

Staff - 9

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MISSOURI PUBLIC SERVICE COMMISSION

UTILITY SERVICES DIVISION

SURREBUTTAL TESTIMONY

OF

CHARLES R. HYNEMAN

KANSAS CITY POWER & LIGHT COMPANY

CASE NO. ER-2007-0291

Jefferson City, Missouri
September 2007

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KANSAS CITY POWER & LIGHT COMPANY
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Charles R. Hyneman

Lora C. Cheatum

1. Recovery of Talent Assessment Program Severance Payments; and,
2. Recovery of Other Severance Payments.

John P. Weisensee

1. Rate Base inclusion of Surface Transportation Board (STB) deferred expenses;
2. Rate Base inclusion of rate case expense;
3. Accounting and amount of Wolf Creek Refueling Costs;
4. Recovery of lump sum Supplemental Executive Retirement Plan (SERP) payments;
5. Meals Expense disallowance; and,
6. Lobbying Expense disallowance.

Q. Is there a general theme running throughout many of the positions taken by KCPL on the issues you listed above?

A. Yes, there is. In the chart below I provide an analysis which reflects this theme.

Q. What is that theme?

A. The theme is that if the atypical (not a normal or recurring revenue or expense incurred providing utility service) revenue or expense increases revenue requirement, then it appears that KCPL will automatically propose recovery through an amortization and seek inclusion of the item in rate base. If the atypical revenue or expense decreases revenue requirement, then KCPL instinctively asserts that any attempt to include the item in cost of service is retroactive ratemaking.

Q. Please explain your analysis.

A. Several of the issues center around the question of how the Commission should treat certain expenses or revenues that KCPL paid or received in the test year that are atypical because they are incurred on a infrequent or irregular basis. The atypical revenues and expenses that KCPL recognized on its books and records in the test year in this case are the

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1 Hawthorn 5 subrogation proceeds (revenues), Wolf Creek DOE refund (revenues) and
2 STB deferred expenses.

3 My analysis also included the Staff's and KCPL's proposed rate treatment for
4 irregular or nonrecurring issues decided by the Commission in KCPL's 2006 rate case, Case
5 No. ER-2006-0314, and this case. These items are also included in the analysis and reflected
6 in the chart below. The chart shows how rate recognition of the issue would affect KCPL's
7 revenue requirement and it shows how KCPL and the Staff are recommending that the
8 Commission treat these issues for ratemaking purposes in this case.

KCPL Positions Taken	RR Impact	Rate Base	Amortization	No Ratemaking
January 2002 Ice Storm AAO	Increase	X	X	
Deferred Costs LED-LDI project	Increase	X	X	
Deferred Costs CORPDP-KCPL project	Increase	X	X	
STB Litigation Costs	Increase	X	X	
Hawthorn V Litigation Proceeds	Decrease			X
Nuclear Fuel Overcharges	Decrease			X

Staff Positions Taken	RR Impact	Rate Base	Amortization	No Ratemaking
January 2002 Ice Storm AAO	Increase		X	
Deferred Costs LED-LDI project	Increase		X	
Deferred Costs CORPDP-KCPL project	Increase		X	
STB Litigation Costs	Increase		X	
Hawthorn V Litigation Proceeds	Decrease		X	
Nuclear Fuel Overcharges	Decrease		X	

9
10 Q. What does your analysis show?

11 A. It shows that when the issue is an atypical expense that increases revenue
12 requirement, KCPL seeks not only expense recovery through an amortization but also rate
13 base treatment of the expense. Including a deferred expense in rate base treats the deferred
14 expense as an asset necessary in the provision of utility service and allows recovery of
15 capital costs, including shareholder profit on the deferred expenses.

16 Conversely, when the issue is related to an atypical revenue or expense and allowing
17 rate treatment would decrease revenue requirement, KCPL opposes any ratemaking
18 consideration whatsoever.

1 This chart demonstrates a bias on the part of KCPL in relation to the ratemaking
2 treatment of these unusual or nonrecurring issues. The bias is in favor of its shareholders and
3 detrimental to its customers. KCPL favors its shareholders by seeking the best possible rate
4 treatment (amortization recovery and rate base treatment) on all the issues listed. Conversely,
5 the positions taken by KCPL reflect a bias against its own customers by seeking the worst
6 possible ratemaking treatment for them on all of the issues.

7 Q. How do the Staff's positions contrast with KCPL's positions on these issues?

8 A. As the chart above indicates, the Staff's position on each of these issues is
9 consistent. The Staff believes that all of the issues listed above are related to
10 KCPL's provision of regulated utility service and therefore should be reflected in rates
11 through an inclusion of an amortization expense in cost of service. However, the Staff does
12 not believe that any of the issues meet the requirements for inclusion in rate base.

13 The Staff's recommended ratemaking treatment of these issues is consistent whether
14 or not the issue increases or decreases revenue requirement. This is an indication that the
15 Staff's positions are free from bias. The Commission should consider the consistency of the
16 Staff's positions and the inconsistency of KCPL's positions as it rules on the evidence in
17 support of the appropriate rate treatment of each individual issue to be decided in this case.

18 **HAWTHORN 5 SUBROGATION PAYMENTS**

19 Q. In his rebuttal testimony, KCPL witness Giles describes how he disagrees with
20 the Staff's proposed rate treatment of the Hawthorn 5 subrogation proceeds received by
21 KCPL in the test year. Please describe the Staff's and KCPL's positions on this issue.

22 A. The Staff is proposing that the Hawthorn 5 subrogation payments received by
23 KCPL in the 2006 test year provide some benefit to both KCPL's regulated customers and its

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1 shareholders. KCPL's customers will receive the benefit of a reduction in cost of service
2 through a one-fifth amortization to cost of service for each of the next five years, while by
3 excluding this refund from rate base, KCPL's shareholders will enjoy the benefits of the cost-
4 free use of these funds until they are fully amortized in five years.

5 In contrast, KCPL proposes that the Commission ignore the subrogation payment
6 KCPL received in the 2006 test year, effectively giving 100 percent of the benefit to its
7 shareholders. KCPL's proposes to remove \$23.1 million subrogation payments from the
8 test year income statement accounts where the subrogation payment was booked.

9 Q. Is this a complex ratemaking issue?

10 A. No. The issue is simple and rests on the Commission's acceptance of a
11 fundamental ratemaking principle that a utility company is assumed to be recovering all of its
12 expenses and earning a reasonable rate of return unless it files for a rate increase.

13 If the Commission accepts this fundamental principle, then the Staff believes the
14 Commission should rule in favor of the Staff's position which shares the benefits of the
15 Hawthorn 5 subrogation proceeds between KCPL's customers and shareholders.

16 Q. Why would Commission acceptance of this fundamental ratemaking principle
17 alone be sufficient for the Commission to rule in favor of the Staff on this issue?

18 A. In the 2006 test year KCPL received a subrogation cash payment in the amount
19 of \$23.1 million. KCPL recorded the receipt of these proceeds into the following accounts:

20	Account 555 Reduction in purchase power expense	\$10.8 million
21	Account 819 Interest Revenue	\$6.1 million
22	Account 547 Reduction in fuel expense	\$3.7 million
23	Account 447 Bulk Power Sales	<u>\$2.5 million</u>
24	Total Non-Capital Recovery	\$23.1 million

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1 KCPL stated in response to data request 285 that it recorded the receipt of these
2 proceeds in accordance with FERC Uniform System of Accounts (USOA) Account 924,
3 Property Insurance. This account states that "recoveries from insurance companies or others
4 for property damages shall be credited to the account charged with the cost of the damage."

5 By recording the subrogation proceeds to these accounts, KCPL is asserting that the
6 proceeds are a reimbursement for the decreased bulk power sales and increased fuel and
7 purchased power expense it incurred as a result of the loss of the Hawthorn 5 generating unit.
8 The remaining \$6.1 million represents interest on the recovery.

9 As stated by Mr. Giles at page 5 of his rebuttal testimony, KCPL did not file any rate
10 cases between 1999 and 2005. Under the fundamental ratemaking principle described above,
11 it is assumed that during this period KCPL was recovering all of its operating expenses
12 (including the higher fuel and purchased power expenses and lost bulk power sales from the
13 loss of the Hawthorn 5 unit) and earning a profit that was satisfactory to its management and
14 Board of Directors.

15 Since rates during this period were sufficient to recover operating expenses,
16 specifically the higher operating expenses caused by the loss of Hawthorn 5,
17 KCPL's regulated customers were paying these higher operating expenses in then current
18 utility rates. Any reimbursement of these higher expenses should accrue to the benefit of the
19 party that paid the expenses – KCPL's regulated customers.

20 While there is no evidence that KCPL's shareholders absorbed the higher expenses
21 from the Hawthorn 5 outage, there is plenty of evidence to show that KCPL was recovering
22 its expenses and earning a reasonable profit during the time frame identified by Mr. Giles.

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1 Q. What support does the Staff have for its position that KCPL was recovering its
2 expenses and earning, at a minimum, reasonable rates of return for the period prior to and
3 subsequent to the 1999 Hawthorn 5 explosion?

4 A. In response to data request 239, KCPL reported that effective January 1, 1994,
5 it agreed to reduce its electric rates by \$12.5 million on an annual basis. Effective
6 July 9, 1996, it agreed to reduce its rates by another \$9 million and on October 1, 1997, it
7 agreed to another \$11 million annual rate reduction. Less than two years later, on
8 March 1, 1999, KCPL agreed to reduce its rates by another \$14.7 million.

