PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

Missouri Public Service Commission

Area Code 314
751-3234

P.O. BOX 360
JEFFERSON CITY
MISSOURI 65102

May 28, 1987

Mr. Harvey G. Hubbs
Secretary
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102

Re: Case No. HO-86-139 - In the matter of the investigation of steam service rendered by Kansas City Power & Light Company.

Dear Mr. Hubbs:

Enclosed for filing in the above-captioned case is an original and fourteen (14) conformed copies of the Reply Brief of the Staff of the Missouri Public Service Commission. Copies have been sent this date to all parties of record.

Thank you for your cooperation in this matter.

Sincerely yours,

Mary Ann Young
Deputy General Counsel

MAY:nsh

Enclosure

cc: All parties of record

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PUBLIC SERVICE COMMISSION

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

In the matter of the investigation) of steam service rendered by) Kansas City Power & Light Company.)	Case No. HO-86-139

REPLY BRIEF OF THE STAFF OF THE
MISSOURI PUBLIC SERVICE COMMISSION

Mary Ann Young
Deputy General Counsel

Douglas C. Walther
Assistant General Counsel

Attorneys for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
(314)751-7499

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I. INTRODUCTION

This Reply Brief addresses only the Initial Brief filed by Applicant KCPL, and not those of KPL Gas Service or the Intervenor Group. Many of the arguments made in Applicant's Initial Brief will not be responded to herein either because they were adequately anticipated and addressed in Staff's Initial Brief or they are not deemed pertinent to the central issues in this case and therefore do not merit response. To avoid lengthening the record in this case any further, Staff will keep its Reply Brief as concise as possible.

II. GENERAL RESPONSE

Staff believes that the central threshold question to be answered by the Commission in this case is whether central steam service to downtown Kansas City, Missouri should be abandoned based on the assertion of KCPL that it is not viable or whether a market test of the viability of the system should be explored through pursuit of the sale option recommended by Staff. Is the Commission willing to foreclose the availability of this service based on the assertions of the Company, which has been shown to have mismanaged and demarketed the system and exhibited a far greater pecuniary interest in the demise of the system than in the continuance of the system? As to the "compensation issues", is the Commission willing to permit the Company to profit from its planned demise of the system by enticing customers to convert from central steam service to all electric service when that conversion may not be in the best interests of the customers and the public?

In essence, the Staff has proved that it is possible for the central steam system to be viable if purchased and operated by another entity. The Company has not proved that the system is not viable. Many of Company's criticisms of Staff Consultants' analysis evidence a misinterpretation or misunderstanding of the purpose and focus of the analysis. Staff Consultant Miller provided his rehabilitation scenario analyses in compliance with the RFP under which HDR Techserv was contracted by Staff in this case. As was stated in the prefiled testimony of Staff Consultant Fuller, the RFP called for the consultants to determine the condition of the system and the cause thereof, as well as the cost to rehabilitate it. (Ex. 34, p. 4-5). None of the rehabilitation scenario analysis was intended to be binding upon any purchaser of the system, but merely to advise the Commission of the potential cost of rehabilitation. The short term rehabilitation scenario was presented for comparative purposes to show what a new entity might undertake on the short term basis to make the system more efficient. Nowhere does the Staff testify that a new purchaser of the system (or KCPL for that matter) will or must take the steps outlined in the rehabilitation scenarios presented. They are for illustrative purposes only.

Similarly, the criticisms of Staff Consultant Dahlen's analysis missed the mark. Mr. Dahlen's analysis shows for comparative purposes what the prices of central steam, on-site electric and on-site gas boilers are, including all costs. Inclusion of capital costs and all other attendant costs of the on-site systems is essential pursuant to Commission precedent (from the St. Joseph Light & Power steam abandonment cases analyzed in Staff's Initial Brief at pages 8-10), to demonstrate the true cost of loss of the steam system, and to analyze the real cost of conversion to customers in the event the Commission rejects the Company's boiler offer pursuant to Staff's recommendation. It is also helpful in analyzing the current competitive situation among the three possible sources of heat energy in Kansas City. This analysis shows that at the present time electric boilers are the most expensive option and central steam service is competitive with gas. The Company has not successfully rebutted this evidence, and in fact, Company's rebuttal witness Levesque presented evidence that verifies this finding. ("Ex. 4" to Ex. 35 and Ex. 30, p. 15, l. 18-22).

