

3. The proposed Order Approving Unanimous Settlement Agreement properly addresses the required legal standards of review, conforms to applicable law, makes appropriate citations to the record, and is consistent with Commission precedent. Therefore, the Joint Movants respectfully request the Commission adopt the proposed Order as filed. A “Word” version of the attached proposed order will be separately transmitted to the Prehearing Officer via email.

WHEREFORE, the Joint Movants respectfully request the Commission grant this Joint Motion, thereby adopting the proposed Order Approving Unanimous Settlement Agreement.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 18th day of May, 2017, to all counsel of record.

/s/ Roger W. Steiner

Roger W. Steiner

**Attorney for Kansas City Power & Light
Company**

EXHIBIT A
PROPOSED ORDER

Unanimous Settlement Agreement on Rate Design (“15-116 Rate Design Settlement”) in their entirety and incorporated the terms of the Agreements into its order. The 15-116 RR Settlement set forth the issues to be addressed in the abbreviated rate case and also provided for KCP&L to file the abbreviated case up to 14 months after the 15-116 Order issue date. In accordance with the regulation governing abbreviated filings, KCP&L “adopt[ed] all the regulatory procedures, principles, and rate of return established by the commission”² in the previous order.

3. In the Commission’s Order in the 15-116 Docket, the Commission granted KCP&L authority to address the following issues in this abbreviated rate case:³

- True-up La Cygne Environmental Project costs to actual with all affected components of KCP&L’s revenue requirement, including deferred taxes, trued-up consistently. Allowance for Funds Used During Construction (“AFUDC”) amounts recorded on the Project will also be trued-up;
- True-up La Cygne deferred depreciation total amortization amount, including deferred taxes, as well as annual amortization amount;
- True-up to Wolf Creek capital additions costs to actual with all affected components of KCP&L’s revenue requirement, including deferred taxes, trued-up consistently. AFUDC amounts recorded on the Wolf Creek Additions will also be trued-up;
- Update the amortization of Wolf Creek refueling outage costs included in base rates to Refueling Outage 20 actual expenditures; and
- Termination of the following regulatory asset and liability items:
 - Removal of amortization of pre-existing FAS 87 regulatory asset;

² K.A.R. 82-1-231(b)(3)(A).

³ 15-116 Order, Ordering ¶ B.

- Removal of amortization of the regulatory assets associated with rate case expense for all rate cases prior to this 15-116 Docket;
- Removal of amortization of the regulatory asset associated with the Kansas Merger Transition Costs;
- Removal of the amortization of the regulatory asset associated with the talent assessment expenses; and
- Removal of amortization of the regulatory liability of a legal fee reimbursement.

In addition to the items listed above, the Commission also granted approval for KCP&L to address the issue of customer migration in this abbreviated rate case as set forth in the Non-Uniform Rate Design Settlement Agreement and in the migration process motions jointly filed by the parties and approved by the Commission.⁴

4. KCP&L's filing adopted all of the Commission's rulings in the 15-116 Order.⁵ As required, KCP&L's filing was based on the cost of capital adopted in the Commission's 15-116 Order. The schedules filed with KCP&L's Application indicated a gross revenue overage of \$2.829 million related to the specific items identified for review in this abbreviated rate case including actual plant investment made through August 31, 2016, with projections for plant additions for September 1, 2016, through February 28, 2017, for the pre-approved La Cygne Environmental Project⁶ and Wolf Creek Capital Addition Projects. KCP&L's Application recommended the decrease be applied to all customer classes on an equal percentage basis, with the exception that the net revenue reduction associated with the commercial and industrial

⁴ 15-116 Order, Ordering ¶ E; 15-116 Docket, *Order Granting Joint Motion for Approval of Process to Implement Migration Adjustment*, issued Oct. 27, 2015, and *Order Granting Joint Motion for Approval of Modified Process to Implement Migration Adjustment*, issued Mar. 3, 2015.

⁵ Application, ¶ 7.

⁶ The Commission approved the La Cygne Environmental Project in Docket No. 11-KCPE-581-PRE ("11-581 Docket").

customer migration resulting from the last full general rate case (the 15-116 Docket) remain with the rate class where the migration occurred.

5. In support of its Application, KCP&L submitted the testimony of four witnesses and the schedules required by K.A.R. 82-1-231(b)(3). Specifically, KCP&L prefiled the direct testimony of the following witnesses: Darrin R. Ives (“Ives”), Linda J. Nunn (“Nunn”), Robert N. Bell (“Bell”), and Marisol E. Miller (“Miller”).

6. On November 22, 2016, the Commission granted intervention in this proceeding to the Citizens’ Utility Ratepayer Board (“CURB”). No other parties filed for intervention.

