

In the Matter of:

**KCP & L Co., Request for Authority To Implement General Rate Increase**

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**ER-2018-0145-0146**

*September 25, 2018*

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BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF MISSOURI

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TRANSCRIPT OF PROCEEDINGS

Evidentiary Hearing

September 25, 2018

Jefferson City, Missouri

Volume 13

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In The Matter Of Kansas City )  
Power & Light Company's Request) File No. ER-2018-0145  
for Authority To Implement a )  
General Rate Increase for )  
Electric Service )

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

RONALD D. PRIDGIN, Presiding  
DEPUTY CHIEF REGULATORY LAW JUDGE  
RYAN SILVEY, Chairman  
WILLIAM P. KENNEY  
DANIEL Y. HALL  
SCOTT T. RUPP,  
MAIDA J. COLEMAN  
COMMISSIONERS

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1 JUDGE PRIDGIN: Good morning. We are on  
2 the record. And we are resuming the hearings in Files  
3 Number ER-2018-0145 and 0146. I'm Ron Pridgin. I'm  
4 the Regulatory Law Judge assigned to preside over this  
5 hearing. It's being held September 25th, 2018. We're  
6 in the Governor Office Building in Jefferson City  
7 Missouri. The time is 8:30 a.m.

8 When we went into recess yesterday, I  
9 believe the parties wanted to negotiate further on  
10 some rate design issues. And I believe Staff filed a  
11 second revised list of issues and we have a few issues  
12 to try today and then we also have Thursday set aside  
13 for presentation of stipulations and agreements.

14 I'm assuming that contemplates a -- the  
15 signatories filing a rate design stipulation so the  
16 Commission would have time to read that and ask  
17 questions about that.

18 MR. FISCHER: Yes, Your Honor. I'm told  
19 that while we haven't filed the stipulation, we have a  
20 couple edits to do, we should file it within the hour.  
21 I think the list of issues as filed by Staff last  
22 night would be the correct road map for the hearing  
23 today.

24 JUDGE PRIDGIN: Okay. Thank you. Just a  
25 couple of housekeeping things. First, I apologize.

1 The building's HVAC system is having some trouble.  
2 You'll notice some folks working in the hall behind me  
3 and so you may get some unpleasant smells and  
4 temperatures and noises. They assured me the fire  
5 alarm should not go off, which means it probably will,  
6 so we will -- we will deal with it accordingly if that  
7 happens.

8 I do believe agenda is scheduled Thursday  
9 for 8:30. And so my best guess -- I haven't seen the  
10 agenda. My best guess, we would probably be ready to  
11 go 9:30 or 10:00 Thursday morning after agenda to give  
12 people time to go to that and get back down here for  
13 the hearing.

14 And I believe parties wanted to do -- and  
15 I'll leave it up to you, if you want to do -- since  
16 you just have so few issues left, if you want to do  
17 one opening statement or if you want to do many  
18 openings in front of each issue, that's whichever you  
19 prefer. Then I don't know if you have a preference  
20 or -- Mr. Hack?

21 MR. HACK: I think all of our issues --  
22 our witnesses will go up kind of as a group, so we'll  
23 probably just do it all at once.

24 JUDGE PRIDGIN: Okay. And I'm seeing  
25 some nods, so I'm guessing just one opening statement

1 per party.

2 Okay. Anything further from counsel or  
3 from the Bench before we begin opening statements?

4 MR. SMITH: Yes. Public Counsel has a  
5 few orders that we'd like to the Commission to take  
6 official notice of. Those orders are ER-2009-0089,  
7 ER-2009-0090 --

8 MR. WOODSMALL: Are these the Report and  
9 Orders, or what order are they?

10 MR. SMITH: So the first one is an order  
11 approving Non-Unanimous Stipulation and Agreement and  
12 Authorizing Tariff Filing.

13 MR. WOODSMALL: What date is that?

14 MR. SMITH: Issued June 10th, 2009. The  
15 second is titled the same and issued the same date.  
16 The third is a Report and Order ER-2014-0370 issued  
17 September 2nd, 2015. The fourth is ER-2016-0156.  
18 That's an order approving a Stipulation and Agreement.  
19 It was issued August 19th, 2016. I have two more.

20 ER-2016-0156 is also the same case, but  
21 it's the Non-Unanimous Stipulation and Agreement  
22 regarding revenue increases among the various customer  
23 classes. That was filed July 29th, 2016. And the  
24 last one I have is ER-2016-0285 and that's a Report  
25 and Order issued May 3rd, 2017.

1 JUDGE PRIDGIN: All right. Thank you.

2 Any objections?

3 MR. WOODSMALL: Not an objection, more  
4 clarification. It confuses me -- the Commission's  
5 required to publish their -- their orders. So is it  
6 your opinion that we need to take official notice of  
7 Commission orders?

8 MR. SMITH: I believe taking official  
9 notice is permitted by rule and so it is my opinion  
10 that we should take official notice.

11 MR. WOODSMALL: I don't have a problem.  
12 It's just -- I've always just cited them without ever  
13 taking notice of them.

14 JUDGE PRIDGIN: I'm not hearing an  
15 objection so the Commission will take notice of the  
16 orders, Mr. Smith. Noted. Anything further before we  
17 proceed to opening statements?

18 MR. SMITH: No, Judge. Thank you.

19 JUDGE PRIDGIN: Thank you. Okay. KCP&L,  
20 when you're ready, Mr. Fischer.

21 MR. FISCHER: Thank you. May it please  
22 the Commission. May it please the Commission. I'm  
23 Jim Fischer, representing the companies in this  
24 matter. And I've got just a very brief opening.

25 Our remaining issues -- we're -- we're



1 very happy we were able to settle the revenue  
2 requirement issues. And you're going to see most of  
3 the bulk of the rate design issues, which were quite  
4 complicated. And again, I'd like to commend the  
5 parties for sticking with us through late into the  
6 evenings last week and over the weekend to get a lot  
7 of these issues resolved and we believe they're in the  
8 public interest and at the appropriate time, we hope  
9 you'll approve them.

10           At the outset, I guess I should probably  
11 apologize for the lack of clarity of the Company's  
12 position statement on this particular issue because  
13 whenever we filed our testimony, we were assuming we  
14 were going to be talking about a revenue requirement  
15 increase, rather than a decrease. So all the  
16 testimony that we had on how to allocate that was  
17 based upon the idea that there would be an increase.

18           But I would like to mark an exhibit,  
19 which would address our position under the current  
20 circumstances where we stipulated -- or we've agreed  
21 to a rate reduction.

22           JUDGE PRIDGIN: And I believe this would  
23 be Exhibit Number 180.

24           (Exhibit 180 was marked for  
25 identification.)

1 MR. FISCHER: I've got the first sheet up  
2 on the -- the ELMO there. Based on the revenue  
3 decreases set forth in the Non-Unanimous Stipulation  
4 that we filed on Wednesday, the Company's position is  
5 that the class revenue shifts would be as follows for  
6 KCPL. With an overall revenue decrease of 2.39  
7 percent, class revenues should be adjusted as follows:  
8 Residentials would get a 1.43 percent decrease and all  
9 other classes would get a 2.99 percent decrease.

10 For GMO, which is the other situation, it  
11 would be our position that residentials should receive  
12 a 2.52 percent decrease; large power, large general  
13 service, small general service would receive just over  
14 a 4 percent decrease; and all other classes would  
15 receive a 2.42 percent decrease.

16 The Company's recommended class shifts  
17 would move toward class revenues based on our cost --  
18 class cost-of-service study. The Company -- but it  
19 doesn't get all the way. It's just a step in the  
20 right direction from our perspective. The Company's  
21 witness, Marisol Miller, can answer specific questions  
22 about how we came to those recommended shifts.

23 The Company's class cost-of-service study  
24 allocates production costs on the basis of the Average  
25 and Excess methodology, which is commonly used across

1 the Company and accepted by regulatory authorities  
2 throughout -- throughout the nation. The only other  
3 methodology for allocation of production costs in the  
4 record is the Staff's -- I think they call it detailed  
5 Base, Intermediate, Peak method or BIP method.

6           That's not as commonly used at all. And  
7 Staff's application of the BIP methodology suffers  
8 from a variety of flaws and weaknesses that are  
9 explained by our witnesses Brad Lutz and Tom Sullivan  
10 for the Company and I think Mr. Brubaker also  
11 addresses it for MIEC. I think when you compare the  
12 results of our class cost-of-service study to the  
13 Staff and industrials, you'll see that ours is  
14 probably the middle ground road.

15           The Company wants to ensure that our  
16 industrial rates are competitive with other Midwestern  
17 utilities. Mr. Brubaker has included in his Direct  
18 Testimony a ranking of Midwestern public utilities  
19 that shows that KCPL's industrial rates are the sixth  
20 highest out of 41 Midwestern vertically integrated  
21 companies. I think GMO's ranked at 27 on that list.

22           We believe that this case is an  
23 opportunity to take steps toward ensuring our  
24 industrial rates are competitive with other Midwestern  
25 public utilities and we would, therefore, encourage

1 the Commission to adopt the Company's proposed class  
2 revenue shifts and lower the industrial rates by more  
3 than the residential class.

