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STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS
Evidentiary Hearing
October 22, 2012
Jefferson City, Missouri
Volume 16

In the Matter of Kansas City)
Power & Light Company's Request)
for Authority to Implement a) File No. ER-2012-0174
General Rate Increase for Electric)
Service)
In the Matter of KCP&L Greater)
Missouri Operations Company's)
Request for Authority to Implement) File No. ER-2012-0175
a General Rate Increase for)
Electric Service)

DANIEL R.E. JORDAN, Presiding,
SENIOR REGULATORY LAW JUDGE.
KEVIN D. GUNN, Chairman,
STEPHEN STOLL,
COMMISSIONERS.

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25 MIDWEST LITIGATION SERVICES

1 (WHEREUPON, the hearing began at 8:34 a.m.)
2 (KCPL EXHIBIT NOS. 29, 30 AND 31; GMO
3 EXHIBIT NOS. 123, 124 AND 125; AND MIEC EXHIBIT NOS. 400,
4 400HC, 401, 425 AND 426 WERE MARKED FOR IDENTIFICATION BY
5 THE REPORTER.)

6 JUDGE JORDAN: The Commission is calling
7 the actions in File Nos. ER-2012-0174 and ER-2012-0175.
8 These are the general rate actions involving Kansas City
9 Power & Light Company and KCP&L Greater Missouri
10 Operations.

11 I'm Daniel Jordan. I'm the Regulatory Law
12 Judge assigned to this action. I think we should begin
13 today by taking entries of appearance, and here's what
14 we'll do. We'll just go front to back. We'll start
15 with -- yeah, let's start with Staff today.

16 MR. WILLIAMS: Judge, I'm not sure if there
17 will be any other attorneys later, but at least for Staff
18 at the moment it will be John Borgmeyer, Nathan Williams
19 and Sarah Kliethermes.

20 JUDGE JORDAN: Very good. Thank you.

21 MR. MILLS: On behalf of the Office of the
22 Public Counsel and the public, Lewis Mills.

23 JUDGE JORDAN: Thank you.

24 MR. WOODSMALL: David Woodsmall on behalf
25 of Midwest Energy Consumers Group.

1 MR. MILLER: Captain Sam Miller on behalf
2 of the Federal Executive Agencies.

3 MR. ZOBRIST: Karl Zobrist, Roger Steiner,
4 Jim Fischer on behalf of Kansas City Power & Light Company
5 and KCP&L Greater Missouri Operations Company.

6 JUDGE JORDAN: There's someone around the
7 corner I can't see, right next to Sarah Kliethermes.

8 MR. BARTELS: Reed Bartels, Midwest
9 Industrial Energy Consumers.

10 JUDGE JORDAN: Thank you. That is almost
11 everyone.

12 MR. BRUDER: Arthur Perry Bruder for the
13 U.S. Department of Energy and the Federal Executive
14 Agencies affected by these rates.

15 JUDGE JORDAN: Thank you.

16 MR. CONRAD: Stu Conrad for Praxair in the
17 0174 matter, MEUA, which is Sedalia and St. Joseph, in the
18 GMO matter, 0175.

19 JUDGE JORDAN: Thank you.

20 MR. COFFMAN: John B. Coffman appearing on
21 behalf of AARP as well as the Consumers Council of
22 Missouri, appearing in both cases.

23 JUDGE JORDAN: And I think that's everyone.
24 Is that everyone? That looks like everyone. Very good.
25 We have a few preliminary matters to take up this morning.

1 Staff had something to mention about the partial
2 stipulation that had been filed.

3 MR. WILLIAMS: Yes, Judge. On the
4 Nonunanimous Stipulation & Agreement as to Certain Issues
5 that Staff and the companies entered into and filed on
6 Friday, there -- it's slightly over-inclusive. On page 6,
7 issue 29B was not intended to be a part of that
8 Stipulation & Agreement, and the Staff's asking that it be
9 stricken. Propose that we file an amendment to the
10 Stipulation & Agreement that reflects that striking.

11 JUDGE JORDAN: Very good. Does anyone else
12 have anything to say about that?

13 MR. CONRAD: Well, as long as you're on
14 that topic, it is -- the document that was filed Friday is
15 grossly over-inclusive, and it is not satisfactory to my
16 client in St. Joseph and will be in due course, if it
17 stands as it is, not signed by them and will be opposed.
18 And when the time is appropriate to do so, we will file
19 the appropriate paperwork.

