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2 **BEFORE THE PUBLIC SERVICE COMMISSION**
3 **OF THE STATE OF MISSOURI**
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7 **In the Matter of the Application of**)
8 **The Cathedral Square Corporation,**)
9 **a Missouri Non-Profit Corporation,**)
10 **For a Variance from Kansas City**) **Case No. EO-2012-0141**
11 **Power & Light Company's**)
12 **General Rules and Regulations**)
13 **Requiring Individual Metering**)
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16 **SURREBUTTAL TESTIMONY OF JEFFREY G. FLATHMAN**
17 **ON BEHALF OF THE CATHEDRAL SQUARE CORPORATION, INC.**
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20 COMES NOW, Applicant, The Cathedral Square Corporation., a Missouri Non-Profit
21 Corporation (“CSC”), by and through its counsel Shawn E. Stewart, and hereby submits the
22 following Surrebuttal Testimony of Jeffrey G. Flathman, affirmed and attested to under oath.

23 I, Jeffrey G. Flathman, now being duly sworn and of legal age, hereby testify as follows:

24 DIRECT EXAMINATION (“Q”) BY SHAWN E. STEWART:

25 Q. Please state your name for the record.

26 A. **Jeffrey G. Flathman.**

27 Q. Please state who you are employed by.

28 A. **Energy Solutions Professionals, LLC (sometimes referred to hereinafter as ESP.)**

29 Q. Are you the same Jeffrey G. Flathman who filed in this proceeding on February 14, 2012,
30 direct written testimony, both in question and answer format, containing Exhibits A, B, C, D, E,
31 F, and G, concerning the Cathedral Square Corporation’s application for a variance from Kansas
32 City Power & Light’s General Rules and Regulations that require individual metering to the

33 residential units at the Cathedral Square Towers, located at 444 W. 12th Street in Kansas City,
34 Missouri?

35 **A. Yes, I am.**

36 Q. What is the purpose of your surrebuttal testimony?

37 **A. I am responding to the rebuttal testimony of KCPL's witness Tim M. Rush**
38 **regarding CSC's application.**

39 Q. Does Mr. Rush in his rebuttal testimony attempt to explain why KCPL did not oppose the
40 application for a variance to the KCPL Rules and Regulations requiring individual metering on
41 the WST Case No. EE-2006-0123?

42 **A. Yes.**

43 Q. Do you agree with Mr. Rush that the facts related to the WST Case somehow distinguish
44 WST from CSC and warrant KCPL taking no position regarding WST's application for a
45 variance, but by contrast, opposing CSC's application for a variance to KCPL's Rules and
46 Regulations requiring individual metering?

47 **A. No, I do not agree with Mr. Rush and do not see how he can take such inconsistent**
48 **positions. In his rebuttal testimony, Mr. Rush alleges that "WST requested a variance**
49 **from KCP&L's metering tariffs because it was not practical to install wiring and establish**
50 **separate metering in each residential unit." (Rush Rebuttal Testimony 6:23-25; 7:1).**
51 **However, this is incorrect. The very reason that WST requested the variance was due to**
52 **economical – financial – considerations, not because it was "not practical". KCPL even**
53 **admitted as such at the WST hearing, attached as Exhibit F to my Direct Testimony filed**
54 **on February 14, 2012.**

55 Q. Can you cite to a specific part of the WST Hearing Transcript that supports your
56 statement that WST's request was financially related?

57 **A. Absolutely. Reviewing the Hearing Transcript shows that in the hearing on October**
58 **12, 2005, with Mr. Rush present, Chairman Davis asked KCPL "you don't believe it's**
59 **technically infeasible to separately to individually meter every apartment, it just costs a lot**
60 **more money; is that correct?" To which, KCPL's Mr. Blanc responded "Correct." This is**
61 **set forth in the WST Hearing Transcript, which is Exhibit F to my Direct Testimony filed**
62 **on February 14, 2012, at Page 92:24-25, and Page 93:1-2.**

63 Q. Are there any other statements made by witnesses at the WST Hearing that supports your
64 statement that WST's request for variance was not because it was "impractical" to have
65 individual meters, but that it was the monetary savings that WST would receive?

