

Exhibit No.: \_\_\_\_\_  
Issue(s): Continued Participation in the  
Southwest Power Pool (SPP)  
Witness/Type of Exhibit: Kind/Rebuttal  
Sponsoring Party: Public Counsel  
Case No.: EO-2012-0135/EO-2012-0136

## **REBUTTAL TESTIMONY**

**OF**

**RYAN KIND**

Submitted on Behalf of  
the Office of the Public Counsel

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

**Case No. EO-2012-0135  
and  
Case No. EO-2012-0136**

**\*\***

**\*\***

**Denotes Highly Confidential Information that has been Redacted**

March 7, 2013

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

In the Matter of the Application of Kansas City )  
Power & Light Company for Authority to )  
Extend the Transfer of Functional Control of )  
Certain Transmission Assets to the Southwest )  
Power Pool, Inc. )

**Case No. EO-2012-0135**

In the Matter of the Application of KCP&L )  
Greater Missouri Operations Company for )  
Authority to Extend the Transfer of Functional )  
Control of Certain Transmission Assets to the )  
Southwest Power Pool, Inc. )


**Case No. EO-2012-0136**

**AFFIDAVIT OF RYAN KIND**

STATE OF MISSOURI     )  
   )    ss  
COUNTY OF COLE     )

Ryan Kind, of lawful age and being first duly sworn, deposes and states:


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

  
\_\_\_\_\_  
Ryan Kind

Subscribed and sworn to me this 7<sup>th</sup> day of March 2013.



JERENE A. BUCKMAN  
My Commission Expires  
August 23, 2013  
Cole County  
Commission #09754037

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

My commission expires August 23, 2013.

**REBUTTAL TESTIMONY**  
**OF**  
**RYAN KIND**  
**KANSAS CITY POWER & LIGHT COMPANY AND**  
**KCPL GREATER MISSOURI OPERATIONS COMPANY**  
**CASE NOS. EO-2012-0135 & EO-2012-0136**

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,  
3 Jefferson City, Missouri 65102.

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5 A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of  
6 Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as  
7 a Teaching Assistant with the Department of Economics, and taught classes in  
8 Introductory Economics, and Money and Banking, in which I served as a Lab Instructor  
9 for Discussion Sections.

10 My previous work experience includes several years of employment with the Missouri  
11 Division of Transportation as a Financial Analyst. My responsibilities at the Division of  
12 Transportation included preparing transportation rate proposals and testimony for rate  
13 cases involving various segments of the trucking industry. I have been employed as an  
14 economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

15 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

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1 A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several  
2 electric rate design cases and rate cases, as well as other miscellaneous gas, water,  
3 electric, and telephone cases.

4 **Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR**  
5 **LEGISLATIVE BODIES ON THE SUBJECT OF UTILITY REGULATION AND**  
6 **RESTRUCTURING?**

7 A. Yes, I have provided comments and testimony to the Federal Energy Regulatory  
8 Commission (FERC), the Missouri House of Representatives Utility Regulation  
9 Committee, the Missouri Senate's Commerce & Environment Committee and the  
10 Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

11 **Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS,**  
12 **COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC AND GAS UTILITY**  
13 **REGULATION AND POLICY ISSUES?**

14 A. Yes. I am currently a member of the National Association of State Consumer Advocates  
15 (NASUCA) Electric Committee, and the Stakeholder Steering Committee (SSC) of the  
16 Eastern Interconnection Planning Collaborative (EIPC). I have served on the Missouri  
17 Department of Natural Resources Weatherization Policy Advisory Committee, as the  
18 public consumer group representative to the Midwest ISO's (MISO's) Advisory  
19 Committee and as the small customer representative on both the NERC Operating  
20 Committee and the NERC Standards Authorization Committee. During the early 1990s, I  
21 served as a Staff Liaison to the Energy and Transportation Task Force of the President's  
22 Council on Sustainable Development.

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**Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

A. The purpose of my rebuttal testimony is to respond to both the direct testimony and the Interim Report Regarding Participation in the Southwest Power Pool (Interim Report) filed by the Applicants in Case Nos. EO-2012-0135 and EO-2012-0136. The Applicants in these cases are affiliated companies and the cases were consolidated by the Commission in its January 17, 2013 “Order Granting Motion to Consolidate and Setting Jointly Proposed Procedural Schedule.” OPC’s recommendations regarding the terms and conditions under which the Applicants should continue to participate in the Southwest Power Pool (SPP) are also presented in this rebuttal testimony.

**Q. PLEASE IDENTIFY THE APPLICANTS IN THESE CONSOLIDATED CASES AND THEIR RELATIONSHIP TO EACH OTHER AND TO OTHER AFFILIATES AND RELATED CASES CURRENTLY PENDING BEFORE THIS COMMISSION.**

A. The Applicants are Kansas City Power & Light Company (KCPL) and KCPL Greater Missouri Operations Company (GMO). Both of these companies are operating company subsidiaries of a holding company named Great Plains Energy Incorporated (GPE). Another subsidiary of GPE named GPE Transmission Holding Company LLC owns 13.5% of Transource Energy LLC (Transource), which in turn owns Transource Missouri LLC (Transource Missouri). AEP Transmission Holding Company owns the other 86.5% of Transource. Transource Missouri currently has an application for a line Certificate of Convenience and Necessity (CCN) in Case No. EA-2013-0098 which has been consolidated with Case No. EO-2012-0367.

**Q. PLEASE DESCRIBE THE RELIEF THAT THE APPLICANTS ARE REQUESTING IN THESE CASES.**

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Ryan Kind

1 A. The Applicants state on page 5 of their Interim Report that “the Companies request that  
2 the Commission accept the attached Interim Report for filing and issue an order  
3 approving the continued participation of KCP&L and GMO in SPP beyond October 1,  
4 2013, without a service agreement.”

5 **Q. WHAT STANDARD OR CRITERIA WILL THE COMMISSION USE TO DETERMINE WHETHER**  
6 **THE APPLICATIONS SHOULD BE APPROVED?**

7 A. Counsel advises me that, in order to approve the application, the Commission must  
8 determine that continuing the transfer of functional control of the Applicants’  
9 transmission systems to SPP under the terms and conditions in the application (or with  
10 terms and conditions as modified by the Commission) is not detrimental to the public  
11 interest. Counsel has also had advised me that the Applicants bear the burden of  
12 presenting an affirmative case to demonstrate that the proposed transfer is not detrimental  
13 to the public interest.

14 **Q. DID THE COMMISSION MAKE ANY DETERMINATIONS WITHIN THE LAST YEAR ABOUT**  
15 **THE TERMS AND CONDITIONS UNDER WHICH ANY OTHER MISSOURI ELECTRIC**  
16 **UTILITIES CAN PARTICIPATE IN A REGIONAL TRANSMISSION ORGANIZATION (RTO)?**

17 A. Yes, the Commission issued an order (UE MISO Order) regarding the participation of  
18 Union Electric Company (UE or Ameren Missouri) in the Midwest Independent  
19 Transmission System Operator, Incorporated (MISO) in Case No. EO-2011-0128 on  
20 April 19, 2012. In that case, the Commission approved, on an interim basis, UE’s  
21 continued participation in the MISO RTO for an additional 49 months (four years and  
22 one month) subject to an extensive list of conditions set forth on pages 22 through 30 of  
23 the UE MISO Order.

1       **Q.     DID THE CONDITIONS IN THE UE MISO ORDER INCLUDE A REQUIREMENT FOR THE**  
2       **SERVICE AGREEMENT BETWEEN UE AND MISO TO CONTINUE IN ITS CURRENT FORM?**

3       A.     Yes. The service agreement requirements are addressed in the ordered portion of the UE  
4       MISO Order in items 2.J, 2.K., 2.L., 2.N., and 2.O. Item 2.L. states:

5                     The Service Agreement (unless it is terminated pursuant to its terms)  
6                     shall continue in its current form; provided that the Commission may  
7                     rescind its approval of Ameren Missouri's participation in the Midwest  
8                     ISO and may require Ameren Missouri to withdraw from participation in  
9                     the Midwest ISO on any of the following bases...

