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Witness:	Darrin R. Ives
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Sponsoring Party:	KCP&L Greater Missouri Operations Company
Case No.:	EC-2019-0200
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MISSOURI PUBLIC SERVICE COMMISSION

CASE NO.: EC-2019-0200

CORRECTED
REBUTTAL TESTIMONY

OF

DARRIN R. IVES

ON BEHALF OF

KCP&L GREATER MISSOURI OPERATIONS COMPANY

Kansas City, Missouri
May 2019

CORRECTED
REBUTTAL TESTIMONY

OF

DARRIN R. IVES
Case No. EC-2019-0200

Q: Please state your name and business address.

A: My name is Darrin R. Ives. My business address is 1200 Main, Kansas City, Missouri 64105.

Q: By whom and in what capacity are you employed?

A: I am employed by Kansas City Power & Light Company ("KCP&L") and serve as Vice President – Regulatory Affairs for KCP&L, KCP&L Greater Missouri Operations Company ("GMO" or "Company") and Westar Energy, Inc.

Q: On whose behalf are you testifying?

A: I am testifying on behalf of GMO.

Q: What are your responsibilities?

A: My responsibilities include oversight of the Company's Regulatory Affairs department, as well as all aspects of regulatory activities including cost of service, rate design, revenue requirements, regulatory reporting and tariff administration.

Q: Please describe your education, experience and employment history.

A: I graduated from Kansas State University in 1992 with a Bachelor of Science in Business Administration with majors in Accounting and Marketing. I received my Master of Business Administration degree from the University of Missouri-Kansas City in 2001. I am a Certified Public Accountant. From 1992 to 1996, I performed audit services for the public accounting firm Coopers & Lybrand L.L.P. I was first employed by KCP&L in

1996 and held positions of progressive responsibility in Accounting Services and was named Assistant Controller in 2007. I served as Assistant Controller until I was named Senior Director – Regulatory Affairs in April 2011. I have held my current position as Vice President – Regulatory Affairs since August 2013.

Q: Have you previously testified in a proceeding at the Missouri Public Service Commission ("MPSC" or "Commission") or before any other utility regulatory agency?

A: Yes, I have testified before the Commission and the Kansas Corporation Commission ("KCC"). I have also provided written testimony to the Federal Energy Regulatory Commission and testified before Missouri and Kansas legislative committees.

I. PURPOSE OF TESTIMONY

Q: What is the purpose of your rebuttal testimony and how is it organized?

A: My rebuttal testimony is organized as follows and serves the following purposes:

- In **Section II**, I introduce the witnesses who will provide rebuttal testimony on behalf of GMO in this proceeding;
- In **Section III**, I rebut portions of the direct testimonies of Robert E. Schallenberg of OPC and Greg Meyer on behalf of MECG which purport to characterize the retirement of Sibley as "extraordinary" under General Instruction 7 of the Uniform System of Accounts ("USOA");
- In **Section IV**, I explain my understanding of the accounting authority order ("AAO") that the Office of the Public Counsel ("OPC") and Midwest Energy Consumers Group ("MECG") have asked the Commission to

impose on GMO in connection with the retirement of the Sibley Generating Station;

- In **Section V**, I rebut the direct testimony of OPC witness Schallenberg characterizing the retirement of Sibley as premature and describe how, in any event, characterizing Sibley's retirement as premature would not justify imposition of an AAO to defer Sibley return and non-fuel operating and maintenance ("NFOM") expense;
- In **Section VI**, I describe how the rationale of OPC and MECG for the AAO they request is not that the retirement of Sibley is extraordinary but, rather, that OPC and MECG regard the AAO as necessary to remedy apparent concerns that GMO's earnings will become excessive due to the Sibley retirement. I will then explain how the OPC and MECG request is inconsistent with Commission precedent and ratemaking practice, and violates the Commission's October 31, 2018 Order Approving Stipulations and Agreements in Case Nos. ER-2018-0145 and ER-2018-0146 (GMO);
- In **Section VII**, I refute the direct testimony of OPC and MECG suggesting that fairness requires the imposition of an AAO in connection with the Sibley retirement given that the Commission has previously approved AAOs in connection with construction and renovation of generation facilities; and
- In **Section VIII**, I explain why the Commission's approval, in Case No. ER-2018-0146, of deferred accounting for depreciation expense for Sibley since

its retirement is reasonable and why imposition of an AAO to defer return and NFOM expenses for Sibley since its retirement is not reasonable.

II. INTRODUCTION OF GMO'S REBUTTAL WITNESSES

Q: Who will provide rebuttal testimony on behalf of GMO in this proceeding?

A: In addition to the testimony I am sponsoring, the following individuals are providing rebuttal testimony on behalf of GMO:

Ronald A. Klote: Mr. Klote will testify on a variety of accounting matters related to the AAO requested by OPC and MECG. In particular, he will explain (1) how the relief OPC and MECG have requested has not been articulated with sufficient clarity for GMO to appropriately and accurately identify and record deferral accounting entries; (2) how OPC and MECG have calculated the impact of the Sibley retirement on GMO's net income on an inaccurate and overstated basis; (3) that the AAO requested by OPC and MECG should be rejected because it ignores cost increases GMO is experiencing since its last rate order and fails to recognize GMO's consistent historical inability to achieve its Commission-authorized return on equity; and (4) certain differences between generally accepted accounting principles ("GAAP") which govern the preparation of financial accounting statements filed with the Securities and Exchange Commission ("SEC") and requirements of the Uniform System of Accounts ("USOA") of the Federal Energy Regulatory Commission ("FERC") which have been adopted by Commission rule for use in Missouri (4 CSR 240-20.030) and the setting of retail rates by this Commission and, in so explaining, refute OPC witness Schallenberg's testimony suggesting that GMO has established a regulatory asset, for ratemaking purposes, of approximately $160 million in connection with Sibley's retirement.

Christopher R. Rogers: Mr. Rogers will testify about experience of utilities across the country with respect to retirement of coal and other fossil fuel generating plants, and how such retirements have become prevalent and commonplace over the last ten to 20 years and are not extraordinary events.

John Spanos: Mr. Spanos will present the appropriate net book value to place on Sibley as of June 30, 2018, and will testify that the Sibley retirement is not an extraordinary retirement and that the retirement of generating facilities with undepreciated value remaining is a common occurrence.

III. SIBLEY RETIREMENT DOES NOT GIVE RISE TO EXTRAORDINARY ITEMS

Q: Have you previously testified in proceedings before the Commission regarding the appropriate use of deferral accounting similar to the AAO requested by OPC and MECG?

A: Yes. I provided testimony in Case No. EU-2014-0077, a request by KCP&L for Commission authority to defer transmission costs (net of transmission revenues) paid to (or received from) the Southwest Power Pool ("SPP"). I also provided testimony in Case No. ER-2014-0370, a KCP&L general rate proceeding, in support of Commission approval of riders or trackers for SPP transmission costs (net of SPP transmission revenues), property taxes and critical infrastructure protection and cyber-security ("CIP/cyber") costs. As a result, I have a thorough and current understanding of the analysis undertaken by the Commission to determine whether the use of deferral accounting under an AAO is warranted.

Q: What is your understanding of the analysis undertaken by the Commission to determine whether use of deferral accounting under an AAO is warranted?

A: In its order in EU-2014-0077, the Commission stated

> An AAO allows the "deferral" in the booking of a current expense to a utility's balance sheet as an asset. The cost is booked by a utility based upon the possibility that a regulatory authority will agree to allow recovery of the cost in a future rate case. This allows costs to be recorded in a period other than that in which they were actually incurred. An AAO gives a utility the opportunity to obtain future rate recovery of extraordinary costs, even if those costs were not actually incurred within an ordered test year for a general rate proceeding.[1]

In evaluating requests for an AAO, the Commission has historically applied the criteria as outlined for "extraordinary items" in USOA General Instruction No. 7. The Commission has stated that "the USOA allows for deferral of

"extraordinary items" which are defined by General Instruction No. 7 which it quoted:

> Those items related to the effects of events and transactions which have occurred during the current period and which are of unusual nature and infrequent occurrence shall be considered extraordinary items. Accordingly, they will be events and transactions of significant effect which are abnormal and significantly different from the ordinary and typical activities of the company, and which would not reasonably be expected to recur in the foreseeable future.[2]

In that very same order from KCP&L's 2014 rate case the Commission also made the following findings on the topic of deferral accounting and ratemaking in Missouri:

> 114. In Missouri, rates are usually established based upon a historical test year where the company's expenses and the rate base necessary to produce the revenue requirement are synchronized. The deferral of costs from a prior period results in costs associated with the production of revenues in one period being charged against the revenues in a different period, which violates the "matching principle" required by

[1] See Report and Order, p. 7, para. 9, Case No. EU-2014-0077 (July 30, 2014)
[2] See Report and Order at p. 52 & n.178, Case No. ER-2014-0370, In re Kansas City Power & Light Co. (Sept. 2, 2015).

