Exhibit No. 16

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-2015-0240**
In the Matter of KCP&L Greater Missouri Operations Company's Filing for Approval of Demand-Side Programs and for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	**File No. EO-2015-0241**

REPORT AND ORDER

Issue Date: **March 2, 2016**

Effective Date: **March 12, 2016**

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REPORT AND ORDER

APPEARANCES

KANSAS CITY POWER & LIGHT COMPANY and KCP&L GREATER MISSOURI OPERATIONS COMPANY:

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SENIOR REGULATORY LAW JUDGE: Michael Bushmann

I. Procedural History

On August 28, 2015, Kansas City Power and Light Company ("KCPL") and KCP&L Greater Missouri Operations Company ("GMO", and collectively, the "Company") applied to the Missouri Public Service Commission ("Commission") for approval of demand-side programs ("Cycle 2 programs") and for authority to establish a demand-side investment mechanism ("DSIM") as contemplated by the Missouri Energy Efficiency Investment Act ("MEEIA") and the Commission's implementing regulations. The Company also filed revised tariff sheets under Tariff Tracking Nos. YE-2016-0072, YE-2016-0073 and YE-2016-0074 to implement the proposed Cycle 2 MEEIA plan and replace the Company's Cycle 1 MEEIA programs, which were set to expire on December 31, 2015. The revised tariff sheets had an effective date of January 1, 2016, but the Company subsequently extended that effective date until April 1, 2016.

Upon the filing of timely applications, the Commission granted intervention to the following parties: Brightergy, LLC ("Brightergy"), Natural Resources Defense Council, Missouri Department of Economic Development – Division of Energy ("Division of Energy"), United for Missouri, Inc., Earth Island Institute d/b/a Renew Missouri, National Housing Trust, West Side Housing Organization, Missouri Industrial Energy Consumers, and Union Electric Company d/b/a Ameren Missouri ("Ameren Missouri"). On December 2, 2015, the Office of the Public Counsel filed a motion to reject the revised tariff sheets, on which the Commission withheld a ruling and which remains pending.

On November 23, 2015, the Company, Commission Staff, Office of the Public Counsel, Division of Energy, National Housing Trust, West Side Housing Organization, Natural Resources Defense Council, Earth Island Institute d/b/a Renew Missouri, and

United for Missouri, Inc. signed and filed a *Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings* ("Stipulation") in which those signatory parties[1] reached agreement on all issues related to the Company's Cycle 2 MEEIA programs and the associated demand-side programs investment mechanism. Brightergy objected to the Stipulation, so it becomes a joint position statement of those parties.[2]

The evidentiary hearing was held on January 12, 2016, where the parties presented evidence relating to the unresolved issues previously identified by the parties.[3] During the evidentiary hearing held at the Commission's offices in Jefferson City, Missouri, the Commission admitted the testimony of seven witnesses and received 16 exhibits into evidence. Post-hearing briefs were filed according to the post-hearing procedural schedule. The final post-hearing briefs were filed on February 5, 2016, and the case was deemed submitted for the Commission's decision on that date.[4]

II. Discussion

In a recent report and order concerning the MEEIA plan of Union Electric Company d/b/a Ameren Missouri, the Commission described the historical background of the MEEIA law in Missouri, so the Commission will not repeat that history in this order.[5] With regard to the Company's application, all the signatory parties to the Stipulation, with the exception of Brightergy, take the position that the Commission should approve the Cycle 2 programs

[1] Missouri Industrial Energy Consumers and Union Electric Company d/b/a Ameren Missouri are also parties to this matter, but they did not oppose the Stipulation and did not submit a statement of position on the disputed issues, so they will not be discussed further.

[2] Commission rule 4 CSR 240-2.115(2)(D).

[3] Transcript, Vol. 3. All subsequent citations to the Transcript will be to Vol. 3 unless otherwise indicated.