9 Q. Was KCPL prevented from filing for a rate increase due to the Hawthorn 5
10 explosion after the March 1, 1999 rate reduction?

11 A. No. While the Stipulation and Agreement in Case No. ER-99-313 did include
12 a provision that no party would seek to increase or decrease KCPL's retail electric rates prior
13 to September 1, 2001, the Stipulation did contain an exception to this rate moratorium
14 provision that would take effect under the following circumstances:

15 . . . there is the occurrence of a significant, unusual event, such
16 as an act of God; a significant change in federal or state tax
17 law; a significant change in federal or state utility law or
18 regulation; or an extended outage or shutdown of a
19 major generating unit(s) which has a major effect on
20 KCPL or its successors. (emphasis added)

21 Q. Is there an indication that KCPL was earning at least a "reasonable" return on
22 equity during years subsequent to the 1999 Hawthorn explosion?

23 A. Yes. In response to data request 91 KCPL reported the following actual
24 average returns on equity for the period 2002 through 2006. These returns were:

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1	Year	ROE
2	2002	12.85%
3	2003	14.64%
4	2004	14.66%
5	2005	12.82%
6	2006	11.82%

7 Q. Does the Staff have any response to the specific criticisms of the
8 Staff's position made by Mr. Giles in his rebuttal testimony?

9 A. Yes. In his rebuttal testimony, KCPL witness Chris B. Giles makes two
10 primary arguments why KCPL's shareholders should be the only beneficiaries of these
11 insurance proceeds. His arguments are as follows:

12 1. Test-year related arguments - The Hawthorn 5
13 subrogation proceeds received by KCPL in 2006 have nothing
14 to do with the test year in this case (page 2). Unusual non-
15 recurring events are excluded from the test-year data because
16 they do not reflect the ongoing operating characteristics or cost
17 of service of the Company (page 3). The proposal to defer and
18 amortize to cost of service is retroactive ratemaking (page 5).

19 2. The cost of replacement power and property damages
20 that resulted from the explosion were never paid by customers
21 during the outage or at any time subsequent to the outage
22 (page 2)

23 Q. How do you respond to Mr. Giles' argument that KCPL's shareholders should
24 retain 100 percent of the insurance proceeds because the proceeds "have nothing to do with
25 the test year in this case"?

26 A. The \$23.1 million is subrogation proceeds were received by KCPL in 2006.
27 The test year of this rate case is 2006. Therefore, the subrogation proceeds have everything to
28 do with the test year in this case.

29 Specifically because the subrogation proceeds were received in the test year in this
30 case, the appropriate ratemaking treatment for the proceeds has to be determined. If the
31 proceeds were received in 2005 or after the September 30, 2007, true-up date in this case, the

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1 Staff would agree with Mr. Giles, but they were received in the test year. This is a test-year
2 issue and any attempt to characterize it otherwise is a mischaracterization.

3 Q. Are KCPL's customers currently being charged in rates for costs that were
4 never incurred by KCPL in any rate case test year?

5 A. Yes. In KCPL's 2006 rate case the Commission ordered that KCPL be
6 allowed to recover an annual level of \$4.5 million for ice storm costs that were incurred by
7 KCPL in 2002 and deferred under an Accounting Authority Order (AAO). The closest
8 test year to the year KCPL incurred the ice storm cost in 2002, was three years later in the
9 2005 test year ordered by the Commission in KCPL's 2006 rate case.

10 At page 60 of its Report and Order in Case No. ER-2006-0314, the Commission
11 characterized KCPL's position on ice storm expense recovery as follows "because the
12 amortization allowed by the AAO case was in effect during the test year and true-up period,
13 KCPL asserts that it should be able to recover those costs."

14 Q. Please summarize your opinion of KCPL's inconsistency in its position on
15 ice storm cost rate recovery and rate treatment of the Hawthorn 5 subrogation proceeds.

16 A. According to KCPL, it is acceptable to recover costs in a rate case that were
17 never incurred in a time period even close to a rate case test year if the effect of the rate
18 recognition is to increase revenue requirement, but it is totally unacceptable to include in rates
19 expense reimbursements that were actually received in a rate case test year, if the effect is to
20 decrease revenue requirement.

21 This total inconsistency on the part of KCPL on this position should be noted by the
22 Commission in its determination of the most appropriate rate treatment of the Hawthorn 5
23 subrogation costs in this case.

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1 Q. Based on your experience as a rate case auditor, is there any merit to
2 Mr. Giles' reference to retroactive ratemaking as it relates to the Hawthorn 5 subrogation
3 proceeds issue?

4 A. No. While Mr. Giles alludes to the fact that the proposal by Staff to defer and
5 amortize the subrogation proceeds would constitute retroactive ratemaking, he never
6 explicitly makes this assertion and he never actually provides his definition of retroactive
7 ratemaking. In my experience, Mr. Giles' argument would be worth consideration if the Staff
8 was proposing to defer and amortize a cost reimbursement or revenue received prior to the
9 test year. But since the Hawthorn 5 subrogation proceeds were received in the test year, a
10 retroactive ratemaking argument would not apply in this case.

11 Q. Would you provide an example which shows that Mr. Giles' retroactive
12 ratemaking argument is not applicable for revenues received and expenses incurred during a
13 rate case test year?

14 A. Yes. Assume that 2007 was a rate case test year. An appropriate example
15 would be when an employee receives a merit pay increase in 2007 for his/her outstanding
16 performance in 2006. Under Mr. Giles's definition of retroactive ratemaking, the Staff should
17 not allow the merit pay increase because the event (outstanding performance) took place in
18 2006, which is prior to the 2007 test year, even though the actual payment was made in the
19 test year. This example is apt because as with the Hawthorn 5 subrogation payments issue,
20 the event took place prior to the test year, but the actual funds were received in the test year.

21 Q. How do you respond to Mr. Giles' second major argument that the cost of
22 replacement power and property damages that resulted from the explosion were never paid by
23 customers during the outage or at any time subsequent to the outage?

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1 A. I believe I have successfully refuted this argument earlier in my testimony
2 where I explained that during the years when a utility does not file for a rate increase, it is
3 assumed that the utility is recovering all of its operating expenses in rates and earning a
4 sufficient rate of return on its utility property.

5 As Mr. Giles states at page 5 of his rebuttal testimony, KCPL did not file any rate
6 cases between 1999 and 2005; so therefore, KCPL was recovering all of its expenses through
7 rates charged to its customers during this period.

8 Q. Can you provide an example which shows the significant weakness in
9 Mr. Giles' argument that KCPL's regulated ratepayers did not pay for the amount of fuel and
10 purchased power expense incurred by KCPL during this time period?

11 A. Yes. KCPL filed for a rate increase in its 2006 rate case on February 1, 2006.
12 Before that rate case, KCPL did not file for a rate increase since 1985 in Case No. ER-85-128.
13 For Mr. Giles's argument (that KCPL's customers did not pay for the fuel and purchased
14 power costs that resulted from the Hawthorn 5 outage) to be true, it must also be true that
15 KCPL's customers did not pay for any salary increases or increases in depreciation and
16 property taxes for additional plant added during the 1985-2006 period.

17 Q. What is the logical conclusion of Mr. Giles' argument?

18 A. The logical conclusion is that since KCPL did not file for a rate increase during
19 this 21 year period, Mr. Giles must believe that all salary increases and cost of plant additions
20 incurred by KCPL over this period were funded by KCPL's shareholders. This example alone
21 illustrates the weakness of Mr. Giles' argument that KCPL's customers did not pay for these
22 expenses.

1 Q. Please summarize the Staff's position on this issue.

2 A. The Staff's proposed 5-year amortization with no rate base treatment of the
3 Hawthorn 5 subrogation proceeds results in a financial benefit to both KCPL's customers and
4 shareholders. KCPL, however, is asking this Commission to award 100 percent of the benefit
5 to KCPL's shareholders. As noted above, KCPL's position on this issue is biased in favor of
6 its shareholders. When the Commission considers the consistency and fairness of the Staff's
7 position and understands the serious flaws in KCPL's position, it should rule in favor of the
8 Staff on this issue.

9 **WOLF CREEK DOE REFUND**

10 Q. Please summarize this issue.

11 A. As described on page 6 of Mr. Giles' rebuttal testimony, this issue deals with
12 the proceeds from a lawsuit filed by KCPL against the Department of Energy (DOE). KCPL
13 and other utilities were overcharged by the DOE for uranium enrichment services purchased
14 from the government from 1986-1993. In 2006 KCPL recorded a settlement in the amount of
15 \$427,150. The Staff is proposing the exact same treatment for this litigation recovery as it is
16 for the Hawthorn 5 subrogation payments. The Staff recommends that the Commission order
17 KCPL to amortize this refund back to its customers over five years.

18 Q. Please continue.

19 A. During the period 1986 through 1993 KCPL was overcharged for nuclear fuel
20 expense. These overcharges were then passed on to its regulated customers. Mr. Giles
21 continues to make the argument that because KCPL did not have a rate case during this period
22 its shareholders absorbed all of the cost increases of the higher nuclear fuel costs.

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1 This argument is just flat wrong and reflects a significant misunderstanding of the ratemaking
2 process.

