

**Exhibit No.:**

**Issue(s):**

**Witness/Type of Exhibit:**

**Sponsoring Party:**

**Case No.:**

\_\_\_\_\_  
Allconnect Transaction

Hyneman/Direct

Public Counsel

EC-2017-0175

**DIRECT TESTIMONY**

**OF**

**CHARLES R. HYNEMAN**

Submitted on Behalf of the Office of the Public Counsel

**KANSAS CITY POWER & LIGHT COMPANY**  
**AND**  
**KCP&L GREATER MISSOURI OPERATIONS COMPANY**

**CASE NO. EC-2017-0175**

April 17, 2017

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

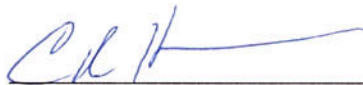
Office of the Public Counsel,	)	
Complainant,	)	
	)	
v.	)	<b><u>File No. EC-2017-0175</u></b>
	)	
Kansas City Power & Light Company	)	
and	)	
KCP&L Greater Missouri Operations	)	
Company,	)	
Respondents.	)	

**AFFIDAVIT OF CHARLES R. HYNEMAN**

STATE OF MISSOURI    )  
                                  )   ss  
COUNTY OF COLE     )

Charles R. Hyneman, of lawful age and being first duly sworn, deposes and states:


1. My name is Charles R. Hyneman. I am the Chief Public Utility Accountant for the Office of the Public Counsel.
2. Attached hereto and made a part hereof for all purposes is my direct testimony.
3. I hereby swear and affirm that my statements contained in the attached testimony are true and correct to the best of my knowledge and belief.

  
\_\_\_\_\_  
Charles R. Hyneman, C.P.A.  
Chief Public Utility Accountant

Subscribed and sworn to me this 17<sup>th</sup> day of April 2017.



JERENE A. BUCKMAN  
My Commission Expires  
August 23, 2017  
Cole County  
Commission #13754037

  
\_\_\_\_\_  
Jerene A. Buckman  
Notary Public

My Commission expires August 23, 2017.

## TABLE OF CONTENTS

<b><u>Testimony</u></b>	<b><u>Page</u></b>
Introduction	1
Executive Summary	1
Education and Experience	2
Prior Complaint (EC-2015-0309)	4
Events Leading to OPC Complaint	8
OPC'S Complaint	10

**DIRECT TESTIMONY**  
**OF**  
**CHARLES R. HYNEMAN**  
**KANSAS CITY POWER & LIGHT COMPANY**

**And**  
**KCP&L GREATER MISSOURI OPERATIONS COMPANY**  
**CASE NO. EC-2017-0175**

**INTRODUCTION**

**Q. Please state your name and business address.**

A. My name is Charles R. Hyneman. My business address is PO Box 2230, Jefferson City, Missouri 65102.

**Q. By whom are you employed and in what capacity?**

A. I am employed by the Office of the Public Counsel (“Public Counsel” or “OPC”) as Chief Public Utility Accountant.

**EXECUTIVE SUMMARY**

**Q. Please summarize your direct testimony.**

A. The purpose of this testimony is to provide support for OPC’s December 13, 2016 Complaint (“OPC’s Allconnect Complaint”) against Kansas City Power & Light Company (“KCPL”) and KCP&L-Greater Missouri Operations Company (“GMO”) (together “KCPL/GMO”) related to transaction with Allconnect, Inc. (“Allconnect”).

OPC’s Allconnect Complaint is related to compliance with the Missouri Public Service Commission’s (“Commission”) Order resulting from the Commission Staff’s (“Staff”) May 20, 2015 Allconnect Complaint, Case No. EC-2015-0309 and Commission Rule 4 CSR 240-20.015(2)(C).

The Commission, in its Allconnect Report and Order directed KCPL management to immediately cease violating the customer privacy protections in the Commission’s Affiliate Transaction Rule. The Commission also directed KCPL management to cease

transferring KCPL/GMO utility customers to KCPL's non-regulated marketing partner, Allconnect without the utility customer's informed consent. In this Report and Order the Commission stated that if KCPL/GMO wish to continue the relationship with Allconnect they shall file for Commission approval a modified customer service representative script to ensure that customers give their informed consent before their calls and related information are transferred to Allconnect. The Commission then issued, on May 26, 2016, the script that KCPL employees are required to read to KCPL/GMO customers before they are transferred to the non-regulated Allconnect marketer.

In this testimony, I discuss the Staff's prior Allconnect complaint, the events leading up to the present OPC complaint, offer testimony describing the basis for OPC's complaint and state why the Commission should assess financial penalties against KCPL/GMO.

