

Exhibit No.:
Issue: Revenue Requirement, Trackers, FAC
Witness: Michael L. Brosch
Type of Exhibit: Direct Testimony
Sponsoring Party: Midwest Energy Consumer's Group
Case No.: ER-2014-0370
Date Testimony Prepared: June 5, 2015

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

In the Matter of Kansas City Power & Light)	
Company's Request for Authority to)	Case No. ER-2014-0370
Implement A General Rate Increase for)	Tariff No. YE-2015-0195
Electric Service)	

Surrebuttal Testimony and Schedules of

Michael L. Brosch

**Revenue Requirement and
Rate Design**

On behalf of

Midwest Energy Consumers' Group



June 5, 2015

**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-2014-0370 Tariff No. YE 2015-0195
---	-----------------------	---

**Table of Contents to the
Surrebuttal Testimony of Michael L. Brosch**

ACCUMULATED DEFERRED INCOME TAXES – RATE BASE.....	3
NET OPERATING LOSS DEFERRED TAXES.....	11
INCOME TAX EXPENSES.....	19
EXPENSE TRACKER POLICY ISSUES	22
PROPERTY TAX TRACKER.....	37
VEGETATION MANAGEMENT TRACKER	39
CRITICAL INFRASTRUCTURE/CYBER SECURITY TRACKER	40
FUEL ADJUSTMENT CLAUSE ISSUES	43

Schedule MLB-24: KCPL responses to MECG 15-47, 15-48, 15-49 and 15-50.

Schedule MLB-25: KCPL responses to MECG 15-51, 15-52, 15-53 without HC Attachments and Staff 225, with HC Attachment.

**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-2014-0370**
) **Tariff No. YE-2015-0195**
)
)

Surrebuttal Testimony of Michael L. Brosch

1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A My name is Michael L. Brosch. My business address is PO Box 481934, Kansas City,
3 Missouri 64148.

4 **Q ARE YOU THE SAME MICHAEL L. BROSCH WHO SUBMITTED DIRECT**
5 **TESTIMONY ON BEHALF OF THE MIDWEST ENERGY CONSUMER'S GROUP**
6 **("MECG") ADDRESSING REVENUE REQUIREMENT ISSUES ON APRIL 2 AND ON**
7 **RATE DESIGN ISSUES ON APRIL 16 IN THIS PROCEEDING?**

8 A Yes. My experience and qualifications were explained in my previously-filed revenue
9 requirement testimony and the attached Appendix A.

10 **Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?**

11 A The three first sections of my surrebuttal testimony are responsive to the Rebuttal
12 Testimony of Melissa Hardesty regarding several income tax-related revenue
13 requirement issues. First, I will explain why the adjustment I propose to include
14 Construction Work In Progress-related Accumulated Deferred Income Taxes ("CWIP-
15 ADIT") in rate base remains appropriate, addressing each of the points in opposition to

1 this treatment made by Ms. Hardesty. Second, I will respond to Ms. Hardesty's
2 insistence that ADIT asset balances associated with 1KC Place Lease and certain
3 employee compensation and bonus pay be reflected in rate base, even though the
4 related liability balances are not in rate base. Third, I respond to Ms. Hardesty's
5 arguments supporting inclusion of an overstated Net Operating Loss Deferred Tax Asset
6 ("NOL-DTA") in rate base, caused by affiliated company losses, indicating why the lower
7 KCPL stand-alone NOL-DTA is the only reasonable amount to be included. I will explain
8 the distinctly different circumstances of KCPL that merit an opposite outcome on this
9 matter, when compared to the related issue that was recently addressed by the
10 Commission with respect to Ameren Missouri's NOL-DTA in Case No. ER-2014-0258.
11 Finally, I will clarify my earlier direct testimony regarding the need for corrections to the
12 Company's calculation of income tax expenses, to correct the errors that have been
13 acknowledged by Ms. Hardesty in her rebuttal testimony.

14 Several KCPL rebuttal witnesses address expenses that the Company expects
15 to increase in the future, for which extraordinary piecemeal cost tracking mechanisms
16 are proposed. My surrebuttal responds to: (1) Mr. Ives, Mr. Rush and Mr. Overcast's
17 policy testimony on this subject; (2) Ms. Hardesty's comments in favor of such tracking
18 for property taxes; and (3) Mr. Phelps-Roper with respect to critical infrastructure
19 protection and cyber-security costs.

20 Finally, I will respond to the arguments advanced by Messrs. Rush, Carlson
21 Overcast and Blunk in favor of a broadly scoped Fuel Adjustment Clause ("FAC") for the
22 Company and show that such arguments do not accurately respond to the points made
23 in my direct testimony on this topic. I will explain why the relative size, stability and
24 degree of management control over the Company's net energy costs are understated by
25 the Company's rebuttal witnesses and clarify the points made in my previous testimony
26 that dictate not granting the Company's FAC proposal.

1 **ACCUMULATED DEFERRED INCOME TAXES – RATE BASE**

2
3 **1. CWIP - ADIT**

4 **Q IN DIRECT TESTIMONY YOU OBJECTED TO KCPL’S EXCLUSION OF CWIP-**
5 **RELATED ACCUMULATED DEFERRED INCOME TAXES FROM RATE BASE.**
6 **PLEASE SUMMARIZE THE REASON FOR YOUR POSITION.**

7 A. KCPL argues that since it is not allowed to include CWIP in rate base and earn a return
8 on these construction projects, it should not be required to include the related ADIT
9 balances as an offset to rate base. I disagree with KCPL’s exclusion of these ADIT
10 balances because it fails to recognize that ratepayers provide KCPL a return on such
11 projects through AFUDC. While it is not a current return, the return is capitalized into the
12 overall cost of the construction project and KCPL is allowed to recover it once the
13 construction project is operational. Since ratepayers are providing KCPL a return on
14 these construction projects through AFUDC, they should also receive the benefits of the
15 associated ADIT balances. By excluding these ADIT balances as an offset to rate base,
16 KCPL is earning the return and keeping all of the benefits of accumulated depreciation
17 (e.g., lower current income taxes).

18
19 **Q. HOW HAS THE COMPANY RESPONDED ON THIS MATTER?**

20 A. KCPL witness Ms. Hardesty agrees with me that CWIP capital expenditures do earn a
21 return in the form of AFUDC but then she disagrees with my adjustment, stating, “I do
22 not agree that in KCP&L’s case that the AFUDC earned on a gross investment will over-
23 compensate for the Company’s actual investment in newly constructed assets.” In this
24 regard, Ms. Hardesty argues that,

1 KCP&L generated an NOL during the period that the assets were in
2 CWIP and it has not and will not receive a cash tax benefit related to the
3 tax basis differences related to CWIP in this case. Therefore, I believe the
4 ratepayers have not been denied any tax cash benefit in the computation
5 of AFUDC and the ADIT liability should not be included in rate base prior
6 to being placed in service.
7

8 Ms. Hardesty also argues that, “[e]ven if we did get a tax cash [sic] benefit
9 related to CWIP, AFUDC is only an accounting entry that increases non-cash income
10 during the construction period of an asset. This entry has no effect on revenue
11 requirement during the construction period and does not result in a cash return on or the
12 return of the CWIP investment during construction.”¹
13

14 **Q SHOULD KCPL’S NET OPERATING LOSS (“NOL”) POSITION AFFECT THE**
15 **DETERMINATION OF THIS ISSUE?**

16 A No. The Company’s NOL is the result of its negative taxable income in certain prior tax
17 years, after accounting for all of KCPL’s current taxable revenues and deductions,
18 including the deductions arising from self-constructed assets. Some of these assets
19 were not yet in service and were recorded within CWIP accounts at test year-end. Thus,
20 the recorded NOL deferred tax balance that has been included by KCPL to increase rate
21 base is larger than it would be in the absence of the CWIP related income tax
22 deductions that contributed to such tax losses. To be consistent, if the Company intends
23 to consider CWIP-related ADIT as not rate base includable, it would need to also reduce
24 its NOL deferred tax asset that is included in rate base by an offsetting amount, to
25 recognize and eliminate the impact of CWIP related tax deductions that contributed to
26 the Company’s tax losses. It is inequitable for KCPL to exclude these CWIP-ADIT
27 balances at the same time the related CWIP-ADIT tax deductions have increased the
28 NOL deferred tax asset that KCPL has included in rate base. This essential matching of

¹ Rebuttal Testimony of Melissa Hardesty, page 4.

1 tax deductions and their ADIT balances with NOL offsets is not accomplished under the
2 Company's approach.

3
4 **Q HAS KCPL INCLUDED ALL ITS NOL DEFERRED TAX ASSET IN RATE BASE, AND**
5 **THEREBY FULLY ACCOUNTED FOR THE AMOUNT OF THE COMPANY'S**
6 **CUMULATIVE TAX DEDUCTIONS FOR WHICH IT "WILL NOT RECEIVE A CASH**
7 **TAX BENEFIT"?**

8 A Yes. In response to MCEG Data Request 15-48, Ms. Hardesty responded, "I believe the
9 allocated NOL deferred tax asset in rate base accurately quantifies the reduction to
10 ADIT liabilities" that result from all income tax deductions that contributed to the
11 Company's negative taxable income. Thus, the NOL amount increasing rate base has
12 fully accounted for the effect of the Company's tax losses reducing cash tax savings.
13 There is no merit in the Company's claim that CWIP-related ADIT balances should be
14 excluded from rate base because of the Company's NOL position, because of this fully
15 compensatory accounting within rate base for such losses. I have included a copy of the
16 response to MCEG 15-48 within Schedule MLB-24 that is attached to this testimony.

17
18 **Q YOUR DIRECT TESTIMONY ON THIS TOPIC INDICATED THAT THE COMMISSION**
19 **HAS ALREADY RULED, IN CASE NO. ER-2012-0166, THAT AMEREN MISSOURI'S**
20 **CWIP-RELATED ADIT BALANCE SHOULD BE FULLY INCLUDED IN RATE BASE.²**
21 **HAS MS. HARDESTY ACKNOWLEDGED THE COMMISSION'S AMEREN DECISION**
22 **REGARDING CWIP-RELATED ADIT IN HER REBUTTAL?**

23 A Yes. However, Ms. Hardesty attempts to dispute my claim that the relevant facts with
24 regard to Ameren's CWIP-related ADIT rate base inclusion are the same as KCPL's.
25 She states, "...the 2012 Ameren rate case order was silent regarding whether a NOL

² See Brosch Direct Testimony on revenue requirement issues at page 54.

1 was generated for Ameren and Mr. Brosch did not address whether an NOL was
2 generated by Ameren and whether or not this fact would have changed the outcome on
3 this issue in that case.”
4

5 **Q DO YOU KNOW WHETHER AN NOL WAS GENERATED BY AMEREN AT THE**
6 **SAME TIME CWIP-RELATED ADIT BALANCES WERE INCLUDED IN RATE BASE,**
7 **OVER THAT COMPANY’S OBJECTIONS?**

8 A. Yes. I can state from personal involvement in Case No. ER-2012-0166, that Ameren
9 Missouri’s rate base included significant Net Operating Loss deferred tax asset amounts,
10 as an increase to rate base within the same test year the CWIP-related ADIT amounts
11 were disputed. The Order in that case was “silent” regarding NOL deferred tax assets
12 simply because there was no dispute regarding the NOL amounts until the subsequent
13 Ameren Missouri rate case, ER-2014-0258, as discussed more fully below. It should be
14 noted that, under essentially the same facts as those occurring in this case, Ameren
15 Missouri’s own witness did not argue Ms. Hardesty’s view that Ameren Missouri’s NOL
16 position had any bearing upon the proper rate base treatment of CWIP-related ADIT
17 balances.³
18

19 **Q. HAS MS. HARDESTY ACKNOWLEDGED WITHIN A RESPONSE TO AN MECG**
20 **DATA REQUEST THAT AMEREN MISSOURI WAS, IN FACT, IN AN NOL**
21 **CARRYFORWARD POSITION AT THE TIME OF ITS 2012 RATE CASE?**

22 A. Yes. In response to MECG data request 15-47, Ms. Hardesty stated, “I did understand
23 that Ameren Missouri has NOL carryforward in its 2012 rate case.”
24

³ See Rebuttal Testimony of James Warren in Case No. ER-2012-0166 at pages 11-15.

1 **Q. AFTER THE COMMISSION REJECTED AMEREN MISSOURI'S PROPOSED**
2 **EXCLUSION FROM RATE BASE OF CWIP-RELATED ADIT IN ER-2012-0166, DID**
3 **AMEREN AGAIN PROPOSE TO EXCLUDE CWIP-RELATED ADIT IN ITS 2014 RATE**
4 **CASE?**

5 A No. Ms. Hardesty noted in her response to MCEG Data Request 15-47, "I do not
6 believe that Ameren Missouri asserted the same rate base exclusion of CWIP related
7 ADIT in the 2014 rate case since I did not see testimony related to this issue." This
8 response is also included within my Schedule MLB-24.

9

10 **Q. HOW DID THE COMMISSION'S ORDER IN CASE NO. ER-2012-0166 ADDRESS MS.**
11 **HARDESTY'S CLAIM THAT AFUDC PROVIDES ONLY A NON-CASH INCOME**
12 **BENEFIT DURING THE CONSTRUCTION PERIOD?**

13 A. The Commission's Report and Order quoted from and agreed with my testimony in that
14 case and stated, "In other words, failure to recognize the CWIP-related ADIT balance in
15 the company's rate base will overstate the companies AFUDC costs and future rate
16 base, essentially allowing the company to earn AFUDC and a return on capital supplied
17 by ratepayers."⁴ AFUDC has always been "only an accounting entry" that creates a non-
18 cash form of income to utilities prior to the in-service date of the assets under
19 construction, but creates a very real stream of cash income when the AFUDC that has
20 been added into utility Plant in Service balances is later included in rate base throughout
21 the useful life of each asset.

22

23

24 **Q MS. HARDESTY ALSO ARGUES THAT FAILURE TO EXCLUDE CWIP-RELATED**
25 **ADIT BALANCES, AS PROPOSED BY KCPL, WOULD PRODUCE A RATE**
26 **REDUCTION THAT, "...WOULD REDUCE THE COMPANY'S CASH FLOW AT TIME**

⁴ ER-2012-0166 Report and Order dated December 12, 2012 at 28-30.