3 Q. Even using Mr. Giles's argument that a specific level of cost had to be
4 included in a rate case in order for it to be assumed that it was being borne by customers, can
5 you provide a specific example of how KCPL's customers were potentially harmed as a result
6 of these nuclear fuel overcharges, the refund of which KCPL is refusing to share with its
7 customers?

8 A. Yes. In response to data request 239, KCPL stated that in Case
9 No. ER-94-197, KCPL reduced its electric rates by \$12.5 million through a Stipulation and
10 Agreement that was effective for rates on January 1, 1994. Any earnings review that resulted
11 in a rate change on January 1, 1994, had to at least include a part of 1992 and 1993 in its
12 test year. This is part of the period that KCPL was being overcharged for nuclear fuel. If the
13 correct lower amount of nuclear fuel was being charged, then presumably KCPL's
14 overearning would have been higher and the rate reduction would also have been higher.
15 Therefore, KCPL's ratepayers potentially suffered harm even under the position espoused by
16 Mr. Giles.

17 Q. At page 6 of his rebuttal testimony, Mr. Giles asserts that to share the benefit
18 of the nuclear fuel overcharge refund with its customers would violate the matching principle.
19 Please address this assertion.

20 A. Mr. Giles states that the proceeds (litigation proceeds) were received as a result
21 of the overcharges that occurred in 1986-1993, a prior period. He states that the
22 corresponding costs (increased nuclear fuel expense) are not in this test year, therefore there is
23 no matching.

1 Mr. Giles' argument would only be worth consideration if in fact KCPL could show
2 that its earnings during the period of nuclear fuel overcharges were not sufficient to recover
3 its expenses and earn a reasonable return. KCPL has not provided any evidence to make this
4 demonstration. Until it can be shown with clear evidence that KCPL's rates did not cover its
5 operating expenses, the assumption is made that its expenses were paid for, in rates, by its
6 customers.

7 If customers paid excessive rates based on overstated fuel charges, why should they be
8 prevented from sharing in the refund of those excessive charges? The only argument that
9 KCPL can make to support this extreme position is that its shareholders, not its rate-paying
10 customers paid for the fuel expenses in those years. This argument is very weak.

11 **SEVERANCE COSTS – TALENT ASSESSMENT PROGRAM**

12 Q. What is the talent assessment program issue and the purpose of your
13 surrebuttal testimony on that issue?

14 A. As I stated in my direct testimony in this case, KCPL performed a review of its
15 employees under what it describes as a "talent assessment program" and, after completing that
16 program, KCPL terminated 119 employees. In connection with those terminations, KCPL
17 stated that it incurred \$9.3 million in severance and related employee termination costs.

18 It is the Staff's position KCPL should not recover the cost of the talent assessment
19 program and in my direct testimony I provided Staff's rationales for this position. KCPL has
20 responded to the Staff's position through the rebuttal testimony of KCPL witness Lora C.
21 Cheatum. In this testimony, I respond to Ms Cheatum's criticisms of the Staff's position.

22 Q. Is the amount of this adjustment still \$9.3 million?

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1 A. No. In response to data request 267 and 289, KCPL admitted that it made a
2 mistake in the calculation and its correct adjustment is \$8.9 million.

3 Q. Does the \$8.9 million represent the true cost to KCPL of this program to
4 KCPL?

5 A. No. The majority of the employees terminated under the talent assessment
6 program left KCPL in March 2006. In order for the \$8.9 million in mostly severance
7 payments to be the true cost to KCPL, all 119 employees who left KCPL under this program
8 had to be hired on the same day at the same salary. This is an unlikely event.

9 Q. Please explain why this is an unlikely event.

10 A. KCPL continued to collect these employees' salaries in rates until rates were
11 changed in January, 2007 as a result of its 2006 rate case. It is very likely that through
12 regulatory lag, KCPL continued to collect in rates the salaries and benefits of the terminated
13 employees before all of the new employees were hired. Also, it is unlikely that the new
14 employees' starting compensation was as great as the compensation paid to the departing
15 KCPL employees with many years of experience.

16 The end result is that the true cost of this program to KCPL is not known by KCPL
17 and KCPL did not make any attempt to calculate its true cost. It just decided to pass on the
18 gross cost, not the net cost of the program to its customers.

19 Q. What is the first basis the Staff raised for why the costs of the talent assessment
20 program should not be recovered from KCPL ratepayers?

21 A. The first point is that the talent assessment program was not needed. There is
22 no evidence that KCPL was not providing safe and adequate service with the employee base
23 that existed prior to the talent assessment severance program. Therefore, there is no evidence

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1 that the incurrence of this extremely significant cost was necessary for KCPL to meet its
2 obligation as a public utility.

3 Q. What was KCPL's response to that point?

4 A. Ms. Cheatum agrees on page five of her rebuttal testimony that KCPL was
5 providing safe and adequate service before it conducted the talent assessment program. She
6 argues that the fact that KCPL was providing safe and adequate service before KCPL
7 conducted the talent assessment program is irrelevant to whether the Commission should
8 allow KCPL to recover from its ratepayers the costs of the talent assessment program.

9 She also states, at page 6 of her rebuttal testimony, the following regarding KCPL's
10 undertaking the talent assessment program in preparation for construction of Iatan 2: "clearly
11 this is demonstrative of KCPL management taking responsibility for ensuring the Company
12 has human capital capable of continuing to provide reliable energy at a reasonable cost."
13 (emphasis added).

14 This is an apparent contradiction in her statements as providing reliable energy at a
15 reasonable cost is very similar to providing safe and adequate service.

16 Q. What is Staff's response to Ms Cheatum's rebuttal testimony on this point?

17 A. KCPL acknowledges it did not need to undertake the talent assessment
18 program for its present provision of safe and adequate service and KCPL has made no
19 showing that it needed to undertake the talent assessment program for it to be able to continue
20 to provide safe and adequate service in the future.

21 Q. Please respond to Ms. Cheatum's comments about the Staff's second basis for
22 recommending that the Commission deny rate recovery of the talent assessment program

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1 costs, that "there is no evidence that the costs of this talent assessment program has yet or will
2 ever provide any benefit to KCPL's customers."

3 A. Ms. Cheatum says it has provided a benefit. Her evidence is that KCPL scored
4 18 points higher on a national customer service survey by J. D. Power & Associates in 2007
5 than it did in 2006.

6 Q. Please describe the survey.

7 A. According to KCPL's response to data request 287, J.D. Power and Associates
8 measures the overall satisfaction of electric utility residential customers across the
9 United States. In 2007, a total of 29,042 telephone interviews were conducted measuring
10 48 satisfaction attributes within the following six components: Power Quality & Reliability,
11 Company Image, Price & Value, Communications, Billing & Payment, and Customer
12 Service.

13 Q. How has KCPL scored on this survey over the last several years?

14 A. In data request 287, KCPL provided its scores on this survey:

15 Midwest Region Index Ranking (comparison to 16 utilities)

16 Year Historical Indices (maximum 1000 point scale)

17	2003	721	Tied for 5th
18	2004	702	Tied for 8th
19	2005	706	9th
20	2006	679	8th
21	2007	697	Tied for 4th

22 Q. Mr. Hyneman, from looking at the results of the survey, what do you
23 conclude?

24 A. I conclude these results refute the conclusion reached by Ms. Cheatum. I see
25 that KCPL's scores on this survey in 2006 and 2007 have actually decreased from the levels
26 KCPL attained before it implemented the talent assessment program in 2003-2005. Before it

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1 implemented the talent assessment program KCPL consistently scored above 700. Since it
2 implemented the talent assessment program, the scores have dropped below 700.

3 Q. Are J.D. Power and Associates overall satisfaction measures of KCPL
4 residential customers conclusive that the talent assessment program benefits KCPL
5 ratepayers?

6 A. No. Based on the foregoing survey results, if the surveys were conclusive, they
7 would conclude that KCPL's talent assessment program has been a net detriment to KCPL's
8 customer service.

9 Q. What was the Staff's third basis for why the costs of the talent assessment
10 program should not be recovered from ratepayers?

11 A. The Staff's third basis for denying rate recovery of the talent assessment
12 program is that KCPL's management is responsible for hiring and training employees. If the
13 employees who were terminated under this program did not meet KCPL's management's
14 performance expectations, then KCPL's management should bear the primary responsibility
15 for this result.

16 Q. How did KCPL respond?

17 A. At page 5 of her rebuttal testimony, Ms. Cheatum states that the majority of
18 KCPL's employees who were terminated under the talent assessment program were meeting
19 KCPL's current performance expectations. The employees KCPL identified as "not keeping
20 pace" were not actually failing to keep pace at all. They were keeping pace. It was just that
21 KCPL's management did not think they would keep pace in the future.

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1 KCPL's management spent \$8.9 million to terminate employees who they thought
2 would not be able to meet future performance expectations. That is the essence of the talent
3 assessment program.

4 Q. What was the Staff's fourth basis for opposing rate recovery of KCPL's talent
5 assessment costs?

6 A. The Staff's fourth and final basis for opposing rate recovery of KCPL's talent
7 assessment costs is based on the Commission's *Report and Order* in KCPL's 2006 rate case,
8 Case No. ER-2006-0314.

9 In its *Report and Order* the Commission said that it sees no equity in allowing KCPL
10 to recover costs from ratepayers when its own management excludes the same costs from its
11 earnings-per-share (EPS) calculation, to the enrichment of its executives via the incentive
12 compensation plan.

