BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Continue the Implementation of Its Regulatory Plan	)))))	Case No. ER-2010-0355

MEUA STATEMENT OF POSITION

COMES NOW the Midwest Energy Users' Association ("MEUA"), pursuant to the Commission's April 5, 2007 Order Setting Procedural Schedule, and for its Statement of Position states as follows:

DEMAND SIDE MANAGEMENT

►1e: Should the amortization period for the energy efficiency regulatory asset account be shortened from 10 years to 6 years?

Position: As contained in the Regulatory Plan, the Commission should continue to amortize the regulatory asset associated with these costs over 10 years. DNR's proposal to reduce this amortization period is arbitrary and is unreasonable.

CASH WORKING CAPITAL ISSUES:

►4a. Are municipal gross receipts taxes collected from customers before or after they are paid?

Position: The various municipal ordinances clearly indicate that all of the Gross Receipt Taxes are collected from customers before they are remitted to the municipalities. Recognizing that all the Gross Receipts Taxes are based upon the actual amount of sales of electricity made during any three month period, they must by definition be paid after the provision of service and the collection of the fees from the customer. (Greg Meyer Direct, pages 21-25; Surrebuttal, pages 19-22).

►4b. What is the cash working capital expense lag?

Position: The appropriate expense lag for the Kansas City, Missouri 6% Gross Receipts Tax should be 75.63 days and the lag for the Kansas City, Missouri 4% Gross Recipts Tax should be 45.63 days. Finally, the expense lag for the Gross Receipts Tax of other municipalities should be 53.47 days. (Greg Meyer Direct, pages 21-25; Surrebuttal, pages 19-22).

►4c. What is the cash working capital revenue lag?

Position: The appropriate revenue lag for all Gross Receipts Taxes should be 0 days. This lag is consistent with the fact that Gross Receipts Taxes are based upon actual electric sales revenue collections, as discussed in the various municipal codes. The tax reflected on a customer's bill is calculated **assuming** that the customer pays. If the customer does not pay, there is no tax.

Once KCPL has collected these payments the tax is considered payable to the municipality, and then the Company makes the associated remittance to the taxing authority. Given that there would be no tax but for the collections, there should be no revenue lag. (Greg Meyer Direct, pages 27-28; Surrebuttal, pages 22-23).

DEPRECIATION ISSUES:

►6b. What is the appropriate life estimate to use for calculating Iatan 2's remaining life depreciation rates?

Position: The Commission should adopt a 60 year service life for purposes of establishing depreciation rates on Iatan 2. This service life is consistent with the service lives used by the Kansas Commission for the same Iatan 2 generating station. In addition, the 60 year service life matches the service life established by the Colorado, Wisconsin and Michigan

Public Utility Commissions for new coal fired generating units. Finally, the recommended 60 year service life is consistent with the service lives recently adopted by the Commission for the AmerenUE generating units. (Greg Meyer Direct, pages 15-18; Surrebuttal, pages 13-19).

►6f. To what accounts should the approximately $36.7 million and $132.2 million (total $168.9 million) accumulated additional amortizations currently held in account 399 be allocated, and on what basis?

Position: KCPL should not be allowed to mingle the proceeds from the regulatory amortizations with funds in the depreciation reserve. In such an instance, these funds would lose their identity and make it difficult to properly account for these funds. In addition, in the event of a change in jurisdictional allocations, it would be possible that these Missouri funds would be lost. (Greg Meyer Direct, page 30).

JURISDICTIONAL ALLOCATIONS:

►11. What methodology should be used to allocate KCPL's off-system sales margins between the Missouri, Kansas and FERC jurisdictions?

Position: Off-system sales margins should be allocated between Missouri, Kansas and the FERC jurisdictions based upon the energy allocator. The energy allocator properly recognizes that the costs underlying off-system sales (i.e., fuel) are predominantly variable in nature. Furthermore, the energy allocator is not only consistent with historical usage, but has been expressly adopted by the Commission for the allocation of off-system sales margins in recent KCPL and AmerenUE rate cases. KCPL's proposed allocator is merely an attempt to have Missouri ratepayers pay the costs associated with KCPL's resolution of this matter in the context of the Kansas Regulatory Plan. (Greg Meyer Direct, pages 13-15; Surrebuttal, pages 9-13).

