

**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) **File No. ER-2014-0370, et al.**

**RESPONSE IN OPPOSITION TO MOTION TO DECLASSIFY TESTIMONY
AND REQUEST FOR EXPEDITED TREATMENT**

COMES NOW Kansas City Power & Light Company ("KCP&L" or "Company"), pursuant to the Missouri Public Service Commission's ("Commission") Order Directing Filing issued in this matter on June 24, 2015, and for its response in opposition to *Motion to Declassify Testimony and Request for Expedited Treatment* ("*Motion to Declassify*") filed by the Midwest Energy Consumers' Group ("MECG") and the Office of the Public Counsel ("OPC") on June 23, 2015 respectfully states as follows:

1. MECG and OPC seek to make public two charts in the surrebuttal testimony of OPC witness Addo which contain information regarding 1) the total amount of rate case expense on a specific vendor basis through March 2015 (Addo Surrebuttal, p. 25, Table 1), and 2) the hourly rate charged by KCP&L's outside attorneys (Addo Surrebuttal, p. 27, ll. 1-2). OPC and MECG base this request on section 610.011.1 RSMo. and Commission rule 4 CSR 240-2.135, arguing that the policy of the State as expressed in 610.011.1 RSMo. is that public records should be open to the public and that exceptions to that policy provided in Commission Rule 4 CSR 240-2.135 do not cover the information at issue here. As will be described in more detail below, MECG and OPC read section 610.011.1 far more broadly than it is written, ignore section 386.480 RSMo. of the Public Service Commission law and do not even attempt to apply the provisions of Commission Rule 4 CSR 240-2.135(1)(B) to the information at issue here.

2. In paragraph 2 of their *Motion to Declassify*, OPC and MECG cite section 610.011.1 as support for their request, arguing that it provides that “It is the public policy of this state that . . . records . . . of public governmental bodies be open to the public . . .” (emphasis in *Motion to Declassify*) The fundamental flaw with this MECG and OPC argument is that the records at issue here are not those of a public governmental body. To the contrary, the records at issue here are from KCP&L, a corporation which, although it has dedicated its private property to serving the public, is in no way, shape or form a “public governmental body”. It should also be noted that section 386.480 RSMo. – directly from the Public Service Commission law – suggests that information provided by public utilities is not to be publicly disclosed absent a specific Commission order so requiring, providing, in relevant part, that

No information furnished to the commission by a corporation, person or public utility, except such matters as are specifically required to be open to public inspection by the provisions of this chapter, or chapter 610, shall be open to public inspection or made public except on order of the commission, or by the commission or a commissioner in the course of a hearing or proceeding.

Succinctly put, OPC and MECG’s reliance on section 610.011.1 RSMo. is wholly misplaced as that statute is irrelevant to the records at issue.

3. In paragraph 3 of their *Motion to Declassify*, MECG and OPC address in a cursory fashion 4 CSR 240-2.135, the Commission’s rule regarding confidential information. Notably, OPC and MECG neglected to provide the Commission with the relevant text of that rule which provides as follows:

(1) The commission recognizes two (2) levels of protection for information that should not be made public.

* * *

(B) Highly confidential information is information concerning –

* * *

3. Marketing analysis or other market-specific information relating to goods or services offered in competition with others;
4. Marketing analysis or other market-specific information relating to

goods or services purchased or acquired for use by a company in providing services to customers;

* * *

In applying the text of the rule to the information at issue here it is clear that the information OPC and MECG seek to make public – specific pricing information of service providers chosen by KCP&L from among competing service providers to assist in its prosecution of this general rate case – is specifically recognized as highly confidential information under the provisions of 4 CSR 240-2.135(1)(B)3 and 4. In fact, this is precisely what counsel for KCP&L told the Commission during the hearing on June 15 and 18. (Tr. p. 160, ll. 17-19; p. 161, ll. 2-3; p. 926, ll. 18-21; and p. 927 , ll. 1-3 and 5-9) Contrary to MECG and OPC’s arguments, KCP&L has strictly followed the specific provisions of 4 CSR 240-2.135 in designating the information at issue here as highly confidential.

4. Moreover, the provisions of 4 CSR 240-2.135(1)(B)3 and 4 are sound in that there are good reasons to protect this kind of information from public disclosure. First, utilities have many service providers to choose from in undertaking their service to the public. If all pricing information of all services provided to public utilities is to be made public, the ability of utilities to negotiate favorable pricing, terms and conditions will be compromised. Ultimately, it is customers who will pay the price for that. Second, the pricing information at issue here really does not “belong” to KCP&L at all; it belongs to the various service providers engaged to work on the case. So, in addition to protecting the interests of customers as described above, the provisions of 4 CSR 240-2.135(1)(B)3 and 4 also protect the interests of those entities and individuals who provide service to utilities. Those individuals and entities compete with others to undertake engagements with utilities. It would be unreasonable and unfair to compromise those service providers’ interests when reasonable protections that already exist can be followed.

5. KCP&L understands and appreciates the desire for transparency, but as discussed above the desire for transparency must be balanced with the potential for negative consequences that may result from such transparency. In an effort to accommodate the desire for transparency while protecting legitimate interests in maintaining the confidentiality of certain information as described above, KCP&L would suggest the following:

- Total rate case expense incurred by KCP&L as well as the hourly rates of outside counsel engaged by KCP&L on this case may be declassified;
- Billings by service provider should not be declassified.

WHEREFORE, KCP&L respectfully requests that the Commission overrule MCEG and OPC's *Motion to Declassify* except as modified by paragraph 5 herein.

Respectfully submitted,

/s/ Roger W. Steiner

Robert J. Hack, MBE# 36496
Roger W. Steiner, MBE #39586
Kansas City Power & Light Company
1200 Main Street
Kansas City, MO 64105
(816) 556-2785
(816) 556-2787 (Fax)
Rob.Hack@kcpl.com
Roger.Steiner@kcpl.com

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 25th day of June, 2015, to all parties of record.

/s/ Roger W. Steiner

Roger W. Steiner