> Generally Accepted Accounting Principles (GAAP) and the Uniform System of Accounts approved by the Commission. The matching principle is a fundamental concept of accrual basis accounting, which provides that in measuring net income for an accounting period, the costs incurred in that period should be matched against the revenue generated in the same period. Such matching creates consistency in income statements and balance sheets by preventing distortions of financial statements which present an unfair representation of the financial position of the business. One type of deferral accounting, a "tracker", has the effect of either increasing or decreasing a utility's earnings for a prior period by increasing or decreasing revenues in future periods, which violates the matching principle.
>
> 115. A tracker is a rate mechanism under which the amount of a particular cost of service item actually incurred by a utility is tracked and compared to the amount of that item currently included in a utility's rate levels. Any over-recovery or under-recovery of the item in rates compared to the actual expenditures made by a utility is then booked to a regulatory asset or liability account and would be eligible to be included in the utility's rates in its next general rate proceeding through an amortization to expense.
>
> 116. The broad use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri.[3]

In that case, the Commission denied KCP&L's request to make use of deferral accounting for SPP transmission expenses, property taxes and CIP/cyber costs based on findings that such costs did not constitute extraordinary items because they were "normal, ordinary and recurring operation costs" that were "not abnormal or significantly different from the ordinary and typical activities of the company, so they are not extraordinary and, therefore, not subject to deferral under the USoA...."[4]

It is important to note that KCP&L appealed this aspect of the Commission's Report and Order in Case No. ER-2014-0370 to the Western District of the Missouri Court of Appeals. In affirming the Commission's decision to deny KCP&L's requests to use

[3] Id. at pp. 50-51 (emphasis supplied; footnotes omitted).
[4] Id., p. 54 (transmission expense); p. 56 (property taxes); and p. 58 (CIP/cyber).

deferral accounting, the Court deferred to the Commission, holding that it "will not second-guess the PSC's reasoned decision that only extraordinary items may qualify for deferral treatment."[5] In light of the recent nature of these decisions by the Commission and the Court of Appeals, as well as the fact that the Commission has subsequently applied the same analysis to other requests to make use of deferral accounting,[6] I am of the opinion that this analysis represents well-established, currently applicable and authoritative Commission policy on the topic.

Q: Has the Staff described the standard for AAOs that have been used by the Commission in past cases?

A: Yes. In File No. EU-2014-0077, Staff witness Mark Oligschlaeger, Manager of the Commission Staff's Auditing Unit, filed rebuttal testimony which stated in part:

> The most common example of AAOs in this jurisdiction are orders from the Commission allowing a company to defer on its books costs associated with "extraordinary events," such as natural disasters (or so-called "acts of God") or other extraordinary events involving utility infrastructure.
>
> * * *
>
> *Q. What standard has the Commission used to determine whether it should authorize a utility to deviate from normal USOA accounting rules?*
>
> A. Generally, the Commission in prior cases has stated that the standards for granting the authority to a utility to defer costs incurred outside of a test year as a regulatory asset are:
>
> > (1) that the costs pertain to an event that is extraordinary, unusual and unique, and not recurring; and
> >
> > (2) that the costs associated with the event are material.
>
> * * *

[5] Kansas City Power & Light Co. v. PSC, 509 S.W. 3d 757, 770 (Mo. App. W.D. 2016).
[6] Report and Order at 5-18, In re Spire Missouri, No. GU-2019-0011 (March 20, 2019); Report and Order at 4-21, In re Missouri-American Water Co., No. WU-2017-0351 (Dec. 20, 2017).

Q. What types of costs associated with extraordinary events has the Commission traditionally allowed utilities to defer through the AAO mechanism?

A. The Commission has most often granted utilities authority to defer incremental costs incurred to repair and restore the utilities' infrastructure from significant damage caused by floods, tornadoes and other wind storms, and ice storms; extraordinary mechanical failure not involving operator negligence; costs associated with Commission rules; and costs associated with completion of extraordinary capital projects.[7]

Q: OPC witness Schallenberg and MECG witness Meyer claim that the Sibley retirement gives rise to extraordinary items for a number of reasons. How do you respond?

A: In short, the claims made by OPC and MECG that Sibley's retirement is extraordinary are unsupportable, wrong and do not justify imposition of an AAO in connection with the Sibley retirement. I will address each claim in turn below.

a. The 5% of Net Income Test is not Case-Dispositive.

Q: OPC witness Schallenberg asserts that an AAO should be granted in connection with the Sibley retirement because he claims the impact exceeds 5% of GMO's net income.[8] How do you respond?

A: As mentioned earlier, I vigorously disagree with the impact to net income estimates of both OPC and MECG, and GMO witness Klote will refute those estimates in detail. Nevertheless, the Commission has made it clear that whether the 5% net income test is met

[7] See Rebuttal Testimony of Mark L. Oligschlaeger at 4, 6-7, In re Application of Kansas City Power & Light Co. and KCP&L Greater Mo. Operations Co. for an Accounting Auth. Order, No. EU-2014-0077 (Dec. 9, 2013).
[8] Schallenberg Direct, pp. 9-12.

is not case-dispositive that an item or event is extraordinary.[9] MECG witness Meyer acknowledges this in his direct testimony.[10]

Since the 5% net income test is not case-dispositive that the Sibley retirement is extraordinary or gives rise to extraordinary items, OPC witness Schallenberg's assertion that the AAO should be imposed because the 5% net income test has purportedly been met is wrong, inconsistent with clear and long-standing Commission precedent and provides no reasonable basis for the Commission to impose an AAO.

b. *The Fact that GMO has not Recently Retired Generating Units Does Not Mean the Sibley Retirement is Extraordinary or Gives Rise to Extraordinary Items.*

Q: According to OPC witness Schallenberg, the fact that GMO has not retired a generating unit in over 30 years makes the Sibley retirement extraordinary,[11] and MECG witness Meyer asserts that since a generating unit can only be retired once, all generating unit retirements, including the Sibley retirement, are extraordinary.[12] How do you respond?

A: These OPC and MECG claims are also wrong and inconsistent with Commission precedent. They ignore the fact that utilities retire generating assets every month and asset retirements are a normal activity in the electric utility business. Specifically to generating unit retirements, they also ignore the fact that Sibley's retirement was planned by GMO well in advance of its actual retirement and that GMO plans to retire another generating unit – Lake Road unit 4/6 – before the end of 2019 which makes the retirement of

[9] Re Missouri Public Service Co., 1 Mo.P.S.C.3d 200, 206 (December 20, 1991).
[10] Meyer Direct, p. 13, ll. 14-23
[11] Schallenberg Direct, pp. 12-13.
[12] Meyer Direct, pp. 8-9.

generating units a recurring event for GMO that is consistent with the experience of GMO's sibling utilities – KCP&L and Westar – as well as the industry as a whole.

Q: Why do you say that GMO's retirement of Sibley was planned?

A: On January 20, 2015, a press release was issued announcing that GMO would stop burning coal at Sibley units 1 and 2 by December 31, 2019. Subsequently, on June 2, 2017, a press release announced the planned retirement of five generating units, including Sibley units 1, 2 and 3 by December 31, 2018 and the planned retirement of a sixth unit (Lake Road 4/6) by December 31, 2019.

Q: Please explain the recurring nature of GMO plant retirements.

A: Like all other electric utilities, GMO retires all kinds of electric plant – including generation plant – from service on a monthly basis as equipment or facilities break, wear out or become obsolete for other reasons. These retirements may be large or small, but they occur – and continue to occur – on a regular basis. For example, over the five-year period from October 2013 through September 2018, GMO retired $90 million of generation plant. GMO's obligation and normal, recurring operating practice as a regulated public utility is to retire facilities as necessitated by the circumstances.

In the instance of Sibley, the retirement was driven by economics. According to the 20-year net present value of revenue requirement analysis conducted in accordance with the Commission's integrated resource planning ("IRP") rule (4 CSR 240-22.060), customers benefit from Sibley's retirement compared to keeping Sibley in-service and from GMO's ability to provide reliable service without Sibley. Given that GMO retires electric plant – including generation plant – on a regular basis, OPC and MECG's characterizations of the Sibley retirement as extraordinary are wrong.

Q: Do you have additional information that refutes the claims by OPC and MECG that the Sibley retirement is extraordinary?

A: Yes. Predecessor companies of GMO retired units in 1982 (Edmond Street) and 1987 (Ralph Green units 1 and 2). The Commission did not determine such retirements to be extraordinary or that such retirements warranted deferral accounting treatment. In fact, our research indicates that no party made any assertion that such retirements were extraordinary or that they warranted deferral accounting treatment.

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

OPC and MECG also neglect to mention that GMO has announced plans to retire Lake Road unit 4/6 before the end of 2019. GMO's retirement of this generating unit also resulted from the IRP process and its analysis, and was disclosed on June 2, 2017.

In addition, KCP&L retired Montrose unit 1 on April 16, 2016. The Commission did not determine that retirement to be extraordinary or that it warranted deferral accounting treatment. In fact, no party made any assertion that such retirement was extraordinary or that it warranted deferral accounting treatment.

Even more recently, KCP&L retired Montrose units 2 and 3, including common plant, on December 31, 2018. These retirements were driven by results from the IRP process also, and KCP&L's plan to retire these units on that date was announced on June 2, 2017 (which updated a prior retirement announcement of January 20, 2015). While KCP&L is deferring depreciation expense for Montrose units 2, 3 and common plant since

retirement in accordance with the Commission's Order Approving 2018 Rate Case Stipulations, a topic I address later in my testimony, no party made any assertion that such retirements were extraordinary or that they warranted deferral accounting treatment for the revenue and return on these assets or related NFOM costs.

