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-2012-0174
a General Rate Increase for Electric Service.	)	

OPPOSITION TO MOTION TO STRIKE PRE-FILED TESTIMONY AND REJECT TARIFFS

Kansas City Power & Light Company ("KCP&L" or "Company") states the following in opposition to the Motion to Strike Pre-Filed Testimony and Reject Tariffs filed on May 25, 2012 by the Office of the Public Counsel ("OPC") and the Midwest Energy Consumers' Group ("MECG"):

I. INTRODUCTION.

1. OPC and MECG (collectively "Movants") have taken an extreme view of the off-system sales ("OSS") provision in the 2005 Stipulation and Agreement ("Stipulation") that governs KCP&L's Regulatory Plan which expired in June 2010, and have moved to strike those portions of the Company's direct testimony that recommend a limited sharing mechanism contained in the proposal for an Interim Energy Charge.

2. What Movants seek is a declaration from this Commission that customers are entitled to receive 100% the benefit of any OSS margin or profit related to the Regulatory Plan for as long as certain assets are in rate base.

3. Such an interpretation is contrary to the plain language of the Stipulation which simply requires that all revenue and expenses related to KCP&L's off-system sales "will continue to be used to establish Missouri jurisdictional rates as long as the related investments and expenses are considered in the determination of Missouri jurisdictional rates." See In re Proposed Regulatory Plan of Kansas City Power & Light Co., Case No. EO-2005-0329, Report and Order at 28-29 (July 28, 2005) ("Report & Order").

4. The proposal submitted by KCP&L in its rate case filing of February 27, 2012, both in its proposed tariff sheets No. 24 and 24A, as well as the testimony of several witnesses, is entirely consistent with this provision. As explained below, the Direct Testimony of Tim M. Rush proposed an Interim Energy Charge with a small sharing mechanism as the upper level of OSS margin. All "investments and expenses" related to off-system sales "are considered in the determination of Missouri jurisdictional rates," as required by the Stipulation.

5. Consistent with the Commission's statements in recent cases, and as discussed at length during the last rate case, the Company's proposal advances the search for an appropriate incentive mechanism for KCP&L to increase its OSS sales while remaining faithful to the language of the Stipulation.

II. <u>2005 STIPULATION REGARDING OFF-SYSTEMS SALES</u>.

6. On July 26, 2005, the signatory parties filed a response to the Commission's order directing that additional language be submitted regarding the off-system sales agreement that had been reached by the parties and that was discussed at the hearing conducted on July 12, 2005. This amendment to the Stipulation was reflected in the Commission's approval of the Regulatory Plan. <u>See</u> Report and Order at 18-19 & n.3.

7. As amended, Section III(B)(1)(j) now contains three sentences which must be analyzed both separately and together for the full meaning of the provision to be properly understood and interpreted. The three sentences are:

> a. "KCPL agrees that off-system energy and capacity sales revenues and related costs will continue to be treated above the line for ratemaking purposes."
>
> b. "KCPL specifically agrees not to propose any adjustment that would remove any portion of its off-system sales from its revenue requirement determination in any rate case, and KCPL agrees that it will not argue that these

revenues and associated expenses should be excluded from the ratemaking process.

c. [Amendment] "KCPL agrees that all of its off-system energy and capacity sales revenue will continue to be used to establish Missouri jurisdictional rates as long as the related investments and expenses are considered in the determination of Missouri jurisdictional rates."

8. Sentence (a) contains no language regarding the duration of KCP&L's agreement that OSS revenues and costs will be treated above the line for ratemaking purposes. Therefore, it expired on June 1, 2010, pursuant to Section III(B)(12). That provision stated that the terms of the Stipulation "will expire June 1, 2010, except where otherwise specified in this Agreement." See Stipulation at 57. This was recognized by the Commission, which found that the Stipulation "runs through June 1, 2010, unless otherwise specified in the agreement …." See Report & Order at 9.

9. Sentence (b) similarly contains no provision regarding the duration of KCP&L's agreement not to propose any adjustment that would remove off-system sales from its revenue requirement determination in any rate case, and its agreement that it will not argue that such revenues and expenses should be excluded from the ratemaking process. Consequently, that provision also expired on June 1, 2010, pursuant to the terms of the Stipulation.

10. It is Sentence (c) that contains language regarding its duration. Here KCP&L agreed that its off-system sales "will continue to be used to establish Missouri jurisdictional rates as long as the related investments and expenses are considered in the determination of Missouri jurisdictional rates." Therefore, this provision is one that is "otherwise specified" and did not expire on June 1, 2012, pursuant to Section III(B)(12) of the Stipulation.

11. The issue is then whether Sentence (c) prohibits a sharing mechanism. In other words, does this sentence simply require OSS revenue to be used in the ratemaking process, or is this an absolute prohibition on any sharing mechanism, such as proposed by Mr. Rush when OSS margins exceed the 60th percentile of expected revenues?

12. The sharing mechanism that the Movants object to is contained in Mr. Rush's Direct Testimony in Section VII which proposes an Interim Energy Charge at pages 10-16 and in Schedule TMR-4. See Exhibit A. As Mr. Rush testified, an Interim Energy Charge is expressly permitted under KCP&L's Regulatory Plan if it follows the parameters set forth in Section III(B)(1)(c) at pages 7-8 of the Stipulation. These six parameters, set forth in Exhibit A, do not prohibit a sharing mechanism. See Exhibit A at 10-11.

