§ 393.270(3) and 393.140(5) they cannot be used to set future rates to recover for past losses due to imperfect matching of rates with expenses. *Id.* at page 59.

The KCPL property tax tracker is unlawful in that it seeks to retroactively charge ratepayers "additional amounts simply because [KCPL] had additional past expenses."

Furthermore, tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Specifically, the Commission will not be able to consider whether other cost of service items have decreased or other revenue items have increased in such a manner as to offset the alleged increase in property taxes.

Given the 12 month delay between when property is assessed and when the tax is due, KCPL is able to time its rate cases to reflect any increase in property tax expense.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 15-17; Surrebuttal, pages 12-14.

RES and RES Tracker

ISSUE: Should RES Costs be included in KCPL's revenue requirement?

Position: In November 2008, Missouri voters approved Proposition C mandating renewable energy standards ("RES"). In June 2010, the Commission promulgated 4 CSR 240-20.100 designed to implement Proposition C and addressing recovery of costs associated with RES. That rule provides for **two** recovery methods: (1) deferral of costs with subsequent recovery including carrying costs or (2) the implementation of a Renewable Energy Standard Regulatory Accounting Mechanism (RESRAM). Noticeably, however, without a RESRAM, the rule does not provide for the inclusion of a certain level of RES costs to be included in rates on a going forward basis. Therefore, the Commission should not include an ongoing level of RES costs in KCPL's revenue requirement. Instead, recognizing that KCPL has not requested a RESRAM, KCPL should be required to continue to defer these RES costs, with carrying costs, for later amortization.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 5-6; Surrebuttal, page 4.

ISSUE: Should RES costs KCPL and GMO incurred from 2010 through 2012 that exceed the level of RES costs included in cost of service be given rate base treatment, i.e., should they not only get a return of those costs, but also a return on them?

Position: KCPL should be allowed to include the unamortized balance in rate base.

Witness: Greg Meyer

Testimony: Meyer Direct, page 7; Surrebuttal, page 3.

ISSUE: What amortization period should be used to determine the annual level to include in KCPL's and GMO's revenue requirements for recovery of the RES costs KCPL and GMO incurred from 2010 through 2012 that exceed the level of RES costs used in the revenue requirements upon which their current permanent rates are based?

Position: To date, most of the RES costs incurred by KCPL relate to solar rebates. In order to qualify for such rebates, solar electric systems must remain operational for 10 years. Recognizing that the benefits of the solar rebates will be 10 years, the solar rebate costs should be amortized over a similar time period. In an effort to be conservative, MECG recommends that the Commission amortize such costs over 6 years. This matches the amortization period for deferred energy efficiency costs.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 7-8; Surrebuttal, page 4.

ISSUE: Should the Commission implement a tracker mechanism for RES costs that allows KCPL and GMO to accrue and defer, for future recovery, any difference between the amount in rates and the actual amount incurred?

Position: No. Tracker mechanisms distort the matching concept by singling out selective expense items for special regulatory treatment. In this manner, the Commission does not consider changes in other items of the cost of service that may offset this specific item. Furthermore, the Commission rule does not provide for implementation of a tracker as one of the recovery mechanisms.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 8-9; Surrebuttal, pages 5-6.

Organizational Realignment and Voluntary Separation (ORVS)

ISSUE: Have KCPL and GMO recovered in rates at a minimum the dollar amount severance costs related to the ORVS Program employees who left the employ of KCPL in March 2011?

Position: Yes. In March 2011, shortly after the December 31, 2010 true-up date in its last case, KCPL announced its Organization Realignment and Voluntary Separation Program ("ORVS"). In order to maintain a proper matching of expenses, revenues and rate base, no party proposed to reduce payroll to reflect the reduced level of employees. Instead, payroll expense was included in rates at the inflated pre-ORVS levels. Therefore, KCPL realized an immediate windfall associated with its decision to delay the ORVS program until after the true-up date. This windfall will continue until rates are established in this case reflecting the reduced employee levels after ORVS. KCPL shareholders will retain the entirety of its share of the $35.4 million windfall. Recognizing that the cost of implementing the ORVS program was $12.7 million, KCPL has already fully recovered its portion of these costs and retained the excess profits of $22.7 million.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 9-11; Surrebuttal, pages 6-8

ISSUE: Should the annual amount based on a five-year amortization of the severance and related costs associated with KCPL's ORVS Program be included in revenue requirement?

Position: No. As indicated, KCPL has already completely recovered the costs associated with implementing the ORVS program through its retained savings. Through its proposal, KCPL seeks to separate the costs of the ORVS program from the benefits of that program. The MECG proposal maintains the proper matching of costs with benefits.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 9-11; Surrebuttal, pages 6-8.

Mutual Assistance Revenues

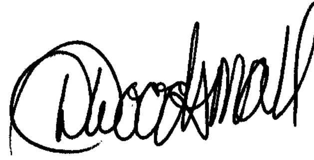
ISSUE: Should KCPL's revenue requirement reflect a normalized level of mutual assistance revenues?

<u>Position</u>: The deduction to KCPL's normalized payroll expense associated with mutual assistance services it provides to other utilities should match the amount that KCPL was paid by these other utilities for mutual assistance. During the test year, KCPL recorded a lesser amount as a payroll expense deduction than it actually received from other utilities. KCPL has acknowledges this error, but has not yet agreed to make this change to its rate case.

Witness: Greg Meyer

Testimony: Meyer Direct, pages 32-34; Surrebuttal, pages 27-28.

Respectfully submitted,



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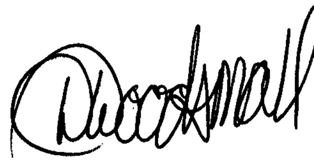
ATTORNEY FOR THE MIDWEST ENERGY CONSUMERS' GROUP

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



David L. Woodsmall

Dated: October 12, 2012