

Exhibit No.: _____
Issue(s): KCPL-GMO Consolidation/
Demand Response/
Clean Charge Network/
One CIS: Privacy/
One CIS: Time-of-Use Rates/
One CIS: Billing & Customer Experience
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Case No.: ER-2018-0145
and ER-2018-0146

SURREBUTTAL TESTIMONY

OF

GEOFF MARKE

Submitted on Behalf of
the Office of the Public Counsel

KANSAS CITY POWER & LIGHT COMPANY
and
KCP&L GREATER MISSOURI OPERATIONS COMPANY

Case No. ER-2018-0145 and ER-2018-0146

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Denotes Confidential Information that has been redacted

September 4, 2018

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GEOFF MARKE

KANSAS CITY POWER & LIGHT COMPANY

CASE NO. ER-2018-0145 & ER-2018-0146

1 **I. INTRODUCTION**

2 **Q. Please state your name, title, and business address.**

3 A. Geoffrey Marke, PhD, Chief Economist, Office of the Public Counsel (“OPC”), P.O. Box
4 2230, Jefferson City, Missouri 65102.

5 **Q. Are you the same Geoff Marke who filed direct and rebuttal testimony in Case Nos.
6 ER-2018-0145 and ER-2018-0146?**

7 A. I am.

8 **Q. What is the purpose of your surrebuttal testimony?**

9 A. I respond to the rebuttal testimony of other parties regarding:

- 10 • KCPL - GMO Consolidation
 - 11 ▪ Kansas City Power & Light Company and KCPL Greater Missouri Operations
 - 12 Company (“KCPL/GMO” or “Company”) witness Darrin R. Ives
- 13 • Demand Response
 - 14 ▪ Renew Missouri (“Renew”) witness James Owen; and
 - 15 ▪ Advanced Energy Management Alliance (“AEMA”) witness Nicholas J.
 - 16 Papanastassiou
- 17 • Clean Charge Network
 - 18 ▪ Staff witness Byron M. Murray
- 19 • One CIS: Privacy
 - 20 ▪ KCPL/GMO witness Gary Johnson and Darrin R. Ives
 - 21 ▪ Missouri Public Service Commission Staff (“Staff”) witness Michael L. Rush;
 - 22 and
 - 23 ▪ Missouri Division of Energy (“DE”) witness Lisa A. Kremer

- 1 • One CIS: Time-of-Use Rates
- 2 ▪ Missouri Public Service Commission (“Staff”) witness Robin Kliethermes;
- 3 ▪ DE witness Martin R. Hyman;
- 4 ▪ Renew witness Jamie W. Scripps; and
- 5 ▪ KCPL/GMO witness Marisol E. Miller.
- 6 • One CIS: Billing & Customer Experience
- 7 ▪ KCPL/GMO witness Chuck Caisley’s “Readers Opinion: Guest Commentary”
- 8 in the *Kansas City Star* August 31, 2018

9 **II. KCPL-GMO CONSOLIDATION**

10 **Q. Please provide proper context for the KCPL-GMO consolidation proposal in this case.**

11 A. OPC witness Karl Pavlovic filed direct testimony recommending that the Commission direct
12 KCPL and GMO to 1.) Reflect the fact of consolidated operation in single cost study to be
13 conducted before the next rate case; and 2.) To file a consolidated rate design in the next rate
14 proceedings.

15 Several OPC witnesses will be opining on the Company’s rebuttal to OPC’s proposal. My
16 testimony will support the near-term experience of consolidated operations in the last two
17 Missouri American Water rate cases, Case Nos: WR-2017-0285 and WR-2015-0301, the Spire
18 natural gas rate case, Case No: GR-2017-0215 and GMO’s last rate case, Case No: ER-2016-
19 0179 as well as concern raised over MEEIA and other regulatory mechanisms.

20 **Q. How did KCPL/GMO respond to OPC’s proposal?**

21 A. Company witness Ives gave half-affirmations (e.g., “In part,” “Possibly,” “Not necessarily”)
22 on need, appropriateness and ability to consolidate KCPL and GMO in their next rate cases.
23 Ultimately, Mr. Ives cautions the Commission against this overdue and practical
24 recommendation by stating:

25 [I]t is my opinion that attempting to consolidate the rates of KCP&L and GMO in the
26 very next rate cases filed by KCP&L and GMO after the conclusion of these general

1 rate proceedings would almost certainly result in substantial negative impact to many
2 customers.¹

3 **Q. Do you believe that there will be substantial negative impacts to customers as a result of**
4 **consolidating the rate schedules of KCPL and GMO?**

5 A. No. OPC would venture to say that most customers are unaware that there are in fact two KCPL
6 electric utilities in operation with three different rates—on in Kansas—KCPL, and two in
7 Missouri—KCPL and GMO. KCPL and GMO are well suited and long overdue for
8 consolidation of operations and tariffs. With enough notice and preparation a “best-fit” analysis
9 and subsequent customer notification/education process can occur to minimize negative
10 impacts associated with rate shifts among classes. Stakeholders literally underwent this
11 exercise two years ago in GMO’s last rate case in the consolidation of L&P and MPS rate
12 districts.

13 **Q. Would ratepayers be better served with one MEEIA suite of programs that included both**
14 **utilities?**

15 A. Absolutely. Programs would be more cost effective, there would be the elimination of
16 duplicative filings, and the tracking of EM&V would be easier. In almost every sense, a single
17 MEEIA would be more effective than the current format that includes two separate
18 applications, portfolios and evaluations. This would be true for other regulatory mechanisms
19 as well by reducing the potential for mismatch of allocations.

20 **Q. Isn’t that an argument based on efficiencies gained from economies of scale?**

21 A. Yes, it is. Which is also the primary argument utilized by KCPL over the last two years
22 regarding the initial acquisition and eventual merger of KCPL and Westar.

¹ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Darrin R. Ives p. 5, 8-11.

1 **Q. Do you have any other comments on this issue?**

2 A. I will be available for questions from the Commission or stakeholders at the evidentiary hearing
3 if this issue does not settle.

4 **III. DEMAND RESPONSE**

5 **Q. Please provide context for KCPL/GMO's historic demand response programs.**

6 A. In OPC DR-2062 we posed that question and the Company replied as follows:

7 **Question:**

8 List each load curtailment offering KCPL and GMO has offered in Missouri over
9 the last 20+ years as articulated in the direct testimony of Kimberly H. Winslow, at
10 p. 4, 6-7. At a minimum, separately for KCPL and GMO include a year-to-year
11 breakdown of the following:

- 12 a. The number of customers who signed up;
13 b. The amount of potential curtailable load available;
14 c. The amount of load actually called on for each curtailment called;
15 d. How many time curtailment events were called and the curtailment duration
16 called; and
17 e. The financial incentive for a load curtailment participant.

18 **Response:**²

² See also GM-1.

Historic Demand Response Programs in KCPL include: "Peak Load Curtailment Credit ("PLCC") in operation between 7-9-96 to 3-8-06; "MPower" in operation between 3-8-06 to 5-8-16 and the current "Demand Response Incentive ("DRI") 4-1-16 to 3-31-19 which is part of the Company's current MEEIA portfolio.

Historic Demand Response Programs in GMO include: "MPower" in operation between 3-8-06 to 5-28-16 and the current "Demand Response Incentive ("DRI") 4-1-16 to 3-31-19 which is part of the Company's current MEEIA portfolio.

Q2026 (a) - (d)						
GMO	# of Participants/Accounts	kW Potential	kW Called/Event	# of Events	Duration/Event	
2013	12	13428	0	0	0	
2014	6	5842	0	0	0	
2015	27	17830	17830	1	2	
2016	60	20994	20994	2	5	
2017	243	37697	37697	2	3	
KCPLMO						
2013	Not readily Available	15852	0	0	0	
2014	Not readily Available	13283	0	0	0	
2015	19	8577	8577	1	2	
2016	21	10324	10324	2	5	
2017	33	13768	13768	2	3	

1

Q2062- e Financial Incentive Structures		
	2013, 2014, 2015	2016, 2017
Hours of Availability	noon-10pm (Central)	noon-8pm (Central)
Max No. of curtailments	10 or as defined by the contract	10 or as defined by the contract
Program Participation Payment Structure (Capacity)	Fixed rate/KWH is determined by term of contract (1yr= \$2.50 3yr.= \$3.25 5yr.= \$4.50) (Fixed Capacity Rate*ICAP Quantity*Contracted"Max Participation Count")/4	Fixed rate/KWH = \$32.50 for the entire season (Fixed Capacity Rate*ICAP Quantity)/4
Curtailment Occurrence Payment Structure (Event)	Calculated for each hour of performance during an event (Quantity is defined by customer ICAP value. Rate= .35) Payment=Quantity*Rate	For the first 30 hours of dispatch: (Quantity is defined by customer ICAP value. Rate= .075) Payment=Quantity*Rate. For the remaining 50 hours of dispatch: (Quantity is defined by customer ICAP value. Rate= .25) Payment=Quantity*Rate
Event Penalty Structure	Penalty= (1.5* (Total Season Capacity Payment/Contracted "Max Participation Count)*(1-((APMD-Actual Quantity)/ ICAP)))/4	Penalty= (1.5* (Total Season Capacity Payment/Contracted "Max Participation Count)*(1-((APMD-Actual Quantity)/ ICAP)))/4

2

3

Q. Please summarize the “demand response” testimony in this docket.

4

A. On May 4th, 2018, The Commission ordered KCPL/GMO to file supplemental direct testimony in response to Staff’s recommendations related to demand response and the “Indiana Model” from Staff’s report in EW-2017-0245. Specifically, the Company was charged with explaining whether demand response-related filings should be addressed in the rate case or in its Missouri Energy Efficiency Investment Act (“MEEIA”) Cycle III application.

