BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF MISSOURI

CASE NO. ER-83-49

In the matter of KANSAS CITY POWER & LIGHT COMPANY for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the company.

CASE NO. ER-83-72

In the matter of the filing of KANSAS CITY POWER & LIGHT COMPANY of proposed rules and regulations for electric space heating.

CASE NO. EO-82-65

In the matter of KANSAS CITY POWER & LIGHT COMPANY of Kansas City, Missouri, for authority to file a Levelized Payment Plan for residential customers in the Missouri service area of the company.

REPORT AND ORDER

Date Issued: July 8, 1983

Date Effective: July 19, 1983

KANSAS CITY POWER & LIGHT COMPANY

CASE NOS. ER-83-49 et al.

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APPEARANCES: A. DRUE JENNINGS, Attorney at Law,
MARK G. ENGLISH, Attorney at Law,
WARREN B. WOOD, Attorney at Law,
1330 Baltimore Avenue,
Kansas City, Missouri 64105,
FOR: KANSAS CITY POWER & LIGHT COMPANY.

STUART W. CONRAD, Attorney at Law,
W. H. BATES, Attorney at Law,
2600 Mutual Benefit Life Building,
2345 Grand Avenue,
Kansas City, Missouri 64108,
FOR: ARMCO INC.

GERALD T. McNEIVE, JR., Attorney at Law,
ALLEN BAKER, Attorney at Law,
REBECCA TILDEN, Attorney at Law,
2460 Pershing Road,
Kansas City, Missouri 64108,
FOR: THE GAS SERVICE COMPANY.

PAUL W. PHILLIPS, Attorney at Law,
Room 6A-167,
1000 Independence Avenue, S.W.,
Washington, D.C. 20585,
and

W. L. ROXBERRY, Attorney at Law,
2000 E. 95th Street,
P. O. Box 202,
Kansas City, Missouri 64141,
FOR: UNITED STATES DEPARTMENT OF ENERGY,
FEDERAL EXECUTIVE AGENCIES.

ROBERT C. JOHNSON, Attorney at Law,
Suite 930,
314 North Broadway,
St. Louis, Missouri 63102,
FOR: GENERAL MOTORS CORPORATION; FORD MOTOR
COMPANY; GENERAL MILLS, INC.; MISSOURI
PORTLAND CEMENT COMPANY.

JEREMIAH D. FINNEGAN, Attorney at Law,
Suite 101,
4225 Baltimore Avenue,
Kansas City, Missouri 64111,
and
ILUS W. DAVIS, Attorney at Law,
1700 City Center Square,
1100 Main Street,
Kansas City, Missouri 64105,
FOR: COUNTY OF JACKSON, MISSOURI;
H. J. POINDEXTER & SONS
MERCHANDISE CO.; ET AL.

CARROL C. KENNETT, Assistant City Attorney,
2800 City Hall,
Kansas City, Missouri 64106,
FOR: CITY OF KANSAS CITY, MISSOURI.

THOMAS J. HEARNE, Attorney at Law,
304 East High Street,
Jefferson City, Missouri 65101,
FOR: MISSOURI PUBLIC INTEREST RESEARCH GROUP.

JAMES M. FISCHER, Public Counsel,
MARTIN J. BREGMAN, Assistant Public Counsel,
MICHAEL C. PENDERGAST, Assistant Public Counsel,
1014 Northeast Drive,
Jefferson City, Missouri 65101,
FOR: OFFICE OF THE PUBLIC COUNSEL and
THE PUBLIC.

STEVEN DOTTHEIM, Deputy General Counsel,
WILLIAM C. HARRELSON, Deputy General Counsel,
A. SCOTT CAUGER, Assistant General Counsel,
P. O. Box 360,
Jefferson City, Missouri 65102,
FOR: STAFF OF THE MISSOURI PUBLIC
SERVICE COMMISSION.

INTRODUCTION

Kansas City Power & Light Company (Company or KCPL), on August 26, 1982, submitted to the Missouri Public Service Commission (Commission) revised electric rate schedules designed to increase KCPL's Missouri retail electric revenues approximately $57.9 million or about 18.7 percent over current rates per annum, exclusive of gross receipts taxes. All dollar amounts herein are exclusive of gross receipts taxes unless otherwise specified. KCPL gave these revised electric rate schedules an effective date of September 26, 1982. On September 20, 1982, the Commission issued its Suspension Order and Notice of Proceedings, wherein it suspended the Company's electric rate schedules for a period of 120 days beyond September 26, 1982, to January 24, 1983, and further suspended the revised electric rate schedules for a period of six months beyond January 24, 1983, to July 24, 1983. The Commission further ordered the Company to file Minimum Filing Requirements as described in 4 CSR 240-20.040, as well as testimony and exhibits, on or before October 25, 1982. KCPL duly complied with such requirements.

On August 12, 1982, KCPL submitted for filing revised tariff sheets proposing to remove the restriction that requires KCPL's customers to use electric space heating as the sole means of comfort heating in order to be eligible for a special electric space heating rate. Such proposed change would allow electric space heating to be supplemented by or used as a supplement to wood burning stoves and in conjunction with fossil fuels. Such matter was assigned Case No. ER-83-72, and such proposed tariffs were suspended by Commission order for a period of 120 days beyond the requested effective date of October 1, 1982.

On August 13, 1981, the Company submitted to the Commission a Levelized Payment Plan for residential customers. Such matter was assigned Case No. EO-82-65. Such tariffs were approved on an interim basis, and on September 3, 1982, the Company filed tariffs to make permanent the Levelized Payment Plan which was then in effect on an interim basis.

By Order dated September 28, 1982, the Commission (1) suspended the tariffs filed in Case No. ER-83-72 for a period of 120 days, to January 29, 1983; (2) approved the permanent tariff sheets filed in Case No. EO-82-65, unless otherwise ordered by the Commission and (3) ordered Case Nos. ER-83-72 and EO-82-65 consolidated with Case No. ER-83-49. In order to complete the investigation of tariffs filed in Case No. ER-83-72, the Commission ordered such tariffs further suspended for a period of six months, to July 29, 1983.

Intervention was granted to the following parties: Armco, Inc.; United States Department of Energy (DOE); The Gas Service Company (Gas Service); Missouri Public Interest Research Group (MoPIRG); Kansas City, Missouri; Jackson County, Missouri, and 38 other steam heat customers of KCPL; State of Missouri; and the Ford Motor Company, General Mills, Inc., General Motors Corporation, and Missouri Portland Cement Company (which together with Armco, Inc. are referred to as the "Industrial Intervenors").

Mailed and published notice of the filing of such revised electric rate schedules, and the hearings thereon, was duly given to KCPL's retail electric and steam customers. Two hearings were held in Kansas City, Missouri, on February 4, 1983, to allow the customers of the Company an opportunity to comment on the impact of the proposed rates and to provide information concerning quality of service. Eight witnesses testified during the course of those hearings.

Pursuant to Commission order, a prehearing conference was held in these proceedings from February 14, 1983, through February 25, 1983. A Hearing Memorandum setting forth the positions and stipulations of the parties on various issues was executed as a result of the prehearing conference. The Hearing Memorandum also contained a reconciliation of the various cases presented by the parties. Formal evidentiary hearings were held from March 1, 1983, through March 19, 1983.

During the course of the hearing 140 exhibits were offered or were to be furnished as late-filed exhibits. The Hearing Memorandum (Exhibit 29) provided for receipt of the testimony of Staff Witness James Gray concerning the fair value of the

Company's properties. The testimony was inadvertently not offered. Pursuant to the Stipulation in Exhibit 29 that testimony is received in evidence as Exhibit 141. By agreement during the hearing the Staff was to furnish any time records for Company officers that may have been supplied by Company. On April 9, 1983, the Staff furnished the affidavit of Michael H. Zimmerman and the attached monthly time sheets of the Company's president. That document is hereby received in evidence as Exhibit 142. Also during the hearing the Company agreed to provide information requested regarding a steam service agreement between the Company and Mobay. By letter dated April 18, 1983, counsel for the Company, Warren B. Wood, furnished the requested information. Mr. Wood's letter of April 18, 1983, is hereby received in evidence as Exhibit 143.

Findings of Fact

The Missouri Public Service Commission, having considered all of the competent and substantial evidence upon the whole record, makes the following findings of fact:

The Company

KCPL and its corporate predecessors have furnished electric service in the Kansas City area continuously since 1882. The Company is a Missouri corporation formed in 1922 through the consolidation of two predecessors. From its headquarters at Kansas City, Missouri, the Company is engaged in providing electric service in 4,700 square miles of certificated service territories located in all or portions of 23 Counties in Missouri and Kansas, including the major portion of the Kansas City metropolitan area from which more than 90 percent of its revenues are derived. Company is also engaged as a public utility in the production, distribution and sale of steam service to about 200 customers in an area approximately 10 blocks square in the downtown business district of Kansas City, Missouri. Company furnishes electric service at retail in 94 incorporated communities and it wholesales to 10 communities, two private utilities, and two electric cooperative systems. At December 31, 1982, the Company had 351,095 retail electric customers of which 233,721 were located in the State of Missouri.

Elements of Cost of Service

The Company's authorized rates are generally based on its cost of service or its revenue requirement. As elements of its revenue requirement, the Company is authorized to recover all of its reasonable and necessary operating expenses and, in addition, a reasonable rate of return on the value of its property used in public service. It is necessary, therefore, to establish the value of the Company's property and to establish a reasonable return to be applied to the value of its property or rate base which, when added to the allowable operating expenses, results in the total revenue requirement of the Company. By calculating the Company's reasonable level of earnings, it is possible to mathematically calculate the existence and extent of any deficiency between the present earnings and any additional revenue requirement to be allowed in any rate proceeding.

The Test Year

The purpose of using a test year is to create or construct a reasonable expected level of earnings, expenses and investments during the future period in which the rates, to be determined herein, will be in effect. All of the aspects of the test year operations may be adjusted upward or downward to exclude unusual or unreasonable items, or include unusual items, by amortization or otherwise, in order to arrive at a proper allowable level of all of the elements of the Company's operations. The Commission has generally attempted to establish those levels at a time as close as possible to the period when the rates in question will be in effect.

In the instant case one of the most complex and time consuming issues has been presented by failure of the Company and the Staff to agree on a reasonable point or period for the purpose of balancing and matching the elements of rate base, expense and revenues.

The Staff has used a test year ending September 30, 1982, adjusted for known and measurable changes through October 31, 1982. The Staff does not propose a true-up because of time and personnel constraints created by the pendency of numerous other rate cases.

The Company, on the other hand, employs approximately 11 different terms for almost as many different measuring periods. The Company also proposes certain adjustments for events as far forward as October of 1984.

Both the Staff and the Company accuse the other of proposing out-of-period adjustments that result in a disturbance of the level or relationship of revenues, expenses and rate base.

The true-up procedure has received broad acceptance as a proper ratemaking tool. A true-up permits adjustments outside of the test year without improperly disturbing the revenue-expense relationship. The Staff has not proposed a true-up in this proceeding, although it believes true-ups are a desirable regulatory procedure.

Staff's failure to recommend a true-up is based on its lack of resources to conduct a true-up prior to the anticipated date for an order, while maintaining its auditing obligation in the current press of other similar major rate cases. Absent a true-up, the Commission is faced with the choices of using a completely historical test year, or utilizing an interim procedure.

Use of the historical period for setting future rates will most likely result in rates that will not recover the Company's true cost of service. Under those conditions the Company may be deprived of an opportunity to earn a fair and reasonable return to which it is entitled. Any under collection cannot be compensated for in the future. As such, the Company would not be able to earn rates based on its current costs.

If a level of interim rates is authorized, with proper safeguard for verification and return of any over collection, the ratepayer is not exposed to a similar hazard. The provision for refund, at a proper interest rate, offers adequate protection against the use of the ratepayer's money without compensation. Since the interim rate with a subsequent true-up proceeding balances the interest of both ratepayer and shareholder it will be employed to set a proper level of rates in this case.

Because of the irreconcilable conflict created by the number of out-of-period adjustments proposed, those issues tied to the test year question shall be severed for issuance of a final or supplemental order after a true-up proceeding. This initial order shall address, on a permanent basis, the aspects of the Company's revenue requirement that can be resolved separate and apart from the test year question.

Pending the conduct of a true-up, the Company shall be allowed to file interim tariffs reflecting the revenue effect of those issues that cannot presently be resolved because of the test year issue. The interim rates authorized shall be collected subject to refund, with interest, as hereinafter set out, to the extent that those rates may exceed those authorized on a permanent basis. In addition to any amount to be refunded the Company shall pay simple interest thereon at the authorized rate of return on investment set in this matter for the Company by the Commission.

By specifying a grouping of accounts that should be trued-up, the Commission is not inferring that the parties should be limited to those items. Thus far, the Company appears to have proposed as many adjustments as possible to increase revenues. The Staff's adjustments appear to generally result in revenue decreases. The Commission has no desire to entertain isolated adjustments, but seeks a "package" of adjustments designed to maintain the proper revenue-expense-rate base match at a proper point in time. Evidence of "picking and choosing" by a party with the intent of simply raising or lowering revenue requirement will not to be condoned.

Within ten days from the effective date of this Report and Order the parties shall recommend a proper point or period of time for use in the true-up process, as well as a time for the true-up hearing, if necessary.

RECONCILIATION ISSUE

On June 7, 1983, the Commission issued its Order Directing Correction of Reconciliation. In the Order the Commission recognized that the items enumerated in Appendix A, the reconciliation of the various parties' cases, appeared to be inconsistent with the issues in the Hearing Memorandum (Exhibit 29) and tried during the hearing. The Commission directed the parties to file a corrected reconciliation to permit a proper identification of the issues and associated amounts in this case. It appeared that discrepancies still existed even though the Company had filed its proposed late-filed Exhibit 144, purporting to be corrections to figures contained on pages 10 through 16 of Exhibit 29 and corrections to page 2 of Appendix A to Exhibit 29. That document is hereby received in evidence as Exhibit 144.

On June 10, 1983, the Company and the Staff filed their corrected reconciliation. DOE concurred in that reconciliation on June 16, 1983. Because it is necessary to the understanding of the issue, the Staff and Company's proposed reconciliation of June 10, 1983, is hereby received in evidence by reference as Exhibit 145.

On June 13, 1983, the Public Counsel filed a Motion to Require Staff to File a Corrected Reconciliation. It was the Public Counsel's contention that Exhibit 145 reflected that the amounts associated with various rate base and income issues had been significantly requantified from those presented by the original reconciliation. It was further contended that the proposed reconciliation was deficient since no explanation had been provided to indicate why the dollar amounts associated with those numerous issues had suddenly changed.

On June 20, 1983, the Staff filed Staff's Response to Public Counsel's Motion of June 13, 1983, Respecting Company's and Staff's June 10, 1983, Corrected Reconciliation. Attached to the pleading was the affidavit of Staff Witness Robert E. Schallenberg and a further reconciliation which attempted to separate and identify those untried and unexplained differences between the cases of the Company and the Staff. Because it is necessary to understand the controversy, the affidavit of Robert E. Schallenberg and the attached three-page reconciliation is hereby received in evidence by reference as Exhibit 146.

On June 21, 1983, the Company filed the Response of Kansas City Power & Light Company to the Motion of Staff of Public Counsel to require Staff to File a Corrected Reconciliation. Attached to the pleading was the affidavit of Company Witness Robert B. Sullivan asserting the validity of the reconciliation received as Exhibit 145. Because it is also necessary to the understanding of the instant controversy the affidavit of Robert B. Sullivan is hereby received in evidence by reference as Exhibit 147.

On June 20, 1983, Jackson County et al., filed its Motion to Strike Corrected Reconciliation and Request for Oral Argument by the County of Jackson, et al. The Motion protested the unreasonableness of the proposed change in the allocation figures concerning the Grand Avenue generating station and requested oral argument on the matter. On June 22, 1983, the Staff filed a Response in Opposition to Jackson County, et al.'s Motion. On June 22, 1983, Kansas City, Missouri, filed a Motion in support of the request for oral argument of Jackson County, et al.

On June 22, 1983, the Public Counsel filed a Response of Office of Public Counsel to Staff's and Company filings on Reconciliation Issue in which the objection was reiterated as to the accuracy of the reconciliation proposed as Exhibit 145. On June 24, 1983, the Company filed a response to the motion of Jackson County, et al., in which the Company objected to the holding of the oral argument.

By order issued June 23, 1983, the Commission scheduled an oral argument on June 29, 1983, for the purpose of addressing the reconciliation filed on June 10, 1983, and all motions and responses thereto. Counsel for the Company, the Staff, Public Counsel, DOE, Jackson County, et al., and Armco Steel appeared and presented argument.

Jackson County, et al., is not concerned with the overall alteration of the reconciliation. It protests the propriety of any change in the value of the issue involving the allocation of the Grand Avenue station. It is contended that any such change after the issue was tried at the hearing is without evidentiary foundation. Since Jackson County, et al.'s position is related to a specific tried issue it is addressed in the Steam Allocation section, infra.

