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Witness: Michael L. Brosch
Type of Exhibit: Direct Testimony
Sponsoring Party: Midwest Energy Consumer's Group
Case Nos.: ER-2018-0145 / ER-2018-0146
Date Testimony Prepared: September 4, 2018

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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Missouri Public
Service Commission

In the Matter of Kansas City Power & Light)
Company's Request for Authority to)
Implement a General Rate Increase for)
Electric Service.)

Case No. ER-2018-0145

In the Matter of KCP&L Greater Missouri)
Operations Company's Request for)
Authority to Implement a General Rate)
Increase for Electric Service)

Case No. ER-2018-0146

Surrebuttal Testimony and Schedules of

Michael L. Brosch

Revenue Requirement

On behalf of

Midwest Energy Consumers' Group

September 4, 2018

M ECG Exhibit No. 501
Date 9-25-18 Reporter JT
File No. ER-2018-0145 + 0146

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Kansas City Power & Light)
Company's Request for Authority to) Case No. ER-2018-0145
Implement a General Rate Increase for)
Electric Service.)

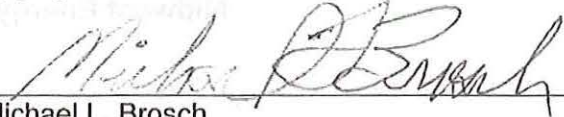
In the Matter of KCP&L Greater Missouri)
Operations Company's Request for) Case No. ER-2018-0146
Authority to Implement a General Rate)
Increase for Electric Service)

STATE OF KANSAS)
COUNTY OF JOHNSON) SS

Affidavit of Michael L. Brosch


Michael L. Brosch, being first duly sworn, on his oath states:

1. My name is Michael L. Brosch. I am President of Utilitech, Inc., having its principal place of business at PO Box 481934, Kansas City, Missouri 64148. We have been retained by the Midwest Energy Consumer's Group in this proceeding on their behalf.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony and schedules which were prepared in written form for introduction into evidence in Missouri Public Service Commission Case Nos. ER-2018-0145 and ER-2018-0146.
3. I hereby swear and affirm that the testimony and schedules are true and correct and that they show the matters and things that they purport to show.


Michael L. Brosch

Subscribed and sworn to before me this 4th day of September 2018.

RONALD FORTUNE
Notary Public - State of Kansas
My Commission Expires 3/23/2022


Notary Public

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In the Matter of Kansas City Power & Light)
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Increase for Electric Service) Case No. ER-2018-0146

Surrebuttal Testimony of Michael L. Brosch

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A My name is Michael L. Brosch. My business address is PO Box 481934, Kansas City,
3 Missouri 64148.

4 Q ARE YOU THE SAME MICHAEL L. BROSCH WHO SUBMITTED DIRECT
5 TESTIMONY ON BEHALF OF THE MIDWEST ENERGY CONSUMER'S GROUP
6 ("MECG") ADDRESSING REVENUE REQUIREMENT ISSUES ON JUNE 9, 2018 IN
7 THIS PROCEEDING?

8 A Yes. My experience and qualifications were explained in my previously-filed revenue
9 requirement testimony and the attached Appendix A.

10 Q WHAT IS THE PURPOSE OF YOUR SURREBUTTAL TESTIMONY?

11 A My surrebuttal testimony is responsive to the Rebuttal Testimony of KCPL / GMO
12 witnesses Messrs. Ives, Klote, Lutz and Ms. Hardesty on the income tax topics that
13 were addressed in my direct testimony. Specifically, in this testimony I will respond to

1 issues surrounding: (1) the Tax Cuts and Jobs Act ("Tax Act" or "TCJA") effect upon
2 revenue requirements; (2) the treatment of the "stub period" from January 1, 2018 to
3 the effective date of new base rates in this case and (3) the appropriate amortization
4 period the Commission should approve, in its discretion, for the return to ratepayers of
5 the utilities' excess Accumulated Deferred Income Taxes ("Excess ADIT" or "EDIT").
6

7 **EXECUTIVE SUMMARY**

8 **Q PLEASE SUMMARIZE YOUR SURREBUTTAL TESTIMONY.**

9 **A** My surrebuttal testimony responds to KCPL / GMO witnesses who address Tax Act
10 issues, including the quantification and treatment of stub period tax savings occurring in
11 2018 before rates can be changed and the amortization periods that should be
12 authorized for the Companies' Excess ADIT balances. I explain that Tax Act savings
13 are an extraordinary event meriting special regulatory treatment. Based upon this, I
14 continue to support quantification of stub period Tax Act benefits using Commission-
15 approved levels of taxable income at present rate levels, then adding a full year of EDIT
16 amortization. The total stub period benefits should then be returned to customers
17 through a one-time bill credit in a manner similar to the recent merger bill credits.

18 Regarding the amortization of Excess ADIT balances, I agree with KCPL / GMO
19 witness Ms. Hardesty that the Commission has discretion over the amortization periods
20 to be used for all EDIT balances that are not required to be slowly amortized using
21 Average Rate Assumption Method ("ARAM") pursuant to tax code restrictions.
22 Included in this is my recommendation that, given the linkage between KCPL / GMO's
23 tax losses and its bonus/accelerated tax deferred taxes, the Commission determine
24 that the Company's Net Operating Loss deficit deferred taxes be amortized over the
25 same ARAM period required to be used for the Company's large depreciation related

1 EDIT balances. For other plant-related EDIT that are not required to employ ARAM, I
2 recommend a ten-year amortization period, which corresponds with Staff's
3 recommendation and with the period now being employed by Ameren Missouri for such
4 EDIT, pursuant to stipulation. Finally, for the Company's non-plant-related EDIT, I
5 recommend a five-year amortization period. These are the same recommendations I
6 explained within my direct testimony, for all the reasons stated there and herein.

7
8 **THE TAX ACT IS EXTRAORDINARY.**

9 **Q ACCORDING TO MR. IVES, "...LIKE OTHER ANNUAL PAYMENTS FOR**
10 **TRANSMISSION FEES AND PROPERTY TAXES THAT CAN VARY FROM**
11 **YEAR TO YEAR, THE PAYMENT OF INCOME TAXES IS A NORMAL**
12 **EXPENSE INCURRED BY THE COMPANY." HE THEN ARGUES THAT**
13 **THE "WINDFALL OF EXPENSE SAVINGS" YOU REFERENCED IN YOUR**
14 **DIRECT TESTIMONY, "DOES NOT MEAN THAT THE TAX LAW CHANGES**
15 **ARE AN EXTRAORDINARY EVENT."¹ HOW DO YOU RESPOND?**

16 **A** I do not agree. Tax Act impacts upon utility revenue requirement is clearly an
17 extraordinary event. Mr. Ives' effort to downplay the extraordinary nature of the
18 changes caused by the December 2017 Tax Cuts and Jobs Act ("TCJA") should not be
19 accepted by the Commission. It would be highly inappropriate and completely unfair to
20 ratepayers for the Commission to conclude, as Mr. Ives urges, that "any consideration
21 of the impact of the TCJA from January 1, 2018 to the effective date of rate from this
22 case must be evaluated with the consideration of all other relevant factors impacting
23 the Company's cost to serve its customers during the same period."²

¹ Rebuttal Testimony of Darren Ives at page 14, lines 8-21.

² Id. page 15, lines 4-10.

1 Major federal tax law changes do not occur annually and are truly extraordinary
2 in nature. The benefits of the Tax Act commencing January 1, 2018 should not be
3 diluted by offsets for "other relevant factors" the Company would like to claim, in an
4 effort to keep some / all of the Tax Act benefits for its shareholders, rather than
5 providing them to customers.

