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Witness:	Philip Fracica
Sponsoring Party:	Renew Missouri Advocates
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MISSOURI PUBLIC SERVICE COMMISSION

EO-2019-0132 / EO-2019-0133

REBUTTAL TESTIMONY

OF

PHILIP FRACICA

ON BEHALF OF

RENEW MISSOURI ADVOCATES

January 28, 2019

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Kansas City Power & Light Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2019-0132
In the Matter of KCP&L Greater Missouri Operations Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2019-0133

AFFIDAVIT OF PHILIP FRACICA

STATE OF MISSOURI)
) **ss**
COUNTY OF JACKSON)

COMES NOW Philip Fracica, and on his oath states that he is of sound mind and lawful age; that he prepared the attached rebuttal testimony; and that the same is true and correct to the best of his knowledge and belief.

Further the Affiant sayeth not.

Philip Fracica

Subscribed and sworn before me this 28th day of January 2019.

Austin Carter Potter
Notary Public

AUSTIN CARTER POTTER
Notary Public-Notary Seal
State of Missouri County of Bates
My Commission Expires Apr. 12, 2020
Commission # 16185907

My commission expires: 4-12-2020

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I. <u>Introduction</u>

Q. Please state your name and business address.

A. My name is Philip A. Fracica. My business address is 7431 Broadway Street Kansas City, MO 64114.

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

A. I am employed by Renew Missouri Advocates ("Renew Missouri") as a Regional Director.

Q. What are your responsibilities?

A. My current responsibilities are focused on clean energy policy advocacy with municipal utility advisory boards, city councils, organizing communities around advocacy opportunities, researching utility clean energy programs, and advocating for the expansion of energy efficiency programs with a focus on low-income multifamily customers.

Q. Please describe your educational background and work experience.

A. My educational experience consists of a Bachelor of Science in Business Administration with an Emphasis in Finance from the University of Missouri. I started working at Renew Missouri in May 2014 as an intern and began working full-time with the organization on May 30th, 2015. I have analyzed community solar policies throughout the country and have reviewed all utility solar programs across the state of Missouri. Over the past two years I have advocated for and testified in favor of clean energy legislation in General Assembly hearings. I have advocated at city council hearings in Kansas City, Columbia, and Independence in support of clean energy financing considerations such as PACE, net metering changes, and for the creation of climate action plans. I have participated in and organized clean energy conferences the Advancing Renewables in the Midwest ("ARM") and State Environmental Leader's Conference ("SELP"). I also helped to develop Renew

Missouri's comments regarding Ameren Missouri's Solar Subscriber and Solar Partnership filings EA-2016-0207/0208.

I have been participating in various coalitions to help low-income communities with their energy burden over the past year. My primary interaction with stakeholders working on low-income energy issues has been through the Committee to Keep Missourians Warm, which is a stakeholder group consisting of various community action agencies, Division of Energy, Spire, Office of Public Counsel, PSC Staff, KCP&L, Ameren, and low-income energy advocates like myself. As part of these meetings, we have discussed the feasibility of using the weatherization assistance program ("WAP") and low-income home energy assistance program ("LIHEAP") dollars towards solar programs. In addition to my efforts here, I have been engaged with a national coalition of housing and energy advocates with a focus on helping low-income multifamily Americans save on energy, called Energy Efficiency For All ("EEFA"). With EEFA, I held policy meetings in 2015 and 2016 to discuss policy recommendations with many stakeholders from across Missouri to improve energy efficiency and solar access for low-income multifamily communities across the state. From these advocacy efforts I have been given the honor to be nominated and elected to the Missouri Weatherization Policy Advisory Council ("MWPAC") to help provide input on the state's administration of federal funding for WAP and LIHEAP. I am also currently serving on the City of Columbia's Integrated Resource and Master Energy Plan Taskforce to provide input on Columbia Water & Light's ongoing efforts to evaluate their future resource planning.

In KCPL and GMO's recent rate cases, ER-2018-0145 and ER-2018-0146, I submitted Direct, Rebuttal, and Surrebuttal testimony.

Q. What is the purpose of your direct testimony in this proceeding?

A. The purpose of this testimony is to introduce the PAYS® program design, explain its benefits, and recommend the Commission direct KCPL and GMO to offer this program as part of their MEEIA portfolio.

