

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

In the Matter of Kansas City)	
Power & Light Company's Request)	<u>Case No. ER-2016-0285</u>
for Authority to Implement a General)	
Rate Increase for Electric Service)	

**REPLY BRIEF OF
MISSOURI INDUSTRIAL ENERGY CONSUMERS**

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Comes now, the Missouri Industrial Energy Consumers ("MIEC") and, for its Reply brief, states as follows:

CLASS COST OF SERVICE (CCOS) AND RATE DESIGN (ISSUE XXI)

A. Introduction

As indicated in MIEC's Initial Brief, the MIEC has focused its briefing on only the application of the final rate increase to the various classes of customers and the rate design within the LGS and LPS classes. Other than the MECG's and USDOE's briefs, which are largely supportive of the MIEC's position on this issue, the other parties' Initial Briefs provide very little analysis of this issue. The Initial Briefs addressing this issue to any degree were the briefs of Staff, OPC, the USDOE, KCPL, the MECG and the MIEC.

As explained in detail below, this Commission should accept the positions of the MIEC and MECG and adopt the A&E CCOS allocation, the method used by Ameren Missouri, this Commission and other regulators. Alternatively, the Commission should adopt the 4CP allocation of the USDOE, which shows a greater subsidy to the residential class and greater overpayment by the LGS and LPS classes. Either of those methods correctly accounts for both class demand and class energy use and thus fairly allocates production costs among the classes.

Additionally, this Commission should adopt the positions of the MIEC and MECCG as to the intra-class rate design for the LPS and LGS classes. As the evidence clearly shows, the tail block usage in the LGS and LPS classes is typically off peak when production costs are lower and the rates should be lower as well. That evidence also shows that high load factor customers in those classes will have already paid their fair share of fixed costs through their payment of other charges and purchases of power in the first and intermediate energy blocks. The current rates for the tail block are already well above the variable cost of producing power. By freezing the rate in the tail block, high load factor customers in those classes will be providing less of a subsidy to the low load factor customers in those classes. This proposal has no impact on the rates of the other classes, including the residential class.

To reiterate, the four CCOS studies show that the following class adjustments should be made before applying any rate increase approved in this case:

	KCPL ¹	DOE ²	MIEC ³	Staff ⁴
	Peak & Average	4CP	Average & Excess	BIP
Residential	+9.2%	+18.6%	+14.8%	-0.49%
Small G.S.	-13.1%	-9.5%	-7.7%	-5.01%
Medium G.S.	-7.4%	-7.1%	-6.2%	-5.18%
Large G.S.	-8.5%	-14.8%	-10.4%	-0.64%
Large Power	+3.4%	-8.5%	-7.4%	+7.45%
Lighting	-17.6%	-46.5%	-12.4%	-5.54%

Staff’s study is the only one that does not show a significant subsidy to the residential class. As explained in detail below, Staff’s Initial Brief attempts to defend Staff’s use of the BIP method, but that defense misses the mark and fails to address many of the criticisms of the method. Although Staff clearly knew of the criticisms, it has apparently elected to hold its

¹ Exhibit 136, Miller Direct, page 14 (after removing KCPL’s 10.8% rate increase request).

² Exhibit 501, Schmidt Direct, page 12.

³ Exhibit 853, Schedule MEB-COS-5.

⁴ Exhibit 202, Staff Rate Design Report, page 4.

response for Reply, presumably to deprive other parties of their right to reply to any such response. In addition, Staff cites non-evidence and ignores evidence of record in its zeal to defend its BIP method.

OPC's Initial Brief provides minimal discussion (page 38) of this issue, and no discussion of the relevant evidence. Moreover, its position on a revenue shift, should the Commission order one, is at odds with its endorsement of the KCPL A&P method.

KCPL's Initial Brief discusses this issue on pages 57-60 but mostly reiterates its position for no class adjustment with little defense of its already Commission-rejected A&P method.