5

6

7

8

1 On June 19th, 2018 KCPL/GMO witnesses Burton L. Crawford and Kimberly H. Winslow
2 filed supplemental direct testimony. Mr. Crawford provided necessary overview of: 1.)
3 Previous Missouri and FERC actions regarding demand response valuation in the RTO
4 markets; 2.) The “Indiana Model” as it most directly functions in the PJM and (to a lesser
5 extent) MISO markets; 3.) The operational differences between the PJM, MISO and SPP
6 markets; and 4.) A concluding comment that the local distribution utility (e.g., KCPL/GMO)
7 is the best entity to coordinate and operate DERs (“Distributed Energy Resources”), and by
8 extension, demand response activities as opposed to an independent or competitive third-party
9 ARC (“Aggregator of Retail Customers”) due to unspecified concerns relating to system
10 reliability.

11 KCPL/GMO witness Winslow provided an overview of KCPL/GMO DER-related historic
12 and planned activities including a KCPL/GMO-specific Market Based Demand Response
13 (“MBDR”) tariff that would likely be introduced in the KCPL/GMO MEEIA Cycle III
14 applications.³

15 On June 27th, 2018, Renew witness James Owen filed rebuttal testimony in response to
16 KCPL/GMO’s supplemental direct. Mr. Owen was critical of both Mr. Crawford and Ms.
17 Winslow’s testimony stating:

18 In reading Ms. Winslow’s and Mr. Crawford’s testimony, neither of them raise the
19 argument that a DR program couldn’t be enacted now and then modified into a MEEIA
20 tariff subsequently. As Renew Missouri has said countless times, we support MEEIA
21 when it maximizes energy efficiency efforts and gives the investor-owned utilities an
22 opportunity to earn a rate of return on their investments that benefit customers. **Renew**
23 **Missouri simply wants to see this enacted as quickly as possible and ordering a**
24 **DR tariff of any kind in this rate case may allow the Companies financial benefit**
25 **at some later point.** Perhaps, it will cause them to accelerate any MEEIA Cycle II

³³ To date, neither KCPL nor GMO have submitted their MEEIA Cycle III applications; although OPC suspects they will be filed before the dates of this rate cases evidentiary hearing.

1 filing and will certainly influence the structure of any demand response tariffs offered
2 voluntarily in a MEEIA portfolio.⁴ (emphasis added)

3 Mr. Owen then later makes the argument that the combined market power of Evergy
4 (KCPL/GMO/Westar) could induce SPP to adopt market changes. Mr. Owen states:

5 I am reminded of the proverbial chicken and egg. If these programs were pursued by a
6 utility company, would the RTO not make the accommodations for this? With Evergy
7 now approved, the Companies along with Westar now account for almost twenty
8 percent of the load in the SPP. The Companies will have more ability to push for
9 proposals and programs that benefit not only SPP's member utilities but also their
10 customers as well as the marketplace itself. . . . **Placing a DR and/or Indiana model**
11 **tariff into this current case is a necessary start which will lead the way for other**
12 **utilities companies seeking energy efficiency options (including Empire Electric,**
13 **which currently is not enrolled in a MEEIA program) to** have more flexibility and
14 to give their customers more options.⁵ (emphasis added)

15 On August 7th, 2018 AEMA witness Nicholas Papanstassiou filed rebuttal testimony that
16 recommends KCPL/GMO modify its DR tariff in a future MEEIA application to include
17 additional financial compensation for participants in recognition of capacity contributions.
18 Although Mr. Papanstassiou acknowledges that no capacity market exists in SPP, he suggests
19 that increased aggregated DR participants could be used to meet resource adequacy
20 requirements. Mr. Papanstassiou concludes by including modified exemplar tariffs that
21 explicitly provide for "additional" compensation for future participants.

⁴ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of James Owen p. 13, 3-9.

⁵ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of James Owen p. 15, 14-20.

1 **Q. Could you summarize the initial request and parties' stated positions on demand**
2 **response?**

3 A. The Commission wanted KCPL/GMO to respond if a demand response program modeled after
4 those in Indiana should be introduced in the current rate cases or in its upcoming MEEIA
5 filings. Parties that filed testimony took the following position:

- 6 • KCPL/GMO believes a modified filing could be included in its MEEIA filing, but also
7 tempered expectations of such a program's impact given current SPP's market rules;
- 8 • Renew Missouri believes KCPL/GMO should offer demand response programs. It
9 argues that an "Indiana Model" tariff should be included in these rate cases (and then
10 possibly modified in future KCPL/GMO MEEIA applications). Renew takes this
11 position because it believes the inclusion of a demand response tariff may induce
12 further energy efficiency, alter SPP market rules, and possibly motivate Empire
13 District Electric to file a MEEIA application; and
- 14 • AEMA argues that KCPL/GMO's current demand response programs are not generous
15 enough for customers and proposes modified tariff incentives to be adopted for future
16 MEEIA applications.

17 No other party has filed testimony on this issue to date.

18 **Q. What is OPC's position?**

19 A. OPC believes that there is a lot of misunderstanding currently on the record and is fearful of
20 negative outcomes for ratepayers as a result of haphazard information. OPC is supportive of
21 demand response and/or load curtailment programs. With that in mind, OPC takes the
22 following positions as it pertains to the information presently in front of the Commission:

- 23 1. First and foremost, Renew Missouri need not fear, KCPL/GMO currently offer demand
24 response programs. They have also have had some form of load curtailment incentive
25 in place for decades (predating MEEIA), and nothing is preventing KCPL/GMO from
26 offering load curtailment programs in the future regardless of MEEIA;

- 1 2. OPC strongly believes that opt-out MEEIA customers have *opted-out* and should not
2 be entitled to additional MEEIA benefits or eligible for participation in MEEIA
3 programs (including demand response);
- 4 3. There is no capacity market in the SPP. Nor should there be one. The inclusion of a
5 capacity market will only serve to increase subsidies and dilute the functionality of a
6 “market.” Missouri should not be looking to the PJM market as the gold standard for
7 ideal market transactions;
- 8 4. If a capacity market were ever established for SPP members, OPC is of the opinion
9 that ARCs should be able to compete as stand-alone entities just like other market
10 participants—not as “utility-sanctioned extensions.” There is no basis for Mr.
11 Crawford’s reliability concerns, at least insofar as it pertains to aggregated demand
12 response;
- 13 5. OPC fails to see how the existence of a demand response program induces further
14 energy efficiency (kWh savings), how it would spur Empire District Electric to file a
15 MEEIA, or how adoption of the Indian Model for two Missouri utilities would alter
16 SPP market rules; and
- 17 6. Finally, OPC opposes AEMA’s proposal to provide additional financial compensation
18 to participants based on a capacity valuation that is not currently compensated in SPP.

19 **Q. Did OPC support including customers who had opted out of MEEIA in the current**
20 **demand response programs in GMO & KCPL’s MEEIA Cycle II portfolios?**

21 A. We did. And we were wrong.

22 **Q. Then, is OPC still taking that position?**

23 A. No. Like all parties, OPC reserves the right to get better at navigating the complexities and
24 unintended consequences of MEEIA. Context is important in understanding why OPC agreed
25 to that position then and why we do not today, and this will no doubt be addressed at length if
26 and when KCPL and GMO file their next MEEIA applications. As it stands, OPC’s primary
27 reason for taking this position is our belief that the opt-out provision is categorically unfair to

1 captive ratepayers who cannot opt-out. OPC is fully conscious that the MEEIA statute provides
2 this inequity but OPC believes that if a customer elects to “opt-out” of paying the costs of
3 MEEIA then that customer cannot simultaneously “opt in” to receive the participant benefits.
4 Failure to recognize and rectify this process moving forward will only serve to cannibalize the
5 remaining MEEIA participants by inducing further opt-outs, and lead, at best, to suboptimal
6 MEEIA programs in the future.

7 **Q. Does any other party share OPC’s position that opting-out of MEEIA really means “opt-
8 out?”**

9 A. Yes. Ameren Missouri does. In Case No. EO-2018-0211 OPC submitted DR-2008 and
10 Ameren Missouri provided the following response:

11 Question:

12 Does Ameren Missouri believe that opt-out customers are eligible for any MEEIA
13 programs (including demand response)? Please explain why or why not.

14 Response:

15 Ameren Missouri does not believe that opt-out customers are eligible for any MEEIA
16 programs (including demand response) that are proposed in the MEEIA 2019-24 Plan.
17 Customers that do not contribute financially to the costs of a MEEIA program generally
18 should not have their participation subsidized by other customers, unless specifically
19 allowed by statute (i.e., low-income customers).