1 **WHEN THE FUNDS ARE NEEDED MOST TO INVEST IN THE ASSETS UNDER**
2 **CONSTRUCTION.”⁵ HOW DO YOU RESPOND?**

3 A. “Funds” are always needed and valuable to both utilities and their ratepayers. Ms.
4 Hardesty’s unsupported claim of cash flow “need” is not sufficient to completely deny
5 ratepayers the benefit of income tax deferrals arising from plant investments that will be
6 included in rate base for many years to come. There has been no showing that the
7 utility has been denied a fully compensatory return on its gross investment in self-
8 constructed plant assets, first in the form of AFUDC during construction, and then later
9 through rate base inclusion of the investment balance plus AFUDC. Absent any denial
10 of a compensatory return, KCPL’s rate base should not be overstated by ignoring the
11 value of CWIP-related ADIT balances in determining rate base.

12
13 **2. 1KC PLACE LEASE ADIT**

14
15 **Q PLEASE EXPLAIN WHY YOU OBJECT TO KCPL’S INCLUSION OF AN ADIT ASSET**
16 **BALANCE IN RATE BASE ASSOCIATED WITH THE 1KC PLACE LEASE.**

17 A KCPL has received rent abatement benefits associated with its lease of headquarters
18 space at 1KC Place. KCPL has recognized a significant liability on current books to
19 recognize the delayed obligation to make additional lease payments in the future. In
20 connection with this liability balance a large and offsetting deferred tax asset was
21 recorded to recognize that the accrued but unpaid future lease costs are not currently
22 deductible for income tax purposes. The Company proposes to include in rate base the
23 ADIT asset item to increase rate base, but not the corresponding accrued lease liability
24 balance that would reduce rate base if recognized. This is an unreasonable mismatch
25 that must be corrected.

⁵ Rebuttal Testimony of Melissa Hardesty, page 4.

1

2 **Q DOES KCPL DISPUTE YOUR ADJUSTMENT?**

3 A Ms Hardesty agrees with me that, “[t]he accrued liability for the deferred rent payments
4 on the 1KC Lease has not been included in rate base.” Instead of disputing this
5 controlling fact, she instead argues that somehow, indirectly, through the calculation of
6 cash working capital within the Company’s lead lag study, “...the impact of this liability
7 has been included in this case and the ADIT asset related to this liability should also be
8 included.”⁶ As the following demonstrates, however, her assumption in this regard
9 cannot withstand scrutiny.

10

11 **Q HAS THE LEAD LAG STUDY DONE ANYTHING TO ACCOUNT FOR THE DELAYED
12 PAYMENTS OF DEFERRED RENT FOR THE 1KC LEASE?**

13 A No. Ms. Hardesty admits that “there has not been a separate lead lag computation on
14 the 1KC Lease directly” but she apparently believes that a “...reduced rent expense
15 [that] is included in the cash voucher line within the expense lead day calculations” will
16 somehow capture these delayed payments.⁷ In response to MCEG Data Request 15-
17 49, which has been included within Schedule MLB-24, Mr. Hardesty concedes, “the
18 Company believes that the expense that has been included in cash working capital does
19 impact the computation of rate base but it is not financial [sic] equivalent to fully
20 including in the 1KC liability in rate base.” Contrary to Ms. Hardesty’s claims, however,
21 the effect of including a reduced expense on the “Cash Vouchers” line of the Company’s
22 lead lag study would actually increase rate base, producing a result completely

⁶ Id. page 6-7.

⁷ Id. page 6.

1 inconsistent with recognition of deferred lease payment liabilities that would reduce rate
2 base if recognized.⁸

3
4 **3. ACCRUED EMPLOYEE COMPENSATION - ADIT**

5 **Q. PLEASE EXPLAIN WHY YOU OBJECT TO KCPL'S INCLUSION OF AN ADIT ASSET**
6 **BALANCE IN RATE BASE ASSOCIATED WITH ACCRUED LIABILITIES FOR THE**
7 **DELAYED PAYMENT OF EMPLOYEE COMPENSATION.**

8 A. Certain elements of employee compensation are paid much later than they are earned,
9 requiring the Company to recognize an accrued liability for such deferred compensation
10 and bonus pay that is owed to its employees. As with the 1 KC Place lease accruals,
11 there is no recognition of the liability balance for deferred/bonus compensation in the
12 Company's asserted rate base, yet KCPL has inexplicably proposed to include the
13 associated debit ADIT balances for these accruals to increase rate base. This is an
14 inappropriate mis-matching of rate base elements that must be corrected.

15
16 **Q. DOES KCPL DISPUTE YOUR ADJUSTMENT?**

17 A Yes. Again Ms. Hardesty concedes the controlling point that the accrued liability
18 balances for employee compensation and bonus pay have been excluded from rate
19 base, but then she again argues that the lead lag study has somehow, and with no
20 showing of equivalence, indirectly recognized "the impact of this liability". These
21 assertions are untrue and should be rejected. Ms. Hardesty has admitted that "there
22 has not been a separate lead lag computation on these liabilities directly" and her
23 unproven assumption that they are implicitly captured through the general lag

⁸ The Company's lead lag study of cash working capital, at Schedule RAK-5, line 12, applies an expense lead of 30 days to cash vouchers, which is longer than its 26.68 day revenue lag. This causes every increased dollar of cash voucher payments within expense to reduce the cash working capital balance in rate base.

1 calculations for employee payroll and cash vouchers is simply wrong.⁹ In response to
2 MECG Data Request 15-50, Ms. Hardesty concedes that the indirect treatment of
3 deferred employee compensation and bonus pay is “not financially equivalent” to fully
4 including the bonus and deferred compensation liabilities in rate base. This response is
5 included within Schedule MLB-24.

6
7 **NET OPERATING LOSS DEFERRED TAXES**

8 **Q HAS MS. HARDESTY REASONABLY CHARACTERIZED THE ADJUSTMENT YOU**
9 **HAVE PROPOSED TO INCLUDE NET OPERATING LOSS CARRYFORWARD**
10 **BALANCES IN RATE BASE USING A KCPL STAND-ALONE METHOD OF**
11 **COMPUTATION?**

12 **A** No. My Direct Testimony explained how the Company’s NOL deferred tax asset
13 included within KCPL’s asserted rate base has been overstated through application of
14 the Tax Allocation Agreement Among Great Plains Energy Incorporated and Affiliates
15 (“TAA”), which is an affiliated interest contract that produces unreasonable results for
16 KCPL that should be remedied.¹⁰ Rather than respond to my challenge to the TAA, Ms.
17 Hardesty states that,

18 Mr. Brosch proposes to impute cost-free capital that the Company did not
19 receive. KCP&L files as part of a consolidated group. Overall, filing
20 consolidated benefits the entire group. However, it is the nature of a
21 consolidated filing that any given member may be better off in some
22 years as a result of consolidated filing and worse off in other years. Mr.
23 Brosch has identified and selected a single point in time when KCP&L
24 may be worse off as a result of consolidated filing to perform his
25 hypothetical assessment of available cost-free capital. This hypothetical
26 computation is just that, ‘hypothetical,’ and does not represent the actual
27 economics for the Company.¹¹
28

⁹ Hardesty Rebuttal testimony, pages 7-8.

¹⁰ Brosch Direct Testimony, page 57.

¹¹ Hardesty Rebuttal Testimony. page 9.

1 After providing a general explanation of what an NOL represents and how it is treated for
2 ratemaking purposes, Ms. Hardesty observes that, “Mr. Brosch appears to focus on how
3 the deferred tax asset for the NOL carryforward is computed.”
4

5 **Q. ARE YOU IMPUTING COST-FREE CAPITAL THAT KCPL DID NOT RECEIVE?**

6 A. I am recognizing the amount of cost-free capital KCPL should have received, if not for
7 the unreasonable result produced under the Great Plains Energy affiliate contract, the
8 TAA. Had KCPL not been denied equitable realization of its own tax losses because of
9 this affiliate contract, the lower amounts of NOL deferred tax asset I propose in
10 Schedule MLB-4 would have been recorded on the Company’s books for inclusion in the
11 Company’s rate base. There is nothing hypothetical about a calculation that relies upon
12 KCPL’s own tax return information that was provided by the Company in discovery
13 responses, except for the Company’s injection of an unreasonable TAA contract among
14 affiliated entities controlled by Great Plains Energy that has worked to the distinct
15 disadvantage of KCPL throughout its existence.
16

17 **Q MS. HARDESTY STATES THAT “THE COMPANY HAS USED THE ACTUAL**
18 **AMOUNT OF COST-FREE CAPITAL THAT IS ACTUALLY RECEIVED.” IS THIS THE**
19 **AMOUNT THAT IS PRODUCED BY THE TAA AFFILIATE AGREEMENT?**

20 A Yes. Great Plains Energy has elected to file a consolidated tax return and allocate its
21 consolidated tax liability among KCPL and other subsidiaries it controls via the TAA.
22 The result of this election and accounting compliance with the TAA is an overstatement
23 on KCPL’s books of the NOL deferred tax asset which reduces the amount of ADIT
24 balances that otherwise serve to reduce rate base as “cost-free capital”. In my view, the
25 Commission is not obligated to accept the financial impact of a contract among
26 corporate affiliates that is persistently disadvantageous to KCPL and its customers.

1 KCPL would have “actually received” the higher amount of net ADIT that I propose as
2 cost-free capital if it had not been forced to participate in the TAA that has served to
3 benefit only Great Plains Energy and other subsidiaries, rather than KCPL. In response
4 to data request MEEG 15-52, that is included in Schedule MLB-25, Ms. Hardesty
5 conceded that the amount of cost free capital she refers to as “actually received” in
6 rebuttal is an amount determined using the TAA and the amount “actually received”
7 would have been the approximate amount I have calculated if not for the election of
8 Great Plains Energy to file a consolidated return and allocate consolidated tax
9 responsibilities among its subsidiaries pursuant to the TAA.

10
11 **Q DID YOU SPONSOR TESTIMONY ADDRESSING A NET OPERATING LOSS**
12 **CARRYFORWARD (“NOLC”) ISSUE FOR CONSIDERATION BY THE COMMISSION**
13 **IN THE MOST RECENT RATE CASE INVOLVING AMEREN MISSOURI?**

14 A. Yes. In Case No. ER-2014-0258, I also recommended utilization of a stand-alone NOL
15 deferred tax calculation based upon Ameren Missouri’s own taxable income and losses,
16 rather than an allocated share of Ameren Corporation’s tax liability. The Commission’s
17 Report and Order with respect to the Ameren Missouri issue recited the following factual
18 background applicable to that Missouri utility:

19 6. For tax years 2008 through 2012, the calculation of NOLC allocated to Ameren
20 Missouri through the filing of a consolidated return had the effect of substantially
21 increasing the NOLC allocated to Ameren Missouri, and thus decreasing the
22 company’s rate base. In 2013 and 2014, Ameren Missouri produced a large amount
23 of taxable income but could not use that accumulated NOLC because the Ameren
24 group as a whole had a tax loss. As a result, the NOLC is larger than it would
25 otherwise be and rate base is approximately \$51.1 million larger at the end of 2014
26 than it would be if Ameren Missouri had filed a separate tax return. However, in
27 future years, the balance could switch back, and Ameren Missouri’s ratepayers would
28 once again benefit from the use of the consolidated return.

29
30 7. Rather than use Ameren Missouri’s actual NOLC that was determined using the
31 consolidated tax return actually filed, MIEC’s witness, Michael Brosch, urges the
32 Commission to recalculate NOLC as if Ameren Missouri had filed a separate tax
33 return. However, he does not argue that the separate tax return, stand-alone,

1 calculation should necessarily be used in future rate cases. Rather he argues the
2 Commission should calculate NOLC in each future case by the method that creates
3 the lowest NOLC rate base addition, to the benefit of ratepayers and the detriment of
4 the company.

5
6 8. Ameren Corporation and its affiliated companies have entered into a Tax Allocation
7 Agreement that governs the allocation of consolidated annual income tax
8 responsibility among the members of the consolidated tax group and defines the
9 amounts recorded on the utility's books.

10
11 9. There is no evidence in this case to show that Ameren's Tax Allocation Agreement is
12 structured in a way that would be detrimental to Ameren Missouri and its ratepayers.
13 Instead, for several years, Ameren Missouri's ratepayers benefited from a lower rate
14 base because of the Tax Allocation Agreement. The Tax Allocation Agreement has
15 not changed, but in more recent years ratepayers have not benefitted from that
16 agreement, although that may change again in the future. That fluctuation does not
17 mean the agreement is unreasonable, and there is no evidence the fluctuation was
18 intentionally created in order to change who benefits from the Tax Allocation
19 Agreement.¹²
20

21 In its Decision on this issue, the Commission states:

22 Ameren Missouri proposes to use the NOLC it has actually accumulated rather
23 than a hypothetical NOLC proposed by MIEC and supported by Staff, MIEC advocates a
24 policy that arrangements between affiliates should always be interpreted in a manner
25 that benefits ratepayers, even if that results in a detriment to the utility. There is no basis
26 in law or fact for such a policy. The Commission must balance the interests of
27 ratepayers and shareholders to set just and reasonable rates. Ameren Missouri's
28 position is fair and will be adopted.¹³
29

30 I mention this recently issued Report and Order because, in this KCPL matter, the
31 relevant facts with respect to KCPL are very different from Ameren Missouri and should
32 guide the Commission to a decision that is quite different for KCPL than the ordered
33 outcome for Ameren Missouri.

34
35
36 **Q THIS COMMISSION ORDER INDICATES THAT FOR PRIOR TAX YEARS 2008**
37 **THROUGH 2012, THE CALCULATION OF AMEREN MISSOURI'S NOLC WAS**
38 **FAVORABLY IMPACTED BY PARTICIPATION IN AMEREN CORPORATION'S**

¹² Report and Order, Union Electric Company d/b/a Ameren Missouri, April 29, 2015, page 21. Footnotes Omitted.

¹³ Id. page 22.

1 **CONSOLIDATED TAX RETURN PURSUANT TO THE AMEREN TAA. IN CONTRAST**
2 **TO AMEREN, HAS KCPL EVER BENEFITED FROM ITS PARTICIPATION IN THE**
3 **GREAT PLAINS ENERGY TAA?**

4 A. No. In every prior year, KCPL has received no benefit from participation in the Great
5 Plains Energy consolidated tax group under the TAA. This fact is conceded by Ms.
6 Hardesty in her response to MCEG data request 15-51. In responding to MCEG Data
7 Request 15-53, the Company again confirmed, "KCPL has not received any extra
8 benefit by filing consolidated [returns] with Great Plains Energy since the GPE TAA was
9 signed in 2008." This response is included within Schedule MLB-25.

