BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

In the Matter of Kansas City Power & Light Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2019-0132
In the Matter of KCP&L Greater Missouri Operations Company's Notice of Intent to File an Application for Authority to Establish a Demand-Side Programs Investment Mechanism	))))	File No. EO-2019-0133

KANSAS CITY POWER AND LIGHT COMPANY AND
KCP&L GREATER MISSOURI OPERATIONS COMPANY'S
INITIAL POST-HEARING BRIEF

COMES NOW, Kansas City Power & Light Company ("KCP&L") and KCP&L Greater Missouri Operations Company ("GMO") (collectively, the "Company")[1], and respectfully submit their *Initial Post-Hearing Brief* ("Brief") in this matter:

INTRODUCTION

Nationwide, utility demand-side management (energy efficiency and demand response) programs have made a significant impact over several decades. For Missouri electric utilities and customers, the passage of the Missouri Energy Efficiency Investment Act, Section 393.1075, RSMo. ("MEEIA") in 2009 created an opportunity to work together to achieve sustainable results. Yet even with great measurable progress over the past decade, great potential remains. While many states have mandatory energy efficiency targets that regulated utilities must meet, MEEIA is voluntary. Instead, electric utilities are motivated to participate in MEEIA because the statute authorizes a cost-recovery structure that allows utilities to value demand-side management

[1] Effective October 7, 2019, Evergy Metro Inc. d/b/a Evergy Missouri Metro adopted the service territory and tariffs of KCP&L and Evergy Missouri West, Inc. d/b/a Evergy Missouri West adopted the service territory and tariffs of GMO. However, since the above MEEIA cases were filed using the KCP&L and GMO names, those names will be used in this Initial Brief.

("DSM") equal to investments in traditional supply-side resources. Section 393.1075(3) provides in part:

> It shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure and allow recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of this policy, the commission shall:
>
> (1) Provide timely cost recovery for utilities;
>
> (2) Ensure that utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances utility customers' incentives to use energy more efficiently; and
>
> (3) Provide timely earnings opportunities associated with cost-effective measurable and verifiable efficiency savings.

20 CSR 4240-20.092 through 20 CSR 4240-20.094 provide detailed rules for the Commission Staff, electric utilities and other parties to adhere in the development, implementation, and regulation of DSM programs. Additionally, Chapter 22, Electric Utility Resource Planning (specifically 20 CSR 4240-22.050) also provides rules for DSM programs. Chapter 22 specifies the principles by which potential demand-side resource options shall be developed and analyzed for cost effectiveness, with the goal of achieving all cost-effective demand-side savings.

In the Company's MEEIA 2 case, the Commission explained the purposes of MEEIA as follows:

> MEEIA is designed to encourage Missouri's investor-owned electric utilities to wholeheartedly offer energy efficiency programs and projects designed to reduce the amount of electricity used by the utility's customers. The law recognizes that under traditional regulation, a utility has a strong financial incentive to sell as much electricity to its customers as possible because more sales result in greater profits. MEEIA creates an opportunity to change that financial incentive to better align the utility's financial interest with the public interest in encouraging the efficient use of energy.[2]

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[2] *Order Approving the Non-Unanimous Stipulation and Agreement Resolving KCP&L Greater Missouri Operations Company's MEEIA Filing*, In the Matter of KCP&L Greater Missouri Operations Company's Application for Approval of Demand- Side Programs and for Authority to Establish a Demand-Side Programs Investment Mechanism,

The Commission must address two key issues:
Avoided Capacity Costs and Earnings Opportunity

(1) Avoided Capacity Costs. While Staff recognizes that there are public policy benefits to energy efficiency and DSM programs (Tr. 246-47), Staff and Public Counsel's positions are a significant departure from previous interpretations of MEEIA statutory language, Commission rules, and prior Commission orders approving MEEIA settlements that would no longer support the successful past of MEEIA programs in the state. (Tr. 95, 97-98, 103-05, 265) The Staff and Public Counsel are now interpreting the requirements of MEEIA in a manner that, if adopted by the Commission, will foreclose the Company from pursuing the benefits and realization of the full potential of DSM programs. In particular, the Staff and Public Counsel have argued that the avoided capacity costs of the Company should be zero because the combined Company (i.e. KCP&L and GMO) will not need to build new capacity for approximately 13 years. (Ex. 101C, Staff Rebuttal Report, p. 17, l. 17-19). This is a significant reason the Staff is recommending rejection of the Company's application in this case. (Tr. 252-53). However, the Company's capacity situation in this case is similar now to what was in the two prior MEEIA cycles in which Staff supported the Company's MEEIA programs. (Tr. 96)

As explained herein, their argument is based upon a flawed interpretation of the MEEIA statute and Commission-approved MEEIA rules. Staff and Public Counsel argue that MEEIA requires that a new supply-side option be eliminated or deferred as a result of the implementation of the MEEIA DSM programs before a positive avoided capacity cost should be utilized in determining cost-effectiveness. The MEEIA statute does not require the elimination or deferral of a supply side resource and the Staff/OPC position hinders the statute's goal of "achieving all cost-

File No. EO-202-0009 (November 15, 2012). Staff witness Natelle Dietrich also testified that she generally agreed with the Commission, as a matter of public policy. (Tr. 247-50).

effective savings." The Staff/OPC position does not take into account that existing supply-side resources will be used less with the implementation of DSM programs and already have been used less from prior cycle implementations. It also does not consider that a fossil-fueled power plant may be retired earlier if DSM programs are implemented. (Tr. 37-38) Finally, it does not consider the other benefits of these programs. (e.g., lower revenue requirements, lower energy market prices, economic development, environmental benefits, and overall customer satisfaction with MEEIA programs.)

(2) Earnings Opportunity. The Staff has also argued that the Company should not be given an opportunity to earn on its investment in energy efficiency and DSM programs. (Tr. 46-47, 49) If either of these Staff positions on avoided cost or earnings opportunity is accepted by the Commission, then the Company will not be in a position to move forward to implement its MEEIA 3 portfolio of programs. (Tr. 34-35)

These positions are also inconsistent with the Staff positions recently taken in the Ameren Missouri MEEIA 3 proceeding, Case No. EO-2018-0211. In that proceeding, Ameren did not need a supply-side option for 16 years (Tr. 256, 312, 443)[3], yet the parties agreed to utilize avoided capacity costs that were higher than zero. In addition, while the Commission Staff is recommending that the Company not be permitted an earnings opportunity in this case, Staff, Public Counsel and intervenors in the Ameren Missouri MEEIA 3 case agreed that Ameren should be given a $30 million earnings opportunity to incent the Company to offer DSM programs on the eastern side of the state. (Tr. 267-69)

[3] Staff's rebuttal report and analysis was based on Ameren's application of a six-year plan. The Commission ultimately approved a three-year plan for 2019-2021, with only low-income programs available through 2024.

The Company, Staff, Public Counsel and intervenors have been negotiating to resolve their differences for months without success. While the Company believes that the Commission should approve MEEIA 3 based upon the record evidence in this case, if the Commission desires for the Company to continue its settlement discussions with the parties, it will be imperative that the Commission give the parties clear direction on how they should resolve the two critical issues of Avoided Capacity Costs and Earnings Opportunity. (Tr. 236-37) The Commission should clearly indicate that the approaches taken by Staff and Pubic Counsel in interpreting the MEEIA statute and rules regarding avoided capacity costs and earnings opportunity are not reasonable and consistent with the Ameren MEEIA 3 order approval. Otherwise, the Company sees little hope that there will be a resolution of the case that will result in the implementation of a robust set of MEEIA programs for the western side of Missouri. (Id.)

A. Should the Commission approve, reject, or modify the Company's MEEIA Cycle 3 Plan ("MEEIA 3"), along with the waivers in the Company's application intended to enable its implementation?