The USDOE provides detailed analysis of this issue on pages 1-29 of its initial brief. It condemns the Staff's BIP method and argues for the use of its 4CP method, the method producing results similar to the MIEC A&E method, except that it shows that residential customers are underpaying by more than MIEC's study shows. The USDOE's detailed analysis of the evidence clearly establishes the shortcomings of Staff's BIP method and KCPL's A&P method. Additionally, the USDOE opposes the MIEC's intra-class rate design for the LGS and LPS classes, but not because it disputes Mr. Brubaker's substantial testimony, which it hardly cites, but rather because it mistakenly believes that there was no evidence to support that intra-class rate design.

Last, the MECG also provides detailed analysis of this issue on pages 6-34. It condemns the Staff's BIP method and argues for the adoption of Brubaker's A&E method. The MECG's detailed analysis of the evidence clearly establishes the shortcomings of Staff's BIP method and KCPL's A&P method. Additionally, the MECG supports the MIEC's intra-class rate design for the LGS and LPS classes and cites record evidence in support.

B. The Staff's Initial Brief

1. The BIP Model

As indicated above, Staff fails to address many of the criticisms of its CCOS study. It does however address some criticisms. Staff attempts to address the criticism “that the BIP method is not commonly used among regulatory agencies.” Against the mountain of testimony by Brubaker and Schmidt, including their prefiled testimonies and transcript testimony, Staff notes that the BIP method can be found in the NARUC cost allocation manual.⁵ That certainly does not show that it is commonly used among regulatory agencies, or should be used in Missouri. Staff also relies on the off-the-cuff statement of CCM’s counsel during opening statement that the BIP is regularly used by the Texas Commission.⁶ That statement was not under oath, is not competent evidence, and the Staff knows it. Furthermore, based upon actual competent evidence in the record, it is an incorrect statement in any event.⁷ And it certainly does not rebut the evidence in this case showing little use of the BIP method. As MECG notes in its Initial Brief, with citations to evidence:

In fact, consistent with Mr. Brubaker’s conclusion that the BIP methodology is out of the mainstream, the evidence indicates that the BIP methodology has been rejected by virtually every utility and public utility commission in the nation. Specifically, while Mr. Brubaker has testified in rate design proceedings in 34 states, he is not aware of any utilities or state utility commissions that have utilized the BIP methodology.⁸ Similarly, while Dr. Schmidt has testified in approximately 50 rate proceedings, before 15 state utility commissions, he is not aware of any other utility that has relied upon the BIP methodology. Thus, the use of the BIP methodology appears to be limited solely to the Missouri Staff.

⁵ Staff Initial Brief, p. 67.

⁶ Id.

⁷ Tr. 1095-1096. In response to comments made in the opening statement of CCM (Tr. 873) indicating that a utility in Texas had utilized the BIP methodology, Dr. Schmidt noted that the use of the BIP approach was limited to the City of Austin, a municipal utility. As such, unlike KCPL which is integrated into SPP, the City of Austin is able to differentiate between base, intermediate and peaking facilities. Tr. 1096-1097.

⁸ Tr. 1203-1204. See also, Exhibit 856 for Mr. Brubaker’s credentials including a list of the 34 jurisdictions in which he has addressed class cost of service and the appropriateness of production cost allocation methodologies.

Moreover, MIEC's research discloses that the Texas Commission actually employs the A&E method advanced by the MIEC. Recently, the Texas Commission found:

183. The average and Excess (A&E) 4CP method for allocating capacity-related production costs, including reserve equalization payments, to the retail classes is a standard methodology and the most reasonable methodology.

184. The A&E 4CP method for allocating transmission costs to the retail classes is standard and the most reasonable methodology⁹

In conclusion, the BIP method is hardly accepted at all. There is no question but that it is not in the mainstream, as is the A&E method.

The Staff also contends that its BIP method is superior because it takes into account a different revenue requirement than in the KCPL CCOS study, the data from which the MIEC and USDOE studies also relied.¹⁰ But that is a distinction without a difference. Nowhere does Staff explain how that meaningfully changes the relative costs to serve the classes. Moreover, at the time Staff prepared its CCOS study, it was advancing a \$15.5 million revenue reduction,¹¹ and it is now advancing a \$13.7 million revenue increase,¹² but has not redone its study. Moreover, there is no guarantee that the Commission will limit the revenue increase to \$13.7 million in this case.