As the foregoing facts clearly demonstrate, the claims by OPC and MECG that the Sibley retirement is an extraordinary event or gives rise to extraordinary items warranting deferral accounting treatment is wrong because generating unit retirements are planned and recurring events for GMO as they have occurred in the past and, in the case of GMO's Lake Road unit 4/6, are expected to recur in the future. Moreover, generating unit retirements in Missouri that have occurred in the past have not been found by the Commission to give rise to extraordinary items warranting deferral accounting treatment.

Q: Do you have additional information refuting the assertions by OPC witness Schallenberg and MECG witness Meyer that the Sibley retirement is extraordinary or gives rise to extraordinary items that warrant deferral accounting treatment?

A: Yes. The experience of GMO's newest sibling utility, Westar Energy, Inc., is also relevant for purposes of assessing whether the Sibley retirement is an extraordinary event or gives rise to extraordinary items. From 1949 through 2019 Westar (or its predecessor companies) retired 38 generating units, five of which were retired in 2018. Westar (or its predecessor companies) retired many more generating units before 1949 as well.

As can be readily observed through the data presented in the rebuttal testimony of GMO witness Rogers, carbon-based generating unit retirements by electric utilities across the country have become so prevalent as to be considered commonplace.

In light of Westar (and that of its predecessor companies) generating unit retirements as well as the prevalence of generating unit retirements by electric utilities across the country, as explained by GMO witness Rogers, GMO's retirement of Sibley cannot be considered as giving rise to extraordinary items warranting deferral accounting treatment.

Q: Are you aware of any decisions or orders by any utility regulatory bodies in the United States that have found the retirement of generating units by an electric utility to give rise to extraordinary items warranting deferral accounting treatment for return or NFOM related to the retired units?

A: No, I am not. Neither OPC witness Schallenberg nor MECG witness Meyer is aware of any such regulatory orders or decisions either.[13]

Q: Are you aware of any decisions or orders by any utility regulatory bodies in the United states that have rejected a request for deferral accounting treatment in connection with the retirement of a generating unit by an electric utility?

A: Yes. The Wisconsin Public Service Commission recently considered this issue, concluding that the retirement of a plant did not justify the imposition of deferred accounting measures requested by third parties and declined to open a docket. See Order at 3-4, In re Application Requesting Wis. Elec. Power Co. to Defer Net Savings Arising from Voluntary and Premature Retirement of Pleasant Prairie Power Plant, No. 6630-AF-100 (Wis. P.S.C., June 6, 2018) (attached as Schedule ~~DRI-2~~**DRI-4**). In this case the Citizens Utility Board of Wisconsin and two industrial user groups asked that the Wisconsin Commission order

[13] See OPC and MECG Data Request Responses attached hereto as Schedule DRI-1.

a deferral of net savings arising from the retirement of two coal-fired units at the Pleasant Prairie Power Plant by its owner Wisconsin Electric Power Co. ("WEPCO").

Declining to order the applicants' request, the Wisconsin Commission found that public utilities "routinely retire generating units between rate cases" and that the petitioners "have not cited any Commission decision where deferral accounting treatment has been authorized for the costs or any net savings associated with such retirements." The Wisconsin Commission's Order additionally concluded that because the retirement "was a business decision made by WEPCO which does not require prior Commission approval," it would not pursue the matter further.

Q: Do you have any concluding remarks in rebuttal to the claim by OPC that the Sibley retirement is extraordinary due to the fact that GMO has not retired a generating unit for more than 30 years and the claim by MECG witness Meyer that the Sibley retirement is extraordinary due to the fact that a generating unit can be retired only once?

A: Yes. These claims are wrong in that they ignore (1) the fact that retirements of electric plant – including generation plant – occur on a monthly basis for GMO and all other electric utilities; (2) the recurring nature of generating unit retirements as borne out by GMO's own experience, both in the past and the planned retirement of GMO's Lake Road unit 4/6 in 2019, and the experience of GMO's sibling utilities KCP&L and Westar as well as that of other electric utilities; (3) the fact that this Commission has never found the retirement of a generating unit to give rise to extraordinary items warranting deferral of related return and NFOM costs; and (4) the fact that, to my knowledge, no federal or state utility regulatory body in the United States has ordered deferral accounting treatment for return

and NFOM in connection with retirement of a generating unit. Under such circumstances, GMO's retirement of Sibley cannot fairly or reasonably be characterized as different from the Company's normal and typical activities or abnormal in any way and, as such, cannot be considered an extraordinary event and does not give rise to extraordinary items warranting deferral accounting treatment.

Q: Do you have a view of how the Commission should apply its prior application of extraordinary items in this proceeding?

A: In GMO and KCP&L's request for an AAO to defer transmission expenses in EU-2014-0077, I described the extraordinary nature of transmission expenses being incurred by the Company where I stated:

> *Q: Please explain how transmission costs currently impacting the Company meet the standards for deferral as proposed by the various parties.*
>
> A: Although the Company has always incurred transmission costs, and the Company obviously expects to continue to incur transmission costs in the foreseeable future, these costs are currently being impacted by ***an unprecedented build out in order to expand and enhance the Southwest Power Pool ("SPP") transmission network.*** This event taken in its entirety is in fact an extraordinary event and should be considered non-recurring.
>
> Historically, transmission costs have fluctuated due to load variations, both native and off-system. However, the Company is currently experiencing increasing costs for SPP's aggressive expansion of regional transmission upgrade projects that are materially impacting the Company's cost of service. This event, in and of itself, sets these costs apart from the "typical" transmission costs incurred in the past. In addition, the amounts the Company is currently being charged and projected to be charged in the future are material to the Company's financial statements as highlighted in my Direct Testimony. As such, ***based on the lack of previous occurrence, the historic convergence of factors that are driving the transmission expansion, and the fact that the increased level of spending is projected to level off after the completion of the build out, these costs easily meet the criteria of extraordinary, non-recurring and material in nature***.

The ***bold italicized*** emphasis in the paragraphs above sound very similar to arguments made by OPC and MECG regarding the Sibley retirement in their direct testimony in this proceeding.

In its order in EU-2014-0077, the Commission concluded:

> Companies began incurring transmission expenses when they began providing retail electric service and are expected to continue in the foreseeable future. Furthermore, while the transmission costs at issue may have a significant effect on the Companies, they are not "abnormal and significantly different from the ordinary and typical activities" of the Companies. The increase in transmission costs was anticipated and is indeed the norm for all electric utility members of SPP. Therefore, the transmission costs are not extraordinary.

Based upon the evidence presented by GMO in this proceeding, the only logical and reasonable conclusion by the Commission in this proceeding would be to follow its conclusion in EU-2014-0077 and conclude the following in this proceeding:

> GMO began incurring generating asset retirements when they began providing retail electric service and are expected to continue in the foreseeable future. Furthermore, while the Sibley retirement at issue may have a significant effect on the GMO, it is not "abnormal and significantly different from the ordinary and typical activities" of GMO. The Sibley retirement was anticipated and is indeed the norm for all electric utility companies across the country. Therefore, the Sibley retirement and any associated differences between costs to set rates and costs incurred are not extraordinary.

c. The Fact that the Retirement of Sibley Occurred before the End of its Projected Life Does Not Mean the Retirement is an Extraordinary Event or Gives Rise to Extraordinary Items.

Q: OPC witness Schallenberg claims that the Sibley retirement is extraordinary and warrants Commission imposition of deferral accounting because the retirement occurred before the end of Sibley's projected life.[14] How do you respond?

A: Electric utility plant, including generation plant, is retired from service for a variety of reasons, including being broken or worn out, or becoming obsolete from a technological or economic perspective. Such plant can be retired before, on, or after the end of its estimated depreciable (i.e., remaining) life, but it is much more common for electric plant to be retired before or after the end of its estimated depreciable life than it is for utility plant to be retired precisely at the end of its estimated depreciable life.

As discussed by GMO witness Spanos, it is a common occurrence under mass asset accounting for generating units to retire with undepreciated value remaining.[15] In the end, depreciation rates and the estimated depreciable lives upon which they are based rely on projections and estimates about future activity and usefulness. It is therefore impossible to know when an item of utility plant will be retired until that retirement actually occurs. To characterize a retirement as being extraordinary or giving rise to extraordinary items simply because that retirement occurs at a time different than the estimated depreciable life is both inaccurate and illogical because such retirements occur on a regular basis without regard to such estimates.

The Sibley retirement as assessed in GMO's IRP filings was driven by economic factors that make power from other sources more cost-effective than Sibley. Therefore,

[14] Schallenberg Direct, pp. 13-14.
[15] Spanos Rebuttal, p. 4.

