

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

In the Matter of Kansas City Power & Light)		
Company's Request for Authority to)	File No.	ER-2016-0285
Implement a general rate Increase for)		
Electric Service)		

MISSOURI DIVISION OF ENERGY'S
STATEMENT OF POSITIONS

COMES NOW the Missouri Division of Energy ("DE"), by and through the undersigned counsel, and for its *Statement of Positions* in the above styled matter, states:

Commission Raised Issues

A. Installation of AMI smart meters for residential and commercial customers

DE supports AMI (sometimes called "smart meter") deployment for residential and commercial customers conditioned on consideration of the associated costs and technological and financial barriers. Grid modernization, discussed at length in the Comprehensive State Energy Plan ("CSEP"), provides many benefits. Deploying AMI is crucial to recognizing the benefits associated with grid modernization, particularly the ability of customers and authorized third parties to have greater access to their utility usage data. So long as the benefits of AMI outweigh its costs – and to the extent that customer AMI data can be adequately protected from unauthorized disclosure – DE views AMI deployment as vital to enabling utilities to serve evolving customer needs and interests.

B. Plug-in Electric Vehicle Rate

DE does not support an off-peak electric rate specific to plug-in electric vehicle ("PEV") charging. While DE does support other demand response rates that can encourage charging during off-peak hours, DE is concerned that the application of such rates to EV charging alone

may a) inappropriately target a single end use and b) be impractical from an infrastructure perspective.

C. Optional Residential Time-of-Use rates (hourly) and Time-of-Day rates

DE supports the development of appropriately designed optional Time-of-Use rates (hourly) and Time-of-Day rates (sometimes also called “demand response rates” or “time-varying rates”). In its Report and Order in ER-2014-0370, the Public Service Commission (“Commission”) allowed Kansas City Power & Light Company (“KCP&L” or “Company”) to freeze the availability of its residential time-of-use, two-part time-of-use, and real time pricing tariffs; the Commission also ordered that a study of these rates be completed, “... within two years of the effective date of this order.”¹ The effective date of the Report and Order was September 15, 2015, so KCP&L is required to complete this study by September 15, 2017. DE recommends that the Commission require the Company to file with the Commission both the aforementioned study and supporting documentation no later than September 15, 2017. The recommendation to require the Company to file the study upon its completion is consistent with the Commission’s Order in ER-2016-0156 (the recently concluded rate case of KCP&L Greater Missouri Operations Company).²

D. PACE-Property Assessed Clean Energy Programs

DE recommends that KCP&L guide potential demand-side management (“DSM”) program participants toward information on the PACE financing option. The Company already

¹ Missouri Public Service Commission Case No. ER-2014-0370, *In the Matter of Kansas City Power & Light Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Report and Order, September 2, 2015, page 92.

² Missouri Public Service Commission Case No. ER-2016-0156, *In the Matter of KCP&L Greater Missouri Operations Company’s Request for Authority to Implement a General Rate Increase for Electric Service*, Order Approving Stipulation and Agreements, Rejecting Tariffs, Cancelling True-Up Hearing, and Ordering Filing of Compliance Tariffs, September 28, 2016, page 7.

has information on its website related to PACE financing for businesses.³ The Company should expand its outreach efforts by linking to PACE financing-related information for businesses and residents on its homepage, sending a mailer to customers on financing options, and notifying customers of their financing options during interactions with customer service representatives and energy efficiency contractors.

E. PAYS-Pay As You Save Programs

PAYS® is a specific type of on-bill financing option. Under PAYS®, a customer receives a loan for an energy-related improvement to his or her property, which is then repaid on the customer's utility bill. Examples of other on-bill financing program designs include those of the Tennessee Valley Authority, Manitoba Hydro, and Alliant Energy; differing aspects of these programs include various funding sources and eligible measures.⁴ DE recommends that KCP&L offer some form of on-bill financing, either as a DSM program or as a method to both boost participation in DSM programs and increase the adoption of customer-owned distributed energy resources. This recommendation is consistent with the CSEP.⁵

Rate Design/Class Cost of Service

A. What interclass shifts in revenue responsibility, if any should the Commission order in this case?

DE takes no position on this issue at this time, but reserves the right to take a position after hearing.

B. How should any increase ordered in this case be applied to each class?

³ Kansas City Power & Light Company. 2016. "Energy Efficiency Upgrade Funding." <http://www.kcpl.com/~media/Files/Save%20Energy%20and%20Money/2016%20MEEIA%20Documents/Business%20Energy%20Saving%20Tips/0516KCPLBEER396513PACEUpgradeFundingFactSheetR1.pdf>.

⁴ Missouri Public Service Commission Case No. EW-2013-0519, *In the Matter of a Working Docket for the State-Wide Advisory Collaborative to Address the Requirements of Commission Rule 4 CSR 240-20.094(8)(B)*, Kristy Manning, "Financing Tools," November 22, 2016, slide 6.

⁵ CSEP, page 240.

DE takes no position on this issue at this time, but reserves the right to take a position after hearing.