In apparent response to the criticisms of many parties that Staff's BIP study effectively allocates the expensive base load plant on energy usage, Staff states that it did not "separately allocate[] base plant capacity costs."¹³ Whether that was or was not its method, the result of its method was that the costs of base plant were exactly allocated on energy usage. That is what Brubaker's Table 1 clearly shows:

⁹ Entergy Texas- Texas Public Utility Commission Order- Docket No. 39896, September 2012- Page 30 of 43.

¹⁰ Id., pp. 67-8.

¹¹ Exhibit 201.

¹² Exhibit 242.

¹³ Staff Initial Brief, p. 67.

TABLE 1

Comparison of Allocation of Base Load Plant Investment in Staff's Detailed BIP Study to an Allocation Based on Class Energy Usage

Line	Class	Staff's Base Capacity by Class ¹		Energy by Class	
		Costs (1)	Percent (2)	MWh at Generation ² (3)	Percent (4)
1	Residential	\$ 187,361,696	31.39%	2,843,707	31.39%
2	Small General Service	\$ 27,247,972	4.57%	413,558	4.57%
3	Medium General Service	\$ 83,294,759	13.96%	1,264,218	13.96%
4	Large General Service	\$ 151,127,261	25.32%	2,293,757	25.32%
5	Large Power Service	\$ 141,786,418	23.76%	2,151,978	23.76%
6	Lighting	<u>\$ 6,005,405</u>	1.01%	<u>91,144</u>	1.01%
7	Missouri Retail	\$ 596,823,511	100.00%	9,058,362	100.00%

¹ Staff's Rate Design and Class Cost-of-Service Report, page 19.

² Workpaper of S Kliethermes - market energy.xlsx, market compare tab.

As indicated in MIEC's Initial Brief, this table appears on page 13 of Brubaker Rebuttal, but nowhere in Staff's surrebuttal did it make any meaningful attempt to deny the facts contained therein and Staff appeared to accept those facts during trial: "I don't allocate base load. But I assign it using average demand, which average demand is going to be proportionate to energy. Yes."¹⁴

As indicated, Staff's Initial Brief fails to address many of the criticisms of its CCOS study. One criticism is that its CCOS study shows an above average allocation of low fuel cost base plant to high load factor customers and also above average fuel costs to high load factor

¹⁴ Tr. 980, S. Kliethermes, ll. 3-5.

customers. Moreover, Staff's Initial Brief fails to address the fact that its CCOS study shows a below average allocation of low fuel cost base plant to low load factor customers and also a below average fuel costs to low load factor customers. As the initial brief makes abundantly clear, and as Brubaker explains in detail, these facts alone show that something is very wrong with the results of Staff's CCOS study.

Staff's Initial Brief also fails to address the criticism that its BIP method does not adequately consider class peaks in determining the need for the production plant costs that must be allocated. Utilities build plants to meet their customers' demands and low load factor customers contribute a higher demand relative to the amount of energy that they use as explained in detail in MIEC brief.¹⁵

Additionally, Staff's Initial Brief failed to address the criticisms of the USDOE, the MIEC and KCPL that KCPL's participation in the SPP alone should prevent the use of the BIP model.

2. Staff's Allocation of Distribution Plant is Flawed

As MIEC's Initial Brief clearly shows, the Staff made, and continues to make, significant errors in its allocation of distribution plant.¹⁶ Like many of the criticisms of Staff's CCOS study, Staff failed to address this issue in its initial brief. Staff may in reply argue that its cross-examination of KCPL witness Bass, on an issue unrelated to this issue, is relevant. There, Bass stated that billing determinant demand is not the same as load research data.¹⁷ Staff may claim that this shows errors in the data upon which Brubaker relied in preparing Exhibit 857. But such a claim misunderstands the facts. Brubaker never claimed that billing determinant demand and load research data were the same and presented the billing determinant information as a check on

¹⁵ MIEC Initial Brief, pp. 7-10.

¹⁶ Id., pp. 14-19.

¹⁷ Tr. 1625, ll. 3-6.

