

Exhibit No.: _____
Issue(s): Below the Line Off-System Sales/
Supplemental Weatherization
and Minor Home Repair Program
Witness/Type of Exhibit: Kind/Rebuttal
Sponsoring Party: Public Counsel
Case No.: ER-2009-0089

REBUTTAL TESTIMONY

OF

RYAN KIND

Submitted on Behalf of the Office of the Public Counsel

Kansas City Power & Light Company

CASE NO. ER-2009-0089

March 11, 2009

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

In the Matter of the Application of Kansas)
City Power and Light Company for)
Approval to Make Certain Changes in its)
Charges for Electric Service to Continue)
the Implementation of Its Regulatory Plan.)

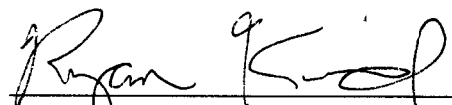
ER-2009-0089

AFFIDAVIT OF RYAN KIND

STATE OF MISSOURI)
) ss
COUNTY OF COLE)

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

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




Ryan Kind

Subscribed and sworn to me this 11th day of March 2009.



JERENE A. BUCKMAN
My Commission Expires
August 10, 2009
Cole County
Commission #05754036



Jerene A. Buckman
Notary Public

My Commission expires August 10, 2009.

REBUTTAL TESTIMONY
OF
RYAN KIND
KANSAS CITY POWER & LIGHT COMPANY
CASE NO. ER-2009-0089

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

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

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

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

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

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

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

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

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

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

14 A. Yes. I was a member of the Missouri Public Service Commission's (the Commission's)
15 Stranded Cost Working Group and participated extensively in the Commission's Market
16 Structure Work Group. I am currently a member of the Missouri Department of Natural
17 Resources Weatherization Policy Advisory Committee, the National Association of State
18 Consumer Advocates (NASUCA) Electric Committee, and the Standards Authorization
19 Committee of the North American Electric Reliability Council (NERC). I have served as
20 the small customer representative on the NERC Operating Committee and as the public
21 consumer group representative to the Midwest ISO's (MISO's) Advisory Committee.
22 During the early 1990s, I served as a Staff Liaison to the Energy and Transportation Task
23 Force of the President's Council on Sustainable Development.

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I. INTRODUCTION

Q. PLEASE IDENTIFY THE ISSUES THAT YOU WILL BE ADDRESSING IN YOUR TESTIMONY.

A. The issues that are addressed in this testimony include:

- The Supplemental Weatherization and Minor Home Repair Program proposed by the Kansas City Power & Light Company (KCPL); and
- KCPL’S proposed below the line treatment of certain off-system sales margins.

II. SUPPLEMENTAL WEATHIZATION PROGRAM

Q. WHICH KCPL WITNESS HAS FILED DIRECT TESTIMONY TO SUPPORT KCPL’S PROPOSAL FOR A SUPPLEMENTAL WEATHERIZATION AND MINOR HOME REPAIR PROGRAM?

A. The proposed Supplemental Weatherization and Minor Home Repair Program (Weatherization/Repair Program) is discussed on pages 15 and 16 of KCPL witness Allen Dennis’ direct testimony.

Q. HAVE THE DETAILS OF THE PROPOSED WEATHERIZATION/REPAIR PROGRAM BEEN DISCUSSED AT MEETINGS OF THE KCPL CUSTOMER PROGRAM ADVISORY GROUP?

A. I do not recall the details of this program being discussed at Customer Program Advisory Group (CPAG) meetings and I have attended almost all of the scheduled CPAG meetings.

Q. HAVE THE DETAILS OF THE WEATHERIZATION/REPAIR PROGRAM BEEN DESCRIBED IN THE TESTIMONY OF MR. DENNIS OR IN A PROPOSED TARIFF?

1 A. No. The testimony of Mr. Dennis has only a couple of paragraphs describing the broad
2 outline of the proposed program and the Company has not provided a proposed tariff for
3 this program.

4 **Q. DOES MR. DENNIS DESCRIBE A PROCESS FOR DETERMINING THE DETAILS OF HOW**
5 **THIS PROGRAM WOULD BE STRUCTURED AND IMPLEMENTED?**

6 A. At line 7 on page 16 of his testimony, he states “KCP&L has not proposed cost recovery
7 in this rate case, but rather will collaborate with the Staff and the Office of Public
8 Council [*sic*] on cost recovery and other aspects of the program.”