20 Further, Ameren Missouri does not consider its programs (specifically, its demand
21 response programs) to be either interruptible or curtailable rate, since those are typically
22 offered for a variety of reasons (e.g., reliability concerns) and are not strictly tied to
23 energy efficiency. Per the MEEIA statute and rule (Section 393.1075 RSMo and 4 CSR

1 240-20.094(7)(M), respectively), opt-out customers could still participate in a non-
2 MEEIA interruptible or curtailable rate option.⁶

3 **Q. Does OPC have any recommendations?**

4 A. OPC would not be opposed to KCPL/GMO offering a load curtailment tariff designed for opt-
5 out MEEIA customers (and opt-in MEEIA customers for that matter) in the future. OPC does
6 not see the need to introduce the Indiana Model into the KCPL/GMO’s tariff offerings. With
7 that said, OPC fully supports and encourages future IRP modeling that considers the need and
8 expected costs associated with increased demand response options.

9 **VI. CLEAN CHARGE NETWORK**

10 **Q. Please provide some context for your discussion of this issue.**

11 A. In rebuttal testimony, OPC recommended the continued removal of costs associated capital,
12 O&M and advertising (\$250,000 annually) related to the KCPL/GMO Clean Charge Network
13 (“CCN”).

14 On August 7, 2018 the Western District Court of Appeals found in favor of KCPL to the extent
15 that Court concluded that KCPL’s electric vehicle charging stations did constitute “electric
16 plant.” However, the Court also stated:

17 [E]ven if electric vehicle charging stations are recognized to be “electric plant,” this
18 does not leave the Commission without mechanisms to address the concerns
19 expressed in its Report and Order. Where particular utility activities fall within the
20 Commission’s regulatory jurisdiction, the Commission has the authority to review
21 the prudence of those activities; it may have authority to approve or disapprove
22 particular expenditures before they occur; and it may have the ability through rate-

⁶ See GM-2

1 design mechanisms to specify that the costs of particular activities will be borne
2 solely by particular classes of ratepayers.⁷

3 In his rebuttal rate design testimony, Staff witness Byron M. Murray states Staff’s amended
4 position based on the Western District Court’s August 7, ruling:

5 Staff would recommend that KCPL and GMO allocate the EV charging station
6 investment and expenses to a separate EV class in order to evaluate the appropriateness
7 of the rate charged to customers served on the CCN rate schedule.⁸

8 Mr. Murray also recommends that KCPL and GMO’s CCN tariff(s) incorporate time-of-use
9 rates and that the Companies evaluate their EV stations for the following activities:

- 10 • Vehicle to grid (V2G), vehicle to home (V2H), or vehicle to building (V2B) programs
- 11 to promote efficient and effective integration of the EVs onto the grid;
- 12 • The integration of EVs with the grid incorporating smart distribution planning; and
- 13 • Incorporation of EV charging in Demand Response programs.⁹

14 OPC is not aware of any other party who filed rebuttal testimony on this topic.

15 **Q. Does OPC agree with Staff?**

16 A. Yes. Staff’s recommendation is exactly one of the “mechanisms” the Court recognized: “For
17 the Commission to exercise its full range of regulatory authorities.”¹⁰ As one of those options,
18 the Court mentions rate-design mechanisms so that that certain costs “will be borne solely by
19 particular classes of ratepayers.”¹¹ All costs for charging stations (including advertising) should
20 go into a separate tariffed class similar to the tariff for street lighting—the class of those
21 customers who use the charging stations. This alleviates the Commission’s stated concern “that
22 the large number of ratepayers who do not operate electric vehicles would end up subsidizing

⁷ *Kansas City Power & Light Co.’s Request for Auth. To Implement a Gen. Rate Increase for Elec. Serv. V. Mo. Pub. Serv. Comm’n* No. WD80911. 2018 Mo. App. LEXIS 841 (App. Aug. 7, 2018).

⁸ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Byron M. Murray p. 3, 10-12.

⁹ *Ibid*, p. 4, 1-6.

¹⁰ *KCP&L v. PSC*, 2018 Mo App. LEXIS 841 at 30-31. (holding the Court’s decision regarding electric vehicle charging stations . . . does not leave the Commission without remedy; to the contrary, it provides a basis for the Commission to exercise its full range of regulatory authorities with respect to those stations.)

¹¹ *Ibid*, p.30.

1 the automobile usage of the small number of electric vehicle owners.”¹² To address this
2 concern, it is imperative that in developing the tariff for EV customers that no costs related to
3 this service be recovered from other customers. The Western District approved this approach
4 when it noted the KCC’s finding that charging stations are “not necessary ‘to furnish
5 reasonably efficient and sufficient service and facilities [to its customers]”¹³

6 KCPL management can decide whether the risk is acceptable to their shareholders related
7 to this service before deciding to offer it or expand.

8 **Q. What is OPC’s position on Staff’s EV-grid evaluation recommendations?**

9 A. OPC supports these recommendations only insofar as that there is meaningful demand for the
10 service. That demand does not exist today as evidenced by Company-provided data in my
11 rebuttal testimony. Although not expressly recommended in Staff’s testimony, OPC opposes
12 ratepayers funding “another” third-party study. As such, OPC believes Staff’s
13 recommendations would be better considered in future IRP proceedings where planning and
14 modeling considerations can be thoroughly examined on a timely basis as opposed to ordered,
15 without proper context and intent, in this rate case.

16 **Q. Do you have any concluding comments on this issue for the Commission’s consideration?**

17 A. Yes. Writing twenty-four years ago on the “Stranded Cost Problem” in the academic peer-
18 reviewed *The Electricity Journal*, economist Alfred E. Kahn warns of the danger of using the
19 power of the monopoly, protected from competition, to tax ratepayers for perceived virtuous
20 deeds. Dr. Kahn states:

21 Early in the course of the public debate in California over the proposal of its PUC to
22 open the market to competition, however, dedicated environmentalists began to
23 express views ranging from ambivalence to opposition: “Wait a minute!” they interject;
24 “I’m all in favor of competition, but competition isn’t an end to itself. Who’s going to

¹² Ibid p.28.

¹³ Section 386.1.RSMo.

1 promote electric car?” Whenever I hear someone start out that way, I reach for my
2 wallet, to make sure it’s still there. . . .

3 It may of course be politically easier to accomplish those worthy social purposes by
4 regulators making the utility companies undertake the good works while passing the
5 costs onto ratepayers. **It is also, however, profoundly anti-democratic and**
6 **potentially inefficient—that is to say, injurious to consumers.**(emphasis added) . . .

7 **Economic welfare is not a goal to be lightly dismissed, as it is all too often by well-**
8 **educated, well-to-do interveners in regulatory proceedings.** According to the latest
9 Economic Report of the President, the lowest 20 percent of our families experienced a
10 very substantial decline in real income between 1973 and 1992 and the middle 20
11 percent just barely held even, mainly by two members of the family working for pay
12 rather than one.¹⁴

13 Dr. Kahn’s comments on the proper role of regulators apply today more than ever.

14 Consider that, as costs for residential heating, cooling and other household energy needs
15 steadily increase, they account for a higher percentage of household budgets and represent
16 emerging disparities between richer and poorer households. Empirical data substantiate
17 that *many* families are struggling. For example:

- 18
- 19 1. The U.S. Consumer Financial Protection Bureau’s *2017 National Financial Well-*
20 *Being Survey* found that more than 40 percent of U.S. adults struggle to pay bills, and
21 34 percent have experienced material hardships in the last year such as running out of
22 food, or not having enough money for medical treatment or paying a utility bill.^{15, 16}

¹⁴ Kahn, A.E. (1994) “Can regulation and competition coexist? Solutions to the stranded cost problem and other conundra” *The Electricity Journal*, 7(8) p. 23-35.

<https://www.sciencedirect.com/science/article/pii/S1040619094900558>

¹⁵ THE CFPB defines “material hardships” as: Running out, or worrying about running out, of food, not being able to afford medical treatment or a place to live, or having utilities turned off.