Staff's comparative analysis of steam systems in other cities was not intended to show identical competitive circumstances in those cities and Kansas City. Rather, it illustrates the potential viability of central steam, the recent level of interest in purchasing steam distribution systems (even when they were in serious decline) and the need to let the market, rather than KCPL, show whether central steam service is viable in downtown Kansas City.

Staff's evidence demonstrates that it is possible to "turn around" a seriously declining steam system when the system is sold to an entity solely dedicated to providing and aggressively marketing central district steam heat. The steam systems in Baltimore, Youngstown and St. Louis all experienced significant downward trends in sales and customer numbers and increasing prices just before the systems were sold. (Ex. 18, p. 3-6, Schedules 2 and 3; Ex. 28, p. 22-24). These trends have striking similarity to KCPL's current situation. In each of the three instances described, the new operator changed all these trends and turned the operations around to profitability. (Ex. 18, p. 4, l. 1-8 and Ex. 28, p. 24, l. 6-16).

Staff objects to the argument raised by the Company at page 22 of its Initial Brief, asserting that Staff has not shown it is legal to burn gas in the long term scenario. Even though this would appear to be a "legal argument", the factual basis was obviously available to the Company so that the point could have been addressed in rebuttal testimony. By holding this argument back until briefing, the Company has deprived the Staff of an opportunity to rebut the argument. If given the opportunity, Staff could have shown for example, the comparative costs of coal and gas as relates to the exemptions to the Fuel Use Act. Therefore, Staff requests that the Commission disregard this argument. At the same time, Staff would point out that this issue does not in any way change Staff's position or alter the validity of it. It merely provides one more factor which may need to be taken into account by any potential bidders for the system, if their plans for operation of the system call for installation of new gas/oil fired boilers.

Following are Staff's responses to specific arguments in Company's Brief, designated by the major topics therein.

III. TERMINATION OF CENTRAL STEAM SERVICE

A. VIABILITY

At pages 16-22 of its Initial Brief, Company criticizes Staff's analysis of the cost of steam under a short-term rehabilitation. Noticeably absent is any criticism of the long-term rehabilitation analysis. Interestingly, Company "stands behind all of Mr. Levesque's work" (Applicant's Initial Brief, p. 19) even though the product of his work supports Staff Consultant Dahlen's analysis of the comparative costs of central steam, electric and gas alternatives. As stated in Mr. Dahlen's surrebuttal testimony "Mr. Levesque's calculations of the cost of steam from different sources show that district heating is lower in cost than the other alternatives." (Ex. 30, p. 15, l. 18-20). This fact was demonstrated in tabular form in Mr. Dahlen's testimony as follows:

	Dahlen	Levesque
District Heating (Long-Term w/Nat'l Starch)	$11.75	$19.18
District Heating (Long-Term w/o Nat'l Starch)	$14.50	$21.78
Individual Natural Gas Boilers (200 BHP)	$10.56	$22.27
Individual Electric Boilers (200 BHP)	$26.69	$24.58

(Ex. 30, p. 15, l. 7-11).

It strains credibility for KCPL to argue that steam at recent rates and current price of approximately $10/Mlb. is not economical (Applicant's Brief, 5, 15) when Mr. Levesque's analysis shows steam is competitive at $19.18 or $21.78/Mlb!

B. MANAGEMENT AND MARKETING

KCPL argues that Staff has not shown the relevance of KCPL's failure to manage its steam system to the issues in this case. (KCPL Initial Brief, p. 25). This assertion is incorrect. As Staff emphasized in its Initial Brief, there has been a serious failure on the part of KCPL to provide sufficient management attention to its steam operation to ensure a profitable, viable steam business, and better management could have resulted in lower operating costs.