9 **Q. WHAT IS PUBLIC COUNSEL’S OVERALL RESPONSE TO THIS PROGRAM?**

10 A. OPC has been generally supportive of proposals to initiate or expand low income
11 weatherization programs and has in the past made such proposals. However, we are
12 opposed to this proposal: (1) because it is lacking in sufficient detail and (2) because we
13 believe additional **utility** funding of low income weatherization programs is not needed at
14 the same time that we have experienced an enormous increase in **federal** weatherization
15 funding due to passage of the federal economic stimulus program. KCPL could not have
16 anticipated this enormous increase in federal funding for low income weatherization
17 funding at the time that Mr. Dennis finalized his testimony in early September of 2008.

18 **Q. DOES PUBLIC COUNSEL HAVE ADDITIONAL CONCERNS ABOUT THE PROPOSED**
19 **WEATHERIZATION/REPAIR PROGRAM?**

20 A. Yes, Public Counsel has concerns about the sketchy details that have been provided about
21 using substantial amounts of ratepayer funds to repair and replace “basic systems”
22 including “heating electrical, plumbing, and roofing.” While it may make sense to do

1 minor repairs to roofs and/or walls in order to make sure that installed weatherization
2 measures will not be degraded by exposure to weather, limitations on the amount spent
3 per home were not addressed in Mr. Dennis' testimony.

4 **Q. DO YOU HAVE ANY ADDITIONAL REMARKS ON THIS ISSUE?**

5 A. Public Counsel is always willing to discuss new initiatives with utilities and would be
6 glad to have further discussions with KCPL about the appropriateness of, and program
7 design details for any new customer programs, including a Supplemental Weatherization
8 and Minor Home Repair Program.

9 **III. OFF-SYSTEM SALES MARGINS**

10 **Q. WHAT IS PUBLIC COUNSEL'S RECOMMENDATION FOR THE RATEMAKING TREATMENT**
11 **OF OFF-SYSTEM SALES MARGINS IN THIS CASE?**

12 A. Public Counsel's overall recommendation for the level of off-system sales margins to
13 reflect in KCPL's Missouri jurisdictional revenue requirement is shown on page 6 of
14 OPC witness Barbara Meisenheimer's rebuttal testimony. In this testimony, I am
15 providing support for the adjustment for below-the-line off systems sales (OSS) margins
16 that appears in the table on the above referenced page in Ms. Meisenheimer's testimony.

17 **Q. WAS THE SUBJECT OF OSS MARGINS ADDRESSED IN THE KCPL REGULATORY PLAN**
18 **THAT THE COMMISSION APPROVED IN CASE No. EO-2005-0329?**

19 A. Yes. This subject was addressed in item j. on page 22 of the Stipulation and Agreement
20 approved by the Commission in Case No. EO-2005-0329. The Commission's July 28,
21 2005 Report and Order in that case ordered "That the signatory parties shall abide by all

1 of the terms and requirements in the March 28, 2005 Stipulation and Agreement.” Item j.
2 on page 22 of the Stipulation and Agreement states as follows”

3 **j. Off-System Sales**

4 KCPL agrees that off-system energy and capacity sales revenues and
5 related costs will continue to be treated above the line for ratemaking
6 purposes. KCPL specifically agrees not to propose any adjustment that
7 would remove any portion of its off-system sales from its revenue
8 requirement determination in any rate case, and KCPL agrees that it will
9 not argue that these revenues and associated expenses should be
10 excluded from the ratemaking process.

11 **Q. HAS KCPL EXCLUDED A PORTION OF ITS OSS MARGINS FROM THE REVENUE**
12 **REQUIREMENT CALCULATIONS THAT IT MADE FOR THIS CASE?**

13 A. Yes. The Company has failed to include the OSS margins from a type of off-system
14 sales that it refers to as “Q-Sales.”