10
11 **Q THIS COMMISSION'S AMEREN ORDER INDICATES THAT YOU RECOMMENDED**
12 **THAT THE COMMISSION SHOULD CALCULATE NOLC IN EACH FUTURE CASE**
13 **BY THE METHOD THAT CREATES THE LOWEST NOLC RATE BASE ADDITION,**
14 **TO THE BENEFIT OF RATEPAYERS AND THE DETRIMENT OF THE COMPANY. IS**
15 **THAT YOUR RECOMMENDATION FOR KCPL?**

16 A. No. I understand that the Commission did not accept my application of the
17 Commission's affiliated transaction rule to the Ameren TAA, through which it would be
18 reasonable to impose asymmetrical treatment of affiliate allocations to ensure only
19 favorable impacts to the regulated utility and its ratepayers. Therefore, I recommend
20 that KCPL's NOL deferred tax asset be consistently calculated on a stand-alone basis in
21 this proceeding and all future rate cases. There is, therefore, no "switch back and forth"
22 concern with my KCPL recommendation, of the type noted in the Commission's Ameren
23 Report and Order.

24
25 **Q DOES MS. HARDESTY PRODUCE ANY INFORMATION IN HER REBUTTAL TO**
26 **SHOW THAT, IN ANY FUTURE PERIODS OR OVER ANY EXTENDED TIME PERIOD,**

1 **KCPL WILL RECEIVE ANY FINANCIAL BENEFIT FROM PARTICIPATION IN THE**
2 **GREAT PLAINS ENERGY CONSOLIDATED TAX RETURN OR THE TAA THAT**
3 **ALLOCATES TAX LIABILITIES AMONG AFFILIATES?**

4 A No. This is a major distinction, in comparison to the Ameren Missouri situation, where
5 the Ameren TAA over time has produced a mix of historical benefits in some years and
6 detriments to Ameren Missouri in other years, with results that could switch back and
7 forth in the future. In fact, in response to MEEG Data Request 15-53(d), Ms. Hardesty
8 stated, “[w]e only have financial projections for 2015-2019, and we do not expect KCPL
9 to see a benefit by filing with the consolidated group during this period.”¹⁴

10
11 **Q DOES GREAT PLAINS ENERGY POSSESS ANOTHER INCOME TAX ATTRIBUTE**
12 **THAT REPRESENTS A UNIQUE CAUSE OF CONCERN REGARDING KCPL’S**
13 **FUTURE INVOLVEMENT IN THE GREAT PLAINS ENERGY CONSOLIDATED TAX**
14 **RETURN AND TAA?**

15 A Yes. As noted in Ms. Hardesty’s Rebuttal, when a company produces an NOL, it can
16 generally be carried back two years and forward 20 years.¹⁵ When Great Plains Energy
17 acquired Aquila Inc. in 2008, it also acquired ** _____
18 _____ ** that are
19 being carried forward for utilization in future tax years when Great Plains’ consolidated
20 taxable income is sufficiently positive to realize the cash tax savings for such NOLs.
21 This fact may not bode well for ratepayers of Great Plains’ utility subsidiaries, if
22 realization of their own future year NOLs or tax credits¹⁶ is displaced or delayed by the
23 parent company’s desire to first utilize the Aquila ** _____

¹⁴ See Schedule MLB-25, KCPL response to MEEG question 15-53(d).

¹⁵ Hardesty Rebuttal, page 15.

¹⁶ For example, KCPL has claimed large “advanced coal credits” in connection with its Iatan 2 investment and the Company stated in response to Staff question #497, “...we believe that we cannot amortize more

1 _____ ** before they expire. According to the Company's highly
2 confidential response to Staff Data Request 225, Great Plains' cumulative ** _____
3 _____ ** as of year-end
4 2014. I have included a copy of this response within Schedule MLB-25.

5
6 **Q IS THE GREAT PLAINS ENERGY TAA STRUCTURED IN A WAY THAT CAUSES IT**
7 **TO BE INHERENTLY DETRIMENTAL TO KCPL AND ITS RATEPAYERS?**

8 A Yes. The Great Plains TAA is structured to combine the tax attributes of Great Plain's
9 ** _____
10 _____ **, with the utility businesses that have experienced tax losses
11 only rarely historically and should remain profitable in future years if bonus depreciation
12 is not extended past 2014, when it expired under current tax law. This structure causes
13 the Great Plains utility businesses to systematically subsidize the holding company and
14 non-utility businesses, by providing taxable income to accelerate the tax benefit
15 realization of non-utility losses while any non-utility losses may displace or delay the
16 realization of utility tax credits and utility NOLs. In contrast, the Ameren TAA, that was
17 addressed by the Commission in Case No. ER-2014-0258, was favorable to Ameren
18 Missouri ratepayers in the years 2008 through 2012, when it served to accelerate the
19 realization of utility NOL benefits by combining such utility losses with positive taxable
20 income from Ameren Corporation's non-regulated generating and energy marketing
21 businesses.

22

than the amount of advanced coal credits used by the Great Plains Energy consolidated group per the IRS private letter ruling we received in April of 2012.”

1 **Q DOES MS. HARDESTY’S REBUTTAL TESTIMONY MAKE OBVIOUS THE ONGOING**
2 **DISADVANTAGE TO KCPL THAT RESULTS FROM TAX RETURN CONSOLIDATION**
3 **WITH GREAT PLAINS ENERGY’S OTHER BUSINESS UNITS?**

4 A Yes. She states that KCPL will need to “pay cash for its tax liabilities” in 2015, even
5 though KCPL has large NOL carryforward balances at year end 2014 that the Company
6 has included in its rate base. The inability of KCPL to utilize its own NOL carryforwards
7 in 2015, to offset its taxable income this year, is an extremely negative outcome for
8 KCPL ratepayers that is explained by Ms. Hardesty as caused by the Aquila tax losses
9 mentioned above. Mr. Hardesty states,

10 The NOL carryforwards generated by the consolidated group are used on
11 the consolidated return in chronological order. The consolidated group
12 has a large amount of NOLs acquired with the Aquila, Inc. acquisition that
13 were generated in years prior to when KCP&L generated NOLs. These
14 NOLs will be used before the NOLs allocated to KCP&L and will be used
15 in accordance with Internal Revenue Service regulations. Therefore,
16 KCP&L will have tax liabilities that it will need cash for until its allocated
17 NOLs are used to offset its tax liabilities.¹⁷
18

19 **Q ACCORDING TO MS. HARDESTY, “ONCE KCP&L ELECTED TO BE TREATED AS**
20 **A MEMBER OF A CONSOLIDATED RETURN (DECADES AGO), IT CANNOT THEN**
21 **FILE AS A SEPARATE RETURN WITHOUT THE CONSENT OF THE INTERNAL**
22 **REVENUE SERVICE.”¹⁸ IS THIS A VALID CRITICISM OF YOUR RATEMAKING**
23 **ADJUSTMENT?**

24 A No. The adjustment I propose does not require any change in the holding company’s
25 federal tax elections. Instead my adjustment seeks to change the way the Great Plains
26 consolidated income tax liability has been assigned among subsidiary companies,
27 pursuant to the TAA affiliate agreement, so as to not disadvantage KCPL and its
28 ratepayers through such assignments.

¹⁷ Hardesty Rebuttal, pages 21-22.

¹⁸ Hardesty Rebuttal, page 18.

1

2 **Q IF KCPL'S NET OPERATING LOSS DEFERRED TAX ASSET IS CALCULATED ON A**
3 **STAND-ALONE BASIS AS YOU RECOMMEND, NOW AND IN FUTURE RATE**
4 **CASES, WILL THE INTERESTS OF RATEPAYERS AND SHAREHOLDERS BE**
5 **REASONABLY BALANCED?**

6 A Yes. The Commission routinely uses ratemaking taxable income and statutory tax rates
7 to determine how much income tax expense to include in the utility's revenue
8 requirement. This is done without regard to the income or losses of other Great Plains
9 non-utility affiliates. Use of only utility-specific taxable income and tax deductions to
10 determine the ADIT and NOL carryforward balances included in rate base is internally
11 consistent with these procedures and avoids the problems created when consolidated
12 tax filings and affiliate contracts by utility holding companies greatly complicate and may
13 detrimentally impact utility subsidiaries and their ratepayers. I believe that consolidated
14 tax benefits of utility holding companies should be allowed to impact utility revenue
15 requirements only when such impacts are favorable, which is not the case with respect
16 to Great Plains Energy and KCPL.

17
18

INCOME TAX EXPENSES

19 **Q IN HER REBUTTAL, DOES MS. HARDESTY AGREES WITH YOUR TESTIMONY**
20 **CONCERNING SEVERAL ERRORS THAT WERE MADE IN CALCULATING INCOME**
21 **TAX EXPENSES?**

22 A. Yes. She agrees that, "[s]everal errors were made in the original computation" of tax
23 straight-line depreciation, tax straight-line amortization and nuclear fuel amortization
24 using amounts that were understated in the Company's direct filing. According to her

1 testimony, “[w]e have attempted to correct all of the issues and will adjust the true up
2 amounts in this case to reflect the corrected amounts.”¹⁹

3
4 **Q HAVE YOU BEEN ABLE TO CONFIRM THE CORRECTION OF THESE AMOUNTS
5 WITHIN THE COMPANY’S TRUE-UP FILING?**

6 A No. The Company’s true-up documentation is not due to be submitted until June 17.

7
8 **Q DID THE COMPANY’S CORRECTIONS, WITHIN EARLIER COMPUTATIONS, FULLY
9 RESOLVE THE CONCERNS YOU HAVE RAISED?**

10 A No. Mr. Hardesty acknowledges that further problems exist in her rebuttal, stating,
11 “[d]ue to a number of estimates and assumptions used to compute these amounts for
12 the rate case, we were not able to reconcile the amounts fully.”²⁰

13
14 **Q WHAT DO YOU RECOMMEND BE SUBMITTED BY KCPL IN ITS TRUE-UP
15 DOCUMENTATION, TO ENSURE THAT INCOME TAX EXPENSES ARE ACCURATE
16 CALCULATED?**

17 A In addition to the workpapers normally submitted to support each input to the income tax
18 calculation, I recommend that the Company be required to update each element of the
19 book and tax straight-line depreciation and amortization expense, using the format of the
20 attachment to KCPL’s response to MECG Data Request 14-15.²¹

21
22 **Q IF THE COMPANY, IN ITS TRUE-UP DOCUMENTATION, REMAINS UNABLE TO
23 FULLY RECONCILE THE BOOK AND TAX STRAIGHT-LINE AMOUNTS IT IS USING,**

¹⁹ Hardesty Rebuttal, page 19.

²⁰ Id. page 20.

²¹ See Schedule MLB-9 at MECG 14-15, Attachment

1 **WHAT DO YOU RECOMMEND BE DONE WITH THE UNRECONCILED**
2 **DIFFERENCE?**

3 A Any unreconciled difference that has the effect of increasing taxable income and
4 revenue requirements should be disallowed, so as to not overstate test year income tax
5 expenses. This is the result that was accomplished by my revised calculation of income
6 taxes at Schedule MLB-1, so that ratepayers do not bear unsupported income tax
7 expense costs.

8
9 **Q MS. HARDESTY DOES NOT AGREE WITH YOUR REVISED CALCULATION**
10 **TEMPLATE FOR INCOME TAX EXPENSES WITHIN SCHEDULE MLB-1, CLAIMING**
11 **YOUR METHOD, “DOES NOT RESULT IN THE CORRECT TAXABLE INCOME,**
12 **CURRENT INCOME TAX EXPENSE, OR CASH WORKING CAPITAL NEEDED FOR**
13 **INCOME TAXES.”²² HOW DO YOU RESPOND?**

14 A It is not essential to separately calculate currently payable versus deferred income taxes
15 to include the correct amount of total income tax expense within the revenue
16 requirement. It is also not obviously necessary to include any currently payable income
17 taxes within the calculation of cash working capital for a utility like KCPL with a large
18 NOL carryforward that should be usable to offset the payment of income taxes.
19 However, I recognize that the current/deferred distinction within the income tax expense
20 calculation has been employed by Staff for many years and is generally useful when
21 utilities have no recurring NOLs that eliminate income tax cash payments. Therefore, I
22 do not object to utilization of the income tax expense template in the Company’s initial
23 filing, subject to full reconciliation of all inputs to that calculation and ratepayer

²² Hardesty Rebuttal, page 20. In her testimony, Ms. Hardesty agrees that my alternative method to calculate income tax expense yields the correct “overall tax expense” but concludes that, “...it is still necessary to compute the current and deferred components of income tax expense to get the correct amount of current income tax expense necessary for cash working capital purposes.”

1 absorption of any unreconciled differences that could serve to unreasonably increase
2 taxable income.

3
4
5 **EXPENSE TRACKER POLICY ISSUES**

6 **Q WHICH KCPL REBUTTAL WITNESSES OFFER TESTIMONY REGARDING THE**
7 **EXPENSE TRACKERS THAT THE COMPANY HAS PROPOSED?**

8 A General testimony about regulatory policy and the Company's asserted "need" for
9 extraordinary rate treatment for expenses that are expected to increase is offered by
10 KCPL witnesses Overcast, Ives and Rush. More specific testimony about energy and
11 transmission cost tracking proposed to occur through the proposed FAC is sponsored by
12 Messrs. Blunk and Carlson, while Mr. Phelps-Roper and Ms. Hardesty provide rebuttal
13 in support of rate tracking treatment for Critical Infrastructure/Cybersecurity and property
14 tax expenses, respectively.

15
16 **Q AS A PRELIMINARY MATTER, WHY IS YOUR RESPONSE TO ALL OF THE**
17 **COMPANY'S POLICY TESTIMONY ON KCPL'S PROPOSED COST TRACKING**
18 **MECHANISMS COMBINED WITHIN THIS SECTION OF SURREBUTTAL?**

19 A. The Company's proposed FAC and other trackers have a common purpose and result.
20 Each of the KCPL proposals, if approved by the Commission, would have the expected
21 impact of ultimately charging higher future rates to customers and would serve to
22 increase utility earnings, relative to what would occur in the absence of the trackers.
23 Under each mechanism, cost changes for carefully selected elements of the utility's cost
24 of service would be subject to deferral accounting and subsequent cost recovery. In
25 each instance, KCPL has chosen only costs that it expects to be increasing after the test

1 year for such special treatment. As explained in my Direct Testimony, in each instance
2 KCPL has failed to demonstrate that its proposed tracking mechanisms satisfy the
3 criteria typically used by regulators for such extraordinary ratemaking, including criteria
4 that have been applied by the Commission in previous Missouri rate cases.