¹⁶ CFBB (2017) Financial well-being in America.

https://files.consumerfinance.gov/f/documents/201709_cfpb_financial-well-being-in-America.pdf

1 2. The U.S. Federal Reserve’s *Report on the Economic Well-Being of U.S. Households in*
2 *2017* found that:

- 3 • Four in ten adults, if faced with an unexpected expense of \$400, would either not
4 be able to cover it or would cover it by selling something or borrowing money;
5 • Over one-fifth of adults are not able to pay all of their current month’s bills in full;
6 and
7 • Over one-fourth of adults skipped necessary medical care in 2017 due to being
8 unable to afford the cost.¹⁷

9 3. According to Freddie Mac, the number of apartments deemed affordable for very low
10 income families across the United States fell by more than sixty percent between 2010
11 and 2016.¹⁸

12 4. Speaking to Missouri-specific housing and utility concerns, the National Low Income
13 Housing Coalition estimates that:

14 In Missouri, the Fair Market Rent (“FMR”) for a two-bedroom apartment is \$815.
15 In order to afford this level of rent and utilities—without paying more than 30% of
16 income on housing—a household must earn \$2,716 monthly or \$32,588 annually.
17 Assuming a 40-hour work week, 52 weeks per year, this level of income translates
18 into an hourly housing wage of: **\$15.46**¹⁹

- 19 • To put that number into context, the State minimum wage is \$7.85. Which
20 means that a minimum wage worker would have to work approximately 79
21 hours a week to afford a 2-bedroom rental home or 62 hours for a one-bedroom

¹⁷ Board of Governors of the Federal Reserve System (2018) Report on the Economic Well-Being of U.S. Households in 2017. <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>

¹⁸ Jan. T. (2017) America’s affordable-housing stock dropped by 60 percent from 2010 to 2016. *The Washington Post* <https://freddiemac.gcs-web.com/news-releases/news-release-details/new-freddie-mac-analysis-finds-widening-shortfall-affordable>

¹⁹ U.S. National Low Income Housing Coalition. Out of Reach 2018: Missouri <http://nlihc.org/oor/missouri>

1 home at fair market value. In Missouri, there are an estimated 787,627 renters,
2 representing roughly 33% of the State’s population.²⁰

3 5. The nonpartisan Congressional Research Service estimates only sixteen percent of
4 those eligible for LIHEAP (“Low Income Heating Energy Assistance Program”)
5 assistance receive it.²¹

6 6. A University of Colorado Denver study found, not being able to pay utility bills is the
7 second leading cause of homelessness, behind domestic violence in households with
8 children.²²

9 **V. ONE CIS: PRIVACY**

10 **Q. What is the context for this issue?**

11 A. On June 19, I filed direct testimony recommending that the Commission order a rule-making
12 workshop to amend Chapter 13 billing rules to account for the substantive changes in billing,
13 data practices, and associated privacy concerns. I also made the following recommendations
14 for the Commission to order and for implementation in the intermediate period:

- 15 1. Adoption and implementation of consent for disclosure policy for customer
16 information;
- 17 2. Adoption and implementation of the Green Button software platform;
- 18 3. Data Modeling Standards including use of the “15/15 Rule” for residential and
19 “4/80” for non-residential aggregated data release; and an
- 20 4. Annual submission of a Cybersecurity Plan (“CSP”) and privacy impact
21 assessment (“PIA”).

²⁰ Ibid.

²¹ Congressional Research Service (2018) LIHEAP: Program and Funding
https://www.everysreport.com/files/20180201_RL31865_b8be422272b48a2f5eefe5881be52c9821464e57.pdf

²² Colorado Statewide Homeless Count (2007) University of Colorado at Denver.
<http://www.ucdenver.edu/academics/colleges/SPA/researchandoutreach/SPA%20Institute/Centers/CEPA/Publication/ Documents/HomelessExecutive%20Summary-FINAL-2-27-07.pdf>

1 On June 27, Staff filed a motion to establish a working case to draft potential new rules on the
2 treatment of customer information by Commission-regulated electric, gas, heating, water, and
3 sewer utilities and their affiliates and nonaffiliates in AW-2018-0393. Two weeks later (July
4 11th), the Commission granted Staff's request and set a date for interested parties to file
5 comments by August 10th.

6 On July 27, Staff, KCPL/GMO, and DE filed rebuttal testimony in response to the
7 recommendations OPC made in direct.

8 On August 9, Staff filed for a two-week extension for comments in the rule making working
9 case based on the following explanation:

10 Since filing its *Motion to Establish Working Case*, Staff has become aware of
11 interest among stakeholders to instill more robust protections for utility customers
12 in relation to the implementation of Advanced Meter Infrastructure ("AMI"), or
13 "smart meters." Smart meters can result in the collection of data that are extremely
14 personal in nature, and could potentially be utilized to pinpoint the usage of specific
15 appliances or devices. There is a potential that the gathering of this type of
16 information *could* leave a utility customer vulnerable to the theft, sharing, or sale of
17 this personal data. Staff has become aware of these concerns through national
18 reporting and specific discussions arising out of the ongoing Kansas City Power &
19 Light Company, and KCP&L Greater Missouri Operations Company, rate cases.²³

20 On August 24 the following parties filed comments in AW-2018-0393 by:

- American Civil Liberties Union ("ACLU")
- State Rep. Bill Kidd
- TGH Litigation LLC
- Missouri Attorney General Joshua D. Hawley
- Office of the Public Counsel
- Spire Missouri
- Missouri-American Water
- Ameren Missouri
- KCPL/GMO
- Liberty Utilities
- Consumer Council & Empower Missouri
- ArchCity Defenders, Inc.

²³ AW-2018-0393 Staff motion to extend comment period and expand scope of the working case. p. 2.

1 As of this writing, the Commission has not directed further action in Case No: AW-2018-0393.
2 I will respond to each of the four witnesses who filed rebuttal testimony on this topic in turn.

3 **Q. What is Staff's position?**

4 A. Staff only provided testimony on the Green Button software recommendation. Staff witness
5 Michael L. Rush, was generally supportive of the concept highlighting many of the positive
6 outcomes of adoption of the platform. Mr. Rush stops short of outright full support by
7 concluding that:

8 Any development or update to a customer information system should, at a
9 minimum, provide the ability for an Energy Consumer to download data in the
10 industry standard format for use by any Third Party with which the Energy
11 Consumer wants to interact. As for Third Party direct access to data held by a Data
12 Custodian, that is a more complex question involving industry certification
13 processes that are not yet fully developed and questions of data security that have
14 not yet been addressed. However, once the certification and data security issues
15 have been addressed, Third Party access to Energy Consumer data should be
16 implemented.²⁴

17 **Q. What is OPC's response?**

18 A. OPC appreciates Staff's positive response and agrees with many of Mr. Rush's comments. In
19 anticipation of stakeholder and Commission questions on this topic, OPC reached out to the
20 Executive Director of the Green Button Alliance, Mr. Jeremy J. Roberts, to provide
21 educational/informational background on the Green Button platform. OPC specifically
22 requested background on:

- 23 • The History of the Green Button;
24 • How the application is utilized for residential and commercial/industrial customers;

²⁴ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Michael L. Rush p. 5, 2-9.

- 1 • Level of security for ratepayers and standardization for third-party vendors that the
- 2 button provides; and
- 3 • Current utilities/states that have deployed it and the different varieties of usage.

4 Mr. Roberts' response can be found in total in GM-3.

5 **Q. What is DE's position?**

6 A. DE witness Lisa A. Kremer was also largely supportive of OPC's recommendations. Ms.

7 Kremer also recommended nine tenets for all parties to consider when drafting consumer

8 privacy rules. Those tenets (reformatted here) are as follows:

- 9 1.) What the utility can and cannot do with customer information;
- 10 2.) Requirements for informing customers in a timely manner if their data are
- 11 compromised;
- 12 3.) Requirements for reporting data breaches to the Commission;
- 13 4.) A customer data privacy statement published publicly for customer awareness, such as
- 14 on a utility's website and in customer information material;
- 15 5.) The utility's inherent responsibility to protect customer information that is within its
- 16 possession and used to serve customers;
- 17 6.) A clear definition as to what constitutes customer information;
- 18 7.) Where ownership of customer data resides;
- 19 8.) Filed notification to the Commission when companies make changes to their customer
- 20 data privacy policies; and
- 21 9.) The authority the customer has to share their energy information with any other entity
- 22 or person of their choice.²⁵

²⁵ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Lisa A. Kremer p. 8, 8-18.

1 **Q. What is OPC’s response?**

2 A. OPC appreciates DE’s positive response and agrees with Ms. Kremer’s comments. OPC fully
3 supports utilizing the nine tenets recommended by Ms. Kremer in the upcoming rulemaking
4 docket.

5 **Q. What is KCPL/GMO’s position?**

6 A. KCPL/GMO witness Ives agrees with OPC’s recommendation for a rulemaking workshop but
7 rejected the other recommendations as “premature.”

8 KCPL/GMO witness Johnson was critical of the concept of a Cybersecurity Plan (“CSP”),
9 provided a general outline of groups the Company belongs to and protections in place that
10 address cybersecurity issues, believes that other utilities need to opine on OPC’s specific
11 recommendations, and concludes by stating:

12 [C]ustomer protection criteria must be specified for third parties to adhere to prior to
13 gaining access to customer data. The utilities will have no control over treatment of the
14 customer’s data once the third party has access.²⁶

15 **Q. Did KCPL/GMO provide additional insight in the rulemaking docket?**

16 A. KCPL/GMO’s contribution on this topic consisted of two points:

17 1.) The Company supports the language proposed in 2.A.1, which states that “customer
18 information remains the sole property of the covered utility” which is the Company’s
19 understanding and practice; and

20 2.) Customer consent should be extended to include “electronic” consent.

21 **Q. Does OPC agree with Mr. Ives position that it is premature to consider consumer
22 safeguards?**

23 A. No, OPC disagrees. The recommendations offered up by OPC are both reasonable and
24 especially relevant to KCPL/GMO because of the very liability inherent in its newest capital
25 assets (automatic metered infrastructure (“AMI”), customer information (“One CIS”), and

²⁶ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Gary Johnson p. 5, 22-23 & p. 6, 1-2.

1 customer care and billing (“CCB”) management systems). No other utility has AMI and the
2 supporting software in place. As the Commission is well aware, a rulemaking docket can take
3 a considerable amount of time. Ratepayers would be better protected in the intermediate period
4 by erring on the side of caution and addressing preliminary consumer safeguards now.