[4] "The record of a case shall stand submitted for consideration by the commission after the recording of all evidence or, if applicable, after the filing of briefs or the presentation of oral argument." Commission Rule 4 CSR 240-2.150(1).

[5] See, Report and Order, *In the Matter of Union Electric Company d/b/a Ameren Missouri's 2nd Filing to Implement Regulatory Changes in Furtherance of Energy Efficiency as Allowed by MEEIA,* File No. EO-2015-0055, issued October 22, 2015, p. 5-7.

and DSIM for the Company consistent with the terms of the Stipulation. Brightergy only disagrees with the Stipulation regarding the following two provisions: 1) a change in the rebate incentive structure for the commercial and industrial custom rebate program ("Custom Rebate Program"), which provides a rebate for installing or replacing equipment or systems with higher energy efficiency, and 2) a change in the procedure by which the Company can discontinue all approved Cycle 2 programs (which the Stipulation refers to as "regulatory flexibility").

Other than the two provisions listed above, Brightergy does not object to the resolution of the other issues consistent with the Stipulation. The signatory parties urge the Commission to adopt the proposed resolution of all issues as provided in the Stipulation. Under Commission rule 4 CSR 240-2.115(2)(D) the Commission cannot approve the Stipulation once a party objected to it, but the Commission can consider the Company's amended MEEIA plan that is contained in the Stipulation document and appendices (the "Amended MEEIA Plan").

The three disputed issues identified by the parties for determination by the Commission are: 1) should the Commission approve the Custom Rebate Program in the Amended MEEIA Plan over the objection of Brightergy; 2) should the Commission approve the regulatory flexibility provisions in the Amended MEEIA Plan over the objection of Brightergy; and 3) should the Commission approve the other Cycle 2 programs and DSIM contained in the Amended MEEIA Plan?

A. Custom Rebate Program

For both Cycles 1 and 2, the Company's Custom Rebate Program provides a rebate to business customers for installing qualifying high-efficiency equipment or systems and

replacing or retrofitting HVAC systems, motors or pumps with higher energy efficient equipment.[6] In Cycle 1, the incentive was structured as the lesser of the buy down to a two-year payback or 50% of the incremental cost of the higher efficiency equipment.[7] By the end of Cycle 1, the average rebate paid was 22 cents/kWh, which contributed to the Company exceeding its Cycle 1 budget by more than 120%.[8] In Cycle 2, the Company proposed a flat rate incentive of 10 cents per first year kWh saved with a cap of $500,000 per customer per year.[9] The Company has the ability to adjust the Cycle 2 incentive levels from a minimum of 6 cents per kWh to a maximum of 40 cents per kWh in order to meet program objectives, if necessary.[10]

Brightergy argues that the proposed Cycle 2 Custom Rebate Program doesn't meet the statutory goal of achieving all cost-effective demand-side savings because the proposed reduction in program incentives will result in lower demand and increased free ridership.[11] Brightergy says that the Cycle 2 program will not drive the same level of investment because the payback time will be increased, which is a definitive factor in business efficiency investments. Brightergy suggests that the Commission should reject the Cycle 2 Custom Rebate Program in the Amended MEEIA Plan and continue the Cycle 1 custom rebate program because the Cycle 1 program is cost-effective, increases efficiency investment, and meets statutory requirements.

[6] Ex. 102, Winslow Direct, p. 2.
[7] Ex. 102, Winslow Direct, p. 3.
[8] Ex. 102, Winslow Direct, p. 4-5.
[9] Ex. 102, Winslow Direct, p. 7.
[10] Transcript, p. 119, 188.
[11] The term "free riders" refers to business customers who receive a rebate for investing in an energy efficiency project, but would have made that investment anyway without the rebate because the energy savings alone would justify the investment. Transcript, p. 169.