5
6 **Q KCPL WITNESS OVERCAST CALLS ALL OF THE COMPANY'S PROPOSALS**
7 **"RATEMAKING TOOLS" AND THEN HE DEDICATES PAGES 5 THROUGH 10 OF**
8 **HIS REBUTTAL TO DIFFERENTIATING BETWEEN RATE ADJUSTMENT**
9 **MECHANISMS ("RAMS"), WHAT HE CALLS "TRACKERS" AND ACCOUNTING**
10 **AUTHORITY ORDERS ("AAOS"). HE THEN CONCLUDES THAT, "KCP&L IS ONLY**
11 **PROPOSING ONE RAM – THE FAC – AND THE OTHER ADJUSTMENTS ARE**
12 **TRACKER PROPOSALS. HE POINTS OUT THAT NO AAO HAS BEEN PROPOSED**
13 **IN THIS CASE BY KCP&L.”²³ HOW DO YOU RESPOND?**

14 **A** The distinctions being emphasized are relatively unimportant to the end result being
15 pursued by KCPL, which is a desire for higher future rates than the Company is able to
16 justify through traditional, test year rate cases. All three types of witness Overcast's so-
17 called "tools" have the same practical end result.²⁴ Changes in only selected elements of
18 the utility revenue requirement that occur between test years are isolated, granted
19 deferral accounting, and then translated into incremental rate adjustments at a later
20 point in time to effect recovery of the deferred expenses. There is no dispute that the
21 translation of tracked cost changes into rate changes occurs outside of rate cases for a
22 RAM, such as KCPL's proposed FAC, while rate changes to recover cost deferred under

²³ Overcast Rebuttal, pages 5-10.

²⁴ Indeed, the comparable nature of these deferral tools was recognized by KCPL in its recent request for either an Accounting Authority Order ("AAO") or a tracker mechanism for transmission expenses. (See Case No. EU-2014-0077). In its Initial Brief in that case and given the comparable nature of both mechanisms, KCPL asked that the Commission authorize the implementation of either mechanism. "The Companies therefore respectfully request that the Commission give them the authorization to defer these transmission expenses until the next rate case through an AAO or a transmission tracker."

1 trackers and AAOs occurs in later rate cases. This section of my testimony will address
2 all of the Company's tracking proposals collectively because of the common policy
3 considerations surrounding them.
4

5 **Q ACCORDING TO WITNESS OVERCAST, YOUR "VIEW OF THE RATEMAKING**
6 **PROCESS IS NOT CONSISTENT WITH THE SUPREME COURT REQUIREMENT**
7 **THAT THE COMMISSION RATE ORDER MUST PROVIDE THE UTILITY WITH A**
8 **REASONABLE OPPORTUNITY TO EARN THE ALLOWED RETURN" AND THAT**
9 **THIS IS "A FACT THAT WITNESS BROSCHE SEEMS TO IGNORE."²⁵ ARE THESE**
10 **CLAIMS TRUE?**

11 **A** No. It is interesting that Mr. Overcast makes such a claim without any court decision as
12 support. Certainly, if this was an accepted notion, KCPL or other regulated utilities
13 would have challenged the Commission's limited use of deferral accounting. Regulatory
14 commissions in Missouri and many other states rely upon historical test years to
15 establish electric utility revenue requirements, providing a reasonable opportunity to
16 earn the allowed return. While I am not a lawyer, to my knowledge, there has been no
17 Supreme Court decision finding that historical test year regulation of public utilities is not
18 legal or consistent with the Hope and Bluefield principles referenced by witness
19 Overcast. It is not necessary to layer numerous piecemeal trackers on top of authorized
20 revenue levels that are authorized by the Commission, just because the return
21 opportunity resulting from historical test year regulation in Missouri and other states
22 could be enhanced by such trackers.
23

24 **Q ACCORDING TO WITNESS OVERCAST, "THE TEST YEAR CONCEPT IS ABOUT**
25 **MAKING A REASONABLE ESTIMATE OF THE PRUDENT COSTS AND REVENUES**

²⁵ Id, page 13.

1 **LIKELY TO OCCUR DURING THE RATE EFFECTIVE PERIOD. ANY OTHER**
2 **DEFINITION OF A TEST PERIOD IS INCONSISTENT WITH PROVIDING A**
3 **REASONABLE OPPORTUNITY FOR THE UTILITY TO ACTUALLY ACHIEVE ITS**
4 **COMMISSION-AUTHORIZED RETURN.”²⁶ IS THIS A REASONABLE DEFINITION**
5 **OF THE TEST YEAR CONCEPT IN MISSOURI OR OTHER STATES THAT EMPLOY**
6 **HISTORICAL TEST YEARS?**

7 A No. The “rate effective period” is not how costs and revenues are measured in states
8 that rely upon an historical test year. This definition may apply in California, Hawaii or
9 other states where forecasted or “future” test years are employed, but not in Missouri
10 and the many other states where the test year concept is instead based upon
11 observable and verifiable historical costs and not subjectively determined forecasts.
12 Witness Overcast may prefer forecasted test years, but his testimony on this topic is
13 misplaced in Missouri.

15 **Q IS IT TRUE THAT, “IF COSTS ARE EXPECTED TO BE HIGHER IN THE RATE YEAR**
16 **THOSE HIGHER COSTS MUST BE REFLECTED IN RATES, OR OTHERWISE**
17 **ACCOUNTED FOR, IN ORDER TO MAINTAIN AN APPROPRIATE MATCHING OF**
18 **COSTS AND REVENUES” AS ASSERTED BY WITNESS OVERCAST?²⁷**

19 A No. The only time “expected” costs must be reflected in rates is when future or
20 forecasted test year methods are employed. And even then, the amounts recognized for
21 ratemaking purposes are typically based upon a single test year, which could only under
22 ideal conditions ever “match” costs and revenues within any single chosen “rate year.”
23 Newly established rates are often expected to be in place for more than a single “rate

²⁶ Id. pages 13-14.

²⁷ Id. page 14.

1 year” which renders impossible witness Overcast’s notion of explicitly providing for future
2 “rate year” recovery of every dollar of increasing or decreasing cost.

3
4 **Q IS IT POSSIBLE FOR A UTILITY TO EARN A REASONABLE RETURN IF NO**
5 **MECHANISM EXISTS TO TRACK EVERY INCREASED EXPENSE DOLLAR INTO A**
6 **FUTURE RATE INCREASE?**

7 A Yes. Declining costs or increased revenues can serve to offset, wholly or partially,
8 observed specific increases experienced in certain costs. Witness Overcast’s argument
9 ignores the reality that each element of the utility’s revenue requirement is constantly
10 changing between rate case test years, whether using either an historical or a
11 forecasted test year. It is not desirable or feasible to continuously track all changes in
12 every element of the revenue requirement. Instead, KCPL has chosen to focus on only
13 certain costs it expects to increase, arguing without support that failure to do so will
14 produce inadequate future earnings.

15 Both favorable and unfavorable changes in revenues and costs routinely occur
16 between rate case test years and could be observed within:

- 17 • Retail and wholesale KWH sales volumes and revenues,
- 18 • Net Plant rate base investment,
- 19 • Accumulated Depreciation, Deferred Taxes and Contributions that reduce rate
20 base investment,
- 21 • Employee staffing levels, wage rates and benefit costs,
- 22 • Non-labor expenses,
- 23 • Depreciation and amortization expenses,
- 24 • Income and Other Taxes, and,
- 25 • Capital cost rates.

1 It is not practical or reasonable for the Commission to concern itself with estimation and
2 inclusion of estimated future “rate year” levels of costs, revenues, interest and return
3 rates in order to establish a reasonable opportunity to earn a fair return on investment,
4 as suggested by witness Overcast.

5 A more reasonable assumption is that continuing cost and revenue changes will
6 occur between rate cases and, whenever overall revenues are insufficient to recover the
7 overall cost of service, including then current required rates of return, the utility will file a
8 rate case (or some other party will seek rate reductions if overall revenues become
9 excessive). Notably, KCPL has not advocated tracker treatment of all elements of the
10 changing elements of the revenue requirement after the test year, but has instead
11 focused upon only places where costs are expected to increase for tracker treatment.

12 More objective stakeholders should realize that historic test year regulation can
13 still provide a reasonable return and support a utility’s overall credit worthiness. For
14 example, in January of 2014, Moody’s upgraded KCPL’s credit rating. This was
15 accompanied at the same time by a similar upgrade for Ameren’s credit rating. Clearly,
16 these credit analysts don’t share Mr. Overcast’s view that historical test year regulation
17 fails to provide the reasonable opportunity to earn its authorized return as required by
18 the Supreme Court

19
20 **Q WITNESS OVERCAST COMPLAINS THAT YOU SHOULD HAVE EVALUATED THE**
21 **SIGNIFICANCE OF COAL AND OTHER COSTS, WHERE TRACKERS HAVE BEEN**
22 **PROPOSED BY KCPL, BASED UPON A SMALLER DENOMINATOR, SUCH AS THE**
23 **“DOLLARS AVAILABLE FOR EQUITY RETURN.”²⁸ DO YOU AGREE?**

24 **A** Not entirely. I selected total operating expenses and total revenues in my Direct
25 Testimony because these values are readily available within public financial statements

²⁸ Overcast Rebuttal, page 16.

1 and are reflective of the full mix of inputs employed by KCPL in the provision of public
2 utility services. Notably, if we adopt the narrower view of ratio analysis preferred by
3 witness Overcast, the \$2.1 million impact of the hypothetical 10 percent increase in
4 annual coal costs mentioned in the Company's 2014 SEC Form 10K²⁹ represents less
5 than one percent of the Company's proposed pretax income available for common
6 equity investors.³⁰ Using equity return impacts in the denominator would clearly
7 increase the resulting percentage values, but would add little meaning to the analysis in
8 the absence of credible projections of future variability in the costs for which tracking is
9 under consideration.

10
11 **Q ACCORDING TO WITNESS OVERCAST, YOUR DIRECT TESTIMONY INDICATING**
12 **THAT AN FAC DESTROYS EFFICIENCY INCENTIVES FOR BASE FUEL COSTS,**
13 **REPRESENTING ONLY 23 PERCENT OF OVERALL EXPENSES, MEANS "...THAT**
14 **THE REGULATORY LAG INCENTIVE REMAINS FULLY OPERATIONAL FOR 77%**
15 **OF THE OTHER EXPENSES." DO YOU AGREE?**

16 **A** There is no reasonable basis to retain a regulatory lag incentive for only KCPL's non-fuel
17 costs, while assuming that such an incentive would have no useful value in rewarding
18 management efficiency associated with net energy costs flowing through the Company's
19 proposed FAC.

20
21 **Q AT PAGE 23, WITNESS OVERCAST CITES A 1977 INVESTIGATION INTO FUEL**
22 **ADJUSTMENTS CLAUSE INCENTIVE EFFECTS IN NEW YORK. DO YOU BELIEVE**
23 **THAT A 100 PERCENT FAC TRACKER AND THE OTHER TRACKERS ADVOCATED**

²⁹ See Brosch Direct Testimony, pages 17-18.

³⁰ KCPL Schedule RAK-8 at line 1 indicates the Company is proposing Total Company Net Income Before Income Taxes of \$327.9 million. A \$2.1 million increase in tax deductible coal expenses represents about 0.64 percent of this value.

1 **BY KCPL WITNESSES WOULD DIMINISH INCENTIVES FOR THE COMPANY TO**
2 **INVEST TIME AND RESOURCES INTO THE AGGRESSIVE MANAGEMENT FO**
3 **TRACKED COSTS?**

4 A. Yes. And this common sense view is more than a tired “old argument” that should be
5 dismissed, as recommended by witness Overcast. It is widely accepted regulatory
6 theory that full cost tracking of actual cost changes diminishes the regulatory lag
7 incentive that utility management otherwise faces to control and reduce costs between
8 test years. Consider the views stated in Principles of Public Utility Rates authored by
9 James Bonbright on this topic:

10 In the regulation of public utility monopolies, the principle that
11 rates should be set at levels designed to yield revenues covering costs
12 including or plus a fair rate of return may be regarded as a substitute,
13 though not a close substitute, for the tendency of prices and costs to
14 come into accord under the forces of market competition. But where is
15 the efficiency-incentive counterpart?

16
17 Under prevailing methods of rate regulation, such incentives are,
18 indeed, provided to a limited degree:

19
20 First, private companies receive no guaranty of their ability to
21 enjoy a fair rate of return, with the result that they may be under
22 more or less severer pressure to practice operating economies
23 and to stimulate growth of demand for service in order to earn the
24 officially sanctioned rate. The significance of this no-guaranty
25 situation is enhanced by the general refusal of commissions and
26 courts to recognize past deficiencies or past excesses in
27 corporate earnings as grounds for offsetting allowances in later
28 rate cases.

29
30 Second, the standards of a commission-fixed fair rate of return are
31 themselves somewhat flexible, and some commissions, in setting
32 these rates, try to make allowance for supposed relative efficiency
33 or inefficiency of operation and of financial planning.

34
35 And third, there is the so-called ‘regulatory lag’ – the quite usual
36 delay between the time when reported rates of profit are above or
37 below standard and the time when an offsetting rate decrease or
38 rate increase may be put into effect by commission order or
39 otherwise.

40
41 But these incentive-encouragement features of orthodox rate
42 regulation are extremely crude, and one may suggest that they are very

1 ineffective in comparison with the stimulation of direct and active
2 competition.³¹
3

4 We are obviously in no position to revoke the franchise or otherwise stimulate direct and
5 active competition for KCPL's electric utility services, but the Commission should remain
6 mindful of the modest efficiency incentives that are created by regulatory lag, in the
7 absence of competition, whenever utility proponents argue for fully tracked recovery of
8 selected increasing costs between test years.
9

10 **Q WHAT IS THE ROLE OF MANAGEMENT'S FIDUCIARY RESPONSIBILITIES, AS**
11 **REFERENCED BY WITNESS OVERCAST?³²**

12 A The "fiduciary responsibilities" referenced by witness Overcast should cause KCPL
13 management to focus more attention upon reducing costs that can favorably impact
14 earnings. Assuming rational action by management this would include paying
15 continuous attention to costs that are subject to regulatory lag, with relatively less
16 emphasis placed upon controlling costs that are subject to direct pass-through to
17 ratepayers via a tracking mechanism.³³ Management's fiduciary responsibility also
18 includes advancing the most financially favorable set of regulatory mechanisms that can
19 be expected to maximize the utility's opportunity to increase revenues selectively for
20 increasing costs between test years.
21

³¹ Bonbright, Danielsens and Kamerschen, *Principles of Public Utility Rates*, 2nd Edition, Public Utility Reports, Inc. 1988, page 96.