5 **Q. Does OPC have a response to KCPL/GMO witness Mr. Johnson’s position on the**
6 **Cybersecurity Plan?**

7 A. To be clear, OPC is not recommending that KCPL/GMO provide a blueprint of its
8 cybersecurity system. OPC merely recommends that a publically available policy be put in
9 place, one that articulates the Company’s privacy policy and guiding principles regarding
10 sensitive customer data and breaches. Stated differently, what every competent, competitive
11 corporation that has access to unusually large amounts of sensitive data has in place for its
12 customers to maintain market viability.^{27, 28}

13 The introduction of “smart” infrastructure into the cost of doing service creates a great amount
14 of power and potential, and should be married with an equally great amount of safeguards and
15 responsibility. OPC’s recommendation to execute third-party privacy impact assessments
16 (“PIAs”), a practice (by KCPL/GMO’s own admission²⁹) that is currently absent in its
17 operations, provides opportunities for active system learning and helps ensure appropriate
18 compliance and ratepayer safety. OPC’s further recommendation to make the results of the
19 PIAs public promotes good corporate transparency. To be clear, OPC’s recommendation is to
20 make the results of the PIAs public (i.e., the score or ranking), not a detailed description of
21 how the PIAs were executed to determine the scores.

²⁷ Martin, K.D. et al (2018) Research: A strong privacy policy can save your company millions. *Harvard Business Review*. <https://hbr.org/2018/02/research-a-strong-privacy-policy-can-save-your-company-millions>

²⁸ Cochrane, K. (2018) To regain consumers’ trust, marketers need transparent data practices. *Harvard Business Review* <https://hbr.org/2018/06/to-regain-consumers-trust-marketers-need-transparent-data-practices>

²⁹ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Gary Johnson p. 5, 4-5.

1 **Q. Does OPC have a response to Mr. Johnson’s position that other utilities need to opine on**
2 **KCPL/GMO specific recommendations?**

3 A. No other utility in Missouri has AMI and supporting software in place. KCPL/GMO is
4 singularly unique in that regard but this is a reality that KCPL/GMO should have fully been
5 aware of when they elected to be first movers on AMI.

6 **Q. Please provide Mr. Johnson’s full quote regarding customer protection criteria with**
7 **third parties?**

8 A. Mr. Johnson stated:

9 Mr. Marke is correct that it is incumbent on the utility to protect the customers’ data.
10 To ensure that happens, customer protection criteria must be specified for third parties
11 to adhere to prior to gaining access to customer data. The utilities will have no control
12 over treatment of the customer’s data once the third party has access.³⁰

13 **Q. What is OPC’s response?**

14 A. This is a curious comment to make. On the one hand, Mr. Johnson agrees with OPC that
15 customer protection criteria must be in place to ensure third parties do not take advantage of
16 customers, but on the other hand, Mr. Johnson does not follow-up that declarative statement
17 with an affirmation that KCPL/GMO has that essential criteria in place. It’s a throw away
18 comment that unexpectedly challenged OPC to consider if there were any potential examples
19 in which KCPL/GMO entered into contracts with third parties in which customer data was
20 obtained by third parties (and by extension, other parties) without full KCPL/GMO ratepayer
21 consent or knowledge.

22 **Q. Did anything come to mind?**

23 A. Yes. In 2017 the *Kansas City Star* published a technology article titled “Digital Life: Real tech
24 payoff that comes with a (remote) risk.” The article discusses why the KCPL/GMO Nest
25 thermostat program is both attractive (e.g., hi-tech “learning” thermostat valued at \$200 with

³⁰ ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Gary Johnson p. 5, 22-23 & p. 6, 1-2.

1 an additional \$50 inducement payment) and successful (more than 16,000 given away at the
2 time of the articles print date). It then discusses the risks:

3 Back to that catch. First, you're sharing data about your lifestyle with Nest, meaning
4 Google. Marketer's armed with the patterns of your comings and goings could
5 someday use it as fresh ammunition to tempt you towards their products—likely in
6 ways that you'll be blind to.

7 Then there's hacker risk. Nest founder Tony Fadell has said the Nest is built with “bank
8 level security” and that the business will fail “if people don't trust it.” Yet researchers
9 have said the thing can be cracked by someone who has access to it during delivery or
10 in your home (cough, ex-boyfriend, cough).

11 Once exploited, scientists from the University of Central Florida said, “what was once
12 a learnings thermostat has been transformed into a spy” able to get into your Wi-Fi
13 network and everything that connects to it.

14 Such is the dilemma of virtually everything about the digital era and cool things that
15 come from internet connections. Privacy traded for convenience.^{31 32}

16 The mere fact that the *Kansas City Star* felt compelled to report and opine on this dilemma
17 suggests that many KCPL/GMO customers may not fully be aware of what they consented to
18 when they agreed to “participate” and receive a free smart thermostat (valued at \$200.00) and
19 the additional \$50.00 incentive.

³¹ Canon, S. (2017) Digital Life: Real tech payoff that comes with a (remote) risk” *Kansas City Star* July 10.
<https://www.kansascity.com/news/business/technology/article160430799.html> see also GM-4.

³² Hernandez, G. et al (2017) Smart Nest Thermostat: A smart spy in your home. <https://www.blackhat.com/docs/us-14/materials/us-14-Jin-Smart-Nest-Thermostat-A-Smart-Spy-In-Your-Home-WP.pdf>

1 **Q. Has anyone attempted to determine the volume of data created and shared through a**
2 **Nest thermostat?**

3 A. Yes. Researchers out of the University of Amsterdam produced a report last year on those very
4 questions. A list of the individualized data points collected by the Nest thermostat is included
5 in Figure 1:

6 Figure 1: Individualized data points collected by a Nest thermostat

Wi-Fi network name (SSID)	Home address (plus ZIP code)
Wi-Fi Password to connect to the Internet	Heating and Cooling (HVAC) system capabilities
IP address	Current temperature
Account associated email Addresses	Humidity
Name	Ambient light in the room
Profile photo	Room movement
Mobile location data	Device setting changes
Bluetooth data	Heating and cooling usage information
Log entries (eg. IP address)	Device model
Technical information (eg browser type and version)	Software version
Thermostat location	Battery charge level
Location information (home or business)	Serial number

7
8 The report found 89 unique third-party applications connected to the Nest thermostat that can,
9 in turn, be connected with other applications, devices, and consequently, different companies.³³

10 **Q. Who would want that kind of information?**

11 A. Many companies would. In fact, “Big Data” has been commonly compared to the equivalent
12 of “Big Oil” for the twenty-first century.^{34, 35} However, technology writer, Michael Haupt
13 persuasively argues that the metaphor is both inappropriate and potentially dangerous. Haupt
14 states:

³³ Dirkzwager, A. et al (2017) Where does your data go? Mapping the data flow of Nest. Masters of Media, New Media & Digital Culture, University of Amsterdam. <https://mastersofmedia.hum.uva.nl/blog/2017/10/25/where-does-your-data-go-mapping-the-data-flow-of-nest/> See also GM-5

³⁴ The Economists (2017) The world’s most valuable resource is no longer oil, but data. *The Economists*. <https://www.economist.com/leaders/2017/05/06/the-worlds-most-valuable-resource-is-no-longer-oil-but-data>

³⁵ Haupt, M. (2016) “Data is the new oil”—A ludicrous proposition. *Medium*: Project 2030. <https://medium.com/project-2030/data-is-the-new-oil-a-ludicrous-proposition-1d91bba4f294>

1 Yes, big data might be the new oil, but let's remember what data really is: a
2 natural resource created by, for and because of sovereign human beings. Let's not
3 allow a new breed of corporations to extract wealth from us, like we've allowed in
4 the past. If we allow privatization of data, as we've permitted with other natural
5 resources in the past, we only have ourselves to blame.³⁶

6 **Q. Does this mean that OPC objects to the Nest thermostat program now?**

7 A. Maybe. But that is an issue beyond the scope of this testimony.

8 **Q. Does OPC have any concluding statements on the issue of One CIS: privacy?**

9 A. There needs to be a robust, honest conversation on the topic of privacy, customer consent and
10 liability. The fact that KCPL/GMO's present position is that they are the sole owner of their
11 customer data is troubling. OPC disagrees with this statement and seeks Commission guidance
12 on minimizing future risk to ratepayers. OPC will provide further recommendations regarding
13 the accounting treatment of One CIS in the conclusion of this testimony.

14 **VI. ONE CIS: TIME-OF-USE-RATES**

15 **Q. Has OPC's position changed since rebuttal testimony?**

16 A. No.

17 **Q. Does OPC have new information to provide in light of other parties comments?**

18 A. Yes. In support of Renew witness Ms. Scripp's testimony regarding maintaining or lowering
19 the residential customer charge, OPC would note a recent article published by *UtilityDive*
20 titled: "Are regulators starting to rethink fixed charges?" The article cites to three states that
21 have reduced residential fixed charges in 2018 including: Connecticut's Eversource Energy,
22 New York's Central Hudson Gas and Electric and Colorado's Black Hills Energy and notes,
23 "last year, regulators only approved 6 out of 84 proposals for higher customer charges."³⁷

³⁶ Ibid.