Sibley's retirement provides benefits to customers compared to keeping Sibley in-service. Like unforeseen breakage or deterioration to an item of plant, economic factors affecting the cost of generation sources are subject to changes that cannot always be foreseen. Economic factors, such as the introduction of the SPP Integrated Marketplace and the recent decrease in the price of power generated by renewable resources, could not reasonably have been foreseen when Sibley was renovated in the 1990's or when depreciation rates and estimated depreciable lives have been set in rate cases prior to the observation of the previously mentioned economic factors which have only become apparent more recently. Ultimately, GMO retires facilities as necessitated by the circumstances, whether physical, economic, a combination thereof, or some other circumstance altogether. The fact that Sibley was retired before the end of its most recent estimated depreciable life is no basis to find that the retirement is extraordinary or gives rise to extraordinary items warranting deferral accounting treatment.

Q: OPC witness Schallenberg also suggests that the fact that OPC has previously raised concerns about risks associated with the retirement of Sibley is relevant to this proceeding.[16] How do you respond?

A: If OPC witness Schallenberg is suggesting that the prudence of GMO's decision to retire Sibley is relevant to the decision to be made by the Commission in this case, then I vigorously disagree. This case solely concerns whether the Sibley retirement is extraordinary or gives rise to extraordinary items warranting deferral accounting treatment and, if so, what items should be recorded to that regulatory liability. The prudence of

[16] Schallenberg Direct, p. 14.

GMO's decision to retire Sibley will be addressed, if at all, in a general rate proceeding or fuel adjustment clause ("FAC") prudence audit.

Q: Are you aware of any order or decision by this Commission finding that the retirement of a plant at a time different than the end of its estimated depreciable life – whether before or after – gave rise to extraordinary items warranting deferral accounting?

A: No.

d. The Fact that Sibley's Costs are Included in Base Rates although Sibley is Retired Does Not Mean the Retirement is Extraordinary or Gives Rise to Extraordinary Items.

Q: OPC witness Schallenberg asserts that because base rates include the retired Sibley units, the Sibley retirement gives rise to extraordinary items warranting deferral accounting treatment.[17] How do you respond?

A: I disagree. Whether particular items are or are not included in base rates has no bearing on whether the event giving rise to those items is considered extraordinary under the USOA and the analysis consistently used by the Commission to determine whether deferral accounting is appropriate. That analysis considers whether the event is unusual and infrequent, and whether it is abnormal and significantly different from the typical activities of the company. Whether particular items are included in base rates is informative of none of these factors.

Mr. Schallenberg appears to be suggesting that Missouri move to perfect real time ratemaking. That in order for a cost to be included in rates it must be currently incurred at the level recovered in rates. I presume this would also mean that if a cost is being incurred currently is must be recovered in rates currently. While this would be perfect matching of

[17] Schallenberg, p. 15.

costs incurrence and cost recovery, thus eliminating all effects of regulatory lag – which GMO has struggled with for many years causing its earned returns to be below its Commission authorized returns – this hypothetical scenario he paints is far from the regulatory construct employed in Missouri and across the country.

Moreover, the suggestion, implicit in this assertion by OPC witness Schallenberg, that GMO's base rates were established improperly, or are no longer appropriate, is also wrong. Base rates were set for GMO in Case No. ER-2018-0146 in accordance with the Commission's consistent and long-standing ratemaking practices which have long been upheld by reviewing courts. The true-up date in that case was June 30, 2018. Sibley was in-service on that date.[18] Consequently, Sibley costs were necessarily and appropriately included in GMO's revenue requirement and base rates.

GMO disclosed its plans to retire Sibley before the end of 2018,[19] so it was not a surprise when GMO retired Sibley before the end of 2018. Notably, OPC witness John Robinette offered prepared testimony in Case No. ER-2018-0146 disputing the appropriateness of including Sibley costs in rates based on GMO's plans to retire Sibley by the end of 2018.[20] Ultimately, GMO's most recent base rate case was resolved by the Commission's October 31, 2018 Order Approving Stipulations and Agreements which provided, among other things, for GMO to reduce base rates by $24 million.[21]

The fact that GMO's base rates include historical, test year costs for Sibley which was retired after the Commission issued its Order approving the 2018 Rate Case

[18] Ives Rebuttal, p. 2, ll. 10-13, Case Nos. ER-2018-0145 and -0146.
[19] See ~~Ex. A (Jan. 20, 2015 Media Release), Ex. B (June 2, 2017 Media Release), and *GMO Motion to Dismiss* filed in this docket Feb. 5, 2019; for ease of reference, the aforementioned documents are attached as~~ Schedules DRI-2~~,~~ **and** DRI-3~~, and DRI-4, respectively~~.
[20] Robinette Direct, p. 9, Rebuttal pp. 6-7, Surrebuttal, pp.8-11, Case Nos. ER-2018-0145 and -0146.
[21] Order Approving 2018 Rate Case Stipulations, p. 3, Case Nos. ER-2018-0145 and -0146, October 31, 2018.

Stipulations is no different, in terms of ratemaking practice or principle, from the situation after the Commission issued its order in KCP&L's 2014 Case, No. ER-2014-0370. After the Commission issued its decision rejecting deferral accounting treatment requested by KCP&L for SPP transmission costs, property taxes and CIP/cyber costs, certain of those cost items increased above the levels included by the Commission in base rates. KCP&L appealed that decision, but the Court of Appeals affirmed the Commission's determination that only extraordinary items may qualify for deferral treatment.[22] Fundamental fairness and equity require the same result to hold true here for GMO, and the deferral accounting treatment requested by OPC and MECG should be rejected.

IV. THE AAO REQUESTED BY OPC AND MECG

Q: Please explain your understanding of the nature of the AAO requested by OPC and MECG.

A: According to OPC witness Schallenberg, OPC requests an AAO "... to reflect all of the costs associated with the generation units at Kansas City Power & Light Greater Missouri Operations ("GMO")'s Sibley station that customers are currently paying in base rates to operate the station despite the fact that the station was effectively removed from service on November 13, 2018."[23] According to MECG witness Meyer, MECG seeks an AAO "... creating a regulatory liability to capture the capital and operating costs currently included in KCP&L Greater Missouri Operations Company's ("KCPL-GMO") rates following the retirement of the Sibley generating units."[24] Messrs. Schallenberg and Meyer base their AAO request on their characterization of the Sibley retirement as extraordinary and the

[22] Kansas City Power & Light Co. v. PSC, 509 S.W. 3d. 757, 770 (Mo. App. W.D. 2016).
[23] Schallenberg Direct, p. 2, ll. 17-20.
[24] Meyer Direct, p. 2, ll. 3-6.

fact that Sibley has been retired with Sibley costs included in rates. The claims and requests made by Messrs. Schallenberg and Meyer are inconsistent, vague and uncertain as more fully discussed by GMO witness Klote.

Q: As a general matter, how would Commission imposition of an AAO as requested by OPC and MECG affect GMO?

A: Setting aside the vagueness of the AAO requested by OPC and MECG and their overstated impact of the Sibley retirement on GMO's net income, both of which topics will be addressed in more detail by GMO witness Klote, the recording of amounts to a regulatory liability account would serve to reduce GMO's achieved earnings (i.e., net income) by the magnitude of the amounts so recorded. Although I vehemently disagree with the numbers presented in their testimony as their numbers are substantially overstated as more fully discussed in the rebuttal testimony of GMO witness Klote, I will use the estimates MECG and OPC included in their direct testimony for illustrative purposes. MECG witness Meyer posits what he characterizes as a "very conservative" estimate of the amount to be deferred of approximately $30 million.[25] OPC witness Schallenberg estimates the income effect of its deferral request to be over $39 million.[26] For context, the net income assumed to exist for GMO in the Staff's true-up revenue requirement in Case No. ER-2018-0146 was approximately $160 million. It needs to be fully understood that these are estimates of amounts that would be deferred each year until GMO is able to complete its next rate case which, under the requirements of Section 393.1655.2 RSMo., cannot occur before December 6, 2021. Multiplying MECG's estimate over this period of time results in

[25] Meyer Direct, p. 14, l. 11 through p. 15, l. 2.
[26] Schallenberg Direct, p. 11, l. 5. This figure was designated as Confidential in OPC witness Schallenberg's direct testimony. Upon further review, GMO has concluded that it need not be designated as Confidential.

deferral of approximately $90 million, and OPC's estimate, multiplied over the same period, results in a deferral of $117 million. To characterize these OPC and MECG estimated impacts as extremely significant and damaging to GMO would be an understatement.

Q: Why would such estimated impacts be so damaging?

A: Elimination of 20% or more of GMO's net income, as estimated in the rate setting process by Staff in GMO's 2018 rate case, for such an extended period of time as a result of a regulatory order is difficult to envision, but it could imperil GMO's ability to obtain capital on reasonable terms and, if so, could also compromise GMO's ability to continue providing safe and adequate service to customers. Furthermore, GMO's 2018 rate case was resolved through an agreed-upon rate reduction of $24 million[27] approved on October 31, 2018 with full disclosure by GMO that it planned to retire Sibley by the end of 2018.[28] If the OPC and MECG complaint, filed less than 60 days later, were to result in the Commission issuing an AAO, the investment community would likely question the fairness of Missouri regulation, potentially making it more difficult for other investor-owned utilities with Missouri operations to obtain capital on reasonable terms.

