



KURT U. SCHAEFER
(573) 761-5004
EMAIL: KSCHAEFER@LATHROPGAGE.COM

326 E. CAPITOL AVENUE
JEFFERSON CITY, MISSOURI 65101-3004
573-893-4336, FAX 573-893-5398

December 2, 1999

FILED

DEC 2 1999

**Missouri Public
Service Commission**

The Honorable Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge
Missouri Public Service Commission
Room 530
Truman State Office Building
Jefferson City Missouri 65101

Re: GST Steel Company v. Kansas City Power & Light Company, Case No.
EC-99-553

Dear Secretary Roberts:

Enclosed for filing in the above-referenced case please find an original and fourteen copies of **corrected version** of GST Steel Company's Motion to Seek Clarification and Reconsideration of Order Regarding Kansas City Power and Light Company's Second Motion to Compel.

Thank you in advance for your attention to this matter.

Sincerely,

LATHROP & GAGE L.C.

By:

Kurt U. Schaefer

KS/jf
Enclosures
cc: All parties of record

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED
DEC 2 1999

Missouri Public
Service Commission

GST Steel Company,)	
)	
Complainant,)	
)	
v.)	Case No. EC-99-553
)	
Kansas City Power & Light Company,)	
)	
Respondent.)	

GST STEEL COMPANY'S MOTION TO SEEK CLARIFICATION
AND RECONSIDERATION OF ORDER REGARDING
KANSAS CITY POWER AND LIGHT COMPANY'S
SECOND MOTION TO COMPEL

GST Steel Company ("GST") hereby requests clarification and reconsideration of the Commission's Order, dated November 5, 1999 (the "November 5 Order"), sustaining Kansas City Power and Light Company's ("KCPL's") Second Motion to Compel Discovery. GST seeks a ruling conforming the November 5 Order with the Commission's prior order relating to the relevance and permissible scope of KCPL discovery inquiries, dated November 2, 1999, (the "November 2 Order") and in support thereof states as follows:

1. On September 17, 1999, KCPL propounded its Second Set of Interrogatories to GST. By letter dated September 27, 1999, GST set forth specific objections to the majority of the utility's requests. See GST's Objection to KCPL's Second Set of Interrogatories and Requests for Production of Documents, attached as Exhibit A.

2. On October 7, 1999, GST provided responses to the Second Set of Interrogatories for which no objection had been made. On October 13, 1999, KCPL filed a Motion to Compel Responses to its Second Set of Interrogatories that were in dispute.

3. Previously, GST had objected to various KCPL discovery requests in the utility's First Set of Interrogatories, inter alia, on the grounds that KCPL requests for materials from GST corporate affiliates and those that concerned GST business matters unrelated to the cost and reliability of electric service provided by KCPL to GST were overbroad, irrelevant and impermissible discovery. The disputed issues concerning the First Set of Interrogatories were pending before the Commission at the time GST objected to KCPL's Second Set of Interrogatories and at the time KCPL filed its motion to compel.

4. By Order dated November 2, 1999, the Commission sustained GST's objections to 38 of the 52 Requests contained in KCPL's First Set of Interrogatories. In reaching its determinations, the Commission held in pertinent part:

First of all, while GST is a party to this matter, its corporate affiliates are not. KCPL contends that these discovery requests directed to non-parties are appropriate "[b]ecause of the inextricable connection and influence between GST and its affiliated entities [.]". However, KCPL cites no authority for this proposition. KCPL's discovery request to those entities are, indeed, overbroad, in that they exceed the scope of the pending action.

November 2 Order, p. 10. The Commission further determined that information concerning GST's steel producing activities and profitability, while mentioned in GST's complaint, were not material issues to be addressed by the Commission, and, therefore, were not proper areas for discovery.

November 2 Order, p. 11.

5. On November 5, the Commission issued an order sustaining KCPL's Motion to Compel Responses to its Second Set of Interrogatories. The Order was based solely on the fact that GST had not filed a reply to the October 13 Motion to Compel. The Order did not address the substance of KCPL's Requests or GST's September 27 objections, which were both appended to the utility's motion. The Order also did not apply the findings contained in its November 2 Order with

respect to relevance and permissible scope of inquiry to the KCPL second motion to compel. The November 5 Order directed GST responses within 15 days of the Order's November 16, 1999 effective date.