13. Mr. Rush testified that the proposed IEC will also "contain the off-system sales margin variances above or below the amount included in the rates established in this case with some specific sharing properties." See Exhibit A at 12, lines 16-17. Mr. Rush did not propose to exclude off-system sales from the ratemaking process "to be used to establish Missouri jurisdictional rates," which is what Sentence (c) requires.

14. However, Mr. Rush did propose the following with regard to off-system sales:

(i) KCP&L's rates would be set at the 40th percentile of off-system sales margin.

(ii) All of the OSS margin falling between the 40th and 60th percentiles would offset fuel and purchased power costs attributable to Net System Input.

(iii) If OSS margin is greater than the 60th percentile, 75% would continue to offset fuel and purchased power costs, but 25% would be retained by KCP&L.

(iv) If OSS margin falls below the 40th percentile, the Company would place 25% of the amount of OSS margin in a deferred account to be recovered in the next rate case. The remaining 75% of the OSS margin would be included as an offset to the fuel and purchased power costs to meet NSI.

See Exhibit A at 12-13. Movants object to this final element proposing KCP&L's retention of 25% of any margin above the 60th percentile.

15. True to the language of the Stipulation's Section III(B)(1)(j), every penny of the off-system sales revenue is being "used to establish Missouri jurisdictional rates." While the sharing mechanism recommended for the very upper levels of OSS margin proposes that one-quarter of such sums be retained by KCP&L, there is no language in the Stipulation or in any Commission order that proscribes it. Indeed, the concept is consistent with the Commission's past statements expressing frustration that previous ratemaking mechanisms relating to OSS failed to provide KCP&L with sufficient incentives to reach certain revenue targets.

16. In its decision in the last rate case, the Commission stated that when rates were set with off-system sales margin at the 25th percentile, it did "nothing to encourage KCP&L to exceed that level." See ¶ 381, Report and Order at 130, In re Application of Kansas City Power & Light Co. for Approval to Make Changes in Charges for Electric Service to Continue the Implementation of its Regulatory Plan, No. ER-2010-0355 (April 12, 2011) ("2010 Rate Case"). The Commission additionally observed: "Thus, KCP&L's recent performance indicates that when expectations are increased, KCP&L is capable of overcoming the financial disincentives and earn increased profits in the wholesale market." Id., ¶ 393 at 135.

17. Based on this analysis and the Commission's desire to provide KCP&L with an incentive to increase its off-system sales, the 2010 Rate Case Report & Order set rates at the 40th

percentile, with margins exceeding that percentage to be returned to ratepayers in subsequent rate cases. Id. at 141.

18. Given the Commission's objective to provide KCP&L with proper incentives and expectations regarding off-system sales, Mr. Rush proposed a sharing mechanism where the base rates would continue to be set at the 40th percentile, as they were in 2011, with any additional OSS margins up to the 60th percentile being returned to customers. However, to make certain that KCP&L has an incentive to exert its best efforts to increase OSS margin, Mr. Rush proposed that if margin exceeded the 60th percentile, one quarter of such amounts would be retained by KCP&L.

19. The ultimate irony is that counsel for MECG admitted during the 2010 Rate Case that a new day had dawned with the expiration of the Regulatory Plan in 2010: "With the completion of the regulatory plan, a new opportunity has been presented." See Tr. 3287, lines 15-16, 2010 Rate Case (Feb. 3, 2011), attached as Exhibit B. Although the industrial group in the 2010 Rate Case advocated using the 40th percentile to set base rates (id.), counsel responded to questions from the bench by proposing a symmetrical 50/50 mechanism where OSS margin up to the 50% percentile would be credited to customers, with any margin above that being earned by the Company.

> Commissioner Davis: ... Second question, Mr. Woodsmall. Is there another way to do this?
>
> Mr. Woodsmall: The best way to do it, the typical ratemaking way of doing it, is to set it at the 50th percentile and get rid --
>
> Commissioner Davis: Right.
>
> Mr. Woodsmall: -- of the tracker."[1] [Id. at 3294, lines 1-7.]

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[1] The reference to "tracker" is to the off-system sales tracker that accounted for amounts above the percentile at which OSS were set under the Regulatory Plan rate cases. Such amounts were tracked and returned to ratepayers in subsequent rate cases. See 2010 Report & Order at 141. See also § 15, "Off-System Sales Tracker," Non-

20. After a discussion of the different cost allocation formulas between Missouri and Kansas, counsel continued:

> Mr. Woodsmall: And we believe -- if you want to go there, we believe setting it under normal ratemaking at 50th percentile -- … and [KCP&L witness Michael] Schnitzer says that's an equal chance of succeeding, and they can take everything above that.
>
> That's what they [KCP&L] did in their glory days, for 20 years, when they were undergoing rate reductions, because they were making, as you saw -- huge parts of their earnings were from off-system sales.
>
> . . .
>
> So that's the -- that mechanism worked great, and they were making a fortune in those years. And if you want to return back to those days, set it at 50th percentile and get rid of the tracker." [Id. at 3296, line 14 to 3297, line 4.]