10       **Q.     ONE OF YOUR PREVIOUS ANSWERS NOTED THE APPLICANTS ARE SEEKING APPROVAL**  
11       **OF THEIR CONTINUED PARTICIPATION OF KCP&L AND GMO IN SPP BEYOND**  
12       **OCTOBER 1, 2013, WITHOUT A SERVICE AGREEMENT. ARE THERE ADDITIONAL**  
13       **DIFFERENCES BETWEEN THE TERMS AND CONDITIONS UNDER WHICH THE APPLICANTS**  
14       **ARE SEEKING APPROVAL TO PARTICIPATE IN THE SPP RTO AND THE TERMS AND**  
15       **CONDITIONS THAT THE COMMISSION DETERMINED WERE APPROPRIATE FOR UE TO**  
16       **PARTICIPATE IN THE MISO RTO?**

17       A.     Yes, there are a large number of very substantial additional differences. One of the major  
18       differences is the length of the time period during which approval for KCPL and GMO to  
19       continue participating in SPP would be granted. In previous RTO participation cases, the  
20       Commission has always determined that it should limit the time period during which  
21       electric utilities would be permitted to participate in an RTO and has always granted the  
22       authority to participate in an RTO on an interim basis for a limited period of time.  
23       However, in the Interim Report, the Applicants have requested authorization to continue  
24       participating in SPP for an unlimited time period instead of only seeking authorization to  
25       participate on an interim basis for a limited period of time.

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1           There are a large number of additional substantial differences (other than the service  
2           agreement requirements and interim approval limitation) between the terms and  
3           conditions under which the Applicants are seeking approval to participate in the SPP  
4           RTO and the terms and conditions that the Commission recently determined were  
5           appropriate for UE to participate in the MISO RTO. These additional differences are  
6           related to the following items that appear in the ordered section of the UE MISO Order:  
7           2.A, 2.B., 2.C., 2.D., 2.E, 2.F., 2.G., 2.H., 2.I, 2.M., 2.P., 2.Q., 2.R, and 2.S.

8           Items 2.B., 2.C., 2.D., 2.E, 2.F., 2.G., 2.H., and 2.I. (RTO participation study conditions)  
9           all pertain to the study of RTO participation net benefits. The study period is required to  
10          cover between five and ten years and it begins at the end of the interim period for which  
11          continued UE's MISO RTO participation is authorized. The Applicants have not  
12          proposed to perform a forward-looking RTO participation cost benefit study as part of  
13          their request for the Commission to authorize continuing participation in the SPP RTO.

14          Items 2.M., 2.P., 2.Q., 2.R, and 2.S. pertain to a variety of largely unrelated conditions  
15          that UE was ordered to comply with as part of its authorization to continue participating  
16          in the MISO RTO on an interim basis. Item 2.M. pertains to the process whereby UE  
17          would depart from MISO if the Commission exercised its authority to terminate (under  
18          certain specified conditions) its approval of UE's participation in MISO. Item 2.P.  
19          requires UE to obtain prior approval from the Commission prior to securitizing  
20          transmission-related revenues. Item 2.Q. requires UE to seek prior approval from the  
21          Commission for any fundamental change in its MISO membership participation or  
22          membership status. Item 2.R. requires UE and its non-regulated<sup>1</sup> transmission affiliates to  
23          participate in an investigatory case at the Commission to investigate plans for UE's

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<sup>1</sup> The term "non-regulated" as used in this testimony refers to entities whose rates are not directly regulated and set by the Commission.



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1 affiliates to build transmission in UE's service territory during the next ten years. Finally,  
2 item 2.S. contains a condition intended to hold ratepayers harmless from adverse  
3 ratemaking impacts associated with transmission facilities in UE's service territory that  
4 are constructed by an Ameren affiliate and are subject to FERC approved regional cost  
5 allocation by the MISO.

6 **Q. YOUR ANSWER IN RESPONSE TO A PRIOR QUESTION IN THIS TESTIMONY STATED THAT**  
7 **THE APPLICANTS BEAR THE BURDEN OF PRESENTING AN AFFIRMATIVE CASE TO**  
8 **DEMONSTRATE THAT THE PROPOSED TRANSFER IS NOT DETRIMENTAL TO THE PUBLIC**  
9 **INTEREST. HAVE THE APPLICANTS SATISFIED THAT BURDEN IN THEIR DIRECT**  
10 **TESTIMONY?**

11 A. No. The Applicants did not even make a serious effort to satisfy that burden.

12 **Q. PLEASE EXPLAIN.**

13 A. Two witnesses filed testimony to support the Applicants' "request that the  
14 Commission...issue an order approving the continued participation of KCP&L and GMO  
15 in SPP beyond October 1, 2013, without a service agreement."<sup>2</sup> These two witnesses are  
16 Charles Locke and James Okenfuss. Neither of these witnesses provided any support  
17 whatsoever for altering the existing arrangement of having a service agreement in place  
18 for each of the Applicants to reasonably protect the Commission's jurisdiction over the  
19 transmission component of KCPL's and GMO's bundled retail rates. Likewise, neither  
20 witness provided any support for changing from an interim approval limited to a period  
21 of several years, nor did the witnesses provide any support for approval of the application

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<sup>2</sup> Submission of Interim Report Regarding Participation in Southwest Power Pool, page 5.

1 without the other conditions that had been an integral part of the Commission's prior  
2 authorizations for the Applicants to participate in SPP in Case Nos. EO-2006-0142 and  
3 EO-2009-0179. In previous answers above, I described the conditions under which the  
4 Commission recently approved, on an interim basis, UE's request to continue  
5 participating in MISO. Most of the conditions, including conditions pertaining to  
6 continued use of a service agreement, that were ordered in the UE case, with the  
7 exception of items 2.R. and 2.S. were very similar to the conditions that the Commission  
8 required for KCP&L and GMO in their most recent SPP participation authorization cases.

9 **Q. HAS YOUR WORK IN THE OTHER TRANSMISSION-RELATED CASES THAT ARE**  
10 **CURRENTLY PENDING FOR THE APPLICANTS AND THEIR AFFILIATES GIVEN YOU ANY**  
11 **INSIGHTS INTO WHY THE APPLICANTS ARE SEEKING COMMISSION AUTHORIZATION TO**  
12 **CONTINUE PARTICIPATING IN SPP WITHOUT A SERVICE AGREEMENT?**

13 A. Yes. My rebuttal testimony in Case Nos. EA-2013-0098 and EO-2012-036 discusses the  
14 Transco business plan that the Applicants and their affiliates are currently trying to  
15 execute in order to enhance their earnings and strategic interests. (See pages 4 – 6 in  
16 Attachment RK-1). Lines 14 – 24 on page 13 of that testimony specifically \*\*

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20 **Q. PLEASE IDENTIFY ANY SUPPORT FOR THE APPLICANTS' CONTINUED PARTICIPATION IN**  
21 **SPP THAT WAS PROVIDED BY THE APPLICANTS' WITNESSES.**

22 A. One of the conditions that the Commission required for approval of the Applicants'  
23 requests for being allowed to participate in SPP in Case Nos. EO-2006-0142 and EO-  
24 2009-0179 was the requirement to "file a pleading accompanied by a study (Interim

1 Report) comparing the costs and estimated benefits of participation in SPP during a  
2 recent twelve-month test period.” Both of the Applicants’ witnesses described different  
3 aspects of this cost benefit study that was performed and submitted as the Interim Report.  
4 As discussed in the testimony of Mr. Locke, there were six categories in the study. The  
5 testimony of Mr. Okenfuss describes the analysis that the Applicants performed for the  
6 Power Market Operations category of the study.

7 Mr. Locke’s testimony briefly described the process of performing the study and the six  
8 categories of the study. He also presented the range of net benefits estimated by the  
9 study for the Applicants’ participation in SPP during 2014 through 2017. Mr. Locke  
10 concludes his testimony by stating “thus, on the basis of these results from the work  
11 performed to meet the analysis plan, the Company’s continued participation in SPP is  
12 justified.” The sole support for the Applicants’ request for continued participation in SPP  
13 under radically different terms and conditions than those that currently exist is the range  
14 of positive net benefits presented in Mr. Locke’s testimony.

