

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

In the Matter of the Application of Transource)
Missouri, LLC for a Certificate of Convenience)
and Necessity Authorizing it to Construct, Finance,) File No. EA-2013-0098
Own, Operate and Maintain the Iatan-Nashua and)
Sibley-Nebraska City Electric Transmission Projects)

In the Matter of the Application of Kansas City)
Power & Light Company and KCP&L Greater)
Missouri Operations Company for Approval To) File No. EO-2012-0367
Transfer Certain Transmission Property to)
Transource Missouri, LLC and for)
Other Related Determinations)

**JOINT PROPOSED ORDER APPROVING
UNANIMOUS STIPULATION AND AGREEMENT**

Transource Missouri, LLC (“Transource Missouri”),¹ Kansas City Power & Light Company (“KCP&L”), KCP&L Greater Missouri Operations Company (“GMO”),² the Staff of the Missouri Public Service Commission (“Staff”), and the Office of the Public Counsel (“OPC”) (collectively, the “Signatories”) file this Joint Proposed Order Approving the Unanimous Stipulation and Agreement (“Stipulation”).³

I. FINDINGS OF FACT.

A. Procedural History.

On August 31, 2012, KCP&L and GMO (“Companies”), pursuant to Section 393.190,⁴ 4 CSR 240-2.060, and 4 CSR 240-3.110, submitted their application in File No. EO-2012-0367

¹ Transource Missouri is the Applicant in File No. EA-2013-0098.

² KCP&L and GMO are the Applicants in File No. EO-2012-0367.

³ Intervenor Missouri Industrial Energy Consumers (“MIEC”) is not a signatory to the Stipulation or to its First Amendment. However, MIEC neither opposed nor timely objected to the Stipulation or the First Amendment. Because the Commission may treat the Stipulation and the First Amendment as unanimous under 4 CSR 240-2.115(2)(C), they are collectively referred to as a Unanimous Stipulation and Agreement.

⁴ All statutory references are to the Missouri Revised Statutes (2000), as amended, unless otherwise noted.

(“Transfer Application”) for authority to transfer certain transmission property and for other related determinations regarding two regional, high-voltage, wholesale transmission projects approved by Southwest Power Pool, Inc. (“SPP”) known as the Iatan-Nashua 345kV transmission project (“Iatan-Nashua Project”) and the Sibley-Nebraska City 345kV transmission project (“Sibley-Nebraska City Project”) (collectively, the “Projects”). The other related determinations which the Applicants requested in the Transfer Application are that the Commission find that no approval under state law is required to terminate, release, and novate the SPP Notifications to Construct (“NTCs”) regarding the Projects, or otherwise express no objection to or approve the Applicants’ plans in such regard, and that the Commission grant a waiver or variance of its Affiliate Transactions Rule (“Rule”), 4 CSR 240-20.015, for transactions between KCP&L and GMO, on the one hand, and Transource and its regulated utility subsidiaries, on the other. The Staff and OPC asserted that the NTCs are assets, and that Transource subsidiaries are not rate regulated by the Missouri Commission and are not “regulated utility subsidiaries.”

The Companies submitted Direct Testimony in support of their Transfer Application with that application. In response to the Commission’s April 12, 2013 Order Directing Filing, the Companies supplemented the Transfer Application on April 12 and April 18, 2013 by listing each county in which any part of any political subdivision affected by the proposed transfer is located.

Under the Transfer Application, the property that the Companies requested be transferred to Transource Missouri is property of GMO. KCP&L and GMO previously requested and received authorization from the Commission to transfer at cost from KCP&L to GMO certain transmission property owned and operated by KCP&L between GMO’s Alabama Substation and KCP&L’s Nashua Substation (“Alabama-Nashua Line”). See In re Application of Kansas City

Power & Light Co. to Transfer Certain Assets to KCP&L Greater Missouri Operations Co., Case No. EO-2012-0479, Order Granting Application for Transfer of Assets at 3 (Aug. 15, 2012). The southern portion of the Alabama-Nashua Line will be retired and removed, and the corridor will be used to construct the East Segment of the Iatan-Nashua Project. The remaining portion of this existing 161kV line, which runs to GMO's Alabama Substation near St. Joseph, Missouri, will remain the property of GMO and is not to be transferred. This line will continue intact and energized at 161kV as a radial line and will not be a part of the new 345kV facilities. The Sibley-Nebraska City Project, also located entirely within the GMO service territory, is still in the planning stage.

The Companies requested authorization to transfer at cost certain transmission property to Transource Missouri, which is a wholly-owned subsidiary of Transource Energy, LLC ("Transource"). Transource was established by Great Plains Energy Incorporated ("GPE"), the Companies' parent corporation, and American Electric Power Company, Inc. ("AEP") to build wholesale regional transmission projects within SPP, as well as other regional transmission organizations.

