BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Kansas City Power & Light Company's Filing for Approval of Demand-side Programs and for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	**File No. EO-2014-0095**

PUBLIC COUNSEL'S REPLY TO KCPL

COMES NOW the Office of the Public Counsel ("OPC" of "Public Counsel") and in reply to Kansas City Power & Light Company's ("KCPL") *Response to Order Directing Filing*, respectfully states:

1. KCPL admits that it "expects to exceed its approved budget for MEEIA Cycle 1 program portfolio costs by 120% or more[.]" (Doc. No. 101, p. 3). Despite recognizing that it will significantly deviate from the Commission-approved budget, KCPL makes clear that it will continue to spend whatever it wants without seeking prior Commission approval or making the filing required by Commission Rule 4 CSR 240-20.094(4).

2. KCPL explains that "the Company plans to file its application under the terms of the rule [4 CSR 240-20.094(4)], that is, **when** there is a 20% variance, the Company will make its filing." (Doc. No. 101, p. 2). The company's argument, apparently, is that seeking Commission approval *when* it collects 120% of its program costs is different than seeking approval *after* it has exceeded 120% of Commission-approved program costs. To be clear, there is no difference. There is no difference because the company does not plan to cease collecting program costs or cease conducting program activity once it exceeds 120% of the Commission-approved budget. Instead, the company plans to continue to spend unlimited money and seek Commission approval after-the-fact. This is an attempt to force the Commission into accepting

the company's modifications because the money has already been spent, thus, divesting the Commission of its statutory oversight.

3. The Missouri Energy Efficiency Investment Act allows the company to "implement commission-approved demand-side programs." Mo. Rev. Stat. § 393.1075.4. The Commission approved a MEEIA portfolio and budget for KCPL. The company can either implement the plan as approved or it can seek Commission approval to change its plan. What KCPL cannot do is ignore the Commission-approved plan and subject ratepayers to uncontrolled increases in program costs. Charging ratepayers for program costs in excess of 120% of the approved budget is illegal. Once the company exceeds 120% of its budget – as KCPL admits will happen – the Commission's complaint process can be utilized as a means to protect ratepayers. However, it is preferable and more efficient to stop the problem from happening before it occurs. The efficient way to prevent over-collection is to require KCPL to file an application for approval to modify its MEEIA program budget pursuant to 4 CSR 240-20.094(4) so that the Commission has the opportunity to approve or reject any changes.

4. The Company's illegal approach would allow KCPL to spend unlimited money on its MEEIA programs – this is exactly the behavior that Commission oversight should prevent. In its response, the company describes the administration of its MEEIA budget. KCPL explains that "applications for rebates have already been approved (but not yet paid) and need time to be fully processed and honored by KCP&L." (Doc. No. 101, p. 3). The Company further adds that it "should not have to deny payment of an already approved project that occurred some time prior to when the portfolio budget was well below the 120% level." *Id*. The company should never have approved rebates that would cause program costs to exceed the Commission-approved budget. Appropriate management of a budget includes accounting for on-going and projected

cost levels. The fact that the company has over-committed money in excess of the dollars approved by the Commission is a problem of KCPL's own creation. It does not allow KCPL to escape Commission oversight.

5. It is illegal to force ratepayers to pay additional program costs above and beyond 120% of what the Commission has already approved. If the Company is going to exceed that budget by more than 20%, or otherwise change its programs, the Commission's rules require that KCPL submit an application seeking authority to do so. *See* 4 CSR 240-20.094(4). When the program costs vary by 20% or more, the MEEIA program has become so different from the approved plan that further Commission oversight and approval is necessary. If the company wants to continue program activity in a manner different than approved by the Commission, it must seek the Commission's permission pursuant to 4 CSR 240-20.094(4).

WHEREFORE Public Counsel submits this *Reply to KCPL* and requests that the Commission 1) issue an Order directing Kansas City Power & Light Company ("KCPL") to stop MEEIA program activity once the company reaches 120% of the approved program budget, or 2) issue an order requiring the Company to file an application for approval to modify its MEEIA program budget pursuant to 4 CSR 240-20.094(4).

Respectfully,

OFFICE OF THE PUBLIC COUNSEL

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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to all counsel of record this 3rd day of November 2015:

/s/ Tim Opitz