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**

STAFF'S REPLY AND TRUE-UP BRIEF

Respectfully submitted,

KEVIN THOMPSON, Mo Bar 36288
Chief Staff Counsel

ROBERT S. BERLIN, Mo Bar 51709
Deputy Staff Counsel

NICOLE MERS, Mo Bar 66766
Assistant Staff Counsel

MARK JOHNSON, Mo Bar 64940
Senior Staff Counsel

WHITNEY PAYNE, Mo Bar 64078
Assistant Staff Counsel

Attorneys for the Staff of the
Missouri Public Service Commission

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COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, and for its *Reply Brief,* states as follows:

INTRODUCTION

The purpose of a *Reply Brief* is to respond to the arguments made by parties' opponent. Rather than replying to every argument other party's make in their initial briefs, having presented and argued its positions in its initial brief, Staff is limiting its replies to where it views further explanation will most aid the Commission in its deliberations.

In determining each contested issue, the Commission should be ever mindful that the law places the burden of proof on the Company. Section 393.150.2, RSMo., provides:

> At any hearing involving a rate sought to be increased, the burden of proof to show that the increased rate or proposed increased rate is just and reasonable shall be upon the . . . electrical corporation . . . and the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.

In its most basic sense, the burden of proof is “that of establishing the affirmative of the ultimate issue[.]”[1] In practical terms, it means that the Company must prove that rates should be increased and any failure of proof means that the Company loses. This burden never shifts away from the Company.[2]

- *Nicole Mers*

ARGUMENT

I. Cost of Capital:

A. What return on common equity should be used for determining rate of return?

Staff’s position: ***The allowed ROE should be set at 8.65%.***[3]

KCPL urges the Commission to adopt the bloated Return on Equity (“ROE”) recommendation of its expert witness, Mr. Robert Hevert, which is above the average of recently-reported authorized ROEs[4] and significantly higher than either of the recommendations made by the other two experts that testified in this case.[5]

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[1] ***Been v. Jolly,*** 247 S.W.2d 840, 854 (Mo. 1952).

[2] *Id.*

[3] *Staff‘s Statement of Positions on the Issues.*

[4] Which was 9.77% in 2016 for all electric utilities and 9.60% if limited issue rider cases are excluded. *KCPL’s Initial Brief,* p. 2.

[5] Mr. Hevert’s point recommendation of 9.90% is 70 basis points higher than Mr. Gorman’s point recommendation of 9.20% and 125 basis points higher than Dr. Woolridge’s point recommendation of 8.65%. The low end of Mr. Hevert’s range at 9.75% is 25 basis points higher than the *high* end of Mr. Gorman’s range at 9.50% and 90 basis points higher than the *high* end of Dr. Woolridge’s range at 8.85%.

Party & Expert	Recommendation
KCPL (Robert Hevert)[6]	9.75%-10.50%, **9.90%**
MIEC (Michael Gorman)[7]	8.90%- 9.50%, **9.20%**
Staff (J. Randall Woolridge)[8]	7.90%- 8.85%, **8.65%**
EXPERT ROE RECOMMENDATIONS.	

Mr. Hevert, who only works for utility companies,[9] is well-known to this Commission, which has had occasion in the past to remark on the excessive nature of his recommendations.[10] Those recommendations were driven, as is Mr. Hevert's recommendation in this case, by inputs selected for the purpose of producing an elevated recommendation.[11] Just as the Commission has done in the past, it should reject Mr. Hevert's recommendation and authorize a fair and reasonable ROE, guided by the recommendations of the other expert witnesses who testified in this case, Dr. Randall Woolridge and Mr. Michael Gorman.

KCPL is a private, investor-owned corporation engaged in the electric utility business. Its owners have dedicated their private property to the service of the public and they therefore have a right under the Constitution to an opportunity to earn a fair return "on" and "of" their investment.[12] The ROE authorized by the Commission is one component that determines the adequacy or inadequacy of that opportunity to earn a

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[6] Hevert Direct, pp. 3, 63; Hevert Rebuttal, pp. 2, 11, 68; Hevert Surrebuttal, pp. 2-4, 28.

[7] Gorman Direct, p. 2 (9.00%, range 8.80%-9.20%); Gorman Rebuttal, p. 29; Gorman Surrebuttal, p. 2.

[8] *Staff RR Report,* pp. 10, 43, 46; Woolridge Surrebuttal, pp. 18, 20.

[9] Tr. 7, p. 123, line 19, through p. 124, line 8.

[10] *See* discussion in *MECG's Initial Brief,* pp. 20-21.

[11] Staff gathered the criticisms made by Mr. Gorman and Dr. Woolridge of Mr. Hevert's methods, inputs and results in *Staff's Initial Brief,* pp. 30-38.

[12] ***St. ex rel. Utility Consumers Council, Inc. v. Pub. Serv. Comm'n,*** 585 S.W.2d 41, 49 (Mo. banc 1979) ("***UCCM***"); ***State ex rel. Missouri Water Company v. Public Service Commission,*** 308 S.W.2d 704 (Mo.1958); ***New England T. & T. Company v. Dept. of Pub. Util.,*** 371 Mass. 67, 354 N.E.2d 860 (1976); ***So. Cent. Bell Tel. Co. v. La. Public Service Commission,*** 352 So.2d 964 (1977); ***New England Telephone & Telegraph Co. v. State,*** 113 N.H. 92, 302 A.2d 814 (1973); ***Potomac Elec. Power Co. v. Public Service Commission,*** 402 A.2d 14 (D.C.1979); ***Utah Power & Light v. Idaho Public Utility Commission,*** 102 Idaho 282, 629 P.2d 678 (1981).

fair return.[13] As the expert witnesses have testified and the briefs of counsel have explained, in setting the ROE, the Commission must be guided by certain Constitutionally-derived standards: It must be commensurate to the returns realized from other businesses with similar risks; it must be is sufficient to assure confidence in the financial integrity of the utility and to maintain the utility's credit rating; and it must be sufficient to enable the utility to obtain necessary capital.[14] A ROE that is set too low violates the Due Process Clause because it "confiscates" the shareholders' private property without compensation.

However, the utility and its owners are not the only parties to this case that enjoy Constitutionally-mandated protections. The Constitution also protects KCPL's customers from excessive ROEs set by state commissions.[15] "Statutory reasonableness is an abstract quality represented by an area rather than a pinpoint. It allows substantial spread between what is unreasonable because too low and what is unreasonable because too high."[16] Stated differently, the zone of reasonableness is "the zone between the lowest rate not confiscatory and the highest rate fair to the public."[17] The Commission has discretion to set the ROE anywhere within the zone of reasonableness it can discern from the testimony of the experts. "Determining a rate of return on equity,

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[13] As explained in *Staff's Initial Brief,* the rate of return is a multiplier which, applied to the net current rate base, results in the return or "profit" allowed to the investors in return for the use of their private property in serving the public.

[14] ***Federal Power Commission v. Hope Natural Gas Company***, 320 U.S. 591, 603, 64 S.Ct. 281, 288, 88 L.Ed. 333, 345 (1943); ***Bluefield Water Works & Improvement Company v. Public Service Commission of West Virginia***, 262 U.S. 679, 692-93, 43 S.Ct. 675, 679, 67 L.Ed. 1176, 1182-83 (1923).

[15] ***Zinermon v. Burch,*** 494 U.S. 113, 125, 110 S.Ct. 975, 983, 108 L.Ed.2d 100, ___ (1990) (internal quotation omitted).

[16] ***Federal Power Comm'n v. Conway Corp.,*** 426 U.S. 271, 278 (1976), *quoting* **Montana-Dakota Util. Co. v. Northwestern Pub. Serv. Co.,** 341 U.S. 246, 251 (1951).

[17] ***In re New Jersey Power & Light Co. v. State,*** 89 A.2d 26, 44 (N.J. 1952).

however, is imprecise and involves balancing a utility's need to compensate investors against its need to keep prices low for consumers."[18]

How is the Commission to determine what is too high and what is too low? One benchmark is the national average of ROEs recently awarded to electric utilities by state commissions. This figure was 9.77% in 2016 for all electric utilities and 9.60% if limited issue rider cases are excluded.[19] In the past, this Commission selected the ROE from a zone of reasonableness that it defined as extending 100 basis points on either side of the national average.[20] However, Dr. Woolridge, Staff's expert witness, testified that the lamentable national trend has been for utility regulatory commissions, like this Commission, to over-compensate public utilities and their shareholders. The resulting evil is that customers pay more than they should and companies become inefficient.[21] Perhaps the national average of recent state commission awards is an imperfect guide.

Dr. Woolridge testified that electric utilities are presently earning ROEs of 8.5% to 9.0%, their stock prices are up 16%, their bonds are being upgraded and they are raising 50 to 60 billion dollars annually of capital with no difficulties.[22] Great Plains is itself earning an ROE of 5% to 6% and yet has raised a very large amount of capital for its intended acquisition of Westar.[23] In consideration of these undeniable facts,

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[18] ***State ex rel. Pub. Counsel v. Pub. Serv. Comm'n,*** 274 S.W.3d 569, 574 (Mo. App., W.D. 2009),

[19] *KCPL's Initial Brief,* p. 2.

[20] ***In the Matter of Kansas City Power & Light Company,*** Case No. ER-2006-0314 (***Report & Order,*** issued December 21, 2006) p. 21.

[21] Dr. Woolridge testified that profitable firms have a market-to-book ratio higher than one, indicating that the firm is earning more than its cost of capital; while unprofitable firms have a market-to-book ratio below one, indicating that they are not earning their cost of capital. Dr. Woolridge presented a table demonstrating that the average market-to-book ratio in 2015 for electric utilities was 1.55X, demonstrating that, in general, regulated electric utilities earn well above their actual cost of capital. *Staff RR Report,* pp. 25, line 18, to p. 26, line 26; p. 27, lines 20-23, and App. 2, Ex. JRW-7, p. 3.

[22] Tr. 11, p. 752, lines 5-19; p. 753, lines 10-12' p. 756, lines 8-9.

[23] Tr. 11, p. 752, line 22, through p. 753, line 1; p. 753, lines 18-20.

