Ordered: 2. That Missouri Public Service Company shall file the tariffs in compliance with this Report and Order on or before July 6, 1983.

Ordered: 3. That the rates to be established in the tariffs may be effective for service rendered on and after July 11, 1983.

Ordered: 4. That Company is authorized to use "the Accelerated Cost Recovery System" (ACRS) for calculating depreciation for income tax deduction purposes and is further authorized to use a normalization method of accounting, as defined and prescribed in the Economic Recovery Tax Act of 1981, and as defined and prescribed in any rulings or regulations which might be promulgated to further explain or define the provisions of that Act.

Ordered: 5. That Company shall file either in Case No. EO-81-66 or its next general rate case, its proposed specific load management techniques. These shall be filed no later than the date scheduled for the filing of testimony in its next general rate case.

Ordered: 6. That Joint Exhibit No. 36 be, and the same is, hereby received.

Ordered: 7. That all objections and motions not heretofore ruled upon, are hereby overruled and denied.

Ordered: 8. That this Report and Order shall become effective on the 11th day of July, 1983.

Shapleigh, Chm., Fraas, Dority and Musgrave, Concur and certify compliance with the provisions of Section 536.080, RSMo 1978.

In the matter of KANSAS CITY POWER & LIGHT COMPANY for authority to file tariffs increasing rates for electric service provided to customers in the Missouri service area of the company.*

In the matter of the filing of KANSAS CITY POWER & LIGHT COMPANY of proposed rules and regulations for electric space heating.

In the matter of KANSAS CITY POWER & LIGHT COMPANY of Kansas City, Missouri, for authority to file a Levelized Payment Plan for residential customers in the Missouri service area of the company.

Case Nos. ER-83-49, ER-83-72 and EO-82-65
Decided July 8, 1983

Accounting §9. Evidence §4. Items designated in a reconciliation of the various parties' cases as "unexplained differences" or "untried differences" shall not be considered in arriving at the Company's revenue requirement.

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*Refer to pages 161, 162, 233, 250 and 531 in this Volume for other orders in this case.

Accounting §45. Expense §§34, 56. The Commission rejected an assessment of a portion of rate case expense to shareholders and adopted as a reasonable level of rate case expense a normalized annual level.

Apportionment §§5, 8, 12. Expense §§5, 10. Evidence §4. In considering expenses which may benefit both ratepayer and shareholder the company has the burden of proving the respective benefits to the two involved groups.

Apportionment §§5, 8, 12. Expense §§5, 10, 70. Evidence §4. In the absence of a demonstrated benefit to the ratepayers lobbying and political advertising expense should be disallowed for ratemaking.

Accounting §21. Expense §§29, 37, 43. The costs of accidents or extraordinary events should be amortized over a reasonable period of time.

Expense §§9, 58, 84. In arriving at a reasonable rate of interest on customer deposits the interest rate to consider is the one available to the company and not that of the customer who has no choice in the matter.

Accounting §§6, 40. Return §10. An adjusted capital structure was adopted as more nearly reflecting the conditions most likely to be in existence during the period the new rates will be charged.

Return §§10, 39. A preference exists for the use of a discounted cash flow analysis for determining cost of money but flotation cost adjustment should apply only to new issues of common stock.

Return §§9, 18, 22, 30. It is proper to adjust a company's rate of return to account for management efficiency or the lack thereof.

Rates §§10, 16, 22, 81, 108. The company's proposal to lower some space heating rates and raise others to achieve a uniform rate was rejected because the evidence did not establish that the proposed rate would recover costs. The company was ordered to increase space heating rates in the same percentage as the residential general class.

Evidence §3. Notice and Hearing §§1, 23. A matter raised in the company's brief was not considered by the Commission because it violated the requirement of delineating all issues in the Hearing Memorandum.

Apportionment §8. Evidence §§4, 8, 19. Expense §§5, 10, 32, 46. The company has the burden of furnishing an adequate time study to establish the proper level of administrative and general salaries to be charged to construction. In the absence of such a study the percentage of work orders related to construction will be used to establish the allocation.