7. On April 6, 2017, Staff filed the direct testimony of Andria N. Jackson (“Jackson”) and Joshua Frantz (“Frantz”), recommending a revenue decrease of \$4,192,681.⁷ Staff updated KCP&L’s plant balances for the La Cygne Environmental Project to actuals as of February 28, 2017, and accepted KCP&L’s proposed adjustments for the identified regulatory assets and liability. Staff rejected KCP&L’s proposed adjustment for La Cygne Station obsolete inventory⁸ and revised the calculation of the interest expense for customers related to the La Cygne Environmental Project and the Wolf Creek Capital Addition Project.⁹ Staff also reversed KCP&L’s adjustments related to customer migration indicating that it would update its position on such adjustments once the actual data was available.

8. Also on April 6, 2017, CURB witness Andrea C. Crane (“Crane”) filed direct testimony recommending a revenue reduction of \$3,792,805.¹⁰ CURB also rejected KCP&L’s proposed adjustment for La Cygne Station obsolete inventory¹¹ but accepted all of KCP&L’s

⁷ Jackson Direct, p. 7.

⁸ Jackson Direct, pp. 21-22.

⁹ Jackson Direct, pp. 19-20.

¹⁰ Crane Direct, p. 3; *also see* Schedule ACC-1.

¹¹ Crane Direct, pp. 5-8.

other regulatory asset/liability amortization adjustments. CURB did not recommend any adjustments to KCP&L's proposed allocation methodology for rates.¹²

9. On April 18, 2017, KCP&L witnesses Miller and Nunn prefiled rebuttal testimony. Miller's rebuttal addressed the direct testimony of Frantz, and Nunn's rebuttal addressed the direct testimony of Staff witnesses Jackson and Frantz, as well as CURB witness Crane.

10. On April 20, 2017, the parties collectively met to discuss the status of the case in light of prefiled testimony. The parties agreed for settlement purposes to recommend that the Commission approve a decrease of \$3,557,588 to KCP&L's revenue requirement. The parties also agreed on how the rate decrease should be allocated between classes Large General Service \$(1,037,038); Medium General Service \$(381,589); Small General Service \$(208,442); Residential \$(1,874,761); Lighting \$(55,758).

11. On April 25, 2017, the parties filed a Joint Motion to Approve Unanimous Settlement Agreement and Modify Procedural Schedule ("Joint Motion") with the Unanimous Settlement Agreement ("Settlement Agreement") attached. In their Joint Motion, the parties also requested the Commission cancel the Evidentiary Hearing scheduled for May 2-3, 2017, the Prehearing Conference scheduled for April 26, 2017, and the post-hearing briefing and issue its decision based upon the written record. Testimony in support of the Settlement Agreement was filed on April 26, 2017 by KCP&L witness Nunn, Staff witness Jackson, and CURB witness Crane.

¹² Crane Direct, p. 10.

12. On May 4, 2017, the Commission granted the parties' request to cancel the evidentiary hearing and post hearing briefs and indicated that it would take the case under advisement for a decision based upon the written record.

II. JURISDICTION AND OVERVIEW

13. The Commission is given full power, authority and jurisdiction to supervise and control the electric public utilities, as defined in K.S.A. 66-101a, doing business in Kansas, and is empowered to do all things necessary and convenient for the exercise of such power, authority and jurisdiction.¹³ Electric public utilities subject to the Commission's jurisdiction are "required to furnish reasonably efficient and sufficient service and facilities for the use of any and all products or services rendered, furnished, supplied or produced by such electric public utility, to establish just and reasonable rates, charges and exactions and to make just and reasonable rules, classifications and regulations."¹⁴ "[A]ll incidental powers necessary to carry into effect the provisions of [the Electric Public Utilities Act, K.S.A. 66-101 et seq.,] are expressly granted to and conferred upon the commission."¹⁵

14. Although the parties have submitted a Unanimous Settlement Agreement, and although there are no remaining contested issues in this docket, the Commission must separately state findings of fact, conclusions of law, and policy reasons for its decision if it is an exercise of its discretion.¹⁶ Any findings of fact must be based exclusively upon the evidence or record in the adjudicative proceeding and on matters officially noticed at the proceeding.¹⁷ Agency action must be based upon evidence that is substantial when viewed in light of the record as a whole.¹⁸

¹³ K.S.A. 66-101; K.S.A. 66-101a; K.S.A. 66-104.

¹⁴ K.S.A. 66-101b.

¹⁵ K.S.A. 66-101g.

¹⁶ K.S.A. 77-526(c).

¹⁷ K.S.A. 77-526(d).

¹⁸ K.S.A. 77-621(c)(7) and (d).

15. When approving a unanimous settlement, the Commission must make an independent finding that the settlement is supported by substantial competent evidence in the record as a whole, establishes just and reasonable rates, and is in the public interest.¹⁹

16. Therefore, the Commission will evaluate the Settlement Agreement under the guidance of these factors. Though each factor will not be addressed individually, the factors will be addressed, within the evaluation of the terms of the Settlement Agreement.