Dr. Woolridge concluded that his recommended ROE of 8.65% meets the standards announced in *Hope* and *Bluefield.*[24]

Dr. Woolridge's recommendation, 8.65%, is well-above the return on common equity actually earned by KCPL and other investor-owned public electric utilities.[25] Dr. Woolridge's recommendation is the return actually required by investors:

> Thus, the appropriate allowed ROE for a regulated utility requires estimating the market-based cost of capital. The market-based cost of capital for a regulated firm represents the return investors could expect from other investments, while assuming no more and no less risk. The purpose of all of the economic models and formulas in cost of capital testimony (including those presented later in my testimony) is to estimate, using market data of similar-risk firms, the rate of return equity investors require for that risk-class of firms in order to set an appropriate ROE for a regulated firm.[26]

Neither KCPL nor any similar company has suffered any downgrade of its credit or inability to raise needed capital on reasonable terms.[27] In fact, as the expert testimony has made clear, capital is cheap right now for electric utilities.[28] So much so that KCPL's parent, Great Plains Energy, is financing the purchase of Westar Energy, a company bigger than itself.[29] The stock of electric utilities is regarded as being no more

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[24] Tr. 11, p. 753, lines 2-5.

[25] Tr. 11, p. 752, lines 6-7 and line 22, through p. 753, line 1; p. 753, lines 18-20. Dr. Woolridge testified that electric utilities' earned ROEs are in the range of 8.5% to 9.0%, while GPE is earning 5% to 6%.

[26] *Staff RR Report,* p. 10, lines 10-16.

[27] Ex. 650, Gorman Direct, p. 13, lines 21-25; Tr. 11, p. 753, lines 10-12: "Utilities are earning 8 point – 8 and a half to 9 percent. They're having no problems raising capital."

[28] Gorman Direct, p. 10, lines 4-7.

[29] On March 28, 2017, GPE's market capitalization was $6.222 billion, while Westar's was $7.642 billion. *And see* Tr. 11, p. 752, line 22, through p. 753, line 1: "Take a look at, I mean, Great Plains. Great Plains is earning an ROE of 5 to 6 percent. They raised 1.6 billion in equity and 2 -- 4 point -- a range for 4.4 billion in debt for their – I mean, that's off of 5 to 6 percent ROE."

risky than a bond and prices have correspondingly increased.[30] It's a sweet time to be a utility. Yet, Mr. Hevert nonetheless recommends a startlingly high ROE for KCPL, as though its shareholders deserve recompense for shouldering some outrageous risk.

The testimony has made it very clear that things are bleak for KCPL's customers. KCPL's service area is recovering very slowly from the Great Recession of 2008. From 2007 to 2015, the Missouri counties served by KCPL saw an average 17.62% increase in average weekly wages, about 3% *above* the increase in the Consumer Price Index ("CPI").[31] During the same period, KCPL filed six rate cases, which resulted in cumulative electric rate increases of 57.69%.[32] KCPL has also experienced inflationary pressure illustrated by a 10.31% increase in the Producer Price Index ("PPI") for Industrial Commodities from 2007 to 2015.[33] KCPL is currently requesting an additional $65.2 million or a 7.80% increase in rates.[34] If KCPL receives its requested 7.80% increase, KCPL's rates will have increased by 89.98% since 2007.[35] Not such a sweet time to be a customer of KCPL.

Mr. Gorman's recommendation of 9.2% is perhaps more palatable to the Commission than Dr. Woolridge's at 8.65%. It is still too high when considered in the light of the realities of the marketplace, but it is a step in the right direction. Perhaps that is the best that KCPL's captive customers can hope for.

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[30] Gorman Direct, p. 14, lines 6-16; p. 15, lines 8-11; p. 17, lines 22-28.
[31] *Staff RR Report,* p. 7, lines 15-18.
[32] *Staff RR Report,* p. 7, lines 18-20.
[33] *Staff RR Report,* p. 7, line 20, through p. 8, line 1.
[34] *Staff RR Report,* p. 8, lines 1-2.
[35] MECG's *Initial Brief,* p. 5.

B. Capital structure – what capital structure should be used for determining rate of return?

Staff's position: ***The capital structure should be based on GPE's consolidated capital structure, which consists of 50.8% long-term debt and 49.2% common equity.***

C. Cost of debt – what cost of debt should be used for determining rate of return?

Staff's position: ***The cost of debt should be based on GPE's consolidated embedded cost of debt, which correctly calculated is 5.42%.***

Staff continues to urge the Commission to adopt the Capital Structure and Cost of Debt recommended by Staff's expert witness David Murray rather than the higher figures supported by KCPL. Mr. Murray recommends that the Commission use Great Plains Energy's capital structure and cost of debt as of the update period, June 30, 2016.[36]

	STAFF	**KCPL**
Equity Percentage:	49.20%	49.72%
Cost of Debt:	5.42%	5.49%

Mr. Murray testified that the Capital Structure and Cost of Debt proposed by KCPL's witness Mr. Klote in his True-up Direct Testimony and by Mr. Bryant in his True-up Rebuttal Testimony are inappropriate because they do not reflect how GPE actually intends to be capitalized for the foreseeable future.[37]

In its *Initial Brief,* KCPL derides Staff's position:

[36] Murray True-up Rebuttal, p. 1, lines 14-17.

[37] Murray True-up Rebuttal, p. 2, lines 6-7.

> Mr. Murray's position is based on his long-held views regarding how KCP&L and GMO have been operated within the Great Plains Energy holding company structure. The numerous adjustments that Mr. Murray has proposed over the past nine years have never been adopted by the Commission, which has found them to be either "not reasonable," "unpersuasive," or "speculative."[38]

Mr. Murray has merely sought justice for KCPL's captive ratepayers, who have paid $146.7 million in rates higher than they needed to be in order to support KCPL's credit.[39] Mr. Murray testified that GPE's capital structure on December 31, 2016, was in a "transitional phase" that meant nothing to the rating agencies.[40]

Paragraph 57 of KCPL's *Initial Brief* uses excerpts of Mr. Murray's testimony to attempt to convince the Commission that S&P assigns different credit ratings to KCPL, GMO and GPE based on their individual risk profiles. Perhaps the Company truly believes that S&P does rate each of the companies separately based on their own risk profiles. If this were actually the case, then KCPL's assigned corporate credit rating would be consistent with its hypothetical stand-alone corporate credit rating of an "A-", but, instead, KCPL is assigned a "BBB+" corporate credit rating. This is the very reason why Staff argues that KCPL's ratepayers should be charged the least cost ROR, which, because GPE's consolidated debt cost is lower than KCPL's, necessitates the use of GPE's consolidated capital structure and consolidated debt cost. KCPL is right that we will never know how much lower KCPL's cost of capital could have been if it were assigned a credit rating based on its stand-alone credit profile and not weighed down by its affiliation with the other companies. But we can give KCPL's ratepayers credit, in the

[38] KCPL's *Initial Brief,* p. 23.

[39] Murray Surrebuttal, p. 8, lines 6-9; Tr. 14, p. 1779, lines 19-24.

[40] Tr. 14, p. 1783, line 1, through p. 1784, line 9.

form of lower rates, for the extra costs they have already borne for this group of companies.

Staff urges the Commission to use GPE's consolidated capital structure and Cost of Debt for ratemaking purposes in this case. These are the values that Staff and the Company both have recommended be used in the past; these are the values that the Commission has accepted and used in the past; and these are the values that are most advantageous to KCPL's ratepayers. It is a simple matter of fairness.

- *Kevin A. Thompson*

II. Fuel Adjustment Clause ("FAC"):

What FAC-related reporting requirements should the Commission impose?

Staff responds to points made by OPC and renews its position regarding specific reporting requirements based on the testimony of FAC witness David Roos. Again, due to the accelerated Staff review process necessary with FAC adjustment filings[41] Staff recommends the Commission again order[42] KCPL to continue to provide the following information as part of its monthly reports:[43]

1. As part of the information KCPL submits when it files a tariff modification to change its Fuel and Purchased Power Adjustment rate, include KCPL's calculation of the interest included in the proposed rate;

2. Maintain at KCPL's corporate headquarters or at some other mutually agreed-upon place and make available within a mutually-agreed-upon

[41] The company must file its FAC adjustment 60 days prior to the effective date of its proposed tariff sheet. Staff has 30 days to review the filing and make a recommendation to the Commission. The Commission then has 30 days to approve or deny Staff's recommendation.

[42] Page 47 - 48 of the Commission's *Report and Order*, issued September 2, 2015 in Case No. ER-2014-0370.

[43] Ex. 200, Staff Dir Rev Req Rpt, Roos, p. 161 lns 6 – 10 and p. 170 ln 9 – p. 171 ln 17.

time for review, a copy of each and every coal and coal transportation, natural gas, fuel oil and nuclear fuel contract KCPL has that is in or was in effect for the previous four years;

3. Within 30 days of the effective date of each and every coal and coal transportation, natural gas, fuel oil and nuclear fuel contract KCPL enters into, provide both notice to the Staff of the contract and opportunity to review the contract at KCPL's corporate headquarters or at some other mutually-agreed-upon place;

4. Provide a copy of each and every KCPL hedging policy that is in effect at the time the tariff changes ordered by the Commission in this rate case go into effect for Staff to retain;

5. Within 30 days of any change in a KCPL hedging policy, provide a copy of the changed hedging policy for Staff to retain;

6. Provide a copy of KCPL's internal policy for participating in the Southwest Power Pool's Integrated Market;

7. Maintain at KCPL's corporate headquarters or at some other mutually agreed-upon place and make available within a mutually agreed-upon time for review, a copy of each and every bilateral energy or demand sales/purchase contract;

8. If KCPL revises any internal policy for participating in the Southwest Power Pool, within 30 days of that revision, provide a copy of the revised policy with the revisions identified for Staff to retain; and

9. The monthly as-burned fuel report supplied by KCPL required by 4 CSR 240-3.190(1)(B) shall explicitly designate fixed and variable components of the average cost per unit burned including commodity, transportation, emissions, tax, fuel blend, and any additional fixed or variable costs associated with the average cost per unit reported.

Staff's Reply to Office of Public Counsel Recommendations on FAC Reporting Requirements (OPC Post-Hearing Brief pp. 28-31)

Staff is not opposed to Public Counsel's proposed changes to #1, 4, 5, 6, and 8 (above) because these changes provide OPC with copies of the same information that the Company provides the Staff.

