

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION**

At a session of the Public Service
Commission held at its office in
Jefferson City on the 18th day of
March, 2009.

In the Matter of the Application of Kansas City Power & Light Company for Approval to Make Certain Changes in its Charges for Electric Service to Continue the Implementation of its Regulatory Plan)))))	<u>Case No. ER-2009-0089</u> Tariff No. JE-2009-0192
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In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in its Charges for Electric Service))))	<u>Case No. ER-2009-0090</u> Tariff No. JE-2009-0193
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In the Matter of the Application of KCP&L Greater Missouri Operations Company for Approval to Make Certain Changes in Its Charges for Steam Heating Service))))	<u>Case No. HR-2009-0092</u> Tariff No. YH-2009-0195
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**ORDER MODIFYING PROCEDURAL SCHEDULES FOR TRUE-UP
PROCEEDINGS AND FORMALLY ADOPTING TEST YEAR
AND UPDATE PERIOD**

Issue Date: March 18, 2009

Effective Date: March 18, 2009

On March 2, 2009, Kansas City Power and Light Company ("KCPL") and KCP&L Greater Missouri Operations Company ("GMO") (collectively "Movants"), filed a status report and a motion to extend the True-Up period. Specifically, Movants request some modifications to the procedural schedules for True-Up to compensate for a delay in returning latan 1 to service caused by the defective turbine rotor shaft. Their requested change is to set April 30, 2009 as the end of the True-Up period for latan 1, and retain the

True-Up date of March 31, 2009 for all other costs and revenue. Movants claim this puts them in line with the schedule contemplated by the Stipulation and Agreement adopted by the Commission in EO-2005-0329 for demonstrating compliance with the later 1 Air Quality Control System (“AQCS”) equipment in-service criteria. Alternatively, Movants suggest that further accommodation could be made for the Commission by resetting the True-Up proceedings by adding an additional 30 days to the current schedule for those portions of the proceedings, in which case they would voluntarily extend the effective date of their tariffs to September 5, 2009. Under this alternative, there would be no changes to the schedule for the evidentiary hearings, and no changes in the deadlines for post-hearing briefs, reply briefs and proposed findings of fact and conclusions of law.

The use of a True-Up audit and hearing in ratemaking is a compromise between the use of a historical test year and the use of a projected or future test year.¹ It involves adjustment of the historical test year figures for known and measurable subsequent or future changes.² However, while the “test year as updated” involves all accounts, the True-Up is generally limited to only those accounts necessarily affected by some significant known and measurable change, such as a new labor contract, a new tax rate, or the completion of a new capital asset. Both the “test year as updated” and the True-Up are devices employed to reduce regulatory lag, which is “the lapse of time between a change in revenue requirement and the reflection of that change in rates.”³

¹ *St. ex rel. Missouri Public Service Commission v. Fraas*, 627 S.W.2d 882, 887-888 (Mo. App. 1981).

² *Id.* at 888.

³ *In the Matter of St. Louis County Water Company*, Case No. WR-96-263 (*Report & Order*, issued December 31, 1996), at p. 8.

On March 6, 2009, the Commission's Staff filed a response to Movants' requests. Staff recommends that the Commission deny Movants' request because the events occurring with the turbine at Iatan 1 were foreseeable and the companies could have accounted for such delays when requesting the current procedural deadlines. Staff further states that Movants have no specific right under the Stipulation and Agreement from Case No. EO-2005-0329 (the case setting the schedule for Movants current series of rate cases) to include Iatan 1 in this rate case as plant in service -- especially with a true-up period being extended until April 30, 2009, when the Agreement originally contemplated a True-Up cutoff of September 30, 2008. Alternatively, Staff recommends that if the True-Up period is extended that the following conditions be imposed:

- (a) an extension of the tariff effective date to September 5, 2009;
- (b) an agreement by the Movants that Iatan 1 costs that exceed the base costs will be included in interim rates subject to refund based on a true-up of costs in the Movant's' next electric rate case;
- (c) any overstatement of Iatan 1 costs authorized as of April 30, 2009 found to be imprudent will constitute a violation of the Commission's order in ER-2009-0089;
- (d) depreciation reserve attributable to Iatan 1 accrued post March 31, 2009 should be included in setting rates;
- (e) deferred income tax reserve attributable to Iatan 1 accrued post March 31, 2009 will be included in setting rates;
- (f) environmental credits for energy productions from Iatan 1 should be applied as an offset to the Iatan 1 plant balance; and,
- (g) the value of power generated by Iatan 1 net of variable costs should be credited to the costs to be placed in service.

On March 11, 2009, the National Nuclear Security Administration ("NNSA") filed a reply to Movants request for modifying the procedural schedule. NNSA recommends that the Movants be denied any recovery of Iatan 1 costs in this rate proceeding. Alternatively,

NNSA suggests that should the Commission allow recovery of these costs the Commission should approve any rate recovery of latan 1 costs as being subject to refund. Additionally, NNSA recommends the Commission order a prudence investigation of latan 1 costs.

