BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

The Office of the Public Counsel and Midwest Energy Consumers Group,	)	
Complainants,	)	Case No. EC-2019-0200
v.	)	
KCP&L Greater Missouri Operations Company,	)	
Respondent.	)	

INITIAL POST-HEARING BRIEF OF KCP&L GREATER MISSOURI OPERATIONS COMPANY

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Introduction

Pursuant to the agreement of the parties and the concurrence of the Regulatory Law Judge at the conclusion of the evidentiary hearing on August 8, 2019 which modified the June 26, 2019 Procedural Schedule regarding the filing of post-hearing briefs, KCP&L Greater Missouri Operations Company ("GMO" or "Company") states the following as its Initial Post-Hearing Brief:

The record evidence demonstrates that the retirement of the Sibley Generating Station and its three coal-fired generating units was not an extraordinary event. To the contrary, their retirement in late 2018[1] was part of the ordinary and typical electric utility operations of GMO. Especially in light of recent economic trends, market forces, and regulatory policies that continue today, the retirement of coal plants that are over 50 years old cannot be considered unusual, infrequent, or extraordinary.

The fact that the retirement occurred after the conclusion of the true-up period in GMO's 2018 general rate case (No. ER-2018-0146), but before rates became effective on December 6, 2018 does not change this conclusion. The imminent planned retirement of the Sibley units was well known to Staff, the Office of the Public Counsel (OPC), and the Missouri Energy Consumers Group (MECG) during the course of GMO's 2018 rate case. The positions and arguments of the parties to that case, which included OPC and MECG, were resolved pursuant to four Stipulations and Agreements. As no party objected to any of the stipulations, they were treated as unanimous and approved by the Commission on October 31, 2018.[2] The tariffs to implement rates were

[1] Except for its boiler, Sibley Unit 1 was retired on June 30, 2017. See Ex. 24, Ives Rebuttal at 12.
[2] Order Approving Stipulations and Agreements, In re Kansas City Power & Light Co. Request for Authority to Implement a General Rate Increase, No. ER-2018-0145, and In re KCP&L Greater Mo. Operations Co. Request for Authority to Implement a General Rate Increase, No. ER-2018-0146 (Oct. 31, 2018).

subsequently approved by the Commission, again without objection, and became effective December 6.[3]

Given the lack of anything extraordinary about the retirement of the Sibley Generating Station and the normal ratemaking process that concluded the 2018 GMO rate case, there is no basis for an Accounting Authority Order or other deferral mechanism to be ordered in this case. Because the remedy sought by Complainants is not supported by the facts of this case, the Commission's practice and policy, or Missouri law, the requested relief should be denied and the Complaint dismissed.

I. Statement of Facts

A. Sibley Generating Station

The Sibley Generating Station ("Sibley") is located on the Missouri River near the Village of Sibley in northeastern Jackson County. See Ex. 20 at 4, Rogers Rebuttal. Sibley was constructed by GMO's corporate predecessor Missouri Public Service Company ("MoPub") and consisted of three coal-fired electric power plants: Unit 1 (48 MW with an in-service date of 1960); Unit 2 (51 MW with an in-service date of 1962); and Unit 3 (364 MW with an in-service date of 1969). See Sched. DRI-3 at 3, Ex. 24, Ives Rebuttal.

MoPub had expected to retire Units 1 and 2 in 1990, but instead initiated a "life extension" construction project "to extend the life of all three units for about 20 years." See Report and Order, In re Mo. Pub. Serv., a div. of UtiliCorp United, Inc., No. ER-90-101, 1990 WL 488941 at 15 (Oct. 5, 1990). The Commission determined that costs related to the life extension project should be capitalized because they funded "a comprehensive program to extend the useful life of" Sibley "up to the year 2010." Id. at 15-16.

[3] Order Approving Tariffs, In re Kansas City Power & Light Co. Request for Authority to Implement a General Rate Increase, No. ER-2018-0145, and In re KCP&L Greater Mo. Operations Co. Request for Authority to Implement a General Rate Increase, No. ER-2018-0146 (Nov. 26, 2018).

At this same time MoPub also initiated a project to convert the Sibley units so they could burn low sulfur western coal to comply with the Clean Air Act and its air quality regulations. See Report and Order, In re Mo. Pub. Serv., No. EO-91-358, 1991 WL 501955 at 1-2, 6-7 (Dec. 20, 1991).

MoPub was allowed to defer certain costs via Accounting Authority Orders (AAO) associated with both the life extension and the coal conversion projects that were issued in conjunction with a series of rate cases decided shortly after the deferrals were granted. See Report and Order, In re UtiliCorp United, Inc., No. ER-93-37, 1993 WL 449446 at 2-3 (June 18, 1993); Report and Order, In re Mo. Pub. Serv., No. EO-91-358, 1991 WL 501955 at 6-7 (Dec. 20, 1991).[4]

More than 20 years after the Sibley life extension and coal conversion projects, GMO announced on January 20, 2015 that Sibley Unit 1 and Unit 2 would stop burning coal by the end of 2019. The Company stated that during "the coming years" it "will make final decisions whether to retire the units at Montrose and Sibley, or convert them to an alternative fuel source." See Sched. DRI-2 at 1, Ex. 24, Ives Rebuttal.

After January 2015, GMO and its affiliate Kansas City Power & Light Company ("KCP&L") continued to study economic and industry trends, and ultimately determined that retirement was appropriate for a number of coal plants. KCP&L retired Montrose Unit 1 (170 MW) in April 2016, followed by Montrose Unit 2 (164 MW) and Unit 3 (176 MW) on December 31, 2018. See Ex. 24, Ives Rebuttal at 12 & Sched. DRI-3. Sibley Unit 1 (except for the boiler) was retired on June 30, 2017. Id.

[4] After UtiliCorp United, Inc. reorganized, MoPub became an operating unit of Aquila, Inc. Eventually, the Missouri regulated assets of Aquila were acquired by Great Plains Energy Inc. (GPE) and re-named KCP&L Greater Missouri Operations Company. See Report and Order at 37, In re Application of Great Plains Energy Inc. for Approval of its Merger with Aquila, Inc., Report and Order at 37, No. EM-2007-0374 (July 1, 2008). Evergy, Inc. succeeded GPE as the owner of GMO. See Report and Order at 34-35, In re Great Plains Energy Inc. for Approval of Merger with Westar Energy, Inc., Report and Order No. EM-2018-0012 (May 24, 2018).

B. Events Leading to Retirement

On June 1, 2017 GMO filed its Integrated Resource Plan (IRP) 2017 Annual Update, as required by Commission Rule 20 CSR 4240-22.080(3).[5] The Company presented its Preferred Plan that reflected the lowest cost plan from a net present value of revenue requirement (NPVRR) perspective. The IRP analysis determined that the retirement of Sibley Units 2 and 3 (including the Unit 1 boiler and common plant) "by 2019" and the Lake Road 4/6 Unit (97 MW) "by 2020" should occur because it resulted in an NPVRR savings of $282 million over the 2015 Triennial IRP Preferred Plan, making it the lowest cost alternative. See IRP 2017 Annual Update, § 7.1.5 at 68-69 (attached as **Exhibit A**[6]). As a result of this analysis and the economic factors that it considered, GMO announced on June 2, 2017 that Sibley Units 2 and 3 (as well as the Sibley Unit 1 boiler and common plant) would be retired by the end of 2018. See Ex. 24 at 11, 18-19 & Sched. DRI-3, Ives Rebuttal. This "$200 million benefit to customers on a net present value revenue requirement basis" was why Sibley was scheduled for retirement by December 31, 2018. See Tr. at 405-06 (Ives).

As stated in the Company's announcement of June 2, 2017, the factors contributing to Sibley's retirement included: (1) the reduction in wholesale electricity market prices, (2) a reduction in the required reserve generating capacity, (3) a decline in near-term capacity needs, (4) the age of the Sibley plants, and (5) expected environmental compliance costs. See Sched. DRI-3 at 1-2, Ex. 24, Ives Rebuttal.

In response to GMO's 2017 IRP Annual Update, as well as its subsequent 2018 Triennial IRP, OPC provided numerous comments regarding GMO's plan to retire Sibley by the end of 2018. See Sched. GM-2, Comments of OPC, In re 2017 IRP Annual Update for KCP&L Greater

[5] Order Directing Notice and Acknowledging Automatic Parties, In re 2017 Integrated Resource Plan Annual Update for KCP&L Greater Mo. Operations Co., No. EO-2017-0230 (June 2, 2017).
[6] These pages are not considered "Highly Confidential" by the Company.

Mo. Operations Co., No. EO-2017-0230 (July 28, 2017), Ex. 14, Marke Surrebuttal; Comments of OPC, In re KCP&L Greater Mo. Operations Co.'s 2018 Triennial Compliance Filing Pursuant to 4 CSR 240-22, No. EO-2018-0269 (Aug. 30, 2018).

In August 2017 KCP&L and GMO representatives, including Company witness Ron Klote, met with Staff auditors to review the rate cases that the companies planned to file in early 2018. Staff auditor Cary Featherstone advised Mark Oligschlaeger, the head of the Auditing Department, that the "announced power plant retirements," which included the Sibley units, "will occur after June 2018 true-up cutoff." Of the Sibley units, Mr. Featherstone noted that only Sibley Unit 1 "is retired except for some boiler systems for support to Sibley 2 and 3," and is "not included in rate base." See Sched. RES-S-1 (part 1 at p. 1), Ex. 6, Schallenberg Surrebuttal.

