

Exhibit No. 252

Exhibit No.:
Issue: *Rate Case Expense*
Witness: *Mark L. Oligschlaeger*
Sponsoring Party: *MoPSC Staff*
Type of Exhibit: *Rebuttal Testimony*
Case No.: *GR-2021-0241*
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MISSOURI PUBLIC SERVICE COMMISSION
FINANCIAL & BUSINESS ANALYSIS DIVISION

REBUTTAL TESTIMONY
OF
MARK L. OLIGSCHLAEGER

UNION ELECTRIC COMPANY
d/b/a Ameren Missouri

CASE NO. GR-2021-0241

Jefferson City, Missouri
October 2021

Rebuttal Testimony of
Mark L. Oligschlaeger

1 Q. What knowledge, skills, experience, training, and education do you have in the
2 areas of which you are testifying as an expert witness?

3 A. I have been employed by this Commission for approximately 40 years, and until
4 the last two years entirely within the Auditing Department. I have submitted testimony on
5 ratemaking matters numerous times before the Commission. I have also been responsible for
6 the supervision of other Commission employees in rate cases and other regulatory proceedings
7 many times. I have received continuous training at in-house and outside seminars on technical
8 ratemaking matters since I began my employment at the Commission.

9 Q. What is the purpose of your rebuttal testimony?

10 A. The purpose of my rebuttal testimony is to respond to Ameren Missouri witness
11 Tom Byrne's direct testimony regarding the Commission Staff's ("Staff") current policy
12 position advocating sharing of Ameren Missouri's rate case expense between its customers and
13 shareholders.

14 Q. What is Staff's recommendation regarding sharing of rate case expense?

15 A. Staff recommends sharing the calculated amount of rate case expense between
16 shareholders and ratepayers as a 50/50 split.

17 Q. On page 4 of his direct testimony, with reference to the Commission's rulings in
18 regard to sharing the rate case expenses between ratepayers and shareholders in recent
19 Evergy Metro, Inc. ("Evergy") and Spire Missouri, Inc. ("Spire") rate cases, Ameren Missouri
20 witness Byrne states that: "Although the court decisions indicate that it was lawful for the
21 Commission to require utilities to share the cost of the rate cases in those two particular
22 situations, I do not think that it is good regulatory policy to require cost sharing in all cases."
23 How do you respond?

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1 A. Rate cases benefit both ratepayers who are provided safe and adequate service
2 and shareholders who are provided an opportunity for a reasonable return. But, there is a high
3 probability that some recommendations advocated by utilities through the rate case process will
4 ultimately be found by the Commission to not be in the public interest. Additionally, ratepayers
5 will continue to pay for a large portion of the rate case and regulatory process expenses under
6 any form of sharing mechanism when internal labor is taken into account; accordingly,
7 expecting shareholders to carry a sensible portion of the cost burden for this particular expense
8 is just and reasonable. Finally, rate case expense sharing mechanisms can incentivize the utility
9 to keep rate case expenses to reasonable levels. It is Staff's recommendation that rate case
10 expenses be fairly assigned between shareholders and customers to recognize the separate
11 benefit both parties obtain from rate case proceedings.

12 Q. Mr. Byrne referenced prior Evergy and Spire rate cases. What did the
13 Commission order concerning rate case expenses in those cases?

14 A. In the 2014 Evergy case,¹ the Commission ordered a rate case expense sharing
15 based on the ratio of the awarded revenue requirement versus the requested revenue
16 requirement. In the 2017 Spire rate cases,² the Commission ordered a rate case expense sharing
17 of 50/50 ratepayer/shareholder allocation. In both cases the depreciation study costs were
18 excluded from shared expenses.

19 Q. At several places in his direct Mr. Byrne characterizes the amount of rate case
20 expense Ameren Missouri is seeking recovery of in this case as being "reasonable"

¹ Case No. ER-2014-0370.

² Case Nos. GR-2017-0215 and GR-2017-0216.

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1 (page 3, lines 14 – 23), and alleges that the Company has been “diligent” in controlling its rate
2 case expenses (pages 3-4,). Do you agree with these characterizations?