13 In response to Staff data request 238, KCPL provided documents that show that the
14 severance costs of the talent assessment program were removed from KCPL's 2006 earnings
15 in the determination of KCPL's management's incentive compensation

16 Q. How did Ms Cheatum respond to this point?

17 A. Ms Cheatum did not provide any reasons why the Commission should change
18 its position; she just rejects the Commission's position. She thinks it is acceptable for
19 KCPL's executives to exclude the costs of the talent assessment program from their
20 incentive compensation bonus but that KCPL's customers should not exclude the cost of the
21 talent assessment program from their monthly utility bills.

22 Q. In the second paragraph at page 6 of her rebuttal testimony, Ms. Cheatum
23 discusses the EPS calculation in the determination of incentive compensation and states that

1 the incentive compensation plan covers "ALL employees of the company." Is it true that the
2 incentive compensation plan for all KCPL employees includes the EPS component?

3 A. No. The EPS calculation is only included in the incentive compensation plan
4 for KCPL's executives. It appears that Ms. Cheatum is relying on faulty or outdated
5 information.

6 Q. At page 6 of her rebuttal testimony, Ms. Cheatum states that you have not
7 stated or implied that you have any concerns about the valid business reason for the
8 talent assessment program. Do you have a response?

9 A. Yes. My analysis of KCPL's talent assessment program did not focus on
10 whether or not KCPL's leadership had a valid business reason for implementing the program.
11 My focus was on determining whether or not the cost of the talent assessment program should
12 be included in KCPL's cost of service. I have concluded that it should not.

13 **SEVERANCE COSTS – 3 YEAR AVERAGE**

14 Q. What other severance cost issue does the Staff have with KCPL?

15 A. In her rebuttal testimony at pages 8 to 11, KCPL witness Ms. Cheatum
16 responds to the Staff's position presented in the Staff Cost of Service Report that KCPL's
17 non-talent assessment program severance costs should not be recovered from KCPL's
18 ratepaying customers. KCPL takes the position that its customers should bear this cost.

19 Q. Has the Commission recently addressed this issue?

20 A. Yes. This is the exact same issue that KCPL and the Staff litigated in
21 KCPL's 2006 rate case. Although this position was clearly rejected by the Commission just a
22 few months ago, KCPL decided to raise the issue again in this case. In its *Report and Order*
23 in Case No. ER-2006-0314, KCPL's 2006 rate case, the Commission stated:

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1 The Commission finds that the competent and substantial
2 evidence supports Staff's position, and finds this issue in favor
3 of Staff. Staff's witness on this issue, Charles Hyneman,
4 testified that KCPL answered one of his data requests by
5 admitting that severance costs protect KCPL against such issues
6 as sexual harassment or age discrimination, and that such costs
7 are not recoverable in rates.[118] He contrasted those
8 severance payments, made only to protect shareholders, with
9 severance payments made to decrease payroll, which could be
10 included in cost of service because of the benefit to ratepayers.
11 Moreover, Staff points out that KCPL excluded its 2005
12 severance costs from its earnings per share calculation that
13 determines its management's incentive compensation
14 payment.[119] The Commission sees no equity in allowing
15 KCPL to recover these costs from ratepayers when its own
16 management excludes those same costs from its EPS
17 calculation, to the enrichment of its executives via the incentive
18 compensation plan.

19 Q. What language from the Staff Cost of Service Report does Ms. Cheatum
20 respond to in her rebuttal testimony on this issue?

21 A. The following language:

22 These severance payments made by KCPL are

23 1. The type of severance payments sought by KCPL are not
24 recurring costs of the type that should be borne by regulated
25 customers;

26 2. KCPL is seeking recovery of severance costs that will not
27 result in any payroll savings costs to its customers;

28 3. There is no evidence that these severance payments will
29 provide any benefit to KCPL or its customers.

30 4. By seeking rate recovery of severance payments, KCPL
31 ignores the fact that payroll expenses for the severed employee
32 continues to be recovered in rates after the employee leaves the
33 company until rates are changed. It would be common for
34 KCPL to double and even triple recover the cost of the
35 severance by recovering the payroll costs for a severed
36 employee until rates are changed.

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1 Q. What does Ms. Cheatum say about the first listed point that the type of
2 severance costs in which KCPL is proposing to include in rates should not be borne by
3 regulated customers?

4 A. Ms. Cheatum says that these costs should be borne by regulated customers
5 because these costs are necessary to hire and retain appropriate employees.

6 Q. Does she explain why KCPL must incur severance costs to hire and retain
7 employees?

8 A. No. She makes this statement, but does not explain it or support it. I have no
9 idea why KCPL must make severance payments to hire and retain employees. It has been my
10 experience that KCPL makes severance payments to terminate employees and secure their
11 agreement not to file any lawsuits or other charges against KCPL.

12 Q. What does Ms. Cheatum say about the second listed point that KCPL is
13 seeking recovery of severance costs that will not result in any payroll savings costs to its
14 customers?

15 A. Ms. Cheatum states that the type of severance costs KCPL incurred do not
16 result in payroll savings. However, Ms. Cheatum does not believe this is a reason to not
17 allow rate recovery of KCPL's severance payments. Her reasons are, again, that the costs are
18 necessary in order to hire and retain the appropriate employees within the organization. She
19 does not explain why severance costs are needed to hire and retain employees. Ms. Cheatum
20 also makes the statement that the payroll annualization in KCPL's 2006 rate case did not
21 include any job vacancies. I do not understand the relevance of this statement.

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1 Q. What does Ms. Cheatum say comments about the third listed point that there is
2 no evidence that these severance payments will provide any benefit to KCPL or its
3 customers?

4 A. Ms. Cheatum says that severance payments are customary and used to manage
5 employee talent. She again says that severance payments are used by KCPL to retain the right
6 people to provide excellent service. This is the third time Ms Cheatum states that severance
7 payments are used to retain employees. Since severance payments are made to people who
8 leave the company, I do not understand the logic of this statement.

9 Q. What does Ms. Cheatum say about the fourth listed point that by seeking rate
10 recovery of severance payments, KCPL ignores the fact that payroll expenses for the severed
11 employee continues to be recovered in rates after the employee leaves the company until rates
12 are changed?

13 A. Ms. Cheatum explains that KCPL usually replaces the employee who is
14 terminated and paid the severance. Although there is usually some delay before the new
15 person is hired, I agree with this statement. In fact, this is one of the reasons why the type of
16 severance costs paid by KCPL should not be recovered in rates. The Staff is supportive of
17 severance payments made in efforts to reduce payroll costs that can be flowed back to
18 ratepayers in cost of service. KCPL does not use severance for this purpose. Nevertheless, in
19 that circumstance it is reasonable to assume that there is a time lag between the date an
20 employee is severed and the date a new employee is hired. During this time lag, KCPL is
21 recovering the severed employee's salary and benefits in rates but not actually making the
22 payments. This savings to KCPL can be applied to the severance package provided to the
23 employee.

RATE BASE INCLUSION OF DEFERRED STB LITIGATION COSTS

Q. What is the rate base inclusion of deferred Surface Transportation Board litigation costs issue?

A. In KCPL's 2006 rate case, both the Staff and KCPL recommended to the Commission that KCPL be allowed to defer the expenses it incurred in prosecuting a complaint case before the Surface Transportation Board (STB) against the rail transportation rates charged by Union Pacific Railroad. The Commission's *Report and Order* in Case No. ER-2006-0314 addressed this issue as follows:

Surface Transportation Board Litigation

On October 12, 2005, KCPL filed a rate complaint case with the Surface Transportation Board ("STB") against Union Pacific Railroad ("UP"). KCPL's complaint alleges that UP's charges to transport coal from Wyoming's Powder River Basin to KCPL's Montrose plant in Missouri are excessive. As explained by Public Counsel witness Smith:

In the STB rate complaint case identified above, KCPL charged that UP's rates for the movement of coal from the Powder River Basin (PRB) to KCPL's Montrose Generating Station were unreasonably high. KCPL believes that the rates charged by UP exceeded 180% of the variable cost and was greater than the "stand-alone cost" to provide such service.[93]

KCPL and Staff wish to treat the actual Surface Transportation Board (STB) litigation costs as a regulatory asset, with costs to be amortized to expense over five years beginning in January, 2007. Any refund KCPL receives would first offset any existing balance of STB case costs in the regulatory asset, with the remainder of the refund offsetting fuel costs as determined in a future proceeding.

OPC objects, stating that the Commission should disallow this expense because ratepayers receive no benefit from these estimated costs in this rate case. In the alternative, OPC says that if the Commission includes the costs, then the costs should be spread over a five-year period.

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1 The Commission finds that the competent and substantial
2 evidence supports the position of KCPL and Staff, and finds
3 this issue in their favor. Even OPC, who opposes KCPL on this
4 issue, applauds KCPL for pursuing this litigation, believing it is
5 to the ratepayers' benefit that KCPL tries to recover what it
6 believes to be excessive freight cost for moving coal from
7 Wyoming.

8 The treatment that KCPL and Staff request would first allow
9 KCPL to recover the cost of the STB litigation, with any
10 balance being applied to fuel costs as determined in a future
11 proceeding.[94] This solution appears just and reasonable, as
12 KCPL, Staff, and OPC could all voice their views in that future
13 proceeding on exactly what STB litigation costs were prudent,
14 and on how much money should flow back to ratepayers.