The Company's MEEIA 3 Application should be approved along with the requested variances in order to continue the progress that has already been made in previous MEEIA Cycle 1 and Cycle 2. In this MEEIA Cycle 3 proceeding, the Company is building upon its past successes, and is proposing a robust portfolio of programs for the period January 1, 2020 through December 31, 2022 by investing approximately $96.3 million to achieve 185.9 MW of capacity reduction and 343.7 GWH of first year energy savings. The portfolio will generate an anticipated $234 million in net present value of energy savings for customers, at current rates. Customers will see more choices, including more engagement options and technology rebates. More than $10 million of income-qualified programs will expand options for all. (Ex. 2-P, MEEIA 3 Filing, p. 13)

The Company has presented a MEEIA 3 portfolio that is very similar to successful programs in the previous two MEEIA cycles. The details of the MEEIA 3 portfolio and overall plan are contained in the MEEIA 3 Filing. (Ex. 2-P, MEEIA 3 Filing, pp. 1-80) In presenting our MEEIA 3 portfolio, the Company sought continuity for customers—putting forward similar programs and a similar overall budget. The Company took into account direct feedback from its customers and its experience from the previous two MEEIA cycles, what worked well and what needed modification. The Company also sought input from Staff and stakeholders at every single step of preparing the MEEIA 3 portfolio. With the exception of Staff and Public Counsel, other parties in this proceeding are supporting the adoption of a MEEIA 3 portfolio of DSM programs. (<u>See</u> Position Statements of the Division of Energy, Renew Missouri, National Housing Trust ("NHT"), and Natural Resources Defense Council ("NRDC")).

B. <u>History of DSM Programs</u>

The Company has over a 10-year history in developing, implementing and providing successful DSM programs to its customers. The Company has invested over $294 million in demand-side management (DSM) programs in Missouri since 2005. (Ex. 2-P, MEEIA 3 Filing, p. 22)

The Company began offering DSM programs to its customers following approval of 12 programs as part of its Comprehensive Energy Plan ("CEP") in 2005. The Company invested nearly $93.5 million and achieved 159 MW in capacity reduction and over 268 GWh energy savings during the CEP. It was during this time that the MEEIA was pursued by the electric utilities. Following the legislative approval of MEEIA in 2009 and the rule development, the Company filed and the Commission approved a 36-month portfolio in GMO in 2012 and then an 18-month portfolio in KCP&L-MO ("Cycle 1"). Customers responded very favorably to the portfolio of programs and the Company successfully executed programs with demonstrated savings and capacity reduction. During Cycle 1, the Company invested $107 million and achieved 122 MW in capacity reduction and over 403 GWh energy savings. It was also during this Cycle 1 that the Company developed the first demand response programs in the state and offered an energy efficiency portfolio that met diverse customer needs. The Company exceeded its MEEIA Cycle 1 goals by 152 percent. (Ex. 4, Company Surrebuttal Report, p. 3)

It was evident from the Company's Cycle 1 success that customers wanted energy efficiency to help them save energy and money. The Company filed a second, successive portfolio ("Cycle 2") in both GMO and KCP&L-MO territories and the Commission approved a 36-month Cycle 2 portfolio in 2016. Cycle 2 has demonstrated continued success with customers to date, as well as developing innovative programs that are leading in the industry. The Company has also received national recognition for its implementation of DSM programs.

During the 36-month period, the Company invested $93 million with its customers and achieved 158 MW in capacity reduction and 386 GWh in energy savings. With each successive portfolio filing, the Company has evolved and enhanced its programs such that all customers may save money and energy. Programs are designed so that all customers can participate in some manner – whether they are low income, single family homeowners, multi-family dwellers, elderly or small to large businesses. It is evident from the continued participation in the Company's programs that these programs are wanted and preferred by customers. (Ex. 4, Company Surrebuttal Report, pp. 4-5) The annual evaluation, measurement and verification ("EM&V") process has also helped the Company understand how to improve its programs and better the customer experience. It includes recommendations about program design, program targeting, improving customer and trade ally satisfaction, reducing barriers to participation and alternative promotion strategies. (Id. at 5).

For reasons stated herein, the Commission should approve the Company's MEEIA Cycle 3 along with its requested waivers and find that these programs meet the requirements of Section 393.1075(4).

C. Summary of Proposed Programs

Appendix 8.2 of the MEEIA Cycle 3 Filing contains detailed program descriptions for the Company's proposed MEEIA 3 programs which are summarized below:

Energy Savings Products—features point of purchase rebates and online discounts for multiple energy efficient measures, including but not limited to LED lighting, window a/c units, smart thermostats, appliances, smart power strips and other energy saving devices.

Heating, Cooling and Weatherization program—provides educational and financial incentives to residential customers by increasing awareness and incorporation of energy efficiency into their homes, while also generating cost-effective energy and demand savings for the Company. The program measures include primarily HVAC equipment upgrades with some additional building shell improvements like insulation and air sealing.

Income-Eligible Multi-Family ("IEMF") program—delivers long-term energy savings to multi-family housing through education and incentives, including direct install measures and retrofit rebates focusing on comprehensive improvements to buildings.

Home Energy Report ("HER") program—provides a comparison of the customer's household energy usage information with similar types of customers, or "neighbors." It's designed to educate and influence customers' behavior to lower energy usage. The report is delivered in paper and/or email format, and composed of several modules of information to help customers understand and manage their energy use. A few examples of modules are:

- neighbor/similar home comparison
- energy comparisons over time
- energy efficiency tips
- utility program promotional material.

Online Home Energy Audit program—encourages energy education and conservation, and furthers engagement in the broader portfolio of DSM programs.

Business Standard Incentive program—empowers commercial and industrial customers save energy through a broad range of prescriptive energy efficiency options that address all major end uses and processes.

Business Custom Incentive program—provides customers incentives for installing energy efficient measures not explicitly identified in the Business Standard program. It helps commercial and industrial customers save energy through a broad range of energy efficiency options that address all major end uses and processes.

Business Process Efficiency program—establishes a non-capital-intensive approach to energy efficiency engagement for businesses of all sizes and industries. Through the engagement process, the program also seeks to ingrain energy management into a customer's business practices.

Online Business Energy Audit program—encourages energy education and conservation, as well as further engagement in the broader portfolio of DSM programs.

Business Demand Response ("BDR") program—offers commercial and industrial customers a financial incentive to curtail (stop a portion of utility provided energy use) or shift energy usage when we call on them during peak demand periods.

Residential and Small Business Demand Response ("DR") program—employs automatic event call technology to curtail energy use during peak demand periods. Eligible customers are provided an incentive to participate in curtailment events.

D. <u>Acceptable Modifications to the Proposed Programs</u>

The following section of this Brief will address modifications to the Company's proposed MEEIA programs that have been suggested by Staff, Public Counsel, and various intervenors.

a. If MEEIA 3 should be modified, how should the plans be modified?

Throughout its Company Surrebuttal Report (Ex. 4), the Company has identified numerous modifications suggested by Staff and other parties that would be acceptable to the Company for a voluntary MEEIA portfolio, including:

(1) Company is willing to work with Staff to reflect Staff's recommendation on the allocation of costs from the BDR program in the final tariffs (Ex. 4, Company Surrebuttal Report, p. 46);

(2) Company is prepared to work with Staff to modify tariffs to incorporate Staff's recommended use of the 0.85 NTG factor (Ex. 4, Company Surrebuttal Report, p. 47);

(3) Company commits to work with Staff to modify the Cycle 2 tariff sheets for both utilities until they are no longer necessary (Ex. 4, Company Surrebuttal Report, p. 47);

(4) Company commits to work with Staff to modify the tariff sheets for KCP&L and GMO to incorporate any remaining balances from Cycle 1 as recommended by Staff (Ex. 4, Company Surrebuttal Report, p. 47);

(5) Company commits to work with Staff to modify the final tariffs to ensure that the same margin rates that took effect December 6, 2018 are used for the initial Cycle 3 period, subject to update in future general rate cases (Ex. 4, Company Surrebuttal Report, p. 47);

(6) Company commits to work with Staff to modify the tariffs to ensure that long-lead projects associated with MEEIA Cycle 2 will be addressed pursuant to the Stipulations and Agreements filed in

Case Nos. EO-2015-0240 and EO-2015-0241 (Ex. 4, Company Surrebuttal Report, p. 48);

(7) Company is willing to work with its current DSM potential study consultant, or other sources, to obtain hourly saving load shape data for use in its future general rate cases (Ex. 4, Company Surrebuttal Report, p. 49);

(8) Company is willing to add detail clarifying customers EPA compliance requirements to the BDR tariff (Ex. 4, Company Surrebuttal Report, p. 60);

