

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

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|---|---|-----------------------|
| In the Matter of the Application of |) | |
| Kansas City Power & Light Company for |) | |
| the Issuance of an Order Authorizing Construction |) | Case No. EU-2014-0255 |
| Accounting Relating to its Electrical Operations |) | |
| Staff of the Public Service Commission of |) | |
| the State of Missouri |) | |
| |) | |
| Petitioner, |) | |
| v. |) | File No. EU-2015-0094 |
| |) | |
| Kansas City Power & Light Company, |) | |
| |) | |
| Respondent. |) | |

RESPONSE IN OPPOSITION TO MOTION TO CONSOLIDATE

COMES NOW Kansas City Power & Light Company (“KCP&L” or “Company”) and hereby submits its response in opposition to the Missouri Public Service Commission (“Commission”) Staff’s (“Staff”) November 17, 2014 *Motion to Consolidate Cases* (“*Motion to Consolidate*”).

1. Staff seeks to consolidate Case No. EU-2015-0094, a Staff request for an accounting authority order (“AAO”) regarding Department of Energy (“DOE”) fees no longer paid by KCP&L initiated on October 9, 2014, with Case No. EU-2014-0255, a KCP&L request for an AAO regarding the continuation of construction accounting for the La Cygne Environmental Project initiated on June 12, 2014. In support of its *Motion to Consolidate*, Staff alleges that consolidation will promote administrative efficiency as Staff will use the same witnesses in each case and “. . . it is practical to hear both accounting requests together in order

to allow the Commission to evaluate simultaneously all of these facts that affect current rates and earnings.” (*Motion to Consolidate* , p. 2, para. 4)

2. KCP&L disagrees. Nowhere in its *Motion to Consolidate* has Staff established that the subject DOE fees for which Staff seeks an AAO have any logical or substantive relationship to the depreciation expense and carrying costs related to the La Cygne Environmental Project that KCP&L seeks to defer through its request for construction accounting authority. This is unlike, for example, transmission fees allocated to KCP&L by the Southwest Power Pool (“SPP”), which have a direct impact on the incremental cost of each kWh of electricity used by KCP&L customers, just like the subject DOE fees and other costs recoverable through a fuel adjustment clause. As a matter of fact, therefore, no substantive or logical relationship exists between the DOE fees that are the subject of the AAO requested by Staff and the La Cygne Environmental Project that is the subject of KCP&L’s request for construction accounting authority. Consequently, each AAO request would need to be subjected to independent analysis of whether the subject event and associated costs meet the applicable standard. KCP&L therefore disputes Staff’s assertion that consolidation of Case No. EU-2015-0094 with Case No. EU-2014-0255 would serve the interests of administrative efficiency.

3. Additionally, Staff has been aware of the DOE fee situation since at least August 29, 2014, (see KCP&L’s response to Staff data request 20 appended hereto as Attachment 1) which was before Staff agreed to the procedural schedule (see Attachment 2) submitted on September 18, 2014 to the Commission in Case No. EU-2014-0255. Staff’s *Motion to Consolidate* therefore begs the question: if Staff believed these two issues were connected, why did Staff agree to the procedural schedule submitted to and approved by the Commission in Case No. EU-2014-0255? If there is a reasonable explanation for that, then why did Staff not request

consolidation of these cases when it filed its petition in Case No. EU-2015-0094 on October 9, 2014? If Staff was truly interested in administrative efficiency, then it would have suggested consolidation much earlier than November 17, 2014. Moreover, if Staff was truly interested in administrative efficiency, then it would have submitted a proposed procedural schedule for the handling of Case Nos. EU-2014-0255 and EU-2015-0094 on a consolidated basis that meets the timing needs which KCP&L has repeatedly emphasized to Staff in regard to Case No. EU-2014-0255.

4. KCP&L needs a Commission order regarding construction accounting for the La Cygne Environmental Project by the end of February of 2015 so that it may record the associated deferrals upon the in-service date of La Cygne Unit 2 and common. Absent a Commission order granting construction accounting authority, KCP&L's outside auditors cannot allow KCP&L to include La Cygne Environmental Project deferrals in its financial reports made in compliance with Securities Exchange Commission ("SEC") requirements. KCP&L's need for construction accounting authority is therefore two-fold: 1) to enable it to report the deferred amounts in its SEC filings, thereby mitigating the detrimental impact on its reported financials of the mismatch between when the La Cygne Environmental Project goes in-service and when rate recovery begins; and 2) to preserve the deferred amounts for consideration in KCP&L's pending general rate case (Case No. ER-2014-0370).¹

¹ Staff's proposed consolidation would also unfairly limit the Company's discovery in the EU-2015-0094 case. The procedural schedule in EU-2014-0255 provides for KCP&L to file surrebuttal testimony on December 10th and a hearing on December 17-18, 2015. This schedule was designed so that the Commission can issue an order by the end of February 2015. By contrast, there is no procedural schedule in EU-2015-0094 and, as such, the Company has not yet conducted an investigation and analysis of Staff's AAO proposal. The addition of the issues associated with Case No. EU-2015-0094 to EU-2014-0255 would mean that the Company would have less than a month to conduct discovery on Staff's AAO claims. This shortening of discovery is in contrast to the lengthy five-month discovery period afforded Staff in EU-2014-0255 and would put the Company at a distinct disadvantage in responding to Staff's claims. Staff's unsubstantiated claims of administrative efficiency cannot trump the Company's right to conduct discovery or other fundamental due process rights of the Company.