Staff raises a concern to Public Counsel's proposed changes to #2, 3, and 7 (above) because they may be interpreted to limit the autonomy of the Staff by imposing an unrealistic requirement on the Staff to include OPC in all meetings it may have with the Company. Staff operates independently pursuant to statute and must remain so. Staff must remain free to meet with the Company and/or OPC or any other party to discuss and review FAC matters.

Staff does not object to OPC's proposed additional reporting requirements #10 and #11. However, if the Commission orders the Company to provide the information requested in OPC reporting requirement #11, Staff requests that the Commission require KCPL to continue reporting Purchased Power ("PP"), Transmission Costs ("TC") and Revenue from Off-System Sales ("OSSR") in a manner consistent with the Rider FAC approved by the Commission in this case.

What is the appropriate base factor?

Staff witness Ashley Sarver testified at true-up that she has applied updated information regarding Revenue Requirement for coal and freight (less test year unit trains, depreciation, and property taxes), purchased power energy, percentage of purchased power, sales for resale (non-firm) off system sales, and net system input. As a result of these changes the Staff recommends a true-up base factor for KCPL of $0.01545.[44]

- *Bob Berlin*

III. Transmission:

Should transmission expenses be annualized based on fourth quarter results of 2016 or annualized using the 12-month period ending December 2016?

Transmission expenses should be annualized based on the 12-month period ending December 2016 as recommended in the True Up Rebuttal Testimony of Karen Lyons.[45] This approach correctly balances known and measurable forward looking changes as well as historical data to create an approximated cost that will both ensure the utility is compensated for its transmission expense, while protecting ratepayers from overinflated predictions based on shortened time frames or inaccurate forecasts.

KCPL recommends an annualization of fourth quarter results to set transmission expenses. This method is flawed because it results in inflated predictions that do not take place, meaning ratepayers have paid for an expense not incurred, and the shareholders are the ones to benefit. KCPL's witness, Mr. Klote, amply exemplified this

[44] Ex. 253, Sarver True up Reb. p 1 – 2.
[45] Ex. 248.

during the true up hearing when asked to demonstrate how the fourth quarter annualization would work. Using the historical values provided in Staff witness Ms. Lyon's testimony,[46] Mr. Klote used the fourth quarter results of 2015 to provide the amount of transmission expense KCPL would have recovered, had KCPL's currently promoted method been used.[47] Mr. Klote calculated a transmission amount of $63,061,796 to be set in rates to collect for 2016 and beyond.[48] However, the actual amount of transmission expense incurred in 2016 was only $59,076,548.[49] KCPL's witness admitted that this would be an additional 4 million dollars collected from ratepayers by KCPL for expenses that were not incurred.[50] Clearly, an annualized amount based on the fourth quarter results leads to an inflated amount of transmission expense being charged to ratepayers.

The premise behind using a fourth quarter annualization is faulty as well. KCPL argues that the fourth quarter annualization is more appropriate, because it is closer to the forecasted amount the Company expects to incur in 2017 and 2018.[51] However, KCPL's forecasted expenses are also inflated compared to actual incurred historical expenses. KCPL budgeted ** ______________________ ** in forecasted transmission expenses for 2016, but only spent ** ____________ ** for the year.[52] KCPL witness Mr. Klote admitted reliance on the forecasted amount would lead to a ** ____________ ** overpayment by ratepayers. At hearing, KCPL tried to note

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[46] Ex. 248, True Up Rebuttal Testimony of Karen Lyons, Schedule KL-tr1 p. 3.
[47] Tr. 14:1802, ll. 12-25.
[48] Tr. 14:1803, ll. 1-4.
[49] Tr.14:1803, ll. 5-13, Ex. 247, True Up Rebuttal Testimony of Karen Lyons, Schedule KL-tr1 p. 3
[50] Tr. 14:1804, ll. 2-7.
[51] Ex. 174, True Up Rebuttal Testimony of Ronald A. Klote, p. 8, ll. 15-21.
[52] Tr. 15:1807, ll. 8-11.

that it was no longer requesting a forecasted value for transmission expense,[53] but conversely tries to argue that the same forecast shows an upward trend in expenses, so therefore the higher amount that results from KCPL's fourth quarter annualization process should be used.[54] Furthermore, not only would using the forecasted amount lead to overinflated transmission expense level being placed into rates, it signals an incorrect trend in transmission expense. Staff witness Ms. Lyons notes that the upward trend in transmission expense is leveling off.[55] Past years have seen 30% increases in transmission expense, but the increase from 2015 to 2016 was only a 1.2% increase in the level of transmission expense.[56] Basing transmission expense on fears caused by an inaccurate and overinflated budget that shows a trend contrary to the evidence violates the Commission's standard to use only known and measurable data and changes.

Staff's annualization based on the 12-month period is the correct amount to set transmission expense going forward. This amount includes protection for KCPL by including known and measurable changes for the Independence Power and Light ("IPL") settlement and the new charges and credits for Z2.[57] This means that KCPL, under Staff's method, would have a higher amount of transmission expense set in rates than what KCPL incurred in 2016 to reflect known and measurable future increases in the level of expense. Staff's method also avoids overstating the amount of transmission expense to be set in rates, which protects ratepayers. As can be seen in Schedule

[53] Tr. 14:1813, ll. 2-9.

[54] Ex. 174, True Up Rebuttal Testimony of Ronald A. Klote, p. 8, ll. 15-21.

[55] Ex. 247, True Up Rebuttal Testimony of Karen Lyons, p. 4, ll. 13-14.

[56] *Id.* ll. 1-4.

[57] *Id.* p. 3, ll. 16-23.

KL-tr1, attached to the Rebuttal Testimony of Karen Lyons, the months in the fourth quarter tend to have the highest level of expense incurred in the year.[58] A 12-month annualization period will even out peaks in the end of the year with lows found at other times of the year. Staff's method, which relies upon historical data but includes updates for known and measurable changes, is well supported by case law.[59] For all the above reasons, Staff's 12-month annualization period is the appropriate approach to setting transmission-expense levels, and the Commission should reject KCPL's approach of using the fourth quarter, which has the outcome of grossly overstating expense levels to the detriment of ratepayers.

- *Nicole Mers*

XVII. <u>Depreciation:</u>

A. Should the Commission allow terminal net salvage in the calculation of KCPL's depreciation rates?

Staff's position: ***Staff opposes the inclusion of terminal net salvage in the calculation of deprecation rates; the costs are not known and measureable.***

This Commission sensibly does not permit the recovery in rates of estimated terminal net salvage. Instead, it allows the recovery of expensed terminal net salvage

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[58] Ex. 247

[59] *See In Matter of Kansas City Power & Light Co.'s Request for Auth. to Implement a Gen. Rate Increase for Elec. Serv. v. Missouri Pub. Serv. Comm'n*, No. WD 79125, 2016 WL 4626933, at *7 (Mo. Ct. App. Sept. 6, 2016), <u>reh'g and/or transfer denied</u> (Nov. 1, 2016), <u>transfer denied</u> (Feb. 28, 2017) ("The PSC has historically utilized the test year and true-up procedure to determine appropriate future rates because the historical test year's expenses can be used to determine reasonable future rates."), *State ex rel. Noranda Aluminum, Inc. v. Pub. Serv. Comm'n of State*, 356 S.W.3d 293, 318 (Mo. Ct. App. 2011)("Past expenses are used as a basis for determining what rate is reasonable to be charged in the future in order to avoid further excess profits or future losses*"), State ex rel. Util. Consumers' Council of Missouri, Inc. v. Pub. Serv. Comm'n*, 585 S.W.2d 41, 58 (Mo. 1979) ("In so determining it may consider past excess recovery insofar as this is relevant to its determination of what rate is necessary to provide a just and reasonable return in the future, and so avoid further excess recovery").

after the salvage has actually occurred. This spares ratepayers the additional expense of paying in advance for a cost that is unknown and which may never occur.

Why, one wonders, does the Company care so long as the cost is eventually recovered? It cares because it wants to MAXIMIZE its current rate revenue to support GPE's acquisition of Westar. Adding estimated terminal net salvage to depreciation expense is one way to maximize the cash flow that depreciation expense represents. How about if the Commission allows the recovery of estimated terminal net salvage, the Company be required to segregate those funds and hold them in a sinking fund until such time as the cost is actually incurred? Somehow, it seems unlikely that KCPL would jump at the chance.

The intergenerational equity argument is a red herring. It is simply not something that KCPL cares about; it is merely an argument that the Company hopes the Commission will care about. If the Commission does find itself moved by that argument, then it should condition KCPL's use of the funds provided by the ratepayers for terminal net salvage so that they are not squandered long before the cost is ever actually incurred.

What about the claim that many other states allow terminal net salvage? The Commission should ignore it, as it has done repeatedly over the years.

B. What depreciation rates should the Commission order KCPL to use?

Staff's position: ***Staff recommends that KCPL continue to use depreciation rates for production plant that the Commission approved in Case No. ER-2014-0307 except as noted in the COS Report to acknowledge the retirement of Montrose Generating Unit 1 and to address the portion of the Greenwood Solar***

Facility allocated to KCPL. Staff's recommended depreciation schedule strikes out lines associated with the retired Montrose Generating Unit 1. Leaving or removing these lines has not effect on the depreciation expense because the plant in service associated with the unit is zero. Staff also recommends including in the KCPL depreciation rate schedule rates for the Greenwood Solar Facility that the Commission approved for GMO in Case No. ER-2016-0156.

Staff again urges the Commission to resolve the issue of depreciation rates as recommended herein by Staff.

- *Kevin A. Thompson*

XVIII. Revenues:

A. Should KCPL be permitted to make a $6.6 million adjustment[60] to annualize kWh sales in this rate case as a result of KCPL's Missouri Energy Efficiency Investment Act ("MEEIA") Cycle 1 demand-side programs?

No.[61] KCPL has created a smokescreen to reposition its proposed Cycle 1 revenue annualization adjustment as a billing determinants issue that conflates and confuses the two different MEEIA recovery mechanisms. KCPL claims that this issue is about "trying to set accurate billing determinants going forward." However, the question actually presented in KCPL's Initial Post Hearing Brief is whether or not MEEIA Cycle 1 established a mechanism to account for revenue losses. KCPL admits that the revenue

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[60] Ex. 143 Rush Reb, Sched TMR-7, KCPL seeks $6,643,084 proposed MEEIA Cycle 1 adjustment.