(9) Company would be receptive to targeting underserved customers through the Business Custom and Standard programs utilizing tools and mapping data to geotarget eligible businesses with a specific budget if the Commission desires (Ex. 4, Company Surrebuttal Report, p. 63);

(10) To create more awareness of CHP incentives the Company is willing to work specifically with the Division of Energy and/or other interested parties on opportunities to educate customers and market actors around CHP benefits (Ex. 4, Company Surrebuttal Report, p. 63);

(11) Company has worked with the implementation partner, Oracle, to provide for a redesign to the Home Energy Report program for Cycle 3 to rely more on digital communications than the legacy program design and has negotiated better pricing for the services (Ex. 4, Company Surrebuttal Report, p. 64);

(12) Company has and will continue to explore opportunities to leverage DSM program synergies with the Low-Income Weatherization program, which is offered outside of MEEIA (Ex. 4, Company Surrebuttal Report, p. 68);

(13) Company is willing to discuss with other utilities a strategy for addressing real estate education of heating, cooling and weatherization with a more holistic path to entry (Ex. 4, Company Surrebuttal Report, p. 73);

(14) Company is open to working with Staff to further clarify the language that would be used in the Commission approved tariffs to best represent the program attributes while allowing for program flexibility. For example, the Company has attached tariff sheet updates to Sheets 1.73 and 1.74 as Exhibit C to the Surrebuttal Report, for both residential and businesses that provides for

additional clarifications on definitions and customer eligibility (Ex. 4, Company Surrebuttal Report, p. 75);

(15) The Company agrees to work with Staff to make changes to the TRM to add the additional details suggested by Staff (Ex. 4, Company Surrebuttal Report, p. 75);

(16) The Company requests that the updated pricing received for its Home Energy Report since the time of the filed application is reflected and accepted in the updated program budget now showing a TRC of greater than 1.0 (Ex. 4, Company Surrebuttal Report, p.64)

(17) If the Commission is interested in an additional approach to evaluating DSM potential study inputs into the Integrated Resource Planning process, the Company is willing to discuss how to approach a 'dynamically optimized portfolio" for future proceedings (Ex. 4, Company Surrebuttal Report, p. 16).

With these modifications suggested by Staff and other parties, the Company believes the Commission should approve its proposed MEEIA 3 portfolio of DSM programs along with the requested waivers from the Commission's MEEIA rules.

(i) Should the Commission approve NRDC's low income programs?

NRDC requests the Company continue its existing single-family income eligible program. The Company's MEEIA 3 plan does not include a stand-alone MEEIA single-family income eligible program. The Company's primary income eligible program is the weatherization program, which is offered outside of MEEIA at the request of OPC. (Tr. 492) (Ex. 3, Company Surrebuttal Report, p. 69) The Company also meets low income customers energy information needs through neighborhood associations and community outreach. (Ex. 3, Company Surrebuttal Report, p. 69) Therefore, the Company does not believe the Commission should adopt NRDC's recommendation.

The Company also continues to work with NHT to find best practice improvements multi-family income eligible programs. The proposed income-eligible multi-family program targets underserved customers with a comprehensive suite of measures providing savings impacts at a whole building level. (Id.)

The Company believes that it is responsive to its low-income customers as its total Cycle 3 income eligible budget (5.6%) is higher than Cycle 2's (4.5%) percentage of total budget. The Company is willing to invest more dollars in the income eligible segment should the Commission believe that this component need to increase and the Company is able to offer a robust MEEIA 3 program.

(ii) The Company has not proposed a PAYS program.

The Company is not proposing a Pay as You Save ("PAYS") program as it does not believe the benefits outweigh the costs, level of work and policy and financial risks associated with the program. Most importantly, the Company has no interest in being the "bank" that funds and holds ownership on equipment installed on the customer's side of the meter. (Ex. 3, Company Surrebuttal Report, p. 74) The Company is willing to explore alternative ways of helping customers overcome financial hurdles to install energy saving measures with outside financing "off bill". (Id.) The Company is not willing to bear the risks of a PAYS program as a part of its voluntary MEEIA program.

b. Should the Commission address KCP&L's and GMO's application on a joint basis?

The PSC has the authority to review the GMO and KCP&L MEEIA 3 application individually. The MEEIA application was filed by KCP&L and GMO jointly due to the fact that the MEEIA programs are administered on a combined basis. The Company believes that it is difficult to market to only one set of customers and there is an increased potential for customer confusion if only one company has MEEIA programs. However, the Commission has the authority to review and approve the application on a GMO only or KCP&L only basis. The Company prefers that the PSC review and approve the application on a combined basis for the above reasons.

c. Should the Commission approve the requested rule variances?

Yes. All of the requested variances are appropriate. Variances related to the incentive to be implemented and based on prospective analysis rather than achieved performance verified by EM&V, the proposed utilization of a Technical Resource Manual ("TRM") for purposes of calculating the Throughput Disincentive ("TD"): 20.092(1)(HH);20.092(1)(M); 20.092(1)(R); 20.093(2)(I) 20.093(2)(I)3; 20.092(1)(N).

- Variances related allowing adjustments to DSIM rates for the TD DSIM utility incentive revenue requirement as well as the DSIM cost recovery: 20.093(4); 20.093(4)(C)
- Variances related to "revenue requirement" where the TD is excluded from the cost recovery revenue requirement: 20.092(1)(Q); 20.092(1)(UU); 20.092(1)(P); 20.092(1)(R); 0.093(2)(J); 20.092(1)(F)

The TD mechanism has been part of past MEEIA cycles. Therefore, good cause exists for a variance of the above rules to allow a TD which helps to ensure alignment of the utility's financial incentives with helping customers use energy more efficiently and in a manner that sustains or enhances customers' incentives to use energy more efficiently as outlined in 393.1075 RSMo. In addition, relying on EM&V for retrospective recovery for purposes of calculating the TD heightens recovery risk and does not value demand-side and supply-side resources equally. (Company Report, Ex. 1. p. 80) Staff supports the approval of the above variances. (Staff Rebuttal Report, Ex. 101C, p. 87).

- Variances related to allowing flexibility in setting the incentives and changing measures within a program: 14.030

Good cause exists for this variance due to the substantial marketing and promotion needed to gain "at-will" participation in DSM programs. Staff supports this variance request. (Staff Rebuttal Report, Ex. 101C, p. 87). (Company Report, Ex. 1. p. 80) Staff supports the approval of the above variance. (Staff Rebuttal Report, Ex. 101C, p. 87).

- Variance for 4 CSR 240-20.092(1)(C)

Good cause exists for this variance due to the uncertainty in this rule regarding whether both existing and new supply side resources need to be avoided. The Company has always interpreted this rule to mean that the methodology for calculating avoided costs and therefore shared benefits shall be consistent with its most recently filed IRP at the time of the MEEIA filing. Without this variance, the Company cannot rely on the avoided cost methodology that it used at the time the demand side programs were adopted and the demand-side and supply-side resources will not be valued equally. (Ex. 3, Company Surrebuttal Report, p. 81)

E. When it developed the MEEIA 3, did the Company value demand-side investments equal to traditional investments in supply and delivery infrastructure?