4 Thank you for your attention. I'm happy  
5 to answer questions, and we've got several technical  
6 subject matter experts coming up shortly.

7 JUDGE PRIDGIN: Mr. Fischer, thank you.  
8 Any Bench questions; Mr. Chairman? Commissioner Hall?

9 COMMISSIONER HALL: No, thank you.

10 JUDGE PRIDGIN: Thank you. Opening from  
11 Staff?

12 MS. KLAUS: Good morning. May it please  
13 the Commission. My name is Alexandra Klaus and I am  
14 here on behalf of Staff regarding the overarching  
15 issues of class cost-of-service, or CCOS, and rate  
16 design.

17 Staff has a unique role in these cases in  
18 that Staff is here to provide the Commission the  
19 information that it needs in order to balance the  
20 interests of the Company and the customers. Staff  
21 takes this role very seriously and is ever mindful of  
22 it, especially as we delve into issues like class  
23 cost-of-service and rate design.

24 Before diving into CCOS, I'd like to note  
25 that most of what follows will focus on KCPL. While

1 Staff completed a study for GMO to calculate a  
2 functionalized customer charge for the residential  
3 class, that study is not reliable for other purposes  
4 due to the absence of 12 months of data for the  
5 customer classes established under GMO's reconfigured  
6 classes and rate structures.

7           As taken from the Commission's order in  
8 the last KCPL rate case issued May 3rd, 2017, a class  
9 cost-of-service study attempts to allocate or assign a  
10 utility's total cost of providing service to all  
11 customer classes such that it reasonably reflects cost  
12 causation.

13           CCOS studies should serve as a guide to  
14 setting revenue requirements and they're not precise.  
15 They're based on direct-filed revenue requirement and  
16 the allocation of that revenue requirement among  
17 specific accounts using a specific rate of return.  
18 Unless the Commission approves that exact set of  
19 accounting schedules, as well as the direct-filed  
20 billing determinants in setting the revenue  
21 requirement in a particular case, there is an inherent  
22 disconnect between the CCOS results used in providing  
23 a party's class cost-of-service and rate design  
24 recommendations and the actual cost-of-service that  
25 would result at the conclusion of a case.

1           The results of a CCOS study are only one  
2 element that the Commission should consider when  
3 determining rates. Other factors that the Commission  
4 should take into consideration include the customer's  
5 ability to understand their rates, rate continuity,  
6 rate stability, revenue stability, a minimization of  
7 rate shock and the ability to meet incremental costs,  
8 such as the market cost of energy.

9           The Commission has before it various CCOS  
10 studies completed by Staff and by the companies and  
11 additional recommendations from MIEC, MECG based off  
12 of the Company's CCOS study. Staff's recommended  
13 study is a Base, Intermediate, Peak, or BIP,  
14 production allocation while the Company's study uses  
15 an Average and Excess, or A and E, production  
16 allocation.

17           There are differences between these  
18 studies and one important distinction is the source of  
19 numbers utilized for each study. For instance,  
20 Staff's CCOS is based on Staff's revenue requirement  
21 reduction of 19 million dollars. And the other study  
22 and recommendations are based off KCPL's direct-filed  
23 revenue requirement of an increase of approximately  
24 16 million dollars.

25           This is especially of note because

1 Staff's cost-of-service study recognized a decrease in  
2 net investment and expenses, while the Company's did  
3 not. The Commission's recognition of CCOS studies  
4 being based on direct-filed revenue requirement is  
5 important here as the agreed-upon revenue requirement  
6 in the Stipulation and Agreement is remarkably similar  
7 to Staff's cost-of-service recommendation.

8 Staff is mindful of the Commission's  
9 preference that Staff present alternatives when they  
10 are available. And Staff prepared in direct an A and  
11 E with a 19 million dollar revenue reduction, which  
12 Staff compared to MIEC's requested revenue by class.

13 More recently, Staff Witnesses Lange and  
14 Kliethermes prepared a demonstrative exhibit that has  
15 been provided to the parties this morning and that I'm  
16 happy to provide the Commission with at this time, if  
17 that's preferred. Ms. Lange and Ms. Kliethermes may  
18 refer to those calculations during their testimonies  
19 today.

20 Either way, this table put together CCOS  
21 results of the A and E study Staff performed in direct  
22 with the class rate shift that Mr. Brubaker is  
23 recommending for KCPL. And the misalignment that  
24 Mr. Brubaker's recommendation causes is shown in a  
25 final column, specifically where Mr. Brubaker is

1 requesting that the LGS class rates be reduced to  
2 10 million dollars below the A and E allocated cost of  
3 serving that class, and residential rates would be  
4 increased 8.4 million dollars above the cost of  
5 serving that class.

6           Staff Witnesses Lange and Kliethermes can  
7 explain that why this shows what we have is not  
8 necessarily an A and E versus BIP issue. We have an  
9 issue of the reasonableness of the costs and the  
10 revenue studied relative to the agreed-upon revenue  
11 requirement in this case.

12           But to the extent that we do have an  
13 A and E versus BIP issue, of these two production  
14 allocation methods, only Staff's BIP recognizes  
15 disparity in capacity and fuel costs. Again, as  
16 stated in that 2017 order, the BIP method uniquely  
17 recognizes the trade-offs that exist between the cost  
18 of installing a plant, the generation capabilities of  
19 a plant and the cost of obtaining energy from that  
20 plant.

21           This takes into consideration the  
22 differences in the capacity costs associated with  
23 units that run at a stable level much of the year  
24 versus the capacity costs associated with units that  
25 quickly dispatch only a few hours a year, as well as



1 those units that end up somewhere in between those two  
2 extremes.

3           BIP also considers the inverse  
4 relationship between the cost of capacity and the cost  
5 of energy produced by base, intermediate and peaking  
6 units. Comparatively, other CCOS methodologies tend  
7 to assume that energy costs are the same amount  
8 regardless of the hour of the consumption or the  
9 source of the energy and/or do not consider the  
10 operating characteristics of plants and assume that  
11 capacity costs are equal among all types of plants.

12           So why does all of this matter? It  
13 matters because it gets to the heart of the first  
14 issue we're examining here today; namely, what revenue  
15 neutral changes to class revenue responsibility, if  
16 any, should the Commission order for each utility?

17           As previously mentioned, there is a need  
18 for certain information in order to conduct a reliable  
19 CCOS for GMO. Because of this, Staff does not  
20 recommend any deliberate inter-class revenue neutral  
21 shifts to revenue responsibility for GMO.

22           With respect to KCPL, Staff found that  
23 all classes are contributing revenues at or near their  
24 cost-of-service and contributing to the Company's  
25 overall return. While the large general service,

1 large power service and lighting classes contribute to  
2 overall returns at a level below system average, that  
3 variance is within the expected variance of the  
4 precision of a CCOS study.

5 More to the point, Staff recommended  
6 revenue responsibility shifts only if KCPL's revenues  
7 are ordered to be reduced, which is consistent with  
8 the Stipulation and Agreement's contemplated  
9 21 million dollar reduction for KCPL.

10 At such a significant decrease, Staff  
11 recommends a revenue neutral shift in revenue  
12 responsibility from the small general service class in  
13 the amount of 7.5 million dollars and a shift from the  
14 median general service class in the amount of 2.5-- of  
15 2 million dollars, excuse me, to be spread equally  
16 among the remaining classes. As applied to the  
17 21 million dollar decrease, that works out to about a  
18 1 percent reduction for the residential, small  
19 general, large general, large power and lighting  
20 classes; a bigger reduction of about 3.8 percent to  
21 MGS and a larger reduction of about 14.7 percent to  
22 the SGS class.

23 In light of the level of decrease agreed  
24 to in the September 19th stipulation, Staff has  
25 prepared exemplar rates that are moderation chiefly

1 between Staff's positions with MI-- MIEC, MEGC on both  
2 rate design and CCOS, but it's also a compromise  
3 between Staff and OPC on CCOS, and Staff and the  
4 Company on rate design.

5           There are also several rate design issues  
6 that we're here to discuss today, including  
7 residential rate design and what rate design should be  
8 ordered for each utility's non-residential classes.  
9 I'll quickly address Staff's positions on these  
10 issues.

11           If the residential class is ordered an  
12 increase, as recommended by Mr. Brubaker, Staff  
13 recommends use of its residential customer charges of  
14 \$12.82 for KCPL and \$12.38 for GMO. In the event of a  
15 decrease to the revenue requirement of the residential  
16 class, Staff is comfortable with the results of the  
17 forthcoming Stipulation and Agreement.

18           Regarding what rate design should be  
19 ordered for each utility's non-residential classes,  
20 Staff looked at functionalized costs in its CCOS  
21 report. And in general, non-residential first and  
22 second block energy charges are over-collecting. So  
23 Staff recommends that any decrease in this case be  
24 applied to those blocks.

25           Given the level of decrease contemplated

1 in these cases, Staff does slightly revise its  
2 recommendation so that the second block in-- second  
3 block rates are not decreased to a level below the  
4 tail block rate.

5 For the KCPL LPS class, in addition to  
6 reducing the first and second block energy charge,  
7 Staff recommends any reduction be applied to the  
8 facility's charge and also that the demand charge  
9 decline be eliminated.