³⁷ Trabish, H.K. (2018) "Are regulators starting to rethink fixed charges?" *UtilityDive*
<https://www.utilitydive.com/news/are-regulators-starting-to-rethink-fixed-charges/530417/>

1 **Q. Does OPC have new information to provide to the Commission from discovery responses**
2 **bearing on matters related to AMI that you articulated in your rebuttal testimony?**

3 A. Yes. Further discovery was conducted to confirm assertions made in OPC's rebuttal testimony.
4 The pertinent discovery and responses are as follows:

5 OPC DR-2086³⁸

6 Question

7 Please provide a timeline for AMI deployment (both historic and expected) within the
8 GMO and KCPL-MO service territories by quarter (e.g., 4th quarter 2014 = 3000 out
9 of 295,551 meters deployed in KCPL-MO or 1.01%, etc...).

10 Response

³⁸ See GM-6

AMI Projects	Qtr-Year	Manual Meter Counts	AMR Meter Counts	AMI Meter Counts	Total Meter Counts	Pct AMI
Smart Grid Demonstration Zone	4th Qtr 2010	322,184	253,481	9,004	584,669	1.54%
	1st Qtr 2011	322,259	250,341	12,331	584,931	2.11%
AMR to AMI Meter Exchange Metro	1st Qtr 2014	322,117	254,661	13,233	590,011	2.24%
	2nd Qtr 2014	321,307	252,369	16,121	589,797	2.73%
	3rd Qtr 2014	322,364	249,782	19,941	592,087	3.37%
	4th Qtr 2014	323,031	225,583	46,410	595,024	7.80%
	1st Qtr 2015	322,577	159,529	111,956	594,062	18.85%
	2nd Qtr 2015	323,024	86,122	186,100	595,246	31.26%
	3rd Qtr 2015	321,064	15,657	256,686	593,407	43.26%
	4th Qtr 2015	275,438	922	324,476	600,836	54.00%
Extended Metro AMI Meter Exchange	1st Qtr 2016	214,629	393	397,280	612,302	64.88%
	2nd Qtr 2016	150,749	173	462,577	613,499	75.40%
	3rd Qtr 2016	149,920	80	465,230	615,230	75.62%
	4th Qtr 2016	149,773	70	465,856	615,699	75.66%

1

Rural KCPL AMI Meter Exchange	1st Qtr 2019	150,000	0	475,000	625,000	76.00%
	2nd Qtr 2019	125,000	0	500,000	625,000	80.00%
	3rd Qtr 2019	100,000	0	525,000	625,000	84.00%
	4th Qtr 2019	75,000	0	550,000	625,000	88.00%
	1st Qtr 2020	50,000	0	575,000	625,000	92.00%
	2nd Qtr 2020	25,000	0	600,000	625,000	96.00%
	3rd Qtr 2020	1,000	0	624,000	625,000	99.84%
	4th Qtr 2020	0	0	625,000	625,000	100.00%

2

3 **Q. What should the Commission note from this discovery response?**

4 A. It is not entirely clear what happened in 2017 and 2018. From the Company's response, I
 5 conclude that no additional AMI meters were deployed in those years. The erratic pace of
 6 deployment is both confusing and apparently at odds with what KCPL/GMO were publically

1 saying back in 2016. For example, the August 29, 2016 KSHB local news investigation on
2 “smart meter fires” states:

3 Kansas City Power & Light is at the tail end of a two and a half year project to install
4 more than 700,000 smart meters across the metro. . . . KCP&L Vice President Chuck
5 Caisley said in a statement to the 41 Action News Investigators, “Out of the more than
6 700,000 meters KCP&L has installed, we are only aware of a handful of meter
7 malfunctions.”³⁹

8 **Q. Did OPC obtain other information pertinent to its rebuttal rate design testimony in**
9 **discovery responses?**

10 A. OPC also inquired into the depth of external stakeholder input into the rate design studies.
11 OPC DR-2086 ⁴⁰

12 Question

13 Please provide any and all documentation substantiating that GMO "worked with
14 Signatories to define the scope of the study" as required by the Nonunanimous
15 Stipulation and Agreement entered into in Case No. ER-2016-0156 and as
16 articulated in the Burns & McDonnell, KCP&L Greater Missouri Operations
17 Company Seasonal Rate Structure Study December 12, 2017 in the direct
18 testimony of Marisol Miller, schedule MEM-1 page 5.

19 Response

20 The GMO Non-unanimous Stipulation & Agreement as entered in the Case ER-
21 2016-0156 included the following language:

22
23 *12. OTHER RATE DESIGN ISSUES Agree to study 1) modifying GMO's seasonal*
24 *rates in a future rate proceeding to establish rates for Peak months and Shoulder*
25 *months, as opposed to GMO's current Summer/Non-Summer seasonal split,*

³⁹ Alcock, A (2016) KCMO smart meter fire sparks investigation. KSHB News. <https://www.kshb.com/news/local-news/investigations/kcmo-smart-meter-fire-sparks-investigation>

⁴⁰ See GM-7

1 *including applicable determinants; and 2) responsible energy use as related to*
2 *residential block rates. The Company will work with the Signatories to define the*
3 *scope of study.*

4 The seasonal study was performed in-house and by KCP&L personnel and did not
5 involve Burns & McDonnell.

6 Please find attached emails and meeting requests for meetings held demonstrating
7 the Company worked with all signatories of the S&A (and included non-
8 signatories) to weigh in on the scope of the seasonal study performed.

9 **Q. What should the Commission note from this discovery response?**

10 A. There were two scheduled phone calls with stakeholders. The first was on December 21st, 2016
11 and the second was on January 19th, 2017. 376 days later the studies were filed in Company
12 witness Miller's GMO testimony as an attachment. There was no further discussion or
13 feedback prior to the filing of the Company's testimony.

14 The Company's response to OPC DR-2092 is correct regarding the terms of the GMO Non-
15 unanimous Stipulation & Agreement as entered in the Case ER-2016-0156. There was
16 apparently no agreement for parties to work together or for external parties to provide input
17 into the TOU rate design study let alone work papers.

18 **Q. Would you elaborate on your point?**

19 A. As I articulated in my rebuttal testimony, Company witnesses Rush, Ives and outside counsel
20 Fischer made clear assertions to the Commission at the on-the-record in Case No: ER-2016-
21 0156 regarding AMI meters, TOU rate designs, and collaborative studies all of which never
22 occurred, or were, apparently, ever a part of the Non-unanimous Stipulation & Agreement.

23 **Q. Does OPC have any concluding statements on the issue of One CIS: Time-of-Use rates?**

24 A. Despite over hundreds of millions of dollars in multiple investments, nine third-party rate
25 design studies, and public assertions made to this Commission as the basis for supporting, in
26 part, the last GMO rate case KCPL/GMO ratepayers are not in a position to meaningfully reap

1 the benefits of TOU rate design.⁴¹ OPC will provide further recommendations regarding the
2 accounting treatment of One CIS in the conclusion of this testimony.

3 Finally, KCPL/GMO witness Ms. Miller’s direct testimony did not contain a copy of the
4 Company’s “rate strategy report.” GM-8 contains a copy of that report.

5 **VII. ONE CIS: BILLING & CUSTOMER EXPERIENCE/EDUCATION**

6 **Q. Have there been any material events regarding One CIS since rebuttal testimony?**

7 A. A series of online petitions of KCPL/GMO customers experiencing frustration, rate shock and
8 demanding substantive changes in the Company’s billing and operations practices occurred
9 last week as seen in Figures 2, 3 and 4.

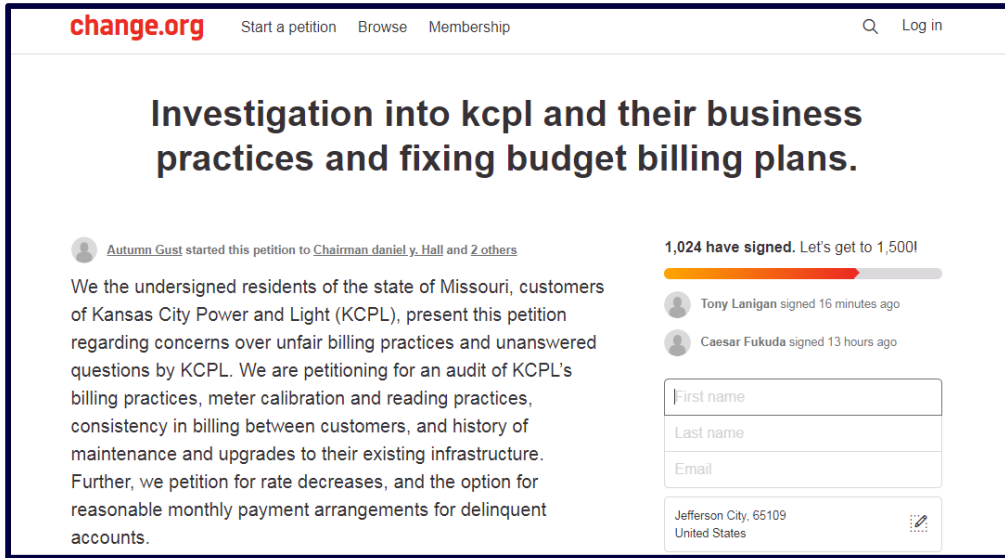
10 Figure 2: Facebook: The Greater Kansas City Awareness⁴²