21. Implicit in these statements to the Commission is the concept of sharing risks and benefits, and providing incentives to KCP&L. Indeed, a 50/50 sharing mechanism proposed by the industrial group's counsel in 2011 would provide far more potential benefits to the Company than Mr. Rush's recommendation to share OSS margin exceeding the 60th percentile.

22. It is this very modest proposal that has drawn protest from the Movants, even though the 2005 Stipulation does not forbid such a mechanism, and expressly permits KCP&L to propose an Interim Energy Charge within certain parameters that do not prohibit a sharing mechanism.

III. INVESTMENTS RELEVANT TO THE REGULATORY PLAN'S LIMITATIONS ON OFF-SYSTEM SALES

23. Whatever limitations are contained in the 2005 Stipulation regarding off-system sales, it is clear that they only apply to "the related investments and expenses" that are covered by the Stipulation. See Section III(B)(1)(j). For example, any off-system sales generated by

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Unanimous Stipulation & Agreement at 9, In re Application of Kansas City Power & Light Co. for Approval to Make Changes in its Electric Rates, Case No. ER-2008-0089 (Apr. 24, 2009), *approved by* Order Approving Non-Unanimous Stipulations and Agreements and Authorizing Tariff Filing at 6 (June 10, 2009).

non-Regulatory Plan assets such as the Wolf Creek nuclear plant, the Hawthorn plant, the Montrose plant or any other plants are not so restricted.

24. Indeed, as the Movants' point out, the testimony presented to the Commission on July 12, 2005 was expressly restricted to the Iatan 2 unit and to no other assets. As Staff witness Robert Shallenberg testified: "The term would be tied to as long as the cost[s] from Iatan were included, excuse me, Iatan 2 were included in rates. That would be the term of the off-system sales provision that the off-system sales would be included in rates consistent with the treatment of Iatan 2 costs." See Tr. 1037, Case No. EO-2005-0329 (July 12, 2005), quoted on p. 4 of the Motion to Strike.

25. Throughout the discussion that Mr. Shallenberg had with both Commissioner Gaw and in response to his counsel's questions, there was no discussion of any prohibition on a sharing mechanism with regard to off-system sales that might be considered once the Regulatory Plan expired in June 2010. Id., Tr. 1030-1038.

WHEREFORE, Kansas City Power & Light Company requests that the Motion to Strike Pre-Filed Testimony and Reject Tariffs be denied.

Respectfully submitted,

/s/ Karl Zobrist

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the above and foregoing was served upon counsel of record on this 15th day of June, 2012.

/s/ Karl Zobrist
Attorney for Kansas City Power & Light Company

Exhibit No.:	
Issue:	Minimum Filing Requirements, Revenues, Depreciation Study, Electric Class Cost of Service Study, Rate Design, Rules and Regulations, Interim Energy Charge, Integrated Resource Plans
Witness:	Tim M. Rush
Type of Exhibit:	Direct Testimony
Sponsoring Party:	Kansas City Power & Light Company
Case No.:	ER-2012-0174
Date Testimony Prepared:	February 27, 2012

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: ER-2012-0174

DIRECT TESTIMONY

OF

TIM M. RUSH

ON BEHALF OF

KANSAS CITY POWER & LIGHT COMPANY

Kansas City, Missouri
February 2012

Certain Schedules Attached To This Testimony Designated "Highly Confidential" Contain Highly Confidential Information. All Such Information Should Be Treated Confidentially Pursuant To 4 CSR 240-2.135.

EXHIBIT A

DIRECT TESTIMONY

OF

TIM M. RUSH

Case No. ER-2012-0174

Q: Please state your name and business address.

A: My name is Tim M. Rush. My business address is 1200 Main Street, Kansas City, Missouri 64105.

Q: By whom and in what capacity are you employed?

A: I am employed by Kansas City Power & Light Company ("KCP&L" or "Company") as Director, Regulatory Affairs.

Q: What are your responsibilities?

A: My general responsibilities include overseeing the preparation of the rate case, class cost of service ("CCOS") and rate design of both KCP&L and KCP&L Greater Missouri Operations Company. I am also responsible for overseeing the regulatory reporting and general activities as they relate to the Missouri Public Service Commission ("MPSC" or "Commission").

Q: Please describe your education, experience and employment history.

A: I received a Master of Business Administration degree from Northwest Missouri State University in Maryville, Missouri. I did my undergraduate study at both the University of Kansas in Lawrence and the University of Missouri in Columbia. I received a Bachelor of Science degree in Business Administration with a concentration in Accounting from the University of Missouri in Columbia.

Q: Please provide your work experience.

A: I was hired by KCP&L in 2001 as the Director, Regulatory Affairs. Prior to my employment with KCP&L, I was employed by St. Joseph Light & Power Company ("Light & Power") for over 24 years. At Light & Power, I was Manager of Customer Operations from 1996 to 2001, where I had responsibility for the regulatory area, as well as marketing, energy consultant and customer services area. Customer services included the call center and collections areas. Prior to that, I held various positions in the Rates and Market Research Department from 1977 until 1996. I was the manager of that department for fifteen years.

Q: Have you previously testified in a proceeding before the MPSC or before any other utility regulatory agency?

A: I have testified on several occasions before the MPSC on a variety of issues affecting regulated public utilities. I have additionally testified at the Federal Energy Regulatory Commission and the Kansas Corporation Commission.

Q: What is the purpose of your testimony?