[27] See Order Approving Stipulations and Agreements, Case Nos. ER-2018-0145 and -0146, p. 2 (Oct. 31, 2018) (hereafter referred to as "2018 Rate Case Stipulations").
[28] See Ives Rebuttal, p. 3, Case Nos. ER-2018-0145 and -0146.

V. THE PREMISE OF OPC AND MECG'S REQUEST FOR AN AAO VIOLATES COMMISSION PRECEDENT, CONTRAVENES COMMISSION RATEMAKING PRACTICE, AND VIOLATES THE ORDER APPROVING THE 2018 RATE CASE STIPULATIONS.

Q: Do you have an opinion regarding the true rationale underlying the request of OPC and MECG to impose deferral accounting in connection with GMO's retirement of Sibley?

A: Yes. As shown in Section III above, it is clear that the Sibley retirement does not constitute an extraordinary event or give rise to extraordinary items warranting imposition of deferral accounting under the USOA and the standards consistently applied by the Commission. I believe that OPC witness Schallenberg and MECG witness Meyer fully understand this since the direct testimony of neither witness makes a compelling case for finding the Sibley retirement to be extraordinary. In fact, given the rate of retirement of fossil fuel generating units across the country over the past ten years as discussed in the rebuttal testimony of GMO witness Rogers, it would be unusual and significantly different from the ordinary and typical activities of a public utility company like GMO if it were not retiring fossil fuel generating units.

I believe the real reason why OPC witness Schallenberg and MECG witness Meyer are requesting an AAO in connection with the Sibley retirement is their dissatisfaction in this particular situation with the Commission's long-standing practice of setting prospective base rates using historical data and not making broad use of deferral accounting for cost of service items that may differ when rates are effective from the historical data used to set base rates. OPC witness Schallenberg makes this clear when he testifies that:

> The cost objective in this case is the aggregation of recovery of any of the financial impacts regarding the Sibley Generation Station

> Retirement to provide for consideration of cost over or under recovery in GMO's next general rate case.[29]

Similarly, MECG witness Meyer testifies that:

> . . . by deferring the savings associated with the retirement of Sibley until a future rate case, the Commission may consider both the cost side of the equation (the undepreciated investment) as well as the savings side of the equation (the return, O&M and other cost savings).[30]

In other words, OPC and MECG seek to capture, through deferral accounting under an AAO, cost reductions occurring after the historical period used to set rates which took effect in December 2018, and to use those reductions as an offset to revenue requirement in GMO's next base rate case. Rates from GMO's next base rate case cannot become effective before December 6, 2021,[31] but must become effective no later than December 6, 2022 for GMO to maintain its ability to use the FAC.[32]

Q: Are the reasons articulated by OPC and MECG for an AAO in connection with the Sibley retirement – that is, accounting for cost reductions occurring after a historical test period used to set prospective base rates in order to offset revenues in the next base rate case – consistent with Commission precedent?

A: No. This rationale upon which OPC and MECG rely for an AAO in this case is wholly inconsistent with the policy articulated by the Commission less than four years ago that

> [T]he broad use of trackers should be limited because they violate the matching principle, tend to unreasonably skew ratemaking results, and dull the incentives a utility has to operate efficiently and productively under the rate regulation approach employed in Missouri.[33]

[29] Schallenberg Direct, p. 3, ll. 14-16.
[30] Meyer Direct, p. 2, ll. 19-23.
[31] Section 393.1655.2 RSMo.
[32] 4 CSR 240-20.090(10).
[33] See Report and Order at p. 52, Case No. ER-2014-0370, In re Kansas City Power & Light Co., No. ER-2014-0370 (Sept. 2, 2015)

As noted above, the Commission's decision that only extraordinary items qualify for deferral treatment was upheld by the Court of Appeals in a unanimous decision.[34]

My understanding is that the policy of limited use of deferral accounting, as articulated by the Commission's decision in Case No. ER-2014-0370 and affirmed by the Court of Appeals, remains in force as it has been cited by the Commission in more recent decisions rejecting requests to make use of deferral accounting.[35]

Q: Have OPC or MECG made any showing that GMO's earnings are currently unreasonable or excessive?

A: No. Neither OPC nor MECG have attempted in any way to demonstrate that GMO's earnings are unreasonable or excessive. Absent a finding by the Commission based on competent and substantial evidence that GMO's earnings are unreasonable or excessive, the Commission should reject any request to take steps, such as the imposition of the AAO requested by OPC and MECG, that would reduce such earnings levels.

Q: When GMO entered into the settlement agreements approved by the Order Approving Stipulations and Agreements in Case Nos. ER-2018-0145 and -0146, did you have expectations regarding the level of earnings GMO would experience while the resulting rates were in effect?

A: Yes. As a general matter and not from a legal perspective, I understand that when the Commission sets rates for a utility, one of the goals is that those rates should provide the utility with a reasonable opportunity to earn its Commission-authorized earnings level. Although the revenue requirement settlements in those cases were "black box" as to return

[34] Kansas City Power & Light Co. v. PSC, 509 S.W. 3d 757, 770 (Mo. App. W.D. 2016).
[35] Report and Order, In re Spire Missouri, No. GU-2019-0011, pp. 5-18 (March 20, 2019); Report and Order, In re Missouri-American Water Co., No. WU-2017-0351, pp. 4-21 (Dec. 20, 2017).

on equity ("ROE"), the ROE positions presented in testimony did not vary greatly. GMO recommended an ROE of 9.85%[36] and Staff recommended an ROE of 9.85%.[37] MECG recommended an ROE of 9.3%.[38] Given these recommendations and the fact that utility earnings naturally vary over time, it is my opinion that sustainable GMO earnings between 8.35% to 11.35% should be considered reasonable and not excessive, absent a significant change in the capital markets.

Q: If the Commission imposed the AAO requested by OPC and MECG, would GMO have a reasonable opportunity to achieve its Commission-authorized earnings level?

A: No. That this is true can be objectively determined by observing the earnings levels shown in GMO's recent surveillance data as shown in the rebuttal testimony of GMO witness Klote. Reducing net income by $30 million (MECG's conservative estimate of the magnitude of the deferred regulatory liability for one year) would lower GMO's achieved earnings level for the 12-month period ending March 31, 2019 from 8.42% to 6.32% - well below a level I consider reasonable based on the ROE recommendations advanced in GMO's recent base rate case. Even more extreme, reducing net income by $39 million (OPC's estimate of the magnitude of the deferred regulatory liability for one year) would lower GMO's achieved earnings for that same period to 5.69%.

There is simply no basis in fact, law or policy for the Commission to grant the AAO requested by OPC and MECG. Doing so would eliminate any meaningful opportunity for GMO to reasonably achieve Commission authorized earnings while the rates established as a result of the Commission's Order Approving Stipulations and Agreements in Case

[36] Ives Direct, p. 11, l. 6, Case No. ER-2018-0146.
[37] Staff Cost of Service Report, p. 4, ll. 22-23, Case Nos. ER-2018-0145 and -0146.
[38] Gorman Direct, p. 2, ll. 15-16, Case No. ER-2018-0145 and -0146.

Nos. ER-2018-0145 and -0146 continue to be in effect. This would frustrate one of the fundamental objectives of that Commission rate order and thus would represent bad policy.

Q: In addition to seeking to impose bad policy that is inconsistent with a fundamental objective of Commission rate orders as described above, is the request by OPC and MECG inconsistent with any specific provision of the Commission's Order Approving the 2018 Rate Case Stipulations?

A: Yes. Paragraph 15 on page 9 of the first of the 2018 Rate Case Stipulations (referred to as the First Stipulation in the October 31, 2018 Order Approving Stipulations and Agreements) provides that:

> This Stipulation does not preclude any Signatory from proposing an accounting authority order ("AAO"), or any other ratemaking treatment for the recovery of any other costs associated with the KCP&L and GMO retirements listed above.[39] (emphasis supplied)

Contrary to this language, however, the complaint filed by OPC and MECG in this matter on December 28, 2018 requests

> . . . that the Commission order GMO to defer to a regulatory liability account all revenues associated with non-existent costs and return on Sibley investments associated with GMO's Sibley generation units 1, 2, 3 and common plant that were included in the revenue requirement used to set rates.[40]

Even though the vague AAO descriptions in the direct testimonies of OPC witness Schallenberg and MECG witness Meyer use words like "costs" and "savings" instead of "revenues," it seems clear that the fundamental basis of their request is that they believe GMO's revenues are or will become excessive. It is those excess revenues that they ask the Commission to order GMO to defer. But the language in the First 2018 Rate Case

[39] Order Approving Rate Case Stipulations, First Stipulation, para. 15, p. 9 Case Nos. ER-2018-0145 and -0146, October 31, 2018

[40] Petition for an Accounting Authority Order, para. 15, p. 4, filed December 28, 2018. (emphasis supplied)

Stipulation approved by the Commission does not refer to revenues, and OPC and MECG should not be permitted to re-write that language in this AAO proceeding. The fact that OPC was not a "signatory" to the First Stipulation is irrelevant as it was approved by the Commission and is binding.

VI. DEFERRAL OF SIBLEY DEPRECIATION EXPENSE AS REQUIRED BY THE COMMISSION'S ORDER APPROVING THE 2018 RATE CASE STIPULATIONS IS REASONABLE AND PROVIDES NO BASIS TO GRANT AN AAO WITH RESPECT TO SIBLEY RETURN OR NFOM COSTS.