15 **Q. DID PUBLIC COUNSEL PARTICIPATE IN AND SUPPORT THE GENERAL PARAMETERS OF**  
16 **THE COST BENEFIT STUDY THAT WAS PERFORMED BY THE APPLICANTS?**

17 A. Yes. I participated in the discussions with other parties about the parameters of the study  
18 that are discussed on pages 4 and 5 of Mr. Locke’s testimony. I believed that the agreed  
19 upon study was sufficient to assess the merits from a cost benefit perspective of what I  
20 anticipated to be the Applicants’ request for Commission authorization to participate in  
21 SPP on an interim basis for several years beyond the October 1, 2013 date when the  
22 Applicants’ current authorization ends.

23 During the discussions that are referenced on pages 4 and 5 of Mr. Locke’s testimony,  
24 none of the representatives of KCPL or GMO ever indicated: (1) that KCPL and GMO



1       **Q.     DO YOU HAVE ANY FURTHER COMMENTS REGARDING MR. LOCKE’S STATEMENT THAT**  
2           **“THUS, ON THE BASIS OF THESE RESULTS FROM THE WORK PERFORMED TO MEET THE**  
3           **ANALYSIS PLAN, THE COMPANY’S CONTINUED PARTICIPATION IN SPP IS JUSTIFIED”?**

4       A.     Yes. This statement by Mr. Locke represents the only attempt by the Applicants to  
5           satisfy their burden to present an affirmative case which supports the relief they have  
6           requested in these cases. The Applicants had the opportunity to present direct testimony  
7           that fully supports the relief they are requesting in these cases. The Applicants have  
8           requested that they be authorized by the Commission to participate in SPP for an  
9           unlimited period of time without a service agreement or any of the other conditions that  
10          have generally been required by this Commission as part of approving similar requests  
11          for RTO participation. The Applicants have passed up their opportunity to fully support  
12          the relief they are requesting in direct testimony and it would be inappropriate to  
13          disadvantage other parties by permitting them to make up for this forgone opportunity by  
14          making their direct case in surrebuttal testimony.

15       **Q.     WERE THE APPLICANTS AWARE OF THE OUTCOME OF THE UE MISO CASE PRIOR TO**  
16       **THE DATE WHEN THEY FILED TESTIMONY IN THIS CASE?**

17       A.     Yes, the Commission issued its Report and Order in the UE MISO Case on April 19,  
18           2012 and the Applicants filed their testimony in this case on October 2, 2012. The  
19           Applicants had knowledge of the conditions that the Commission required in the UE  
20           MISO case for it to determine that UE’s continued participation in the MISO RTO was  
21           not detrimental to the public interest and chose not to include any of those conditions in  
22           its request for relief in this case. Applicants also chose not to provide any support in their  
23           direct testimony for why the Commission should approve their request to continue the  
24           transfer of functional control of transmission assets to SPP without the conditions that the

1 Commission had determined were necessary, just six months earlier, in the UE MISO  
2 case.

3 **Q. YOU HAVE STATED THAT THE ONLY TOPIC ADDRESSED IN THE DIRECT TESTIMONIES**  
4 **OF THE APPLICANTS' TWO WITNESSES WAS THE PROCESS OF PRODUCING A COST**  
5 **BENEFIT STUDY AND THE RESULTS OF THAT STUDY. DID EITHER OF THESE**  
6 **WITNESSES MAKE ANY COMMITMENT TO PERFORM AN ADDITIONAL COST BENEFIT**  
7 **STUDY IN THE FUTURE TO ASSESS THE BENEFITS THAT THE APPLICANTS AND THEIR**  
8 **RATEPAYERS HAVE RECEIVED AND ARE EXPECTED TO RECEIVE FROM CONTINUING TO**  
9 **PARTICIPATE IN SPP?**

10 A. No. This topic is closely related to the subject addressed in the Applicant's testimony but  
11 it was not addressed in that testimony Not only did the witnesses fail to make any  
12 commitments about performing future cost benefit studies, but they failed to provide any  
13 support in their direct testimony for not committing to perform future cost benefit studies.

14 **Q. HAS THE PACE OF CHANGE IN THE ELECTRIC INDUSTRY AND AT SPP SLOWED DOWN**  
15 **TO THE POINT WHERE THERE WOULD BE NO NEED TO PERFORM ANY FURTHER**  
16 **STUDIES?**

17 A. No. Just the opposite is occurring at this point in time. The Applicants' cost benefit study  
18 tried to make projections about future results of participating in SPP's new Integrated  
19 Marketplace even though the various elements of this new Integrated Marketplace will  
20 not be implemented until March 1, 2014. Much more accurate estimates of the future  
21 benefits of participating in SPP will be possible once the Integrated Marketplace has  
22 completed at least a couple of years of operations.

1       **Q.     PLEASE DESCRIBE THE CHANGES ASSOCIATED WITH THE NEW INTEGRATED**  
2       **MARKETPLACE.**

3       A.     SPP currently operates an Energy Imbalance Service Market (EISM) which resembles a  
4       same day RTO energy market. The Integrated Marketplace will add a number of new  
5       elements including:

- 6           • A day-ahead (Day 2) market with congestion rights;
- 7           • A reliability unit commitment process;
- 8           • A real time balancing market which replaces the EISM;
- 9           • Procurement of price-based operating reserves; and
- 10          • Formation of a consolidated balancing authority

11       **Q.     ARE THERE OTHER SIGNIFICANT CHANGES THAT MAY TAKE PLACE IN THE ELECTRIC**  
12       **INDUSTRY OVER THE NEXT FEW YEARS THAT CAN HAVE SIGNIFICANT IMPACTS ON THE**  
13       **ACTUAL AND EXPECTED BENEFITS OF PARTICIPATING IN SPP?**

14       A.     Yes. These changes may include, but are not limited to:

- 15           • Retirement of a substantial number of coal plants;
- 16           • Major changes in RTO footprints such as Entergy joining MISO;
- 17           • Increases in the use of distributed generation and demand response resources;
- 18           • Increased reliance on power from natural gas plants and intermittent renewable  
19           resources;
- 20           • Increases in the construction of major regional transmission projects that are  
21           subject to FERC approved regional cost allocation methodologies;
- 22           • Steps to resolve RTO seams issues by encouraging joint planning and creation of  
23           a common market that extends across RTO boundaries; and
- 24           • Further development of RTO capacity markets.

1       **Q.     WHAT IS YOUR RECOMMENDATION REGARDING ANY FUTURE RTO COST BENEFIT**  
2       **STUDIES THAT THE APPLICANTS SHOULD PERFORM?**

3       A.     I recommend that the Commission condition its approval of any continued participation  
4       in SPP on the same required conditions related to performing a future cost benefit study  
5       that are set forth in Items 2.B., 2.C., 2.D., 2.E, 2.F., 2.G., 2.H., and 2.I. that appear in the  
6       ordered section of the UE MISO Order.

7       **Q.     ARE THERE ADDITIONAL CONDITIONS THAT YOU RECOMMEND IN ORDER TO ENSURE**  
8       **THAT THE APPLICANTS' CONTINUING PARTICIPATION IN SPP IS NOT DETRIMENTAL TO**  
9       **THE PUBLIC INTEREST?**

10      A.     Yes. I also recommend that the Commission require all of the other conditions that are  
11      set forth in the ordered section of the UE MISO Order. Public Counsel recommends that  
12      the Commission only grant the Applicants the authority to continue the transfer of  
13      functional control of their transmission systems to SPP on an interim basis subject to all  
14      of the requirements in items 2.A through 2.S of the UE MISO Order as modified to fit the  
15      circumstances of the Applicants in these cases.

16      **Q.     DOES THE COMMISSION HAVE THE AUTHORITY TO REQUIRE ADDITIONAL CONDITIONS**  
17      **IT BELIEVES ARE NECESSARY TO PROTECT THE PUBLIC INTEREST?**

18      A.     Yes. The Commission explained that it has the authority to do this on page 20 of the UE  
19      MISO Order where it stated:

20                     ...the Commission is not limited to a simple thumbs up or thumbs down  
21                     ruling on the transfer as a whole. If it is to adequately protect the public  
22                     interest, the Commission must be able to impose conditions designed to  
23                     alleviate specific detriments that would otherwise result from the  
24                     transfer, even if the transfer overall would not be detrimental to the  
25                     public.