15 Q. At page 2 of his rebuttal testimony, KCPL witness Mr. Weisensee states that
16 the Commission's *Report and Order* in KCPL's 2006 rate case was silent as to the rate base
17 treatment of STB costs. Did KCPL file any testimony proposing or supporting rate base
18 inclusion of these expenses in its last case?

19 A. No. I have reviewed KCPL's witnesses' testimonies and its *Post-Hearing*
20 *Brief* and *Final Post-Hearing Brief* in Case No. ER-2006-0314. I found no language in any of
21 these documents prepared by KCPL supporting the inclusion of STB costs in rate base. The
22 only language in them that even mentioned rate base on this issue was in the issue description.

23 Q. Was KCPL seeking rate base treatment of STB costs in its last case?

24 A. There are indications it was not. At page 40 of its *Post Hearing Brief* in Case
25 No. ER-2006-0314, KCPL stated that it "accepts Staff's recommendation on this issue."
26 Nowhere in the Staff's recommendation did the Staff address rate base treatment of these
27 costs.

28 Q. What is rate base?

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1 A. Rate base is the investment in property used by the utility in providing service
2 upon which that utility is permitted an opportunity to earn a specified rate of return as
3 established by a regulatory authority.

4 Q. Has the Commission recently described its test for deciding whether the value
5 of an item is to be included in a utility's rate base?

6 A. Yes. In its *Report and Order* in KCPL's 2006 rate case, the Commission
7 described the type of items that should not be included in rate base. The Commission stated:

8 As explained by Staff witness Hyneman, "In order for an item
9 to be added to rate base, it must be an asset. Assets are defined
10 by the Financial Accounting Standards Board (FASB) as
11 'probable future economic benefits obtained or controlled by a
12 particular entity as a result of past transactions or events'
13 (FASB Concept Statement No. 6, Elements of Financial
14 Statements).

15 Once an item meets the test of being an asset, it must also meet
16 the ratemaking principle of being 'used and useful' in the
17 provision of utility service. Used and useful means that the asset
18 is actually being used to provide service and that it is actually
19 needed to provide utility service. This is the standard adopted
20 by many regulatory jurisdictions, including the Missouri Public
21 Service Commission."[95]

22 The Commission finds that the competent and substantial
23 evidence supports the position of Staff, and finds this issue in
24 Staff's favor. While KCPL's projects appear to be prudent,
25 KCPL produced insufficient evidence for the Commission to
26 find that these projects rise to the level of an asset, on which the
27 company could earn a rate of return.

28 What is at issue is not whether a project[96] is a "probable
29 future economic benefit", as KCPL asserts in its brief; what is at
30 issue is the remainder of the FASB definition Mr. Hyneman
31 quoted, which is "obtained or controlled by an particular entity
32 as a result of past transactions or events."

33 In other words, an asset is some sort of possession or belonging
34 worth something. KCPL obtains or controls assets, such as
35 generation facilities and transmission lines. To attempt to turn
36 an otherwise legitimate management expense, such as a training

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1 expense, into an asset by dubbing it a "project" makes a
2 mockery of what an asset really is, which is some type of
3 property.[97]

4 Using KCPL's argument, any expense is potentially an asset by
5 simply calling it a "project", and thus could be included in rate
6 base. KCPL's projects do not rise to the level of rate base.

7 Q. Does KCPL's deferred STB expense rise to the level of an asset that should be
8 included in rate base?

9 A. No.

10 Q. Why not?

11 A. The first test of an asset is that it be a probable future economic benefit. KCPL
12 has certainly not made the argument that it is probable that it will win its complaint case with
13 the STB. To meet this first test, KCPL would have to make this assertion and support it with
14 evidence.

15 The second test of an asset is that it be obtained or controlled by a particular entity as a
16 result of past transactions or events. The Commission described this test as an asset has to be
17 some sort of possession or belonging worth something. It used the example that KCPL
18 obtains or controls assets, such as generation facilities and transmission lines, and these are
19 real assets. The Commission stated that an asset is some sort of property. Deferred
20 STB expenses are not any type of property.

21 Q. Does Mr. Weisensee address the rate base test identified by the Commission in
22 KCPL's 2006 rate case?

23 A. Yes.

24 Q. How does he address it?

25 A. Mr. Weisensee states that the Company believes it will prevail in this litigation
26 and therefore realize future economic benefits. However, just because a company asserts that

1 it believes it will win a case does not make it a probable occurrence. A company should
2 believe that it will win every litigated case it enters or it should proceed with the litigation.
3 The definition of "probable" as used by the Financial Accounting Standards Board in its
4 definition of an asset is "that which can reasonably be expected or believed on the basis of
5 available evidence or logic but is neither certain nor proved." (FASB Concept Statement 6,
6 footnote 18, page 82). Mr. Weisensee put forth no evidence other than his opinion that KCPL
7 will be successful in this litigation. Therefore, there is no evidence that KCPL's deferred
8 STB litigation expenses even meet this first test of an asset eligible for rate base inclusion.

9 Q. Did the Commission identify additional tests an asset must meet to be included
10 in rate base?

11 A. Yes.

12 Q. What are these tests?

13 A. After a cost meets the definition of an asset, it then must meet the "used and
14 useful test." The used and useful test means that the asset is actually being used to provide
15 service and that it is actually needed to provide utility service. KCPL does not even try to
16 address how deferred STB litigation costs would meet this Commission test of rate base
17 inclusion. I know no way how a legitimate argument could be made that the deferred STB
18 litigation costs are "used and useful" in providing utility service. The STB litigation expenses
19 are just that, expenses. The Staff believes that they are legitimate expenses that should be
20 recovered in rates, but they are not rate base assets.

21 **RATE BASE INCLUSION OF RATE CASE EXPENSE**

22 Q. What is the issue regarding the inclusion of rate case expense in rate base?

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1 A. KCPL is seeking rate base inclusion of its deferred rate case expense as well as
2 a two-year amortization recovery period. The Staff is also proposing a two-year amortization
3 period, but it does not believe that deferred rate case expenses meet the test on rate base
4 inclusion as outlined by the Commission in its *Report and Order* in Case No. ER-2006-0314.

5 Q. Would you elaborate?

6 A. As its name states, rate case expense is an expense, not an asset. It is a normal
7 operating expense incurred by a public utility. As I explained earlier that deferred
8 STB litigation expenses do not meet the tests for rate base inclusion, deferred rate case
9 expense do not even come remotely close to meeting these tests.

10 Q. Why not?

11 A. As I explained earlier, the first test for including an item in rate base is that it is
12 an asset, i.e., that it have a probable future economic benefit. Mr. Weisensee defines this
13 benefit as "just and equitable rates." However, with rare exception, there is no direct
14 correlation between the amount of money spent by a utility on rate case expense and the
15 resultant just and reasonable rates ordered by the Commission.

16 It has been my experience that utility companies incur rate case expense seeking rate
17 increases designed to collect millions of dollars more than what the Commission eventually
18 orders to be as just and reasonable. For example, if a utility company incurs \$500,000
19 processing a rate case in which it seeks to increase rate revenues by \$50 million and the
20 Commission orders a rate increase of \$25 million, it can be argued that the utility spent a large
21 part of that \$500,000 in seeking rate revenues that were unjust, since the Commission only
22 accepted 50 percent of the requested rate revenues increase.

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1 Would it be fair, and more importantly, would it be a benefit to the utility's customers
2 to put the total \$500,000 of rate case expense in rate base? The Staff would say, "No." In the
3 above example, including the \$500,000 in rate base would be a detriment to customers. The
4 detriment would be the utility earning a profit on its attempt to increase utility rates to an
5 unfair and unjust level.

6 The second test for whether an item is treated as rate base is that it be obtained or
7 controlled by a particular entity as a result of past transactions or events. Mr. Weisensee said
8 that rate case expense meets this test because the rate case proceeding was a past event. The
9 Commission has a different definition. The Commission described this test as the item being
10 physically tangible with value. Rate case expense, which represents nothing more than
11 outside consultant costs and internal employee travel costs, does not meet this definition.

12 Q. Does KCPL even attempt to make the argument that deferred rate case expense
13 meets the Commission's used and useful test for rate base inclusion?

14 A. No. Mr. Weisensee does not address this Commission test in his rebuttal
15 testimony. Mr. Weisensee does not explain how deferred rate case expenses are used and
16 useful in the provision of utility service.

17 Q. Does the Commission use different standards for evaluating rate case expense
18 for inclusion in a utility's cost of service than for evaluating whether investments in real
19 assets are included in rate base?

20 A. Yes. Rate case expenses do not undergo the same level of scrutiny as
21 investments in plant and other rate base assets. For example, when utilities are constructing
22 plant, utilities undergo construction audits and are required to solicit competitive bids for the
23 construction. No such requirement exists for rate case expenses. If KCPL wants to include

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1 rate case expense in rate base, then it must be willing to undergo the same level of scrutiny in
2 incurring these costs that it does in constructing utility assets. The standards should be the
3 same.

4 Q. Did the Commission address the issue of rate case expense in KCPL's 2006
5 rate case, Case No. ER-2006-0314?

6 A. Yes. In its *Report and Order* the Commission included the following language
7 on this issue:

8 KCPL argues that the Commission should amortize rate case
9 expenses over two years. In contrast, Staff and OPC ask the
10 Commission to normalize those expenses over a three-year
11 period.