20 JUDGE JORDAN: Thank you. Anything else on
21 the partial stipulation document that was filed?

22 MR. STEINER: Your Honor, the company
23 agrees with Mr. Williams who said that, I believe it's
24 issue B on the bad debt is still a live issue.

25 JUDGE JORDAN: Anything else on that

1 matter? Not hearing anything else.

2 Mr. Bruder had something about the
3 testimony of his witness.

4 MR. BRUDER: It's been agreed by us, the
5 company and Staff, Mr. Woodsmall and Mr. Comley that my
6 witness will be cross-examined tomorrow via telephone
7 rather than appearing in person. This witness is Matthew
8 Kahal, K-a-h-a-l. He is our return on equity witness, and
9 he is with Exeter Associates in Maryland.

10 JUDGE JORDAN: Thank you. I'll make sure
11 that we can secure a phone line in a timely fashion.

12 MR. ZOBRIST: The company did agree to
13 that, your Honor.

14 MR. CONRAD: Your Honor, Mr. Bruder may be
15 referring to Mr. Comley, who is representing Kansas City,
16 but I think he had spoken to me, and while there is a
17 similarity in names, there's a significant difference in
18 clients. Nonetheless, we are agreeable to his request.

19 MR. BRUDER: I do apologize.

20 JUDGE JORDAN: Anything else on that
21 matter?

22 All right. Now, I also noted the filing of
23 a motion to take official notice of certain matters.

24 MR. WOODSMALL: Yes, your Honor. Yesterday
25 afternoon MECG filed a motion to take judicial notice of

1 six different matters related to the IEC issue that we're
2 litigating today. I provide some background regarding
3 statutory and federal rules of evidence basis for taking
4 judicial notice, but what I ask you to take judicial
5 notice is first of the effective date of SB 179 becoming
6 effective, signed by the Governor July 14th, 2005 and
7 became effective on January 1, 2006, both after the
8 execution of the KCP&L regulatory plan.

9 I ask to take judicial of the IEC tariff
10 that KCP filed to initiate this issue. Third, take
11 official notice of the Stipulation & Agreement in
12 EO-2005-0329, commonly referred to as the KCP&L regulatory
13 plan. And then finally the stipulations in ER-2001-0299,
14 ER-2004-0034 and ER-2004-0570, all being the stipulations
15 that created and implemented the three previous IECs.

16 JUDGE JORDAN: Any discussion on that
17 matter?

18 MR. ZOBRIST: Judge, if the company may be
19 heard. I'm not sure what is attempted to be accomplished
20 by this, but let me go through the request and state the
21 position of the company first. I do not believe that the
22 Public Service Commission can take judicial notice of
23 anything. It may be able to take administrative or
24 official notice. That's our first point.

25 With regard to the first request, I don't

1 believe that any requirement of notice is necessary for
2 the Commission to refer to Missouri state law, if that's
3 what Mr. Woodsmall's motion is. The Commission regularly
4 refers to Missouri state law which controls the operations
5 and the functions of this Commission. So I don't think
6 it's required.

7 On the second point regarding the taking
8 judicial notice of a proposed tariff filing, I do not
9 believe that is an appropriate candidate for either
10 judicial or official notice. It is the filing of the
11 company. It is attached to the pro forma tariffs that
12 were submitted to the Commission. I believe it's attached
13 as Schedule No. 4 to Mr. Rush's direct testimony, but I do
14 not believe that is a legitimate candidate for
15 administrative or official notice.

16 The third request we do not object to
17 because the Stipulation & Agreement was incorporated into
18 the Commission's order of August 2005, and I believe that
19 the Commission does have power to take administrative or
20 official notice of its own records and certainly of its
21 own reports and orders.

22 On 4, 5 and 6, the stipulations that were
23 filed in those cases, if they are a part of the
24 Commission's records, then it may be appropriate to take
25 official notice. We would object that they are irrelevant

1 because they are not embodied in the Stipulation &
2 Agreement which clearly does not incorporate any prior
3 interim energy charge proceedings. It simply gives the
4 company the ability to make a proposal and it is not
5 governed or restrained by a prior IEC. So while it may be
6 appropriate to take official notice, we would note that
7 they are not relevant to the request of the company in
8 this case.