Simultaneous with the filing of the Companies' Transfer Application, on August 31, 2012, Transource Missouri (with the Companies, referred to as "Applicants"), pursuant to Section 393.170.1, 4 CSR 240-2.060, and 4 CSR 240-3.105, submitted its application for a line Certificate of Convenience and Necessity ("CCN") to construct, finance, own, operate, and maintain the regional Projects ("CCN Application"). Transource Missouri submitted Direct Testimony with its CCN Application, which was docketed as File No. EA-2013-0098.

The Commission issued Orders directing notice of the applications on September 5, 2012, September 18, 2012, and April 22, 2013. On October 9, 2012, the Commission granted the motion to intervene of MIEC. The Commission consolidated the Transfer Application and CCN

Application proceedings on November 7, 2012, designating File No. EA-2013-0098 as the lead case. On January 30, 2013, Staff and OPC filed Rebuttal Testimony, and on March 6, 2013, the Applicants and OPC filed Surrebuttal Testimony.

An evidentiary hearing was originally scheduled for April 2-4, 2013, but was postponed at the request of the parties until April 16-18, 2013 to enable the parties to continue settlement negotiations. On April 10, 2013 the parties requested that the Commission suspend the evidentiary hearing, as they had reached a settlement in principle.

On April 12, 2013, the Signatories filed a Non-Unanimous Stipulation and Agreement that purports to resolve all disputed issues among the Signatories. Intervenor MIEC, while not a signatory to the Stipulation, did not oppose or timely object to it. The Commission convened a hearing on that Stipulation on April 16, 2013 at which the Applicants, Staff, and OPC were present to answer questions. Subsequent to that hearing on April 29, the Commission issued an Order To File Proposed Amended Procedural Schedule (“April 29 Order”), in which it called upon the parties to propose a procedural schedule for the filing of an amended stipulation and agreement, and for further briefing, hearing, or a proposed report and order that would: (1) address how the Applicants have met their burden of proof; and (2) respond to Commission inquiries set forth in the Appendix to that Order as to whether the pending Non-Unanimous Stipulation and Agreement is in the public interest.

On May 6, 2013, the Signatories filed their Proposed Amended Procedural Schedule, as well as their First Amendment to Non-Unanimous Stipulation and Agreement (“First Amendment”). Intervenor MIEC, while not a signatory to the First Amendment, did not oppose or timely object to it.

On May 30, 2013, the Signatories filed a Joint Motion for Extension of Time. On May 31, 2013, the Commission issued an *Order Extending Time for Report and Order*.

On June 6, 2013 the Signatories filed a Joint Memorandum in Support of the Stipulation that stated how the Applicants have met their burden of proof for conditional approval, and responded to the Commission inquiries in the Appendix to the April 29 Order. The Signatories filed a Proposed Order Regarding the Unanimous Stipulation and Agreement that same day.

B. Stipulation and Agreement.

The Signatories agreed that the Commission should conditionally grant the relief requested in the Transfer Application filed by KCP&L and GMO in File No. EO-2012-0367 and conditionally grant the relief requested in the CCN Application filed by Transource in File No. EA-2013-0098.⁵

The conditions agreed to by the Signatories are contained in Section II of the Stipulation. They concern the rate treatment to be afforded the Projects in Missouri, the application of and certain waivers of the Affiliate Transactions Rule, future operations of the Applicants, reporting requirements, access to books and records, and the conditional approval of the Applications.

1. Rate Treatment: Section II(A).

The Signatories agreed that with respect to Projects' facilities located in KCP&L's and GMO's respective service territories that are constructed by Transource Missouri, the costs allocated by SPP to KCP&L or GMO and then charged to KCP&L's or GMO's retail customers will be adjusted by an amount equal to the difference between (a) the amount those retail customers would have paid for the facilities under Missouri ratemaking treatments and (b) the amount those customers would have paid under the FERC-authorized ratemaking treatments, including transmission rate incentives, for such facilities in all rate cases so long as these transmission facilities are in service.⁶ The Signatories noted in their Joint Memorandum in

⁵ See Stipulation, Section II at 4.

⁶ See Stipulation ¶¶ 1-2.

Support of the Stipulation that “Except for interconnections with KCP&L facilities at the Iatan and Nashua substations, the Projects’ facilities will be located within the GMO service territory. Therefore, the rate protections afforded by Paragraphs 1 and 2 of the Stipulation and discussed throughout this Joint Memorandum accrue substantially to GMO customers and not to KCP&L customers.”

2. Affiliate Transactions Rule: Section II(B), and Related KCP&L Operations: Section II(D).

The Signatories have agreed to certain waivers from the provisions of the Commission’s Affiliate Transactions Rule. All Signatories reserved the right to seek or oppose additional waivers from the Rule in the future for projects other than the Iatan-Nashua and Sibley-Nebraska City Projects.