3 A. Staff is not challenging the reasonableness or prudence of Ameren Missouri’s
4 expenditures in recent cases to use for purposes of establishing an appropriate rate case expense
5 baseline in this case. Staff’s position is that rate case expenses judged to be reasonable and
6 prudent from the utility’s perspective should still be subject to sharing.

7 Regarding the question of whether Ameren Missouri has been diligent in controlling its
8 rate case expenditures in this case, Ameren Missouri has provided data request (DR) responses
9 that indicate that to date it has paid amounts to 27 outside individuals from five unaffiliated law
10 firms or consulting groups in relation to processing of these electric and gas rate cases. While
11 Staff is not questioning the prudence of the payments to any of these consultants, this data
12 illustrates that Ameren Missouri does not appear to be attempting to minimize its use of outside
13 services to process these rate cases.

14 Q. On page 6 of his direct testimony, Ameren Missouri witness Byrne claims that:
15 “... it would not be appropriate for utility shareholders to bear a portion of prudent and
16 necessary operations and maintenance costs. Prudent rate case expenses are no different, and
17 they ought to be fully reflected in the revenue requirement...”

18 Are rate case expenses the same as any other costs that provide benefits to customers
19 (i.e. generation, transition, or delivery services)?

20 A. No, rate case expenses are distinct from other costs because they are highly
21 discretionary. Utilities typically have full freedom of choice concerning the use of outside
22 witnesses and/or counsel and general processing of its rate filing.

1 Q. Are there other expenses that are usually allocated or assigned to shareholders
2 and not included in cost of service?

3 A. Yes. Some expenses typically removed from the cost of service or booked to
4 non-utility accounts ("below the line") include:

- 5 • Incentive compensation tied to earnings per share (EPS)
- 6 • Charitable donations
- 7 • Some dues such as duplicative chambers of commerce dues
- 8 • Political lobbying expenses
- 9 • Board of directors retreat expenses
- 10 • Certain executive expenses

11 These are costs that, by their very nature, while undisputedly prudent from the Company's
12 perspective, should nonetheless be assigned to shareholders as opposed to customers for
13 ratemaking purposes. These expenses are not necessary for the provision of safe and adequate
14 utility service and are appropriately not recovered in rates. Staff does make the distinction of
15 rate case expenses from the above listed costs in the proposed 50/50 sharing of these expenses
16 because there can be a benefit to both shareholders and ratepayers from rate case expense.

17 Q. On pages 5 – 6 of his direct testimony, Mr. Byrne argues that the mere fact that
18 shareholders may derive a benefit from a utility expenditure does not justify its exclusion from
19 customer rate recovery. Is he correct?

20 A. Mr. Byrne is generally correct in his contention, but misses the mark as it
21 specifically pertains to utility rate case expense. It is reasonable to assume that shareholders
22 will derive at least indirect benefits from prudent expenditures incurred in order to provide safe
23 and adequate service to customers, such as necessary and prudent rate base additions. In that

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1 scenario, such costs should be included in customer rates even if shareholders also derive a
2 direct or ancillary benefit from the cost, as there is no conflict of interest between ratepayers
3 and shareholders regarding that expense. This is not true of rate case expenses; a definite
4 conflict of interest can and often does exist with this item of cost. Utilities frequently hire
5 consultants and attorneys who argue for positions that regulatory commissions reject on
6 grounds of adverse customer impact. The interests of utility customers and utility companies
7 cannot be considered to even generally coincide within the rate case process. A reasonable
8 approach to sharing rate case expense between shareholders and ratepayers is appropriate to
9 apportion costs equitably between the parties that benefit in different ways from the rate
10 case process.

11 Q. The rate case expenses at issue are those incremental third party expenses. What
12 other costs are incurred related to the rate case and regulatory process?