12 The Commission finds that the competent and substantial
13 evidence supports KCPL's position, and finds this issue in favor
14 of KCPL. To normalize an expense is to account for an expense
15 that is not expected to regularly occur by spreading out the cost
16 of the expense over a number of years.[129] Staff chose the
17 three year number for normalizing because the Experimental
18 Regulatory Plan doesn't require another rate filing for
19 three years.[130]

20 In contrast, KCPL's choosing of a two-year amortization period
21 more accurately reflects the reality of the Experimental
22 Regulatory Plan. While Staff and OPC point out that the
23 Commission usually normalizes these expenses, the
24 Experimental Regulatory Plan itself, including the construction
25 of Iatan 2, installation of wind generation, and environmental
26 upgrades of other facilities, is hardly normal. KCPL also
27 acknowledged that the plan anticipates that KCPL could be
28 back for a rate case as early as next year, or as late as 2009, and
29 that a two year amortization was chosen as a reasonable mid-
30 point.[131]

31 KCPL is embarking upon an extraordinary process, and will no
32 doubt need access to several million dollars of capital to
33 accomplish its goals. Further, costs of construction of a coal-
34 based generating unit, as well as the other projects enumerated
35 in the Experimental Regulatory Plan are not easily estimable,
36 and the Commission fully expects KCPL to file rate cases each
37 year during this plan to keep up with its costs.[132]

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1 Q. Is this approach to rate case expense typical of this Commission?

2 A. No. As described by the Commission above, the Commission usually
3 normalizes rate case expense. This is how this expense has been treated by the Commission
4 for many years. Since rate case expense is a normal expense for a public utility, it is only
5 logical that the expense be included as a normal operating expense like any other expense.

6 In fact, the FERC in its USOA set up a special expense account for rate case expenses
7 and other regulatory expenses. This is account 928, Regulatory Commission Expenses.
8 This Commission, giving consideration to KCPL's Experimental Regulatory Plan, allowed
9 KCPL to defer the cost of the rate case expense for each of its rate case and amortize these
10 costs over a more accelerated time period of two years. This is the rate case amortization
11 period proposed by both the Staff and KCPL in this case

12 Q. How has rate case expense been normalized in rate proceedings in Missouri?

13 A. A simple example will help answer this question. Assume a utility incurred
14 \$300,000 to prosecute a rate case and history shows that this utility files for a rate case every
15 three years. In this case one-third of the rate case expense, or \$100,000 would be put in
16 current rates as a normalized level. If the utility does not file for a rate case until five years
17 later, it will recover \$500,000 in rates when its actual cost was \$300,000. If it filed for a rate
18 case in two years, it would only recover \$200,000 of the \$300,000 it spent on the previous
19 rate case and costs of prosecuting the second rate case will be normalized again. The over
20 recovery or under-recovery of rate case expense all depends on the timing of rate cases. This
21 is how the process of normalizing rate case expense has worked in Missouri, and in my
22 opinion it has worked well.

1 Q. What would be the result if KCPL's proposal to include rate case expense in
2 rate base was accepted by this Commission?

3 A. Including rate case expense in rate base eliminates the impact of regulatory lag
4 that could benefit either customers or shareholders, depending on when the Commission
5 orders new rates. By including rate case expense in rate base, only the shareholders can
6 benefit. Shareholders would be assured of 100 percent recovery of the rate case expenses as
7 well as earning a profit on these routine operating expenses. In my opinion this would be
8 unfair rate treatment.

9 Q. Could this negative impact on customers be mitigated?

10 A. Yes. If the Commission orders that KCPL's rate case expense should be
11 included in rate base, the only way to mitigate the unfair rate treatment would be to set up a
12 regulatory tracking mechanism. Once KCPL's deferred rate case expense is fully recovered
13 in rates, it should be required to defer the revenues associated with rate case expense in rate
14 base as a regulatory liability and accrue a return on the liability at KCPL's cost of capital rate
15 as ordered by the Commission in this case.

16 If the Commission orders KCPL's rate base treatment of rate case expense in this case,
17 the Staff requests that the Commission also order KCPL to comply with this tracking
18 mechanism.

19 Q. Do you have any final comments on this issue?

20 A. Yes. To my knowledge this Commission has never allowed deferred rate case
21 expenses to be included in rate base. Accepting KCPL's position on this issue would be a
22 major departure from Commission precedent with potentially significant future ratemaking
23 implications. The Staff does not believe that KCPL even comes remotely close to providing

1 the type of evidence needed to convince the Commission to make such a dramatic change in
2 ratemaking policy.

3 **WOLF CREEK REFUELING COSTS**

4 Q. What is the Wolf Creek refueling costs issue?

5 A. This issue is a disagreement between the Staff and KCPL on how costs of
6 scheduled refueling at KCPL's Wolf Creek Nuclear Operating Station (Wolf Creek) should be
7 determined for ratemaking purposes.

8 Q. How did this issue originate?

9 A. This issue relates to the appropriate accounting for the incremental operations
10 and maintenance cost of its refueling outage at its Wolf Creek station. Wolf Creek undergoes
11 a scheduled nuclear refueling outage every 18 months. Although not required to do so, in
12 2006, KCPL changed how it accounts for the refueling outages for regulatory accounting and
13 ratemaking purposes. If accepted, this change results in an increase in KCPL's revenue
14 requirement in this case. The Staff is opposed to increasing a utility's revenue requirement
15 simply because it changes the way it accounts for a cost and especially when it is not required
16 to make the change in accounting.

17 This revenue requirement increase is driven primarily because of the significant
18 increase in cash working capital that KCPL calculates under the new method. The Staff is
19 proposing the Commission reject KCPL's voluntary change in accounting method and rely on
20 the accounting method KCPL was using before it made the change, a method previously
21 authorized by the Commission.

22 Q. What accounting method was KCPL using for its refueling outage costs before
23 KCPL changed from this method?

1 A. KCPL has historically accounted for the costs of such outages using an accrue-
2 in-advance accounting method. This is the method that has been accepted by the
3 Commission. Under this method, KCPL uses past refueling outage costs to estimate the cost
4 of its next outage and accrues this total estimated cost of the outage over the 18-month
5 interval between outages.

6 Q. Why does KCPL say it changed accounting methods?

7 A. In December 2006, KCPL adopted Financial Accounting Standards Board
8 (FASB) Staff Position (FSP) No. AUG AIR-1, " Accounting for Planned Major Maintenance
9 Activities." This FASB Staff Position prohibits the use of the accrue-in-advance method of
10 accounting for planned major maintenance activities for financial reporting purposes only.
11 The FASB Staff Position required KCPL to account for the incremental refueling outage costs
12 using one of the other available accounting methods. KCPL chose the deferral method to
13 account for operations and maintenance expenses incurred for scheduled refueling outages to
14 be amortized evenly (monthly) over the unit's 18 month operating cycle until the next
15 scheduled outage.

16 Q. Was KCPL required to change to the new deferral method for both regulatory
17 accounting and ratemaking purposes?

18 A. No, and this fact is not disputed by KCPL. At page 7 of his rebuttal testimony,
19 Mr. Weisensee states that KCPL was required to make this change by generally accepted
20 accounting principles.

21 However, Statement of Financial Accounting Standard No. 71, *Accounting for the*
22 *Effects of Certain Types of Regulation* (FAS 71) is a generally accepted accounting principle
23 (GAAP). Under this GAAP, KCPL is allowed to account for the differences in the regulatory

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1 and financial accounting as a regulatory asset or liability and recorded this amount on its
2 balance sheet.

3 KCPL's management decided to change to the new deferral accounting method for
4 regulatory and ratemaking purposes despite the fact that 1) there was no substantive reason to
5 make the change (the underlying transaction that is being accounted for did not change) and
6 2) the change resulted in an unnecessary increase in KCPL's revenue requirement as
7 calculated by KCPL.

8 Q. Did KCPL consult with the Staff or the Commission prior to changing the way
9 it accounts for the Wolf Creek refueling outage costs?

10 A. No.

11 Q. At page 8 of his rebuttal testimony, Mr. Weisensee states that it is very
12 difficult for him to understand why the Staff supports the continued use of the accrue-in-
13 advance method. Can you explain why the Staff supports KCPL continuing to use the accrue-
14 in-advance accounting method?

15 A. Yes. Mr. Weisensee is correct that the Staff does prefer to use known and
16 measurable expenses when it is reasonable to do so. In this case, it is not reasonable to
17 disregard an established accounting method that has worked for many years for a new method
18 that artificially increases utility rates.

19 The Staff does not have a problem with the merits of the new accounting method.
20 However, if KCPL wants to change to the new method, it should be required to do it on a
21 revenue-neutral basis.

22 The Staff does not believe that the type of accounting method selected should
23 determine how much KCPL should charge its customers for utility service. KCPL's actual

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1 cost should make this determination and not even KCPL has asserted that the accrue-in-
2 advance method resulted in an incorrect accounting for its costs.

3 Q. Would the Staff oppose KCPL voluntarily changing to this new accounting
4 method for ratemaking purposes if KCPL did it on a revenue-neutral basis?

5 A. No.

6 Q. Why should KCPL be required to change the accounting method on a revenue-
7 neutral basis?

8 A. When the underlying transaction or event has not changed, the method of
9 accounting chosen by KCPL management should not result in different cost levels. If
10 KCPL's management was allowed to do this, then it could pick different accounting methods
11 for different types of costs based on the accounting method that results in the highest revenue
12 requirement.

