

Exhibit No.:
Issue: Customer Demand Programs
Regulatory Asset
Witness: Tim Rush
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Kansas City Power & Light Company
Case No.: ER-2010-0036
Date Testimony Prepared: February 11, 2010

MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: ER-2010-0036

REBUTTAL TESTIMONY

OF

TIM RUSH

ON BEHALF OF

KANSAS CITY POWER & LIGHT COMPANY

**Kansas City, Missouri
February 2010**

In the Matter of Union Electric Company,)
d/b/a AmerenUE's Tariffs to Increase its) Case No. ER-2010-0036
Annual Revenues for Electric Service)

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

1. My name is Tim Rush. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company as Director, Regulatory Affairs.

2. Attached hereto and made a part hereof for all purposes is my Rebuttal Testimony on behalf of Kansas City Power & Light Company consisting of eight (8) pages, having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

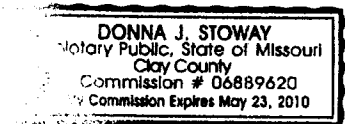
Tom Rush

Subscribed and sworn before me this 11th day of
February 2010.

February 2010.

Notary Public

My commission expires: May 23, 2010



REBUTTAL TESTIMONY

OF

TIM RUSH

Case No. ER-2010-0036

1 **Q: Please state your name and business address.**

2 A: My name is Tim M. Rush. My business address is 1201 Walnut, Kansas City, Missouri
3 64106-2124.

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

5 A: I am employed by Kansas City Power & Light Company (“KCP&L” or the “Company”)
6 as Director, Regulatory Affairs.

7 **Q: What are your responsibilities?**

8 A: My general responsibilities include overseeing the preparation of rate cases, class cost of
9 service (“CCOS”) studies and rate design for KCP&L and KCP&L Greater Missouri
10 Operations Company. I am also responsible for overseeing the regulatory reporting and
11 general activities as they relate to the Missouri Public Service Commission (“MPSC” or
12 “Commission”).

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

14 A: In addition to public schools, I received a Master's Degree in Business Administration
15 from Northwest Missouri State University in Maryville, Missouri. I did my
16 undergraduate study at both the University of Kansas in Lawrence and the University of
17 Missouri in Columbia. I received a Bachelor of Science Degree in Business
18 Administration with a concentration in Accounting from the University of Missouri in
19 Columbia.

1 **Q: Please provide your work experience.**

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

10 **Q: Have you previously testified in a proceeding before the MPSC?**

11 A: I have testified on numerous occasions before the MPSC on a variety of issues affecting
12 regulated public utilities.

13 **Q: What is the purpose of your Rebuttal Testimony?**

14 A: The purpose of my testimony is to address portions of the report submitted by the Staff of
15 the Missouri Public Service Commission on December 18, 2009, entitled, Staff Report
16 Revenue Requirement Cost of Service (“Report”). Particularly, I will address Section VI.
17 Rate Base, E. Customer Demand Programs Regulatory Asset, 4. Demand-Side Programs
18 Cost Recovery Mechanisms, found on pages 44-47 of Staff’s Report.

19 **Q: Generally, what issues or concerns do you have with this section of the Staff Report?**

20 A: Staff’s position in this case is not consistent with the legislation passed in Missouri,
21 known as the “Missouri Energy Efficiency Investment Act” and found at §393.1075
22 RSMo. The Missouri Energy Efficiency Investment Act or MEEIA states the following:

1 3. It shall be the policy of the state to value demand-side investments equal to traditional
2 investments in supply and delivery infrastructure and allow recovery of all reasonable
3 and prudent costs of delivering cost-effective demand-side programs. In support of
4 this policy, the commission shall:

5 (1) Provide timely cost recovery for utilities;

6 (2) Ensure that utility financial incentives are aligned with helping customers
7 use energy more efficiently and in a manner that sustains or enhances
8 utility customers' incentives to use energy more efficiently; and

9 (3) Provide timely earnings opportunities associated with cost-effective
10 measurable and verifiable efficiency savings.

11 4. The commission shall permit electric corporations to implement commission-
12 approved demand-side programs proposed pursuant to this section with a goal of
13 achieving all cost-effective demand-side savings. Recovery for such programs shall
14 not be permitted unless the programs are approved by the commission, result in
15 energy or demand savings and are beneficial to all customers in the customer class in
16 which the programs are proposed, regardless of whether the programs are utilized by
17 all customers. The commission shall consider the total resource cost test the preferred
18 cost-effectiveness test. Programs targeted to low-income customers or general
19 education campaigns do not need to meet a cost-effectiveness test, so long as the
20 commission determines that the program or campaign is in the public interest.
21 Nothing herein shall preclude the approval of demand-side programs that do not meet
22 the test if the costs of the program above the level determined to be cost-effective are

1 funded by the customers participating in the program or through tax or other
2 governmental credits or incentives specifically designed for that purpose.

3 It is the Staff's incorrect interpretation of these sections that I address in my rebuttal
4 testimony.

5 **Q: Please describe Staff's interpretation of the MEEIA.**

6 A: On page 45 of the Staff Report, Staff indicates that the State of Missouri's policy of
7 "valu[ing] demand-side investments equal to traditional investments in supply and
8 delivery infrastructure and allow recovery of all reasonable and prudent costs of
9 delivering cost-effective demand-side programs" should guide the treatment of
10 AmerenUE's existing programs.