15 **Q. IS KCPL’S EXCLUSION OF THE OSS REVENUES AND COSTS ASSOCIATED WITH “Q-**
16 **SALES” PERMITTED BY THE COMMISSION’S REPORT AND ORDER AND THE**
17 **STIPULATION AND AGREEMENT IN CASE No. EO-2005-0329?**

18 A. No. KCPL’s exclusion of a portion of its OSS revenues and costs is not permitted by the
19 above quoted item j. from the Stipulation and Agreement in that case. Specifically,
20 KCPL’s exclusion of the costs and revenues associated with “Q-Sales” is not consistent
21 with the following terms that are included in item j. on page 22 of the Stipulation and
22 Agreement:

23 KCPL agrees that off-system energy and capacity sales revenues and
24 related costs will continue to be treated above the line for ratemaking
25 purposes. KCPL specifically agrees not to propose any adjustment that
26 would remove any portion of its off-system sales from its revenue
27 requirement determination in any rate case.

1 If KCPL proceeds to file responsive testimony in this case to defend its exclusion of the
2 costs and revenues associated with “Q-Sales”, then it will also be violating the portion of
3 item j. that states:

4 KCPL agrees that it will not argue that these [OSS] revenues and
5 associated expenses should be excluded from the ratemaking process.

6 **Q. HAS THE COMMISSION STAFF ALREADY ADDRESSED THE ISSUE OF KCPL’S**
7 **EXCLUSION OF “Q-SALES” IN ITS DIRECT TESTIMONY IN THIS CASE?**

8 A. Yes. The Staff addressed this issue in a paragraph that begins near the bottom of page 70
9 of the Staff Report – Cost of Service dated February 11, 2009 (Staff Report). In that
10 paragraph the Staff referenced the Stipulation and Agreement in Case No. EO-2005-0329
11 and explained why they had included the OSS margins associated with “Q-sales” in their
12 revenue requirement (cost of service) calculations.

13 **Q. PLEASE EXPLAIN ANY IMPORTANT AREAS OF AGREEMENT OR DISAGREEMENT THAT**
14 **YOU HAVE WITH THE STAFF’S TESTIMONY ON THIS ISSUE.**

15 A. The Staff and OPC are in agreement on the amount of OSS revenues, costs, and margins
16 that should be reflected in KCPL’s Missouri jurisdictional revenue requirement in this
17 case. However, Public Counsel does not agree with a couple of the statements that the
18 Staff makes regarding this issue on pages 70 and 71 of the Staff Report. The sentence
19 beginning 7 lines from the bottom of page 70 of the Staff Report states:

20 While KCPL has not technically made an adjustment to remove these
21 sales (referred to as "Q-sales") booking these transactions below the line
22 has the same effect as making an adjustment to remove them from the
23 revenue requirement determination.

24 Public Counsel believes that by excluding the “Q-Sales” OSS margins from its revenue
25 requirement, KCPL has essentially made an adjustment that is not permitted by the

1 Stipulation and Agreement in Case No. EO-2005-0329. The sentence beginning in the
2 first line at the top of page 71 of the Staff Report states:

3 The Q-sales were effectively removed without KCPL ever making an
4 actual adjustment.

5 Public Counsel also disagrees with this statement from the Staff Report since KCPL's
6 actions to exclude a portion of its OSS revenues and related costs despite its clear
7 commitments in the Stipulation and Agreement to include such revenues and related costs
8 is one of the types of prohibited adjustments addressed in the Stipulation and Agreement.

9 **Q. THE ABOVE TESTIMONY DESCRIBED WHY PUBLIC COUNSEL BELIEVES KCPL'S**
10 **ACTIONS IN THIS CASE HAVE BEEN CONTRARY TO THE COMMITMENTS IT MADE TO**
11 **OTHER SIGNATORIES TO THE STIPULATION AND AGREEMENT IN CASE NO. EO-2005-**
12 **0329. PLEASE EXPLAIN WHY OPC BELIEVES THAT THE COMPANY HAS ALSO FAILED**
13 **TO COMPLY WITH THE COMMISSION'S REPORT AND ORDER IN THE SAME CASE.**

14 A. As noted above, Commission's Report and Order in Case No. EO-2005-0329 ordered
15 "That the signatory parties shall abide by all of the terms and requirements in the March
16 28, 2005 Stipulation and Agreement." Public Counsel believes that KCPL has failed to
17 "abide by all of the terms and requirements in the March 28, 2005 Stipulation and
18 Agreement" and may be subject to penalties for its actions.

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

20 A. Yes.