

Exhibit No.:
Issue(s):
Witness/Type of Exhibit:
Sponsoring Party:
Case No.:

Miscellaneous
Hyneman/Surrebuttal
Public Counsel
ER-2016-0285

SURREBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

Submitted on Behalf of the Office of the Public Counsel

KANSAS CITY POWER & LIGHT COMPANY

CASE NO. ER-2016-0285

January 27, 2017

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

In the Matter of Kansas City Power & Light Company's Request for Authority to Implement A General Rate Increase for Electric Service)
)
)
)


Case No. ER-2016-0285

AFFIDAVIT OF CHARLES R. HYNEMAN

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

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

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




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

Subscribed and sworn to me this 27th day of January 2017.



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



Jerene A. Buckman
Notary Public

My Commission expires August 23, 2017.

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SURREBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

KANSAS CITY POWER & LIGHT COMPANY

FILE NO. ER-2016-0285

1 **Introduction**

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

3 A. Charles R. Hyneman, PO Box 2230, Jefferson City, Missouri 65102.

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

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

7 **Q. Are you the same Charles R. Hyneman who filed direct and rebuttal testimony in this**
8 **case?**

9 A. Yes, I am

10 **Q. What is the purpose of your surrebuttal testimony?**

11 A. The purpose of this testimony is to address some of the statements made and positions
12 taken in rebuttal testimonies of certain Kansas City Power & Light Company (“KCPL”)
13 witnesses and the rebuttal testimony of Staff witness Mark Oligschlaeger. My testimony
14 is organized as follows:

<u>Section</u>	<u>Witness</u>	<u>Issue</u>	<u>Party</u>
1	Ron Klote	KCPL Cost Allocation Manual	KCPL
2	Kevin Bryant	Capital Structure	KCPL
3	Edward Blunk	Fuel Adjustment Clause	KCPL
4	Tim Rush	Fuel Adjustment Clause	KCPL
5	Tim Rush	Rate Case Expense	KCPL
6	Ron Klote	KCPL Management Expenses	KCPL
7	Steve Busser	OPC Expense Account Recommendations	KCPL
8	Kelly Murphy	Supplemental Executive Retirement Plan	KCPL
9	Ron Klote	Supplemental Executive Retirement Plan	KCPL
10	Mark Oligschlaeger	Regulatory Lag	Staff
11	Mark Oligschlaeger	Expense Trackers in Rate Base	Staff

KCPL Cost Allocation Manual (“CAM”)-Ron Klote

Q. What is a CAM?

A. As described in the Commission’s Affiliate Transaction Rule for electric utilities, 4 CSR 240-20.015 (“affiliate rule”), a CAM is a document that includes “the criteria, guidelines and procedures” a Missouri electric utility will follow to be in compliance with the affiliate rule.

Q. At page 41 line 5 of his rebuttal testimony Mr. Klote states that KCPL’s CAM should be submitted for approval in Case No. EO-2014-0189 at an unknown future date. Does he provide a good reason why Commission approval of this CAM should be delayed and not addressed in this rate case?

A. No. The only reason I can see why Mr. Klote wants to delay the implementation of KCPL’s CAM is that KCPL’s parent company, Great Plains Energy (“GPE”), is currently in the process of seeking to acquire an out-of-state Kansas utility company, Westar, Inc.

1 **Q. Does Mr. Klote confirm that it is only KCPL's parent company's proposed**
2 **acquisition of a Kansas utility company that is delaying the implementation of the**
3 **new KCPL CAM?**

4 A. Yes. He confirms this at 41 lines 9 through 12 of his rebuttal testimony.

5 **Q. Does OPC believe that KCPL's customers will be better protected from actual or**
6 **potential affiliate company abuses when the Commission approves this CAM and it**
7 **is implemented by KCPL?**

8 A. Yes, it does. KCPL has never had a Commission-approved CAM as is required by the
9 affiliate rule. It is OPC's position, based on its experience with KCPL's affiliate
10 transactions, that KCPL's current non-Commission approved CAM is not sufficient.
11 OPC believes KCPL's current non-Commission approved CAM does not include the
12 necessary criteria, guidelines and procedures to protect KCPL's ratepayers from KCPL
13 subsidizing its affiliate and nonregulated operations.

14 **Q. Does OPC believe that KCPL's customers are being harmed by this OPC proposed**
15 **CAM not currently being in effect?**

16 A. Yes, it does. To delay the implementation of OPC's proposed CAM because of KCPL's
17 affiliate parent company's acquisitions is not reasonable.

18 **Q. At page 43 line 1 through page 44 line 2 KCPL proposes certain changes to the draft**
19 **KCPL CAM attached to your direct testimony in this rate case. Does OPC take**
20 **issue with any of the changes to the draft CAM proposed by KCPL?**

21 A. No. OPC is willing to accept the CAM that is attached to Mr. Klote's rebuttal testimony.

22 **Q. Have you been involved with and participated in all, or substantially all of the**
23 **meetings, discussions, and negotiations related to KCPL's draft CAM since**
24 **September 6, 2013?**

1 A. Yes. I was one of the primary participants in these meetings and discussions. The other
2 primary participants were Ron Klote and Darrin Ives of KCPL and Steve Dottheim, and
3 Bob Schallenberg of the Commission's Staff ("Staff").

4 **Q. Do you believe the fact that KCPL's parent company is seeking to acquire an out-of-**
5 **state utility company should be a basis to delay the implementation of a**
6 **Commission-approved KCPL CAM?**

7 A. No. I would add KCPL's CAM should be approved by the Commission in this rate case
8 as no party in this rate case has expressed any disagreement with any of the provisions of
9 the CAM. I do not believe that GPE's acquisition of Westar will require significant
10 changes to the policies and procedures in KCPL's CAM. However, even if it does
11 require KCPL's CAM to be modified, this CAM can be modified, if necessary, when the
12 issue of GPE's proposed acquisition is resolved.

13 **Q. Please summarize OPC's position on this KCPL CAM issue.**

14 A. The KCPL CAM attached to the rebuttal testimony of KCPL witness Ron Klote is
15 acceptable to OPC and should be approved by the Commission in this rate case. KCPL's
16 customers are harmed each day KCPL operates without a Commission-approved CAM.

17 There is no good reason to further delay the implementation of this CAM. OPC knows of
18 no party to this case that disagrees with any part of this CAM. If the CAM needs to be
19 modified at some point in the future as a result of GPE's acquisitions, there is no reason
20 why it cannot be modified at some future date. The Commission should approve the
21 KCPL CAM attached to the rebuttal testimony of KCPL witness Ron Klote in this rate
22 case.

23 **KCPL Capital Structure-Kevin Bryant**

24 **Q. Please describe KCPL's parent company, GPE.**

1 **A.** GPE is a Missouri corporation incorporated in 2001 and headquartered in Kansas City,
2 Missouri. GPE is a public utility holding company and does not own or operate any
3 significant assets other than the stock of its subsidiaries. GPE's wholly owned direct
4 subsidiaries with significant operations are KCPL, KCP&L Greater Missouri Operations
5 ("GMO") and GPE Transmission Holding Company, LLC ("GPETHC"). GPETHC owns
6 13.5% of Transource Energy, LLC with the remaining 86.5% owned by AEP Transmission
7 Holding Company, LLC, a subsidiary of American Electric Power Company, Inc.

8 **Q.** **Please summarize this issue.**

9 **A.** KCPL and GMO have proposed setting utility rates on GPE's consolidated capital structure
10 for many years. The Commission has ordered the use of GPE's consolidated capital
11 structure in KCPL and GMO rate cases for many years. Mr. Kevin Bryant, KCPL's capital
12 structure witness in this case has supported the use of GPE's consolidated capital structure
13 to set rates for KCPL as recently as 2014. Suddenly, after the announcement of GPE's
14 proposed acquisition of Westar, everything changed. KCPL now argues that the use of
15 GPE's capital structure to set rates for KCPL and GMO is no longer appropriate.

16 OPC very strongly objects to KCPL allowing its parent company's merger and acquisition
17 ("M&A") policy to determine the Commission's ratemaking policies and options. Allowing
18 the result of a parent company acquisition to eliminate a sound ratemaking policy that has
19 been widely accepted by all parties to KCPL's rate cases is the definition of a merger
20 detriment and should not be allowed by the Commission.

21 **Q.** **What is OPC's recommended capital structure the Commission should use to**
22 **determine KCPL's overall weighted cost of capital ("rate of return") in this rate case?**

23 **A.** In general, OPC's recommendation is consistent with and supportive of the Commission's
24 consistent long-term approach to setting the capital structure for KCPL. That capital
25 structure is the actual capital structure for KCPL and GMO's parent company, GPE.

1 Specifically OPC recommends GPE's actual consolidated capital structure at September 30,
2 2016 as adjusted to remove the amounts associated with the asset referred to as Goodwill.
3 Goodwill has historically not been considered as a regulated utility rate base asset and, as
4 such, should not be included in a utility's regulated capital structure.

5 **Q. In his rebuttal testimony KCPL witness Kevin Bryant takes issue with a Staff assertion**
6 **that GPE manages its utility finances on a consolidated basis. Does GPE, in fact,**
7 **manage its utility finances on a consolidated basis?**

8 A. Yes, it certainly does and it has done so for several years.

9 **Q. Is KCPL witness Kevin Bryant correct when he states that GPE has not managed its**
10 **utility finances on a consolidated basis?**

11 A. No. KPCL has supported the financing of its utility operations through the use of GPE's
12 consolidated capital structure for several years. GMO has supported the financing of its
13 utility operations through the use of GPE capital structure for several years. It is very
14 difficult to understand how Mr. Bryant can assert that either KCPL or GMO manages its
15 finances separately when KCPL and GMO's whole financial structure is based on a
16 consolidated parent company capital structure.

17 **Q. Did Mr. Terry Bassham Chairman, President and CEO, GPE and KCPL admit that**
18 **KCPL, GMO and GPE operate under a consolidated capital structure?**

19 A. Yes. GPE filed a Form 425 document with the SEC on June 2, 2016, which included a
20 transcript of GPE's discussions with certain members of the financial community. In this
21 meeting Mr. Bassham explained how GPE maintains its capital structure:

22
23 No. In the past, in the past we have basically maintained a capital structure
24 at the holding company that looked like the operating companies because
25 that's the way it worked. That we were comfortable operating that way.

1 That's not the requirement. Ultimately, the law would be that it is the
2 capital structure at the holding company
3

4 **Q. At page 3 of his rebuttal testimony Mr. Bryant said “The continued use of GPE’s**
5 **consolidated capital structure to establish revenue requirements for both KCP&L**
6 **and GMO limits their ability to manage their own credit ratings using their own**
7 **utility-specific capital structure and financing plans.” Please comment.**

8 A. KCPL supported using a consolidated capital structure for the past ten years. It is just now,
9 when GPE has an opportunity to acquire a Kansas utility company, that KCPL and the
10 Commission’s 10-year practice of using a consolidated capital structure is detrimental to
11 KCPL and GMO operations. The argument of “limiting an ability to manage a credit
12 rating” appears to be a red herring.

13 **Q. Why do you believe Mr. Bryant’s “credit rating management limitation” argument is**
14 **a red herring?**

15 A. Because with the exception of GPE’s announcement of its acquisition of Westar, nothing of
16 substance has occurred with KCPL or GMO that could justify a departure from a 10-year
17 Commission practice of using a parent company consolidated capital structure.

18 **Q. At page 5 of his rebuttal testimony Mr. Bryant said using GPE’s cost of debt and its**
19 **capital structure would contradict your direct testimony at pages 14 and 15 related to**
20 **the Commission’s affiliate rule. Please comment.**

21 A. Mr. Bryant quoted from this section of my direct testimony related to a separate rate case
22 issue, which is the issue of KCPL operating without a Commission-approved CAM as
23 required by the affiliate rule.

24 Q. Do you believe the CAM attached as CRH-D-1 to this
25 testimony is a significant improvement over the CAMs that are
26 currently used by Missouri’s regulated gas and electric utilities?

1
2 A. Yes, I do. OPC's proposed CAM includes the required
3 policies, procedures and internal controls that are necessary, given
4 KCPL's organizational structure discussed above, to reduce the
5 opportunity and risk for KCPL to subsidize its affiliate transactions
6 and non-regulated operations. This CAM, if approved by the
7 Commission, will go a long way to assist KCPL in its efforts to
8 comply with the Commission's Affiliate Transaction Rule. This
9 OPC proposed CAM for KCPL will also provide the public with
10 greater assurance that the regulated utility is not subsidizing the
11 operations its affiliates.
12

13 From this testimony Mr. Bryant said that he "concur with me that the maintenance of
14 separate transactions among affiliates is both prudent and appropriate." However, I never
15 said anything related to "maintenance of separate transactions among affiliates" anywhere in
16 my testimony. In addition, the concept of "maintenance of separate transactions among
17 affiliates" is not even a concept addressed by the affiliate rule.

18 **Q. Even though you never made the point in your testimony, Mr. Bryant stated that he in**
19 **fact believes the maintenance of separate transactions among affiliates is both prudent**
20 **and appropriate. Based on this belief, he concludes that "it is inconsistent for Mr.**
21 **Hyneman to argue that it is acceptable for KCP&L to benefit from lower cost debt**
22 **issued by its affiliate GMO." Do you understand this conclusion?**

23 A. No. It is not clear if Mr. Bryant is asserting the historical rate case consolidated capital
24 structure recommendations made by KCPL, GMO, Staff, OPC and other parties and
25 adopted by the Commission over the past 10 years are not consistent with the Commission's
26 affiliate transaction rule. If that is his point, he should make that point and provide evidence
27 in support of that point. He does not.

28 **Q. Mr. Bryant states that GMO issues debt. Does GMO issue debt?**

1 A. No. GMO's parent company GPE issues debt for and on behalf GMO. GMO, unlike KCPL,
2 is not a separate and distinct financial entity apart from GPE. GPE and GMO's financial
3 results are combined in GPE's SEC financial statements. Given that GMO itself does not
4 issue debt, it certainly is not clear that GMO actually has a lower cost of debt than KCPL.

5 **Q. Why do you say that GMO does not issue debt?**

6 A. One significant piece of evidence that GMO does not issue debt as a standalone entity is
7 found in GPE and KCPL's Annual Reports. At page 3 of KCPL's and GPE's combined
8 2015 Annual Report to the Securities and Exchange Commission ("SEC"), Form 10-K,
9 includes the following disclaimers about the information provided in the Form 10-K.

10 These disclaimers show that GMO does not issue an annual report as KCPL does. GMO's
11 financial statements are embedded in GPE's financial statements, including its balance
12 sheet. Further, GPE and KCPL's combined 2015 10-K makes it clear there are only two
13 distinct entities when it relates to debt securities. One entity is KCPL and the other entity is
14 GPE and its subsidiaries. Unlike KCPL, GMO is not mentioned as having debt securities.

15
16 Neither Great Plains Energy nor its other subsidiaries have any
17 obligation in respect of KCP&L's debt securities and holders of such
18 securities should not consider Great Plains Energy's or its other
19 subsidiaries' financial resources or results of operations in making a
20 decision with respect to KCP&L's debt securities. Similarly,
21 KCP&L has no obligation in respect of securities of Great Plains
22 Energy or its other subsidiaries. (KCPL and GPE Form SEC For 10-
23 K for the year ended December 2015)
24

25 **Q. Even if you were to assume hypothetically that GMO does issue debt securities for its**
26 **utility operations, it is possible to attribute a specific cost rate for GMO as Mr. Bryant**
27 **indicates?**

1 A. No. GPE acquired GMO in 2008. Since 2008 GPE has consistently guaranteed GMO's
2 debt. In its SEC Form 425 filed by GPE on August 5 2016, GPE stated that it guarantees
3 45% of GMO's debt. Therefore, any debt cost rate attributed to GMO has to be viewed with
4 the understanding that this rate is affected, possibly to a material degree, by the fact that it is
5 guaranteed by GPE.

6 With this understanding, it is doubtful that Mr. Bryant knows the true and actual cost of debt
7 rate for GMO as a standalone utility and therefore he cannot make any comparisons with
8 KCPL's actual cost of debt rate. It is very possible that, without GPE's guaranteeing of
9 GMO's debt, GMO's cost of debt rate would be higher than KCPL's cost of debt rate.

10 In addition, GPE's significant financial support of GMO in the form of debt guarantees is
11 disclosed in GPE's 2015 SEC Form 10-K:

12 Great Plains Energy has issued guarantees covering \$97.7 million
13 of GMO's long-term debt. Great Plains Energy also guarantees
14 GMO's commercial paper program. At December 31, 2015, GMO
15 had \$43.7 million of commercial paper outstanding. The
16 guarantees obligate Great Plains Energy to pay amounts owed by
17 GMO directly to the holders of the guaranteed debt in the event
18 GMO defaults on its payment obligations. Great Plains Energy
19 may also guarantee debt that GMO may issue in the future. Any
20 guarantee payments could adversely affect Great Plains Energy's
21 liquidity. (GPE and KCPL SEC Form 10-K 2015 page 16)
22

23 **Q. Does the fact that GPE guarantees GMO's debt provide further evidence that GPE**
24 **operates its utility subsidiaries on a consolidated basis?**

25 A. Yes. As noted in the GPE description above, GPE has no significant assets of its own.
26 Since it has no significant assets, it has no significant revenue or income on which to
27 guarantee GMO's debt. In substance, it is KCPL's utility assets, revenues and income that
28 provide the ability for GPE to guarantee GMO's debt issuances. This is just further

1 evidence of how GPE operates its utility subsidiaries on a consolidated basis, as confirmed
2 by Mr. Bassham, GPE's Chairman and Chief Executive Officer.

3 **Q. Did KCPL management previously state that KCPL and GMO operate on a**
4 **combined basis?**

5 A. Yes. In response to Staff Data Request No. 385 ("DR 385") in Case No. ER-2016-0156,
6 KCPL management stated that GMO's utility operations are "combined" with KCPL
7 electric utility operations and KCPL and GMO's utility generation plant are interdependent
8 and the generation assets are grouped together.