The evidence shows, however, that programs with a flat incentive rate structure, like the Cycle 2 Custom Rebate Program, can achieve savings targets and keep program free ridership low.[12] Ameren Missouri's flat rate incentive custom rebate program (6 cents per first year kWh savings for lighting and 7 cents per kWh for non-lighting) had program costs that were 8.6% less than the budgeted amount, but achieved 75.3% higher net benefits and 42.1% higher energy savings than planned.[13] In contrast, the Company's Cycle 1 custom rebate program experienced program costs of nearly double the planned costs, but achieved actual net benefits of 10.3% less than planned.[14] This demonstrates that, contrary to Brightergy's assertion, a higher rebate level does not necessarily mean that greater benefits will result.[15] The Company's proposed Custom Rebate Program in the Amended MEEIA Plan is designed to both increase net benefits and lower program costs.[16]

There was also evidence that the proposed flat rate incentive is easy to understand and ties the customer incentive directly to the amount of kWh saved instead of project cost, which ensures that projects are rebated in an equitable manner not influenced by contractor costs.[17] Although all MEEIA programs will have some level of free ridership, the Company has an economic interest in minimizing free ridership because retrospective evaluation, measurement and verification ("EM&V") in the Amended MEEIA Plan reduces the Company's earnings opportunity if those levels are too high.[18] In addition, the evidence shows that the Custom Rebate Program will not negatively impact non-profit customers,

[12] Ex. 102, Winslow Direct, p. 11.
[13] Ex. 202, Rogers Surrebuttal, Schedule JAR-SR-2.
[14] Ex. 202, Rogers Surrebuttal, Schedule JAR-SR-2.
[15] Transcript, p. 208; Ex. 202, Rogers Surrebuttal, p.10.
[16] Ex. 202, Rogers Surrebuttal, p.10.
[17] Ex. 102, Winslow Direct, p. 8
[18] Transcript, p. 121.

such as schools.[19] The companies have proposed a Small Business Direct Install program, which could be used by non-profits, that covers up to 70% of installation costs.[20] Under the new Cycle 2 program, many lighting projects that would have been under the old Cycle 1 custom rebate program will be moved to a different prescriptive program that offers higher incentives of up to 20 cents per kWh.[21] Navitas, a trade ally that specializes in working with schools, supports the proposed Cycle 2 plan and moving lighting projects to the prescriptive program.[22]

Finally, offering an incentive rate that is too high would put an increased financial burden on the Company's business customers. If the Company were to move back to the Cycle 1 incentive level as proposed by Brightergy, it would require an additional $11 million be recovered on non-residential customers' bills, an increase of 15% for KCPL customers and 11% for GMO customers.[23] For all of these reasons, the Commission concludes that the Company's Cycle 2 Custom Rebate Program should be approved because it meets the requirements of MEEIA and is expected to result in energy savings and reduced costs for customers.

B. Regulatory Flexibility

Commission rule 4 CSR 240-20.094(5) sets forth the requirements for a utility to discontinue its MEEIA programs[24], and states as follows:

> Pursuant to the provisions of this rule, 4 CSR 240-2.060, and section 393.1075, RSMo, an electric utility may file an application with the commission to discontinue demand-side programs by filing information and

[19] Ex. 103, Winslow Surrebuttal, p. 7.
[20] Ex. 103, Winslow Surrebuttal, p. 8.
[21] Transcript, p. 130-131.
[22] Ex. 103, Winslow Surrebuttal, p. 7.
[23] Ex. 103, Winslow Surrebuttal, p. 9-10; Transcript, p. 120.
[24] The MEEIA statute does not address under what circumstances an electric utility may discontinue its MEEIA programs.

> documentation required by 4 CSR 240-3.164(5).[25] The commission shall approve or reject such applications for discontinuation of utility demand-side programs within thirty (30) days of the filing of an application under this section only after providing an opportunity for a hearing.

Commission rules 4 CSR 240-20.094(9) and 4 CSR 240-3.164(6) both provide that "[u]pon request and for good cause shown, the commission may grant a variance from any provision of this rule".