10 Here with me today to answer more  
11 specific questions that you may have are Robin  
12 Kliethermes and Sarah Lange. We appreciate your  
13 consideration of Staff's positions on these issues.  
14 Thank you, and I'll do my best to answer any questions  
15 that you may have.

16 JUDGE PRIDGIN: Ms. Klaus, thank you.  
17 Any Bench questions? Mr. Chairman? Commissioner  
18 Hall?

19 COMMISSIONER HALL: No questions.

20 JUDGE PRIDGIN: Thank you.

21 Public Counsel, opening statement?

22 MR. SMITH: Yes, Judge. Morning. The  
23 Commission has the power to do justice. Justice in  
24 this case is simple: Rate reductions for everyone.  
25 But one -- two parties do not want that. They want a

1 rate increase for residential in KCPL.

2           Again, this power -- the Commission has  
3 the power do justice. To accomplish that goal, the  
4 OPC asks the Commission to order for each customer  
5 class an equal percentage allocation. That would be  
6 2.39 percent for KCPL and 3.22 percent for KCPL/GMO.  
7 And apply the reduction consistent with the  
8 Stipulation Agreement filed yesterday.

9           The way I got to that calculation, I  
10 think you saw the slide -- I guess it wasn't a slide  
11 exactly, but the presentation on the ELMO, was  
12 basically we took the Stipulation Agreement on the  
13 revenues and we compared that to the decreases.  
14 So we had stipulated revenues and you had a 21 million  
15 dollar decrease for KCPL, a 24 million dollar decrease  
16 for GMO. If that's accepted, the average for each  
17 customer class is 2.39 percent for KCPL and 3.22  
18 percent for GMO.

19           Although the OPC does give preference to  
20 Staff's detailed Base, Intermediate, Peak methodology,  
21 and the Commission also has given preference to  
22 Staff's detailed Peak, Intermediate methodology, that  
23 doesn't mean the Commission should do something other  
24 than equal percentage allocation.

25           The OPC reasons that every class

1 cost-of-service study has pros and cons. It's a  
2 guide. As was stated earlier, it's not perfect.  
3 There are trade-offs. And the Commission should look  
4 at each of these studies but only as an input.

5           The OPC argues that the equal percentage  
6 allocation in this case is equitable. And the reason  
7 why it's equitable is because one of the primary  
8 drivers is federal tax reform. So who is the causer  
9 of the cause for federal tax reform? Well, it wasn't  
10 the industrial class, wasn't the residential class, it  
11 wasn't any class. It was the federal government. So  
12 an equal percentage allocation makes some sense.

13           Also, in ER-2014-0370, one of the Report  
14 and Orders I referenced to have the Commission take  
15 official notice of, there are all these parties. You  
16 had actually many of the same parties. You had KCPL,  
17 you had Staff, you had OPC, you had MIECG, you had  
18 MIEC. You also had the Department of Energy -- United  
19 States Department of Energy. They all provided  
20 different cost studies.

21           But you know what? They reached a  
22 reasonable result in that case. And the Commission  
23 found even though you have all these different  
24 studies, it would be reasonable, it would be just, it  
25 would be fair to do an equal percentage allocation.

1           Now, the Commission has reached a similar  
2 conclusion in other orders, ER-2016-0156, ER-2009-089,  
3 ER-2009-0090. So an equal percentage isn't really  
4 anything new or anything that should shock the  
5 Commission.

6           In this case, it's also persuasive to  
7 order equal percentage reductions because the  
8 Commission Staff found -- I guess we wouldn't call it  
9 a data issue as much as an incomplete production of  
10 data. There just simply wasn't enough information to  
11 reliably do a class cost-of-service study on the GMO  
12 side. So on the GMO's side, Staff's recommendation  
13 was an equal percentage allocation. So if it makes  
14 sense you're doing it for GMO, kind of also makes some  
15 sense that you'd apply that for KCPL.

16           Now, as an alternative to this approach,  
17 the OPC does believe Staff's recommendation is the  
18 next best option. That's the next best option to do  
19 justice. That's the next best option where you're  
20 going to give each customer class a rate reduction.

21           And we also think that it's reasonable  
22 because SGS, or the small businesses, the moms and  
23 pops, there are a lot of differences, like I said,  
24 between the class cost-of-service studies, the A and E  
25 and the detailed BIP, but one of the things that

1 emerges as the same is that those small general  
2 service customers both deserve -- at least if you  
3 believe the studies and you're religious about the  
4 studies, the small general service customers deserve  
5 the most reduction. And actually Staff's  
6 recommendation gives them the most reduction.

7           As a part of our secondary  
8 recommendation, OPC Witness Dr. Karl Pavlovic is here.  
9 He has opined on this and found that Staff's Base,  
10 Intermediate, Peak methodology does better line cost  
11 characteristics of generating resources with class  
12 specific load characteristics. That fancy vocabulary  
13 is from him. So that's a direct quote from his  
14 testimony.

15           And also, I think, you probably remember  
16 as recently as a year ago in May, this Commission  
17 expressed its preference for the Base, Intermediate,  
18 Peak methodology. It happened in ER-2016-0285.  
19 That's a rate case. Happened May 3rd, 2017 when that  
20 order was issued. And guess what? KCPL was also at  
21 the table. Guess what? A and E was also being  
22 discussed. Guess what? Detailed Base, Intermediate,  
23 Peak methodology was also being discussed.

24           And the Commission evaluated and it's --  
25 the situation -- I guess this is a little bit



1 different because now we have a reduction, but the  
2 Commission found that in terms of the methodological  
3 differences, it preferred the BIP. It preferred the  
4 Base, Intermediate, Peak methodology and it gave quite  
5 a few reasons.

6           Again, there are trade-offs, but they did  
7 provide reasons. If you go to that order, at page 50,  
8 paragraph 134, that's where you'll start to see the  
9 good stuff, the juicy stuff, the stuff you want. The  
10 Commission described the BIP as the best study at  
11 recognizing disparity in cap-- capacity and fuel  
12 costs.

13           Commission went on and described the  
14 method, it's unique, recognizing the trade-offs that  
15 exist between the cost of installing a plant, the  
16 generation capability of a plant, the cost of  
17 obtaining energy from the plant. And they also  
18 recognize that unlike other methods, the BIP method  
19 most reasonably assumes that some plants are going to  
20 run virtually all year-round; those are your base  
21 plants. Some will be part of the year; those are your  
22 intermediates. Some will be run rarely; those are  
23 your peaks.

24           Now, the Commission explained also that  
25 this method was the best to account for SPP. And they

1 came to that conclusion by reasoning that  
2 participation in SPP results in price signal stacking  
3 in a manner consistent with those experienced by a  
4 utility with a generation fleet that includes the  
5 relative amount of each Base, Intermediate, Peak  
6 generating units in the NARUC manual.

7           In comparing these two methods, I think  
8 I've said earlier Dr. Pavlovic did opine on each of  
9 them. He -- he noticed actually there -- you know,  
10 there's good things and bad things about both. One of  
11 the things that he testified on that OPC has changed  
12 their position on is AMI meters.

13           We actually think that rather than  
14 ordering a reallocation of AMI meters in this case,  
15 which you could, Dr. Pavlovic's testimony shows that  
16 it's possible that there might be an over-allocation  
17 of meters to certain industrial customers. But rather  
18 than address this potential over-allocation, we're  
19 recommending in the next class cost-of-service study  
20 the Commission order that it be addressed in that  
21 study.

22           So in addition to Dr. Pavlovic, of course  
23 we have Dr. Marke. You're both familiar -- or all of  
24 you are familiar with him. He's a Ph.D. level of  
25 education. We have two doctors as witnesses today. I

1 encourage you to ask Dr. Marke questions. He's OPC's  
2 chief economist. He's a big picture thinker,  
3 distinguished background and he puts in tremendous  
4 hours over and above the call of duty. And he does it  
5 to ensure the public interest is served. And I know  
6 you think I'm just puffing him up, but literally  
7 weekends and nights, he's -- he's working.

8           Also, we have Dr. Karl Pavlovic. He has  
9 33 years of experience as a consultant. He's an  
10 expert witness. He was educated at Yale, educated at  
11 Purdue. He also has extremely competent and extremely  
12 high qualifications. He's testified before FERC,  
13 Maryland, Hawaii, Massachusetts, Illinois, Kansas, New  
14 Jersey, Pennsylvania, New Hampshire, Maine, Louisiana,  
15 Delaware, North Dakota, D.C., California, Alberta  
16 Canada, kind of all over the place. And we are really  
17 grateful to have him here with us today and on behalf  
18 of ratepayers today. And we would ask the Commission  
19 that if you have questions, this is -- this is a great  
20 person to ask them to.

21           Now, as I said at the beginning of my  
22 opening, this Commission has the power to do justice.  
23 They need to have rate reductions for all classes to  
24 do justice. That's what we envision success to be.  
25 That's what we envision justice to be.

1           But at least in the current position of  
2 MIEC and MECG -- I don't know if it might change to  
3 something more reasonable today in their opening  
4 statement, but at least in their position statement,  
5 they actually want a residential rate increase for  
6 KCPL. Even with 20 -- 21 million dollars of potential  
7 reductions.