III. FINDINGS AND CONCLUSIONS

17. The Settlement Agreement is a unanimous agreement supported by all parties. Further, the record indicates all parties actively participated in all aspects of this docket. Therefore, the Commission finds each party had an opportunity to be heard, and no parties oppose the Settlement Agreement.

18. The Settlement Agreement establishes that KCP&L's revenue requirement should decrease by \$3,557,588. This amount is based on the cost of capital approved by the Commission in the 15-116 Docket. The Commission finds that there is substantial competent evidence in the record to support this decrease. Substantial competent evidence is that which possesses something of substance and relevant consequence, and which furnishes a substantial basis of fact from which the issues tendered can reasonably be resolved.²⁰ Whether another trier of fact or another party could have reached a different conclusion given the same facts is irrelevant; a court can only find that a Commission decision is not supported by substantial competent evidence when the evidence shows, "the [Commission's] determination is so wide of

¹⁹ *Citizens' Util. Ratepayer Bd. v. Kansas Corp. Comm'n*, 28 Kan. App. 2d 313, 316 (2000), rev denied March 20, 2001.

²⁰ *Kansas Gas & Electric v. State Corporation Commission*, 14 Kan.App.2d 527, 532 (1990) (quoting *Southwestern Bell Telephone Company v. State Corporation Commission*, 242 Kan.App.2d 44, 46 (1979), rev. denied 227 Kan. 927 (1980)).

EXHIBIT A
PROPOSED ORDER

the mark as to be outside the realm of fair debate.”²¹ The focus of the Commission’s inquiry is on the Application, the direct and rebuttal testimony, testimony in support of the Stipulation and other pleadings filed in this proceeding. The decrease in revenue requirement contained in the Settlement Agreement is consistent with the testimony of the parties.

19. The Commission also finds that the revenue requirement decrease described above, will be allocated among the customer classes as follows:

<u>Customer Class</u>	<u>Revenue Allocation (\$millions)</u>
Large General Service	(1,037,038)
Medium General Service	(381,589)
Small General Service	(208,442)
Residential	(1,874,761)
Lighting	(55,758)
TOTAL	(3,557,588)

20. Rates are “just and reasonable” when they reflect a reasonable balance between consumer and investor interests and provide the utility an opportunity to earn a reasonable return on its property dedicated to the public service.²² In evaluating whether rates are just and reasonable, the Commission takes into account the various interests of the parties to determine whether the proposed rates are within a “zone of reasonableness.”²³ The “zone of

²¹ *Zinke & Trumbo, Ltd. v. State Corporation Commission*, 242 Kan. 470, 474 (1988).

²² *Kansas Gas and Electric Co. v. Kansas Corporation Commission*, 239 Kan. 483, 489-90 (1986).

²³ *Farmland Industries, Inc. v. State Corporation Commission*, 24 Kan.App.2d 172, 195 (1997).

reasonableness” is an elusive range where rates are not so high or so low as to be unlawful, and is a matter for the Commission determination.²⁴

21. The revenue requirement decrease in this case is a result of a negotiated settlement which is supported by record evidence. The rates presented in the Settlement Agreement, are sufficient to allow KCP&L the opportunity to earn a reasonable return on property dedicated to the public service. Further, the decrease in rates is based on the previously-approved rate structure, which the Commission found to be just and reasonable in the 15-116 Docket. Therefore, rates that will result from the revenue requirement will be just and reasonable.

22. Having reviewed the record, and balancing the competing interests it must take into account in setting rates, the Commission finds the rates proposed in the Settlement Agreement are just and reasonable, are supported by substantial competent evidence, and are in the public interest. The Commission approves the Unanimous Settlement Agreement, including the agreed revenue requirement decrease and resulting rates, as set forth above.

IT IS, THEREFORE, BY THE COMMISSION ORDERED THAT:

(A) The Joint Motion to Approve Unanimous Settlement Agreement is granted. By attaching the Settlement Agreement to this Order, the terms and all attachments are incorporated into this Order.

(B) Parties have fifteen (15) days, plus three (3) days if service of this Order is by mail, from the date of service of this Order in which to petition the Commission for reconsideration of final agency action taken herein.²⁵

²⁴ *Id.*

²⁵ K.S.A. 66-118b; K.S.A. 2013 Supp. 77-529(a)(1).

EXHIBIT A
PROPOSED ORDER

(C) The Commission retains jurisdiction over the subject matter and parties for the purpose of entering such further order or orders as it may deem necessary.

BY THE COMMISSION IT IS SO ORDERED.

Apple, Chairman; Albrecht, Commissioner; Emler, Commissioner

Dated:

Lynn M. Retz
Secretary to the Commission