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August 9, 1999

**FILED**

AUG 09 1999

Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P.O. Box 3660  
Jefferson City, Missouri 65102

Missouri Public  
Service Commission

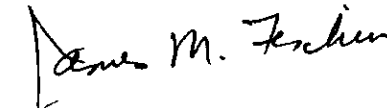
RE: *GST Steel Company v. Kansas City Power & Light Company*  
Case No. EC-99-553

Dear Mr. Roberts:

Enclosed are the original and fourteen (14) copies of Respondent Kansas City Power & Light Company's Motion for Clarification, Reconsideration and Rehearing of Order Regarding GST Steel Company's First Motion to Compel Discovery and Amending the Procedural Schedule, for filing in the above-referenced matter. A copy of the foregoing Motion has been hand-delivered or mailed this date to Parties of Record.

Thank you for your attention to this matter.

Sincerely,



James M. Fischer

/jr  
Enclosures

cc: Parties of Record.

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

AUG 09 1999

GST STEEL COMPANY, )  
)  
Complainant, )  
v. )  
)  
KANSAS CITY POWER & LIGHT )  
COMPANY, )  
)  
Respondent. )

Case No. EC-99-553 Missouri Public  
Service Commission

**RESPONDENT KANSAS CITY POWER & LIGHT COMPANY'S  
MOTION FOR CLARIFICATION, RECONSIDERATION AND REHEARING  
OF ORDER REGARDING GST STEEL COMPANY'S FIRST MOTION TO COMPEL  
DISCOVERY AND AMENDING THE PROCEDURAL SCHEDULE**

Comes now Kansas City Power & Light Company ("KCPL") and for its Motion for Clarification, Reconsideration and Rehearing of the Order Regarding GST Steel Company's First Motion to Compel Discovery and Amending the Procedural Schedule issued by Regulatory Law Judge Kevin A. Thompson on July 29, 1999, states as follows:

1. On July 29, 1999, Regulatory Law Judge Kevin A. Thompson, by delegation of authority, issued an Order Regarding GST Steel Company's First Motion to Compel Discovery and Amending the Procedural Schedule ("Order"). In the Order, KCPL was ordered to serve answers to the interrogatories contained in GST's first set of discovery by August 13, 1999. KCPL intends to comply with Regulatory Law Judge Thompson's Order and produce the requested information by August 13, 1999.

2. In his Order at 8, Judge Thompson also stated:

The Commission cautions the parties that further abuse of the discovery process will lead to consideration of the imposition of appropriate sanctions on the offending party.

Based upon this portion of the Order, KCPL believes that the Commission (or Regulatory Law Judge Thompson) may have been under a mistaken impression that KCPL's objections to GST's first set of interrogatories were designed to intentionally abuse the discovery process. Since KCPL takes very seriously such admonitions from the Commission, KCPL believes it must respectfully respond to the Order, and explain and reiterate the reason(s) it has raised objections to GST's discovery.

3. Throughout this proceeding, there has been a fundamental difference between KCPL and GST regarding the appropriate scope of the issues. On June 18, 1999, the parties filed a Joint Proposed Procedural Schedule which identified, from each party's perspective, the issues to be resolved by the Commission. KCPL identified the following issue as the sole issue to be resolved in this proceeding:

**Whether the pricing contained in the Special Contract is just and reasonable.**

GST, on the other hand, identified several additional issues (which KCPL believes are irrelevant to the GST Special Contract) related to the cause of the explosion and shutdown of Hawthorn 5 generating unit, and KCPL's operation and maintenance of its other power plants, transmission and distribution facilities, including their availability rates.

4. In its Order Denying Motion for Immediate Relief, Directing Expedited Response to Complaint, Setting Prehearing Conference, and Requiring Filing of Procedural Schedule issued on June 1, 1999, the Commission denied GST's request for immediate interim relief and announced: "Likewise, the Commission will not conduct its investigation of the boiler explosion at Hawthorn within the context of this case. The Commission will establish a separate docket for that investigation." (Order at 4).