The signatory parties to the Amended MEEIA Plan contained in the Stipulation request that the Commission grant a number of variances to Commission rules[26], including a variance to waive Commission rule 4 CSR 240-20.094(5) quoted above. The Amended MEEIA Plan states that the Company will not commit to implement the Cycle 2 MEEIA programs for three years without the ability to discontinue all programs, under appropriate conditions as defined by the Company. The Amended MEEIA Plan proposes that the Company will include the following provision in its Cycle 2 tariff sheets:

> KCP&L/GMO reserves the right to discontinue the entire MEEIA Cycle 2 portfolio, if KCP&L/GMO determines that implementation of such programs is no longer reasonable due to changed factors or circumstances that have materially negatively impacted the economic viability of such programs as determined by KCP&L/GMO, upon no less than thirty days' notice to the Commission.[27]

The Amended MEEIA Plan also provides protections for program participants, including, in part, at least 30 days' notice to interested parties and customers with supporting documentation justifying the discontinuance, honoring all commitments made to program participants prior to the date of discontinuance, and forfeiting any recovery of the

[25] Commission rule 4 CSR 240-3.164(5) states that "[w]hen an electric utility files to discontinue a demand-side program as described in 4 CSR 240-20.094(5), the electric utility shall file the following information. All models and spreadsheets shall be provided as executable versions in native format with all formulas intact.
(A) Complete explanation for the utility's decision to request to discontinue a demand-side program.
(B) EM&V reports for the demand-side program in question.
(C) Date by which a final EM&V report for the demand-side program in question will be filed."

[26] See, Stipulation, Appendix H.

[27] Stipulation, p. 18.

Company's earnings opportunity in connection with the programs.[28] If the Company wishes to discontinue individual MEEIA programs, it would still be required to comply with the procedural requirements in the rule.

Brightergy requests that the Commission not grant the variance. Brightergy argues that granting it would give the Company unilateral authority to discontinue all programs, which has not been granted to any other utility and is not needed. Brightergy argues that the Commission, rather than the Company, should be making the decision whether to terminate MEEIA programs, and turning this authority over to the Company would create a hostile environment that discourages trade allies from investing in the Company's service area. In addition, allowing the variance could result in a depressed market for energy efficiency, as many customers would be reluctant to begin the process of evaluating their property for efficiency investments and would likely be nervous about the program's viability. Brightergy claims that thirty days is too narrow of a window to evaluate a proposal and make an investment decision.

The Company states that it must have the ability to discontinue all Cycle 2 programs because uncertainty exists regarding the recovery of MEEIA investment and the proper timing of energy efficiency programs. The Company does not yet know how the Commission will administer the previous incentive program for Cycle 1, and there is significant uncertainty about the federal Clean Power Plan. Although the Commission rule requires action within 30 days if there is a request to discontinue programs, the Company is worried that probable extensions of this deadline would occur to accommodate the hearing

[28] Stipulation, p. 18-20.

process, preventing it from managing its business effectively and moving quickly enough to discontinue Cycle 2 programs.

While the Commission views this proposed variance with disfavor, it also recognizes that MEEIA programs are voluntary in this state, and the Company has stated in evidence and briefs that the variance is necessary for it to implement the Amended MEEIA Plan. The Commission finds under the particular circumstances of this case that the benefits of having energy efficiency programs in the Company's service area outweigh the serious drawbacks of approving the variance. In addition, it is unlikely that the Company will actually discontinue all Cycle 2 programs, as doing so will result in the significant financial consequence of forfeiting any recovery of an earnings opportunity, especially as that earnings amount grows during the Cycle 2 period. The Commission concludes that that there is good cause for granting the variance because (1) the Amended MEEIA Plan provisions contain protections for program participants, (2) company-run demand-side programs are voluntary under the MEEIA statute, and (3) the variance is a necessary requirement for the Company to commit to implementing the Cycle 2 portfolio of demand-side programs and DSIM.