Yes. The Company's Application complies with Section 393.1075 RSMo. by valuing demand-side investments equal to traditional investments in supply and delivery infrastructure. As explained below, MEEIA does not require that new capacity be eliminated or deferred (Tr. 260), as suggested by Staff, before a robust set of DSM programs may be approved.

a. Integrated Resource Planning Process and Results

Valuing supply-side and demand-side investments equally culminates in the Integrated Resource Planning ("IRP") process where the MEEIA portfolio is analyzed alongside supply-side resources. It is during the IRP process that traditional supply-side investments are evaluated against DSM programs. In each scenario evaluated, DSM programs were the most cost-effective plan for meeting our customers' future energy needs. Under the Commission's IRP rules, the primary objective is evaluating a combination of supply-side resources and DSM programs to minimize revenue requirements. (Tr. 142)

In addition to the DSM program evaluation contained in the KCP&L and GMO 2018 IRP filings, the Company evaluated the revenue requirement impact of the proposed MEEIA Cycle 3 programs. This evaluation began with the same assumptions as the 2018 IRPs with updates to reflect the proposed MEEIA Cycle 3 programs and Demand-Side Rates as reflected in the recently approved 2018 KCP&L and GMO rate cases. Revenue requirement impacts were estimated for 22 new Alternative Resource Plans ("ARPs") that include potential additional generating plant retirements and/or potential new retail load additions; 11 ARPs for a joint KCP&L/GMO system and 11 ARPs for KCP&L on a stand-alone basis. The plant retirements are based on the current Westar retirement plans for LaCygne and Jeffrey Energy Center. The additional retail load is based on a potential new retail customer looking to add facilities in the KCP&L service territory. (Ex. 2-P, MEEIA 3 Filing, Appendix 8.11, p. 1)

Results consistently show the benefits of continuing DSM programs at KCP&L and GMO. The tables contained in Appendix 8.11 of the MEEIA 3 Filing 2019-2022 summarize the 20-year change in the Net Present Value of Revenue Requirements ("NPVRR") from DSM programs. The MEEIA Cycle 3 Benefits table shows the impact from implementing just the Cycle 3 programs while the RAP-Benefits table provides the results from Cycle 3 and continuing similar programs for the remainder of the 20-year evaluation period at approximately 75% of the Realistic

Achievable Potential level. The results are provided for both the joint KCP&L/GMO ARPs and the KCP&L stand-alone ARPs. (Id.)

In summary, the results show that the program portfolio is cost-effective and NPVRR will be at the lowest level if the Commission adopts the Company's MEEIA 3 programs. (Tr. 142)

F. Staff and Public Counsel Positions that Avoided Capacity Costs Are Zero Should Be Rejected

Staff has argued that "the Company has not valued demand-side investments equal to traditional investments in supply and delivery infrastructure." (Staff Position Statement, p. 3) Staff has also taken the position that, for purposes of assessing the cost-effectiveness of demand-side programs, avoided capacity costs should be valued at $0 until the Company has identified a future need for additional supply-side capacity. (Staff Position Statement, p. 3) Public Counsel also argued that "The absence of any supply-side deferral and low avoided costs mean that MEEIA will only serve as a wealth transfer, primarily to higher income households and utility shareholders." (OPC Position Statement, p. 3) Both Staff and Public Counsel are incorrect, and their positions are based upon misinterpretations of MEEIA and past practices related to the Company's MEEIA Cycle 1 and 2, and more recently Ameren Missouri MEEIA Cycle 3 programs in Case No. EO-2018-0211.

Staff's use of $0 for avoided capacity costs to value DSM, for cost-effectiveness at a program level, is at odds with MEEIA. Section 393.1075(3) RSMo. provides in relevant part that "[I]t shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure...." Utilizing a value of $0 for avoided capacity cost when assessing the cost-effectiveness of demand-side programs producing capacity savings virtually guarantees that demand-side programs will not be cost-effective compared to supply side investments. This statement is true because all demand-side programs producing capacity savings will have costs greater than $0. (Ex. 5, Caisley Surrebuttal, p. 6)

Staff may argue that its position recognizes avoided capacity costs at a value greater than $0 for a utility that is short of capacity, but this position places too much emphasis on whether a utility is short or long of capacity in the relative near-term. When a resource reduces the present value of long-run utility costs as does the Company's MEEIA 3 plan, the benefits of choosing that resource are independent of whether the utility is long or short of capacity. (Id.) It should also be noted that the Company's current capacity position is similar to the previous two cycles in that the KCP&L/GMO system is long capacity. (Ex. 5, Caisley Surrebuttal, p. 3) In the MEEIA 1 and 2 cycles, the Company was also long on capacity. (Id.) The Company's programs in these previous cycles were supported by Staff, Public Counsel and other parties, and were approved by the Commission.

Staff asserts that the avoided cost should be zero for all years except for 2032. (Tr. 301-02, 319-24, 331-32) Staff's use of a value of $0 for avoided capacity costs means that no demand-side measure targeting demand savings will pass the cost-effectiveness test. (Ex. 5, Caisley Surrebuttal, p. 7) In addition, Staff's requirement that all non-participants must benefit from a program for it to be approved under MEEIA ensures that demand-side programs targeting energy savings cannot be approved. (Id.)

Staff errs in applying the requirements of 20 CSR 4240-20.092(1)(C) to assert that "[c]ontrary to the rule requirement, KCPL/GMO is not substituting demand-side programs for existing and new supply-side resources to meet its current capacity needs." (Ex. 101-P, Staff Rebuttal Report, p. 19, lines 1-2.) Unlike the rule, the MEEIA statute (Section 393.1075(4) RSMo.) has no requirement to defer new capacity, as argued by Staff. For the same reasons, Staff's

Deficiency 2 and Concern B[4] in the 2018 triennial IRP are based on an incorrect interpretation of the MEEIA statute.

Staff relies on 20 CSR 4240-20.092(1)(C)[5] to require that only new supply-supply capacity must be deferred when reviewing for avoided capacity costs. 20 CSR 4240-20.092 (1)(C) states in relevant part:

> (C) **Avoided costs or avoided utility costs means the cost savings obtained by substituting demand-side programs for existing and new supply-side resources.** Avoided costs include avoided utility costs resulting from demand side programs' energy savings and demand savings associated with generation, transmission, and distribution facilities including avoided probable environmental compliance costs. **The utility shall use the integrated resource plan and risk analysis used in its most recently adopted preferred resource plan to calculate its avoided costs;** (**emphasis added**)

The Company's DSM programs are substituting for **existing** supply-side resources. (Tr. 212-13) The substitution for an existing supply-side resource occurs instantaneously and simultaneously when a demand-side measure is implemented. Every kWh of energy saved through a demand-side measure is offsetting (i.e. "substituting") a kWh that would have otherwise been generated by an existing supply-side resource. The MEEIA statute does not require that a supply-side resource be retired or removed from service.

This is why the Company sought a variance from this rule. (Ex. 2-P, MEEIA 3 Filing, p. 80) The rule requires that the utility use its most recent IRP filing to calculate its avoided cost. The Company's most recent IRP does not show a substitution of new supply side resources by the

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[4] 2018 Triennial IRP, Case Nos. EO-2018-0268 and EO-2018-0269.

[5] During the hearings, the Staff witness Natelle Dietrich suggested that Staff changed its position in this case because the definition of "avoided costs" under 4 CSR 240-20.092(1)(C) was changed in a previous rulemaking. (Tr. 272) However, this explanation does not explain Staff's change of position since there was not a substantive change in the definition. In Case No. EX-2016-0334, the Staff proposed that the definition be clarified by specifying that the utility use the integrated resource plan and risk analysis used in its most recently-adopted preferred resource plan to calculate its avoided costs. The Commission adopted this change. (See Order of Rulemaking, Case No. EX-2016-0334 (June 23, 2017). But this modification of the rule does not affect the level of the Company's avoided costs in this case.

proposed MEEIA programs but this rule says that avoided costs are the cost savings obtained from substituting demand-side programs for existing and new supply-side resources. The Company used its latest IRP results to calculate avoided costs and therefore shared benefits from the existing resource substitution. (Id.) 20 CSR 4240-20.092 (1)(C) conflicts with the MEEIA statute which does not require the retirement or removal of supply side resources.

Staff's requirement that supply-side resources be avoided leads to the "Cycle of Denial" by Tim Woolf of Synapse. The Cycle of Denial illustrates how Staff's way of thinking will prevent DSM programs from ever happening. The Cycle of Denial works like this: 1) the Company is not currently short capacity and will not need new capacity for several years, therefore DSM programs are not needed; 2) sometime in the future a capacity need will arise; 3) at this point it is too late to implement new demand-side programs in time to meet the capacity need; 4) thus a new supply-side resource is constructed to meet the capacity need; 5) after the supply-side resource is constructed, there is no longer a capacity need and demand-side programs are again not needed. (Ex. 4, Company Surrebuttal Report, pp. 13-14)(Tr. 21-23)

Staff asserts that the avoided cost should be zero for all years except for 2032.

> Therefore, KCPL/GMO should have assumed an avoided capacity cost equal to zero dollars in years 2019 through 2031, the estimated market cost of capacity to serve the capacity deficit in 2032, and zero dollars from that point on for the MEEIA Cycle 3 program evaluation.[6]

Staff's avoided capacity cost assumption vastly understates the value of the Company's proposed DSM programs and makes multiple errors in this single statement.