Also on March 11, 2009, Praxair, Inc., Midwest Energy Users' Association, Wal-Mart Stores, Inc., Sedalia Industrial Energy Users' Association, Ag Processing, Inc., the Office of the Public Counsel, and the Federal Executive Agencies (collectively "Responsive Intervenors") filed a response to the Movants' requests. The Responsive Intervenors observe the many complexities of current matters and the potential for additional delays that may occur related to the uncertainty of scheduled events. Consequently, the Responsive Intervenors recommend either strict adherence to the current schedule or an extension for the True-Up date until April 30, 2009; with a simultaneous suspension of the tariff effective date until October 5, 2009.

The Commission, having fully considered the alternatives proposed by the parties shall extend the True-Up period for all costs and revenue until April 30, 2009, and direct the Movants to comply with their representation of voluntarily extending the effective dates of their tariffs until September 5, 2009. The Commission shall also extend, by approximately one month, the dates for all matters related to the True-Up proceeding beginning with the "Closed Book True-Up Data Date" and continuing through the "Effective Date for Tariffs." Additionally, the Commission shall impose the other conditions suggested by its Staff with the exception of suggestion "c" (any overstatement of latan 1 costs authorized as of April 30, 2009 found to be imprudent will constitute a violation of the Commission's order in ER-2009-0089). The Commission will not prejudge any potential violation of a Commission order without knowing the facts and circumstances surrounding the alleged violation.

Test Year and Update Period

Additionally, the Commission notes that earlier in these proceedings the parties had agreed to a test year ending December 31, 2007 (12 months actual data) and an update period to reflect known and measurable changes through September 30, 2008.⁴ The test year is a central component in the ratemaking process. Rates are usually established based upon a historical test year which focuses on four factors: (1) the rate of return the utility has an opportunity to earn; (2) the rate base upon which a return may be earned; (3) the depreciation costs of plant and equipment; and (4) allowable operating expenses.⁵ From these four factors is calculated the “revenue requirement,” which, in the context of ratemaking, is the amount of revenue ratepayers must generate to pay the costs of producing the utility service they receive while yielding a reasonable rate of return to the utility's investors.⁶ A historical test year is used because the past expenses of a utility provide a basis for determining what rate is reasonable to be charged in the future.⁷ To-date, the Commission had not formally adopted the test year and update period and it shall do so as part of this order.

⁴ See ER-2009-0089: EFIS Docket Entry Number 38, Staff’s Response to Kansas City Power and Light Company’s Test Year and True-Up Proposals, filed on October 14, 2008. See also

⁵ *State ex. rel. Union Electric Company v. Public Service Commission*, 765 S.W.2d 618, 622 (Mo. App. 1988).

⁶ *State ex rel. Capital City Water Co. v. Missouri Public Service Commission*, 850 S.W.2d 903, 916 n. 1 (Mo. App. 1993).

⁷ See *State ex rel. Utility Consumers' Council of Missouri, Inc. v. Public Service Commission*, 585 S.W.2d 41, 59 (Mo. banc 1979).

THE COMMISSION ORDERS THAT:

1. The test year for these proceedings is the period ending December 31, 2007 (12 months actual data), updated and adjusted for known and measurable changes through September 30, 2008.

2. The “Motion to Extend Period to Demonstrate Compliance with Certain In-Service Criteria” filed by Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company on March 2, 2009, is granted as modified in the attached table of modifications.

3. The attached table of modifications to the procedural scheduled for ER-2009-0089, ER-2009-0090, and HR-2009-0092 is adopted.

4. Kansas City Power and Light Company and KCP&L Greater Missouri Operations Company are directed to comply with their representation that they would voluntarily extend the effective date of the tariffs filed in these proceedings until September 5, 2009.

5. The following conditions will be imposed on these proceedings:

- a.) Iatan 1 costs that exceed the base costs will be included in rates on an interim basis subject to refund based on a true-up of costs in the Movant’s next electric rate case;
- b.) depreciation reserve attributable to Iatan 1 accrued post March 31, 2009 shall be included in setting rates in this proceeding;
- c.) deferred income tax reserve attributable to Iatan 1 accrued post March 31, 2009 will be included in setting rates in this proceeding;
- d.) environmental credits for energy productions from Iatan 1 shall be applied as an offset to the Iatan 1 plant balance; and,
- e.) the value of power generated by Iatan 1 net of variable costs shall be credited to the costs to be placed in service.

6. This order shall become effective immediately upon issuance.

BY THE COMMISSION

A handwritten signature in black ink, appearing to read 'Colleen M. Dale', written in a cursive style.

Colleen M. Dale
Secretary

(S E A L)

Clayton, Chm., Murray, Jarrett, and
Gunn, CC., concur;
Davis, C., absent.

Stearley, Senior Regulatory Law Judge