GMO and KCP&L filed general rate cases on January 30, 2018 which were subsequently consolidated. See Order Granting Motion to Consolidate, Nos. ER-2018-0145 & -0146 (Mar. 13, 2018). The Commission ordered the parties to use a test year ending June 30, 2017, updated through December 31, 2017, and a true-up period to end on June 30, 2018. Id. at 3. The timing of the filing of these cases was driven by the utilities' desire to reflect in customer rates the effect of the 2017 Tax Cuts and Jobs Act, the efficiencies gained from the merger of GPE and Westar Energy, as well as a new customer billing system. See GMO Response to DR 1052, Sched. RES-S-1 (part 4 at p. 15), Ex. 6, Schallenberg Surrebuttal.

As the parties approached the mid-September date of the evidentiary hearing, four stipulations and agreements that ultimately resolved all the issues in both the GMO and KCP&L rate cases were negotiated and filed with the Commission. Relevant to this complaint proceeding is the September 19, 2018 Non-Unanimous Partial Stipulation and Agreement ("First Stipulation") that resolved all revenue requirement issues by, among other things, reducing GMO's rates by $24

million. In total, this rate reduction resolved 32 discrete issues.[7] Although various agreements were reached on these issues, no amount of the $24 million GMO rate reduction was allocated to any particular issue, let alone to Sibley or any other electric plant.

The parties to the First Stipulation, which included MECG, agreed to defer the depreciation expense of three generating stations whose plants were approaching retirement. This included Sibley's three units and common plant.[8] There was no agreement concerning the treatment of revenues to be earned by these plants. The First Stipulation permitted proposals for an AAO or other ratemaking treatment for the recovery of "any other costs" associated with these retirements. There was no provision permitting proposals to defer revenues related to the retirements.[9]

Although MECG was a signatory to the First Stipulation, OPC was not. However, OPC failed to request a hearing or otherwise object to the First Stipulation which was, therefore, treated by the Commission as unanimous. See Order Approving Stipulations & Agreements at 3, 2018 GMO Rate Case (Oct. 31, 2018).

Throughout this time period, GMO continued to plan for the retirement of Sibley by the end of 2018 until a turbine vibration tripped Unit 3 on September 5, 2018. Staff was informed of this event via an EFIS filing on September 6. Tr. 377 (Ives). A follow-up EFIS filing occurred on September 12 as cost alternatives were analyzed. Tr. 397 (Ives). See GMO Response to DR 1043, Sched. RES-S-1 (part 4 at p. 12), Ex. 6, Schallenberg Surrebuttal.

Various options were considered by GMO from repairing the turbine to decommissioning Sibley ahead of the scheduled retirement at the end of the year. See Sched. RES-S-1 (part 4 at pp. 6-9 [internal Company emails]), Ex. 6, Schallenberg Surrebuttal. After a comprehensive

[7] See Non-Unanimous Partial Stipulation & Agreement at 1-2, In re Kansas City Power & Light Co. Request to Implement a Gen'l Rate Increase, No. ER-2018-0145, and In re KCP&L Greater Mo. Operations Co. Request to Implement a Gen'l Rate Increase, No. ER-2018-0146 ("2018 GMO Rate Case") (Sept. 19, 2018).
[8] Id. at 8-9.
[9] Id. at 9.

evaluation of these options occurred in September 2018, Vice President of Generation Operations Duane Anstaett advised senior management on October 2, 2018 that "the safest and most economical solution is to cease burning coal" at Sibley. Id. (part 4 at p. 4 [internal Company emails]).

The recommendation was taken by Chief Operating Officer Kevin Bryant to review with senior management over the next several weeks, including a briefing to the Evergy Board of Directors at its October 29-30 meeting. Id. (part 4 at pp. 3 [internal emails], 10 [GMO Response to DR 1040]). See generally Tr. 396-402 (Ives) (chronology of Staff/OPC notifications and meetings, and management discussions). After further consideration, the Company determined that Sibley 3 and the other units should be retired, and decommissioning activities began on November 14, 2018. Id. at 2-3.

During this period of time, the Company met with Staff and OPC on November 1 and November 20 to provide reports on the ultimate resolution of the forced outage and the decision to retire Sibley. Tr. 378-79, 397 (Ives). Rather than "gaming the regulatory process" as OPC contends,[10] GMO engaged in a deliberate planning process that reflected "circumstances that were not presently foreseen," such as the "loss of other generating facilities," "that could alter our plans to retire [Sibley] by the end of 2018" and "might lead us to continue to operate those plants past the end of '18 for a period of time." Tr. 404 (Ives).

On December 28, 2018, OPC and MECG filed their Petition for an Accounting Order, asserting that the retirement of Sibley Units 1,[11] 2 and 3, and common plant was "premature" and an "extraordinary" event under the Uniform System of Accounts. See Petition, ¶¶ 21-24. They request that the Commission issue an AAO that directs GMO to record as a regulatory liability

[10] Ex. 14 at 4:20, 18:1, Marke Surrebuttal; Tr. 262 (Marke).
[11] Presumably the request excludes the June 1, 2017 retirement of Sibley Unit 1 except for its boiler that was retired in 2018. See Petition at 1, n. 2; Ex. 24 at 12 (Ives Rebuttal); Tr. 190 (Schallenberg).

"the revenue and return on the Sibley unit investments collected in rates for non-fuel operation and maintenance costs, taxes including accumulated deferred income taxes, and all other costs" associated with these assets. See Petition at 7.

C. The Retirement of Sibley is Consistent with the Nationwide Trend of Coal Plants Retiring as a Result of Economic Factors and Before the End of their Projected Useful Lives

The retirement of the Sibley units is consistent with both regional and national trends that have seen the pace of coal plant retirement increase in the last decade compared to the prior 40 years. Since the beginning of 2010, 543 coal-fired generating units with a combined capacity of 76,526 MW have retired. See Ex. 20 at 8 (Rogers Rebuttal). These retirements were more than double the 238 coal units that retired in 2000-2009, and about 7 times the capacity (10,958 MW) that was retired in that decade. Id.

During the three earlier decades (1970-1999), only 34 coal units retired, totaling 2,248 MW. Id. Over the past 50 years since 1969, a total of 815 coal units have retired, of which 543 or two-thirds retired in the last nine years. See Ex. 20 at 8 & Sched. CCR-2 (Figure 2), Rogers Rebuttal.

These statistics, based upon data compiled by S&P Global Market Intelligence, reflect data reported by industry publications, utility company websites and announcements, as well as government reports, including those from the U.S. Department of Energy's Energy Information Administration (EIA). Id. at 5-8.

Company witness Christopher R. Rogers, P.E., Corporate Markets Analyst for Power Engineers Inc., and a former Manager of Generating Facilities on the Staff of the Commission, surveyed these and other sources of information regarding electric generating plant retirements. Id. at 2, 4-5 & Sched. CCR-1. He concluded that generating units fueled by coal "are retiring at a

more frequent and regular rate than gas-fired units," with renewable resources retiring at a much slower pace. Id. at 10.

He testified that an EIA report published in January 2018 stated that U.S. electric generating capacity retirements from 2008 to November 2017, as well as planned retirements for November and December of 2017, were "nearly all fueled by fossil fuels." Id. The Eastern Region of the United States, which includes Kansas and Missouri, experienced "the largest share of capacity retirements over the decade ending in 2017 compared with the rest of the country," with coal-fired capacity "disproportionally" affected. Id. at 10-11. During 2015 alone, almost 15 GW of coal-fired capacity in the Eastern Region retired. Id. at 11.

In a similar report issued just a few weeks ago, the EIA observed that U.S. coal plants "remain under significant economic pressure." See Ex. 15, "More U.S. coal-fired power plants are decommissioning as retirements continue," Today in Energy (EIA, July 26, 2019). The EIA report stated: "In 2018 plant owners retired more than 13 GW of coal-fired generation capacity, which is the second-highest annual total for U.S. coal retirements in EIA's dataset; the highest total for coal retirements, at 15 GW, occurred in 2015." Id. at 1.

The EIA found that coal units retiring after 2015 "have generally been larger and younger than the units that retired before 2015." In particular it stated:

> The U.S. coal units that retired in 2018 had an average capacity of 350 megawatts (MW) and an average age of 46 years, compared with an average capacity of 129 MW and an average age of 56 years for the coal units that retired in 2015. [Id.]

The retirement of Sibley Unit 3, with a capacity of 364 MW and an age of 49 years, falls squarely within these 2018 industry figures. See Sched. DRI-3 at 3, Ex. 24, Ives Rebuttal.

This significant increase in the retirement of coal plants generally, and the Sibley units in particular, was caused by a combination of changes in regulatory policy and consumer demand,

technological breakthroughs, and operational costs that resulted in a shift in electric utility generation economics. These economic trends "made many coal plants too expensive to operate as the price of renewable generation resources has fallen and the price of natural gas has remained low." See Ex. 20 at 13, Rogers Rebuttal. At the evidentiary hearing Mr. Rogers testified that these trends are "happening across the country but particularly in SPP" and are "all pressuring the economics for coal plants." See Tr. at 357.