8           And they also present the case for a  
9 residential rate increase in a way that I would argue  
10 is out of context. It is incomplete because it  
11 doesn't show the advantage that some of their clients  
12 get. I'll give you seven reasons why.

13           First, residential customers and SGS  
14 customers subsidize industrial customers and they do  
15 that because industrial customers opt out of MEEIA.  
16 They don't pay. Guess who does? SGS and residential  
17 customers.

18           Second, SB 564. It's new bill -- or it  
19 became enacted now, so it's actually law as of the end  
20 of August. And I think we have one utility who's  
21 already given notice they want to take advantage of  
22 some of those provisions; Ameren Missouri. But this  
23 bill also gave some -- some good stuff for  
24 industrials. It provided discounts for new load,  
25 which is a good thing for industrials.

1           And it also insulated them. There's a --  
2 there's a 2 percent cap. And if that cap goes over  
3 2 percent, the customer classes that pay for that  
4 excess are all of the other customer classes. So  
5 industrials, if it goes over 2 percent, all the other  
6 excess gets spread around to all the other customer  
7 classes. So that's a good thing. That's a good thing  
8 they have going for them. And I don't know if you'll  
9 hear that today in their testimony. I don't think it  
10 was there.

11           Another thing, industrials are getting a  
12 decrease if you go with the OPC approach. Industrials  
13 are getting a decrease if you go with the Staff  
14 approach. Industrials are getting a decrease if you  
15 go with the Company's approach. And the difference is  
16 they want more. They want more. More and more and  
17 more.

18           They also present EEI data, and the  
19 Company referenced EEI data. Well, data is nothing  
20 without context explanation. I would encourage you to  
21 read pages 22 through 26 of Sarah Lange's Rebuttal  
22 Testimony. She provides that -- the context you need.  
23 And also again, Dr. Marke and Dr. Pavlovic are  
24 available to opine on why that information is in  
25 need -- desperate need of context.

1           The fifth, as I've said before, GMO.  
2 There's a problem with the data. We don't have a  
3 complete set of data to reliably provide a class  
4 cost-of-service recommendation. At least that was the  
5 Staff's opinion in their testimony. At this point, it  
6 is not adequately addressed by the industrials and so  
7 they would prefer cost allocations other than an equal  
8 percentage. That failure is not contained in OPC's  
9 recommendation.

10           Six, tax cuts. Corporations have  
11 received tax cuts. Businesses have received tax cuts.  
12 And they've done so at greater levels than  
13 residential. So in addition, now we have a case  
14 about tax cuts. In a case where one of the primary  
15 drivers of the reduction is tax cuts and you have  
16 other customer classes that want to double recover.

17           Not only did they get their -- their tax  
18 recovery greater than the individual taxpayer, but now  
19 they want to take away the reduction that could flow  
20 through this case. And that same point can be said  
21 for state tax reform. Corporations are set to get a  
22 6.25 to 4 percent reduction starting around the end of  
23 20-- or the beginning of 2020.

24           And my seventh and final reason -- thank  
25 you for sticking with me. I know this is a lot, but

1 I -- I could go on. Believe me, I'm trying to help  
2 you out here.

3           The seventh reason is that commercial and  
4 industrials can, at the end of the day, pass on costs.  
5 Residential customers simply can't do that.

6           So in summary, success for the OPC,  
7 success for the Commission, success for all the  
8 parties in this case should be a rate reduction for  
9 all cases -- or for all customer classes.

10           And right before I conclude, I think it  
11 should be noted that there is a petition going around.  
12 As a customer advocate, I have to let you know about  
13 this. Ms. Dietrich let you know about it in her  
14 testimony. Dr. Marke let you know about it in his  
15 testimony. The petition has around 65,000 customers  
16 who are asking Mayor Sly James, Senator Blunt, Senator  
17 McCaskill, Representative Cleaver, they're all saying  
18 what's going on? Why do we keep getting rate  
19 increases? Please audit this company. What's going  
20 on here?

21           And I believe there's -- there's actually  
22 a separate petition, which was referred to in  
23 Ms. Dietrich's testimony. It actually calls upon this  
24 Missouri Public Service Commission to do something.

25           So this is a rare opportunity for this

1 Commission to do justice for these residential  
2 customers. This is a rare opportunity. And that  
3 should be respected. And Geoff Marke's testimony has  
4 some of the communications. We've -- we've received a  
5 lot of communications, and I'd encourage you to read  
6 some of those e-mails. Some of them are -- are kind  
7 of heartbreaking.

8           Again, at the beginning of my opening  
9 I've asked for justice, a rate reduction for all  
10 classes. We believe the best way to do that is an  
11 equal allocation across customer classes, or in the  
12 alternative, you can do an equal allocation to GMO and  
13 go with Staff's methodology for the KCPL. Thank you.  
14 The decision is in your hands and I stand ready for  
15 any questions.

16           JUDGE PRIDGIN: Mr. Smith, thank you.

17           Any Bench questions?

18           All right. Thank you very much.

19           Opening from MEECG.

20           MR. WOODSMALL: Good morning. David  
21 Woodsmall on behalf of the Midwest Energy Consumers  
22 Group. I'm here today to speak about the single most  
23 important issue to the large industrial and commercial  
24 customers in this case; the class cost-of-service  
25 study, the allocation of revenues and the elimination



1 of the residential subsidy in this case.

2           As most of you know, Midwest Energy  
3 Consumers Group is the primary representative of  
4 business interests before the PSC and the General  
5 Assembly. In this case, MECG members total 31 large  
6 commercial and industrial customers of KCP&L/GMO.  
7 They use approximately 1.5 billion kilowatt hours a  
8 year from these utilities and employ over 40,000  
9 individuals on the west side of this state.

10           We're talking about industrial customers  
11 like Tyson Foods; Cargill; Central Plains Cement;  
12 Nucor L&P; hospitals like North Kansas City Hospital,  
13 Liberty Hospital and Bothwell Hospital; casinos like  
14 Ameristar Casino and Isle of Capri; Bioethanol  
15 companies like Show-Me Ethanol and Mid-Missouri  
16 Energy; and breweries like Boulevard Brewing. All  
17 these companies ask you to set cost base rates and  
18 eliminate the residential subsidy.

19           Now, the Commission is probably used to  
20 me standing before it and taking positions that are  
21 contrary to the utility. I'm pleased to say today  
22 that's not the case. KCP&L and its customers have  
23 agreed to a rate reduction. The remaining issue is  
24 how do you allocate that rate reduction between the  
25 various classes.

1           On this issue, the industrial customers  
2 and the utilities are in complete agreement. Given  
3 the uncompetitive-- uncompetitiveness of KCP&L's  
4 industrial rates, both KCP&L and the industrials agree  
5 that more revenues should be imposed on the  
6 residential class.

7           Now, I want to be very clear before I go  
8 any further. The following slides are going to look  
9 like that I'm being very critical of KCP&L and its  
10 industrial rates. It is not my intention to be  
11 critical of KCP&L on this issue. As I will  
12 demonstrate, KCP&L has acknowledged the problem.  
13 KCP&L has proposed steps in this case to start us on a  
14 solution. So it's not KCP&L with the problem in this  
15 case. It's the other parties that don't want to  
16 eliminate the residential subsidy.

17           Now, I will agree with OPC on one thing  
18 here. This is a rare opportunity to do justice. A  
19 rare opportunity. You have a rate reduction. How do  
20 you want to use the rate reduction? Do you want to  
21 give it back to residential customers even though by  
22 most -- by virtually all measures, we know that  
23 KCP&L's rates are uncompetitive? Or do you want to  
24 use that rate reduction to bring about cost base  
25 rates, send proper price signals, and take care of

1 industrial customers that are leaving?

2 In its Direct Testimony, KCP&L  
3 specifically acknowledged the problems associated with  
4 its industrial rates. Mr. Lutz admits, quote, The  
5 fact that the Company's industrial rates at face value  
6 do not compare well with other locations is difficult  
7 to debate, end quote.

8 MIEC's witness, Mr. Brubaker, provides  
9 more color to this concern. As Mr. Brubaker points  
10 out, from 2005 to 2017, KCP&L's industrial rates have  
11 increased by 91 percent. This compares to an overall  
12 industrial rate increase for the Midwest group of only  
13 34 percent. It's not surprising when your industrial  
14 rates go up three times faster than in -- then the  
15 Midwest group over the course of 12 years, you're  
16 going to have a problem, and that's where we're at.

17 This is hard to see. It's in your chart.  
18 But Mr. Brubaker provides more color to this. He went  
19 through and looked at the rates for 41 Midwest  
20 utilities. And what did he find? Of those 41 Midwest  
21 utilities, KCP&L's industrial rates are the sixth  
22 highest. Utilities in Kansas, Oklahoma, Arkansas,  
23 Iowa, Illinois all have lower industrial rates. All  
24 are providing greater opportunities to industrial  
25 customers to come there and leave Missouri.

1           In an Empire decision that most of you  
2 Commissioners remember from 2015, the Commission  
3 expressly discussed the implications of uncompetitive  
4 industrial rates. If industrial rates stay  
5 uncompetitive, it becomes difficult for the area to  
6 attract or retain industrial customers. While this  
7 becomes a problem for area employment, it also becomes  
8 a problem for the electric rates of all the remaining  
9 customers.