## **EDUCATION AND EXPERIENCE**

**Q. Please describe your educational background and professional certifications.**

A. I earned an Associate degree in Applied Science (AAS) in Contracts Management from the Community College of the Air Force at Wright-Patterson Air Force, a Bachelor of Science degrees (with distinction) in Accounting and Business Administration from Indiana State University at Terre Haute, and a Master of Business Administration from the University of Missouri at Columbia. I am a Certified Public Accountant licensed in the state of Missouri.

**Q. Please summarize your professional experience in the field of utility regulation.**

A. I have over 24 years of experience in the regulated utility auditing field. My professional experience in accounting and auditing began in 1993 when I was employed by the Commission as part of the audit division of the Staff's Accounting Department. As a member of the Auditing Staff from April 1993 to December 2015, I participated in many different types of regulatory proceedings, including rate cases, affiliate transaction cases, single-issue ratemaking cases (such as ISRS and FAC cases), Accounting Authority

1 Order (AAO) cases, merger and acquisition cases, and other regulatory proceedings  
2 involving all major electric, gas, and water utilities operating in the state of Missouri.

3 **Q. In your 24 years of experience as a regulatory auditor with the Commission Staff**  
4 **and as OPC's Chief Accountant, have you obtained significant experience and**  
5 **developed specific expertise in the areas of utility affiliate transactions in general**  
6 **and the application of the Commission's Electric Affiliate Transactions Rule, 4**  
7 **CSR 240- 20.015 ("Affiliate Transactions Rule" or "Rule") in particular?**

8 A. Yes. I have significant experience as a regulatory auditor and expert witness in the area  
9 of regulated utility affiliate transactions. I have conducted audits and filed testimony  
10 with the Commission on affiliate transactions and utility parent company cost allocations  
11 in several utility rate case audits and other proceedings. I also worked closely with  
12 utilities such as KCPL, GMO and Laclede Gas in developing a Cost Allocation Manual  
13 as required by the affiliate transaction rule. My direct experience in the area of affiliate  
14 transactions includes cases involving Aquila, Inc. (now GMO), Missouri Gas Energy,  
15 KCPL, GMO, Ameren Missouri, The Empire District Electric Company and Laclede Gas  
16 Company.

17 **Q. Did you participate in prior Commission cases concerning KCPL's relationship**  
18 **with Allconnect Inc., a marketing company based in Atlanta, Georgia?**

19 A. Yes, although I was not one of the authors of the Staff's Report of Staff's Investigation in  
20 File No. EO-2014-0306, I did, however, actively participate in the investigation which  
21 led to the Staff Report and Staff Complaint regarding KCPL/GMO and Allconnect in  
22 Case No. EC-2015-0309. I also addressed KCPL's involvement with Allconnect in  
23 testimony before the Commission in KCPL's 2014 rate case, No. ER-2014-0370.

24 **Q. Did you file testimony as a member of Staff in the Staff's Allconnect Complaint,**  
25 **Case No. EC-2015-0309?**

26 A. Yes. Staff witness Lisa Kremer and I filed direct testimony in support of the Staff's  
27 Complaint in Case No EC-2015-0309. When I accepted a position at OPC, Staff witness

Keith Majors adopted my direct testimony in that case. Once at OPC, I filed surrebuttal testimony in the Staff's Allconnect Complaint case on behalf of OPC because the positions of the Staff and OPC were aligned.

**PRIOR COMPLAINT (EC-2015-0309)**

**Q. Provide a brief summary of the Staff's 2015 Complaint against KCPL/GMO related to Allconnect?**

A. Both the Staff's prior Allconnect Complaint and OPC's present Allconnect Complaint are directly related to KCPL/GMO's association with a non-regulated high-pressure marketing company, Allconnect, Inc. which began in 2013. The relationship began with a contract signed by KCPL's nonregulated affiliate Great Plains Energy Services ("GPES") on behalf of itself and its affiliates KCPL and GMO.

Under the contract, when a utility customer called KCPL or GMO to request utility service, KCPL employees, using a scripted marketing tactic essentially, forced utility customers to be transferred (along with customer specific information) to Allconnect, where Allconnect's salespeople tried to sell the utility customers non-utility services such as internet service and home security services.

The Staff filed a complaint against KCPL and GMO on May 20, 2015, alleging that the transfer of customer information was occurring without customer consent in violation of Commission Rule 4 CSR 240-20.015 paragraph 2(C) ("Rule 2(C)"). The Complaint also alleged that KCPL and GMO's activities constituted violations of Section 393.190.1 RSMo and Commission Rule 4 CSR 240-13.040(2)(A).

**Q: What was the result of the Staff's Complaint?**

In its April 27, 2016 Report and Order the Commission found KCPL management to be in violation of Rule 2(C) and ordered KCPL management to immediately cease violating this rule.