9 KCPL management made the following assertions about the "one utility" nature of KCPL
10 and GMO in DR 385:

- 11 • Great Plains Energy has one reportable segment, Electric Utility.
- 12 • GMO's electric utility operations in GPE's segment disclosure
- 13 are combined with GPE's KCP&L electric utility operations.
- 14 • The electric utility segment is comprised of multiple jurisdictions
- 15 subject to traditional, cost-based rate regulation.
- 16 • The utility is comprised of a generation fleet with a diverse fuel
- 17 mix consisting primarily of nuclear and various types of fossil
- 18 fuels providing peaking and base load generation.
- 19 • This group/collection of assets combined meet the electric
- 20 utility's service obligation and produce joint cash flows.
- 21 • These plants are interdependent and necessary to appropriately
- 22 meet the needs of the Company's customers; therefore, the
- 23 generation assets are grouped. (Q0385_2011 2Q Generation
- 24 Assets Impairment Test.docx)
- 25

26 **Q. What are your conclusions based on KCPL management's response to DR 385?**

27 A. KCPL management asserts that utility generation plant assets of KCPL and GMO are
28 interdependent and must be grouped as one utility for financial reporting purposes and for
29 utility operations purposes. However, when it comes to the capital cost structure that

1 financed these same generation assets, KCPL management now asserts that they are not
2 interdependent at all and must be separated into two separate utilities – “GMO specific” and
3 “KCPL specific”.

4 The Commission should conclude that this “new” KCPL capital structure position supported
5 by Mr. Bryant is not consistent with KCPL’s past positions and the Commission’s past
6 positions on KCPL and GMO’s capital structure. The Commission should determine that it
7 will not change a longstanding and reasonable regulated utility ratemaking practice just
8 because KCPL’s parent company engages in merger and acquisition activities.

9
10 **KCPL FAC – Edward Blunk**

11 **Q. At page 15 of his rebuttal testimony KCPL witness Wm. Edward Blunk discusses fuel**
12 **additives KCPL books to account 501, Fuel. He indicates that because additives are**
13 **booked to account 501, they should be included in KCPL’s FAC. Are fuel additives**
14 **actually fuel?**

15 A. No. Fuel additives are not fuel and therefore do not belong in a FAC. It is not only OPC
16 that understands fuel additives are not fuel and do not belong in a FAC, the Federal Energy
17 Regulatory Commission (“FERC”) understands this as well. It does not appear that Mr.
18 Blunk and KCPL are willing to recognize that fuel additives are not fuel. Therefore, they
19 continue to attempt to include this non-fuel cost in an FAC where it does not belong.

20 **Q. Are fuel costs defined by FERC?**

21 A. Yes. FERC has its own FAC. FERC defines “fuel” in its Uniform System of Accounts
22 (“USOA”) account 151, Fuel Stock. Mr. Blunk should be very familiar with this account.
23 As will be more fully discussed in the surrebuttal testimony of OPC witness John Riley,
24 FERC’s FAC allows only fossil fuel expenses eligible to be charged to USOA account 151,

1 Fuel Stock, to be included in the FERC FAC. It also allows nuclear fuel charges to USOA
2 account 518, Nuclear Fuel to be charged to its FAC.

3 In its FAC (18 CFR Section 35.14 paragraph 6) FERC explains that only the fuel items
4 listed in Account 151, Fuel Stock, and Account 518, are to be included in a FAC.

5 (6) The cost of fossil fuel shall include no items other than those
6 listed in Account 151 of the Commission's Uniform System of
7 Accounts for Public Utilities and Licensees. The cost of nuclear fuel
8 shall be that as shown in Account 518, except that if Account 518
9 also contains any expense for fossil fuel which has already been
10 included in the cost of fossil fuel, it shall be deducted from this
11 account. (Paragraph C of Account 518 includes the cost of other
12 fuels used for ancillary steam facilities.) (18 CFR S35.14).
13

14 **Q. How does FERC define fossil fuel?**

15 **A.** FERC defines fossil "fuel" as follows:

16 **USOA Account 151, Fuel stock .** This account shall include the
17 book cost of fuel on hand. Items 1. Invoice price of fuel less any
18 cash or other discounts. 2. Freight, switching, demurrage and other
19 transportation charges, not including, however, any charges for
20 unloading from the shipping medium. 3. Excise taxes, purchasing
21 agents' commissions, insurance and other expenses directly
22 assignable to cost of fuel. 4. Operating, maintenance and
23 depreciation expenses and ad valorem taxes on utility-owned
24 transportation equipment used to transport fuel from the point of
25 acquisition to the unloading point. 5. Lease or rental costs of
26 transportation equipment used to transport fuel from the point of
27 acquisition to the unloading point.
28

29 **Q. At page 16 Mr. Blunk accuses OPC witness Mantle of "cherry picking" fuel items to**
30 **include in a FAC. Is Mr. Blunk's accusation a fair representation of Ms. Mantle's**
31 **testimony?**

1 A. Not at all. Ms Mantle clearly laid out what fuel costs are appropriate to include in an FAC
2 in her direct testimony. She proposes to include only direct costs of fuel, which is the exact
3 approach taken by the FERC when it defined the nature of the fuel costs that are eligible to
4 be included in its FAC.

5 KCPL is not entitled to a FAC. It is clear in Section 386.266 RSMo that a FAC is a
6 privilege, not a right. It is the Commission that approves a FAC. It is also clear in this
7 statute that the only costs allowed are fuel and purchased power, including transportation.

8 KCPL's FAC, if approved by the Commission, should only be allowed to include actual fuel
9 costs. Mr. Blunk's proposal to include all costs that can possibly be charged to a fuel
10 account coupled with his suggestion that KCPL be permitted the "flexibility" to add or
11 remove costs at will, and without Commission oversight in the FAC, would be detrimental
12 to KCPL's customers if approved by the Commission.

13 **Q. How would you characterize Mr. Blunk's request for including fuel costs in its FAC?**

14 A. It can be most accurately described as the "kitchen sink" approach. KCPL is attempting to
15 include costs only tenuously tied to fuel, even to the point of inserting vague language to
16 give itself "flexibility" to add additional costs without Commission approval.

17 Mr. Blunk's suggestion that KCPL be allowed to determine what costs should be included
18 in the FAC ordered by the Commission is contrary to the Commission's ruling in KCPL's
19 last rate case when the Commission decided:

20 [A]llowing a new cost or revenue to flow through an FAC is a modification
21 to that FAC, which under Section 386.266, RSMo, only the Commission has
22 the authority to modify. It is the Commission that should make the
23 determination as to what costs or revenues should flow through the FAC, not
24 the electric utility. (Report and Order, ER-2014-0370. p. 39).

25 The Commission should reject the KCPL's approach and instead adopt OPC's clearly
26 defined approach offered by OPC Witness Mantle.

1 As the Commission has noted in recent utility cases, FERC's policy is not mandatory on the
2 Commission but it provides the Commission with very good guidance. As it relates to fuel
3 costs, OPC recommends the Commission adopt OPC's approach, which is consistent with
4 the FERC, and only allow direct fuel costs that can appropriately be charged to Account
5 151, as well as direct nuclear fuel costs appropriately charged to Account 518 in KCPL's
6 FAC.

7 **Q. In her testimony OPC witness Mantle recommends to the Commission the specific**
8 **types of costs that OPC believes should be included in a FAC. How does Mr. Blunk**
9 **mischaracterize the action taken by Ms Mantle?**

10 A. Beginning at page 16 line 9 Mr. Blunk accuses Ms. Mantle of "micro-managing" KCPL's
11 operations. He also equates policy testimony with micromanaging in other parts of his
12 testimony. He even refers to Ms. Mantle's recommendations to the Commission as a
13 "micromanaging edict". Mr. Blunk's testimony is absurd on its face.

14 OPC witness Mantle is doing nothing more than making recommendations to the
15 Commission to adopt a FAC that would be designed to significantly reduce risk to KCPL but
16 still provide at least some protection to KCPL's ratepayers from unjust and unreasonable
17 rates.

18 OPC recommends the Commission disregard Mr. Blunk's ad hominem attacks and focus on
19 the lack of real substance in Mr. Blunk's testimony related to the FAC. Mr. Blunk's
20 testimony focuses on the minutia of a fuel additive rather than to address the point that fuel
21 additives should not be included in the FAC.

22 KCPL, as most reflective in Mr. Blunk's rebuttal testimony, has appeared to have developed
23 an "entitlement mentality" as it related to the Commission's FAC. First, Mr. Blunk's
24 testimony suggests that any recommendation that does not permit KCPL the "flexibility" to
25 add costs as it see fit amounts to "micro-management".

1 As mentioned above, OPC's recommendation in no sense a penalty but is actually a
2 recommendation to the Commission to approve a FAC that is subject to clearly defined
3 reasonable terms in order to both reduce risk to the company and provide some protection to
4 ratepayers from unreasonable rate increases.

5 Q. **Please continue.**

6 A. A second aspect of Mr. Blunk's rebuttal testimony which should concern the Commission is
7 his statement at page 16 line 19 that:

8 Given the very clear incentive to minimize all costs retained in fixed
9 rates, if the utility were to follow Ms. Mantle's incentive to the next
10 logical step, it could avoid using PAC or trona by using a more
11 expensive fuel such as natural gas or purchasing higher priced power
12 neither of which require additives such as PAC to control for
13 mercury emitted from coal combustion.
14

15 First of all it should be noted that Mr. Blunk's statement acknowledges that including costs
16 in fixed rates gives the utility the "very clear incentive to minimize all costs". This is the
17 incentive that regulatory lag places on utility management that is eliminated when a utility
18 cost is included in the Commission's FAC. The Commission well recognizes that
19 management efficiency incentives are eliminated, or at the very least minimized, for each
20 and every cost KCPL is allowed to include in a Commission FAC. It is refreshing to see
21 this fact recognized by Mr. Blunk.

22 The rest of his statement goes on to suggest if certain costs are not included in the FAC then
23 the utility would purchase only the kinds of fuels that could be recovered through the FAC
24 even if it was more expensive. In other words, Mr. Blunk suggests that he would
25 recommend KCP purchase more expensive fuel and power because these costs would be
26 recovered directly through the FAC. The Commission should take note of this testimony and

1 possibly explore with KCPL the apparently imprudent and ratepayer detrimental actions it
2 will take if it does not get its way with the FAC.

3 Mr. Blunk's statement is also apparent attempt to demonstrate that Ms. Mantle's
4 recommendation would somehow increase costs to customers. Mr. Blunk's scenario might
5 increase costs, but it would be clearly imprudent for him to manage KCPL's fuel costs in
6 that way. Rather than demonstrate his point that OPC's recommended FAC would increase
7 costs for ratepayers, this testimony illustrates the need for the Commission to carefully
8 determine what goes into an FAC and then to scrutinize the utility's compliance. These
9 comments give me grave concern about how KCPL manages its fuel costs under the FAC
10 and complies with the Commission's existing FAC for KCPL.

11 KCPL must be made to realize it is the Commission, and nobody except the Commission,
12 that determines whether a utility gets an FAC and what costs should be included in that
13 FAC. OPC and other parties to rate cases have every right to make recommendations to the
14 Commission without being accused of "cherry picking" and "micro-managing" the utility.
15 Ms. Mantle is one of the top experts on the FAC in Missouri. She has served the
16 Commission well with FAC recommendations for many years including years in a
17 leadership position with the Commission Staff. Her testimony is reasonable, prudent and
18 well supported by the facts. In comparison, Mr. Blunk's testimony is devoid of substantive
19 facts and is just full of false and unwarranted personal attacks.

20 **Q. At page 18 line 23 continuing through page 19 line 2 Mr. Blunk suggests non-KCPL**
21 **witnesses cannot make FAC recommendations stating "Attempting to incent the**
22 **Company through micro-management edicts advocated every few years by parties**
23 **without fuel, power, transportation, or transmission market and operational**
24 **experience will likely have unintended results." Please respond.**

25 **A.** The Company's statement about "micro-management edicts" implies that OPC's testimony
26 on the FAC is not sincere or is otherwise in bad faith. It also suggests that it is only

1 appropriate to consider utility witnesses' FAC testimony. The Commission should reject this
2 tactic by KCPL just as the Kansas Corporation Commission ("KCC") did recently.

3 Its September 13, 2016 ORDER DENYING KCP&L'S APPLICATION FOR APPROVAL
4 OF ITS CLEAN CHARGE NETWORK PROJECT AND ELECTRIC VEHICLE
5 CHARGING STATION TARIFF issued in Docket No. 16-KCPE-160-MIS ("KCC EV
6 Order") at paragraph 20, the KCC called out KCPL's tactics and scolded the utility:

7 20. In evaluating the credibility of the witnesses on the question of
8 the necessity of the CCN program, the Commission finds KCP&L
9 sorely lacking. KCP&L resorts to character assassination,
10 questioning the seriousness of Glass's analysis, which KCP&L
11 alleges arises to a lack of sincerity; and questioning the expertise of
12 both Frantz and Crane.

13
14 Mr. Blunk's testimony in this case questions the sincerity and seriousness of Ms. Mantle
15 with phrases like "cherry-picking" and "micro-managing" without offering substantive
16 evidence to support the company's request to be left alone to determine what costs it passes
17 through the FAC.

18 It is time for KCPL to look at itself. Only one part of the KCC's EV Order scolds KCPL for
19 engaging in character assassination and questioning witness sincerity and seriousness as Mr.
20 Blunk does here. The other part of the KCC EV order provides overwhelming evidence to
21 support the KCC's conclusion that KCPL witnesses in that case provided no evidentiary
22 support for its positions, again as Mr. Blunk fails to do in his rebuttal testimony on the FAC.
23 KCPL has duplicated that tactic in its rebuttal testimony in this case. Mr. Blunk provides no
24 evidentiary support for his position and simply relies on KCPL's sense of entitlement and ad
25 hominem attacks without any foundation to support its position on the FAC in this case.
26 Like the KCC, I hope the Commission sees through this distortion and grasps on to the facts
27 of this issue. If the Commission ignores the personal attacks and focuses on the facts and
28 the evidence, OPC's recommendations will be adopted.

1 **Q. At page 16 line 3 and 19 Mr. Blunk uses the term incentives as it related to the FAC.**
2 **Please comment.**

3 A. Each time the Commission decides to include a specific cost in a FAC for KCPL, it must
4 make this decision knowing that there will be minimal or no incentive for KCPL
5 management, to act efficiently and minimize that cost. Once KCPL gets a particular type of
6 cost in an FAC, since it knows that it will likely not face any prudence challenges, and any
7 prudence challenges that are levied will not be successful, it will move on to focus
8 efficiency measures on utility expenses that are not in an FAC.

9 Including a specific cost in an FAC comes with a trade off. The Commission must decide
10 that it is absolutely necessary for the utility to include a specific FAC cost in the FAC in
11 order for it to have a reasonable opportunity to earn a fair rate of return on its rate base.
12 Once it decides this, the Commission must understand and be comfortable with the fact that
13 this cost item will no longer be subject to any competitive price pressures that other non-
14 FAC or non-tracked expenses experience through regulatory lag.

15 **Q. At page 17 line 3 of his rebuttal testimony Mr. Rush refers to OPC's FAC**
16 **recommendation to the Commission as a "micro-management edict" and suggests**
17 **OPC's recommendations will result in untimely recovery of fuel costs. Please**
18 **comment.**

19 A. Aside from the gross mischaracterization and attack of Ms. Mantle's testimony, Mr. Blunk's
20 testimony here is just factually wrong. OPC is supporting including fuel costs in KCPL's
21 FAC in this rate case. Mr. Blunk, however, is trying to mislead the Commission into
22 believing that fuel additives and other non-fuel costs are actually fuel costs. They are not
23 fuel costs and that is a fact that is even recognized by the FERC.

1 If a cost is not eligible to be included in FERC account 151, it is not a fuel cost and it is not
2 eligible to be included in a FAC. None of these types of items addressed in Mr. Blunk's
3 testimony are eligible to be included in FERC Account 151, and thus, are not fuel costs.

4 **Q. At page 17 line 12 Mr. Blunk references FAC prudence audits. Do you consider**
5 **prudence audits to be effective in protecting KCPL's customers against KCPL's**
6 **imprudent fuel purchasing practices?**

7 A. No. Even the Commission recognized the inherent limitations of FAC prudence audits.
8 Based the Commission's prudence standards and my experience with FAC prudence audits
9 in Missouri I believe prudence audits are not effective and, at best, only provide a very small
10 level of ratepayer protection.

11 **Q. Is Mr. Blunk and accountant or an auditor?**

12 A. No. I have known Mr. Blunk for several years. Based on my knowledge and the fact that
13 he is neither an accountant nor an auditor, I do not believe Mr. Blunk is qualified to discuss
14 prudence audits. I do not believe that Mr. Blunk has any education or training as an auditor
15 and I do not believe that he has ever conducted or participated in a prudence audit. I
16 recommend the Commission not assign any credibility to his testimony on prudence audits.

17 **Q. Do you have an example of the limitations of an FAC prudence audit?**

18 A. Yes. OPC witness Mantle provided an example on page 20 of her direct testimony. Briefly,
19 Staff prudence audits of KPCL's sister company GMO did not find \$4.6 million in costs
20 that were included in GMO's FAC rates, even though the Commission had ordered these
21 costs not be included in GMO's FAC.

22 **Q. Could the Commission take actions that would make a FAC prudence audit easier,**
23 **more transparent and more effective in protecting ratepayers against the actions of a**
24 **monopoly utility?**

1 A. Yes, there are several actions the Commission could take. In addition to adopting OPC's
2 recommended 90-10 sharing mechanism, other actions include making mandatory certain
3 utility employees' compensation contingent on meeting specific fuel and purchased power
4 cost criteria as their sole incentive compensation criteria.

5 The Commission could also set up a working docket to review its unnecessarily
6 burdensome, and what I would characterize as almost unattainable prudence standards for
7 non-rate case prudence cost dockets.

8 Finally, and what is most important in this rate case, is to adopt the FAC recommendations
9 of OPC witness Mantle and reject outright KCPL's "kitchen sink" approach to the
10 Commission's FAC.

11 **Q. Does Mr. Blunk's rebuttal testimony statements at page 16 lines 19-23 give you**
12 **particular concern?**

13 A. Yes. I am not sure if Mr. Blunk is sincere, but his testimony here indicates that if KCPL
14 cannot include a particular fuel additive in the FAC then it will intentionally increase its cost
15 of service by replacing the fuel additive with a higher cost fuel.

16 This along with Mr. Blunk's response to OPC's data request 8015 ("DR 8015"). In DR
17 8015 Mr. Blunk stated that, if the Commission did not include a cost in the FAC, it signifies
18 the Commission is making a policy statement that the activity is "to be minimized, are not
19 justified, or are not to be employed". This statement gives me great concern.

20 If the Commission ever found a utility engaging in such an imprudent manner, either by
21 employing a more expensive alternative because the lesser cost alternative is not in the FAC,
22 or through the discontinuation of an activity that would have resulted in lower fuel costs
23 because the cost of the activity is not in the FAC, it would easily have grounds for imposing
24 significant penalties on the utility. OPC would certainly take every possible action to ensure

1 that this grossly imprudent management behavior (apparently threatened by Mr. Blunk) is
2 properly stopped and punished, so that it never happens again.