Accounting §§9, 13. Expense §§5, 16, 31. An allowance in cost of service of forecasted fuel expense is proper when there is adequate safeguard against overcollection in the form of an audit and refund with interest of any amount above actual expenditures.

Accounting §§9, 24, 25. Evidence §4. A proposed reduction in rate base equal to the amount of customer deposits held was rejected in favor of using customer deposits in calculating the allowance for funds used during construction because no evidence was offered to refute the presumption that deposits are more likely to support future plant in service.

Accounting §§9, 15, 42. Evidence §6. Expense §§12, 79. Insufficient evidence was offered to justify an alteration of the practice of requiring gross of tax accounting for an allowance for funds used during construction and capitalized property taxes and the corresponding reduction in rate base by the amount of the deferred tax reserve.

The Company criticizes the Staff's proposal because the proposed time study is unnecessary and needlessly duplicative. Company also contends that the Staff has once again advocated that a meaningless arbitrary percentage be applied.

The Staff's adjustment is based on the Company's payroll records and is based on data that applies only to KCPL. The Staff's percentage has been derived from the percentage of total payroll charged to work orders.

It is the Staff's position that the Company should utilize Account 922 to follow Electric Plant Instruction No. 4 in capitalizing indirect A&G construction costs. Staff pointed out that only two Missouri utility companies were not using that method in 1980. KCPL followed that practice prior to July 1, 1959.

The Staff testimony also establishes that the Company, has since 1973, proposed A&G overhead cost studies to charge its partners in joint ventures such as LaCygne 1 and 2 and Iatan.

The Company also criticizes the Staff's proposal because it would be difficult to retroactively capitalize A&G costs since many of the work orders would have already been capitalized and closed. What the Staff is proposing is the prospective accumulation of dollars in an account which will be reflected in rate base at the end of the year when the work order closes.

Staff points out in its reply brief that the Company's contention that this Commission has adopted the NARUC instructions for the uniform system of accounts is based solely on the 1981 NARUC annual report. Staff also directs attention to 4 CSR 240-20.030(4) which states:

> In prescribing this system of accounts the commission does not commit itself to the approval or acceptance of any item set out in any account, for the purpose of fixing rates or in determining other matters before the commission.

It would appear, therefore, that criticism concerning the violation of those two principles would not be dispositive of this issue.

There is no evidence in this record to persuade the Commission to depart from its opinion concerning the performance of a precise study as announced in Case No. ER-82-66. The Commission finds that the Company's method of performing the study and the resulting product herein do not conform to the direction to perform the study.

Since the Commission has determined that the Company has failed to provide an adequate study the Commission finds that the Staff's work order percentage method should be used as a substitute in this instance. For ratemaking purposes the Commission believes a study as referred to in the Uniform System of Accounts should be used. However, the Commission is not endorsing the work order percentage method as the most appropriate means of calculating capitalization percentages for that part of the Company's payroll and related expenses connected to construction activity. The Commission is using Staff's method in the absence of an adequate Company study. The Commission further notes that the development of an adequate study is the Company's burden and not the Staff's. Consequently, the Commission directs the Company to file an appropriate study in its next rate case.

The Company has moved to strike a portion of the surrebuttal testimony of Staff witness Zimmerman contained in page 10 of Exhibit 44. The objected to testimony concerns reponses to data requests tendered to Union Electric Company and Empire District Electric Company. In the Commission's opinion the Company's motion is well taken and is hereby granted since the consideration of that evidence would deny the Company's right to cross-examine the parties actually making the statements contained in the data request responses.

N. Forecasted Fuel Expense

The Company, Staff and DOE have entered into a joint recommendation that the Company be allowed to collect revenues, subject to refund, with interest, based on certain coal and gas prices three months after the end of the month in which the Commission's Report and Order in this case becomes effective.