1 **Q. What is the significance and importance of Commission Rule 2(C)?**

2 A. Rule 2(C) is an important and necessary consumer protection which affords captive  
3 utility customers the right to refuse specific and personal information from being released  
4 outside of the utility. Rule 2(C) states “Specific customer information shall be made  
5 available to affiliated or unaffiliated entities only upon consent of the customer or as  
6 otherwise provided by law or commission rules or orders.” The Commission determined  
7 that KCPL/GMO violated Rule 2(C) by making customer-specific information available  
8 to a third-party marketing company, Allconnect, without the consent of KCPL/GMO  
9 customers. This violation had been taking place since 2013 and even after the  
10 Commission directed the company to stop violating the rule “immediately” in its April  
11 2016 Order, KCPL/GMO continued to transfer Missouri customers through at least May  
12 26, 2016.

13 **Q. Is the Commission’s concern with customer privacy and protection of customer**  
14 **information as expressed in its Allconnect Report and Order well founded?**

15 A. Yes. In fact, just last month KCPL issued a notice to its customers concerning the  
16 dangers of providing personal or customer information to non-utility parties. On its  
17 website, KCPL published the following warning:

18 **KCP&L Warns Customers of A New Scam**

19 Kansas City, Mo. (March 15, 2017) – KCP&L wants to warn all customers of a  
20 new scam. KCP&L has seen an increase in reports of phone scams involving  
21 customers’ utility bills and other personal information. Most of those targeted  
22 have been restaurants and small businesses, but all customers should be aware of  
23 this important notice. With the phone scam, the scammer is often a live person  
24 posing as a KCP&L employee who notifies the customer of a past due bill and  
25 demands immediate payment to avoid service disconnection. If the customer is  
26 unable to make an immediate payment or does not answer, the scammer gives out  
27 a return phone number for customers to call back. When calling back, customers  
28 are prompted by a recording that thanks them for calling KCP&L or a similar  
29 sounding utility name. The customer is then asked to press two to make their  
30 payment with a live person. This phone number is not associated with KCP&L. If  
31 customers ever have questions about the legitimacy of a bill, phone call or email  
32 regarding their utility bill, they should refrain from providing any personal or  
33 banking information, hang up and contact the KCP&L Customer Care Center at



(888) 471-5275 or (816) 471-5275. Here are some other important safety tips to keep in mind. Never give credit card, debit card, Social Security, ATM, checking or savings account numbers to anyone who comes to your home, calls, text and/or sends an email requesting this information in respect to your utility bill, without also verifying that person is with KCP&L by either asking to see company identification or by calling KCP&L's Customer Care Center. Be suspicious if you receive an email regarding your utility bill if you have not requested online communications from KCP&L. For customers using KCP&L's online bill pay system, always make online payments directly through kcpl.com. Never provide personal information via email or click any suspicious links. If you feel you have been a victim of this scam, please work with your local law enforcement agency to report the crime. For more information, visit [www.kcpl.com/scamalert](http://www.kcpl.com/scamalert)

**Q. Did the Commission's Report and Order in the Staff's Allconnect Complaint case require KCPL/GMO to terminate its relationship with Allconnect?**

A. No. While that would have been the preference of OPC, the Commission allowed KCPL/GMO to continue its relationship with Allconnect if KCPL management stopped violating Rule 2(C) and provided its utility customers an informed choice whether or not to be transferred to a non-utility marketing company.

As part of its analysis, the Commission discussed the transfer script used in the Allconnect transaction and noted that KCPL and GMO "attempt to mask the true nature of the transaction by having Allconnect 'confirm' the accuracy of the customer information already taken by KCP&L and GMO's customer service representatives."<sup>1</sup> The Commission explained that the confirmation function was a "pretext" and "serves as a marketing hook to discourage utility customers from dropping off the line when their call is transferred to Allconnect."<sup>2</sup> Based on the Commission's order in that case it placed a significant emphasis on the appropriate transfer script language to use.

Other than to record the revenues from Allconnect above the line, which KCPL agreed to do prior to the Commission's Report and Order, the only action the Commission required of KCPL management was to change the script its call center operators read to customers who call the utility for a change in utility service or initiate new utility service. KCPL

---

<sup>1</sup> Report and Order, Case No. EC-2015-0309, p. 19.

<sup>2</sup> Report and Order, Case No. EC-2015-0309, p. 19.