A: The purposes of my testimony are to:

I. Explain how the Company satisfied the MPSC's minimum filing requirements ("MFR") under 4 CSR 240-3.030;

II. Explain how the Company satisfied the depreciation study requirements under 4 CSR 240-3.160;

III. Provide the retail revenue adjustment to reflect the annualized and normalized revenue level for KCP&L's Missouri jurisdiction;

IV Address the Company's position on the inclusion of Off-System Sales ("OSS") Margins in the Company's cost of service.

V. Discuss the results of KCP&L's CCOS study and proposed tariff changes;

VI. Recommend the rate design and other tariff changes in this case;

VII. Recommend the implementation of an Interim Energy Charge ("IEC"), and

VIII. Propose the combining of the two utilities' Integrated Resource Plans.

I. MINIMUM FILING REQUIREMENTS

Q: What is the purpose of this part of your testimony?

A: The purpose of this part of my testimony is to confirm that KCP&L has satisfied the MPSC's MFR, as set forth in 4 CSR 240-3.030.

Q: How did KCP&L satisfy the MFR?

A: The following information was prepared to address the specific requirements of the MFR as outlined in 4 CSR 240-3.030(3):

A. Letter of transmittal

B. General information, including:

1. The amount of dollars of the aggregate annual increase and percentage over current revenues;
2. Names of counties and communities affected;
3. The number of customers to be affected;
4. The average change requested in dollars and percentage change from current rates;
5. The proposed annual aggregate change by general categories of service and by rate classification;

is recommending increasing the number of participants and changing it from a pilot program to Economic Relief Program (ERP).

VII. INTERIM ENERGY CHARGE

Q: Does the Company have a Fuel Adjustment Clause ("FAC")?

A: No, it does not. Per the Stipulation and Agreement ("Stipulation") approved in 2005 by the Commission in KCP&L's Experimental Regulatory Plan ("Regulatory Plan") docket, Case No. EO-2005-0329, the Company agreed that it will not seek a FAC prior to June 1, 2015. However, the Company is not prohibited from requesting an IEC.

Q: Please explain.

A: As permitted by Section III(B)(1)(c) at pages 7-8 of the Stipulation in Case No. EO-2005-0329, KCP&L can propose an IEC in a general rate case filed before June 1, 2015 within the following parameters:

1. The rates and terms for such an IEC shall be established in a rate case along with a determination of the amount of fuel and purchased power costs to be included in the calculation of base rates.
2. The rate or terms for such an IEC shall not be subjected to change outside of a general rate case where all relevant factors are considered.
3. The IEC rate "ceiling" may be based on both historical data and forecast data for fuel and purchased power costs, forecasted retail sales, mix of generating units, purchased power, and other factors including plant availability, anticipated outages, both planned and unplanned, and other factors affecting the costs of providing energy to retail customers.

4. The duration of any such IEC shall be established for a specified period of time, not to exceed two years.

5. A refund mechanism shall be established which will allow any other over-collections of fuel and purchased power amounts to be returned to ratepayers with interest following a review and true-up of variable fuel and purchased power costs at the conclusion of each IEC. Any uncontested amount of over-collection shall be refunded to ratepayers no later than 60 days following the filing of the IEC true-up recommendation of the Staff.

6. During an IEC period, KCP&L shall provide to the Staff, Public Counsel and other interested Signatory Parties monthly reports that include any requested energy and fuel and purchase power cost data.

Q: Is the Company requesting an IEC in this case?

A: Yes, the Company is requesting that the Commission approve an IEC rate as part of this general rate case.

Q: What are the rules for establishing an IEC?

A: While the IEC is specifically addressed in the Regulatory Plan Stipulation with the components expressed above, the Commission has established specific rules pertaining to both FACs and IECs. The rules are contained in the statute and regulations pertaining to the establishment of a Rate Adjustment Mechanism ("RAM"), which are found in Section 386.266, RSMo and in Commission Rules 4 CSR 240-20.090 and 4 CSR 240-3.161(2)(A) through (S). The RAM rules apply to both FACs and IECs. Section 20.090(12)(B) specifically states that the provisions of the rules shall not affect any experimental regulatory plan that was approved by the Commission and was in effect prior to the effective date of the rule.

Q: Has the Company met all of the filing requirements to establish the IEC?

A. Yes. The information required to be presented when an electric utility files to establish an IEC is contained in my testimony schedules TMR-1 through TMR-5. The IEC tariff sheet is identified in Schedule TMR-4.

Q: Did the Company also complete a line loss study required in 4 CSR 240-20.090?

A: Yes, it did. A line loss study was completed in October 2009.

Q: What is contained in the IEC that you are proposing in this case?

A: The Company is requesting an IEC rate of $0.00/kWh (zero). This rate would be in place over a two-year period beginning with the first effective date of rates. The IEC would contain all the variable fuel and purchased power costs consistent with other fuel adjustment clauses approved by this Commission. The proposed IEC would be consistent with the fuel adjustment clause at KCP&L's sister company, KCP&L Greater Missouri Operations Company, as it pertains to retail sales. The proposed IEC will also contain the off-system sales margin variances above or below the amount included in the rates established in this case with some specific sharing properties.

Q: What are the sharing properties you are proposing?