3 **Q. At page 18 line 21 Mr. Blunk describes KCPL’s FAC as a “complex interrelated**
4 **conglomeration of trade-off”. Do you agree that KCPL’s FAC is way too complex?**

5 **A.** There is little disagreement that KCPL’s FAC is complex. That is one major problem with
6 KCPL’s FAC. The Commission did not make it that way, KCPL management, including
7 Mr. Blunk and Mr. Rush did.

8 KCPL designed its FAC to be complex by including many costs that are in no way
9 appropriate to include in a FAC, such as fuel additives, administrative costs, and KCPL
10 employees’ cell phone costs.

11 OPC has solutions that make major improvements in KCPL’s FAC. These solutions add
12 transparency, increases management incentives for cost control, provide some ratepayer
13 protection through easier and more transparent FAC audits, and reduce the number of KCPL
14 errors in operating the FAC. KCPL rejects all such improvements and only supports its very
15 narrowly-focused goal of including everything including the kitchen sink in the FAC.

16 There are many benefits to both ratepayers and KCPL by making KCPL’s FAC less
17 complex and consistent with the original intent of the FAC. FACs are supposed to include
18 “fuel” costs. FERC understands this, but KCPL does not. I understand that FERC may be
19 the only regulatory body that has defined fuel costs. KCPL must comply with this definition
20 both for its Missouri jurisdictional utility accounting and for its FERC accounting and
21 ratemaking requirements.

22 OPC’s recommended FAC fuel costs are consistent with FERC’s definition. Therefore,
23 OPC urges the Commission to require KCPL to adopt the FERC definition of fuel costs
24 (cost that are eligible to be booked to FERC Account 151, Fuel Stock and nuclear fuel) if
25 KCPL is allowed to continue with a FAC in Missouri.

1 **KCPL FAC – Tim Rush**

2 **Q. Below I list some statements made by Mr. Rush in his rebuttal testimony. These**
3 **statements reflect KCPL’s position that OPC should define fuel costs in the same**
4 **manner as how the FERC defines fuel costs. Does OPC agree with Mr. Rush?**

5 A. Yes, very much so. While OPC’s position on the appropriate level types of fuel costs to
6 include in a FAC was similar to the FERC’s definition of the types of fuel costs it allows
7 in an FAC, it was not exactly the same. For the purposes of KCPL’s FAC in this rate
8 case, OPC will adopt Mr. Rush’s recommendations to apply the FERC standard
9 definition for FAC fuel costs. That standard is that the only fuel costs that are allowed to
10 be in a FERC FAC are the types of fuel costs that meet the FERC USOA Account 151
11 definition of fuel costs.

12 Mr. Rush’s testimony on the issue is below:

13 ...The statute does not define the terms Fuel, Purchased Power,
14 Transportation or Off-system Sales. However, the Federal Energy
15 Regulatory Commission (“FERC”) Uniform System of Accounts
16 (“USoA”) does provide definitions for these terms (transportation
17 includes transmission expense according to a Missouri Court of
18 Appeals decision) and provides guidance for where certain costs
19 should be recorded. KCP&L follows the USoA in determining
20 where costs should be charged. Therefore, there is no need for Ms.
21 Mantle to re-establish what fuel, including transportation,
22 purchased power costs and revenues are.

23
24 **Q. Do you disagree with Ms. Mantle’s contention on page 6**
25 **of her Direct Testimony that costs for the fuel “commodity”**
26 **itself, transporting that commodity to KCP&L’s generating**
27 **facilities, and the purchased power to serve native load are the**
28 **“purest” definitions of fuel, transmission and purchased power**
29 **costs?**

30
31 A. Yes, I do. The definition Ms. Mantle argues for now seeks
32 to exclude a large number of fuel and purchased power cost
33 components recognized as the cost of fuel and purchased power by

1 the FERC USoA, industry practice and this Commission's own
2 definition of fuel, transmission and purchased power costs, as
3 evidenced by its treatment of these cost components over many
4 years.

5
6 **Q. Do you agree with Ms. Mantle's view that her definition**
7 **of fuel, transmission and purchased power costs is consistent**
8 **with Section 386.266.1?**

9
10 A. No. FERC and the industry use the terms fuel,
11 transmission, and purchased power much more broadly than OPC
12 recommends.

13
14 **Q: Has Ms. Mantle proposed to limit components of costs**
15 **properly included in the fuel, purchased power, transmission**
16 **and off-system sales accounts found in the USoA issued by**
17 **FERC in the Code of Federal Regulations?**

18
19 A: Yes. As indicated above Ms. Mantle is proposing to
20 significantly limit the components of costs to be included in the
21 FAC. She is not, however, proposing to limit any off-system sales
22 revenues from flowing through the FAC.

23
24 **Q. At page 27 of his rebuttal testimony Mr. Rush, addressing the direct testimony of**
25 **OPC witness Lena Mantle states "She goes on to say that including these costs in the**
26 **FAC removes the incentive to take action to decrease non-fuel and non-purchased**
27 **power costs. This claim has been consistently rejected by the Commission." Do you**
28 **agree with this statement?**

29 A. No, in fact, just the opposite is true. Even the drafters of Section 386.266.1, RSMo
30 (Supp. 2008), the statute that allows the Commission to establish a fuel adjustment clause
31 recognized the fact that a FAC will reduce utility management incentives to minimize
32 costs. The language in the statute authorized the Commission to include features designed
33 to provide the utility with incentives to improve the efficiency and cost-effectiveness of
34 its fuel and purchased-power procurement activities. Section 386.266.1, RSMo (Supp.
35 2008) states:

1 Subject to the requirements of this section, any electrical
2 corporation may make an application to the commission to approve
3 rate schedules authorizing an interim energy charge or periodic
4 rate adjustments outside of general rate proceedings to reflect
5 increases and decreases in its prudently incurred fuel and
6 purchased-power costs, including transportation. The commission
7 may, in accordance with existing law, include in such rate
8 schedules features designed to provide the electrical corporation
9 with incentives to improve the efficiency and cost-effectiveness of
10 its fuel and purchased-power procurement activities. (emphasis
11 added).
12

13 To all with a knowledge of ratemaking principles, it is well understood that guaranteeing
14 the rate recovery of any cost under an expense tracker, or an FAC, will eliminate or
15 significantly reduce utility management incentives to be most efficient in managing that
16 cost. That is one of the clearly recognized detriments of FACs and expense trackers.

17 The Commission has repeatedly asserted that trackers such as a FAC remove utility
18 management cost control incentives. I have never seen any instance where the
19 Commission has stated that this is not true.

20 The Commission must decide that it is absolutely necessary for the utility to include a
21 specific FAC cost in the FAC in order for it to have a reasonable opportunity to earn a
22 fair rate of return on its rate base. Once it decides this, the Commission must understand
23 and be comfortable with the fact that this cost item will no longer be subject to any
24 competitive price pressures that other non-FAC or non-tracked expenses experience
25 through regulatory lag. At page 40 of its Report and Order in Case No. ER-2008-0318,
26 Union Electric, the same Report and Order that authorized Ameren Missouri's FAC, the
27 Commission noted that a tracker gives a utility a blank check to spend however much it
28 wants with assurance that any expenditure will likely be recovered from ratepayers.

29 The Commission also noted that a prudence review is not a complete substitute for a
30 good financial incentive. I would differ with the Commission only to the extent that I

1 would go further and state that a prudence review (at least how prudence reviews are
2 conducted in Missouri) is no substitute at all for a good financial incentive.

3 The Commission finds a ten percent cap on the tracker to be
4 appropriate. Without a cap, the tracker would essentially give
5 AmerenUE a blank check to spend however much it wants on
6 vegetation management with assurance that any expenditure will
7 likely be recovered from ratepayers. Of course, any such
8 expenditure would still be subject to a prudence review in the next
9 rate case, but a prudence review is not a complete substitute for a
10 good financial incentive.
11

12 At page 70 of its Report and Order in AmerenUE's 2008 rate case ER-2008-0314, the
13 Commission stated:

14 The statute that authorizes the Commission to establish a fuel
15 adjustment clause for AmerenUE already includes features
16 designed to give the company an incentive to maximize its income
17 from off-system sales and minimize its costs. Specifically, the
18 statute requires a utility operating under a fuel adjustment clause to
19 file a new rate case every four years, and requires the Commission
20 to review the prudence of the company's purchasing decisions
21 every 18 months. But regulatory reviews are only a partial
22 substitute for the direct incentives that can result from a utility's
23 quest for profit. Therefore, the statute allows the Commission to
24 include features "designed to provide the electrical corporation
25 with incentives to improve the efficiency and cost effectiveness of
26 its fuel and purchased-power procurement activities."
27

28 **Q. At page 35 of Mr. Rush's rebuttal testimony he states :**

29 FERC's Uniform System of Accounts ("USoA") provides a
30 description of the accounts to be used for expenses. It is not
31 possible for FERC or any other regulatory body to address every
32 situation. However, the USoA is very clear as to where expenses
33 should be recorded. For example, FERC mandated accounts

1 501 (Fuel), 509 (Allowances), 518 (Nuclear Fuel Expense), 547
2 (Fuel).....
3

4 **Does FERC consider most of the charges KCPL records to account 501 to be fuel**
5 **costs and eligible to be included in FERC's FAC?**

6 A. No. FERC does not consider these expenses to be fuel expenses and expressly prohibits
7 them from being included in FERC's FAC. FERC only allows the fuel costs that are
8 eligible to be included in Account 151, Fuel Stock, and transferred to Account 501 as the
9 fuel is consumed, to be included in a FAC. The same for Account 547.

10
11 For nuclear fuel, FERC allows nuclear fuel costs to also be included in a FAC. But none
12 of the dozens of costs that KCPL charged to account 501 and 502 and other accounts are
13 considered fuel costs and are specifically prohibited by the FERC from being included in
14 a FAC. The FERC's rules on FAC fuel costs are almost exactly the same as the position
15 taken by OPC in this rate case as well as others.

16 **Q. At page 37 Mr. Rush states that "The Company has also requested only the FERC**
17 **assessment costs in account 928 to be recovered within the FAC as other regulatory**
18 **commission expenses are recovered on an annualized and normalized basis in the**
19 **revenue requirement of a rate case proceeding." Please comment.**

20 A. First, the FERC assessment is a regional transmission organization ("RTO") cost assessed
21 by SPP to member entities. FERC assessments are considered a transmission cost and
22 not a fuel or purchased power cost. With very limited exceptions, such as when
23 transmission costs are appropriately classified as transportation costs, transmission costs
24 should not be included in an FAC.

25 **Q. How did KCPL witness John Carlson, KCPL's transmission expert , describe FERC**
26 **assessment costs in his direct testimony in this rate case?**

1 A. He stated “The Company does not expect to see much variability with the FERC
2 Schedule 12 Fees in the years to come. Costs for FERC administration have remained
3 relatively constant from year to year.”

4 So, KCPL is not only seeking a “non-eligible transmission costs” to be included in the
5 FAC, it is also seeking a transmission cost that its own Transmission expert witness
6 stated in direct testimony are not variable and has remained constant from year to year.

7 This FAC position alone, as expressed by Mr. Rush, should give the Commission a lot of
8 information as to KCPL’s very lightly-veiled attempt to throw in everything it can get
9 away with into its FAC. Given this approach by KCPL, the Commission should exercise
10 great care in determining which specific fuel and purchased power costs belong in an
11 FAC and only allow inclusion of the individual costs that meet all of the Commission’s
12 past FAC inclusion standards, such as material in amount, significant volatility, and
13 management control.

14 **Q. At page 38 of his rebuttal testimony Mr. Rush states “As the Company explained to**
15 **Ms. Mantle in a meeting regarding the FAC in this case, based upon operational**
16 **changes at the power plant, costs previously recorded in FERC account 502 and not**
17 **included in the FAC are now more appropriately considered fuel costs and are**
18 **recorded in FERC account 501.” Does Mr. Rush explain how a non-fuel cost**
19 **automatically changes its nature and turns into a fuel cost based on utility changes**
20 **at a power plant?**

21 A. No. However, these “newly-transformed fuel costs” as described by Mr. Rush are not
22 considered to be fuel costs by the FERC definition and therefore should not be included
23 in a FAC. Nothing that is booked to FERC Account 502 by KCPL is, was or ever will be
24 a fuel cost eligible to be included in a FAC.

1 **Q. At page 38 of his rebuttal testimony Mr. Rush states “Limiting the costs and**
2 **revenues which are included in the FAC will only serve to diminish the effectiveness**
3 **and transparency of the FAC overall while increasing the potential for error by**
4 **excluding specific costs that are correctly recorded in their appropriate FERC**
5 **accounts.” Is what Mr. Rush asserts here even possible?**

6 A. No. This statement is counterintuitive and nonsensical. He states the less information to
7 include and calculate in a ratemaking mechanism the higher the will chance for error. He
8 states that increasing the number of items in a ratemaking calculation will lower the
9 chance of error. That is just nonsense. The level of nonsense of this statement is even
10 greater when you consider the complexity of the items KCPL seeks to include in a FAC.

11 **Q. Mr. Hyneman, have you conducted prudence audits under the Commission’s**
12 **prudence audit standards?**

13 A. Yes. I have conducted several prudence audits.

14 **Q. Has Mr. Rush ever conducted a prudence audit?**

15 A. No, I do not believe he has ever conducted a prudence audit.

16 **Q. Based on your experience with ratemaking mechanisms in general, your ratemaking**
17 **knowledge, you experience with Commission prudence audits, and you accounting**
18 **education and experience as a CPA, what do you conclude about this issue?**

19 A. The fact is that adopting OPC’s FAC recommendations in this rate case will significantly
20 decrease the complexity of a FAC prudence audit and significantly reduce the likelihood
21 of FAC errors by KCPL employees and FAC auditors. I cannot see the possibility for
22 any other result.

23 Limiting the FAC to the main components – actual fuel (as defined in FERC Account
24 151), and actual purchased power costs as described by OPC witness Mantle, can only

1 make the FAC more effective and transparent. It will make the FAC easier to audit. And
2 it can only make the FAC less susceptible to errors. Any statement to the contrary ought
3 to be supported. Mr. Rush does not do so and offers only unsupported claims that are
4 counterintuitive to common sense and to ratemaking principles.

5 **Q. At page 39 of his rebuttal testimony Mr. Rush states that “Excessively picking and**
6 **choosing which fuel and purchased power costs should be excluded or included in**
7 **the FAC needlessly complicates the process of preparing and reviewing the FAC.”**
8 **Please comment?**

9 A. Again, this statement just does not make any sense. For example, if the Commission
10 issues the list of costs that can be included in KCPL’s FAC in this case and that list is
11 reduced from previous FACs, it would make the process of preparing and reviewing the
12 FAC less complicated. When you have to prepare a FAC with fewer cost items, it will be
13 less complicated and easier to audit.

14 **Q. At page 39 of his rebuttal testimony Mr. Rush states that “As proposed by Ms.**
15 **Mantle, reducing the number of components of fuel, purchased power and**
16 **transmission included in the FAC will prevent KCP&L from recovering the costs**
17 **that the Commission has previously approved in prior FAC’s for KCP&L and other**
18 **Missouri utilities.” Is this testimony relevant to this issue or even correct?**

19 A. No. It is blatantly false. The Commission is charged with reviewing the FAC every four
20 years in a rate case and making any adjustments it needs to ensure that the FAC is
21 meeting its intended purpose, consistent with limiting ratepayer detriments. That is what
22 the Commission is supposed to do when setting just and reasonable rates. The
23 Commission’s role is not to simply make sure that certain costs that were included in a
24 previous FAC are always included in all future FACs as Mr. Rush suggests. That is not
25 at all the Commission’s role.

1 Not only is this testimony not relevant to the issue, it is simply not true. Just because a
2 particular cost is not in an FAC does not mean that it will not be recovered. It only
3 means, and I want to emphasize the word “only” that the 100% guarantee of rate recovery
4 of that cost is not given to the utility. If Mr. Rush’s testimony is to be believed, then we
5 all must believe that none of the non-FAC costs incurred by KCPL, (the costs included
6 only in base rates) are being recovered by KCPL from ratepayers. That is simply not
7 accurate.

8 **Q. At page 45 of his rebuttal testimony Mr. Rush states “Ms. Mantle requests that all**
9 **of the costs and revenues included in the FAC be listed by sub-account for the**
10 **current month and the preceding 12 months. She notes that currently costs are**
11 **aggregated and complains that this provides insufficient detail. Her proposal**
12 **would add another layer of complexity to KCP&L’s reporting which, notably, Staff**
13 **has not requested. KCP&L does not believe this is necessary for monthly**
14 **reporting.” Please comment.**

15 A. It does not matter if KCPL believes this information is necessary, it only matters if the
16 people who have to audit this FAC believes this information is necessary to audit KCPL’s
17 FAC. Mr. Rush does not audit FACs. It is likely that Mr. Rush does not think this
18 requested reporting is necessary because KCPL does not have to audit or review this
19 FAC, Ms. Mantle does.

20 Mr. Rush, to my knowledge, has never audited a FAC. Ms. Mantle has performed FAC
21 audits and supervised FAC audits for many years. Mr. Rush’s perspective appears to be
22 that audits should be less rigorous and that an auditor should only look at information
23 KCPL wants them to look at. Such an approach is very much counter to professional
24 auditing standards. The Commission should reject KCPL’s self-serving argument and
25 instead require the information requested by OPC’s experienced FAC auditor.

1 **Q. At page 46 of his rebuttal testimony Mr. Rush states “I disagree with Ms. Mantle’s**
2 **exclusion of other fuel and fuel related costs that have been historically**
3 **included in the FAC as these limitations significantly diminish the effectiveness of**
4 **the FAC and will actually accomplish the opposite of what Ms. Mantle hopes to**
5 **achieve.” Please comment.**

6 A. First, Mr. Rush cites the FERC and the USOA throughout his FAC and appears to defer
7 to the FERC’s rules and regulations. OPC agrees with this as it relates to fuel costs and
8 has adopted the FERC’s USOA definition of fuel costs as stated in FERC Account 151,
9 Fuel Stock. Any disagreement on the issue of fuel costs in the FAC can be eliminated if
10 Mr. Rush would accept his own testimony and agree to adopt the FERC FAC rules on
11 fuel cost FAC eligibility as is consistent with OPC’s position.

12 Second, Mr. Rush does not explain what he means by “significantly diminish the
13 effectiveness of the FAC”. What is the effectiveness of an FAC? How will it be
14 diminished? He fails to answer these questions.