In an article that he published in February 2019, Mr. Rogers stated that the "relative prices of renewable resources compared to coal and gas" have led utilities "to build new, renewable electric generating resources rather than continue to maintain aging coal and natural gas plants." See Sched. CCR-3 at 6, Ex. 20 at 13 (Rogers Rebuttal). The decline in the price of renewable generation is related to economies of scale, operational experience, technology advancements, and competition, with industry analyst Lazard & Co. concluding that "unsubsidized wind and solar generation were competitive with coal, nuclear and natural gas generation." See Ex. 20 at 14-15 & Sched. CCR-3 at 3, Rogers Rebuttal.

Apart from technical advances in renewable generation, other factors such as public policy decisions, increasing operating and maintenance (O&M) costs for coal-based generation, and U.S. corporate customer demand continue to influence decisions to retire coal plants. See Ex. 20 at 16-18, Rogers Rebuttal.

Company witness John J. Spanos, President of Gannett Fleming Valuation and Rate Consultants, LLC, testified that it "is common to have generating facilities reach the end of life prior to full recovery" with net book value remaining. See Ex. 21 at 3 (Spanos Rebuttal). He testified at the hearing that the "driving forces" behind retirement decisions, including "the economics particularly of coal plants," would cause "the estimated date of retirement to be different than it currently has been …." See Tr. at 360-61.

When he was asked whether it is uncommon under current economic conditions for a coal-fired plant to retire with 20 years or more remaining on its estimated depreciable life, Mr. Spanos noted that the last estimated depreciable life of 71 years for Sibley 3 "is at the long and beyond the upper end of what is expected." Tr. at 363. This estimated 71-year life span of Sibley 3 was contained in Mr. Spanos' 2014 Depreciation Study that calculated accruals of GMO's electric plant as of December 31, 2014, almost five years ago. The study was completed on February 16, 2016 and presented in GMO's 2016 Rate Case, No. ER-2016-0156.[12]

Mr. Spanos testified that "when you look at … what's going on at Sibley" and "particularly the last five to ten years [as] coal-fired plants have been retiring around age 50 or slightly less than that," "the 20-year number [i.e., the 71-year estimated life span of Sibley] … is not necessarily an accurate portrayal of what's going on in the industry." Tr. 363-64. He concluded that in light of "other units across the country that have been retired 20 years prior than their estimated retirement date," "we're looking at a very comparable scenario" with the retirement of Sibley 3. Tr. 364.

II. Issue 1: Does the Retirement of Sibley Units 1, 2 and 3 and Common Plant Constitute an Extraordinary Event as interpreted by the Commission justifying the Imposition of an Accounting Authority Order ("AAO") or other Deferral Mechanism to record a Regulatory Liability under the Uniform System of Accounts ("USoA") in connection with GMO's retirement of Sibley Units 1, 2, and 3 and Common Plant?

A. AAOs and Deferral Accounting

1. The Commission's Interpretation of General Instruction No. 7 under the USoA is the Relevant Standard On Whether An Event Is Extraordinary.

As it explained in its most recent decision involving a request for an AAO by Spire Missouri,[13] the Commission has evaluated requests for AAOs to determine if they are

[12] Excerpts from the 2014 Depreciation Study are attached to Schedule GM-2 of Ex. 14, the Surrebuttal Testimony of OPC witness Geoff Marke.

[13] Report and Order at 14, In re Application of Spire Missouri, Inc. for an AAO Concerning Its Commission Assessment, No. GU-2019-0011 (Mar. 20, 2019) ("Spire Assessment AAO").

"extraordinary events." In considering AAO requests, the Commission has utilized USoA General Instruction No. 7 which defines "extraordinary items" as follows:

> *Extraordinary items*. It is the intent that net income shall reflect all items of profit and loss during the period with the exception of prior period adjustments .... Those items related to the effects of events and transactions which have occurred during the current period and which are of **unusual nature and infrequent occurrence** shall be extraordinary items. Accordingly, they will be events and transactions of significant effect which are **abnormal and significantly different from the ordinary and typical activities of the company**, and which would **not reasonably be expected to recur in the foreseeable future**. (In determining significance, items should be considered individually and not in the aggregate. However, the effects of a series of related transactions arising from a single specific and identifiable event or plan of action should be considered in the aggregate.) To be considered as extraordinary under the above guidelines, an item should be more than approximately 5 percent of income, computed before extraordinary items. Commission approval must be obtained to treat an item of less than 5 percent, as extraordinary.[14]

Accordingly, the Commission has adopted the following criteria for granting deferral accounting authority, which has been approved by the courts. An extraordinary item must pertain to events or transactions that are: (1) of an unusual nature; (2) infrequent occurrence, (3) significant effect; (4) abnormal and significantly different from ordinary and typical activities of the company, and (5) not reasonably expected to recur in the foreseeable future.

GMO witness Darrin Ives discussed at length in his rebuttal testimony the Commission's interpretation of this standard for the adoption of AAOs in Missouri.[15] Staff witness Mark Oligschlaeger also provided the Commission with his extensive experience and understanding of the Commission's historic practices with regard to the treatment of AAOs.[16]

[14] 18 C.F.R. Part 101, Gen'l Instr. 7 (emphasis added.) See also Ex. 24 at 6-8, Ives Rebuttal.
[15] See Ex. 24 at 5-17, Ives Rebuttal.
[16] See Ex. 17 at 3-6, Oligschlaeger Cross-Rebuttal.

2. The PSC's Approach to AAOs/Deferral Accounting Has Been Consistently Applied by the Current Commission.

While past Commissions may have had a more "liberal" policy in granting AAOs,[17] the current Commission has consistently applied the foregoing standard in recent decisions.[18] For example, in the Spire Assessment AAO case the Commission reviewed the utility's request for an AAO related to its 2019 Commission assessment. It stated: "Extraordinary events are events that are unusual, unique, and not-recurring. The classic example of any extraordinary event impacting utility operations and costs are the occurrence of natural disasters, or so-called 'acts of God,' such as severe wind and ice storms, and major flooding."[19] The Commission reaffirmed that it "has previously found (and the Court has agreed) that the use of these deferral accounting mechanisms 'should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiency and productively under the rate regulation employed in Missouri.'" [20] Rejecting Spire's request for an AAO, the Commission stated: "The evidence showed that the Commission assessments are not extraordinary, unusual and unique, or nonrecurring."[21]

In its 2014 rate case KCP&L sought trackers for Southwest Power Pool (SPP) transmission expense, property taxes, and CIP/cyber-security expense. Regarding the request for a transmission expense tracker, the Commission found that the "broad use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri." See Report & Order at 51, In re KCP&L's Request to Implement a

[17] Tr. 343-44.
[18] Tr. 345.
[19] Report and Order at 10-11, Spire Assessment AAO (Mar. 20, 2019), citing KCP&L v. PSC 909 S.W.3d at 769.
[20] Id. at 16, citing Kansas City Power & Light Co. v. PSC, 509 S.W.3d 757, 769 (Mo. App. W.D. 2016).
[21] Id.

General Rate Increase, No. ER-2014-0370 (Sept. 2, 2015). Even though KCPL's transmission costs had increased in recent years, it determined that such "transmission costs are normal, ordinary and recurring operating costs, and not extraordinary." Id. The Commission concluded that "[t]he evidence presented in this case showed that KCPL's transmission costs, while having increased in recent years, are normal, ordinary and recurring operation costs. These recurring costs are not abnormal or significantly different from the ordinary and typical activities of the company, so they are not extraordinary and, therefore, not subject to deferral under the USoA." Id. at 54.

Using this analysis, the Commission also denied the Company's request for trackers related to property tax increases and CIP/cyber-security expense. Id. at 55-59.

KCP&L and GMO appealed this Report and Order to the Court of Appeals which affirmed the Commission's decisions on all of the tracker issues.[22] In its opinion, the Court stated:

> The PSC has the power, pursuant to section 393.140(4), to prescribe uniform methods of keeping accounts. The PSC has adopted a rule that requires utilities to use the USOA to maintain their books and records. See 4 CSR 240–20.030. KCPL's arguments regarding the USOA and its alleged right to use a tracking accounting deferral mechanism completely ignore that the PSC's decision that only extraordinary expenses should be allowed such treatment is a policy decision that has been made by the PSC and is not dictated by whether, in the abstract, the USOA provides a mechanism to defer costs, whatever the type. **The PSC has decided that the "use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri."** The manager of the PSC's auditing unit testified that the PSC will issue accounting authority orders ("AAOs"), which serve to allow a utility to deviate the normal method of accounting for certain expenses, most often associated with "extraordinary" events. The request by KCPL for the "tracking" accounting mechanism is the same as a request for an AAO, as it seeks to book a particular cost, normally charged as an expense on a utility's income statement in the current period, to the utility's balance sheet as a regulatory asset or regulatory liability. The manager testified that the PSC:

[22] Kansas City Power & Light Co. v. PSC, 509 S.W.3d 757, 770 (Mo. App. W.D. 2016). See Ex. 24 at 7-8, Ives Rebuttal.

> in prior cases has stated that the standards for granting the authority to a utility to defer costs incurred outside of a test year as a regulatory asset are: 1) that the costs pertain to an event that is extraordinary, unusual and unique, and not recurring; and 2) that the costs associated with the event are material.

