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 a General Rate Increase for Electric Service	)))	Case No. ER-2012-0174
In the Matter of KCP&L Greater Missouri Operations Company's Request for Authority to Implement General Rate Increase for Electric Service.	))))	Case No. ER-2012-0175

MECG RESPONSE TO KCPL AND GMO APPLICATION FOR REHEARING

COMES NOW the Midwest Energy Consumers' Group ("MECG") and, for its Response to the Application for Rehearing filed by KCPL and GMO on January 18, 2013, respectfully states as follows:

1. On January 9, 2013, the Commission issued its Report and Order in the above-captioned dockets. On January 18, 2013, KCPL and GMO filed their Application for Rehearing. In that Rehearing, KCPL and GMO ask that the Commission rehear and reverse its decision on the issues of: (1) Return on Equity (pages 3-8); (2) Transmission Tracker (pages 9-16); (3) Revenue Shift Among Rate Schedules (pages 18-20); and (4) Crossroads Valuation and disallowance of transmission costs (pages 20-32).

2. As reflected in the Industrial Intervenors' own Application for Rehearing filed on January 18, MECG agrees with KCPL on the issue of the revenue shift among rate schedules. By rejecting the Non-Unanimous Stipulation on this issue, the Commission has caused problems with potential migration between the various commercial and industrial rate schedules. Furthermore, as KCPL acknowledges, the overwhelming amount of evidence in this proceeding indicates that residential rates are

not currently recovering their actual cost of service. As such, MECG agrees with KCPL on this issue and asks that the Commission grant rehearing as to the issue of revenue shift among rate schedules.

3. As to the remaining issues (Return on Equity, Transmission Tracker and Crossroads), MECG maintains that KCPL and GMO's Application for Rehearing is without merit. In large part, KCPL and GMO's Application for Rehearing on these issues simply rehashes the arguments and evidence already provided. As such, the KCPL and GMO arguments have been thoroughly considered by the Commission and rejected. For this reason, the Commission should summarily disregard KCPL and GMO's continued arguments on these issues.

A. BACKGROUND

4. The practical effect of KCPL and GMO's Application for Rehearing is to either increase the revenue requirement in this case (return on equity and Crossroads) or to increase the revenue requirement in future cases (transmission tracker). Prior to considering KCPL and GMO's request, the Commission should be aware of the recent rate increases that it has approved for these companies. Over the course of the last six years (since January 1, 2007), the Commission has approved increases of 57.54% in KCPL's revenue requirement. Furthermore, the Commission has approved increases of 76.47% and 38.62% in the GMO-MPS and GMO-L&P rates respectively. Over the same period of time, national average residential, commercial and industrial rates have only increased by 9-13%.[1]

5. This rapid increase in KCPL and GMO rates lead to the undeniable conclusion that these rates have long ago surpassed any legitimate notion of affordability.

[1] Staff Exhibit 200, Staff Cost of Service Report, at pages 18-19.

With this increase, KCPL industrial rates now exceed the national average for industrial rates. The unaffordability of KCPL industrial rates makes it increasingly difficult for the Kansas City area to attract or retain businesses. It is now a legitimate possibility that these businesses and jobs will go to others areas in the country that have lower rates.

6. Against this backdrop, KCPL and GMO ask that the Commission approve an even greater increase through a higher return on equity or a higher valuation for Crossroads. In addition, KCPL and GMO ask that the Commission explicitly approve a transmission tracker so that future rate increases will be even larger. Acceptance of these anti-consumer positions will simply exacerbate the unaffordability of KCPL and GMO's rates.

B. RETURN ON EQUITY

7. Amazingly, after spending the last 11 months trying to convince the parties and Commission that it needed a 10.30% return on equity, KCPL and GMO now admit that it only needs a return on equity of 9.80% that will put it "back in the mainstream." This is not a new tactic for KCPL. In its recent Kansas proceeding, KCPL also indicated that it required a return on equity of 10.30%. After that Commission authorized a return on equity of 9.50%, KCPL also acknowledged that its initial request was inflated and that it only needed a return on equity of 9.77%.[2] At this point, it should be readily apparent to this Commission that KCPL will do or say anything to enhance its revenue requirement.