Q: The Commission's Order Approving the 2018 Rate Case Stipulations requires GMO to defer to a regulatory liability account depreciation expense associated with Sibley upon its retirement.[41] Why was this agreed to by GMO and parties?

A: GMO agreed to defer Sibley depreciation expense in the context of a comprehensive settlement agreement that resolved all issues in that rate case which considered all relevant factors. Consequently, this deferral was fully contemplated by all parties in assessing the earnings likely resulting from the Commission's Order Approving Stipulations and Agreements in Case No. ER-2018-0146. Moreover, the level of depreciation expense included in rates for Sibley is readily identifiable. In contrast, the deferral OPC and MECG seek is difficult if not impossible to quantify for many reasons, including the absence of an agreed-upon baseline in the revenue requirement settlement of GMO's most recent general rate case.

Q: Considering this agreement, why is the OPC and MECG AAO request in this complaint unreasonable and not agreeable to GMO?

A: In contrast, OPC and MECG seek to defer revenues associated with investment return and NFOM costs which are difficult to quantify because, as explained by GMO witness Klote,

[41] See, *Order Approving Stipulations and Agreements*, p. 9, Docket No. ER-2018-0146, issued October 31, 2018.

there was no agreed-upon baseline level of Sibley-related costs in the various settlement agreements approved by the Commission in its Order Approving 2018 Rate Case Stipulations, the savings OPC and MECG seek to defer are difficult or impossible to quantify in isolation, and OPC and MECG ignore other relevant countervailing factors. Also, as can be seen by comparing OPC's estimate of Sibley's remaining undepreciated value ($160 million) to MECG's estimate ($300 million), to the estimate provided by GMO witness Spanos ($145.7 million before any reduction necessary due to the impact of accumulated deferred income taxes) there is not a common understanding of the return value for Sibley included in base rates. The deferral of revenues associated with return and NFOM for Sibley that OPC and MECG seek was not contemplated by GMO, and should not have reasonably been contemplated by other parties, in assessing the level of GMO's earnings likely to prevail while the rates flowing from the Commission's Order Approving Stipulations and Agreements in Case Nos. ER-2018-0145 and -0146 would be in effect. Using the estimates for the magnitude of the deferrals set forth in direct testimony by OPC and MECG, Commission imposition of the AAO they request would reduce GMO's earnings considerably below levels I contemplated, or that any other party could reasonably have contemplated, during settlement negotiations.

In the end, substantial differences exist between the deferral of depreciation expense for a retired facility and the deferral of revenues associated with investment return and NFOM costs for that facility.

VII. SUMMARY OF PRINCIPAL CONCLUSIONS

Q: Please summarize your principal conclusions.

A: The Sibley retirement is not an extraordinary event and does not give rise to extraordinary items for numerous reasons.

Retirement of generating assets is a recurring event happening virtually every day in the normal operations of a public utility. Similarly, generating units have previously been retired by corporate predecessors of GMO, GMO planned the Sibley retirement years in advance and GMO plans to retire another generating unit this year. In addition, GMO's sibling utilities have also retired a number of generating units recently. Moreover, the retirement of Sibley is consistent with the pattern of fossil fuel generating unit retirement occurring across the country which, as detailed in the rebuttal testimony of GMO witness Rogers, has become a commonplace or routine event for electric utilities. In fact, in the utility industry today, as demonstrated by the testimony of Mr. Rogers, it would be more extraordinary if GMO were not retiring fossil fuel-fired generating units.

Granting the AAO requested by OPC and MECG would violate Commission precedent that broad use of deferral accounting should be limited and contravene Commission ratemaking practice that establishes prospective rates on the basis of historical data.

In light of the failure by OPC and MECG to establish that the Sibley retirement is an extraordinary event or gives rise to extraordinary items and the inconsistency of the AAO requested by OPC and MECG with Commission precedent, policy and ratemaking practice, there is no reasonable basis for the Commission to approve an AAO for revenue deferral in connection with the Sibley retirement.

Q: Does that conclude your testimony?

A: Yes, it does.

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

AFFIDAVIT OF DARRIN R. IVES

STATE OF MISSOURI)
) ss
COUNTY OF JACKSON)

Darrin R. Ives, being first duly sworn on his oath, states:

1. My name is Darrin R. Ives. I work in Kansas City, Missouri, and I am employed by Kansas City Power & Light Company as Vice President – Regulatory Affairs.

2. Attached hereto and made a part hereof for all purposes is my Corrected Rebuttal Testimony on behalf of KCP&L Greater Missouri Operations Company consisting of thirty-three (33) pages, having been prepared in written form for introduction into evidence in the above-captioned docket.

3. I have knowledge of the matters set forth therein. I hereby swear and affirm that my answers contained in the attached testimony to the questions therein propounded, including any attachments thereto, are true and accurate to the best of my knowledge, information and belief.

Darrin R. Ives

Subscribed and sworn before me this 24th day of May 2019.

Notary Public

My commission expires: 4/26/2021

ANTHONY R WESTENKIRCHNER
Notary Public, Notary Seal
State of Missouri
Platte County
Commission # 17279952
My Commission Expires April 26, 2021

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

KCPL-1

1. a. Is Mr. Meyer aware of any order or decision by any federal or state utility regulatory body in the United States granting or denying a request to establish regulatory accounting for the purpose of deferring capital costs (i.e., return on investment) and non-fuel operating, and maintenance expenses included in rates for a generating unit (or units) retired by the utility? b. If so, please identify and provide all such orders.

RESPONSE: Mr. Meyer has not conducted any review of the regulatory treatment implemented by other utility regulatory bodies regarding the ratemaking for retired generating units. As such, he is not aware as to whether other utility regulatory bodies have granted or denied deferral of capital costs or O&M expenses.

KCPL-2

1. a. Is Mr. Meyer aware of any order or decision by any federal or state utility regulatory body in the United States finding that the retirement of a generating facility was an extraordinary event under the Uniform System of Accounts? b. If so, please identify and provide all such orders.

RESPONSE: Mr. Meyer has not conducted any review of whether other utility regulatory bodies have found the retirement of a generating unit to be an extraordinary event.

INFORMATION REQUEST

Company Name: Kansas City Power & Light Greater Missouri Operations

Case: EC-2019-0200

Requested By: Rob Hack

Requested From: Nathan Williams

Date Requested: 4/26/2019

Date Response Needed: 5/16/2019

Question No. : KCPL-3

1. a. Is Mr. Schallenberg aware of any order or decision by any federal or state utility regulatory body in the United States granting or denying a request to establish regulatory accounting for the purpose of deferring capital costs (i.e., return on investment) and non-fuel operating and maintenance expenses included in rates for a generating unit (or units) retired by the utility?
   b. If so, please identify and provide all such orders.

RESPONSE:

No. Mr. Schallenberg is not aware of any order or decision by any federal or state utility regulatory body in the United States granting or denying a request to establish regulatory accounting for the purpose of deferring capital costs (i.e., return on investment) and non-fuel operating and maintenance expenses included in rates for a generating unit (or units) retired by an utility.

INFORMATION REQUEST

Company Name: Kansas City Power & Light-Greater Missouri Operations

Case: EC-2019-0200

Requested By: Rob Hack

Requested From: Nathan Williams

Date Requested: 4/26/2019

Date Response Needed: 5/16/2019

Question No. : KCPL-4

1. a. Is Mr. Schallenberg aware of any order or decision by any federal or state utility regulatory body in the United States finding that the retirement of a generating facility was an extraordinary event under the Uniform System of Accounts?
   b. If so, please identify and provide all such orders.

RESPONSE:

No. Mr. Schallenberg is not aware of any order or decision by any federal or state utility regulatory body in the United States that found and rejected consideration of the retirement of a generating facility as an extraordinary event under the Uniform System of Accounts.

KCP&L Announces Plans to Cease Burning Coal at Three Power Plants

1/20/2015

MEDIA CONTACT:
KCP&L 24-Hour Media Hotline
(816) 392-9455

KCP&L FURTHERS SUSTAINABILITY COMMITMENT BY ANNOUNCING PLANS TO CEASE BURNING COAL AT THREE POWER PLANTS

KANSAS CITY, Mo. (January 20, 2015) — Kansas City Power & Light Company (KCP&L) announced today that in the coming years it will no longer burn coal at three of its coal-fired power plants, Montrose Station, one of its units at Lake Road Station and two of its units at Sibley Station. This announcement furthers the company's commitment to a sustainable energy future and balanced generation portfolio. Lake Road's boiler already has the ability to burn natural gas and the company plans to operate on natural gas once it ceases coal combustion. In the coming years, KCP&L will make final decisions regarding whether to retire the units at Montrose and Sibley, or convert them to an alternative fuel source.

"After evaluating options for future environmental regulation compliance, ending coal use at these plants is the most cost effective and cleanest option for our customers," said Terry Bassham, President and CEO of Great Plains Energy and KCP&L. *"By retiring or converting more than 700 megawatts of coal-fired generation, we'll take an even bigger step toward reducing emissions and improving the air quality in our region."*

The decision comes in part as a result from recent Environmental Protection Agency (EPA) regulations, which would require KCP&L to make significant environmental upgrades in the coming years in order to continue burning coal at these power plants. While retrofitting our largest, newer coal-fired power plants was the most cost-effective way to comply with environmental regulations, the same cannot be said for the older, smaller units at Montrose, Lake Road and Sibley. Retiring or converting the units at Montrose, Lake Road and Sibley will be a more cost-effective way to meet environmental regulations.