13 Q. Has the Staff made a good faith effort to resolve this issue with KCPL by
14 recommending an alternative ratemaking treatment?

15 A. Yes. The Staff is proposing that KCPL's next refueling outage be set at
16 \$16 million. This amount is nearly \$2 million higher than the refueling that was done in the
17 Spring of 2005 and over \$500,000 more than the refueling that was done less than one year
18 ago. This \$16 million will be amortized to expense over the 18-month refueling period.

19 To eliminate the cash working capital (CWC) difference between the two accounting
20 methods, the amount of any difference between the amount included in rates and the amount
21 actually incurred by KCPL will be included in rate base as a regulatory asset and liability,
22 similar to other CWC items in rate base. This is a very fair proposal and a resolution to the

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1 differences between the Staff and KCPL on this issue. The Staff recommends to the
2 Commission that it adopt this Staff proposal.

3 Q. At pages 9 and 10 of his rebuttal testimony, Mr. Weisensee states the
4 \$16 million estimate for the Wolf Creek outage number 16, scheduled for the spring of 2008,
5 is not appropriate, since KCPL estimates the amount to be \$16.9 million. Mr. Weisensee
6 states that the KCPL estimate was provided by Wolf Creek Nuclear Operating Company
7 personnel, and he assumes that this estimate would be considered more reliable than an
8 estimate from Staff. Do you have a response?

9 A. Yes. The Staff's estimate is based on actual costs incurred from prior outages.
10 As I explained earlier, the Staff's estimate is over \$500,000 higher than the outage that was
11 completed less than one year ago and nearly \$2 million higher than the outage in 2005.

12 At page 10 of his rebuttal testimony, Mr. Weisensee refers to his Schedule JPW-4 and
13 states that outage costs have been steadily increasing for several years. However,
14 Schedule JPW-4 shows that cost of outage 14, in the spring of 2005, was actually \$347,000
15 less than the outage that occurred in the fall of 2003. If the total cost of these periodic outages
16 decreased as recently as 2005 then there is also a chance it will decrease in 2008. The Staff,
17 however, has included over a \$500,000 increase for the spring 2008 outage over the fall 2006
18 outage.

19 Q. Do you have any other concerns about KCPL's change in accounting method
20 for accounting for the Wolf Creek refueling outage costs?

21 A. Yes. The Staff has recently analyzed the impact of the change in accounting
22 methods on KCPL's financial statements. The Staff's preliminary analysis indicates that
23 KCPL experienced a significant increase to income and retained earnings as a result of the

1 change. This increase in income could be a result of KCPL recovering more refueling outage
2 costs in rates than it is expensing on its books. The Staff is working on additional discovery
3 on this issue. If the Staff determines that KCPL realized a financial benefit as a result of this
4 accounting change, the Staff reserves the right to include the ratemaking impact of this gain in
5 its true-up audit revenue requirement recommendation.

6 **SUPPLEMENTAL EXECUTIVE RETIREMENT PLAN (SERP)**

7 Q. Which KCPL witness raises this issue in rebuttal that you are responding to in
8 surrebuttal?

9 A. This issue is addressed by KCPL witness John P. Weisensee at page 11 of his
10 rebuttal testimony.

11 Q. What is the SERP issue?

12 A. Included in the Staff's revenue requirement recommendation is the test-year
13 amount of recurring SERP payments made by KCPL to its former executive employees. This
14 difference between KCPL and the Staff on this issue is how to treat the periodic one-time
15 lump sum SERP payments made by KCPL in lieu of annuity payments.

16 Q. What is a SERP?

17 A. A SERP is a pension compensation program which provides benefits to highly-
18 compensated employees over and above the benefits provided under the regular pension plan.

19 Q. What level of SERP expense is the Staff proposing to include in rates?

20 A. In the test year, KCPL made \$168,140 in recurring annual SERP payments.
21 This amount has remained the same since at least 2002 and this is the amount that the Staff
22 has included in its revenue requirement recommendation.

1 Q. Why does the Staff oppose including annual lump sum SERP payments in
2 KCPL's cost of service?

3 A. These lump sum payments are not a known and measurable expense. The
4 SERP lump sum payments made by KCPL have so much volatility that no reasonable
5 estimation of future lump sum payments can be made. For example, in 2000 KCPL did not
6 make a lump sum SERP payment. In 2001, KCPL made a lump sum SERP payment to its
7 former chief executive officer (CEO) and Chairman of the Board of Directors in the amount
8 of \$3.3 million. In 2003 KCPL made a lump sum SERP payment of \$232,452 and in 2004 it
9 again paid its retiring CEO and Chairman of the Board a payment of \$2.5 million.

10 Q. Are lump sum SERP payments mandatory?

11 A. No. A SERP is an additional compensation program created and controlled by
12 a company's board of directors. KCPL does not have to offer a SERP at all and it can limit
13 the SERP plan to annual recurring payments.

14 Q. Is the Staff willing to propose a compromise with KCPL in order to settle this
15 issue?

16 A. Yes. The Staff is willing to increase its SERP adjustment by \$70,000 on an
17 annual basis. This amount is calculated by dividing the total SERP lump sum payments made
18 by KCPL in the test year of \$703,937 and dividing this amount by 10 years, which represents
19 an estimate of the average remaining life of the retirees. The \$70,000 would be allocated
20 appropriately between capital and expense.

21 **MEALS AND ENTERTAINMENT EXPENSE**

22 Q. Which KCPL witness provides rebuttal testimony on the meals and
23 entertainment expense issue?

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1 A. KCPL witness John P. Weisensee rebuts the Staff's disallowance of KCPL
2 employee meals and entertainment expenses incurred in the Kansas City area at page 15 of his
3 rebuttal testimony.

4 Q. What support does the Staff have for disallowing these expenses as business
5 expenses recoverable through rates?

6 A. In response to data request 162 the Staff learned that KCPL's internal auditors
7 noted several major problem areas with KCPL and GPES' executive expense reports. In
8 addition to reviewing this report, I reviewed several management expense reports during the
9 rate case audit and my findings concur with the findings of KCPL's internal auditors. I noted
10 several instances of inappropriate charges, insufficient documentation, and an instance where
11 a subordinate was approving the expense reports of a superior officer. I concluded that KCPL
12 does not do a good job complying with its own expense account report procedures.

13 Q. What conclusion did KCPL's internal auditors find with respect to
14 KCPL's Officers' expense reports?

15 A. The auditors reached the following conclusion:

16 It appears that controls over Officers' expense reporting needs
17 improvement. For the Officers' expense reimbursement
18 process, the review noted several expense reports that were not
19 in compliance with the Policy. Specific areas not in compliance
20 included lack of required receipts, incorrect coding of expenses,
21 and spousal travel without evidence of adequate approval and
22 review.

23 Q. Did KCPL's internal auditors make any other conclusions?

24 A. Yes. The auditors noted that based on its testing, it appears that the travel
25 expense reimbursement process is not in compliance with the Policy. There does not appear
26 to be regular review of this process or training for the Administrative Assistants who fill out

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1 the expense reports. Expenses inaccurately coded may impact the accuracy of the financial
2 records.

3 Q. What action did you take in response to your findings?

4 A. Instead of going through each manager and officer expense report for the
5 test year, a process that would take several weeks, the Staff determined that it would be more
6 efficient to make an adjustment to in-town meals and entertainment charges to
7 regulated accounts. While disallowances could have been made to travel, hotel, and other
8 types of expenses, the Staff limited its adjustment to 100 percent of the local meals and
9 entertainment expenses charged by KCPL's management and officers and directors to its
10 regulated customers.

11 Q. Is the Staff making a punitive adjustment to KCPL because of problems with
12 its expense reports?

13 A. No. The Staff's findings, as supported by the findings of KCPL's internal
14 auditors, show that inappropriate and unnecessary charges are being included in
15 KCPL's proposed cost of service. Because of the volume of expense reports that would have
16 to be reviewed to determine an exact amount to remove, the Staff believed in its direct filing
17 that it would be more efficient to make an adjustment to remove all of the costs of local
18 business meals and entertainment charges from KCPL's cost of service. Far from being
19 punitive, the Staff considers its adjustment to be very conservative in this case, but it expects
20 to look very closely at this area in KCPL's next rate case.

21 Q. Please provide just a few examples that you found where KCPL officers were
22 improperly charging meals and entertainment expense to regulated customers.

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1 A. The following examples are just a few of the many instances that were noted:

2 1. On February 24, 2006, a KCPL officer had a lunch meeting at the Kansas
3 City Club to discuss a Board meeting follow up.

4 2. On April 2, 2006, a KCPL officer spent \$119.74 for a business lunch at the
5 Kansas City Club. There we no explanation for this charge.

6 3. On May 10, 2006, a KCPL officer spent \$103.30 for a business lunch and
7 parking at the Kansas City Club. Again, there is no documentation of business
8 purpose.

9 4. On May 23, 2006, a KCPL officer spent \$108.34 for a business lunch at the
10 Kansas City Club with no explanation of business purpose.

11 5. On May 24, 2006, a KCPL officer spent another \$103.24 for a business
12 lunch at the Kansas City Club with no explanation of business purpose.

13 6. On May 31, 2006, a senior KCPL officer charged \$343.71 to KCPL for a
14 business dinner at the 40 Sardines restaurant with representatives from the
15 National Association of Manufacturers and Yellow Roadway. The stated
16 business purpose of the dinner meeting was "National Association of
17 Manufacturers".