6
7 **Q HAS THE COMMISSION RECENTLY ADDRESSED WHETHER THE IMPACTS OF**
8 **THE TAX ACT WERE EXTRAORDINARY?**

9 **A** Yes. In its recent decision in Case No. ER-2018-0366, the Commission considered the
10 return of benefits associated with the Tax Act for Empire District Electric. In that case,
11 contrary to KCPL's current assertions, witnesses for Staff, Public Counsel and the utility
12 all agreed that the effects of the Tax Act were extraordinary. The Commission
13 specifically recognized this fact. "Witnesses for Empire, Staff, and Public Counsel all
14 agree the passage of the federal tax cut act meets the Commission's standards for
15 issuance of an accounting authority order in that it is unusual, unique, non-recurring
16 and material." (Report and Order, Case No. ER-2018-0366, page 18). Based upon
17 this, the Commission held that it had authority to require the deferral of tax benefits
18 even absent Senate Bill 564, stating, "Even if it is found that section 393.137.4 does not
19 apply to Empire, it would still be appropriate for the Commission to exercise its authority
20 to order Empire to establish an accounting authority order to account for its excess
21 ADIT." (*Id.* at page 20). Similarly, the Commission held that it would be appropriate,
22 even absent Senate Bill 564, to issue an AAO for return of Tax Act benefits for the stub
23 period, stating, "Even if section 393.137.3 does not apply to Empire, it would still be
24 appropriate for the Commission to exercise its authority to order Empire to establish an
25 AAO for that period."

1 Q MR. IVES CONTENDS THAT “A CHANGE IN FEDERAL TAX RATES IS NO MORE
2 EXTRAORDINARY THAN A CHANGE IN PROPERTY TAX RATES” AND “THE
3 COMMISSION SHOULD NOT FIND THE IMPACT OF THE TCJA TO BE
4 EXTRAORDINARY.”³ HOW OFTEN AND SIGNIFICANTLY HAVE FEDERAL
5 CORPORATE TAX RATES CHANGED HISTORICALLY?

6 A The last time the federal corporate tax rate was changed was in 1993, about 25 years
7 ago, when the top rate was increased by one percent, from 34 percent to 35 percent.⁴

8 In contrast, the December 2017 Tax Act reduced the top corporate rate much more
9 dramatically, from 35 percent to 21 percent; which is a 40 percent reduction in the rate
10 of corporate taxation. The importance of the Tax Act to utility revenue requirements
11 has caused the Missouri Legislature and other state regulators to take extraordinary
12 action to ensure that utility customers will not be denied the tax rate savings, as
13 referenced in my direct testimony.⁵ In contrast, KCPL and GMO property tax expenses
14 tend to change only gradually from year to year, and clearly do not fluctuate by 40
15 percent in a single year as suggested by Mr. Ives.

16
17 Q MR. KLOTE STATES THAT THE COMPANY HAS “FULLY REFLECTED THE
18 IMPACT OF THE TCJA IN ITS REVENUE REQUIREMENT CALCULATION” AND IS
19 REDUCING THE PROSPECTIVE REVENUE REQUIREMENT BEING REQUESTED
20 BY \$38.4 MILLION AND \$29.1 MILLION FOR KCPL-MO AND GMO,
21 RESPECTIVELY.⁶ ARE THESE AMOUNTS EVIDENCE OF THE EXTRAORDINARY
22 NATURE OF THE TAX ACT?

³ Id.

⁴ See historical rate tables available at: <https://www.irs.gov/pub/irs-soi/histabb.xls>

⁵ Direct Testimony of Michael Brosch at pages 22-24.

⁶ Rebuttal Testimony of Ronald Klote at page 15, line 7. Amounts remain subject to true-up revision.

1 A Yes. For example, using Mr. Ives' comparison to property taxes, these single-year
2 income tax savings quantified by Mr. Klote represent more than half of the entire
3 amount of annual KCPL-MO and GMO property tax expense incurred in the test year,
4 in the amounts of \$57.4 million and \$43.2 million, respectively.⁷ The Companies' Tax
5 Act savings are highly significant benefits and are even larger when properly adjusted
6 to reflect more reasonable amortization periods for the excess Accumulated Deferred
7 Income Tax ("ADIT") balances that must be returned to ratepayers, as explained in my
8 direct testimony.⁸

9

10

STUB PERIOD BENEFITS.

11

Q DO THE TAX ACT SAVINGS AMOUNTS THE COMPANY HAS "FULLY REFLECTED" IN THE KCPL-MO AND GMO REVENUE REQUIREMENT INCLUDE ANY ACCOUNTING FOR THE STUB PERIOD TAX ACT BENEFITS THAT COMMENCED ON JANUARY 1, 2018?

12

13

14

15

A No. The amounts cited by Mr. Klote only include the prospective Tax Act benefits that ratepayers would only begin to receive when new base rates in these pending rate cases become effective. The additional stub period benefits of the Tax Act, calculated back to January of 2018, must also be quantified and separately passed to ratepayers, either through one-time bill credits or through prospective amortization as a reduction to the approved revenue requirement.

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⁷ Taken from the Schedule 9 Income Statement tab of KCPL and GMO direct testimony revenue requirement models at Account 408.12x.

⁸ Direct Testimony of Michael Brosch, pages 8-20.

1 Q GIVEN THE EXTRAORDINARY NATURE OF THE TAX ACT BENEFITS
2 COMMENCING IN JANUARY OF 2018, SHOULD THERE BE ANY REDUCTION FOR
3 "OFFSETS" THAT MAY BE ASSERTED BY THE COMPANY IN AN EFFORT TO
4 RETAIN SOME OF THESE BENEFITS FOR SHAREHOLDERS?

5 A. No. Simply because the Tax Act is extraordinary does not make all of KCPL's
6 proposed offsets also extraordinary. Effectively, KCPL / GMO want to bootstrap their
7 proposed offsets to the Tax Act and, by doing so, make them all extraordinary. In
8 previous cases, the Commission has held that transmission costs, property taxes and
9 cyber-security costs are ordinary, day to day expenses that are not worthy of deferral
10 treatment. As such, these day to day changes in expenses should not be included as
11 an offset to the return of the TCJA benefits. In my opinion, the return of Tax Act
12 benefits to ratepayers for the stub period should not be conditioned upon the extent to
13 which the Company has under-earned or may be able to identify other isolated costs
14 that have increased. Such calculations for alleged "offsets" is inherently judgmental
15 and controversial and would be unfair to ratepayers who should be credited with the full
16 amount of savings realized by the Company as a result of the major change in tax laws
17 embodied in the Tax Act. Bottom line, the entirety of the stub period benefits for
18 Ameren and Empire were returned to ratepayers. It is fundamentally unfair for KCPL
19 and GMO ratepayers not to receive the same treatment.

20

21 Q HOW HAVE THE BENEFITS OF THE TAX ACT BEEN QUANTIFIED FOR AMEREN
22 AND EMPIRE?

23 A It is my understanding that the benefits associated with the Tax Act for calculating both
24 the prospective change in rates as well as the quantification of stub period benefits for
25 Ameren and Empire was done by looking at the Commission's order, and the
26 corresponding Staff EMS run, from the last rate cases for each company and

1 substituting a 21% federal corporate tax rate instead of then-applicable 35% corporate
2 tax rate. This approach is reasonable for both Ameren and Empire since, unlike KCPL
3 and GMO, neither company had a pending rate case.
4

5 **Q ARE YOU PROPOSING A SIMILAR APPROACH FOR KCPL AND GMO?**

6 **A** It is important to recognize that, as a result of their pending rate cases, KCPL and GMO
7 are in a different position than Ameren and Empire. Specifically, it is not necessary to
8 look at the previous rate case in order to quantify the prospective impact of the federal
9 tax change. That prospective change will be accomplished through this rate case. As
10 such, the outstanding issue is how to quantify the stub period benefits. In this light, the
11 use of the Commission's order, and the underlying Staff EMS run from the previous
12 rate case, may be a reasonable method for calculating stub period benefits.