1 management failed to even comply with this simple Commission directive. The Report  
2 and Order stated:

3 If KCP&L and GMO wish to continue their contractual  
4 relationship with Allconnect by transferring customer calls and  
5 related information, they must ensure that customers understand  
6 that they have the option to transfer to Allconnect; that they can  
7 complete their business with KCP&L or GMO without having to  
8 transfer to Allconnect; and that Allconnect is a third-party that  
9 offers services separate and apart from the services offered by the  
10 utility. KCP&L and GMO will need to modify the script used by  
11 their customer service representatives regarding the proposed  
12 transfer to Allconnect to obtain the informed customer consent.<sup>3</sup>  
13

14 The Commission ordered the companies to “file for Commission approval a modified  
15 customer service representative script to ensure that customers give their informed  
16 consent before their calls and related information are transferred to Allconnect.”<sup>4</sup>

17 **Q: Did the companies file a revised script?**

18 A. Yes, however, both Staff and OPC made filings alleging that KCPL/GMO’s script was  
19 not in compliance with the Commission’s Report and Order and so the Commission  
20 issued its Order Regarding Script Revisions on May 26, 2016. In its Order the  
21 Commission found that KCPL/GMO’s proposed script “does not comply with the  
22 Commission’s Report and Order.”<sup>5</sup> The Order also included the script that KCPL/GMO  
23 should use if they wanted to continue transferring Missouri customers to the telemarketer:

24 1. KCP&L and GMO shall use the following script:  
25

26 **Mr. / Ms. \_\_\_\_\_. [Verify Customer Information and Provide Confirmation**  
27 **Number] This is your electric service confirmation number. Now that I have**  
28 **completed your electric service order, I’d like to transfer you and your order**  
29 **information to our partner Allconnect, a company that can assist you with**  
30 **the transfer or setup of home services, such as TV and internet. May I**  
31 **transfer you and your order information to Allconnect at this time?**  
32 **If the customer’s answer is “yes”, the call is transferred.**

---

<sup>3</sup> Report and Order, Case No. EC-2015-0309, p. 21.

<sup>4</sup> Report and Order, Case No. EC-2015-0309, p. 23.

<sup>5</sup> Order Regarding Script Revisions, Case No. EC-2015-0309, p. 4.

**If the customer's answer is "no", the call is concluded.<sup>6</sup>**

**EVENTS LEADING TO OPC COMPLAINT**

**Q. What action did the companies take after the Commission's Order?**

A. According to KCPL, KCPL/GMO stopped transferring Missouri customers to Allconnect for a period of time. On May 31, 2016, KCPL informed OPC via email that the companies had stopped transferring Missouri customer calls to Allconnect. In response to OPC data request 7, the company provided a copy of a "desk drop" informing call center representatives not to transfer Missouri Customers to Allconnect.<sup>7</sup>

**Q. Did KCPL management resume transferring Missouri customers to Allconnect?**

A. Yes. On July 12, 2016, KCPL filed a notice with the Commission stating that it was resuming transferring Missouri customers as of that date. However, based on recordings of customer calls provided to Staff and OPC, KCPL employees began transferring Missouri customers to Allconnect prior to that date.<sup>8</sup>

**Q. As part of Staff's Allconnect Complaint did Staff advise the Commission and KCPL management that it would follow-up on KCPL management's compliance with the Commission's April 27, 2016, Report and Order regarding Allconnect?**

A. Yes. The Staff in paragraph 6 in its May 24, 2016 Staff Response to KCPL-GMO in File No. EC-2016-0309 advised the Commission and KCPL-GMO that it intended to monitor compliance with the Commission's Report and Order including reviewing scripts and recordings of actual phone calls.

**Q. Based on this Staff follow-up, did Staff find that KCPL's management did not comply with the Commission's Allconnect Report and Order?**

---

<sup>6</sup> Order Regarding Script Revisions, Case No. EC-2015-0309, p. 5.

<sup>7</sup> KCPL response to OPC DR 7 (Q7\_HC\_CSR\_Desk Drop\_052516).

<sup>8</sup> Based on the call recordings provided in response to Staff DR0174.1, Missouri customers were still being transferred to Allconnect without KCPL/GMO following the ordered script or receiving informed consent in July 2016 and later.

1 A. Yes. Staff performed a review of KCPL management's compliance with the  
2 Commission's Allconnect Report and Order and Script Order and found that KCPL was  
3 in significant noncompliance with these Commission Orders. Staff's review included  
4 issuing and reviewing responses to data requests and engaging in communications with  
5 KCPL personnel.

6 **Q. What was a result of Staff's review of KCPL management's compliance with the**  
7 **Commission's April 27, 2016 Allconnect Report and Order and the Commission's**  
8 **May 26, 2016 Script Order?**

9 A. On December 9, 2016 in Case No. ER-2016-0285 (KCPL's 2016 rate case) KCPL filed a  
10 Notice of Termination of Transferring Missouri Customer Calls to Allconnect. KCPL  
11 management decided to stop transferring calls from KCPL/GMO customers to Allconnect  
12 effective January 1, 2017. Even though the Company recognized that Staff had concerns  
13 about KCPL management's compliance with the Commission's order it decided to  
14 continue transferring calls for several weeks.