1       **Q.     YOU STATED IN A PRIOR ANSWER THAT SOME OF THE REQUIREMENTS IN ITEMS 2.A**  
2       **THROUGH 2.S OF THE UE MISO ORDER SHOULD “MODIFIED TO FIT THE**  
3       **CIRCUMSTANCES OF THE APPLICANTS IN THESE CASES.” PLEASE DESCRIBE THE**  
4       **MODIFICATIONS RECOMMENDED BY PUBLIC COUNSEL.**

5       A.     The Interim Report required by item 2.D. should be filed at the Commission by  
6       September 30, 2016 and the ending date of the interim period authorization to participate  
7       in SPP specified in item 2.A. should be October 1, 2018. These dates will extend the  
8       authorization to participate in SPP by five years and allow for two full years of historical  
9       experience from participating in the SPP’s new Integrated Marketplace to be evaluated in  
10      the cost benefit study that is filed with the Interim Report. Accordingly, item 2.A, 2.B.,  
11      2.C., 2.D. and 2.O. should be modified as follows:

12             A. The Commission approves, on an interim basis, KCPL’s and GMO’s  
13             continued RTO participation in the SPP during a term ending May  
14             October 1, 2018, provided that if the Commission has not by October 1,  
15             2018, further extended its approval of KCPL’s and GMO’s participation  
16             in the SPP, KCPL and GMO shall be deemed to have Commission  
17             approval to continue their SPP participation for the additional time  
18             necessary to re-establish functional control of its transmission system so  
19             that it may operate the same as an ICT, or to transfer functional control  
20             of its transmission system to another RTO. The extended permission  
21             granted in this order is also subject to the provisions of paragraph 2.O of  
22             this order.

23             B. Assuming that KCPL and GMO have not earlier requested withdrawal  
24             or that withdrawal has not otherwise occurred, by August 31, 2015,  
25             KCPL and GMO shall contact and consult with interested persons or  
26             entities to review with those stakeholders the additional analysis KCPL  
27             and GMO believes is appropriate and necessary regarding KCPL’s and  
28             GMO’s continued participation in an RTO after October 1, 2018, or its  
29             operation as an ICT. Such study, at a minimum, shall examine continued  
30             participation in the SPP versus participation in the MISO and continued  
31             participation in SPP versus operation as an ICT. Such study shall  
32             examine a period after October 1, 2018, of not less than five years or  
33             more than ten years.

34             C. After taking into consideration in good faith the comments and input  
35             from the stakeholders regarding the tentative analysis, KCPL and GMO  
36             shall, by October 31, 2015, advise the stakeholders of the specific  
37             parameters, (including the minimum requirements provided for above) of  
38             the analysis KCPL and GMO intend to conduct.

1 D. By September 30, 2016, KCPL and GMO shall file a pleading, along  
2 with the results of their actual analysis regarding their continued RTO  
3 participation or its possible operation as an ICT after October 1, 2018.  
4 That pleading shall also address, among other things, whether the Service  
5 Agreement or similar mechanism for the provision of transmission  
6 service to Missouri Bundled Retail Load should continue to remain in  
7 effect between KCPL and GMO on one hand and any RTO in which  
8 KCPL and GMO may participate after October 1, 2018, on the other.

9 ...

10 O. If KCPL and GMO withdraw from SPP, or if the authority granted in  
11 this order is not extended beyond October 1, 2018, KCPL and GMO will  
12 have to re-establish functional control of its transmission system as a  
13 transmission provider, or, depending upon further orders of the  
14 Commission and the FERC, may have to transfer functional control of its  
15 transmission system to another entity. In either case, KCPL and GMO  
16 would have to give notice to the SPP of its withdrawal. Under section 2.3  
17 of the Service Agreement, notice must occur six months prior to the end  
18 of any Renewal Term on October 1. Such notice shall not be effective  
19 before October 31 of the calendar year in which notice is given by KCPL  
20 and GMO to the SPP. For a possible withdrawal from the SPP to occur  
21 no later than October 1, 2018, the Commission will need to issue a  
22 decision with respect to KCPL's and GMO's continued participation in  
23 SPP no later than March 15, 2018.

24 **Q. HOW SHOULD THE LANGUAGE IN ITEM 2.R. BE MODIFIED TO APPLY TO THE**  
25 **APPLICANTS?**

26 A. Item 2. R should be modified as follows to reflect the names of the Applicants in this case  
27 and their Transmission affiliates:

28 R. KCPL, GMO, and Transource Missouri (collectively KCPL) shall  
29 participate in an investigatory case that the Commission will initiate  
30 within 60 days after the effective date of this order. In that case, the  
31 Commission will investigate plans during the next 10 years for KCPL, or  
32 another KCPL affiliate, as defined in the Commission's affiliated  
33 transaction rules for electric utilities, to build transmission in KCPL's or  
34 GMO's service territory. KCPL and GMO shall not object to discovery  
35 requests relating to plans during the next 10 years for KCPL or another  
36 KCPL affiliate to build transmission in KCPL's or GMO's service  
37 territory on the grounds that: (i) the discovery does not seek information  
38 that is relevant to such transmission issues; or (ii) the data request seeks  
39 information that is not in KCPL's possession if the information is in the  
40 possession of an KCPL affiliate. By participating in the case, KCPL is  
41 not waiving any applicable privilege and retains the right to object if a  
42 discovery request asks for opinions (not facts or existing data), asks for

Rebuttal Testimony of  
Ryan Kind

1 legal conclusions, asks KCPL to perform analyses that do not already  
2 exist, or is vague, unduly burdensome, or overly broad. The Commission  
3 will close the investigatory case no later than ten months after it is  
4 initiated. Neither Transource Missouri, nor any KCPL affiliate that  
5 provides information in connection with the investigatory case shall be  
6 deemed to have thereby conceded that the Commission has jurisdiction  
7 over them, or could otherwise compel them to participate in the  
8 investigatory case or to provide such information, absent their agreement  
9 to do so.

10 **Q. HOW SHOULD THE LANGUAGE IN ITEM 2.S. BE MODIFIED TO APPLY TO THE**  
11 **APPLICANTS?**

12 A. Item 2. S should be modified as follows to reflect the names of the Applicants in this case  
13 and their Transmission affiliates:

14 S. For transmission facilities located in KCPL's or GMO's certificated  
15 service territories that are constructed by a KCPL affiliate and that are  
16 subject to regional cost allocation by the SPP, for ratemaking purposes in  
17 Missouri, the costs allocated to KCPL and GMO by the SPP shall be  
18 adjusted by an amount equal to the difference between: (i) the annual  
19 revenue requirement for such facilities that would have resulted if  
20 KCPL's or GMO's Commission-authorized ROE and capital structure  
21 had been applied and there had been no CWIP (if applicable), or other  
22 FERC Transmission Rate Incentives, including Abandoned Plant  
23 Recovery, recovery on a current basis instead of capitalizing pre-  
24 commercial operations expenses and accelerated depreciation, applied to  
25 such facilities and (ii) the annual FERC-authorized revenue requirement  
26 for such facilities. The ratemaking treatment established in this provision  
27 will, unless otherwise agreed or ordered, end with the Commission's next  
28 order regarding KCPL's or GMO's participation in the SPP, another  
29 RTO, or operation as an ICT.

30 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

31 A. Yes.

Exhibit No.:

Issue(s):

Witness/Type of Exhibit:

Sponsoring Party:

Case No.:

Request for Approval of  
Transfers, CCN and

Affiliate Rule Waivers

Kind/Rebuttal

Public Counsel

EA-2013-0098

## **REBUTTAL TESTIMONY**

**OF**

**RYAN KIND**

Submitted on Behalf of  
the Office of the Public Counsel

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

**Case No. EA-2013-0098**

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**Denotes Highly Confidential Information that has been Redacted**

January 30, 2013

***NP***

Attachment RK-1

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

In the Matter of the Application of Transource )  
 Missouri, LLC for a Certificate of ) File No. EA-2013-0098  
 Convenience and Necessity Authorizing it to )  
 Construct, Finance, Own, Operate, and )  
 Maintain the Iatan-Nashua and Sibley- )  
 Nebraska City Electric Transmission Projects )

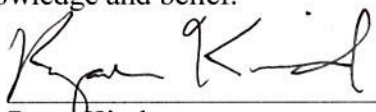
In the Matter of the Application of Kansas City )  
 Power & Light Company and KCP&L Greater )  
 Missouri Operations Company Regarding ) File No. EO-2012-0367  
 Arrangements for Approval to Transfer Certain )  
 Transmission Property to Transource Missouri, )  
 L.L.C. and for Other Related Determinations )

**AFFIDAVIT OF RYAN KIND**

STATE OF MISSOURI )  
 ) ss  
 COUNTY OF COLE )

Ryan Kind, of lawful age and being first duly sworn, deposes and states:


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

  
 \_\_\_\_\_  
 Ryan Kind

Subscribed and sworn to me this 30<sup>th</sup> day of January 2013.