C. Amended MEEIA Plan

Other than the two provisions in the Amended MEEIA Plan discussed above to which Brightergy objected, no party has objected to the Amended MEEIA Plan and Brightergy does not oppose the other provisions of the Amended MEEIA Plan. Staff presented credible evidence that the Amended MEEIA Plan fully satisfies the requirements of MEEIA.[29] In addition, the Commission finds that the Amended MEEIA Plan meets the

[29] Ex. 202, Rogers Surrebuttal, p. 4-5.

objectives identified in the Commission's Report and Order issued on October 22, 2015 in File No. EO-2015-0055, which are (1) programs and DSIM are expected to provide benefits to all customers, (2) retrospective EM&V will be used to determine savings that actually occur, and (3) the earnings opportunity has a component relating to the reduction of supply-side investment.[30] The Amended MEEIA Plan also provides for an important collaborative process to address new and underserved customer markets and to identify cost-effective energy and demand savings to achieve possibly 200 GWh of additional savings for program years 2017 and 2018.[31] The Commission concludes that the Amended MEEIA Plan should be approved.

III. Conclusions of Law

1. Failure to specifically address a piece of evidence, position or argument of any party does not indicate that the Commission has failed to consider relevant evidence, but indicates rather that the omitted material was not dispositive of this decision. The Commission will assign the appropriate weight to the testimony of each witness based upon their qualifications, expertise and credibility with regard to the attested-to subject matter.[32]

2. In making its determination, the Commission may adopt or reject any or all of any witnesses' testimony.[33] Testimony need not be refuted or controverted to be disbelieved by the Commission.[34] The Commission determines what weight to accord to

[30] Ex. 202, Rogers Surrebuttal, p. 4-5; Ex. 201, Rogers Direct, p. 4-5; Ex. 203, Stahlman Direct, p. 4-5.
[31] Stipulation, p. 7-8.
[32] Witness credibility is solely within the discretion of the Commission, who is free to believe all, some, or none of a witness' testimony. *State ex. rel. Missouri Gas Energy v. Public Service Comm'n*, 186 S.W.3d 376, 382 (Mo. App. 2005).
[33] *State ex rel. Associated Natural Gas Co. v. Public Service Commission,* 706 S.W.2d 870, 882 (Mo. App. 1985).
[34] *State ex rel. Rice v. Public Service Commission,* 220 S.W.2d 61, 65 (Mo. banc 1949).

the evidence adduced.[35] "It may disregard evidence which in its judgment is not credible, even though there is no countervailing evidence to dispute or contradict it."[36] The Commission may evaluate the expert testimony presented to it and choose between the various experts.[37]

3. Where the evidence conflicts, the Commission determines which evidence is most credible. No law requires the Commission to expound upon which portions of the record the Commission accepted or rejected.[38]

4. The Missouri Energy Efficiency Investment Act states, in pertinent part:

> 393.1075. 3. It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:
>
> (1) Provide timely cost recovery for utilities;
>
> (2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
>
> (3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.
>
> 4. The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. The commission shall consider the total resource cost test a preferred cost-effectiveness test. Programs targeted to low-income customers or general education campaigns do not need to meet a cost-effectiveness test, so long as the commission determines that the program or campaign is in the public

[35] *Id.*
[36] *Id.*
[37] *Associated Natural Gas, supra,* 706 S.W.2d at 882.
[38] *Stith v. Lakin*, 129 S.W.3d 912, 920-921 (Mo. App.2004).

> interest. Nothing herein shall preclude the approval of demand-side programs that do not meet the test if the costs of the program above the level determined to be cost-effective are funded by the customers participating in the program or through tax or other governmental credits or incentives specifically designed for that purpose.

