

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

In the Matter of Kansas City Power & Light Company's)
Application For Authorization To Suspend Payment of) File No. ET-2016-0185
Certain Solar Rebates)

**KANSAS CITY POWER & LIGHT COMPANY'S
RESPONSE IN OPPOSITION TO RENEW MISSOURI'S
APPLICATION TO INTERVENE**

COMES NOW Kansas City Power & Light Company ("KCP&L" or the "Company") and hereby submits its response to Earth Island Institute d/b/a Renew Missouri's ("Renew Missouri") Application to Intervene filed on February 1, 2016. In support hereof KCP&L respectfully states the following:

1. Renew Missouri should be permitted to intervene in this proceeding only if Renew Missouri abides by its commitment, made as a signatory to the Stipulation and Agreement approved by the Commission on October 30, 2013 in Case No. ET-2014-0071, that it "will not object to an application that is designed to cease payments beyond the specified level." (See, Non-Unanimous Stipulation and Agreement¹, Case No. ET-2014-0071, p. 4) As will be explained in more detail below, it is not apparent that Renew Missouri intends to abide by this commitment. Consequently, Renew Missouri should not be permitted to intervene in this proceeding.

2. Renew Missouri's Response to KCP&L's Application to Suspend Payment of Solar Rebates, attached as a statement of position to its Application to Intervene filed on February 1, 2016, states on page 3 that "Renew Missouri does not object to KCP&L's ability to suspend solar rebate payments after paying out the amount agreed upon by Stipulation". In this

¹ Although denominated as "Non-Unanimous" when filed, no party objected to its provisions, so the Commission treated the agreement as unanimous; hence, it is referred to as a "Stipulation and Agreement" throughout the balance of this pleading.

regard, the evidence before the Commission in Case No. ET-2014-0071 is relevant both to the reasonableness of KCP&L's tariff sheet 46 providing for the suspension of solar rebates (for which Commission approval is requested in this case) and to the invalidity of Renew Missouri's patently contradictory position that "the Commission should not authorize KCP&L to suspend rebate payments" until it has shown that the Company will reach the 1% average retail rate impact ("ARRI"). (Renew Missouri's Response to KCP&L's Application to Suspend Payment of Solar Rebates, paragraph 4, page 2). Specifically, in Case No. ET-2014-0071:

- Commission Staff testified that, under the methodology it used to calculate the 1% ARRI cap provided in section 393.1030.3 RSMo., KCP&L could provide only \$5.2 million in solar rebates for 2013, and none in 2014 and 2015. (Rebuttal Testimony of Claire Eubanks, Case No. ET-2014-0071, p. 9, ll. 16-18; and Surrebuttal Testimony of KCP&L witness Burton Crawford, Case No. ET-2014-0071, p. 2, ll. 11-12). Because KCP&L was forecast to pay solar rebates in excess of that amount, Commission adoption of Staff's methodology would have caused KCP&L to suspend solar rebates by November 9, 2013. (Rebuttal Testimony of Claire Eubanks in Case No. ET-2014-0071, p. 2, ll. 15-18).
- KCP&L used a different 1% ARRI methodology than Staff, but the Company's methodology showed that solar rebate payments should be limited to slightly less than \$11 million for KCP&L. (Direct Testimony of Tim Rush in Case No. ET-2014-0071, p. 5, ll. 14-15). KCP&L's forecasted solar payments of approximately \$14 million through December 2013 exceeded this cap. (Direct Testimony of Tim Rush in Case No. ET-2014-0071, p. 5, l. 10).
- Solar interests participating in Case No. ET-2014-0071 included Renew Missouri, Brightergy, LLC and MOSEIA (the Missouri Solar Energy Industries Association) and they disagreed with the methodology used by both Staff and the Company. Brightergy expressed significant concern that Commission adoption of Staff's 1% ARRI methodology would put the solar industry out of business in Missouri. (Surrebuttal Testimony of Adam Blake in Case No. ET-2014-0071, p. 1, l. 14 through p. 2, l. 3, and p. 11, ll. 6-8, and p. 12, ll. 16-18).
- Ultimately, Case No. ET-2014-0071 was resolved on the basis of a comprehensive Stipulation and Agreement among the parties that was approved by order of the Commission. This Stipulation and Agreement represented a negotiated compromise of the claims and positions taken by the parties to the proceeding. As relevant here, the Commission-approved Stipulation and Agreement provided that:

- KCP&L would not suspend payment of solar rebates in 2013 and beyond unless the solar rebate payments made after August 31, 2012, reached an aggregate level of \$36.5 million (the “specified level” for KCP&L). (Stipulation and Agreement in Case Nos. ET-2014-0059 and ET-2014-0071, p. 3).
- If and when rebate payments are anticipated to reach the specified level, KCP&L would “. . . file with the Commission an application under the 60-day process as outlined in Section 393.1030.3 RSMo. to cease payments beyond the specified level in the year in which the specified level is reached and all future calendar years.” (Stipulation and Agreement in Case Nos. ET-2014-0059 and ET-2014-0071, pp. 3-4).
- The Signatories (which included Renew Missouri) will not object to an application that is designed to cease payments beyond the specified level. (Stipulation and Agreement in Case No. ET-2014-0059 and ET-2014-0071, p. 4).

Following Commission approval of the Stipulation and Agreement in Case Nos. ET-2014-0071 on October 30, 2013, KCP&L continued making solar rebate payments in accordance with the Stipulation and Agreement.

- In accordance with the Stipulation and Agreement approved by the Commission in Case No. ET-2014-0071, KCP&L filed an application under the 60-day process as outlined in section 393.1030.3 RSMo. on January 18, 2016 (File No. ET-2016-0185) to cease making solar rebate payments. KCP&L requests Commission approval of a tariff sheet, effective March 18, 2016, which provides that:
 - Company will pay solar rebates for all valid applications received by the Company by December 31, 2015, which are preapproved by the Company and which result in the installation and operation of a Solar Electric System pursuant to the Company’s rules and tariffs. Applications received after December 31, 2015, may receive a solar rebate payment if the total amount of solar rebates paid by the Company for those applications received on or before December 31, 2015 is less than \$36,500,000.
- The evidence adduced in Case Nos. ET-2014-0071 regarding the 1% ARRI presented significant disagreement among the parties, including Staff, KCP&L and representatives of the solar industry. It was not at all clear how the Commission would resolve those disagreements, and this placed each party in a position of significant uncertainty and unique risk. Ultimately, the parties were able to strike an agreement that was approved by the Commission to avoid requiring the Commission to rule upon those disagreements. Upon approval by the Commission, the Stipulation and Agreement provided certainty regarding the overall resolution of the proceeding to the benefit of all involved, including Staff, KCP&L and the solar industry.
- KCP&L has honored the commitments the Company made as a part of the Commission-approved Stipulation and Agreement resolving Case No. ET-2014-0071 by continuing to pay solar rebate until reaching the “specified

level” and by filing this application to cease making solar rebates. Absent the agreement among the parties to Case No. ET-2014-0071 and Commission approval thereof, it is quite possible, perhaps even likely, that the Commission would have decided that litigated proceeding by finding that the 1% ARRI cap had been reached and requiring KCP&L to cease making solar rebate payments in 2013. This was a risk the solar interests sought to avoid by entering into the Stipulation and Agreement. Now that the solar industry and customers with solar installations receiving solar rebates have reaped the benefits of the Stipulation and Agreement through KCP&L’s continued payment of solar rebates, that Stipulation and Agreement cannot now be disavowed by Renew Missouri.

3. On the basis of the foregoing, therefore, KCP&L submits that Renew Missouri has taken a position in violation of the commitment it made through its execution of the Stipulation and Agreement approved by the Commission in Case No. ET-2014-0071 not to object to an application that is designed to cease payments beyond the specified level. The public interest in this matter is best served by upholding a Commission-approved Stipulation and Agreement negotiated by adverse parties to resolve disputed and contentious issues and upon which KCP&L relied in continuing to make solar rebate payments. As a consequence, Renew Missouri should not be permitted to intervene in this proceeding.

WHEREFORE, for the foregoing reasons, KCP&L respectfully requests that Renew Missouri’s application to intervene be denied.

Respectfully submitted,

/s/ Robert J. Hack

Robert J. Hack, MBN 36496

Phone: (816) 556-2791

E-mail: rob.hack@kcpl.com

Roger W. Steiner, MBN 39586

Phone: (816) 556-2314

E-mail: roger.steiner@kcpl.com

Kansas City Power & Light Company

1200 Main – 16th Floor

Kansas City, Missouri 64105

Fax: (816) 556-2787

And

James M. Fischer, MBN 27543
Email: jfischerpc@aol.com
Fischer & Dority, P.C.
101 Madison Street, Suite 400
Jefferson City, MO 65101
Telephone: (573) 636-6758
Facsimile: (573) 636-0383

**ATTORNEYS FOR KANSAS CITY POWER &
LIGHT COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 11th day of February, 2016.

/s/ Robert J. Hack

Roger W. Steiner