**JERENE A. BUCKMAN**  
 My Commission Expires  
 August 23, 2013  
 Cole County  
 Commission #09754037

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

My commission expires August 23, 2013.

**REBUTTAL TESTIMONY**  
**OF**  
**RYAN KIND**  
**KANSAS CITY POWER & LIGHT COMPANY, KCPL GREATER MISSOURI**  
**OPERATIONS COMPANY AND TRANSOURCE MISSOURI, LLC**  
**CASE NOS. EO-2012-0367 & EA-2013-0098**

1 **Q. PLEASE STATE YOUR NAME, TITLE, AND BUSINESS ADDRESS.**

2 A. Ryan Kind, Chief Energy Economist, Office of the Public Counsel, P.O. Box 2230,  
3 Jefferson City, Missouri 65102.

4 **Q. PLEASE SUMMARIZE YOUR EDUCATIONAL AND EMPLOYMENT BACKGROUND.**

5 A. I have a B.S.B.A. in Economics and a M.A. in Economics from the University of  
6 Missouri-Columbia (UMC). While I was a graduate student at UMC, I was employed as  
7 a Teaching Assistant with the Department of Economics, and taught classes in  
8 Introductory Economics, and Money and Banking, in which I served as a Lab Instructor  
9 for Discussion Sections.

10 My previous work experience includes several years of employment with the Missouri  
11 Division of Transportation as a Financial Analyst. My responsibilities at the Division of  
12 Transportation included preparing transportation rate proposals and testimony for rate  
13 cases involving various segments of the trucking industry. I have been employed as an  
14 economist at the Office of the Public Counsel (Public Counsel or OPC) since 1991.

15 **Q. HAVE YOU TESTIFIED PREVIOUSLY BEFORE THIS COMMISSION?**

Rebuttal Testimony of  
Ryan Kind

1 A. Yes, prior to this case I submitted written testimony in numerous gas rate cases, several  
2 electric rate design cases and rate cases, as well as other miscellaneous gas, water,  
3 electric, and telephone cases.

4 **Q. HAVE YOU PROVIDED COMMENTS OR TESTIMONY TO OTHER REGULATORY OR**  
5 **LEGISLATIVE BODIES ON THE SUBJECT OF UTILITY REGULATION AND**  
6 **RESTRUCTURING?**

7 A. Yes, I have provided comments and testimony to the Federal Energy Regulatory  
8 Commission (FERC), the Missouri House of Representatives Utility Regulation  
9 Committee, the Missouri Senate's Commerce & Environment Committee and the  
10 Missouri Legislature's Joint Interim Committee on Telecommunications and Energy.

11 **Q. HAVE YOU BEEN A MEMBER OF, OR PARTICIPANT IN, ANY WORK GROUPS,**  
12 **COMMITTEES, OR OTHER GROUPS THAT HAVE ADDRESSED ELECTRIC AND GAS UTILITY**  
13 **REGULATION AND POLICY ISSUES?**

14 A. Yes. I am currently a member of the National Association of State Consumer Advocates  
15 (NASUCA) Electric Committee and serve as one of the alternate public consumer group  
16 representatives to the Midwest ISO's (MISO's) Advisory Committee. I have served on  
17 the Stakeholder Steering Committee (SSC) of the Eastern Interconnection Planning  
18 Collaborative (EIPC), the Missouri Department of Natural Resources Weatherization  
19 Policy Advisory Committee, as the public consumer group representative to the Midwest  
20 ISO's (MISO's) Advisory Committee and as the small customer representative on both  
21 the NERC Operating Committee and the NERC Standards Authorization Committee.  
22 During the early 1990s, I served as a Staff Liaison to the Energy and Transportation Task  
23 Force of the President's Council on Sustainable Development.

1       **Q.     WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

2       A.     The purpose of my rebuttal testimony is to address the applications filed by the applicants  
3           in Case Nos. EO-2012-0367 and EA-2013-0098. The applicants in Case No. EO-2012-  
4           0367 are Kansas City Power & Light Company (KCPL) and KCPL Greater Missouri  
5           Operations Company (GMO). The Applicant in Case No. EA-2013-0098 is Transource  
6           Missouri LLC (TransourceMO). In addition to addressing the relief requested in these  
7           two applications, I will also respond to some of the direct testimony filed in Case Nos.  
8           EO-2012-0367 and EA-2013-0098.

9       **Q.     WHY ARE YOU ADDRESSING BOTH OF THESE PENDING CASES IN THIS TESTIMONY?**

10      A.     The Commission issued an order on November 7, 2012 that consolidated the matters in  
11           these cases and set a single procedural schedule for testimony filing dates and the  
12           evidentiary hearing. The cases were consolidated by the Commission because they are  
13           both linked to the execution of the initial stages of a Transco<sup>1</sup> business plan by KCPL,  
14           GMO, and Great Plains Energy (GPE). GPE is the holding company that owns and  
15           controls KCPL and GMO. The Transco business plan that led to these cases was  
16           approved by GPE and it has apparently directed its wholly-owned subsidiary operating  
17           companies, KCPL and GMO to either make the filings or facilitate making the filings  
18           needed to execute this business plan. In the initial stages of this new Transco business  
19           plan, GPE is seeking Commission approval of the transfer of certain physical assets and

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<sup>1</sup> Transco is a term used to refer to transmission companies that operate as separate affiliates of regulated utility operating companies or as totally independent companies not affiliated with a regulated utility. Transcos usually have a single focus of building, owning and operating transmission facilities and charge FERC regulated rates to wholesale customers. New transmission investment incentives resulting from FERC Order 679 and new opportunities to compete for major new transmission projects as a result of largely removing the right of first refusal in FERC Order 1000 have created greater interest in the Transco business model.



1 construction rights associated with two major transmission projects (the Iatan-Nashua  
2 345 kV transmission project and the Sibley-Nebraska City 345 kV project) and approval  
3 of a Certificate of Convenience and Necessity (CCN) for TransourceMO to construct,  
4 own and operate these projects under a new Transco named Transource Energy, LLC  
5 which is a joint venture of GPE and American Electric Power (AEP). TransourceMO is a  
6 wholly-owned subsidiary of Transource Energy, LLC. These cases are also linked  
7 together by the request in both applications that the requested relief be conditioned upon  
8 obtaining the relief in the other application in addition to other approvals that the  
9 applicant is seeking from the Southwest Power Pool (SPP) and the Federal Energy  
10 Regulatory Commission (FERC).

11 **Q. PLEASE PROVIDE A BRIEF SUMMARY OF THE TRANSCO BUSINESS PLAN THAT THE**  
12 **APPLICANTS IN THESE CASES SEEK TO EXECUTE, IN PART, THROUGH THE**  
13 **APPLICATIONS THAT WERE FILED IN CASE NOS. EO-2012-0367 AND EA-2013-**  
14 **0098.**

15 A. GPE and American Electric Power (AEP) have created a new entity to build large  
16 transmission projects which are subject to regional cost allocation. These projects will  
17 likely be built in the Eastern Interconnection power grid (EI) with the initial primary  
18 focus being on projects located in three Regional Transmission Organizations (RTOs),  
19 (SPP, MISO, and PJM) within the EI. This new entity was created as a result of GPE  
20 finding a business partner who would be interested in having access to the rights of  
21 KCPL and GMO to construct two major transmission projects (the Iatan-Nashua 345 kV  
22 transmission project and the Sibley-Nebraska City 345 kV project) for the SPP that  
23 would be subject to regional cost allocation. GPE sought a business arrangement where  
24 it could leverage the rights to these transmission projects to attract a joint venture partner  
25 that would likely be a major player in the competitive US electric transmission market

1           that FERC is seeking to develop through FERC Order 1000. A desirable joint venture  
2           arrangement would be one that GPE expected to create a stream of future earnings that  
3           had more value than the earnings that would be expected from GPE and its subsidiaries  
4           being the sole entity constructing these two SPP transmission projects.