13 In my direct testimony, however, I present another alternative. Specifically,
14 since KCPL and GMO's earnings will be audited in this case for a more recent period
15 than the test year in the last rate case, I proposed that the Commission quantify the
16 stub period benefits utilizing the Commission's determination of KCPL and GMO
17 earnings as reflected in the Commission's order deciding this case. I recommend that
18 the final, Commission-approved revenue requirement calculations in the pending rate
19 cases be used to quantify the level of pretax operating income and taxable income, at
20 presently effective rate levels, so as to quantify the annual stub period value of the tax
21 rate change.

22 The benefits of the Tax Act corporate tax rate reduction from 35 to 21 percent
23 are dependent upon a determination of the level of taxable income to be used in
24 quantifying the impact of this tax rate change. In my direct testimony, I recommended
25 use of commission-approved true-up levels of rate base, expenses and revenues at
26 present rate levels (before any rate increase) to determine taxable income and the

1 resulting stub period annual benefit of the tax rate change.⁹ This approach fully
2 updates the Company's costs and sales volumes to June 30, 2018, the approximate
3 mid-point of the stub period. My recommended approach should fully account for all
4 other considerations impacting the Company's earnings at present rate levels. Use of
5 commission approved amortization periods for the return of excess ADIT balances, as
6 an addition to tax rate change savings, will ensure that customers and the Company
7 are equitably treated within stub period calculations. Recognizing that the true-up
8 calculation of earnings have not yet been completed in this case, it is uncertain which
9 method will be more beneficial to ratepayers (i.e., lead to a higher level of stub period
10 benefits). Nevertheless, I maintain that, even absent the quantification of benefits
11 under either of those approaches, my approach using the approved amounts in this
12 rate case is reasonable.

13

14 **Q WHAT IS THE NATURE OF THE DIFFERENCE BETWEEN YOUR APPROACH AND**
15 **THAT OFFERED BY KCPL AND GMO?**

16 **A** Under my approach, all quantified stub period benefits would be returned to customers.
17 In its rebuttal testimony, however, KCPL and GMO argue that, instead of returning all
18 stub period benefits to the ratepayers, these benefits should first be used to remedy its
19 claimed under-earnings for 2018. Only to the extent that there are benefits over and
20 above KCPL and GMO's claimed level of under-earnings will these benefits be returned
21 to ratepayers.

22

23 **Q HOW DOES THE STUB PERIOD TAX ACT QUANTIFICATION APPROACH YOU**
24 **DESCRIBED, ASSUMING OFFSETS MUST BE RECOGNIZED, COMPARE TO THE**
25 **COMPANY'S PROPOSAL?**

⁹ Id. page 26.

1 A KCPL / GMO's approach is much more convoluted than my straight-forward approach.
2 Mr. Klote describes "three factors that need to be considered when determining the
3 impact of the Stub period on customers rates" and then explains the calculations he
4 recommends in each step. I will explain the problems with the Company's
5 recommendations and how the problems should be addressed in the following
6 testimony, for each of the three steps suggested by Mr. Klote.

7

8 **Q WHAT HAPPENS IN STEP 1 OF MR. KLOTE'S RECOMMENDED ACCOUNTING**
9 **FOR STUB PERIOD TAX ACT BENEFITS?**

10 A In his Step 1, Mr. Klote would look back to the "revenue requirement models developed
11 in the last rate case for both KCP&L-MO and GMO" and would recalculate tax expense
12 "at the 35% rate and the new TCJA federal rate of 21%" calling the calculated
13 difference the "impact of the federal tax rate change." To this difference attributable to
14 the tax rate change, Mr. Klote would add, "...the amortization of any excess deferred
15 amortizations that have actually occurred on the books of KCP&L-MO and GMO from
16 January 1, 2018 through June 30, 2018."¹⁰

17

18 **Q WHAT DO THE REVENUE REQUIREMENT MODELS FROM THE PRIOR RATE**
19 **CASES OF EACH UTILITY TELL US ABOUT THE COMPANY'S ACTUAL TAXABLE**
20 **INCOME AND SAVINGS FROM TAX ACT RATE REDUCTIONS IN 2018?**

21 A Nothing. As I noted in my direct testimony, the previous rate case amounts are not
22 reflective of current levels of taxable income and contain no information about the
23 Companies' current revenues or its current costs to provide service.¹¹ All of the inputs
24 that were used to calculate test year revenues, expenses and rate base back in 2016

¹⁰ Rebuttal Testimony of Ronald Klote, pages 16-17.

¹¹ Direct Testimony of Michael Brosch, page 31.

1 will have changed by 2018. The Company has likely experienced some amount of
2 sales and revenue growth since 2016 that will have increased taxable income.¹²
3 Operating expenses are undoubtedly different in 2018 than in the previous rate case
4 test years; along with depreciation, amortization, taxes other than income taxes and
5 tax-deductible interest expenses may have changed significantly. If Mr. Klote intends
6 to blindly assume these old test year calculations are useful in determining stub period
7 savings in 2018, he should stop his calculations at Step 1 and not seek to selectively
8 subtract "offsets" for changes in certain costs or for estimated under-earnings amounts
9 believed to be occurring this year. Either the prior rate case test year data is a reliable
10 estimate of Tax Act savings from the tax rate reduction or not, but to start with this older
11 data and then subtract for piecemeal changes in later periods will guarantee
12 understatement of stub period benefits.

13

14 **Q. IS MR. KLOTE'S PROPOSAL TO RECOGNIZE AND ADD, "THE AMORTIZATION**
15 **OF ANY EXCESS DEFERRED AMORTIZATIONS THAT HAVE ACTUALLY**
16 **OCCURRED ON THE BOOKS OF KCP&L-MO AND GMO FROM JANUARY 1, 2018**
17 **THROUGH JUNE 30, 2018"¹³ REASONABLE?**

18 **A** No. New base rates will begin to reflect Tax Act benefits only prospectively, but these
19 new rates will not be effective until late in December of 2018. Stopping Excess ADIT
20 amortizations at the June 30 mid-point of the year will effectively cut in half the annual
21 value of such amortizations to ratepayers, which is patently unfair to ratepayers, who
22 should receive a full return of all of the excess ADIT balances collected from them in
23 years prior to 2018. These amortizations should be annualized to reflect a full 12

¹² For example, the Company's confidential response to data request MECG 1-12 included monthly financial analysis data depicting small positive percentage growth in KCP&L and GMO KWH sales on both an actual and weather normalized basis for the 12 months ending April 30, 2018.

¹³ Rebuttal Testimony of Ronald Klote, page 17.

1 months of benefits rather than letting the Company retain half of 2018 amortization
2 amounts for the benefit of shareholders, who did nothing to fund the excess ADIT
3 balances resulting from the Tax Act.

4

5 **Q WHAT DOES MR. KLOTE PROPOSE FOR STEP 2 OF THE COMPANY'S STUB**
6 **PERIOD TAX ACT BENEFITS CALCULATION?**

7 **A** He states that:

8 The Company is requesting the Commission review all costs before
9 determining the amount of Stub period TCJA benefits to return to
10 customers. For Step 2, the Company is requesting the current revenue
11 requirement calculation which will be trued-up through June 30, 2018 be
12 used to examine any underearnings position of the Company during
13 2018. The value of using the revenue requirement that is trued-up
14 through June 30, 2018 is it provides a good midpoint approximation of the
15 current earnings position of the Company during 2018. Any
16 underearnings position of the Company should be used to offset the
17 amount of tax benefits calculated in Step 1 above. The net amount of
18 Step 1 and Step 2 should be used as the amount to be returned to
19 customers.
20

21 Aside from this suggested "underearnings" examination, Mr. Klote claims that the
22 Company would also need to make adjustments to recognize the lower ROE "the
23 Company had the ability to earn in 2018" and that an additional adjustment for "Staff
24 and OPC's cessation of the \$7.2 million amortization discussed earlier in his testimony"
25 may be required.¹⁴

26

27 **Q HAS MR. KLOTE PROVIDED ANY CALCULATIONS OR SUPPORTING DATA IN**
28 **HIS REBUTTAL TO ILLUSTRATE, EXPLAIN OR QUANTIFY THE STEP 2**
29 **EARNINGS REVIEW AND OTHER ADJUSTMENTS HE IS PROPOSING?**

30 **A** No. In his rebuttal, Mr. Klote states, "At the Company's Direct True-up filing, the
31 Company will include its calculation of the Stub period amount that should be returned

¹⁴ Id. page 18.