10           Why is this? As the Commission  
11 recognized, eventually these industrial customers will  
12 leave and those costs will now be spread amongst a  
13 much smaller number of billing determinants. As a  
14 result, industrial customers leave, employment  
15 declines and residential rates will necessarily  
16 increase. It may seem like a worthwhile goal to keep  
17 residential rates low at the cost of industrial  
18 customers, but that will eventually come back to bite  
19 you.

20           The Commission had this exactly right in  
21 the Empire decision. We're seeing it playing out  
22 here. As the evidence in this case demonstrates, once  
23 KCP&L industrial rates started to increase and become  
24 uncompetitive, KCP&L's industrial customers started to  
25 leave. As Mr. Brubaker mentioned, over the past

1 12 years, KCP&L's rates have gone up three times the  
2 Midwest average. At the same time that the rates were  
3 going up, industrial customers were leaving. Since  
4 2006, over 17 percent of KCP&L's industrial base has  
5 left the system.

6           While residential customers may file  
7 comments or, as Mr. Smith talked about, may do  
8 petitions and show up at local public hearings,  
9 industrial customer simply wave good-bye as they leave  
10 the state.

11           And for any of you that have worked on  
12 economic development issues in the General Assembly or  
13 in the Governor's office, it is tough to attract these  
14 customers once they leave. Inevitably you will throw  
15 millions of dollars at industrial customers and they  
16 will simply leave you hanging at the alter when they  
17 go to another state. The moral of the story, don't  
18 ever let these industrial customers leave in the first  
19 place. And how do you do that? By setting cost based  
20 rates for them.

21           The lost of industrial customers is not  
22 simply the smaller industrial customer. In KCP&L's  
23 case, it's its largest industrial customers, the  
24 backbone of the KCP&L industrial base. As this chart  
25 shows, KCP&L has been able to replace its customers in

1 its small and medium general service rate classes.  
2 You actually see percent increases there in the number  
3 of customers.

4 In the past 12 years, however, KCP&L has  
5 lost 20 percent of its large general service rate  
6 class and 36 percent of its large power rate class.  
7 Effectively, KCP&L is swapping out high load factor  
8 customers with low load factor customers. We're  
9 seeing exactly what the Commission said in the Empire  
10 case. These customers leave and you will have smaller  
11 billing determinants and you're going to have higher  
12 residential rates because of short-sighted decisions  
13 now. Frankly, we are at a tipping point here.  
14 Eventually KCP&L will lose all of its high load factor  
15 customers who will leave for greener pastures.

16 Now, I don't want to leave you with the  
17 impression that simply fixing KCPL's industrial rates  
18 is the solution to all of the Kansas City area  
19 economic development problems. As Mr. Brubaker points  
20 out, KCP&L's rates -- industrial rates are not the  
21 only problem, but they are certainly, quote, a  
22 contributing factor.

23 In his testimony, KCP&L Witness Sullivan  
24 talks about the importance of retaining these high  
25 load factors customers as well. Much as the

1 Commission recognized in its Empire decision, the  
2 presence of these high load factor industrial  
3 customers do not simply assist with jobs and  
4 investment. They also increase the utility's overall  
5 efficiency and reduce costs for all customers.

6           So why am I mentioning the uncompetitive  
7 nature of KCP&L's rates in this part of the case?

8 There are three parts of the case. There's the  
9 revenue requirement, how much of a rate change should  
10 the overall utility get. The second part is once you  
11 know how much of a revenue change, how do you allocate  
12 that amongst the customer classes? Then once you know  
13 how much each customer class gets, how do you design  
14 the rates to lead to that? We're in the second and  
15 third parts of the case. We know what the revenue  
16 requirement is. How do we allocate that?

17           So what guidance do you have on  
18 allocating revenues in this case? The best tool for  
19 guiding your decision on revenue allocation is the  
20 class cost-of-service study. This study attempts to  
21 take every piece of cost revenue and investment of the  
22 Company and allocate it in a logical manner to the  
23 various customer classes.

24           Given the amount of investment that a  
25 utility has in its generating station, the allocation

1 of the investment in production plant is by far the  
2 biggest issue of class cost-of-service study.

3           In this case, you have been presented two  
4 class cost-of-service studies to help guide you with  
5 your determination. As I mentioned, KCP&L and the  
6 industrials are in agreement on this; the A and E  
7 methodology. Based upon that class cost-of-service  
8 study, KCP&L and the industrials agree that the  
9 residential rates are about 17 and a half percent  
10 below their actual cost-of-service. As a result,  
11 large general service rates are about 12.4 percent  
12 above cost-of-service and large power rates are about  
13 10 percent above cost-of-service.

14           On the other hand, as you can see here,  
15 Staff relies upon an archaic methodology called the  
16 Base, Intermediate, Peak methodology for allocating  
17 this generation investment. Based upon this faulty  
18 methodology, Staff actually shows the exact opposite  
19 scenario; that residential customers instead of a rate  
20 increase, should get a rate decrease.

21           And believe it or not, despite the  
22 uncompetitiveness of rates, Staff's methodology  
23 actually says large general service and large power  
24 should get rate increases. They want to double down.  
25 The disparity is not limited to KCP&L. We see the



1 same phenomenon on the GMO side.

2           While both GMO and the industrials  
3 provide evidence of a residential subsidy, Staff's  
4 methodology shows that residential rates are again  
5 below costs and that industrial rates should see a  
6 rate increase as a result of this case.

7           Clearly, the differences between the  
8 Staff BIP and the A and E methodology used by KCP&L  
9 and the industrials lead to radically different  
10 outcomes. The magnitude of the KCP&L residential  
11 subsidy is certainly disconcerting. Effectively 1 out  
12 of every 10 dollars that a large power customer spends  
13 is used to keep residential rates low. One out of  
14 every 8 dollars that a large general service customer  
15 spends is used to keep residential rates low.

16           The other disconcerting part isn't just  
17 the magnitude. It's how fast this residential subsidy  
18 is growing. According to Mr. Brubaker's testimony in  
19 the last three cases, the residential subsidy has  
20 grown from 2014 when it was 11.2 percent to now 17 and  
21 a half percent. In barely three to four years, you've  
22 seen the residential subsidy almost increase  
23 50 percent.

24           Over the same period of time, the  
25 industrial percentage over cost has grown too. The

1 industrial rates in 2014 were just shy of 5 percent  
2 above costs. Now they're 10 percent above costs.

3           So why do the BIP and A and E approaches  
4 lead to such radically different outcomes? You'll see  
5 much made of this in Mr. Brubaker and Mr. Sullivan and  
6 Mr. Lutz's testimony. In order to understand the  
7 answer to this question, you must understand how the  
8 BIP methodology is designed and how the costs are then  
9 allocated.

10           As the witnesses describe it, the  
11 fundamental basis of the BIP is that KCP&L's  
12 generating units can be assigned different purposes;  
13 either base load, intermediate or peaking. Once it is  
14 classified into one of those three buckets, those  
15 buckets are then allocated between the various  
16 customer classes. And importantly, the biggest  
17 bucket, the base load investment, is allocated  
18 entirely on the basis of class energy usage.

19           As Mr. Brubaker points out, however, by  
20 allocating base load investment entirely on the basis  
21 of energy, the BIP method fails to give any  
22 consideration as to when the usage occurs or how  
23 efficiently the customer is using the electricity,  
24 known as the customer's load factor.

25           As I mentioned, unlike the produ-- the

1 other production allocators, the BIP methodology is  
2 very subjective. The analyst looks at the various  
3 units and assigns it to buckets. Very subjective.  
4 The BIP swings entirely then on how the an-- the  
5 analyst assigns these units to the various buckets.  
6 This subjectivity can cause a great deal of variance  
7 in the methodology and we're seeing it here.

8           Because of this subjectivity, we have  
9 seen great swings just since the last case. In the  
10 last case, the Staff allocated 53 percent of  
11 production investment on the basis of energy.  
12 53 percent. Now, less than two years later, because  
13 of the subjectivity, Staff now allocates 80 percent of  
14 all this investment on the basis of energy. You  
15 shouldn't see those kind of radical swings in your  
16 class cost-of-service study. But we see it in the BIP  
17 because of all the latitude it gives the analyst.

18           KCP&L's testimony provides a great  
19 discussion as to how this problem came about. As  
20 KCP&L points out, Staff attempts to first assign the  
21 various generating units first to the base load unit  
22 bucket. Once that bucket is filled up, then it  
23 assigns unit to the intermediate peak -- the  
24 intermediate bucket, and finally to the peaking  
25 bucket.

1           As KCP&L Witness Lutz points out,  
2 however, the most economical; generation in KCP&L's  
3 fleet is its wind energy and renewable investment.  
4 It's the most economical. It's the stuff that's  
5 running all the time. Why doesn't it get assigned  
6 first? Staff doesn't do that. Instead, Staff  
7 strangely leaves those units out when assigning the  
8 various units. As a result, the more expensive  
9 investment is pushed into the base load bucket and so  
10 forth.

11           As Mr. Lutz concludes, quote, Staff's  
12 decision to not include Company-owned renewable  
13 generator plant in allocator development allows the  
14 plants with higher costs to be moved lower in the  
15 stratus, skewing the allocator. That's KCP&L telling  
16 you. The Staff methodology is being used wrong.