5           **Q.    WHY DID THE IATAN-NASHUA 345 PROJECT (IATAN LINE) AND THE SIBLEY-**  
6           **NEBRASKA CITY PROJECT (SIBLEY LINE) HAVE A VALUE LARGE ENOUGH TO**  
7           **PERMIT GPE TO UTILIZE THESE TWO PROJECTS TO LEVERAGE ITS ENTRY INTO A**  
8           **JOINT VENTURE BUSINESS RELATIONSHIP WITH AEP THAT WILL LIKELY PROVIDE**  
9           **A SUBSTANTIAL STREAM OF FUTURE EARNINGS TO GPE?**

10          A.    These two projects are part of the final round of major transmission expansion projects  
11           that are subject to regional allocation but that can still be assigned to the incumbent  
12           transmission company by an RTO despite the fact that FERC has issued new regulations  
13           in Order 1000 that eliminate the right of first refusal (ROFR) for transmission projects.  
14           GMO and KCPL have received the Notification to Construct these projects from SPP that  
15           gives them the exclusive right to build these projects.

16           FERC has eliminated the right of first refusal in order to create competition between  
17           transmission companies for the construction, ownership and operation of major new  
18           transmission projects that are subject to regional cost allocation. There are expected to be  
19           a large number of large regional transmission projects built over the next 10 to 20 years  
20           in RTOs like SPP, MISO, and PJM that have: (1) a robust regional transmission  
21           expansion planning process and (2) tariffs in place that provide for region-wide allocation  
22           of the costs of these projects to transmission customers. It is likely that there will initially  
23           be five or ten independent transmission companies (some of the larger ones will be  
24           affiliates of large utilities like AEP) competing for these projects and since this is a  
25           relatively new business, those who are successful in being awarded the first few large

1 projects and can demonstrate their capabilities to construct such projects are expected to  
2 achieve a competitive advantage in competing for the large number of major new projects  
3 expected to be awarded to the winning bidders over the next few years. New FERC  
4 Transmission Investment Incentives (including enhanced ROE, CWIP, project  
5 abandonment risk mitigation, etc.) that became available pursuant to FERC Order 679  
6 have heightened the interest in participating in this competitive market to build new  
7 transmission.

8 **Q. HAVE YOU SEEN ANY STATEMENTS MADE BY SENIOR EXECUTIVES OF AEP THAT**  
9 **SHOW AEP WAS ATTRACTED, AT LEAST IN PART, TO FORM A JOINT VENTURE**  
10 **TRANSMISSION COMPANY WITH GPE BECAUSE OF THE RIGHTS THAT GPE'S**  
11 **SUBSIDIARIES, KCPL AND GMO, HAD TO CONSTRUCT THE IATAN AND SIBLEY LINES?**

12 A. Yes. Shortly after the Transource joint venture was announced to the public, AEP  
13 President and CEO Nicholas K. Akins made the following statements regarding the  
14 Transource joint venture with GPE in an April 20, 2012 first quarter 2012 earnings  
15 conference call with investment analysts:

16 So that's important for us to start that critical mass and see that  
17 transmission investment continue to grow. The reason why we did the  
18 Transource deal was to pursue competitive transmission development  
19 projects in the advent of Order 1,000 for – certainly wanted to set the  
20 tone for a comparative transmission going forward, and it was important  
21 for us to really put together an engine for that future growth.

22 **And we saw, certainly, from the Great Plains perspective, a near-**  
23 **term project that could provide ability for us to put that critical**  
24 **mass in place and really give us an advantage going forward in the**  
25 **marketplace in the competitive access area.** And it also is on the  
26 interface of MISO and SPP, so that provides some future prospects for  
27 us. And as well, it focuses on other state footprints like Missouri and  
28 Kansas. [Emphasis added]

1       **Q.     PLEASE PROVIDE A DESCRIPTION OF THE APPLICATION IN CASE NO. EO-2012-0367**  
2                   **AND THE RELIEF THAT THE APPLICANTS ARE REQUESTING FROM THE COMMISSION IN**  
3                   **THAT CASE.**

4       A.     KCPL and GMO are requesting that the Commission:

5                   1) Approve the transfer of transmission property associated with the Iatan and Sibley  
6                   lines conditioned upon the occurrence of several other events including  
7                   TransourceMO receiving approvals from the Commission to construct these projects  
8                   in Case No. EA-2013-0098.

9                   2) Find that no approval under state law is required to novate (transfer) the Notifications  
10                  to Construct for the Iatan and Sibley lines or approve the novation of these lines to  
11                  TransourceMO.

12                  3) Grant a waiver or variance from the Commission's Affiliate Transaction Rules for  
13                  transactions between two regulated electric corporations, KCPL and GMO on one  
14                  hand and Transource Energy LLC (Transource) and its subsidiaries (affiliates of  
15                  KCPL and GMO), on the other.

16       **Q.     WHAT IS PUBLIC COUNSEL'S POSITION REGARDING THE THREE REQUESTS THAT THE**  
17                   **APPLICANTS MAKE FOR COMMISSION ACTION IN CASE NO. EO-2012-0367?**

18       A.     Public Counsel recommends that the Commission deny all three of the applicants'  
19                  requests described above.

20       **Q.     WHY DOES OPC OPPOSE COMMISSION APPROVAL OF THE TRANSFER OF**  
21                   **TRANSMISSION PROPERTY ASSOCIATED WITH THE IATAN AND SIBLEY LINES?**

Rebuttal Testimony of  
Ryan Kind

1 A. Public Counsel believes the evidence in this case will demonstrate that the proposed  
2 transfer is detrimental to the public interest and should be denied. The applicants, KCPL  
3 and GMO, have the burden of showing that the proposed transfer is not detrimental to the  
4 public interest and they have failed to satisfy that burden in their application and direct  
5 testimony. KCPL/GMO witness Darrin Ives attempts to show in his direct testimony that  
6 the proposed transfer would not be detrimental to the public interest but fails to provide  
7 facts and analysis to show this. His attempt to demonstrate that the proposed transfer  
8 satisfies the not detrimental to the public interest standard is based solely on a qualitative  
9 analysis that ignores the detrimental aspects of the transfer. Furthermore, he does not  
10 even attempt to perform and provide a quantitative analysis to demonstrate that the  
11 proposed transfer is not detrimental to the public interest. Public Counsel believes there  
12 will clearly be substantial adverse rate impacts from having these projects constructed,  
13 owned and operated by an entity other than GMO and KCPL, the utilities that are subject  
14 to comprehensive rate regulation by the Commission.

15 **Q. YOU STATED THAT MR. IVES DOES NOT EVEN ATTEMPT TO PERFORM AND PROVIDE A**  
16 **QUANTITATIVE ANALYSIS TO DEMONSTRATE THAT THE PROPOSED TRANSFER IS NOT**  
17 **DETRIMENTAL TO THE PUBLIC INTEREST. DID ANY OF THE APPLICANTS' OTHER**  
18 **WITNESSES ATTEMPT TO PROVIDE ANY QUANTITATIVE ANALYSIS TO DEMONSTRATE**  
19 **THAT THE PROPOSED TRANSFER IS NOT DETRIMENTAL TO THE PUBLIC INTEREST?**

20 A. No.

21 **Q. IN YOUR REVIEW OF DOCUMENTS PROVIDED BY THE APPLICANTS IN RESPONSE TO**  
22 **DRS, HAVE YOU FOUND ANY QUANTITATIVE ANALYSIS OF THE IMPACT THAT THE**  
23 **APPROVAL OF THESE APPLICATIONS IS LIKELY TO HAVE ON THE CUSTOMERS OF**  
24 **KCPL AND GMO?**

Rebuttal Testimony of  
Ryan Kind

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\*\* comparing the rate regulation framework that would be applicable for transmission projects built, owned, and operated by KCPL and GMO to the rate regulation framework that would be applicable if the same projects are built, owned, and operated by either a transmission company that is a wholly-owned subsidiary of GPE or a transmission company like Transource that is a joint venture between a wholly-owned transmission subsidiary of GPE and a wholly-owned transmission subsidiary of AEP. The rate regulation framework that would be applicable to these projects if built, owned, and operated by KCPL and GMO is the current Missouri Commission rate regulation framework where the revenue requirement takes into account return on rate base, depreciation expense, and operating expenses associated with the transmission assets and includes SPP transmission revenues as an offset to these costs.<sup>2</sup>

The rate regulation framework that would be applicable to these projects if built, owned, and operated by a Transco (either wholly-owned by GPE or a joint venture such as Transource) is only subject to Missouri Commission rate regulation in that the Commission will include SPP transmission charges related to the FERC regulated cost recovery for these transmission projects in the revenue requirements of GMO and KCPL. SPP transmission revenues as an offset to the transmission costs incurred by Transource would not be included in the Missouri revenue requirements for these transmission projects. It is also important to note that the FERC regulated SPP transmission charges

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<sup>2</sup> This is similar to the common practice in Missouri of giving Missouri retail customers credit for the revenues from margins on off-system sales of energy and capacity associated with the generation assets that Missouri customers are funding when they pay rates that reflect the costs of having those generation assets in rate base.

