

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

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

STATEMENT OF POSITIONS OF KANSAS CITY POWER & LIGHT COMPANY

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Power & Light Company for Approval to)	
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Electric Service to Implement its Regulatory)	
Plan.)	

STATEMENT OF POSITIONS OF KANSAS CITY POWER & LIGHT COMPANY

Kansas City Power & Light Company (“KCPL” or “Company”) submits this Statement of Positions in accord with the Commission’s Order Setting Procedural Schedule issued April 5, 2007.

I. STATEMENT OF THE CASE

Fulfilling the commitments that it made in the Regulatory Plan approved by the Commission as part of the 2005 Stipulation and Agreement in Case No. EO-2005-0329 (“Stipulation”), KCPL has embarked upon a series of infrastructure and customer enhancement projects valued at over \$1.3 billion. In this second of four rate cases contemplated by the Stipulation, KCPL seeks a decision that appropriately reflects the risks the Company has undertaken in this endeavor, grants necessary increases in revenue, and sets a rate of return that will permit KCPL to remain financially healthy until it files its next rate case in early 2008.

In the 2006 Rate Case (No. ER-2006-0314), the first filed under the Regulatory Plan, the Commission’s Report and Order allowed KCPL to proceed on schedule with its infrastructure plans, including the construction of 100 MW of wind generation. In particular, the Commission’s decision granting a Return on Equity (“ROE”) of 11.25%, setting rates for Off-System Sales (“OSS”) Margin at the 25% percentile level, the use of the Additional Amortizations mechanism to maintain KCPL’s investment-grade credit rating, and the

Commission's decisions on numerous accounting issues struck an appropriate balance on critical financial and ratemaking issues. KCPL respectfully requests that the course charted in the 2006 Rate Case continue.

The task of the Commission in this case is to fashion a second rate order that correctly balances the risks with the benefits as they affect customers, shareholders and creditors. Two major factors that are unique to KCPL among Missouri electric utilities continue to be important: (1) The Company's multi-million dollar construction projects, including the coal-fired Iatan 2 unit, additional new wind generation, and numerous environmental upgrades, which will require KCPL to generate sufficient cash earnings to meet credit ratios; and (2) The risk and uncertainty of the OSS market, which in recent years has accounted for approximately 50% of KCPL's revenues.

These two factors continue to pose major risks to the Company. However, the Company believes that if the Commission continues the policies established in the 2006 Rate Case on these issues, a proper balance will again be struck that will permit KCPL to achieve the goals embodied in the Regulatory Plan. In this case, the Company is requesting an ROE of 11.25% so that its history of top-of-the-industry productivity can continue. The Company also believes that the OSS Margins should again be established at the 25th percentile with a continuation of the OSS tracker mechanism, as determined in the 2006 Rate Case. Under that mechanism any margins in excess of the 25th percentile determined in this case will be credited to ratepayers through the establishment of a regulatory liability, lowering their energy bills in the next rate case.

An 11.25% ROE will generate the necessary cash earnings for the Company, independent of other mechanisms like the Additional Amortizations permitted by the Stipulation. The Additional Amortizations (which act like accelerated depreciation, and therefore, an eventual

off-set to rate base) are intended to be used as a last resort to maintain KCPL's credit ratios in the event that its earnings, as determined in general rate cases like this one, fail to satisfy certain financial ratios. See Stipulation, § III(B)(1)(i) at 19.

There are two new accounting issues in this case that deserve a special note. First, the Cost of Removal Income Tax issue (No. 8) should be carefully considered. For assets placed in service before 1981, KCPL has flowed-through the related tax benefits in both its regulatory and financial reporting. On a cumulative basis, the ratepayer has been given a benefit of lower taxable income and associated lower income tax expense. The lower income tax expense occurred as a result of taking a deduction in the income tax calculation for higher removal costs incurred versus a deduction for a lower level of removal costs based on amounts included in depreciation rates. KCPL has established a regulatory asset for future recovery of these cumulative accelerated tax benefits provided to ratepayers. In this case, Staff wants the Company to normalize the tax benefits. This abrupt change would mean that KCPL would be required to write off this regulatory asset, unless the Commission allows KCPL to amortize it over a defined period. Since ratepayers have enjoyed the benefits of flow through, KCPL must be allowed to recover this regulatory asset.

In addition, the Wolf Creek Refueling Outage Cost issue (No. 18) could have a significant adverse impact on the Company's earnings. Staff has rejected KCPL's move to a better accounting method for refueling outages. Staff wants KCPL to remain on the old accounting method for ratemaking purposes which would require the Company to write off \$17 million to expense (a post-income tax impact of \$10.6 million), as well as to establish a \$17 million regulatory liability to record the impact of switching back to the old method. This proposal should be rejected.

Proper consideration of these issues, and the use of the tools provided in the 2005 Stipulation will lead to a decision that sets just and reasonable rates for the next twelve months, and that balances the risks of construction and the market with the benefits to be gained from the Regulatory Plan.

II. STATEMENT OF POSITIONS ON ISSUES

REVENUE REQUIREMENT

A. Rate of Return

1. Return on Common Equity: What return on common equity should be used for determining KCPL's rate of return?

Based on the testimony of KCPL's outside expert witness Dr. Samuel Hadaway, KCPL requests an ROE of 11.25%. Using the same analysis that was accepted by the Commission in KCPL's 2006 rate case, Dr. Hadaway has recommended a base ROE of 10.75%, plus an additional 50 basis points to be added for construction risk, for an ROE of 11.25%.

a. Is KCPL's decreased risk due to the Kansas City Power & Light Company Experimental Regulatory Plan the Commission approved in Case No. EO-2005-0329 a factor that reduces the return on common equity otherwise appropriate for KCPL?

