

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

In the Matter of Kansas City Power & Light)	
Company's Notice of Intent to File an)	
Application for Authority to Establish a Demand-)	File No. EO-2015-0240
Side Programs Investment Mechanism)	

In the Matter of KCP&L Greater Missouri Operations)	
Company's Notice of Intent to File an)	
Application for Authority to Establish a Demand-)	File No. EO-2015-0241
Side Programs Investment Mechanism)	

REPLY BRIEF OF UNITED FOR MISSOURI, INC.

Comes Now United for Missouri, Inc. ("UFM"), and for its Reply Brief, states as follows:

In its *Initial Post-Hearing Brief*, the Missouri Division of Energy ("DE") expressed its disagreement with the Staff of the Commission over Staff's "non-participants test" to determine whether non-participating customers receive a benefit from KCPL's Cycle 2 MEEIA programs offered in their customer class. The *Initial Post-Hearing Brief* took approximately five pages to discuss why certain clear and unambiguous language in Missouri Energy Efficiency Investment Act is clear and unambiguous. The provision at issue for DE is as follows: the Commission may not permit cost recovery for such programs, "unless the programs . . . result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, **regardless of whether the programs are utilized by all customers.**" The phrase of most significance is the bolded language. Putting a fine point on the issue, DE's prayer requests that, "the Commission clarify in its order that Section 393.1075.4 of the MEEIA statute requires that beneficial to all customers in a customer class in which MEEIA programs are offered must be determined by calculating the benefits to all customers in each customer class as a whole and without considering whether those programs are utilized by all customers."

Regardless of whether UFM understands the argument of DE or not, UFM will attempt to set forth its understanding of the clear and unambiguous meaning of the highlighted language. One of MEEIA's goals is to treat demand side resources on a par with supply side resources. Therefore, it is simple to see that the legislature considered it important that investment in demand side resources be a good investment. An investment is good, according to MEEIA, if it is "beneficial to all customers in the customer class in which the programs are proposed," i.e. if it is beneficial to those who pay for the programs, the investors. But the investors are not exactly the same as the customers of the energy efficiency services. The customers receive a direct benefit in the reduction of their energy usage. The investors are those who put up the money to get the capacity or energy savings for the utility company without seeing any usage reduction from the services they pay for. This interest is an interest the legislature intended to protect with the language "regardless of whether the programs are utilized by all customers." This determination has to be made "without regard to" "whether the programs are utilized by all customers." Staff's approach is reasonable in analyzing the cost and benefit for the investors that are separate and apart from program participants.

DE is wrong in its analysis, but the bigger principle to be seen is how deeply flawed the MEEIA process is. MEEIA wants electric corporations to have financial incentives that are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently. Such motivation comes from profit. However, in this case, KCPL is incited to comply with the desires of interest groups, set forth as targets and projections. What makes this case worse is that the targets and projections are being squabbled over by governmental stakeholders. This is an intramural

squabble between two conflicting goals within the same executive department of the government.

And the squabble is over what? It is how to calculate the cost benefit ratio for determining whether customers in a customer class benefit from a program. The squabble is not over the outcome of the case. DE and Staff agree the KCPL MEEIA Cycle 2 should be approved by the Commission. Are the tax dollars for this intramural squabble well spent? UFM does not believe so. It would be better if the MEEIA process approved KCPL's valuable services from which it would directly receive a regulated profit rather than approved KCPL's incentive for meeting targets and projections squabbled over by competing governmental interests.¹

WHEREFORE, United for Missouri, Inc. respectfully requests the Commission accept this Reply Brief of United for Missouri, Inc. and approve the KCPL MEEIA Cycle 2. The Commission should also highlight and encourage the development of earning opportunities that are tied to transactions with customers and customer payments.

Respectfully submitted,

By /s/ David C. Linton
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¹ UFM uses the term “governmental interest” advisedly and somewhat tongue in cheek inasmuch as government does not have an interest other than executing justice as defined in Article I, Section 2 of the Missouri Constitution.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email to all parties by their attorneys of record as provided by the Secretary of the Commission on the 5th day of February, 2016.

/s/ David C. Linton

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