1 to customers.”¹⁵ In MCEG Data Request 11-4, the Company was asked to, “explain and
2 provide illustrative calculations showing exactly how the ‘current revenue requirement
3 calculation’ will be used to identify and quantify each ‘offset’ for consideration of ‘all
4 costs”. In its response the Company provided no explanations or calculations, instead
5 stating, “An illustrative calculation will be provided in the Company’s Direct True-Up
6 Testimony.” This response further stated, “The process and timeline will be provided in
7 the Company’s Direct True-Up Testimony. The company will also provide the Stub
8 period model with offsets based on the company’s True-Up model in this case but the
9 offsets will ultimately be determined by the Commission approved values.” A complete
10 copy of data request MCEG 11-4 and the Company’s response is contained within
11 Schedule MLB-6.

12 Without explanatory narratives and calculations for Mr. Klote’s proposed
13 approach, it is impossible to fully understand, review or comment upon the mechanics
14 of the Step 2 procedures being recommended by Mr. Klote at this time. Apparently, it
15 will be necessary for MCEG to submit additional true-up rebuttal testimony to address
16 computation issues at a later date.

17

18 **Q DO YOU AGREE WITH MR. KLOTE THAT THE COMMISSION SHOULD REVIEW**
19 **ALL COSTS BEFORE DETERMINING THE AMOUNT OF STUB PERIOD TCJA**
20 **BENEFITS TO RETURN TO CUSTOMERS?¹⁶**

21 **A** Not in the manner proposed by Mr. Klote. As noted previously, the Tax Act and the
22 large tax rate reduction it creates is an extraordinary event that merits separate
23 accounting and return to customers without any offsets. However, if any “offsets” are
24 considered by the Commission, they should be considered in a balanced manner that

¹⁵ Id. page 18.

¹⁶ Id. page 17.

1 looks not only at "costs" that may have changed, but also at any increases in revenues
2 and changes in the Company's required rate of return. An alternative approach to
3 quantification of stub period benefits was described in my direct testimony; an approach
4 that implicitly accounts for updated, ongoing levels of test year revenues and expenses
5 with no dependence upon obsolete prior rate case inputs and no need for selective use
6 of adjustments or analysis of "underearnings." My recommended approach would
7 incorporate the Commission's resolution of all disputed revenue requirement issues in
8 the pending rate cases to determine taxable income levels to be used to derive the
9 annual value of lower federal income tax rates, as well as the Commission's
10 prescription of an appropriate amortization period for excess ADIT amounts, which
11 would be combined to determine the annual stub period Tax Act value to be returned to
12 customers.¹⁷

13

14 **Q ARE YOU AWARE OF HOW STUB PERIOD BENEFITS FOR KCPL'S KANSAS**
15 **OPERATIONS AND ITS NEW AFFILIATE WESTAR ARE BEING HANDLED IN**
16 **KANSAS?**

17 **A** It is my understanding that the entirety of the stub period benefits were deferred by
18 KCPL Kansas and Westar for return to customers without any offsets designed to
19 reflect alleged under-earnings. The methodology proposed by KCPL in Missouri is
20 dramatically different than that agreed to in Kansas.

21

22

23

¹⁷ Direct Testimony of Michael L Brosch, pages 26-27, as illustrated in Schedule MLB-4. The amounts properly used for to determine stub-period taxable income would be prior to any rate change authorized by the Commission, so as to implicitly account for changes in sales and revenues at present rate levels as well as changes in ongoing expense levels.

1 Q WHAT IS STEP 3 OF MR. KLOTE'S TAX ACT STUB PERIOD PROPOSAL?

2 A In final Step 3, the Company would return the quantified stub period Tax Act benefit, to
3 the extent that any remain after compensating the Companies for any alleged under-
4 earnings in 2018, as a one-time bill credit, provided to customers as soon as practical
5 at the conclusion of the rate case.¹⁸

6

7 Q DOES MECG SUPPORT THE USE OF ONE-TIME BILL CREDITS?

8 A Yes. I mentioned one-time bill credits as an acceptable alternative to more quickly
9 return the 2018 Tax Act stub period savings to customers in my direct testimony.¹⁹

10

11 **EXCESS DEFERRED TAX AMORTIZATION.**

12 Q PLEASE DESCRIBE YOUR POSITION IN DIRECT TESTIMONY REGARDING THE
13 AMORTIZATION OF EXCESS ACCUMULATED DEFERRED INCOME TAXES?

14 A As described in my direct testimony, excess ADIT balances can be separated into 4
15 different buckets: (1) code-restricted plant-related ADIT. This category of excess ADIT
16 is often referred to as protected ADIT; (2) non-restricted plant-related ADIT; (3) other
17 book / tax differences; and (4) net operating loss deferred taxes. In my direct
18 testimony, I point out that the Commission is required to use the Average Rate
19 Assumption Method (ARAM) for the amortization and return of code-restricted plant-
20 related ADIT to customers. Importantly, however, the Commission is not required to
21 use ARAM for any of the other categories of excess ADIT. Instead, the amortization
22 and return of these other categories of excess ADIT are entirely within the
23 Commission's discretion. In my direct testimony, I recommend that the Commission
24 utilize a 10-year amortization period for the return of non-code restricted plant-related

¹⁸ Rebuttal Testimony of Ronald Klote, page 19, line 10.

¹⁹ Direct Testimony of Michael Brosch, page 28.

1 excess ADIT. For excess ADIT associated with other book / tax timing differences that
2 are not plant-related, I recommend an amortization period of five years. Finally, for net
3 operating losses, I argue that, since these negative excess ADIT balances are related
4 to tax losses caused by bonus and accelerated depreciation, they should use the same
5 ARAM amortization period as the code-restricted plant-related excess ADIT.

6
7 **Q HOW DID THE COMPANY RESPOND TO YOUR PROPOSALS?**

8 **A** KCPL / GMO witness Ms. Hardesty has not changed any of the Company's initial
9 proposals. In her rebuttal, Ms. Hardesty is requesting that an extremely long IRS-
10 required ARAM method of amortization be applied not only to accelerated depreciation-
11 related EDIT that is "protected under the IRS's normalization rules,"²⁰ but also to "book
12 to tax basis differences for fixed assets" even though this second category is not
13 subject to the same IRS normalization restrictions requiring such extended
14 amortization. Then, for the third category of EDIT associated with miscellaneous
15 book/tax timing differences that are not related to fixed assets, a ten-year EDIT
16 amortization period is proposed by the Company.²¹ Finally, in the fourth category that
17 represents negative EDIT arising from the Company's accumulated Net Operating Loss
18 ("NOL") deferred tax asset, Ms. Hardesty continues to advocate an accelerated
19 amortization charge to ratepayers over only five years because the Company estimates
20 it will "be able to use all of our NOLs to offset tax liabilities in the next five years."²² The
21 following table summarizes the amortization periods being recommended by the
22 Companies, compared to MECG's recommendations:

23
24

²⁰ Rebuttal Testimony of Melissa Hardesty, page 4.