11 **Q: Do you agree with Staff that Section 393.1075 should guide the treatment of**
12 **demand-side management and energy efficiency programs?**

13 A: Yes, KCP&L agrees. The statute governs the treatment of both existing and future
14 demand-side management and energy efficiency investments.

15 **Q: Staff further states at p. 47 that MEEIA "requires that a DSM program be shown to**
16 **be cost-effective and achieve verifiable efficiency savings before the cost of the**
17 **program may be recovered from ratepayers." Does KCP&L agree that this**
18 **statement captures the essence of MEEIA?**

19 A: No, KCP&L does not. The statute requires that the Commission provide utilities with
20 timely cost recovery of demand-side management or energy efficiency programs and that
21 these programs be measurable and capable of verification. Nowhere does it suggest that
22 the programs must be measured and verified prior to cost recovery: only that the
23 programs must be measurable and capable of verification. Staff's suggestion that the

determination of whether or not a program is cost-effective and efficiency savings have been achieved cannot be made until after the program has been implemented and evaluated post implementation is incorrect, unacceptable, and flies in the face of the language and purpose of MEEIA. The statute requires that the Commission provide timely cost recovery for utilities of demand side or energy efficiency programs and that these programs be measurable and capable of verification. Had the legislation intended to postpone recovery of costs until after program results were verified, the language of the statute would have contained such provisions. Staff's interpretation that "verifiable" means the same as verified before cost recovery may commence contradicts the both language and purpose of the MEEIA.

Q: How does Staff's position contradict the language of the MEEIA?

A: Section 4 of the Act governs the recovery of demand-side programs. Recovery is not permitted unless the programs are approved by the Commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed. Section 4 of the MEEIA states that the Commission shall consider the total resource cost (TRC) test as a preferred cost-effectiveness test.

The TRC test is defined in Section 2 of the statute as a test that compares the sum of avoided utility costs and avoided probable environmental compliance costs to the sum of all incremental costs of end-use measures that are implemented due to the program as defined by the Commission in rules. While the Commission's rules have not yet been established, it is clear that the TRC test is by its very definition a forward-looking test that compares the avoided projected costs to the costs of the programs. Thus, the statute does not contemplate the type of "hind sight" review advocated by the Staff.

1 **Q. How does Staff's position contradict the purpose of the MEEIA?**

2 A. The reason the Missouri Energy Efficiency Investment Act was enacted was to encourage
3 investment in demand-side and energy efficiency resources that would not have been
4 made under a traditional regulatory framework. Staff's position of allowing rate recovery
5 of such resources only after implementation and verification is harsher than what
6 currently exists with utilities demand-side and energy efficient cost recovery
7 mechanisms. As Staff recognizes at p. 45 of its Report, the Act requires, when
8 determining which resource to use, that demand-side investments and traditional supply
9 and delivery investments be valued equally. However, placing demand and supply
10 resources on an equal financial plane requires one to recognize the differences between
11 demand and supply side resources. Staff's comparison of a combustion turbine with a
12 demand side resource does not recognize this inherent difference. A demand-side
13 resource is used and useful immediately upon implementation. No construction period
14 exists. A demand-side resource is not a physical asset that first needs to be constructed
15 and tested for performance. A physical asset is also different in that it is supported by a
16 contract(s) to ensure once completed it will work as designed. Should the combustion
17 turbine not work or a determination be made that it was not necessary, a market for both
18 power and the physical asset exists. No market exists for incentives paid or program costs
19 expensed. Staff's "hind sight" review and delay of cost recovery will discourage utilities
20 from proposing and implementing any demand-side or energy efficiency programs.

21 The statute's intent is to encourage utilities to aggressively implement demand-side
22 programs, and to put demand-side programs on a level playing field with supply-side
23 resources. Staff agrees that demand-side programs must be seen as equal to supply-side

resources for the purpose of determining which resource to use but still wants to apply traditional cost recovery principles to the demand-side programs. As shown above, this distinction ensures that demand-side resources will not be widely employed due to the differences between supply and demand resources.

While KCP&L is not opposed to post implementation evaluations of its programs for educational purposes and to ensure that the programs are meeting objectives, these evaluations should not be the basis for determining if recovery will be allowed. Program recovery should be established based on the merits of the program plan at the time the plan is filed and approved by the Commission.

Q: Do you believe that the current recovery mechanism for AmerenUE is sufficient?

A: No. The current mechanism is inadequate and not consistent with the Missouri Energy Efficiency Investment Act. KCP&L believes that an appropriate recovery mechanism should include the following:

- Allow for the recovery of all prudently incurred program costs in a timely manner, while minimizing the risk that program costs will be disallowed after the fact;
- Allow recovery of lost margins sufficient to offset the revenue and earnings erosion attributable to energy efficiency programs, and;
- Provide a financial incentive that sufficiently fosters expanded conservation and energy efficiency programs in the state.

Q: Why are you addressing these areas as a recovery mechanism?

A: The traditional regulatory framework in Missouri did not encourage expanded conservation and energy efficiency programs. This framework of utility regulation ties a

1 utility's profitability to increasing sales. In contrast, the basic premise of demand-side
2 management and energy efficiency programs is to reduce sales and system demand.
3 Absent an appropriate regulatory framework a utility will not have an opportunity to earn
4 its authorized rate of return because earnings will be reduced immediately as programs
5 are implemented.

6 Realization of the objectives of demand-side programs (improved environmental quality,
7 customer savings, lower revenue requirement and rates) requires a recovery mechanism
8 that is both timely and inclusive of the components I previously identified.

9 **Q: Does that conclude your testimony?**

10 **A:** Yes.