II. <u>PAYS® Program Design</u>

Q: What is PAYS®?

A: Pay As You Save® ("PAYS®") is a market-based system that enables utility customers to purchase and install cost-effective energy efficiency upgrades or distributed renewable energy assets through a voluntary program that assures immediate net savings to customers. The idea behind PAYS® is for energy-saving upgrades to be installed in a customer's home or building, but the utility pays the up-front cost of the installed energy saving measures. To recover its costs, the utility puts a fixed charge on the customer's electric bill that is significantly less than the estimated energy savings from the upgrades. Therefore, the customer sees immediate savings by incurring less expense for energy while paying a fixed charge that is below the total estimated energy savings. Once the utility recovers its costs, the obligation of the customer to pay ends.[1]

Q: How did you become familiar with PAYS®?

A: I originally became familiar with PAYS® from the Southeast Energy Efficiency Alliance ("SEEIA") Inclusive Financing Learning Circle webinar series published in 2017. While this webinar series was not just limited to PAYS® there was a large focus on the program. After completing my review of the webinar series I contacted Clean Energy Works in September 2017, to make sure my understanding of the program was adequate. Between first learning about the program in 2017 and now, I have been able to meet with two of the

[1] In its Report and Order in Case No. ER-2016-0285, the Commission provided this synopsis of PAYS®.

current PAYS® program operators in Arkansas and Kentucky to learn about their professional experience with the program.

Q: What are the eligibility requirements for a PAYS® program?

A: The program can be made available to all interested customers who take service under any rate schedule for energy efficiency improvements on a voluntary basis. The program is available to any customer who voluntarily wishes to participate and shall not be a requirement that the structure be all-electric.

Q: Is the PAYS® program only available to property owners?

A: No. The program is available to all customers, but if the customer is not the building owner, the building owner must sign an Owner Agreement, agreeing to not remove or damage the upgrades, to maintain them, and to provide notice of the benefits and obligations associated with the upgrades at the location to any customer before their rental of the property.

Q: What are the participation requirements for an interested customer?

A: To participate in the program a customer must request an analysis of cost-effective energy efficiency upgrades, agree to the terms of the cost effectiveness analysis fee, review the Energy Efficiency Upgrade Agreement that defines customer's benefits and obligations.

Q: Who will be doing the energy efficiency upgrade and audit work for customers?

A: An approved energy efficiency contractor including trade allies or a future approved program operator can complete the work for both the energy audit and the energy efficiency upgrades. The contractor will perform a cost-effectiveness analysis and prepare an Energy Efficiency Plan identifying recommended upgrades to make energy savings improvements. The utility may operate the program directly with its own staff resources or hire an experienced program operator to implement the program. When a customer wants to proceed with implementing the Energy Efficiency Plan, the utility staff or program operator determines the appropriate monthly Service Charge.

Q: What energy savings can be expected for the customer?

A: The participating customer can expect to see the estimated energy savings due to the quality assurance requirement of the program. If the work has not been adequately completed, the contractor will not be compensated for their work until the issues have been rectified. The contractor is paid by the utility after the energy efficiency upgrades have been completed and following on-site or telephone inspection and approval of the installation by the utility or its program operator.

Q: How will the PAYS® Services Charge be assessed for participating customers?

A: The utility will recover the costs for its investments including any fees as allowed in the PAYS® tariff through monthly Service Charges assigned to the location where upgrades are installed. Customers occupying that location will continue the payments until all utility costs have been recovered. The Service Charges will be set for a duration not to the exceed 80% of estimated life of the upgrades or the length of a full parts and labor warranty, whichever is greater and in no case longer than twelve years. The Service Charges and duration of payments will be established and included in the Efficiency Upgrade Agreement.

Q: When will a participating customer receive their first PAYS® Services Charge after completion of the work?

A: The customer shall be billed the monthly Service Charge as determined by the utility no sooner than 45 days after approval by the utility or its program operator. The utility will bill and collect Service Charges until cost recovery is complete except in case of a needed repair at no fault of the program participant. Prepayment of unbilled charges will not be permitted to facilitate installed upgrades remaining and continuing to function at the location for at least the duration of utility cost recovery.

Q: Which energy efficiency upgrades are eligible under this program?