RATE DESIGN / CLASS COST OF SERVICE:

> ►14. Which class cost of service study provides the best guidance for determining shifts in customer class revenue responsibilities that are revenue neutral on an overall company basis?

Position: The Average and Excess methodology proposed by Industrial Witness Brubaker is clearly superior to the other methodologies proposed in this case. Under this superior methodology, consideration is given to both the maximum rate of use (demand) and the duration of use (energy). When looking at the system peak then, each customer class' average demand (the total kWh usage divided by the total number of hours in the year) is allocated on the basis of energy. The difference between the system peak and the system average demand is then allocated to the classes on the basis of their variability in usage. (Brubaker Direct, pages 18-21).

As Mr. Brubaker points out, only his Average & Excess methodology is consistent with recent Commission decisions on this issue. As the Commission recently held in the AmerenUE Report and Order, the Average and Excess method proposed by Brubaker is superior to the other class cost of service methodologies.

> Some customer classes, such as large industrials, may run factories at a constant rate, 24 hours a day, 7 days a week. Therefore, their usage of electricity does not vary significantly by hour or by season. Thus, while they use a lot of electricity, that usage does not cause demand on the system to hit peaks for which the utility must build or acquire additional capacity. Another customer class, for example, the residential class, will contribute to the average amount of electricity used on the system, but it will also contribute a great deal to the peaks on system usage, as residential usage will tend to vary a great deal from season to season, day to day, and hour to hour.
>
> To recognize that pattern of usage, the Average and Excess method separately allocates energy cost based on the average usage of the system by the various customer classes. It then allocates the excess of the system peaks to the various customer classes by a measure of that class'

> contribution to the peak. In other words, the average and excess costs are each allocated to the customer classes once.
>
> **Since the class cost of service studies offered by Staff and Public Counsel are unreliable, the Commission must choose between the Average and Excess method studies submitted by AmerenUE and MIEC.** [Emphasis added.] (Report and Order, Case No. ER-2010-0036, May 28, 2010, pp. 84-86)

In contrast, the Commission recognized that the methodologies that are heavily dependent on energy usage for the allocation of generation costs, including those advocated by Staff and KCPL, are inherently unreliable.

> As a first step, the Commission will discard the Staff and Public Counsel studies that utilize a Peak and Average Demand production demand allocation method. … The Peak and Average demand method double counts the average demand of the customer classes. (Report and Order, Case No. ER-2010-0036, May 28, 2010, p. 84)

As Mr. Brubaker further explains, the class cost of service methodology advocated by KCPL witness Normand and by Staff witness Scheperle are similar with those methodologies previously rejected by this Commission. (Brubaker Rebuttal, pages 3-9). While he has been advocating the Base, Intermediate, Peak ("BIP") methodology for over 30 years, Mr. Normand has only been able to reference one case where it has been adopted. As Mr. Brubaker notes, "[t]he BIP method is certainly not among the frequently used mainstream cost allocation methodologies, and lacks precedent for its use." (Brubaker Rebuttal, page 4).

As Mr. Brubaker continues to point out, the primary flaw in the BIP methodology is that is attempts to allocate baseload plant costs and transmission costs on the basis of a measure of class energy usage. This allocation methodology fails to recognize the obvious capacity value of these plants. It is unquestioned that utility planners make decisions based upon the peak demand (capacity) placed on the system. Proving the fact

that baseload generation capital decisions are not based upon energy usage, Mr. Brubaker showed that a baseload unit would be more economical than a peaking unit anytime it is expected to have a capacity factor greater than 47%. Just as it is inappropriate to make a generation capacity decision based upon energy usage, it is also inappropriate to allocate the costs of that generation on the basis of energy. For this and other reasons, the BIP methodology proposed by KCPL is flawed. (Brubaker Rebuttal, pages 3-8).

For all these reasons, the Commission should continue to recognize the logic expressed in its recent AmerenUE decision and again adopt the results of the Average & Excess methodology for allocating generation and transmission costs between the classes.

MEUA also finds the 4 CP method sponsored by DOE witness Goins as an alternative main-stream method is also acceptable.