A: The Company proposes to include in base rates the 40th percentile of Off-System Sales Margin. The Company is proposing to include 100% of the OSS Margin as an offset to the fuel and purchased power costs attributable to Net System Input (NSI) when OSS Margin is between the 40th and 60th percentile. If OSS Margin falls below the 40th percentile, the Company proposes to place 25% of the amount of OSS Margin in a deferred account to be recovered in the next rate case. The remaining 75% of the OSS Margin would be included as an offset to the fuel and purchased power costs to meet NSI. If the OSS Margin is greater than the 60th percentile, the Company would retain 25% of the amount of Margin and include the remaining 75% as an offset to fuel and purchased power costs.

Q: How would the IEC proposal work during the two-year period proposed in this filing?

A: The proposed IEC would be established at zero price and remain at zero for two years. During that time, costs for variable fuel and purchased power costs to meet NSI would be accumulated in a deferred account. The base fuel for NSI established in this case would be an offset to this amount. Each amount would be set on an annual $ per kWh basis. For example, the base amount for fuel and purchased power costs is set in this case at $0.01596 per kWh. If during the first twelve-month period of the IEC the fuel and purchased power costs to meet NSI were $0.01696, then the deferred account would include an amount equal to that difference, i.e., $0.0010 times the NSI for the period. This amount would be offset by the Off-System Sales Margin during the same twelve-month period, adjusted to reflect the sharing proposal described above.

This process would happen each year of the IEC's two-year period. At the end of the two years, if the amount in the deferred account were negative, then the Company would refund that amount to customers. If the amount were positive, then no refund would occur.

Q: How does this proposed IEC mechanism balance the interests of customers and the Company?

A: It replaces the current system where the Company bears all of the risks up to the 40th percentile and the customers receive all the benefit of Margin over the 40th percentile, with the Company receiving none. The current system is not a fair or proper balancing of interests. An asymmetric regulatory model of "heads – shareholders lose" and "tails – shareholders break even" is not sustainable. Mr. Schnitzer discusses the Company's proposal at the end of Sections I and VI of his Direct Testimony. He finds that the alignment of incentives to maximize the realized Margin is good public policy.

Company Witness Michael Schnitzer's testimony provides a picture of how the proposed sharing mechanism of OSS margins would be applied. As Mr. Schnitzer points out in his testimony, the proposed sharing mechanism represents a fair balance to customer and Company interests.

Q: Are there some uncertainties that the Commission needs to be aware of in order for the IEC proposal to be effective and acceptable for both the Company and customer?

A: Several areas include items that have not been fully captured in Company witness Michael Schnitzer's probabilistic analysis of off-system sales margins. For instance, Company witness Schnitzer notes that his analysis does not account for certain force majeure events. Force majeure events, should they occur, will likely need to be accounted for in a different recovery mechanism. Another potentially significant issue that needs to be addressed is the new SPP Integrated Marketplace, which is scheduled to go live in April 2014.

Q: Please discuss the SPP Integrated Marketplace.

A: The new market will incorporate a single consolidated balancing authority and centralized unit commitment. Market Participants will bid resources into a day-ahead market with settlement pricing based on a locational marginal price that contains pricing components for energy, losses, and grid congestion. The new market will also include financial settlements for operating reserve products (i.e., Spinning and Supplemental Reserves and Regulation Up and Down) and will provide for Make Whole Payments for the units that are committed by SPP for reliability purposes. In addition, the SPP Integrated Marketplace will include a Transmission Congestion Rights ("TCR") Auction process, which will result in revenues or costs for the buyers and sellers of Auction Revenue Rights ("ARRs") and TCRs as well as revenues or charges for the holders of TCRs during the settlement of the day-ahead market. The new market will also allow for Virtual Transactions and Revenue Neutrality Uplift, which helps SPP keep revenue neutral as it operates the markets.

Q: How will the new market impact the IEC proposals?

A: The new SPP Integrated Marketplace is still in development so it is too soon to know exactly the magnitude and direction of the impact, but the new market will touch both fuel and off-system sales and, as such, will impact the components of the IEC. Because the new market is still in development, the Margin percentiles developed by Company witness Michael Schnitzer may not have fully incorporated the impacts of the new market from either a price or a volume perspective. Because the new market is scheduled to go live April 2014 and the IEC proposal is through January 2015, any significant deviations in fuel costs and Margins resulting from the new market could create a situation similar to that caused by a force majeure event.

Q: How will the costs and revenues related to the new market be booked/accounted for, and will they affect the IEC calculation?

A: The potential accounting for the new market is still being evaluated and has not been finalized. The accounts to which the revenues and costs associated with the new market are recorded, however, are likely to be the same as or similar to the purchased power expense accounts and the sales for resale revenue accounts that will be included in the IEC. As such, it will be imperative as the IEC is implemented, and again as the new market goes live, to make certain that the costs and revenues that will flow to the IEC are consistent with those that are used to establish the various threshold and sharing levels in the establishment of the IEC.

Q: How do you propose to address these concerns?

A: I suggest that throughout the IEC implementation period, the Company, on a regular basis, keep the Staff and other interested parties apprised of the new market changes and how it will impact the IEC. If changes are necessitated by these new market conditions, the Company may need to adjust the IEC to account for these changes.

VIII. ELECTRIC UTILITY RESOURCE PLANNING

Q: Is the Company preparing its Electric Utility Resource Plan ("IRP") for filing on April 1, 2012?