9 JUDGE JORDAN: Does anyone else wish to be
10 heard on this motion?

11 MR. WOODSMALL: Just briefly, your Honor.
12 I accept the confusion regarding the term judicial notice.
13 The statute 536.007(7) states that the Commission can take
14 official notice of the same things that a court can take
15 judicial notice. So the statute uses both official
16 notice, judicial notice, whichever you want to prefer.

17 I think counsel said that they don't have
18 problems with the Commission taking official notice of
19 Missouri statutes. SB 179 is now a statute, and when it
20 became effective, I think you can take notice of that.

21 The IEC tariff, I'm kind of stumped as to
22 why you wouldn't take judicial notice of that, official
23 notice of that. That is, after all, the very proposal
24 that we're here to litigate today.

25 And the other four are all stipulations,

1 they're all records, they're true copies I took off of
2 EFIS. If it helps any at all, I can get the records room
3 to file a certification. I was hoping to avoid that. And
4 if we want to argue relevance of the past IECs, we can. I
5 believe that they are relevant to how the Commission
6 should view any IEC proposal in this case. Both the
7 regulatory plan proposal for the structure as well as
8 previous IEC structures are relevant.

9 JUDGE JORDAN: Anything else on this
10 matter?

11 MR. WILLIAMS: Judge, Staff would weigh in
12 on the relevancy argument. IEC is not really defined in
13 the regulatory plan, and Staff believes that those prior
14 orders provide meaning for what the term means.

15 JUDGE JORDAN: Anything else? Then I will
16 overrule the objections. I will grant the motion under
17 Section 536.070, both subdivisions 5 and 6.

18 MR. WOODSMALL: Now, a quick question
19 regarding how to implement that ruling. Would you prefer
20 that we just take notice? Do I need to mark those each
21 one as an exhibit or, you know, your preference? I can
22 make a copy for the court and mark it as an exhibit so
23 when we talk to witnesses, we have a hard copy or --

24 JUDGE JORDAN: I think that's going to be
25 more convenient if you plan to refer to those documents,

1 and it will be good to have a hard copy, give them to the
2 court reporter, mark them as exhibits, et cetera.

3 MR. WOODSMALL: Thank you, your Honor.

4 JUDGE JORDAN: You're quite welcome.

5 MR. ZOBRIST: Judge, given your ruling, I
6 would ask Mr. Woodsmall if he would object to also
7 entering as an exhibit the Commission's Report and Order
8 in the 2005 case where the stipulation was submitted.

9 MR. WOODSMALL: Not at all.

10 MR. ZOBRIST: I think that would be helpful
11 if we're going to have a complete record. Thank you.

12 JUDGE JORDAN: Yes, I'll have that admitted
13 to the record when it's offered. Is there anything else
14 that we want to discuss before we move on to the matter
15 that Staff raised before we went on the record, which is
16 the matter of further stipulation and a recess to discuss
17 that? Anything else?

18 Okay. Then Staff counsel, will you explain
19 what we're going to do now?

20 MR. WILLIAMS: Well, Judge, as we discussed
21 before we went on the record, the parties received a
22 proposal from the companies late yesterday, and we'd ask
23 that the Commission recess the hearing for 30 minutes to
24 give the parties an opportunity to review that and see if
25 it looks like that settlement proposal might go forward.

1 It includes the first issue scheduled for today, the IEC
2 issue.

3 JUDGE JORDAN: Very good. Any further
4 discussion of that matter? Not seeing anything, we will
5 take a recess of half an hour to discuss the terms of
6 further stipulation and settlement. Thank you. And we'll
7 go off the record.

8 (A BREAK WAS TAKEN.)

9 JUDGE JORDAN: Let's go back on the record
10 for just a moment. The parties have requested an
11 extension of this recess until 11 o'clock, which will be
12 an hour and 36 minutes from now. So we will be in recess
13 during that time. Return at 11 o'clock according to the
14 clock on the hearing room wall. We're off the record.

15 (A BREAK WAS TAKEN.)