►15. Allocation of Increase Among Customer Classes: How should any rate increase be allocated among the various customer classes?

What allocation methodology should be used for determining off-system sales between classes of customers?

Position: Off-system sales margins should be allocated between the customer classes in the same manner that it is allocated between the various KCPL jurisdictions. In several recent decisions, the Commission has held that off-system sales margins should be allocated on the basis of the energy allocator. (Brubaker Direct, page 23; Rebuttal, pages 8-9).

The Average & Excess methodology used in conjunction with the allocation of off-system sales based upon relative energy usage results in the following revenue neutral class allocations. (Brubaker Direct, Schedule MEB-COS-5)

Class	Revenue Neutral Change
Residential	10.6% Increase
Small General Service	18.6% Decrease
Medium General Service	4.2% Decrease
Large General Service	8.9% Decrease
Large Power Service	0.0% Change
Total Lighting	0.1% Increase

For several reasons, Mr. Brubaker recommends that the Commission move each class 25% of the way toward cost of service. (Brubaker Direct, page 28).

►18. Should the energy charges the Industrials have proposed for the Large General Service and Large Power Service rate schedules be implemented?

Position: KCPL's Large General Service ("LGS") and Large Power ("LP") tariffs provide for several charges, including an energy charge that is seasonally differentiated. The energy charges for usage over 360 hours of use per kw currently range between 2.4¢/kwh – 2.6¢/kwh for the LP tariff and 3.1¢/kwh-4.3¢/kwh for the LGS tariffs. Recognizing that KCPL's current variable cost is only 2.0¢/kwh, it is apparent that these tariffs are designed to inappropriately collect certain fixed charges through the energy charge. The unreasonable nature of the energy charge in these two tariffs is detrimental to the high load factor customers that are served under these tariffs. For this reason, Mr. Brubaker proposes that the high load factor energy block be unchanged as a result of this case. Any rate increase for these rate classes will instead be collected as follows: (1) 75% of the rate schedule average increase percentage applied to the middle energy block

and (2) the remainder collected on a uniform equal percentage basis from the remaining charges in the tariffs. (Brubaker Direct, pages 29-36; Surrebuttal, pages 9-11).

►73. What methodology should be used to develop the class cost-of-service study production-capacity allocator?

Position: See the position provided in response to Issue No. 14.

REGULATORY AMORTIZATIONS:

►19. What should be the ratemaking treatment for the Regulatory Additional Amortizations?

Position: KCPL has collected approximately 80% of the accumulated Regulatory Liability over the past 5 years. As such, intergenerational equity dictates that the Commission should endeavor to return these funds to the same customers who actually made their payment. Given this, the Industrial Intervenors assert that the entirety of the Regulatory Liability should be amortized over 15 years and returned to customers.

In contrast, KCPL's proposal would return this liability over 50 years. Such a proposal violates all notions of intergenerational equity. Furthermore, there is a possibility, if competition is introduced into the electric generation market that these funds will never be returned to customers. This possibility increases as the associated time period for return on this regulatory liability increases. As such, the Commission should adopt a 15 year amortization period. (Greg Meyer Direct, pages 29-31; Surrebuttal, pages 23-26).

COST OF CAPITAL:

►57. Return on Common Equity: What return on common equity should be used for determining rate of return?

Position: The Commission should grant KCPL a return on equity of 9.5%. In arriving at this recommendation, Industrial Witness Gorman utilized: (1) a constant growth DCF model; (2) a sustainable growth DCF analysis; (3) a multi-stage growth DCF analysis; (4) a risk premium analysis; and (5) a Capital Asset Pricing Model. As reflected in Mr. Gorman's testimony, his analysis avoids many of the pitfalls that are ubiquitous in the KCPL analysis.

In undertaking his analysis, Mr. Gorman avoided the subjective inputs that plagued Dr. Hadaway's analysis. For instance, Mr. Gorman relied upon growth rates for his DCF analysis that are derived from consensus analyst estimates provided by Zacks, SNL Financial and Reuters. (Gorman Direct, pages 18-19). In contrast, Dr. Hadaway relies upon a GDP growth rate that was prepared by him and not publicly available. (Gorman Rebuttal, pages 7-9). As shown by Mr. Gorman, these growth rates have been soundly rejected by numerous public utility commissions and lead to an inflated return on equity. (Gorman Direct, pages 8-9).