³² Overcast Rebuttal, page 16.

³³ This fiduciary responsibility undeniably also includes pursuit of regulatory mechanisms that can expand the utility's earnings opportunity, by selectively tracking increasing costs into higher future rates.

1 **Q ACCORDING TO WITNESS OVERCAST, YOU HAVE “CONFUSED THE USE OF**
2 **AAO AND TRACKERS IN YOUR REVIEW OF TRACKERS.”³⁴ HOW DO YOU**
3 **RESPOND?**

4 A As noted above, regardless of the label attached, each of the non-traditional regulatory
5 sweeteners requested by KCPL would have the effect of deferring expected cost
6 increases between rate cases, to enable the collection of higher future revenues on a
7 piecemeal basis for only the tracked cost increases. There should be uniform and
8 understandable criteria applied before such cost deferral and tracking mechanisms are
9 implemented. Trackers (AAO and otherwise) are, in my view, always a form of
10 extraordinary ratemaking that should be used sparingly so as to not disturb the essential
11 matching of test year costs needed to establish just and reasonable rates. Clearly this is
12 not the view of KCPL’s witnesses, who have selected only increasing costs for such
13 extraordinary treatment, driven by the Company’s obvious desire for higher future
14 revenues and earnings in Missouri.

15

16 **Q KCPL WITNESS IVES PRESENTS, AT PAGE 10 OF HIS REBUTTAL, A CHART**
17 **COMPARING AMOUNTS OF GRANTED, REQUESTED AND PROJECTED FUTURE**
18 **EXPENSES IN THE AREAS OF THE UTILITY WHERE TRACKERS HAVE BEEN**
19 **REQUESTED. DO YOU AGREE WITH HIS OBSERVATION THAT THIS CHART**
20 **ACCURATELY QUANTIFIES THE “NEGATIVE IMPACT ON KCP&L’S ACHIEVED**
21 **ROE OF NOT HAVING THE REQUESTED MECHANISMS IN ALL PERIODS” AS**
22 **SUGGESTED BY MR. IVES?**

23 A No. The chart focuses upon only a few elements of the Company’s overall revenue
24 requirement. These are the selected areas where KCPL has forecasted future cost
25 increases and has requested tracker treatment. It is not surprising that when one

³⁴ Overcast Rebuttal, page 39.

1 focuses on only the costs of net fuel, transmission expenses, property taxes and
2 CIP/Cybersecurity, where cost increases have been projected and trackers requested,
3 and then assumes rate relief will not be available through the requested trackers for
4 those costs, some earnings attrition is projected. No analysis has been presented by
5 Mr. Ives or KCPL to show how all of the other elements of KCPL's revenue requirement
6 may change in the future, including those costs that may decline. Additionally, I expect
7 there has been no critical analysis of KCPL forecasts of these or other costs, conducted
8 by Staff or other parties, because an historical test year is used as the basis for
9 ratemaking in Missouri, rather than judgmental forecasts.

10
11 **Q IS THE CREDIBILITY OF WITNESS IVES' FORECASTED NET FUEL COSTS IN HIS**
12 **CHART ON REBUTTAL PAGE 10 UNDERMINED BY ANOTHER COMPANY**
13 **REBUTTAL WITNESS?**

14 **A** Yes. In apparently conflicting testimony, KCPL's witness Overcast states, "In simplest
15 terms, the base cost of fuel in rates is a forecast that, like all other forecasts, is subject
16 to forecast error" and "[t]he magnitude of the error is significant" for all the reasons
17 stated in his testimony.³⁵ Inexplicably, we observe Mr. Ives relying upon such an
18 inherently suspect forecast of higher future net fuel and other costs in support of the
19 Company's claimed need for an FAC and other piecemeal cost tracking mechanisms.
20 The chart sponsored by witness Ives reflects management's judgment regarding how
21 only selected costs may increase in future years and does not reasonably predict the
22 Company's future financial performance with consideration given to overall revenues,
23 expenses and changes in net investment...which are all essential factors in evaluating
24 the Company's earnings opportunity. Stated differently, Mr. Ives chart merely proves
25 through circular reasoning that piecemeal tracker regulation for isolated costs that are

³⁵ Overcast Rebuttal, page 11.

1 expected to increase, if not granted by the Commission, will cause those cost increases
2 to reduce future earnings as long as all other earnings variables are held constant.

3
4 **Q IN CONTRAST TO MR. IVES' RELIANCE UPON FORECASTS OF ISOLATED COST**
5 **INCREASES WHERE TRACKERS ARE PROPOSED, THE REBUTTAL TESTIMONY**
6 **OF WITNESS RUSH LOOKS BACKWARDS TO OBSERVE THAT KCPL'S**
7 **EARNINGS COULD HAVE BEEN HIGHER IN PAST YEARS WITH SUCH**
8 **TRACKERS.³⁶ DO KCPL'S ACTUAL EARNINGS IN 2013 AND 2014 PROVE THAT**
9 **AN FAC AND OTHER PIECEMEAL EXPENSE TRACKERS ARE NEEDED AT THIS**
10 **TIME?**

11 **A** No. I noted in my Direct Testimony that the Company's recently achieved ROE has
12 been somewhat below authorized levels, but that other Missouri utilities have generally
13 performed well without the new cost trackers now being proposed by KCPL.³⁷ It should
14 be obvious that KCPL's historical financial performance does not predict future results,
15 particularly at this time when a large base rate revenue increase is under consideration
16 to remedy the recent earnings shortfalls that are referenced by Mr. Rush.

17 It should also be noted that I have not suggested "that it would be acceptable to
18 continue this financial performance in the future for KCPL" as Mr. Rush claims.³⁸ My
19 testimony contains no forecasts of future KCPL earnings or other financial metrics. My
20 recommendation is that traditional test period regulation continue for KCPL, and that any
21 general rate increase approved by the Commission in this rate case be used by the
22 Company to offset and recover the increased costs it has demonstrated to be
23 reasonably recovered through higher base rates. It should also be noted that KCPL has
24 offered no base rate case moratorium or enforceable rate case stay-out provision as a

³⁶ Rush Rebuttal, page 30.

³⁷ Brosch Direct Testimony, pages 7-8.

³⁸ Rush Rebuttal, page 31.

1 condition for FAC or other tracker implementation, leaving the Company with the
2 ongoing opportunity to file a new general rate case when and if overall costs grow in the
3 future to exceed the higher revenues approved by the Commission in this rate case.³⁹
4

5 **Q MR. RUSH ATTEMPTS TO DISTINGUISH BETWEEN ACCOUNTING AUTHORITY**
6 **ORDERS AND TRACKERS AND CLAIMS THAT THE STANDARDS USED TO**
7 **EVALUATE THEM “ARE NOT IMMUTABLE” AND THAT TRACKERS SHOULD NOT**
8 **BE LIMITED TO “UNUSUAL OR INFREQUENT OCCURENCES.”⁴⁰ DO YOU**
9 **AGREE?**

10 A No. It is essential that carefully designed criteria be applied to the tracker proposals that
11 are submitted by Missouri utilities. In the absence of meaningful and consistently
12 applied criteria, the Commission should expect the utilities under its jurisdiction to create
13 and propose new or expanded piecemeal tracking treatment for any and all costs that
14 are expected to increase in the future, so as to improve the regulatory framework by
15 expanding the opportunity for higher future rates. If utility management were to not take
16 advantage of the relaxed Commission posture towards trackers that Mr. Rush
17 advocates, such inaction could reasonably be construed as a failure of management’s
18 fiduciary responsibility to shareholders to maximize financial performance of the
19 business.

20
21 **Q ACCORDING TO MR. RUSH, “KCP&L IS NOT OPERATING IN AN ENVIRONMENT**
22 **WHERE SUBSTANTIAL YEAR OVER YEAR REVENUE GROWTH (IN TERMS OF**
23 **EITHER OR BOTH PER CUSTOMER KWH CONSUMPTION AND OVERALL**

³⁹ Mr. Ives’ Rebuttal, at page 36, states, “If KCP&L is permitted to use an FAC including SPP transmission fees and if trackers are approved for property taxes and CIP/cyber security costs, it is possible that KCP&L would not have to implement new rates for as long as three years after rates from this case take effect.”

⁴⁰ Rush Rebuttal, pages 31-33.

1 **CUSTOMER NUMBERS) CAN BE EXPECTED TO COVER THE INCREASES**
2 **EXPECTED FOR THESE COST ITEMS. UNDER THESE CIRCUMSTANCES, THE**
3 **COMPANY’S TRACKER PROPOSALS ARE REASONABLE.”⁴¹ DO YOU AGREE?**

4 A No. This argument ignores both the opportunity KCPL management has to achieve
5 operational efficiencies that offset the increasing costs the Company’s witnesses choose
6 to emphasize and the opportunity the Company retains to file general rate cases when it
7 is unable to do so. Layering piecemeal tracking mechanisms onto traditional rate case
8 regulation should not be approved in an effort to either excuse management from
9 aggressively pursuing efficiencies or to replace the loss of sales and revenue growth
10 between test years that may have historically served this purpose. Clearly, opportunities
11 for efficiencies and cost reductions are available. As reflected in the testimony of MEGG
12 witness Kollen, KCPL’s level of A&G expense appears to be higher than other local
13 utilities. To the extent that KCPL’s management can take steps to reduce these A&G
14 costs, these reduced costs can offset increases in the costs that KCPL now seek to
15 recover through extraordinary ratemaking mechanisms.

16
17 **Q WHAT CRITERIA ARE SUGGESTED BY KCPL WITNESS IVES FOR COMMISSION**
18 **REVIEW OF UTILITY TRACKER REQUESTS?**

19 A KCPL proposes the following criteria:

20 Tracker requests made during rate cases should be granted if it is
21 determined that basing the rate allowance for such costs on historical
22 levels, with no ability to account for changes in those cost levels likely to
23 occur in the future, is likely to lead to a mismatch of costs and revenues
24 with resulting earnings impacts during the future period when rates will be
25 effective. Factors relevant to the determination could include: the
26 magnitude of the earnings impacts associated with changes in levels of
27 the relevant cost of service item; the degree to which the relevant cost of
28 service item is subject to management control; and overall cost of service
29 trends for the Company under consideration.
30

⁴¹ Id. page 34.

1 Q WOULD ADOPTION OF THESE CRITERIA YIELD JUST AND REASONABLE
2 RATES?

3 A No. Mr. Ives' proposed criteria are so broad as to invite tracker treatment of nearly
4 every individually significant element of the revenue requirement. The multitude of
5 different costs and revenues that determine the utility's incremental revenue requirement
6 in rate cases are established in rate cases based upon analysis of test year and true-up
7 recorded data and other relevant and verifiable historical data.⁴² Most of these cost and
8 revenue elements will not closely match the comparable amounts of future revenues and
9 costs that are experienced in the months and years after the rate change is placed into
10 effect. Some future costs and revenues will be higher and others lower than were
11 considered in determining the revenue requirement. This inevitable "mis-match" could
12 be used to argue for tracker treatment for any increasing costs within the revenue
13 requirement in order, "...to account for changes in those cost levels likely to occur in the
14 future" under Mr. Ives' criteria.

15 Of course, the only way to quantify the relevant "cost levels likely to occur in the
16 future" in applying Mr. Ives' recommended approach would be to receive and analyze
17 forecast evidence from the utility, Staff and intervenors, covering one or more future
18 forecast years for at least each of the cost elements being considered for tracking.
19 Utility forecasts should be expected to adopt pessimistic budget assumptions to
20 emphasize the risks of potentially higher costs in certain areas, while supporting tracking
21 for only those increasing costs, while retaining test year regulation for any costs that
22 may decline. The resulting forecast debate would inject the judgment of each rate case
23 witness into the formulation of budgets for each proposed tracking mechanism and can
24 be expected to invite competing tracking proposals for offsetting cost savings, which

⁴² One exception to the reliance upon historical, recorded data in traditional test year regulation is the determination of the cost of equity capital.

1 would likely be more difficult to identify and quantify. For example, analysts and
2 ultimately the Commission could be called upon to resolve disputes involving applicable
3 inflation and escalation rates, staffing requirements, assumed productivity gains and
4 many other key forecast inputs that are not now part of the Missouri rate case process.
5

6 PROPERTY TAX TRACKER

7 **Q MR. RUSH CLAIMS THAT THE COMMISSION PREVIOUSLY GRANTED DEFERRAL**
8 **ACCOUNTING TREATMENT FOR PROPERTY TAXES IN “EACH OF THE CASES**
9 **MENTIONED ABOVE IN WHICH THE COMMISSION GRANTED AN AAO FOR GAS**
10 **SAFETY REPLACEMENT-RELATED COSTS.” DO THESE PREVIOUS GAS SAFETY**
11 **REPLACEMENT COST AAO EXAMPLES REPRESENT PRECEDENT FOR**
12 **GENERAL TRACKING OF CHANGES IN A UTILITY’S OVERALL PROPERTY TAX**
13 **EXPENSES?**

14 **A** No. Property taxes would represent a relatively small portion of the incremental costs
15 associated with gas safety replacement costs, when compared to the depreciation and
16 return on investment costs associated with gas replacement investments. It is not clear
17 why Mr. Rush reaches for gas-safety AAO examples as precedent for general tracking
18 of property tax expenses when, at page 34 of his Rebuttal he is careful to state that “the
19 AAO standard should not be applied to tracker requests.”⁴³
20

21 **Q MR. RUSH CLAIMS THAT YOUR TESTIMONY ABOUT THE SIZE AND STABILITY**
22 **OF PROPERTY TAXES NOT WARRANTING TRACKER TREATMENT “MISSES THE**
23 **POINT” BECAUSE YOU ARE “IGNORING THE IMPACT FORECASTED PROPERTY**

⁴³ Witness Overcast also claims, at rebuttal pages 5-6 that, “KCP&L has not requested an AAO in this case and the typical request for an AAO occurs unrelated to a rate case proceeding while both a RAM and trackers are most frequently requested as part of a rate case.” At page 8 he claims, “An AAO is a completely different type of mechanism as compared to a RAM or a tracker. Most often an AAO is sought to recover a significant, unexpected and unforeseeable expense outside of the confines of a rate case.”