Timeline for Coal Cessation:

Generating Unit:	Capacity:	In-Service Year:	Cease Coal Burning By:
Lake Road 6	96 MW	1967	December 31, 2016
Montrose 1	170 MW	1958	December 31, 2016
Sibley 1	48 MW	1960	December 31, 2019
Sibley 2	51 MW	1962	December 31, 2019
Montrose 2	164 MW	1960	December 31, 2021
Montrose 3	176 MW	1964	December 31, 2021

While this decision will impact employees at Montrose, Lake Road and Sibley, the utility does not anticipate that any employees will lose jobs as a result. KCP&L will find job opportunities within the company for displaced employees.

"For decades, coal has been a reliable, very low cost way to provide power to our customers, and is one reason why our rates are lower than the national average," said Bassham. *"However, as our nation moves to a cleaner, more sustainable energy future, our industry is facing increasing environmental scrutiny and regulations, many of which are focused on coal-fired generation. Our commitment and focus is to move to a cleaner energy future for our region while balancing the cost impact to our customers."*

Today's announcement is part of the utility's larger plan to provide cleaner energy to the region. KCP&L has the largest renewable energy and largest per capita energy efficiency portfolios of any investor-owned utility in the region. In addition, the utility recently made a number of new environmental investments and commitments, including the announcement of up to 400 MW of additional wind power and expanded energy-efficiency programs for customers.

For more information on KCP&L's sustainability efforts, visit www.kcpl.com/environment.

About Great Plains Energy:

Headquartered in Kansas City, Mo., Great Plains Energy Incorporated (NYSE: GXP) is the holding company of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company, two of the leading regulated providers of electricity in the Midwest. Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company use KCP&L as a brand name. More information about the companies is available on the Internet at: www.greatplainsenergy.com or www.kcpl.com.

Forward-Looking Statements:

Statements made in this release that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. Forward-looking statements include, but are not limited to, the outcome of regulatory proceedings, cost estimates of capital projects and other matters affecting future operations. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy and KCP&L are providing a number of important factors that could cause actual results to differ materially from the provided forward-looking information. These important factors include: future economic conditions in regional, national and international markets and their effects on sales, prices and costs; prices and availability of electricity in regional and national wholesale markets; market perception of the energy industry, Great Plains Energy and KCP&L; changes in business strategy, operations or development plans; the outcome of contract negotiations for goods and services; effects of current or proposed state and federal legislative and regulatory actions or developments, including, but not limited to, deregulation, re-regulation and restructuring of the electric utility industry; decisions of regulators regarding rates the Companies can charge for electricity; adverse changes in applicable laws, regulations, rules, principles or practices governing tax, accounting and environmental matters including, but not limited to, air and water quality; financial market conditions and performance including, but not limited to, changes in interest rates and credit spreads and in availability and cost of capital and the effects on nuclear decommissioning trust and pension plan assets and costs; impairments of long-lived assets or goodwill; credit ratings; inflation rates; effectiveness of risk management policies and procedures and the ability of counterparties to satisfy their contractual commitments; impact of terrorist acts, including but not limited to cyber terrorism; ability to carry out marketing and sales plans; weather conditions including, but not limited to, weather-related damage and their effects on sales, prices and costs; cost, availability, quality and deliverability of fuel; the inherent uncertainties in estimating the effects of weather, economic conditions and other factors on customer consumption and financial results; ability to achieve generation goals and the occurrence and duration of planned and unplanned generation outages; delays in the anticipated in-service dates and cost increases of generation, transmission, distribution or other projects; Great Plains Energy's ability to successfully manage transmission joint venture; the inherent risks associated with the ownership and operation of a nuclear facility including, but not limited to, environmental, health, safety, regulatory and financial

risks; workforce risks, including, but not limited to, increased costs of retirement, health care and other benefits; and other risks and uncertainties.

This list of factors is not all-inclusive because it is not possible to predict all factors. Other risk factors are detailed from time to time in Great Plains Energy's and KCP&L's quarterly reports on Form 10-Q and annual report on Form 10-K filed with the Securities and Exchange Commission. Each forward-looking statement speaks only as of the date of the particular statement. Great Plains Energy and KCP&L undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

KCP&L Continues Sustainability Commitment by Announcing Retirement of Six Units at Three Power Plants

6/2/2017

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KCP&L 24-hour Media Hotline
(816) 392-9455

KANSAS CITY, Mo. (June 2, 2017) — Kansas City Power & Light Company (KCP&L) announces its plans to retire six generating units at the company's Montrose, Lake Road and Sibley Stations. These actions further the company's commitment to a sustainable energy future and balanced generation portfolio.

"When these power plants started operation more than 50 years ago, coal was the primary means of producing energy. Today, as part of our diverse portfolio, we have cleaner ways to generate the energy our customers need," said Terry Bassham, President and CEO of Great Plains Energy and KCP&L. "After considering many options, it is clear that retiring units at Montrose, Lake Road and Sibley is the most cost-effective way to meet our customers' energy needs as we continue to move to a more sustainable energy future."

In 2015, KCP&L announced the company was considering retiring the coal units or converting them to an alternative fuel source at these plants. One coal-fired unit at the Lake Road Station was converted to natural gas in 2016. Since that time, several emerging industry trends and changing circumstances led the company to announce its plans to retire the six generating units.

A number of factors contributed to the decision to retire these units, including:

- **Reduction in wholesale electricity market prices.** The value of energy produced by these plants has dropped in recent years, primarily driven by new wind generation and lower natural gas prices.
- **Near-term capacity needs.** KCP&L does not anticipate needing new capacity for many years with expected relatively flat long-term peak load growth. In addition,

the amount of reserve generating capacity the company is required to carry has been reduced.

- **Plant age.** The impacted units are older, with all beginning service between 1960-1969. Making costly investments in the units does not make financial sense when compared to other generation sources.

- **Expected environmental compliance costs.** It is not economic to retrofit these plants with the controls necessary to meet expected environmental requirements.

Wind energy sources have become a much more economic generation resource for the region. According to the Southwest Power Pool, of which KCP&L is a member, energy generation from wind has increased 30 percent year-over-year in 2016. KCP&L announced plans in 2016 to purchase an additional 500 megawatts (MW) of power from two new wind facilities at Osborn and Rock Creek. In 2017, the company is set to increase its renewable portfolio to more than 1,450 MW, or greater than 20 percent of KCP&L's total generating capacity needs.

"In addition to our substantial renewable energy portfolio, KCP&L has the largest per capita energy efficiency portfolio of any investor-owned utility in the region," said Bassham. "By retiring these plants, KCP&L is taking another step forward in our plan to provide cleaner, cost effective energy to our customers."

KCP&L intends to retire all the Montrose and Sibley coal units by December 31, 2018. The Lake Road natural gas unit will be retired by December 31, 2019. Lake Road's steam operations are not impacted by today's announcement. KCP&L is committed to making every reasonable effort to find job opportunities within the company for employees currently working at these plants.

Timeline for Retirement:

Generating Unit	Capacity	In-service	Retire by
Lake Road 4/6	97 MW	1967	Dec. 31, 2019
Montrose 2	164 MW	1960	Dec. 31, 2018
Montrose 3	176 MW	1964	Dec. 31, 2018
Sibley 1	48 MW	1960	Dec. 31, 2018
Sibley 2	51 MW	1962	Dec. 31, 2018
Sibley 3	364 MW	1969	Dec. 31, 2018

For more information on KCP&L's sustainability efforts, visit www.kcpl.com/environment.

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About Great Plains Energy: Headquartered in Kansas City, Mo., Great Plains Energy Incorporated (NYSE: GXP) is the holding company of Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company, two of the leading regulated providers of electricity in the Midwest. Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company use KCP&L as a brand name. More information about the companies is available on the Internet at: www.greatplainsenergy.com or www.kcpl.com.