A: Yes, it is. The Company is preparing to file its plan in compliance with the Commission's current Chapter 22 rules adopted on May 31, 2011, as is KCP&L Greater Missouri Operations Company ("GMO").

INTERIM ENERGY CHARGE
Schedule IEC

APPLICATION:

The Interim Energy Charge (Schedule IEC) is applicable to all electric service billed under any of the Company's electric rate schedules, metered or unmetered, subject to the jurisdiction of the Commission as reflected separately on each rate schedule. The revenue from this tariff will be collected on an interim and subject to true-up and refund basis under the terms ordered in Case No. ER-2012-0174.

RATE:

In addition to the charges that the Company makes for electric service set forth in its approved and effective rate schedules, the following applicable amount will be added:

Secondary voltage customers per kWh	\$0.00000
Primary voltage customers per kWh	\$0.00000

CONDITIONS OF SERVICE:

This interim energy charge shall be in effect from March 28, 2012 through March 27, 2014. Subsequent to the expiration a true-up audit will determine if any portion of the revenues collected exceed KCP&L's actual and prudently incurred cost for fuel and purchased power during the IEC period, net of off system sales margins, and to what extent. Based upon the following sharing scale:

0 through 40th Percentile	– Company absorbs 75% of OSS Margin Variance
40th through 60th Percentile	– Company absorbs 100% of OSS Margin Variance
60th and above	– Company returns 75% of OSS Margin Variance

KCP&L shall refund the excess, if any, above the greater of the actual or the base, plus interest. Any margin amount to be retained by the company will be posted to a regulatory asset for inclusion in the company's next general rate case. Interest will be equal to KCP&L's short-term borrowing rate and will be applied to any amount to be refunded starting with the end of the IEC period. No refund will be made if the Company's actual and prudently incurred costs for fuel and purchased power net of off system sales revenues during the IEC period equal or exceed the IEC base amount.

Any over collection will then be refunded with interest to customers following a review and true-up of variable fuel and purchased power costs at the conclusion of each IEC. Any uncontested amount of over-collection shall be refunded to ratepayers no later than 60 days following the filing of the IEC true-up recommendation of the Staff.

INTERIM ENERGY CHARGE
Schedule IEC

FORMULAS AND DEFINITIONS OF COMPONENTS

Refund Amount - If SA is positive = No Refund

- If SA is negative = Refund Settlement Amount to Customer on kWh Sales Basis

SA = (FPPON-B) – ((OSS-BOSS) * R)

Where:

SA = Settlement Amount

FPPON = Variable Fuel & Purchased Power Costs – On System

B = Base Variable Fuel & Purchased Power Costs – On System
$0.01596 per kWh Total Sources of Energy

OSS = Actual Off System Sales Margins

BOSS = Off System Sales Margins at the 40th Percentile

R = Sharing Rate Per Table

Sharing Table		
0 – 40th Percentile	–	75%
40 – 60th Percentile	–	100%
> 60th Percentile	–	75%

THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

February 3, 2011

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In The Matter Of The Application Of Kansas City Power And Light Company For Approval To Make Certain Changes In Its Charges For Electric Service To Continue Implementation Of Its Regulatory Plan	)	File No. ER-2010-0355
In The Matter Of The Application Of KCP&L Greater Missouri Operations Company For Approval To Make Certain Changes In Its Changes For Electric Service	)	File No. ER-2010-0356

RONALD D. PRIDGIN, Presiding
SENIOR REGULATORY LAW JUDGE.

ROBERT CLAYTON, Chairman
JEFF DAVIS
TERRY M. JARRETT
KEVIN GUNN
ROBERT S. KENNEY,
Commissioners.

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EXHIBIT B

saying is that, this issue presents you with a very unique opportunity. Not only can you move the line on the game, but like a good coach, you can encourage your team to play just a little bit harder.

Don't lower your level of expectations to meet your performance; raise your level of performance to meet your expectations.

Thank you.

JUDGE PRIDGIN: Mr. Dearmont, thank you.

Mr. Kindschuh.

I'm sorry. Do you have a preference?

MR. KINDSCHUH: David, go ahead.

JUDGE PRIDGIN: Mr. Woodsmall. Thank you.

Okay. And Mr. Woodsmall, could I confirm, you do have the slide up, but you would prefer me not to put the camera on because it contains some highly confidential material?

MR. WOODSMALL: There are pieces of this that contains highly confidential material. And rather than go back and forth, if you would, just keep the camera off of that. I don't believe anybody in the room is problematic, so --

JUDGE PRIDGIN: Thank you.

MR. WOODSMALL: Thank you.

Good morning. May it please the Commission.

now going into rates, this number should plummet even further.

As you can see, then, the reasons for setting rates at the 25th percentile are no longer applicable.

For this reason, industrials are proposing a more appropriate level of off-system sales margins to include in rates. This chart shows you that where competing -- shows you where the competing recommendations lie in this case.

The industrials assert that in order to get KCP&L to participate in the wholesale market, it is incumbent that the Commission set higher expectations for this utility. Otherwise, KCP&L will continue to flounder with its inferior performance.

With the completion of the regulatory plan, a new opportunity has been presented. The reasons for using the 25th percentile are no longer applicable.

With this in mind, the industrials have proposed that the Commission set rates using the 40th percentile of off-system sales.

As the evidence will show -- let me get that box off of there. With this in mind, the industrials have proposed that the Commission set rates using the 40th percentile of off-system sales.