15 **Q. What reason did KCPL management provide to the Commission in this filing as the**  
16 **reason it decided to stop transferring calls to Allconnect?**

17 A. KCPL management said it stopped transferring Missouri customers to Allconnect due to  
18 Staff's continued opposition to the program.

19 **Q. How did KCPL describe "Staff's opposition to the program"?**

20 A. KCPL management stated that Staff's opposition to the Allconnect program is reflected  
21 by Staff's insisting that KCPL comply with the Commission's EC-2015-0309 Allconnect  
22 Report and Order and the Commission's Script Order.

23 **Q. Is it reasonable that Staff would insist a utility comply with a Commission order?**

24 A. Yes. If Staff became aware that KCPL was not complying with a Commission Order and  
25 did not notify the Commission of such an event, I believe Staff would be imprudent by  
26 ignoring its obligation to the Commission.

1 **Q. Did KCPL management characterize Staff's "insistence" on KCPL's compliance**  
2 **with the Commission's orders as unreasonable?**

3 A. Yes, it did. However, KCPL management did not explain how the Commission's Staff,  
4 by carrying out its duty to the public and to the Commission, was unreasonable.

5 **Q. How would you characterize Staff's work as it related to the KCPL/GMO-**  
6 **Allconnect partnership?**

7 A. As I have expressed on a number of occasions, I believe the Staff has done great work on  
8 the Allconnect issue and has served the Commission and the public extremely well. Staff  
9 has acted strongly but professionally in its desire to ensure privacy protections and fair  
10 treatment for KCPL/GMO's regulated customers.

11 **OPC'S COMPLAINT**

12 **Q. When did Public Counsel file its complaint?**

13 A. After reviewing Staff's analysis of KCPL management's compliance (later provided in  
14 Staff's Response to the Company's notice of termination), Public Counsel filed its  
15 Complaint.

16 **Q: What did the Staff's analysis show?**

17 A. Based on the responses provided for Staff DR0174.1 in ER-2016-0285, KCPL and GMO  
18 continued to transfer Missouri customer calls and information to Allconnect without  
19 following the ordered script and without receiving informed consent of the customers.  
20 The analysis was provided as an attachment to Staff's Response. In pertinent part it  
21 showed the ordered script was followed 0% of the time.<sup>9</sup> The table is reproduced below:

---

<sup>9</sup> In its Response To Kansas City Power & Light Company's Termination Notice Staff revised its figure to 2% compliance.

July Calls Provided by KCP&L in DR 0174.1 in ER-2016-0285

	Did The Rep Follow The Script	Did The Rep Follow The Entire Script Except For Confirmation Number	Did The Rep Ask For Permission To Transfer 1.) The Customer and 2.) Their Information	Did The Rep Ask for Permission At All	Did The Rep Say Allconnect Would Confirm Order For 1.) Accuracy or 2.) Verify or 3.) Go Over Order	Did The Rep Give or Offer Confirmation Number During The Call
Yes	0	6	12	28	33	25
No	50	44	38	22	17	25
Call 1 *	No	No	No	No	No	Yes
Call 2	No	No	No	No	Yes	Yes
Call 3	No	No	No	Yes	Yes	Yes
Call 4	No	No	No	Yes	Yes	Yes
Call 5	No	No	No	No	Yes	Yes
Call 6	No	Yes	Yes	Yes	No	Yes
Call 7	No	No	No	Yes	Yes	Yes
Call 8	No	No	No	Yes	Yes	No
Call 9	No	No	No	No	Yes	Yes
Call 10	No	No	Yes	Yes	No	No
Call 11	No	No	No	Yes	Yes	No
Call 12	No	No	No	No	Yes	No
Call 13	No	No	No	No	No	No
Call 14	No	Yes	Yes	Yes	No	Yes
Call 15	No	No	No	No	Yes	No
Call 16	No	Yes	Yes	Yes	No	No
Call 17	No	No	Yes	Yes	Yes	No
Call 18	No	No	Yes	Yes	No	No
Call 19	No	No	No	No	Yes	No
Call 20	No	No	No	Yes	Yes	Yes
Call 21	No	No	No	Yes	Yes	No
Call 22	No	No	No	No	Yes	Yes
Call 23	No	No	No	No	Yes	No
Call 24	No	No	No	No	Yes	No
Call 25	No	No	No	No	Yes	Yes
Call 26	No	No	No	Yes	Yes	Yes
Call 27	No	Yes	Yes	Yes	No	Yes
Call 28	No	No	No	No	No	No
Call 29	No	No	Yes	Yes	No	No
Call 30	No	No	No	Yes	Yes	Yes
Call 31	No	No	No	Yes	Yes	Yes
Call 32	No	No	No	No	Yes	Yes
Call 33 **	N/A	N/A	N/A	N/A	N/A	N/A
Call 34	No	No	No	Yes	No	Yes
Call 35	No	No	No	No	Yes	No
Call 36	No	No	No	Yes	No	Yes
Call 37	No	No	No	No	Yes	Yes
Call 38	No	No	No	No	No	No
Call 39	No	No	No	Yes	Yes	Yes
Call 40	No	No	No	Yes	Yes	Yes
Call 41	No	No	No	No	Yes	No
Call 42	No	No	No	No	Yes	Yes
Call 43	No	No	Yes	Yes	Yes	Yes
Call 44	No	Yes	Yes	Yes	No	No
Call 45	No	No	Yes	Yes	No	No
Call 46	No	Yes	Yes	Yes	No	No
Call 47	No	No	No	No	Yes	No
Call 48	No	No	No	No	Yes	No
Call 49	No	No	No	No	Yes	Yes
Call 50	No	No	No	Yes	No	No
Call 51	No	No	No	Yes	Yes	No