A: All upgrades must have Energy Star certification or must be a MEEIA Cycle III approved energy efficiency measure. The utility may seek to negotiate with contractors or upgrade suppliers extended warranties to minimize the risk of upgrade failure on behalf of all participating customers and prices (e.g., per square foot in the case of insulation) to assure the lowest possible cost for all projects.

Q: Is there a savings requirement for customers that participate in a PAYS® program?

A: Yes. To ensure that participants benefit from the program, the recommended upgrades shall be limited to those where the annual Program Service Charges, including program fees and the company's cost of capital are no greater than 80% of the estimated annual benefit from reduction to the participating customers' annual utility charges based on current rates in electricity costs. This requirement reasonably assures customers participating in the program that they will receive a minimum reduction of 20% in their annual utility charges.

Q: How will a PAYS® program interact with currently available energy efficiency rebate programs?

A: First, I want to note that the PAYS® tariff would be optional, meaning customers not wishing to participate in PAYS® could still participate in the companies' other MEEIA programs. Second, offering customers the option to participate in a PAYS® program will complement the MEEIA portfolio and enable more robust and diverse customer participation. The utility may reduce the energy efficiency upgrade cost with an incentive payment for program participation that is less than or equal to the value of the upgrades to the utility. The PAYS® program will work well with the proposed MEEIA incentive rebate programs. All of the proposed rebate programs are cost-effective except for the Income-Eligible programs which are not required to be cost-effective, but should be specifically evaluated for cost-effectiveness for PAYS® participation to guarantee savings. Additionally, the Commission should establish a multi-stakeholder process to support program design of any financing offering for low-income renters that are eligible for both the Income-Eligible rebates and the PAYS® program.

Q: Will PAYS® offer a co-pay option when coordinating with MEEIA programs?

A: Yes. The co-pay is used to pay for measures that do not pass as cost-effective after the analysis or audit has been completed. However, I am proposing for the PAYS® program to coordinate with MEEIA incentive programs and so I expect few customers will need to use the co-payment option as all programs are cost-effective excluding the Income-Eligible program offerings.

Q: How will the utility be made whole in the event of an uncollectable service charge?

A: Since the PAYS® program is tied to the metered location, the person responsible for paying the bill at that location will be subject to the Service Charge until it is fully recovered. In the event that the participant moves from the location, the next property owner or occupant will resume payment of the PAYS® Service Charge on his or her utility bill. Under this model, there is little room for an uncollectable account, but one could still arise if there is a natural disaster or the location is abandoned. In the event there is such a disaster, the utility can establish a loss reserve fund and I am aware of experienced program operators that have established this type of a fund for the utility. The only other example of uncollectable would be in the case that an upgrade that fails and cannot be repaired or replaced cost-effectively through no fault of the customer, which would require the utility to waive all remaining charges. You can read more details on how repairs are handled under

PAYS® in Section 8 of the PAYS Exemplar Tariff attached as **Schedule PF-1**.

Q: How will maintenance of PAYS® energy efficiency upgrades be accounted for?

A: Participating customers and building owners (if the customer is not the building owner) must agree, when signing the Efficiency Upgrade Agreement or the Owner Agreement, to keep the upgrades in place for the duration of Service Charges, to maintain the upgrades per manufacturers' instructions, and report the failure of any upgrades to the Program Operator or utility as soon as possible. If the upgrade fails, the utility is responsible for determining its cause and for repairing the equipment in a timely manner as long as the owner, customer, or occupants did not damage the upgrades, in which case they will reimburse the utility.

Q: How will energy audits be paid for as part of the PAYS® program requirement for a cost-effectiveness analysis?

A: The cost of the energy audit will be included in the PAYS® tariff fee on the participating customer's utility bill. This cost can vary depending on the building type. Homeowners can expect an energy audit cost of $300-$800 according to RESNET.[2] Additionally, the energy audit is valued at $300 by Ouachita Electric's HELP PAYS® program.[3] The cost for an energy audit or energy assessment in a multifamily housing property has a larger range of $1,000-$4,000. This range is dependent on the American Society of Heating, Refrigerating and Air-Conditioning Engineers ("ASHRAE") level of the completed assessment. While the level of detail in the energy assessment contributes to the cost the other important factor is the size of the property including the number of units. The cost of this audit would also be included in the PAYS® Service Charges paid by the participating customer. If the customer chooses not to sign an Efficiency Upgrade Agreement to roll the energy audit

[2] https://www.resnet.us/home-energy-audits-faqs
[3] https://www.oecc.com/help

cost into the Service Charges, charges for the cost of the audit will appear on the next monthly bill.