8. Contrary to KCPL's arguments, however, it is obvious that the Commission's authorized return on equity (9.70%) is actually generous. Despite the

[2] See, *KCPL Petition for Reconsideration*, Kansas Corporation Commission Docket No. 12-KCPE-764-RTS, filed December 21, 2012, at page 2.

57.5% increase in its rates over the last six years, the Commission still authorized KCPL a return on equity that approximates that national average. Interestingly, in the recent Kansas case, the Kansas Corporation Commission ("KCC") was provided the opportunity to consider the exact same circumstances and facts as those considered by this Commission. Specifically, the KCC was asked to consider the return on equity for the **exact same** company, with the **exact same** risk profile and the **exact same** operating characteristics. Furthermore, the KCC was offered testimony by the **exact same** KCPL witness providing the **exact same** recommendation based upon the **exact same** comparable company group and the **exact same** return methodologies. In a decision issued on December 13, 2012, four weeks prior to this Commission's Report and Order, the KCC authorized KCPL a return on equity of 9.50%. Confronted with the **exact same** arguments on rehearing, the KCC refused to increase the return on equity above 9.50%.

9. Now, despite a return on equity that is 20 basis points higher than the Kansas decision, KCPL refuses to recognize the generous nature of this Commission's decision and argues for more. The generosity of this Commission's decision is not insignificant. The practical effect of this Commission's decision to grant a return on equity of 9.70% instead of 9.50% is to set KCPL's revenue requirement almost $4 million that it otherwise should be. Certainly, a return on equity of 9.50% is warranted, is supported by competent and substantial evidence and would have been a small step towards recognizing the unaffordable nature of KCPL's rates. Simply, KCPL's argument for a higher return on equity should be rejected.

C. TRANSMISSION TRACKER

10. In its Application for Rehearing, KCPL claims "[i]t is clear from the Report and Order that the Commission wants the Companies to be able to defer or tracker transmission costs above those in base rates."[3] MECG has read the Commission's Report and Order multiple times and fails to understand how KCPL could deduce such a desire on the Commission's part. Simply, the Commission's Report and Order sought to allow KCPL to defer and amortize transmission costs only to the extent that they are currently permitted by the Uniform System of Accounts. KCPL's effort to deduce anything more from the Report and Order is wishful thinking.

11. In its Initial and Reply Brief, KCPL and GMO wrongly argued that a transmission tracker was already authorized by Missouri law. In support of this misplaced notion, KCPL asserted that, since Accounting Authority Orders were lawful, its request for a transmission tracker must also be lawful. In its Reply Brief, MECG pointed out that KCPL was mistaken and that the deferral of routine, everyday costs like transmission costs are completely different than the deferral of extraordinary items like storm costs. As MECG pointed out at pages 28-29 of its Reply Brief:

While the Missouri Court of Appeals has found that AAOs are lawful, the Court has also held that such extraordinary treatment is limited solely to expenses that are "unusual or extraordinary."[4] As the Court noted, "extraordinary items" are:

> Those items related to the effects of events and transactions which have occurred during the current period and which are ***not typical or customary business activities*** of the company. Accordingly, they will be events and transactions of significant effect which ***would not be expected to recur***

[3] Application for Rehearing at page 9.
[4] *State ex rel. Office of the Public Counsel v. Public Service Commission*, 858 S.W.2d 806, 810 (Mo.App. 1993).

> ***frequently*** and which ***would not be considered as recurring factors*** in any evaluation of the ordinary operating processes of business.[5]

Using this definition of extraordinary, the Commission has allowed deferral and recovery of power plant build costs, as well as ice storm and tornado damage costs. Each of these costs could be considered not typical and not recurring. On the other hand, transmission costs are typical, customary and recurring. As KCPL admits, these costs have been incurred every year and are expected to be incurred every year. As such, it is misplaced for KCPL to assert that, since an extraordinary cost may be deferred and recovered, its recurring transmission costs may also be deferred and recovered.

The reason for treating extraordinary costs differently than those costs that are typical, customary and recurring is made abundantly clear by the Court of Appeals.

> Deferral of costs just to support the current financial status distorts the balancing process utilized by the Commission to establish just and reasonable rates. Because rates are set to recover continuing operating expenses plus a reasonable return on investment, ***only an extraordinary event should be permitted to adjust the balance to permit costs to be deferred for consideration in a later period.***[6]

Clearly, since KCPL's transmission costs are not "extraordinary," they should not "be permitted to adjust the balance" that rates will be excessive or inadequate.

