

In the Matter of a Workshop Case to)
Explore the Ratemaking Process) Case No. AW-2019-0127

**KANSAS CITY POWER & LIGHT COMPANY'S
AND KCP&L GREATER MISSOURI OPERATIONS COMPANY'S
COMMENTS REGARDING THE COMMISSION'S RATEMAKING PROCESS**

Kansas City Power & Light Company (“KCP&L”) and KCP&L Greater Missouri Operations Company (“GMO”) (collectively, “KCP&L/GMO”) hereby respond to the Missouri Public Service Commission’s (“Commission”) Order issued in this docket on November 6, 2018 opening a working case to consider the Commission ratemaking process, at the request of Commission Staff (“Staff”).

KCP&L/GMO appreciate the opportunity to comment in this working case and respond as follows:

A. The Draft Rule Would Likely Prove Unworkable Absent Changes to Shorten and Simplify the Missouri Ratemaking Process.

1. The draft rule prepared and circulated by Staff seeks to reduce the length of time for the resolution of general rate cases from 11 months to 240 days. As a practical matter, it is not at all clear to KCP&L/GMO that the procedure contemplated in the draft rule can actually be accomplished in time to permit a Commission decision and the resulting rates to become effective in 240 days.¹ Because the draft rule does not eliminate any of the procedural steps currently used in Missouri (i.e., direct testimony by parties in addition to the documentation filed by the utility

1 KCP&L/GMO suggest that an examination of the relationship between the issue and effective dates of general rate
case orders and the effective date of resulting compliance tariff sheets would also be a topic worthy of discussion
during this workshop. Over time, the compliance tariff sheet approval process has become more and more uncertain,
in the experience of KCP&L/GMO, which unnecessarily places undue stress on personnel responsible for testing and
implementing the new rates and increases the likelihood of mistakes.

initiating the proceeding; rebuttal testimony by all parties and surrebuttal testimony by all parties), it will be very difficult, if not impossible, for the Commission to resolve litigated general rate cases in less than 11 months. The draft rule requires the utility to file substantial material with the filing but does not otherwise provide, in the view of KCP&L/GMO, any meaningful way to shorten the amount of time the Commission needs to resolve litigated rate cases. Other process changes are needed to effectuate a 240-day schedule for general rate cases in Missouri. Moreover, section (4)(E) of the draft rule, which provides that “[T]he commission shall not suspend the proposed rate schedules[.]” is not entirely consistent with either section 393.150.1 RSMO, which provides in relevant part that the Commission “may suspend” a rate schedule, or section 393.150.2 RSMO, which provides that the Commission “may, in its discretion, extend the time of suspension . . . “. As such, KCP&L/GMO believe the draft rule, although well intended, is likely to be overridden by the Commission on a case-by-case basis pursuant to section 393.150 as a matter of practical necessity unless changes are made to shorten and simplify the Missouri ratemaking process.

B. The Commission Can Shorten and Simplify the Missouri Ratemaking Process.

2. A number of opportunities exist to enhance the Missouri ratemaking process for the benefit of customers by reducing the time, complexity, duplicative work and cost associated with the current process. As it assesses the viability of the changes suggested herein, the Commission should bear in mind the fact that much of the current process has resulted from custom and practice and is not required by statute, judicial precedent, Commission rule or approved tariffs. As such, the Commission possesses all of the authority it needs to adopt the changes proposed in these comments.

3. The statutory rate case timeline is longer in Missouri than in most other states.
 - a. By statute (§393.150 RSMo.), the general rate case process can take as long as eleven months in Missouri. General rate cases can be resolved more quickly when full settlement is reached, but if the Commission is required to resolve disputed issues, the process normally takes the full 11-month period in Missouri even though the statute expressly provides that “. . . the commission shall give to the hearing and decision of such questions preference over all other questions pending before it and decide the same as speedily as possible.” §393.150.2 RSMo.
 - b. Most other states in the country do this work in a shorter period of time. Research undertaken by KCP&L/GMO shows that at least 35 states in the country process general rate cases in ten months or less, with a number doing so in six months, a few more at 7 months and many more doing so in 8 or 9 months. Admittedly, some states have statutory timelines for resolving general rate cases at or even in excess of the 11-month Missouri timeline, but they are the exception to the general rule.
4. Missouri requires more rounds of testimony than most other states.
 - a. In Missouri, the general rate case process calls for direct testimony by the utility initiating the case. Then, after an audit period, Staff, the Office of the Public Counsel (“OPC”) and other parties to whom the Commission has granted intervenor status also have an opportunity to file direct testimony. The direct testimony of Staff, OPC and intervenors is often bifurcated into two separate filings, with rate design direct testimony being

filed two weeks or so after those parties' revenue requirement direct testimony. Thereafter, all parties have an opportunity to file rebuttal testimony (in response to other parties' direct testimony) and surrebuttal testimony (in response to other parties' rebuttal testimony). All told, each party to a Missouri general rate case could file three or four separate rounds of testimony. If a true-up occurs, or if rebuttal testimony on revenue requirement and rate design is also bifurcated, then additional rounds of testimony could be filed. In KCP&L/GMO's experience, the multitude of testimony filings reduces the ability and capacity of the parties to focus time and attention on the discussions necessary to settle some or all of the issues in general rate cases.