Forward-Looking Statements: Statements made in this release that are not based on historical facts are forward-looking, may involve risks and uncertainties, and are intended to be as of the date when made. Forward-looking statements include, but are not limited to, the outcome of regulatory proceedings, cost estimates of capital projects and other matters affecting future operations. In connection with the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, Great Plains Energy and KCP&L are

providing a number of important factors that could cause actual results to differ materially from the provided forward-looking information. These important factors include: future economic conditions in regional, national and international markets and their effects on sales, prices and costs; prices and availability of electricity in regional and national wholesale markets; market perception of the energy industry, Great Plains Energy and KCP&L; changes in business strategy, operations or development plans; the outcome of contract negotiations for goods and services; effects of current or proposed state and federal legislative and regulatory actions or developments, including, but not limited to, deregulation, re-regulation and restructuring of the electric utility industry; decisions of regulators regarding rates the Companies can charge for electricity; adverse changes in applicable laws, regulations, rules, principles or practices governing tax, accounting and environmental matters including, but not limited to, air and water quality; financial market conditions and performance including, but not limited to, changes in interest rates and credit spreads and in availability and cost of capital and the effects on nuclear decommissioning trust and pension plan assets and costs; impairments of long-lived assets or goodwill; credit ratings; inflation rates; effectiveness of risk management policies and procedures and the ability of counterparties to satisfy their contractual commitments; impact of terrorist acts, including but not limited to cyber terrorism; ability to carry out marketing and sales plans; weather conditions including, but not limited to, weather-related damage and their effects on sales, prices and costs; cost, availability, quality and deliverability of fuel; the inherent uncertainties in estimating the effects of weather, economic conditions and other factors on customer consumption and financial results; ability to achieve generation goals and the occurrence and duration of planned and unplanned generation outages; delays in the anticipated in-service dates and cost increases of generation, transmission, distribution or other projects; Great Plains Energy's ability to successfully manage transmission joint venture; the inherent risks associated with the ownership and operation of a nuclear facility including, but not limited to, environmental, health, safety, regulatory and financial risks; workforce risks, including, but not limited to, increased costs of retirement, health care and other benefits; and other risks and uncertainties.

This list of factors is not all-inclusive because it is not possible to predict all factors. Other risk factors are detailed from time to time in Great Plains Energy's and KCP&L's quarterly reports on Form 10-Q and annual report on Form 10-K filed with the Securities and Exchange Commission. Each forward-looking statement speaks only as of the date of the particular statement. Great Plains Energy and KCP&L undertake no obligation to publicly update or revise any forward-looking statement, whether as a result of new information, future events or otherwise.

PUBLIC SERVICE COMMISSION OF WISCONSIN

Application Requesting that the Public Service Commission of Wisconsin direct Wisconsin Electric Power Company and its Parent, WEC Energy Group Inc., to Defer for the Benefit of Customers the Net Savings Arising from their Voluntary and Premature Retirement of Pleasant Prairie Power Plant	6630-AF-100

ORDER

This is the Order declining to open a docket on the Petition filed by the Wisconsin Industrial Energy Group Inc. (WIEG), the Citizens Utility Board of Wisconsin (CUB), and the Wisconsin Paper Council (WPC) (collectively, Joint Petitioners), on April 9, 2018. In the Petition, the Joint Petitioners requested that the Commission open a docket pursuant to Wis. Admin. Code § PSC 2.07 and direct the Wisconsin Electric Power Company (WEPCO) to defer the net savings, excluding monitored fuel costs,[1] arising from the retirement of the Pleasant Prairie Power Plant. (PSC REF#: 340850.) Pursuant to Wis. Admin. Code § PSC 2.07(5), the Commission exercises its discretion to decline to open a docket.

Background

In the Petition filed on April 9, 2018, the Joint Petitioners stated that this deferral request aligns with the SOP 94-01. (PSC REF#: 340850 at Exhibit 2.) Additionally, the Joint Petitioners requested that the Commission assign carrying costs at WEPCO's most recently authorized weighted average cost of capital for this deferral. (*Id*. at 11.)

[1] The Commission evaluates monitored fuel costs through its fuel rules in Wis. Admin. Code ch. PSC 116.

On May 8, 2018, WEPCO filed a timely response requesting that the Commission dismiss the Petition.[2] (PSC REF#: 342466.) In its response, WEPCO asserted that the Petition is a collateral attack on the Commission's decision to freeze base rates in docket 5-UR-108. (*Id.* at 1.) Additionally, WEPCO stated that the criteria from the SOP 94-01 do not support the Joint Petitioners' request for deferral. (*Id.* at Appendix A.)

The Commission discussed the threshold question of whether to open a docket in response to the Petition at its open meeting of May 24, 2018.

Legal Standards

Pursuant to Wis. Admin. Code § PSC 2.07(1), any person can request that the Commission open a docket. If the request to open a docket alleges a violation of an order enforced by the Commission, the person filing the request shall serve a copy of the request upon the person named, in the manner provided in Wis. Stat. § 801.11 for service of a summons.[3] Wisconsin Admin. Code § PSC 2.07(5) states that within 60 days from the receipt of the request to open a docket, the Commission shall either open a docket or deny the request. Thus, the 60 days for initial Commission action ends on June 8, 2018.

Pursuant to Wis. Admin. Code § PSC 2.07(5), the Commission determination of whether to open a docket on this matter is a discretionary decision. Discretionary decisions contemplate a process of reasoning based on facts in the record or reasonably inferred from the record, and a conclusion based on a logical rationale founded upon proper legal standards. *Reidinger v.*

[2] The Joint Petitioners served WEPCO with the Petition on April 18, 2018. (PSC REF#: 341374.) Wisconsin Admin. Code § PSC 2.07(4) allows any person to file a response to a request to open a docket within 20 days of the date of service of the request.

[3] The Petition alleges that "[d]espite negotiations during the Docket No. 05-UR-108 settlement discussions and issuance of voluminous data requests, WEPCO represented at all times that its 2018 test year revenue requirement included Pleasant Prairie expenses; it did not disclose through discovery responses that it was considering voluntarily and prematurely retiring Pleasant Prairie." (PSC REF#: 340850 at 4.)

Optometry Examining Bd., 81 Wis. 2d 292, 297, 260 N.W.2d 270 (1977). Further, some courts have held that discretionary decisions are not judicially reviewable decisions under Wis. Stat. § 227.52. *Wis. Envtl. Decade, Inc. v. PSC*, 93 Wis. 2d 650, 651-659A, 287 N.W.2d 737 (1980). If the Commission denies the Petition, it must notify the Joint Petitioners of its decision and include a brief statement of the reasons for its decision. Wis. Admin. Code § PSC 2.07(5).

Here, the Commission has the authority to direct deferral accounting pursuant to Wis. Stat. § 196.06.[4] Under the SOP 94-01, there are several criteria that Commission staff use to evaluate a request for deferral accounting treatment for a utility expenditure: (1) whether the cost is outside of the utility's control; (2) whether the cost is unusual and infrequently occurring; (3) whether the amount, if recognized in the year of expenditure, would cause the utility serious financial harm or significantly distort the current year's income; and (4) whether the immediate recognition of the expenditure would have a significant impact on ratepayers. These criteria can be considered individually or together with other criteria. The Commission may also assign carrying costs for deferrals.

Discussion

As the Joint Petitioners did not argue that WEPCO's decision to close the Pleasant Prairie Power Plant should be reversed, the primary question here is whether deferral accounting for the net savings, excluding monitored fuel costs, arising from the retirement of the Pleasant Prairie Power Plant is appropriate. While much is made in the filings[5] as to the timing and the merits of the decision to retire Pleasant Prairie, the prudency of that decision and any recoverability of

[4] Wisconsin Stat. § 196.06(3) states that "[e]ach public utility shall keep and render its books, accounts, papers and records accurately and faithfully in the manner and form prescribed by the commission and shall comply with all directions of the commission relating to such books, accounts, papers and records."
[5] Joint Petitioners filed a reply which was not authorized by Wis. Admin. Code § PSC 2.07. While the Commission has discretion to consider this filing, not all of the Commissioners reviewed or considered it.

costs associated with that decision are not presently before the Commission or at issue in the Petition. What is before the Commission is purely a decision as to the appropriate accounting treatment. The Commission denies the Petition and declines to authorize deferral accounting treatment for the net savings, excluding monitored fuel costs, arising from the retirement of the Pleasant Prairie Power Plant. The Commission finds that the request does not satisfy the criteria set forth in the SOP 94-01 and is otherwise not substantiated. The costs associated with the retirement of the Pleasant Prairie Power Plant are not outside of WEPCO's control. This was a business decision made by WEPCO which does not require prior Commission approval. Further, according to WEPCO, it was a decision that was part-and-parcel of its freeze proposal and was at least alluded to very generally when it indicated that cost cuts would be required to implement the freeze.

Public utilities, including WEPCO, routinely retire generating units between rate cases and Joint Petitioners have not cited any prior Commission decision where deferral accounting treatment has been authorized for the costs or any net savings associated with such retirements. While the timing and WEPCO's communication relating to its decision could have been better, WEPCO was under no legal obligation to notify the Commission of its decision. Even though deferral accounting is not appropriate here, this Order does not preclude a future Commission from evaluating and determining the proper ratemaking treatment for any costs associated with the retirement of the Pleasant Prairie Power Plant in any future WEPCO rate proceeding.

Conclusion

For the reasons stated above, the Commission exercises its discretion to decline to open a docket in response to the Petition. This decision is without prejudice to any future action the

Commission may take relating to the recovery of costs associated with the retirement of the Pleasant Prairie Power Plant.

Dated at Madison, Wisconsin, the 6th day of June, 2018.

By the Commission:

Steffany Power Coker
Secretary to the Commission

SPC:MRD:RPM: DL:01638014

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
4822 Madison Yards Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE PARTY TO BE NAMED AS RESPONDENT

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of the date of service of this decision, as provided in Wis. Stat. § 227.49. The date of service is shown on the first page. If there is no date on the first page, the date of service is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of the date of service of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of the date of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission serves its original decision.[6] The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: March 27, 2013

[6] *See Currier v. Wisconsin Dep't of Revenue*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.