During the course of the argument Public Counsel accepted the reasonableness of allowing cash working capital in the amount of $957,000 to be distributed proportionately to the other issues on which the total amount is based. In that manner increments of cash working capital will be allowed or disallowed according to the disposition of the related issues. Public Counsel requested permission to file a further proposed reconciliation reflecting that agreement. The reconciliation was filed on June 30, 1983, and is hereby received in evidence by reference as Exhibit 148.

As to amounts listed on the reconciliation as "unexplained" or "untried" differences in the Staff's and Company's cases, Public Counsel remains opposed to their inclusion to arrive at a revenue requirement for the Company. Public Counsel asserts that the reassignment of dollar values agreed to by the Staff and the Company in the June 10th reconciliation is unsupported by any competent and substantial evidence and the Company and Staff's explanation of these changes is theoretical and hypothetical, and does not address specific factors or causes for the changes. Public Counsel also contends that the affidavits furnished after the hearing constitute a concession that no one knows what the unexplained differences are attributed to. Public Counsel describes the proposed changes as a mechanistic convention to substitute for a logical or reasonable identification and justification of the listed amounts.

Upon consideration of the post-hearing pleadings and the argument of counsel, the Commission finds the Public Counsel's position has merit and should be adopted.

This determination is consistent with our treatment in the Company's last two rate cases of certain costs of the Iatan Station which the Staff claimed to be unauditable. In the Report and Order issued in Case No. ER-81-42 we found that the

Company merely presented oral testimony that the amounts were based on actual expenditures booked at the time the estimates were made. The Commission noted that the Company has the burden of proof and that no evidence was brought forward to resolve the issue to the Commission's satisfaction.

The same issue arose in Case ER-82-66 wherein the Commission found the disputed unauditable item should be excluded from rate base because of the lack of supporting evidence.

The Commission finds that Exhibit 148 should be adopted as the proper reconciliation on which to base the revenue requirement in this case. The items designated therein as "unexplained differences" or "untried differences" shall not be considered in arriving at the Company's revenue requirement.

NET OPERATING INCOME

There have been a number of adjustments proposed to the Company's revenues and expenses. In general any adjustments to the net operating revenues and expenses found to be proper represent a reduction or addition to the Company's net operating income. As a part of its case the Company portrays its net operating income to be $47,913,000. The Staff adjustments result in a net operating income of $51,896,000.

A. Test Year Revenues

The Company's annualized jurisdictional test year revenue was computed by Company to be $308,692,000.

The Staff proposes a revenue annualization resulting in an increase to the test year revenues in the amount of $247,407. The Company's proposed annualization reduces test year revenues by $1,530,000.

The Staff's method annualizes MWH sales by applying the actual test year load factor to the projected peak demand allocated to Missouri retail sales.

The Company has used actual MWH sales to which it has applied known and measurable changes. One of those adjustments was to reflect the level of customers at September 30, 1982, to match test year investment and the expenses. The Company increased its revenues $432,000 to reflect the increase in customers during the base year. The Company also adjusted its MWH sales to reflect the loss of its fifth largest customer, the Amoco Oil Refinery.

The Staff included Amoco in its peak which was used to annualize megawatt hour sales. The Company's actual peak did not occur until August of 1982, although the Amoco load had been lost in July. The Amoco load of approximately eight megawatts was included in the Company's 1981 econometric forecast but the closing of the refinery was not known until the spring of 1982. Sales to Amoco amounted to approximately $1,962,000 on an annual basis. Company has no prospective customers of Amoco's size to offset the revenue loss.

The peak used by the Staff was the Company's 1981 forecast, before the loss of Amoco. Including that load in the calculation of the peak, but excluding it in calculation of the load factor in August results in overstating the Company's load factor for the base period. Use of the overstated load factor times the overstated projected peak overstates the resulting kilowatt hours of sales.

The Commission finds that it is proper to make an allowance for the loss of a single load of Amoco's magnitude. As pointed out in the Company's brief, this treatment is consistent with the adjustment to account for the addition of a large customer during the Company's test year for Case No. ER-77-118 as well as with adjustments for customer additions commonly requested of and made by the Commission.

To prevent an overstatement of the annualized revenues, the Company's method should be adopted for that purpose, and used for setting the permanent rates.

B. <u>Rate Case Expense</u>

The Company's books reflect $413,744 in jurisdictional rate case expense for the year ended September 30, 1982. Company seeks inclusion of this amount of expense as well as an additional $110,000 of annualized rate case expense.

Public Counsel proposes to disallow one-half of the rate case expense in order that those expenditures will be borne equally by ratepayers and shareholders of the Company and opposes the Company's annualization. The Public Counsel's proposed sharing of rate case expense is based on the assumption that a rate case primarily benefits the Company's shareholders, and since the amount of benefit to the shareholders and ratepayers cannot be assessed it is claimed to be logical to share the expenses equally. The Public Counsel cites no authority from any other jurisdiction in support of this adjustment, however.

The Staff also opposes the increase of $110,000. Staff objects to the additional $110,000 because the booked amount is adequate and sufficient to conduct a rate case and because the additional amount is actually for the payment of consultant fees incurred outside the test year ending September 30, 1982. The amount claimed by the Company is considerably higher than the $251,440 booked in the year ending September 30, 1981, or the $362,300 booked by the Company for the year ending September 30, 1980.

The amount of rate case expense booked in the year ending September 30, 1982, includes some of the expenses of Company's preceding Case No. ER-82-66. The Company is actually attempting to collect in rates all of the rate case expense from the current case as well as a portion of the expenses from the most recent case. The amount of rate case expense booked in prior years includes some expenses of previous rate cases. The Company's proposed treatment is inconsistent in the handling of such items in the past and should be rejected. A similar issue arose in Re: Missouri Cities Water Company, Case No. WR-83-14 (Report and Order issued May 2, 1983). In that case Company proposed recovery of one-half of its last rate case expense plus the entire estimated cost of the present case. The Commission found the rate case expenses to be ordinary expenses which should be included in the Company's cost of service at a reasonable level.

The Commission is still of the opinion that a reasonable level of rate case expense should properly be allowed as an expense for ratemaking purposes. A proper allowance is a reasonable level on a normalized basis, but no party has proposed such a level in this case. Since Staff's proposal most nearly approaches that position it will be adopted for the purposes of this case.

The Commission finds that the Public Counsel's adjustment is not proper and the amount of rate case expense booked by the Company for the year ending September 30, 1982, should be authorized in determining the Company's permanent rates. The Commission finds it improper to include expenses after that date since such an inclusion would be for more than a 12-month period.

For future presentations the parties should recommend a reasonable normalized level of rate case expense.

C. Edison Electric Institute (EEI) Dues

The Company included in its cost of service $102,000 of the total amount of $148,885 paid as EEI dues. Company had subtracted amounts which it felt were attributable to lobbying activities and for advertising by EEI.

In the Company's last rate case, ER-82-66, the Commission reiterated its position that while there may be some possible benefit to the Company's ratepayers from Company's membership in EEI, the dues would be excluded as an expense until the Company could better quantify the benefit accruing to both the Company's ratepayers and shareholders. Company was instructed to develop some method of allocating expenses between its shareholders and the ratepayers once the benefits and activities leading thereto had been adequately quantified.

In the instant case the Company has attempted to establish the amount of monetary benefit to the ratepayers as a result from the Company's participation in EEI meetings and committee functions. Since the calculations show that the total dollar amount of EEI benefits exceeded the cost of EEI dues, the Company concludes that no allocation is necessary.

The Commission finds that the Company's analysis to be faulty in that the Company has quantified the benefits to the ratepayers but has ignored any potential benefit to the shareholders. It is entirely possible that the amount of monetary benefit to the shareholders could exceed the amount of alleged benefit to the ratepayers. In that event the shareholders should bear a larger portion of the EEI dues than the ratepayers. Thus, the Company has not met its burden of proof of the proper assignment of EEI dues based on the respective benefit to the two involved groups. In the absence of that allocation the EEI dues should be excluded as an expense for setting the permanent rates in this matter.

D. PruLease Payments

The expense in question represents a portion of the costs associated with the rental of machinery and other equipment to the Company by Prudential Life Insurance Corporation. Costs include a component for rental cost and a component for interest cost. Only the level of interest cost is contested. The rate is based on a monthly variable prime rate of interest. Company proposes to use actual payments averaged over a 12-month period to result in a calculated rate of 17.386 percent. Staff proposes to use the lowest rate experienced during the test year which occurred in the last month of the year. The Staff is of the opinion that the downward trend establishes the representative interest rates which will be experienced during the period the rates to be set in this case will be in effect.

The testimony establishes that the PruLease interest rates have been very volatile. The average interest cost from July, 1980 to February, 1983, has been 16.70 percent. Neither the Staff nor the Company witness claimed to be able to accurately predict what interest rates will do in the future, and the Commission finds the selection of the test year average to be the most reasonable level to adopt in this case for the permanent rate level.

E. Committee For Energy Awareness

The Company proposes an adjustment totaling $152,000, reflecting its 1983 proposed participation in the communications and information program of the Committee For Energy Awareness (CEA).

The Company describes CEA as a coalition of investor-owned utilities, public power utilities and major industrial firms created to educate and inform the public of the role that electricity will play in revitalizing our economy. CEA's principal efforts will be aimed at public education on the need for nuclear power. The Company contends that its customers should shoulder the financial burden of participation in CEA because they are directly affected by legislation and regulations enacted by the United States Congress and federal regulatory agencies.

The Commission Staff opposes CEA dues as supportive of a lobbying effort for which there is no demonstrable benefit to the Company's ratepayers. The Staff also opposes the inclusion because it is an out-of-test-period expenditure.

The Public Counsel objects to the expense for the further reason that the expenditure is for duplication of effort of other organizations and activities supported by the Company, such as EEI and Cambridge Reports treated elsewhere in this Report and Order.

In the Commission's opinion the efforts of CEA appear to be devoted almost entirely to either lobbying or political advertising and are largely duplicative of other Company activities. Lobbying and political advertising, like other expenditures of the Company, may partially benefit both shareholder and ratepayer. The Commission finds that expenses of this nature must have a demonstrated and quantifiable benefit to the ratepayers to warrant inclusion in cost of service. The Commission finds that the instant record does not present a sufficiently measurable benefit to the ratepayers to permit an assignment of the CEA costs to them. The proposed expense should be disallowed.

F. Cambridge Reports

The Company proposes to include in its cost of service $45,306 representing the cost of two surveys conducted by Cambridge Reports, Inc., during the months of April and May, 1982. The Company describes the two surveys as being "for the purpose of establishing base line attitudes and opinions of Kansans statewide, and the customers of KCPL on a wide range of issues and subjects."

The Staff proposes to exclude 5/6 of the customer survey as being related to developing a program of advertising to make the Company's Wolf Creek nuclear generating station acceptable. Staff proposes to allow 1/6 of the survey which it contends to be related to the Company's KC Plan. Staff contends that the remainder of the opinion survey is in the nature of political or goodwill advertising.

The Staff also proposes to disallow all of the cost of survey entitled "Voter Attitudes Toward Electric Utility Issues In Kansas" because the voter attitude survey clearly does not address issues relevant to Missouri ratepayers and they should not bear the cost. The Commission finds the cost of the voter attitude survey to be improper as an inclusion for setting rates for the Company's Missouri customers.

The Company undertook the public opinion surveys as a result of a recommendation contained in a recent management audit implemented by the Company under Commission review. The management audit was performed by an independent firm. In order to establish a better line of communication with its customers, the public opinion surveys were taken to determine what information might be of interest to the Company's customers generally. Company is of the opinion that it cannot provide information to its ratepayers without first surveying them to establish their desires in that regard.

The Company claims the Staff's fractional assessment exceeds that portion of the customer survey directly related to Wolf Creek. The Company's apportionment of less than 20 percent as being Wolf Creek related appears to be based on the number of pages in the Table of Contents identifiable as pertaining to Wolf Creek. The Staff's apportionment is more realistically based on a review of the entire survey which includes questions on nuclear power in general and Wolf Creek in particular although not in sections not so identified.

The Commission finds that the contents of the survey are oriented toward goodwill or political advertising. Both types have traditionally been disallowed for ratemaking. As discussed elsewhere in this Report and Order there is a presumption that such efforts should not be financed by the ratepayers in the absence of a showing of a benefit commensurate with the cost. The Commission finds that demonstration of that benefit is lacking and 5/6 of the cost of the public opinion survey will be disallowed in cost of service.

G. Dues and Donations

The Public Counsel proposes to reduce the Company's test year expenses by $12,475 (total Company) representing a portion of the dues and donations paid to organizations during the test year. The Public Counsel's reasoning for the disallowance is that such dues are either: involuntary ratepayer contributions of a charitable nature; activities which are duplicative of those performed by other organizations to which the Company belongs; or lobbying activities which have not been demonstrated to provide any direct benefit to ratepayers.

The Public Counsel did not contest the inclusion of a substantial amount of dues and donations to other organizations.

The Commission finds that the dues and donations to the 10 organizations specified do fall within prohibitions previously announced by the Commission and the contested dues and donations should be disallowed for ratemaking purposes.

H. Lobbying

Public Counsel proposes the exclusion of $98,791 for salaries and expenses of the Company's Federal and Missouri State Lobbyists from jurisdictional cost of service. Company opposes the adjustment while the Commission's Staff took no position.

Public Counsel defines lobbying as activities "designed to influence the decision of regulators or legislators". This is the definition previously employed by this Commission. Re: Missouri Missouri Power & Light Company, Case No. ER-80-286 (March 13, 1981).

Public Counsel's witness does not oppose lobbying expenses without reservation. The proposed exclusion is based on the lack of a showing of any direct benefit to the ratepayers. If the Company could show a direct benefit to the ratepayers the related cost would be considered acceptable by Public Counsel.

The Company justifies its lobbying cost based on a detailed analysis of the daily and even hourly activities of the involved employees. Company has not attempted to quantify or measure benefits accruing to the separate groups of ratepayers and shareholders. Instead, the Company cites decisions of other jurisdictions which determine that lobbying expenses are necessary and appropriate elements of cost of service. The Company also justifies the cost of the efforts as largely being the provision of information. The Company also contends that its proposed exclusion of approximately eight percent of the cost is the appropriate amount of time actually spent in contacts or direct efforts to influence specific measures.

This Commission has addressed this question in the recent past. In the Company's last rate case the Commission reiterated its requirement of a showing of direct benefit to the ratepayer on a similar issue by stating:

> "The Commission still believes the question is one of benefit to the ratepayer. In the instant case there appears to be some possible benefit, but until the Company can better quantify the benefit and the activities that were the causal factor of the benefit, the Commission must disallow EEI dues as an expense. The Commission also points out that the Company needs to develop some method of allocating expenses between its shareholders and the ratepayers once the benefits and activities leading thereto have been adequately quantified." Re: Kansas City Power & Light Company, Case No. ER-82-66 (July 14, 1982).

To the contrary, the Company in this case has attempted to display a benefit to the ratepayer while ignoring any potential benefit to the shareholder.

The Public Counsel's objection is consistent with past Commission decisions and the contested expenses should be excluded.

I. Station Outages

During the test year the Company experienced outages at its Hawthorn 5, LaCygne 1 and Montrose 1 generating units. Staff proposes to amortize the unrecovered cost of repair and replacement power associated with the forced outages over a five year period. During the course of the hearing the Company accepted the Staff's proposal as a joint recommendation.

The Public Counsel opposes the recovery of the involved costs for two reasons. Public Counsel first asserts that the cost of the Hawthorn outage resulted from negligence and management failures of the Company personnel. The only witness to testify on this matter was a member of the Commission Staff who had performed an extensive investigation into the damage at the Hawthorn 5 unit which was caused when a boiler was operated for some period of time without an adequate water supply. The interruption in the water flow to the boiler was caused by the failure of Company personnel to follow proper procedures for removing a portion of the system from service. In order to remove certain units it is necessary to follow a sequence of valve closings to reroute and maintain water flowed to the boiler through alternate piping routes. Company personnel failed to follow the proper sequence because the operators relied on an inaccurate set of instructions called a hold request. Public Counsel stresses the fact that the Company had reviewed the Hawthorn incident, and had taken a number of steps to minimize recurrence of the event. It was the opinion of the Staff witness, after his extensive investigation, that it is a very typical response to review and enhance operator training after such an occurrence. In the Staff witness' opinion the steps initiated after the accident would only be able to minimize the possibility but it is unlikely that anything would prevent such a recurrence because it was due to human error. There is no information in the instant record which would permit a determination that the Company has been remiss or neglectful in its management operations.

Public Counsel also contends that recovery of these expenses would be violative of the prohibition against retroactive ratemaking announced in State ex rel. Utility Consumers Council of Missouri v. Public Service Commission, 585 S.W.2d 41, 60 (Mo. banc 1979) wherein the Missouri Supreme Court ordered a refund of monies collected under a fuel surcharge on the basis that implementation of the surcharge constituted unlawful retroactive ratemaking.