No. The Commission's decision in the Regulatory Plan case, which approved the Stipulation entered by a number of parties to this proceeding including Staff and the Office of the Public Counsel, provided a sound structure for the Company to pursue its Comprehensive Energy Plan. However, the terms of the Stipulation *per se* did not reduce the risks to the Company. Rather, the Commission's approval of the Stipulation prevented an immediate downgrade of the Company's debt by the national credit rating agencies. Nothing in the Stipulation, including the Additional Amortizations mechanism, provides a basis to reduce KCPL's ROE. While Additional Amortizations are necessary to maintain sufficient cash flow to the Company, they do not provide earnings. That is what ROE does. Moreover, because the

Additional Amortizations are an offset to rate base in future rate cases, it actually serves to reduce the Company's rate base. See Michael Cline Direct Testimony at 6-7

b. Is KCPL's increased risk due to its large construction undertakings a factor that increases the return on common equity otherwise appropriate for KCPL?

Yes. As Dr. Hadaway testified, a 50 basis point increase in ROE to 11.25% from a base of 10.75% is appropriate, given the size of KCPL and the large risks it is taking on in order to pursue its construction program. Dr. Hadaway has compared KCPL with other utilities, concluding that its construction program is approximately 1 ½ times as large as that of the comparable company group (95% of net plant for KCPL v. 62% of net plant of other companies). This higher construction level and resulting higher capital requirements cause KCPL's investors to face more uncertainty and, therefore, require a higher rate of return than is required for the comparable company group. See Hadaway Direct Testimony at 5.

c. If so, what is the impact of these factors?

As noted above, the 10.75% base ROE recommended by Dr. Hadaway should be increased by 50 basis points to 11.25%.

2. Capital Structure: What capital structure should be used for determining KCPL's rate of return?

The capital structure originally requested by KCPL in the Direct Testimony of Dr. Hadaway was as follows:

KCPL initial proposed capital structure:

Debt	45.24%
Preferred Stock	1.33%
Common Equity	<u>53.43%</u>
Total	100%

However, since the filing of that testimony, KCPL has advised Staff that the following capital structure is currently projected as of September 30, 2007 and will be provided to Staff for the September 28, 2007 Reconciliation:

KCPL projected capital structure (as of 9/30/07):

Debt	40.76%
Preferred Stock	1.44%
Common Equity	<u>57.80%</u>
Total	100%

B. Expense Issues

3. Hawthorn 5 Subrogation Proceeds: Should subrogation proceeds KCPL received in 2006 concerning the 1999 Hawthorn 5 boiler explosion litigation be included in cost-of-service for setting KCPL's rates?

No. Although KCPL received the subrogation proceeds in 2006, they were related to damages awarded to KCPL as a result of the approximate two-year outage of Hawthorn 5 from 1999 through mid-2001 following a boiler explosion at the plant. KCPL's customers did not pay for the Hawthorn 5 clean up, they did not pay for the replacement power KCPL had to purchase during the outage, and they did not pay for rebuilding Hawthorn 5. During the outage, KCPL did not have a fuel adjustment clause that would have recovered replacement power costs. KCPL did not request a rate increase at any time during the outage or subsequent to the outage that resulted in recovery of any costs related to the outage. Thus, KCPL's customers never paid any of these costs, and the subrogation proceeds KCPL received to recover those costs have nothing to do with the 2006 test year in this case.

It has been suggested that the subrogation proceeds should be included in KCPL's cost of service because KCPL managed to remain profitable despite the hardship of rebuilding Hawthorn 5 and the expense of purchasing replacement power during the outage. As a

preliminary matter, the assertion concerning the extent of KCPL's profitability during that period is based on annual surveillance reports. Those reports are not reflective of test year cost of service analysis as is required in rate cases. In addition, to justify the inclusion of the subrogation proceeds in KCPL's current rate case by citing alleged rates of return for prior periods is the very definition of retroactive ratemaking. One would have to conclude that KCPL earned "too much" during the outage, then seek to remedy the alleged past over-recovery in this case.

In sum, the subrogation proceeds represent an unusual non-recurring event that should be excluded from the test year of 2006. KCPL's receipt of those proceeds does not reflect the ongoing operating characteristics or cost of service of the Company. Consequently, the subrogation proceeds KCPL received in 2006 concerning the 1999 Hawthorn 5 explosion should not be included in KCPL's cost of service for ratemaking purposes.

- a. If so, should the five-year amortization period proposed by Staff be adopted?

It is inappropriate to include the Hawthorn 5 subrogation proceeds in KCPL's cost of service. Doing so through an amortization does not change this result. The purpose of amortization of non-recurring or unusual expenses is to provide recovery of prudently incurred costs over time. Had the Company requested and the Commission grant amortization of the costs of replacement power during the Hawthorn 5 outage and those costs had been reflected in rates at any period of time subsequent to the outage, it would be appropriate to amortize the subrogation proceeds for purposes of setting rates. However, the Company did not amortize these costs and did not collect these costs at any time in rates. Consequently, amortizing the proceeds does not address the fact that it would be inappropriate to include them in KCPL's cost of service.

4. Long-Term Incentive Compensation: Should the costs of KCPL's and GPE's long-term incentive compensation plans be included in cost-of-service for setting KCPL's rates?