- b. As shown in the filing made herein by Missouri American Water Company on November 28, 2018, in most states other than Missouri, the utility initiating the rate case will file direct testimony and the commission staff, the consumer advocate and intervenors will file their testimony which is in response to the direct testimony of the utility. The commission staff, the consumer advocate and intervenors will also have the opportunity to file cross-answering testimony in response to the testimony of the non-utility parties. Finally, the utility will have an opportunity to file rebuttal testimony in response to the testimony of the non-utility parties. All told, each party to a rate case in most states other than Missouri could file only two separate rounds of testimony. The Missouri rate case process can be shortened and simplified by eliminating multiple rounds of testimony.

5. In Missouri, the revenue requirement presented in the direct testimony of the utility is effectively abandoned, whereas in most other states, the revenue requirement presented in the direct testimony of the utility forms the base line of the other parties' cases.

- a. In Missouri, the Staff files direct testimony and bases its revenue requirement position on a test year that is different than the test year used by the utility in its direct testimony. As a result, the Staff in Missouri takes more time to perform general rate case audits than staff in other states because the Staff in Missouri largely ignores the revenue requirement presentation in the direct testimony of the utility initiating the general rate case. This also increases the discovery burden and associated cost placed on utilities in Missouri compared to the process used in other states where the staff (and other parties to general rate cases) build their revenue requirement presentations by making adjustments to the revenue requirement presentation in the utility's direct testimony. In addition, because the Staff (and other parties) in Missouri largely ignore the revenue requirement presentation in the utility's direct testimony, the revenue requirement presentations of the utility and the Staff cannot be compared on an "apples to apples" basis which requires the parties, typically the subject utility, to undertake a reconciliation process. The additional work necessary to reconcile the revenue requirement presentations of the utility and the Staff in Missouri necessitates additional time that is not necessary in other states where the staff (and other parties) build their revenue requirement presentations by making adjustments to the revenue

requirement of the utility. In this fashion, the adjustments by the staff (and other parties) to the revenue requirement as filed by the utility serve as the reconciliation.

- b. In most states other than Missouri, the commission staff's revenue requirement is presented in the form of adjustments to the baseline revenue requirement presented in the utility's direct testimony. As a result, the revenue requirement presentations of the utility and staff (as well as other non-utility parties) can be compared on an "apples to apples" basis. As a result, the amount of time for the commission staff to perform its audit is shorter than in Missouri and discovery is less voluminous than in Missouri.

6. For electric utilities in Missouri, fuel costs are re-based and included in base rates in every general rate case even though every Missouri electric utility has a fuel adjustment clause ("FAC") in place, whereas in most states other than Missouri all fuel costs are recovered through the FAC and are not included in base rates.

- a. Even though re-basing of the FAC is not required by either statute or Commission Rule, the Commission, through its order in Case No. ER-2010-0356, has required costs subject to the FAC to be re-based and included in rates in each general rate proceeding², with changes in such costs occurring between general rate cases reflected in periodic FAC adjustments. The analysis necessary to determine a "normal" level of fuel expense for inclusion in base rates involves numerous interdependent variables (including but not limited to: normal weather; weather

² Re: KCP&L Greater Missouri Operations Company, Case No. ER-2010-0356, pp. 204-210 (May 4, 2011).

normalized usage; generating unit heat rate; fuel price; fuel volume; fuel transportation cost; and many more) and is very complicated, detailed, time consuming and inherently prone to differences of opinion or methodology by different analysts. Between general rate cases, the FAC is then subject to periodic audit where the costs are scrutinized to ensure compliance with the requirements of the FAC tariff and matters of the utility's prudence with respect to FAC-related costs may be raised by Staff, OPC and/or intervenors.

- b. In most other states, all FAC-related costs are recovered through the FAC and, as such, are excluded from analysis during the general rate case process and from base rates. In those states, the FAC is also typically subject to periodic audit where the costs are scrutinized to ensure compliance with the requirements of the FAC tariff and matters of the utility's prudence with respect to FAC-related costs may be raised by the commission's staff, the consumer advocate and/or intervenors. The process other states use for handling FAC-related costs by excluding them from consideration in general rate proceedings is simpler, less costly and allows the parties to general rate proceedings to address general rate case issues without the needless distraction of resolving FAC-related matters while maintaining appropriate safeguards to ensure tariff requirements are met.