(Ex. 37, p. 5). Staff's specific criticisms are contained in its Initial Brief at pages 24-25.

The evidence in this case indicates that the rationale for KCPL's failure to manage its steam operations was the apparent belief by KCPL that its utility steam operation was a declining business whose demise was inevitable at some time in the future. (Ex. 37, p. 5). Staff maintains the quality of management has a major effect on the economic viability of a system and that consequently, proper management of KCPL's steam system would have helped ensure the system's success and viability.

KCPL also asserts that Staff's criticism of KCPL's marketing approach has not been shown to be relevant to the issues in this case. (KCPL Initial Brief, p. 25). Staff strongly disagrees with KCPL's assertion and urges the Commission to review page 26 of Staff's Initial Brief, wherein it is demonstrated that marketing is vital for the successful operation of a steam business. The bulk of the expenses involved with the operation of a steam system are essentially fixed, meaning that additional sales are necessary to spread the costs over more Mlbs. (Staff Initial Brief, p. 26). Thus, an aggressive marketing program would have helped ensure the success and viability of KCPL's steam system. As Staff Witness Dahlen stated, "without any marketing program, the failure of KCPL's district heating system is nearly certain. If new customers are not added to replace customers lost to redevelopment, sales will clearly decline and fixed costs will be spread over fewer Mlbs. of steam resulting in higher and higher costs per Mlb. until steam is not price competitive." (Ex. 28, p. 14).

KCPL has distorted Staff's position by stating that Staff appears to contend that KCPL should have in all events promoted steam, regardless of whether it was the best long term alternative for a particular customer. (KCPL Initial Brief, p. 28). This is simply not true. Staff is merely suggesting that customers in downtown Kansas City be given a choice of energy services between electricity, gas and steam and that these customers have sufficient information to make their choice an informed one. (Tr. 381). It is Staff's position that customers were not given this option because KCPL has not marketed steam as a legitimate heating alternative. This is indicated by the fact that KCPL failed to point out something as significant as the intangible benefits of steam to potential customers. (Id.).

KCPL explains its failure to point out the intangible benefits of steam by stating that no potential customers indicated that they were unaware of the attributes of steam heating. It is noteworthy that KCPL presented no evidence indicating that these customers were aware of these benefits. Furthermore, KCPL's marketing strategy ensured that anyone who was unaware of these benefits remained so. Thus, KCPL is reduced to arguing that these benefits "were readily apparent", "must have been . . . considered" and that each building owner "had to know" about them. (KCPL Initial Brief, p. 28). KCPL presented no evidence that steam customers had perfect knowledge of the nature of steam service.

Staff submits that if all the benefits of steam were as readily apparent as KCPL claims there would be no need for any steam system to market its product. However, as Staff noted in its Initial Brief, all of the other district heating systems surveyed by Staff have personnel responsible for marketing steam. (Staff Initial Brief, p. 26). The seventeen systems surveyed have an average of 2.1 personnel dedicated to marketing. (Ex. 28, p. 13). The twelve district heating systems with personnel dedicated exclusively to district heating have an average of 1.8 marketing personnel. (Id.). In contrast to KCPL, the operators of these systems do not simply assume that potential steam customers have perfect knowledge about the nature of steam service. Consequently, they make an effort to ensure that potential customers are able to make decisions with full knowledge about the nature of steam.

As stated previously, Staff is not arguing that KCPL should have marketed steam in situations where it was not the best economic alternative for a particular customer or that it should have kept potential customers unaware of any problems the system was facing. Staff is simply contending that KCPL should have marketed steam as a legitimate heating alternative and taken measures to ensure that potential customers were made fully aware of the nature of steam service, thereby allowing them to make informed choices.