15 The FERC, the regulatory body to which Mr. Rush defers, takes the opposite position to
16 Mr. Rush. The FERC position is that any fuel cost included in an FAC that does not meet
17 the FERC Account 151 definition (such as all of KCPL’s non fuel cost referred to as
18 “fuel-related costs”) is detrimental to the public interest. Mr. Rush should reexamine his
19 position and decide if he agrees with the FERC or he does not agree with the FERC. His
20 position, as expressed in his testimony, is totally inconsistent and uniquely unhelpful to
21 the Commission in reaching the correct decision on this issue in this rate case.

22 **Rate Case Expense – Tim Rush**

23
24 **Q. At page 59 line 22 of his rebuttal testimony Mr. Rush states the customer is the**
25 **primary beneficiary when a utility is able to fulfill its statutory obligation to provide**
26 **safe, adequate and reliable service. Do you agree?**

1 A. No. When a utility fulfills its obligations both shareholders and customers benefit
2 equally. Customers receive the utility service and shareholders receive profits on utility
3 investments. I do not believe that a utility that did not provide safe and adequate service
4 would be able to provide profits to shareholders for any length of time. So, there is no
5 primary beneficiary under this scenario, only equal beneficiaries.

6 That being said, customers do not benefit in any way from utility expenditures incurred in
7 an effort to increase utility rates over and above what is required to provide safe and
8 adequate service. The Commission had determined that ratepayers should only pay in
9 rates the portion of incurred rate case expense that is necessary for KCPL to provide safe
10 and adequate service at reasonable rates, and nothing more.

11 **Q. At page 60 line 12 Mr. Rush says that such a regulatory practice (the Commission's**
12 **ordered rate case expense allocation method) with power plant costs would quickly**
13 **drive a utility into dire financial straits, and adversely impact its ability to provide**
14 **safe and adequate service to its customers. Please comment.**

15 A. Assuming Mr. Rush is comparing this rate case expense issue to the cost of a power
16 plant, his testimony is nothing more than hyperbole. The facts are clear. Even if none of
17 KCPL's incurred rate case expense in this rate case is charged to ratepayers, or recovered
18 in rates, KCPL would still be a strong and viable regulated utility company that is likely
19 earning at, above, or near its Commission- authorized return on equity.

20 While this rate case expense issue is important from a regulatory and ratemaking policy
21 standpoint, it is not significant to KCPL's financial operations. Under no circumstances
22 will any Commission decision on rate case expense in this rate case have any influence
23 on KCPL's ability to provide safe and adequate service.

24 For example, assume that KCPL incurred \$800,000 of rate case expense in this rate case
25 and this entire amount was allocated to ratepayers in KCPL's cost of service revenue
26 requirement calculation. Assuming a 4-year amortization period, KCPL will increase its
27 cost of service in this case by \$200,000 less the annual amount of rate case expenses

1 reflected in current rates. Assuming the level of rate case expense in rates is \$100,000.
2 The dollar value of this issue in a rate case would only be \$100,000, which is immaterial
3 to KCPL operations.

4 **Q. At page 61 line 14 Mr. Rush asserts that there are Commission regulations that**
5 **contribute to the level of rate case expense that are beyond the control of a utility.**
6 **Does his testimony in this area have any merit or substance?**

7 A. No. First Mr. Rush references the 4-year rate case requirements for fuel adjustment
8 clauses (“FACs”). There is no Commission regulation that requires KCPL to have a
9 FAC. KCPL chooses to take advantage of this Commission privilege. KCPL can choose
10 to terminate its FAC in this rate case and eliminate any need to file for a rate case every
11 four years.

12 Next, Mr. Rush uses the example of required line loss studies and depreciation studies.
13 This example has no merit. Mr. Rush is aware, or should be aware, that the Commission
14 has stated that the cost of this mandatory rate case work will be fully allocated to
15 ratepayers.

16 At page 72 of its Report and Order in Case No. ER-2014-0370 the Commission stated
17 that its rate case expense adjustment does not apply to rate case expenses KCPL is
18 required to incur by Commission regulation. The Commission stated:

19 The Commission also finds that it is appropriate to require a full
20 allocation to ratepayers of the expenses for KCPL’s depreciation
21 study, recovered over five years, because this study is required
22 under Commission rules to be conducted every five years.
23

24 **Q. At page 62 line 18 of his rebuttal testimony Mr. Rush states that the Commission’s**
25 **2014 rate case methodology effectively restricts the Company’s ability choose its**
26 **legal and regulatory strategy before the Commission in rate case litigation that is**
27 **required to obtain adequate rate levels. Please comment.**

1 A. Again that statement is just factually wrong and just more hyperbole. The Commission
2 has placed absolutely no restrictions on KCPL management's ability to choose anything.
3 In fact, the Commission's 2014 rate case expense methodology fully supports KCPL's
4 legal and regulatory strategy if that strategy is to secure reasonable rates and no more
5 than reasonable rates.

6 That however, is not KCPL management's legal and regulatory strategy. A simple
7 review of rate increase sought by KCPL and the rate increase granted by the Commission
8 shows that KCPL management is only interested in seeking excessive electric utility
9 rates. That is a fact that is supported by overwhelming evidence and requests by the
10 utility for mechanisms that shift risk away from shareholders and onto ratepayers
11 including multiple trackers, FACs, and other extraordinary ratemaking mechanisms.

12 The Commission should consider that it is this same KCPL management who sought to
13 increase rates for GMO by almost \$60 million and then ultimately settled for a rate
14 increase of \$3 million. In that rate case, No. ER-2016-0156, this same KCPL
15 management sought to charge GMO's ratepayers with excessive utility rates. This same
16 KCPL management wanted GMO's customers pay for the rate case expense incurred in
17 its attempt to charge GMO's customers excessive utility rates. That is the rate case
18 expense ratemaking treatment that Mr. Rush supports in his testimony.

19 In the current case, KCPL seeks to increase rates by \$90 million dollars. The
20 Commission's Staff recommended no increase in its direct testimony. Mr. Rush's
21 approach would have customers pay KCPL for all KCPL attempts to seek rate increases
22 20 times greater (or more) than the rate increase necessary to set reasonable rates. The
23 Commission should reject KCPL's unreasonable and unjust request.

24 **Q. At page 62 line 20 Mr. Rush states that, in the past, the Commission recognized a**
25 **public utility's right to make these decisions as long as its costs are prudently**
26 **incurred. He then included a Commission statement from a Report and Order in**
27 **Missouri Gas Energy rate case number GR-2004-0209, p. 75, "The Commission is**

1 **hesitant to disallow expenses incurred by MGE in prosecuting its rate case. The**
2 **company is entitled to present its case as it sees fit and the Commission will**
3 **not lightly intrude into the Company’s decision about how best to present its**
4 **case.” Do you agree with the Commission comment cited by Mr. Rush?**

5 A. Yes I do. The concerns expressed by the Commission in the GR-2004-0209 case are
6 exactly reflected in the actions taken by the Commission when it designed the rate case
7 expense methodology in KCPL’s 2014 rate case.

8 In the MGE case the Commission said it was hesitant to disallow rate case expense. In
9 the 2014 KCPL rate case, the Commission said it was not disallowing any rate case
10 expense. The Commission continues to believe that a utility can spend what it wants to
11 spend to prosecute a rate case but that spending must be carefully monitored and
12 allocated to the parties who benefit from that spending.

13 The Commission was consistent in the MGE case cited by Mr. Rush and KCPL’s 2014
14 rate case where it adopted its rate case expense allocation methodology. Allocating a
15 portion of rate case expense to shareholders for costs incurred to only benefit
16 shareholders benefit is just and reasonable.

17 **Q. In its ER-2014-0370 Report and Order did the Commission correctly assess that it is**
18 **very difficult to classify and assign specific levels of imprudent expenses in rate case**
19 **expense?**

20 A. Yes it did. At page 69 of its Report and Order in Case No. ER-2014-0370 the
21 Commission explained clearly why it was not making a prudence disallowance but
22 making an equity-based allocation:

23 Staff and OPC allege that the expenses of witness Overcast should
24 be disallowed because his testimony was duplicative and those
25 expenses were imprudent. Similarly, OPC and MECC argue that
26 the fees of KCPL’s outside attorneys were imprudent and should
27 be reduced to \$200/hour or disallowed entirely.

1 These expenses for experts, consultants, and attorneys do not lend
2 themselves to review for prudence. Unlike industry standards for
3 pipe size or transmission line capacity, there is no accessible
4 appropriate standard for determining whether one consultant's
5 analysis was truly unnecessary or if one attorney's expertise is
6 worth more than another's. The evidence does not reveal a bright
7 line solution to this problem, and the Commission will not disallow
8 these or any other rate case expenses in this case.(emphasis added)
9

10 **Q. At page 63 of his rebuttal testimony Mr. Rush states that it is appropriate and**
11 **reasonable for the Commission to review rate case expenses as to reasonableness**
12 **and prudence. He also states the Commission has disallowed rate case expense**
13 **costs in the past on grounds of imprudence, and this serves as ample incentive for**
14 **the Company to make certain that its rate case expenses are reasonable. Did you**
15 **review the Commission's history on rate case expense disallowances?**

16 A. Yes and I will continue to do so. I have been involved in many Commission rate cases
17 since 1993 and, while it very well may have, I do not recall one instance where the
18 Commission made a rate case disallowance in a normal rate case.

19 With the exception of some unique disallowances of excess expenses associated with the
20 Iatan 1 and Iatan 2 construction projects in 2009, I do not believe that the Commission
21 ever made a significant disallowance, on prudence grounds, of any of KCPL or GMO rate
22 case expense in the approximately 10 combined rate case since 2006.

23 Winning prudence issues in a Commission case is very, very difficult. This is evidenced
24 by the very few instances that it has occurred. As described above in the MGE rate case,
25 the Commission correctly concluded that making prudence decisions with rate case
26 expenses is a very difficult process and it is hesitant to make such disallowances.

27 **Q. Mr. Rush included Schedule TMR-10 with his rebuttal testimony. This is a**
28 **flowchart which he says depicts the process KCPL uses to manage rate case**
29 **expenses. He states that this process helps ensure the monitoring and control of**
30 **those costs. Please comment on Schedule TMR-10.**

1 A. Schedule TMR-10 is nothing more than a typical and generic flowchart of an internal
2 control process over outside services expenses that every company will have developed
3 and employed. These are the types of internal control procedures that a company's
4 outside auditors will review for existence and, if they do not exist, will likely require the
5 Company to develop and follow before the auditing firm will issue a clean audit opinion
6 on internal controls.

7 While I have seen significant deviations to KCPL's actual compliance with the processes
8 in this flowchart, primarily in KCPL's management of the Iatan construction projects,
9 TMR-10 is nothing more than a basic internal control document that is common to all
10 companies and does not address at all whether or not the expenses incurred to process a
11 rate case are incurred to benefit shareholders or ratepayers.

12 **Q. At page 63 Line 15 Mr. Rush states that KCPL does not recover its rate case**
13 **expenses on a dollar-for -dollar basis under the traditional method of handling rate**
14 **case expenses. He states that often rate case expenses are amortized or normalized**
15 **over a greater number of years than the period between rate cases. Please**
16 **comment.**

17 A. KCPL did not file for a rate case for the 20 years prior to 2006. So assuming that
18 KCPL's rate case expense in its last rate case expense prior to 2006 was \$600,000
19 amortized over three years, or \$200,000 per year, KCPL would have reaped the benefits
20 of a windfall profit of \$3.4 million (17 years x \$200,000) from regulatory lag of Missouri
21 jurisdictional rate case expense alone.

22 Also, for several rate cases beginning with KCPL's 2006 rate case under KCPL's
23 regulatory plan, KCPL was allowed to use a rate case expense tracker during its
24 regulatory plan rate cases. It has only been relatively recently, since the end of KCPL's
25 regulatory plan rate cases, that KCPL's rate case expense is treated as any other
26 normalized utility expense subject to both positive and negative regulatory lag.

1 Depending on the interval between rate cases, KCPL has an equal opportunity to benefit
2 from regulatory lag as to experience any minor negative effects of regulatory lag.

3 **Q. Is Mr. Rush seeking an expense tracker for KCPL's rate case expense in this rate**
4 **case?**

5 **A.** Yes. Mr. Rush recommends rate case expense from this case be treated as a deferral and
6 amortized over a three year period. He argues that in this way, a regulatory asset can be
7 established and tracked based on the Stipulation and Agreement in Case No. ER-2014-
8 0370.

9 **Q. Did you review Case No. ER-2014-0370 for any Stipulation and Agreement related**
10 **to rate case expense that Mr. Rush refers to above?**

11 **A.** Yes, I reviewed the relevant documents in this docket. However, I could not find any
12 Stipulation and Agreement in that case related to rate case expense regulatory assets and
13 do not believe any such document exists.

14 **Q. Discuss the merits of Mr. Rush's proposed rate case expense tracker?**

15 **A.** Mr. Rush is seeking an expense tracker for a routine and non-material utility expense.
16 This ratemaking request is unreasonable and should not even be considered by the
17 Commission as it does not qualify under and standard for trackers or any range of
18 reasonableness related to ratemaking principles. KCPL's rate case expense is immaterial
19 to its operations, is under total control of KCPL management, and meets none of the
20 standards or criteria established by the Commission for an expense tracker. This proposal
21 by Mr. Rush does not benefit ratepayers and is nothing but an additional rate case
22 proposal that is pursued by KCPL management to benefit shareholders only while
23 potentially increasing rate case expenses it seeks to allocate to ratepayers

24 **Q. At page 65 line 1 Mr. Rush states that KCPL is required to file a rate case every**
25 **four years under the Commission's FAC regulations to maintain its ability to use**
26 **the FAC. Is KCPL required to have a FAC?**

1 A. No. KCPL's use of a FAC is purely at its management's discretion. It's use of a FAC,
2 should not be used as a basis on which to seek preferential treatment for rate case
3 expense. This is especially true given that OPC considers the specific FAC sought by
4 KCPL to be detrimental to the public interest.

5 **Q. At page 60 line 2 Mr. Rush states rate cases and the regulatory mechanisms**
6 **approved in rate cases are necessary and essential if the company is to be in**
7 **a position to adequately attract capital and have a reasonable opportunity to earn**
8 **its authorized rate of return. Please Comment.**

9 A. KCPL went for 20 years without a rate case. Given that fact it does not appear that
10 periodic rate cases are necessary and essential for KCPL to attract capital and earn a
11 reasonable rate of return.

12 More recently, since the Commission's 2014 rate case Order implementing its rate case
13 allocation approach, KCPL's financial performance has significantly improved. It is not
14 unrealistic to believe that if the expense efficiency incentives supported by the
15 Commission in its 2014 KCPL rate case Report and Order were applied to other
16 expenses, KCPL would continue to see improved earnings and delay and need for another
17 rate case.

18 Unlike other Missouri electric utilities, KCPL management has not done a good job at
19 being efficient. There are likely many reasons for KCPL's management poor
20 performance. I believe the lack of expense efficiency incentives is one of them. The
21 Commission can incent KCPL to be more efficient in its incurrence of rate case expense
22 by allocating an appropriate portion of rate case expense to shareholders. This
23 Commission rate case expense allocation method which KCPL opposes is not only
24 systematic and rational, fair and equitable, but it also acts as a management incentive
25 mechanism to not to overspend on rate cases.

26 **Q. Mr. Rush states that under a long-standing regulatory precedent, shareholders are**
27 **expected to have a reasonable opportunity to earn Commission-authorized returns.**

1 **He characterized the Commission's rate case expense allocation method as an**
2 **arbitrary, ironic and perverse. Please comment.**

3 A. As noted earlier, KCPL has been operating under the Commission's new rate case
4 expense methodology since rates from its 2014 rate case went into effect in 2015. For the
5 first time in several years KCPL has exceeded its authorized rate of return. KCPL's
6 earnings, and the improvement in earnings since the Commission's 2014 rate case Report
7 and Order are reflected at page 4 of Staff witness Keith Majors' rebuttal testimony in this
8 case.

9 Mr. Rush's accusation that the Commission's current ratemaking treatment for KCPL's
10 rate case expenses is arbitrary is baseless and inaccurate. The Commission's preferred
11 rate case expense adjustment is nothing but a systematic and rational approach to
12 addressing this particular expense when setting just and reasonable rates.

13 Mr. Rush's claim that the Commission's current ratemaking treatment of KCPL's rate
14 case expense is a disallowance is also incorrect. It is clear in the Commission's Report
15 and Order in the 2014 rate case that the Commission's preferred approach is not a
16 disallowance but rather a reasonable allocation of the expense.

17 Labeling a Commission-created ratemaking method as perverse is not a constructive way
18 to approach this issue. If Mr. Rush believes this method is perverse it is because he either
19 does not understand the purpose of the methodology or he refuses to take the time to
20 understand it. This is evident from his repeated incorrect characterization of this
21 adjustment as a disallowance instead of an allocation.

22 Finally, if Mr. Rush can produce evidence that the Commission's 2014 rate case
23 ratemaking allocation of KCPL's rate case expense would prevent KCPL's shareholders
24 from earning a reasonable rate of return, he should do so. So far, KCPL has not supported
25 its claims with any evidence.

26 As noted in the rebuttal testimony of Staff witness Matthew Young, the Commission's
27 rate case allocation method not only appropriately allocates costs to the entity that

1 benefits from that cost, but it also encourages management efficiency in the incurrence of
2 rate case expense. The Commission felt the need to fix the rate case expense process
3 because of KCPL's management had excessive and imprudent rate case expense in the
4 past. The Commission's preferred approach to allocate a portion of rate case expense to
5 shareholders is a reasonable approach that balances ratepayers need for just and
6 reasonable rates and KCPL's desire to increase profits.

7 **Q. At page 60 line 17 of his rebuttal testimony Mr. Rush states that he does not believe**
8 **the Commission's 2014 rate case allocation methodology creates an incentive, and**
9 **eliminates a disincentive, on the utility's part to control rate case expense to**
10 **reasonable levels. He refers to the Commission's methodology as arbitrary and he**
11 **believes this ratemaking treatment makes it more difficult for KCPL to earn its**
12 **authorized rate of return. Does OPC agree with any of these opinions?**

13 A. No. Mr. Rush's arguments are illogical. He argues that when a utility has more risk of
14 expense non-recovery, it will do nothing in response to this risk. That would be the
15 definition of irrational management behavior. There is an understanding both in the
16 ratemaking academic world and the ratemaking practical world that the more risk a utility
17 has related to expense non-recovery the more effort utility management will make to
18 minimize the risk of non-recovery.

19 Prior to the Commission's Report and Order in KCPL's 2014 rate case, KCPL
20 experienced almost no risk of non-recovery of rate case expense. It could spend freely
21 and without limits because it believed it could charge everything to ratepayers. It did not
22 need to act prudently because it never experienced much threat of rate case expense
23 disallowance in its previous rate cases. With the Commission's new rate case allocation
24 methodology that mindset should no longer exist for KCPL.