7. For electric utilities in Missouri, whether the FAC may continue is an issue in every single general rate case, whereas in most states other than Missouri the FAC is presumed to be valid unless specifically challenged.

- a. Commission Rule 4 CSR 240-20.090(2) effectively requires the Commission to decide whether existing FACs will continue during the course of every general rate case filed by an electric utility in the state of Missouri. This requires each electric utility to address all of the items required by 4 CSR 240-20.090(2) and 4 CSR 240-3.161(3) in every general rate case they file even though the Commission has consistently approved the use and continuation of FACs. Each electric utility in Missouri is also required by Commission Rule 4 CSR 240-20.090(9) to submit a line loss study no less frequently than every four years so that it is available in each general rate case in which it seeks to continue its existing FAC. In KCP&L/GMO's experience, the line loss study requirement alone typically increases rate case expense by about \$100,000 and Staff generally finds fault with each study and makes line loss recommendations that differ from the study results. In light of this and the minimal changes in line losses made from rate case to rate case, KCP&L/GMO suggest that the line loss study requirement should be either eliminated entirely or reduced from every four years to every ten years.
- b. In most states other than Missouri, the FAC in place for an electric utility is presumed to be valid unless specifically challenged. If a challenge is made to an existing FAC, and such challenges are extremely rare, it would

typically be made by way of a complaint outside the context of a general rate case.

8. Concluding Remarks on Shortening and Simplifying the Missouri Ratemaking Process:

- a. Each of the items set forth in numbered paragraphs 3 through 7 above make the ratemaking process in Missouri longer and more complicated than the process used in most other states, resulting in higher costs than would otherwise be incurred. The Commission and other parties have in recent years expressed concern regarding the level of rate case expense incurred by utilities in Missouri.³ In addition to imposing costs without corresponding benefits, KCP&L/GMO believe that each of the items in numbered paragraphs 4 through 7 above increase the volume of material for the Commission to read and understand during general rate cases. As shown by the experience of utility commissions in other states which make use of general rate case procedures that do not require the filing of so many rounds of testimony, this volume of material is not necessary to achieve fair and reasonable resolution of general rate cases. To the contrary in fact, reducing the volume of material filed in general rate cases in Missouri will, in KCP&L/GMO's opinion, enhance the ability of each commissioner to focus attention on issues of significance without being distracted by unnecessary material. Each of the items set forth in numbered paragraphs

³ See Staff Report, Case No. AW-2011-0330, pp. 2-8; Re Missouri-American Water Company, Case No. WR-93-212, 2 Mo.P.S.C.3d 446, 449-51 (1993); *Report & Order*, Re Missouri Gas Energy, Case No. GR-2004-0209, pp. 72-76 (2004); *Report & Order*, Re Kansas City Power & Light Company, Case No. 2014-0370, pp. 64-72 (2015).

3 through 7 are within the direct control of the Commission. This means that the Commission itself already possesses all necessary authority to make the changes suggested in this pleading that would shorten and simplify the Missouri ratemaking process. With the ultimate goal of providing benefits to customers in the form of lower regulatory costs that would result from a shorter and simplified process, KCP&L/GMO submit that the Commission should explore ways to adjust its ratemaking processes to be more consistent with the practices of other states. KCP&L/GMO would appreciate any opportunity to contribute to such an endeavor.

- b. To illustrate the procedural schedule changes that could result from the adoption of the process improvements suggested in paragraphs 3-7 herein, KCP&L/GMO have prepared Exhibit A, attached hereto, which is a side-by-side comparison of the procedural schedule adopted by the Commission for use in the 2018 rate cases of KCP&L/GMO and a procedural schedule that would have been appropriate if the Missouri ratemaking process had been shortened and simplified as suggested in paragraphs 3-6.

C. The Commission Can Expedite Implementation of New Rates on an Interim, Subject to Refund Basis.

9. KCP&L/GMO are encouraged by Staff's recognition that expedited implementation of new rates on an interim, subject to refund basis is worthy of discussion and consideration. KCP&L/GMO believe that adoption of such an approach is within the

Commission's discretion and authority under the provisions of §393.150. *State ex rel. Laclede Gas Co. v. Pub. Serv. Comm'n*, 535 S.W.2d 561 (1976).