[61] KCPL's proposed annualization adjustment for its kWh sales resulting from its Cycle 1 demand-side programs is not permitted under:

1) *Non-Unanimous Stipulation and Agreement Resolving Kansas City Power & Light Company's MEEIA Filing* filed on May 27, 2014 [*Order Approving Stipulation and Agreement* effective June 15, 2014] in Case No. EO-2014-0095 (hereafter "Cycle 1 Stipulation"),
2) *Non-Unanimous Stipulation and Agreement Resolving MEEIA Filings* filed on November 23, 2015 [approved by *Report and Order* effective March 12, 2016] in Case Nos. EO-2015-0240 and EO-2015-0241 (hereafter "Cycle 2 Stipulation"); and,
3) KCPL's Cycle 2 DSIM [Demand-Side Investment Mechanism] Rider, P.S.C. MO. No. 7, Original Sheet Nos. 49F through 49P. [Tr. Vol. 13 p. 1677 lns 12 – 19 and Ex. 225 Rogers Surr. p. 1 ln20 – p. 2 ln 3.]

losses associated with its billing determinants issue can be addressed through a clear framework of a DSIM.[62] By switching-up the issue KCPL opportunistically seeks a double recovery for its Cycle 1 lost kWh sales.

KCPL misguides the Commission by recasting its proposed adjustment as a false billing determinants issue.

KCPL has morphed its proposed $6.6 million Cycle 1 revenue adjustment into an illogical billing determinants issue that - if accepted - would enable KCPL to double recover a part of its Cycle 1 lost kWh sales. KCPL misguides the Commission by likening its proposed adjustment to an annualization for lost customers or a weather event. This is a false comparison. Unlike the matter of lost customers or weather events where KCPL has no recovery mechanism other than a revenue annualization, KCPL has already been compensated for its lost Cycle 1 kWh sales through its tariff (DSIM Rider).

Annualization adjustments are commonly done in rate cases to provide the Company a one-time adjustment to kWh sales for known and measurable changes where no other opportunity exists for recovery of those adjusted amounts. Annualization adjustments are required when changes have occurred during the test year and/or update period, which are not fully reflected in the unadjusted test year results. [63] From this basic definition, it follows that an adjustment to the test year period should only be made if: (1) it is known when the change occurred, (2) the size of the change is known, and (3) there isn't another mechanism that accounts for the change.

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[62] KCPL Initial Post Hearing Brief, p. 68 para 181 and 182.

[63] Ex. 200, Staff Report definition of "Annualization", p. 4.

In this case, an annualization adjustment is not appropriate. Under the Cycle 1 Stipulation,[64] the timing of the change is known (1) ("The energy and demand savings will be based on actual measures installed and tracked each month"). However, (2) the size of the actual change is unknown because savings are deemed: ("and their associated deemed energy (kWh) savings and deemed demand (kW) savings and deemed lifetimes"). Further, the Cycle 1 Stipulation states: "EM&V shall not be utilized to calculate the net shared benefits for the purposes of determining the amount of the KCP&L TD-NSB Share." Finally, and perhaps most importantly, (3) the Cycle 1 Stipulation has a clear framework to account for revenue losses.

Said another way, KCPL's proposed Cycle 1 annualization adjustment is distinguished from adjustments for lost customers or weather events by the fact that KCPL has already recovered its lost kWh sales through the proper method of recovery - from its DSIM.[65] There simply are no other lost kWh sales for KCPL to recover from its Cycle 1 programs.[66]

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[64] The Commission approved the Cycle 1 Stipulation (EO-2014-0095), which includes KCPL as a signatory, states: "The DSIM addresses recovery of MEEIA Programs' costs, KCP&L's Throughput Disincentive Net Shared Benefits ("TD-NSB") Share that is intended to recover lost margin revenues, and any earned Performance Incentive Award." Page 3, para. 6.

The Cycle 1 Stipulation states: "The TD-NSB Share is the sum of the net shared benefits over the MEEIA Plan period multiplied by 26.36%. The energy and demand savings will be based on actual measures installed and tracked each month, and their associated deemed energy (kWh) savings and deemed demand (kW) savings and deemed lifetimes." Page 4, para.6.

The Cycle 1 Stipulation at no point discusses "annualization". As discussed in Staff's Post-Hearing Brief, the MEEIA Cycle 2 throughput disincentive is rebased to remove the level of savings that were annualized in billing determinants in the rate case. There is no rebasing adjustment of the MEEIA Cycle 1 throughput disincentive.

[65] The TD-NSB (throughput disincentive-net shared benefits) share mechanism has recovered KCPL's entire lost kWh sales related to the deemed energy savings for the deemed lifetime of each Cycle 1 installed measure. By proposing a separate Cycle 1 lost kWh sales annualization adjustment KCPL hopes to recover twice for the same lost kWh sales.

[66] Staff's Post-Hearing Brief, pp. 52-55, explains how KCPL has already recovered its lost Cycle 1 kWh sales and all unrecovered balances under the terms of the Cycle 1 and Cycle 2 Stipulations and the Cycle 2 DSIM Rider. Staff further explains how the Cycle 1 TD-NSB (throughput disincentive-net shared benefits) share model and the Cycle 2 DSIM Rider has already recovered all Cycle 1 un-recovered

Should the Commission be inclined to grant KCPL's proposed Cycle 1 programs adjustment – against the stipulation and tariff-based arguments of Staff, Public Counsel and MECG[67] – the Staff points to other flaws in the Company's proposal. KCPL claims that Cycle 1 programs will reduce usage by 100.6 million kWhs, equivalent to about one percent of its total Missouri sales for a loss of $6.6 million in revenues.[68] Noting the Company puts one percent (1%) of its kWh sales at issue in its billing determinants argument, it totally ignores the fact that it has already recovered the $6.6 million as part of the $17.8 million received from customers for the entire amount of its Cycle 1 TD-NSB Share. Also, Staff points out that KCPL failed to address its proposed $6.6 million adjustment in true-up. KCPL did not develop trued-up billing determinants that reflect trued-up sales revenues which include its proposed Cycle 1 adjustment.[69]

The Cycle 2 Stipulation and DSIM Rider allows KCPL to annualize its Cycle 2 lost kWh sales and to recover contemporaneously its lost margin revenues through its TD (throughput disincentive), trued-up through EM&V at the end of the period.

The first step to determine the treatment and recovery of lost kWh sales from Cycle 2 programs is to go to the Cycle 2 DSIM Rider which contains explicit terms governing how the Company is to recover its lost kWh sales.

MECG correctly points out that the parties must ultimately rely on the Cycle 2 DSIM Rider. Signatories to the Cycle 2 Stipulation, including KCPL, agreed that the tariff language governs how lost kWh sales are to be recovered for Cycle 2 programs.[70]

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program costs, all lost kWH sales (through the TD-NSB share mechanism), and any un-recovered performance incentive.

[67] Missouri Energy Consumers Group

[68] KCPL Post-Hearing Brief p. 77.

[69] Ex. 255, Stahlman True-up Rebuttal p. 2.

[70] The Cycle 2 Stipulation section 9. DSIM (also attached as Ex. 143, Rush Rebuttal, Sched. TMR-6) states "The Signatories agree to the DSIM described in this Stipulation and attached as tariff sheets in

Despite the clear provisions of the Cycle 2 DSIM Rider, KCPL seizes the phrase "all active MEEIA programs" in the Annualization paragraph of the Cycle 2 Stipulation. Yet "all active MEEIA programs" does not appear in the controlling Cycle 2 DSIM Rider. KCPL inaptly relies on the phrase "all active MEEIA programs" because it appears in the Cycle 2 Stipulation four times - wrongly concluding that "all active MEEIA programs" applies the Cycle 1 programs to the Cycle 2 annualization provision. It clearly does not.

KCPL's assertion that "all active MEEIA programs" applies to the annualization of Cycle 1 programs is wholly illogical and must fail. First, there is no language anywhere that provides for the calculation of an annualization adjustment for Cycle 1 programs. Second, the Cycle 2 DSIM Rider tariff sheets govern and those tariff sheets explicitly specify that only Cycle 2 programs are annualized – not Cycle 1 programs. Third, the phrase "all active MEEIA programs" in the Cycle 2 Stipulation cannot, by definition, include Cycle 1 programs because Cycle 1 programs were closed to applications on December 15, 2015, well before Cycle 2 programs started in April 2016.[71] Also the Cycle 2 Stipulation addresses Cycle 2 programs and explicitly cites Cycle 1 programs for two reasons only: (1) to allow KCPL to recover unrecovered balances for Cycle 1 programs and (2) to accommodate Cycle 1 programs completed in 2016 after the December 15, 2015 Cycle 1 program application deadline.[72]

Appendix D. To the extent this Section 9 differs from tariff sheets, ***the tariff sheets govern***." [***emphasis added***] See MECG Post-Hearing Brief, p.43.

[71] Cycle 2 Stipulation paragraph 12: Transition Between MEEIA Cycles subpara. a. "…The last day to submit an application for the Cycle 1 C&I Custom Rebate program is December 15, 2015…"

[72] Cycle 2 Stipulation paragraph 12, subparagraphs. a. and d.

KCPL's public policy argument that Cycle 1 and Cycle 2 should be treated the same is bad public policy because it results in the Company's double recovery of lost kWh sales for its Cycle 1 programs.

On page 76 of KCPL's Post-Hearing Brief, the Company relies on testimony of Mr. Tim Rush to color its proposed double recovery of lost kWh sales with a public policy argument:

> [Fischer] Q: From a public policy standpoint, is there any reason why Cycle 1 and Cycle 2 would be treated differently, putting aside our disagreements about the stipulation?
>
> [Rush] A. From a policy perspective, I see no difference….

From KCPL's policy perspective, there may be no difference but contrary to what Mr. Rush believes, there is a huge difference in Cycle 1 and Cycle 2 recovery mechanisms. The Cycle 2 DSIM Rider sets out explicit provisions for the annualization of kWh sales for Cycle 2 programs in a rate case as an offset for rebasing the Cycle 2 DSIM Rider throughput disincentive amount to zero.[73] This "rebasing offset" will be revenue neutral because the same Cycle 2 throughput disincentive amount will be recovered from customers through permanent rates instead of through the Cycle 2 DSIM Rider rates.