6. Taken alone, the November 5 Order directs GST responses to KCPL discovery requests which the November 2 Order specifically had held were not permissible areas of inquiry. The Second Set of Interrogatories, for example, make numerous requests of GST Steel Company affiliates¹ and seek GST steel product, capital expenditure and annual budget information² not related to the cost of electricity. Although the ordering clauses of the November 2 Order sustain or overrule objections to specific KCPL discovery requests from the Company's first set of requests, the Order plainly described areas of inquiry that were out of bounds. In GST's view, its responses to KCPL's Second Set of Interrogatories should be guided by the Commission's specific determinations in the November 2 Order concerning discovery limits. GST asks that the Commission either reconsider or clarify its November 5 Order accordingly.

7. GST has provided responses to the following Second Set requests directed to GST Steel Company that pertain to electric service: Request Nos. 9, 12, 15, 18, 21, 26, 29, 32, 35, 38, 41, 42, 43, 46, 49, 52, 53, 57 and 58.

8. GST regrets any ambiguity created by its failure to file a reply to KCPL's second motion to compel, but the absence of such a pleading should not lead to incompatible rulings. Such a reply would have reiterated GST's basic objections to KCPL discovery of materials from corporate affiliates as well as to those which pertain to GST business matters not related to electricity rates and

¹ See Request Nos. 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 13, 14, 16, 17, 19, 20, 22, 23, 24, 25, 27, 28, 30, 31, 33, 34, 36, 37, 39, 40, 44, 45, 47, 48, 50, 51, 55, 56 and 64.

² See Request Nos. 54, 59, 60, 61, 62, and 63.

service; positions which GST maintained with KCPL in the objections served on September 27. Also, throughout the period from mid-October to mid-November, GST was attempting to complete its discovery of KCPL, responding to other KCPL motions,³ preparing direct testimony which was filed November 17, and considering possibilities for a negotiated settlement.

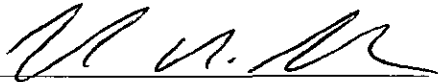
9. The Commission may consider an application for rehearing or a request that it clarify an order at any time. RSMo § 386.500. In this case, the Commission issued two rulings within days of one another that involved common issues concerning the permissible scope of discovery. It decided the first based upon a detailed substantive review of the objections posed and the second based upon the absence of an opposing pleading. The two rulings produce an incongruous result unless the general discovery limits discussed and resolved in the November 2 Order are applied to the November 5 Order. Such a clarification of the November 5 Order is in the public interest and in no way disadvantages KCPL because the November 2 Order properly finds those matters deemed irrelevant to be beyond the scope of issues for the Commission to address.

WHEREFORE, GST Steel Company respectfully requests that the Commission clarify or modify its November 5 Order to state that GST is not required to respond to requests that seek

³ See KCPL Motion to Limit the Scope of Discovery and Issues, filed October 18, 1999.

materials or explore areas the Commission has determined previously are not relevant to issues before it in this case.

Respectfully submitted,



Paul S. DeFord Mo. #29509
Kurt U. Schaefer Mo. #45829
LATHROP & GAGE, L.C.
2345 Grand Boulevard
Suite 2800
Kansas City, Missouri 64108
Telephone: (816) 292-2000
Facsimile: (816) 292-2001

Attorneys for GST Steel Company

James W. Brew
Peter J.P. Brickfield
BRICKFIELD, BURCHETTE & RITTS, P.C.
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, D.C. 20007
Telephone: (202) 342-0800
Facsimile: (202) 342-0807

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, postage prepaid, to all counsel of record as shown on the following service list this 2nd day of December, 1999.