Yes. The position statement provided below to Issue No. 5 pertains to both the Long-Term and Short-Term Incentive Compensation Plans.

5. Short-Term Executive Compensation: Should part of the costs of KCPL's and GPE's short-term executive compensation plans be excluded from cost-of-service for setting KCPL's rates?

Yes. KCPL witness Michael Halloran, a consultant with Mercer Human Resource Consulting, demonstrates that the use of short-term and long-term incentives are tremendously powerful tools to benefit both customers and shareholders. The use of financial measures is a very effective way to reflect performance on a broad range of customer service measures. In particular, a program that focuses on the achievement of earnings per share ("EPS") is beneficial for customers and shareholders.

As Mr. Halloran explains, EPS is a measure related to funds from operations ("FFO") and operating income. These are principal indices of performance for investor-owned entities, including KCPL. Because KCPL is a regulated public utility, the organization is committed to its responsibility to achieve its EPS through the provision of efficient, clean, safe and affordable electricity. Therefore, EPS is an important measure of performance and productivity in areas related to product and service delivery. In addition, the Company's incentive plans are based upon individual performance factors relating to the specific employee's responsibilities and contribution to achieving divisional and overall performance objectives.

Stronger financial performance through improvements in EPS provides additional cash, allowing the Company to invest in ongoing maintenance and upgrading of facilities, which ensures a steady, reliable, low cost supply of electricity to the customer. As Mr. Halloran testifies, the use of incentive compensation to focus the management team on the achievement of

EPS goals as well as individual performance goals is a wise and appropriate investment in the business. KCPL believes that incentive compensation that is based on the financial goals tied to EPS is appropriate because a financially sound and stable company provides a direct benefit to all stakeholders including employees, customers, shareholders and the community in which it operates.

6. Talent Assessment Program Employee Severance Cost: Should the severance and other associated costs of KCPL employees terminated under KCPL's talent assessment program be included in cost-of-service for setting KCPL's rates?

Yes. KCPL has incurred two distinct sets of severance costs during the test period. The first set is severance payments, outplacement service costs, and payroll taxes of 119 Company employees who left the Company as a result of KCPL's Talent Assessment Program. The purpose of the Talent Assessment Program was to determine if management employees (*i.e.* employees who are not subject to a collective bargaining agreement) had the skills, ability, and desire to assist the Company in reaching its strategic objectives.

In the Fall of 2005, management employees were identified under this program as "Role Models," "Well Placed," or "Not Keeping Pace." Employees identified as "Not Keeping Pace" were given the following options: (i) These employees could attempt to improve any shortcomings identified during the Talent Assessment Program; (ii) They could voluntarily separate their employment with the Company. Employees who improved their performance (*i.e.*, "closed the gap") could either continue their employment with the Company or voluntarily separate their employment.

Numerous employees improved their performance and were retained by the Company. Employees who did not improve their performance either voluntarily separated their employment, or were involuntarily separated effective on or before March 31, 2006. All employees identified as "Not Keeping Pace" were given the opportunity to receive severance

payments under this program. The Company proposes that the costs associated with these severance payments (*i.e.*, \$8,960,783) be deferred in a regulatory asset and amortized over a five-year period, or \$1,792,157 annually on a total Company basis.

Staff witness Hyneman has proposed that the Company's severance payments related to the Talent Assessment Program be disallowed. Mr. Hyneman supports his position with the following arguments:

- (1) "There is no evidence that KCPL was not providing safe and adequate service with the employee base that existed prior to the talent assessment severance program."
- (2) "There is no evidence that the costs of this talent assessment program has yet or will ever provide any benefit to KCPL's customers;"
- (3) "KCPL's management is responsible for the hiring of employees and training of employees. If the employees who were terminated under this program did not meet KCPL's management's performance expectations, then KCPL's management should bear the primary responsibility for this result;"
- (4) "Severance costs of the talent assessment program were removed from KCPL's 2006 earnings in the determination of KCPL's management incentive compensation."

KCPL witness Lora Cheatum, KCPL's Vice-President, Administrative Services, addresses and completely rebuts each of Mr. Hyneman's concerns. See Cheatum Rebuttal Testimony at 4-6. With regard to Mr. Hyneman's first point, KCPL agrees that safe and adequate service was being provided prior to the Talent Assessment Program, but that is not a reasonable standard to evaluate the proper recovery of severance costs. With regard to customer benefits of the program, KCPL has been proud of the fact that it has achieved Tier 1 status in overall residential customer satisfaction in comparison to other Midwest utilities. As noted by Ms. Cheatum, KCPL's overall Customer Satisfaction Index rose from 679 in 2006 to 697 in 2007. The Talent Assessment Program allowed KCPL to ensure that the Company had the right people with the right skills in the right roles. Such management of its workforce allows KCPL to be more cost-effective in the long run and keep customers' rates at reasonable levels.

KCPL also agrees that management is responsible for hiring and training its employees, but it is incorrect to suggest, as Mr. Hyneman does, that the employees who were terminated under the Talent Assessment Program did not meet KCPL's performance expectations. The real issue was whether these employees understood and would be able to meet KCPL's rising performance expectations in the future. Each employee had the option to demonstrate that they could and would meet future expectations or accept a voluntary separation and leave. This program demonstrates that KCPL's management is taking full responsibility to manage its work force to continue to provide reliable energy at a reasonable cost. Finally, the Company's treatment of this program in its incentive compensation plan has no bearing upon the legitimacy of this program to benefit the Company and its customers. In fact, Staff does not appear to question that the Talent Assessment Program was incurred for a valid business reason.