The Signatories requested that the Commission waive 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 with respect to the transfer of transmission assets, easements, and right-of-ways related to the Projects.⁷ However, the Signatories agreed that Transource Missouri will pay GMO the higher of \$5.9 million or the net book value for transferred transmission assets, easements, and right-of-ways that have been previously included in the rate base and reflected in the retail rates of KCP&L and GMO customers.⁸ KCP&L and GMO agreed to book a regulatory liability reflecting the value of this payment to the extent it exceeds net book value.⁹ This regulatory liability shall be amortized over three years beginning with the effective date of new rates in KCP&L’s and GMO’s next retail rate cases.¹⁰

⁷ See Stipulation ¶¶ 4, 7.

⁸ See Stipulation ¶ 7.

⁹ Id.

¹⁰ Id.

The Signatories requested that the Commission waive 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 with respect to materials and services provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary for the Projects prior to novation or transfer of the cost of the Projects to Transource Missouri.¹¹

The Signatories requested that the Commission waive 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 with respect to information, assets, goods, and services provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary until the Projects are in service, defined as the commercial operation date for each of the Projects.¹²

The Signatories requested that if KCP&L provides operations and maintenance services and related capital for the Projects after they are in service, it will do so in a manner consistent with the application of the Rule, except that the Signatories request that the Commission waive 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 with respect to information, assets, goods, and services (including, but not limited to, usage of KCP&L or GMO employees, contracted labor/services, vehicles, equipment, and facilities) provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary to the extent necessary to allow KCP&L and GMO to use a 20% markup to their fully distributed cost methodology in lieu of using the fair market value.¹³

The Signatories agreed that non-Project goods and services (defined as goods and services that are not directly related to the Projects) will be provided according to the Rule.¹⁴ However, the Signatories agreed that KCP&L and GMO can use a 20% markup to their fully distributed cost methodology for such goods and services in lieu of using the fair market value,

¹¹ See Stipulation ¶ 5.

¹² See Stipulation ¶ 11.

¹³ See Stipulation ¶ 12.

¹⁴ See Stipulation ¶ 6.

and that KCP&L and GMO will contribute a total of \$50,000 to the State Public School Fund or a mutually agreeable organization.¹⁵ By June 1, 2013, non-Project charges submitted by KCP&L and GMO to Transource, Transource Missouri, and GPE will reflect the higher of fair market value or the fully distributed cost through the use of a 20% mark-up, in lieu of using the fair market value.¹⁶ Although the Signatories have not expressly requested a waiver of the Rule in Paragraph 6 of the Stipulation, the Commission finds that the provisions of Paragraph 6 propose treating non-Project goods and services in a manner different from the requirements of the Rule and, therefore, the Commission will treat Paragraph 6 as requesting a waiver of the Rule to the extent of its provisions.

KCP&L and GMO agreed to file for Commission approval of their Cost Allocation Manuals (“CAM”) before providing any information, assets, goods, and services to Transource or Transource Missouri after either the novation or transfer of the cost of the Projects, whichever occurs first.¹⁷ The Signatories agreed that KCP&L and GMO can provide information, assets, goods, and services to Transource or Transource Missouri in a manner consistent with the provisions of the Stipulation prior to Commission approval of the CAM.¹⁸

3. Future Operations of the Applicants: Section II(C).

Transource Missouri has agreed that it will not pursue future transmission projects that are subject to a right of first refusal (“ROFR”) in the service territories of KCP&L and GMO.¹⁹ KCP&L and GMO agreed that they will pursue future transmission projects subject to a ROFR

¹⁵ Id.

¹⁶ Id.

¹⁷ See Stipulation ¶ 13.

¹⁸ Id.

¹⁹ See Stipulation ¶ 8.

in their respective service territories, but that they may seek a waiver from the provisions of this condition from the Commission for good cause.²⁰

Transource Missouri agrees to seek approval from the Commission for any subsequent transfer of the Projects' facilities.²¹

4. Reporting Requirements: Section II(E).

KCP&L has agreed that it will file a copy of the final purchase agreement, detail of the costs included in CWIP (construction work in progress), and detail of the property to be transferred at the time of transfer of the Projects' facilities.²²

The Signatories agreed that KCP&L, GMO, and/or Transource Missouri (a) will continue coordinated efforts with Omaha Public Power District until the details of the routing and interception point for the Sibley-Nebraska City Project's transmission line are finalized,²³ (b) will provide to Staff and OPC the Sibley-Nebraska City Project cost control budget estimate in the fourth Quarter of 2013,²⁴ and (c) will file quarterly status reports on the Sibley-Nebraska City Project to the Commission in File No. EA-2013-0098 or other case as designated by the Commission, consistent with reports provided by KCP&L and GMO in File No. EO-2012-0271.²⁵

The Signatories agreed that KCP&L, GMO, and/or Transource Missouri will continue to file quarterly status reports on the Iatan-Nashua Project to the Commission, as KCP&L and GMO are doing in File No. EO-2012-0271.²⁶

²⁰ See Stipulation ¶ 9.