13 A. Other rate case expenses that Ameren Missouri incurs are its gas allocated share
14 of all internal labor and benefits expenses for the witnesses who filed testimony and all other
15 internal labor to process the rate case including data requests, testimony preparation, and tariff
16 filings. In addition, there are other employees in legal and regulatory departments who are
17 involved in preparation of filings, testimony, tariffs, data request responses, and all other
18 aspects of the rate case process. These costs are incurred regardless of whether or not the
19 employees are working on an active rate case. However, as noted above, rate cases benefit both
20 ratepayers and shareholders, yet only ratepayers are responsible for internal labor costs. As a
21 result, under Staff's proposal, customers will likely be responsible for a significant portion of
22 Ameren Missouri's rate case expense.

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1 Q. Is it fair to customers to have to pay all costs associated with a rate case filing
2 made by a utility?

3 A. No. Under the traditional rate case expense normalization, in most situations, all
4 rate case expenses were passed on to customers, and under Ameren Missouri's proposal, this
5 would continue. Assigning all of the utility's rate case expense to ratepayers makes the utility
6 the only party involved in the rate case process that is not constrained to some extent by
7 budgetary and other financial restrictions, and for which the rate case costs are potentially fully
8 fundable by a third party. The costs of Staff are funded through the Commission's assessment
9 to regulated utilities, and in turn charged to ratepayers through tariffed rates. Public Counsel's
10 annual operating expenses are appropriated by the Missouri General Assembly, which is
11 sourced from general revenue paid by the Missouri taxpayers. Other parties that wish to
12 intervene must pay for all of their costs for legal representation and consultants that have
13 expertise with complex ratemaking principles and rate design concepts. Ameren Missouri is the
14 only party to its own rate case that ultimately does not have to pay its own way.

15 The fundamental difference between the utility and all other rate case parties in this
16 respect is that, while the other rate case parties ultimately are expected to pay for costs of
17 participating in rate cases from their own pocket, utilities can potentially fund their rate case
18 costs using a third party; i.e., their customers. Without appropriate regulatory intervention, this
19 difference provides powerful incentives for the utility to expend funds for this purpose at greater
20 amounts than they would without access to ratepayer funds.

21 Q. Given that, why shouldn't rate case expenses be charged entirely to shareholders
22 through the rate case process?

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1 A. It is fair to charge some rate case costs to ratepayers because of the benefit received
2 by ratepayers in the form of safe, reliable, and adequate service, and to support the financial
3 health of the utility. However, the shareholders also enjoy benefits from the rate case in potential
4 increases in profits, dividends, and stock price. Recognition of the different benefits potentially
5 received by the rate case participants was one of the reasons the Commission ordered
6 a 50/50 sharing of rate case expense in the recent Spire Missouri cases ³ and Empire District
7 Electric rate case.⁴

8 Q. On page 7 of his direct testimony, Ameren Missouri witness Byrne states: "The
9 Staff is of course funded by utility assessments, the largest portion of which are paid by the
10 Company..." Does that mean that Ameren Missouri and/or its shareholders are paying for
11 Staff's costs associated with rate cases?

12 A. No. While that is implied in Mr. Byrne's statement, the fact is that Staff's costs
13 associated with rate cases, although nominally paid by the Company, are included in the
14 Company's cost of service, and are thus passed on to the ratepayers. The Company, or
15 Company's shareholders, are not ultimately responsible for expenses incurred by Staff during
16 rate case proceedings.

17 Q. Mr. Byrne claims that Ameren Missouri's rate increase request in this instance
18 is more reasonable in content than in other recent utility rate proceedings for which rate case
19 expense was shared. Does Staff share this perception?

20 A. No. Staff notes that its current revenue requirement recommendation for
21 Ameren Missouri in this case is materially less than that proposed by the Company.

³ Case Nos. GR-2017-0215 and GR-2017-0216.

⁴ Case No. ER-2019-0374

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1 Regardless, if the Commission were to believe that the argument that Ameren Missouri
2 has filed a relatively “clean” case has merit, it could consider assigning customers a share of
3 rate case expense based upon the percentage of Ameren Missouri’s rate increase request that is
4 ultimately granted by the Commission. This option was one of several presented by the Staff
5 to the Staff in its Rate Case Expense report filed in Case No. AW-2011-0330, and was used by
6 the Commission in the 2014 Evergy rate case to achieve a sharing of rate case expenses.