²¹ Id. page 5.

²² Id. page 8.

1

<u>ADIT Category</u>	<u>Status</u>	<u>Company</u>	<u>MECG</u>
Depreciation - IRS Protected	Excess	ARAM	ARAM
Book/Tax Basis Differences	Excess	ARAM	10 Years
Miscellaneous Book/Tax Differences	Excess	10 Years	5 Years
Net Operating Loss Carryforwards	Deficit	5 Years	ARAM

2

3 **Q DO YOU AGREE WITH ANY OF MS. HARDESTY'S CONCLUSIONS AND**
 4 **RECOMMENDATIONS REGARDING EDIT AND THE AMORTIZATION PERIODS**
 5 **THAT SHOULD BE APPROVED BY THE COMMISSION?**

6 A. Yes, in part. I agree with Ms. Hardesty's conclusion that the Commission "may allow
 7 any amortization method or period it deems appropriate for the unprotected Book/Tax
 8 Basis Differences EDIT and the Miscellaneous Book/Tax Differences EDIT"
 9 categories"²³ which includes the second and third lines in the table above. Certainly, the
 10 Commission has complete discretion over amortization periods for all but the "IRS
 11 Protected" accelerated depreciation category of EDIT.

12 In my view, the Commission should use its discretion to quickly return EDIT
 13 credit balances to ratepayers, to improve the chances that the customers who paid
 14 such EDIT amounts to the Company in years prior to 2018 receive the majority of such
 15 credits, while matching the Net Operating Loss Carryforward debit amounts to the
 16 Depreciation-IRS Protected category of EDIT that caused the prior tax losses to be
 17 incurred. Indeed, MECG is recommending the Commission apply its discretion and
 18 approve more rapid amortization periods than are proposed by the Company in both of
 19 the unrestricted credit EDIT categories where the Company is advocating unreasonable
 20 delay in returning such credit balances to ratepayers. I also agree with Ms. Hardesty's
 21 assertion that the IRS's normalization rules require the use of the average rate

²³ Id. page 5.

1 assumption method ("ARAM") for the amortization of EDIT that is "protected" under
2 such rules, shown in the top line of the table above, but I do not agree with her proposal
3 to expand the IRS ARAM method restrictions to the "unprotected" category of book/tax
4 basis differences EDIT on the second line of my table.

5 Mr. Hardesty has also acknowledged her agreement with me that the
6 Companies' deficit deferred tax balances for Net Operating Losses that require
7 amortization charges (rather than credits) to ratepayers "were generated by tax
8 deductions such as bonus depreciation and other accelerated tax depreciation
9 deductions."²⁴ Her agreement on this point is supportive of MCEG's recommendation
10 to "match" the amortization period approved for the NOL deferred tax deficiencies with
11 the corresponding bonus/accelerated depreciation excess deferred tax balances that
12 would be only slowly credited to ratepayers because of the ARAM restrictions.

13
14 **Q ARE THE IRS RESTRICTIONS THAT "PROTECT" THE LARGEST EDIT BALANCES**
15 **AND REQUIRE THEM TO BE RETURNED VERY SLOWLY TO RATEPAYERS**
16 **DESIGNED TO BENEFIT CUSTOMERS?**

17 **A** No. The tax code normalization restrictions were installed many years ago, for the
18 primary benefit of utility shareholders, in an effort to prevent regulators from rapidly
19 flowing through the tax savings resulting from accelerated depreciation for the benefit of
20 utility customers. More recently, the Edison Electric Institute ("EEI") has advocated for
21 tax reform policies that continue to restrict the ability of regulators to rapidly return EDIT
22 amounts previously collected from ratepayers. The messaging still available on EEI's
23 web site describes the industry's desire to retain "protection" for EDIT indicated by the
24 statement that EEI supports "Pro-growth tax reform" that:

²⁴ Id. page 8.

1 CONTINUES NORMALIZATION AND ADDRESSES EXCESS
2 DEFERRED TAXES to avoid volatility in customer rates by matching the
3 benefits and costs of tax reform.²⁵
4

5 The electric utility industry was successful on this point, since the Tax Act preserved
6 the industry's desired "protection" for the largest category of EDIT that relates to
7 accelerated and bonus depreciation deductions taken over many prior tax years.²⁶ As
8 explained in my direct testimony, the ARAM restriction ties the Commission's hands
9 with regard to the timing of the return to ratepayers of largest category of depreciation-
10 related EDIT amounts, but no such restriction applies to the smaller categories of EDIT
11 and the balances in these other categories should be returned more quickly to the
12 customers who funded such balances.²⁷ Bottom line, while the utilities were successful
13 in delaying the return of code-restricted excess ADIT, the Commission should not allow
14 them to also delay the return of other deferred tax balances.

15

16 **Q ACCORDING TO MS. HARDESTY, "THE COMPANY BELIEVES THAT THE**
17 **UNPROTECTED PLANT EDIT IS NO DIFFERENT THAN THE PROTECTED EDIT**
18 **UNDER THE IRS'S NORMALIZATION RULES AND ARAM WOULD BE THE MOST**
19 **ACCURATE METHOD TO ESTIMATE HOW THE DEFERRED TAXES WOULD HAVE**
20 **REVERSED IF THE TAX RATE HAD NOT OCCURRED."²⁸ WHY IS IT BENEFICIAL**
21 **TO KCPL / GMO TO DELAY THE RETURN OF EDIT TO RATEPAYERS WHO**
22 **FUNDED SUCH BALANCES BY APPLYING ARAM BEYOND WHERE IT IS**
23 **REQUIRED?**

24 **A** Utility cash flow metrics are improved when EDIT that is owed to customers can be
25 retained by the utility for longer periods of time. Of course, any improvement in utility

²⁵ Available at: http://www.eei.org/issuesandpolicy/finance/Documents/Tax_Reform_Palm_Card_Final.pdf

²⁶ See AG Exhibit 1.0 at footnote 15.

²⁷ Direct Testimony of Michael Brosch, pages 15 and 16.

²⁸ Rebuttal Testimony of Melissa Hardesty, page 6.

1 cash flow from the delayed return of EDIT comes at the expense of ratepayers' own
2 cash flow which the Commission should not ignore.