- a. If so, should the costs be recognized in cost-of-service using KCPL's proposed deferral and amortization to expense over five years?

Yes. Recognizing that the Talent Assessment Program is a special program designed to ensure that KCPL has skilled, productive, customer-focused employees in place for the future, the Company proposed that these costs be amortized over a five-year period to reflect the fact that there will be benefits that extend over several years, and that the program costs will not recur annually.

KCPL respectfully requests that the Commission allow the recovery of the severance payments related to the Talent Assessment Program, amortized over a 5-year period. This type of program clearly reflects a pro-active management that is concerned about ensuring the KCPL continues to provide the excellent level of service to customers that KCPL has achieved in the past.

7. Employee Severance Cost: Should the severance costs of KCPL employees terminated for reasons other than KCPL's talent assessment program be included in cost-of-service for setting KCPL's rates?

Yes. As explained by KCPL witness Cheatum, KCPL incurs routine and recurring severance costs due to changing job requirements, corporate reorganizations, and downsizing. Severance payments are a helpful and legitimate business tool to ensure that the Company has the human capital capable of delivering outstanding, reliable service at reasonable prices. These costs should be included in rates since such costs are necessary in order to hire and retain the appropriate employees within the organization to implement the Company's strategic goals and continue to achieve Tier I levels for cost, reliability and customer service.

a. If so, is it appropriate to include a three-year average of those costs?

Yes. KCPL is requesting that a three-year average of severance payment amounts be included in the revenue requirement as representative of its ongoing level of severance costs. The Commission should reject Staff's position that such severance costs are not recurring costs since KCPL incurs such costs every year, and KCPL is requesting only a representative amount be included based upon a three-year average of these routine severance payments. These costs are a recurring, necessary cost of business that allows the Company to hire and retain employees to implement the Company's strategic goals and achieve levels for cost, reliability and customer service. It is therefore appropriate that such severance payments be included in the Company's cost of service in this proceeding.

8. Cost-of-Removal Income Tax: Should the tax timing difference for cost-of-removal be reflected under normalization accounting or flow-through accounting for pre-1981 vintage property for purposes of determining income tax expense in KCPL's cost-of-service for this case?

The flow-through accounting method should be used. Since 1979, KCPL has flowed-through to ratepayers the tax benefits of its costs of removal related to pre-1981 property. As a

result of this flow-through, KCPL has a regulatory asset recorded on its balance sheet for the future recovery of these cumulative accelerated tax benefits. Staff proposes to normalize the tax benefits of the pre-1981 costs of removal, which would mean that the previously flowed-through tax benefits would not be recovered by KCPL when the tax is paid and KCPL would have to write-off the regulatory asset. Since ratepayers have received the benefits of the flow-through, the Staff's proposal should not be adopted.

- a. If normalization accounting is occurring or adopted, is an amortization required for prior benefits resulting from the use of flow-through accounting subsequent to 1979?

Yes.

- (i) If so, what period of time should be used for the amortization?

If the Commission wants the Company to normalize costs of removal, the cumulative regulatory asset related to the pre-1981 costs of removal should be amortized over five years. If normalization is required without corresponding recovery of the cumulative regulatory asset, KCPL would incur a write off of \$7.9 million (Missouri jurisdictional), based on balances at March 31, 2007.

9. Organization Membership Dues: What level of membership dues that KCPL paid to organizations should be included in cost-of-service for setting KCPL's rates?

KCPL believes that its membership dues paid to the Kansas City Area Development Council should be recoverable in rates as this organization provides benefits to shareholders, ratepayers and the community by attracting business and industry to the region.

10. Advertising Costs: What level of KCPL's advertising costs should be included in KCPL's cost-of-service for setting KCPL's rates?

Although no formal settlement agreement has been executed, it appears that KCPL and Staff have reached an agreement concerning the amount of advertising expense that should be included in KCPL's case, as well as the treatment of those expenses for ratemaking purposes. In

his Surrebuttal Testimony Staff witness Graham A. Vesely recommends that “the reclassified advertising costs described by [KCPL witness] Mr. Spielberger be allowed in rates, but amortized over a two-year period, consistent with the amortization period ordered by the Commission for all rate case related expenses in previous Case No. ER-2006-0314.” Vesely Surrebuttal Testimony at 3-4.

KCPL believes Mr. Vesely’s recommendation represents a reasonable resolution of this issue. No other party provided testimony or stated a position concerning KCPL’s advertising expenses. Consequently, KCPL believes that to the extent Commission action is required on this issue, it should find that Mr. Vesely’s recommendation is appropriate for the inclusion and treatment of advertising costs in KCPL’s rates.

11. Washington Employee Costs: Should any level of costs associated with KCPL’s Washington, D.C. employee who represents KCPL in federal matters be included in KCPL’s cost-of-service for setting KCPL’s rates?

Yes. KCPL has an employee in Washington, DC. This employee tracks his lobbying/non-lobbying activities. The Company did not include the portion of the employee’s salary related to the lobbying activities in its test year cost of service. Staff has not recognized the employee’s non-lobbying work and removed the employee’s entire salary from the cost of service, including the portion not included in test year cost of service. The employee’s non-lobbying activities, about 85% of his time, consist of keeping abreast of major activities and trends at the national level, including energy efficiency and global climate change. KCPL believes that the non-lobbying portion of the employee’s salary should be included in rates.

a. If not, what level of costs should be excluded in addition to those currently recorded by that employee as excluded lobbying costs?

