

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

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| In the Matter of The Empire District Electric |) | |
| Company of Joplin, Missouri for Authority to |) | |
| File Tariffs Increasing Rates for Electric |) | <u>Case No. ER-2006-0315</u> |
| Service Provided to Customers in the Missouri |) | |
| Service Area of the Company. |) | |

**POSITION STATEMENT AND PREHEARING BRIEF
OF KANSAS CITY POWER & LIGHT COMPANY**

Kansas City Power & Light Company ("KCPL" or "Company") submits this Position Statement and Prehearing Brief in accordance with the Commission's Order Concerning Test Year and True-Up And Adopting Procedural Schedule issued on April 11, 2006. Pursuant to the April 11, 2006 Order, KCPL respectfully provides this summary of the testimony its witness, Bryan Weiss, as well as the factual and legal conclusions that the testimonial and documentary evidence will support.

The single issue that KCPL has addressed in its testimony in this case is related to the Regulatory Plan Amortizations, and more specifically, whether the amortized amount should be subject to an income tax gross-up. (See List of Issues). KCPL's position on this issue is that the Regulatory Plan Amortization should be grossed-up for income tax purposes since this amortization will not create an income tax deduction. Unless the Commission includes a gross-up of the Regulatory Plan Amortization, Empire will have insufficient revenues necessary to meet its credit metrics for maintaining its investment grade ratings.

KCPL Witness Bryan Weiss, Income Tax Analyst

As explained in the Surrebuttal Testimony of Bryan Weiss, KCPL's Income Tax Analyst, filed in this proceeding, KCPL is very concerned about this issue in this case because the amortization provided for in Empire's Regulatory Plan is very similar to the amortization

approach approved by the Commission for Kansas City Power & Light Company in its Regulatory Plan approved in Case No. EO-2005-0329. It is essential to both KCPL and Empire that the Commission consider the implications of the tax effects of the amortizations appropriately. Otherwise, the benefits of the amortizations in maintaining the investment grade ratings for these public utilities will not be realized.

In the ratemaking process, it is necessary to recognize the additional income taxes that result from the additional revenues being allowed in the cost of service. The "gross-up for income taxes" is a short-hand description of the method of increasing a revenue stream to include the additional income tax expenses in the cost of service. For example, when the Commission grants a rate increase, it is necessary to "gross-up" the rate increase to include the expected tax effects of the rate increase. Otherwise, the public utility does not receive the additional revenues necessary to achieve its revenue requirement. As explained by Mr. Weiss, the amortization approved for Empire and KCPL in their respective Regulatory Plans will create additional revenues that need to also be "grossed-up" to recognize the tax effects of the amortization.

For Book purposes, the amortizations are included in gross revenues with an offsetting accelerated depreciation expense. This results in no change to Empire's net operating income. For Tax purposes, however, the amortizations are includable in gross taxable income under Internal Revenue Code (IRC) Section 61. However, under the MACRS depreciation rules of IRC Section 168, there will be no offsetting depreciation deduction. This results in an increase in current taxes payable equal to Empire's current effective tax rate times the total amortizations allowed. The ultimate result is that Empire pays cash to federal and state taxing authorities that is intended to be used to maintain the financial ratios that were agreed upon in its regulatory plan. In order to receive

the proper amount of cash to maintain the financial ratios agreed to in its regulatory plan, Empire is entitled to a gross-up for income taxes on any amortizations allowed.

Unfortunately, Staff and Public Counsel have not proposed that a gross-up for income taxes be included in Empire's revenue requirement. This position should be rejected by the Commission in order to ensure that Empire has the sufficient revenues necessary to meet its credit metrics for maintaining its investment grade ratings. Unlike the positions espoused by the Staff and Public Counsel in this proceeding, the KCC Staff has filed testimony in KCPL pending Kansas rate case which indicates that the amortization (referred to in Kansas as the "CIAC") "must be grossed up for taxes in order for KCPL to receive the amount of additional revenues (net of tax) necessary for it to meet its credit metrics." (Direct Testimony of Jeffrey D. McClanahan, p. 13, KCC Docket No. 06-KCPE-828-RTS.)

WHEREFORE, for the reasons stated herein, Kansas City Power & Light Company respectfully requests that the Commission order that any regulatory plan amortizations included in Empire's revenue requirement should be grossed-up for income tax purposes in this case.

Respectfully submitted,

/s/ James M. Fischer

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ATTORNEYS FOR
KANSAS CITY POWER & LIGHT COMPANY

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 31st day of August, 2006, to all counsel of record.

/s/ **James M. Fischer**

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