

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

In the Matter of Kansas City Power & Light)
Company's Request for Authority to Implement) **File No. ER-2014-0370, et al.**
A General Rate Increase for Electric Service)

**KANSAS CITY POWER & LIGHT COMPANY'S
RESPONSE IN OPPOSITION TO PUBLIC COUNSEL'S MOTION FOR
CLARIFICATION AND MOTION TO DECLASSIFY**

COMES NOW Kansas City Power & Light Company ("KCP&L" or "Company"), pursuant 4 CSR 240-2.080, and for its response in opposition to the Motion For Clarification And Motion To Declassify ("*Motion*") filed by the Office of the Public Counsel ("OPC") on July 10, 2015, respectfully states as follows:

1. On July 10, 2015, OPC filed its *Motion* seeking clarification of the Commission's *Order Regarding Motion To Declassify Testimony* ("*Order*") issued on July 1, 2015. In particular, the OPC requested clarification of the following paragraph:

The joint motion to declassify testimony filed by Midwest Energy Consumers Group and the Office of the Public Counsel on June 23, 2015, is denied, except that information related to the total rate case expense incurred by Kansas City Power & Light Company and the hourly rates of its outside attorneys is declassified and subject to public disclosure.

For the reasons stated herein, OPC's Motion should be denied.

2. In its June 25, 2015 *Response In Opposition To Declassify Testimony* ("*Response*"), KCP&L had suggested the following compromise position which was ultimately adopted by the Commission:

In an effort to accommodate the desire for transparency while protecting legitimate interests in maintaining the confidentiality of certain information as described above, KCP&L would suggest the following:

- Total rate case expense incurred by KCP&L as well as the hourly

rates of outside counsel engaged by KCP&L on this case may be declassified;

- Billings by service provider should not be declassified.

(Response, p. 4)

3. The Commission’s *Order* needs no clarification since it is crystal clear that the Commission adopted KCP&L’s suggested resolution of the issues as follows:

After considering the arguments of the parties, the Commission concludes that the designation of the portions of the Addo surrebuttal testimony described above falls within the definition of highly confidential information contained in Commission Rule 4 CSR 240-2.135(1)(B) and that the public policy of transparency should be balanced with the potential for harm to others, including ratepayers, that may result from disclosure. Therefore, the Commission will deny the motion except for the information KCPL suggests should be publicly disclosed relating to the total rate case expense incurred by KCPL and the hourly rates of its outside attorneys. (*emphasis added*)

4. The Commission specifically found that the highly confidential portion of the Addo surrebuttal testimony “falls within the definition of highly confidential information contained in Commission Rule 4 CSR 240-2.135(1)(B).”¹ *Order* p. 3. It specifically held that “Billings by service provider should not be declassified.” (*Id.*) Yet, this is exactly the billing information that Public Counsel is now seeking to be declassified—Billings by each service provider (i.e.

¹ Commission Rule 4 CSR 240-2.135 states as follows:

(1) The commission recognizes two (2) levels of protection for information that should not be made public.

* * *

(B) Highly confidential information is information concerning—

* * *

3. Marketing analysis or other market-specific information relating to goods or services offered in competition with others;
4. Marketing analysis or other market-specific information relating to goods or services purchased or acquired for use by a company in providing services to customers;

* * *

individual attorney). This request should also be denied.

5. As explained by KCP&L in its July 1 *Response*, in applying the text of the rule to the information at issue here it is clear that the information OPC was seeking to make public – specific pricing information of service providers chosen by KCP&L from among competing service providers to assist in its prosecution of this general rate case.

6. Perhaps recognizing the weakness of his Motion For Clarification, Public Counsel also requests in the alternative that Commission “lift the highly confidential designations on the total rate case expense incurred by KCPL for the outside attorneys.” (Motion, p. 3)

7. As explained in KCP&L’s June 25 *Response*, the provisions of 4 CSR 240-2.135(1)(B)3 and 4 are sound in that there are good reasons to protect this kind of information from public disclosure. First, utilities have many service providers to choose from in undertaking their service to the public. If all pricing information of all services provided to public utilities is to be made public, the ability of utilities to negotiate favorable pricing, terms and conditions will be compromised. Ultimately, it is customers who will pay the price for that. Second, the pricing information at issue here really does not “belong” to KCP&L at all; it belongs to the various service providers engaged to work on the case. So, in addition to protecting the interests of customers as described above, the provisions of 4 CSR 240-2.135(1)(B)3 and 4 also protect the interests of those entities and individuals who provide service to utilities. Those individuals and entities compete with others to undertake engagements with utilities. It would be unreasonable and unfair to compromise those service providers’ interests when reasonable protections that already exist can be followed. The overall rate case expense is a matter of public record. More granular information is not required and may be harmful to individual service providers, if disclosed publicly. For these reasons, Public Counsel’s *Motion* “to lift the highly confidential designations on the total rate case expense

incurred by KCPL for the outside attorneys” (*Motion*, p. 3) should again be denied.

WHEREFORE, KCP&L respectfully requests that the Commission deny OPC’s *Motion to For Clarification and Motion Declassify*.

Respectfully submitted,

/s/ Roger W. Steiner

Robert J. Hack, MBE# 36496
Roger W. Steiner, MBE #39586
Kansas City Power & Light Company
1200 Main Street
Kansas City, MO 64105
(816) 556-2785
(816) 556-2787 (Fax)
Rob.Hack@kcpl.com
Roger.Steiner@kcpl.com

Attorneys for Kansas City Power & Light Company

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 20th day of July, 2015, to all parties of record.

/s/ Roger W. Steiner

Roger W. Steiner