25 KCPL is now forced to act prudently when it makes decisions to incur rate case expenses.
26 It must act prudently when it determines how much of a rate increase it seeks from the
27 Commission. If it is forced to act prudently when it incurs other types of utility

1 expenses, it will enjoy the benefit of being an efficient utility with a lower cost of service
2 to pass on to its customers.

3 **Q. At page 61 line 5 Mr. Rush states that much of the rate case expenses are driven by**
4 **the quantity and complexity of the issues that are raised by other parties to the case.**
5 **Do you agree with this assertion?**

6 A. No. Typical KCPL rate cases do not present complex issues raised by parties other than
7 KCPL. The exception being KCPL's 2010-0355 rate case where major Iatan and Iatan 2
8 construction audit prudence issues were raised in this rate case. Disregarding that one
9 rate case, I do not consider KCPL management as being incapable of handling all of the
10 issues in normal rate cases, to include cost of capital and capital structure issues.

11 Furthermore, it is not the parties to KCPL rate cases that raise complex issues; it is KCPL
12 management who raises complex issues in rate cases. However, by hiring outside experts
13 on such basic ratemaking issues as regulatory lag and FAC, KCPL often decides that its
14 own management is not competent enough to explain and support these issues to the
15 Commission. I disagree. I believe that KCPL's management has the education and
16 experience and competence necessary to address any issues it brings before the
17 Commission in a rate case.

18 I also believe that KCPL's in-house attorneys, who are very experienced in rate case
19 litigation, are more than capable of processing KCPL's rate cases. Hopefully, as a result
20 of the Commission's rate case expense allocation, KCPL will start processing its rate
21 cases with a greater use of its own management employees and attorneys instead of
22 incurring incremental costs for hiring outside consultants and attorneys.

23 **Q. Are you stating that KCPL should never hire outside consultants or outside**
24 **attorneys?**

25 A. No, but KCPL should evaluate the resources it has available in-house before it contracts
26 with outside parties and incurs additional expenses to process rate cases. For example,

1 KCPL's regulatory attorneys are very involved and have spent many hours working on
2 KCPL's parent company, Great Plains Energy's proposed acquisition of Westar, Inc.

3 If KCPL has to spend more money on outside counsel to process a Missouri rate case
4 because of this acquisition taxing the resources of in-house counsel that is a significant
5 imprudent action by KCPL management. KCPL management must put the interest of
6 utility operations first and foremost before it is to consider the needs of its non-regulated
7 affiliates.

8 **Q. At page 62 line 5 Mr. Rush states that KCPL has an incentive to control its rate case**
9 **expenses. He states that KCPL strives to balance cost control measures with**
10 **providing the best level of service possible.**

11 A. It does not appear KCPL tries to limit its rate case expense. KCPL has been
12 unreasonable and imprudent in its attempt to charge its customers with excessive and
13 unreasonable rate case expense for several years. OPC's recommendation to use the
14 Commission's preferred rate case expense allocation method is a real incentive for the
15 company to control costs while ensuring that ratepayers are not unreasonably forced to
16 pay for costs incurred to benefit shareholders only.

17 **Q. You addressed several of the comments made by the Commission in its ER-2014-**
18 **0370 Report and Order. Are there some comments that are significant and relevant**
19 **to your surrebuttal testimony?**

20 A. Yes. These Commission comments and where they can be found in the Commission's
21 ER-2014-0370 Report and Order are listed below:

22 Awarding a utility all of its incurred rate case expenses could
23 provide that utility with a significant financial advantage over
24 other participants in the rate case process, who may be constrained
25 by budgetary and other financial restrictions. Such a practice does
26 not encourage reasonable levels of cost containment in the utility's
27 rate case expense decisions.
28

1 An incentive for a utility to limit its rate case expense is to tie a
2 utility's percentage recovery of rate case expense to the percentage
3 of its rate increase request that the Commission finds just and
4 reasonable. Use of this approach would directly tie a
5 utility's recovery of rate case expense to both the reasonableness of
6 its issue positions and the dollar value sought from customers in a
7 rate case.

8
9 KCPL previously filed rate cases in 2006, 2007, 2009, 2010, and
10 2012. In recent rate cases, KCPL has incurred rate case expenses
11 substantially higher than historical levels and higher than other
12 utilities in Missouri.

13
14 Prudence is not the only consideration in determining what costs
15 should be included in rates; the benefit to customers must also be
16 considered when deciding what costs are reasonable for customer
17 rates.

18
19 KCPL has pursued issues in this case that benefit only the
20 shareholders, such as La Cygne construction accounting and some
21 elements of the rate of return recommendation. Utility expenses
22 that are highly discretionary and do not benefit customers, such as
23 charitable donations, political lobbying expenses, and incentive
24 compensation tied to earnings per share, are typically allocated
25 entirely to shareholders.

26
27 Staff and OPC allege that the expenses of witness Overcast should
28 be disallowed because his testimony was duplicative and those
29 expenses were imprudent. Similarly, OPC and MECG argue that
30 the fees of KCPL's outside attorneys were imprudent and should
31 be reduced to \$200/hour or disallowed entirely. These expenses for
32 experts, consultants, and attorneys do not lend themselves to
33 review for prudence. Unlike industry standards for pipe size or
34 transmission line capacity, there is no accessible appropriate
35 standard for determining whether one consultant's analysis was
36 truly unnecessary or if one attorney's expertise is worth more than
37 another's. The evidence does not reveal a bright line solution to
38 this problem, and the Commission will not disallow these or any
39 other rate case expenses in this case.

40
41 However, rate case expense is also different from most other types
42 of utility operational expenses, in that 1) the rate case process is

1 adversarial in nature, with the utility on one side and its customers
2 on the other; 2) rate case expense produces some direct benefits to
3 shareholders that are not shared with customers, such as seeking a
4 higher return on equity; 3) requiring all rate case expense to be
5 paid by ratepayers provides the utility with an inequitable financial
6 advantage over other case participants; and 4) full reimbursement
7 of all rate case expense does nothing to encourage reasonable
8 levels of cost containment.

9
10 Moreover, this Commission has already found rate case expense
11 sharing to be just and reasonable in at least one prior case. In a
12 1986 decision, In the Matter of Arkansas Power and Light
13 Company, the Commission “adopted Public Counsel’s proposed
14 disallowance of one-half of rate case expense.”

15
16 The Commission finds that in order to set just and reasonable rates
17 under the facts in this case, the Commission will require KCPL
18 shareholders to cover a portion of KCPL’s rate case expense. One
19 method to encourage KCPL to limit its rate case expenditures
20 would be to link KCPL’s percentage recovery of rate case expense
21 to the percentage of its rate increase request the Commission finds
22 just and reasonable. The Commission determines that this
23 approach would directly link KCPL’s recovery of rate case
24 expense to both the reasonableness of its issue positions and the
25 dollar value sought from customers in this rate case.
26

27 **Management Expense Adjustment – Ron Klote**

28 **Q. In his rebuttal testimony KCPL witness Klote takes issue with OPC’s adjustment**
29 **related to KCPL’s management expenses. What is the purpose of OPC’s**
30 **management expense adjustment as sponsored by OPC witness Amanda Conner?**

31 **A. The purpose is to protect KCPL’s customers from KCPL. OPC devoted a tremendous**
32 **amount of audit time and audit resources to develop its management expense adjustment**
33 **in this rate case. The need for OPC to devote so much time and resources to this one**
34 **adjustment is because KCPL management has refused to stop incurring and forcing on its**

1 captive utility customers the costs of its imprudent, excessive and unreasonable
2 management spending.

3 KCPL has continued to incur imprudent, excessive and unreasonable management
4 expenses since its 2006 rate case. KCPL management's imprudent behavior continued
5 from 2006 through the test year in this 2016 rate case. Because of KCPL management's
6 refusal to stop this behavior OPC and, until this rate case the Staff, has been required to
7 devote substantial audit resources in an attempt to protect KCPL ratepayers from the
8 expense account abuses of KCPL management.

9 OPC's adjustment in this rate case is very similar to the adjustment Staff proposed in
10 KCPL's 2014 rate case, No. ER-2014-0370. Through its adjustment in this case, OPC is
11 continuing the efforts of the Staff in KCPL's 2014 rate case, to protect KCPL's customer
12 from being charged excessive and imprudent management expenses.

13 **Q. In recent rate cases had KCPL refused to provide explanations and justifications of**
14 **the reasonableness of its management expense charges?**

15 A. Yes. Not only has KCPL failed to ever support the level of management expense report
16 charges it seek to recover in rates, KCPL has taken the position in past rate cases that it
17 does not even need to respond to questions about the prudence of its management
18 expenses.

19 **Q. What conclusion does an auditor make when an entity refuses to answer legitimate**
20 **audit inquiries?**

21 A. At a minimum, in any situation where an entity refuses to cooperate with auditor requests
22 for data, an auditor will elevate the level of audit risk assigned to that specific audit area.
23 Given KCPL's serious problems with its management spending on expense accounts, I
24 do not believe any professional auditor would assign the risk of inappropriate and
25 excessive management expenses being included in rates as other than very high.

1 This audit risk evaluation is the reason OPC found it necessary to devote the amount of
2 resources it did to this one rate case issue.

3 **Q. Given the existence of a very high audit risk of excessive management expense**
4 **report charges being passed on to ratepayers, what action does an auditor need to**
5 **take to mitigate this risk level?**

6 A. Faced with strong evidence of a very high risk of excessive expense account charges by a
7 utility's management, a rate case auditor must do the work necessary to determine the
8 risk of excessive charges being passed on to ratepayers in a rate case. Once this audit
9 work is completed, a rate case auditor must determine the dollar amount of an expense
10 adjustment that would reduce this risk to an acceptable level. OPC's adjustment in this
11 rate case reduces this risk to an acceptable level.

12 **Q. As a CPA who has over 20 years experience developing and supporting utility rate**
13 **case cost of service adjustments, do you believe that OPC's adjustment in this rate**
14 **case is well-supported and based on substantial evidence?**

15 A. I do. Under my direction, OPC witness Conner devoted what I would estimate to be
16 hundreds of hours reviewing, analyzing and auditing KCPL officer expense reports.
17 Based on her analysis OPC determined that the excessive KCPL management spending
18 was so pervasive at KCPL that a significant adjustment was required to protect KCPL's
19 ratepayers from this excessive spending.

20 Because KCPL employs approximately 1000 managers, it would be impossible to review
21 all management monthly expense reports. Given this audit scope limitation, OPC used an
22 audit technique commonly performed by professional auditors. That audit technique is
23 referred to as audit sampling. Ms. Conner also describes this audit technique in her
24 surrebuttal testimony.

25 **Q. What is audit sampling?**

1 A. Audit sampling is a primary audit procedure used by professional auditors. Auditing
2 Standard (“AS”) 2315 defines audit sampling as “the application of an audit procedure to
3 less than 100 percent of the items within an account balance or class of transactions for
4 the purpose of evaluating some characteristic of the balance or class.”

5 AS 2315 states there are two general approaches to audit sampling: nonstatistical and
6 statistical. OPC employed the nonstatistical audit sampling approach and selected the
7 expense account transactions be KCPL’s officers. The basis of this audit decision was
8 that these individuals develop, implement and enforce KCPL’s expense account
9 processes and policies. The “tone at the top” set by KCPL officers is likely followed by
10 the rest of KCPL management. Based on OPC’s findings from the officer expense
11 account charges, OPC applied a reasonable dollar amount of excessive management
12 spending and imputed that amount to all KCPL management. OPC’s approach to this
13 adjustment requires auditor judgment as noted by AS 2315 below:

14 Both approaches require that the auditor use professional judgment
15 in planning, performing, and evaluating a sample and in relating
16 the evidential matter produced by the sample to other evidential
17 matter when forming a conclusion about the related account
18 balance or class of transactions. Either approach to audit sampling
19 can provide sufficient evidential matter when applied properly.
20 This section applies to both nonstatistical and statistical sampling
21

22 **Q. If you had to use one word to describe the source of this management expense**
23 **account spending problems at KCPL, what word would you chose?**

24 A. Entitlement.

25 **Q. Please elaborate.**

26 A. In a past Ameren regulatory proceeding, Case No. EA-2015-0146, Commissioner Rupp,
27 when questioning an Ameren witness, said that corporate culture is defined by “the
28 behavior the leadership is willing to tolerate.” I believe that is absolutely correct. The

1 behavior that KCPL's leadership and its Board of Directors is willing to tolerate with
2 respect to management expenses reflects its strong corporate culture of entitlement.

3 KCPL's management has been advised for over ten years that its behavior is not
4 appropriate. KCPL's own auditor has found problems with KCPL's expense accounts.
5 KCPL even admits on several occasions that it has incurred unreasonable management
6 expenses. Yet, this imprudent behavior continues because KCPL management believes it
7 is entitled to continue this behavior.

8 **Q. Do you have any doubt that even if the Commission finds in favor of OPC only on**
9 **this expense adjustment that KCPL may continue to incur excessive and**
10 **unreasonable management expenses?**

11 A. I have no doubt at all that it will take much more than the Commission's acceptance of
12 OPC's expense adjustment in this case to change this decade old issue. It is my belief
13 that simply forcing KCPL's shareholders to absorb the cost of imprudent KCPL
14 management expenses will not stop KCPL management behavior. Commission action is
15 necessary to address the excessive spending by KCPL management

16 **Q. Does the Commission have an opportunity to take actions that will increase the**
17 **likelihood that KCPL management will at least modify its excessive spending**
18 **habits?**

19 A. Yes. In my direct testimony I proposed five actions that the Commission can take to
20 address KCPL management's imprudence. The Commission can communicate to KCPL
21 in its report and order in this rate case that if KCPL expects to recover management
22 expenses in future rate cases it will have to demonstrate that each and every proposed
23 expense was reasonable and prudent.

24 In the alternative, the Commission can direct KCPL that if it develops and places into
25 effect the following policies and procedures, it will be more likely to find that KCPL has

1 justified the prudence and reasonableness of its management expense charges. In my
2 direct testimony I provide the reasons why KCPL needs to adopt the following policies
3 and procedures:

- 4 1. Review its internal controls over management expense reports
5 and adopt basic internal controls such as requiring that an expense
6 report be approved by an employee at least one level above the
7 employee who submits the report for approval.
- 8 2. Exclude non-travel meal costs, such as management employee
9 meals in the Kansas City, Missouri area from rates.
- 10 3. Adopt a per diem management meal expense policy for meals,
11 lodging and other costs incurred while on business travel.
- 12 4. Develop protocol for KCPL's Internal Audit Department to take a
13 more aggressive role in auditing management expenses and make
14 periodic reports on progress improvements to quarterly Board of
15 Director Audit Committee meetings.
- 16 5. Make mandatory a company rule that no cost of alcoholic
17 beverage will be charged to ratepayers under any circumstances.
18

19 **Q. Did Mr. Klote propose an adjustment in his direct testimony to remove certain**
20 **KCPL employee expense account charges?**

21 A. Yes he did. Mr. Klote's approach is simply to remove an immaterial amount of
22 management expense account charges and he assumes, without any additional audit or
23 review work that the other millions of dollars in management expenses are prudent and
24 reasonable and should be charged to ratepayers.

25 Mr. Klote well understands that no party to this rate case has available sufficient audit
26 resources to perform a comprehensive audit of all KCPL management expenses.
27 Therefore, he is willing to accept any immaterial dollar adjustment based on a "specific
28 identification audit approach", such as the approach adopted by Staff in this rate case.

29 **Q. Has the Staff used the "audit sampling" audit technique in past rate cases?**

1 A. Yes. Staff used this approach in KCPL's last rate case, No. ER-2014-0370. As KCPL is
2 doing with OPC in this rate case, Mr. Klote took much the same issue with Staff's
3 approach in the 2014 rate case. Because Staff did not do any review of management
4 expenses in this rate case, nor did it propose any adjustment in this rate case, Mr. Klote
5 supports the Staff's approach to this rate case issue, which is to not make any adjustment
6 but simply accept Mr. Klote's miniscule token adjustment.

7 **Q. Did Staff explain why it changed its audit approach to KCPL's management**
8 **expenses in this rate case?**

9 A. No. I am concerned that if Staff was interested in protecting ratepayers from abusive
10 utility spending, it would have continued the same approach it took in KCPL's 2014 rate
11 case. In this 2016 KCPL rate case Staff abandoned the "audit sampling" approach for
12 this adjustment and relied on the specific identification approach by accepting KCPL's
13 immaterial adjustment in KCPL's adjustment CS-11.

14 It may be that due to Staff's limited audit resources, Staff did not have had sufficient
15 audit resources to devote to this issue. That is understandable. However, Staff's
16 approach in this case is insufficient to protect KCPL's ratepayers from excessive and
17 imprudent management expenses.

18 **Q. Is there another reason you are particularly concerned that Staff abandoned this**
19 **rate case issue, an issue it invested significant time and resources in for ten years?**

20 A. Yes. KCPL admits that because of Staff's efforts in its 2014 rate case it has made
21 changes and what it considers to be improvements in its expense report procedures.
22 KCPL has very far to go but it made an attempt at improvements only because Staff
23 forced the issue in the past and in the 2014 rate case. Staff's lack of work in this issue in
24 this rate case sends a signal to KCPL that it is no longer interested in this issue.

1 **Q. At page 59 line 11 of his rebuttal testimony Mr. Klote states that KCPL is in**
2 **agreement with the expense reimbursement adjustment performed and proposed in**
3 **the Staff's Cost of Service Report. To your knowledge, is this the first time in the**
4 **approximately 10 rate cases filed by KCPL management since 2006 that KCPL**
5 **agreed with Staff's adjustment, or lack of adjustment on management expense**
6 **report charges?**

7 A. Yes it is. From an auditing perspective, this is strong indication that Staff's adjustment
8 (or Staff accepting KCPL's immaterial adjustment) of this cost of service expense is
9 significantly insufficient.

10 **Q. Did Staff perform any KCPL expense account review in this rate case?**

11 A. No. Staff merely accepted the immaterial CS-11 \$15,109 adjustment proposed by Mr.
12 Klote in his direct testimony workpapers. At page 114 and paragraph 3 of the Staff's Cost
13 of Service Report, Staff stated that it accepted Mr. Klote's proposed adjustment CS-11 to
14 "reclassify the costs of non-recoverable dues and expense reports to "below-the-line."
15 Staff proposed no management expense adjustment of its own and accepted Mr. Klote's
16 adjustment as its own.

