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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
April 21 2009
Jefferson City, Missouri
Volume 12

In the Matter of the Application)
of Kansas City Power and Light)
Company For Approval to Make)
Certain Changes in its Charges for) Case No. ER-2009-0089
Electric Service to Continue the)
Implementation of its Regulatory)
Plan)

HAROLD STEARLEY, Presiding,
SENIOR REGULATORY LAW JUDGE

TERRY JARRETT,
COMMISSIONER.

REPORTED BY:
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1 P R O C E E D I N G S

2 JUDGE STEARLEY: Good morning. Today is
3 Tuesday, April 21st, 2009, and we are back on the record
4 for Case No. ER-2009-0089. I wanted to inquire of counsel
5 how we planned on proceeding today.

6 MR. DOTTHEIM: Judge, on behalf of the
7 Staff, I think we indicated yesterday that settlement
8 discussions amongst various of the parties were occurring,
9 and the Bench permitted the parties to recess yesterday in
10 order to engage in settlement discussions.

11 The discussions were productive. We don't
12 at the moment have a signed document. Various parties
13 believe that we are close as far as on the principal terms
14 of a settlement. We are not quite there. Various of the
15 non-utility parties need some time to visit amongst
16 ourselves and then get back with Kansas City Power & Light
17 Company.

18 As a consequence, the Staff would like to
19 ask the Commission's indulgence and request another recess
20 in the hearings for, say, approximately an hour and report
21 back to the Commission in an hour's time. We don't want
22 to needlessly delay these proceedings. I think an hour
23 would be a fair amount of time to assess whether we're
24 making additional -- additional progress.

25 JUDGE STEARLEY: Is an hour sufficient for

1 the parties? Do the rest agree with that? Would you like
2 me to recess until, say, ten o'clock? That would give you
3 about an hour and 25 minutes.

4 MR. ZOBRIST: I think an hour would be
5 fine. The company is waiting to hear from the other
6 parties. We think we're very close. Mr. Fischer and
7 Mr. Dottheim talked last night. We worked until about
8 11 o'clock, close to midnight. So we've made some good
9 progress, but need about an hour.

10 JUDGE STEARLEY: Very well. Why don't
11 we --

12 MR. BRUDER: Your Honor, if I may?

13 JUDGE STEARLEY: Yes.

14 MR. BRUDER: I discovered late last night
15 that the computer at my hotel won't talk to the government
16 computer, which would have been the recipient of this
17 e-mail, and so I have only had this in my hands for about
18 15 minutes. I have no wish to undermine Mr. Dottheim's
19 analysis, but an hour and a half or two -- hour and a half
20 would do it just fine, but an hour and a half would be
21 better, and I'm quite sure I could get everything
22 together, talk to the principals I need to and then be
23 ready to respond completely and thoroughly in an hour and
24 a half.

25 JUDGE STEARLEY: Why don't we recess 'til

1 ten. We'll try to accommodate the parties here.

2 MR. BRUDER: Thank you.

3 JUDGE STEARLEY: Are there any other
4 matters we need to take up before we recess?

5 (No response.)

6 JUDGE STEARLEY: Hearing none, we shall go
7 ahead and go off the record, and I will see you all back
8 here at ten o'clock.

9 (A BREAK WAS TAKEN.)

10 JUDGE STEARLEY: All right. We are
11 reconvened in Case No. ER-2009-0089. We've taken another
12 recess to allow the parties to continue their settlement
13 negotiations, and I'll inquire of the parties what status
14 we are at this point.

15 MR. DOTTHEIM: Judge, I think we've
16 reached -- at least some of the parties have reached a
17 settlement of the case in principle. We have what some
18 parties have been referring to as a term sheet. I think
19 we have the -- the terms of a settlement needs to be
20 placed in the form of a Stipulation & Agreement.

21 I think the company, Kansas City Power &
22 Light, wants to address at least some of the terms of the
23 Stipulation & Agreement. I don't think it is likely to
24 take very long to produce a formal Stipulation & Agreement
25 and file that with the Commission.

1 It is not a Unanimous Stipulation &
2 Agreement. I myself can't tell you whether any of the
3 non-joining parties will ask for a hearing or not.

4 At this point I might ask if counsel for
5 Kansas City Power & Light might respond.

6 JUDGE STEARLEY: Very well. Mr. Fischer or
7 Mr. Zobrist?

8 MR. ZOBRIST: Judge, may it please the
9 Commission? Carl Zobrist representing the company along
10 with Jim Fischer, Curtis Blanc, Roger Steiner, Bill
11 Riggins.