Public Counsel also cites Narragansett Electric Co. v. Burke, 415 A.2d 177, (R.I. 1980), wherein the court described the two basic functions of the rule against retroactive ratemaking by stating:

> The rule against retroactive ratemaking serves two basic functions. Initially, it protects the public by ensuring that present consumers will not be required to pay for past deficits of the company in their future payments. The Supreme Court of New Jersey has expressed this legitimate concern as follows:
>
> > 'The present practice, as set forth in these cases, is fair to the public utility, for it can act as speedily as it sees fit to move for a correction of inadequate rates, and it is fair to the consumer in safeguarding him from surprise surcharges dating back over years that he had a right to assume were finished business for him and possibly over years when he was not even a consumer.' New Jersey Power & Light Co. v. State Department of Public Utilities, Board of Public Utility Comm'rs, 15 J.J. 82, 95, 104 A.2d 1, 7 (1954). See Western Oklahoma Gas & Fuel Co. v. State, 113 Okl. 126, 239 P. 588 (1925).
>
> > The rule also prevents the company from employing future rates as a means of ensuring the investments of its stockholders. Georgia Ry. & Power Co. v. Railroad Commission of Georgia, 278 F. 242 (D.C.Ga. 1922). If a utility's income were guaranteed, the company would lose all incentive to operate in an efficient, cost-effective manner, thereby leading to higher operating costs and eventual rate increases. Id. at 179-180.

As pointed out in the Staff's reply brief this Commission has a long history of allowing reasonable amortization periods of expenses connected with extraordinary casualties, commencing with in Re: Kansas City Power & Light Company 8 Mo. P.S.C. Reports 223, 279 (Aug. 13, 1918). The practice has continued as recently as a decision in Re: Missouri Public Service Company, Case No. ER-81-85 (May 27, 1981).

The Staff's reply brief also cites extensive authority from other jurisdictions which permits utilities to recover extraordinary costs associated with casualty losses. Among those cited is the Narragansett case relied on by the Public Counsel. Staff's brief also directs the Commission's attention to the court's reasoning for its holding, contained in pages 179-180 which in part states:

> [2] The application of the rule against retroactive ratemaking to prevent the company from recovering the extraordinary cost of the ice storm would serve neither of the policies expressed above. Because of the unpredictable and severe nature of the storm, it is unlikely that company officials, in planning their operational expenses, could take into account the cost of repairing the widespread damage that occurred on January 14, 1978. The existing rates, moreover, as the commission indicated in its decision, were 'not in any fashion [based on] the extraordinary expenses of restoration of service after the ice storm.' Since the company incurred highly extraordinary expenses not covered by existing rates in combating this freakish storm, it is difficult to perceive how the future efficiency of the utility would be furthered by the application of the rule in this instance.
>
> We have also noted that the rule serves to protect present customers from paying for a utility's past operating deficits. This aspect of the rule must be weighed against the interest of providing immediate service to customers when a destructive, unexpected storm occurs. On such an occasion the public interest in quickly restoring heat and electricity to the homes of customers must prevail.

Thus, it appears that the Public Counsel has either misconstrued or mis-cited the ultimate finding of the Court in the Narragansett case.

The Commission finds the practice of amortization, over a reasonable period of time, of the costs of accidents or extraordinary events should be utilized in this case and the Staff's proposed amortization period in this matter is reasonable and proper for establishing the permanent level of rates.

However, any interested party who wishes to prospectively change the manner in which such expenses are recovered, such as by insurance or reserve accruals, inter alia, should bring the matter to the Commission's attention in some appropriate manner, such as by rate case, generic proceeding, rulemaking, or otherwise.

J. Customer Deposits

The Public Counsel proposes to increase the interest rate on customer deposits from the current level of six percent to nine percent per annum. The proposed adjustment would increase the Company's Missouri related expenses by approximately $194,374.

Public Counsel's reasons for proposing the adjustment are:

1. The Company pays eight percent on customer deposits in Kansas;

2. The customers cannot acquire funds at six percent to pay the deposit should a loan become necessary to do so;

3. Section 408.020, RSMo 1978 has increased the interest rate from six percent to nine percent when no other rate is specified; and

4. The Commission has recently determined that a nine percent rate is appropriate for Union Electric Company and The Gas Service Company.

Company objects to the adjustment and points out several distinctions between deposits and investments. It is true that the primary purpose of a deposit is to ensure payment of the bills and not to be the source of income through the receipt of interest. The average deposit, including commercial customers, is $88.89.

As pointed out in the Company's brief, there has been no evidence offered to demonstrate that customers borrow money to meet deposit requirements. The important factors to consider are that the payments are involuntary, and the Company has the use of a fairly substantial sum even though contributed by each customer in rather small amounts. The interest rate to consider is that of the Company and not that of the customer who has no choice in the matter. Six percent is not a realistic current rate of interest and consistent with our decision in Re: Union Electric Company, Case No. ER-82-52 (July 2, 1982) the Company's cost of using the customer deposits should be increased from six percent to nine percent and included in the calculation of the Company's permanent rates.

K. Fuel Mix, Interchange and Load Shapes

The Company seeks test year interchange and purchase power levels of 250,290 MW. The Commission Staff proposes 464,889 megawatts as the proper amount. The Company actually purchased 872,981 MW during the 12 months ended September 30, 1982. The Company has normalized and annualized that figure based on its expectations of the amount of power that will be available and purchased in the near future. Its expectation is based largely on the cancellation of a large capacity sale agreement expiring June 1, 1982.

The Staff has selected the amount of power purchased during the 12-month period ending September 30, 1981, as modified by the fuel run and manual adjustments. The Company's proposed interchange level would result in approximately $310,000 of additional fuel costs above the Staff's position.

The Company contends that the Staff is unrealistic in the amount of power that will be available and has not taken into account changes on the Company's system since October 30, 1981. The Company's method is criticized by the Staff because it uses a 7-month period ending September 30, 1982, annualized at that point. Staff is critical because, even though the AEC agreement expired June 1, 1982, the Company purchased substantial amounts of power in June and July, but excluded those months from its calculation. Staff is of the opinion that by the inclusion of June and July of 1982, the Company's annualized level of purchase would be much higher.

The parties also have a substantial disagreement as to the price at which power will be available. Staff's average calculated mark up on sales is $6.199 per megawatt hour, compared to the Company's mark up of $4.63 per megawatt hour.

The Company's brief acknowleges that the controversy is a part of the test year issue and that demonstrable changes should be recognized. It is obvious that the Staff's backward look and the Company's foward look present a potential mismatch for purposes of revenue and expense calculations. The issue of fuel mix and interchange should be included in the true-up previously discussed. The Commission finds that on an interim basis, the Company should be allowed the controverted fuel expense pending a final order after true-up. The resolution of this issue involves a corresponding rate base adjustment. The higher level of fuel expense dictates an increased coal inventory discussed in Section D.1. of Rate Base, infra.

The Staff's brief also addresses Load Shapes as an issue. It is pointed out that there was no prepared direct, rebuttal, or surrebuttal testimony on the issue, and it was not listed in the narrative portion of the Hearing Memorandum.

Thus, the Commission finds that the issue of Load Shapes is not before it in this record, and, therefore, the adjustment is not allowed.

L. "Operation and Maintenance/Attrition Adjustment"

The Company proposes a two-part adjustment to its booked expenses for non-fuel, non-labor operations and maintenance. The Company refers to the proposal as "Other O&M Adjustments" while the other parties describe it as an "Attrition Adjustment". The proposed adjustment is intended to account for expected increases in the Company's operation and maintenance costs during the period when the rates to be set will be in effect. The Company points out that it has seldom been able to earn its authorized rate of return and because of inflation is not likely to do so in this case in the absence of the proposed adjustment.

The Commission has recently expressed a willingness to recognize the effect of inflation on a company's rate of return if a proper procedure can be developed to identify the causes and quantify the result. As recently as the Company's last rate case (Report and Order ER-82-66, July 14, 1982), the Commission invited all parties to further develop their positions in Commission Case No. 00-82-277. The Company proposes its adjustment as a positive response to that invitation.

The Staff's testimony indicates that a substantial amount of time in preparation for this case has been spent in efforts to arrive at the reasons the Company did not earn it authorized rate of return during the test year. The Staff has been unable to determine the cause. Neither has it been able to arrive at a proper definition of attrition or a proper form of measurement to determine if it exists.

The Staff's position is not responsive to prior Commission expectations stated, for example, in a 1982 rate case as follows:

> "The Commission and its Staff have conceded the existence of attrition in the past, and as recently as the Report and Order issued in Re: Missouri Public Service Company, ER-82-39 and WR-82-50 (June 21, 1982). To alleviate the difficulties created by attrition the Commission has adopted forecasted fuel expense, true-ups and other mechanisms to employ data from a period as close to, or during the period when the rates to be set will be in effect. Even the Company in its brief concedes the Commission's recognition of the problem and attempts to partially offset it by the means enumerated and other attempts to accelerate the rate case process.

"Although recognized, a problem cannot be corrected if it cannot be measured. The instant record does not permit such a measurement since it would be available only after the 'operation of law date' of the tariffs herein involved.

"The Staff, in other cases, has studied the concept of attrition and has attempted to formulate a method of quantifying it. In the Company's next rate proceeding the Commission will expect the Staff's presentation to reflect, at least, a consideration, of specific proposals in this regard. Although not presently measurable, it may be possible to establish a reasonable attrition factor at some time in the future." Re: Missouri Power & Light Company, ER-82-180 (October 29, 1982).

In the Company's last rate case the Report and Order issued by the Commission contained the following statement concerning attrition:

"The Commission commends the Company's effort in this area; however, the Commission, from the evidence in this record, cannot develop a cure-all or inform the Company how to develop an adequate procedure. Apparently, much progress has been made. This is demonstrated in the record regarding Company and Staff testimony on negotiations between the Company and Staff in this area. The Commission invites the Company and all parties to further develop their positions in the Commission Case No. 00-82-277." Re: Kansas City Power & Light Company ER-82-66 (July 14, 1982).

The Company first annualized its O&M price levels at September 30, 1982, to arrive at an initial adjustment of $260,000. That amount was then increased and adjusted to account for anticipated price increases during the year of July 1, 1983 - June 30, 1984. The other parties are proposing no adjustment. Thus, the Company is proposing an adjustment reaching one year and nine months out of the test year.

The Company's largest adjustment in the amount of $2,568,000 relies on forecasts of price level trends and "proxies or indices" constructed by a Washington based consulting firm, Data Resources, Inc. (DRI). The adjustments were keyed to the FERC system of accounts. DRI's procedures were not designed to predict changes in expenses peculiar to the Company's system and no knowledge was professed of the nature of the Company's system. The indices developed were then applied by the Company to its annualized expenses to arrive at the total adjustment.

The examination and cross-examination of the DRI witness revealed a number of deficiencies in the reliability of the forecast. An example is the composition of Account 562, Station Expenses, which includes washroom supplies, for which an index was constructed although DRI did not know if such expenses are incurred at all or none of the Company's transmission stations. Another deficiency appeared in DRI's understanding of the nature of the index it constructed for Fuel in Account 501. The subject of the index was stated to be cars and private transportation, including maintenance and insurance. As pointed in DOE's examination, and in its brief, the witness did not know what kind of transportation the Company uses. It is also pointed out by DOE that Account 501 includes the cost of fuel used in the production of steam for the generation of electricity, including expenses and unloading fuel from the shipping media and handling thereof, up to the point where the fuel enters the boiler plant bunker, hopper, bucket, tank or holder of the boiler house structure.

DRI constructed a proxy for Account 502, Steam Expenses, which included chemicals and boiler inspection fees; lubricant; boiler feed water purchased and pumping supplies. DRI's witness could not explain the applicability of the proxy "Office Supplies Expense Cost Index" to any of those items although the proposal links the proxy to that account and to those items.

Because this adjustment is related to the test year issue which was not resolved to the Commission's satisfaction, the Commission finds that the amounts at issue should be authorized in rates on an interim basis and included in the true-up procedure which shall include a verification of the reasonableness of the Company's annualization.

M. Administrative and General (A&G) Salaries and Expenses

The Staff proposes an adjustment consisting of an exclusion of 12.314 percent of the Company's A&G salaries and expenses, on the ground that those amounts should be capitalized as being related to construction. The Company opposes the proposal on the ground that it represents an arbitrarily determined amount, is contrary to FERC Electric Plant Instruction 4 and does not comply with NARUC Interpretation No. 60-EGW.

In the Company's last rate case, Case No. ER-82-66, the Staff proposed capitalization of 12 percent of A&G salary expenses as a result of a study of the amounts capitalized by 11 electric utilities in Missouri and Kansas. The expenses capitalized ranged from 5 to 38 percent. The Staff chose to apply to KCPL the mode of the sample which was 12 percent. That method was chosen by the Staff in that case due to its inability to conduct a study of actual time reported by administrative employees in performing their daily activities.

In the Report and Order the Commission agreed with the Staff in principle but rejected the adjustment due to the imprecise nature by which it was calculated. The Commission also agreed with the Staff's recommendation for the conduct of a study in stating:

> The Company will be ordered herein to conduct a study to establish detailed policies and procedures that direct what costs should be directly charged to construction. The study shall also establish detailed policies and procedures to account for those construction-related A&G salaries and expenses that cannot be charged to a specific project and assigned those amounts ratably among the various construction projects. (Report and Order, Case No. ER-82-66, page 9).

The Company's study was to be filed on October 14, 1982. The Company filed a motion seeking an extension of time to file the study, reciting in part:

> 4. The following steps must be completed to result in a satisfactory study:...
>
> b. Conduct interviews with all department heads and other personnel to discuss workload and manpower deployment with respect to construction related activities;...
>
> e. Develop an implement detailed policies and procedures on a Company-wide basis and provide necessary orientation and training.

The study, filed on January 14, 1983, is attached as Appendix 9 to Staff's Exhibit 44 in this matter.

It is the Company's contention that the time put in the review of the Company's operations and issuance of policies and procedures constituted a study, although not a time study. The review was performed by a series of interviews or discussions, not all of which were documented. It is the Company's position that after interviewing the Company's chief operating officer and some vice-presidents that it was unnecessary to interview all of the officers or department heads.

Under the Company's study it still charges to construction only those A&G salaries and expenses that can directly be identified with a particular construction project. All indirect costs are still expensed. The Company is of the opinion that only a portion of the salary of one officer should be capitalized. The remainder of the officers' salaries should not be capitalized because they are paid to do a job without regard to the time required. Since many work 60 or 70 hours a week it is believed to be impossible to accurately assign a 40-hour week to various functions.

Company's controller expressed the opinion that the new policy uses a direct charge and incremental cost basis of capitalizing A&G indirect costs that is preferred by FERC and NARUC. It is the controller's testimony that both organizations state that a time study is a possible procedure that could be used only if direct charging and incremental approaches are impractical. Company states that the use of percentage distributions based upon assumed relationships between operating expenses and cost of construction violates the instructions to FERC's Uniform System of Accounts. Company also refers to NARUC interpretation No. 60-EGW, adopted by the Commission, which specifically states that the amounts of administrative and general expenses which are capitalized are only those which have a provable relationship to construction. The interpretation goes on to state that the incremental cost basis is the preferred method of determining amounts of administrative and general expenses which should be capitalized. Under the incremental cost approach, only the cost specifically incurred for construction, or those costs which would not be incurred if construction were not undertaken are chargeable to construction.

The Company contends that it has complied with the mandate of the Commission and has conducted a review and has developed and implemented a detailed policy and procedure that is based upon the direct assignment of A&G cost to construction. Company also contends that its plan complies with the Commission's order since it has also set up a general work order which is being charged for labor which is not attributable to specific projects in progress.

The Company criticizes the Staff's proposal because the proposed time study is unnecessary and needlessly duplicative. Company also contends that the Staff has once again advocated that a meaningless arbitrary percentage be applied.

The Staff's adjustment is based on the Company's payroll records and is based on data that applies only to KCPL. The Staff's percentage has been derived from the percentage of total payroll charged to work orders.

It is the Staff's position that the Company should utilize Account 922 to follow Electric Plant Instruction No. 4 in capitalizing indirect A&G construction costs. Staff pointed out that only two Missouri utility companies were not using that method in 1980. KCPL followed that practice prior to July 1, 1959.

The Staff testimony also establishes that the Company, has since 1973, proposed A&G overhead cost studies to charge its partners in joint ventures such as LaCygne 1 and 2 and Iatan.

The Company also criticizes the Staff's proposal because it would be difficult to retroactively capitalize A&G costs since many of the work orders would have already been capitalized and closed. What the Staff is proposing is the prospective accumulation of dollars in an account which will be reflected in rate base at the end of the year when the work order closes.

Staff points out in its reply brief that the Company's contention that this Commission has adopted the NARUC instructions for the uniform system of accounts is based solely on the 1981 NARUC annual report. Staff also directs attention to 4 CSR 240-20.030(4) which states:

> In prescribing this system of accounts the commission does not commit itself to the approval or acceptance of any item set out in any account, for the purpose of fixing rates or in determining other matters before the commission.

It would appear, therefore, that criticism concerning the violation of those two principles would not be dispositive of this issue.

There is no evidence in this record to persuade the Commission to depart from its opinion concerning the performance of a precise study as announced in Case No. ER-82-66. The Commission finds that the Company's method of performing the study and the resulting product herein do not conform to the direction to perform the study.