66 **A. Yes. Reviewing the Hearing Transcript shows that Brian Fredock, representative**
67 **for WST, testified at the WST Hearing that "estimates right now, for the switch gear alone,**
68 **are above \$250,000, and it's – it would be astronomical to – at this day and age – to**
69 **redistribute the power from there in the current – in the current floor plan that we have,**
70 **and in the current – the way that the building is set up. It's not economically possible for**
71 **us to do that right now." This is set forth in the WST Hearing Transcript, which is Exhibit**
72 **F to my Direct Testimony filed on February 14, 2012, at Page 10:1-7.**

73 Q. Please summarize your Surrebuttal Testimony.

74 A. It is disingenuous for KCPL to, in 2005, (a) take no position regarding WST's request for
75 variance to the individual metering requirement, and (b) advise the Commission that WST's
76 variance would entitle them to a commercial rate, and inconceivably (c) oppose CSC's request
77 for the same variance, and (d) advise the Commission that CSC's variance would not entitle

79 them to a commercial (Medium General Service) rate. The WST private, for-profit, building
80 renovation was expected to cost more than \$20 million (Exhibit F, 27:16); the condominiums
81 would cost, on average, more than \$300,000 (Exhibit F, 111:14-15); the commercial rate would
82 enable the homeowners to “end up paying less than they would under a strict rate” (Exhibit F,
83 91:14-16); and the variance request was because WST believed it was not “economically
84 possible” to install individual meters to the \$20 million dollar project.

85 It is difficult for me to reconcile KCPL’s inconsistent positions, whereby KCPL can on
86 one hand take a position to not oppose a request for a variance for “economical” reasons to a \$20
87 million dollar for-profit project for wealthy homeowners in downtown Kansas City, Missouri,
88 yet seek to distinguish the facts of that case in connection with its resistance and opposition to
89 CSC’s request for variance, and claim WST’s request was because it was “impractical.” If any
90 project, or entity, could, for good cause, demonstrate it qualifies for a variance to the KCPL
91 Rules and Regulations pertaining to individual metering, it is CSC’s.

92 Q. Does this conclude your testimony?

93 A. Yes, it does.

94 Q. Thank you. I have no further questions at this time for this witness.

95 Dated this 4th day of April, 2012.

96 Signature: Jeffrey G. Flathman
97 Jeffrey G. Flathman
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**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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In the Matter of the Application of)
The Cathedral Square Corporation,)
a Missouri Non-Profit Corporation,)
For a Variance from Kansas City) **Case No. EO-2012-0141**
Power & Light Company's)
General Rules and Regulations)
Requiring Individual Metering)

AFFIDAVIT OF JEFFREY G. FLATHMAN

STATE OF KANSAS)
) **SS**
COUNTY OF JOHNSON)

Jeffrey G. Flathman, being duly sworn on his oath, states:

1. My name is Jeffrey G. Flathman. I am employed by Energy Solutions Professionals, LLC and am the President of the Company.

2. Attached hereto and made apart hereof by reference as if fully set forth herein, for all purposes is my Surrebuttal Testimony on behalf of The Cathedral Square Corporation, Inc., said Surrebuttal Testimony having been prepared in written form for introduction as evidence on and for Case No. EO-2012-0141, styled *In the Matter of the Application of The Cathedral Square Corporation, a Missouri Non-Profit Corporation, for a Variance from Kansas City Power & Light Company's General Rules and Regulations Requiring Individual Metering.*

3. I have knowledge of the matters set forth herein. I hereby swear and affirm that my answers set forth herein are given under oath, that I solemnly have sworn to tell the truth, the whole truth, and nothing but the truth, so help me God, and that my answers given to the

142 questions propounded by counsel for The Cathedral Square Corporation, Inc., including all
143 Exhibits, are true and accurate to the best of my knowledge, information and belief.

144 Jeffrey G. Flathman
145 Jeffrey G. Flathman
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On this 4th day of April, 2012, before me, a Notary Public, in and for this state, personally appeared Jeffrey G. Flathman, who is known to me to be the person who executed the within instrument and acknowledged that he executed it for the purposes therein stated.

Susan C. HennaHane
Notary Public

My commission expires:

April 13, 2015



173 WHEREFORE, Applicant, The Cathedral Square Corporation, Inc., hereby respectfully
174 submits the foregoing Surrebuttal Testimony of Jeffrey G. Flathman and the incorporated
175 Exhibits for introduction into evidence on this case.

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Respectfully submitted,

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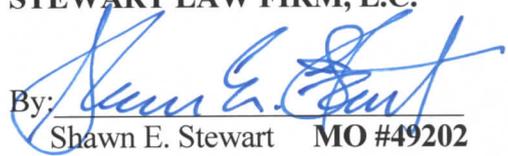
STEWART LAW FIRM, L.C.

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By: 

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ATTORNEY FOR APPLICANT

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CERTIFICATE OF SERVICE

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193

194 This is to certify that on this 4th day of April, 2012, a copy of the foregoing was sent via
195 electronic mail to:

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197

KANSAS CITY POWER & LIGHT

198

ROGER W. STEINER

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ATTORNEYS FOR KCP&L

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