In deciding that only extraordinary costs qualify for deferral, the PSC has followed the USOA's guidance that "it is the intent that net income shall reflect all items of profit and loss during the period." 18 C.F.R. Part 101, General Instruction 7. An exception to this general rule is for "extraordinary items" as defined by the USOA.[23]

In affirming the Commission's decision to deny KCP&L's requests to use deferral accounting, the Court declined to disturb this exercise of judgment and statement of policy, holding that it "will not second-guess the PSC's reasoned decision that only extraordinary items may qualify for deferral treatment."[24]

The Commission's earlier order regarding SPP transmission expenses had reached a similar result. See Report & Order, In re Application of Kansas City Power & Light Co. and KCP&L Greater Mo. Operations Co. for the Issuance of an Accounting Authority Order, Case No. EU-2014-0077 (July 30, 2014). KCP&L and GMO requested an AAO to track substantial increases in costs associated with a variety of transmission projects being constructed throughout in SPP. After stating that the Companies carry the burden of proof and must show by a preponderance of the evidence that they are entitled to the requested AAO, the Commission found that:

> Transmission expenses are part of the ordinary and normal costs of providing electric service by a utility and are ongoing. Transmission costs fluctuate due to load variations, but are escalating on an annual basis. The expansion of SPP's regional projects and the potential funding required by SPP's members has been known for some time. The transmission cost environment faced by Companies is the norm for electric utilities within SPP and in other regions. Companies' transmission expenses are not extraordinary. [Id. at 8.]

Staff witness Mark Oligschlaeger filed rebuttal testimony in that case which stated in part:

[23] Kansas City Power & Light Co. v. PSC, 509 S.W.3d at 769-70 (emphasis added).
[24] Id. at 770.

> The most common example of AAOs in this jurisdiction are orders from the Commission allowing a company to defer on its books costs associated with "extraordinary events," such as natural disasters (or so-called "acts of God") or other extraordinary events involving utility infrastructure.
>
> * * *
>
> *Q. What standard has the Commission used to determine whether it should authorize a utility to deviate from normal USOA accounting rules?*
>
> A. Generally, the Commission in prior cases has stated that the standards for granting the authority to a utility to defer costs incurred outside of a test year as a regulatory asset are:
>
> (1) that the costs pertain to an event that is extraordinary, unusual and unique, and not recurring; and
>
> (2) that the costs associated with the event are material.
>
> * * *
>
> *Q. What types of costs associated with extraordinary events has the Commission traditionally allowed utilities to defer through the AAO mechanism?*
>
> A. The Commission has most often granted utilities authority to defer incremental costs incurred to repair and restore utilities' infrastructure from significant damage caused by floods, tornadoes and other wind storms, and ice storms; extraordinary mechanical failure not involving operator negligence; costs associated with Commission rules; and costs associated with completion of extraordinary capital projects.[25]

The Commission agreed with these sentiments, citing Mr. Oligschlaeger's rebuttal in its decision. Id. at 7-8 & nn. 14, 20, 22-24. Accord Report & Order at 15-18, In re Application of Mo.-American Water Co. for an AAO related to Property Taxes, No. WU-2017-0351 (Dec. 20, 2017) (denying AAO request).

Mr. Ives concluded: "In light of the recent nature of these decisions by the Commission and the Court of Appeals, as well as the fact that the Commission has subsequently applied the

[25] See Ex. 24 at 8-9, Ives Rebuttal, citing Oligschlaeger Rebuttal Testimony.

same analysis to other requests to make use of deferral accounting, I am of the opinion that this analysis represents well-established, currently applicable and authoritative Commission policy on this topic."[26]

In summary, the Commission in recent years has consistently and strictly applied the "extraordinary items" criteria in its review of requests for AAOs by public utilities in Missouri. The courts have affirmed the Commission's approach. Fundamental fairness requires that the Commission utilize the same approach in this case, and reject Complainants' request for an AAO because the retirement of Sibley is not an extraordinary event.

3. Recording a Regulatory Liability on GMO's Income Statement Would Reduce GMO's Earnings Substantially Below the Levels Reasonably Expected to Result from the 2018 Rate Case.

If an AAO is granted in this case as requested, it will remove revenues from GMO's income statement and transfer them to its balance sheet as a Regulatory Liability. This will have a significantly negative effect on the earnings of the Company by the amounts so recorded if no other actions are taken. See Ex. 24 at 23, Ives Rebuttal; Tr. 113-14 (Meyer); Tr. 294-95 (Oligschlaeger).

Using the estimates of deferrals provided by the Complainants in their direct testimony demonstrates the significant effect that such an AAO would have on the Company's earnings. MECG's Mr. Meyer estimated a "very conservative" amount of approximately $30 million would be deferred each year. See Ex. 1 at 14-15, Meyer Direct. The estimate of OPC witness Mr. Schallenberg would be over $39 million. See Ex. 5 at 11, Schallenberg direct.

To put this in perspective, if GMO's annual net income is assumed to be approximately $160 million, based on Staff's true-up revenue requirement in the 2018 rate case, the requested

[26] Id. at 8.

AAO would result in a $30-39 million deferral each year until GMO's next rate case. Under the requirements of Section 393.1655.2, the earliest new rates could occur is December 6, 2021. See Ex. 24 at 23, Ives Rebuttal. Multiplying the estimates of the Complainants over this period of time results in a deferral of approximately $90-$117 million. Id. at 23-24.

The elimination of 20% or more of GMO's net income for such an extended period of time would imperil the Company's ability to obtain capital and potentially compromise its capacity to provide safe and adequate service to customers. Id. at 24. Staff recognized that a reduction in the Company's earnings by such amounts for each year that the AAO is in effect could have a negative effect on the Company's overall earnings at a fairly substantial level. See Tr. 291-92.

GMO has estimated that reducing its net income between $30 million and $39 million, as requested by MECG and OPC, would reduce its achieved earnings level for the 12-month period ending March 31, 2019 from 8.42% to between 6.32% and 5.69%. See Ex. 24 at 28, Ives Rebuttal. Considering that GMO and Staff recommended a return on equity (ROE) of 9.85% in the 2018 Rate Case, and MECG recommended an ROE of 9.30%, the negative effect of the AAO requested in this proceeding would be unparalleled in this Commission's history.

Such a result would be particularly unwarranted given that rates from GMO's 2018 rate case took effect so recently (December 2018), that the planned retirement of Sibley was well known while the rate case was proceeding, and that the unrebutted record evidence established that GMO's recent earnings are lower than the lowest ROE recommendation in that case. See Ex. 22 at 21, Klote Rebuttal (8.42% as of Mar. 31, 2018 v. 9.30% MECG recommendation). Given these circumstances, Mr. Ives (who has substantial expertise in financial reporting and investor relations from his work in KCP&L's Accounting Services Department and as Assistant

Controller[27]) testified that the reaction of the investment community would likely be negative. It would question the fairness and consistency of Missouri regulation and potentially make it more difficult for investor-owned utilities with Missouri operations to obtain capital on reasonable terms. See Ex. 24 at 24, Ives Rebuttal.

This Commission has recognized that maintaining the financial integrity of a utility is a reasonable goal and that the effect of AAO or deferral requests on a utility's earnings is an important concern.[28] Given that the "AAO technique" should be employed so that it "protects the utility from earnings shortfalls and softens the blow which results from extraordinary"[29] events, the damage to GMO's earnings that would result from granting an AAO because of Sibley's retirement – an event that is clearly not extraordinary – cannot be ignored.

B. Plant Retirements are not Extraordinary under General Instruction 7 as historically interpreted by the Commission

1. Extraordinary Event Standard: "unusual nature," "infrequent occurrence," "abnormal," "unique," and "not likely to recur in the reasonably foreseeable future."

The evidence demonstrates that the retirement of Sibley Units 1 (boiler), 2, and 3 and common plant does not meet the "extraordinary event" standard according to the USoA definitions as interpreted by the Commission, and does not justify the imposition of an AAO or other deferral mechanism.[30] This conclusion is supported by the fact that no regulatory asset for the Sibley retirement has been recorded on GMO's FERC books under the USoA standards, and GMO's

[27] Ex. 24 at 1-2, Ives Rebuttal.
[28] In re Missouri Pub. Serv., No. EO-91-358, 1991 WL 501955 at 5-6 (1991), aff'd State ex rel. Office of Public Counsel v. PSC, 858 S.W.2d 806 (Mo. App. W.D. 1993).
[29] Missouri Gas Energy v. PSC, 978 S.W.2d 434, 36 (Mo. App. W.D. 1998). Accord State ex rel. Aquila, Inc. v. PSC, 326 S.W.3d 20, 27 (Mo. App. W.D. 2010).
[30] See Ex. 24 at 5-32, Ives Rebuttal; Ex. 20 at 4-20, Rogers Rebuttal; Ex. 21 at 3-4, Spanos; Ex. 22 at 3-31, Klote Rebuttal; and Ex. 17 at 2-8, Oligschlaeger Cross-Rebuttal.