²¹ See Stipulation ¶ 10.

²² See Stipulation ¶ 14.

²³ See Stipulation ¶ 15.

²⁴ See Stipulation ¶ 16.

²⁵ See Stipulation ¶ 18.

²⁶ See Stipulation ¶ 17.

The Signatories agreed that Transource Missouri will provide to Staff and OPC any other periodic updates required by SPP regarding the Projects that are not included in the publicly available quarterly SPP Project Tracking Reports.²⁷

The Signatories requested that the Commission waive the reporting requirements of 4 CSR 240-3.175, Submission Requirements For Electric Utility Depreciation Studies, subject to the Stipulation's provision regarding Staff's and OPC's access to documents, as described in the First Amendment.²⁸

The Signatories requested that the Commission waive subsections 4 CSR 240-3.190 (1), (2), and (3)(A)-(D), Reporting Requirements For Electric Utilities And Rural Electric Cooperatives, for Transource Missouri, as described in the First Amendment.²⁹

5. Access to Books and Records: Section II(F).

The Signatories agreed that Transource Missouri will produce, upon reasonable notice, duplicate copies of Transource's and Transource Missouri's books and records,³⁰ as well as provide access to specific documents either in Missouri or Columbus, Ohio.³¹ The Signatories also agreed that new or updated agreements between the Applicants that are executed after the approval of the Stipulation in this case will be provided to the Signatories as they become available.³²

6. Additional Conditions: Section II(G).

GMO has agreed to establish a regulatory liability reflecting the amount collected in retail customer rates for the transferred property from the date of the novation or transfer of the

²⁷ See Stipulation ¶ 19.

²⁸ See First Amendment at ¶¶ 2, 4-5.

²⁹ See First Amendment at ¶¶ 2-3.

³⁰ See Stipulation ¶ 20.

³¹ See Stipulation ¶¶ 21-22.

³² See Stipulation ¶ 23.

costs of the Projects until new GMO rates are established.³³ The treatment of the regulatory liability will be determined in GMO's next retail rate case.³⁴

The Signatories agreed that it would be reasonable for the Commission to grant conditional approval of KCP&L and GMO's Transfer Application and Transource Missouri's CCN Application prior to the final selection of the route for the Sibley-Nebraska City Project.³⁵ The Signatories requested that the Commission grant approval conditioned upon the Commission making specific findings, through means determined at the Commission's discretion, after the final selection of the Sibley-Nebraska City Project's transmission line route has been made, that the Transfer Application is not detrimental to the public interest, and that the CCN Application is necessary and convenient for the public service.³⁶ Transource Missouri will provide the Commission with the information required by 4 CSR 240-3.105 for the Sibley-Nebraska City route as soon as it is available.³⁷

The Signatories agreed that KCP&L and GMO will provide the Commission with a report and information in the CCN Application case, File No. EA-2013-0098, within 90 days of the effective date of a Commission order approving this Stipulation, outlining its public outreach efforts for siting, routing, easement acquisition and right-of-way acquisition for the Projects.³⁸ KCP&L and GMO will update the report at least quarterly thereafter.³⁹ The Signatories agreed

³³ See Stipulation ¶ 24.

³⁴ Id.

³⁵ See Stipulation ¶ 27.

³⁶ Id.

³⁷ Id.

³⁸ See Stipulation ¶ 29.

³⁹ Id.

that they are not prohibited from requesting or opposing requests for reasonable additional notice, local public hearings, or additional processes in these cases.⁴⁰

Additionally, in their Transfer Application KCP&L and GMO requested that the Commission grant approval of that application conditioned upon: (a) Transource Missouri obtaining the necessary approvals to construct the Projects; (b) Transource Missouri executing the SPP Membership Agreement as a Transmission Owner; (c) SPP's approval of the novation of the SPP NTCs to Transource Missouri; and (d) FERC's acceptance of the novation agreements.⁴¹

In its CCN Application Transource Missouri requested that the Commission grant approval of that application conditioned upon: (a) PSC approval of the transfer requests in File No. EO-2012-0367; (b) SPP's approval of Transource Missouri as a transmission owning member; (c) novation of the NTCs to Transource Missouri; and (d) FERC's acceptance of the novation agreements.⁴²

II. CONCLUSIONS OF LAW

1. KCP&L and GMO are electrical corporations and public utilities, as defined in Section 386.020, and are subject to the general jurisdiction of the Commission under Section 393.140.