Still again, Mr. Gorman recognized the opinion held by consensus analysts that the growth rate of the electric industry cannot, in the long term, exceed the growth in Gross Domestic Product. At some point, such a growth rate would lead to the preposterous conclusion that the electric industry becomes 100% of the entire U.S. economy. Recognizing then that the DCF analysis is perpetual in nature, it is appropriate to limit the expected growth to that expected in GDP (Gorman Direct, pages 20-23). As mentioned, the growth developed by Dr. Hadaway is well in excess of the consensus

growth rate for GDP. In his attempt to inflate his return on equity recommendation, Dr. Hadaway refuses to recognize the economic limitations on the growth rate for the electric industry. (Gorman Rebuttal, pages 7-9).

As reflected in Mr. Gorman's testimony, a 9.5% return on equity reflects the continued strengthening of the electric utility industry (Gorman Direct, pages 3-8). Furthermore, as Mr. Gorman demonstrates, a 9.5% return on equity will allow KCPL to meet all of the credit ratios necessary to maintain its current investment grade credit rating (Gorman Direct, pages 38-42). Finally, a 9.5% return on equity reflects the fact that return on equity authorizations from other public utility commissions continue to decline.

►58. Capital Structure: What capital structure should be used for determining rate of return?

Position: Industrial Intervenors have not taken a position with regard to this issue.

IATAN 1, IATAN 2, AND IATAN COMMON ISSUES (Issues 21-54)

Position: MEUA supports the positions advanced by the Staff in this proceeding. It is important for the Commission to remember, as with all issues, that KCPL bears the burden of proof to show that its actions and the increased rates that are resulting from its actions are just and reasonable. This is not a mythical concept that should be summarily dismissed by the Commission. This is the law! A thorough review of the evidence in this case readily reveals that KCPL has not met its burden in this case.

Indeed, Staff's evidence reveals that there are costs that unexplained for which KCPL nevertheless seeks recovery. In addition, Staff has revealed a multitude of costs that are of no benefit to KCPL ratepayers. Expense items that are not associated with the

construction of the Iatan 2 units (i.e., improper meals and entertainment expenses) should not have been capitalized and recovered through rate base. Moreover, Staff's evidence reveals that numerous cost overruns are associated with KCPL mismanagement of the Iatan projects. Decisions related to KCPL's decision to fast-track the construction of the Iatan units and its decision to utilize the multi-prime approach without the necessary management experience to supervise such an approach has led to tens of millions of dollars of unnecessary costs that are not beneficial to ratepayers and should not be recovered through rates.

At its core, the Commission needs to realize, at all times, that KCPL must justify its costs. If there is a question about the legitimacy of such costs, if KCPL fails to adequately explain such costs, if the Commission simply doesn't understand KCPL's argument, then all of these are reasons for the exclusion of such costs. Burden of proof is provided by statute and must be properly applied to this proceeding.

OFF-SYSTEM SALES MARGINS:

►60a**.** How should the revenues and charges to KCPL and GMO for Southwest Power Pool transmission system energy loss from the wholesale of energy to entities outside the SPP market be included in their revenue requirements?

Position: See the position provided in response to issue 60b, 60c, and 60e.

►60b. Should Revenue Neutrality Uplift Charges be removed from the appropriate level of off-system sales margins?

Position: The Commission should reject KCPL's proposed adjustment to remove the revenue neutrality uplift charges from the projected level of off-system sales margins. It has been demonstrated that these revenues and charges are not associated with off-system

sales, but instead are a product of KCPL's participation in SPP. Recognizing that KCPL will be susceptible to these charges and revenues whether it makes any off-system sales, these charges and revenues should be reflected in the overall fuel expense annualization. KCPL's adjustment is merely an attempt to extend the scope of the off-system sales tracker mechanism to include other cost and revenue items that are more properly accounted for elsewhere. (Greg Meyer Direct, pages 12-13; Surrebuttal, pages 7-9).