As the evidence will show, the 40th

percentile is a very appropriate amount, while still being very conservative. Ultimately, there are six reasons -- six reasons that we present for using the 40th percentile.

First, KCP&L has demonstrated an unwillingness to participate in the wholesale market when the Commission sets low expectations. Setting rates at the 25th percentile will cause KCP&L to continue to fail. Ultimately, this will result in increased rates for customers.

Second, the disincentive for KCP&L to perform in the wholesale market was a function of KCP&L's own actions. Absent KCP&L's unsupported desire to equalize the rates in Missouri and Kansas, both commissions would still be using the same energy allocator for off-system sales.

KCP&L developed the unused energy allocator in support of its goal. But because it was detrimental to the Missouri ratepayers and created a disincentive, it was rejected by this Commission.

Third, at the 40th percentile, KCP&L still has a much better-than-average chance of succeeding -- 60 percent chance. I'd take those odds anytime. Mr. Schnitzer will testify that KCP&L has an equal chance if rates are set at 50th percentile.

By setting rates at the 40th percentile, the Commission still gives KCP&L a great chance to succeed. We would say that this is still a low expectation, but definitely a step in the right direction.

Fourth, as Mr. Schnitzer's model demonstrates, the single most likely result for KCP&L's performance in the wholesale market for the year that rates will be in effect equates to the 40th percentile.

Fifth, because the industrials -- the industrials recommend to utilize the 40th percentile relies upon the Schnitzer model, it shares all the same reliability benefits and concerns as the company's 25th percentile. It is simply a different point on the same probability curve. It has no further risk for the company.

Sixth -- and this is the most important one; I want everybody to focus on this one -- KCP&L has proven that it will only respond to higher expectations.

And I'll show you what I mean by that. We've seen this chart before. In 2006, the Commission set rates using the 25th percentile. The Commission set the rates. Given the low expectations placed on KCP&L, KCP&L simply met the expectations, as you can see there.

In 2007, the Commission again set the rates using the 25th percentile. True to form, KCP&L again simply met expectations.

In 2009, however, something changed. The Commission didn't set the rates. In that case, the parties were able to reach a stipulation that settled the entirety of the case. In that stipulation, the parties, including KCP&L, expressly used off-system sales margins of 30 million.

As is demonstrated by KCP&L's own testimony, 30 million doesn't equate to the 25th percentile. Oh, no. KC -- or rather, 30 million equates to the 43rd percentile. Much like the floundering child, KCP&L screams that it could never achieve such lofty expectations -- but they did.

Interestingly, KCP&L did that very thing. In 2010, the year following the case, KCP&L has demonstrated that it will respond to higher expectations. It achieved -- it achieved not only the 30 million, but exceeded it.

It would represent a significant step backwards to lower KCP&L's expectations from the 43rd percentile that it achieved last year and now say that you'd be simply satisfied by 25th percentile.

Finally, I wish to dispel one notion. Inevitably, KCP&L will portray the movement to the 40th percentile as a loss for them. This is not true.

Unlike other disallowances, KCP&L will not experience a loss, unless it continues to refuse to participate in the wholesale market.

By setting off-system sales margins at the 40th percentile, you are simply encouraging KCP&L to get back to work and participate in the wholesale market. Contrary to KCPL's pleas, there's no lost earnings associated with the Commission's decision.

And this is where I want to leave you. To conclude, I want to leave you with these following slides. It is not a coincidence that KCPL's rates have gone up as its performance in the wholesale market has deteriorated.

Furthermore, it is not coincidence that KCPL's performance in the wholesale market deteriorated once this Commission lowered its expectations to the 25th percentile. It's time to reverse this slide and raise your expectations for this utility.

For all these reasons, the industrials ask you to set off-system sales margins at the 40th percentile.

Thank you.

JUDGE PRIDGIN: Mr. Woodsmall, thank you.

Commissioner Davis?

COMMISSIONER DAVIS: Mr. Woodsmall, can I ask a couple of questions?

MR. WOODSMALL: Uh-huh. Certainly. Do you have a particular slide --

COMMISSIONER DAVIS: And I -- well, I think this -- leave this slide up here -- leave this slide up here. And I don't know if -- maybe I'm not even -- necessarily inquiring of you is the right question.

But anyway, I don't know if it would be possible for Staff or whomever to get kind of an overlay of Mr. Woodsmall's off-system sales margins with spot market power prices where we kind of have an indication -- you understand what I'm looking for, Mr. Woodsmall? I --

MR. WOODSMALL: Yeah.

COMMISSIONER DAVIS: I'm looking to try to -- I'm trying to look up being able to match the -- without talking about highly confidential numbers here -- to be able to match the millions of dollars with -- you know, with power prices that were in and are in effect now.

I mean, to basically be able to kind of match and see where -- you know, the progression from '05 through '09, where it appears that we kind of troughed out. And, you know, now things are, it looks like, slowly up on -- rising again. I mean --

MR. WOODSMALL: The only reason I hesitate is, we certainly have the rates portion. We certainly have the technology to superimpose the two. I hesitate because I don't know -- while we have gas prices historically, I don't know if we have all the wholesale energy prices to plot as you're asking.

COMMISSIONER DAVIS: Right.