16 JUDGE JORDAN: We're back on the record
17 just briefly. The parties have asked to extend the recess
18 until one o'clock, which will be two hours from now. So
19 we will be in recess until one o'clock, and we can go back
20 off the record.

21 (A BREAK WAS TAKEN.)

22 JUDGE JORDAN: We are back on the record,
23 and I believe the parties have a request regarding a
24 further recess to make of the Commission.

25 MR. FISCHER: Yes, Judge. I'm happy to

1 report that we have made substantial progress today, and
2 we've reached an agreement in principle that would resolve
3 issues that were scheduled for today on all the issues for
4 today, and the agreement so far is related to KCPL issues.
5 There are some further discussions going on on the GMO
6 side.

7 The schedule, though -- or the agreement
8 doesn't resolve all the issues that are outstanding, and
9 we would still need to begin a hearing tomorrow. The
10 schedule that's being -- that has been agreed to is to
11 take Mr. Blunk on all of the issues that he has, including
12 some Crossroads issues, and then begin ROE for tomorrow,
13 and then on Wednesday, we would have the -- let's see. I
14 don't have my schedule. On Wednesday we would do the
15 transmission tracker issue and the St. Joe infrastructure
16 issue. Then on Thursday there still is a rate case
17 expense issue related to GMO only, and then Friday we
18 would be talking about the Crossroads issues and LaCygne
19 issues, followed on the following Monday by cost of
20 service and rate design and the fuel adjustment clause
21 sharing.

22 Now, I would emphasize we're continuing to
23 talk. So we just need some more time to hopefully resolve
24 a few more of those.

25 JUDGE JORDAN: Thank you. Do I understand

1 correctly that none of those are KCPL issues, all of them
2 are GMO issues?

3 MR. FISCHER: The ROE issue is a KCPL
4 issue, and the transmission tracker would also be a joint
5 common issue. The other --

6 MR. ZOBRIST: I was going to say, ROE and
7 capital structure are for both companies, and the debt
8 adjustment is just for KCPL.

9 MR. FISCHER: That's right. And the other
10 class cost of service rate design would be also an issue
11 that would apply to both companies.

12 JUDGE JORDAN: Okay. So the parties are
13 asking to recess further for today and resume tomorrow as
14 scheduled?

15 MR. FISCHER: Yes. Mr. Blunk would be the
16 first witness up for tomorrow for all of his issues that
17 he addresses.

18 JUDGE JORDAN: Okay. And I will have
19 Mr. Bruder send contact information for his witness to me
20 or to my secretary and he will be appearing by telephone
21 tomorrow. Let me get a sense from the parties what they
22 think the need will be for the time for that telephone
23 line.

24 MR. ZOBRIST: I would -- I can't predict
25 for the other parties, but assuming the company would do

1 the lead on cross-examination, I would think half an hour
2 probably ought to be sufficient.

3 JUDGE JORDAN: Okay. I think what I'll do
4 is arrange it with that in mind. And the parties feel
5 that we would definitely get to him during the morning; is
6 that correct?

7 MR. ZOBRIST: Well, if we proceed with
8 Mr. Blunk and then we have Dr. Hadaway, who's Staff's ROE
9 witness, and we go to Mr. Murray, I've got a number of
10 questions for Mr. Murray. That could take up the bulk of
11 the morning, and perhaps it would be best to start
12 Mr. Kahal right after lunch. I know Mr. Bruder is not
13 here, but I'm just thinking that Dr. Hadaway and
14 Mr. Murray are probably going to take a fair amount of
15 time.

16 JUDGE JORDAN: That's fine. We'll work
17 that out. I'll work that out at my end. What else would
18 the parties like to discuss before we go off the record?

19 MR. FISCHER: Thank you for the
20 Commission's indulgence today.

21 JUDGE JORDAN: On behalf of the Commission,
22 we're grateful that the parties are operating as
23 constructively as they are. Anything else before we go
24 off the record, recess for the day? Very good. Thank you
25 very much. And with that, we will adjourn for the day and

1 go off the record.

2 (WHEREUPON, the hearing was adjourned at

3 1:06 p.m.)

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C E R T I F I C A T E

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

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

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

Kellene K. Feddersen, RPR, CSR, CCR

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