KCPL claims that it maintains a marketing presence in downtown Kansas City. (KCPL Initial Brief, p. 29). Staff is astonished by this assertion in light of the evidence that KCPL has been involved in demarketing of steam since as early as 1972 and the fact that by KCPL's own admission, its marketing approach consisted of nothing more than providing rate schedules and rate calculations to potential customers. In light of this evidence, Staff submits that if KCPL had a steam marketing presence, it was a negative presence.

KCPL contends that the statements in Mr. Graham's 1972 memorandum regarding the new Mercantile Building were motivated by a concern for the capacity of the steam system. (KCPL Initial Brief, p. 29). Staff wishes to reiterate the fact that Mr. Graham was unable to recall this until he filed his rebuttal testimony in this case on April 3, 1987 and that KCPL was unable to produce anything in the nature of a study, analysis or report to document Mr. Graham's testimony. (Staff Initial Brief, pp. 27, 28).

KCPL also stated that its concerns about serving CPC were based on the "expense and technology of building a pipeline across the Missouri River." (KCPL Initial Brief, p. 29). This is contradicted by the testimony of Mr. Doyle in Commission Case No. ER-83-49, cited in Staff's Initial Brief, wherein Mr. Doyle stated "[o]ur immediate reaction a couple of years ago was no way do we want to get involved in expanding our service territory or taking on a large load of this magnitude, 250,000 lbs. per hour, added on to our existing steam load." (Emphasis added) (Ex. 43, Schedule 5-1). Mr. Doyle made no mention of the expense and technology of building a line across the Missouri River.

Finally, KCPL states that Staff's argument that KCPL has driven customers from the steam loop through a lack of marketing is flawed. (KCPL Initial Brief, p. 31). KCPL asserts that if it had been its intent to lose steam customers and steam sales it would not have been content with simply demarketing steam but would also have increased its steam rates thereby driving customers off the system. (Id.). Consequently, KCPL argues that there is a fundamental contradiction in what Staff asserts KCPL was trying to do (justify termination) and what it actually did (keep rates below the cost-of-service). (Id.).

Staff maintains that there is no contradiction in its analysis if KCPL's reluctance to increase steam rates is looked at in the broader context of KCPL's corporate strategy to retain its steam customers as electric customers. If steam rates would have substantially increased, steam customers would have been forced to consider electricity and gas as heating alternatives. As Staff noted in its Initial Brief, KCPL did not believe that it could compete with KPL Gas Service for these customers. (Staff Initial Brief, p. 38).

This is confirmed by the following statement from KCPL's Conversion of Downtown Steam Report:

> The removal of electric generation from the Grand Avenue plant, and the necessary related increase would drive the cost of steam even further above the competitive price. These facts make it apparent that we must find an alternative method of selling heat to these customers or risk losing them to the Gas Service Company. . . .

(Ex. 46).

The report further stated:

> It does not appear that we would be competitive in this market if the customer has to sustain any of the conversion costs. . . .

(Id.).

These statements demonstrate that there is no inconsistency between KCPL's failure to market steam and KCPL's reluctance to increase steam rates. The evidence shows that KCPL did not believe that it could retain its steam customers as electric customers because it did not believe that it could compete with KPL Gas Service. Consequently, KCPL developed its Conversion Plan.

C. LEGAL CRITERIA

In the Legal Criteria section beginning on page 32, Company presents several cases, many of which were also cited in Staff's Initial Brief. Staff generally concurs in Company's analysis of the Chicago, Burlington and Quincy Railroad Company case. (Applicant's Initial Brief, 33 8 Mo. P.S.C. (N.S.) 85 (1958)). Staff would add, however, that the first substantive conclusion reached by the Commission in that decision was that the two trains in question were "being operated by Applicant at a loss which is greatly disproportionate to the public need and convenience for their continued operation." (Id., 93). (Emphasis added).