Since the Commission has determined that the Company has failed to provide an adequate study the Commission finds that the Staff's work order percentage method should be used as a substitute in this instance. For ratemaking purposes the Commission believes a study as referred to in the Uniform System of Accounts should be used. However, the Commission is not endorsing the work order percentage method as the most appropriate means of calculating capitalization percentages for that part of the Company's payroll and related expenses connected to construction activity. The Commission is using Staff's method in the absence of an adequate Company study. The Commission further notes that the development of an adequate study is the Company's burden and not the Staff's. Consequently, the Commission directs the Company to file an appropriate study in its next rate case.

The Company has moved to strike a portion of the surrebuttal testimony of Staff witness Zimmerman contained in page 10 of Exhibit 44. The objected to testimony concerns reponses to data requests tendered to Union Electric Company and Empire District Electric Company. In the Commission's opinion the Company's motion is well taken and is hereby granted since the consideration of that evidence would deny the Company's right to cross-examine the parties actually making the statements contained in the data request responses.

N. Forecasted Fuel Expense

The Company, Staff and DOE have entered into a joint recommendation that the Company be allowed to collect revenues, subject to refund, with interest, based on certain coal and gas prices three months after the end of the month in which the Commission's Report and Order in this case becomes effective.

Public Counsel opposes the joint recommendation. Counsel for Armco stated that Armco does not oppose or join in the recommendation, but asks that the Commission take into consideration the rounding differences inherent in the proposal. The joint recommendation provides that if the difference between actual prices and forecast prices is calculated to be less than one-hundredth of a cent per kilowatt-hour, the Company does not have to file new tariff sheets. All differences above one-hundredth of a cent per kilowatt-hour are to be rounded to the nearest one-hundredth of a cent per kilowatt-hour. The reason for such rounding to the nearest one-hundredth is that the Company's tariffs are only calculated to that level. It is not possible to calculate differences with more precision.

The only parties that filed testimony on this issue were the Company and the Commission Staff. Two Staff members were subpoenaed by the Public Counsel respecting this issue.

The Commission Staff requested that two paragraphs be inserted into the recommendation to dispose of potential problems that have arisen in past true-ups of forecasted fuel prices and these paragraphs appear in the stipulation:

> Paragraph 11 - Company agrees to advise Staff of any unusual circumstances affecting the permanent base fuel prices or invoice prices including, but not limited to, interim agreements, contract renegotiations, changes in sources of supply, changes in mining conditions, unit outages, and spot coal purchases as these matters occur through the true-up hearing date.
>
> Paragraph 12 - Company agrees to provide Staff with all available documents and information supporting price changes as these matters occur through the true-up hearing date.

The joint recommendation also proposes to exclude the price of coal produced at Peabody Coal Company's Rogers County Mine from the true-up and refund. This provision has been inserted as a result of a drop in price of coal from that mine following a fuel true-up in the Company's last rate case.

The instant joint recommendation also provides that the over or under collection of coal and gas fuel expenses are aggregated. If coal expense is over forecasted, but gas expenses are under forecasted an equal or greater dollar amount, no refund obligation will exist.

Attached to the Public Counsel's brief is a copy of the transmittal letter accompanying a revised Purchased Gas Adjustment (PGA) filed by The Gas Service Company on April 8, 1983, decreasing retailed rates to large industrial customers such as KCPL by $1.066 cents per mcf. The Public Counsel contends that the forecasted fuel joint recommendation includes $2,359,590 in rates subject to refund. Public Counsel also contends that the decrease in the PGA reduces Company's cost of gas by $2,564,930 which is in excess of the rates subject to refund.

On May 12, 1983, the Staff filed with the Commission a Motion to Strike Certain Portions of the Briefs of Kansas City Power & Light Company, The Office of the Public Counsel, and Jackson County, Missouri, et al. The motion recites that the transmittal letter attached to the Public Counsel's brief and the accompanying tariff are not exhibits in this proceeding or in any manner part of the record herein.

In the Commission's opinion the Staff's motion has merit and should be granted in part. Staff's motion acknowledges that the Commission has recently treated a similar issue in its order issued on October 25, 1982, in Stapleton v. Missouri Public Service Company, Case No. EC-82-215. As announced in that case, the Commission is still of the opinion that an order to strike improper argument in a brief is not necessary or proper, and a party, to protect itself from improper arguments, be it legal or factual, need only to bring it to the attention of the Commission in a reply brief. The Commission now adds that if improper comment is contained in a reply brief it will suffice for a party to point out the improprieties by letter to assist the Commission in determining which portions of the argument should be rejected.

In the instant case, however, the brief of Public Counsel has attached to it a document filed in another matter of record before the Commission. A motion to strike may be proper when a party attempts to improperly include in the record documents or exhibits from other cases. Since the objected to inclusion exceeds the scope of a factual or legal argument, the Commission finds the Staff's motion to strike has merit and should be granted. The furnishing of the questioned letter is an improper attempt to supplement the evidentiary record after it has been closed. As to the PGA tariff in question, the Staff's motion should be denied. The Commission is obligated to be aware of the contents of its own records and will be consider the PGA as hereinafter indicated.

The Staff also points out that the Public Counsel's calculations are based on a mistaken assumption. As pointed out in the Staff's brief the figure referred to by the Public Counsel is taken from an illustration of the method to be used to calculate fuel expenses to be included in rates subject to refund. A review of the reconciliation of revenues attached to the Hearing Memorandum in this matter shows that the forecasted fuel revenue requirement is $4,250,000. The joint recommendation states in part that in the event the actual aggregate coal and gas costs are less than the aggregate forecasted cost with respect to the fuel burn as set by the Commission the Company shall be obligated to refund an amount with interest, as determined by taking into consideration any offset of the over collection of one fuel against the under collection of another.

In the Commission's opinion the evidence establishes that the provisions of the joint recommendation concerning forecasted fuel adequately provide protection for the ratepayers in the event of an over collection in the Company's fuel cost. There is no provision for protection of the Company in the event of any under collection of fuel costs. The joint recommendation provides for refund of any over collection to which shall be added simple interest at a rate equal to the authorized return on investment set in this matter. It is noted that the joint recommendation also provides for testimony to be presented to the Commission at the time of the true-up regarding how to apply the refund and the Commission shall make that determination. For all of the foregoing reasons the Commission finds that the joint recommendation contained in Exhibit 88 should be adopted for the purpose of establishing the Company's fuel expense in this matter.

In the true-up the parties shall specifically address the effect which the PGA filed by The Gas Service Company on April 8, 1983, may have on the Company's fuel costs and any refund obligation created by the PGA.

O. Payroll Costs

The Company has annualized its payroll expense and associated taxes as of September 30, 1982, adjusted for known changes and quantities through September 30, 1982, reduced by the number of employees released effective October 1, 1982. The Company also includes an anticipated seven percent wage increase for noncontract employees on July 1, 1983, and salary increases through June 30, 1984. The wage rates assume a Report and Order in this matter in July, 1983, with the total reduction in the Company's net operating income claimed to be in the amount of $1,933,000.

The Staff annualized the Company's payroll and associated expenses at year-end September 30, 1982, reduced by the 47 employees released on October 1, 1982, as a result of the reclassification of Hawthorn Units 1 through 4. The Staff did not recognize any other changes in quantities or costs effective after September 30, 1982, other than a contract labor increase effective October 25, 1982.

DOE also annualized payroll and related expenses using the September, 1982 level of employees and wages.

The Staff does not agree to any other out-of-period adjustments because of a perceived disturbance in the expense and revenue relationship. It is not contended there will be no increased wages during the period when the rates to be set will be in effect. Some of the expenses, such as increased FICA taxes on January 1, 1983, appear to be inevitable without any direct relationship to revenues.

The Company bases its estimate of a seven percent increase in the noncontract salaries on its experience that such increases closely correspond to contract increases. There appears to be little doubt that some increase will be forthcoming on July 1, 1983. In the Commission's opinion the contested payroll increases should be included in rates as a portion of the expenses subject to revision on a permanent basis after true-up.

Payroll amounts at July 1, 1983, will be in effect during virtually the entire life span of the rates to be set in this matter. As pointed out in the Company's brief, the briefing schedule has been extended to May 12, 1983, and the prospect of an early Report and Order appears to be substantially lost.

During inflationary periods, substantially unadjusted test years ending prior to the time the new rates will go into effect will virtually assure that the Company's entire cost of service cannot be recovered. Inclusion of the probable payroll level subject to refund will tend to offset this phenomenon, and at the same time expose the ratepayer to no more costs than those legitimately incurred by the Company.

The portion of the claimed expense beyond July 1, 1983, however, is too remote from the test year to be properly included. There is little likelihood that payroll increases in May, 1984, will be in effect for any significant period during the effectiveness of the rates to be established by this case. Payroll expense incurred through July 1, 1983, should be collected subject to refund after the true-up proceeding.

P. Summary

As a result of all of the adjustments herein found to be fair and reasonable, the Commission finds that the Company's available net operating income for the purpose of this case is in the amount of $47,256,000. The expenses to be allowed subject to refund have reduced net operating income by $5,260,000.

RATE BASE

Company portrays the net original cost of its property used in the rendering of service within the Missouri jurisdiction to be $561,158,000. The various parties to this proceeding have proposed a number of adjustments which would reduce the Company's intended rate base. The Staff adjustments result in a proposed rate base of $517,529,000. Each of those proposed adjustments is hereinafter discussed.

A. Customer Deposits

The Public Counsel proposes to reduce the Company's Missouri jurisdictional rate base by the customer deposits held by the Company in the amount of $2,159,706. That amount represents the Company's 12-month average balance of customer deposits at September 30, 1982.

The Company currently uses the interest cost of customer deposits in calculating its rate for allowance for funds used during construction (AFDC). This method has been followed since the Commission directed its use in the Company's rate Case No. ER-78-252.

The Commission adopted the AFDC method as being superior to the rate base offset because older deposits are more likely to support the present plant, while newer deposits are more likely to be used for future construction. In view of the adoption of 4 CSR 240-13.030(4), the Commission expected the level of older deposits to fall. That rule provides for earlier return of deposits than that under the previous forms of the rule.

As anticipated by the Commission in Case No. ER-78-252 the rule appears to have resulted in deposits being refunded more quickly. Although the overall level of deposits has increased, the Company's testimony shows that the current level of deposits is approximately $2.7 million and there is approximately a $2 million turnover in the fund each year.

In the Commission's opinion there has been no evidence offered to alter the thinking that deposits are more likely to support future plant in service. The practice of using the deposits to calculate AFDC should continue and the proposed offset to rate base should be disallowed.

B. Deferred Taxes Offset To Rate Base

Staff and DOE propose to calculate an allowance for funds used during construction (AFDC) on Wolf Creek construction work in progress (CWIP) on a gross of tax basis and offset the Company's rate base by the amount of the resulting deferred tax reserve. The offset as calculated by the Staff is in the amount of $29,492,000, including the income tax effects of property taxes.

AFDC is accrued on the Company's CWIP until such time as it becomes fully operational and used for service. At that time the cost of construction, including all accrued AFDC, is included in the Company's rate base.

AFDC represents the cost of the funds invested in construction work in progress and has two components; a debt component, and an equity component. The debt component recognizes the interest costs of the debt funds invested in construction. The interest costs associated with CWIP are proper income tax deductions when paid or accrued. Such interest costs are capitalized for book purposes as a part of the cost of the construction. This issue was tried in the Company's last rate Case, ER-82-66 and was determined adversely to the Company.

Since the Report and Order issued in the Company's rate Case No. ER-78-252, the Company has been afforded normalization treatment of its deferred tax reserves for capitalized property taxes. In Case No. ER-82-66 the Staff proposed to calculate AFDC on Wolf Creek construction on a gross of tax basis and to offset the Company's rate base by a deferred tax reserve created by the change. The Staff advocated calculating AFDC on a gross of tax basis to afford the ratepayers furnishing the present funds making up the deferred tax reserve a present benefit in the form of the rate base deduction. In the instant case the Staff proposes continuing that practice contending that the deferred tax reserve represents money paid in current rates for which no tax is actually paid as a result of the normalization of the tax timing differences. The Company proposes to record the appropriate amount net of tax and deduct the deferred tax reserve from rate base after the plant goes into service.

It is the Staff's contention that since deferred taxes collected in rates represent cost-free capital to the Company for which the current ratepayers are entitled to credit against plant in service, it is unreasonable to ask the ratepayer to pay a return on the plant constructed from those ratepayer-supplied funds.

Staff also points out that the Company has used the deferred tax reserve for Wolf Creek property taxes as an offset to rate base in current filings before the

Kansas Corporation Commission and the Federal Energy Regulatory Commission. Staff also points out that the position adopted in the Company's last rate case, and advocated by the Staff in this case, it is consistent with similar treatment directed for Union Electric Company in its most recent rate case, ER-82-52.

There is also a great deal of conflicting evidence as to whether additions to the plant in service will have an effect of greatly increasing Kansas property taxes. In the Commission's opinion these questions have been unresolved.

No new evidence has been offered to persuade the Commission to alter its decision to require gross of tax accounting for AFDC and capitalized property taxes and the corresponding reduction in rate base by the amount of the deferred tax reserve. The Commission finds gross of tax accounting for the resolution of this issue to be proper. However, the Commission anticipates instituting a rulemaking proceeding to consider normalization of tax timing differences in general and will seek comments on the instant issue specifically. The Commission invites the comments of the Company, Staff, DOE and any other interested party in that respect.

C. <u>Iatan Cost Overruns</u>

The Commission Staff proposes to exclude $243,405 of the cost of constructing the Iatan generating station from jurisdictional rate base, on the alleged grounds of contractor error associated with construction of the hot reheat piping and structural steel repainting. The Commission has previously excluded the cost of these items from the Company's rate base.

The Staff proposes disallowance of the cost of structural steel repainting because of contractor error, excessive charges and material not meeting specifications. The Company's evidence shows it had approximately 12,000 tons of structural steel prepared for finished painting pursuant to Steel Structures Painting Council's Surface Preparation Specification Nos. 3 and 7. Those specifications require loose mill scale and loose rust removal from the surface of the structural steel, but allow tightly adhering mill scale, rust and paint to remain on the structural steel. Steel supplied under those specifications result in a saving of approximately $24 per ton, for a total savings of $280,000 for the total plant. After the steel was delivered the construction company (Daniel) had difficulty in obtaining qualified personnel to work on the upper structure. The steel stayed on the site for an extended time before it could be erected and receive final painting. The Company's Director of Fossil Plant Construction and Engineering disputed the faulty material contention of the Staff and expressed the opinion that the primer deteriorated due to the unforeseen delay in erection. The Company in its investigation could establish no other cause for the need for repainting. After the repainting cost the Company still salvaged a saving of $166,000 by having the steel delivered with the less rigid paint specifications.

The other aspect of the Iatan cost over on issue was the alleged contractor or management error in the construction of the hot reheat piping assembly. The Company's testimony concerning the hot reheat piping was given by the engineer in charge of the stress analysis group of the plant architects at the time of construction. The hot reheat piping is a pair of piping or tubing which runs between the boiler and the turbine of the generating station. Because of increasing fuel costs the hot reheat piping in question was designed to use 38-inch diameter piping which was the largest diameter piping ever used by the architects in units with a capacity similar to that of Iatan. The piping was designed to be erected, without stress, from the turbine end as well as the boiler end. There are cross-connecting pipes between the reheat piping which are designed to equalize the steam pressure in the two runs. Because the cross-connecting pipe was located close to the turbine, it, along with its support system, could exert large loads on the turbine shell.

After piping was erected from each end, a gap existed between the two segments called the "cold spring gap." The correct gap was calculated by the stress analysis group to introduce the proper amount of stress in the system when the two ends of the pipe are brought together and welded.

During the Iatan construction the initial gap between the piping segments did not correspond to the design specifications. When the piping was pulled together the intermediate pressure turbine shell warped. Although a number of investigations were performed by the architects the cause of the warpage could not be determined.

The Company witness stated that many possible reasons for the warpage could exist. For example, the piping loads may have been larger than predicted by the sophisticated computer analysis. The piping may not have been fabricated in accordance with the specified tolerances or installed in the desired sequence. The equipment connections may not have been located as shown on the supplier's drawings. The turbine shell may have been more flexible with the top removed than the supplier anticipated and the design and erection of the cross-connecting pipe have been more critical than construction company, the supplier or the architect anticipated.

As a part of its investigation the architects requested the installation specifications for the guides in the hot reheat system. The guides are described as hangers or braces for the piping. The architects determined that eight guides amounting to 20 percent of the suspension system of the hot reheat piping were not installed prior to requesting the installation specifications.

In the Company's last two rate cases the evidence of record persuaded the Commission to exclude the disputed items from rate base. In the instant case, on the other hand, the Company has come forward with sufficient evidence to rebut the allegation of inadequate Company or contractor supervision. The Commission finds from the instant record that the costs associated with the structural steel repainting and the hot rehaat piping should properly be included in the Company's jurisdictional rate base.

D. Fuel Inventory

There are four areas of disagreement regarding the proper calculation of the Company's fuel inventories. Each of these disputes is discussed separately below.