17           Mr. Sullivan of KCP&L provides even more  
18 discussion. Because Staff has failed to include  
19 renewable investment in the base load bucket, more  
20 expensive investment is treated as base load  
21 investment even though it does not resemble what we  
22 would think of as base load.

23           For instance, Mr. Sullivan points out  
24 that La Cygne 1 is treated as a base load unit. Now,  
25 base load unit is generally something that operates

1 all the time. La Cygne 1 is treated as a base load  
2 unit, but it only has a capacity factor in Staff's  
3 methodology of 35 percent. This isn't base load.  
4 We're still -- La Cygne 2 is treated as base load even  
5 though it has a capacity factor of only 26 percent.

6           Because Staff has failed to assign the  
7 renewable energy, all this intermediate generation is  
8 being pushed into the base load bucket and allocated  
9 on the basis of energy. That's why we're seeing the  
10 swing since the last case.

11           The problem isn't limited solely to the  
12 classification of units as base load that do not  
13 resemble such units. It has also been seen in  
14 intermediate units. For instance, Hawthorn 6 through  
15 9, which has a capacity factor of only 2 percent, is  
16 being treated as an intermediate unit. That's a  
17 peaking unit if I've ever seen it. But because of  
18 Staff's methodology, it's being pushed lower in the  
19 strata, as Mr. Lutz said, and being treated as an  
20 intermediate unit and being dispatched more on the  
21 basis of energy to the high load factor customers.

22           The subjectivity of the BIP methodology  
23 has caused tremendous swings since the last case and  
24 covered up the residential subsidy that clearly exists  
25 in KCP&L's rates. So earlier I provided you the end

1 results of the overall class cost-of-service study.  
2 That was how many dollars should be shifted between  
3 the various classes.

4           Here I'm going to show you what is the  
5 result of just the BIP; how does it assign the  
6 production investment. On this side, I show you under  
7 KCP&L an-- under KCP&L's A and E method and Staff's  
8 BIP. You can see now why Staff's methodology covers  
9 up the existence of a residential subsidy. While  
10 KCP&L's methodology assigned 42.29 percent of  
11 generation plant to the residential class, Staff's  
12 methodology only assigned 35 percent to the  
13 residential class.

14           Now, this might not seem like much, but  
15 we're talking about the allocation of 10 billion  
16 dollars in production plant investment. You shift  
17 1 percent, it's going to cause tremendous swings in  
18 rates. And that's what Staff's methodology does.  
19 Magically the existence of a residential subsidy  
20 disappears.

21           In addition to its subjectivity and heavy  
22 dependence on class energy usage for allocating  
23 generation plant investment, KCP&L's evidence also  
24 shows that Staff's BIP methodology is archaic. His--  
25 and you need to understand this. This is going back

1 before some of you were here.

2           Historically, utilities met their energy  
3 needs entirely based upon their own generating units.  
4 Energy usage was going up, they had to go out and  
5 build another unit. And depending on how they  
6 forecasted things, it might be a base load, an  
7 intermediate or a peaking unit. But it was all met  
8 through internal resources.

9           In 2014 -- so it was easy under that  
10 scenario. You knew how the units were being  
11 dispatched and the economic order. You could look at  
12 it and say wow, Wolf Creek is a base load unit. Wow,  
13 Iatan is base load unit. Wow, La Cygne is operating  
14 as an intermediate unit. It was easy because it was  
15 all being met by this fine box of units available.

16           In 2014, this all radically changed. In  
17 2014, the Southwest Power Pool developed the  
18 integrated marketplace. Now KCP&L is not limited to  
19 meeting its energy needs solely through its own units.  
20 It can go to the marketplace, just like the Wal-Mart  
21 of electricity. You go to the marketplace, you buy  
22 your electricity.

23           So KCP&L under that, now sells all its  
24 electricity into the marketplace, buys all its  
25 electricity out of the marketplace. No longer do we

1 see the distinctions between base load, intermediate  
2 and peak. It's all a fungible product now.

3           And KCP&L talks about this. As KCP&L  
4 Witness Lutz points out, quote, I continue to believe  
5 based on the operation of units resulting from the  
6 implementation of the SPP integrated marketplace, that  
7 the Company cannot accurately segment its generating  
8 plants into the Base, Intermediate and Peaking strata.  
9 That's KCP&L saying it can't be done anymore.

10           But Staff does it. The BIP is also  
11 flawed in that it improperly fails to consider the  
12 need to meet capacity. It only considers class energy  
13 usage. As I mentioned, Staff's BIP assigns production  
14 investment -- 80 percent of it entirely on energy.  
15 What's the implicit assumption there? If we're  
16 assigning 80 percent based on energy, is peak demand  
17 being met by only the other 20 percent? That doesn't  
18 make any sense.

19           As KCP&L and Mr. Brubaker agree, all  
20 plants contribute to meeting peak demands. And the  
21 failure to allocate fixed costs associated with base  
22 load plants on a measure of peak demand produces a  
23 highest result that over-allocates costs to high load  
24 factor customers.

25           You need to consider capacity. Just like



1 the utility considers it when it decides to build, you  
2 need to consider capacity and meeting peak demand, not  
3 simply energy.

4           So we've talked about all these flaws.  
5 Given this, it should not surprise you that the BIP  
6 methodology has been universally rejected. As  
7 Mr. Brubaker points out, the BIP methodology is,  
8 quote, infrequently seen in regulatory proceedings,  
9 end quote. KCP&L's Witness Sullivan, with almost as  
10 many years, agrees. I have never used and have never  
11 seen the BIP methodology used to allocate production  
12 costs, end quote.

13           Other than Missouri, the only state in  
14 which I am aware that BIP was ever used was for KCP&L  
15 in Kansas. And given that KCP&L, Staff and the  
16 industrials in Kansas have all rejected it in the  
17 current case, the BIP in Kansas is on life support.

18           Given that the BIP over-allocates plant  
19 investment to the industrial class and recognizing  
20 that no other state uses this archaic methodology, it  
21 places Kansas City area industrial customers at peril.  
22 As Witness Sullivan for KCP&L points out, KCP&L will  
23 be at a competitive disadvantage in attracting and  
24 retaining industrial loads. And we've seen it. Their  
25 industrial customers are all leaving in droves.

1           So what is KCP&L's conclusion regarding  
2 Staff's methodology? Mr. Sullivan points out that,  
3 quote, Staff's methodology produces a result that  
4 makes no sense at all. He continues to note that,  
5 quote, it is totally unreasonable to use an allocation  
6 methodology that is so volatile, end quote.

7           Now, the proponents of the BIP have one  
8 ship that they will continue to hammer on. And you  
9 heard Mr. Smith talk about it today. In the last  
10 case, the Commission adopted the BIP. Now, I take  
11 blame for that. The last case, as you'll recall, was  
12 simply about the merits of the BIP versus the A and E.  
13 I didn't litigate that case right. You didn't hear me  
14 before you talking about the uncompetitiveness of  
15 KCP&L's rates. You didn't get any evidence there  
16 about which other states used it. You didn't get any  
17 evidence about how quickly industrial customers were  
18 leaving KCP&L's system. Now you're getting the rest  
19 of the story.

20           So I would tell you, don't rely upon what  
21 you did in the last case because you did it in a  
22 vacuum because I didn't give you all the necessary  
23 information. You're getting it in this case.

24           The other thing you didn't have in the  
25 last case, you didn't have KCP&L standing before you

1 banging the table saying, We have a problem with our  
2 industrial rates. You're getting all that in this  
3 case.

4           Given the numerous problems with the BIP  
5 methodology, let's look at the other alternative; the  
6 A and E methodology. First, unlike the BIP, the A and  
7 E has been widely accepted. In Missouri and Kansas,  
8 the A and E methodology has been relied upon by all  
9 the electric utilities. Ameren uses it routinely.  
10 KCP&L now uses it in Missouri and Kansas. Westar uses  
11 it in Kansas. Empire uses it. All the utilities will  
12 tell you that BIP doesn't work, we're using the A and  
13 E. So rely upon the utilities that actually build  
14 their system and know what to look at when building  
15 the system.

16           The methodology has not only been relied  
17 upon by electric utilities. It's relied upon by  
18 virtually every state utility commission in the  
19 Midwest. Here's a citation to the Iowa Commission  
20 adopting the BIP. The Louisiana decision states that  
21 it is, quote, appropriate to allocate the rate  
22 increase under the Average and Excess method proposed  
23 by Gulf States Power. The Oklahoma Commission agreed  
24 that the A and E methodology is most appropriate. The  
25 Texas Commission also agreed the continued use of the

1 A and E allocator is the most reasonable methodology  
2 for allocating production among classes. The Colorado  
3 Commission has a, quote, long-standing precedent of  
4 acceptance of the A and E by this Commission.

5           Clearly then, given that all the  
6 utilities and all the other states use the A and E,  
7 why would you use the BIP and put your industrial  
8 customers at further risk? I pointed out earlier that  
9 the BIP relies primarily on energy. Mr. Brubaker will  
10 tell you the A and E -- one of the beauties of it is  
11 it not only looks at energy, it looks at capacity.  
12 Mr. Brubaker and Mr. Sullivan can explain that in  
13 great detail.