17 **Q. At page 59 of his rebuttal testimony did Mr. Klote expresses a belief that Staff**
18 **actually proposed a management expense adjustment?**

19 A. Yes. Mr. Klote incorrectly stated that Staff calculated a test year adjustment of employee
20 expense reports. Staff merely accepted KCPL's adjustment as its own adjustment. Mr.
21 Klote states:

22 **Q: Did Staff calculate an adjustment associated with expense**
23 **reporting?**

24
25 A: Yes. It appears Staff calculated a test year adjustment of
26 employee expense reports. Their adjustment in this case totaled

1 approximately \$15,000 which is similar to the Company's expense
2 report review adjustment.
3

4 **Q. Do you have any other source of information that indicates Staff's adjustment in**
5 **this case is inadequate?**

6 A. Yes. In KCPL's last rate case the Commission directed Staff to conduct a management
7 audit of KCPL. Staff filed its Report (Report) in Docket EO-2016-0124. Of note the
8 Report includes the finding:

9 While the Company has taken positive action to address various
10 expense account weak internal controls identified by Staff in prior
11 rate cases as well as has performed various focused Internal Audit
12 examinations of aspects of its expense process, opportunities for
13 improvement still exist. The Company's expense account
14 definition for reimbursement for travel and entertainment is written
15 overly broadly and the Company's internal control over its expense
16 account process, while improved, has not been consistently
17 effective, particularly in light of the Company's public and well
18 documented concerns regarding its inability to earn its ROE.
19 (report p. 2)
20

21 **Q. At page 56 line 13 of Mr. Klote's rebuttal testimony he describes new "enhanced**
22 **practices" related to KCPL's expense report reimbursements. Why did KCPL need**
23 **to create these so-called enhanced practices?**

24 A. Pursuant to paragraph G of the July 1, 2015 *Partial Non-Unanimous Stipulation and*
25 *Agreement as to Certain Issues* in KCPL's 2014 rate case (ER-2014-0370), KCPL
26 provided a copy of its changes to its expense report procedures. This document is
27 attached to this testimony. In addition to adding controls on appropriate accounting for
28 expense account reimbursements, KCPL also added the following controls:

29 **Officer Expenses**-The general ledger default account for all officers has
30 been set to below-the-line non-utility accounts. In order for an officer
31 expense to be recorded to an operating utility account, the officer or
32 administrative assistant must positively enter an operating utility account
33 code to override this default coding.

1
2 **Additional Review of Transactions-** The Wells Fargo company credit card
3 program administrator is reviewing various samples of company credit card
4 business transactions each month to ensure company credit card policy
5 compliance as well as accurate accounting code block coding is followed.
6

7 **Q. Is it possible the new “enhanced” changes that came out of KCPL’s last rate case**
8 **will somewhat decrease the level of excessive management expenses KCPL will seek**
9 **to recover from customers?**

10 A. It is possible. However, I have seen no improvements to date. I am hopeful these
11 changes will lead to at least some improvements in the future. I am hopeful that someday
12 OPC will no longer be required to devote valuable time and audit resources seeking to
13 protect KCPL’s customers from KCPL management’s excessive and imprudent spending.
14 There are many other important rate case issues on which OPC could be devoting its
15 resources to protect ratepayers from paying unreasonable utility rates.

16 OPC is requesting the Commission order KCPL to make the 5 specific changes in its
17 management expense policies and procedures that are listed and described in my direct
18 testimony. These changes are reasonable and necessary. These changes will protect
19 ratepayers from abusive utility spending while also provide KCPL management with
20 much needed assistance in acting more efficiently in operating the utility business.

21 **Q. Do any of KCPL’s new “enhanced” management expense report procedures affect**
22 **the core problem with KCPL’s expense account policies and procedures, which is**
23 **excessive, imprudent and unreasonable spending by KCPL management?**

24 A. No. KCPL made the decision not to make any changes in this area. As long as KCPL
25 management refuses to place restrictions on the number of local meals charged by
26 management as well as the reasonableness of its meals and travel expenses, these new

1 controls will add only minimal improvements to KCPL's management expense report
2 process.

3 KCPL must make significant changes in how it defines the term "reasonable" in its
4 expense report polices. Currently, KCPL does not have any definition or criteria on how
5 to determine if a management expense is reasonable or unreasonable. It is almost
6 unbelievable that a utility can operate in this manner and define these actions as prudent.
7 Currently, my understanding is that any dollar amount incurred by a KCPL management
8 employee is automatically stamped "approved" and determined to be reasonable.

9 **Q. Do you have examples that support your understanding?**

10 A. Yes. For example, in November 2015 five KCPL officers dined at a restaurant in
11 Hollywood, Florida. The total bill for this one meal was \$1,203. This is an average per
12 meal charge of \$240. OPC asserts \$240 for a travel meal is not reasonable. However, the
13 leadership of KCPL management believes it is. This one example shows that the term
14 "reasonable" in KCPL's expense account policies has no meaning.

15 The KCPL officers who incurred \$240 each for one travel meal are the same officers who
16 create and enforce KCPL's expense report reimbursement policies. These are the same
17 individuals who wrote and enforce the policy that to be reimbursed, employee meal
18 expenses must be "reasonable".

19 KCPL's senior management, who validate one single employee travel meal that cost
20 \$240 as allowable under their standard of reasonableness sets and defines the acceptable
21 standard for a per meal cost. KCPL's senior management publishes this new standard to
22 all of KCPL management by reimbursing themselves for this charge. They set the "tone
23 at the top" for all employees to follow.

24 **Q. Have you reached a conclusion after ten years of auditing KCPL's employee**
25 **expense accounts that KCPL's corporate culture, as it relates to expense account**

1 **charges, is to spend ratepayer funds imprudently, excessively, unreasonably, and**
2 **without any concern at all about the financial well being of its customers?**

3 A. Yes. KCPL should be concerned with the well-being of its customers. It is not. Some of
4 the KCPL witnesses in this rate case who testify about KCPL's customer service
5 initiatives and express concern about customers are the very individuals at KCPL who are
6 the most serious abusers of the expense account process.

7 Attached to this testimony I have included portions of past Staff testimony over 10 years
8 addressing KCPL's imprudent and excessive expense report charges. These Staff
9 findings in past KCPL rate cases go back to the 2006 rate case, No. ER-2006-0316, and
10 go through KCPL's last rate case, No. ER-2014-0370. Prior to the 2006 rate case KCPL
11 had not sought a rate increase for twenty years. A simple review of these attachments, as
12 well as the evidence provided by OPC in this 2016 rate case should convince the
13 Commission of the very serious nature of this problem. It is a problem that the
14 Commission should resolve in this rate case by accepting OPC's proposed adjustment
15 and ensuring KCPL adopts OPC's 5 recommendations.

16 **Q. How do you respond to Mr. Klote's assertion in his rebuttal testimony that OPC's**
17 **management expense adjustment is arbitrary?**

18 A. I describe above how OPC applied professional audit standards and used professional
19 judgment in the development of this adjustment. It is clear that there is nothing at all
20 arbitrary about the nature of OPC's adjustment. Mr. Klote has made the same accusation
21 in past KCPL rate cases. I will respond now the same way I responded then. Merriam
22 Webster's online dictionary defines "arbitrary" in part as "not planned or chosen for a
23 particular reason: not based on reason or evidence: done without concern for what is fair
24 or right." If that is what Mr. Klote had in mind when he characterized this adjustment as
25 arbitrary, then I disagree.

1 OPC's adjustment was planned with a reason to protect KCPL's ratepayers from
2 excessive, imprudent, or inappropriately allocated charges. The adjustment was based on
3 OPC's review and analysis of hundreds of documents related to KCPL's employee
4 expense report charges. There is nothing even remotely close to "arbitrary" associated
5 with OPC's adjustment. The adjustment itself was based on a professional audit
6 technique known as audit sampling. As Mr. Klote is a certified public accountant, he is,
7 or should be, very familiar with the concept of audit sampling.

8 **Q. Should Mr. Klote be concerned with why such a rate case adjustment is necessary**
9 **and not criticize the only party to this rate case that made a strong and sincere**
10 **effort to protect KCPL's ratepayers from excessive management expenses?**

11 A. Yes. Mr. Klote explains that KCPL has made improvements in its management expense
12 report process. However, instead of just making this statement, he should have made a
13 comprehensive effort to review as many test year excessive charges as he could review
14 and solicit the assistance of other KCPL employee to remove all the excessive charges in
15 KCPL's test year books and records. He did not make such an effort. As a result, OPC
16 has to make this effort and take the lead on this issue to protect KCPL's ratepayers. Even
17 if Mr. Klote believes this issue is resolved for the future, given the evidence produced by
18 OPC in this rate case he certainly cannot believe that KCPL's 1000 management
19 employees only charged \$15,000 in excessive charges in the test year. That is just not a
20 reasonable position for Mr. Klote to take before the Commission.

21 **Q. Does the definition of arbitrary provided above appropriately describe Mr. Klote's**
22 **inadequate \$15,000 management expense adjustment?**

23 A. Yes. Mr. Klote has been associated with this management spending issue in several of
24 KCPL's prior rate cases. In at least one rate case he was tasked with reviewing each and
25 every officer expense report charged in the test year. In one prior rate case he was also

1 associated with KCPL's decision to remove all KCPL officer expense reports from
2 KCPL's cost of service request.

3 Mr. Klote's proposed \$15,000 adjustment in this case is arbitrary in that he knows or
4 should know that it is not based on reason or evidence. He knows or should know that it
5 was not done with concern for what is fair or right. In my opinion Mr. Klote's \$15,000
6 adjustment is wholly inadequate and merely perpetuates KCPL management's practice to
7 pass on excessive, imprudent and unreasonable management expenses to KCPL's
8 customers.. The evidence in his case and in KCPL's previous cases supports no other
9 conclusion.

10 **Q. Did you provide examples of inappropriate and excessive KCPL officer expense**
11 **report charges in your testimony in KCPL's sister utility GMO's 2016 rate case, No.**
12 **ER-2016-0156?**

13 A. Yes. GMO has no management and no employees. KCPL management manages all of
14 GMO's operations. In my direct testimony in that case, I provided just a few examples of
15 excessive officer expense report charges and a list that included several excessive charges
16 by just one single KCPL officer.

17 In my direct testimony, I referenced a March 2015 charge for goods and services from
18 Gibson's Bar & Steakhouse in Chicago, IL for \$516 for two individuals. KCPL
19 management refused to provide any additional information related to this charge.

20 In my direct testimony I also referenced an OPC data request about a March 2015 charge
21 for goods and services from Capital Grille in the amount of \$455 for three individuals.
22 KCPL management refused to answer any questions related to these employee expense
23 report charges.

1 Finally, OPC sought data from KCPL management about a June 2015 charge for goods
2 and services from Kauffman Stadium of \$1,929. KCPL management refused to provide a
3 response.

4 **Q. Please provide an example of the type of expenses that Mr. Klote included in his cost**
5 **of service adjustment CS-11 where he removes some management expense account**
6 **charges?**

7 A. In July 18 of 2014, a high ranking KCPL officer attended a convention in Los Angeles
8 unrelated to the regulated utility industry. This officer charged KCPL a total of \$359 for
9 one meal. This amount was reduced due to the employee's wife meal charge of \$90
10 deemed a non-cost of service account. The KCPL officer's meal and, it appears, the meal
11 of someone not related to KCPL, was charged to a regulated cost of service account 921
12 in the test year in this case. As shown below, ratepayers were charged \$269 for a meal at
13 this entertainment event that was not related in any way to utility operations. This is a
14 charge that one of KCPL's most senior officers considers to be a reasonable and
15 necessary expense to provide utility service to its customers.

October 8, 2014	Dinner	Fleming's - Los Angeles, CA	\$269.41	921000
October 8, 2014	Dinner	Fleming's - Los Angeles, CA - Spouse	\$89.80	417100

16
17 This one KCPL officer has been with KCPL for many years and is very familiar with
18 KCPL's expense report policies and procedures. He obviously thought it was appropriate
19 to charge ratepayers for excessive meal costs for him and guests not related to utility
20 operations. This officer is an individual who enforces KCPL's policies and procedures
21 and helps set the tone at the top of KCPL. This one example shows that KCPL has no
22 internal controls nor any concern over the expense report costs it charges to its regulated
23 utility ratepayers.

1 **Q. Has Mr. Klote been making adjustments to remove KCPL officer expense report**
2 **charges in many of KCPL and GMO's past rate cases?**

3 A. Yes. Based on the problems found by Staff in KCPL Case No. ER-2007-0291 and
4 problem areas found by KCPL's own internal auditors during that period, Mr. Klote and
5 another KCPL employee were assigned to review officer expense reports and remove
6 inappropriate charges through a cost of service adjustment in its subsequent rate cases. I
7 don't know how many individual rate cases Mr. Klote performed such a review but it was
8 at least done in one prior KCPL rate case.

9 In KCPL's last rate case, ER-2014-0370, Mr. Klote did not make any adjustment to
10 remove excessive expense report charges when it filed its revenue requirement in direct
11 testimony. However, when he received certain data requests from Staff in that case, Mr.
12 Klote decided to make a rate case adjustment to remove the expense account charges
13 associated with certain officers of Great Plains Energy.

14 In Response to Staff DR 502 in Case No. ER-2014-0370 KCPL responded:

15 KCPL Response to DR 502:

16 Subsequent to its direct filing in this case, the Company informed MPSC
17 Staff that it was removing all GPE Officers expense report costs, this
18 includes.... from its request. There are no longer any expense report costs
19 incurred by (REDACTED) requested by the Company in this case. In total,
20 the Company informed MPSC Staff that the impact of removing GPE
21 Officer expense report costs from its Direct Case totaled \$67,521.55.
22 Information provided by: Ron Klote Attachments: Q0502_HC_expense
23 report charges.xlsx Q0502_Verification.pdf
24

25 **Q. Why did Mr. Klote propose an adjustment to remove these charges late in its 2014**
26 **rate case?**

27 A. KCPL management refused to answer specific expense report questions proposed by the
28 Staff in the 2014 rate case. The questions posed by Staff in DR 502 in Case No. ER-
29 2014-0370 that KCPL refused to answer are shown below:

1 Reference the attached Excel spreadsheet which lists certain
2 expense report charges and questions listed below related to those
3 charges:
4

5 A Nos. 37-40, please explain the reason for over \$800 in cell
6 phone charges

7 B For all meal charges, please provide the cost per person, the
8 name of the person who approved the charge and a description
9 stating why the cost was necessary to provide regulated utility
10 service

11 C. Item number 8, was the cost of the baby shower charged to
12 regulated customers? If so, why?

13 D. For the Ipad related charges. Why were these Ipads purchased?
14 Have they been and are they currently being used for regulated
15 utility operations?

16 E. For the Ipad related charges. Why were these Ipads not
17 capitalized to plant in service accounts?

18 F. No. 2, why is this cost charged to KCPL regulated accounts?

19 G. No. 18, what is the business purpose of this trip?

20 H. No, 19 how is this book related to KCPL's regulated operations?

21 I. No. 20, what is the business purpose of this trip?

22 J. No. 6, what is the business purpose of this trip?

23 K. No. 14, what is the business purpose of this trip?

24 L. No. 15, what is the business purpose of this trip?

25 M. Nos. 17,27,28, Does KCPL pay approximately \$300 to \$400
26 per month for one employee's cell phone service? If so, is this the
27 fair market price for one cell phone?
28

29 In KCPL's 2014 rate case, the Company made the decision that it would not provide
30 justification for certain officer expense report costs addressed in Staff DR 502. KCPL
31 decided just to remove these costs from the rate case and stopped any further discussions
32 of the issue.

33 **Q. Please summarize your response to Mr. Klote's rebuttal testimony.**

34 A. There are several good definitions of "corporate culture" including the one used by
35 Commission Rupp referenced above. Another definition I found to be very good is that
36 corporate culture:

1 ...refers to the beliefs and behaviors that determine how a
2 company's employees and management interact and handle outside
3 business transactions. Often, corporate culture is implied, not
4 expressly defined, and develops organically over time from the
5 cumulative traits of the people the company hires.
6

7 For KCPL, that leadership is its management, officers and its board of directors
8 ("Board"). KCPL's corporate culture as it relates to management expense report charges
9 has to change and its management and its Board need to be committed to ensuring the
10 change is long-lasting. KCPL and its Board has been "willing to tolerate" this
11 inappropriate behavior on the part of KCPL management and officers for far too long.

12 It is one thing for the management of a competitive business to spend lavishly in its
13 expense accounts when the firm is subject to price competition and the competition for
14 the acquisition of customers. The customers of a competitive business are free to
15 terminate their business relationship at any time and for any reason they chose. KCPL
16 customers are captive to its monopolistic nature and do not have this freedom to choose.

17 Without Commission action, KCPL customers will continue to be forced to pay for
18 management expenses that provide them no benefit and are excessive and imprudent.

19 KCPL management believes it is reasonable and perfectly acceptable to charge customers
20 \$250 as the cost for one meal. KCPL's senior management believes it is perfectly
21 appropriate to charge utility ratepayers for the cost of non-utility entertainment events
22 including the cost of alcoholic beverages. This one fact alone should be enough to
23 convince the Commission that KCPL needs to undergo a major change in corporate
24 culture. There is no other entity except the Commission that has the power to make sure
25 that this change occurs.

26 Firms that are required to operate in a competitive environment actually try to minimize
27 costs and operate efficiently. KCPL knows that its costs will be paid by its customers.
28 This includes expense account costs such as travel, business meals, and entertainment.

1 KCPL's actions have demonstrated time after time that it has little regard about cost
2 when it comes to spending on itself and its personal meals, entertainment, and travel.

3 While KCPL does not operate in a competitive environment, it is expected of a utility that
4 it will operate responsibly and seek to minimize costs as if it actually does operate in a
5 competitive market. It is the primary role of the Commission to see that Missouri utilities
6 act in this manner. If Missouri utilities do not, the Commission is charged with the
7 responsibility to ensure the utility operates as a competitive firm would operate. The
8 Commission is the only entity that has the power to protect captive ratepayers from being
9 burdened with excessive and imprudent costs.

10 One way the Commission can fill that responsibility in this particular KCPL rate case is
11 to accept OPC's expense account adjustment and require KCPL to make substantive
12 changes in its policies, such as adopting the five specific changes I proposed in my direct
13 testimony.

14 **Q. Based on your review of KCPL management expense reports, does it appear that**
15 **KCPL's officers purchase alcohol at meals and at entertainment events and charge**
16 **the cost to ratepayers?**

17 A. Yes, they do.

18 **Q. Do KCPL's policies allow for alcohol consumption during work activities?**

19 A. No. KCPL's *Guiding Principles and Code of Ethical Business Conduct* provide the
20 structure for the decisions it makes and how it deals with legal and ethical issues. It also
21 describes how KCPL treats its employees, customers, shareholders, regulators,
22 legislators, and communities.