1. Coal Inventory

Both the Staff and the Company agree that a 90-day fuel inventory is proper for the Company to maintain at all generating stations other than LaCygne 1. The different methods of calculating the 90 days of inventory results in a net difference of approximately 104,000 tons at the cost of approximately $5,167,000.

The Company's and Staff's method of calculating coal inventories are identical with the exception that the Company excludes scheduled outages from its calculation. The Company uses the annualized tons of coal burned at each generating station, as determined in the fuel run model divided by 365 days, less the number of scheduled outages. The result for each generating station is then multiplied by 90 days to arrive at each unit's level of coal inventory. The Staff's calculation did not exclude the days of scheduled outages from the denominator of the calculation. Both the Company's and the Staff's 90-day calculation of coal inventories include forced outages of generating units. Staff's calculation results in an inventory that will be used at each generating station over 90 calendar days. The Company's calculation results in an inventory that would be consumed in 90 days of use.

The Staff's method of calculating coal inventory has generally been used by the Commission, including the Company's last general rate Case No. ER-82-66. The Company proposes an increase in its coal inventory as a protection against the cost of taking emergency actions necessitiated by interruptions in fuel supply. Typical emergency actions include generating power from other stations, purchasing power from other utilities, and initiating rotating blackouts. The Company contends that it has used its experience in such matters to balance the cost of maintaining additional inventories against the potential cost of the emergencies. The Company contends that the Staff's method provides for normal conditions, while an inventory is maintained for abnormal conditions.

To support its level of inventories the Company retained the services of ICF, Inc., a Washington-based consulting firm specializing in economic and strategic analysis, with a major practice in coal and electric utilities. The ICF witness employed a very sophisticated coal purchasing and inventory model. The model develops an optimal spot purchasing and inventory strategy that minimizes the sum of inventory holding costs, expected cost of taking emergency actions and the cost of purchasing spot coal. The ICF witness took into consideration the occurrence of mishaps and disasters. It seems that a mishap is described as a condition that affects one fuel supplier or small group of suppliers. In a mishap, contract receipts at one station fall substantially, but since only one or a small group of suppliers are affected, the market prices are not affected and relatively low cost emergency actions, like shifting load to other coal-fired units are purchasing coal-fired power are available. Examples would be a major equipment failure at a mine, or a track problem that affects deliveries from one supplier.

Disasters were described as events that may affect all suppliers, such as labor strikes, oil embargoes, wars or natural disasters. One of the examples used was the New Madrid earthquake which occurred approximately 170 years ago. The possibility of a coal strike in October of 1984 was considered.

The ICF witness conceded that no unanticipated disasters had occurred in the five-year data period used for the derivation of such possibilities. The five-year period commenced with 1977 and at the time of the hearing was more than six years in the past. In order to arrive at a disaster the ICF witness would have to go back to 1973 or 1974. It was estimated that a 10-year period would have to be considered to see a one-month mishap at any one of the stations. It was estimated that a 50-year period would have to be observed in order to see a two-month disaster. In the Commission's opinion the consultant's testimony is subject to such speculation and uncertainty as to render it to be of little value in supporting the Company's position. It was acknowledged that the major sources of the Company's coal are not UMW mines and at only two times since 1950 have there been strikes longer than 90 days.

The Staff has pointed out a number of inconsistencies in the Company's proposal, one of which is the distinction between forced and scheduled outages. Under the Company's proposal, a unit can be off line the same number of days from one year to the next, but the Company would recommend different inventories depending on whether the unit was off line due to scheduled or forced maintenance. The Company's proposal amounts to including in rate base coal inventory for its scheduled outages when its generating units cannot burn coal. In the Commission's opinion the most significant result of the Company's proposal would be to achieve a higher cost of inventory. In the Commission's opinion the record in this matter is not pursuasive toward altering the customary method of calculating a 90-day fuel inventory.

In addition to its 90-day inventory the Company seeks inclusion of an additional 228,799 tons of coal for LaCygne 1. The Company's request is based on the fact that LaCygne 1 would be shut down for six months, commencing November, 1982, for retubing. The Company determined that the most prudent and most effective alternative was to continue receiving coal from the unit's supplier, Midway Mine, rather than stop deliveries. Due to the limited capability of Midway Mine, not more than 1,630,000 tons can be mined per year. The Company calculated that without receiving coal during the retubing, it would not be able to carry an adequate inventory level. If deliveries were interrupted the mine would be unable to increase its production to make up the deferred coal deliveries. It is difficult to see the logic of the Company's contention since the inventory level at LaCygne on September 30, 1982, should not be affected by any inventory build up which may have commenced when the unit was removed from service in November of 1982. Company contends that there is no doubt that the LaCygne coal inventory level requested is within the test period in this case, but the level maintained at September 30, 1982, is far in excess of the 90 days burned requested generally. The Commission finds the Company's contention regarding the LaCygne inventory should not be adopted.

The resolution of the purchase power adjustment supra in favor of the Company requires the inclusion of an additional $2,061,000 in coal inventory subject to the true-up procedure.

2. Base Mat Coal

As pointed out in both the Company's and the Staff's brief this issue was tried in the Company's last rate Case No. ER-82-66. In that case the Commission authorized an addition to the Company's coal inventory consisting of an 18-inch layer of coal at the bottom of the pile, consisting of unburnable and contaminated coal which is generally considered necessary to separate the remainder of the coal pile from being contaminated by the ground.

In the instant case, as in Case No. ER-82-66, the Staff opposes the inclusion of all of the base mat in inventory under the contention that 90 percent of that coal is burnable. The Staff concedes that the lower 10 percent of the base mat is contaminated to the extent that it is not practical to burn at all.

The Commission Staff has pointed out that the Company has difficulty burning coal that is not in the 18-inch base mat on occasion. One of the most common occurrences is the necessity of using coal or oil for ignition of coal that is wet from extended rainfall. The evidence shows that the contaminated coal in the base mat is always difficult if not impossible to burn because of contamination. If any of the base mat is to be used it must be constantly supplemented with oil or gas or mixed with other coal.

In the Commission's opinion no evidence has been offered in this matter to disturb the Commission's finding in the Company's last rate case and the 18 inches of base mat coal should be allowed in the Company's fuel inventory.

3. Limestone Inventory

The Company proposes to include a 30-day burn supply of limestone for use at LaCygne 1 in the amount of 20,269 tons. The Staff proposes to include 18,220 tons of limestone priced as of October 31, 1982. Company proposes to price the limestone as of December 31, 1982. The Company criticizes the Staff's proposal since the use of limestone is directly related to the actual operation of LaCygne 1 and it is more consistent to talk about the number of days supply of limestone. It is contended that the Staff's recommendation of 13-months average inventory is inconsistent with its endorsement of a 90-days' calendar burn of coal.

As pointed out by the Staff, the Company actually maintained a lower inventory than the Staff is proposing for nine of the 13 months considered. In the Commission's opinion a more accurate expression of what the

Company considers a prudent inventory is demonstrated by what the Company has actually done over that period. The Staff's proposed inventory of limestone appears to be adequate and should be adopted. None of the parties have addressed in the briefs the difference in the proposed prices. Since the Company has not supported its position or maintained its burden of proof on its proposed price as of December 31, 1982, the Commission finds that the limestone should be priced as of October 31, 1982.

4. Oil Inventory

As was allowed in the last case, the Company is recommending the inclusion of a 13-month average inventory of oil at all generating stations other than the Northeast Station. At that station the Company proposes further reduction of an average storage level of 120,000 barrels.

In this case the Staff has deviated from its previous positions and now proposes a variety of inventories ranging from a seven-month average inventory at Grand Avenue Station to an 11-month average inventory at Hawthorn Station. Although the Staff's oil inventory would result in a higher rate base allowance than that of the Company's proposal, the Company feels its proposal is consistent with its long-range fuel inventory objectives and prefers its level over the Staff's higher recommendation.

There has been no evidence in this matter to demonstrate a compelling reason to deviate from the oil and limestone inventory authorized in the Company's last case and we find that such inventory is appropriate for the purposes of this case.

5. Revenues

The test year revenue issue previously discussed has a corresponding effect on the Company's coal inventory. As a result of the adoption of the lower level of test year revenues, the Company's coal inventory should be reduced by $283,000 to reflect the fuel savings associated with the lower level of burn.

STEAM ALLOCATION

The Staff has proposed to increase the allocation of the Company's Grand Avenue station to 70.29 percent for steam operations with the remaining 29.07 percent being assigned to electric operation. The Company, Jackson County, et al., and Kansas City opposed the adjustments.

The station at one time was a base load electric generating station with a rated capacity of approximately 90 megawatts. It is now a peaking facility with a rated capacity of 40 megawatts and is also used to deliver steam heat to approximately 199 customers in downtown Kansas City. Many of the customers do not have the ability to switch to alternate sources of heat, even though the cost of steam heat now exceeds that of natural gas. The Company's steam operations have not been profitable and most of its recent rate requests have resulted in a Staff recommended revenue requirement of near and, in some cases, above the Company's filing.

The Company presently has a steam rate case pending before the Commission. Since the electric operations at Grand Avenue are scheduled for termination in 1990 the ability of the steam customers to continue to support the station operation is questionable.

For a number of years the Company and Staff have applied an agreed upon allocation factor. The numerator of the ratio was the average of 12 monthly heat requirements expressed in BTU. The denominator was equal to the numerator plus the design heat requirements for electric generation under summer peak conditions.

Staff has proposed to depart from the compromise method in two respects. Staff has proposed a roll-in method, or an application of its allocation factor to the entire Grand Avenue plant even though some portions of the plant are devoted almost entirely to electric operations.

Staff has also proposed the use of a non-coincidental peak method which first takes into consideration the 12 monthly one hour peaks of steam used by the steam heating department. The Staff next determined the electrical production at

Grand Avenue at the time of the 12-monthly system peaks of the Company. It then added these figures together and divided the total into the figure reached for each department to determine the percentage to allocate to each.

Although this is not a steam rate case it is conceded that the increase in the allocation to steam operations will result in an increase in revenue requirements from the steam customers. There is a substantial variance in the amount of this issue as perceived by the parties. It is stated in Staff's brief to involve a rate base amount of $1,447,000. Based on the rate of return requested by the Company, the additional revenue requested for steam operations would be $693,458. As a result of the reconciliation issue discussed at page 8, supra, the Staff's position has changed substantially. According to the Staff's response in opposition to Jackson County et al.'s motion of June 20, 1983, filed on June 22, 1983, the corrected reconciliation filed on June 10, 1983, increases the rate base at issue to $1,639,000. Based on the rate of return requested by the Company the dollar value of the Grand Avenue allocation issue to Missouri jurisdictional electric customers is $3,319,058. Based on a further reconciliation submitted by the Staff on June 20, 1983, the value of the issue to Missouri jurisdictional electric customers is stated to be $2,402,779 based on the Company's proposed rate of return.

Both Jackson County, et al., and Kansas City requested the Commission to avoid any action which would adversely affect the economy of downtown Kansas City. Jackson County is also one of the largest of the Company's steam users. It is pointed out that the Staff's method does not give recognition to the fact that the plant was used for electric generation in all 12 months of the year. Since Grand Avenue was not being used at the time of the system peak during six of the months, no credit for electric generation was assigned for those months by the Staff.

The Company's testimony indicates that Grand Avenue was used to generate 40 megawatts during one month and 41 megawatts during another period. It was also used to furnish power to the downtown area when one transformer, then a second, were lost from the system. Although no costs were provided it was established that additional facilities and network would have to be installed to replace that protection for the downtown loop.

The Commission finds the Staff's pure mathematical proposal insufficiently takes into consideration the value of the Grand Avenue station to the Company's system. The plant is presently available for provision of both 40 megawatts of electricity and steam heat for all periods of the year. The Commission has concern as to the fairness of the results to both the ratepayer and the Company. In shifting from one allocation to another allowance must be made for the effect of the change. Although the current method is not perfect, it presents a more reasonable result than the Staff's proposal.

Any change in allocation would temporarily result in the Company not receiving recognition for 100 percent of its plant. This fact is partly compounded by the Company's filing separate rate cases for electric and steam rates. In its next case the Company should file simultaneous revised tariffs for both electric and steam service.

In its next case the Company should also submit its schedule for phasing the Grand Avenue Station out of electric service and phasing the allocation of the Grand Avenue Station to 100 percent steam service. Jackson County and Kansas City steam customers should be made aware by Company of this schedule at the earliest possible date in order that they may have the opportunity to gauge the impact on their heating costs and take appropriate action.

As a result of the Commission's finding and resolution of this issue, the Motion to Strike Corrected Reconciliation and Request For Oral Argument by the County of Jackson, et al. has been rendered moot and it is unnecessary for the Commission to rule thereon.

JURISDICTIONAL ELECTRICAL ALLOCATIONS

DOE, Staff and the Company have agreed to use a four coincidental peak method to develop the Missouri jurisdictional demand allocation factor. Parties differ as to the appropriate treatment to be accorded to the load of Armco, Inc., (Armco) and Agricultural Chemicals Division of Mobay Chemical Corporation (Mobay). The Company's method results in a proposed demand allocation factor of 6.68 percent as opposed to the Staff's proposal of 6.62 percent.

The Staff's proposal is based on the resolution of a similar issue in the last Union Electric rate case, ER-82-52, in which it was determined that interruptible customers should not have plant and expenses allocated to them. The Staff had proposed an allocation factor including customers which UE had never curtailed although the Company had the authority to do so.

The Staff, in this case, proposes to allocate plant and expense to the 60 MW of noninterruptible load of Armco but did not allocate plant and expense to the interruptible Armco and Mobay loads.

The Company only calculated the Armco load as being curtailed to 60 watts during the months of July and August because Armco was not curtailed to 60 megawatts in June and September and the Company contends it could not be curtailed. The Company has a Demand Curtailment Agreement with Armco which provides for curtailment of demand in excess of 60 MW during June, July, August and September. The curtailment is unconditionally authorized when the Company estimates that its daily system peak may exceed the annual system peak. The agreement also provides for "Economy Curtailment" if in the Company's sole judgment it is economically beneficial to its operations. A Company witness conceded that it could have requested peak load curtailment in June and September if the provisions of Article II, Section 3 of the Demand Curtailment Agreement had been met. That Agreement states in part:

> (3)...Armco has no such option of refusing economy curtailment during the period June 1 through September 30 in each contract year, provided that such economy curtailment is counted as an occurrence under the load curtailment provisions;

Regarding Mobay, the Company has an agreement for the provision of steam service which was entered into as of May 1, 1981, but not executed by the Company and Mobay until sometime between April and June of 1982. The amendment to the agreement states in relevant part in Section IV:

> (f) Steam service provided under the rates set out in Subsection (e) of this Agreement shall be non-firm service. The Company shall not be obligated to maintain a boiler on hot stand by status to provide uninterrupted service to the customer...

The Company testimony indicates that at one time the service to Mobay was rendered at a loss, however, that is not now the case. Staff has recommended that a study should be conducted in time for the Company's next rate case to determine if Mobay's revenues are sufficient to cover its related costs.

The Staff has treated the interruptible loads of Armco and Mobay as sales to interchange customers and allocated the revenues to Missouri jurisdictional, treating the profit as a credit to production expense.

The Department of Energy supports the Staff's treatment of interruptible load and supports the Company in the treatment of the allocation of Armco revenues.

In the Commission's opinion the Staff's proposal is consistent with its prior determinations in this matter and it should be adopted. When the Company has the contract right to interrupt a portion of its load it is unnecessary to build plant to meet that load. The Commission finds the Company should also be directed to perform the study of the Mobay revenues requested by the Commission Staff.

Summary

As a result of all of the adjustments herein found reasonable and proper, the Company's Missouri jurisdictional electric rate base for the purpose of this case is in the amount of $523,103,000. Of that amount, $2,107,000 is subject to true-up.

RATE OF RETURN

The Commission Staff, DOE and two witnesses for the Company all provided testimony on capital structure and cost of money. These topics will be treated separately below.

A. Capital Structure

The parties are in substantial disagreement concerning the proper capital structure to be used in this case. The issue is complicated by the variety of time periods selected as an extension of the test year dispute.

The Company proposes the use of a projected capital structure at June 30, 1983, as follows:

Type of Capital	Structure (%)	Cost (%)	Weighted Cost (%)
Common Equity	37.70	19.00	7.16
Long-Term Debt	48.44	9.87	4.78
Preferred Stock	13.85	10.06	1.39
Total	100.00		13.33

The Commission Staff proposes the following capital structure at September 30, 1982:

Type of Capital	Structure (%)	Cost (%)	Weighted Cost (%)		
Common Equity	37.45	15.46-15.86-16.25	5.79	5.94	6.09
Long-Term Debt	47.07	9.38	4.42	4.42	4.42
Preferred Stock	15.48	10.04	1.55	1.55	1.55
Total	100.00		11.76	11.91	12.06

DOE recommends the following capital structure as of December 31, 1982:

Type of Capital	Capital Structure	Cost (%)	Weighted Cost (%)
Common Equity	35.5	15.83	5.620
Long-Term Debt	49.7	9.44	4.692
Preferred Stock	14.8	9.90	1.465
Total	100.0		11.777

The capital structure resolution includes six separate areas including three items having variable interest rates.