FERC books have been audited by its external auditors to assure that they are in conformity with the requirements of the USoA.[31]

Company and Staff witnesses demonstrated that retirement of generating assets is a recurring event happening virtually every day in the normal operations of a public utility. For example, during the five-year period from October 2013 through September 2018, GMO retired approximately $90 million of generating plant.[32]

Generating units have previously been retired by GMO and its corporate predecessors, and an AAO or other deferral accounting mechanisms were not established. In 1982 the Edmond Street plant was retired, and in 1987 the Ralph Green Units 1 and 2 were retired.[33] The Commission did not determine these retirements were "extraordinary" or that such retirements warranted deferral accounting treatment.

More recently, GMO retired all of Sibley 1 except the boiler on June 30, 2017. The Commission did not determine that retirement to be extraordinary or that such retirement warranted deferral accounting treatment. In fact, no party made any assertion that such retirement was extraordinary or that it warranted deferral accounting treatment.[34]

GMO has announced plans to retire Lake Road Unit 4/6 before the end of 2019. The planned retirement of this unit, like the Sibley retirements, resulted from the IRP process and its analysis which showed that it was in the best interests of the Company's customers to retire these units at this time. This retirement plan was disclosed on June 2, 2017.[35]

[31] Ex. 22 at 26-29, Klote Rebuttal; Tr. 374-75 (Klote).
[32] See Ex. 24 at 11, Ives Rebuttal; Tr. 288 (Oligschlaeger).
[33] See Ex. 24 at 12-13, Ives Rebuttal.
[34] Id. at 12, Ives Rebuttal.
[35] Id.

In addition, KCP&L has also retired a number of generating units recently, beginning with Montrose Unit 1 on April 16, 2016. The Commission did not determine that retirement to be extraordinary or that it warranted deferral accounting treatment. In fact, no party made any assertion that such retirement was extraordinary or that it warranted deferral accounting treatment.[36]

More recently, KCP&L retired Montrose Units 2 and 3 on December 31, 2018. These retirements were also driven by results from the IRP process, and KCP&L's plan to retire these units was announced on June 2, 2017 (which updated a prior retirement announcement of January 20, 2015). While KCP&L is deferring depreciation expense for Montrose Units 2, 3 and common plant since their retirement in 2018, consistent with the Commission's Order approving the First Stipulation discussed above, no party has asserted that such retirements were "extraordinary" or that they warranted deferral accounting treatment for the revenue and return on these assets or related non-fuel operations and maintenance costs.[37]

2. The Staff's Expert Witness Agrees with GMO that the Retirement of Sibley Is Not An Extraordinary Event.

Mark Oligschlaeger, Manager of the Auditing Department, is Staff's most experienced expert on the topic of AAOs. He has testified in over two dozen cases involving AAOs, trackers, and deferral accounting.[38] In some cases he has recommended the approval of AAOs when an extraordinary event occurred, but more often he has recommended the disapproval of AAOs when the events in question did not meet the USOA's "extraordinary" standard.

He recommends that the Commission reject the request for an AAO.[39] In his Cross-Rebuttal Testimony, Mr. Oligschlaeger testified:

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[36] Id.
[37] Id. at 12-13.
[38] Tr. 280.
[39] See Ex. 17 at 2-3, Oligschlaeger Cross-Rebuttal.

Q. Do you agree with Mr. Ives and Mr. Klote's testimony that utility asset retirements generally should not be considered to be extraordinary?

A. Yes. All tangible assets placed in service are expected to have a finite service life, and thus subject to retirement at some future point. Any major utility is both constantly adding new plant items to its system and constantly retiring other plant items. Staff's position is that decisions to retire plant assets are inherently part of the routine and typical operations of a regulated utility, and thus cannot be considered to be extraordinary (unusual, unique or non-recurring) except in very rare circumstances [emphasis added]."[40]

At the hearing he made it crystal clear that the Sibley retirement did not meet the "extraordinary event" standard:

Q. And it's your assessment that the retirement of Sibley is part of the routine and typical operations of GMO; is that right?

A. Yes.

Q. It's not a rare circumstance that would justify treating it as an extraordinary event, wouldn't you agree?

A. Yes. GMO and presumably all electric utilities have an obligation to engage in planning for how best to meet their customer loads on a cost-effective basis and that may involve addition of new units, retirement of existing units, rehab of existing units, letting units run longer than they're estimated life span. All of those things fall under that general function of a utility.

Q. Is it your understanding that GMO has added new plant and retired other generating plant assets on a rather routine basis?

A. Yes.

***

Q. Wouldn't you expect other electric companies like Ameren Missouri or Empire District Electric Company would also routinely retire generating plant assets over the course of several years?

A. I would expect that.

[40] Id. at 4.

Q. Retirement of power plants are a part of the ongoing operations of an electric public utility; is that your opinion?

A. Addition and retirements both, yes.

* * *

Q. Are you familiar with other electric utilities in Missouri that have plans to retire power plants?

A. I know Ameren Missouri has plans to retire at the very least its Meramec units I think within three, four, five years, and I know Empire has actively considered retirement of its Asbury coal plant.

* * *

Q. So, is it correct that retirements of power plants are expected to be recurring events in the future here in Missouri?

A. I would agree with that.

Q. Would you agree that there is really nothing unusual, infrequent or out of the ordinary course of business when a company retires a power plant absent some very rare circumstance?

A. That is my position.

Q. Would you agree that there's nothing extraordinary about retiring generation plant assets in the electric industry in Missouri?

A. I would agree.

Q. And that would be true for other electric companies across the country; wouldn't that be true, too?

A. Based on my knowledge of what's happening across the country and also Mr. Rogers' testimony, I would agree that's true. [41]

The Commission should again rely upon Mr. Oligschlaeger's expert analysis and find that the retirement of the Sibley plant, like other retirements of numerous power plants in Missouri and nationwide, is not an extraordinary event, and does not warrant deferral accounting treatment.

[41] Tr. 287-90 (Oligschlaeger).

3. It Would Have Been Extraordinary if Sibley 3 Had Not Retired Under the Circumstances of Late 2018, Given Current Economic Conditions and Industry Trends.

Federal and state regulatory policy changes, technological and operational developments, and consumer demand for renewable energy have significantly transformed the economics affecting the business of generating electricity. As a result, coal plants across the United States have been retiring more frequently and in the ordinary course of business. Therefore, the retirement of the Sibley units was not extraordinary.[42]

The retirement of coal and other carbon-based plants in the Midwest is similar to the overall national trends, although retirements have occurred at a faster pace in states like California, New York, and Massachusetts that have aggressive renewable portfolio standards and carbon-free energy plans.[43] As Company witness Mr. Rogers explained at length in his Rebuttal Testimony,[44] the significant increase in the retirement of coal plants generally, and the Sibley units in particular, was caused by a combination of changes in regulatory policy and consumer demand, technological breakthroughs, and operational costs that have resulted in a shift in electric utility generation economics that made many coal plants too expensive to operate as the price of renewable generation resources has fallen and the price of natural gas has remained low. The cost of wind and photovoltaic solar resources are competitive with conventional fossil-fueled resources, and these trends are likely to continue. Market prices for wind and solar generation have been declining for several years, and regulation and legislation at both the federal and state levels have promoted the expansion of wind and solar generation.[45]

[42] See Ex. 20 at 6-7, Rogers Rebuttal.
[43] Id. at 12-13.
[44] Id. at 12-20.
[45] Id. at 13-14.

Based upon these industry trends, the economic signals of the energy markets, and the more than $200 million in expected net present value of revenue requirement savings resulting from retiring Sibley as shown in GMO's 2017 IRP,[46] it would have been extraordinary if Sibley had not been retired.

C. No State or Federal Regulatory Commission has found a Plant Retirement to be Extraordinary under General Instruction 7

Neither this Commission nor any other state or federal utility regulatory commission has ever found the retirement of an electric generating plant to be an extraordinary event that supported an AAO or other deferral accounting treatment to record a Regulatory Liability for the return on and revenue related to non-fuel O&M costs of the plant. No other party and none of their testifying witnesses were able to identify any decision to the contrary. See Ex. 24 at 14, Ives Rebuttal.

MECG witness Mr. Meyer confirmed that he was not aware of any decision finding that the retirement of a generating facility was an extraordinary event under the USoA. See Tr. 117-18 (Meyer); Ex. 3. He also confirmed that he was not aware of any utility regulatory body that has granted a request to establish an AAO or other deferral mechanism regarding capital costs (including return on investment) and non-fuel O&M expenses for a retired generating unit. See Tr. 115-17; Ex. 3.

Similarly, OPC witness Mr. Schallenberg stated that he was not aware of any regulatory decision granting a request to establish an AAO or other deferral for capital costs, return on investment, and non-fuel O&M expenses included in rates for a generating unit retired by a utility. See Tr. 167; Ex. 11. He, too, confirmed that he was not aware of any state or federal utility regulator that has found the retirement of a generating facility to be an extraordinary event under the USoA. See Ex. 12. Mr. Schallenberg stated that since becoming a state regulatory utility

[46] See **Exhibit A** (attached).

auditor over 40 years ago in 1976, this is the first time he has ever testified that an AAO should be ordered by the Commission as a result of the retirement of an electric generating plant. See Tr. 161, 167.