1 **TAX INCREASES WILL HAVE ON THE COMPANY’S EARNINGS.”⁴⁴ IS THIS**
2 **CORRECT?**

3 A No. I completely understand the Company’s argument that it expects property taxes will
4 be higher, in certain confidential amounts that have been forecasted by KCPL as
5 referenced in Ms. Hardesty’s Rebuttal,⁴⁵ and the Company would like to be able to
6 charge customers higher rates in the future to recover these cost increases that may
7 occur after the test year. I am not “ignoring” these assertions, but rather have explained
8 in my testimony why a utility’s forecast of higher expected future levels for certain
9 expenses is not a valid basis for piecemeal, extraordinary rate tracking treatment for
10 isolated costs. If that were a valid criteria, the Commission might expect to see future
11 tracker proposals for employee wage rate increases, depreciation increases, insurance
12 cost escalations and any number of other discrete cost elements where forecasted
13 changes are not favorable to earnings.

14
15 **Q MR. RUSH ALSO SEEKS TO ASSURE THE COMMISSION THAT IMPLEMENTING**
16 **TRACKING FOR FUTURE PROPERTY TAX COST INCREASES WOULD NOT**
17 **DISCOURAGE MANAGEMENT FROM INCURRING COSTS AND TAKING RISKS TO**
18 **CONTROL PROPERTY TAX EXPENSES, BECAUSE DEFERRED TAX COSTS**
19 **“COULD BE INCLUDED IN RATES ONLY AFTER REVIEW AND APPROVAL BY**
20 **THE COMMISSION IN A GENERAL RATE CASE.”⁴⁶ SHOULD THE COMMISSION**
21 **TAKE COMFORT IN THIS ASSURANCE?**

22 A No. This statement assumes that a rigorous analysis will occur in future rate cases to
23 examine the actions taken by management and, perhaps more importantly, any needed
24 and potentially fruitful actions that were not taken by management to control property tax

⁴⁴ Rush Rebuttal, page 36.
⁴⁵ Hardesty Rebuttal, page 24.
⁴⁶ Rush Rebuttal, page 37.

1 costs. Even if we assume for the sake of argument that Staff has uncommitted
2 resources available for this effort in all future KCPL rate cases, the Company has a
3 significant advantage in terms of familiarity with taxing authorities and procedures and
4 has control over all of the information that Staff would need to gather and analyze to
5 prepare any adjustment seeking to disallow deferred costs arising from alleged errors or
6 omissions of management with respect to property tax administrative efforts.

7 8 **VEGETATION MANAGEMENT TRACKER**

9 **Q IN HIS REBUTTAL, MR. IVES ADMITS THAT VEGETATION MANAGEMENT COSTS**
10 **DO NOT APPEAR TO BE SIGNIFICANT IN MAGNITUDE OR VOLATILE OVER THE**
11 **PERIODS PRESENTED.⁴⁷ DO THESE ADMISSIONS ARGUE FOR REJECTION OF**
12 **THE COMPANY'S PROPOSED TRACKER FOR SUCH COSTS?**

13 **A** Yes. These facts, along with the reality that KCPL management exerts considerable
14 control over its vegetation management expenditures illustrates why no special tracker
15 treatment for this expense is warranted.

16
17 **Q ACCORDING TO MR. IVES, SHIFTS IN THE LEVEL OF VEGETATION**
18 **MANAGEMENT EFFORTS AND COSTS ACROSS JURISDICTIONS CAN MAKE**
19 **SUCH COSTS VOLATILE YEAR-OVER-YEAR.⁴⁸ DOES THIS CONCERN JUSTIFY**
20 **TRACKER TREATMENT?**

21 **A** No. The Company could propose any needed ratemaking normalization adjustments in
22 rate cases to compensate for any unusual levels of activity and expense in Missouri or
23 Kansas. It is not unusual for multi-year averages to serve as the basis for a ratemaking

⁴⁷ Ives Rebuttal, page 12.

⁴⁸ Id.

1 allowance for costs that are variable from year to year or that are not incurred every
2 year.

3
4 **Q MR. IVES ALSO STATES, “KCP&L-MO IS REQUESTING A TRACKER FOR**
5 **VEGETATION MANAGEMENT IN ORDER TO MAXIMIZE THE BENEFIT OF EACH**
6 **DOLLAR SPENT, AND TO ENSURE ALL OF OUR CUSTOMERS ARE NOT OVER-**
7 **OR UNDER-CHARGED FOR VEGETATION MANAGEMENT EFFORTS.”⁴⁹ ARE**
8 **THESE VALID REASONS FOR TRACKER TREATMENT?**

9 A No. The Company is reasonably expected to prudently maximize the benefit of each
10 dollar spent on all expenses, including vegetation management, without regard to the
11 ratemaking treatment (base rates or tracker) for such costs. With respect to customer
12 expectations, there has been no showing by Mr. Ives that KCPL customers have any
13 specific concern regarding whether or not they are over or under-charged for the
14 vegetation management costs that are embedded within their electric bills.

15
16 **CRITICAL INFRASTRUCTURE/CYBER SECURITY TRACKER**

17
18 **Q HOW DOES MR. RUSH EXPLAIN THE COMPANY’S ASSERTED NEED FOR A**
19 **CIP/CYBERSECURITY EXPENSE TRACKER?**

20 A Mr. Rush claims that, “[w]ithout a tracker, any earnings shortfall resulting from a
21 mismatch between actual CIP/cybersecurity costs and the allowance for those costs
22 included in rates will be lost forever.”

23
24 **Q IS THIS A VALID ARGUMENT?**

⁴⁹ Id.

1 A No. For all the reasons stated above and in my Direct Testimony, it not reasonable to
2 grant rate tracker treatment for individual utility cost elements that, in isolation, may
3 increase after the test year.

4

5 **Q AT PAGE 2 OF HIS REBUTTAL, KCPL WITNESS ROPER SAYS HE DOES NOT**
6 **AGREE WITH “YOUR ASSERTION” THAT THE COMPANY HAS NOT DEFINED**
7 **WITH SPECIFICITY WHAT INCREMENTAL COSTS WOULD BE COVERED BY THE**
8 **CIP/CYBER TRACKER.⁵⁰ CAN YOU CLARIFY THIS POINT?**

9 A. Yes. My Direct Testimony, at page 30 contains a literal quote of Mr. Rush’s Direct
10 Testimony, where Mr. Rush stated, “...the cost to comply is undefined at this time, but
11 will be substantial” and “KCP&L is working diligently to develop and overall plan.”⁵¹

12

13 **Q ARE THE COSTS SET FORTH IN MR. ROPER’S CHART⁵² COMPARABLE TO THE**
14 **FORECASTED CIP/CYBERSECURITY COST ESTIMATES THAT YOU INCLUDED IN**
15 **YOUR DIRECT TESTIMONY AT PAGE 32?**

16 A Yes. Although my Table 3 also includes “Capital Investment” amounts associated with
17 CIP/Infrastructure initiatives that are declining in the years after 2015 and my Table 3
18 separately shows the labor and non-labor elements of O&M costs in each forecasted
19 year. My Direct Testimony addressed these Company-provided cost estimates and will
20 not be repeated here.

21

22 **Q MR. ROPER DESCRIBES THE EXPANDED CIP/CYBER STANDARDS AND THE**
23 **COMPANY’S COMPLIANCE PLANS TO MEET MORE STRINGENT SECURITY**

⁵⁰ Roper Rebuttal, pages 2-3.

⁵¹ See Direct Testimony of Tim Rush, page 33, lines 11 and 17.

⁵² Roper Rebuttal, page 3.

1 **STANDARDS. IS A TRACKING MECHANISM REQUIRED IN ORDER FOR KCPL TO**
2 **DISCHARGE THESE REGULATORY OBLIGATIONS?**

3 A Of course not. Electric utilities across the Country are subject to numerous security,
4 environmental, safety, tax, employee benefit and other regulations and the expenses
5 and new investments they incur to achieve and maintain compliance are generally
6 addressed as part of overall revenues requirements, rather than through piecemeal
7 tracking mechanisms. The ratemaking treatment afforded KCPL's security compliance
8 costs will not change the standards that are discussed by Mr. Roper and should not
9 change the Company's level of effort and expenditures prudently made to minimize the
10 risks of non-compliance.

11
12 **Q MR. ROPER STATES THAT, "KCP&L HAS MADE FURTHER PROGRESS IN**
13 **DEFINING HOW CIP/CYBER COSTS WILL BE TRACKED" AND THEN HE**
14 **DESCRIBES A SERIES OF "PROJECT-BASED AS WELL AS ONGOING (NON-**
15 **PROJECT) BASED STRUCTURE TO TRACK CIP/CYBER COSTS" INVOLVING**
16 **"MULTIPLE COMPANY DIVISIONS INVOLVED IN THE PROJECTS" AND "A**
17 **VARIETY OF LOCATIONS WITH DIFFERENT ALLOCATION NEEDS, [FOR WHICH]**
18 **WE ARE ESTABLISHING SEVERAL VARIATIONS OF THE SAME CODE BLOCK TO**
19 **BE USED ACROSS KCP&L."⁵³ DOES THIS SOUND LIKE AN ACCOUNTING**
20 **DEFERRAL PROCEDURE THAT WILL BE ADMINISTRATIVELY PRACTICAL FOR**
21 **STAFF TO AUDIT AND APPROVE FOR RECOVERY?**

22 A No. The apparent complexity of the described accounting procedures argues against
23 accumulation of such costs over extended periods within deferral accounts, which would
24 require detailed understanding and audit verification by Staff in future rate cases,
25 whenever recovery of such deferred costs was requested.

⁵³ Roper Rebuttal, pages 12 and 13.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Q MR. ROPER ARGUES THAT YOUR COMPARISON OF CIP/CYBER ACTIVITIES AND COSTS TO OTHER MAJOR IT UPGRADES IS UNREASONABLE.⁵⁴ CAN YOU CLARIFY THIS POINT FROM YOUR DIRECT TESTIMONY?

A Yes. My testimony on this point was that major upgrades to major IT systems can be discretely large projects involving millions of dollars of incremental O&M and capital spending, as illustrated by the amounts and time intervals set forth in the IT Roadmap contained in my Schedule MLB-8. The CIP/Cyber activities and costs for which KCPL proposes tracker treatment also involve a discrete block of programmatic costs. The Company has not requested or been granted tracker treatment for its other large IT projects in Missouri, even though several of them involve more costs than the CIP/Cyber amounts shown in Mr. Roper’s testimony, leaving the recovery of such IT project costs to base rates. The same base rate treatment would be sufficient for recovery of the comparably smaller CIP/Cybersecurity costs estimated in Mr. Roper’s Rebuttal.

FUEL ADJUSTMENT CLAUSE ISSUES

Q SO FAR YOUR SURREBUTTAL HAS ADDRESSED POLICY ISSUES SURROUNDING KCPL’S PROPOSED NEW TRACKERS, ARE THERE ADDITIONAL MATTERS RAISED IN KCPL’S REBUTTAL REGARDING THE FUEL ADJUSTMENT CLAUSE PROPOSAL IN PARTICULAR THAT YOU WILL NOW RESPOND TO?

A Yes. KCPL witnesses Overcast, Blunk and Carlson offer rebuttal regarding the Company’s proposed FAC and my response is set forth below.

⁵⁴ Roper Rebuttal, page 14.

1 Q IS YOUR ANALYSIS OF KCPL'S NET ENERGY EXPENSES BASED UPON A
2 REVIEW OF ONLY COAL COSTS, AS IMPLIED BY WITNESS OVERCASTS'
3 ASPERTIONS CAST TOWARD THE COMMISSION'S ER-2007-0002 AMEREN
4 MISSOURI RATE ORDER⁵⁵ AND YOUR QUOTATIONS FROM THAT ORDER?

5 A No. My Direct Testimony explained and illustrated that KCPL's coal and nuclear costs
6 were stable and significantly controlled by management's policies and procedures, and
7 also addressed the significance and variability of the Company's gas and oil fuel costs,
8 purchased power and off-system sales margins. I have not relied upon any single
9 Commission decision in development of my testimony or upon any single fuel type in my
10 analysis.

11

12 Q WITH REGARD TO KCPL'S NET ENERGY COSTS, DID YOU "IMPLICITLY ASSUME
13 THAT THE AVERAGE DELIVERED COST OF A KWH IS SOLELY A FUNCTION OF
14 THE PRICE OF COAL DELIVERED TO THE PLANT"⁵⁶ AS ALLEGED BY WITNESS
15 OVERCAST?

16 A No. I responded to KCPL's direct evidence suggesting that market coal prices were
17 volatile by providing a graph showing that KCPL's actual delivered coal prices have not
18 been volatile. I never assumed or stated anything in testimony about the myriad other
19 considerations witness Overcast has now injected into the discussion that he suggests
20 all represent critical omissions in my analysis.⁵⁷ Notably, after implying that a "two
21 percent difference in the BTU content" or changes in the heat rate performance of
22 KCPL's generating units should have also been considered in my analysis, instead of

⁵⁵ Overcast Rebuttal, pages 17-18.

⁵⁶ Id. page 18.

⁵⁷ Id. pages 18-20. Notably, if the analysis of KCPL's net energy costs is as complicated and constantly variable as suggested by all the dynamics listed in witness Overcast's Rebuttal, one must wonder how any audit of deferred net energy costs could ever be effectively audited by Staff, as required if an FAC is granted covering such costs.

1 per ton delivered costs of coal,⁵⁸ witness Overcast offers no such comparisons of his
2 own to refute my claims and those of Commission Staff that KCPL's coal fuel costs are
3 not volatile or beyond the control of management.
4

5 **Q WITNESS OVERCAST OPINES THAT, "WITHOUT A FULL TRACKING FUEL**
6 **ADJUSTMENT CLAUSE KCP&L WILL BE DEPRIVED OF A REASONABLE**
7 **OPPORTUNITY TO ACHIEVE ITS COMMISSION-AUTHORIZED RETURN BECAUSE**
8 **THE COMBINATION OF AN HISTORICAL TEST YEAR AND AN UNKNOWABLE**
9 **LEVEL OF NET FUEL COSTS WILL NOT POSSIBLY MATCH THE RATE YEAR**
10 **ACTUAL COSTS TO THE DETRIMENT OF EITHER CUSTOMERS OR EQUITY**
11 **SHAREHOLDERS."**⁵⁹ **DO YOU AGREE?**

12 **A** No. The Company's opportunity to earn a reasonable return requires only that the
13 amount of net energy costs allowed by the Commission, when combined with all other
14 elements of the test year revenue requirement, provide sufficient total revenues to
15 recover the Company's overall costs to provide service, including a return on capital. As
16 explained in my testimony above, there is no need to precisely "match" allowed costs for
17 net fuel costs or any other of these elements to actual costs incurred in one or more
18 future "rate years", as suggested by witness Overcast. In fact, the more efficiently KCPL
19 management performs, relative to the many types of costs it can control, the better the
20 earnings opportunity will be, and vice versa.
21

22 **Q WITNESS OVERCAST STATES, "WHILE THE COMPANY HAS OPERATING**
23 **CONTROL OVER THE PLANTS THEY OWN, THERE IS NO CONTROL OVER MANY**
24 **OF THE FACTORS THAT DIRECTLY IMPACT OWN LOAD COSTS AND OFF**

⁵⁸ Id. page 19.