5. KCPL has objected to discovery related to the explosion of the Hawthorn plant and other issues related to KCPL's operations and maintenance of its generation, transmission, and

distribution facilities, principally upon the ground that such discovery is irrelevant to this proceeding. Such objections were not intended to abuse the discovery process or otherwise frustrate the ability of any party to address the real issue in this proceeding: Whether the pricing contained in GST's special contract is just and reasonable. However, since discovery is not unlimited and must be designed to lead to admissible evidence, KCPL has objected to discovery which it believed was outside the bounds of the legitimate issues raised by GST's Complaint. KCPL's objections were intended to raise concerns regarding the attempts of GST to broaden the scope of the issues to issues related to Hawthorn and other generating units.

6. As stated above, KCPL intends to produce the information requested by GST, as ordered by the Commission, and will also reevaluate its pending objections to other GST discovery. (See August 2, 1999 Letter to Regulatory Law Judge Kevin A. Thompson from Gerald A. Reynolds). However, to the extent that the Order issued on July 29, 1999, by Regulatory Law Judge Thompson was intended to announce that the Commission will review the Hawthorn 5 explosion in this docket, or otherwise consider evidence related to KCPL's operation and maintenance of its generation, transmission and distribution plant in this proceeding, KCPL must respectfully request that the Commission reconsider Judge Thompson's Order. In KCPL's opinion, these issues are not relevant to the question of whether GST's rates are just and reasonable under its special contract.

7. As KCPL has discussed in other pleadings in this proceeding, GST has the contractual right under its Special Contract to choose to take service under the appropriate KCPL tariffs, in the event that it truly fears that the rates under the Special Contract would be unjust and unreasonable. Since tariffed rates are presumed to be just and reasonable, GST can exercise its option to assure itself that its rates are just and reasonable by self-help without seeking Commission authority. To

delve into extraneous matters in discovery or in the hearings before the Commission will not promote an expeditious and just resolution of the real issue in this case.

8. KCPL must also respectfully request that the Commission correct, modify or clarify one portion of Judge Thompson's Order wherein it states:

Moreover, GST has specifically pleaded that "KCPL has informed GST that as a result of the Hawthorn outage, GST should expect a multi-million dollar price increase for 1999. *GST's Complaint* at 11, paragraph 22. **KCPL admitted as much.** *KCPL's Answer* at 4, paragraph 22. (emphasis added)

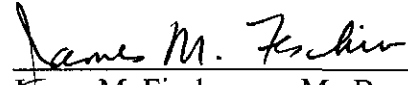
KCPL's Answer did not admit that it "has informed GST that as a result of the Hawthorn outage, GST should expect a multi-million dollar price increase for 1999." In its Answer, KCPL merely admitted "that the Hawthorn outage probably would result in an increase in KCPL's incremental costs and that these increased costs would be reflected in GST's rate provided it elected not to take service under an available rate schedule." (KCPL Answer at 4, paragraph 22). KCPL's Answer does not admit GST's allegation that the impact upon GST will be "a multi-million dollar price increase for 1999," and the Order should be modified to more accurately reflect KCPL's Answer.

9. Finally, the Order also delayed the date for the filing of GST's Direct Testimony for thirty-four (34) days without any other modification of the procedural schedule. KCPL would request that the Order be modified to give all other parties, including KCPL, an additional month to file Rebuttal Testimony, and each of the remaining dates in the procedural schedule (*i.e.*, prehearing conference, filing of statement of issues, surrebuttal testimony, hearings, etc.) should also be delayed by an additional month.

**WHEREFORE**, Kansas City Power & Light Company respectfully requests that the Commission clarify, reconsider and rehear the Order issued on July 29, 1999, as discussed herein,

and further modify the procedural schedule by delaying each of the remaining dates by approximately one month.

Respectfully submitted,

  
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CERTIFICATE OF SERVICE

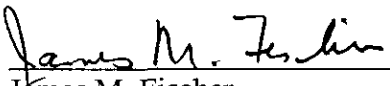
I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered or mailed, First Class mail, postage prepaid, this 9<sup>th</sup> day of August, 1999, to:

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