Public Counsel opposes the joint recommendation. Counsel for Armco stated that Armco does not oppose or join in the recommendation, but asks that the Commission take into consideration the rounding differences inherent in the proposal. The joint recommendation provides that if the difference between actual prices and forecast prices is calculated to be less than one-hundredth of a cent per kilowatt-hour, the Company does not have to file new tariff sheets. All differences above one-hundredth of a cent per kilowatt-hour are to be rounded to the nearest one-hundredth of a cent per kilowatt-hour. The reason for such rounding to the nearest one-hundredth is that the Company's tariffs are only calculated to that level. It is not possible to calculate differences with more precision.

The only parties that filed testimony on this issue were the Company and the Commission Staff. Two Staff members were subpoenaed by the Public Counsel respecting this issue.

The Commission Staff requested that two paragraphs be inserted into the recommendation to dispose of potential problems that have arisen in past true-ups of forecasted fuel prices and these paragraphs appear in the stipulation:

> Paragraph 11 - Company agrees to advise Staff of any unusual circumstances affecting the permanent base fuel prices or invoice prices including, but not limited to, interim agreements, contract renegotiations, changes in sources of supply, changes in mining conditions, unit outages, and spot coal purchases as these matters occur through the true-up hearing date.
>
> Paragraph 12 - Company agrees to provide Staff with all available documents and information supporting price changes as these matters occur through the true-up hearing date.

The joint recommendation also proposes to exclude the price of coal produced at Peabody Coal Company's Rogers County Mine from the true-up and refund. This provision has been inserted as a result of a drop in price of coal from that mine following a fuel true-up in the Company's last rate case.

The instant joint recommendation also provides that the over or under collection of coal and gas fuel expenses are aggregated. If coal expense is over

forecasted, but gas expenses are under forecasted an equal or greater dollar amount, no refund obligation will exist.

Attached to the Public Counsel's brief is a copy of the transmittal letter accompanying a revised Purchased Gas Adjustment (PGA) filed by The Gas Service Company on April 8, 1983, decreasing retailed rates to large industrial customers such as KCPL by $1.066 cents per mcf. The Public Counsel contends that the forecasted fuel joint recommendation includes $2,359,590 in rates subject to refund. Public Counsel also contends that the decrease in the PGA reduces Company's cost of gas by $2,564,930 which is in excess of the rates subject to refund.

On May 12, 1983, the Staff filed with the Commission a Motion to Strike Certain Portions of the Briefs of Kansas City Power & Light Company, The Office of the Public Counsel, and Jackson County, Missouri, et al. The motion recites that the transmittal letter attached to the Public Counsel's brief and the accompanying tariff are not exhibits in this proceeding or in any manner part of the record herein.

In the Commission's opinion the Staff's motion has merit and should be granted in part. Staff's motion acknowledges that the Commission has recently treated a similar issue in its order issued on October 25, 1982, in *Stapleton v. Missouri Public Service Company*, Case No. EC-82-213. As announced in that case, the Commission is still of the opinion that an order to strike improper argument in a brief is not necessary or proper, and a party, to protect itself from improper arguments, be it legal or factual, need only to bring it to the attention of the Commission in a reply brief. The Commission now adds that if improper comment is contained in a reply brief it will suffice for a party to point out the improprieties by letter to assist the Commission in determining which portions of the argument should be rejected.

In the instant case, however, the brief of Public Counsel has attached to it a document filed in another matter of record before the Commission. A motion to strike may be proper when a party attempts to improperly include in the record documents or exhibits from other cases. Since the objected to inclusion exceeds the scope of a factual or legal argument, the Commission finds the Staff's motion to strike has merit and should be granted. The furnishing of the questioned letter is an improper attempt to supplement the evidentiary record after it has been closed. As to the PGA tariff in question, the Staff's motion should be denied. The Commission is obligated to be aware of the contents of its own records and will be consider the PGA as hereinafter indicated.