⁵⁹ Overcast Rebuttal, page 27.

1 **SYSTEM SALES MARGINS BECAUSE THEY DO NOT CONTROL MOST OF THE**
2 **OTHER VARIABLES THAT IMPACT ULTIMATE COSTS.”⁶⁰ HAS MR. OVERCAST**
3 **QUANTIFIED ANY OF THESE “OTHER VARIABLES” TO SHOW THEIR IMPACT**
4 **UPON THE SIZE OR VOLATILITY OF KCPL’S OVERALL NET FUEL COSTS?**

5 A No.

6
7 **Q WITNESS RUSH ARGUES THAT THE REFERENCES MADE BY YOU AND STAFF**
8 **TO THE STABILIZING IMPACT OF THE COMPANIES MULTI-YEAR COAL**
9 **CONTRACTS ARE “UNFAIR IN THAT THE PRICES WE ARE REFLECTING IN THE**
10 **FAC ARE THOSE COSTS DRIVEN BY THE SPP IM, NETTED AGAINST THE**
11 **GENERATION COSTS INCURRED BY THE COMPANY. THE SPP IM PRICES ARE**
12 **WELL OUTSIDE OF THE CONTROL OR MANAGEMENT OF THE COMPANY.”⁶¹ DO**
13 **YOU AGREE WITH THIS ASSERTION?**

14 A No. The SPP IM prices paid by KCPL for energy to serve its native load are offset by
15 the SPP IM prices that are received from selling KCPL generation into the IM, with a
16 basis difference in the Locational Marginal Prices arising from differences in the location
17 of KCPL’s load and its generation.⁶² Mr. Rush has provided no analysis to support his
18 assertion, made for the first time in Rebuttal Testimony, that implementation of the IM in
19 2014 has now rendered unimportant the Company’s continuing efforts to stabilize fuel
20 costs with laddered coal contracts. While the Company has no direct control over the
21 hourly prices charged and credited to KCPL by SPP, there has been no showing by Mr.
22 Rush or KCPL that the new market structure has rendered KCPL’s net energy costs any
23 more volatile, uncontrollable by management or otherwise worthy of FAC treatment,
24 than under the previous market structure.

⁶⁰ Id. page 20.

⁶¹ Rush Rebuttal, page 14.

⁶² See Blunk’s Rebuttal at page 13.

1

2 **Q WITNESS BLUNK ARGUES FOR FAC INCLUSION OF SPP SCHEDULE 1-A**
3 **CHARGES BECAUSE THEY “FACILITATE THE EFFICIENT OPERATION OF THE**
4 **INTEGRATED MARKETPLACE” AND “BECAUSE ALL OF THE SAVINGS THAT**
5 **JUSTIFY SPP’S SCHEDULE 1-A AND 11 TRANSMISSION CHARGES WILL FLOW**
6 **THROUGH THE FAC IT WOULD BE UNFAIR AND INCONSISTENT TO DIVORCE**
7 **THE SAVINGS FROM THE COSTS THAT MADE THOSE SAVINGS POSSIBLE.” DO**
8 **YOU AGREE WITH THIS ARGUMENT?**

9 A No. SPP’s Schedule 1-A charges represent recovery of the labor and overhead
10 expenses incurred by SPP to administer its Open Access Transmission Tariff. These
11 costs are not variable costs that fluctuate with the quantities or prices of energy being
12 produced or delivered and are more properly thought of as overhead costs. KCPL does
13 not expect any increase in these fees that were last set in the 4th quarter of last year
14 through at least May of 2015.⁶³ These types of administrative overhead costs have no
15 place within an FAC that is intended to recover changes in the variable costs of
16 producing or purchasing energy, as more fully described in my Direct Testimony.

17

18 **Q WITNESS CARLSON NOTES THAT THE SPP SCHEDULE 11 CHARGES ARE TO**
19 **RECOVER THE COSTS OF SPP TRANSMISSION SYSTEM UPGRADES AND HE**
20 **ARGUES THAT, “...IT IS THE SPP REGIONAL TRANSMISSION SYSTEM THAT**
21 **ALLOWS KCP&L TO GAIN EFFICIENCIES FROM THE MARKET AND TO**
22 **PURCHASE THE LOWEST COST ENERGY AT ANY GIVEN MOMENT. THE**
23 **BENEFITS OF THIS UNPRECEDENTED EXPANSION OF THE TRANSMISSION**
24 **SYSTEM INCLUDE REDUCING CONGESTION, LOWERING PRODUCTION COSTS,**

⁶³ KCPL response to Staff question 186R.

1 **IMPROVING RELIABILITY AND LOWERING RESERVE MARGINS.”⁶⁴ SHOULD THE**
2 **FIXED COSTS OF EXPANDING TRANSMISSION FACILITIES BE INCLUDED IN THE**
3 **FAC IF SUCH FACILITIES INFLUENCE NET ENERGY COSTS INCURRED BY**
4 **KCPL?**

5 A No. The FAC should not include the fixed costs of transmission facilities, because these
6 costs do not vary directly with the quantity of energy being produced or transmitted.
7 While the completion of transmission system upgrades are intended to gradually relieve
8 congestion and reduce net energy costs throughout the SPP footprint, these costs
9 represent the return, depreciation and O&M fixed costs of plant assets that have no
10 place among the variable costs of production that are intended for FAC inclusion.

11
12 **Q ACCORDING TO MR. BLUNK, “A FAC THAT DIVORCES PRODUCTION COST**
13 **SAVINGS FROM THE TRANSMISSION COSTS THAT MADE THOSE SAVINGS**
14 **POSSIBLE WOULD BY DESIGN IMPAIR THE COMPANY’S OPPORTUNITY TO**
15 **EARN A FAIR RETURN ON EQUITY.”⁶⁵ DO YOU AGREE?**

16 A No. Utilities incur many costs that may indirectly reduce fuel costs, but that are not
17 included within FAC includable expenses because they are not variable costs incurred in
18 the generation or purchase of energy. Examples include, power plant maintenance
19 expenses and capital investments that are made maintain or improve heat rates and unit
20 availability, purchased power demand charges, the labor and overhead costs for utility
21 employees who administer fuel procurement and contract administration efforts,
22 investments in utility-owned transmission facilities that reduce line losses, and the
23 utility’s investments in fuel inventory to ensure the availability of base-load generation.
24 Under Mr. Blunk’s theory that any investment or expense may indirectly reduce net

⁶⁴ Carlson Rebuttal, page 4.

⁶⁵ Blunk Rebuttal, page 12.

1 energy costs must be included in an FAC, all of these examples should also be included.
2 However, Fuel Adjustment Clauses in Missouri and other states are generally limited to
3 the recovery of only variable expenses that change when the quantities of energy
4 generated or purchased change. Expanding the scope of FAC treatment by including
5 fixed costs, such as SPP transmission charges or the other examples I mentioned,
6 would blur the boundaries that are necessary to scope an FAC within administratively
7 workable limits.

8
9 **Q MR. BLUNK ALSO CLAIMS THAT, “MOVING ELEMENTS FROM THE NET ENERGY**
10 **COST IN THE FAC TO BASE RATES WOULD NOT ALLOW RECOVERY OF**
11 **LEGITIMATE COSTS INCURRED BY THE COMPANY AND CUSTOMERS WOULD**
12 **NOT SEE THE CURRENT TRUE COST OF ELECTRICITY. THAT MEANS**
13 **CUSTOMERS’ CHOICES WOULD BE BASED ON FALSE PRICE SIGNALS.”⁶⁶ DO**
14 **YOU AGREE?**

15 **A** No. First, I would note that KCPL has had no FAC for many years and there has been
16 no problem identified in the past from “false price signals” to customers in all these past
17 years. Unfortunately, KCPL’s rates have increased significantly since 2006⁶⁷ and the
18 need for additional future increases through the FAC and trackers proposed by the
19 Company would hardly be welcomed by ratepayers as desirable price signals. Second,
20 we are not at this time contemplating “moving” transmission or any other costs from an
21 FAC into base rates, as suggested by Mr. Blunk. Instead, the implementation of any
22 FAC would more rapidly change prices when underlying costs are changed, but even
23 then a lag is present for accumulation and recovery of deferred energy costs. Finally,
24 most of the Company’s revenues would continue to be collected through base rates,

⁶⁶ Blunk Rebuttal, page 18.

⁶⁷ See, for example, the KCPL Missouri rate change table at Ives Rebuttal, page 7.

1 after any FAC is implemented, causing base rate price signals to KCPL customers to still
2 experience regulatory lag.

3
4 **Q WITNESS BLUNK CRITICIZES YOUR ANALYSIS AND CONCLUSION THAT KCPL'S**
5 **EXPOSURE TO FLUCTUATIONS IN NET ENERGY COSTS IS LOWER THAN OTHER**
6 **MISSOURI ELECTRIC UTILITIES, CLAIMING THAT YOU "COMPARED RATIOS**
7 **FROM DIFFERENT TIME PERIODS." HE THEN CONCLUDES THAT "MR.**
8 **BROSCH'S ANALYSIS IS FLAWED BECAUSE IT DOES NOT COMPARE LIKE**
9 **ITEMS." IS THIS A VALID COMPLAINT?**

10 **A** No. The table at page 23 of witness Blunk's Rebuttal clearly shows that the Ameren,
11 Empire and KCPL cases are all fairly recent and should be viewed as comparable, in
12 spite of Mr. Blunk's argument otherwise. With respect to the Greater Missouri
13 Operations ("GMO") he observes that "[t]here was more than 3 years difference between
14 GMO's and KCP&L's fuel prices." However, even though Mr. Blunk clearly has access
15 to any updated GMO information needed, he elected to provide no updated analysis
16 refuting my calculations. His criticisms are without substance in the absence of some
17 showing that net energy costs for the other Missouri utilities would be materially different
18 if more recent data was employed.

19
20 **Q MR. BLUNK DOES NOT ACCEPT YOUR GRAPH OF DELIVERED COAL COSTS IN**
21 **DIRECT TESTIMONY AND PRESENTS A COAL PRICE GRAPH IN HIS REBUTTAL**
22 **THAT APPEARS TO SHOW MUCH MORE FLUCTUATION IN PRICES.⁶⁸ SHOULD**
23 **THIS GRAPH BE RELIED UPON BY THE COMMISSION?**

24 **A** No. Mr. Blunk's revised graph greatly exaggerates the movements in coal prices, by
25 limiting the scale to barely contain the minimum and maximum prices paid. The use of a

⁶⁸ Blunk Rebuttal, page 27.

1 zero-based graph scale in my Direct Testimony reveals the relative stability in prices,
2 particularly when prices are examined separately for each generating station that
3 experiences different freight costs. Even with his exaggerated scaling, in every period
4 shown by Mr. Blunk across nearly four years, coal prices fluctuated within a narrow
5 range between \$29 and \$33 per ton, except for one month in 2013. More importantly,
6 the prices shown by Mr. Blunk reveal no obvious trend in price movements across the
7 entire period.

8
9 **Q WHY IS IT NECESSARY TO EVALUATE THE COMPANY'S DELIVERED COAL**
10 **PRICES SEPARATELY FOR EACH GENERATING STATION?**

11 A The rail freight price paid by KCPL differs by generating station, with ** _____
12 _____
13 _____**. When Mr. Blunk combines all
14 stations into a single composite delivered cost per ton in his graph, fluctuations in the
15 quantities delivered to each station from month to month impact the composite delivered
16 cost per ton. This is why, in my Direct Testimony, I showed the delivered price of coal
17 separately by station.

18 If the data contained in Mr. Blunk's "Cost of Coal Delivered to KCP&L (\$/ton)"
19 graph is simply unbundled into separate commodity and rail freight components, the
20 incredible stability of coal commodity costs can be isolated from the fluctuations in rail
21 freight prices that are correlated to ** _____
22 _____**. Using the highly
23 confidential data underlying Mr. Blunk's graph, the following results can be observed for
24 disaggregated coal and rail freight costs per ton for all generating stations, across the
25 longer historical period preferred by Mr. Blunk:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

**

**

Q MR. BLUNK REFERENCES YOUR SEPARATE ANALYSIS OF EACH OF THE COMPANY'S DIFFERENT FUEL TYPES IN HIS REBUTTAL AND SUGGESTS THAT YOU HAVE PROPOSED THE EXCLUSION OF NUCLEAR FUEL, STATING, "IF THE EXPENSE IS AS STABLE AS MR. BROSCHE CONTENDS, EXCLUDING IT FROM THE FAC WOULD NOT REDUCE THE CUSTOMER'S BILL, BUT IT COULD RESULT IN AN UNNECESSARILY HIGHER BILL."⁶⁹ DID YOU "ATTACK" THE DIFFERENT FUEL TYPES IN YOUR TESTIMONY OR INTEND TO EXCLUDE FROM THE FAC ANY SPECIFIC FUEL TYPES?

A No. Mr. Blunk appears to have not understood my testimony. My analysis of the Company's different fuel types was to explain that KCPL's dependence primarily upon nuclear and coal generation, where prices are very stable and effectively controlled by management. This argues against FAC approval for the Company. I never intended different treatments of nuclear, coal, gas or oil fuels if an FAC is approved for use by the Company.

⁶⁹ Blunk Rebuttal, page 29.

1

2 **Q WITNESS BLUNK ALSO CLAIMS THAT KCPL HAS “SIGNIFICANT VOLUME RISK**
3 **WITH NATURAL GAS AND OIL” AND THAT “PROJECTION MODELS**
4 **FREQUENTLY UNDERESTIMATE THE ACTUAL QUANTITY OF NATURAL GAS**
5 **REQUIRED.”⁷⁰ IS THIS A VALID CRITICISM OF YOUR ANALYSIS?**

6 **A** No. I considered only actual natural gas usage and the prices actually paid by KCPL
7 over an extended period of six years in my analysis, with no dependence upon
8 projection models or estimated values.