12 We agree with what Mr. Dottheim stated. We
13 were visiting just briefly before we went on the record,
14 and I think for the parties that are agreeing to these
15 core elements of the settlement that will end up in the
16 Stipulation & Agreement, we would like to submit this
17 document into the record to indicate that this is the
18 basis of the agreement.

19 There are a number of provisions,
20 approximately 18 paragraphs. There are three of which are
21 particular significance that I would outline later on
22 after the parties have had their -- put their comments on
23 the record. But that would be how KCPL would like to
24 proceed is to put this on the record and then we will work
25 diligently to prepare what we think is going to be a

1 Nonunanimous Stipulation & Agreement and hopefully have
2 that ready to tender to the Commission by the end of the
3 week.

4 JUDGE STEARLEY: All right. We can go
5 ahead and mark that. It would be KCPL Exhibit No. 58.

6 (KCPL EXHIBIT NO. 58 WAS MARKED FOR
7 IDENTIFICATION BY THE REPORTER.)

8 JUDGE STEARLEY: And I'm assuming all of
9 the parties present have had an opportunity to review that
10 document; is that correct?

11 MR. ZOBRIST: I believe so. I think
12 everyone who's here in the hearing room, I believe that's
13 correct.

14 MS. CARTER: Your Honor, since it's being
15 marked as an exhibit and put into the record, it might be
16 appropriate to put on the record that all parties present
17 are not a part of this agreement as we haven't been
18 involved in the discussion. MGE and Empire, for example,
19 would not be signatory to the agreement.

20 JUDGE STEARLEY: Very good, Ms. Carter. I
21 was going to inquire of Mr. Zobrist if he could identify
22 for us which parties are not contemplating at this time
23 signing the agreement.

24 MR. FISCHER: Judge, I think you might
25 inquire of those in the room first. We are continuing to

1 work with some of the parties that are not in the room,
2 and we believe we will probably be able to accommodate
3 their interests, but that's yet to be determined in the
4 final stipulation.

5 JUDGE STEARLEY: Understood. So for those
6 parties in the room, let me inquire.

7 MR. ZAKOURA: The hospital intervenors will
8 not be a signatory.

9 JUDGE STEARLEY: All right. Thank you.

10 MR. WOODSMALL: Your Honor, it is my hope
11 that my clients will be a signatory to the stipulation.
12 I've sent this out to all of them. I've heard back from a
13 couple of them, but I'm still waiting to hear. That is my
14 hope, and I will inform the Commission at my earliest
15 opportunity.

16 JUDGE STEARLEY: Thank you. I'm sure
17 you're all going to want to see the stipulation in final
18 form as well.

19 MR. MILLS: That was going to be my point.
20 I think what we have here is a document that will
21 eventually, we hope, evolve into a Stipulation &
22 Agreement, but right now it's really just sort of a --
23 it's somewhere between a list of bullet points and a
24 Stipulation & Agreement. It doesn't have any of the
25 standard language about how the terms are interdependent,

1 although they certainly are, and it doesn't have all of
2 the language that actually would implement the agreement
3 that we have.

4 And I certainly don't expect this to
5 happen, but it's always possible that things may break
6 apart as we actually try to craft language that reflects
7 what we think we have agreed to. But at this point,
8 assuming that we are able to get the language tied down,
9 Public Counsel would plan to be a signatory.

10 JUDGE STEARLEY: All right.

11 MR. DOTTHEIM: Judge?

12 JUDGE STEARLEY: Yes.

13 MR. DOTTHEIM: I would like to add on
14 behalf of Staff, I agree with Mr. Mills. The Staff has
15 been very much involved with the document and fully
16 intends, has every intention of being a signatory. We've
17 been one of the principal drafters of the document.

18 I have indicated that the document needs
19 some refinement. We use terms in it such as parties in
20 certain paragraphs that I think, or section, where there
21 may be some confusion that does parties also include the
22 company or Kansas City Power & Light, and maybe parties
23 should indicate whether it's signatory parties or parties.

24 So the document still needs refinement,
25 which it will be refined when it's in the form of a

1 Stipulation & Agreement which will be formally filed and
2 signed and filed with the Commission.

3 JUDGE STEARLEY: If the parties are
4 confident this agreement can be memorialized by Friday, I
5 will go ahead and set a deadline for it to be filed no
6 later than 5 p.m. Friday, which would be April 24th.
7 Should the parties need to seek leave for additional time,
8 that can be reasonably granted, but I'd like to put us on
9 some type of time frame because at this point I'd like to
10 get responses and would be suspending the rest of these
11 proceedings until we find out if any other party's going
12 to request an evidentiary hearing.

