

**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-2012-0174  
A General Rate Increase for Electric )  
Service )

**POST-HEARING REPLY BRIEF MIDWEST ENERGY USERS ASSOCIATION-KANSAS CITY**

Midwest Energy Users' Association-Kansas City ("MEUA"), pursuant to the Date Order Setting Procedural Schedule, hereby submits its Post-Hearing Reply Brief in the Missouri Public Service Commission Case No. ER-2012-0174.

**ISSUE I.6.D: SHOULD THE COMMISSION ADOPT STAFF'S PROPOSAL TO INCREASE BY 5% THE**

**FIRST ENERGY BLOCK RATE OF THE WINTER ALL-ELECTRIC GENERAL SERVICE RATES?**

In its Initial Brief, MEUA KC attempted to anticipate the arguments that would be raised by Staff's recommendation to increase the electric space heating rates by an above average amount. We are gratified to see Staff's support for the rate design stipulation that has become a joint position statement. Staff now agrees that the LGS electric space heating rates should receive the class average increase, no more and no less. However, the position statement left the electric space heating rates for the Small and Medium General Service Classes to be litigated. Staff continues to recommend an above average increase for the electric space heating rates within SGS and MGS classes.

As explained in our initial brief, the Staff's class cost-of-service study analysis is flawed with respect to electric heating rate subclasses.<sup>1</sup> No doubt these customers should (and do) make a fair contribution to the fixed costs of the system, but these off-peak loads do not contribute to the need for generation capacity.<sup>2</sup> Moreover, the Brubaker study relies on an allocation method already approved for Ameren and that study shows that the general service electric space heating rates are making a contribution above cost. This is not to say that use of the same method is the final word, but the point is that it is a credible method that has been relied on by this Commission. It should be given all due consideration. It produces a different result.<sup>3</sup>

The Staff analysis is also incomplete because it does not give due consideration to the impact. Another above average increase would continue to push customers away from electric space heating, and as a result KCPL, and in turn all other customers, would be asked to engage in the proverbial shooting themselves in the foot, if rates are raised and the service is no longer purchased, electric space heating customers, non space heating customers, and KCPL would all end up worse off.<sup>4</sup>

Appropriate general service electric space heating rates better ensure efficient use of system resources.<sup>5</sup> They are equitable based on cost of service evidence and produce a win –

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<sup>1</sup> MEUA-KC Surrebuttal Testimony Johnstone, P.7

<sup>2</sup> MEUA-KC Surrebuttal Testimony Johnstone, P. 5-6.

<sup>3</sup> MEUA-KC Surrebuttal Testimony Johnstone, P. 7-8

<sup>4</sup> KCP&L Rush Tr. Vol. 19 p. 1013

<sup>5</sup> Johnstone Rebuttal p. 8.

win- win. The electric space heating rates should participate in the same rate percentage increase as other general service customers, no more and no less.

Kansas City Power & Light Company (KCP&L) filed its rate case on February 27, 2012 and presented its proposed rate increase. The All-Electric Small and Medium General Service customers have historically relied on its interests to be represented by: the Commission's General Counsel, an employee of the Commission authorized by statute to "represent and appear for the commission in all actions and proceedings involving this or any other law (involving the commission.)"<sup>6</sup> and: Public Counsel who is appointed by the Director of the Missouri Department of Economic Development and is authorized to "represent and protect the interests of the public in any proceeding before or appeal from the public service commission."<sup>7</sup> The case at hand creates an interesting and perhaps conflict for Staff's proposal to increase by 5% the first energy block rate of the winter All Electric Small and Medium General Service rates. This proposal is one that KCP&L opposes. The CCOS BIP study that appears to support this rate increase is the now disavowed KCP&L BIP model. KCP&L has been distancing itself from its BIP model, yet has stopped short from discrediting it all together in defending what it believes is the best result for all customers in preserving the all electric rates.<sup>8</sup>

## Notice

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<sup>6</sup> Section 386.071

<sup>7</sup> Sections 386.700 and 386.710.

<sup>8</sup> KCP&L, Rush. Tr Vol. 19 P. 1029 and MEUA-KC, Surrebuttal Johnstone P. 4.

There are only two members of the effected class, customers served under the general service electric space heating rates, represented in this case: Broadway Square Partners, LLC and DST Realty, Inc. They could only be made aware of Staffs proposal to give an above average increase the electric space heating rates after the filing of Staffs Direct Testimony filed on August 16, 2012.

KCP&L notes that no builders, developers, or HVAC dealers had intervened in this case(Rush Rebuttal P 7). As a practical matter these businesses, while having an obvious interest, would not be the ones paying the bills. It is reasonable to assume that there would be public outcry and interventions from affected parties if they had been aware of the harm that Staff's proposal would potentially inflict.<sup>9</sup>

An extra 5% increase to companies that are having financial hardship could have dire consequences. It is easy to lose sight of how proposals that come after the filing can go forward with minimal, if any, public notice. It seems that participants in the process can become numb to the limitations on information that is disseminated to the public. These are real and practical considerations, not just theoretical.

In its deliberations the Commission should carefully weigh the interests of consumers that would be negatively impacted. Given the limited notice, there is reason to ensure their interests are not harmed by giving full consideration to the response that was limited simply as a practical matter given the timing of the case. In fact, separate and apart from the technical rebuttal that shows the proposal to be unnecessary and harmful even to the presumed

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<sup>9</sup> MEUA-KC, Surrebuttal Johnstone P.3.

beneficiaries, it would not be unreasonable to simply defer implementing Staff's request for a 5% increase to the all electric small and medium service until another case simply to ensure abundant notice.

In fact, given the ongoing interest in both residential and general service electric space heating rates, we recommend that KCPL be directed to notify and inform the public of the likelihood that the electric space heating rates may be substantially increased or entirely phased out. Great care and attention is focused on notice provided by KCPL. The fact that such proposals may have stemmed from Staff, MGE, or any other entity does not diminish the need for notice. To the extent that the Commission is potentially embarking on a new policy direction that would eliminate or radically change electric space heating rates the only equitable approach is to defer action to the next case and to include in the public notice a statement that the MPSC itself anticipates consideration of these important rate and policy matters as a part of the rate case.

Respectfully submitted,

Bartels LLC



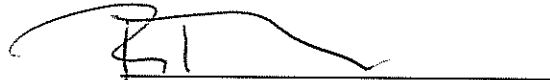
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was served by the Public Service Commission e-service on this 11<sup>th</sup>, day of December 2012 to counsel for parties of record.

A handwritten signature in black ink, appearing to read 'RJ Bartels', is written over a horizontal line.

Reed J. Bartels