\* Calls are titled as they appear on the compact disk provided by KCP&L (ie. 1st call on disk is titled Call 1)

\*\* Just ended the call with no offer to be transferred to Allconnect

(Staff's Response To Kansas City Power & Light Company's Termination Notice, Attachment 1, Case No. ER-2016-0285. Doc. No. 122).

1 **Q. Did Public Counsel review the call recordings that form the basis of the above**  
2 **analysis?**

3 A. Yes, and OPC confirms that the company was transferring Missouri customer calls and  
4 information without adhering to the ordered script and without receiving informed  
5 consent of the callers. OPC notes that one call center representative read the script to a  
6 caller in the July batch of calls. The Staff's revised analysis (discussed below) reflects  
7 that the Script was followed one time.

8 **Q: Is there anything else the Commission should know about the calls OPC reviewed?**

9 A. Yes. Based on the conversations occurring in the recordings, several of these calls  
10 occurred prior to July 12, 2016, the date the Company informed the Commission it had  
11 resumed transferring Missouri customers to Allconnect. The audio files provided by  
12 KCPL do not include a date but Public Counsel has sent follow-up data requests to  
13 determine the date the call transfers occurred and confirm this information. This is  
14 significant because the Commission ordered KCPL and GMO to immediately cease  
15 violating Rule 2(C).

16 **Q. What specific actions were required of KCPL to implement the Commission's**  
17 **directives?**

18 A. My understanding is that all KCPL had to do was substitute the Commission-ordered  
19 script for the script the Commission found to violate the Affiliate Transaction Rule  
20 protection of customer information.

21 **Q. Is it reasonable take 47 days to make this simple change to be in compliance with the**  
22 **Commission's directive?**

23 A. No. Such a change can and should have been implemented immediately. All that should  
24 be required is to send out the Commission-ordered script to all KCPL call center  
25 representatives via an email and require the call center supervisors to ensure the new  
26 script is used in lieu of the script that violated the protection of customer information.

1 **Q. What evidence indicates that KCPL management did not act prudently in**  
2 **implementing the Commission's Allconnect script directive and protect customer**  
3 **information as directed by the Commission?**

4 A. In its December 19, 2016 Response to Kansas City Power & Light Company's  
5 Termination Notice, the Staff provided very substantial evidence that not only did KCPL  
6 not comply with the Commission's directives for several months, but that KCPL  
7 management did not appear to take the Commission's customer protection directives  
8 seriously and make fixing these customer privacy problems a high priority. No other  
9 conclusion can be reasonably reached from reviewing the information that Staff put forth  
10 to the Commission in this filing.

11 The Commission issued its script directive on May 26, 2016. This directive should have  
12 been implemented immediately. Instead, five months after the Commission's script  
13 directive, KCPL still could not get all of its call center employees to read the  
14 Commission-approved Allconnect script.