C. Should KCPL be permitted to increase the fixed customer charge on residential customers?

No. Increasing the customer charge sends a poor price signal from the perspective of inducing efficient consumption, even if energy charges also increase. Compared to a higher energy charge, a higher customer charge would discourage new or additional investments in efficiency and reduce the potential value received by customers who have already invested in efficiency. Energy charges send the best price signal for the purposes of encouraging energy efficiency. Under the Company's proposal, customers would be faced with an increase of 10.94 percent in a billing component which, absent total disconnection from the utility's system, cannot be avoided. This virtually unavoidable rate hike is particularly burdensome for low-use customers and especially, low-income customers.

D. Should KCPL be required to implement the block rate structure proposed by the Division of Energy for residential customers?

Yes. As a step toward rates that send improved price signals for efficiency, DE recommends that the Commission order the Company move towards the adoption of flat volumetric rates for residential general use customers during the winter, and that the Company implement an inclining block rate for residential general use customers during the summer, as described in the testimony of DE witness Mr. Martin R. Hyman and Sierra Club witness Mr. Douglas B. Jester.

The test for determining the propriety of a rate design is whether the rates are just, reasonable, and in the public interest. (See State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n, 600 S.W.2d 222, 223 (Mo.App. W.D. 1980.)

With regard to just and reasonable rates, Missouri's courts have held that, "Under the statutory standard of 'just and reasonable' it is the result reached not the method employed which is controlling. It is not theory but the impact of the rate order which counts." State ex rel. Missouri Water Co. v. Pub. Serv. Comm'n, 308 S.W.2d 704, 714 (Mo. 1957), citing Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 64 S.Ct. 281, 88 L.Ed. 333.

The Commission has previously concluded that a utility has the burden of proof to show that its proposed tariffs are just and reasonable, *including* the reasonableness of its rate design. In the Matter of Missouri Gas Energy & Its Tariff Filing to Implement A Gen. Rate Increase for Nat. Gas Serv., 280 P.U.R.4th 107 (Mo. P.S.C. Feb. 10, 2010), citing State ex rel. Monsanto Company v. Public Service Commission, 716 S.W.2d 791 (Mo. 1986).

With regard to the public interest, Missouri's courts have held that the public interest is a matter of policy to be determined by the Commission. State ex rel. Public Water Supply District v. Public Service Commission, 600 S.W.2d 147, 154 (Mo. App.1980). It is within the discretion of the Commission to determine when the evidence indicates the public interest would be served. State ex rel. Intercon Gas, Inc. v. Public Service Com'n of Missouri, 848 S.W.2d 593, 597-598 (Mo. App.1993). The Commission has previously held that determining what is in the interest of the public is a balancing process. In the Matter of Sho-Me Power Electric Cooperative's Conversion from a Chapter 351 Corporation to a Chapter 394 Rural Electric Cooperative, Case No. EO-93-0259, Report and Order issued September 17, 1993, 1993 WL 719871 (Mo. P.S.C.). In making such a determination, the total interests of the public served must be assessed. Id.

In the present case, DE and Sierra Club have provided competent and substantial evidence that moving towards the adoption of flat volumetric rates for residential general use customers during the winter and implementing an inclining block rate for residential general use customers during the summer is just and reasonable in that it would have the desired impacts of sending an efficiency-inducing price signal to high use customers and would provide bill reductions for the majority of low-income customers and low-use customers. DE's block rate design proposal is also in the public interest in that it results in bill savings to all customers in the long run by reducing peak-demand, with minimal short-term impact on the Company's earnings.^{6 7}

E. Should KCPL be required to propose time-varying rate offerings for residential customers in future cases?

Yes. As discussed above, in its Report and Order in ER-2014-0370, the Commission ordered that a study of these rates be completed by KCP&L no later than September 15th, 2017. Additionally, several parties have provided evidence in this case on the benefits of time-varying rates for customers, which include increasing customer control over electricity bills and shifting load to off-peak hours. It is therefore appropriate for the Commission to order KCP&L to propose time-varying rate offerings for residential customers in its next general rate case.

F. How should any increase to Rates LGS and LPS be distributed?

DE takes no position on this issue at this time, but reserves the right to take a position after hearing.

Clean Charge Network

A. Is the Clean Charge Network a regulated public utility service?

⁶ ER-2016-0285, Jester Surrebuttal, page 4, lines 12-16.

⁷ ER-2016-0285, Jester Surrebuttal, page 7, lines 9-13.

Yes, the Clean Charge Network (“CCN”) is a regulated public utility service. The legal standard to determine whether a service is a public utility service was memorialized by the Missouri Supreme Court in State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm'n of Missouri, 275 Mo. 483, 205 S.W. 36, 39 (1918), where the Court stated:

For the operation of the electric plant must of necessity be for a public use, and therefore be coupled with a public interest; otherwise the Commission can have no authority whatever over it. The electric plant must, in short, be devoted to a public use before it is subject to public regulation. Munn v. Illinois, 94 U. S. 113, 24 L. Ed. 77. Since the sole right of regulation depends upon the public interest, the subdivisions quoted above, and which define an electric plant and an electric corporation, mean the same, whether the idea of a public use is expressly written therein or not; it is, nevertheless, of necessity connoted and to be understood therein.