2. Pursuant to Section 393.190.1, KCP&L and GMO must obtain permission from this Commission before they sell, assign, lease, transfer, mortgage, or otherwise dispose of or encumber the whole or any part of their franchise, works or system, necessary or useful in the performance of their duties to the public.

⁴⁰ See Stipulation ¶ 28.

⁴¹ See Stipulation ¶ 26.

⁴² See Stipulation ¶ 25.

3. In determining whether to allow a utility to sell or transfer its property, the Commission must find that the proposed transfer will not be detrimental to the public interest.

The Missouri Supreme Court has stated:

The state of Maryland has an identical statute with ours, and the Supreme Court of that state . . . said: . . . It is not [the Public Service Commission's] province to insist that the public shall be *benefited*, as a condition to change of ownership, but their duty is to see that no such change shall be made as would work to the public *detriment*. 'In the public interest,' in such cases, can reasonably mean no more than 'not detrimental to the public.' [internal quotations omitted].⁴³

Missouri courts have consistently applied the not detrimental standard since 1934,⁴⁴ and have recognized that "[t]he obvious purpose of [Section 393.190] is to ensure the continuation of adequate service to the public served by the utility."⁴⁵

4. In a decision approving the transfer of property from one utility to an affiliated utility, the Commission defined its role under Section 393.190:

In considering whether or not the proposed transaction is likely to be detrimental to the public interest, the Commission notes that its duty is to ensure that [the utility] provides safe and adequate service to its customers at just and reasonable rates. A detriment, then, is any direct or indirect effect of the transaction that tends to make the power supply less safe or less adequate, or which tends to make rates less just or less reasonable.

The presence of detriments, thus defined, is not conclusive to the Commission's ultimate decision because detriments can be offset by attendant benefits. The mere fact that a proposed transaction is not the least cost alternative or will cause rates to increase is not detrimental to the public interest where the transaction will confer a benefit of equal or greater value or remedy a deficiency that threatens the safety or adequacy of the service.⁴⁶

⁴³ State ex rel. City of St. Louis v. PSC, 73 S.W.2d 393, 400 (Mo. en banc 1934).

⁴⁴ See State ex rel. Ag Processing, Inc. v. PSC, 120 S.W.3d 732 (Mo. en banc 2003).

⁴⁵ State ex rel. Fee Fee Trunk Sewer, Inc. v. Litz, 596 S.W.2d 466, 468 (Mo. App. E.D. 1980).

⁴⁶ In re Union Elec. Co., Case No. EO-2004-0108, Report and Order on Rehearing at 49 (Feb. 10, 2005).

Thus, the Commission stated in its Report and Order in Case No. EM-2007-0374⁴⁷ that detriment is determined by performing a balancing test involving not only service but also rates:

Consequently, the Commission may not withhold its approval of the proposed transaction unless the Applicants fail in their burden to demonstrate that the transaction is not detrimental to the public interest, and detriment is determined by performing a balancing test where attendant benefits are weighed against direct or indirect effects of the transaction that would diminish the provision of safe or adequate of [sic] service or that would tend to make rates less just or less reasonable. [footnote omitted].

5. Applying this analysis, the Commission has analyzed the potential benefits and detriments of the proposed transfer, and determines that the transfer is not detrimental to the public interest, subject to the conditions of Stipulation Paragraph 27.

6. Transource Missouri is a Delaware limited liability corporation qualified to conduct business in Missouri, with its principal place of business in Columbus, Ohio.

7. Pursuant to Section 393.170.1, Transource Missouri must obtain permission from this Commission before it may begin construction of electric plant.

8. In determining whether to grant a line CCN to an applicant, the Commission must determine whether the proposed construction is “necessary or convenient for the public service.”⁴⁸ Missouri courts have interpreted necessity to mean that the “additional service would be an improvement justifying its cost.”⁴⁹ Necessity does not require that the improvement be “essential” or “absolutely indispensable.”⁵⁰ Rather, “[i]f it is of sufficient importance to warrant the expense of making it, it is a public necessity.”⁵¹ Moreover, if the granting of the

⁴⁷ In re Joint Application of Great Plains Energy Incorporated, Kansas City Power & Light Company, and Aquila, Inc., for Approval of the Merger of Aquila, Inc., with a Subsidiary of Great Plains Energy Inc., Report and Order at 232, 2008 WL 2648913 at 92 (July 1, 2008), aff’d, State ex rel. Praxair, Inc. v. PSC, 344 S.W.3d 178 (Mo. en banc 2011).

⁴⁸ See Section 393.170.3. See also 4 CSR 240-3.105(1)(E).

⁴⁹ State ex rel. Intercon Gas, Inc. v. PSC, 848 S.W.2d 593, 597 (Mo. App. W.D. 1993).

⁵⁰ Id.