5. With regard to the Company's Amended MEEIA Plan, Commission rule 4 CSR 240-20.094(3) requires the Commission to "approve, approve with modification acceptable to the electric utility, or reject such applications for approval of demand-side program plans". It also says that the Commission must do so after providing the opportunity for hearing. But even if a hearing is provided, this matter does not rise to the level of a contested case because the statute defines a "contested case" as "a proceeding before an agency in which legal rights, duties, or privileges of specific parties are required by law to be determined after hearing".[39] The "law" referred to in this definition includes any ordinance, statute, or constitutional provision that mandates a hearing.[40]

Here, no legal rights, duties, or privileges are required by law to be determined after hearing, because no party has a legal right to receive, or a duty to give, energy efficiency programs. That energy efficiency is optional is evidenced by the statute that says "[t]he commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings."[41] Because this is a non-contested case, the Commission is not required to make findings of fact.[42]

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[39] Section 536.010(4), RSMo Cum. Supp. 2013.
[40] *State ex rel. Yarber v. McHenry*, 915 S.W.2d 325, 328 (Mo. banc. 1995); McCoy v. Caldwell County, 145 S.W.3d 427 (Mo. 2004).
[41] Section 393.1075.4, RSMo.
[42] *State ex. rel. Public Counsel v. Public Service Com'n,* 210 S.W.3d 344, 355 (Mo. App. W.D. 2006).

IV. Decision

In making this decision, the Commission has considered the positions and arguments of all of the parties. After applying the facts to the law to reach its conclusions, the Commission concludes that the substantial and competent evidence in the record supports the conclusion that the Amended MEEIA Plan meets the requirements of MEEIA and the Commission's rules and is just and reasonable. The Amended MEEIA Plan will be approved, and the requested variances to Commission rules will be granted. This report and order will be made effective in ten days in order to expedite the resumption of energy efficiency programs in the Company's service area.

The Office of the Public Counsel's motion to reject tariff sheets, filed on December 2, 2015, argued, in part, that the initial tariff sheets filed by the Company should be rejected because they are inconsistent with the Amended MEEIA Plan contained in the Stipulation and are no longer supported by the Company. The Commission agrees that the initial tariff sheets, which were subsequently extended by the Company, are inconsistent with the Amended MEEIA Plan and should be rejected. The Commission will grant the motion and authorize the Company to file new tariff sheets in compliance with this Report and Order.

THE COMMISSION ORDERS THAT:

1. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company's Amended MEEIA Plan contained in the *Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings*, filed on November 23, 2015, is approved. The signatory parties are ordered to comply with the terms of the Amended MEEIA Plan contained in the *Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings*,

which is incorporated herein as if fully set forth. A copy of the stipulation and agreement without appendices is attached to this order.

2. The Office of the Public Counsel's Motion to Reject Tariff Sheets, filed on December 2, 2015, is granted.

3. The tariff sheets submitted on August 28, 2015, and subsequently extended, by Kansas City Power & Light Company and assigned Tariff Tracking Nos. YE-2016-0072 and YE-2016-0073, are rejected.

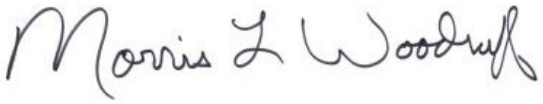
4. The tariff sheets submitted on August 28, 2015, and subsequently extended, by KCP&L Greater Missouri Operations Company and assigned Tariff Tracking No. YE-2016-0074, are rejected.

5. Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company are authorized to file tariff sheets in compliance with this order and a motion for expedited treatment.

6. Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company are granted the variances to Commission rules described in Appendix H to the *Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings*. A copy of Appendix H is attached to this order.

7. This Report and Order shall become effective on March 12, 2016.

BY THE COMMISSION



Morris L. Woodruff
Secretary

Hall, Chm., Stoll, Kenney,
and Coleman, CC., concur;
Rupp, C., dissents;
and certify compliance with the
provisions of Section 536.080, RSMo.

Bushmann, Senior Regulatory Law Judge