Q: When the utility's investment is fully paid off, how will the Service Charge be terminated?

A: Once the utility's costs for upgrades at a location have been recovered including: its cost of capital, the cost paid to the contractor to perform the work, and costs for any repairs made to the upgrades, the monthly Service Charge will no longer be billed. Additionally, after completion of payment of the Service Charges the ownership of the installed upgrades will be transferred to the property owner.

Q: Has PAYS® been implemented in other states?

A: Utility regulators in Kansas, Kentucky, Arkansas and more have already approved opt-in tariffs for building efficiency upgrades. Although only a few leading utilities in each of those states are taking advantage of the opportunity thus far, all of them are using the same system for their program design, called Pay As You Save®. PAYS® offers all customers the option to access cost-effective energy upgrades using a proven investment and cost recovery model that benefits a participating utility. Opt-in on-bill financing tariff programs have also been ordered at public service commissions in California (specific to water measures), Hawaii, and Michigan.

III. PAYS® Earnings Opportunity and Program cost

Q: How will PAYS® work with the company's earnings opportunity and program costs in the MEEIA Cycle?

A: First, the PAYS® program will have a strong positive impact on the company's earnings opportunity in MEEIA Cycle III by increasing the number of customers that otherwise would not be able to take advantage of incentives in the program beyond direct install measures. This financing mechanism allows for customers that do not have the resources available to take advantage of currently available financing options to pay for energy efficiency upgrades. Incentive programs are effective and do help customers save on their utility bill, but if the customer is unable to afford the remaining cost of a measure after the rebate is accounted for, the participation in energy efficiency is lower than it otherwise could be.

Second, PAYS® is not necessarily a separate MEEIA program requiring its own budget, but is a supplemental program to allow for additional customers to participate in energy savings programs. Unlike other MEEIA program measures that are paid for by all customers in a class whether or not they participate, the PAYS® program model is paid for entirely by the customer benefitting from the upgrades. Even without modifying the companies' earnings opportunity matrix, PAYS® would allow the company to recover its costs for the upgrades while allowing it to make progress towards achieving the metrics laid out in the matrix.

Q: When looking at the company's Earnings Opportunity Matrix, which earnings opportunities are applicable to PAYS®?

A: Based on the Earnings Opportunity Matrix in Figure 4.3 in the KCP&L MEEIA 2018 Report, the companies would be able to see an increase in four earnings opportunity areas by coordinating MEEIA with a PAYS® tariff. These earnings opportunity categories are (1) EE $/MWh, (2) EE $/MW, (3) Thermostat $/MW, and (4) IEMF $/PY. While these earnings opportunities are sufficient for the company to successfully offer a PAYS® tariff, especially since it will allow a more robust and diverse group of customers to participate in MEEIA programs, Renew Missouri would be willing to consider supporting a new earnings opportunity category in the overall matrix tied to performance. For example, if the companies enroll a specific number of customers in the program, they could earn some additional dollar amount. Such an adder could be similar to the Opower earnings opportunity in MEEIA Cycle II that was only based on prudent spending of the budget.

Q: How will PAYS® address the Throughput Disincentive mechanism?

A: There will not be a need for any changes to the throughput disincentive mechanism from PAYS®. The PAYS® program will increase the annual kWh savings resulting from MEEIA programs and can be tracked by participating customer class. The program will allow more customers to participate and will naturally increase the energy savings achieved. In fact, the PAYS® program can help address "free ridership" determinations because all of the energy savings associated with the measures used by a PAYS® participant would be caused by the companies' program. A PAYS® tariff would give the company more certainty around the effectiveness of their energy efficiency program through targeted holistic energy efficiency upgrades through the program.

Q: What is your recommendation to the Commission?

A: The Commission should grant KCPL and GMO's applications with an order that requires Companies' to develop a tariff to facilitate a PAYS® program for their customers. Specifically, for homeowners without access to credit, renters, small businesses, and smaller governmental entities. It is Renew Missouri's assertion that PAYS®, if developed properly with proper marketing efforts, will greatly enhance participation in the Companies' energy efficiency efforts, provide greater earnings opportunity for the Companies, provide benefits for customers who often don't see results from these MEEIA Applications, and help to resolve the kind of concerns raised by Commission Staff in other cases that these proposed plans satisfy the requirements of the MEEIA statute.

