



opt-out provisions of MEEIA and the Commission's MEEIA rules. Simply put, the Commission has no record in this case to resolve such issues, and the issues are clearly not "ripe and pending in the immediate docket." (MECG Reply, p. 1).

3. Next MECG attempts to bring into the record unsupported allegations of harm to industrial customers which are not supported by competent and substantial evidence in the record, and should be ignored by the Commission. MECG will be able to develop its case with evidence, if it exists, in Case No. EO-2013-0359. But at this juncture, there is nothing in the record to support its allegations of harm, and KCP&L does not believe that such evidence exists.

4. MECG also suggests that other utilities, including GMO, have agreed not to charge opt-out customers for their pre-MEEIA energy efficiency costs. The Commission has not rendered any decisions on such issues, and settlements and/or stipulations and agreements have no precedential effect on any parties, and certainly not other non-participants to the settlements.

5. Finally, MECG accuses KCP&L of attempting "to obfuscate the issue by drawing a distinction between energy efficiency costs already incurred and those to be incurred in the future." (MECG Reply, p. 3) Again, this is blatantly untrue. As KCP&L has previously pointed out to the Commission, KCP&L is attempting to follow the Commission's MEEIA rules as they relate to the opt-out of customers from DSM Programs. 4 CSR 240-20.094(6)(F) mandates the procedures that are required to be utilized by eligible customers to elect not to participate in demand-side measures offered by an electrical corporation. Under this Commission rule, eligible customers must provide a customer notice to the utility indicating their intention to "opt-out" of DSM programs no earlier than September 1 and not later than October 30 to be effective for the following calendar year. KCP&L intends to follow the procedures required by 4 CSR 240-20.094(6)(F). As a result, KCP&L intends to allow eligible customers who follow these

procedures to opt-out of participation in its DSM programs (whether initiated pursuant to the provisions of MEEIA , or by other authority) for the following calendar year. In other words, any eligible customer that files a customer notice during the period mandated by 4 CSR 240-20.094(6)(F) will be allowed to opt out of DSM programs beginning January 1 of the following calendar year.

6. MECG apparently prefers to ignore the provisions of 4 CSR 240-20.094(6)(F) and simply argue that “[s]uch a distinction [regarding past and future DSM program costs] is irrelevant.” (MECG Reply, p. 3) Rather than following the mandates of 4 CSR 240-20.094(6)(F), MECG apparently wants the Company to give its members refunds of past costs that have been incurred related to KCP&L’s past pre-MEEIA programs in contravention of the provisions of 4 CSR 240-20.094(6)(F). Such a proposal is of questionable legality.

7. In a last ditch effort to stymie the Commission from implementing the “just and reasonable rates” that it has found in its recent Report And Order, MECG argues that “[t]he Commission should not be deterred from rejecting KCP&L’s tariffs simply because of the late date in which this issue has arisen.” Unfortunately for MECG, this argument clearly demonstrates its real motivation for raising this issue the night before the Commission considers issuing its Order Approving Compliance Tariffs. MECG seeks to delay the new rates from becoming effective without a lawful basis for doing so.

8. Staff has found that the Company’s tariffs fully comply with the Report And Order. See Staff Recommendation (filed January 22, 2013).

9. MECG’s real motivation to delay the rate increase without a lawful basis is further evidenced by the arguments contained in its *MECG Reply To KCPL and GMO Response To Request For Hearing and Objection To Affidavit* filed at the eleventh hour in this proceeding.

(filed at 9:16 PM on January 22, 2013) In this pleading, MECG again urges the Commission to reverse its long-standing practices related to the approval of compliance tariffs, and provide additional hearings in an effort to further delay these proceedings. For the reasons already explained by KCP&L, these arguments should be rejected. See *Kansas City Power & Light Company's and KCP&L Greater Missouri Operations Company's Response In Opposition to (1) MECG's Motion For Scheduling Of A Hearing And Objection To Affidavit And (2) Public Counsel's Response To Order Regarding Filings Related To Compliance Tariffs and Order Setting Filing Date* (filed on January 22, 2013).

**WHEREFORE**, for the foregoing reasons, KCP&L respectfully renews its request that the Commission deny the Motion To Schedule Hearings and dismiss the Objection To Tariff filed by the Industrial Intervenors on January 17, 2013.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 23rd day of January, 2013.

*/s/ Roger W. Steiner*

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