7 Q. Does this conclude your rebuttal testimony?

8 A. Yes, it does.

**CASE PARTICIPATION OF
MARK L. OLIGSCHLAEGER**

Company Name	Case Number	Issues
Missouri-American Water Company	WO-2020-0190	Direct: Net Operating Losses Rebuttal: Net Operating Losses
The Empire District Electric Company	ER-2019-0374	Direct Report: Amortization Rebuttal: Affiliated Transactions Surrebuttal: Stub Period Amortization Sur-Surrebuttal: Policy Supplemental: Background of Stipulation and Agreement; Asbury AAO
Union Electric Company, d/b/a Ameren Missouri	ER-2019-0335	Rebuttal: Affiliate Transactions Surrebuttal: Affiliate Transactions
KCP&L Greater Missouri Operations Company	EC-2019-0200	Cross-Rebuttal: Sibley Retirement Deferral
Missouri-American Water Company	WO-2019-0184	Rebuttal: Infrastructure System Replacement Surcharge (ISRS)
Spire Missouri, Inc., d/b/a Spire	GU-2019-0011	Rebuttal: Commission Assessment AAO
The Empire District Electric Company	EA-2019-0010	Rebuttal Report: Economic Feasibility
Missouri-American Water Company	WO-2018-0373	Direct: Net Operating Loss
The Empire District Electric Company	ER-2018-0366	Rebuttal: Tax Reform
Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company	ER-2018-0145 and ER-2018-0146	Surrebuttal: Tax Cuts and Jobs Act
Union Electric Company, d/b/a Ameren Missouri	ET-2018-0132	Rebuttal: Accounting and Ratemaking
Empire District, a Liberty Utilities Company	EO-2018-0092	Rebuttal: Asbury Regulatory Asset; Affiliate Transaction Variance
Liberty Utilities (Midstates Natural Gas) Corp., d/b/a Liberty Utilities	GR-2018-0013	Rebuttal: Tracker Proposals Surrebuttal: Tracker Proposals; Pensions/OPEBs
Missouri-American Water Company	WU-2017-0351	Rebuttal: Property Tax AAO Surrebuttal: Property Tax AAO

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Company Name	Case Number	Issues
Missouri-American Water Company	WR-2017-0285	Direct: Future Test Year Rebuttal: Future Test Year New Tax Legislation
Spire Missouri, Inc., d/b/a Spire (Laclede Gas Company / Missouri Gas Energy)	GR-2017-0215 and GR-2017-0216	Rebuttal: Tracker Proposals; Other Policy Proposals; Software Costs
Union Electric Company, d/b/a Ameren Missouri	EO-2017-0176	Direct: CAM Approval
Missouri Gas Energy and Laclede Gas Company	GO-2016-0332 and GO-2016-0333	Rebuttal: ISRS Updates; Capitalized Incentive Compensation; Hydrostatic Testing
Kansas City Power & Light Company	ER-2016-0285	Rebuttal: Tracker Proposals; Use of Projected Expenses; Expense Trackers in Rate Base
Laclede Gas Company and Missouri Gas Energy	GO-2016-0196 and GO-2016-0197	Rebuttal: ISRS True-ups
Union Electric Company, d/b/a Ameren Missouri	ER-2016-0179	Rebuttal: Transmission Tracker; Noranda Deferral; Regulatory Reform
KCP&L Greater Missouri Operations Company	ER-2016-0156	Rebuttal: Tracker Proposals; Use of Projected Expenses; Tracker Balances in Rate Base; Deferral Policy
Missouri-American Water Company	WR-2015-0301	Rebuttal: Environmental Coast Adjustment Mechanism; Energy Efficiency and Water Loss Reduction Deferral Mechanism Tracker
Laclede Gas Company	GO-2015-0178	Direct: ISRS True-ups
Kansas City Power & Light Company	EU-2015-0094	Direct: Accounting Order – Department of Energy Nuclear Waste Fund Fees
Union Electric Company, d/b/a Ameren Missouri (2018)	EO-2015-0055	Rebuttal: MEEIA Accounting Conditions
Union Electric Company, d/b/a Ameren Missouri (2015)	EO-2015-0055	Rebuttal: Demand-Side Investment Mechanism
Kansas City Power & Light Company	ER-2014-0370	Rebuttal: Trackers Surrebuttal: Trackers; Rate Case Expense

