

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

In the Matter of the Application of Kansas City)	
Power & Light Company for Approval to Make)	
Certain Changes in its Charges for Electric)	<u>Case No. ER-2006-0314</u>
to Service Begin the Implementation of Its)	
Regulatory Plan)	

**PUBLIC COUNSEL’S REPLY TO
STAFF RESPONSE TO SECOND ORDER DIRECTING SCENARIOS**

COMES NOW The Office of the Public Counsel and for its Reply to Staff Response to Second Order Directing Scenarios states as follows:

1. On December 19, 2006, the Commission issued its Second Order Directing Scenarios. In that order, the Commission directed that the calculations be based on the assumption that “Off-systems sales shall be resolved in favor of KCPL....” On December 19, 2006, the Staff of the Commission filed its response to the Commission’s Second Order Directing Scenarios. In preparing that response, Staff interpreted the Commission’s directive quoted above to mean that Staff should use the 25th percentile level of expected sales revenues from KCPL witness Schnitzer’s updated study that was excluded from the record, rather than the 25th percentile level from his original study that was admitted.¹

2. In its response, Staff calculated the revenue requirement of using the 25th percentile of Mr. Schnitzer’s updated probability analysis. To do so, it used a number found in an attachment to KCPL witness Tim Rush’s True-up Direct Testimony.² Mr. Rush’s True-up

¹ More detailed discussions of the circumstances concerning the exclusion of this updated study were included in Public Counsel pleadings filed on December 12 and December 14; those discussions will not be repeated here.

² Exhibit 54, Rush True-up Direct, Schedule TMR-1 (HC), page 4 of 51. Because the actual number for off-system sales margins has been made “Highly Confidential,” this pleading will

Direct Testimony does not discuss this number, although it does appear in Schedule TMR-1 to that testimony. Mr. Rush's True-up Rebuttal Testimony (Exhibit 55) does not contain the number, nor does it discuss it beyond making clear that Mr. Rush did not conduct the analysis that resulted in the number.³ As Mr. Rush testified, Mr. Schnitzer performed the analysis and provided it to the company. Mr. Rush simply took a number calculated by Mr. Schnitzer and included it among the thousands and thousands of numbers in Schedule TMR-1.

3. Similarly, Staff mentions the number in its True-up testimony, specifically Staff witness Steve Traxler's True-up Rebuttal Testimony (Exhibit 164, page 13). But Mr. Traxler's testimony cannot serve as the basis for the Commission's use of the number in its decision, because Mr. Traxler did not perform or support the analysis that resulted in the number, and in fact completely rejects KCPL's analysis. None of Mr. Traxler's testimony in the case delves into the analysis, and his True-up Rebuttal Testimony focuses on how the number resulting from the updated analysis is out of whack.

4. Neither can KCPL witness Rush's testimony serve as the basis for the Commission's use of the number in its decision. Mr. Rush did not perform the analysis that

refer to it somewhat cryptically as the "number." In its Report and Order, the Commission will of course have to make public the off-system sales margin level it is including in rates.

³ The totality of Mr. Rush's True-up Rebuttal Testimony on the "Off-system Sales Margin" issue is:

Q: Did the Company update the off-system sales margin in the September 30, 2006 true-up?

A: Yes. Mr. Michael M. Schnitzer provided to the Company the updated off-system sales margin, including the median value and the value with a 25th percentile. The Company included this in its September 30, 2006 true-up and parties received this information in the initial work-papers provided shortly after October 20, when the Company submitted to the parties its updated case.

In the introductory portion of his testimony, Mr. Rush noted that his testimony "also address[es] the update of the Off-System Sales Margin as presented in this case by Mr. Michael M. Schnitzer.

resulted in the number, he simply reflected it in one of his schedules. The analysis itself was specifically excluded from the record, and the witness who conducted the analysis was not made available for cross-examination at the true-up hearing.

5. The Commission does not have: the updated analysis itself; any explanation of how the analysis was updated; any confirmation that it was fairly and completely updated; or any opportunity for parties or the Commission to question the witness who updated the analysis on how the update was done. All it has in evidence is a couple of little pieces of the results of a purportedly-updated analysis. These little pieces are not competent and substantial evidence.

6. Staff did prepare a response to the Commission's Second Order Directing Scenarios using the 25th percentile number from the analysis that is actually in the record. Although Staff did not file that response on December 19, Public Counsel requested a copy of it from Staff, and has attached it hereto as Attachment 1. Public Counsel is aware that Staff provided a copy to KCPL at approximately 10:30 A.M. on December 20.

7. For the reasons stated in its briefs and testimony, Public Counsel strongly objects to the Commission basing rates on the 25th percentile point – whether or not it does so in conjunction with an unsupported and illegal retroactive ratemaking mechanism. But if the Commission is going to use the 25th percentile point, it should use the one that results from the analysis in the record, not the one that results from an analysis excluded from the record.

WHEREFORE Public Counsel respectfully requests that the Commission use the attached scenario response (based on Mr. Schnitzer's analysis in the record) rather than Staff's scenario response filed December 19 (based on Mr. Schnitzer's updates excluded from the record)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, emailed or hand-delivered to the following this 20th day of December 2006:

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Summary of Staff Response to MPSC 2nd Scenario Order

Case No. ER-2006-0314

December 19, 2006

Scenario Variables

	1	2	3	4	5	6	7	8
Jurisdictional Allocations	KCPL	STAFF	KCPL	KCPL	STAFF	STAFF	KCPL	STAFF
Severance Costs	KCPL	KCPL	STAFF	KCPL	STAFF	KCPL	STAFF	STAFF
Weather Normalization	KCPL	KCPL	KCPL	STAFF	KCPL	STAFF	STAFF	STAFF
Traditional Rev Requirement	\$ 23,641,488	\$ 21,792,715	\$ 23,158,092	\$ 23,284,763	\$ 21,309,319	\$ 21,435,989	\$ 22,801,366	\$ 20,952,593
Additional Amortization	24,275,880	24,374,547	24,275,880	24,275,880	24,374,547	24,374,547	24,275,880	24,374,547
Total Revenue Requirement	\$ 47,917,368	\$ 46,167,262	\$ 47,433,972	\$ 47,560,643	\$ 45,683,866	\$ 45,810,536	\$ 47,077,246	\$ 45,327,140
Issue Values - Staff Position								
Jurisdictional Allocations	NA	\$ (1,828,391)	NA	NA	\$ (1,828,391)	\$ (1,828,391)	NA	\$ (1,828,391)
Severance Costs	NA	NA	\$ (483,396)	NA	\$ (483,396)	NA	\$ (483,396)	\$ (483,396)
Weather Normalization	NA	NA	NA	\$ (356,727)	NA	\$ (356,727)	\$ (356,727)	\$ (356,727)
Note: Off-System Sales is Reflected at the 25th Percentile at June 30, 2006								