14           Given all this, what is our position?  
15 First off, reject the BIP. Let's get that put aside  
16 forever and ever. And let's make industrial customers  
17 more competitive. Specifically, we ask you on the  
18 KCP&L side to eliminate 25 to 50 percent of the  
19 residential subsidy. For those of you that were  
20 around for the Empire case, you agreed with me. You  
21 eliminated 25 percent of the residential subsidy in  
22 that case. Let's do it again.

23           What does that mean here? Elimination of  
24 25 percent of the residential subsidy would cause a  
25 shift of 4.4 percent to residential customers. Now,

1 that may seem a lot, but you're talking in the context  
2 of a 2.39 percent rate reduction. So if you shift 4.4  
3 on top of that, residential customers would be getting  
4 out of this case with only a 2 percent increase.

5           You're -- this is a golden opportunity.  
6 You have the opportunity to use the rate reduction  
7 given to us by Congress to fix this problem. You  
8 won't want to do it -- if you're looking at a case  
9 when KCP&L's getting an 8 percent increase, are you  
10 going to want to thrust more on residential customers  
11 then? This is the golden opportunity to do it.

12           We see the same thing on the GMO case.  
13 We ask you to eliminate 25 to 50 percent of the  
14 residential subsidy in that case, but the problem is  
15 even better there. We're talking a 3.22 percent rate  
16 reduction. You can eliminate 50 percent of the  
17 residential subsidy -- 50 percent -- and still give  
18 residential customers a .1 percent rate decrease. You  
19 can get rid of over half of it.

20           The other issue I'll go through real  
21 quickly is the LGS/LP rate design. What Mr. Brubaker  
22 will tell you in regards to this is it's important how  
23 you collect costs in rates. If you have a fixed cost,  
24 you want to make sure you collect it in the same  
25 manner that it is incurred. You collect fixed costs

1 on a per KW basis. Similarly, you collect variable  
2 costs in a variable basis, on a usage basis, on a per  
3 KWh basis.

4           What we see is a problem where we have  
5 fixed costs being collected through energy charges.  
6 KCP&L -- the LP energy charge is 2.5 to 2.7 cents.  
7 The KCP&L -- and the evidence shows that their  
8 variable cost is only 2.1 to 2.2 cents. This  
9 differential, which you're collecting through energy  
10 charges, it was a lot of demand cost. This is bad for  
11 high load factor customers within the class.

12           So we ask you to take steps to fix the  
13 rate design. Mr. Brubaker spells this out more at  
14 page 32 of his Direct Testimony. It's in my position  
15 statement. You've done the same thing in several  
16 other cases and I'd ask you to do it here.

17           Real quick, Mr. Smith went through seven  
18 things that he thinks should mitigate against any  
19 decision to use the A and E. Most of this amounts to  
20 whining about what Congress and the General Assembly  
21 has done. Mr. Smith says you should use the BIP  
22 because industrial customers should -- can opt out.  
23 That's something the General Assembly did.

24           But even if industrial customers can opt  
25 out, we are not getting the benefit entirely of

1 residential customers doing MEEIA. Industrial  
2 customers have been doing energy efficiency for  
3 30 years. And residential customers were the ones to  
4 benefit from that.

5           Mr. Smith then complains about SB 564.  
6 Again, something the General Assembly did. And while  
7 it does provide for some discounts, you need to  
8 understand what that does. Those discounts are  
9 designed to attract customers to KCP&L's service area.  
10 But it's a short-term fix. Those discounts alone are  
11 not going to attract many customers. Until those  
12 customers know that not only do we get the short-term  
13 fix, but that this Commission is dedicated to cost  
14 base rates, they're not going to come for just a  
15 five-year enticement. They need to see cost base  
16 rates in the long term.

17           Mr. Smith talks about GMO problems with  
18 data. I've been doing this for 26 years and I can  
19 tell you the one universal truth. I've done rate  
20 cases in eight or nine states. The one universal  
21 truth is to those receiving a subsidy, it's never a  
22 good time to get rid of the subsidy. It's always the  
23 rate increase is too much. It's always customers are  
24 complaining. It's always there's a problem with data.

25           In the last GMO case, it's we're doing

1 the consolidation; we can't do it now. In this case,  
2 it's we just finished the consolidation; we can't do  
3 it now. There is a plethora of -- of arguments to be  
4 made as to why you shouldn't get rid of the rate  
5 subsidy. This is the right case to do it. You have a  
6 rate decrease. Use it to take care of the industrial  
7 customers and rates -- make rates more cost based.  
8 Thank you.

9 JUDGE PRIDGIN: Thank you. Any Bench  
10 questions?

11 COMMISSIONER HALL: No questions.

12 JUDGE PRIDGIN: All right.

13 Mr. Woodsmall, thank you.

14 Opening on behalf of MIEC.

15 MS. ILES: Good morning. May it please  
16 the Commission. My name's Carole Iles. I'm with the  
17 law firm Bryan Cave Leighton Paisner, and I'm here on  
18 behalf of the MIEC, the Missouri Industrial Energy  
19 Consumers, which is a non-profit corporation that  
20 represents the interests of industrial consumers in  
21 Missouri utility matters.

22 As you know, we filed a joint statement  
23 of position with MECG, so I'm not going to repeat  
24 everything that Mr. Woodsmall said. I'm going to  
25 maybe hit some high points and be hopefully very brief



1 here in reiterating and echoing some of the points and  
2 bringing up a few things that we think are important.

3           We are presenting testimony. We have  
4 pre-filed testimony in this case and our witness on  
5 the issue of class cost-of-service and non-residential  
6 rate design is Maurice Brubaker. Mr. Brubaker's here  
7 this morning to testify. He has appeared before the  
8 Commission in many cases. He's an experienced and  
9 respected expert on utility rate issues.

10           Mr. Brubaker's educational background  
11 includes a Bachelor's Degree in electrical engineering  
12 from the University of Missouri. He also has an MBA  
13 and a Master's Degree in engineering from Washington  
14 University. And the testimony we're presenting  
15 describes in detail in Exhibit A Mr. Brubaker's work  
16 experience. He has studied, analyzed and provided  
17 testimony on issues related to electric, gas and water  
18 utilities since 1970. So if you're doing math real  
19 quick, that's 48 years of experience in this area --  
20 in the area of public utility regulation.

21           He has appeared before the FERC, the  
22 Federal Energy Regulatory Commission, in matters as  
23 well as the regulatory commissions of 33 different  
24 states and the US territory of Guam, I might add.

25           So with respect to cost-of-service,

1 Mr. Brubaker's testimony, as you've already heard this  
2 morning, we at MIEC and Mr. Brubaker support the  
3 conclusions of M-- KCPL Witness Thomas Sullivan.  
4 Mr. Brubaker concluded that KCPL's class  
5 cost-of-service is reasonable and he relies on that  
6 study in his testimony.

7 Both Mr. Brubaker and Mr. Sullivan  
8 explain in their testimony that fixed production costs  
9 should be allocated among classes using the A and E or  
10 Average and Excess approach, which properly balances  
11 energy-related costs and demand-related costs. Also,  
12 A and E -- I want to emphasize again, I think you've  
13 already heard it from Mr. Woodsmall, but this is a  
14 mainstream method that is widely accepted and used  
15 throughout the industry, which is always something  
16 that I think this Commission takes into account when  
17 weighing the testimony of experts.

18 The A and E analysis that is presented in  
19 this case reveals that the cost-of-service is not  
20 being fairly allocated between classes under current  
21 rates. Fairness, justice. We've heard about that  
22 this morning. This is kind of the first time I've  
23 ever been accused of being on the side of injustice in  
24 a case and I'm a little put -- it kind of got my  
25 attention there.

1           We don't think we're on the side of  
2 injustice. We are not on the side of injustice or  
3 unfairness. Fairness in this case is not treating  
4 everybody exactly the same. It's treating them based  
5 on what they should be getting based on the  
6 cost-of-service. Each pa-- each class should be  
7 paying its own way. That's justice, that's fairness  
8 and that's what we're -- well, actually that's not  
9 exactly what we're advocating. What we're advocating  
10 is moving towards justice, not moving away from it.

11           Mr. Brubaker's testimony can be  
12 summarized by saying that adjustments are required,  
13 based on where we are now, to move each class to its  
14 cost-of-service. The rates for all classes of  
15 customers are currently so far from the  
16 cost-of-service, that equity demands a significant  
17 movement toward the cost-of-service and the rates that  
18 will be set in this case.

19           I agree with Mr. Woodsmall's statement  
20 that this case gives you the golden opportunity to  
21 move toward class cost-of-service. And more  
22 specifically, as we've seen all kinds of numbers up  
23 here this morning already, the rates currently imposed  
24 on industrial classes by KCPL and GMO result in  
25 industrial customers paying substantially more than

1 the cost of their service while residential class is  
2 paying less than the cost of their service.

3           This is an important issue obviously to  
4 MIEC, my client, since MIEC represents the interests  
5 of industrial customers, but it is also important to  
6 the Company and to all ratepayers. Because in  
7 addition to cost-of-service considerations, as both  
8 Mr. Sullivan and Mr. Brubaker explained, there are  
9 compelling reasons for ensuring that rates charged to  
10 industrial customers are competitive.

