

15 A. As an initial matter, I would note that Jo-Carroll is pleased that Staff
16 acknowledges that the Commission should approve the transaction. Staff has
17 been very diligent in working with both Jo-Carroll and Interstate Power and Light
18 Company (“IPL”) to investigate and address numerous issues. Staff should be
19 commended for its investigation, and we are glad to see that our responses, both
20 to data requests and in our rebuttal testimony, were well-received by Staff.

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22 It appears that the one remaining “loose end” is the discussion of environmental
23 liability contained in Ms. Hathhorn’s rebuttal testimony. (*See* ICC Staff Ex. 6.0 at
24 lines 32-48.) Specifically, at lines 36 to 48 of her rebuttal testimony, Ms.
25 Hathhorn appears to suggest that Jo-Carroll will assume all liability that might
26 arise under any and all circumstances in connection with certain Manufactured
27 Gas Plant sites (aka “coal tar sites,” hereafter, collectively, the “MGP sites”). Ms.
28 Hathhorn bases that position upon IPL's March 8, 2006 response to Data Request
29 MES-IPL 2.04, which is attached as Exhibit A to Ms. Hathhorn's rebuttal
30 testimony. Significantly, Ms. Hathhorn does not suggest that this issue should
31 preclude the Commission from approving the transaction. Nonetheless, Ms.
32 Hathhorn’s rebuttal testimony leaves the mistaken impression that Jo-Carroll has
33 not addressed this issue.

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35 **Q. What is your response to Ms. Hathhorn?**

36 A. Throughout the instant proceeding, Jo-Carroll consistently has taken the position
37 that there may be circumstances under which certain environmental liabilities

38 would be the responsibility of IPL. That position was expressed in Jo-Carroll's
39 March 30, 2006 confidential response to Data Request DLH-JCE 1.01. (For the
40 Commission's convenience, a copy of that confidential response is attached
41 hereto and made a part hereof as Confidential JCE Ex. 5.1.) That position was
42 reiterated at lines 208 to 215 of my rebuttal testimony. (See JCE Ex. 3.0 at lines
43 208-215.) Of course, Ms. Hathhorn, by her own admission, was not purporting to
44 provide a legal opinion regarding this issue. (See ICC Staff Ex. 6.0 at lines 36-
45 37.) However, Ms. Hathhorn's failure to cite either Jo-Carroll's confidential
46 response to Data Request DLH-JCE 1.01 or my rebuttal testimony makes her
47 rebuttal testimony incomplete.

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49 Jo-Carroll's position continues to be that, pursuant to the APA, it is assuming
50 certain liabilities relating to environmental matters, including certain potential
51 liabilities relating to MGP sites. At the same time, also pursuant to the APA, Jo-
52 Carroll has acquired and preserved applicable defenses and rights, claims against
53 third-parties, and certain contractual and indemnification rights, and IPL has
54 retained certain potential liabilities relating to environmental matters, such as
55 potential liabilities for certain off-site disposal of potentially hazardous
56 substances. Given the possibility that currently unknown environmental liability
57 might accrue at some future date, neither Jo-Carroll nor IPL can say categorically
58 which party will bear responsibility for such unknown liability. Accordingly, the
59 suggestion in Ms. Hathhorn's rebuttal testimony that Jo-Carroll will assume all
60 liability for environmental issues regarding the MGP sites is incorrect.

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62 **Q. Does this conclude your rebuttal testimony?**

63 **A. Yes.**