As background, the avoided cost of capacity is normally represented by a price in dollars per kW-year ($/kW-yr) which is a levelized fixed charge cost of capacity for one unit of capacity

[6] Staff Report p. 20 ln 20 – p. 21 ln 3.

(one kW) for a single year over the life of the resource. Using one single year's price is not equivalent to a supply-side resource because the supply-side resource does not have a one-year life. (Ex. 4, Company Surrebuttal Report, p.12)

Staff's position that the Company should have assumed a single year's value for avoided capacity cost violates MEEIA Section 393.1075(3), which requires valuing demand-side investments equal to supply-side investments. The Company cannot build a supply-side resource such as a Combustion Turbine ("CT"), operate it for one year, and then unbuild the CT and get a refund. A single year's value of avoided capacity cost is not equivalent to investing in supply-side infrastructure because physical infrastructure cannot be used in that way. (Ex. 4, Company Surrebuttal Report, p.13)

Additionally, Staff did not apply its flawed logic in a consistent manner. Staff says that the avoided capacity cost should return to zero in 2033 because the Company might build a CT in 2033 (Tr. 253, 304, 314-23) ignoring the fact that this supply-side resource does not currently exist. At this point in the analysis, Staff is imputing non-existent supply-side resources into the determination as to whether or not the Company will need new demand-side resources.

While Staff expresses concern over the Company's use of the levelized cost of a CT for avoided capacity costs, <u>it is important to remember that the primary test of DSM cost-effectiveness is based on the impact on long-term revenue requirements</u>. <u>See</u> 20 CSR 240-22.010(2)(B).

As part of the 2018 IRP integrated analysis, the Company evaluated several alternative resource plans ("ARPs") that varied the amount of DSM to be implemented. ARPs included the maximum achievable potential ("MAP")[7], realistic achievable potential ("RAP")[8], a reduced RAP

[7] Maximum Achievable Potential (MAP) is defined in 20 CSR 4240-22.010(40) as follows: Maximum achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and ideal implementation conditions. Maximum

level, and no additional DSM beyond completing MEEIA Cycle 2. Results demonstrated that plans at the reduced RAP level, which is consistent with the Company's MEEIA Cycle 3 filing, resulted in the lowest 20-year NPVRR.

The following table shows the reduction in NPVRR at various DSM levels. Consistent with prior IRP evaluations, in most cases DSM programs reduce long-term revenue requirements.

IRP NPVRR Savings

Utility	DSM Level	NPVRR Savings (Cost) Compared to no DSM ($ million)
KCP&L	RAP -	$55
KCP&L	Modified RAP	$52
KCP&L	RAP	$37
KCP&L	MAP	($64)
GMO	RAP-	$103
GMO	RAP	$84
GMO	MAP	$3

Note that the NPVRR calculations are based on the total projected costs to serve retail customers and are not impacted by the avoided capacity costs used in the screening process of the DSM potential study. For a given set of DSM programs, the NPVRR results would be the same whether the avoided capacity cost assumption was $0 or the levelized cost of a CT. (Ex. 4, Company Surrebuttal Report, pp. 15-16)

achievable potential establishes a maximum target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a very high portion of total program costs and very short customer payback periods. Maximum achievable potential is considered the hypothetical upper-boundary of achievable demand-side savings potential, because it presumes conditions that are ideal and are not typically observed.

[8] Realistic achievable potential (RAP) is defined in 20 CSR 4220-22.010(49) as follows: Realistic achievable potential means energy savings and demand savings relative to a utility's baseline energy forecast and baseline demand forecast, respectively, resulting from expected program participation and realistic implementation conditions. Realistic achievable potential establishes a realistic target for demand-side savings that a utility can expect to achieve through its demand-side programs and involves incentives that represent a moderate portion of total program costs and longer customer payback periods when compared to those associated with maximum achievable potential.

a. *The Commission Could Consider the Company's Market Based Alternative for Avoided Cost Value*

20 CSR 4240-22.050(5)(A) allows that either the cost of generation or a market-based approach can be used to determine the avoided capacity cost. If DSM programs are to be viewed on an equivalent basis as generation, a long-term perspective is warranted. At a minimum, the avoided cost value should reflect the market for capacity. This is acknowledged by the Commission's IRP rules in 20 CSR 4240- 22.050(5)(A)(1)(1) and by Staff witness J. Luebbert. (Tr. 324-35).

In late 2017, GMO issued a Request for Proposal ("RFP") for generating capacity. The responses to this RFP provide an indication of near-term capacity values in the area. It is important to understand that capacity market values vary based on factors such as the capacity contract term (i.e., length of time) and any associated energy pricing. In general, the longer the contract term and the lower any associated energy pricing, the higher the capacity price.

Given the Company's intended long-term commitment to DSM programs, when looking at a market-based approach to valuing capacity, it is appropriate to look at longer-term offers. GMO received seven offers to supply capacity with terms ranging from 4 to 10 years. The average monthly capacity cost over the contract terms varied from **[redacted]**/kW-month to **[redacted]**/kW-month with an overall average of **[redacted]**/kW-month (equal to **[redacted]**/kW-year). But these supply offers, with a maximum term of 10 years, are short by comparison to physical generation assets that can have lives of 30+ years, which is why the Company appropriately uses the value of a CT for screening purposes in its application. (Ex. 3, Company Surrebuttal Report, pp. 18, 21-22)

While the Company used the value of a CT in its initial filing, if the Commission preferred the market-based approach to determining avoided capacity cost values, using the **[redacted]** value to screen the Company's proposed MEEIA programs would still result in all but one of the programs being cost effective. (Ex. 3, Company Surrebuttal Report, p. 18; Tr. 282, 423-25) The Commission should find in its order that the use of this market value for avoided capacity cost evaluations is acceptable, and that as a result, the Company's proposed MEEIA programs pass the TRC test, based upon the competent and substantial evidence in the record.

The Staff positions on the calculation of avoided costs, if adopted by the Commission, will preclude approval of demand-side programs whether they target either demand or energy savings. The Commission should therefore reject the Staff's approach. Instead, the Commission should take a longer-term perspective, and find that the Company appropriately valued demand-side investments equal to traditional investments in supply and delivery infrastructure.

G. <u>Is the proposed MEEIA 3, as designed by the Company, expected to provide benefits to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers?</u>

Section 393.1075(4) RSMo. states in part:

> The commission shall permit electric corporations to implement commission-approved demand-side programs proposed pursuant to this section with a goal of achieving all cost-effective demand-side savings. Recovery for such programs shall not be permitted unless the programs are approved by the commission, result in energy or demand savings and are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

The Company's DSM program portfolio is compliant with MEEIA because (1) it has as its goal of achieving all cost-effective DSM savings over the long term, and (2) it offers benefits to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

The Company disagrees with Staff's contention that "KCPL/GMO has not demonstrated that proposed demand-side programs are beneficial to all of its customers or even preferred by its customers." (Ex. 101-P, Staff Rebuttal Report, p. 5) To the contrary, the Company has provided significant evidence in its direct and surrebuttal filings with respect to both customer experience and its customer sentiments towards demand-side management programs through research and third-party evaluations. (Ex. 2-P, MEEIA 3 Filing, pp. 12-15; Ex. 4, Company Surrebuttal Report, pp. 3-10; Ex. 5, Caisley Surrebuttal, pp. 5-10) As Mr. Caisley testified, "Energy efficiency is one of those things [that increases satisfaction to the customer]. It is a dramatic impact on customer satisfaction across all metrics, including price, because customers put such a premium on the value that it confers." (Tr. 128)

The following summarizes how the Company's DSM programs benefit all customers, participating and non-participating customers in any customer class:

- The IRP selects the level of demand-side resources using minimization of net NPVRR as the primary selection criteria. This process clearly demonstrates that all customers benefit since revenue requirements will be lower in the future because of the Company's implementation of DSM programs. (Ex. 2-P, MEEIA 3 Filing, pp. 26-27)
- The portfolio and individual programs (excluding income-eligible programs) pass the TRC test prescribed by MEEIA and IRP rules. This assumes that a realistic avoided capacity cost is used in the TRC test. If zero is assumed for avoided capacity cost, then only a handful of programs would pass a TRC test. (Tr. 282, 319-20)
- The demand-side portfolio is evaluated on an equivalent basis compared to supply-side and renewable resources.