In the Pacific Power and Light Company case out of Oregon cited by the Company at page 34 in their Initial Brief, the Company accurately summarized some of the facts of the case, but omitted others. Re Pacific Power and Light, 61 PUR4th 498 (Ore. 1984). Although this two-page order is relatively inconclusive and leaves several issues to be resolved at a future date, the following pertinent facts not mentioned by KCPL can be gleaned from the text of the order: 1) all parties agreed that space heating with steam heat was among the most costly methods of all alternative energy sources available, and was likely to become more costly in the future, 2) there appeared to be a presumption that all customers would save money by converting to alternative lower cost energy sources, but it was acknowledged that those savings would be significant for some customers and "not so dramatic" for other customers, and 3) a plan for financial assistance of conversion costs by the utility was under consideration, but not resolved in the order. This case differs from the one at hand in that there has not been a showing that all customers will save money by converting to alternative energy sources available, even under KCPL's electric boiler plan. Staff submits that it is very unlikely that there will be a payback for certain buildings with very short expected remaining lives, whose owners may decide to demolish rather than making the investment for conversion. (Ex. 28, p. 40, l. 19-21).

One case in Company's brief not cited by Staff was the 1982 Vermont case. Two additional factors which the Company failed to mention in its analysis of the Re Gas Company of Vermont decision were the existence of safety problems with the central propane distribution system the Company was seeking to abandon and that fact that efforts were made by both the petitioning utility and the Department of Public Service to find a buyer for the system. 49 PUR4th 460, 461-462 (1982). In that case, abandonment was permitted, with authorization for the utility to convert its customers to bottled gas to be provided by a non-regulated affiliate of the utility. If Vermont has a similar regulatory structure to Missouri's, central propane distributors are regulated utilities, but bottled propane distributors are not.

IV. COMPENSATION FOR TERMINATION AND RATES

A. CONVERSION PLAN

KCPL claims that its Conversion Plan is not an inducement to its steam customers to convert to electricity but is a means to compensate the customers for termination of their steam service. The evidence presented in this case indicates that this is not true. The Conversion of Downtown Steam System Report, cited by Staff in its Initial Brief and earlier in this Reply Brief, indicates that KCPL was concerned about losing these customers to KPL Gas Service and that it developed the Conversion Plan as a means of inducing them to become electric customers. (Staff Initial Brief, p. 38).

KCPL also argues that if the Commission finds that the Conversion Plan violates the Promotional Practices Rule, the Plan should be allowed because of "unusual circumstances". (KCPL Initial Brief, p. 40). Staff reiterates the fact that the rule does not provide exceptions for unusual circumstances.

KCPL compares its Conversion Plan with a compensation package offered by Northern States Power Company (hereinafter "NSP") when NSP terminated steam service in Fargo, North Dakota. (KCPL Initial Brief, p. 41). KCPL states that Staff saw nothing wrong with the compensation approach used by NSP, but "opposes this same approach by KCPL." (Id.).

KCPL's analogy to the NSP proposal is unfounded since the NSP proposal did not contain anything that can be characterized as a prohibited promotional practice. The NSP plan offered to reimburse each steam customer two thirds the amount of the lowest competitive bid for installation of a firm gas-fired boiler plus a fuel subsidy of $8.00 per boiler horsepower per year. (Ex. 28, p. 44). NSP provides both gas and electricity. Staff believes that the NSP proposal is an example of a true compensation plan. KCPL's proposal is not a true compensation plan because it is not designed to compensate all customers who would lose steam service, but compensates only those accepting KCPL's offer of free electric equipment.

At page 42, Company asserts that the real cost of KCPL's boiler offer is simply the energy cost. This is true if, and only if, KCPL's boiler offer is accepted. However, Staff has contended from the outset and continues to contend that that boiler offer is inappropriate and must be rejected by the Commission. This brings into play the complete analysis of all costs related to conversion.