On the other hand, under Cycle 1 there is no opportunity for a "rebasing offset." The Cycle 1 TD-NSB Share was not designed to be rebased if the supposedly lost kWh sales were annualized in a rate case. Further, the Cycle 1 TD-NSB Share amount is currently zero and cannot be rebased. Therefore, the 100.6 million kWh lost sales that KCPL is referring to has been counted in the MEEIA Cycle 1 TD-NSB Share and cannot be counted again in rate case billing determinants. Any annualization of Cycle 1 lost

[73] Ex 225, Rogers Surr. Ex. JAR-s3 Page 6 of 11: RB = Rebasing Adjustment. The Rebasing Adjustment shall equal the CAS [cumulative sum of the sum of measure count 9MC) multiplied by measure energy (ME)] for all measure in a program in the current calendar month for each program for MEEIA Cycle 2.

sales in this rate case will not be revenue neutral because the Cycle 1 unrecovered lost sales are zero and cannot be "offset". KCPL is not entitled under any stipulation, or DSIM Rider tariff, or any public policy argument to be granted a double recovery of its lost kWh sales.

- *Bob Berlin*

XIX. Rate Design/CCOS:

a. *Class Cost of Service Studies and Interclass Shifts*

Much of the testimony and many of the statements made in this case have revolved around the appropriate class cost of service ("CCOS") study to apply to KCPL for the purposes of this rate increase request. Not surprisingly, intervenor witnesses urge the Commission to rely on the results most favorable to the parties they represent. Several parties in their briefs accuse Staff's base intermediate peak ("BIP") study of favoring the residential class. However, Staff has no dog in this fight; its sole goal is to find an equitable and reasonable allocation of the cost of service to each of KCPL's classes.

MECG alleges that the CCOS is the most important element of designing rates.[74] Ironically, MECG did not conduct a CCOS study, nor did it have a witness at the evidentiary hearing or submit any testimony on the matter.[75] MECG claims that Staff's BIP study should be disregarded because it produces outlying results.[76] What MECG fails to recognize is that Staff is the only party which conducted a Cost of Service study using its own calculation of the revenues; while each of the other parties used KCPL's

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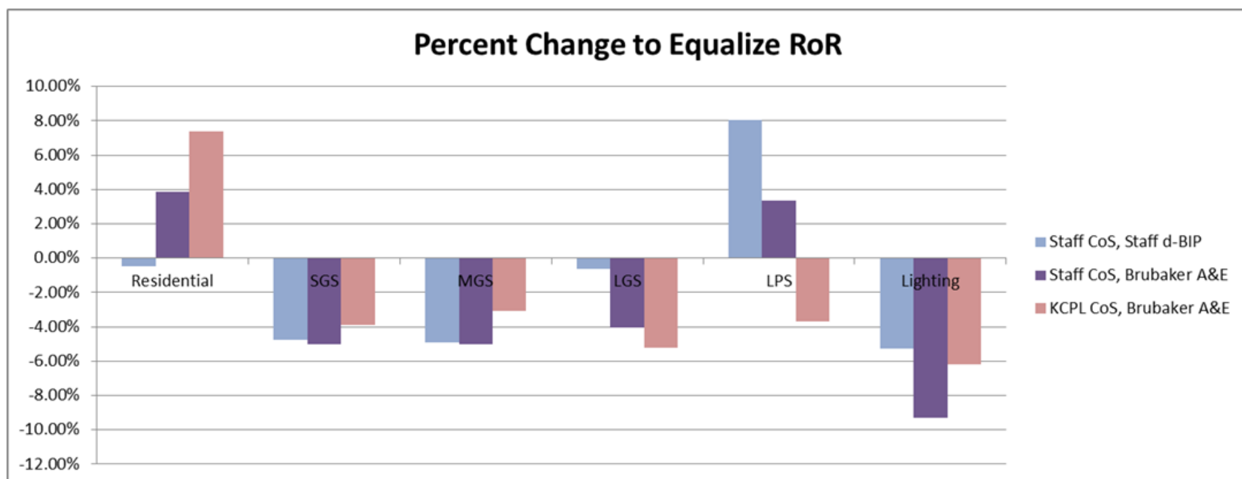
[74] *Missouri Energy Consumer's Group Initial Brief*, p. 46.

[75] Tr. 12, p. 1209, line 16.

[76] *Missouri Energy Consumer's Group Initial Brief*, p. 44.

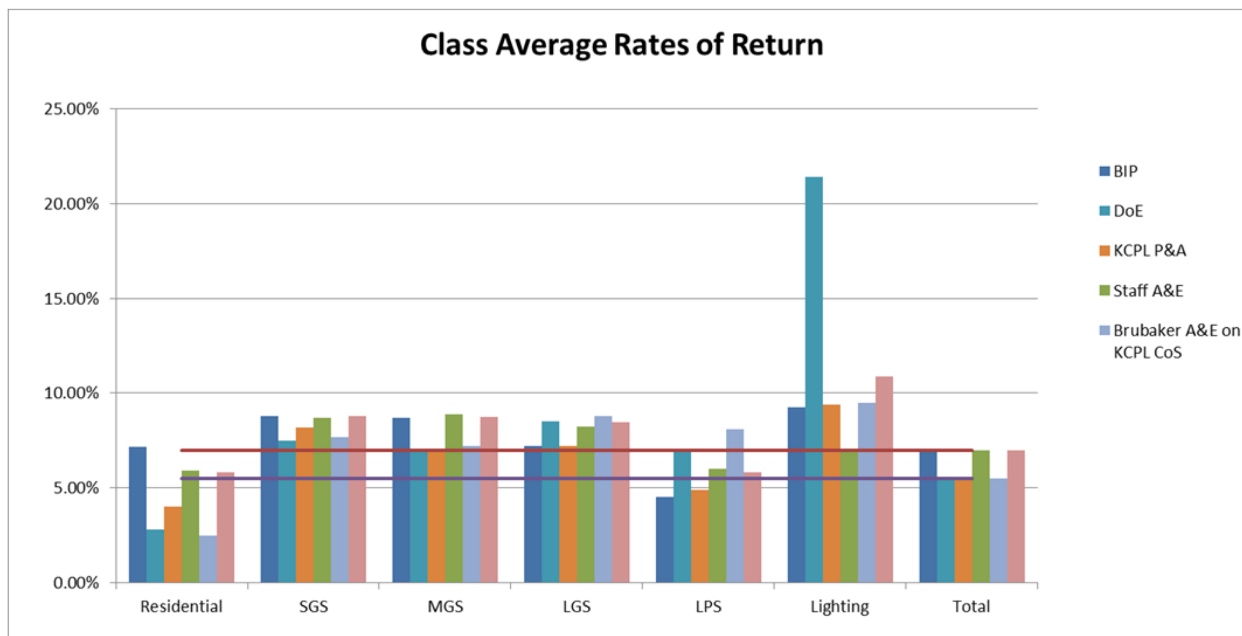
study, which included its requested revenues.[77] It is not surprising that the only study using more recent data and a more reasonable overall revenue requirement would produce different results than those seeking to allocate the entire revenue requirement amount KCPL requested in its direct filing. For example, when Staff applies MIEC witness Mr. Brubaker's production capacity and production energy allocators to Staff's own CCoS results, as shown in the chart below, it results in a swing for the LPS class from the approximately 3.5% over-contributing result under KCPL's revenue requirement to an approximately 3.5% under-contributing result using Staff's revenue requirement: [78]



MECG follows up its claims by stating that the BIP study is not at all used,[79] and then promptly contradicts itself in its own brief when quoting Mr. Brubaker that the study is used in Texas.[80] These arguments are inconsistent at best, but are irrelevant to the Commission's consideration of the appropriateness of interclass revenue shifts. All of the studies conducted by all parties indicate that all classes are contributing towards

[77] Ex. 212, *Sarah Kliethermes Rebuttal,* p. 5, lines 3-8.
[78] Ex. 212, *Sarah Kliethermes Rebuttal,* p. 7.
[79] *Missouri Energy Consumer's Group Initial Brief,* p. 44.
[80] *Missouri Energy Consumer's Group Initial Brief,* p. 57.

KCPL's rate of return, particularly when the level of expense included in KCPL's inflated initial revenue requirement request is considered.[81]



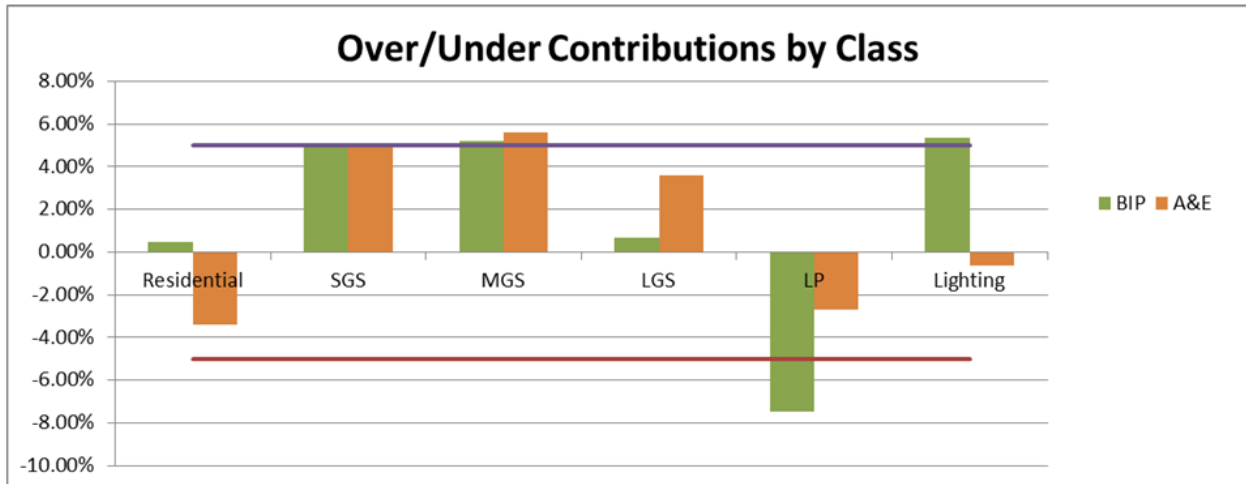
Despite MECG's continued references to a "residential subsidy" throughout its brief; as is evidenced by Staff's chart above, none of the classes is currently subsidizing any other class, under any witness's study presented in this case, or as adjusted for Staff's revenue requirement.

b. Production Capacity Allocation

While the briefs presented by MECG, USDOE, and MIEC discuss the production capacity allocation, all ignore the simple fact that even using an alternative production capacity allocator, no shifts to interclass revenue responsibility are appropriate in this case. Staff, as part of its work in this matter, prepared a reference study using an Average and Excess ("A&E") allocator, and the results of that study indicated that the rate groups are paying their cost of service within the range of reasonable precision of a

[81] Ex. 212, *Sarah Kliethermes Rebuttal,* p. 4.

class cost of service study.[82] While the MGS class is slightly above a 5% tolerance, as discussed in Staff's direct and rebuttal testimonies, it is necessary to evaluate all three general service classes as a group.