3

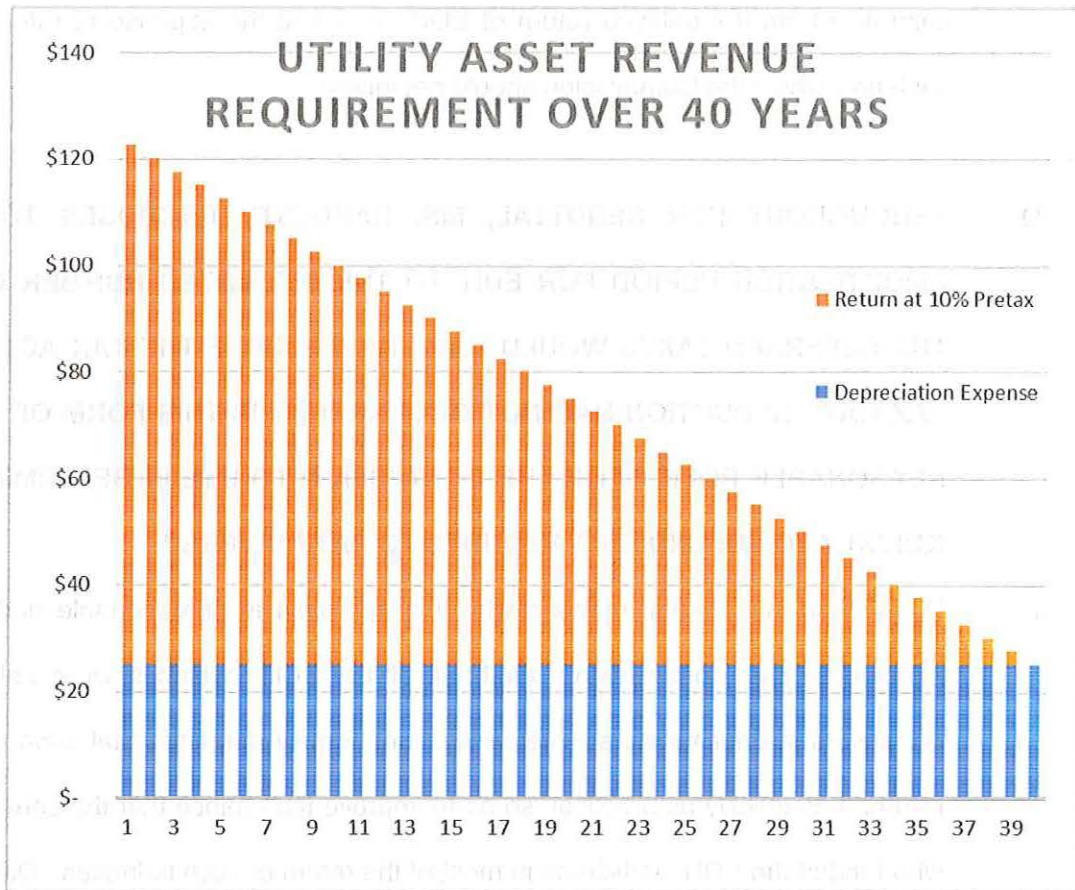
4 **Q THROUGHOUT HER REBUTTAL, MS. HARDESTY PROPOSES TO TIE THE**
5 **AMORTIZATION PERIOD FOR EDIT TO THE ESTIMATED NUMBER OF YEARS**
6 **THE DEFERRED TAXES WOULD HAVE REVERSED IF THE TAX ACT FEDERAL**
7 **TAX RATE REDUCTION HAD NOT OCCURRED.²⁹ IS THIS FORM OF "TYING" A**
8 **REASONABLE POLICY FOR THE COMMISSION TO USE IN DETERMINING HOW**
9 **QUICKLY TO REFUND EDIT AMOUNTS TO RATEPAYERS?**

10 **A** No. There are several reasons why this approach is unreasonable and should be
11 rejected by the Commission. First, all of the EDIT balances were collected from
12 ratepayers in prior years, so intergenerational equity demands that such balances be
13 returned as quickly as practical, so as to improve the chance that the same customers
14 who funded the EDIT participate in most of the return of such balances. Delayed return
15 of EDIT balances expands the risk that customers who are "owed" some EDIT will no
16 longer be KCPL / GMO customers by the time amortizations are completed.

17 Second, the pattern of annual revenue requirement associated with utility plant
18 investments is front-loaded because of the higher returns required in the early years,
19 when relatively less of the original investment has been depreciated. The following
20 simplified example illustrates the revenue requirement cost to ratepayers of return and
21 depreciation expense for a hypothetical utility plant asset with a 40-year asset life.³⁰

²⁹ Id., at page 6, line 6; page 7, lines 9-16; page 8, lines 5-10.

³⁰ This simplified example assumes an original asset cost of \$1000 is depreciated on a straight-line basis over 40 years, with no accounting for deferred income taxes, O&M expenses or property taxes.



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Any notion that customers are better off waiting until later years, when plant-related deferred taxes would be reversing on the utility's books, is misplaced. The sooner an asset's otherwise front-loaded revenue requirement can be reduced through more rapid amortization of EDIT, the better for utility customers.

Third, the existence of IRS normalization restrictions upon the largest depreciation-related category of EDIT argues for relatively more rapid amortization of the unrestricted EDIT amounts where the Commission has discretion over amortization periods, to improve upon intergenerational equity among customers.

Finally, with respect to the Net Operating Loss category deferred taxes which are deficit, requiring incremental charges rather than credits to customers, the Companies have conceded that the prior years' tax losses creating such deficit

1 balances arose from bonus and accelerated tax deductions, where the corresponding
2 EDIT amounts are restricted to a very long ARAM-based amortization due to IRS
3 restrictions. It would be patently unfair to customers to rapidly charge them for deficit
4 NOL-related deferred taxes when the associated and offsetting depreciation-related
5 excess deferred taxes are being retained by KCPL / GMO and only slowly returned to
6 customers to comply with tax code ARAM restrictions.

7

8 **Q ACCORDING TO MS. HARDESTY, STAFF WITNESS MS. LYONS HAS PROPOSED**
9 **TO AMORTIZE ALL OF THE COMPANY'S EDIT THAT IS NOT "PROTECTED" BY**
10 **THE IRS'S NORMALIZATION RULES OVER A TEN-YEAR PERIOD. HOW DOES**
11 **STAFF'S PROPOSAL COMPARE TO YOUR RECOMMENDED TREATMENT OF**
12 **EXCESS DEFERRED TAXES?**

13 **A** I also recommend using a 10-year amortization of the KCPL and GMO Plant-related
14 excess ADIT balances that are not "protected" under the tax code. Since no ARAM
15 restriction applies to these plant-related excess ADIT balances, there is no need to
16 delay the timing of the return of these amounts to ratepayers, based upon any estimate
17 of remaining plant lives. I explained that ten-year amortization period is a reasonable
18 compromise to the Companies' much longer proposed ARAM amortization period and
19 matches the 10-year period that KCPL and GMO have proposed for excess ADIT
20 amounts that are not Plant-related. For the miscellaneous, non-plant related EDIT
21 amounts I recommended a five-year amortization period, which is shorter than Staff's
22 proposal.³¹

23

³¹ Direct Testimony of Michael Brosch, pages 16-17.

1 Q ARE YOU AWARE OF ANOTHER MISSOURI UTILITY THAT HAS AGREED WITH
2 THE TEN-YEAR AMORTIZATION PERIOD BEING RECOMMENDED BY YOU AND
3 BY STAFF, FOR UNPROTECTED PLANT-RELATED EDIT BALANCES?

4 A Yes. Pursuant to the "Unanimous Stipulation and Agreement" Ameren reached in its
5 tax case, Missouri Case No. ER-2018-0362, the utility has agreed to "...an annual
6 amortization amount of \$73,885,399 to return to customers the excess accumulated
7 deferred income taxes ("Excess ADIT") created by the TCJA." With regard to plant-
8 related EDIT that are not "protected" and required to employ ARAM, a 10-year
9 amortization period was agreed-upon by all parties. According to the Stipulation:

10 3. The annual amortization amount of \$73,885,399 is based on three
11 components to which the Signatories agree—protected plant Excess
12 ADIT (Average Rate Assumption Method ("ARAM") amortization period),
13 unprotected plant Excess ADIT (ten-year amortization period), and
14 unprotected non-plant Excess ADIT (ten-year amortization period).
15

16 I have included a complete copy of Ameren's Stipulation and Agreement within
17 Schedule MLB-7. I understand that the Commission issued its Order Approving
18 Stipulation and Agreement in the Ameren case on July 5, 2018.³²
19

20 Q WHY SHOULD THE COMMISSION APPROVE A FIVE-YEAR AMORTIZATION
21 PERIOD TO RETURN THE MISCELLANEOUS BOOK/TAX TIMING DIFFERENCE
22 CATEGORY OF EDIT BALANCES TO RATEPAYERS?