KCPL is critical of Staff Witness Ketter's testimony that the four test boiler customers would have paid less under steam rates than under the corresponding electric rates. (KCPL Initial Brief, p. 43). KCPL contends that under its Plan and the present levels of steam and electric rates, customers who choose electric boilers would pay about the same regardless of whether they are billed on the electric or steam rate. (Id.). KCPL asserts that all the evidence points to the fact that as time goes by, electricity will become the energy of choice for heating needs and that thus, it is not saddling its steam customers with an uneconomic heating choice. (Id.). Staff does not disagree that the electric and steam rates are comparable. However, Staff does believe that KCPL's analysis is flawed. It is flawed because it fails to take into account the capital costs of the equipment required to produce steam from on-site boilers. If the equipment is provided to customers free of charge, then these costs would have to be incurred by any customer who chooses on-site electric equipment since provision of this equipment by KCPL is prohibited under the Promotional Practices Rule.

KCPL claims that its Conversion Plan allows its steam customers to make a good economic decision among the alternative heating systems available to them. (KCPL Initial Brief, p. 42). KCPL goes on to state that the eleven customer Intervenors were able to make their choice without difficulty. (Id.). It is apparent from this statement that KCPL believes that the Intervenors have chosen to accept the free electric equipment offered under KCPL's Conversion Plan. Staff believes it is important to point out that it has not been established that the Intervenors have decided to accept the electric equipment. In the Hearing Memorandum it is stated that "[t]he Intervenor Group supports the discontinuance of central district steam heating and also supports the provision of electric boilers or space heating equipment. It should be noted however, that the Intervenor Group's support for these aspects of the KCPL proposal does not necessarily mean that the Intervenor Group would opt for electric equipment." (Emphasis added). (Ex. 1, p. 6). Further, Intervenor Witness Mauro testified that he would have to go back and ask the other intervenors before he could state for certain whether they would accept the free equipment or opt for natural gas boilers in the event steam service is terminated. (Tr. 442). Therefore, KCPL's use of the Intervenors as an indication that the steam customers have sufficient information to make a good economic decision is unfounded.

Finally, KCPL stressed in its Initial Brief that with two exceptions, its steam customers have not voiced opposition to its proposal. (KCPL Initial Brief, pp. 12, 13, 33, 35). Staff does not find this surprising in light of the fact that the proposal entails the steam customers receiving free electric equipment. To the contrary, Staff would be surprised if steam customers expressed strenuous objection to the Conversion Plan. Furthermore, the fact that the customers do not oppose the Conversion Plan does not change the fact that it violates the Promotional Practices Rule.

B. ENERGY AUDITS

KCPL accuses Staff of "tortured reasoning and application of the rules" for taking the position that the energy audits conducted by KCPL violate the Promotional Practices Rule. (KCPL Initial Brief, p. 46). Staff strongly disagrees. Staff does not believe that KCPL is so generous that it would spend $413,940 to provide its customers with improved conservation measures and energy management systems. Staff believes that KCPL used the energy audits to promote electricity as a replacement to steam service. The studies evaluated only the feasibility of using electricity and did not consider other energy alternatives. Further, they gave KCPL preliminary information for the sizing of electric boilers and electric heating equipment. This data is important to the Conversion Plan since it gives KCPL insight on the configuration of steam customers heating systems, thereby allowing KCPL to make more precise estimates regarding the size and cost of an electric boiler or electric space heating equipment. In light of this evidence, it cannot be argued that Staff's reasoning and application of the rules is tortured. Staff simply applied the rule to KCPL and reached the obvious conclusion that the energy audits violate the Promotional Practices Rule.

KCPL contends that despite the fact that the specific energy conservation recommendations span only a few pages of each report, most of the information in the audit was compiled in support of the conservation recommendations. (KCPL Initial Brief, p. 48). Staff disagrees and urges the Commission to review the energy audit report of the Home Savings Building attached to Mr. Graham's testimony. The report contains 29 pages, only 1 1/2 of which are devoted to energy conservation recommendations. The remainder of the report contains almost no information that can be argued to be supportive of the conservation recommendations. In reality, most of the information in the report contains information useful to KCPL's Conversion Plan.