KCPL's estimates of demand by voltage levels. That data clearly shows that the higher voltage customers have demands larger than average, which clearly refutes Staff's assumption that all customers have average demand. KCPL knows its customers and is in a much better position to estimate demands by voltage level than is Staff. Staff's unexplained decision to simply ignore load data created by KCPL based on its knowledge of its own customers and instead assume that customers at all voltage levels have the same average demand is indefensible and clearly contrary to the facts.

3. Conclusion

The Staff's CCOS study should be disregarded in this case. Nothing in Staff's initial Brief adequately addresses the significant flaws in the BIP methodology or in the execution of Staff's CCOS study. Interestingly, each of the errors seems to punish high load factor businesses that use the electric system the most efficiently and reward low load factor customers who use it the least efficiently. The result of adopting that study in setting rates is that the Commission will be sending exactly the wrong pricing signals to ratepayers, especially if the Commission is serious about encouraging energy conservation.

C. OPC'S Initial Brief

The OPC offered no CCOS study in this case. The portion of its Initial Brief devoted to this issue is less than a page, found on page 38. At the hearing of this matter, OPC witness Marke stated that the OPC's official position was that it was supporting KCPL's A&P CCOS method.¹⁸ In its brief, OPC argues that the equal application of the rate increase ordered in this case, as suggested by KCPL, "is not unreasonable." OPC provides no analysis or discussion of the testimony to support that observation. It claims that if a revenue neutral shift is ordered, the shift should be to increase the rates more on the LPS class because that was consistent with

¹⁸ Tr. 1167, ll. 19-20.

Staff's CCOS proposal. That proposal is at odds with the KCPL CCOS results, which show that the residential class is underpaying, and underpaying by more than any other class. A decision of this Commission is to be based upon competent and substantial evidence. That means testimony and exhibits in the record. When parties are not willing to even identify the evidence that they claim supports their position in light of the issue, their position should be rejected.

D. KCPL'S Initial Brief

KCPL's Initial Brief is, understandably, more focused on the revenue requirement issues and the inclining block rate issue than it is the allocation of costs between classes. In its Initial Brief, KCPL provides very little analysis for why it's A&P CCOS method should be adopted and utterly no argument against the Commission's recent rejections of that method because it double counts costs against high load factor customers. KCPL correctly notes that methods that emphasize demand allocate more costs to low load factor customers while methods that emphasize energy usage allocate more cost to the high load factor customers. Having said that, KCPL fails to address the various testimonies of Brubaker and Schmidt noting the importance of demand in utility planning. Like OPC's Initial Brief, KCPL's Initial Brief provides little analysis of the CCOS issues in this case. Since it is unwilling to engage in the analysis of the evidence supporting or opposing the various CCOS methods, there is little to say in response.

E. USDOE'S Initial Brief

USDOE's brief clearly articulates the reasons, and supporting evidence, for why the PSC should reject both the BIP method and the A&P method.¹⁹ The MIEC supports that analysis.

But the USDOE argues against the intra-class rate design proposed by the MIEC for the LGS and LPS classes. That argument is not based upon any evidence of the USDOE, or any other evidence in the record. Rather, the USDOE incorrectly claims that there is no "evidence ...

¹⁹ USDOE Initial Brief, pp. 1-29.

submitted to the Commission that provides a basis upon which to authorize an intra-class shift.”²⁰ This claim is perplexing since Maurice Brubaker did provide testimony, which clearly is evidence, on that issue in his Direct (pp 29-33) and Surrebuttal testimonies (pp. 10-11). In Direct, he explains how the tariffs work:

Q WHAT IS THE STRUCTURE OF THE ENERGY CHARGES?

A The energy charges are structured as three “hours use” blocks. The three blocks consist of the first 180 hours use of the billing demand, the next 180 hours use of the billing demand and the tail block is for consumption in excess of 360 hours use of the billing demand.

These are what are known as hours use, or load factor based charges. The rates decrease as the hours use increases to recognize the spreading of fixed costs over more kilowatthours as the number of hours use, or load factor, increases. This structure also recognizes that energy consumed in the high load factor block likely will be off-peak or at times when energy costs are lower than during on-peak periods.