23 A These are predominantly short-term differences where the timing of tax deductions and
24 the related book expense amounts are unrelated to plant assets, but instead turn
25 around within fewer than five years. The single largest item in this category arises from
26 book/tax differences for the Missouri fuel adjustment clause, where deductible
27 expenses are reconciled with recoveries within only two years. Other short-term items

³² Available at:
https://www.efis.psc.mo.gov/mpsc/commoncomponents/view_itemno_details.asp?caseno=ER-2018-0362&attach_id=2019000197

1 include Missouri customer demand program costs and solar rebate costs which are
2 reconciled for recovery within about three years.³³ There is simply no reason to delay
3 the return of this category of EDIT to customers over ten years, as proposed by KCPL /
4 GMO.

5

6 **Q WHY SHOULD THE COMPANIES' DEFICIT NOL-RELATED BALANCES NOT BE**
7 **CHARGED TO CUSTOMERS QUICKLY, OVER ONLY FIVE YEARS, AS PROPOSED**
8 **BY KCPL?**

9 A As noted above and in my direct testimony, the Companies' Net Operating Loss
10 carryforwards would not exist but for deductions of accelerated depreciation in prior
11 years. Given that tax code ARAM restrictions deny the Commission any discretion to
12 more quickly amortize depreciation-related Excess ADIT balances for the benefit of
13 customers, equity and consistency require that the corresponding NOL-related deficit
14 deferred tax balances caused by those depreciation deductions also receive the same
15 ARAM-based amortization treatment.

16

17 **Q IN YOUR DIRECT TESTIMONY, YOU NOTED THAT COMMONWEALTH EDISON**
18 **COMPANY IN ILLINOIS IS PROPOSING AMORTIZATION OF ITS NOL DEFERRED**
19 **TAX DEFICIT OVER THE SAME ARAM PERIOD AS THE CORRESPONDING**
20 **ACCELERATED DEPRECIATION EDIT BALANCES.³⁴ ARE YOU AWARE OF ANY**
21 **AGREEMENTS REACHED BY KCPL'S NEW SISTER UTILITY, WESTAR ENERGY,**
22 **WITH REGARD TO AMORTIZATION OF NOL-RELATED DEFERRED TAX**
23 **DEFICIENCIES?**

³³ Per KCPL response to data request MEG 11-5.
³⁴ Direct Testimony of Michael Brosch, page 18.

1 A Yes. In Kansas Corporation Commission Docket No. 18-WSEE-328-RTS, Westar
2 Energy, Inc. agreed to ARAM amortization for both its protected plant-related EDIT and
3 its NOL deficit deferred tax balances.

4

5 **Q DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

6 A Yes.

Schedule MLB-6

KCPL GMO
Case Name: 2018 GMO Rate Case
Case Number: ER-2018-0146

Response to Woodsmall David Interrogatories - MECG_20180802
Date of Response: 8/23/2018

Question: 11-4

[Tax Law Stub Period Quantification]. In his rebuttal at page 17, Mr. Klote indicates the Company is requesting the Commission review all costs before determining the amount of Stub period benefit to be returned to customers, based upon use of "the current revenue requirement calculation which will be trued-up through June 30, 2018" for this purpose. Please provide the following additional information:

- a) Explain and provide illustrative calculations showing exactly how the "current revenue requirement calculation" will be used to identify and quantify each "offset" for consideration of "all costs".
- b) Would the "current revenue requirement calculation" used for this purpose be based upon the Company's filed numbers and ratemaking positions, which may be disputed by the Staff or other parties, or would these calculations be based upon Commission-approved values after adjudication of any disputed issues?
- c) Describe the process and timeline envisioned by Mr. Klote to prepare, file with the Commission, provide for evaluation by Staff and the parties, adjudicate differences and resolve the final Stub Period benefit quantification.
- d) What, if any, benefits are believed to result from the procedures described by Mr. Klote in rebuttal and in this response, relative to MECG's proposed approach?

Response:

- A) An illustrative calculation will be provided in the Company's Direct True-Up Testimony.
- B) "Based on the current revenue requirement calculation" meaning the offsets will be based upon the Commission approved values in the current 2018 rate cases.
- C) The process and timeline will be provided in the Company's Direct True-Up Testimony. The company will also provide the Stub period model with offsets based on the company's True-Up model in this case but the offsets will ultimately be determined by the Commission approved values.
- D) The company's proposal provides for the actual revenue requirement impact that supports the rates that are in effect during the Stub period.

Response provided by: Aron Branson, Regulatory Affairs

Attachment: Q11-4_Verification.pdf

Schedule MLB-7

2. The Signatories agree that the revenue requirement reduction necessary to comply with Section 393.137 is \$166,524,911, which reflects a 6.08% reduction of the revenue requirement last used to set Ameren Missouri's electric rates, and which includes an annual amortization amount of \$73,885,399 to return to customers the excess accumulated deferred income taxes ("Excess ADIT") created by the TCJA. The Signatories further agree upon how that reduction should be allocated to Ameren Missouri's eight individual rate schedules and reflected in the charges to customers in each rate schedule, as outlined further below, and that those new rate schedules should be made effective August 1, 2018.

3. The annual amortization amount of \$73,885,399 is based on three components to which the Signatories agree—protected plant Excess ADIT (Average Rate Assumption Method ("ARAM") amortization period), unprotected plant Excess ADIT (ten-year amortization period), and unprotected non-plant Excess ADIT (ten-year amortization period).

4. With respect to the protected plant Excess ADIT referenced above, because of the complex nature of ADIT, the Signatories agree that the annual amortization expense associated with "protected" plant-related Excess ADIT necessary to return that protected plant-related Excess ADIT to customers using ARAM as required by Section 13001 of H.R. 1 (Public Law 115-97) will be impacted by ongoing financial results in the future and, therefore, will change.² Consequently, the \$32,351,375 (the plant-related protected Excess ADIT portion of the overall Excess ADIT amortization of \$73,885,399) is an estimate. Therefore, the Signatories agree that the Commission should establish a tracker to defer any amounts of actual plant-related protected Excess ADIT over or under the annual \$32,351,375 amount from the effective date of rates

² Failure to comply with Section 13001 and its "normalization" requirements could cause Ameren Missouri to have a "normalization violation" which could prevent it from taking advantage of the benefit of accelerated depreciation and thus raise income tax expense, to the potential detriment of its customers.

resulting from this case, forward, for inclusion in the revenue requirement used to set rates in Ameren Missouri's next electric general rate proceeding to the extent that the actual protected plant-related portion of that base amount turns out to be different than the estimated \$32,351,375. See Exhibit A attached hereto and incorporated herein by reference for the individual Excess ADIT amortization components, agreed-upon amortization periods, and regulatory liability balances.

5. In addition to the revenue requirement reduction provided for in this *Stipulation*, the Signatories agree that Ameren Missouri will record sums to a regulatory liability account in an amount equal to the product of (a) Ameren Missouri's retail revenues for the period January 1, 2018, through July 31, 2018, and (b) Three and thirty-eight hundredths percent (3.38%) (to which carrying costs will not be applied), which will be returned to customers through an amortization in rates to be set in Ameren Missouri's next electric general rate proceeding. The amortization of such regulatory liability shall start on the effective date of rates in Ameren Missouri's next general rate proceeding over a period to be determined by the Commission in that proceeding.

6. Because it is affected by the TCJA, Ameren Missouri agrees to adjust margin rates used in the TD Determination of Rider EEIC. The margin rates currently stated in Rider EEIC for each service classification and for each month will be reduced by the per kilowatt-hour credit applicable to that service classification as determined in paragraph 7.b. For the same reason, the standby rates applicable to certain types of customer-generators through the application of Rider SSR will be reduced to account for the impact of the TCJA by the same 6.08% that the total revenue requirement is being reduced.

