

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

In the Matter of Kansas City Power & Light)
Company's Application for Approval of)
Demand-Side Programs and for Authority to)
Establish a Demand-Side Programs)
Investment Mechanism)

File No. EO-2014-0095

**MOTION FOR PRE-EVIDENTIARY PROCEEDING ON THE RECORD, REQUEST
FOR RULING ON RECOMMENDATION TO SUSPEND TARIFF SHEETS, AND
MOTION FOR EXPEDITED TREATMENT**

COMES NOW Staff of the Missouri Public Service Commission, by and through the undersigned counsel, and hereby moves for the Commission to order an emergency conference on the record with the Regulatory Law Judge and suspend the tariff sheets issued by Kansas City Power & Light Company ("KCPL") on January 7, 2014,¹ with an effective date of May 7, and assigned Tariff Tracking No. YE-2014-0288. In support hereof, Staff states as follows:

1. On March 28, Staff filed its rebuttal testimony with an overall recommendation for the Commission to reject KCPL's Missouri Energy Efficiency Investment Act² ("MEEIA") *Application* and associated tariff sheets for the proposed demand-side program plans and the demand-side programs investment mechanism ("DSIM").

2. After the close of business on April 14, KCPL filed testimony, offered as surrebuttal testimony, to Staff's and OPC's rebuttal testimony. Staff has performed a cursory review and expects to raise additional issues after additional time to review.

¹ All dates herein refer to calendar year 2014, unless otherwise specified.

² The Commission's rules promulgated as a result of the Missouri Energy Efficiency Investment Act of 2009 ("MEEIA") (Section 393.1075, RSMo (Supp. 2013) include Rules 4 CSR 240-3.163, 4 CSR 240-3.164, 4 CSR 240-20.093 and 4 CSR 240-20.094.

However, in the short time post-filing, Staff has identified serious concerns and recommends the Commission decide these issues prior to the evidentiary hearing now scheduled for April 28-29.

3. First, while labeled surrebuttal testimony, KCPL's testimony is in fact closer to supplemental direct as defined by Commission rule.³ After settlement discussions with KCPL ceased, the undersigned and other Staff members were advised by KCPL that it did not intend to file supplemental direct to modify in any way their *Application* as explored in settlement and that Staff should file its rebuttal testimony on the *Application* as filed. As a result of KCPL's assertions, Staff's rebuttal testimony as filed only reflects its recommendations on the program plan and DSIM contained in KCPL's January 7 *Application*.

4. In the short time post-filing, Staff has identified that KCPL's testimony presents a new program plan and a new DSIM for Commission approval, and it does not appear to be the "redo" Staff stated was necessary as part of its rebuttal testimony; if by chance it can be labeled as the "redo", Staff's rebuttal testimony also asked the Commission to allow the parties the opportunity to review and respond to any new analysis provided by KCPL.

5. Further, it appears KCPL may have used information obtained as part of confidential settlement discussions as support for its new program plan and new DSIM. At this time, Staff is not filing a motion to strike, but may decide to request such relief after further review.

6. For the Commission to have the benefit of not only Staff's analysis on

³ Rule 4 CSR 240-2.130.

KCPL's new program plan and new DSIM, but also that of other interested parties, Staff requests the Commission suspend the current procedural schedule and allow thirty-days from the Commission's Order for Staff to file supplemental rebuttal testimony.

7. As part of the Commission's February 26 Order, the Commission recognized that KCPL's proposed tariff sheets will become effective prior to the proposed effective date for any Commission Report and Order. In so noting, the Commission's Order stated that "[r]ather than immediately suspend the tariffs until June 6 as contemplated by the modified procedural schedule, the Commission first will allow KCP&L an opportunity to extend the effective date of the tariffs." KCPL has not yet extended the effective date of the proposed tariff sheets.

8. On March 28, Staff also filed a recommendation along with its rebuttal testimony for the Commission to issue an order to suspend KCPL's tariff sheets until some date beyond June 6. KCPL did not respond to Staff's recommendation. Since KCPL's position has changed its proposed program plan and DSIM, the tariff sheets are no longer applicable, but will none-the-less go into effect unless suspended further by the Commission. Staff renews its recommendation and moves for the Commission to suspend the tariff sheets.

MOTION FOR EXPEDITED TREATMENT

9. The procedural schedule in this case requires the parties to file a list of issues by April 16 and individual statements of position by April 22, with the Commission convening the evidentiary hearing on April 28 and 29.

10. Rule 4 CSR 240-2.080 allows a party to request expedited treatment by the Commission. Staff states that it is filing this request as soon as possible and less

than 24-hours after KCPL's filing of testimony on April 14.

11. Staff requests the Commission convene an on-the-record pre-evidentiary proceeding at its earliest convenience, but no later than April 18, to determine whether KCPL's testimony is supplemental direct that due process requires the Commission afford the parties the opportunity to conduct discovery and file supplemental rebuttal for the Commission's aid. Staff further requests the Commission stay the filing of the issues list and individual statements of position until further Order by the Commission. Finally, Staff requests the Commission extend the May 7 operation of law date of KCPL's inapplicable MEEIA tariff sheets.

12. The Office of Public Counsel has reviewed this pleading and consents to the undersigned stating its general agreement with it.

WHEREFORE, Staff recommends the Commission stay the filing of the issues list and statements of position in this case until further Order by the Commission, suspend the effective date of KCPL's tariff sheets assigned Tracking No. YE-2014-0288 to some date beyond June 6, 2014, and convene an on-the-record pre-evidentiary proceeding at its earliest convenience, but no later than April 18, 2014.

Respectfully submitted,

/s/ Jennifer Hernandez

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been emailed this 15th day of April, 2014 to all counsel of record in this proceeding.

/s/ Jennifer Hernandez