5. Staff, on the other hand, has shown no substantive need in its *Motion to Consolidate* for any particular date by which it needs resolution of its request in Case No. EU-2015-0094. In response to this pleading, and because Staff has no valid interest in how the Company prepares its SEC financial reports, Staff will presumably say that it needs resolution of Case No. EU-2015-0094 to allow any amounts that may be deferred as a result thereof to be afforded ratemaking treatment in KCP&L's current rate proceeding, Case No. ER-2014-0370. If that is part of Staff's response, KCP&L would reply by saying that consolidation of Case No. EU-2015-0094 with KCP&L's pending general rate case is acceptable (although, as indicated in its November 3, 2014 *Verified Response to Staff Petition for Accounting Authority Order* filed in Case No. EU-2015-0094, KCP&L asserts that the Commission should reject the Staff Petition outright as a one-sided approach that does not appropriately or fairly balance the competing interests at stake because it seeks to defer approximately \$2.4 million in annual DOE fee cost reductions while ignoring SPP transmission fee increases of approximately \$16.4 million per year).

6. It is also clear that, barring outright rejection of the Staff Petition in Case No. EU-2015-0094, consolidation of that Staff request with KCP&L's pending general rate case is the most appropriate course. This is because the primary objective of the Staff Petition in Case No. EU-2015-0094 is to recognize the subject DOE fee cost reduction as an offset to cost of service in KCP&L's pending general rate case. Staff asserts that the DOE fees have “. . . offsetting effect on KCPL's income from the earnings lag that it alleges in its AAO request—one [the La Cygne Environmental Project] is a detriment to 2015 earnings and one, the DOE fees, has been a benefit to 2014 earnings and will continue to be beneficial through the change in rates when

KCPL's 2015 rate case is completed."² (*Motion to Consolidate*, p. 2, para. 4) Of course, as the Commission will clearly recognize, this Staff objective really amounts to ratemaking treatment and what, if any, ratemaking treatment may be afforded to deferrals recorded pursuant to an AAO is not a topic for an AAO case, but is to be addressed only in a general rate proceeding.

WHEREFORE, KCP&L offers this *Response in Opposition to Motion to Consolidate* and respectfully requests that the Commission deny Staff's *Motion to Consolidate*.

Respectfully submitted,

/s/ Robert J. Hack

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ATTORNEYS FOR KANSAS CITY POWER &
LIGHT COMPANY

CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand delivered, emailed or mailed, postage prepaid, this 19th day of November, 2014, to all parties of record.

/s/ Robert J. Hack

Robert J. Hack

² It is notable that in addressing KCP&L's 2014 earnings, Staff has wholly ignored the facts that: 1) KCP&L's actual return on equity ("ROE") for 2013 was approximately 6.5% (compared to the current Commission-authorized ROE of 9.7%); 2) KCP&L expects no meaningful improvement in its achieved ROE for 2014; and 3) KCP&L expects no meaningful improvement in its achieved ROE in 2015 until after new rates from Case No. ER-2014-0370 take effect in late September 2015. (See, *Kansas City Power & Light Company's Verified Response to Staff Petition for Accounting Authority Order*, filed on November 3, 2014 in Case No. EU-2015-0094).

Company Name: KCPL
Case Description: KCPL - AAO
Case: EU-2014-0255

Response to Williams Nathan Interrogatories – Set MPSC_20140708
Date of Response:

Question No. :0020

A) Has KCPL (through Wolf Creek Nuclear Operating Company) been relieved from making contributions to the Department of Energy (DOE) Nuclear Waste Fund? If not, please explain. B) If KCPL is relieved from making contributions, identify the date KCPL stopped paying contributions. C) Identify the savings KCPL will realize because of this reduction of expense for 2014, 2015, and 2016. Identify the amounts paid in 2012 and 2013. D) Identify if and when KCPL expects any prior contributions to the Nuclear Waste Fund to be refunded and the amount of the refunds. E) If KCPL does not currently make contributions to the Nuclear Waste Fund, does KCPL anticipate making these contributions in the future? If so, identify when the payments will resume. Data Request submitted by Keith Majors (keith.majors@psc.mo.gov)

RESPONSE: (do not edit or delete this line or anything above this)

- A) Yes. Effective May 16, 2014 the Department of Energy set the Nuclear Fuel Disposal Fee to zero.
- B) May 16, 2014
- C) KCPL estimates that the reduction of expense for the Missouri jurisdictional share would be \$1.6 million for 2014 and \$2.3 million for each of 2015 and 2016. The Missouri jurisdictional share of the amounts paid were \$2.0 million in 2012 and \$1.7 million in 2013.
- D) KCPL is not expecting prior contributions to the Nuclear Waste Fund to be refunded.
- E) KCPL cannot predict if or when the Department of Energy would set the Nuclear Fuel Disposal Fee to an amount greater than zero.

Attachment: Q0020_Verification.pdf

Verification of Response

**Kansas City Power & Light Company
AND
KCP&L Greater Missouri Operations**

Docket No. EU-2014-0255

The response to Data Request # 0020 is true and accurate to the best of my knowledge and belief.

Signed: _____

Tom Rush

Date: July 28, 2014

WHEREFORE, KCP&L and Staff respectfully request that the Commission adopt the procedural schedule proposed in paragraph 1 herein for the handling of this proceeding, and Staff requests that the Commission rule on Staff's Request for Ruling on Objection.

Respectfully submitted,

/s/ Robert J. Hack

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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, emailed or mailed, postage prepaid, this 18th day of September, 2014, to all parties of record.

/s/ Robert J. Hack

Robert J. Hack