7. The Signatories further agree that the \$166,524,911 revenue requirement reduction provided for by this *Stipulation* will be implemented in the following manner:

- a. The total \$166,524,911 reduction will be allocated to seven rate classes (Service Classifications 1(M), 2(M), 3(M), 4(M), 5(M), 6(M) and 11(M)) in proportion to the total class revenues that rates established in File No. ER-2016-0179 were designed to produce.³
- b. The revenue requirement reduction applicable to each rate class as a result of the prior step (item 7.a) will be divided by the total kilowatt-hour (“kWh”) billing units stated for that class in Exhibit A to the Unanimous Stipulation and Agreement approved by the Commission in File No. ER-2016-0179. For the 5(M) and 6(M) service classifications, which do not have stated total kWh in Appendix A, the total kWh will be 140,442,436 kWh and 76,147,883, respectively. The result of this calculation will be a cents-per kilowatt-hour rate for each service classification that will be applied to all billed usage of customers taking service under those classifications (stated as a separate line item on the customers’ bills) to yield separate line item bill credits. See Exhibit B attached hereto for the cents-per kilowatt-hour reduction to be applied to each rate class.
- c. The tariff sheets for each of the above service classifications will be updated to include reference to the cents per kilowatt-hour rates and resulting credits derived in the prior step (item 7.b). No other charges or other terms or conditions of service that are currently stated on those sheets will be modified.

³ None of the reduction shall be allocated to service classification 12(M) since the revenue allocated to that class in File No. ER-2016-0170 was zero. Revenues arising from the low-income pilot charge and pre-MEEIA energy efficiency charge were excluded.

- d. Upon conclusion of the next general rate proceeding of Ameren Missouri, the newly introduced credit line item will be removed from the service classification tariffs and the income tax component of the revenue requirement, which will continue to include the impact of the TCJA, will be a part of the overall revenue requirement used to establish base rates, subject to the class revenue allocation and rate design that the Commission orders in that proceeding.

7. This *Stipulation* is being entered into solely for the purpose of settling this docket. Except as explicitly agreed otherwise herein, none of the Signatories shall be deemed to have approved or acquiesced in any question of Commission authority, ratemaking or procedural principle, valuation methodology, cost of service methodology or determination, depreciation principle or method, rate design methodology, cost allocation, cost recovery, or prudence that may underlie this *Stipulation* or for which provision is made in this *Stipulation*. Except as explicitly provided herein, none of the Signatories shall be prejudiced or bound in any manner by the terms of this *Stipulation* in this or any other proceeding.

8. If the Commission does not unconditionally approve this *Stipulation* without modification, and notwithstanding its provision that it shall become void thereon, neither this *Stipulation* nor any matters associated with its consideration by the Commission shall be considered or argued to be a waiver of the rights that any Signatory has to a hearing on the issues presented by the *Stipulation*, regarding cross-examination or a decision in accordance with Section 536.080.1 RSMo. 2016 or Art. V, Section 18 Mo. Const. The Signatories shall retain all procedural and due process rights as fully as though this *Stipulation* had not been presented for approval, and any suggestions or memoranda, testimony or exhibits that may have been offered or received in support of or in opposition to this *Stipulation* shall thereupon become privileged as

reflecting the substantive content of settlement discussions, and shall be stricken from and not be considered as part of the administrative or evidentiary record before the Commission for any further purpose whatsoever.

9. To assist the Commission in its review of this *Stipulation*, the Signatories also request that the Commission advise them of any additional information that the Commission may desire from the Signatories related to the matters addressed in this *Stipulation*, including any procedures for furnishing such information to the Commission.

10. The Staff also shall provide, at any agenda meeting at which this *Stipulation* is noticed to be considered by the Commission, whatever oral explanation the Commission requests. The Staff shall, to the extent reasonably practicable, provide the other Signatories with advance notice of when the Staff shall respond to the Commission's request for such explanation once such explanation is requested from the Staff. The Staff's oral explanation shall be subject to public disclosure, except to the extent it refers to matters that are privileged or protected from disclosure pursuant to any Protective Order issued in this case.

11. The Signatories to the *Stipulation* shall not be prejudiced, bound by, or in any way affected by the terms of this *Stipulation*: (a) in any future proceeding; (b) in any proceeding currently pending under a separate docket; and/or (c) in this proceeding, should the Commission decide not to approve the *Stipulation* or in any way condition its approval of the same, except as stated herein. Because this is a *Stipulation* for the purpose of settling matters in this case, it shall not be cited as precedent or referred to in testimony in any subsequent or pending judicial or administrative proceeding, except that this shall not be construed to prohibit reference to its existence in future proceedings, including proceedings to enforce compliance with its terms.

12. The provisions of this *Stipulation* have resulted from extensive discussions and negotiations among the Signatories and are interdependent and non-severable. If the Commission does not approve this *Stipulation* unconditionally and without modification, or if the Commission approves the *Stipulation* with modifications or conditions to which a Signatory objects, then this *Stipulation* shall be void and none of the Signatories shall be bound by any of the agreements or provisions hereof.

13. In the event the Commission accepts the specific terms of this *Stipulation*, the Signatories waive their respective rights: a) to cross-examine witnesses pursuant to Section 536.070(2) RSMo.; b) to present oral argument and written briefs pursuant to Section 536.080.1 RSMo.; c) to the reading of the transcript by the Commission pursuant to Section 536.080.2 RSMo.; and d) to judicial review pursuant to Section 386.510 RSMo. This waiver applies only to a Commission Order respecting this *Stipulation* issued in this proceeding approving this *Stipulation* unconditionally and without modification, and does not apply to any matters raised in any subsequent Commission proceeding, or any matters not explicitly addressed by this *Stipulation*.

14. This *Stipulation* contains the entire agreement of the Signatories concerning the issues addressed herein.

15. This *Stipulation* does not constitute a contract with the Commission. Acceptance of this *Stipulation* by the Commission shall not be deemed as constituting an agreement on the part of the Commission to forego the use of any discovery, investigatory powers or other statutory powers which the Commission presently has. Thus, nothing in this *Stipulation* is intended to impinge or restrict in any manner the exercise by the Commission of any statutory right, including the right to access information.

WHEREFORE, the Signatories request that the Commission make and enter its order approving this *Stipulation*, including authorizing Ameren Missouri to file tariff sheets to implement the reduced rates by means of line item bill credits called for herein effective August 1, 2018.

/s/ James B. Lowery

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Group***

CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing was served on the Staff of the Missouri Public Service Commission and the Office of the Public Counsel via electronic mail (e-mail) on this 27th day of June, 2018.

/s/ James B. Lowery
James B. Lowery

EXHIBIT A

Summary of Amortizations

		<u>Agreed-Upon Amortization Periods</u>
Protected Plant Excess ADIT ¹	(32,351,375)	ARAM
Unprotected Plant Excess ADIT	(39,235,345)	10 years
Unprotected Non-Plant Excess ADIT	(2,298,679)	10 years
	(73,885,399)	

¹Estimated - A Tracker will be created respecting this component.

Summary of Balances of Amortizations

Balances at 12/31/17²

Protected Plant Excess ADIT	(691,373,964)
Unprotected Plant Excess ADIT	(292,506,175)
Unprotected Non-Plant Excess ADIT	(17,137,044)

²None of the Excess ADIT has been amortized during 2018; Amortization will start 8-1-18 when rates are reduced

EXHIBIT B

	Allocated Adj	Flat Rate Adj	
Residential	(\$79,595,105)	-0.00621	cents per kwh
Small General Service	(\$19,272,860)	-0.00581	cents per kwh
Large General Service	(\$37,046,737)	-0.00462	cents per kwh
Small Primary Service	(\$14,895,970)	-0.00404	cents per kwh
Large Primary Service*	(\$13,141,909)	-0.00348	cents per kwh
Lighting Company Owned	(\$2,327,399)	-0.01701	cents per kwh
Lighting Customer Owned	(\$240,063)	-0.00315	cents per kwh
MSD	(\$4,868)	-0.13192	cents per kwh
	<u>(\$166,524,911)</u>		