⁵¹ State ex rel. Missouri, Kan. & Okla. Coach Lines, Inc. v. PSC, 179 S.W.2d 132, 136 (Mo. App. K.C. 1944).

authorization serves a genuine and reasonable public interest in promptness and economy of service, then the public “convenience or necessity” is served.⁵²

9. The Commission has stated five criteria that it will use to determine that the proposed construction is “necessary or convenient for the public service”:

- (1) There must be a need for the service;
- (2) The applicant must be qualified to provide the proposed service;
- (3) The applicant must have the financial ability to provide the service;
- (4) The applicant’s proposal must be economically feasible; and
- (5) The service must promote the public interest.⁵³

These criteria examine the qualifications of the applicant, as well as the project itself.

10. In a decision approving the CCN application of a natural gas company for an area not served by natural gas, the Commission described each of the above elements, including that the service must promote the public interest, stating:

The requirement that an applicant’s proposal promote the public interest is in essence a conclusory finding as there is no specific definition of what constitutes the public interest. Generally speaking, positive findings with respect to the other four standards will in most instances support a finding that an application for a certificate of convenience and necessity will promote the public interest.⁵⁴

In a decision approving the CCN application of Union Electric Company d/b/a AmerenUE for a 345-kV transmission line to address overloading problems, among other things, the Commission described the public in regard to the “public interest” requirement in the following terms:

Who are “the public”? Concerned Citizens argues that the Commission should

⁵² State ex rel. Twehous Excavating Co. v. PSC, 617 S.W.2d 104, 106 (Mo. App. W.D. 1981).

⁵³ In re Application of Entergy Arkansas, Inc. for a Certificate of Convenience and Necessity, Case No. EA-2012-0321, Order Granting Certificate of Convenience and Necessity at 2 (July 11, 2012).

⁵⁴ In re Tartan Energy Company, L.C., Report and Order, Case No. GA-94-127, 1994 WL 762882 at *14 (Sept. 16, 1994).

not consider the benefits it admits exist for AmerenUE, Associated, or Associated's customers. Concerned Citizens would have the Commission consider only the interests of the affected landowners. However, this argument is contrary to the case law.

In the *Missouri Pacific Freight Transport Company* case, the Court stated that the 'rights of an individual with respect to issuance of a certificate are subservient to the rights of the public ...' And, in a case affirming the Commission's grant of a certificate of convenience and necessity to a water utility, the Court in *Public Water Supply District No. 8* stated, 'the ultimate interest is that interest of the public as a whole ... and not the potential hardship to individuals ...'

The Commission is also aided by zoning and eminent domain cases where the issue of public interest is often addressed. An examination of those cases in Missouri finds that the determination of public interest is a balancing test between public and private interests. And further, '[n]o one factor is dispositive in balancing public versus private interests. Each case stands on its own facts and circumstances.'

Section 386.610, RSMo, which applies to the Commission's general regulatory power over electric corporations, supports this balancing test approach. . . .

The Commission must, therefore, balance all the relevant factors, both the benefits and detriments, and determine whether the public benefits of the project outweigh the individual detriments. . . .⁵⁵

11. The Commission has analyzed the CCN Application and determines that Transource Missouri meets each of these criteria, subject to the conditions of Stipulation Paragraph 27.

12. The Commission will grant approval of the CCN Application and the Transfer Application, conditioned upon its making specific findings after the final selection of the Sibley-Nebraska City Project transmission line route that the CCN Application is necessary and convenient for the public service and that the Transfer Application is not detrimental to the public interest.

13. The Signatories have presented the Commission with a Unanimous Stipulation that imposes conditions on the proposed transfer and the line CCN. The Commission accepts

⁵⁵ In re Union Electric Co. d/b/a AmerenUE, Report and Order, Case No. EO-2002-351, 2003 WL 22017276 at *15 (Aug. 21, 2003).

these conditions as reasonable, and will grant conditional approval of the Transfer Application and the CCN Application subject to the specific conditions contained in the Stipulation.

14. The Signatories have requested certain waivers in the Stipulation, as modified by the First Amendment. Pursuant to 4 CSR 240-2.060(4)(B), the Commission may waive a rule for good cause, and finds that good cause exists to grant the waivers requested in the Stipulation and in the First Amendment because Transource Missouri is not a vertically integrated retail electric utility and will have no Missouri retail customers or tariffs.

15. The Commission has similarly waived reporting requirements when it granted line CCNs to ITC Midwest LLC⁵⁶ and Entergy Arkansas, Inc.,⁵⁷ each of which own and operate only wholesale transmission facilities and have no retail customers.

III. DECISION

The Commission finds that the transfer of certain assets owned by GMO related to the Iatan-Nashua Project as described in the Transfer Application are not detrimental to the public interest, pursuant to Section 393.190.1. The Commission is not making any decision regarding whether NTCs are assets, but to the extent that they are assets, the Commission approves KCP&L and GMO's plans to novate the NTCs received from SPP for the Projects. The Commission finds that pursuant to 4 CSR 240-2.060(4)(B) good cause exists for waiver of certain provisions of the Commission's Affiliate Transactions Rule as described in the Stipulation.