Rebuttal Testimony of  
Ryan Kind

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related to the Sibley and Iatan lines that are passed thru to Missouri customers in the retail rates of GMO and KCPL would reflect the full range of FERC approved transmission investment incentives (including enhanced ROE, CWIP, project abandonment risk mitigation, etc.). Transource has already received FERC approval for many of these incentives in FERC Docket No. ER12-2554.

**Q.**     \*\*



Rebuttal Testimony of  
Ryan Kind

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Rebuttal Testimony of  
Ryan Kind

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1 **Q. WHY DOES OPC OPPOSE COMMISSION APPROVAL OF NOVATING (TRANSFERRING)**  
2 **THE NOTIFICATIONS TO CONSTRUCT (NTC) FOR THE IATAN AND SIBLEY LINES TO**  
3 **TRANSOURCEMO?**

4 A. Transferring these NTCs from KCPL and GMO to TransourceMO would be detrimental  
5 to the public interest for the same reasons that the proposed asset transfer from KCPL and  
6 GMO to TransourceMO would be detrimental to the public interest. The NTCs are  
7 essentially rights to construct two transmission projects that have significant financial and  
8 strategic value to whatever entity constructs these projects. The Commission has  
9 exercised its jurisdiction over emission allowances (rights to emit harmful power plant  
10 emissions) such as SO2 and NOX allowances and the transfer or sale of those  
11 allowances. Like emission allowances, the NTCs were issued to KCPL and GMO due to  
12 their operation as regulated electrical corporations and they have a value the utility  
13 should not be able to divert to providing benefits solely to utility shareholders at the  
14 expense of adverse impacts on ratepayers.

15 **Q. WHY DOES OPC OPPOSE THE REQUESTED WAIVER OR VARIANCE FROM THE**  
16 **COMMISSION'S AFFILIATE TRANSACTION RULES FOR TRANSACTIONS BETWEEN**  
17 **KCPL AND GMO ON ONE HAND AND TRANSOURCE AND ITS SUBSIDIARIES**  
18 **(AFFILIATES OF KCPL AND GMO), ON THE OTHER?**

19 A. The applicants are seeking this waiver from all provisions in 4 CSR 240-20.015 (the  
20 Commission's Affiliate Transactions Rule) for any and all transactions between KCPL  
21 and GMO on one hand and Transource and its subsidiaries (affiliates of KCPL and  
22 GMO), on the other. Public Counsel is not aware of any other broad extraordinary  
23 requests for waivers or variances from **all** provisions of the Affiliate Transactions Rule  
24 for such a broad range of transactions between regulated utilities and an unspecified list

Rebuttal Testimony of  
Ryan Kind

1 of affiliates (none of which would be subject to rate regulation by this Commission) that  
2 has ever been granted by this Commission.

3 The Applicants cite a couple reasons to support their request. First, they attempt to argue  
4 that the rule was not intended to apply to transactions between affiliated entities when  
5 both are subject to some form of regulation, even if one of them is not subject to rate  
6 regulation by this Commission. However, the rule was clearly intended to apply to all  
7 transactions between a regulated electrical corporation and their affiliates. Subsection  
8 (1)(A) of 4 CSR 240-20.015 defines an “affiliate transaction” to mean “any transaction  
9 for the provision, purchase or sale of any information, asset, product or service, or portion  
10 of any product or service, between a regulated electrical corporation and an affiliated  
11 entity, and shall include all transactions carried out between any unregulated business  
12 operation of a regulated electrical corporation and the regulated business operations of a  
13 electrical corporation. GPE will own more than 10% of Transource and TransourceMO,  
14 so Transource and TransourceMO clearly meet the definition of an “affiliated entity.”

15 The second reason cited by TransourceMO in support of the Affiliate rule waiver or  
16 variance request is that GMO and KCPL have agreed to provide transmission property  
17 and services to TransourceMO at cost. This requires a waiver because the Affiliate  
18 Transactions Rule has provisions pertaining to the pricing of transfers of goods and  
19 services, including the asymmetrical pricing standard (see Subsection (2)(A)2 of 4 CSR  
20 240-20.015) which requires that goods and services provided from the regulated electrical  
21 corporation to its affiliates to be priced at the greater of either cost or the market value  
22 (market price) of such goods and services.

23 On pages 24 and 25 of his testimony, KCPL/GMO witness Darrin Ives asserts that it  
24 would be to the advantage of Missouri end-use customers for KCPL and GMO to be able  
25 to transfer transmission property and provide services to TransourceMO at cost. He states

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1 that applying the Affiliate Transactions Rule to exchanges of goods and services with  
2 TransourceMO “would be a detriment to utility customers who pay for the transmission  
3 services through Transource Missouri’s FERC-approved formula rate because services  
4 that are provided “at cost” are generally lower than services provided at market rates,  
5 which typically include a profit component.” This may sound like an attractive  
6 arrangement due to the incomplete explanation provided by Mr. Ives of the consequences  
7 of such an arrangement. He describes one of the consequences of such an arrangement  
8 but fails to explain the full impact of this arrangement which will inevitably lead to large  
9 negative net impacts on the Missouri end-use customers that are served by KCPL and  
10 GMO. While this arrangement may put downward pressure on the FERC formula rates  
11 referenced by Mr. Ives, the largest impact will come from the increase in offsetting  
12 revenue from the provision of goods and services to TransourceMO at market prices  
13 which will often be greater than the cost-based prices. GMO and KCPL customers would  
14 benefit from 100% of these increased revenues (from the payments to KCPL and GMO  
15 for goods and services provided to TransourceMO) whereas only about 8% of the benefit  
16 from lower cost-based services reflected in the Transource FERC revenue requirement  
17 would benefit GMO and KCPL customers since these transmission costs are allocated to  
18 GMO and KCPL based on their 8% share of the entire load served by SPP. The  
19 remaining 92% of these lower costs resulting from cost-based transfer pricing (if  
20 increased by market-based instead of cost-based pricing) would help reduce the  
21 transmission rates paid by other SPP transmission customers and their end-use customers.  
22 The main beneficiary of the reduced costs due to cost-based transfer pricing would be the  
23 shareholders of GPE and AEP who would benefit from the advantage that the GPE/AEP-  
24 owned Transource obtains by using low cost goods and services from regulated  
25 companies like KCPL and GMO to help it compete against other transmission companies  
26 for major RTO transmission projects.

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1 Subsections (2)(A) and (2)(B) of 4 CSR 240-20.015 make it clear that the affiliate rules  
2 are not solely for the purpose of preventing regulated utilities (and their customers) from  
3 subsidizing the operations of their affiliates. These rules are also intended to prevent  
4 regulated utilities from providing a financial advantage or any preferential treatment to  
5 their affiliates. Customers could be harmed by either one of these things because they are  
6 likely to impact the outcomes of competitive markets by allowing the affiliates to have an  
7 unfair and unearned advantage as a competitor in these markets. If some affiliate  
8 competitors have an unfair and unearned competitive advantage in a market then the  
9 outcomes from that market are likely to be less beneficial for customers in the long run.  
10 For example, if an affiliate transmission company competitor has an unfair advantage  
11 because its lower cost structure (due to being subsidized by its regulated utility affiliate)  
12 enables it to consistently under-bid its competitors and drive some of them out of the  
13 market, then the market will become less competitive and this will likely lead to higher  
14 prices (increased transmission rates passed on to end-use customers) in the long run.