Staff witness Mr. Oligschlaeger, who has worked at the Commission for 38 years, testified that he is not aware of any Missouri Commission decision that found that the retirement of a power plant was an extraordinary event that justified the establishment of an AAO. See Tr. 290-91. He is also not aware of any other state or federal public utility commission that authorized an AAO for the retirement of a power plant. Id. at 291. To Mr. Oligschlaeger's knowledge, if the Commission ordered an AAO in this case, it would be the first time that such a decision was made by any public utility commission in the United States. Id. at 291.

The only decision cited by any party that is remotely similar to the Complainants' petition is a Wisconsin decision that denied a similar request. In that proceeding industrial energy users and the Citizens Utility Board of Wisconsin requested that Wisconsin Electric Power Company be ordered to defer net savings (excluding fuel costs) arising from the retirement of the two coal-fired units at the Pleasant Prairie power plant. In re Wis. Elec. Power Co., Order No. 6630-AF-100, 2018 WL 2938141 at *1 (Wis. P.S.C. 2018) (attached as Sched. DRI-4 to Ex. 24, Ives Rebuttal).

The Wisconsin Commission denied the request, stating that public utilities "routinely retire generating units between rate cases," and that the petitioners "have not cited any prior Commission decision where deferral accounting treatment has been authorized for the costs or any net savings associated with such retirements." See Order at *3 (Sched. DRI-4 at 4). Similar to GMO's case, the Wisconsin Commission observed: "While much is made in the filings as to the timing and the merits of the decision to retire Pleasant Prairie, the prudency of that decision and any recoverability of costs associated with that decision are not presently before the Commission ...." Id. at *2 (Sched. DRI-4 at 3-4). Concluding that Wisconsin Electric's "business decision ... does not require

prior Commission approval," the petition was dismissed "without prejudice to any future action ... relating to the recovery of costs associated with the retirement of the Pleasant Prairie Power Plant." Id. at *3 (Sched. DRI-4 at 4-5).

The Wisconsin Commission's decision is significant for two reasons. First, it found that the retirement of the plant did not meet its criteria regarding deferral accounting which required that the cost be "unusual and infrequently occurring" and that it be "outside of the utility's control." Id. at *2 (Sched. DRI-4 at 4). The decision, therefore, rejects the MECG position that the retirement of any generating plant is extraordinary because it occurs only once. See Tr. 111-12. At the hearing Mr. Meyer was asked and testified:

> Q. And, therefore, any retirement of any plant that occurs, in your opinion, is per se an extraordinary event?
>
> A. A generating plant?
>
> Q. Yes ... an electric generating plant.
>
> A. Correct. [Id.]

Mr. Meyer additionally testified that in his opinion the retirement of a power plant, being extraordinary, is an extraordinary item that "fits directly into USoA 7, yes." Id. at 112. Given that neither Mr. Meyer nor MECG was able to cite even one regulatory decision supporting its theory, and the Pleasant Prairie decision to the contrary, there is no factual or legal basis for such an assertion.

Second, the Wisconsin Commission's order rejects the notion that the timing of a plant's retirement in conjunction with a rate case justifies a deferral, let alone transforms it into an "Extraordinary Item" under the USoA. Yet, this is OPC's claim.

OPC has admitted that not every plant retirement is extraordinary, but contends that the Sibley retirement is. See Tr. 197-98 (Schallenberg), 256-57 (Marke). In response to Commissioner Kenney's inquiry in reference to the Executive Summary of GMO's 2018 IRP that

stated, "Sibley Units Fully Retired -- By Dec 31, 2018,"[47] Dr. Marke agreed that "everybody knew that they were going to be closing" Sibley. See Tr. 250. He knew that Sibley was operating during the historic test year in GMO's 2018 general rate case and that, whenever its retirement occurred, it would be *after* the true-up period ended on June 30, 2018. Tr. 232.

The fact that OPC contends that it was not aware of the Sibley 3 forced outage in September 2018 (Tr. 260, 267) is as irrelevant to this proceeding as it was to GMO's 2018 rate case. Although Dr. Marke told Commissioner Kenney that this "timing" is "why we're here" and why OPC is "irked" (Tr. 250-253, 256-57), Sibley would have been included in rates in the 2018 rate case regardless of whether it was retired in September, November or December 2018, or at some later time. Sibley was operating within the rate case test year and the true-up period ending June 30, 2018, and was properly included in rates. See Tr. 308-10 (Oligschlaeger).

Just as the Wisconsin Commission gave little credence to "timing" issues in denying the request for deferral accounting in the Pleasant Prairie case, this Commission should give no weight to timing issues in this case because under all of the likely scenarios, Sibley would be retired months after the true-up ended. If, as Dr. Marke conceded, there is any "fault" in these events, it is the failure of OPC to contest or object to the First Stipulation. With its $24 million rate reduction for GMO customers, the First Stipulation was presented to the Commission on September 19, 2018 with MECG as a co-signatory, was treated as a unanimous stipulation because there were no objections, and was approved by the Commission with three other stipulations on October 31, 2018. See Tr. 248, 252-53 (Marke); Tr. 268 (official notice taken of Order Approving Stipulations & Agreement).

[47] See Exec. Summary, GMO Integrated Resource Plan, § 7.2, Unit Retirement Planning at 26, No. EO-2018-0269 (filed Apr. 2018) (attached as **Exhibit B**).

D. Granting an AAO or Deferral Accounting In This Case Would be Contrary to the Rate Regulation Approach of this Commission

1. Historical costs, investment and revenues are "matched" over a fixed test year and true-up period designed to guide the setting of prospective rates.

As the Commission has previously decided – and has been affirmed by the Court of Appeals – the "use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri."[48] The granting of an AAO or deferral accounting in this case would be contrary to this long-standing policy and would be contrary to the rate regulation practices of this Commission.

The Commission has long adhered to the ratemaking practice and policy of using historical test years that are updated for known and measurable changes.[49] OPC witness Dr. Marke testified that he is not aware of any major rate case in Missouri where a historical test year has not been used by the Commission.[50] According to Dr. Marke, "the best way to evaluate how all of the Company's expenses and revenues interact and counterbalance each other is by looking at the known and measurable data from a historical test year."[51] Under this traditional approach to ratemaking, isolated out-of-period adjustments should be rare and, in practice, have rarely been adopted by the Commission.[52]

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[48] Kansas City Power & Light Co. v. PSC, 509 S.W.3d 757, 769 (Mo. App. W.D. 2016), affirming Report & Order at 50-51, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015).
[49] Tr. 230.
[50] Tr. 239; Ex. 16 at 5, Marke Direct Testimony, In re Mo.-American Water Co., No. WR-2017-0285.
[51] Tr. 235-36; Ex. 16 at 7, Marke Direct Testimony, No. WR-2017-0285.
[52] See Report and Order at 104-06, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015) (rejected inclusion of increased costs incurred from FERC's including Independence Power & Light in KCP&L's SPP transmission pricing zone, and the lost revenues from the expiration of capacity sales agreements with the Kansas Municipal Energy Agency that occurred after true-up ***even though*** the lost revenues "are known and measurable"); Report and Order at 70-72, In re Kansas City Power & Light Co., No. ER-2006-0314 (Dec. 21, 2006) (rejected inclusion of 113 employees in cost of service because they had not started working by the end of the true-up ***even though*** they had been hired and the Commission found KCP&L's "employee numbers … may be deceivingly low").

In GMO's last rate case the Commission and the parties used a historical test year that was updated for known and measurable changes as of the true-up that ended June 30, 2018. During the historical test year and true-up period, GMO was operating Sibley. Consistent with the Commission's long-standing ratemaking practices, Sibley's rate base and its cost of service expenses were reflected in the Company's rates.[53]

OPC and other consumer representatives have been strong supporters of the use of such historical test years that are updated for known and measurable changes, and vocal opponents of the use of future test years and isolated adjustments. They have argued that the use of a historical test year and the resulting regulatory lag give public utilities incentives to be more efficient and cut costs between rate cases. [54]

During the hearings Dr. Marke also reiterated the Public Counsel opposition to the use of future test years. He explained the OPC's opposition to future test years is based upon the following factors or principles, including the prohibition of single-issue ratemaking, the Commission's rate case matching principle, and the known and measurable standard.[55] He described the matching principle as follows:

> The fundamental principle in determining rates is the matching principle. Unless there is a matching of costs and revenues, the test year is not a proper one for fixing just and reasonable rates. A rate case test year is used to ensure a matching of rate base investment, utility revenues and utility expenses. If rate base, revenues and/or expenses are mismatched in the rate-setting process, the resulting rates will either over or under recover costs, causing rates to be unjust and unreasonable. This "reasonableness" of rates is what is at risk here if the Commission abandons its longstanding rate case matching principle.[56]

[53] Tr. 232 (G. Marke).
[54] Tr. 231 (G. Marke).
[55] Tr. 228-29; Ex. 16 at 5 (Marke Direct Testimony in No. WR-2017-0285).
[56] Tr. 229; Ex. 16 at 8.