Q PLEASE EXPLAIN HOW THE HOURS USE FUNCTION WORKS.

A The number of kWh to be billed in each hours use block is determined by the customer’s billing demand and the amount of kWh purchased.

A customer operating basically a one-day shift (eight hours a day for five days a week) would have usage in the range of 180 kWh per kW of billing demand.²¹ A customer operating two shifts likely would utilize approximately twice that much energy, and therefore use an additional 180 or so kWh per kW of demand, thereby filling up both the first and second blocks.

Thus, it is reasonable to consider the first block as being primarily the daytime on-peak hours, the second block for early morning, evening and/or weekend hours, and the third block for additional use in weekend and nighttime hours. Given these considerations, it is appropriate that the energy charges for the initial hours use blocks be higher than for the third hours use block in order to collect more fixed costs during the on-peak and shoulder periods.

Q CAN YOU ILLUSTRATE WITH AN EXAMPLE OF HOW THE RATE WORKS?

A Yes. Assume that a customer has a 1,000 kW billing demand, and uses 500,000 kWh in a month. This customer would be using 500 kWh per kW,²² or 500 kWh for each kW of demand. To apply the rate, the 1,000 kW of demand would be multiplied by 180 kWh per kW, which is the size

²⁰ Id. Initial Brief, p 28.

²¹ 8 hours/day x 5 days per week x 4.33 weeks per month = 173 hours.

²² 500,000 ÷ 1,000 kW = 500 kWh/kW.

of the first block, and would result in 180,000 kWh being priced out at the first block. The customer would also fully utilize the second block, so 180,000 kWh would go in it as well and be priced at the second block rate. The remaining 140,000 kWh²³ would be billed in the third, or high load factor, block.

Brubaker then explains the charges for the tail blocks and how they are much higher than the variable cost to produce that power:

Q WHAT IS THE LEVEL OF THE ENERGY CHARGES FOR THE HIGH LOAD FACTOR (OVER 360 HOURS USE) BLOCK UNDER CURRENT TARIFFS?

A The charges vary slightly by voltage level and by season, but range from approximately 2.4¢/kWh to 2.6¢/kWh in LPS and from 3.5¢/kWh to 4.3¢/kWh for LGS.

Q DO YOU AGREE WITH THE LEVEL OF THE OFF-PEAK ENERGY CHARGES IN THE CURRENT TARIFFS?

A No, I do not. I believe the high load factor block energy charges collect more fixed costs than is appropriate.

Q PLEASE EXPLAIN.

A I have analyzed KCPL's current rate case filing and its claims for costs. KCPL's calculated average variable costs (Schedule MEM-2, page 2) are 2.0-2.1¢/kWh. The energy charges in the high load factor block of KCPL's current LGS and LPS tariffs are considerably higher, as previously noted. Since KCPL proposes an essentially equal percentage increase to collect its requested revenue increase, these relationships would be perpetuated. Since the primary driver for this case is increased fixed costs, this equal percentage on the total rate is particularly inappropriate.

Q WHAT DO YOU CONCLUDE FROM THIS REVIEW?

A Based on the level of the average variable costs and also the avoided energy costs, it is clear that the off-peak energy charges are collecting more costs than appropriate.

Q WHAT SHOULD BE THE LEVEL OF THE OFF-PEAK ENERGY CHARGE?

A Recognizing that most of the fixed costs should be collected from use during the on-peak period and that consumption in the high load factor block occurs mostly during evening and weekend periods when KCPL's energy costs would be lower than they are during the on-peak periods, it is

²³ 500,000 - 180,000 - 180,000 = 140,000 kWh.

reasonable that the high load factor energy block be at a level approximating the utility's average variable costs.

This structure would collect more costs through demand charges and provide better price signals to customers. It would also be a more equitable rate because it will charge high load factor and low load factor customers more appropriately. This structure also would improve the stability of KCPL's earnings. Because customer demands are generally more stable than their energy purchases, this rate design would make KCPL's revenue collection and earnings less volatile.