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Company Name	Case Number	Issues
Kansas City Power & Light Company	EO-2014-0255	Rebuttal: Continuation of Construction Accounting
Union Electric Company, d/b/a Ameren Missouri	EC-2014-0223	Rebuttal: Complaint Case – Rate Levels
Kansas City Power & Light Company	EO-2014-0095	Rebuttal: DSIM
Union Electric Company, d/b/a Ameren Missouri	ET-2014-0085	Surrebuttal: RES Retail Rate Impact
Kansas City Power & Light Company & KCP&L Greater Missouri Operations Co.	EU-2014-0077	Rebuttal: Accounting Authority Order
Kansas City Power & Light Company	ET-2014-0071	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
KCP&L Greater Missouri Operations Company	ET-2014-0059	Rebuttal: RES Retail Rate Impact Surrebuttal: RES Retail Rate Impact
Missouri Gas Energy, A Division of Laclede Gas Company	GR-2014-0007	Surrebuttal: Pension Amortizations
The Empire District Electric Company	ER-2012-0345	Direct (Interim): Interim Rate Request Rebuttal: Transmission Tracker, Cost of Removal Deferred Tax Amortization; State Income Tax Flow-Through Amortization Surrebuttal: State Income Tax Flow-Through Amortization
KCP&L Greater Missouri Operations Company	ER-2012-0175	Surrebuttal: Transmission Tracker Conditions
Kansas City Power & Light Company	ER-2012-0174	Rebuttal: Flood Deferral of off-system sales Surrebuttal: Flood Deferral of off-system sales, Transmission Tracker conditions
Union Electric Company, d/b/a Ameren Missouri	ER-2012-0166	Responsive: Transmission Tracker
Union Electric Company, d/b/a Ameren Missouri	EO-2012-0142	Rebuttal: DSIM
Union Electric Company, d/b/a Ameren Missouri	EU-2012-0027	Rebuttal: Accounting Authority Order Cross-Surrebuttal: Accounting Authority Order
KCP&L Greater Missouri Operations Company	EO-2012-0009	Rebuttal: DSIM

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Company Name	Case Number	Issues
Missouri Gas Energy, a Division of Southern Union	GU-2011-0392	Rebuttal: Lost Revenues Cross-Surrebuttal: Lost Revenues
Missouri-American Water Company	WR-2011-0337	Surrebuttal: Pension Tracker
The Empire District Electric Company	ER-2011-0004	Staff Report on Cost of Service: Direct: Report on Cost of Service; Overview of the Staff's Filing Surrebuttal: SWPA Payment, Ice Storm Amortization Rebasing, SO2 Allowances, Fuel/Purchased Power and True-up
The Empire District Electric Company	ER-2010-0130	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Regulatory Plan Amortizations; Surrebuttal: Regulatory Plan Amortizations
Missouri Gas Energy, a Division of Southern Union	GR-2009-0355	Staff Report Cost of Service: Direct Report on Cost of Service; Overview of the Staff's Filing; Rebuttal: Kansas Property Taxes/AAO; Bad Debts/Tracker; FAS 106/OPEBs; Policy; Surrebuttal: Environmental Expense, FAS 106/OPEBs
KCP&L Greater Missouri Operations Company	EO-2008-0216	Rebuttal: Accounting Authority Order Request
The Empire District Electric Company	ER-2008-0093	Case Overview; Regulatory Plan Amortizations; Asbury SCR; Commission Rules Tracker; Fuel Adjustment Clause; ROE and Risk; Depreciation; True-up; Gas Contract Unwinding
Missouri Gas Utility	GR-2008-0060	Report on Cost of Service; Overview of Staff's Filing
Laclede Gas Company	GR-2007-0208	Case Overview; Depreciation Expense/Depreciation Reserve; Affiliated Transactions; Regulatory Compact
Missouri Gas Energy	GR-2006-0422	Unrecovered Cost of Service Adjustment; Policy
The Empire District Electric Company	ER-2006-0315	Fuel/Purchased Power; Regulatory Plan Amortizations; Return on Equity; True-Up
Missouri Gas Energy	GR-2004-0209	Revenue Requirement Differences; Corporate Cost Allocation Study; Policy; Load Attrition; Capital Structure
Aquila, Inc., d/b/a Aquila Networks-MPS-Electric and Aquila Networks-L&P-Electric and Steam	ER-2004-0034 and HR-2004-0024 (Consolidated)	Aries Purchased Power Agreement; Merger Savings