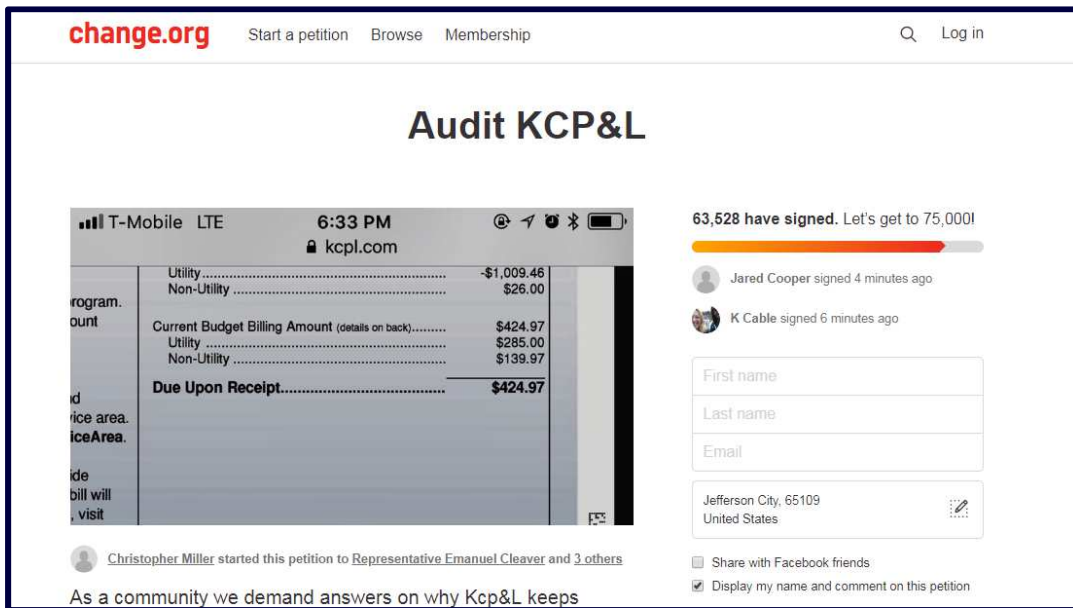
11 ⁴¹ See ER-2018-0145 & ER-2018-0146 Rebuttal Testimony of Tim M. Rush p. 3, 1-3. “Staff’s residential time-of-use (“TOU”) rate proposal is very simplistic, is not likely to have any material effect on the Company’s load shapes and would have a beneficial impact on customers or the Company.”

⁴² Facebook. (2018) The Greater Kansas City Awareness. <https://m.facebook.com/The-Greater-Kansas-City-Awareness-525907117870025/>

1 **Figure 2: Change.org “Investigation into KCPL . . . to Chairman Daniel Hall”⁴³**



2
3 **Figure 4 Change.org “Audit KCP&L”⁴⁴**



4
⁴³Change.org (2018)“Investigation into kcpl and their business practices and fixing budget billing plans.”
<https://www.change.org/p/mayor-sly-james-investigation-into-kcpl-and-their-business-practices-and-fixing-budget-billing-plans>

⁴⁴ Change.org (2018) Audit KCP&L <https://www.change.org/p/audit-kcp-l>

1 The stated reasons for the petition in figure 3 are as follows:

2 We the undersigned residents of the state of Missouri, customers of Kansas City
3 Power and Light (KCPL), present this petition regarding concerns over unfair
4 billing practices and unanswered questions by KCPL. We are petitioning for an
5 audit of KCPL's billing practices, meter calibration and reading practices,
6 consistency in billing between customers, and history of maintenance and upgrades
7 to their existing infrastructure. Further, we petition for rate decreases, and the
8 option for reasonable monthly payment arrangements for delinquent accounts.
9 First, customer bills are much higher than normal and have been since KCPL
10 merged with Westar Energy. Bills are routinely doubling and tripling over this
11 same time last year, despite similarities in weather.

12 KCPL is now billing customers every 21 days instead of on a monthly basis.
13 Customers had bills due both August 2, 2018 and August 30, 2018.

14 Level pay has been discontinued for numerous customers, sometimes with no
15 reason given. For other customers, the level pay amount has been increased by as
16 much as 100% - not feasible for many on fixed incomes, and far beyond the "up to
17 10%" figure given by KCPL.

18 For customers who are late with payments, the late fee charged by KCPL is highly
19 variable, from a few cents to several hundred dollars, with no rationale given when
20 requested.

21 Customers are no longer able to make reasonable payment arrangements for
22 delinquent bills, and instead are required to produce up to half of the amount owed
23 every two weeks. This is an unfair burden on us as citizens of Missouri and
24 customers of KCPL. KCPL is not showing good stewardship of the responsibility
25 for powering communities in the State of Missouri.

26 The stated reasons for the "Audit KCP&L" petition in figure 4 are as follows:

1 As a community we demand answers on why Kcp&L keeps applying rate
2 increases. Also, we want the new budget billing system reviewed. It does not make
3 sense how the system calls it a budget billing system when they review statements
4 every month and either increase or decrease based on usage. That is not a true
5 budget billing system. As a community we want to know why, and how, it costs
6 the local community more to produce energy in the summer months than it does in
7 the winter during less day light. Lets stand together as a community and get to the
8 bottom of this. Where is our hard earned money really going? . . .

9 Local print and television media soon began following the story.^{45,46,47}

10 OPC has included as many comments as we were able to capture on the “audit KCP&L”
11 petition to give the Commission a sense of the ratepayer frustration on this issue and they
12 are included in GM-9. OPC also received twenty emails last week that are included in
13 GM-10.

14 **Q. Did the Company respond?**

15 A. Friday night, August 31, Vice President Chuck Caisley published a guest-commentary in the
16 *Kansas City Star* with the headline “KCP&L is committed to helping customers understand
17 their bills.”⁴⁸ In the article, Mr. Caisley cites to an unusual hot summer and changes to the
18 company’s budget billing program that have caused the frustration. Mr. Caisley also announces
19 that:

20 On Friday, we announced that we are allowing extra time for customers to pay these
21 higher bills by temporarily expanding payment options and suspending residential
22 disconnections. Effective immediately and through the end of September, no

⁴⁵Kansas City Star Editorial Board. (2018) KCP&L customers are experiencing sticker shock this summer. Here’s what you can do. *Kansas City Star*. <https://www.kansascity.com/opinion/editorials/article217481295.html>

⁴⁶ Davis, M. (2018) KCP&L changes even-payment budget billing program, stirring concerns about bigger bills. *Kansas City Star*. <https://www.kansascity.com/news/business/article217442925.html>

⁴⁷ Mashek, K. (3018) KCP&L customers fuming over high bills as petition for audit gains steam. WDAF-TV, Fox 4 news <https://fox4kc.com/2018/08/27/kcpl-customers-fuming-over-high-bills-as-online-petition-for-audit-gains-steam/>

⁴⁸ Caisley, C. (2018) KCP&L is committed to helping customers understand their bills. *Kansas City Star*. <https://www.kansascity.com/opinion/readers-opinion/guest-commentary/article217671510.html>

1 residential customers will be disconnected. In addition, beyond the programs always
2 available, we are now offering a four-month extension and payment plan to help
3 customers who are seeing higher bills or have large balances. We are urging
4 customers to call us to set up payment arrangements following the holiday weekend
5 at (816) 471-5275 or (888) 471-5275.⁴⁹