12. Despite its previous protestations, KCPL now admits this basic premise: While the Uniform System of Accounts and Missouri law allow for the deferral of extraordinary costs, they do not contemplate or authorize the deferral of routine costs like KCPL transmission costs. As KCPL admits, General Instruction No. 7 "provides for relocation on a Company's income statement of items considered extraordinary."[7] Nowhere, however, does that same directive contemplate the deferral of routine costs that

[5] *Id.* (emphasis added).
[6] *Id.* at page 811 (emphasis added).
[7] Application for Rehearing at page 11.

are not extraordinary. Simply, the deferral of these routine costs is completely contrary to Missouri ratemaking as well as the ratemaking methodology reflected in the Uniform System of Accounts and adopted by the vast majority of the state utility commissions. As such, KCPL's request should be rejected as a radical departure from traditional ratemaking.

13. The Commission should be aware of the implications of a decision reversing its course on KCPL's requested transmission tracker. While KCPL rates have increased 57.5% over the last 6 years, any decision to modify the Report and Order regarding transmission costs will lead to higher rate increases in the future. Through its transmission tracker, KCPL seeks to defer costs that otherwise would not be reflected in the test year of future cases. While the opportunity to defer costs into future cases may have some elementary notion of fairness, it is important to remember that such costs are treated in a vacuum. That is to say, there is no consideration of decreases in other costs or increases in revenues that have offset these deferred costs. Decreases in costs resulting from voluntary reductions in workforce and other expense reductions would be left in the past while one expense item, handpicked by KCPL, would be carried forward into the future. As can be seen then, looked at deeper, KCPL's request actually violates all notions of fairness. This is the very reason that the Court of Appeals found that "***only an extraordinary event should be permitted to adjust the balance to permit costs to be deferred for consideration in a later period.***"[8]

[8] *State ex rel. Office of the Public Counsel v. Public Service Commission*, 858 S.W.2d 806, 811 (Mo.App. 1993).

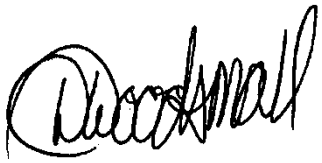
D. CROSSROADS ENERGY CENTER VALUATION AND COSTS

14. At pages 20-32, GMO again repeats the same tired argument regarding the valuation of Crossroads Energy Center and the treatment of associated transmission costs. The Commission has considered this argument three times: (1) in its Report and Order in Case No. ER-2010-0355; (2) on rehearing in the same case; and (3) in its Report and Order in Case No. ER-2012-0175. GMO has repeated the same arguments in each phase of those cases and has been repeatedly denied by this Commission. In its appeal from that last decision, the Circuit Court of Cole County upheld the Commission's decision. At this point, there is no basis for the Commission to reverse its direction on this issue and grant GMO a higher revenue requirement. MECG will refrain from repeating the same arguments that it made on this matter. Rather, MECG will direct the Commission's attention to pages 39-65 of its Reply Brief. Suffice it to say, on this issue, the Commission's decision is lawful, reasonable and supported by competent and substantial evidence. There is no purpose in reversing course and confusing the issue in a matter still pending before the Missouri Court of Appeals.

E. CONCLUSION

15. MECG urges the Commission to consider the rapid increase in KCPL rates. As indicated a multitude of times, KCPL rates have increased 57.5% over the past six years. Industrial rates now exceed the national average industrial rates threatening the ability of all Kansas City area businesses to compete. If for no other reason, the Commission should reject KCPL's attempts to further inflate its revenue requirement. For the reasons stated in this pleading, MECG urges the Commission to deny KCPL and GMO's Application for Rehearing.

Respectfully submitted,



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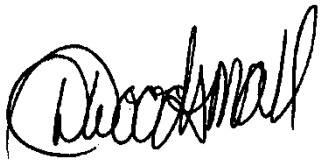
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing pleading by email, facsimile or First Class United States Mail to all parties by their attorneys of record as provided by the Secretary of the Commission.



David L. Woodsmall

Dated: January 29, 2013