Because the Company has already removed the lobbying portion of the employee’s salary, no other costs should be excluded.

12. KCPL Supplemental Executive Retirement Pension (SERP) costs: What level of SERP costs should be included in KCPL's cost-of-service for setting KCPL's rates?

Because of IRS limitations on pension benefits that can be provided to certain higher paid executives, the Company provides supplemental executive retirement benefits. KCPL's Supplemental Executive Retirement Plan ("SERP") payments are made through either a lump sum payment or annual annuity payments at the executive's option. Staff has only included annuity payments in the Company's cost of service. KCPL believes that both types of payments should be included in cost of service because lump sum payments occur each year and is the prevalent method of payment. Since the amount of lump sum payments vary each year as opposed to annuity payments, KCPL proposes that a five-year average of lump sum payments be used.

13. Meal Expenses: What level of local meal expense should be included in KCPL's cost-of-service for setting KCPL's rates?

KCPL believes that meal costs should be included in its cost of service as they are a necessary part of training, safety, staff and business meetings that sometimes take place during meal times. KCPL does not reimburse its employees for purely personal meals or entertainment.

14. Off-System Sales Margin:

- a. Should KCPL's rates continue to be set at the 25th percentile of non-firm off-system sales margin as projected in this case for 2008 as proposed by KCPL and accepted by the Staff, or at the 40th percentile as proposed by Public Counsel?

Yes. Based upon the OSS Margin probability analysis conducted for KCPL by Michael Schnitzer of the NorthBridge Group, the Commission should continue to set rates for such margin at the 25th percentile level. To the extent KCPL makes sales in excess of that 25% Level, those margins should be credited to ratepayers, as the Commission determined in the 2006 Rate Case.

KCPL's Chris Giles has testified that the Commission properly set rates at this level in 2006, in light of the risks facing the Company from the volatile markets in which it sells energy and capacity not needed to serve native load. We know this because prices in the marketplace have continued to decline in 2007 and, as set forth specifically in highly-confidential testimony, Mr. Giles states that it will be a significant challenge for the Company even to reach the 25% Level this year. See Giles Rebuttal at 12. Staff has concurred in this approach. See Traxler Rebuttal Testimony at 2-3.

Therefore, the suggestion by Public Counsel that rates be set for such margins at the 40% Level should be rejected.

- b. Should interest be calculated and flowed to ratepayers on the off-system sales margin that exceeds the off-system sales margin level the Commission approved to be recovered in rates in Case No. EO-2006-0314?

No. As explained by Mr. Giles, there would be no benefit to ratepayers from receiving interest on any such excess amounts because the interest expense would be included in KCPL's cost of service calculation. If adopted, the proposal would simply be a "wash" transaction, as if no interest was paid. Additionally, the proposal is not symmetrical since the Company receives nothing if the OSS Margins fail to meet the 25% Level projection.

15. Department of Energy Nuclear Fuel Overcharge Refund: Should the Department of Energy Nuclear Fuel Overcharge Refunds for 1986 through 1993 that KCPL received during the test year in this case be included in KCPL's cost-of-service for setting KCPL's rates?

No. Similar to the Hawthorn 5 subrogation proceeds issue discussed above, although KCPL happened to receive the refund from the Department of Energy ("DOE") in 2006, the refund has nothing to do with the test year in this case. DOE overcharged KCPL for uranium enrichment services from 1986 until 1993. KCPL filed a lawsuit against DOE to recover the amount KCPL was overcharged. The lawsuit ultimately settled and in December 2006, KCPL accrued \$427,150 for the settlement. Also like the Hawthorn 5 issue, KCPL's customers never

paid the overcharges. KCPL did not have a rate case or a fuel adjustment clause during the period when these costs were incurred.

The refund KCPL received from DOE represents an unusual non-recurring event. The refund does not reflect the ongoing operating characteristics or cost of service of the Company. Consequently, it should not be included in KCPL's cost of service in this case. It is no more appropriate to reach back beyond the test year, than it would be for the Company to reach back to recover expenses incurred between 1986 and 1993. In either case, the inclusion would constitute retroactive ratemaking.

- a. If so, should the five-year amortization period proposed by Staff be adopted?

Also like the Hawthorn 5 subrogation proceeds issue, it is inappropriate to include the DOE refunds in KCPL's cost of service and amortizing those costs does not cure the impropriety. The refund relates to costs KCPL incurred, but did not seek to recover, from 1986 until 1993. Because a portion of those costs happened to have been refunded in 2006 does not justify including them in the test year in this case. Although amortizing the refund may reduce the adverse impact on the Company, it does not address the fact that it is inappropriate to include the refund in KCPL's cost of service.

16. Research and Development Tax Credits: Should research and development tax credits related to amended income tax returns for years 2000 to 2004 be deferred and amortized in KCPL's cost-of-service for setting KCPL's rates if received in the future?

No. Similar to the Hawthorn 5 subrogation proceeds issue and the DOE refund issue discussed above, although KCPL claimed the tax credit in 2006, its receipt of the credit has nothing to do with the test year in this case. KCPL submitted amended tax returns for the tax years ended December 31, 2000 through December 31, 2004 to receive a tax credit related to research and development expenditures. The Company also claimed this credit for tax year 2006

and included that credit in its cost of service in this case. The Company objects to the inclusion in its cost of service of tax credits for years prior to the test year.