MR. ZOBRIST: You know, Commissioner, I -- I -- if you're going to be here for Mr. Schnitzer -- who I think we're going to get --

COMMISSIONER DAVIS: Yes.

MR. ZOBRIST: -- on the phone here -- I would ask him about that, because --

COMMISSIONER DAVIS: All right.

MR. ZOBRIST: -- without --

COMMISSIONER DAVIS: Well, I'm going to -- I'm going to -- I'm going to ask Mr. Schnitzer about that and give everybody kind of an opportunity to respond.

MR. WOODSMALL: I can tell you that the market -- wholesale market, the prices have gone down.

COMMISSIONER DAVIS: Right.

MR. WOODSMALL: No debating that gas prices went down.

COMMISSIONER DAVIS: Right.

MR. WOODSMALL: They went down. But they have plateaued.

COMMISSIONER DAVIS: Right.

MR. WOODSMALL: And so we should expect to start seeing off-system sales go back up.

COMMISSIONER DAVIS: All right. Well, and I am not sure -- I mean, obviously we know what -- we ought to be able to get good pricing information from SPP. But I'm not sure what bilateral contracts and everything else that KCP&L may have out there on the other side of this.

Okay. Second question, Mr. Woodsmall. Is there another way to do this?

MR. WOODSMALL: The best way to do it, the typical ratemaking way of doing it, is to set it at the 50th percentile and get rid --

COMMISSIONER DAVIS: Right.

MR. WOODSMALL: -- of the tracker.

COMMISSIONER DAVIS: Okay. And is there another -- I mean, I'm just asking you conceptually -- and maybe this may be a better question for Mr. Meyer or someone else -- is -- is there another way to do this where the Commission could better align the interests of the ratepayers and the Company, and to create that kind of win/win situation?

MR. WOODSMALL: I would tell you, typically, there should be. The opportunity does not exist because what you're talking about would basically involve Missouri carrying Kansas along.

First, you have -- and I'll explain that. First you have the disincentive caused by the difference in allocations. If you set expectations high enough, though, you could minimize that.

COMMISSIONER DAVIS: Uh-huh.

MR. WOODSMALL: You could make them overcome that. But the second problem is, what you're talking about is providing Company some incentive, but they have a fuel adjustment clause in Kansas.

So any incentive you give them to participate further, in the course of sharing, they're going to turn around and give right back to Kansas -- at least, the Kansas share. So you're fighting a dead weight there in terms of Kansas. Kansas is taking everything from them.

COMMISSIONER DAVIS: Okay.

MR. WOODSMALL: So you're --

COMMISSIONER DAVIS: And I'm mentally trying to -- and there's no way we can account for the fact that -- the Kansas fuel adjustment and the energy allocator issues and everything? You're saying that --

MR. WOODSMALL: The --

COMMISSIONER DAVIS: -- to the best of your knowledge, there is no way?

MR. WOODSMALL: The Kansas Commission rejected their request to get rid of the unused energy allocator on November 22nd.

COMMISSIONER DAVIS: Uh-huh. Yes.

MR. WOODSMALL: That's a done deal.

COMMISSIONER DAVIS: Done deal.

MR. WOODSMALL: And KCP&L has agreed to the use of the energy allocator going forward. So until they get something fixed, it is guaranteed five cents on every dollar is lost to them. Okay?

COMMISSIONER DAVIS: Okay.

MR. WOODSMALL: On top of that, anything that they achieve in the market for Kansas's 57, 53 percent -- 48 percent, I believe it is -- anything they achieve for Kansas at 48 percent is taken from Kansas -- every dollar.

So if you're talking about incenting them, you will be trying to pull them along while Kansas still has them tied down by taking every dollar.

COMMISSIONER DAVIS: Uh-huh.

MR. WOODSMALL: So until Kansas creates the same incentives, it -- it's kind of a dead weight.

COMMISSIONER DAVIS: Okay. Okay.

MR. WOODSMALL: And we believe -- if you want to go there, we believe setting it under normal ratemaking at 50th percentile --

COMMISSIONER DAVIS: All right.

MR. WOODSMALL: -- and Schnitzer says that's an equal chance of succeeding, and they can take everything above that.

That's what they did in their glory days, for 20 years, when they were undergoing rate reductions, because they were making, as you saw -- huge parts of their earnings were from off-system sales.

COMMISSIONER DAVIS: Right.

MR. WOODSMALL: So that's the -- that mechanism worked great, and they were making a fortune in those years. And if you want to return back to those days, set it at 50th percentile and get rid of the tracker.

COMMISSIONER DAVIS: Well, and I guess, Mr. Woodsmall, here's my concern. I am -- I'm trying to look forward into the future.

And we could very well have a day-ahead market in SPP here in the next year or two whereby KCP&L would have to bid all of their load and bid all of their generation into the market.

And I'm just not sure how well that old -- you know, the model that has been here for 20 years will work in this kind of new MISO-like market that Ameren's already operating in.

And so I'm trying to figure out if -- you know, under that set of market conditions, if there -- if there is going to be a day-ahead market, then what is the -- what is the best model for us to be using?

And maybe that's a better -- I mean, maybe that's a better question for Mr. Meyer. I don't know. I'm just trying to --

MR. WOODSMALL: And I have to respond --

COMMISSIONER DAVIS: Yeah. Sure.

MR. WOODSMALL: -- ignorance, because I don't