13 MR. DOTTHEIM: Judge, I think I might add,
14 the hesitancy, our hearing from myself, and I won't speak
15 for Mr. Mills, but maybe for Mr. Mills, I don't recall
16 proceeding in this manner in the past. So we're breaking
17 some new ground as far as --

18 JUDGE STEARLEY: It's a new experience for
19 me as well.

20 MR. DOTTHEIM: Yes. As far as filing what
21 are deemed to be the terms of a Stipulation & Agreement
22 before we've actually literally filed the Stipulation &
23 Agreement itself. Some of us have had some experience
24 with Kansas City Power & Light Company when it reorganized
25 into a public utility holding company when, based on some

1 questioning from the Commissioners in this very hearing
2 room, that there was a Revised Stipulation & Agreement
3 that was submitted to the Commission based upon concerns
4 expressed from the Bench that resulted in Commission
5 authorization ultimately respecting Kansas City Power &
6 Light Company receiving authorization to reorganize into a
7 public utility holding company.

8 JUDGE STEARLEY: Thank you, Mr. Dottheim.
9 Mr. Fischer?

10 MR. FISCHER: Yes, Judge. I would just
11 comment that two exhibits that I expect to be attached to
12 the Stipulation & Agreement would include illustrative
13 tariffs and billing determinants. The company personnel
14 will be working closely with the parties, particularly the
15 Staff experts, to produce those. That would be the only
16 area that I would think could take a little time to get
17 done.

18 JUDGE STEARLEY: Are you suggesting you may
19 need longer than Friday? If you are, I can --

20 MR. FISCHER: I'm being told we can file
21 everything but the tariffs for sure.

22 JUDGE STEARLEY: Very well.

23 MR. FISCHER: Counsel makes a good point
24 about how it won't go into effect for a while.

25 JUDGE STEARLEY: We'll go ahead and set a

1 deadline for the filing of the Stipulation & Agreement for
2 Friday, 5 p.m., and I will set the deadline for responses.
3 Our rule only allows seven days. Take us to perhaps
4 Thursday, April 30th for responses. Would any party
5 object to that deadline?

6 (No response.)

7 JUDGE STEARLEY: Hearing none, I'm going to
8 set that as a deadline for filing responses.

9 I'm assuming we were going to offer, then,
10 Exhibit 58 into the record?

11 MR. ZOBRIST: That's correct, your Honor.

12 JUDGE STEARLEY: Are there any objections
13 to the offering of Exhibit 58?

14 MR. MILLS: Judge, I don't have any
15 objection. I just want the record to be clear that this
16 isn't really an evidentiary exhibit in terms of facts that
17 we've agreed to but rather illustration of the sorts of
18 tradeoffs and principles we've all agreed to that will
19 form the basis of the agreement.

20 JUDGE STEARLEY: Is there any part of this
21 document that needs to be highly confidential?

22 MR. ZOBRIST: No, your Honor.

23 JUDGE STEARLEY: Commissioner Jarrett,
24 would you have any questions for the parties?

25 COMMISSIONER JARRETT: I have no questions.

1 JUDGE STEARLEY: All right. If there's
2 nothing further that needs to be taken up at this time, we
3 will proceed with those deadlines and I will suspend the
4 remaining of the scheduled hearing proceedings and we will
5 wait 'til we get the Stipulation filed and see what our
6 responses are to determine if we do, in fact, need to
7 reschedule some time for evidentiary hearings.

8 MR. ZOBRIST: Could I just have leave to
9 withdraw that exhibit to make copies? That's my only
10 copy.

11 JUDGE STEARLEY: Certainly.

12 MR. ZOBRIST: Thank you.

13 JUDGE STEARLEY: Are there any other
14 matters we need to take up at this time?

15 (No response.)

16 JUDGE STEARLEY: Very well. The
17 evidentiary hearing in ER-2009-0089 is hereby adjourned.
18 Thank you all very much.

19 WHEREUPON, the hearing of this case was
20 concluded.

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	EXHIBITS INDEX		
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1 C E R T I F I C A T E

2 STATE OF MISSOURI)
3 COUNTY OF COLE) ss.

4 I, Kellene K. Feddersen, Certified
5 Shorthand Reporter with the firm of Midwest Litigation
6 Services, do hereby certify that I was personally present
7 at the proceedings had in the above-entitled cause at the
8 time and place set forth in the caption sheet thereof;
9 that I then and there took down in Stenotype the
10 proceedings had; and that the foregoing is a full, true
11 and correct transcript of such Stenotype notes so made at
12 such time and place.

13 Given at my office in the City of
14 Jefferson, County of Cole, State of Missouri.

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