15 The Staff's Response to KCPL noted that in July 2016, a full five weeks after the  
16 Commission order to KCPL to use the new Commission-approved Allconnect script,  
17 KCPL failed to ask customers for permission to be transferred and for customer  
18 information to be transferred in 76 percent of the calls transferred to Allconnect. This is  
19 substantial noncompliance. For the months August 2016, September 2016, and October  
20 2016, KCPL failed follow the Commission directive to protect customer information and  
21 provide customer choice between 12 and 17 percent of the time. Staff provided its  
22 analysis:



Results of Calls in Percentages				
	July	Sept	Oct	Nov
1. Percentage of KCPL-GMO customer service representatives ("reps") that addressed all elements of the script	2%	71%	85%	62%
2. Percentage of KCPL-GMO reps that 1.) "Verified Customer Information" and 2.) "Gave Confirmation Number" prior to mentioning Allconnect	38%	85%	77%	69%
3. Percentage of KCPL-GMO reps that asked for permission to transfer 1.) Customer and 2.) His/Her Information	24%	88%	83%	86%
4. Percentage of KCPL-GMO reps that at least asked for permission to transfer the customer at any time during the call prior to transfer	56%	97%	97%	100%
5. Percentage of KCPL-GMO reps that said Allconnect would confirm service order for 1.) Accuracy, 2.) Verify service order, or 3.) Go Over Service Order	66%	0%	0%	0%
6. Percentage of KCPL-GMO reps that provided Customer a Confirmation Number at any time during the call prior to transfer	44%	88%	83%	74%

(See Staff's Response To Kansas City Power & Light Company's Termination Notice, Case No. ER-2016-0285, Doc. No. 122, p. 6).

**Q. Did KCPL management act prudently in addressing its call center representatives' compliance with the Commission's order?**

No. As I indicated above, even after showing improvement in some areas after several months, between 12 to 17 percent of Missouri customers were not asked for permission to transfer the call and customer information to Allconnect. When the Commission ordered the script language, it noted the importance of informing the customers that their information would be transferred, stating: "[t]he revised script will add back Staff's proposed notice to the customer that their order information will also be transferred to Allconnect as that is a requirement of the Commission's rule...[.]"<sup>10</sup> Failure to ask for permission to transfer the order information and call over 10 percent of the time should

<sup>10</sup> Order Regarding Script Revisions, Case No. EC-2015-0309, p. 4.

1 have been unacceptable to the company. Yet, in response to OPC Data Request No. 8,  
2 KCPL management stated that “No disciplinary action occurred related to the script  
3 ordered by the Commission as a result of routine Quality Monitoring.”<sup>11</sup>

4 Instead the company seemed to determine after-the-fact that this level of noncompliance  
5 was good enough. In its Notice of Termination the company attempted to portray Staff in  
6 a negative manner and explained:

7 The Staff’s continued opposition to this program has been manifested  
8 most recently in their insistence that compliance with the order in Case  
9 No. EC-2015-0309 requires 100% adherence by KCP&L customer service  
10 representatives to the script approved by the Commission in that case. The  
11 Company does not view this Staff position as reasonable or attainable and  
12 has told Staff so, but to no avail. (Notice of Termination of Transferring  
13 Missouri Customer Calls to AllConnect, Case No. ER-2016-0285, Doc.  
14 No. 105, p. 1).

15 Adhering to the script is not unreasonable. In fact, when KCPL informed the Commission  
16 it was resuming transferring Missouri callers, it recognized “the Commission issued its  
17 Order Regarding Script Revisions (“Order”) *directing the use of certain verbiage by*  
18 *Company representatives* when transferring calls of its Missouri customers to  
19 AllConnect, Inc.”<sup>12</sup> (emphasis added). KCPL’s actions do not reflect that management  
20 made compliance with the Commission’s order and rules a priority. *All* Missouri  
21 customers deserve the privacy protections provided in Rule 2(C), not merely a percentage  
22 determined by KCPL management to be an acceptable level of noncompliance.

23 **Q. What is your conclusion based on the facts provided to the Commission in Staff’s**  
24 **Response to KCPL and your experience with KCPL management on the Allconnect**  
25 **issue?**

26 A. My conclusion, based on these facts and other evidence provided to the Commission in  
27 past cases associated with KCPL’s relationship with Allconnect, is that KCPL  
28 management has 1) acted imprudently, 2) shown a lack of concern for protecting

---

<sup>11</sup> KCPL response to OPC DR No. 8.

<sup>12</sup> Notice of Termination of Transferring Missouri Customer Calls to AllConnect, Case No. ER-2016-0285, Doc. No. 105, p. 1.

1 ratepayer information from being involuntarily provided to a high-pressure marketing  
2 firm, 3) shown a lack of courtesy to its customers, and 4) demonstrated a lack of concern  
3 with compliance with a Commission directive to “**immediately** cease violating  
4 Commission Rule 4 CSR 240-20.015(2)(C) regarding the transfer of customer  
5 information without the consent of the customer.” (emphasis added).