1 According to this document, there is an expectation KCPL's Board of Directors and
2 employees will maintain the highest ethical standards while doing their jobs. The policy
3 on alcohol consumption is as follows:

4 Substance Abuse

5 Employees are expected to report for work in a condition that
6 allows them to perform their job duties. An employee's off-the-job
7 and on-the-job involvement with drugs and alcohol can have an
8 impact on workplace relationships, job availability and
9 performance. At no time does the company allow employees to
10 purchase, use, possess, sell, distribute, manufacture or be under the
11 influence of illegal drugs, including misused prescription drugs,
12 during working hours (including lunch or break periods) or on
13 company or customer property. Employees will be subject to
14 discipline, including discharge, if they report for work with a blood
15 alcohol concentration of 0.02 or greater or are under the influence
16 of a controlled substance.

17
18 Disciplinary action will also be taken if an employee possesses or
19 uses alcohol or a controlled substance, except legally obtained
20 prescription drugs, during working hours (including lunch or break
21 periods) on company or customer property.

22
23 Exceptions for the use or possession of alcohol in connection with
24 authorized events will be approved in advance by the chief
25 compliance officer. (emphasis added).
26

27 **Q. Does KCPL allow for reimbursement of employees and guests personal use of**
28 **alcohol?**

29 A. Yes. Just one example was a \$1,628 charge by a KCPL management employee at Kansas
30 City's Kaufman Stadium May 6, 2015. KCPL reimbursed an employee for \$648 in
31 alcohol charges for that one event. KCPL charged this expense to account 107
32 (construction work in progress) that, if not charged to a different entity, will eventually be
33 charged to KCPL's rate base as plant in service.

1 When this happens, KCPL's customers will then be required to pay KCPL a profit on this
2 purchase of alcohol as well as the associated incremental interest expense, property taxes
3 and depreciation expense. KCPL management finds this to be perfectly reasonable and
4 appropriate to charge to its customers.

5 This event was not even related to KCPL's regulated operations. The charges for this
6 event were for food, alcohol and entertainment for KCPL and Transource employees (an
7 affiliate of KCPL) in a celebration of the Iatan-Nashua transmission line, a non-regulated
8 transmission line, being in-service.

9 **Q. Did you review several other examples where the use of alcohol was reimbursed by**
10 **KCPL?**

11 A. Yes.

12 **Q. Do you believe it is ever reasonable for KCPL to charge its utility ratepayers for**
13 **KCPL management's purchase of alcohol?**

14 A. No, it would never be appropriate.

15 **Q. If no real changes in KCPL's expense report procedures are made as a result of this**
16 **rate case, will this issue continue in KCPL's current rate case and beyond?**

17 A. Yes. While Staff appears to have dropped this expense account audit scope from its rate
18 case audit, OPC intends to expand the scope of its audit work in this area in future KCPL
19 rate cases.

20 **Q. When it comes to expense account charges, does KCPL have completely different**
21 **standards for itself than it does for work performed by professional consultants?**

1 A. Yes, they are completely different. I have reviewed a KCPL contract with a vendor that
2 includes very reasonable and prudent standards on the amount of expense account
3 charges that KCPL will reimburse its professional consultants.

4 For example, below is a list of requirements that KCPL placed on a consultant under
5 services provided to KCPL a few years ago. I have removed the name of the vendor.
6 The actual contract that includes these expense account requirements is reflected as Staff
7 Exhibit 244HC in Case No. ER-2014-0370, which is a June 2, 2015 KCPL response to
8 Staff Data Request No. 619:

9 Travel Expenses

10 *Travel and other out-of-pocket expenses shall be paid by GPES in
11 addition to the hourly rates stated above, and shall be reasonable,
12 customary and actual charges, passed through at _____'s cost, with
13 no markup.....

14 *Airfare shall be at coach-class fares. *_____ personnel shall share
15 ground transportation whenever practical.

16 *Per diem meal charges shall not exceed \$50.00.

17 *Lodging shall be at reasonable rates. _____ shall use GPES
18 preferred hotels or hotels at which _____ has negotiated preferred
19 rates, when possible. ·

20 *Receipts shall be provided for all out-of-pocket expenses of
21 \$25.00 or more.
22
23

24 **OPC's Management Expense Recommendations – Steve Busser**

25 **Q. What was KCPL's response to your proposal that KCPL adopt a per diem policy as**
26 **addressed in the rebuttal testimony of KCPL witness Busser?**

27 A. The positions taken by Mr. Busser in his testimony are premised on his assumption that
28 KCPL's meal reimbursement policy only reimburses reasonable, legitimate, and properly
29 documented meal expenses. It has been proven over the past ten years for KCPL that this

1 statement is false. The whole premise of Mr. Busser's testimony, that there is no need for
2 a change in KCPL's expense report procedures, is wrong.

3 My conclusion that a per diem policy is needed is based on overwhelming evidence that
4 KCPL currently has no controls on the level of meal charges for which its employees can
5 seek reimbursement. A meal reimbursement policy for a public utility that permits \$250
6 costs of one meal is not reasonable. However, Mr. Busser apparently believes KCPL
7 employees should be able to go to a restaurant, incur a \$250 bill for food and alcohol, and
8 charge that \$250 to the utility and its ratepayers. Mr. Busser and I disagree on this issue.

9 KCPL regularly and habitually reimburses excessive, inappropriate, and imprudent meal
10 charges without any regard for the ratepayers who ultimately pays for these costs. If Mr.
11 Busser believes that KCPL only reimburses reasonable meal charges, I suggest he review
12 again the evidence OPC provides in this rate case and the evidence provided by Staff in
13 KCPL rate cases over the past 10 years.

14 **Q. Mr. Busser states at page 6 line 15 of his rebuttal testimony that, in his "professional**
15 **opinion", KCPL and KCPL's expense report policies protect ratepayers. What is**
16 **your response?**

17 A. Given the substantial evidence to the contrary in this rate case and over the past ten years,
18 the Commission should consider the credibility of KCPL witness Busser's testimony
19 based on his "professional opinion" that KCPL expense report policies and procedures
20 protect ratepayers. The Commission should weigh the evidence put forth by OPC in this
21 case as well as consider the historical problems with KCPL in this area when they
22 evaluate the credibility of KCPL witness Busser's rebuttal testimony.

23 **Q. At page 4 his rebuttal testimony, Mr. Busser states that adopting a per diem policy**
24 **will add to administrative burdens. Is he correct?**

1 A. No. Adopting a per diem policy will actually reduce KCPL's expense report
2 administrative burdens by eliminating the need to keep, track, and audit receipts for
3 expenses. Mr. Busser may not be aware, but under a per diem policy there is not a need
4 to endure the administrative burden of managing receipts. To the extent that a per diem
5 policy would add to administrative burdens at KCPL perhaps that is because KCPL's
6 present compliance is unreasonably lax.

7 **Q. Mr. Busser states that by adopting a per diem policy KCPL would have to “track**
8 **meal cost indices by region”. Is that correct?**

9 A. No it is not correct. While it is not at all difficult or administratively burdensome to track
10 individual city per diems, KCPL could adopt average per diem in a particular state or
11 region. In lieu of that, KCPL could adopt the policy of using the highest per diem rate
12 published by GSA and just use that one single rate for all expense reports per year. That
13 would be approximately \$75 per day for employees in travel status and significantly less
14 than the current charges incurred by KCPL management. If KCPL adopted the highest
15 per diem rate allowable, it will save ratepayers thousands of dollars in meal charges each
16 year.

17 These are just some ways KCPL could make the inherent reduction in administrative
18 costs of adopting a per diem policy even greater.

19 **Q. Mr. Busser states at page 4 that he thinks adopting a per diem policy will lead to**
20 **higher costs. Do you agree?**

21 A. No. Mr. Busser's statement is counter-intuitive. Adopting a per diem policy reduces
22 costs by limiting inappropriate and excessive employee charges as well as reducing the
23 administrative expenses of processing expense reports by eliminating need to keep, track,
24 document, and audit meal receipts.

1 **Q. In the past, did the Commission require its Staff to keep and provide receipts for**
2 **travel meals for a period of time prior to adopting its current a per diem policy?**

3 A. Yes and I was a member of the Staff during that short time period. In my personal
4 experience, not having to deal with meal receipts allowed by the adoption of a per diem
5 policy significantly reduced the administrative burden on the employee seeking
6 reimbursement and on the employees who are required to audit requests for
7 reimbursements.

8 **Q. Mr. Busser concludes his rebuttal testimony by stating that the use of per diems is**
9 **not customary in the utility industry. Please comment on this assertion**

10 A. The fact whether or not it is “customary” in the utility industry is not relevant at all to this
11 rate case issue with KCPL. Mr. Busser’s conclusions on what is customary is based
12 solely on a utility he used to work for, El Paso Electric, Westar, Inc. Ameren Missouri
13 and a utility company he talked to through an online message board. I would not make
14 any such broad conclusion based on only four of the hundreds of utility companies in the
15 U.S.

16 But even if one does assume that per diem policies are not customary in the utility
17 industry, the expense account problems that have been experienced with KCPL are unjust
18 and unreasonable. This problem calls out for special treatment for KCPL due to the
19 nature and severity of its problems.

20 **Q. At page 9 beginning at line 19 of his rebuttal testimony does Mr. Busser seem to**
21 **recognize that KCPL has had major problems with its expense report process?**

22 A. Yes. He testifies that KCPL’s new expense report policies that it adopted as a result of its
23 Stipulation and Agreement in its 2014 rate case has led to “significant improvements” in
24 its expense reimbursement process.

1 **Q. Do you agree that there have been improvements in KCPL's expense**
2 **reimbursement process?**

3 A. There may have been incremental progress. However, no real progress can be made until
4 KCPL adopts OPC's five recommendations made by OPC in my direct testimony,
5 including KCPL's adoption of a per diem policy and a commitment not to charge KCPL
6 management's alcohol costs to ratepayers.

7 **Q. Did KCPL make these changes to its expense report process on its own volition?**

8 A. No, it did not. It only made these changes as a result of the position taken by Staff in
9 KCPL's 2014 rate case related to KCPL's expense reimbursement problems. In that rate
10 case I was the sole Staff witness on that issue.

11 **Q. Mr. Busser testifies that KCPL's expense reimbursement process has improved and**
12 **this improvement was caused by the positions you took in testimony in KCPL's 2014**
13 **rate case. Do you believe that if KCPL heeded you recommendations to the**
14 **Commission in this rate case that KCPL's management expense reimbursement**
15 **processes will improve further?**

16 A. I do not think there is any question that it would. The positions I took in KCPL's last rate
17 case have led to improvements. I strongly believe that the positions I take in this rate
18 case, if adopted by KCPL, will lead to significant improvements. In fact, if KCPL
19 adopted each of the recommendations in my direct testimony, I do not believe that this
20 issue, which has drained resources for the past ten years, will continue to exist.

21 The problem will not be fixed by KCPL's management acting on its own because KCPL
22 does not seem to recognize that it is unjust and unreasonable to require ratepayers to pay
23 for excessive and imprudent management expenditures. This entitlement is so engrained
24 in the culture at KCPL that Mr. Busser states at page 13 line 6 that any attempt to stop

1 KCPL management from consuming alcohol and charging that cost of alcohol to
2 ratepayers is micro-managing the company.

3 **Q. Is the Commission charged with supervising Missouri utilities?**

4 A. Yes it is.

5 **Q. Do you believe that it is within the Commission's authority to order KCPL not to**
6 **charge its customers for the purchase of alcohol?**

7 A. Yes, I do and I hope the Commission will do so in its Report and Order in this rate case.

8 **Q. Does KCPL appear to realize that it is a public utility that is accountable to its**
9 **customers?**

10 A. No. KCPL management appears to regard its duty to ratepayers as merely incidental to
11 their mission. A company concerned about affordability would not force these
12 unreasonable and imprudent costs onto customers. Based on past behavior and the
13 evidence in this case, KCPL's customers who do not have a choice in their electric
14 provider will continue to be forced to pay for the expensive lunches and alcohol for
15 KCPL management unless the Commission acts. Public Counsel requests the
16 Commission admonish KCPL for its practices and direct it to adopt the recommendations
17 contained in my direct testimony.

18 **SERP – Kelly Murphy**

19 **Q. Is KCPL required to make lump sum SERP payments?**

20 A. No. A SERP is an additional compensation program created and controlled by a
21 company's board of directors. KCPL does not have to offer a SERP at all and it can limit
22 the SERP plan to annual recurring payments.

1 **Q. Because of its unique nature and the fact that it represents an additional executive**
2 **pension benefit over and above what is already provided in the regular pension**
3 **plan, the Staff has traditionally treated SERP costs somewhat differently than**
4 **normal employee pension costs. Is that correct?**

5 A. Yes. The Staff's policy in the past recommended SERP costs be included in cost of
6 service if they are not significant, are reasonably provided for and able to be quantified
7 under the known and measurable standard.

8 **Q. Does KCPL have a history of paying its former executives SERP lump sum**
9 **payments that are unreasonable and excessive, and therefore should not be included**
10 **in cost of service?**

11 A. Yes. According to KCPL's response to Staff Data Request Nos. 196 in Case No. ER-
12 2009-0089 and 187 in Case No. ER-2012-0174, KCPL paid a lump sum SERP payment
13 to one employee in 2001 of \$3,337,402 . In 2004 KCPL also made a SERP lump sum
14 payment to one employee of \$2,464,055. In 2011 KCPL made a lump sum SERP
15 payment to and employee who was an employee of KCPL for just over 5 years in the
16 amount of \$708,003.

17 **Q. Do you believe that it is possible to pay an employee a lump sum SERP payment of**
18 **\$3.3 million dollars under a basic restoration SERP plan as Ms. Murphy suggests?**

19 A. No. It certainly should not be possible. Assuming the SERP buyout payment was based
20 on an actuarial assumption that this retired KCPL employee will live 14 years past
21 retirement. This means that the "supplemental" pension payment would be \$235,000
22 annually (\$3.3M/14 years). That annual payment of a "supplemental" pension payment,
23 over and above the employee's regular pension payment is excessive and clearly not
24 based on base salary as Ms. Murphy claims. To illustrate, assume that this individual's
25 regular annual pension payments was equals his or her SERP, the annual pension

1 payment to this one former utility employee would be \$470,000. Clearly this is some
2 other factor other than base salary that was included in this individual's SERP
3 calculation. Ms. Murphy does not address this.

4 **Q. Is it possible that KCPL made changes to its SERP and no longer includes the types**
5 **of compensation you referred to in your direct testimony?**

6 A. Yes it is. However, I am not aware of any changes and even if these changes were made,
7 that in no way means that KCPL's SERP is a basic restoration SERP. KCPL's SERP
8 includes additional benefits based on credited additional years of service over and above
9 the actual years of service earned. These bonus years of service results in bonus payments
10 through a SERP that will be paid based on a change of control. These are benefits that
11 are not provided in a qualified pension plan but are provided only to certain KCPL
12 employees.

13 **Q. Has KCPL admitted that its SERP is not a basic restoration SERP?**

14 A. Yes. In response to Staff Data Request No. 282 in Case No. ER-2009-0089, KCPL
15 explained that it could provide no such assurance that KCPL's SERP was a simple SERP
16 restoration plan.

17 KCPL response: The plan's actuaries could not "certify" that the
18 SERP calculations only represented a restoration of amounts that
19 were lost in the qualified plan due to IRS imposed limits. The
20 benefit accrual formula includes an increased accrual rate, and in
21 some cases may include extra years of service.

22
23 **Q. Please explain why OPC does not believe annual lump sum SERP payments should**
24 **be included in KCPL's cost of service.**

25 A. These lump sum payments are not a known and measurable expense. The prior amounts
26 of SERP lump sum payments made by KCPL have been so volatile that no reasonable
27 estimation of future lump sum payments can be made. For example, in the three year

1 period 2007 through 2009 KCPL made only one lump sum SERP payment. Over the
2 entire time KCPL has made lump sum payments, the range of payments has been from a
3 low of \$300 to a high of \$3.3 million. KCPL's history of lump sum SERP payments do
4 not meet the basic ratemaking requirement of being known and measurable and thus
5 cannot be quantified accurately enough to be included in cost of service.

6 **Q. Does Ms Murphy explain her understanding of the term "known and measurable"**
7 **in her rebuttal testimony?**

8 A. Yes. She states that a lump sum SERP payment is known and measurable at the time of
9 payment.

10 **Q. Do you agree?**

11 A. Yes certainly an expense is known and measurable when it is eventually paid. But that is
12 not the Commission standard for including costs in utility rates. The Commission
13 recently explained its known and measurable standard in its Report and Order in Case
14 No. WR-2016-0064, at page 18:

15 Since it occurs after the update period, to be included in Hillcrest's
16 cost of service the expense must have been realized (known) and
17 must be calculable with a high degree of accuracy (measurable).
18 However, the evidence shows that the 2016 property tax amount
19 has not yet been paid, is an estimate of the property tax costs, and
20 could change during the summer of 2016. Therefore, that property
21 tax estimate is not known and measurable, so it is inappropriate to
22 include that amount in the revenue requirement for this case. The
23 correct property tax expenses to include in Hillcrest's cost of
24 service are the amounts determined by Staff based on actual
25 property tax paid in 2015, as those amounts are consistent with the
26 matching principle.

27
28 To be included in rates the Commission ruled that a cost must be realized (future lump
29 sum SERP payments are not realized) and must be measurable – able to be calculated
30 with a high degree of accuracy. KCPL's lump sum SERP payments are highly irregular

1 and are not able to be calculated with any degree of accuracy, let alone a high degree of
2 accuracy.

3 **Q. Does Ms. Murphy effectively admit in her rebuttal testimony that lump sum SERP**
4 **payments do not meet the Commission’s known and measurable standard?**

5 A. Yes. Ms Murphy admits that no lump-sum SERP payments were made in the test year in
6 this rate case. She also said due to the “sporadic nature” of executive separations,
7 SERP lump sum payments can vary significantly from year to year.

8 **Q. Does KCPL’s annuity-based SERP payments, as opposed to lump sum SERP**
9 **payments, meet the Commission’s known and measurable standard?**

10 A. Yes.

11 **Q. Should the Commission waive the application of its rate case known and measurable**
12 **standard for KCPL’s SERP payments simply because KCPL’s officers want to**
13 **receive SERP benefits up front and not in the manner that the payments were**
14 **designed, as an annuity?**

15 A. No. The Commission should determine that KCPL’s lump sum payments are exactly as
16 Ms Murphy described. They are sporadic and they are not able to be calculated with any
17 degree of accuracy. The Commission should rule that if KCPL wants ratemaking
18 treatment of all of its SERP expenses, it should eliminate lump sum payments and pay all
19 of its SERP benefits on an annuity basis.