Gerald A. Reynolds
KCP&L
1201 Walnut Street
Kansas City, MO 64106

Steven Dottheim
Chief Deputy General Counsel
MO Public Service Commission Staff
P.O. Box 360
Jefferson City, MO 65102

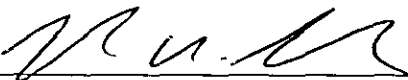
James M. Fischer
James M. Fischer, P.C.
101 West McCarty, Suite 215
Jefferson City, MO 65101

Lera Shemwell
Assistant General Counsel
MO Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

John B. Coffman
Deputy Public Counsel
Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Office of Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Karl Zobrist
Blackwell Sanders Peper & Martin LLP
P.O. Box 419777
Kansas City, MO 64141-6777



Attorney

B R I C K F I E L D
B U R C H E T T E
R I T T S . P C

WASHINGTON, D.C.
AUSTIN, TEXAS

September 27, 1999

VIA FACSIMILE AND MAIL

Mr. Gerald A. Reynolds, Esq.
Kansas City Power & Light Co.
1201 Walnut
P.O. Box 418679
Kansas City, MO 64141

Re: Case No. EC99-553

Dear Mr. Reynolds:

In accordance with 4 CSR 240-2.090 of the Commission's Rules of Practice and Procedure, GST Steel Company ("GST") objects to the below-mentioned Kansas City Power & Light Company's ("KCPL") Interrogatories and Requests for production of documents ("Requests"). GST's specific objections are set forth below:

KCPL-2.01, 2.02:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because the average price paid for electric service by GSI and GSTOC domestic steel making facilities is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.03, 2.04:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

EXHIBIT A

GST objects to this Request as being irrelevant because identifying each electric supplier providing service to GSI and GSTOC domestic steel making facilities is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.05, 2.06:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because contracts by other GSI and GSTOC domestic steel making facilities are in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.13, 2.14, 2.15, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 2.22, 2.23, 2.24, 2.25, 2.26, 2.27, 2.28, 2.29, 2.30, 2.31, 2.32, 2.33, 2.34, 2.35, 2.36, 2.37, 2.38, 2.39, 2.40, 2.41:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GSI, GSTOC or GST considered using or used financial hedge instruments is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.42:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether or how GST may have evaluated hedge proposals is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.43:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GST considered financial hedge instruments is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.44, 2.45, 2.46:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GSI, GSTOC or GST use pricing models to evaluate electricity forward, futures, or options instruments is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.47, 2.48, 2.49:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GSI, GSTOC or GST have considered co-generation opportunities is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.50, 2.51, 2.52:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GSI, GSTOC or GST performed any analysis of KCPL's electric portfolio is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.54:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because GST's Annual Plan is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.55, 2.56, 2.57:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because forecasts prepared by or for GST with respect to the cost of electricity at GST are in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.58:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because how GST has managed its steel production schedules is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.59:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because GST's yearly amounts of capital investments or expenditures are in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.60:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because GST's Annual Budget is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.61:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether GST uses cost plus pricing is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.62:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because whether any of GST's contracts for steel contain liquidated damages clauses is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.63:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

GST objects to this Request as being irrelevant because GST's inventory by product line is in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

KCPL-2.64:

Response:

GST objects to KCPL's Request on the grounds that the information sought is neither relevant to the issues set for hearing in this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

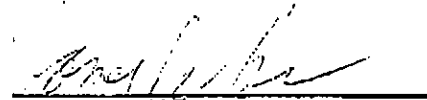
GST objects to this Request as being irrelevant because complaints filed by GSTOC against a supplier of electricity are in no way related to KCPL's management of its incremental costs charged to GST or the adequacy of service issues in this proceeding.

Mr. Reynolds
September 27, 1999
Page 7

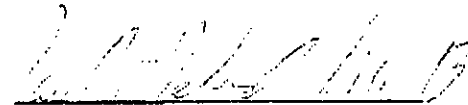
BRICKFIELD
BURCHETTE
RITTS, P.C.

Notwithstanding the objections asserted here, GST reserves the right to invoke claims of privilege and confidentiality with respect to any and all Requests submitted, and to object to any Request for which the requested materials prove to be voluminous when preparing the response.

Sincerely,



James W. Brew
BRICKFIELD, BURCHETTE & RITTS, P.C.
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, D.C. 20007



Paul S. Deford Mo. #29509
LATHROP & GAGE, L.C.
2345 Grand Boulevard
Suite 2800
Kansas City, Missouri 64108

cc: L. Shemwell