One of the contested areas is the Company's Eurodollar Term Loan Agreement which allows the Company to borrow funds on an unsecured basis at a rate tied to London Inter-Bank Offered Rate, which is subject to change every three months.

In the Company's last three rate cases the Commission has adopted a weighted average cost over a 12-month period preceding true-up as the cost to the Company to be included in embedded cost of debt.

DOE's witness Stolnitz proposes to use incremental rates for the Company's variable cost debt, a proposal of the Company which was rejected by the Commission in Case No. ER-80-48.

The Staff proposes a 15.6 percent cost as an average for the 12 months ending September 30, 1982. At that time there was outstanding $50 million under the agreement. The Staff's percentage was derived from a Company exhibit which was not offered, but was replaced with an updated exhibit showing the average cost for the updated period as 16.697 percent.

In the Commission's opinion it is reasonable to use a capital structure which is most representative of that to be in effect during the period of time when the subject rates will be charged. The Company's position should be adopted as more nearly representative of that period. The involved interest rates have been very volatile and the use of a spot rate is unlikely to reflect average cost over a period of time.

The Company's Bankers Acceptances also are subject to a variable interest rate and have been accounted for in the capital structure by employing a weighted average cost for a 12-month period. At September 30, 1982, the Company had an outstanding balance under the Bankers Acceptances in the amount of $42,320,549. Staff and DOE propose to apply interest in the same manner as for the EuroDollar loans. In the Commission's opinion no reason has been demonstrated to alter the past accepted practice of employing the weighted average of 14.15 percent proposed by the Company.

The Company included in its capital structure a total weighted average cost of 13.132 percent on the total charges of $304,776 under its nuclear fuel lease. The Company has abandoned the proposal in its brief and no support is offered.

The Staff disputes the Company's testimony that the Commission has decided long-term debt treatment for the lease. The Staff points out that the Commission's order issued in Case No. EF-81-366 (the application to approve the nuclear fuel lease) stated in Ordered 3 that there was no "...determination of the ratemaking treatment to be afforded the nuclear fuel lease transaction herein authorized." Although the lease is a future obligation of the Company, no cost will be incurred until the use of nuclear fuel is started. That event is unlikely to occur during the period the involved rates will be in effect. For that reason no cost should be recognized at present.

The Company differs with the Staff and DOE as to the propriety of an adjustment of $2,938,000 to reflect preferred dividends which have been declared but not earned by investors. The dividend was declared on August 3, 1982, prior to the time the Company had effective use of those funds during the period October 1, 1982 through November 30, 1982. The Company's adjustment has been recognized in the past and should be recognized for this case. The dividends are a guarantee by the common stockholders that the preferred stockholders will be paid for the use of the funds they have invested in the Company. The funds to pay the dividends are to be generated from earnings after the declaration of the dividends.

The Company and the Staff differ in their proposed treatment of two events in January of 1983, involving the Company's first mortgage bonds.

The Company did not include in its capital structure 3-3/4 percent bonds in the amount of $12 million due January 15, 1983. The Company did place in its capital structure 13 percent bonds in the amount of $60 million issued in January of 1983. The Staff included the retired bonds but excluded the new bonds as representing an improper out-of-period adjustment.

In the Commission's opinion the proper capital structure should reflect the effect of both the January, 1983 bond transactions. Those transactions represent known and measurable changes that had occurred prior to the hearing. We have already stated our belief that the test year, as adjusted, should reflect the conditions most likely to be in existence during the period the new rates will be charged. The Company has no way to retreat to its former level and cost of debt, and the existing quantities should be recognized.

The Company also criticizes the Staff's inconsistency with its proposal to use a December 31, 1982 end of period for a reduced level of cost for the Eurodollar Loan and the Bankers Acceptances. The Company's contentions merit inclusion of the higher level of long-term debt in the capital structure.

The Company proposes to include in its capital structure approximately $56,700,000 of common stock issues for the period ending June 30, 1983. The Staff's capital structure does not include the proposed common equity adjustment because the events are outside the test year. There was virtually no testimony in support of the proposed increase in the Company's common equity. In addition, the proposal has not been supported in the Company's brief. The record in this regard is so meager that it will not permit a finding in support of the inclusion. The Company has not sustained its burden of proof as to that segment of its capital structure, and the amount in question should not be included in this case.

The resulting capital structure which is determined to be fair and reasonable for setting rates in this matter is as follows:

Type of Capital	Structure (%)	Cost (%)	Weighted Cost (%)
Common Equity	36.45	--	--
Long-Term Debt	48.57	9.80	4.76
Preferred Stock	14.98	10.05	1.51
Total	100.00		--

B. Cost of Money

The proposed rate of return on common equity varies from the Company's 19 percent to the Staff's low end of a recommended range of 15.46 percent to 16.25 percent. DOE recommended a return on common equity of 15.83 percent. All four witnesses employed a Discounted Cash Flow (DCF) analysis to portray the proper return. The Company also employed a risk premium analysis which is based on the risk versus reward relationship between less risky bonds and more risky common stocks.

The DCF approach to determining the cost of equity capital assumes that the current market price of the stock represents the present value of all expected future payments, including dividends and sale price. Employing his DCF method Company witness Beaudoin used the mathematical formula:

$$R = \frac{D}{P} + G$$

where R is the required return, D is the current dividend, P is the current market price, and G is the expected growth rate in dividends per share. The current yield is derived by dividing the current dividend by the current market price. Beaudoin used the current annual dividend rate and stock prices over a 12-week period to avoid possible aberrations which might result from using a spot price. The average yield portion of the formula was developed to be 11.5 percent. Beaudoin then added 5.5 to 6.5 percent for the investor expected long-term dividend growth rate for the Company resulting in a return required by investors of 17 to 18 percent. The Company's most recent three-year trended dividend growth rate was 5.5 percent, and its two last annual increases were 6.5 percent and 6.7 percent. Beaudoin is of the opinion that 5.5 to 6.5 percent is the dividend growth rate which investors are expecting from the Company in the future.

Howard C. Mount, vice-president of Duff and Phelps, Inc., also presented testimony on behalf of the Company. Mount employed a dividend yield of 12.6 percent by calculating the average during the 12 months ended September 30, 1982. Since the Company's common stock is sold below book value for an extended period of time, Mount was of the opinion that any growth factor based on long-term historical growth of dividends would understate investor requirements. Mount calculated the average retention rate of the Company for 1980 and 1981, and multiplied those rates by the rate of return earned during those years indicating an average growth rate of 5.7 percent.

Dr. Stolnitz, a professor of economics, testified on behalf of DOE. For the yield portion of its DCF formula Stolnitz advocated 11.75 percent with which the Company takes no issue. Stolnitz arrived at the growth rate of the formula by studying the Company's dividends per share over the past decade as portrayed in the Value Line. The rate has fluctuated between 0 and 6 percent. Value Line projects an average rate for the three year periods 1979-81 to 1985-87 of four percent which was employed as the dividend growth rate.

Staff witness Shackelford used a dividend yield ranging from 11.2 percent to 11.6 percent by analyzing the average daily yield on the Company's common stock from August 17, 1982 to February 3, 1983. By January, 1983, the Company's common stock had a market yield of 11.1 percent which is the lowest for the period. In light of the dramatic change in the yield of the Company's stock Mr. Shackelford placed more weight on the recent months as representative of the investor's appraisal of the use in the dividend yield component of the DCF. As a contrast, the growth rate employed was arrived by observing data for 15, 10 and 5 year periods ending 1980 through 1982 which developed a range from 3.7 percent to 4.5 percent.

The Staff only considered yields after August 17, 1982. This would appear sharply at odds with the Staff's test year position and in conflict with the past practice of commonly using averages developed over long periods of time. The Staff appears to be engaging in situational ratemaking practices whereby the method would be selected which would result in the lowest rather than the fairest award. In using a recent down trend for dividend yield, there is also an inconsistency in applying a growth rate extracted from a 15-year analysis.

The yields of Stolnitz, Mount or Beaudoin would appear to be more reasonably extracted as being based on averages derived from yields over time and not being weighted in favor of the short-term trend. The yield of Stolnitz was 11.75 percent and not seriously attacked by the Company witnesses although Mount's proposal was higher.

The Company points out that it is inconsistent to believe investors consider current dividends to establish the proper yield, but look to long-term data to arrive at growth expectations. The growth rate investors will expect is more properly determined by the Company's action in raising dividends from 5 to 7 percent in the last few years. The last two dividend increases were 6.7 percent and 6.5 percent. Company is of the opinion that it is reasonable to expect it to continue the growth rate at its contended 5.5 percent to 6.5 percent, or an average of 6 percent.

All four rate of return witnesses agreed that some recognition should be given to an adjustment or an addition for flotation costs. Flotation costs are the expenses incurred whenever common stock is issued. Mr. Beaudoin indicated that the costs range from 3 percent to 5 percent. Company witness Mount did not employ a separate figure but estimated a combined cost of up to 10 percent for pressure and flotation adjustment. The Commission Staff considered it proper to make a flotation adjustment of 3 percent.

Stolnitz is of the opinion that flotation cost adjustments should apply only to issues of new common stock, or issues that will occur during the period that the rates to be set will be in effect. Since the Company projects that it will issue common stock in the approximate amount of $50 million in 1983, or approximately 10 percent of the Company's 1982 year-end common equity capitalization, the use of a reasonable flotation cost of 5 percent on the value of such a new issue, results in an addition of one-half of a percentage point to reach a recommended common equity rate of 15.83 percent.

The great differences of opinion are in the methods of applying the cost of stock issuance. As in the last case Stolnitz advocates application of flotation of costs only to new common stock issues. The Commission adopted Stolnitz's recommendation in Case No. ER-82-66 and reaffirms its belief in the correctness of that methodology. When a new issue is offered there are no costs associated with the outstanding shares. Stolnitz's proposal to apply the allowance of one-half of a percent to account for the proposed new issue appears proper. Flotation costs will adequately be accounted for by applying the adjustment factor of 1.005.

The Company witnesses both propose a further adjustment for pressure. Pressure is described as the measurement of downward movement of stock prices below market levels that would exist if there was no issue of stock, and it occurs because of increase in supply relative to demand for shares of the Company stock. Beaudoin, studying the last six common stock offerings is of the opinion that a 5 to 7 percent adjustment is reasonable for pressure. Combining those amounts with his recommended flotation costs of 3 to 5 percent, Beaudoin adjusted the yield portion of his DCF formula at 10 percent and arrived at a range of return on common equity of 18.3 to 19.4 percent and recommends the use of 19 percent. As previously stated, the Company witness Mount did not separate the flotation and pressure costs, but also used a 10 percent estimate resulting in a common equity recommendation of 18.9 to 19.6. Mount also recommends the use of 19 percent.

Stolnitz made no allowance or adjustment for market pressure under the belief that if there is any market pressure of the Company's stock it has already been allowed for by the efficient capital markets in the buying, selling and pricing decisions relative to the Company's stock. Stolnitz points out that he has been unable to find any statistical indications of pressure and the price of the Company's stock has outperformed the Moody's average since June of 1982. Like DOE, the Commission Staff did not feel it proper to make any substantial adjustment for market pressure.

In Case No. ER-82-66 the Commission accepted Stolnitz's recommendation and made no pressure adjustment. In the instant case the Commission is of the opinion that there has been no additional evidence to demonstrate a need for any substantial market pressure adjustment.

In applying these corrections to the Company's proposed range, as portrayed by Beaudoin, it would become 17.09 to 18.09 percent.

The 19 percent return on equity requested by the Company appears excessive and unjustified in light of present marketplace realities. The Company's request is based on an assumed annual inflation rate of 9.1 percent. This is in contrast to the level of 6 to 8 percent at the time of hearing and the opinion of Stolnitz that inflation in the next 12 months is more likely to go down than up.

The Company contends it must recover the full amount of the rate relief requested if it is to maintain financial integrity and acquire the refunding and additional capital through 1985 to support its construction program. The Company witnesses apparently are of the opinion that any utility with a bond rating below AA lacks financial integrity. The Company's bond rating has recently been reduced to Baa.

Since the issuance of the order in Case No. ER-82-66 in July of 1982, both bond and stock yields have fallen. The yield on Moody's Baa-rated bonds had fallen from approximately 17.09 percent to 14.47 percent on Janaury 25, 1983. The average yield for all ratings of Baa through AAA combined was 13.33 percent. In January of 1983 a KCPL first mortgage bond issue was favorably received and was placed at a 13 percent yield.

The Company witness expressed the opinion that its stock should trade at or near book value. It was conceded that an artificial increase in the Company's stock price would result in an increase in the value of existing shares at no cost to the holder, rather than a dilution of the holder's investment.

At the end of 1980 the Company's stock was selling at $20.25 per share. The Company issued two million shares in June of 1982 at a price of $23.625. Despite that recent issue the price of the Company's stock has increased over 23 percent as compared with the Moody's average of under 21 percent. At hearing time the Company's stock was close to its 52-week high of 28-1/8. There has been a drop in the stock yields paralleling the drop in bond yields. Moody's electric utility average common yield at July 9, 1982, was 12.30 percent. At February 25, 1983, the yield had fallen to 10.61 percent. In the Commission's opinion a return on common equity of 19 percent is unnecessary to maintain the Company's ability to attract capital or maintain its creditworthiness.

The range which results from the application of the above findings, i.e., Company's yield and growth rate, and the pressure and flotation costs of Staff and DOE, is from the Staff's recommended low of 15.46 percent to the Company's requested low, as adjusted pursuant to the foregoing discussion, of 17.09 percent. The Commission notes that both the Staff's midpoint and DOE's recommendation fall within that range. The Commission is persuaded by the evidence of Dr. Stolnitz as to the unpersuasive assertions of the Company concerning the conduct of the market and the economy in the near future and is of the opinion and finds that 15.85 percent falls within the range and should be adopted as the required return on equity in this case.

Rate of Return Adjustment

The Commission has noted in past cases the propriety of adjusting a company's rate of return to account for management efficiency, or the lack thereo In the Commission's report and order issued in ER-82-39 and WR-82-50, Re: Missouri Public Service Company, the Commission addressed that issue directly and made a downward adjustment therein for poor company performance. Authority to make adjustments is clearly authorized by law. E.g., Bluefield Water Works & Improv. Company v. Public Service Commission, 262 U.S. 679, 693, 43 S. Ct. 675, 679, 67 L.Ed. 1177, 1183 (1923); Smyth v. Ames, 169 U.S. 466, 547, 18 S. Ct. 418, 42 L.Ed. 819 (1897); D. C. Transit System v. Washington Metro. Area Transit Commission, 466 F.2d 394, 407-13, 418-23 (D.C. Cir. 1972); New Jersey v. New Jersey Bell Tel. Company, 30 N.J. 16, 152 A.2d 35, 42 (1959); State ex rel. Utility Commission v. General Tel. Company, 285 N.C. 671, 208 S.E.2d 681, 686-690 (1974); Petition of New England Tel. and Tel. Company, 115 Vt. 494, 66 A.2d 135 147 (1949); Re: Middle States Utilities Company, 72 PUR (N.S.) 17, 28-30 (Mo.P.S.C. 1947). See, Re: North Missouri Tel. Company, 49 PUR3d 313, 317-9 (Mo.P.S.C. 1963); Re: Western Light & Tel. Company, 10 PUR3d 70, 74-76 (Mo.P.S.C. 1955); Re: The United Tel. Company, 1 Mo.P.S.C. (N.S.) 341, 349-50 (1948); Public Service Commission v. Missouri Utilities Company, 1932E PUR 449, 489 (Mo.P.S.C. 1932); Re: Lexington Water Company, 1928B PUR 322, 345-6 (Mo.P.S.C. 1928). See generally, Note, "Public Utility Law -- Public Service Commission Ordered Rebates for Inadequate Service," 1976 Misc. L. Rev. 584 (1976); See cases cited at Mo.P.S.C. Digest, Rates, sec. 25; Mo.P.S.C. Digest, Return, sec. 30; 4 PUR Digest (Cumulative), Rates, sec. 150; 5 PUR Digest (Cumulative), Return, sec. 36; 1 Priest, Principles of Public Utility Regulation: Theory & Application, 206-7 (1969); Nichols and Welch, Ruling Principles of Utility Regulation: Rate of Return, 382-95 (1955); Nichols and Welch, Ruling Principles of

Utility Rate Regulation: Rate of Return (Supplement A), 303-7 (1964); Bonbright, Principles of Public Utility Regulation, 262-5 (1961); Note, "The Duty of a Public Utility To Render Adequate Service: Its Scope and Enforcement," 62 Colum. L. Rev. 312, 329-31 (1962); Note, "Public Utilities -- Fair Rates for Fair Service," 53 N. C. L. Rev. 1083 (1975); Nolan, "Incentive Rate of Return," Public Utilities Fortnightly, 50 (July 30, 1981); Article, "Service, Efficiency and Rate of Return, Public Utilities Fortnightly, 46 (January 18, 1979).

The Supreme Court of the United States left no doubt in its Bluefield decision that efficient and economic management must be considered in the context of setting the allowed return on a utility company's rate base:

> "The return should be reasonably sufficient to assure confidence in the financial soundness of the utility, and should be adequate, under efficient and economic management, to maintain and support its credit, and enable it to raise money necessary for the proper discharge of its public duties." (Emphasis added).