9 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

10 **A** Yes.

⁷⁰ Blunk Rebuttal, page 31.

SCHEDULE MLB-24

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-47

[CWIP Related ADIT] Ref: Rebuttal Testimony of Melissa Hardesty, page 5. At page 5, Ms. Hardesty states, "...the 2012 Ameren rate case order was silent regarding whether a NOL was generated for Ameren and Mr. Brosch did not address whether an NOL was generated by Ameren and whether or not this fact would have changed the outcome on this issue in that case." Please respond to the following:

- a. Explain Ms. Hardesty's understanding of whether or not Ameren Missouri was, in fact, in an NOL position in its 2012 rate case test year, indicating any research that she conducted in preparing her testimony.
- b. Provide complete copies of all documents associated with or supportive of the response to part (a).
- c. Did Ms. Hardesty review the most recent Ameren Missouri rate order issued on April 29, 2015 in Case No. ER-2014-0258, which addresses at pages 17-22 that utility's NOL position in the past six years?
- d. Please provide complete copies of all information that Ms. Hardesty believes would indicate that Ameren Missouri was not in an NOL carryforward position in every tax year since 2007.
- e. Did Ms. Hardesty note whether Ameren Missouri, after not prevailing on its CWIP-related ADIT exclusion in its 2012 rate case test year, asserted the same rate base exclusion of CWIP-related ADIT in the subsequent 2014 test year rate case? Please explain Ms. Hardesty's understanding of the treatment by Ameren of CWIP-related ADIT in ER-2014-0258.

Response:

- a. Yes. I did understand that Ameren Missouri had NOL carryforward in its 2012 rate case.
- b. See the files attached for the information reviewed by me.
Q15-47_Ameren Missouri Oder ER-2014-0258.pdf
Q15-47_ER-2012-0166_Brosch DT.pdf
Q15-47_ER-2012-0166_Brosch ST.pdf
Q15-47_ER-2012-0166_Warren_RT.pdf

Q15-47_ER-2014-058_Brosch DT.pdf
Q15-47_ER-2014-058_Brosch.pdf
Q15-47_ER-2014-058_Brosch_2.pdf
Q15-47_ER-2014-058_Brosch_3.pdf
Q15-47_ER-2014-058_Brosch_4.pdf
Q15-47_ER-2014-058_Brosch_ST.pdf
Q15-47_ER-2014-058_Warren 2.pdf
Q15-47_ER-2014-058_Warren RT.pdf

- c. Yes. I did review the most recent Ameren Missouri rate order for Case No Er-2014-0258 and specifically pages 17-22 for the utility's NOL position.
- d. I did not state that Ameren Missouri was not in an NOL carryforward position in my testimony. I did state that the testimony I reviewed did not appear to address whether or how the reduction in cash benefit due to NOL in the years that the CWIP-related ADIT was created impacted the Commission's decision to include the CWIP-related ADIT in order.
- e. I do not believe that Ameren Missouri asserted the same rate base exclusion of CWIP-related ADIT in the 2014 rate case since I did not see testimony related to this issue. See the testimony attached to question b for the information reviewed by me.

Response prepared by Melissa Hardesty, Tax

Files attached:

Q15-47_Ameren Missouri Oder ER-2014-0258.pdf
Q15-47_ER-2012-0166_Brosch DT.pdf
Q15-47_ER-2012-0166_Brosch ST.pdf
Q15-47_ER-2012-0166_Warren_RT.pdf
Q15-47_ER-2014-058_Brosch DT.pdf
Q15-47_ER-2014-058_Brosch.pdf
Q15-47_ER-2014-058_Brosch_2.pdf
Q15-47_ER-2014-058_Brosch_3.pdf
Q15-47_ER-2014-058_Brosch_4.pdf
Q15-47_ER-2014-058_Brosch_ST.pdf
Q15-47_ER-2014-058_Warren 2.pdf
Q15-47_ER-2014-058_Warren RT.pdf
Q15-47_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-48

[CWIP Related ADIT] Ref: Rebuttal Testimony of Melissa Hardesty, page 5. At page 5, Ms. Hardesty states, "Because of the NOL, KCP&L's credit ADIT balance was not a free loan to the Company from ratepayers and there is no justification for including CWIP-related ADIT balances as an offset to KCP&L's rate base." Please respond to the following:

a. Does Ms. Hardesty or KCPL contend that the Company's inclusion of its allocated NOL deferred tax asset in rate base, as a reduction to the recorded ADIT balances also included in rate base, is insufficient to accurately quantify the net amount of the "free loan to the Company from ratepayers" in the test year? Why or why not?

b. Given this testimony, why should KCPL include any of its recorded credit ADIT balances in rate base in the test year, even those unrelated to CWIP? Why or why not?

Response:

- a. No. I believe the allocated NOL deferred tax asset in rate base accurately quantifies the reduction to ADIT liabilities.
- b. The IRS normalization rules require ADIT related to assets in rate base, and ADIT for NOLs created due to accelerated depreciation to be included in rate base. Plus, most ADIT assets and liabilities are created over time. Only the ADIT created related to assets not placed in service in 2011 and 2014, could be considered for exclusion since these are tax years that an NOL carryforward was created. I don't think it is appropriate to exclude the other ADIT since the related assets or liabilities are included in the case. However, the assets related to CWIP are not included in the case until placed in service. Therefore, in a year that an NOL was generated, there was no cash benefit created as a result of the CWIP deductions taken for tax purposes and we should consider excluding the ADIT from rate base.

Response prepared by: Melissa Hardesty, Tax

Attachment: Q15-48_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-49

[1KC Lease Related ADIT] Ref: Rebuttal Testimony of Melissa Hardesty, page 6. At page 6, Ms. Hardesty states, "Although there has not been a separate lead lag computation on the 1KC Lease directly, the reduction in rent expense is included in the overall cash working capital computations and in the rent expense included in cost of service. Therefore, the impact of this liability has been included in this case and the ADIT asset related to this liability should also be included in rate base." Please state whether Ms. Hardesty or KCPL contend that the treatment of rent expense and cash working capital described in this testimony is financially equivalent to fully including the 1KC liability in rate base, and provide complete copies of all calculations, workpapers, analyses, projections and other information supportive of any affirmative response to this request.

Response:

The Company believes that the expense that has been included in cash working capital does impact the computation of rate base but it is not financial equivalent to fully including in the 1KC liability in rate base.

Response prepared by: Melissa Hardesty, Tax

Attachment: Q15-49_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-50

[Employee Comp and Bonus Related ADIT] Ref: Rebuttal Testimony of Melissa Hardesty, page 7. At page 7, Ms. Hardesty states, "Although there has not been a separate lead lag computation on these liabilities directly, the salary and incentive compensation is included in the overall cash working capital computations and in the payroll expense included in cost of service. Therefore, the impact of this liability has been included in this case and the ADIT asset related to this liability should also be included in rate base." Please state whether Ms. Hardesty or KCPL contend that the treatment of compensation expenses and cash working capital described in this testimony is financially equivalent to fully including the bonus and deferred compensation liabilities in rate base, and provide complete copies of all calculations, workpapers, analyses, projections and other information supportive of any affirmative response to this request.

Response:

The Company believes that the expense that has been included in cash working capital does impact the computation of rate base but it is not financial equivalent to fully including in the bonus and deferred compensation liabilities in rate base.

Response prepared by: Melissa Hardesty, Tax

Attachment: Q15-50_Verification.pdf

SCHEDULE MLB-25

****HIGHLY CONFIDENTIAL****

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-51

[NOL Deferred Tax Asset] Ref: Rebuttal Testimony of Melissa Hardesty, page 9. At page 9, Ms. Hardesty states, "However, it is the nature of a consolidated filing that any given member may be better off in some years as a result of consolidated filing and worse off in other years. Mr. Brosch has identified and selected a single point in time when KCP&L may be worse off as a result of consolidated filing to perform his hypothetical assessment of available cost-free capital." Please respond to the following:

- a. Does Ms. Hardesty contend that KCP&L was, in fact, better off as a result of inclusion within Great Plains Energy's consolidated filing in any of the tax years in the past decade 2005 through 2014?
- b. Please explain and quantify the benefits to KCPL achieved through the Great Plains Tax Allocation Agreement in each year where your response to part (a) is affirmative.
- c. Provide complete copies of all calculations, workpapers, analyses, reports and other documents associated with or supportive of your response to part (b).

Response:

- a. No. For 2005-2007, KCPL did not see a benefit of filing as part of the consolidated group. This is primarily due the fact that KCPL had a majority of the taxable income of the consolidated group and there was no NOL carryforward and tax credits carryforwards. Since the merger with Aquila in 2008, bonus depreciation has significantly reduced the taxable income of the consolidated group and KCPL has not been able to use some of the NOLs and tax credits that it would have had it been calculated on a stand-alone basis.
- b. N/A
- c. N/A

Response prepared by: Melissa Hardesty, Tax

Attachment: Q15-51_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-52

[NOL Deferred Tax Asset] Ref: Rebuttal Testimony of Melissa Hardesty, page 14.

At page 14, Ms. Hardesty states, "In its calculations, the Company has used the actual amount of cost-free capital it actually received. That is, it has used the amounts reflected on its financial records. These amounts reflect the actual cash that the Company has received in connection with the claiming of its tax deductions." Please respond to the following:

- a. Is the amount "actually received" an amount determined by the Tax Allocation Agreement among KCPL, its parent and other affiliated entities?
- b. Would the amount "actually received" by KCPL have been the approximate amount proposed by MECG witness Brosch, if not for the election of Great Plains Energy to file a consolidated return and allocate consolidated tax responsibilities among its subsidiaries pursuant to the TAA?
- c. Please explain and quantify any negative response to part (b), including quantification of any alleged inaccuracies in the stand-alone NOL DTA amounts proposed by MECG witness Brosch.
- d. Provide complete copies of all calculations, workpapers, analyses, reports and other documents associated with or supportive of your response to part (c).

Response:

- a. Yes. The amount "actually received" is an amount determined by the Tax Allocation Agreement and cash provided as part of the intercompany tax payments made by GPE to all subsidiaries.
- b. Yes.
- c. N/A
- d. N/A

Response prepared by: Melissa Hardesty, Tax

Attachment: Q15-52_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Woodsmall David Interrogatories - MECG_20150515
Date of Response: 05/26/2015

Question:15-53

[NOL Deferred Tax Asset] Ref: Rebuttal Testimony of Melissa Hardesty, page 17. At page 17, Ms. Hardesty states, "The method used by the Company is the method that ensures that all subsidiaries are treated fairly and consistently. Mr. Brosch is requesting the Commission disregard what is fair and equitable to all subsidiaries, including KCP&L, to compute the deferred tax assets for NOLs on some "hypothetical" basis." Please respond to the following:

- a. A side by side table for each tax year 2008 through 2014 showing KCPL's stand-alone taxable income and NOL carryforward amount, the consolidated group's taxable income and consolidated NOL carryforward in each year, and the net benefit or detriment to KCPL, comparing the two methods in each year.
- b. Using the information in your response to part (a), explain and quantify how the method used by the Company has treated KCPL fairly and equitably.
- c. Explain and quantify each and every benefit that Ms. Hardesty or KCPL believe has been realized by the Company's participation in the Great Plains TAA.
- d. Explain and quantify each and every benefit that Ms. Hardesty or KCPL believe will be realized in future years by the Company through participation in the Great Plains TAA.
- e. Provide the most detailed available projection, in the same format as your response to part (a), showing how the TAA is expected to attribute NOL carryforward and utilization balances to KCPL in each future year for which projections are available.
- f. Provide complete copies of all calculations, workpapers, analyses, reports and other documents associated with or supportive of your response to parts (a) through (e).

Response:

The attachments to this response are **HIGHLY CONFIDENTIAL** and contain private company financial information not available to the public and should be handled accordingly.

- a. The response to data request MPSC 0497 provided a side by side computation of KCPL's standalone NOL carryforward amount with the GPE carryforward amount. The response to data request MECG 9-8 shows the consolidated group taxable income and the standalone taxable income of KCPL and the NOLs allocated to KCPL under the tax sharing agreement.
- b. Data Request MECG 0497 has a schedule of how all NOLs were used on a consolidated basis. The IRS rules require that the oldest vintage NOL be used first and that is what the company has done. Once an NOL is used, the company or companies that generated the NOL for that year are compensated for the use of the NOL to reduce the consolidated group's tax liability. This is fair and equitable to all companies.
- c. As stated in data request MECG 15-52, KCPL has not received any extra benefit by filing consolidated with Great Plains Energy since the GPE TAA was signed in 2008.
- d. We only have financial projections for 2015-2019, and we do not expect KCPL to see a benefit by filing with the consolidated group during this period.
- e. See the file named "Q15-53_HC_NOL Carryforwards.xlsx" attached.
- f. See the file named "Q15-53_HC_Taxable Income Forecast 3-20-15.xlsx" attached.

Response prepared by Melissa Hardesty, Tax

Attachments:

Q15-53_HC_NOL Carryforwards.xlsx

Q15-53_HC_Taxable Income Forecast 3-20-15.xlsx

Q15-53_Verification.pdf

KCP&L
Case Name: 2014 KCPL Rate Case
Case Number: ER-2014-0370

Response to Williams Nathan Interrogatories - MPSC_20141230
Date of Response: 01/19/2015

Question:0225

Provide a current accounting of all net operating losses related to Great Plains Energy's acquisition of Aquila, Inc., including any adjustments for use of these losses or any adjustment related to revaluations as of December 31, 2012 and as of December 31, 2013. Also provide the expected net operating losses related to the acquisition of Aquila, Inc., including any adjustments for use of these losses or any adjustment related to a revaluation as of December 31, 2014. (Case No. ER-2012-0174 DR 216) DR requested by Keith Majors (Keith.Majors@psc.mo.gov).

Response:

The attachment to this response is **HIGHLY CONFIDENTIAL** and contains private company financial information not available to the public and should be handled accordingly.

See the file attached named "Q0225_Aquila Preacquisition NOLs.xlsx" for the current accounting of all net operating losses related the acquisition of Aquila, Inc. at December 31, 2012, and December 31, 2013. The file also contains the expected accounting for these losses at December 31, 2014.

Response prepared by: Melissa Hardesty, Tax

Files attached

Q0225_Aquila Preacquisition NOLs.xlsx
Q0225_Verification.pdf