The Commission has also described its understanding of the importance of the matching principle in its decision in the 2014 KCP&L rate case:

> In Missouri, rates are usually established based upon a historical test year where the company's expenses and the rate base necessary to produce the revenue requirement are synchronized. The deferral of costs from a prior period results in costs associated with the production of revenues in one period being charged against the revenues in a different period, which violates the "matching principle" required by Generally Accepted Accounting Principles (GAAP) and the Uniform System of Accounts approved by the Commission. The matching principle is a fundamental concept of accrual basis accounting, which provides that in measuring net income for an accounting period, the costs incurred in that period should be matched against the revenue generated in the same period. Such matching creates consistency in income statements and balance sheets by preventing distortions of financial statements which present an unfair representation of the financial position of the business. One type of deferral accounting, a "tracker", has the effect of either increasing or decreasing a utility's earnings for a prior period by increasing or decreasing revenues in future periods, which violates the matching principle.
>
> A tracker is a rate mechanism under which the amount of a particular cost of service item actually incurred by a utility is tracked and compared to the amount of that item currently included in a utility's rate levels. Any over-recovery or under- recovery of the item in rates compared to the actual expenditures made by a utility is then booked to a regulatory asset or liability account and would be eligible to be included in the utility's rates in its next general rate proceeding through an amortization to expense.
>
> The broad use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri.[57]

In GMO's 2018 rate case, the Commission followed its long-standing ratemaking practices, particularly the matching principle, by including the revenues, rate base, expenses, taxes, and depreciation that occurred during the historical test year and the true-up. As a result, the historical test year as updated included in rates all the Sibley resources that were operational as of June 30,

[57] Report and Order, ¶¶ 114-16 at 50-51, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015).

2018.[58] The retirement of Sibley was not "known and measurable" at the time of the rate case since it was not certain when the retirement would occur, and the impact of the retirement was not measurable with any precision. In fact, Staff witness Oligschlaeger testified that the Staff did not believe that an isolated out-of-period adjustment to capture the future retirement of Sibley was appropriate.[59]

GMO has now retired Sibley, as previously announced and projected. Its retirement was a result of its IRP analysis which demonstrated that it was in the best interests of customers since it would produce a lower net present value revenue requirement. GMO's actions are consistent with the goals of the Commission's IRP process and rules which encourage electric utilities to be efficient and choose a preferred resource plan which minimizes the net present value of revenue requirements.[60]

OPC and MECG, on the other hand, seek to capture through deferral accounting under an AAO the cost reductions occurring after the historical period used to set rates which took effect on December 6, 2018.

2. Ratemaking does not perfectly match expenses and revenues during period when rates are in effect.

Since GMO's rates became effective in December 2018, other electric plant and assets have been retired, and new investments have been added. None of these retirements and additions are reflected in the Company's current rates. The relationship between revenues and expenses will be evaluated again in GMO's next rate case, or in a complaint case filed by Staff or other parties.

[58] If the Commission had used a future test year instead of its long-standing approach to regulation, it would have reflected the retired Sibley Plant since it was projected to retire by the end of 2018. Tr. 234. However, future test years are not used in Missouri. State ex rel. Mo. Public Serv. Co. v. Fraas, 627 S.W.2d 882, 887-88 (Mo. App. W.D. 1981).
[59] Tr. 309-10 (Oligschlaeger).
[60] 20 CSR 4240-22.010(2)(B); Tr. 242-44 (Marke).

In the meantime, the evidence indicates that GMO is not overearning. GMO's achieved earnings level for the 12 month-period ending March 31, 2019 was 8.42%.[61] In GMO's last rate case, the lowest return on equity (ROE) recommendation by the parties was 9.3% filed by MECG witness Michael Gorman. In the most recently litigated rate case where ROE was an issue, the Commission found that an ROE of 9.8% was just and reasonable for Spire Missouri.[62]

Staff witness Mr. Oligschlaeger testified that in the last GMO rate case Staff recommended a 9.85% ROE for GMO.[63] More importantly, he stated that there is no factual basis for an earnings complaint case at this time, and that Staff will continue to monitor GMO's earnings in the future.[64] Even OPC witness Dr. Marke testified that he did not consider an 8.42% ROE for GMO to be excessive in today's financial environment.[65]

3. The Denial of the AAO Request will not prejudice the Commission's Ability to Consider all Relevant Factors in GMO's next Rate Case, including Issues related to the Sibley Retirement.

Contrary to the arguments of OPC and MECG, it is not necessary for the Commission to grant an AAO or deferral accounting related to the Sibley retirement to preserve its ability to recommend ratemaking adjustments in the next GMO rate case. The Commission will consider all relevant factors as it always has in rate cases, and a denial of an AAO in this case will not prejudice the Commission's ability to do so. GMO is obligated by PSC and FERC records retention requirements to maintain their books and records beyond the time of the next expected GMO rate case.[66]

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[61] See Ex. 24, Ives Rebuttal, p. 28.
[62] Report and Order at 8, In re Spire Missouri Inc., No. GR-2017- 0215 (Mar. 7, 2018)
[63] Tr. 310.
[64] Tr. 296.
[65] Tr. 219.
[66] Tr. 294. See 20 CSR 4240-10.010, Books and Records; 18 CFR Part 125, Preservation of Records of Public Utilities and Licensees; Ex. 13, 18 CFR Part 368, Preservation of Records of Holding and Service Companies.

Mr. Oligschlaeger clearly addressed this concern as follows:

> Q. Does there need to be a deferral of Sibley unit cost savings in place in order to allow other parties to potentially make this "offset" argument in a future rate case?
>
> A. No. Staff contends that the ability of other parties to propose a ratemaking offset of this nature in the next GMO rate case is not dependent upon creation of a Sibley unit regulatory liability at this time.[67]

While it is not known what issues will be presented to the Commission in GMO's next rate case, it is certain that if the Commission grants the Petition for an AAO or deferral accounting in this case, there will be a substantial and adverse impact upon GMO's earnings level during the deferral period—even if no ratemaking adjustment is ever proposed or adopted in the next GMO rate case. This would be a very unfortunate result which, as discussed above in Section II(A)(3), is likely to be viewed quite negatively by the wider investment community.[68]

E. Any Concern regarding GMO's Earnings can be Addressed in an Earnings Investigation.

A subtle but persistent theme that runs through this case is that GMO is earning above its authorized rate of return. The undercurrent began with the filing of the case, with the suggestion that an unjustified "economic benefit" was being earned by the Company.[69] It continued in direct testimony with a reference to "inflated" earnings (Ex. 1 at 4, Meyer Direct), and became more prominent in surrebuttal where unsubstantiated allegations of "inflated earnings," "windfall," and "gaming" were asserted (Ex. 14 at 4, 7 & 19, Marke Surrebuttal). Finally, at the evidentiary hearing, although the Complainants provided no analysis to refute GMO's demonstration that it is actually under-earning,[70] they continue to assert their claims of "rich earnings" (Tr. 263) and "skyrocketing" rates (Tr. 15).

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[67] See Ex. 17 at 7, Oligschlaeger Cross-Rebuttal.
[68] See Ex. 24 at 24, Ives Rebuttal.
[69] See Petition, Schallenberg Affidavit ¶ 7.
[70] See Klote Rebuttal at 21.

The easy answer to these unsubstantiated accusations is for the Complainants to file an earnings complaint or request that the Commission order an earnings investigation. See § 386.390.1.

Although GMO is currently under a rate freeze pursuant to Section 393.1655.2 that ends on December 6, 2021 (Tr. 297), there is no impediment to filing an earnings complaint. If an earnings investigation conducted by Staff indicates that earnings levels are excessive, and the Commission finds that the evidence justifies a rate reduction, the Commission could order new rates to become effective on the day that the rate freeze expires on December 6, 2021.

However, as Mr. Oligschlaeger testified, Staff monitors surveillance reports submitted by public utilities like GMO and currently believes there is no factual basis to support an overearnings complaint against the Company. See Tr. 295-98. Given that it takes longer than a traditional 11-month general rate case to conduct an earnings investigation or complaint, "perhaps considerably longer" (Tr. 295), such a remedy can be requested by the Complainants. Because GMO may wait until as late as January 6, 2022 to file a rate case to continue using its fuel adjustment clause, reduced rates pursuant to a Commission order in an earnings complaint could be implemented up to a full year earlier than might otherwise occur.

III. Issue 2: If the Commission determines that an AAO or other Deferral Mechanism should be ordered in connection with GMO's retirement of Sibley Units 1, 2, and 3 and Common Plant, how should amounts to be recorded to the Regulatory Liability be Quantified?

Less than 48 hours before the evidentiary hearing was to commence, the Commission issued a Notice on August 5, 2019 advising the parties to be prepared to provide testimony regarding expected revenues from and recurring expenses to operate Sibley, or a different method to determine a baseline if an AAO or other deferral mechanism were ordered. See Notice Informing the Parties of Particular Commission Questions at the Evidentiary Hearing (Aug. 5,

2019). In response to GMO's objection to the Notice (Tr. 4-7), the Commission subsequently advised that it had been withdrawn (Tr. 100).

The Commission stated that if it determined that an AAO should be granted, it would hold a subsequent proceeding to address questions relating to a baseline. Id. At the conclusion of the hearing, the parties were asked to provide recommendations in their briefs regarding "how they believe the Commission should handle the question of establishing a baseline that we discussed at the beginning of the hearing …." Tr. at 408-09.

The Company thanks the Commission for withdrawing its Notice and appreciates the opportunity to explain why establishing a baseline must be done carefully with all parties afforded their rights of due process.