The Staff also points out that the Public Counsel's calculations are based on a mistaken assumption. As pointed out in the Staff's brief the figure referred to by the Public Counsel is taken from an illustration of the method to be used to calculate fuel expenses to be included in rates subject to refund. A review of the reconciliation of revenues attached to the Hearing Memorandum in this matter shows that the forecasted fuel revenue requirement is $4,250,000. The joint recommendation states in part that in the event the actual aggregate coal and gas costs are less than the aggregate forecasted cost with respect to the fuel burn as set by the Commission the Company shall be obligated to refund an amount with interest, as determined by taking into

consideration any offset of the over collection of one fuel against the under collection of another.

In the Commission's opinion the evidence establishes that the provisions of the joint recommendation concerning forecasted fuel adequately provide protection for the ratepayers in the event of an over collection in the Company's fuel cost. There is no provision for protection of the Company in the event of any under collection of fuel costs. The joint recommendation provides for refund of any over collection to which shall be added simple interest at a rate equal to the authorized return on investment set in this matter. It is noted that the joint recommendation also provides for testimony to be presented to the Commission at the time of the true-up regarding how to apply the refund and the Commission shall make that determination. For all of the foregoing reasons the Commission finds that the joint recommendation contained in Exhibit 88 should be adopted for the purpose of establishing the Company's fuel expense in this matter.

In the true-up the parties shall specifically address the effect which the PGA filed by The Gas Service Company on April 8, 1983, may have on the Company's fuel costs and any refund obligation created by the PGA.

O. Payroll Costs

The Company has annualized its payroll expense and associated taxes as of September 30, 1982, adjusted for known changes and quantities through September 30, 1982, reduced by the number of employees released effective October 1, 1982. The Company also includes an anticipated seven percent wage increase for noncontract employees on July 1, 1983, and salary increases through June 30, 1984. The wage rates assume a Report and Order in this matter in July, 1983, with the total reduction in the Company's net operating income claimed to be in the amount of $1,933,000.

The Staff annualized the Company's payroll and associated expenses at year-end September 30, 1982, reduced by the 47 employees released on October 1, 1982, as a result of the reclassification of Hawthorn Units 1 through 4. The Staff did not recognize any other changes in quantities or costs effective after September 30, 1982, other than a contract labor increase effective October 25, 1982.

DOE also annualized payroll and related expenses using the September, 1982 level of employees and wages.

The Staff does not agree to any other out-of-period adjustments because of a perceived disturbance in the expense and revenue relationship. It is not contended there will be no increased wages during the period when the rates to be set will be in effect. Some of the expenses, such as increased FICA taxes on January 1, 1983, appear to be inevitable without any direct relationship to revenues.

The Company bases its estimate of a seven percent increase in the noncontract salaries on its experience that such increases closely correspond to contract increases. There appears to be little doubt that some increase will be forthcoming on July 1, 1983. In the Commission's opinion the contested payroll increases should be included in rates as a portion of the expenses

Payroll amounts at July 1, 1983, will be in effect during virtually the entire life span of the rates to be set in this matter. As pointed out in the Company's brief, the briefing schedule has been extended to May 12, 1983, and the prospect of an early Report and Order appears to be substantially lost.

During inflationary periods, substantially unadjusted test years ending prior to the time the new rates will go into effect will virtually assure that the Company's entire cost of service cannot be recovered. Inclusion of the probable payroll level subject to refund will tend to offset this phenomenon, and at the same time expose the ratepayer to no more costs than those legitimately incurred by the Company.

The portion of the claimed expense beyond July 1, 1983, however, is too remote from the test year to be properly included. There is little likelihood that payroll increases in May, 1984, will be in effect for any significant period during the effectiveness of the rates to be established by this case. Payroll expense incurred through July 1, 1983, should be collected subject to refund after the true-up proceeding.

P. Summary

As a result of all of the adjustments herein found to be fair and reasonable, the Commission finds that the Company's available net operating income for the purpose of this case is in the amount of $47,256,000. The expenses to be allowed subject to refund have reduced net operating income by $5,260,000.