20 **Q. Are the SERP payments for former WCNOC employees excessive?**

21 A. Yes, they are. KCPL’s payments to former WCNOC are excessive with an average
22 supplemental pension payment in excess approximately \$70,000. This is contrasted with
23 an average SERP payment to former KCPL executives of \$8,800. OPC calculated an
24 appropriate and reasonable SERP expense for WCNOC by multiplying the seven former

1 WCNOC employees receiving payments by the average KCPL annual SERP payment for
2 an annual amount of \$61,834.

3 **Q. Does KCPL witness Murphy disagree with your conclusion that WCNOC SERP**
4 **payments are excessive compared to KCPL?**

5 A. Yes. However, she did not perform any analysis to show that these WCNOC payments
6 are not excessive compared to KCPL. Her rationale appears to be that WCNOC payments
7 are not excessive because KCPL makes more lump sum payments. Unless KCPL can
8 provide an analysis to show that the WCNOC payment levels are appropriate, I stand by
9 the analysis I provided in my direct testimony which shows that WCNOC SERP
10 payments are excessive compared to KCPL and should be adjusted to a level comparable
11 to KCPL

12 **SERP – Ron Klote**

13
14 **Q. At page 51 line 17 of his rebuttal testimony Mr. Klote states that I used the year**
15 **2015 to base my SERP calculation and 2015 was the lowest level in five years. Why**
16 **did you select 2015?**

17 A. I used the year 2015 because it was the last full year of SERP data available at the time of
18 my adjustment. Therefore I used the latest known and measurable data.

19 **Q. Would you be willing to update this SERP calculation based on updated 2016 data?**

20 A. Yes. Contrary to Mr. Klote's insinuation that I used 2015 only because it was the lowest
21 cost in five years, even if 2016 was higher, I would be willing to update my adjustment
22 based on 2016 data.

1 **Q. At page 51 line 22 Mr. Klote stated that Ms. Murphy's testimony demonstrates that**
2 **I do not understand what the SERP payments for KCPL's plan are based on when**
3 **calculated. Please comment.**

4 A. I do very much understand that KCPL's SERP is not at all a basic restoration SERP. In
5 my example above where KCPL made a \$3.3 million lump sum SERP payout, I
6 demonstrated my understanding that KCPL's SERP benefits were not just a restoration of
7 basic benefits lost due to IRS limitations. I also admit that KCPL could have made
8 changes in its SERP to remove certain types of compensation since it made the \$3.3
9 million SERP payment. I do agree that there is a possibility that KCPL's SERP includes
10 the same compensation as KCPL's basis pension plan, but I do not believe that is correct.
11 Other than the little chart in Ms. Murphy's testimony, she provides not such evidence. I
12 have seen evidence that KCPL's SERP is not only based on regular compensation.

13 **Q. Even if KCPL's SERP plan was a basic restoration plan, would that have any**
14 **impact on your SERP analysis or SERP adjustment?**

15 A. No. That fact is not significant to my KCPL or WCNOG SERP adjustment. The
16 foundation of my adjustment is reasonableness.

17 **Q. Did you read Mr. Klote's testimony on capitalization of SERP costs at page 53 of his**
18 **rebuttal testimony?**

19 A. Yes.

20 **Q. Can you make any sense of his rationale for capitalizing SERP costs at page 53 lines**
21 **8 through 17?**

22 A. I tried, but I could not. This rationale is not based on any accounting theory, accounting
23 principle or ratemaking theory or principle of which I am familiar. This testimony is
24 unsound from either an accounting or a ratemaking standpoint. Mr. Klote apparently

1 believes it is reasonable to charge, as a capital cost to utility plant, SERP expenses paid to
2 a former employee who retired years ago and provided no benefit to that construction
3 project. That is just not understandable.

4 This KCPL approach is not easy to understand and is in direct conflict with accounting
5 principles advocated by the Financial Accounting Standards Board. I believe that soon
6 generally accepted accounting principles (“GAAP”) will forbid the type of accounting
7 Mr. Klote supports for pension-type expenses, such as a SERP. I agree with the FASB
8 and GAAP on this issue and disagree with Mr. Klote and KCPL’s newly-changed
9 approach to SERP capitalization.

10 As an example, under the FASB approach to expense capitalization, assume a former
11 KCPL employee worked for KCPL in 1980 and retired in 1981. This employee may have
12 provided benefit to KCPL’s construction projects in 1980, but not after he retired in 1981.
13 His employee compensation costs in 1980 would have been appropriately charged to
14 plant projects in 1980.

15 Under Mr. Klote’s approach annual SERP payments to that former employee who retired
16 in 1981 are still being charged, in part, to KCPL’s 2017 utility plant projects although
17 that employee provided no benefit to KCPL at all since 1980.

18 **Q. In previous rate case did a KCPL officer agree with your recommendation not to**
19 **capitalize SERP expenses to plant projects?**

20 A. Yes. KCPL correctly accounted for SERP costs for a period. However, KCPL has now
21 accepted Mr. Klote understanding of the proper accounting for SERP and has return to its
22 old and incorrect accounting.

23 **Regulatory Lag – Mark Oligschlaeger**

1 **Q. At page 8 of his rebuttal testimony Staff witness Mark Oligschlaeger discusses one of**
2 **the problems with expense trackers, which is the reduction in the level of incentives for**
3 **utility employees to take actions to keep costs as low as possible. Do you agree with**
4 **Staff that trackers reduce the incentive for utilities to keep costs low as possible?**

5 A. It is axiomatic in ratemaking that guaranteeing the rate recovery of any cost under an
6 expense tracker or an FAC will eliminate or significantly reduce utility management
7 incentives to be efficient in managing that cost. That is one of the clearly recognized
8 detriments of FACs and expense trackers. I generally agree with Staff's position on this
9 issue with one exception. Mr. Oligschlaeger makes the statement "Excessive use of trackers
10 can serve to eliminate or weaken these beneficial incentives." I find that there are two problems with
11 this testimony.

12 **Q. What is the first problem with this statement?**

13 A. Any and all use of trackers in a utility's cost of service reduces cost reduction incentives.
14 Mr. Oligschlaeger puts a qualifier on this fact by asserting only that "excessive" use of
15 trackers reduces cost reduction incentives. To make this statement correct and reasonable, it
16 should state that "any" use of trackers will eliminate or weaken cost efficiency incentives.

17 **Q. What is the second problem you find with Mr. Oligschlaeger's statement that excessive**
18 **use of trackers can serve to eliminate or reduce beneficial incentives?**

19 A. The second problem is Mr. Oligschlaeger's use of the term "can serve" when he describes the
20 ratepayer detriment that is caused by the use of trackers. As noted above, it is axiomatic in utility
21 regulation that trackers do, by definition, reduce utility management incentive to keep the expenses
22 recovered under a tracker as low as possible. This is not merely a possibility as Mr. Oligschlaeger's
23 statement could be read to imply. Trackers result in higher costs because utility management has no
24 incentive to keep costs low. Utility management will focus cost control efforts on costs that are not
25 guaranteed rate recovery which can impact its net income and shareholder return. The main focus on

1 utility management is on company (including parent company and affiliate) net income, the bottom
2 line in the income statement and meeting company earnings targets.

3 **Q. You say that there are no incentives for utility management to keep costs that are subject to a**
4 **tracker as low as possible. What about potential prudence audits?**

5 A. In Missouri, there is no effective use of prudence audits. Based on my experience and in my opinion,
6 the very high Commission prudence cost disallowance standards, as well as other reasons, has
7 resulted in the absence of effective prudence audits of special rate recovery mechanisms in Missouri
8 utility regulation.

9 **Q. Has the Commission in the past recognized the inherent weakness of a prudence audit as a**
10 **substitute for the competitive pressures of regulatory lag?**

11 A. Yes. At page 40 of its Report and Order in Case No. ER-2008-0318 for Union Electric, the same
12 Report and Order that authorized Ameren Missouri's FAC, the Commission noted that a tracker
13 gives a utility a blank check to spend however much it wants with assurance that any expenditure
14 will likely be recovered from ratepayers. The Commission also noted that a prudence review is not a
15 complete substitute for a good financial incentive. I would differ with the Commission only to the
16 extent that I would go further and state that a prudence review (at least how prudence reviews are
17 conducted in Missouri) is no substitute at all for a good financial incentive.

18 The Commission finds a ten percent cap on the tracker to be appropriate.
19 Without a cap, the tracker would essentially give AmerenUE a blank check
20 to spend however much it wants on vegetation management with assurance
21 that any expenditure will likely be recovered from ratepayers. Of course,
22 any such expenditure would still be subject to a prudence review in the next
23 rate case, but a prudence review is not a complete substitute for a good
24 financial incentive.
25

26 **Expenses in Rate Base – Mark Oligschlaeger**

27 **Q. At pages 18-19 of his rebuttal testimony, Mr. Oligschlaeger states, in general, Staff**
28 **believes the question of rate base treatment of tracker balances is best determined on a**

1 **case-by-case basis by the Commission. Do you agree with this position, which provides**
2 **great Commission flexibility in its ratemaking decisions?**

3 A. Yes, I do. OPC generally supports maximum Commission flexibility in its ratemaking
4 determinations. However, if the Commission has a policy, or has provided guidance on a
5 particular ratemaking issue, and it decides not to apply that particular issue in a rate case, the
6 Commission should, at least, provide reasons why it is not applying that policy or practice in
7 a particular case.

8 **Q. At page 19 Mr. Oligschlaeger states that utility “customers” are typically given rate**
9 **recovery of tracked expenses through a multi-year amortization to expense. Does this**
10 **statement make any sense to you?**

11 A. None at all. I am not sure why Mr. Oligschlaeger believes that utility customers are given
12 rate recovery when they are the party that is charged for a utility expense in utility rates.
13 This statement is just factually wrong and may likely be just an oversight by Mr.
14 Oligschlaeger.

15 **Q. At page 19 of his rebuttal testimony Mr. Oligschlaeger states that allowing rate base**
16 **treatment of unamortized tracker balances gives full rate recovery of the cost**
17 **differential to utility customers. Does that statement make any sense to you?**

18 A. Similar to the last statement, it makes no sense at all. It is not clear how “utility customers”
19 are given “full rate recovery” of a tracked cost by allowing a tracked expense to be included
20 in rate base. Mr. Oligschlaeger may be referring to an occasion when the utility has
21 recovered all of a tracked cost the tracker records any potential double recovery of the costs
22 in order to prevent that from occurring. While his testimony is not clear, that is the only
23 explanation that could make sense.

24 **Q. Mr. Oligschlaeger, who has been an accountant with the Commission Staff for**
25 **approximately 30 years, is not aware of any obligation on the part of the Commission**

1 **to allow rate base treatment of trackers in a rate case. Do you agree with Mr.**
2 **Oligschlaeger?**

3 A. Yes, based on my experience with the ratemaking treatment of trackers, Mr. Oligschlaeger
4 is correct. The Commission has total freedom on the ratemaking treatment of all trackers
5 (other than trackers that have been ordered by statute) in a rate case. I would add the
6 Commission has the freedom to change the ratemaking treatment of trackers from one case
7 to the next based on the circumstances of the rate case. This is the policy that appears to be
8 supported by Staff and is supported by OPC.

9 **Q. At page 21 of his rebuttal testimony Mr. Oligschlaeger states the longer the**
10 **amortization period, the more the economic value of the deferral will be lost to the**
11 **customer if the unamortized balance of the deferral is not included in utility rate base.**
12 **Does that statement make any sense to you?**

13 A. No. That statement makes no sense to me at all. It is just too far outside the range of
14 reasonableness to try to make any sense of this testimony.

15 **Q. At page 7 Mr. Oligschlaeger defends Staff's ratemaking treatment of AAOs for ice**
16 **storms and other similar events and refers to these items as extraordinary. Are ice**
17 **storms for a Midwest electric utility and extraordinary event?**

18 A. No. Ice storms and the related costs that have been incurred by Missouri electric utilities are
19 not extraordinary events or extraordinary costs under generally accepted accounting
20 principles ("GAAP"). Also, they are not extraordinary events under FERC's interpretation
21 of its own Uniform System of Accounts ("USOA"). Given that ice storms for a Midwest
22 utility are not considered an extraordinary event by GAAP nor by FERC, it is not clear to
23 me why Staff continues to refer to these events as extraordinary and relies on the USOA as
24 the basis for this position.

1 **Q. In his testimony Mr. Oligschlaeger states Staff supports rate treatment of AAOs for**
2 **events such as ice storms as an incentive to utilities to restore service. However he does**
3 **not support rate base treatment for these ice storm expenses. In contrast, however,**
4 **Mr. Oligschlaeger supports full rate base treatment and an amortization to expense**
5 **for normal and recurring operation and maintenance expenses related to newly**
6 **constructed utility plant. Is that a logical and coherent ratemaking position?**

7 A. No. If the Staff is concerned with providing an incentive to a utility to move quickly to fix
8 power outages from an ice storm and restore power as soon as possible, it is logical that
9 Staff would support full rate base treatment of the ice storm expenses as well as an
10 amortization to expense of the deferred expenses. They do not. Instead Staff reserves its full
11 ratemaking treatment to normal regulatory lag where there is no reason to provide an
12 incentive to a utility.

13 A utility has total control over when it files a rate case. It should time its rate case to be in
14 sync with the time its newly-constructed plant is placed in service. If it does not do so, it is
15 utility management who should be required to absorb the risk that regulatory lag will not
16 allow 100 percent recovery of the costs of that plant (primarily depreciation expense and a
17 financial return) to be recovered in rates before rates are changed in a rate case. If a utility
18 times its rate case appropriately then it will only experience modest regulatory lag from the
19 date the plant is placed in service until the date rates are changed in the rate case. This is
20 typical regulatory lag that should be absorbed by shareholders.

21
22 **Q. Does Mr. Oligschlaeger believe this is the type of regulatory lag that should be**
23 **absorbed by shareholders?**

24 A. No. He assigns the 100 percent cost of this regulatory lag to ratepayers and assigns no costs
25 of this regulatory lag to shareholders. It would be bad enough if Staff only allowed an

1 amortization of these deferred plant in service costs. But the position advocated by Mr.
2 Oligschlaeger goes much further. Staff not only supports the deferral and amortization of
3 these plant costs but also supports full rate base treatment and full profit returns on these
4 normal and recurring utility operating expenses. That is not reasonable and it is simply an
5 excessively utility-supportive ratemaking position. Staff, in this particular instance,
6 abandons any sense that it is charged with balancing the interests of ratepayers and
7 shareholders and only supports the interests of the utility and its shareholders.

8 **Q. Do you believe it is time for Staff to rethink and reevaluate its policies on ratemaking**
9 **treatment of trackers?**

10 A. Yes. Staff's position is not only illogical; it is directly contrary to Staff's stated policy goals
11 of balancing the interests of ratepayers and shareholders.

12 **Q. In an attempt to justify his position, Mr. Oligschlaeger states that the Iatan deferral**
13 **are capital costs that belong in rate base. Is this correct?**

14 A. No. Mr. Oligschlaeger states that "these deferrals clearly arose from KCPL's construction
15 activities". I agree with this statement, however almost all of KCPL's normal and recurring
16 everyday operations and maintenance (O&M) expenses arose from KCPL's construction
17 activities. Construction accounting deferrals are nothing more than deferrals of normal and
18 recurring utility costs and expenses. They include normal and recurring depreciation
19 expense, normal and recurring interest expense, normal and recurring property tax expense
20 and normal and recurring cost of equity, none of which is eligible for rate base inclusion
21 under a reasonable understanding of what constitutes a rate base asset.

22 **Q. Does the Commission have a reasonable understanding of what constitutes a rate base**
23 **asset?**

24 A. Yes, it does and it expressed this understanding in its Report and Order in KCPL's 2006 rate
25 case, ER-2006-0314. The Commission described that additions to rate base must be an

1 “asset”. The Commission also described an “asset” as “some sort of possession or
2 belonging worth something that is owned or controlled by the utility.” A regulatory asset
3 expense deferral has no intrinsic value. It has no value other than a value that the
4 Commission attributes to that deferral. The Commission stated to include expense projects
5 in rate base, as KCPL proposed in its 2006 rate case, was making a “mockery” out of what
6 constitutes a rate base asset. The Commission made the following 7 points:

7 1. "...In order for an item to be added to rate base, it must be an asset.
8 Assets are defined by the Financial Accounting Standards Board (FASB)
9 as 'probable future economic benefits obtained or controlled by a particular
10 entity as a result of past transactions or events' (FASB Concept Statement
11 No. 6, Elements of Financial Statements).

12 2. Once an item meets the test of being an asset, it must also meet the
13 ratemaking principle of being 'used and useful' in the provision of utility
14 service. Used and useful means that the asset is actually being used to
15 provide service and that it is actually needed to provide utility service. This
16 is the standard adopted by many regulatory jurisdictions, including the
17 Missouri Public Service Commission."

18 3. The Commission finds that the competent and substantial evidence
19 supports the position of Staff, and finds this issue in Staff's favor.
20 While KCPL's projects appear to be prudent, KCPL produced insufficient
21 evidence for the Commission to find that these projects rise to the level of
22 an asset, on which the company could earn a rate of return.

23 4. What is at issue is not whether a project is a "probable future economic
24 benefit", as KCPL asserts in its brief; what is at issue is the remainder of
25 the FASB definition Mr. Hyneman quoted, which is "obtained or controlled
26 by an particular entity as a result of past transactions or events."

27 5. In other words, an asset is some sort of possession or belonging worth
28 something. KCPL obtains or controls assets, such as generation facilities
29 and transmission lines.

30 6. To attempt to turn an otherwise legitimate management expense, such as
31 a training expense, into an asset by dubbing it a "project" makes a mockery
32 of what an asset really is, which is some type of property.

33 7. Using KCPL's argument, any expense is potentially an asset by simply
34 calling it a "project", and thus could be included in rate base. KCPL's
35 projects do not rise to the level of rate base.

1

2 **Q. Do you believe Staff must meet a burden of proof when it attempts to overcome a**
3 **Commission Report and Order?**

4 A. Yes. However, Mr. Oligschlaeger just seems to take a dismissive view of the Commission's
5 2006 KCPL Report and Order. In his testimony rebutting the Commission's finding in that
6 Report and Order he failed to substantively address any of the Commission findings of what
7 constitutes a rate base asset. Unless Mr. Oligschlaeger can provide evidence to the
8 Commission why the Commission was wrong in its 2006 KCPL Report and Order, and why
9 the Commission should change its position and allow KCPL's Iatan deferred expenses in
10 rate case, the Staff should comply with the Commission's Order and not support the
11 inclusion of costs in rate base that do not meet Commission standards for rate base
12 inclusion.

13 **Q. Does this conclude your surrebuttal testimony?**

14 **A. Yes, it does.**