The retroactive ratemaking issues discussed above concerning the Hawthorn 5 subrogation proceeds issue and the DOE refund issue are equally applicable here. Going back in time to include prior period revenues is contrary to ratemaking principles and should not be allowed. In addition, KCPL has not yet received the tax credits for 2000 through 2004. KCPL anticipates that it will not receive those credits until 2008. Staff and DOE are essentially asking the Commission to include in KCPL's cost of service tax credits relating to the years 2000 through 2004 that the Company will not receive until 2008. The only arguable tie to the test year in this case is that 2006 is when KCPL happened to file the amended returns seeking the credits.

- a. If so, at what level?

For the reasons set forth above, it would be inappropriate to include in KCPL's cost of service any level of the tax credits KCPL has requested for tax years 2000 through 2004.

- b. Should costs KCPL incurred to obtain the tax credits be included in KCPL's cost-of-service? If so, at what level?

Because KCPL included the tax credits for 2006 in its case, it is appropriate to include in KCPL's cost of service in this case the costs KCPL incurred to claim those credits. Conversely, because it would be inappropriate to include the tax credits for tax years 2000 through 2004 in this case, it would likewise be inappropriate to include the costs KCPL incurred to claim those credits.

17. Bad Debt Expense: What bad debt expense factor should be applied to both adjusted and pro-forma revenues to determine the level of bad debt expense to be included in cost of service?

KCPL believes that the most recent 12-month data should be used in calculating the Company's bad debt factor and has proposed using the 12 months ending September 30, 2007,

the true-up date for this case. Staff uses the rate for the 12 months ended December 31, 2006 which does not take into account current conditions.

18. Wolf Creek Refueling Outage Costs: Should the Commission order KCPL to reflect Wolf Creek refueling outage costs under the defer-and-amortize method adopted by KCPL in 2006 in accordance with a new accounting pronouncement or order KCPL to maintain its accounting for regulatory purposes under the prior accrue-in advance method?

In 2006, KCPL changed its method of accounting for refueling outage costs from the accrue-in-advance method to the defer-and-amortize method in response to a Financial Accounting Standards Board position paper. Under the accrue-in-advance method, KCPL builds up an accrual and debits expense during the 18 months preceding an outage. Under the defer-and-amortize method, the Wolf Creek Nuclear Operating Corporation performs the outage and pays for it, then KCPL amortizes the cost over the next 18 months leading up to the next outage. This defer-and-amortize method is preferable as the costs are known and measurable.

a. If the accrue-in-advance method is ordered, what projected cost level should be established for purposes of both the accrual allowed in cost of service and for the tracking mechanism proposed by Staff?

If the accrue-in-advance method is ordered, the projected cost level should be established at the most current estimate for the Spring 2008 refueling outage, as identified by the Wolf Creek Nuclear Operating Corporation as of the September True-Up period.

C. Rate Base Issues

19. Rate Case Expense: Should KCPL's rate case expense deferred for future amortization in accordance with the Commission's order in Case No. ER-2006-0314 be included in KCPL's rate base?

Both Staff and Company agree that deferred rate case expenses should be amortized into cost of service over two years. KCPL believes that the unamortized amount of these deferred

expenses should also be included in rate base as the Company's funds are tied up until it receives a return of the costs through the amortization process.

20. Surface Transportation Board Litigation Expenses: Should KCPL's Surface Transportation Board litigation expenses deferred for future amortization in accordance with the Commission's order in Case No. ER-2006-0314 be included in KCPL's rate base?

KCPL has charged that the Union Pacific Railroad's rates for coal shipments are unreasonably high and has filed a rate complaint with the Surface Transportation Board ("STB"). Because KCPL has expended funds to bring this action to benefit consumers with lower rail rates and since any refund that it receives will be included in rate base as a regulatory liability, the Company believes that the unamortized amount of deferred expenses of the STB litigation should be included in rate base as a regulatory asset. Deferred STB litigation expenses are currently being deferred and amortized over five years as ordered in ER-2006-0314.

D. Class Cost Of Service / Rate Design

21. Effect of Case No. EO-2005-0329 Stipulation and Agreement on Inter-class Shifts: Does the Stipulation and Agreement incorporating the KCPL Experimental Regulatory Plan that the Commission approved in Case No. EO-2005-0329 allow the signatories to the Stipulation and Agreement to propose inter-class revenue shifts in this case?

No. The Stipulation approved by the Commission in Case No. EO-2005-0329 clearly states the Signatory Parties' agreement related to the Rate Design Issues in this case, "Rate Filing #2," contemplated by the Regulatory Plan:

"Rate Design. The Signatory Parties agree not to file new or updated class cost of service studies or to propose changes to rate structures in Rate Filing #2." See Stipulation, Section III(B)(3)(b)(iv) at p. 35.

KCPL believes that any change to the rates that will cause customers to re-evaluate the rate they have chosen represents a rate structure change. It is the Company's opinion that anything other than an equal shift in rates uniformly to all classes does not comply with the provisions of the Stipulation. See Rush Rebuttal Testimony at 2. The Office of the Public

Counsel also concurs with this position. See Meisenheimer Rebuttal Testimony at 3-6; Trippensee Rebuttal Testimony at 1-7.

While Staff and DOE have advocated various inter-class shifts in revenues, KCPL believes that such proposals are inconsistent with the Stipulation and should be rejected by the Commission. A proposed class revenue shift, as suggested by Staff or DOE, will require addressing all customers that may potentially shift between classes. The revenue shortfall as a result of the shifts will need to be reflected in the overall rates established in this case.