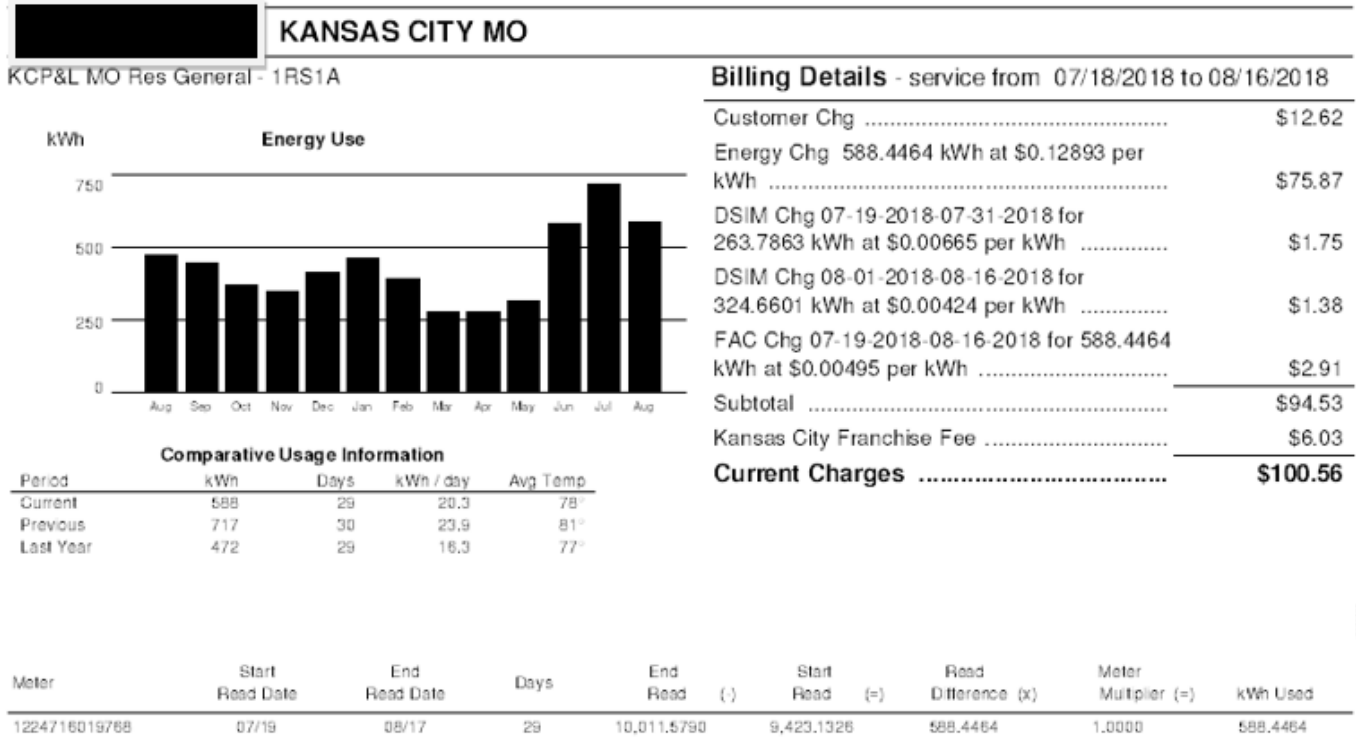
6 **Q. What is OPC's response?**

7 A. The volume of criticism is concerning. The "Audit KCP&L" petition had over 60,000
8 signatures with many comments (see GM-9).

9 It is also a troubling start to KCPL/GMO's new One CIS system. Clearly the customer
10 experience does not appear to be a positive one. Customer education regarding billing is also
11 important and it is reassuring that Mr. Caisley recognizes this. Figures 5 and 6 contain
12 examples of KCPL and GMO's general residential service rate billing details and underscore
13 the problem.

⁴⁹ Ibid.

1 **Figure 5: KCPL residential billing details**

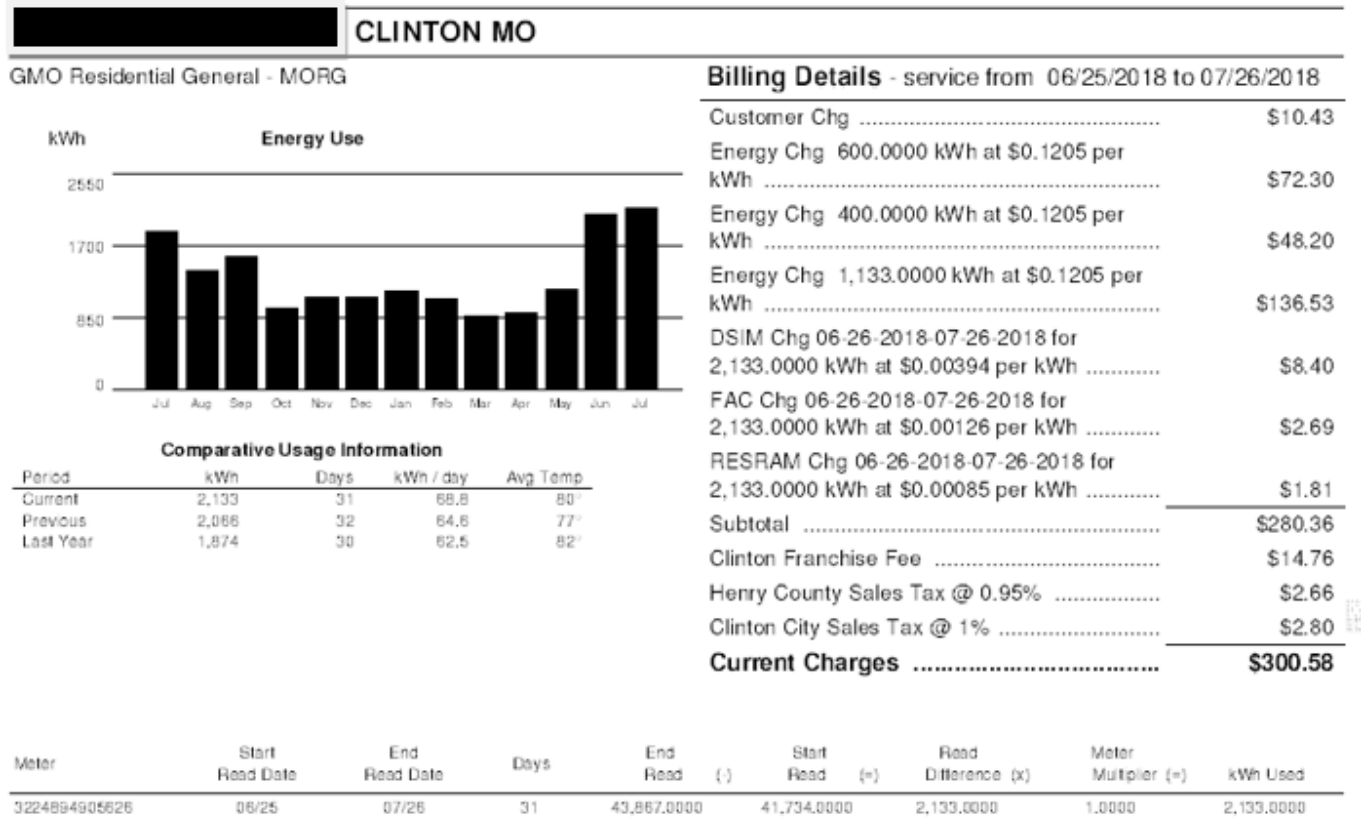


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Q. What should the Commission note from the KCPL bill?

A. That a customer would need to be fairly knowledgeable about both energy metrics and regulatory acronyms to understand what they are being charged let alone why they are being charged that amount.

1 Figure 6: GMO residential billing details



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3 **Q. What should the Commission note from the GMO bill?**

4 A. The same problems. Additionally, astute customers might question why their energy charge is
 5 broken out three separate times but charged the same kWh rate.

6 **Q. Do you have any examples of “budget billing” customer bills?**

7 A. No. The timing of this episode did not allow for enough time to submit discovery.

8 **Q. How has KCPL/GMO compared to its peers regarding billing practices?**

9 A. According to J.D. Power’s 2018 Electric Utility Residential Customer Satisfaction Study
 10 results,**

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OPC cautions against reading too much into the J.D. Power scores, that being said, the results combined with the express outrage over the Company’s new billing system should give the Commission pause and definitely call into question how “positive” the customer experience is for a KCPL/GMO ratepayer.

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1 **Q. Does OPC have any final comments regarding the combined One CIS testimony?**

2 A. Yes. To summarize, OPC believes that KCPL/GMO have dismissed OPC's data privacy and
3 consumer protection concerns out-of-hand, and have not fully considered the liability that is at
4 risk for its customers and shareholders. The Company had spent a considerable amount of
5 money to aggressively deploy AMI hardware in 2014 through 2016, then, the deployment
6 seemingly stopped for two years. Now, full deployment of AMI is not expected until 2020.

7 There has been zero customer education regarding TOU rates despite nine studies to date on
8 the topic. Contrary to assertions made to the Commission in the last GMO rate case,
9 stakeholders have not been working with the Company to plan and implement TOU rates.
10 Instead, talks have just now begun.

11 Customers are frustrated, confused and demanding answers. The Company's new One CIS
12 billing system has produced poor results to date, necessitating a public apology, a temporary
13 change in billing practices, and a commitment to make sure customers understand their bill
14 (although what that means is less clear).

15 More than four years ago, KCPL/GMO management saw the need and opportunity to
16 implement a new customer experience with TOU pricing. To accomplish the objective of a
17 fully operational system they needed to simultaneously deploy hardware (AMI) implement
18 software (One CIS and CCB) and roll out customer marketing and education. This didn't
19 happen. AMI was deployed aggressively and then abruptly halted. Software missed operational
20 date targets and experienced functional limitations. And no customer marketing and education
21 has occurred to date. The system is not fully operational and yet KCPL/GMO seek to be
22 rewarded as if it were so.

23 As such, OPC has two recommendations. First, the AMI/CCB/One CIS's primary value
24 proposition is predicated on TOU rates, which must be married to proper customer education.
25 The Company has failed to plan and implement these components and therefore must be
26 considered unjust and unreasonable as it is not fully operational under §393.135. This is an
27 amended position from OPC's rebuttal testimony in which OPC recommended a disallowance

1 of five years of depreciation expense for KCPL/GMO's One CIS system on a Missouri-
2 jurisdictional basis. The disallowance is now OPC's secondary recommendation on how to
3 treat these costs. The second recommendation is for the Commission to recognize the
4 aforementioned issues expressed above in setting the Companies ROE.

5 **Q. Does that conclude your testimony?**

6 A. Yes.