15 **Q. PLEASE PROVIDE A DESCRIPTION OF THE APPLICATION IN CASE NO. EA-2013-0098**  
16 **AND THE RELIEF THAT THE APPLICANTS ARE REQUESTING FROM THE COMMISSION IN**  
17 **THAT CASE.**

18 A. TransourceMO is requesting that the Commission:

19 4) Grant the Applicant a Certificate of Convenience and Necessity to construct, finance,  
20 own, operate, and maintain the Iatan-Nashua and Sibley-Nebraska City Projects  
21 conditioned upon the occurrence of several other events including KCPL and GMO  
22 receiving approvals from the Commission to transfer transmission plant and  
23 Notifications to Construct associated with these projects in Case No. EO-2012-0367.

1           5) Grant waivers from the reporting requirements of 4 CSR 240-3.175 and 4 CSR 240-  
2           3.190.

3           **Q.    WHAT IS PUBLIC COUNSEL’S POSITION REGARDING THE TWO REQUESTS THAT THE**  
4           **APPLICANTS MAKE FOR COMMISSION ACTION IN CASE NO. EO-2012-0367?**

5           A.    Public Counsel recommends that the Commission deny the applicant’s request that it be  
6           granted a Certificate of Convenience and Necessity (CCN) for the Iatan-Nashua and  
7           Sibley-Nebraska City Projects. OPC takes no position at this time on the second request  
8           regarding waivers from certain reporting requirements.

9           **Q.    WHY DOES OPC OPPOSE THE APPLICANT’S REQUEST FOR THE COMMISSION TO**  
10           **GRANT A CCN TO TRANSOURCEMO FOR THE IATAN-NASHUA AND SIBLEY-**  
11           **NEBRASKA CITY PROJECTS?**

12          A.    Public Counsel believes the evidence in this case will demonstrate that the requested  
13          CCN does not meet the standard of being necessary and convenient for the public service  
14          and should be denied. The applicant, TransourceMO has the burden of showing that the  
15          proposed transfer is necessary and convenient for the public service. The requested CCN  
16          is part of a group of regulatory approvals that Transource, KCPL, GMO, GPE and AEP  
17          are pursuing in order to execute a Transco business plan that would not promote the  
18          interest of the public and of the customers served by KCPL and GMO because it will: (1)  
19          place upward pressure on the bundled rates paid by KCPL and GMO customers for  
20          electric service, (2) reduce the ability of this Commission to effectively regulate and  
21          oversee the rates charged to KCPL and GMO customers, and (3) reduce the ability of this  
22          Commission to effectively regulate and oversee the operations and maintenance of the  
23          transmission facilities that are vital to the provision of safe and adequate service to the  
24          customers of KCPL and GMO and the rest of the public.

1           The Iatan-Nashua and Sibley-Nebraska City Projects for which TransourceMO seeks a  
2           CCN will be built by some other entity if the Commission denies this application. That  
3           other entity is likely to be GPE's subsidiaries, KCPL and GMO, since they will still have  
4           an excellent opportunity to create a new long-term stream of earnings for their  
5           shareholders even if KCPL, GMO, GPE and TransourceMO are unable to get the  
6           regulatory approvals needed to execute the Transco business plan that includes  
7           construction of these two SPP transmission projects. GPE, the holding company for  
8           KCPL and GMO, would prefer to have these projects transferred to, and built by,  
9           TransourceMO because doing so would permit it to execute the Transco business plan  
10          which it expects will provide a greater stream of earnings to shareholders in the long-run  
11          than if GPE and its utility operating companies build the two SPP projects as a stand-  
12          alone project. If TransourceMO is unable to build, own and operate the Iatan and Sibley  
13          lines, GPE will still find a way to obtain the enhanced shareholder earnings that the NTC  
14          from SPP gives it an opportunity to achieve because GPE's Board of Directors has a  
15          fiduciary responsibility to its shareholders to make this happen. Of course, in pursuing  
16          their fiduciary responsibility to shareholders, GPE and its operating company subsidiaries  
17          must comply with legal requirements such as the need to get Commission approval for  
18          the sale/transfer of the NTCs associated with the Iatan and Sibley lines.

19          **Q.    IN YOUR MOST RECENT ANSWER ABOVE, YOU NOTED THAT IF THE COMMISSION**  
20          **GRANTED THE REQUESTED CCN TO TRANSOURCEMO, THIS WOULD NOT PROMOTE**  
21          **THE PUBLIC INTEREST BECAUSE IT WOULD DIMINISH THE ABILITY OF THIS**  
22          **COMMISSION TO EFFECTIVELY REGULATE AND OVERSEE THE RATES CHARGED TO**  
23          **KCPL AND GMO CUSTOMERS. WHY WOULD GRANTING THE CCN DIMINISH THE**  
24          **COMMISSION'S ABILITY TO EFFECTIVELY REGULATE AND OVERSEE THE RATES PAID**  
25          **BY KCPL AND GMO CUSTOMERS?**



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1 A. This Commission currently has jurisdiction over all elements (transmission, distribution  
2 and generation) of the bundled rates paid by KCPL and GMO customers. The granting of  
3 the requested CCN for TransourceMO by the Commission would greatly hinder the  
4 Commission's ability to regulate the rates of KCPL and GMO because TransourceMO  
5 will argue that the transmission assets related to this CCN are solely within the  
6 ratemaking jurisdiction of FERC where Transource has filed an application for formula  
7 rates and transmission rate incentives that would apply to these assets. The transmission  
8 assets related to the CCN would go into the rate base of TransourceMO instead of the rate  
9 bases of KCPL and GMO. Similarly, the transmission revenues that TransourceMO  
10 receives would accrue to TransourceMO to offset the capital and operating costs of  
11 TransourceMO instead of being an offset to the revenue requirements of KCPL and  
12 GMO. The return on equity level and prudence determinations, if any, would be made by  
13 another regulatory agency, the FERC, which is located in Washington DC and does not  
14 have auditors located in Missouri. Even if the Commission and Public Counsel had the  
15 resources necessary to actively participate in FERC cases to try to protect the interests of  
16 Missouri customers, it is not completely clear that they have the legal standing to do so.

17 **Q. ARE THERE ADDITIONAL REASONS WHY OPC OPPOSES THE APPLICANT'S REQUEST**  
18 **FOR THE COMMISSION TO GRANT A CCN TO TRANSOURCEMO FOR THE IATAN-**  
19 **NASHUA AND SIBLEY-NEBRASKA CITY PROJECTS?**

20 A. Yes. In the case of the Sibley-Nebraska City Project, it is premature for the  
21 Commission to make a determination about the merits of granting a CCN at this time  
22 because KCPL and GMO are still in the process of determining the ultimate siting for the  
23 project and a definitive map of the transmission line route has not been provided in this  
24 case. This siting work is not expected to be completed until \*\*

25 \*\* TransourceMO witness Brent Davis acknowledges on page 12 of his direct

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1 testimony that the project cost estimates developed and provided thus far “are not control  
2 budget estimates; control budget estimates will be developed once the route has been  
3 selected.” Again, it is premature for the Commission to make a determination about the  
4 merits of granting a CCN at this time because no reliable cost estimate has yet been  
5 provided for the Sibley-Nebraska City Project. The urgency of addressing whether a  
6 CCN should be granted at this early stage of project development for the Sibley-Nebraska  
7 City Project appears to be driven by the need to aggressively advance execution of the  
8 Transource business plan and the Commission should not rush to judgment on the merits  
9 of this CCN request until it has sufficient competent and substantial evidence (including a  
10 map containing a specific route for the transmission line and related facilities and a  
11 refined cost estimate based upon the specific configuration of transmission facilities in  
12 that map) upon which it can decision. How could the Commission make a determination  
13 at this time that a CCN for the Sibley-Nebraska City Project would promote the public  
14 interest when landowners in the vicinity of the proposed project don’t yet have  
15 information about the impact that the project will have on their properties?

16 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

17 A. Yes.

Attachment RK1  
has been deemed  
“Highly Confidential”  
in its entirety.

Attachment RK2  
has been deemed  
“Highly Confidential”  
in its entirety.

Attachment RK3  
has been deemed  
“Highly Confidential”  
in its entirety.