KCPL believes that rate design and class cost of service (“COS”) studies were specifically excluded from this case because it would not be in the best interest of customers and the Company to keep making changes in rate design and shifting revenues between classes during the series of rate cases contemplated by the Stipulation. The 2006 Rate Case (No. ER-2006-0314) which just concluded with rates going into effect in January 2007, reflected numerous rate design changes and class cost of service changes. KCPL believes it would be in the customers’ best interest to address rate design and class cost of service after the Iatan 2 plant comes on line in 2010.

Mr. Gary C. Price, on behalf of DOE, recommends that the changes in class COS to achieve a levelized rate of return be implemented over the next three rate cases. He presented testimony based on his class COS study and recommended changes to rates both in this case and in future cases. As explained by KCPL witness Rush, his proposal would cause significant problems in implementation as it would require ongoing evaluation and adjustment to achieve the proposed levels. The impacts from Mr. Price’s proposal would not be limited to this case, but would affect all of the remaining rate cases anticipated by the Stipulation.

KCPL respectfully requests that the Commission maintain the *status quo* in this case, as contemplated by the Stipulation, and approve any increase in revenues on an equal percentage basis.

- a. If so, should any inter-class revenue shifts be implemented in this case?

KCPL opposes such shifts, for the reasons stated above.

22. Large Power Service Rate Design: Does the Stipulation and Agreement incorporating the KCPL Experimental Regulatory Plan that the Commission approved in Case No. EO-2005-0329 allow the signatories to the Stipulation and Agreement to make rate design modifications within the Large Power Service Rate schedule?

No. As stated in its position on Issue 21, KCPL does not believe that the signatories to the Stipulation may propose rate design modifications within the Large Power Service rate schedule.

In this proceeding, Mr. Maurice Brubaker, on behalf of Ford Motor Company and Praxair, Inc., has recommended realignment of the Large Power Service (LPS) Rate by reducing revenues collected under the energy charge and, correspondingly, increasing revenues collected through the demand charge. Essentially, his proposal is to decrease the per Kwh energy rate by one (1) cent and to increase the demand charge by the resulting revenue reduction. This has the effect of increasing the demand charges over 100% to compensate for the reduction in the energy rates. Since Ford and Praxair were signatories to the Stipulation. KCPL does not believe that Mr. Brubaker's proposal is consistent with the agreements in that case.

As explained by KCPL witness Tim Rush, Mr. Brubaker's proposal will benefit the highest load factor customers in this class, while increasing the cost above the average for the lower load factor customers in the class. Mr. Brubaker's proposal requires additional adjustment because many of the customers on this rate will now be better off moving to the large general service class and the Company will not collect all the revenues as a result of this shift. In order

to correct for this shift in revenues between classes, an adjustment is needed to correct for the deficiency. The general results of this recommended change will result in an increase to some customers up to about 6.37% and decrease others up to 9.06%. These shifts are before reflecting any change in rates due to the increase requested by the Company. See Rush Rebuttal Testimony at 2-4.

- a. If so, what are the appropriate demand and energy charges for the Large Power Service rate class?

KCPL opposes any changes in these charges, for the reasons noted above.

23. General Service All-Electric Tariffs and General Service Separately-Metered Space-Heating Tariff Provisions:

- a. Should KCPL's General Service All-Electric tariff rates and Separately-Metered Space Heating rates be increased more (*i.e.*, by a greater percentage) than KCPL's corresponding standard general application rates and, if so, by how much more?

No. The Company in the last rate case did, in fact, increase the Space Heating rates by 5% above the system average increase. No further adjustments should be made until a COS study is completed.

- b. Should KCPL's General Service All-Electric tariffs and Separately-Metered Space Heating rates be phased-out and, if so, over what period?

No. The Company opposes the recommendations of both Trigen and Staff to begin phasing-out the All-Electric tariffs and Separately-Metered Space Heating rates. Such dramatic changes in rate structure for these customers would clearly be inconsistent with the terms and conditions of the Stipulation's Regulatory Plan where the parties agreed: "Rate Design: The Signatory Parties agree not to file new or updated class COS studies or to propose changes to rate structures in Rate Filing #2." See Stipulation, Section III(B)(3)(b)(iv) at 35.

Additionally, KCPL believes that Trigen is recommending this proposal to further its own narrow economic interests by limiting, modifying or discontinuing the All-Electric and

Separately-Metered Space Heating rates. As the Company continues to point out, a rate design and class COS study should be conducted before any further modifications are made to these rates. The Commission's decision in the 2006 Rate Case and the agreement by the parties to increase these rates more than the standard comparable rate was a reasonable step to address their concerns until a cost study is completed. No further steps are necessary or reasonable in this case.

As the Commission's decision in the 2006 Rate Case noted, KCPL's General Service rate design has been in place for many years with the approval of the Commission. KCPL participated in an extensive class COS study and rate design case in 1996. At that time, rates were established based on that study, and rate design changes were made that changed the overall price structure. Trigen also "agree[d] to support and endorse before the Commission the Stipulation and Agreement filed by the signatory parties on May 29, 1996" which implemented the current rate structure. See Rush Rebuttal Testimony at 10.

c. Should the availability of KCPL's general service all-electric tariffs and separately-metered space heating rates be restricted to those qualifying customers commercial and industrial physical locations being served under such all-electric tariffs or separately-metered space heating rates as of the date used for the billing determinants used in this case (or as an alternative, the operation of law date of this case) and should such rates only be available to such customers for so long as they continuously remain on that rate schedule (*i.e.*, the all-electric or separately-metered space heating rate schedule they are on as of such date)?