KCPL claims that there is absolutely no evidence to support Staff's contention that KCPL conducted the energy audits so KCPL could enter the buildings of its customers and perform preliminary design work. KCPL apparently has forgotten the testimony of its own witness, Robert Graham. Mr. Graham testified that the energy audits consisted of "(6) a determination of the size of replacement electric steam boilers or other electric heating equipment, [and] (7) a schematic of the electric boiler design and a detailed cost estimate for the recommended conversion." (Ex. 15, p. 7).

C. RATE PROPOSALS

Company characterizes Staff's rate proposals as "startling assertions". However, as adequately discussed in the direct testimony and surrebuttal testimony of Staff Witness Cary Featherstone, surrebuttal testimony of Staff Witness Curt Huttsell, and the Initial Brief of the Staff, Staff's proposals are based on sound economic and ratemaking principles. (Ex. 17, Ex. 53, Ex. 56, Staff's Brief, p. 41-45). Interestingly enough, the very case cited by the Company at page 46 of its Brief in support of its position that KCPL must be given full traditional ratemaking treatment in this case, the Hope Natural Gas case stands for precisely the opposite position. It was the Hope Natural Gas case that opened up the question of setting rates which balanced the interest of the ratepayers and shareholders with the test of just and reasonable rates being the end result rather than the means. (320 U.S. 591, 603). The Hope case also has been interpreted as providing a clear warning to "investors about the possibility of the public interest outweighing the investor interest." Drobak, From Turnpike to Nuclear Power: The Constitutional Limits on Utility Rate Regulation, 65 B.U.L. Rev. 65, 105 (1985). Staff believes such public interest exists in the instant case if the Commission determines the Company should pursue the sale option in order to preserve the customer base.

The Utilities Operating Company v. King case cited at page 46 of the Applicant's Initial Brief is not controlling on the Commission and is easily distinguishable. 143 So.2d 854, 45 PUR3d 439 (Fla. 1962). The Florida statute which was in effect at the time this case was decided (and was dispositive of the case) required the Commission to fix rates which are "just, reasonable, sufficient and compensatory". (Emphasis added.) Section 367.14(1), 45 PUR3d 439, 443. Missouri statutes do not contain similar language, but merely provide that the rates set shall be "just and reasonable and not more than allowed by law or by order or decision of the Commission." (Emphasis added). Section 393.130 RSMo 1986. Missouri statute provides for a different focus than the Florida statute, and Staff believes that one would be hard pressed to find a situation where the Commission felt it was bound to observe a Company rate filing as a minimum below which it could not go in setting rates.

On page 47 of its Initial Brief, KCPL states "It is undisputed that KCPL failed by $1.5 million in 1986 to recover its 'out-of-pocket' operating costs." This statement is not accurate in that the record does not show that KCPL and Staff agree on what items should be included in "out-of-pocket" operating costs. The net loss figure cited in Company's Brief represents the loss on the cost of operating the system in 1986. (Tr. 455, l. 7-13). This amount would include many items which would be excluded from Staff definition of "out-of-pocket" costs in setting rates for the remainder of the life of the steam system. To determine the appropriate "out-of-pocket" costs, an analysis of those operating expenses which would require a cash outlay and not be avoidable in the event the system were closed down would be required. Some examples of such costs might be insurance, property taxes, etc. (Tr. 455, l. 7-13, Ex. 56, p. 5-7). Thus, contrary to Company's suggestion, the $1.5 million loss could not form the basis for setting rates in the abandonment scenarios.

D. ACCOUNTING STANDARDS

Staff is of the opinion that the APB provisions on discontinued operation of a segment of a business would not apply because of materiality.

V. CONCLUSION

Staff reiterates its request for the Commission to adopt its recommendations in this case.

Respectfully submitted,

Mary Ann Young

Mary Ann Young
Deputy General Counsel

Douglas C. Walther

Douglas C. Walther
Assistant General Counsel

Attorneys for the Staff of the
Missouri Public Service Commission
P.O. Box 360
Jefferson City, Missouri 65102
(314)751-7499

CERTIFICATE OF SERVICE
I hereby certify that copies of the foregoing have been mailed or hand-delivered to all parties of record on this 28th day of May, 1987.

Mary Ann Young