10. The Commission should only adopt an approach that is reasonable, both to utility customers and the utility itself. The provision in Staff's draft rule that would require the utility to incur a permanent (until new rates are set again after a subsequent rate case) 5% "penalty" if the rate relief finally determined by the Commission exceeds the level of rate relief implemented by the utility on an interim, subject to refund basis is not reasonable, to either the utility or its customers. This is unreasonable for a number of reasons. The magnitude of general rate increase requests is based, in large part, on expectations regarding the future. The facts actually present in the future can differ substantially from the utility's reasonable expectations on which the magnitude of the case was based for reasons beyond the control of the utility. Imposing a penalty for circumstances beyond the utility's control is unreasonable. Moreover, requiring the utility to operate with rates lower than those found by the Commission to be reasonable and necessary to recover the utility's revenue requirement would be counter-productive because the utility would have only one option to follow in order to begin recovering its cost of service in full: file another general rate case, bringing with it the attendant costs (much of which will be borne by customers) and customer angst. Serial rate cases should not be encouraged, and the 5% penalty provision in Staff's draft rule would have that negative effect.

11. Of course, it is reasonable to expect that if the rate relief finally determined by the Commission exceeds the level of rate relief implemented by the utility on an interim, subject to refund basis, then the utility would make refunds of the difference with interest to customers. The appropriate interest rate would be the weighted average cost of capital ("WACC") determined by the Commission for the purpose of establishing rate levels. The utility has many

reasons to moderate the level of its request for interim rate relief, most notably the impact to its customers, in addition to the obligation to pay interest at the WACC determined by the Commission. In addition to the utility's natural desire to avoid antagonizing its customers and regulators by implementing excessive interim rate relief, the refund process itself is not easy or inexpensive and the utility will take all reasonable steps to avoid being required to undertake it. Although KCP&L/GMO have not undertaken exhaustive research on the topic, based on information and belief, the undersigned counsel is of the opinion that in jurisdictions which permit implementation of rates on an interim, subject to refund basis, there are no "penalty" provisions of the type included in the draft rule when interim rates exceed the level of permanent rates; instead, refunds are made to customers with interest at the WACC used to set permanent rates.

D. Request for Additional Workshop.

12. KCP&L/GMO believe it would be beneficial for the Commission to schedule another workshop for the purpose of discussing the draft rule and ways to improve the ratemaking process for the benefit of Missouri customers.

WHEREFORE, KCP&L/GMO offer these comments for the Commission's consideration.

Respectfully submitted,

/s/ Robert J. Hack

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CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 15th day of January 2019, to all counsel of record.

/s/ Robert J. Hack

Robert J. Hack

**Attorney for Kansas City Power & Light
Company and KCP&L Greater Missouri
Operations Company**

MISSOURI			8-MONTH SCHEDULE		
Description	Ordered	Days	Description	Ordered	Days
Company Filing (Test Year 6/30/2017 with projections through 6/30/2018)	1/30/2018				
			Company Filing (Test Year 9/30/2017 with projections through 6/30/2018)	5/3/2018	
Staff/Intervenor-Direct Test. (Test Year 12/31/2017 - Rev. Req.)	6/19/2018	140			
Staff/Intervenor - Direct Test. (Test Year 12/31/2017 - Rate Design)	7/6/2018	157			
Company provides True-up Documentation (data through 6/30/2018)	7/20/2018	171			
Rebuttal Test. - Rev. Req.	7/27/2018	178			
			Company provides True-Up Documentation (data through 6/30/2018)	7/31/2018	89
Rebuttal Test. - Rate Design	8/7/2018	189			
Surrebuttal/True-Up Direct Test. (using data through 6/30/2018)	9/4/2018	217			
Issues List, Order of Witnesses and Cross-Examination	9/11/2018	224			
			Staff/Intervenor Test. (using data through 6/30/2018)	9/12/2018	132
Position Statements, Initial Reconciliation	9/13/2018	226			
			Staff/Intervenor - Cross-Answering Test.	9/19/2018	139
True-Up Rebuttal Test.	9/20/2018	233			
Evidentiary Hearing Mid-Point	9/21/2018	234			
			Company Rebuttal Test.	10/1/2018	151
			Issues List, Order of Witnesses and Cross-Examination	10/3/2018	153
			Settlement Conference	10/4/2018-10/9/2018	
			Discovery Cut-Off, Position Statements, and Reconciliation	10/5/2018	155
			Evidentiary Hearing Mid-Point	10/12/2018	162
Initial Briefs	10/17/2018	260			
Reply & True-Up Briefs, Updated Reconciliation	10/26/2018	269			
			Initial Briefs	11/2/2018	183
			Reply Briefs	11/13/2018	194
Order Date	11/29/2018	303			
			Order Date *	12/13/2018	224
Operation of Law / Effective Date of Rates	12/29/2018	333	Effective Date of Rates *	12/29/2018	240

 = Testimony filing dates

* In many states the effective date of rates is the same as the order date. Missouri requires at least 10 days between the order date and the effective date. Compliance tariff sheets would need to be approved by order dated no later than December 19, 2018.