Q: Does this conclude your testimony?

A: Yes.

PAY AS YOU SAVE® ON-BILL PROGRAM

(PAYS®)

1 **Eligibility:** Eligible on an optional and voluntary basis to any customer who takes service under any rate schedule for energy efficiency improvements (upgrades) where the utility provides electric service to the structure. It shall not be a requirement that the structure be all-electric.

2 **Participation:** To participate in the Program, a customer must: 1) request from the utility an analysis of cost-effective upgrades, 2) agree to the terms of the cost-effectiveness analysis fee as described in Section 3.4, and 3) sign the Efficiency Upgrade Agreement that defines customer benefits and obligations, and implement any project that does not require an upfront payment from the customer as described in Section 3.3.

2.1 **Ownership**: If the customer is not the building owner, the building owner must sign an Owner Agreement, agreeing to not remove or damage the upgrades, to maintain them, and to provide notice of the benefits and obligations associated with the upgrades at the location to any customer before their rental of the property.

2.2 **Notice**: The owner of the location must agree in writing as part of the Efficiency Upgrade Agreement (if the Owner is the customer) or Owners Agreement that they agree to a Notice of the tariffed benefits and obligations attached to their property records. Failure to obtain the signature of a successor customer who is renting the premises on Notice form or a purchaser in jurisdictions in which the customer or utility is not permitted attach the Notice to the property records, indicating that the successor customer received notice will constitute the owner's acceptance of consequential damages and permission for a tenant or purchaser to break their lease or sales agreement without penalty.

3 **Energy Efficiency Plans:** The utility will have its Program Operator or approved energy efficiency contractor perform a cost-effectiveness analysis and prepare an Energy Efficiency Plan (Plan) identifying recommended upgrades to improve energy efficiency and lower power costs, including those that require no customer copayment.

3.1 **Incentive Payment:** The utility may reduce the upgrade cost with an incentive payment for program participation that is less than or equal to the value of the upgrades to the utility.

PAY AS YOU SAVE® ON-BILL PROGRAM

(PAYS®)

3.2 **Net Savings:** Recommended upgrades shall be limited to those where the annual Program Service Charges (Service Charges), including program fees and the utility's cost for capital, are no greater than 80% of the estimated annual benefit from reduction to customers' annual utility charges based on current rates in electricity and/or gas costs.

3.3 **Copay Option:** In order to qualify a project that is not cost effective for the Program, customers may agree to pay the portion of a project's cost that prevents it from qualifying for the Program as an upfront payment to the contractor. The utility will assume no responsibility for such upfront payments to the contractor.

3.4 **Cost Effectiveness Analysis Fee**: If the cost of the cost-effectiveness analysis exceeds the value to the utility of upgrades accepted by customers for installation based on the Utility Cost test, the utility will recover from participants the portion of the cost for the analysis that is greater than the value of the upgrades to the utility. The utility will not recover costs for the analysis if the Energy Efficiency Plan concludes that proposed upgrades are cost effective only with a copay. The utility will recover all of its costs for the analysis at a location from a customer who declines to install upgrades identified in an Energy Efficiency Plan that do not require a copayment. Customer costs for analyses, if any, will be recovered from participants by rolling them into Service Charges as described in Section 7, unless the customer does not sign an Efficiency Upgrade Agreement in which case the charges will appear on the next monthly bill.

3.5 **Existing Buildings:** Projects that address upgrades to existing buildings deemed unlikely to be habitable or to serve their intended purpose for the duration of utility cost recovery will not be approved unless other funding can effect necessary repairs. If a building is a manufactured home, to be eligible it must be built on a permanent foundation and fabricated after1982.

4 **Approved Program Operator:** Utility may operate the program directly with its own staff resources or hire an experienced program operator to implement the program.

5 **Approved Contractor**: Should the customer determine to proceed with implementing The Plan, the utility or its program operator shall determine the appropriate monthly Service Charge as described below. The customer shall sign the Agreement and select a contractor from the utility's list of approved contractors.

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(PAYS®)

6 **Quality Assurance:** When the energy efficiency upgrades are completed, the contractor shall be paid by the utility, following on-site or telephone inspection and approval of the installation by the utility or its program operator.