11           And just to hit the two high points,  
12 industrial customers have higher load factors that --  
13 and, therefore, they -- by having them in the system,  
14 they increase the overall efficiency of the electrical  
15 system. And they usually, and in this case obviously,  
16 do provide a large amount of direct jobs as well as  
17 indirect jobs in the economy.

18           But the current industrial rates charged  
19 by KCPL are not competitive, as the evidence in this  
20 case shows. We've already been over this this  
21 morning, so I just restate that KCPL has the dubious  
22 distinction of having the sixth highest industrial  
23 rates out of 41 Midwestern utility service terr-- out  
24 of 41 Midwestern utilities in this area that he  
25 compared, that he included in his testimony.

1           The increases that have been experienced  
2 by -- the rate increases that have been experienced by  
3 the KCPL industrial customers also have far out-paced  
4 those of other Midwestern utilities.

5           So there is a problem here. There is a  
6 problem and KCPL has lost industrial customers in  
7 recent years. The number has declined by about  
8 200 customers since 2006. So this, again, underscores  
9 the need to make equitable adjustments -- equitable,  
10 fairness, that's what we're talking about here -- to  
11 KCPL's industrial rates based on a reasonable,  
12 mainstream method of measuring class cost-of-service  
13 and that is the position we're advocating.

14           In contrast to the widely accepted  
15 mainstream A and E methodology, the class  
16 cost-of-service methodology used by Staff is outside  
17 the mainstream. And I did have several points I was  
18 going to make on that, but I think they've already  
19 been hammered on quite thoroughly by Mr. Woodsmall so  
20 I will just skip to the end here and tell you that for  
21 the reasons that we believe A and E is reasonable, the  
22 detailed B-I-P method, or BIP -- I'm not sure which  
23 we're -- how we're referring to it -- used by Staff is  
24 not reasonable or mainstream.

25           We're asking you that you take Staff --

1 or take the MIEC and the Company approach here, the A  
2 and E method. We're asking that you reject Staff's  
3 class cost-of-service report and accept the Company's  
4 proposed A and E allocation of costs.

5           And then based on this study, we ask that  
6 you -- when you're setting rates, as Mr. Woodsmall  
7 explained, recognize the disparities among the  
8 customer classes and make adjustments that -- we're  
9 not saying move all the way here, but go at least  
10 25 to 50 percent toward having rates reflect the true  
11 cost-of-service.

12           The final issue is -- so that's where we  
13 stand on class cost-of-service. The other issue that  
14 Mr. Brubaker's testimony covers is non-residential  
15 rate design. And it's a very specific proposal, which  
16 I see we still have the slide up from the last  
17 opening. And that's the -- that's what Mr. Brubaker  
18 talks about in his testimony. It's the LGS/LPS  
19 tariff.

20           We recommend that the tariffs applicable  
21 to the Company's largest customers, which are the LGS  
22 and LPS tariffs, be adjusted. And again, it's to  
23 bring them in line with cost-of-service. These  
24 tariffs consist of a series of charges differentiated  
25 by voltage level -- it's fairly complicated, but I'm

1 just going to give you the real high view here.

2           At each voltage level, the rate consists  
3 of a number of charges, including energy charges and  
4 the -- those energy charges are then structured into  
5 three blocks based on hours used. So what we are  
6 asking at -- that in this case because there's going  
7 to be a decrease in revenue, Mr. Brubaker recommends  
8 that the energy charge associated with that third  
9 block that's included in these tariffs, which is also  
10 called the high load factor block, be adjusted  
11 commensurate with the revenue decrease. Thank you for  
12 your consideration.

13           JUDGE PRIDGIN: Thank you. Any Bench  
14 questions? All right. Thank you, Ms. Iles.

15           Opening on behalf of Missouri Division of  
16 Energy

17           MR. POSTON: Good morning. May it please  
18 the Commission. My name's Marc Poston. I represent  
19 the Missouri Division of Energy.

20           What you've heard so far this morning has  
21 been limited to cost allocations. DE has not  
22 sponsored a witness on this issue and to date has not  
23 taken a position on this issue. But what we've heard  
24 this morning from OPC, MIECG and MIEC gives us great  
25 concern with how current rates are impacting

1 residential customers and with how they're impacting  
2 Missouri's business customers.

3           The departure of businesses from the  
4 state and attracting businesses to the state is a  
5 significant concern to the Department of Economic  
6 Development. So we ask that you carefully weigh the  
7 evidence you hear today, and to the extent possible,  
8 issue an order that addresses all concerns and  
9 supports the public interests.

10           DE has one witness on the unresolved  
11 residential rate design issue, which is being lumped  
12 together with cost-of-service. Mr. Martin Hyneman is  
13 our senior energy policy analyst and has pre-filed  
14 three rounds of testimony on this issue.  
15 Mr. Hyneman's familiar to the Commission, having  
16 testified on rate design and other issues numerous  
17 times. He has an excellent understanding of rate  
18 design and the important policy considerations  
19 implicated by designing rates.

20           When evaluating rate design, Mr. Hyneman  
21 recommends four primary considerations: Efficiency,  
22 affordability, gradualism and cost causation.  
23 Regarding efficiency, a fixed monthly charge such as  
24 KCPL's and GMO's customer charges do not promote  
25 efficiency because they cannot be avoided by using



1 less energy. The customer knows they're going to pay  
2 that monthly charge regardless of whether they  
3 increase their efficiency and reduce their usage.

4 But including more cost recovery in the  
5 energy charge rather than the customer charge creates  
6 more opportunities for the customer to see real value  
7 from their efforts toward energy efficiency. For this  
8 reason, DE supports low customer charges for KCPL and  
9 GMO's residential customers. The Commission has  
10 considerable discretion in setting a low customer  
11 charge and you can assure those charges are kept as  
12 low as reasonable.

13 Another important concept addressed by  
14 Mr. Hyneman is gradualism, which involves making rate  
15 design changes in a fashion that provides a gradual  
16 change for customers rather than a significant change  
17 that could create large bill impacts. This is  
18 especially important for low-income households served  
19 by the companies. Low-income tends to be low use, so  
20 higher customer charges hit low-income hardest.

21 And in regard to bill impacts, we would  
22 also encourage you to consider bill impacts and bill  
23 impact analyses when deciding how to design rates.  
24 It's easy to say we're going to adjust this rate or  
25 tweak that rate without truly knowing how that change

1 will impact customers at varying usage levels.

2           And the last thing I'd like to mention in  
3 regard to rate design policy is customer education.  
4 We cannot emphasize enough the importance of making  
5 sure customers are properly educated on why certain  
6 rate design changes have been made and ordered, and  
7 educating customers on how those changes will impact  
8 that customer and their energy bills.

9           An education component should also  
10 provide the customers with an understanding of what  
11 changes they can make to address any bill changes  
12 caused by a rate design change. So we urge you to  
13 order the companies to make customer education a top  
14 priority going forward. Thank you.

15           JUDGE PRIDGIN: Mr. Poston, thank you.  
16 Any Bench questions? All right. Thank you.

17           Opening for Renew Missouri.

18           MR. OPITZ: Thank you, Judge. I'll waive  
19 my opening this morning.

20           JUDGE PRIDGIN: Thank you.

21           This looks to be a pretty natural time to  
22 take a mid-morning break. And I show the clock here  
23 in the hearing room showing 9:55 --

24           MR. FISCHER: Judge, could I ask -- I'm  
25 sorry to interrupt.

1 JUDGE PRIDGIN: Quite all right.

2 MR. FISCHER: Could I ask the indulgence  
3 of the Commission? We've heard some compelling  
4 arguments on all sides today. I'm perceiving a little  
5 bit of middle ground. I'd like to try to pursue that  
6 in an extended break to see if there's a way that we  
7 could get all the parties together.

8 JUDGE PRIDGIN: How much time were you --

9 MR. FISCHER: Forty-five minutes. Would  
10 that do too much? We might be able to come back  
11 quicker because --

12 JUDGE PRIDGIN: So until roughly 10:45?

13 MR. FISCHER: That would be great.

14 JUDGE PRIDGIN: Any objection? Any  
15 concern?

16 All right. Then we will take an extended  
17 break. We will come back on the record at 10:45.  
18 Thank you. We're off the record.

19 (A recess was taken.)

20 (The hearing was adjourned.)

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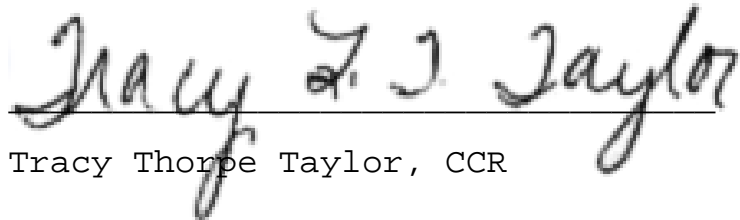
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CERTIFICATE OF REPORTER

I, Tracy Thorpe Taylor, CCR No. 939, within the State of Missouri, do hereby certify that the testimony appearing in the foregoing matter was duly sworn by me; that the testimony of said witnesses was taken by me to the best of my ability and thereafter reduced to typewriting under my direction; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this matter was taken, and further, that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action.

  
Tracy Thorpe Taylor, CCR

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