Bluefield Water Works & Improv. Company v. Public Service Commission, supra, 262 U.S. at 693. This language makes it clear that the Commission must consider evidence regarding the efficiency and economy of management in order to determine a proper return for the Company. Moreover, since Bluefield, "[n]umerous other decisions have recognized that superior service commands a higher rate of return as a reward for management efficiency and, conversely, that inefficiency and inferior service merits a lower return." (Emphasis added). Note, Wisc. L. Rev., supra at 594. An excellent statement of the relevant principles has been noted by Nichols and Welch, quoting a Michigan Commission ruling:

> The commission believes it proper to base its rate of return in some degree upon the economy and efficiency with which the utility in question serves the public. The owners of a utility who are alert and active at all times in an endeavor to serve their public at the lowest possible reasonable cost are entitled to be compensated for their efforts. The amount of money going to the owners of a utility by way of return upon the fair value of the property used and useful in serving the public is ordinarily rather a small proportion of the total amount the patrons of the utility are required to pay. By far the greater amount the public is required to pay is used up in operating expenses, taxes, and the maintenance of the property. Where the owners of a utility make use of every reasonable economy that

will keep the operating expenses at the lowest possible reasonable figure, they can and should be granted a greater rate of return than they should receive where those efforts are not made. Assume two gas utilities existing under practically the same conditions; one of them through up-to-date methods is able to furnish gas to the public at a given price, while it costs the other 10 cents per M cubic feet more than it costs the first one. Should the owners of each utility receive the same rate of return? The commission thinks not. Enterprise, economy, and efficiency should receive some reward. The only means by which the owners of a utility can be compensated for their enterprise, efficiency, and economy is through the rate of return. Eight per cent is proper in some cases; 7 per cent or 6 per cent or possibly less would be sufficient in others. The commission will not hesitate to fix a higher rate of return where circumstances warrant it and conversely a lower rate of return will be fixed where conditions seem to demand it and this rate of return should be changed from time to time to correspond with the performance of the utility." (Emphasis added).

Nichols and Welch, Ruling Principles of Utility Regulation: Rate of Return, 382-3 (1955).

This Commission, since its report and order issued in ER-82-39 and WR-82-50, supra, has included in its rate case suspension orders directives requiring the parties to present evidence on issues this Commission finds indispensable to its ratemaking duties. One of those issues is management efficiency. The Commission believes that company performance in providing the most efficient least-cost energy to customers is a factor to be recognized in the ratemaking process. This Commission is committed to a ratemaking policy consistent with the cited authorities wherein superior service by a utility which saves customers money due to lower operating expenses should be recognized by an upward adjustment to a utility's rate of return, while inferior performance should result in a downward adjustment.

The Company's president described a number of steps taken to improve management efficiency and still recognize the Company's obligation to its shareholders, ratepayers and employees and at the same time cope with the increasing costs of facilities, labor, materials and fuel. A Strategic Planning Committee, consisting of nine officers of the Company, has been formed for the purpose of implementing the management goals and objectives through the adoption of a Corporate

Strategic Plan. Over time the Company expects to improve and modify the Strategic Plan for it to remain a valuable planning tool.

On October 8, 1982, the Company implemented an austerity program consisting of six specific areas:

1. Hiring freeze.
2. Reduction of overtime work.
3. Restrictions on business travel and meetings.
4. Deferral of 1983 construction projects.
5. Implementation of special service charges.
6. Miscellaneous areas for cost deferral.

The Company has also formulated its KCPLAN in the latter part of 1981 for the purpose of improving the Company's operating efficiency and performance and to minimize the cost while still maintaining adequate and reliable service. The KCPLAN generally involves the deferral of new construction additions as long as possible and the promotion of off-peak use of its available capacity.

Company officers have been asked to summarize the programs, procedures, systems and other measures taken by the Company over the past several years to improve efficiency and productivity. The extensive list includes programs in four broad subject areas. No fewer than 93 separate programs have been instituted to improve Systems, Programs and Methods and Procedures. These improvements range from customer information and billing systems to the identification of trouble areas during storms to permit faster reaction to damage.

In the area of Reduction of or Better Utilization of Employees the Company has instituted more than 100 separate programs. Substantial emphasis has been placed on reduction of employees by consolidating departments and improving efficiency. Substantial emphasis also appears to be placed on increased involvement in construction management.

Improved Equipment Redesign, Additions, Deletions or Better Utilization has been sought by the implementation of approximately 71 programs. A substantial amount of effort in that area is devoted to increased automation in order to shorten procedures. The Company has also converted a substantial number of its vehicles to diesel fuel to keep fuel expenditures below the Consumer Price Index.

Twenty-four Miscellaneous Cost Savings or Income Increases have been implemented. Those efforts include such diverse areas as implementation of employee suggestion programs and elimination of substantial warehouse space. Company has also reduced advertising costs and increased the revenues from the sale of ash products.

It appears from the evidence in this matter that the Company has engaged in substantial and serious efforts designed at improving its management efficiency. Consequently, the Commission is of the opinion that an upward adjustment should be made to the Company's required rate of return on equity determined above. The Commission notes that other commissions around the country have made adjustments varying from .4 pecent to 1.0 percent. See: Re: Detroit Edison, 47 PUR4th 292 (Mich. P.S.C. 1982); Re: Southwestern Public Service Co., 27 PUR4th 302 (N.M. P.S.C. 1978); Re: General Telephone Co. of California, 37 PUR4th 127 (Cal. P.U.C. 1980); Re: Narragansett Electric, 40 PUR4th 498 (R.I. Util. Comm. 1980); Re: General Telephone Co. of the Southwest, 39 PUR4th 483 (Texas P.U.C. 1980); Re: Carolina Power and Electric, 49 PUR4th 188 (N.C. Util. Comm. 1982); Re: Blountsville Telephone Company, 49 PUR4th 102 (Ala. P.S.C. 1982). Because of this relatively new ratemaking approach in Missouri, the Commission finds .4 percent to be appropriate in this case, and invites parties in the future to suggest specific adjustments wherever warranted. Therefore, .4 percent will be added to the required return on equity as determined above to reach a total fair and reasonable return on equity to be allowed in this case of 16.25 percent.

For future cases, the evidence submitted in this case will not suffice. That is, this Commission expects a continuing and ongoing effort on the part of the Company to ever improve its cost and quality of service. New methods and thresholds of superior performance must be introduced and achieved if the Company is to receive an adjustment in future rate cases.

The Commission is of the opinion that recognition of Company performance through a rate of return adjustment is necessary to encourage the provision of energy on the most efficient and economical basis possible. However, the success of such a policy depends upon the investigation and presentation of information and evidence by the parties involved in rate cases such as this. Consequently, such information should be provided by all parties in future cases in order to consider a rate of return adjustment.

Total Rate of Return

Having considered all of the competent evidence before it, the Commission has found that the reasonable allowed return on common equity to be 16.25 percent. Applying this figure to the capital structure found to be fair and reasonable results in the following:

Type of Capital	Structure (%)	Cost (%)	Weighted Cost (%)
Common Equity	36.45%	16.25	5.92
Long-term Debt	48.57	9.80	4.76
Preferred Stock	14.98	10.05	1.51
	100.00%		12.19

REVENUE REQUIREMENT

When applying the rate of return herein found to be fair and reasonable, the Company's net operating income requirement is $63,766,000, or $16,714,000 greater than the net operating income as adjusted, for the test year. After applying the proper factor for income taxes the gross revenue deficiency is $32,883,000. Of that amount, $21,936,000 should be allowed on a permanent basis with the remaining $10,947,000 subject to true-up and refund.

The adjustments accepted to establish rates on an interim basis, subject to refund, include the following: fuel mix and interchange levels; fuel mix and interchange prices; "operation and maintenance/attrition adjustments"; forecasted fuel expenses; payroll costs; fuel inventories (level of purchases); and fuel inventory (coal).

FAIR VALUE RATE BASE

Both the Company and the Staff proposed trended original cost less depreciation (TOCLD) and trended original cost (TOC) studies.

The Staff reviewed the Company's methods and found them acceptable for this case. The Staff found Company's Missouri jurisdictional TOCLD to be $1,107,769,363 but made no further recommendation concerning a fair value rate base. By a stipulation of the parties the Staff's evidence in this matter (Exhibit 141) has been received in evidence without the necessity of the Staff's witness being subjected to cross-examination.

The Company proposes a net original cost rate base of $461,158,000 and a net fair value Missouri rate base of $749,973,600. The Company used a weighting factor of 63.55 percent for original cost and a weighting factor of 36.45 percent for current value to arrive at its recommended fair value.

The Staff and Company agree that a multiplier of 1.3230 applied to the original cost plant determined by the Commission will yield a TOCLD consistent with the Staff and Company's methods. As a result of the adjustments herein determined the Company's TOCLD rate base is $692,065,000. In the Commission's opinion that amount reasonably reflects the fair value of the Company's properties for this case. The Company seeks a rate of return of 11.99 percent on its fair value rate base.

The Company's brief contends that the Commission's past methods of addressing this issue do not fulfill its legal obligations to consider a return on the fair value of the Company's property that is fair to both existing and new investors. The Commission is criticized for past practices of discounting the rate of return found to be reasonable to a lower rate to provide a dollar return equal to the application of the reasonable rate of return on original cost rate base.

The Company has cited no authority for the proposition that the Commission's methods avoid its duty to consider the fair value of the property involved. The evidence in this matter shows that the Company's stock has performed comparably to companies similarly situated.

In the Commission's opinion the criticized method has not been shown to be inadequate or unlawful and the record in that regard is inadequate to permit the requested recovery. The Commission expects and requests other parties to address this issue in the future.

The additional revenue herein authorized produces a rate of return on the fair value of the Company's property of 9.214 percent. In the Commission's opinion the resultant overall rate of return is fair and reasonable.

RATE DESIGN

During the course of the hearing all active participating parties, with the exception of Jackson County et al., entered into a Rate Design Stipulation proposing a disposition of all rate design issues other than the separately metered space heating rate. Jackson County et al., neither supported nor opposed the Stipulation because its only interest in the case was in the area of allocations between steam and electric service.

The Stipulation, received in evidence as Exhibit 113, provides for any increase in rates, other than separately metered space heating, to be distributed in the following manner:

1. 2.61 percent of the total authorized revenue increase will be distributed to general service small rate schedule;

2. The remaining 97.39 percent of the total authorized revenue increase will be distributed to all other customer groups on an equal percentage increase on revenues.

The Commission finds the proposed Rate Design Stipulation to be a fair and reasonable resolution of the issue presented, and should be accepted in disposition of the question of the proper distribution of any increase to be authorized in this case.

A. Separately Metered Space Heating Rate

The Company presently has various rates for separately metered space heating ranging from 3.22 cents per kilowatt hour to 4.19 cents per kilowatt hour. At one time rates for separately metered space heating were all the same, and the Company contends there is no cost justification for the present differentials.

Company now proposes to reduce all space heating rates to a level of 3 cents per kilowatt hour.

The Company's load characteristic is substantially affected by air-conditioning which contributes to high seasonal variation in monthly loads resulting in a poor annual load factor. The Company desires to reduce the space heating rate to increase kilowatt hour sales during the off-peak periods. Such an increase would result in an improved load factor and allow the Company to reduce its average costs by spreading fixed costs over more kilowatt hours.

The Company contends that reduction of the space heating rate to a competitive level would yield system-wide benefit for all existing electric customers. The benefit would come from the contribution to fixed charges from the space heating service, which contribution will be realized by the competitive price. Company also contends that customers who choose to use electric space heating would realize an additional benefit by virtue of their reduced heating cost.

The Commission's Staff and the Public Counsel generally agree that it is appropriate for the Company to increase its load factor if it results in benefits to the general body of ratepayers. Gas Service Company insists on the additional condition that rates based on cost of competitive fuels are not below the true cost of providing service. It is generally agreed by the other parties that increasing off-peak kilowatt hour sales would be a means of increasing the Company's load factor.

All of the other parties, however, recommend higher rates than the Company's existing rates rather than a rate decrease. Public Counsel's recommendation ranges from 3.56 cents per kilowatt hour assuming no rate increase, to 3.88 cents per kilowatt hour assuming the full amount of the rate increase requested. The Gas Service Company recommends a range of 3.62 cents per kilowatt hour to 4 cents per kilowatt hour. The Commission Staff originally recommended a 1.9 percent increase based on a class cost of service. It did not include the revenue increase being considered by the Commission in this case. The Staff's 1.9 percent figure was negated by the Rate Design Stipulation and Agreement. Staff's testimony supports the same percentage increase to residential space heating customers that is to be applied to the residential general class.

The Staff is of the opinion that all of the Company's rates should be based on cost. The Staff's cost of service study indicates that the present space heating rates do not recover cost. The other parties are also of the opinion that the space heating rates are not at a break-even point. If the rates are set below cost then the space heating customer receives an unjustified economic benefit.

The Company expects to immediately compete only for the heating of new homes and installations of add-on heat pumps when a customer must replace a central air-conditioner. A Company witness described the calculations that determined the 3 cents per kilowatt hour to be competitive with near term gas prices. The additional capital cost of the heat pump was considered as well as the maintenance cost and the energy cost. The Company also justified the 3 cent figure from a cost standpoint. The Company's fuel and purchase power costs are approximately 1.7 cents per kilowatt hour. Other variable costs increased that figure to 2 cents, leaving 1 cent per kilowatt hour as a contribution to fixed costs, according to the Company.

The Company's calculations are based on so many assumptions and approximations that they do not establish a reliable cost or competitive price.

The Staff's cost of service study indicates that space heating customers should receive a 27.41 percent increase. Staff realistically concedes the unreliability of the study due to high sampling errors and the lack of data and recommends the same level of increase as for the residential general class.

In the Commission's opinion the Staff's recommendation should be accepted. Although competitive pricing to encourage off-peak use may be an acceptable goal, the Company's evidence does not establish a reliable competitive price.

In view of the questionable persuasiveness of the evidence in this matter, the Commission finds the space heating rates should be increased in the same percentage as the residential general class.

B. Space Heating Rate Availability

Although not specifically a rate design question the issue of space heating rate availability is directly related to the space heating rate and for that reason is discussed in this section of the Report and Order.

On August 12, 1982, the Company submitted revised tariff sheets proposing to remove the restrictions that require its customers to use electric space heating as a sole means of comfort heating in order to be eligible for a special electric space heating rate. Under the proposed tariffs electric space heating could be supplemented by or used as a supplement to wood burning stoves and in conjunction with fossil fuels. This matter was assigned Case No. ER-83-72, and the proposed tariffs have been suspended to July 29, 1983, and consolidated with the rate case for the purpose of hearing. Company desires to revise its availability provision to rectify a serious weakness in its present rate structure. The Company expects the trend toward multiple heating sources to continue to a point where a home with a single heat source will be the exception rather than the norm. The Company witness indicated that in order to make the space heating proposal workable a number of characteristics, including the availability clause needed to be present. The proposal of the Company is an additional indication of the growing competition for space heating by providers of various forms of service.

The Commission Staff also recommends approval of the increased availability of the space heating rates. Staff stated that electric heating rates have been offered in this state because of the summer peaking nature of the utilities and the availability of excess capacity during the winter. By removing the restriction in the space heating tariff a customer will be able to exercise his own judgment as to the use of heating equipment. The Company would no longer be required to determine if electric heating is used exclusively. Staff feels that it is desirable to relieve the Company of that obligation to police the use of the customer's equipment.

The Gas Service Company objects to the expanded availability clause because it is dependent on the reduced rate and any decision should await a determination of the validity of the reduced rate. Gas Service points out that one of the physical and economic characteristics of KCPL necessary for the functioning of the space heating availability was the Company's present rate structure, including the availability clause. Gas Service contends that if the Commission rejects the proposed reduction in the separately space heating rate, there is no valid basis for expanding the availability clause since the chief incentive, price, will not have been dramatically altered.

No evidence was offered in opposition to the proposed expanded availability. Gas Service's opposition in its brief appears largely based on the contention that the proposed reduced rate is not designed to recover costs or provide a contribution to income. To the contrary, Gas Service contends that the proposed rate is devised to be competitive with the price of natural gas and reflects a rate level which would be unfairly subsidized by the Company's other electric customers.

Since the space heating rate is being increased rather than decreased the criticism as to lack of cost justification diminishes in validity. Although the increased space heating rate will diminish the effect and appeal of the availability clause, it should be allowed to go into effect as a service offering. The Commission finds that the increased space heating rate will not present a situation of unfairly subsidized competition and the space heating availability tariff should be allowed to go into effect.

C. Two-Way Automatic Communications System (TWACS)

In this section of the brief concerning rate design, the Company seeks the Commission's endorsement and approval of an experimental TWACS system which will permit greatly enhanced communications ability between the Company and its customers in the future. The Company is hopeful that the system will permit automatic service disconnections and connections, surveillance from meter tampering, computerized assessment of storm damage, and related program of service restoration.