**CASE PARTICIPATION OF
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Company Name	Case Number	Issues
Laclede Gas Company	GA-2002-429	Accounting Authority Order Request
Union Electric Company	EC-2002-1	Merger Savings; Criticisms of Staff's Case; Injuries and Damages; Uncollectibles
Missouri Public Service	ER-2001-672	Purchased Power Agreement; Merger Savings/Acquisition Adjustment
Gateway Pipeline Company	GM-2001-585	Financial Statements
Ozark Telephone Company	TC-2001-402	Interim Rate Refund
The Empire District Electric Company	ER-2001-299	Prudence/State Line Construction/Capital Costs
Missouri Gas Energy	GR-2001-292	SLRP Deferrals; Y2K Deferrals; Deferred Taxes; SLRP and Y2K CSE/GSIP
KLM Telephone Company	TT-2001-120	Policy
Holway Telephone Company	TT-2001-119	Policy
Peace Valley Telephone	TT-2001-118	Policy
Ozark Telephone Company	TT-2001-117	Policy
IAMO Telephone Company	TT-2001-116	Policy
Green Hills Telephone	TT-2001-115	Policy
UtiliCorp United & The Empire District Electric Company	EM-2000-369	Overall Recommendations
UtiliCorp United & St. Joseph Light & Power	EM-2000-292	Staff Overall Recommendations
Missouri-American Water	WM-2000-222	Conditions
Laclede Gas Company	GR-99-315 (remand)	Depreciation and Cost of Removal
United Water Missouri	WA-98-187	FAS 106 Deferrals
Western Resources & Kansas City Power & Light	EM-97-515	Regulatory Plan; Ratemaking Recommendations; Stranded Costs
Missouri Public Service	ER-97-394	Stranded/Transition Costs; Regulatory Asset Amortization; Performance Based Regulation

**CASE PARTICIPATION OF
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Company Name	Case Number	Issues
The Empire District Electric Company	ER-97-82	Policy
Missouri Gas Energy	GR-96-285	Riders; Savings Sharing
St. Louis County Water	WR-96-263	Future Plant
Union Electric Company	EM-96-149	Merger Savings; Transmission Policy
St. Louis County Water	WR-95-145	Policy
Western Resources & Southern Union Company	GM-94-40	Regulatory Asset Transfer
Generic Electric	EO-93-218	Preapproval
Generic Telephone	TO-92-306	Revenue Neutrality; Accounting Classification
Missouri Public Service	EO-91-358 and EO-91-360	Accounting Authority Order
Missouri-American Water Company	WR-91-211	True-up; Known and Measurable
Western Resources	GR-90-40 and GR-91-149	Take-Or-Pay Costs

**CASE PARTICIPATION OF
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<u>COMPANY NAME</u>	<u>CASE NUMBER</u>
Kansas City Power and Light Company	ER-82-66
Kansas City Power and Light Company	HR-82-67
Southwestern Bell Telephone Company	TR-82-199
Missouri Public Service Company	ER-83-40
Kansas City Power and Light Company	ER-83-49
Southwestern Bell Telephone Company	TR-83-253
Kansas City Power and Light Company	EO-84-4
Kansas City Power and Light Company	ER-85-128 & EO-85-185
KPL Gas Service Company	GR-86-76
Kansas City Power and Light Company	HO-86-139
Southwestern Bell Telephone Company	TC-89-14