RATE BASE

Company portrays the net original cost of its property used in the rendering of service within the Missouri jurisdiction to be $561,158,000. The various parties to this proceeding have proposed a number of adjustments which would reduce the Company's intended rate base. The Staff adjustments result in a proposed rate base of $517,529,000. Each of those proposed adjustments is hereinafter discussed.

A. Customer Deposits

The Public Counsel proposes to reduce the Company's Missouri jurisdictional rate base by the customer deposits held by the Company in the amount of $2,159,706. That amount represents the Company's 12-month average balance of customer deposits at September 30, 1982.

The Company currently uses the interest cost of customer deposits in calculating its rate for allowance for funds used during construction (AFDC). This method has been followed since the Commission directed its use in the Company's rate Case No. ER-78-252.

The Commission adopted the AFDC method as being superior to the rate base offset because older deposits are more likely to support the present plant, while newer deposits are more likely to be used for future construction. In view of the adoption of 4 CSR 240-13.030(4), the Commission expected the level of older deposits to fall. That rule provides for earlier return of deposits than that under the previous forms of the rule.

As anticipated by the Commission in Case No. ER-78-252 the rule appears to have resulted in deposits being refunded more quickly. Although the overall level of deposits has increased, the Company's testimony shows that

the current level of deposits is approximately $2.7 million and there is approximately a $2 million turnover in the fund each year.

In the Commission's opinion there has been no evidence offered to alter the thinking that deposits are more likely to support future plant in service. The practice of using the deposits to calculate AFDC should continue and the proposed offset to rate base should be disallowed.

B. Deferred Taxes Offset To Rate Base

Staff and DOE propose to calculate an allowance for funds used during construction (AFDC) on Wolf Creek construction work in progress (CWIP) on a gross of tax basis and offset the Company's rate base by the amount of the resulting deferred tax reserve. The offset as calculated by the Staff is in the amount of $29,492,000, including the income tax effects of property taxes.

AFDC is accrued on the Company's CWIP until such time as it becomes fully operational and used for service. At that time the cost of construction, including all accrued AFDC, is included in the Company's rate base.

AFDC represents the cost of the funds invested in construction work in progress and has two components; a debt component, and an equity component. The debt component recognizes the interest costs of the debt funds invested in construction. The interest costs associated with CWIP are proper income tax deductions when paid or accrued. Such interest costs are capitalized for book purposes as a part of the cost of the construction. This issue was tried in the Company's last rate Case, ER-82-66 and was determined adversely to the Company.

Since the Report and Order issued in the Company's rate Case No. ER-78-252, the Company has been afforded normalization treatment of its deferred tax reserves for capitalized property taxes. In Case No. ER-82-66 the Staff proposed to calculate AFDC on Wolf Creek construction on a gross of tax basis and to offset the Company's rate base by a deferred tax reserve created by the change. The Staff advocated calculating AFDC on a gross of tax basis to afford the ratepayers furnishing the present funds making up the deferred tax reserve a present benefit in the form of the rate base deduction. In the instant case the Staff proposes continuing that practice contending that the deferred tax reserve represents money paid in current rates for which no tax is actually paid as a result of the normalization of the tax timing differences. The Company proposes to record the appropriate amount net of tax and deduct the deferred tax reserve from rate base after the plant goes into service.

It is the Staff's contention that since deferred taxes collected in rates represent cost-free capital to the Company for which the current ratepayers are entitled to credit against plant in service, it is unreasonable to ask the ratepayer to pay a return on the plant constructed from those ratepayer-supplied funds.

Staff also points out that the Company has used the deferred tax reserve for Wolf Creek property taxes as an offset to rate base in current filings before the Kansas Corporation Commission and the Federal Energy Regulatory Commission. Staff also points out that the position adopted in the Company's last rate case, and advocated by the Staff in this case, it is consistent with