In the Staff's reply brief it is pointed out that the briefing of the TWACS issue is in violation of the provision of the Rate Design Stipulation and Agreement and also violates the understanding of the parties that the hearing memorandum (Exhibit 29) is to delineate all areas of disagreement or issues among the parties. It is the contention of the Staff that the TWACS issue should be disregarded as not being properly a part of this record.

The Public Counsel also protests the consideration of the TWACS issue since the lack of any record concerning this issue is largely the result of the Company's failure to include it in the hearing memorandum as an issue to be litigated. Public Counsel points out that it has been denied an opportunity to state its opposition in the record because TWACS represents an undisclosed issue.

Both the Public Counsel and the Commission Staff point out that any consideration of TWACS would be premature since the Company's president, in describing the system, stated that the Company is just now embarking on field testing and is yet to develop a program for systematic installation of systems.

In the Commission's opinion the Staff and the Public Counsel's criticisms are correct and it would be inappropriate to either approve or disapprove TWACS as a portion of this record.

PURPA STANDARDS

PURPA stands for the Public Utility Regulatory Act of 1978, 16 U.S.C., Section 2601 et seq. It has been enacted for the purpose of encouraging (1) conservation of energy supplied by electric utilities; (2) optimizing efficiency of use of facilities and resources by electric utilities; and (3) equitable rates to electric consumers. PURPA requires state utility commissions to consider the adoption and implementation of certain ratemaking standards. The Commission may either adopt or reject each of these standards, but if a standard is rejected, the Commission must explain its reasons for doing so.

The six ratemaking standards found in Section 111(d) are: (1) Cost of Service; (2) Declining Block Rates; (3) Time-of-Day Rates; (4) Seasonal Rates; (5) Interruptible Rates; and (6) Load Management Techniques Standard. PURPA requires that if consideration of the standards is not completed by November 9, 1981, the ratemaking standards shall be addressed in the first rate proceeding commenced after that date.

Standards one through five have been the subject of proceedings before the Commission with respect to KCPL. In Docket No. EO-78-161, the Commission considered all the standards other than load management techniques. In its Report and Order issued in EO-78-161, the Commission found the record to be inadequate to make the determinations relative to the first five PURPA ratemaking standards. The Commission ordered consideration of all six of the ratemaking standards in this case.

Testimony has been filed in this proceeding on PURPA by the Commission Staff, the Company and the Industrial Intervenors. The Commission Staff and the Company have addressed the matter in their briefs.

The Company opposes the adoption of any of the six ratemaking standards. The Commission Staff supports adoption of all the standards with the exception of the standard concerning interruptible rates. In that regard Staff recommends the adoption of a revised standard which will provide for the offering of interruptible rates only when the long-run benefits can be demonstrated to exceed the costs associated with the use of such rates. The Industrial Intervenors support the adoption of the standards.

In its brief the Company opposes implementation of all of the ratemaking standards contending that characteristics of its system render them inappropriate. Company asserts that PURPA was intended to reduce the need for capacity expansion by reducing peak demand growth, but manipulation of electricity pricing will not reduce the Company's use during its actual peak which is caused by air-conditioning loads. Company also contends that PURPA was intended to discourage the use of oil and natural gas and since the Company's system is 96 percent coal fired any energy conservation which would occur on the system would conserve plentiful coal, not oil or natural gas.

The industrial intervenors support adoption of the standards contending that the cost of service goal underlies all of the standards. The standards are believed to be applicable to sound utility ratemaking. The industrial intervenors advocate adoption of the standards to the extent practicable as long as sound methods of allocating costs between customer classes are used.

The Staff agrees that the standards set out in Section 111(d)(1) Cost of Service, (2) Declining Block Rates, (3) Time-of-Day Rates, (4) Seasonal Rates and (6) Load Management Techniques Standard are consistent with sound utility rate design purposes and should be adopted and implemented. Staff recommends against adoption and implementation of PURPA ratemaking standard (5) "Interruptible Rates" because, unlike the previous four standards the wording of the Interruptible Rate Standard is very rigid and would require that an interruptible rate be offered to each commercial or industrial customer, reflecting the cost of providing service to such customer's class. It is the Staff's opinion that interruptible rates need to be negotiated on an individual basis and offering an interruptible rate to relatively small customers may not be cost effective. Consistent with that objection the Commission Staff adopt the following standard instead:

> Interruptible Rates Standard --Each electric utility shall offer each industrial and commercial electric consumer an interruptible rate which reflects the cost of providing interruptible service, if it is determined that the long-run benefits of such rate to the electric utility and its electric consumers are likely to exceed the costs associated with the use of such rates including, but not limited to, metered costs.

As to the standard concerning load management technique the Commission Staff is of the opinion that information concerning the Company's system load, operating and customer characteristics is needed before any interested party can properly evaluate which, if any techniques are practicable, reliable, cost effective and will provide useful energy or capacity management advantages.

The Commission finds the Staff's position to be a reasonable approach and the ratemaking Standards 1-4 contained in section 111(d) of PURPA and the Staff's modification as a substitute for a PURPA Standard For Interruptible Rates, should be adopted as standards of regulatory policy by this Commission.

Because of the complexities of the load management standard the Company should be directed to file in a separate docket, but in any event no later than the filing of testimony in its next general rate case, its proposal or a plan for implementing the PURPA Load Management Techniques Standard. As pointed out by the Staff's brief the magnitude of studying individual system characteristics plus evaluating the feasibility of the specific techniques makes it unlikely that any party to this case will be able prior to the operation of law date to formulate a plan for implementing specific techniques found to be practicable, feasible, reliable, or cost beneficial.

LEVELIZED PAYMENT PLAN

On August 13, 1981, the Company submitted to the Commission a levelized payment plan for residential customers. The tariffs were assigned Case No. EO-82-65, and the tariffs were approved on an interim basis. On September 3, 1982, the Company filed tariffs making permanent the levelized payment plan. By Order dated September 28, 1982, the Commission approved the permanent sheets, pending further investigation. The case was consolidated with this rate case for hearing.

The only party filing testimony regarding the levelized payment plan was the Commission Staff. The Commission Staff has recommended that the levelized payment tariffs be approved on a permanent basis.

No party to the proceeding has offered any objection to the permanent levelized payment tariffs and the Hearing Memorandum in this matter recommends that the tariffs be approved on a permanent basis.

In the Commission's opinion the joint recommendation of the Hearing Memorandum is reasonable and proper and the levelized payment plan tariffs filed in Case No. EO-82-65 may become effective without modification on a permanent basis.

POST-HEARING MOTIONS AND ORDERS

On May 12, 1983, the Staff of the Commission filed its Motion to Strike Certain Portions of the Briefs of Kansas City Power & Light Company, the Office of the Public Counsel, and Jackson County, Missouri, et al., or in the Alternative to

Reopen the Record in These Proceedings. Staff also filed Suggestions in Support of Motion to Strike. On May 16, 1983, the Commission received for filing Public Counsel's Response to Staff's Motion to Strike or in the Alternative to Reopen the Record in These Proceedings.

The Staff's Motion to strike applied to Appendix A of the Company's initial reply brief which consists of pages 6 and 7 of Staff Exhibit 17 in Case No. ER-81-42.

The Staff's Motion points out that the pages were not requested to be marked as an exhibit by any party in this proceeding, were not offered into evidence during the course of the proceeding, nor did any party request that official notice be taken of said pages. This is true even though the document was referred to in the course of the hearing. Consistent with the discussion in Forecasted Fuel Expenses, supra, the Staff's motion should be granted in respect to Appendix A of the Company's initial reply brief.

The Staff's motion to strike also recites that at page 6, third paragraph, and page 11, first paragraph of Jackson County, et al.'s initial brief will be found quotations of testimony or data from a schedule contained in an exhibit in a prior Kansas City Power & Light Company rate case. The motion points out that the quoted schedules are not evidence in these proceedings, have not been requested to be marked as an exhibit by any party, was not offered into evidence during the course of the proceedings nor did any party request that official notice be taken of said document. The Commission is also of the opinion that the Staff's motion to strike should be granted as pertaining to page 6, third paragraph, and page 11, first paragraph of Jackson County, et al.'s initial brief.

The Staff's Motion also objects to the inclusion in the Company's initial brief of the first full paragraphs on page 26 as consisting of argument respecting a settled case in Case No. ER-81-42. In the instant case the Commission will construe the motion as a letter or memorandum calling alleged improprieties to the

Commission's attention for exclusion from consideration as not being based on competent and substantial evidence.

The Staff also moves to strike Appendix A to the Company's supplemental initial brief consisting of an article entitled "The Connecticut Solution to Attrition" appearing in the November 5, 1982 issue of Public Utilities Fortnightly. The Motion to Strike is founded on the absence of any related testimony or request to have such article received into evidence or be the subject of official notice. In the Commission's opinion that portion of the Staff's motion to strike should be denied since the cited article should be accepted as a citation to a recognized treatise or publication.

The portion of the Staff's motion concerning the PGA tariff and transmittal notice attached to the brief of the Office of the Public Counsel has been treated in the section entitled Forecasted Fuel Expense, supra .

On May 20, 1983, the Staff filed its Motion to Strike Certain Portions of the Reply Brief of Jackson County, Missouri, et al. The Motion recites that at page 5, first and second full paragraphs of Jackson County, Missouri, et al.'s reply brief, is found quotation or reference to testimony in a prior Kansas City Power & Light Company rate case, which testimony is not in evidence in these proceedings. Although the May 20, 1983, Motion is improper the Commission will treat it as a letter or memorandum pointing out alleged improprer argument in a reply brief.

On June 9, 1983, the Company filed its Motion To Dismiss Missouri Public Interest Research Group as a party. The motion recites that the record reflects absolutely no participation by MoPIRG in either the prehearing conference or formal evidentiary hearings in this matter. The motion recites that the lack of participation is in direct violation of the Commission's September 20, 1982, order and the requirements of 4 CSR 240-2.090(4). Ordered: 9 of the Order of September 20, 1982, recites as follows:

> That a party's participation in the hearing in this matter is dependent upon the presence of the party's attorney at the prehearing conference, unless excused in accordance with 4 CSR 240-2.090(4).

In the Commission's opinion it is unnecessary to rule on the Company's motion since it presents a moot question. The lack of participation by MoPIRG has neither impeded the Commission's ability to determine the issues on the merits, nor has it affected the outcome of this case.

Conclusions

The Missouri Public Service Commission has arrived at the following conclusions:

The Company is a public utility subject to the jurisdiction of this Commission pursuant to Chapters 386 and 393, RSMo 1978.

The Company's tariffs, which are the subject matter of this proceeding, were suspended pursuant to authority vested in this Commission by Section 393.150, RSMo 1978.

The burden of proof to show that the proposed increased rates are just and reasonable is upon the Company.

The Commission, after notice and hearing, may order a change in the rate, charge or rental, and any regulation or practice affecting the rate, charge or rental, and it may determine and prescribe the lawful rate, charge or rental and the lawful regulation or practice affecting said rate, charge or rental thereafter to be observed.

The Commission may consider all facts which, in its judgment, have any bearing upon a proper determination of the price to be charged with due regard, among other things, to a reasonable average return upon the capital actually expended and to the necessity of making reservations out of income for surplus and contingencies.

The Company's existing rates and charges for electric service are insufficient to yield reasonable compensation for electric service rendered by it in this state, and accordingly, revisions in the Company's applicable electric tariff charges, as herein authorized, are proper and appropriate and will yield the Company a fair return on the net original cost rate base or the fair value rate base found proper herein. Electric rates resulting from the authorized revisions will be fair, just, reasonable and sufficient and will not be unduly discriminatory nor unduly preferential.

For ratemaking purposes, the Commission may accept a stipulation in settlement of any contested matters submitted by the parties. The Commission is of the opinion that the matters of agreement between the parties in this case are reasonable and proper and should be accepted.

The Company should file, in lieu of the proposed revised electric tariffs, new tariffs designed to increase gross electric revenues by approximately $21,936,000 on a permanent basis, and an additional amount of $10,947,000 on an interim basis, exclusive of gross receipts and franchise taxes.

It is, therefore,

ORDERED. 1. That the proposed revised electric tariffs filed by Kansas City Power & Light Company in Case No. ER-83-49 are hereby disapproved, and the Company is authorized to file in lieu thereof, for approval by this Commission, permanent tariffs designed to increase gross revenues by approximately $21,936,000 on an annual basis exclusive of gross receipts and franchise taxes.

ORDERED: 2. In addition to the permanent rates herein authorized, the Company may file for Commission approval interim tariffs providing for an additional increase in gross revenues by approximately $10,947,000 on an annual basis exclusive of gross receipts and franchise taxes. The interim tariffs shall clearly indicate they are subject to a true-up proceeding and refund in the event the ultimate permanent rates authorized are less than those allowed on an interim basis. The adjustments accepted to establish rates on an interim basis, subject to refund, include the following: fuel mix and interchange levels; fuel mix and interchange prices; "operation and maintenance/attrition adjustments"; forecasted fuel expenses; payroll costs; fuel inventories (level of purchases); and fuel inventory (coal). In addition to any amount to be refunded the Company shall pay simple interest thereon at the authorized rate of return on investment set in this matter for the Company by the Commission.

ORDERED: 3. That within ten (10) days from the effective date of this Report and Order the parties shall recommend to the Commission a proper point or period of time as a cut-off date for use in the true-up process, as well as a procedural schedule including evidentiary filings and a time for the true-up hearing, if necessary.

ORDERED: 4. That Case No. EO-84-4 is hereby established to audit the forecasted fuel prices which are the basis for rates subject to true-up and refund pursuant to the joint recommendation, received in evidence as Exhibit 88. Fuel prices shall be trued-up at the last known delivered price as of September 30, 1983. The requirement of any refund, pursuant to the terms of Exhibit 88 shall be determined after a hearing, if necessary, which is set for 10:00 a.m., on the 6th day of December, 1983, in the Commission's hearing room in the Jefferson State Office Building, Jefferson City, Missouri.

ORDERED: 5. That Kansas City Power & Light Company be, and it is, hereby directed to file, concurrently with the filing of any future revised tariffs for increased rates for electric service, revised tariffs for rates for steam service. In its next case the Company should also submit its schedule for phasing the Grand Avenue Station out of electric service and phasing the allocation of the Grand Avenue Station to 100 percent steam service.

ORDERED: 6. The level payment plan tariffs filed in Case No. EO-82-65 may become effective on a permanent basis for service rendered on and after the effective

ORDERED: 7. The Staff's Motion to Strike Certain Portions of the Briefs of Kansas City Power & Light Company, the Office of the Public Counsel, and Jackson County, Missouri, et al., filed herein on May 12, 1983, be, and is, hereby denied.

ORDERED: 8. That the Staff's Motion to Strike Certain Portions of the Reply Brief of Jackson County, Missouri, et al., filed herein on May 20, 1983, be, and is, hereby granted in part and denied in part, as previously discussed in this Report and Order.

ORDERED: 9. That on and after the effective date of this Report and Order Kansas City Power & Light Company be, and is, hereby directed to record and pay, at a rate of nine (9) percent per annum, interest on deposits collected from its customers.

ORDERED: 10. That Kansas City Power & Light Company conduct a study to establish detailed policies and procedures to determine what construction-related administrative and general salaries and expenses not chargeable to specific projects should be assigned ratably among the various construction projects. The study and its results are to be filed with the Commission Staff on or before September 30, 1983.

ORDERED: 11. That Kansas City Power & Light Company, for the purposes of presenting its next rate case, shall perform a cost study to determine if the Company's revenues from sales to Mobay are sufficient to cover the related costs.

ORDERED: 12. That Kansas City Power & Light Company may file for Commission approval tariffs identical to those herein suspended in Case No. ER-83-72. The tariffs herein authorized may be effective for service rendered on and after the effective date of this Report and Order.

ORDERED: 13. Standards 1-4 found in Section 111(d) of the Public Utility Regulatory Act of 1978, 16 U.S.C., Section 2601 , et seq., be, and are, hereby adopted as ratemaking standards to be employed by this Commission in considering any future ratemaking application or proceeding involving Kansas City Power & Light Company.

ORDERED: 14. That in order to complete the consideration of the PURPA Load Management Techniques Standard, Kansas City Power & Light Company be, and is, hereby directed to file with the Commission, in a separate docket, but in any event no later than the filing of testimony in its next general rate case, its proposal or a plan for implementing the PURPA Load Management Techniques Standard.

ORDERED: 15. The following Standard is hereby adopted as a substitute for the Interruptible Rates Standard contained in Section 1(d) of PURPA:

> Interrputible Rates Standard --Each electric utility shall offer each industrial and commercial electric consumer an interuptible rate which relfects the cost of providing interruptible service, if it is determined that the long-run benefits of such rate to the electric utility and its electric consumers are likely to exceed the costs associated with the use of such rates including, but not limited to, metering costs.

ORDERED: 16. That this Report and Order shall become effective on the 19th day of July, 1983.

BY THE COMMISSION

Harvey G. Hubbs

Harvey G. Hubbs
Secretary

(S E A L)

Shapleigh, Chm., Fraas, Dority, and Musgrave, CC., Concur and certify compliance with the provisions of Section 536.080, RSMo 1978.

Dated at Jefferson City, Missouri, this 8th day of July, 1983.