- The diversity of offerings gives all customers the opportunity and option to participate. (Ex. 2-P, MEEIA 3 Filing, p. 24)
- Viewing programs through the lenses of cost-effectiveness metrics allows all customers to understand that our DSM investment is beneficial to them. (Ex. 2-P, MEEIA 3 Filing, p. 24)
- The portfolio offers additional benefits including:
  - Reduced emissions from local power plants
  - Special programs targeted to income-eligible customers
  - Increased economic activity in the service territory
  - Direct and indirect jobs in the service territory

(Ex. 2-P, MEEIA 3 Filing, p. 24)

A third-party evaluator has evaluated MEEIA programs that have been verified by a Commission Staff auditor for six years detailing the benefits to all customers. (Ex. 5, Caisley Surrebuttal, p. 8)

Staff did not offer any documentation in their testimony that customers do not prefer the Company's DSM portfolio of programs. On the other hand, the Company provided a 164-page document as Appendix 8.8 titled "Customer Research" in its filing. This customer research was used as a foundational element in preparation of the Company's Cycle 3 portfolio. This of course was not the only means of feedback from customers or others. In the Company's due diligence to provide a program portfolio that was wanted by its customers, input was sought from several groups, including business customers, online residential panel, trade ally businesses, multi-family interestgroups, program design consultants, program implementers, environmental focused stakeholders, income-eligible focused stakeholders, Company leadership, and the DSM Advisory Group (which Staff and OPC are key stakeholders). Offering any product to customers is an everevolving process and products are not developed in a vacuum. (Ex. 4, Company Surrebuttal Report, pp. 5-6)

Staff has also not provided evidence that the Company is not reaching all customers in its outreach, education and marketing capabilities. In fact, Staff implies the opposite is true. Ms. Huber recommends that we *continue* to educate customers of *all income levels* [emphasis added]. She does not point out in her testimony that the Company is missing any segment or type of customer in its education and marketing. (Id. at 7)

During the hearings, Staff witnesses suggested that the Home Energy Reports ("HER") and the Home Energy Analyzer (online portal for residential customers) were duplicative. (Tr. 45, 161-62, 417) However, these programs are not duplicative and accomplish Staff's objectives of reaching out to all customers. HER has been a successful program reaching over 225,000 customers who received HER reports. (Tr. 160-61) Both programs were approved by the Commission in Cycle 1 and Cycle 2 and the Company has partnered with Oracle/Opower for the delivery of the programs. In the last publicly available evaluation (for the 2017 program year), Navigant conducted its own process evaluation and reviewed the results of Oracle's customer engagement survey (Customer Engagement Tracker ("CET")). Navigant confirmed that "most customers (81%) read the report and 27% report taking an energy-saving action." Of "CET respondents who recall the reports, 72% like the reports and 61% talk to other people about the reports." Ultimately, Navigant found that HERs increase customer satisfaction and "KCP&L should continue providing reports and encouraging customers to log into the Online Energy Analyzer to help customers understand how to manage their energy use" and "reports have a positive impact on customer satisfaction." Staff or Staff's Auditor did not contest these conclusions by Navigant. (Ex. 4, Company Surrebuttal Report, pp. 6-7)

Residential customers have the ability to understand how they can reduce energy in their home through the Company's online energy portal, Home Energy Analyzer. To date, the Company has had over 164,000 customers interact with its online energy portal. As technology has improved, customers continue to engage with our online energy portal in new ways. The Company improved upon its portal in June 2019, which drove an approximately 20,000 additional customers to the online portal. Additionally, over 225,000 Missouri customers receive a HER that further guides them in using energy and how they measure against their neighbor. The HER program has repeatedly shown that customers save 1 to 2 percent annually. Additionally, the Company's programmable thermostat program provides not only energy savings to those customers who have it on their wall, but it also is a key piece in the portfolio's demand response strategy. The Company currently has over 35,000 thermostats across its jurisdictions in Missouri – the majority of which are smart thermostats. The Company also implemented a Distributed Energy Management System ("DERMS") platform and used it for the first time this summer to better communicate with customers in demand response events. The DERMS will also poise the Company for the future for other progressive uses. (Tr. 230) The Company's MEEIA business programs have been utilized by over 6,000 customers. For example, the Company has collaborated with the City of Kansas City, Missouri and has lowered usage in city buildings by four percent. (Ex. 3, Company Surrebuttal Report, pp. 8-9) These programs help the Company accomplish its multi-faceted strategies for reaching its customers. (Tr. 177) Having no DSM programs or a significantly lower level of DSM programs would also likely result in the elimination or lowering of non-energy benefits.

As explained in the Company's MEEIA 3 Filing, DSM is the right resource for the region of the country in which the Company serves. The Company follows a rigorous process required by IRP rules to evaluate possible scenarios and resources to meet our customers' demand. In those

IRP evaluations, DSM continually outperforms alternative plans in proving a benefit to customers by reducing the revenue requirement. The MEEIA statute and IRP rules find the right balance in the resource selection process. The various scenarios evaluated in the IRP process demonstrate the value of DSM in individual jurisdictions and the Company as a whole.

In summary, those scenarios are similar to previously filed IRP results for DSM in that:

- With or without plant retirements, DSM plan options still provide the lowest net present value of revenue requirement ("NPVRR").
- With plant retirements, capacity requirements for KCP&L-MO are moved up from outside 2038 to 2033.
- In the combined company and KCP&L-MO standalone scenarios, MEEIA Cycle 3 provides a reduced NPVRR and benefits to all customers when compared to no future DSM.
- Continuing DSM investment for the 20-year horizon provides the lowest NPVRR in ALL scenarios.
- Combined company (KCP&L and GMO together) evaluation increases the total benefit value of DSM as compared to KCP&L standalone. (Ex. 2-P, MEEIA 3 Filing, p. 13)

Consistent with how supply-side resources are evaluated, the Company's MEEIA 3 portfolio benefits customers by reducing revenue requirements. This is supported through MEEIA 1 and 2 programs third-party evaluation and then has been further verified by a Commission Staff auditor for six years detailing the benefits to all customers. An additional way to ensure that a MEEIA portfolio is beneficial to all customers is to have programs that everyone can participate in. Company witness Brian File describes how the Company has carefully designed a suite of programs to provide options for different types of customers to participate. In contrast, OPC is suggesting a very limited portfolio of programs be approved, which would significantly limit the ability for all customers to participate. (Ex. 5, Caisley, p. 8)

Customers as a whole benefit is because the MEEIA programs will avoid costs by reducing the long-term revenue requirement of the utility whether or not supply-side resources are avoided. The IRP analysis has continually shown that demand-side management investment is best for customers by having lower long-term revenue requirements. (Id.)

Overall economic activity and jobs in our service territories increase with the availability and promotion of DSM programs. According to the American Coalition on Energy Efficient Economy, every $1 million invested in energy efficiency supports approximately 20 direct and indirect jobs in the construction space. Also, the reinvestment of energy savings year after year creates an incremental seven jobs per year over spending the money on utility bills. (Id.)

Trade allies — including several hundred contractors in the residential, commercial and industrial (C&I) sectors — see a positive impact from our DSM portfolio with additional incentives for customers to use energy more efficiently. The Company's programs help spur demand for trade allies to promote existing and new technologies that benefit customers. These economic development benefits will be lost if the MEEIA programs are terminated or delayed, as suggested by Staff.

