

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

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

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

**THE OFFICE OF THE PUBLIC COUNSEL'S RESPONSE TO  
KCPL AND GMO'S MOTION TO ENFORCE RULES AND ORDER**

**COMES NOW** the Office of the Public Counsel ("OPC") and, for its response in to KCPL and GMO's motion seeking that the Commission "not permit Public Counsel to supplement its case-in-chief in rebuttal or surrebuttal testimony with new affirmative positions or additional revenue requirement adjustments," states:

1. KCPL and GMO correctly quote Commission rule 4 CSR 240-2.130 (7) in their motion, as follows:

(7) For the purpose of filing prepared testimony, direct, rebuttal, and surrebuttal testimony are defined as follows:

(A) Direct testimony shall include all testimony and exhibits asserting and explaining that party's entire case-in-chief;

(B) Where all parties file direct testimony, rebuttal testimony shall include all testimony which is responsive to the testimony and exhibits contained in any other party's direct case. A party need not file direct testimony to be able to file rebuttal testimony;

(C) Where only the moving party files direct testimony, rebuttal testimony shall include all testimony which explains why a party rejects, disagrees or proposes an alternative to the moving party's direct case; and

(D) Surrebuttal testimony shall be limited to material which is responsive to matters raised in another party's rebuttal testimony.

2. Case-in-chief means: “The evidence presented at trial by the party with the burden of proof” in contrast to rebuttal which means: “In-court contradiction of an adverse party’s evidence.”<sup>1</sup>

3. Having initiated these rate cases by filing tariff sheets to implement proposed increased rates and charges, among other things, KCPL and GMO have the burden of proof in these cases to show that their proposed increased rates are just and reasonable.<sup>2</sup>

4. OPC is not precluded by Commission rule 4 CSR 240-2.130 (7) or the ordered procedural schedule from offering whatever evidence responsive to KCPL’s and GMO’s direct testimony and exhibits that it chooses to rebut those testimonies and exhibits, *i.e.*, OPC’s rebuttal evidence is not limited by what it filed in direct in these cases because, unlike KCPL and GMO, it does not have the burden of proof, and chose to file direct testimony it was not required to file.

**WHEREFORE**, the Office of the Public Counsel opposes KCPL and GMO’s *Motion to Enforce Rules and Order* for the reasons set out above and respectfully requests the Commission to issue an order denying KCPL and GMO’s motion.

Respectfully,

/s/ Nathan Williams

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<sup>1</sup> Black’s Law Dictionary, Seventh Edition, West Group, St. Paul, MN, 1999.

<sup>2</sup> § 393.150.2, RSMo. “At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . electrical corporation . . . .”

**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 27<sup>th</sup> day of June 2018.

/s/ Nathan Williams