As the record stands, not even the Petitioners agree on where to set a baseline. As an example, OPC calculated the undepreciated value of Sibley at approximately $160 million, based on filings the Company made with the Securities & Exchange Commission. See Ex. 5 at 4-9, Schallenberg Direct. MECG, on the other hand, provided an estimate of approximately $300 million, based on Staff's True-Up Accounting Schedules in GMO's 2018 rate case. See Ex. 1 at 12-13, Meyer Direct.

By contrast, GMO estimated the net book value of Sibley as of June 30, 2018 to be approximately $145.7 million. See Ex. 21 at 3, Spanos Rebuttal. This estimate was provided by GMO's depreciation expert Mr. Spanos based on his report in GMO's 2016 general rate case (No. ER-2016-0156) that evaluated the Company's electric plant through December 31, 2014. Id. at 3; Ex. 22 at 18-20, Klote Rebuttal.

As these widely diverging estimates indicate, there are different methodologies and approaches to arriving at a baseline. Moreover, there are significant difficulties in attempting to segregate costs associated with Sibley as a single issue after the conclusion of the 2018 rate case

that was settled using a "black box" reduction in GMO's revenue of $24 million. See Ex. 22 at 19, Klote Rebuttal; Non-Unanimous Partial Stipulation & Agreement, In re KCP&L Greater Missouri Operations Co., No. ER-2018-0146 (Sept. 19, 2018). Because a segregated net book value for Sibley would have to be calculated if an AAO were granted, an expert like Mr. Spanos must analyze the reserve balance of all of GMO's generation plant to calculate an accurate accumulated depreciation reserve balance associated with Sibley. See Ex. 22 at 19-20, Klote Rebuttal; Ex. 21 at 3-7, Spanos Rebuttal.

Given these complications, GMO recommends that OPC and MECG file direct testimony with their proposals to set forth a baseline of Sibley costs currently included in GMO's rate retail rates with a methodology to measure the difference between such a baseline and actual costs going forward.

Allowing adequate time for discovery, GMO and Staff should be able to file rebuttal testimony regarding the OPC and MECG proposals. After an additional period of discovery, OPC and MECG should be allowed to file surrebuttal testimony in response to the GMO and Staff rebuttal testimony; Staff should be allowed to file cross-surrebuttal to GMO's proposal; and GMO should be allowed to file cross-surrebuttal to Staff's proposal.

An evidentiary hearing should then be scheduled, followed by two rounds of post-hearing briefs.

IV. Conclusion

There is nothing about the planned retirement of the coal-fired units at Sibley that was extraordinary, particularly given the IRP analysis conducted by GMO and the national trends in fossil plant retirements. There is also nothing extraordinary about the timing of the Sibley retirement which occurred after the conclusion of the true-up period in the 2018 GMO rate case and after GMO's analysis of the September forced outage.

Given the settlement of all issues in the 2018 rate case *without objection* by any party, and the approval of tariffs, also *without objection* by any party, there is no factual or legal basis to support the request for an AAO which would be contrary to the long-standing policy and practices of this Commission, and without precedent in U.S. regulatory utility history.

WHEREFORE, Respondent KCP&L Greater Missouri Operations Company asks that the relief sought by the Office of the Public Counsel and MECG be denied, and that their Petition, now being treated by the Commission as a Complaint, be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, emailed or mailed, postage prepaid, to all parties of record this 29th day of August 2019.

/s/ Robert J. Hack

Attorney for KCP&L Greater Missouri Operations Company

KCP&L GREATER MISSOURI OPERATIONS COMPANY (GMO)

INTEGRATED RESOURCE PLAN

2017 ANNUAL UPDATE

JUNE, 2017

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7.1.5 PREFERRED PLAN DISCUSSION

Based in part upon current Missouri RPS rule requirements, the Preferred Plan includes a 5 MW solar addition currently expected to be in-service by 2028 and a 120 MW portion of a Missouri wind facility expected to be commercially operational by 2018. The DSM resources that were modeled consisted of a suite of eight residential and eight commercial programs three of which are demand response programs, two are educational programs, and eleven are energy efficiency programs. The Preferred Plan also includes Sibley Units 2 and 3 retiring by 2019 and Lake Road 4/6 retiring by 2020. The retirement of Sibley Generation Station may result in the need to curtail Greenwood generation during certain system conditions. The redispatch would be handled by the SPP market.

The Preferred Plan selected was the lowest cost plan from a Net Present Value of Revenue Requirement (NPVRR) perspective. The Preferred Plan therefore meets the fundamental planning objectives as required by Rule 22.010(2) to provide the public with energy services that are safe, reliable, and efficient, at just and reasonable rates, in compliance with all legal mandates, and in a manner that serves the public interest and is consistent with state energy and environmental policies.

It should be noted that the 2015 Triennial IRP Preferred Plan was modeled as an Alternative Resource Plan, GBBCA, and determined to have a higher NPVRR than the 2017 Annual Update Preferred Plan. The NPVRR difference between the 2017 Annual Update Preferred Plan, GCGHP and the 2015 Triennial IRP Preferred Plan, GBBCA, was $282MM as shown in Table 45 below. The difference in the levelized annual rates and maximum rate increase performance measures between the 2015 Triennial IRP Preferred Plan and the 2017 Annual Update Preferred Plan are provided in Table 45 as well. A significant factor in the 2017 Annual Update was the inclusion of the DSM from the just-completed DSM Potential Study. The integrated analysis results determined that retirement of Sibley-2 and Lake Road 4/6 a year earlier than the 2015 Triennial IRP Preferred Plan along with the retirement of Sibley-3 resulted in a lower NPVRR. The Preferred Plan in the 2015 Triennial IRP filing also included Sibley-1 retiring in 2019 but due to a safety-related boiler issue it is being retired from electric service in June, 2017.

However, the Sibley-1 boiler will remain in service to provide start-up steam to Sibley- 3 until the station is retired.

Table 45: 2017 Annual Update Preferred Plan Vs. 2015 Triennial Preferred Plan

Rank (L-H)	Plan	NPVRR ($MM)	Delta ($MM)	Levelized Annual Rates ($/KW-hr)	Maximum Rate Increase
1	GCGHP	9,768	$ -	0.115	5.40%
2	GCDCP	9,826	$ 58	0.115	5.34%
3	GCGCP	9,827	$ 59	0.115	5.34%
4	GBFCA	10,046	$ 279	0.118	6.41%
5	GBCCA	10,046	$ 279	0.118	6.41%
6	GBBCA	10,049	$ 282	0.118	6.52%
7	GBCAA	10,059	$ 292	0.120	6.42%
8	GAACA	10,070	$ 302	0.118	6.46%
9	GBECA	10,079	$ 312	0.119	6.47%
10	GBCCW	10,079	$ 312	0.118	5.74%
11	GCDCA	10,201	$ 433	0.119	10.06%
12	GCDCB	10,217	$ 450	0.119	6.69%
13	GCDAA	10,247	$ 479	0.121	11.24%
14	GBCDA	10,255	$ 488	0.117	6.04%
15	GCDDA	10,439	$ 672	0.118	11.66%

From the 2015 Triennial IRP filing, the contingency plan consisted of retirement of Sibley-1 and Sibley-2 by 2020 and Lake Road 4/6 and Sibley-3 by 2021. The 2017 Annual Update Preferred Plan retires Sibley-2 and Sibley-3 by 2019 and Lake Road 4/6 retiring by 2020 as these earlier retirement dates have shown to reduce NPVRR. As noted earlier, Sibley-1 is being retired from electric service in June, 2017 due to a safety-related boiler issue. Regarding DSM, the 2015 Triennial IRP filing contingency plan utilized a 2013 DSM Potential Study whereas the 2017 Annual Update Preferred Plan utilized the recently completed DSM Potential Study.

VOLUME 1

EXECUTIVE SUMMARY

KCP&L GREATER MISSOURI OPERATIONS COMPANY (GMO)

INTEGRATED RESOURCE PLAN

4 CSR 240-22.010

APRIL, 2018

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7.2 UNIT RETIREMENT PLANNING

Based on the 2018 Preferred Plan, Sibley Units 2 and 3 and Lake Road 4/6 are expected to be retired by 2019, and 2020 respectively. Post-Sibley Station retirement activities includes but are not limited to disconnection, de-energization, cleanout and tasks to secure the units rendering the site safe until dismantlement can occur. Selected dismantlement is expected for the chimney and other selected items to render the site safe. Post-Lake Road Unit 4/6 retirement activities includes but not limited to disconnection, de-energization, cleanout that will render the unit safe until dismantlement can occur. Draft schedules of the major milestones expected to be undertaken for the retirement of Sibley Station and Lake Road 4/6 within the next three years are provided in the following tables:

Table 10: Sibley Station Retirement Milestones

Milestone Description	Date Range
Selection of Owner's Engineer	Oct, 2017 - Nov, 2017
Phase 1: Initial Study - Cost and MHA*	Nov, 2017 - Mar, 2018
Phase 2: Develop isolation plans, specs, etc	April, 2018 - June, 2018
Bid process and selection	July, 2018 - Dec, 2018
Isolation activities	Dec, 2018 - Dec, 2019
Sibley Units Fully Retire	By Dec 31, 2018
Sibley Staff - post retire assignments	Jan 1, 2019
Sibley 3 Chimney Demolition	7/2019 - 12/2020
Sibley Post Isolation activities	5/2019 - 12/2020
Sibley Full Demolition	TBD
* Material Hazard Analysis	