No. Trigen recommends to restrict existing customers of KCPL who qualify for the rate at a location other than the physical location at the time of the true-up. This issue was addressed in the 2006 Rate Case, and the Commission ruled against Trigen. Although Trigen is appealing the Commission's decision on this issue, it has not yet been ruled on by the Cole County Circuit Court. KCPL disagrees with Trigen's position and believes that this issue should be addressed in the context of an overall study as recommended by the Company.

One of the most significant effects of Trigen's proposal is the likely increase in rates for all other customers that would result if Trigen's position is adopted. By limiting, restricting, or curtailing the applications of electric heating, customers will likely turn to natural gas or steam heating. This will result in a reduction of electricity usage in off-peak periods and ultimately increased rates to cover the fixed investments previously being recovered by those customers. The electric heating rates were originally designed to encourage customers to use electric heat and to consume electricity during off-peak periods. Originally, electric heating rates provided sharp discounts, but recovered variable costs and made a contribution to the fixed costs of the Company. This is still true, except that electric heating rates today are no longer as sharply discounted, and these rates now make a significant contribution to the fixed costs of the Company.

KCPL believes that the efforts by Trigen and Staff to restrict the availability of the all-electric and separately-metered space heating rates are premature and totally unsupported. Their recommendations are not based on class COS studies or studies directed at the specific design of the separately-metered space heating and all electric rates. It appears that both Trigen and Staff are trying to undo the rate design that was implemented in 1996 and which both Staff and Trigen supported at that time.

d.

(i) Should the Commission require KCPL, as soon as possible but not later than its next rate case, to present complete cost of service and/or cost-effectiveness studies and analyses of KCPL's general service all-electric tariffs and separately-metered space heating rates and, consistent with the findings of such studies and analyses, allow KCPL the opportunity at that time to present its preferred phase-out plan for the remaining commercial and industrial customers served under the all-electric tariffs and separately-metered space heating rates?

No. This issue is clearly addressed by the Regulatory Plan approved by the Commission. As signatories to the 2005 Stipulation, KCPL, Staff, Public Counsel, and other parties to that case have already agreed as follows:

“The Signatory Parties agree not to file new or updated class cost of service studies or to propose changes to rate structures in Rate Filing #3.” See Stipulation, Section III(B)(3)(c)(iv) at 39.

In the 2006 Rate Case the Commission ruled in favor of KCPL on this issue, and ordered that none of the changes suggested by Trigen be implemented. The Company continues to support the Commission’s decision, and believes that the time to conduct the cost studies is at the conclusion of the last rate case anticipated by the Regulatory Plan, when Iatan 2 comes on-line. KCPL believes that any cost studies concerning the all-electric tariff and the separately-metered space heating rates should be part of a larger comprehensive rate design study. This should occur after Iatan 2 is included in rates.

(ii) In the event that KCPL does not file such cost of service and/or cost-effectiveness studies before or as part of its next rate case, should the Commission require KCPL to impute the revenues associated with the discounted rates in the all-electric general service tariffs and separately-metered space heating provisions of its tariffs and impute revenues equal to KCPL’s cost of administering these discounted rates as part of its next rate case?

With regard to the “imputation of revenues” recommendation, the Company does not understand Trigen’s recommendation, but opposes imputing revenues for these classes. The all-electric and space heating rates have been approved by this Commission. It would be improper and unlawful for the Commission to require the Company to impute a higher rate for these services than the rate that has been lawfully approved by the Commission.

e. Should the Commission require KCPL to (a) investigate and determine whether the commercial and industrial customers currently served under the general service all-electric tariffs and the separately-metered space heating provisions of the standard General Service tariffs continue to meet the eligibility requirements for those discounted rates; (b) remove from the discounted rates

those customers which KCPL's investigation determines are no longer eligible for such discounted rates; and (c) monitor and police the eligibility requirements of those customers receiving such discounted rates for reporting in KCPL's direct testimony in its next rate case filing?

Such "eligibility investigations" are currently addressed through the internal processes of the Company for placing customers on the appropriate rates. KCPL believes that it has adopted the appropriate procedures and safeguards for correctly placing customers on the appropriate rates. No such further study is warranted.

f. Should the Commission approve KCPL's proposal to rename its General Service "All-Electric" tariffs as "Space Heating" tariffs?

Yes. KCPL believes that it would be appropriate to rename its General Service "All-Electric" tariffs as "Space Heating" Tariffs.

E. KCPL Experimental Regulatory Plan Additional Amortizations

24. What, if any, Additional Amortizations are required by KCPL's Experimental Regulatory Plan approved by the Commission in Case NO. EO-2005-0329?

The determination of how much, if any, Additional Amortizations should be approved by the Commission is dependent upon its decisions on other issues. As KCPL witness Michael Cline has explained, the amount of Additional Amortizations is the sum which must be added to KCPL's cost of service in a rate case when the projected cash flows resulting from its Missouri jurisdictional operations, as determined by the Commission, fail to meet or exceed the Missouri jurisdictional portion of the low end of the top third of the BBB range shown in Schedule MWC-1 for the FFO (Funds from Operations) Interest Coverage and FFO as a Percentage of Average Total Debt ratios published in Standard & Poor's Financial Guidelines. See Cline Direct Testimony at 5-6.

In the 2006 Rate Case, approximately \$21.7 million in Additional Amortizations were approved. In its initial case, KCPL had estimated that approximately \$9.2 million would be needed to achieve the ratios noted above. See Cline Direct Testimony at 7.

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, this 25th day of September, 2007, to all counsel of record.

/s/ James M. Fischer
James M. Fischer