In addition, customers would forego an anticipated $234 million in net present value of energy savings for customers, at current rates. Customers would not have more choices, or more engagement options and technology rebates, if the MEEIA programs are terminated. More than $10 million of income-qualified programs will also be abandoned. (Ex. 2-P, MEEIA 3 Filing, p. 13)

a. Staff's test for non-participating customer benefits cannot be met by any MEEIA energy efficiency program

In addition to customers benefiting from lower long-term revenue requirements, participating customers will enjoy the benefit in the form of near term reductions to their electric bill. Despite these benefits, Staff now raises concerns with this filing regarding customer average rate impacts. However, this is not a new issue with this MEEIA Cycle 3 filing, but is simply a function of the current retail rate structure and is not a reasonable basis to reject the Company's MEEIA Cycle 3 filing. It is a fact that the reduction of energy usage will lead to the recovery of fixed costs over fewer sold kWhs, and thus create higher rates for all customers. This reduction in energy usage and kWh billing determinants occurs regardless of the avoided capacity cost used to screen the DSM programs. A resulting fact is that average customer bills go down even though average rates may go up. (Ex. 3, Company Surrebuttal Report, p. 29) It has always been this way with energy efficiency programs and this scenario has existed in previous cycles approved by the Commission as well. The only way that non-participating customers may receive net benefits (and participating customers continue to benefit) would be in the long term from programs that produce demand reduction on a sustained basis. If the Commission were to adopt Staff's interpretation that any increase in rates for an individual customer that does not directly participate precludes a MEEIA program from meeting the requirement that customers benefit, no MEEIA program could ever be approved under the existing rate structures in place in Missouri. (Ex. 3, Company Surrebuttal Report, pp. 29-30) This is why the Company has proposed a comprehensive portfolio of programs that provide multiple opportunities for all customers to participate.

It should be understood that energy price benefits will also flow through the FAC to all customers. Since the Company participates in the SPP markets, all energy used to serve its retail customers is purchased through the SPP energy market. Energy market purchase prices are generally positively correlated with the load in the SPP market. In other words, as the demand for energy increases, so do the energy market prices. Conversely, as demand for energy falls, so do energy market prices.

Moreover, one of the many benefits of energy efficiency is the environmental benefits. (Tr. 229) That benefit is available to all those that live in the region whether or not they created the energy reduction. The energy reduction achieved from the Cycle 3 programs will cause generating units in the region to run less and emit fewer pollutants. The energy savings (343,716 MWh) from the Cycle 3 programs will lead to an estimated annual reduction of 502 million lbs. of CO_2, 303 thousand lbs. of NO_x and 324 thousand lbs. of SO_2. (Ex. 3, Company Surrebuttal Report, p. 28)

In addition, the reduction in the SPP-related fees such as Schedule 11, Schedule 12 and SPP administrative fees as a result of reductions in energy and demand is an additional benefit to all customers as part of MEEIA implementation and generally reflected in base rates. (Ex.3, MEEIA Surrebuttal Report, p. 22)

Staff witness John Rogers calculated the additional cost that would be paid by KCP&L non-participants as less than $86 over a seven-year period. (Ex. 101-C, Staff Rebuttal Report, pp. 39-40)(Tr. 384-85) This works out to be approximately $1.00 per month that a non-participating customer would pay. According to Staff witness Rogers, this $86 yearly amount is why the Company's MEEIA plan does not meet Section 393.1075.4 RSMo. (Tr. 385) That part of the MEEIA statute says that MEEIA programs must be beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

The implication of Staff witness Rogers' conclusion is that non-participating customers are a class or every individual customer must benefit. In the hearing Staff indicated they do not contend that every individual customer must benefit. (Tr. 211). Therefore, Staff must interpret that non-participants are a class. But non-participating customers are not a customer class of the Company and never have been. The proper way to look at this requirement is to ask whether the customer class as a whole benefits. The Company provided demonstration of the benefits to the members of the class in Figures 4.4 and 4.5 of its MEEIA report. (Ex. 2-P, MEEIA Filing, p. 60) These exhibits show the positive net benefits for both the KCP&L and GMO residential customer class. This demonstration of benefits to the customers of the class as a whole shows that the Company's MEEIA 3 programs are beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers.

Staff also concludes "It doesn't make economic sense for customers to pay $96.1 million for program costs in the near term with the hope of receiving $2 million in savings over 20 years." (Ex. 101-P, p. 86) First, the statement is misleading in that the customers actually receive $98.1 million of benefits over the 20 years for their investment compared to the cost of $96.1 million. Second, in consecutive cycles the Company has achieved more cost-effective savings ($/kWh) than the approved plan. For example, in Cycle 2 through program year 2, the Company spent 77% of approved budget to achieve 91% of kWh savings in KCP&L. This incremental gain results in additional benefits that goes above and beyond the "hope" that Staff refers to. It is proven repeatedly that the Company delivers on and exceeds its expectations for savings benefits for dollars spent. (Ex. 3, Company Surrebuttal Report, p. 44)

In summary, the Company's MEEIA 3 is expected to be beneficial to all customers in the customer class in which the programs are proposed, regardless of whether the programs are utilized by all customers. As explained herein, there are other environmental benefits and other benefits to non-participating customers.

H. **<u>If the Commission approves MEEIA 3, what should be in the DSIM to align recovery with the MEEIA statute</u>?**

MEEIA establishes a state policy allowing for recovery of all reasonable and prudent costs of delivering cost-effective demand-side programs. In support of that goal, MEEIA requires the Commission to:

- Provide timely cost recovery for utilities;
- Ensure utility financial incentives are aligned with helping customers use energy more efficiently and in a manner that sustains or enhances customers' incentives to use energy more efficiently; and
- Provide timely earnings opportunities associated with cost-effective, measurable and verifiable efficiency savings.

The Company values the results of the collaborative efforts of the Commission, Commission staff and other stakeholders in developing and improving the effectiveness of the demand-side investment mechanism ("DSIM") Rider in Cycle 1 and Cycle 2. We believe these efforts have resulted in recovery mechanisms which have met MEEIA policy goals. Therefore, we propose continuing the DSIM recovery mechanism.

The Company believes it should be permitted to include the same elements in the DSIM as in previous MEEIA 2 programs: Program Costs, Throughput Disincentive ("TD"), and an Earnings Opportunity ("EO"). These cost recovery items are discussed in Section 4.0 of Ex. 2-P, MEEIA 3 Filing, pp. 51-67. No party has suggested that the recovery of Program Costs and Throughput Disincentive should not be approved by the Commission. However, as discussed herein, Staff has argued that there should be no EO for the Company. Staff also addresses several concerns related to the mechanism of the DSIM charge and tariff sheets for KCP&L and GMO. Company Witness Mark Foltz addresses these various suggestions. (Ex. 4, Company Surrebuttal Report, pp. 45-48)

The Company proposes that — consistent with Cycle 2 — the earnings opportunity be determined for each program year using an EO matrix (Appendix 8.7) and the same $ per MWh and $ per MW values used in Cycle 2. In this case, the Company is requesting an EO from $7.9 million to $11.3 million for KCP&L and $10.1 million to $14.4 for GMO. (Ex. 1-C, MEEIA 3 Filing, pp. 51-67; Ex. 101-P, Staff Rebuttal Report, p. 82, Table 7; Tr. 436) The only modifications to this matrix are to compute the EO amounts annually, rather than the entire cycle, for the Income-Eligible Multi-Family ("IEMF") and the Home Energy Reports ("HER") programs, as well as an annual $ per MW award rate for the Business Demand Response ("BDR") program. The Company proposes having the opportunity for additional EO amounts under the updated IEMF program framework (as was done in the Ameren MEEIA 3 settlement), and as discussed in the MEEIA Filing, pp. 57-59, to increase this programs annual Cap to 130%. These changes help drive focus for these programs that have a one-year measure life (BDR, HER) or have increased in scale (IEMF) and are necessary to calculate the EO on an annual basis. (Ex. 2-P, MEEIA 3 Filing, pp. 57-59)

I. **The Company Must Have an Earnings Opportunity to Proceed with MEEIA 3.**

While Staff does not dispute the need for the recovery of program costs or the recovery of a throughput disincentive, Staff does suggest that the Commission should not approve an Earnings Opportunity for the company because the Company is not avoiding investment with its MEEIA programs. (Ex. 101, Staff Rebuttal Report, p. 86; Tr. 237) This argument should be rejected. Staff is ignoring the fact that the real purpose of the Earnings Opportunity component is to give the Company an incentive to offer these programs (Tr. 227), do a good job in implementing the DSM programs, and more importantly, align the financial interests of the Company with the public interest in achieving DSM savings. If the Commission approved the

Company's proposed portfolio of DSM programs, but declined to give it an Earnings Opportunity, then the Company would not go forward with implementing MEEIA programs. (Tr. 131)

The MEEIA statute says that the earnings opportunity is to be "associated with cost-effective measurable and verifiable efficiency savings" and not "deferred" or "avoided" supply-side resources. Section 393.1075(2)(3). As Company Witness Darrin Ives explains, having an appropriate construct around cost recovery, throughput disincentive, and earnings opportunity is critical for any utility promoting energy efficiency and demand response programs. The Company has proposed an EO that is consistent with prior MEEIA earnings opportunities approved by the Commission for the Company and Ameren. While there may be some differences in program levels and design from utility to utility to serve the needs of each utility's respective customers, this three-part recovery mechanism should be applied consistently across the state for similar utilities competing for similar capital from similar investors. It would not make sense for a company to implement a voluntary MEEIA program with Staff's proposal on cost recovery and EO where it is disadvantaged in such a way. And yet again, it is at odds with MEEIA. Section 393.1075(3) provides in relevant part that "[I]t shall be the policy of the state to value demand-side investments equal to traditional investments in supply and delivery infrastructure …." If Staff reduces the EO from previous cycles or totally eliminates it, as proposed by Staff in this proceeding, then it will be signaling to the Company and every other utility in Missouri that it prioritizes incremental investment in supply over demand-side investments.