►60c. Should the losses associated with wholesale purchases that are later resold be removed from the appropriate level of off-system sales margins?

Position: The Commission should reject KCPL's proposed adjustment to remove the costs of wholesale purchases that are later resold. As reflected in the example provided at page 10 of Mr. Meyer's Direct Testimony, KCPL is attempting to separate the gain from certain these sales and assign that gain entirely to the shareholders. On the other hand, KCPL seeks to take the cost of such transactions and assign them entirely to ratepayers. Instead, the costs and benefits of these transactions should be treated in a similar manner. (Greg Meyer Direct, pages 8-12; Surrebuttal, pages 5-7).

►60d. How should the Commission determine the level of non-firm off-system sales margin to use for setting rates in this case, i.e., should the non-firm off-system sales margin level proposed by KCPL/GMO, or by Staff and Industrials be used for setting rates?

Position: The Commission should set off-system sales margins based upon the 40th percentile point of the Schnitzer analysis. In 2006, the Commission set off-system sales margins based upon the 25th percentile. This was done primarily to recognize the fact that KCPL had increased risk as a result of the capital expenditures associated with the Regulatory Plan. With the completion of Iatan 2, capital expenditures have returned to normal levels.

Furthermore, when set at the 25th percentile in conjunction with the tracker mechanism, KCPL has no incentive to make off-system sales. In fact, KCPL should have exceeded the 25th percentile in 3 of every 4 years. Despite this recognized probability, KCPL has been performing consistent with this reduced incentive. This has been detrimental to ratepayers in that these off-system sales revenues are used to reduce retail rates. By increasing from the 25th to 40th percentile, the Commission will adjust KCPL's incentive to make these sales and help to keep down future retail rates. (Greg Meyer Direct, pages 4-5; Surrebuttal, pages 26-29).

►60e. Are the purchases for resale, SPP line losses and revenue neutrality uplift charges adjustments KCPL makes to arrive at its proposed level of non-firm off-system sales margin to be used for setting rates appropriate?

Position: See position on issues 60b and 60c for discussion of purchases for resale and revenue neutrality uplift charges. Regarding SPP line loss charges, the Commission should reject KCPL proposed adjustment. The evidence indicates that Mr. Schnitzer analysis assumed that all sales are made within the SPP region. As such, all sales are assumed to be at the SPP market clearing price. When KCPL makes sales outside of SPP, it incurs a line loss charge. In order to cover this additional cost, KCPL must necessarily receive a price for the off-system sale that covers this additional cost. Only by demanding this higher price will KCPL realize the same margins that have been assumed by Schnitzer's analysis. Recognizing that the increased price demanded will include this line loss charge, it is inappropriate to provide for special treatment for these costs. (Greg Meyer Direct, pages 6-8; Surrebuttal, pages 2-5).

►60f. Should the Commission require tracking of off-system sales margin levels that exceed the level of off-system sales margin the Commission includes in revenue requirement, and include interest on those amounts tracked?

Position: If the Commission continues to set off-system sales margins at a level that is less than an annualized level as has been historically calculated by the parties, then it should order a tracking mechanism so that these revenues are returned to ratepayers.

►71. **Transmission Expense and Revenue Tracker**: Should the Commission authorize the use of a tracker for changes in certain transmission related expenses? If so, should changes in transmission related-revenues be included in that tracker?

Position: KCPL's request for a transmission tracker should be rejected. KCPL's request constitutes an unreasonable attempt to shift risk to ratepayers by tracking all expenditures between cases and providing for future recovery. These costs include administrative and general expenses for membership in the Southwest Power Pool. Including these A&G expenses in a tracker will decrease KCPL's incentive to control these costs. In addition, the capital costs that would be included in the tracker should be treated like all other capital costs – through the rate case process. In any event, any tracking mechanism should also reflect any offsetting benefit including transmission related-revenues. (Greg Meyer Direct, pages 31-32).

WHEREFORE, MEUA respectfully submits this Statement of Positions and asks the Commission to make findings of fact and conclusions of law consistent with these positions.

Respectfully submitted,

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ATTORNEYS FOR THE MIDWEST ENERGY USERS' ASSOCIATION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.

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David L. Woodsmall

Dated: January 12, 2010