Q HOW DO YOU PROPOSE TO ADJUST THE LGS AND LPS RATES IN THIS CASE?

A In the interest of gradualism, my proposal is to maintain the energy charges for the high load factor (over 360 hours use per month, or over a 50% load factor) block at their current levels, increase the middle blocks (hours use from 181 to 360) by three quarters of the average percentage increase, and to collect the balance of the revenue requirement for the tariff by applying a uniform percentage increase to the remaining charges in the tariff. This includes the customer charge, the reactive demand charge, the facilities charges, the demand charges and the initial block energy charges.

Q HAVE YOU PREPARED AN ILLUSTRATION OF THIS RATE DESIGN?

A Yes. This appears on Schedules MEB-COS-7 and MEB-COS-8 attached to my testimony.²⁴

In response, Staff questioned Brubaker's conclusion that high load factor customers were consuming tail block energy off peak:

Q. Do you agree with Mr. Brubaker's characterization of the tail-block energy charges as "off-peak" energy charges, as he states at page 30 of his testimony?

A. No. Different customers will have different load patterns. There is nothing to suggest that additional load that is billed out under the tail block occurs at "off peak" times, as opposed to daytime or evening times. This would vary by customer.²⁵

Brubaker was again prepared with facts to address that concern:

Q AT PAGE 9 OF HER REBUTTAL TESTIMONY, STAFF WITNESS SARAH KLIETHERMES DISAGREES WITH YOUR EXPLANATION OF HOW THE LOAD FACTOR BLOCKED

²⁴ Exhibit 853, Brubaker Direct, p. 29, l. 1 – p. 32, l. 13 (emphasis added).

²⁵ Exhibit 212, Kliethermes Rebuttal, p. 9, ll. 8-12.

RATES WORK AND YOUR STATEMENT THAT TAIL BLOCK ENERGY USE TENDS TO OCCUR OFF-PEAK. HOW DO YOU RESPOND?

A It generally is true that, just as a result of the ordinary nature of commerce, the higher load factor customers, particularly those who have significant usage in the tail block of the rate (load factor over 50%) tend to have their maximum demands during the day and purchase considerable amounts of energy during off-peak hours as well. The only way that a low load factor customer could have considerable usage during off-peak hours would be if the customer had its maximum demand at night. Certainly, there can be some customers like this, but it is unlikely that we would find many customers who were imposing their maximum demands on the utility system at night.

Q DO YOU HAVE ANY EVIDENCE TO SUPPORT THAT?

A Yes. I looked at KCPL's load research data and, for LGS and LPS, compared the class coincident peak (which occurs when the system has its peak – principally during the daytime) with the sum of the maximum demands of the individual customers in each class in order to determine the extent to which these maximum customer demands are correlated with class coincident peaks. Schedule MEB-COS-SR-1 shows these results.

A high ratio of class coincident peak to the sum of individual customer maximum demands indicates that the maximum customer demands are occurring near the times of the system coincident peaks. As an example, for the LPS schedule, note that the monthly ratios range from 69% to 88%, and average 83% for the year. This is a clear indication that, for the most part, maximum demands of customers are occurring during the hours when the utility system peaks, and not during night or weekend times. This adds further credence to the association of third block energy usage with off-peak times, and is additional support for my rate design recommendation.²⁶

In short, the MIEC presented significant evidence on this intra-class rate design proposal.

Consistent with that evidence, and particularly given the lack of any significant evidence to the contrary, the Commission should adopt that proposal.

F. MECG'S Initial Brief

The MECG brief correctly and copiously cites to evidence in the record and existing precedent, both of this PSC and other states' PSCs, to discredit use of the BIP method and in

²⁶ Exhibit 855, Brubaker Surrebuttal, p. 10, l. 17 - p. 11, l. 21.

support of the A&E method. It also cites evidence of record to support the intra-class rate design offered by the MIEC. The MIEC supports that analysis.

G. Conclusion

For the reasons stated, the Commission should adopt Brubakers CCOS study, and his recommended inter- and intra-class rate design.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 4th day of April 2017, to all counsel of record.

/s/ Edward F. Downey