To determine “public use,” the Court relied on the following test:

The fundamental characteristic of a public calling is indiscriminate dealing with the general public. As Baron Alderson said in the leading case: “Everybody who undertakes to carry for any one who asks him is a common carrier. The criterion is whether he carries for particular persons only, or whether he carries for every one. If a man holds himself out to do it for every one who asks him, he is a common carrier; but if he does not do it for every one, but carries for you and me only, that is a matter of special contract.” State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm'n of Missouri, 275 Mo. 483, 205 S.W. 36, 42 (1918).

The CCN is a public utility service as the proposed tariff service passes both elements of the Danciger test: (1) KCP&L will be operating electric vehicle charging stations, which

constitute electric plant; and, (2) KCP&L will be devoting the electric vehicle charging stations to a public use.

B. Should capital and O&M expenses associated with the Clean Charge Network be recovered from ratepayers?

Yes, the capital and operations and maintenance (“O&M”) expenses associated with the Clean Charge Network should be recovered from ratepayers to the extent the revenues from customers charging on the Clean Charge Network do not recover the incremental costs of providing electric vehicle charging service.

“... [A] utility need not demonstrate in its case-in-chief that all expenditures are prudent.” In Re Missouri Gas Energy, GR-2002-348, 2007 WL 4386053 (Mo. P.S.C. Oct. 2, 2007). When another party raises a serious doubt regarding an expenditure, the burden shifts to the utility to prove the prudence of the expenditure. Associated Natural Gas Company, 954 S.W.2d at 528, citing State ex rel. Pub. Counsel v. Pub. Serv. Comm'n, 274 S.W.3d 569, 586 (Mo.App. W.D. 2009). “In ratemaking cases, a utility receives the benefit of a presumption of prudence with regard to its costs until another party raises a serious doubt regarding the prudence of its expenditure.” Associated Natural Gas Company, 954 S.W.2d at 528.

The Commission has previously held that mere speculation does not create a serious doubt about the prudence of expenditures. State ex rel. Pub. Counsel v. Pub. Serv. Comm'n, 274 S.W.3d 569, 587 (Mo.App. W.D. 2009). In order to disallow a utility's recovery of costs from its ratepayers, the PSC must find both that “(1) the utility acted imprudently, [and] (2) such imprudence resulted in harm to the utility's ratepayers.” State ex rel. KCP & L Greater Missouri Operations Co. v. Missouri Pub. Serv. Comm'n, 408 S.W.3d 153, 163 (Mo.App. W.D. 2013),

citing State ex rel. Associated Natural Gas Co. v. Pub. Serv. Comm'n, 954 S.W.2d 520, 529 (Mo.App. W.D.1997).

In the present case, the Company is entitled to the opportunity to recover the capital and O&M expenses associated with the CCN from ratepayers to the extent the revenues from customers charging on the CCN do not recover the incremental costs of providing electric vehicle charging service because KCP&L enjoys a presumption of prudence with regard to expenses. Since no party has filed testimony raising a serious doubt regarding the prudence of the expenses associated with the CCN, the Company may recover the associated capital and O&M expenses from ratepayers.

C. Should KCPL develop a PEV-TOU rate to be considered in its next general rate case?

DE recommends that KCP&L develop a residential general time-of-use rate which can be utilized by PEV drivers and other customers. DE is concerned that the application of such rates to EV charging alone may a) inappropriately target a single end use, and b) be impractical from an infrastructure perspective. As stated above, several parties have provided evidence in this case on the benefits of time-varying rates for customers, which include increasing customer control over electricity bills and shifting load to off-peak hours. It is therefore appropriate for the Commission to order KCP&L to propose time-varying rate offerings for all residential customers in its next general rate case.

D. Should the session charge be removed from the tariff?

Yes. The Session Charges have no basis in cost causation. The charges are not based on the cost of any equipment used to provide electric service, since this cost is already covered in

the average energy prices used to set the CCN tariff's energy charges.⁸ Additionally, no demonstration has been made that there is a need for Session Charges; no evidence has been provided that EV drivers linger at EVCSs for a significant amount of time past charging completion. Finally, it should be noted that EVs do not all charge at the same speed.⁹ As a result, some EV drivers will spend longer at charging stations than others. It is not fair to penalize drivers who have to spend longer at charging stations purely based on the technological capabilities of their vehicles.

WHEREFORE, the Missouri Division of Energy respectfully files its *Statement of Positions*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been served electronically on all counsel of record this 2nd day of February, 2017.

/s/ Alexander Antal

Alexander Antal

⁸ ER-2016-0285, Rush Direct, page 22, lines 6-10.

⁹ Missouri Public Service Commission Case No. ET-2016-0246, *In the Matter of the Application of Union Electric Company d/b/a Ameren Missouri for Approval of a Tariff Setting a Rate for Electric Vehicle Charging Stations*, Rebuttal Testimony of Mr. Douglas B. Jester on Behalf of Sierra Club, November 29, 2016, page 6, lines 11-14.