MECG claims that the high load customers will be penalized by application of Staff's detailed BIP study.[83] However, the BIP study merely factors in the capacity and energy costs of each of the types of plants, focusing more specifically on the construction and fuel costs of those plants, and attempts to allocate their costs reasonably to the various rate classes relative to that class's demand characteristics throughout the year and at peak.[84] Determining the appropriate cost of service to a class and appropriately allocating those costs to the cost-causer is not a penalty. Production capacity costs are the varying costs to install and operate each different type of plant, such as a nuclear plant versus a simple cycle gas plant. Staff's study recognizes that due to the difference in the construction costs of a nuclear facility versus a simple cycle gas unit, taking into account depreciation, the cost associated with a kW

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[82] Ex. 212, *Sarah Kliethermes Rebuttal,* p. 3.

[83] *Missouri Energy Consumer's Group Initial Brief,* p. 44.

[84] Ex. 202, *Staff's Rate Design and Class Cost of Service Report,* p. 9, lines 1-4.

of nuclear capacity is greater than the cost of a kW of capacity associated with a simple cycle gas unit.

Through Staff's BIP study, higher load factor classes will be allocated costs based on fewer kW of higher-cost capacity. Alternatively, lower load factor classes will be allocated costs based on more kW of lower-cost capacity. Whether in a given case this method results in allocated costs that are more or less favorable to a given class than those produced by an A&E study such as that used by KCPL depends entirely on the demand and usage characteristics of that utility's customer classes, and on the net rate base and operating characteristics of the makeup of that utility's generation fleet.

MECG and MIEC try to say that Staff's method only considers baseload plants for the purpose of generating energy and not for meeting peak demand and manipulates this mistaken assumption further to assume that Staff believes base plants do not provide capacity.[85] USDOE also mischaracterizes Staff witness Ms. Sarah Kliethermes' statements that KCPL's generation should be considered based on all of the necessary capacity to meet its load instead of just focusing on peak times and peaking plants as opposing parties suggested at the evidentiary hearing.[86] Not only does the USDOE brief try to change what she is saying, but this statement is actually pulled from her surrebuttal testimony, which taken in context states that the 4CP CCOS method places strong emphasis on peak generation, whereas the BIP method considers all of the generation types equally. Ms. Sarah Kliethermes' study does consider peak demand. Staff's study simply recognizes that the type of capacity used to

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[85] *Missouri Energy Consumer's Group Initial Brief,* p. 53; *Missouri Industrial Energy Consumers Initial Brief,* p. 8.

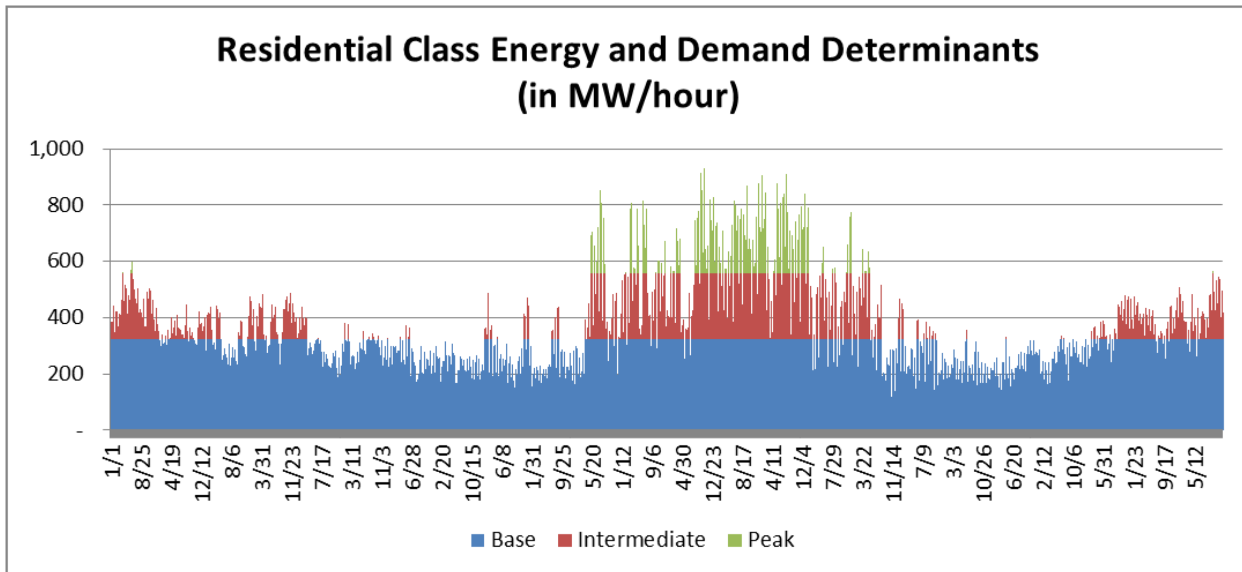
[86] *United States Department of Energy Initial Brief,* p. 18.

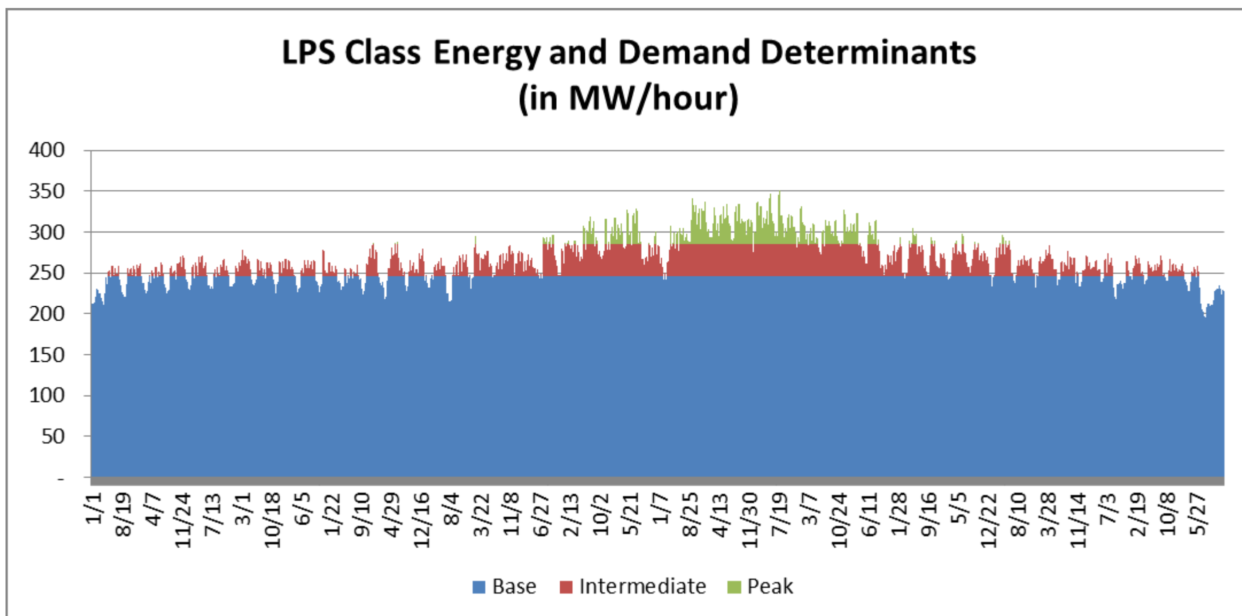
meet peak demand tends to cost less than the type of capacity typically used for baseload purposes. She pointed out during cross-examination, when asked if utilities build for peak, "utilities build to efficiently serve their load over the course of a year."[87] The BIP method respects this all-encompassing consideration of load as opposed to methods such as the 4CP, which over-emphasize peaking generation. In fact, if true peak were the only consideration in generation and transmission system planning, no rational utility would build the interconnected generation and transmission system as it exists today. If a utility only needed to meet demands an hour or two (or four) a year, the utility would only build simple cycle combustion turbines, and perhaps rely on batteries or capacitors. The complex generation fleets and interconnected transmission systems that exist are a reflection of the diversity of load, generation, and geography that are the simple reality of the complex and interconnected utility industry. The BIP method, among those proposed by the parties in this case, uniquely recognizes the tradeoffs that exist between the cost of installing a plant, the generation capabilities of a plant, and the cost of obtaining energy from that plant.[88]

The charts provided below demonstrate that for each class, the Intermediate hourly use exists only in hours that exceed that class's average (Base) demand, and Peak hourly use exists only in the hours that exceed that class's Intermediate demand. These charts also reflect that higher load factor classes are allocated costs based on the fact that it is more expensive to install, but cheaper to operate base capacity, while

[87] Tr. 11, p. 977, line 18, through p. 978, line 1.
[88] Ex. 213, *Sarah Kliethermes Surrebuttal,* pp.4-5.

lower load factor classes are allocated costs based on their need for more peaking capacity that is less expensive to install, but more expensive to operate.[89]





c. Distribution Allocation

MECG and MIEC attack Staff in their initial briefs, stating that Staff failed to recognize the distinction between customers being served at different voltage levels

[89] Ex. 213, *Sarah Kliethermes Surrebuttal,* p. 4.

when allocating distribution costs and that Staff disregarded KCPL's detailed load analysis. This is simply untrue. In Staff's Rate Design and Class Cost of Service Report, Staff explains that KCPL's hourly class load data does not contain the level of detail necessary to develop the allocators that Staff generally uses to allocate distribution costs.[90] Staff could only determine each class' NCP and CP at meter and at generation and not at the substation, primary and secondary voltages. Staff's report further explains that Staff attempted to weight each class' NCP at meter to account for the absence of primary voltage customers when allocating secondary distribution cost.