As provided for in the Company's direct filing, Section 8.11 "Earnings Opportunity Valuation", there are multiple ways to calculate acceptable earnings opportunities. The level of earnings that the Company is requesting is consistent with prior Commission earnings opportunity for both the Company and Ameren. For example, Ameren's recently approved EO at target of $30M equates to 15.35% as a percent of program budget. (Tr. 269) This is consistent with the Company's approved Cycle 2 EO target of 14.7% for KCP&L and 19.7% for GMO as a percent of Cycle 2 program budget, as well as the Company's Cycle 3 EO target request of 18% for KCP&L and 19.2% for GMO as a percent of program budget. As Mr. Caisley testified, it would be acceptable to the Company if it received an EO that was consistent with its EO in MEEIA Cycle 1 and Cycle 2. (Tr. 135)

J. <u>The Staff Position Is Inconsistent with its Position in the Ameren MEEIA 3 Case</u>.

Staff is measuring the Company's programs with a different measuring stick than Ameren. (Tr. 109-12) Like the Company, Ameren Missouri did not need to add capacity for many years. In Ameren's case it didn't need capacity for about sixteen years. Yet the Staff, Public Counsel, and other parties have supported Ameren's MEEIA 3 programs, including a $30 million Earnings Opportunity, or 15% of Ameren's Program Costs. (Tr. 268-69). But in this case, Staff is supporting a $0 EO for the Company. This result is unacceptable and will result in the termination of the Company's DSM programs which have been successful in past MEEIA Cycles.

The Company has identified several inconsistencies (Tr. 112-13), including:

- Ameren did not identify any specific investments that would be avoided through implementation of its MEEIA Cycle 3 programs but Staff faults the Company for not doing so.
- Staff supports Ameren offering a Home Energy Report (HER) that has similar characteristics as the Company's but admonishes the Company for

offering a HER due to lack of persistence and naturally occurring energy savings.

- Staff recommends as a condition for approval by the Commission that the Commission only allow for recovery of program costs, TD, and EO from programs that are ultimately verified as cost effective based on EM&V. Staff did not require the same of Ameren in its support of Ameren's programs.
- Staff recommends a very different level of earnings for the Company compared to what it supported for Ameren. Staff is recommending zero earnings for the Company; whereas the Company is requesting an EO that is consistent with prior Commission orders for both the Company and Ameren.
- Staff is recommending that the Company utilize a zero-avoided capacity cost for evaluation of its proposed MEEIA programs because the need for capacity for the Company only potentially exists in 2032. However, Staff takes a very different position with Ameren and supports avoided capacity costs for Ameren for the period 2019-2037. As stated in Staff's rebuttal testimony in the Ameren case, "Ameren Missouri has no current capacity needs for either and will not need capacity for 16 years." (Tr. 312-13, 31-32)
- Staff recommends that the Commission only allow the Company an opportunity to earn on Cycle 3 demand response that exceeds the incremental peak demand savings achieved in Cycle 2. The Company

objects to this recommendation. Staff bases their recommendation on the false premise that the Business Demand Response (BDR) demand savings achieved in Cycle 3 are not incremental savings and that these savings are just a continuation of Cycle 2 savings. This is incorrect. Without Cycle 3, there are no BDR demand savings. All Cycle 3 BDR demand savings are therefore incremental savings.

- Staff claims that the Company should not be allowed to receive an Earnings Opportunity if at any time a program is not deemed 100% cost-effective. This would not meet MEEIA's stated policy of ensuring that utility financial incentives are aligned with helping customers use energy more efficiently. Even if all programs were ultimately verified as cost-effective, current accounting rules would prevent the Company from recognizing part or all of the revenues associated with program cost and throughput disincentive recoveries which are subject to refund until the EM&V report verifying cost-effectiveness was complete and approved by the Commission almost a year after such costs were incurred. This would cause a negative impact on Company earnings and value. (Ex. 5, Caisley Surrebuttal, pp. 13-14) (footnotes omitted)

On page 34, lines 11-13, of his testimony, OPC Witness Dr. Marke recommends that the Company's Earnings Opportunity be awarded at the end of the three-year EM&V verification of performance against targets rather than on an annual basis. The Company continues to believe that an annual award of Earnings Opportunity based on the cumulative annual achievement of EO targets determined based on annual EM&V results is an appropriate means of awarding and recovering the allowed earnings opportunity. It spreads the cost more evenly across the program years and avoids some of the variability in DSIM recoveries resulting from recovering the three-year EO award over a shorter period after the completion of the cycle. For the reasons stated herein, the Company respectfully requests that it be granted EO at a total Cycle 3 value consistent with Cycle 2 but paid following annual EM&V, and as proposed by the Company in its Application and Ex. 2-P, MEEIA 3 Filing, pp. 51-67, and Appendix 8.7.

K. <u>Should Opt-Out Customers be eligible to participate in Business Demand Response ("BDR") programs</u>?

Yes, opt-out customers have participated in BDR programs (previously named MPower and Demand Response Incentive) since the advent of the Company's MEEIA programs. In fact, Staff directed that they participate in the programs. Staff witness Rogers recommended in his MEEIA Cycle 1 testimony that GMO allow customers who opt-out of participating in the Company's DSM programs to participate in interruptible or curtailable rate schedules or tariffs offered by GMO, including the Energy Optimizer and MPower MEEIA programs. (Ex.3, Company Surrebuttal Report, pp. 57-58)

There are seven opt-out customers currently participating in these programs or successor demand response programs (Demand Respond Incentive (Cycle 2)) and these customers make up over 35 percent of demand enrolled. (Ex. 3, Company Surrebuttal Report, p. 58) As explained below, since BDR is an interruptible or curtailable program, opt-out customers are allowed to participate under the MEEIA statute.

a. Is BDR an interruptible/curtailable program?

Yes. The Company believes that BDR is an interruptible program. Staff interpreted MPower and Demand Response Incentive in Cycles 1 and 2 respectively as a curtailable or interruptible MEEIA programs and the proposed BDR program is fundamentally the same program concept. (Ex. 3, Company Surrebuttal Report, p. 58) Therefore, the Company believes BDR is an interruptible or curtailable rate schedule or tariff and under section 393.1075.10 RSMo. opt-out customers are allowed to participate. Customers are asked to curtail their usage during pre-specified hours to help avoid system peaks. The customers are incented to do so with a payment for their performance during events (Ex. 2-P, MEEIA Filing, Appendix 8.1, p. 46)

b. Should GMO be required to publish in its tariff the participation payment to customers that participate in the Business Demand Response programs?

The Company does not believe that participation payment information must be published in its tariff. The Company publishes on its website the information related to BDR response participation payments. KCP&L tariff sheet 1.82A and GMO tariff sheet R-63.10.1 directs the reader to the Company's website for the participation payment information. This method of publication provides flexibility for making changes to the payments, yet makes the information available to all who need it. The Company adopted this practice as a result of its experience with MEEIA programs so that more of the program details are found at the Company's website (Tr. 234). This flexibility would be eliminated by requiring the payment information to be contained in a tariff which cannot be easily or quickly changed when the payment levels are modified.

WHEREFORE, KCP&L and GMO respectfully submit their Brief.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First Class United States Postal Mail, postage prepaid, on this 11th day of October 2019, to all counsel of record.

/s/ Roger W. Steiner
Roger W. Steiner