18 Q. Did KCPL propose any adjustment to recognize the fact that it had serious
19 problems with the control of its officer expense reports?

20 A. No. Despite this internal audit report, KCPL did not review the charges to cost
21 of service or make any attempt to remove charges that should not have been in its regulated
22 accounts. The Staff believes that KCPL should have made such a review and adjustment.
23 The result of KCPL's failure to adequately make an adjustment, it transferred the burden of
24 this task to the Staff. As a result, KCPL has no position or adjustment to support.

25 Q. What support did KCPL provide for recovery of these expenses?

26 A. At page 15 of his rebuttal testimony, Mr. Weisensee indicates he did some type
27 of analysis that shows a significant portion of KCPL's meals and entertainment expense
28 relates to meals provided in conjunction with department meetings, safety meetings,

1 performance meetings and training. Mr. Weisensee did not provide any analysis or evidence
2 to support this assertion.

3 The fact remains that KCPL has very serious problems with its expense account
4 process that need to be fixed as soon as possible. KCPL should not disregard these problems
5 and attempt to charge 100 percent of the cost of all management expense report costs to its
6 customers when its own auditors state that these expense account misstatements can affect the
7 accuracy of KCPL's financial records. Given all the problems with KCPL's expense report
8 process, the Staff considers its adjustment to meals and entertainment expense to be very
9 conservative. This is especially true given the general presumption that all meals consumed
10 by employees in their local area should be at their own expense.

11 **LOBBYING EXPENSE**

12 Q. Which KCPL witness provides rebuttal testimony on the lobbying expense
13 issue?

14 A. At page 15 of his surrebuttal testimony, Mr. Weisensee addresses the lobbying
15 expense issue.

16 Q. What is the lobbying expense issue?

17 A. The Staff made an adjustment to remove the salary and benefits expense of
18 KCPL's Washington D.C. lobbyist. KCPL opposes this adjustment.

19 Q. What is the role of KCPL's Washington D.C. lobbyist?

20 A. KCPL employs a federal lobbyist who lives in the Washington D.C. area. In
21 data request 200, KCPL described the responsibilities of its Manager of Governmental
22 Affairs-Federal as follows:

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1 The basis of his position is to effectively communicate the
2 company's positions, policies and practices to lawmakers at the
3 federal level of government and work with Congressional
4 lawmakers to help create a national business climate that
5 balances the needs of the company and its customers. A copy
6 of the job description is attached. As stated in the job
7 description, this position is located in Washington DC.

8 Also in response to data request 200 KCPL provided this lobbyist's job description
9 attached as Schedule 1 to this testimony. This job description list eight principal
10 accountabilities as follows:

11 1. Identify, analyze and evaluate industry legislation and issues
12 developing in Congress and their impacts on the company.

13 2. Identify and evaluate federal legislation affecting the company
14 to: develop and implement company action plans including proactive
15 legislative efforts; schedule and assist with preparation of company
16 testimony before legislative committees as appropriate.

17 3. Identify and review legislation for introduction of specific bills
18 that reduce the company's freedom to operate, add cost, create unfair
19 advantages for competitors or impede the company's ability to respond
20 to the marketplace. Identify legislation that creates opportunities for
21 the company and its customers.

22 4. Lay the groundwork for future proactive legislative initiatives.

23 5. Incumbent positions himself/herself as reliable sources of
24 information about the industry and key issues.

25 6. Implement events and activities that promote interaction
26 between the company elected officials.

27 7. Analyze and be knowledgeable of lawmakers' positions on
28 issues that impact the company.

29 8. Cultivate relationships with allies and other governmental
30 affairs entities.

31 Q. What is the basis for KCPL's opposition to the Staff's adjustment to remove
32 the cost of the lobbyist from KCPL's cost of service?

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1 A. At page 15 of his surrebuttal testimony, Mr. Weisensee states that while some
2 of the lobbyist's time and expenses are related to lobbying activities, the majority of this
3 employee's efforts related to protecting the Company's interests in many other areas.

4 Q. Does this employee's job description indicate that this employee was
5 responsible for any other areas except federal lobbying?

6 A. No, it did not. This employee is responsible only for legislative matters which
7 is the definition of lobbying. KCPL provides no evidence to the contrary.

8 Q. Did Mr. Weisensee provide any evidence that this employee engages in any
9 activity other than federal lobbying?

10 A. No, he did not.

11 Q. Does this conclude your surrebuttal testimony?

12 A. Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION

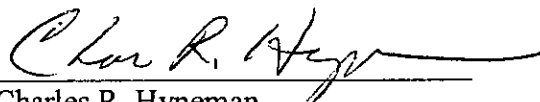
OF THE STATE OF MISSOURI

In the Matter of the Application of)
Kansas City Power and Light Company for) Case No. ER-2007-0291
Approval to Make Certain Changes in its)
Charges for Electric Service To Implement Its)
Regulatory Plan.)

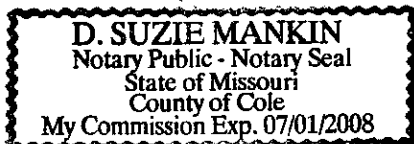
AFFIDAVIT OF CHARLES R. HYNEMAN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Charles R. Hyneman, being of lawful age, on his oath states: that he has participated in the preparation of the foregoing Surrebuttal Testimony in question and answer form, consisting of 46 pages to be presented in the above case; that the answers in the following Surrebuttal Testimony were given by him; that he has knowledge of the matters set forth in such answers; and that such matters are true and correct to the best of his knowledge and belief.


Charles R. Hyneman

Subscribed and sworn to before me this 19th day of September, 2007.




Notary Public



Kansas City Power & Light Company

Position: Manager-Governmental Affairs
(Federal)

Division: Error! Bookmark not defined.

Incumbent: _____
(Type first and middle initials, last name)

Dept.: Governmental Affairs & Community
Relations

Immediate Supervisor

HCC: 526

Title: Director – Governmental Affairs
and Community Relations

Written by: _____

Name: _____
(Type first and middle initials, last name)

Approvals: _____

Date: January 2003

POSITION PURPOSE

Conduct an effective proactive and reactive governmental affairs program that develops legislative opportunities and assists the company in attaining its financial and operational objectives.

ORGANIZATION

Next Level Supervisor
Vice President – Public Affairs

Immediate Supervisor
Director – Governmental Affairs &
Community Relations

This Position
Manager-Governmental Affairs (Federal)

OTHER POSITIONS REPORTING TO SAME SUPERVISOR:

Manager Governmental Affairs – KS
Manager Governmental Affairs – MO
Manager Community Relations
Community Business Manager – Overland Park
Community Business Manager – NW Kansas
Community Relations Representative – Kansas City, MO
Governmental Affairs Coordinator
Secretary I

BASIC PURPOSE/DIMENSIONS - Direct subordinates

	* Error
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* Indicate number of incumbents

PRINCIPAL ACCOUNTABILITIES

1. Identify, analyze and evaluate industry legislation and issues developing in Congress and their impacts on the company.
2. Identify and evaluate federal legislation affecting the company to: develop and implement company action plans including proactive legislative efforts; schedule and assist with preparation of company testimony before legislative committees as appropriate.
3. Identify and review legislation for introduction of specific bills that reduce the company's freedom to operate, add cost, create unfair advantages for competitors or impede the company's ability to respond to the marketplace. Identify legislation that creates opportunities for the company and its customers.
4. Lay the groundwork for future proactive legislative initiatives.
5. Incumbent positions himself/herself as reliable sources of information about the industry and key issues.
6. Implement events and activities that promote interaction between the company elected officials.
7. Analyze and be knowledgeable of lawmakers' positions on issues that impact the company.
8. Cultivate relationships with allies and other governmental affairs entities.

NATURE AND SCOPE

The basis of this position is the incumbent's ability to effectively communicate the company's positions, policies and practices to lawmakers at the federal level of government. To achieve this the incumbent must have a good grasp of the financial, regulatory and operational workings of the company and the ability to work with Congressional lawmakers (especially in Kansas and Missouri) to help create a national business climate that balances the needs of the company and its customers.

The incumbent must also have the ability to successfully work with internal departments and personnel—including corporate officers—toward the development of the company's positions on national legislation. The incumbent communicates these positions to others in the industry and elected officials.

Other activities and duties performed by the incumbent include:

- Working through industry groups to identify legislative and industry policy issues.
- Tracking all relevant legislation during the Congressional session(s).
- Using E-Review to inform internal groups and departments of pending legislation.
- Advising higher management on procedural and related issues involving the legislative process.
- Educating lawmakers and their staff members about the company and the industry.
- Overseeing planning and execution of grassroots activities to support company positions.
- Developing venues for company officers and company associates to meet with elected officials.
- Attending monthly PAC meetings and providing updates on key issues; advises on PAC contributions solicited by political candidates and raising funds for the PAC.

This position makes recommendations to higher management regarding legislative and other policy-making issues. Once a position is shaped internally, the incumbent must ensure that it is accurately and completely communicated to lawmakers and others involved in the legislative process. The effectiveness of this position is dependent on the incumbent's credibility with his/her contacts, both internally and externally.

This position requires a Bachelor's degree in a related area of business, engineering or physical science. Advance degrees are desired. A minimum of five to seven years of experience in the area of public/governmental affairs is required. Past experience with regulated utilities is desirable. This position is located in Washington, D.C.