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Issue(s):

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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

Denotes Highly Confidential Information that has been Redacted

January 30, 2013

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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?**

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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 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.

24

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 Transco¹ 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

¹ 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?**

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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?**

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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.²

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

² 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.

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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. **

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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

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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

Rebuttal Testimony of
Ryan Kind

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.