6 **Q. Is OPC asking the Commission to assess penalties to KCPL/GMO as a result of this**  
7 **very serious and long-term disregard and violation of the Commission’s Allconnect**  
8 **orders?**

9 A. Yes, penalties are certainly appropriate. First, the failure to comply with the  
10 Commission’s order and rule appears to be deliberate. In their Notice of Termination  
11 KCPL/GMO acknowledge an inability to follow the Commission’s ordered script 100%  
12 of the time. A reasonable actor, upon recognizing its actions did not comply with the law,  
13 would cease the activity immediately. However, KCPL/GMO did not do so. Instead  
14 KCPL management filed notice of termination on December 9<sup>th</sup> blaming the  
15 Commission’s Staff and continuing to transfer Missouri calls to Allconnect for an  
16 additional three weeks. KCPL should not be permitted to unilaterally decide when it  
17 implements a Commission order.

18 Second, KCPL should not be permitted to unilaterally choose the level of compliance  
19 with a Commission order or the Commission’s rules. The Commission’s ordered script  
20 and rule are clear. If the KCPL/GMO were not able to achieve total compliance with the  
21 script but wanted to continue the program they should have sought some form of relief  
22 from the Commission. KCPL/GMO did not do so. Instead, the companies decided that  
23 their actions amounted to adequate compliance. Each and every time KCPL employees  
24 transferred a customer without receiving informed consent KCPL/GMO violated the  
25 Commission’s order and underlying rule. Importantly, the Allconnect transaction is not  
26 necessary for the company to provide safe and adequate service. In its Report and Order  
27 in ER-2015-0309, the Commission explained that “the transfer of customer information  
28 to Allconnect does not serve any utility-service related purpose. The transaction is simply  
29 designed to deliver customer information to a third-party that wants to sell an unrelated

1 service to the utility's customer."<sup>13</sup> In such a situation, there is no good reason for the  
2 Commission to require less than perfect compliance with the rules designed to protect  
3 customer information and privacy.

4 Third, even though KCPL argues in its Answer to OPC's complaint that the violations are  
5 "now moot on a prospective basis" because KCPL ceased transferring Missouri  
6 customers as of January 1, 2017, penalties remain appropriate. Stopping unlawful activity  
7 after being caught does not absolve the past violations, especially when the company may  
8 decide to resume transferring Missouri callers to Allconnect at any time.<sup>14</sup> The Company  
9 was made aware in the Report and Order in EC-2015-0309 that its conduct violated the  
10 Commission's rules. It was given direction in a subsequent order on how to adhere to the  
11 rules. Still KCPL management choose to continue transferring customer calls to  
12 Allconnect without receiving informed consent or following the ordered script.

13 In such a situation, penalties are appropriate. Although each customer call transferred  
14 without informed consent or without reading the ordered script constitutes a separate  
15 violation of the Commission's order and rule, Public Counsel has not determined the total  
16 number of calls fitting that description but has sent data requests for additional call  
17 recordings and the total number of Missouri calls transferred after the Commission's  
18 Report and Order in EC-2015-0309. In its Report and Order, the Commission found that  
19 80,741 Missouri customers were transferred to Allconnect between January and October  
20 2015 (or approximately 8,000 per month).<sup>15</sup> If the number of calls transferred remained  
21 steady and only 10 percent of the calls between July and January did not adhere to the  
22 Commission's order or Rule 2(C), KCPL/GMO would have accumulated approximately  
23 4,800 separate violations. Even if the Commission assessed the low end of the penalty  
24 range available in Section 386.570.1 RSMo (\$200), the total penalty would be \$960,000.

25 However, due to the cumulative nature of noncompliance in this case, Public Counsel  
26 suggests the Commission assess the maximum penalty of \$2,000 per day for the duration

---

<sup>13</sup> Report and Order, Case No. EC-2015-0309, p. 19.

<sup>14</sup> The Company still transfers its Kansas Customers to Allconnect.

<sup>15</sup> Report and Order, Case No. EC-2015-0309, p. 7.

1 of the Allconnect program after the Company announced it had resumed transferring  
2 Missouri customers (July 12, 2016) through the date it ceased the program for Missouri  
3 customers (December 31, 2016). Based on those dates the program continued to transfer  
4 Missouri customer calls to Allconnect without receiving informed consent for 172 days.  
5 KCPL also did not adhere to the Commission ordered transfer script for the same time  
6 period. The Commission should assess penalties of \$2,000 per day for violations of its  
7 Report and Order and \$2,000 per day for violations of Commission Rule 4 CSR 240-  
8 20.015(2)(C).<sup>16</sup> The total penalty would then be \$688,000 for the cumulative violations of  
9 the two Counts.

10 **Q. Does this conclude your direct testimony at this time?**

11 **A.** Yes, it does.

---

<sup>16</sup> \$4,000 per day times 172 days equals \$688,000.