Ms. Robin Kliethermes again explained in surrebuttal testimony that the CPs and NCPs KCPL provided in its workpapers are not the actual CPs and NCPs directly related to the customers' usage behaviors in the respective sub-class, but instead are the result of an estimation process. Additionally, KCPL's witness Mr. Al Bass confirmed that load research data is provided by rate class only and not by each sub-class of customers who are served at different voltage levels.[91] Mr. Brubaker fails to take this into consideration as Ms. Robin Kliethermes clearly pointed out in surrebuttal and MECG ignored those portions and utilized only what sounded good for its argument. In fact, MECG and MIEC have failed to provide any argument that counters Staff's explanation of KCPL's load data. MECG and MIEC merely argue that Staff's values are wrong because the parties believe they are not large enough when compared to demand levels that MECG and MIEC believe to be load research data despite Staff's

[90] Ex. 202, *Staff's Rate Design and Class Cost of Service Report,* p. 23, lines 20-25.

[91] Tr. 13, p. 1624, lines 4-10.

clear explanation. Furthermore, KCPL witness Al Bass has confirmed that those demand levels are not KCPL's load research data.[92]

MECG in its initial brief cites to exhibit 854, which is the rebuttal testimony of Mr. Brubaker. Staff is under the assumption that MECG is actually referencing MIEC's exhibit 857, which is a chart presented only to Staff witness Ms. Robin Kliethermes outside of the hearing room and later used to confront her testimony on the stand.[93] This chart was produced by Mr. Brubaker[94] and is described as showing the difference between the demand provided by KCPL and that used by Staff.[95] MECG argues that Mr. Brubaker validated the demand values provided by KCPL by comparing it to billing determinant demand as shown in the exhibit. However, Staff made clear at the evidentiary hearing when cross-examining Mr. Al Bass that billing determinant demand listed in the chart is not equivalent to load research demand.[96]

d. Large Power and Large General Service Rate Design

The rate MECG would have the Commission collect the increase more through the demand charge rather than the energy charge, and apply more increase to the first block.[97] While the MECG and MIEC briefs allege that Staff has not appropriately considered demand,[98] the rate design those parties request for the larger classes would fail to recognize the cost of energy. Their proposed rate design would steepen the decline of industrial energy charges and send the wrong price signals to consumers

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[92] Tr. 13, p. 1624, line 24, through p. 1625, line 6.
[93] Ex. 857, Kansas City Power and Light Company Demand Comparison for Rate LP.
[94] Tr. 12, p. 1221, lines 1-4.
[95] Tr. 12, p. 1222.
[96] Tr. 13, p. 1625, lines 3-6.
[97] *Missouri Energy Consumer's Group Initial Brief,* p. 80.
[98] *Missouri Industrial Energy Consumers Initial Brief,* p. 9.

because it is an artificial lowering of the cost of energy for those consuming additional energy.

	Res.	SG	MG	LG	LP	Ltg.
Cost of Energy at Market Prices used in Fuel Run:	$ 58,164,872	$ 10,027,490	$ 28,277,863	$ 53,749,512	$ 48,685,687	$ 1,948,900
Cost of Energy at Actual Market Prices:	$ 63,778,852	$ 10,851,453	$ 30,604,874	$ 57,895,170	$ 51,503,224	$ 1,948,450
MWh @ Generation:	2,612,103	459,017	1,297,036	2,505,726	2,279,413	96,997
$/MWh at Market Prices used in Fuel Run (at Generation):	$ 22.27	$ 21.85	$ 21.80	$ 21.45	$ 21.36	$ 20.09
$/MWh at Actual Market Prices (at Generation):	$ 24.42	$ 23.64	$ 23.60	$ 23.11	$ 22.59	$ 20.09
MWh @ Meter:	2,784,602	489,299	1,382,432	2,661,021	2,377,141	103,402
$/MWh at Market Prices used in Fuel Run (at Meter):	$ 20.89	$ 20.49	$ 20.46	$ 20.20	$ 20.48	$ 18.85
$/MWh at Actual Market Prices (at Meter):	$ 22.90	$ 22.18	$ 22.14	$ 21.76	$ 21.67	$ 18.84
Class % of Total Cost of Energy at Market Prices used in Fuel Run:	28.959%	4.992%	14.079%	26.760%	24.239%	0.970%
Class % of Total Cost of Energy at Actual Market Prices:	29.448%	5.010%	14.131%	26.731%	23.780%	0.900%

The total cost of energy KCPL procures through the SPP Day Ahead Market for each class and the average cost of energy based on each class's load shape are provided above. Staff did not include ancillary service, real time market, transmission, and capacity costs in these amounts.

e. Residential Inclining Block Rates

Staff has already stated its position cautioning against radical and abrupt moves to inclining block rates in its initial brief[99] and on the stand,[100] but will respond to some of the arguments set forth by the other parties in their initial briefs in this section.

[99] *Staff's Initial Brief,* p. 7-8.

[100] Tr. 11, p. 1018, lines 17-18.

Depending on the structure of inclining block rates, different customers in KCPL's residential class will feel the effects. This is due to the amount of costs attributed to the first block as opposed to the other blocks, and to the size of the blocks, such as the first block representing a customer's first 600 kWh used. DE is the party that originally proposed the inclining block rates in this matter. It states that its model is only flattening the non-summer rates and provides an inclining block rate in the summer for a customer's usage over 600 kWh.[101] Essentially, under DE's proposal, a customer will be billed a higher rate on all usage over 600kWh. OPC witness Dr. Marke stated that 600 kWh is considered the minimum amount a customer would need to survive for a typical home. He further stated that 600 kWh would include minimum heating and cooling.[102] DE witness Mr. Hyman's bill frequency analysis showed that average usage for the summer months of June through September is all above 600 kWh.[103] Staff's concern is the impact that an abnormally hot summer would have on a customer's bill and on the utility's revenues. When Chairman Hall asked several questions about elasticity studies, Mr. Jester stated his belief that volatility would be low.[104] However, throughout his testimony, Mr. Jester made clear that he was not reviewing the impact of weather.[105] As discussed throughout Robin Kliethermes's Surrebuttal testimony, Staff's volatility concern primarily regards the impact of non-normal weather on a customer's bill. While Staff did raise revenue stability as a concern, which is similar to Mr. Jester's volatility discussion, no party has provided evidence or a method to reduce extreme customer bill

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[101] *Missouri Division of Energy Initial Brief,* p. 7.

[102] Tr. 12, p. 1164, line 22, through p. 1165, line 14.

[103] Ex. 800, *Martin Hyman Direct,* p. 24.

[104] Tr. 12 P., p. 1140:, lines 13-17.

[105] Tr. V.12 P.1110:4-12.

impacts associated with the actual weather customers may experience However, the price of demand will not affect customer usage.

Staff's additional concern is that customers will see the immediate effects of implementing an inclining block rate structure as these new rates are scheduled to go into effect in June, which kicks off the "summer" months under this structure. DE itself stated in its opening at hearing that residential usage is highest in the summer months,[106] so customers would see the strongest effects immediately upon the effective date of rates. No parties' initial briefs opposed the customer education efforts that Staff discussed on cross with witness for DE and OPC at hearing. Staff reiterates its suggestion that customer education accompany any changes to residential rate design.

The Sierra Club/Renew Missouri imply that given her reluctance to immediately implement inclining block rates, that Staff witness Robin Kliethermes does not understand the proposed inclining block structure.[107] However, Ms. Kliethermes has made clear that she simply cautions against the potential unintended consequences of moving to any inclining block rate design, not specifically DE's proposal. Sierra Club and Renew Missouri's brief tries to bolster its argument for an inclining block structure by comparing Missouri to the current rates in Michigan and British Columbia.[108] While it is respectable to look to other states/territories for guidance, the parties fail to explain how two extreme northern areas compare to a state like Missouri in the middle of the Midwest. Finally, the Company and Staff believe the Commission should take consideration of the fact that KCPL is presently conducting a study to implement time-

[106] Tr. 11, p. 839, lines 12-13.
[107] *Sierra Club/Renew Missouri Initial Brief,* p. 26.
[108] *Sierra Club/Renew Missouri Initial Brief,* p. 30.

based rates, something the Sierra Club and Renew Missouri support.[109] It would be far more practical to await the results of that study than to force customers to adopt a new system now, only to consider the results of a time-based rate study and possible implementation of that rate structure in the next rate case.

f. Space Heating Customers

One of the most glaring concerns about movement to an inclining block rate structure is the harmful effects against KCPL's space heating customers, as those customers are known to be higher usage, residential customers. Space heating customers have little control over their usage in the winter when extreme weather conditions occur. Now, DE has stated that it did not intend for the inclining block structure to be applied to KCPL's space heating customers,[110] however, as Staff witness Ms. Robin Kliethermes pointed out at the evidentiary hearing, not all space heating customers are separately metered.[111] Therefore, while some space heating customers would be opted out from the inclining block rate structure according to DE, others would be discriminated against due to the lack of separate meters for those customers.

- *Whitney Payne*

XX. Clean Charge Network:

Staff anticipates that the Commission will resolve these issues in the same manner as it resolved the similar issues presented in Case No. ET-2016-0246, Ameren Missouri's Electric Vehicle Charging Station Tariff case. Staff continues to have serious

[109] *Sierra Club/Renew Missouri Initial Brief,* pp. 34-36.
[110] *Missouri Division of Energy Initial Brief,* p. 7.
[111] Tr. 11, p. 1072, lines 13-16.

concerns with the legality of the Commission's resolution and so will briefly repeat its positions here.

A. Is the Clean Charge Network a regulated public utility service?

The Clean Charge is unmistakably a regulated public utility service. The Commission has jurisdiction to regulate utility-owned-and-operated electric vehicle charging stations. The Commission has jurisdiction to regulate public electric utilities engaged in the practice of manufacturing, selling, or distributing electricity to consumers for light, heat, and power under Section 386.250, RSMo. An electric vehicle charging station is a specialized device designed for consumers to use to deliver electricity to their electric vehicle battery to power the vehicle's functions. When a charging station is operated by a regulated electric utility for the purpose of selling electricity to those consumers, it falls squarely within the Commission's jurisdiction.