The Commission further finds that granting Transource Missouri a line Certificate of Convenience and Necessity to construct, finance, own, operate, and maintain the Iatan-Nashua

⁵⁶ In re Application of Interstate Power and Light Co. and ITC Midwest LLC for Approval to Transfer CCN and Transmission Line Facilities, Case No. EO-2007-0485, Order Granting Certificate of Convenience, Granting Variances from Certain Commission Rules, and Authorizing Sale of Assets at 5 (Aug. 30, 2007).

⁵⁷ In re Application of Entergy Arkansas, Inc. for a Certificate of Convenience and Necessity, Case No. EA-2012-0321, Order Granting Certificate of Convenience and Necessity at 3 (July 11, 2012).

Project and the Sibley-Nebraska City Project is necessary or convenient for the public service, conditioned upon the Commission making additional findings after the final selection of the Sibley-Nebraska City route, pursuant to Section 393.170. The Commission finds that pursuant to 4 CSR 240-2.060(4)(B) good cause exists for waiver of certain portions of the reporting requirements of 4 CSR 240-3.175 and 4 CSR 240-3.190, as described in the First Amendment.

The findings are conditional, in accordance with Paragraph 27 of the Stipulation.

IV. THE COMMISSION ORDERS THAT:

1. The Unanimous Stipulation and Agreement, attached hereto as Attachment 1, and the Unanimous First Amendment to that Stipulation, attached hereto as Attachment 2, are approved, and the signatory parties are ordered to comply with their terms.

2. KCP&L and GMO's Transfer Application is granted conditioned upon the terms of the Unanimous Stipulation and Agreement and the Unanimous First Amendment, including:

- (a) The Commission making specific findings after the final selection of the Sibley-Nebraska City route;
- (b) Transource Missouri executing the SPP membership agreement as a transmission owner;
- (c) SPP's approval of the novation of the NTCs to Transource Missouri; and
- (d) FERC's acceptance of the novation agreements.

3. KCP&L and/or GMO shall file a copy of the final purchase agreement, detail of the costs included in CWIP, and detail of the property to be transferred at the time of transfer of the Projects' facilities.

4. Transource Missouri shall pay GMO the higher of \$5.9 million or net book value for transferred transmission assets, easements, and right-of-ways that have been previously included in the rate base and reflected in the retail rates of KCP&L and GMO customers. KCP&L and GMO shall book a regulatory liability reflecting the value of this payment to the

extent it exceeds net book value. This regulatory liability shall be amortized over three years beginning with the effective date of new rates in KCP&L's and GMO's next retail rate cases.

5. GMO shall establish a regulatory liability reflecting the amount collected in retail customers rates for the transferred property from the date of the novation or transfer of the costs of the Projects until new GMO rates are established. The treatment of the regulatory liability will be determined in GMO's next retail rate case.

6. To the extent that the SPP NTCs regarding the Projects are assets, the Commission approves KCP&L and GMO's plans to novate those NTCs.

7. Transource Missouri's CCN Application is granted conditioned upon the terms of the Unanimous Stipulation and Agreement and the Unanimous First Amendment, including:

- (a) The Commission making specific findings after the final selection of the Sibley-Nebraska City route;
- (b) SPP's approval of Transource Missouri as a transmission owning member;
- (c) Novation of the NTCs to Transource Missouri; and
- (d) FERC's acceptance of the novation agreements.

8. Transource Missouri shall provide the Commission with the 4 CSR 240-3.105 information for the Sibley-Nebraska City route as soon as that information is available.

9. KCP&L and GMO shall provide the Commission with a report and information in File No. EA-2013-0098 within 90 days of the effective date of a Commission order approving this Stipulation outlining its public outreach efforts for siting, routing, easement acquisition, and right-of-way acquisition for the Projects. KCP&L and GMO will update the report at least quarterly thereafter.

10. KCP&L, GMO, and/or Transource Missouri shall continue to file quarterly status reports on the Iatan-Nashua Project to the Commission, as KCP&L and GMO are doing in File No. EO-2012-0271.

11. KCP&L, GMO, and/or Transource Missouri shall file in File No. EA-2013-0098 quarterly status reports on the Sibley-Nebraska City Project to the Commission consistent with those provided by KCP&L and GMO in File No. EO-2012-0271.

12. The Commission's Affiliate Transactions Rule sections 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 are waived with respect to:

(a) The transfer, license, or assignment of transmission assets, easements, or right of ways (or use thereof) owned by GMO or KCP&L associated with the Projects;

(b) Materials and services provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary for the Projects prior to novation or transfer of the cost of the Projects to Transource Missouri; and

(c) Information, assets, goods, and services provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary until the Projects are in service.