7 **Program Services Charge:** The utility will recover the costs for its investments including any fees as allowed in this tariff through monthly Service Charges assigned to the location where upgrades are installed to be paid by customers occupying that location until all utility costs have been recovered. Service Charges will be set for a duration not to the exceed 80% of estimated life of the upgrades or the length of a full parts and labor warranty, whichever is greater and in no case longer than twelve years. The Service Charges and duration of payments will be included in the Efficiency Upgrade Agreement.

7.1 **Cost Recovery:** No sooner than 45 days after approval by the utility or its program operator, the customer shall be billed the monthly Service Charge as determined by the utility. The utility will bill and collect Service Charges until cost recovery is complete except in cases discussed in Section 8. Prepayment of unbilled charges will not be permitted to facilitate installed upgrades remaining and continuing to function at the location for at least the duration of cost recovery.

7.2 **Eligible Upgrades**: All upgrades must have Energy Star certification, if applicable or must be a MEEIA Cycle III approved energy efficiency incentive program. The utility may seek to negotiate with contractors or upgrade suppliers extended warranties to minimize the risk of upgrade failure on behalf of all customers and prices (e.g., per square foot) to assure the lowest possible cost for all projects.

7.3 **Ownership of Upgrades:** During the duration that Services Charges are billed to customers at locations where upgrades have been installed, the utility will retain ownership of the upgrades. At the termination of Services Charges, ownership will be transferred to the building owner.

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(PAYS®)

7.4 **Maintenance of Upgrades**: Participating customers and building owners (if the customer is not the building owner) must agree, when signing the Efficiency Upgrade Agreement or the Owner Agreement, to keep the upgrades in place for the duration of Service Charges, to maintain the upgrades per manufacturers' instructions, and report the failure of any upgrades to the Program Operator or utility as soon as possible. If the upgrade fails, the utility is responsible for determining its cause and for repairing the equipment in a timely manner as long as the owner, customer or occupants did not damage the upgrades, in which case they will reimburse the Utility as described in Section 8.

7.5 **Termination of Service Charge:** Once the utility's costs for upgrades at a location have been recovered, including its cost of capital, the cost paid to the contractor to perform the work, costs for any repairs made to the upgrades as described in Section 8 the monthly Service Charge shall no longer be billed, except as described in Sections 7.7 and 8.

7.6 **Vacancy**: If a location at which upgrades have been installed becomes vacant for any reason and electric service is disconnected, Service Charges will be suspended until a successor customer takes occupancy. If a building owner maintains electric service at the location, the building owner will be billed Service Charges as part of any charges it incurs while electric service is turned on.

7.7 **Extension of Program Charge:** If the monthly Service Charge is reduced or suspended for any reason, once repairs have been successfully effected or service reconnected, the number of total monthly payments shall be extended until the Service Charges collected equal the utility's cost for installation as described in Section 7, including costs associated with repairs, deferred payments, and missed payments as long as the current occupant is still benefitting from the upgrades.

7.8 **Tied to the Location:** Until cost recovery for upgrades at a location is complete or the upgrades fail as described in Section 8, the terms of this tariff shall be binding on the metered structure and any future customer who shall receive service at that location.

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7.9 **Disconnection for Non-Payment:** Without regard to any other Commission or utility rules or policies, the Service Charges shall be considered as an essential part of the customer's bill for electric service, and the utility may disconnect the metered structure for non-payment of Service Charges under the same provisions as for any other electric service. If service is disconnected for customers on pre-paid payment plans, Service Charges will be pro-rated by the day.

8 **Repairs:** Should, at any future time during the billing of Service Charges, the utility determine that the installed Upgrades are no longer functioning as intended and that the occupant, or building owner if different, did not damage or fail to maintain the upgrades in place, the utility shall suspend the Service Charges for any failed upgrade until such time as the utility and/or its contractor can repair the upgrade. If the upgrade cannot be repaired or replaced cost effectively, the utility will waive remaining charges.

If the utility determines the occupant, or building owner if different, did damage or fail to maintain the upgrades in place as described in Section 7.4, it will seek to recover all costs associated with the installation, including any fees, incentives paid to lower project costs, and legal fees.

The Service Charges will continue until utility cost recovery is complete.