B. Should capital and O&M expenses associated with the Clean Charge Network be recovered from ratepayers?

Wouldn't it be great if entrepreneurs had no risks because someone else put up the money for their ideas? KCPL, the entrepreneur in this case, wants to "prime the pump" to create a vibrant new market for electricity. Sales of electricity, after all, have been flat or even shrinking as economically hard-hit customers try to control their ever-growing electric bills. So, KCPL is thrilled at the prospect of a new way to sell its traditional product to a new group of customers – EV drivers. KCPL is not so thrilled at the Commission's declaration, in Case No. ET-2016-0246, that EV charging is not a public utility service that KCPL can expect to enjoy a monopoly on within its service territory.

Who is that “someone else” that KCPL hopes will put up the money and bear all the risk? Why, its ratepayers, of course. Note that these ratepayers may or may not be EV drivers (and, indeed, most of them aren’t) – why should they pay the cost of serving the EV drivers? Given that KCPL is so very concerned about inter-customer equity in this case (see above under Terminal Net Salvage), KCPL should be insisting on an EV Charging Tariff that collects all the costs from the EV drivers themselves.

Staff strongly believes that the people that use a service should pay for it. Anything else is simply not just and reasonable. For that reason, the ratepayers must be held harmless.

C. Should KCPL develop a PEV-TOU rate to be considered in its next general rate case?

KCPL should be ordered to design a PEV-TOU rate to be implemented in KCPL’s next general rate case. Additionally, KCPL should create a TOU rate for general, residential customers that offers a Super-Off peak rate option for customers with EV home charging.

D. Should the session charge be removed from the tariff?

KCPL has agreed to do so and thus this issue is moot.

- *Kevin A. Thompson*

TRUE-UP ISSUES

I. Market Prices:

Should Staff’s or KCPL’s market prices be used?

In KCPL witness Burton Crawford’s true-up rebuttal testimony, KCPL identified the issue of what level of power market power prices should be utilized by the

Commission when determining KCPL's variable fuel and purchased power expense,[112] and therefore, a discussion of such is included in this brief. By its August 10, 2016, ***Order Adopting Procedural Schedule and Delegating Authority***, at the suggestion of KCPL and other parties, with regard to the true-up, the Commission ordered that the True-Up Period shall end December 31, 2016. For use in Staff's production cost model, Staff recommends the Commission utilize true-up power market prices with an average cost of $21.08 per MWh for determination of KCPL's variable fuel and purchased power expense. Staff utilized this level of market prices in the PLEXOS production cost model to perform an hour-by-hour chronological simulation of KCPL's generation, power purchases, and power sales in order to determine the annual variable cost of fuel, net purchase power cost, and fuel consumption. The market prices were used to simulate KCPL's operations in the Southwest Power Pool's ("SPP") Integrated Marketplace ("IM"). The market power price input dictates how and when KCPL's generation resources are dispatched, and ultimately, the amount of energy sold by KCPL.[113]

KCPL recommends that the Commission utilize power market prices with an average cost of $20.58 per MWh for the True-Up case, because, as it contends, Staff did not update its market prices in true-up.[114] In addition, KCPL questions Staff's methodology for calculating power market prices,[115] claiming that Staff's methodology included actual March through December 2014 market prices of $29.94 per MWh, and

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[112] Ex. 171, True-up Rebuttal Testimony of Burton Crawford, p. 2, ll. 7-10.

[113] Ex. 200, *Staff Direct Revenue Requirement Report*, p. 80, ll. 6-15.

[114] Ex. 171, True-up Rebuttal Testimony of Burton Crawford, pg. ?.

[115] KCPL did not raise issue with Staff's methodology for calculating power market prices at any time prior to True-up Rebuttal Testimony.

thus, are not representative of a normalized test-year period.[116] Not only is this attack on Staff's methodology potentially improper,[117] the assertion that Staff used 2014 data in its determination of power market prices is incorrect.

While it is true that Staff utilized the same market power price in its production cost model at true-up as it did in its direct filing, Staff *did* analyze power market prices at true-up. Staff witness Erin Maloney provided testimony in Staff's Direct Revenue Requirement Report discussing the methodology Staff employed in analyzing power market prices. For its direct case, Staff analyzed hourly SPP Integrated Marketplace Day Ahead market prices from the beginning of market operations on March 3, 2014, to the end of July 2016. Staff typically uses a three-year peak and off-peak average of market prices to adjust for extreme price points; however, the early market prices in the SPP IM saw extreme highs and huge fluctuations, with prices steadily dropping through 2015 and 2016. Because of the extreme highs in 2014, the three year average of market prices was much higher than the average market prices in 2015 and 2016. Therefore, Staff utilized KCPL's market prices, and made an adjustment to reflect a downturn in the market after 2014, in order to calculate a reasonable normalized forecast of power market prices; [118] as reflected in Ms. Maloney's workpapers that were provided to KCPL, this adjustment completely excluded 2014 price points. Staff also indicated in its direct report that it would continue to review power market prices through

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[116] *Id.* at p. 4, ll. 1-9.

[117] Footnote 2, in the Commission's *Order Adopting Procedural Schedule and Delegating Authority*, EFIS item 57 in Case No. ER-2016-0285, states in part, "…Except for an extraordinary or unusual event and upon reasonable notice given to all parties, no party may revise or change methods or methodologies for true-up issues from those it presented in evidence during the evidentiary hearing." KCPL presented no evidence during the evidentiary hearing questioning the sufficiency of Staff's methodology in calculating power market prices, and waited to do so in true-up at the last available opportunity.

[118] Ex. 200, *Staff Direct Revenue Requirement Report*, p. 86, ll. 14-24.

the true-up period and would update prices as necessary. At the true-up hearing, Ms. Maloney testified that she did in fact perform an analysis of market prices through the true-up period, and determined, in her professional opinion, that no adjustment to Staff's direct average power market prices of $21.08 per MWh was necessary.[119]

KCPL's true-up power market price of $20.58 is an increase of approximately two dollars over the market price utilized by KCPL in its direct filing, and an increase of eighty-two (82) cents over KCPL's market price at the time of their cut-off case.[120] KCPL's forecasted market prices have continued to increase as this case has progressed; inching closer to the forecasted market prices utilized by Staff in its direct filing, further demonstrating that Staff's market prices are a reasonable normalized forecast. Therefore, Staff recommends the Commission adopt Staff's true-up power market prices of $21.08 per MWh when determining KCPL's variable fuel and purchased power expense.

KCPL witness Burton Crawford estimated the impact to Staff's Cost of Service, should Staff utilize KCPL's true-up market prices, would increase net system cost to serve native load by approximately $3.2 million on a total Company basis.[121] Mr. Crawford was forced to make various assumptions to calculate this estimate, as KCPL did not have Staff's production cost model.[122] While it is Staff's position that the Commission should adopt Staff's average power market prices of $21.08 per MWh, in order to provide the most accurate and competent information to the Commission, Staff ran its production cost model utilizing KCPL's true-up market prices, and determined the

[119] Tr. Vol 14, p. 1793, ln. 23 through p. 1794, ln. 3.
[120] *Id*. at 1789, ll. 4-16.
[121] Ex. 171, True-up Rebuttal Testimony of Burton Crawford, p. 5, ll. 1-4.
[122] Tr. Vol. 14, p. 1790 ll. 9-10.

impact to Staff's Cost of Service would be an increase of ** __________ ** above the net system cost presented in Staff's true-up rebuttal testimony.[123] At the time of true-up rebuttal testimony, the results of Staff's production cost model, utilizing average power market prices of $21.08 per MWh, resulted in net system costs of ** ____________ **, while KCPL's production cost model, utilizing average power market prices of $20.58 per MWh, resulted in net system costs of ** ____________ ** ; a difference of merely ** ________ **.[124]

- Mark Johnson

II. <u>Renewable Energy Standard ("RES") Costs:</u>

Should RES costs be amortized over a period of 2.6 years or 3 years?

RES costs should be amortized over a period of 3 years, consistent with Staff's recommendation in its Direct Revenue Requirement Report.[125] KCPL's amortization period of 2.6 years, a change from KCPL's direct filed case that requested an amortization period of 3.24 years,[126] should be rejected. Although both amortization periods allow for full recovery of the RES deferred costs, KCPL's request has the impact of increasing rates approximately $285,000 a year compared to Staff's approach.[127] Ratepayers would pay $285,000 more a year so KCPL can achieve full recovery 4.8 months faster.[128] KCPL tries to bolster its argument by claiming that the 2.6 year amortization period equals the 1% impact level found in 4 CSR 240-20.100 (5)(A), however KCPL witness Mr. Klote admits that the 1% retail rate impact is a cap and not a

[123] Ex. 259.
[124] Ex. 259, Comparison of Fuel Model Results (HC).
[125] Ex. 200.
[126] Ex. 132 HC, Direct Testimony of Ronald A. Klote, p. 58, l. 19.
[127] Ex. 258, True Up Rebuttal Testimony of Matthew R. Young, p. 3, ll. 20-21.
[128] Tr. 14:1826, ll. 18-21.

minimum, so an amortization with a lower than 1% retail rate impact can be authorized.[129] The Commission should order an amortization period of 3 years, as recommended by Staff, to balance KCPL's desire for a speedy recovery of funds with ratepayers' interest in a no higher than necessary revenue requirement.

- *Nicole Mers*

WHEREFORE, on account of all the foregoing, Staff prays that the Commission will issue its findings of fact and conclusions of law, determining just and reasonable rates and charges for KCPL as recommended by the Staff herein; and granting such other and further relief as is just in the circumstances.

Respectfully submitted,

/s/ NICOLE MERS
Nicole Mers
Missouri Bar # 66766
Assistant Staff Counsel

KEVIN A. THOMPSON
Missouri Bar # 36288
Chief Staff Counsel

ROBERT S. BERLIN
Missouri Bar # 51709
Deputy Staff Counsel

MARK JOHNSON
Missouri Bar # 64940
Senior Staff Counsel

WHITNEY PAYNE
Missouri Bar # 64078
Assistant Staff Counsel

[129] Tr. 14:1810, ll. 16-23.

Missouri Public Service Commission
P.O Box 360
Jefferson City, MO 65102
573-751-6651 (Voice)
Nicole.mers@psc.mo.gov

Attorneys for the Staff of the
Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 4th day of April 2017, to all counsel of record.

/s/ Nicole Mers