13. The Commission's Affiliate Transactions Rule sections 4 CSR 240-20.015(2)(A)2, 4 CSR 240-20.015(2)(B), and 4 CSR 240-20.015(3)(C)4 are waived to the extent necessary to allow KCP&L and GMO to use a 20% markup to their fully distributed cost methodology in lieu of using the fair market value under the Rule with respect to:

(a) Non-Project goods and services (if the Signatories cannot agree regarding the reasonableness of these charges, this matter shall be taken to the Commission for resolution); and

(b) Information, assets, goods, and services provided by KCP&L or GMO to Transource, Transource Missouri, or a subsidiary for the Projects after they are in service.

14. KCP&L and GMO shall contribute a total of \$50,000 to the State Public School Fund or a mutually agreeable organization. This contribution shall not be recovered from KCP&L and GMO customers.

15. KCP&L and GMO shall file for Commission approval of their CAMs before providing any information, assets, goods, and services to Transource or Transource Missouri

after either the novation or transfer of the cost of the Projects, whichever occurs first. KCP&L and GMO may provide information, assets, goods, and services to Transource or Transource Missouri in a manner consistent with the provisions of this Stipulation prior to Commission approval of the CAMs.

16. The reporting requirements of 4 CSR 240-3.175, Submission Requirements For Electric Utility Depreciation Studies, are waived subject to the Stipulation's provision regarding Staff's and OPC's access to documents.

17. Subsections 4 CSR 240-3.190 (1), (2), and (3)(A)-(D), Reporting Requirements For Electric Utilities And Rural Electric Cooperatives, are waived for Transource Missouri.

18. Transource Missouri shall provide to Staff and OPC any periodic updates required by SPP regarding the Projects that are not included in the publicly available quarterly SPP Project Tracking Reports.

19. KCP&L, GMO, and/or Transource Missouri (a) shall continue coordinated efforts with Omaha Public Power District until the details of the routing and interception point for the Sibley-Nebraska City Project are finalized, and (b) shall provide to Staff and OPC the Sibley-Nebraska City Project cost control budget estimate in the fourth Quarter of 2013.

20. Transource Missouri shall not pursue future transmission projects that are subject to ROFR in the service territories of KCP&L and GMO. KCP&L and GMO shall pursue future transmission projects subject to a ROFR in their respective service territories, but they may seek a waiver from the provisions of this condition from the Commission for good cause.

21. Transource Missouri shall seek approval from the Commission for any subsequent transfer of the Iatan-Nashua Project or the Sibley-Nebraska City Project facilities.

22. Transource Missouri shall produce, upon reasonable notice, duplicate copies of Transource's and Transource Missouri's books and records as well as provide access to specific

documents either in Missouri or Columbus, Ohio. New or updated agreements between the Applicants that are executed after the approval of the Stipulation in this case shall be provided to the Signatories as they become available.

23. For ratemaking purposes in Missouri, with respect to transmission facilities located in KCP&L certificated territory that are constructed by Transource Missouri that are part of the Iatan-Nashua and Sibley-Nebraska City Projects, KCP&L shall adjust the costs allocated to KCP&L by SPP by an amount equal to the difference between: (a) the SPP load ratio share of the annual revenue requirement for such facilities that would have resulted if KCP&L's authorized Return On Equity ("ROE") and capital structure had been applied and there had been no Construction Work in Progress ("CWIP") (if applicable) or other FERC Transmission Rate Incentives, including but not limited to Abandoned Plant Recovery, recovery on a current basis instead of capitalizing pre-commercial operations expenses and accelerated depreciation, applied to such facilities; and (b) the SPP load ratio share of the annual FERC-authorized revenue requirement for such facilities. KCP&L shall make this adjustment in all rate cases so long as these transmission facilities are in service.

24. For ratemaking purposes in Missouri, with respect to transmission facilities located in GMO certificated territory that are constructed by Transource Missouri that are part of the Iatan-Nashua and Sibley-Nebraska City Projects, GMO shall adjust the costs allocated to GMO by SPP by an amount equal to the difference between: (a) the SPP load ratio share of the annual revenue requirement for such facilities that would have resulted if GMO's authorized ROE and capital structure had been applied and there had been no CWIP (if applicable) or other FERC Transmission Rate Incentives, including but not limited to Abandoned Plant Recovery, recovery on a current basis instead of capitalizing pre-commercial operations expenses and accelerated depreciation, applied to such facilities; and (b) the SPP load ratio share of the annual

FERC-authorized revenue requirement for such facilities. GMO shall make this adjustment in all rate cases so long as these transmission facilities are in service.

Respectfully submitted,

/s/ Karl Zobrist

/s/ Steven Dottheim

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