

**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	)	Case No. ER-2012-0174
A General Rate Increase for Electric Service	)	

**KANSAS CITY POWER & LIGHT COMPANY'S  
RESPONSE TO OBJECTION TO TARIFF**

COMES NOW Kansas City Power & Light Company ("KCP&L" or the "Company"), pursuant to 4 CSR 240-2.080, and files its response to the Objection To Tariff ("Objection") filed on January 17, 2013, by the Midwest Energy Consumers' Group ("MECG"), Missouri Industrial Energy Consumers ("MIEC"), and Praxair, Inc. (collectively referred to as "Industrial Intervenors"). In support of its Response, KCP&L states as follows:

1. On January 9, 2013, the Commission issued its Report and Order in this proceeding, to be effective on January 19, 2013. Among other things, the Report and Order authorizes KCP&L to file tariffs complying with the Report and Order and to do so by January 16, 2013. The Report and Order notes that the parties request approval of the compliance tariffs effective on January 26, 2013.

2. On January 16, 2013, KCP&L filed with the Commission revised tariff sheets as authorized by the Report and Order to effectuate the decisions made by the Commission in the Report and Order.

3. On January 17, 2013, the Industrial Intervenors filed an Objection which requested that "the Commission reject KCPL's compliance tariffs and order KCPL to file compliance tariffs that are consistent with its statutory duty not to charge opt out customers for energy efficiency costs incurred 'under this section or by any other authority.'" (Objection, p. 3)

For the reasons stated herein, the Industrial Intervenors' motion should be denied and their Objection dismissed.

4. In their Objection, the Industrial Intervenors discuss a matter which has already been addressed by the Report And Order issued on January 9, 2013 at page 8:

On December 24, 2012, Staff and KCPL filed notice of a new issue: which demand-side programs a customer may opt out of under the Missouri Energy Efficiency Investment Act ("MEEIA"). Staff recommends that the Commission not address the new issue because it is too late to develop evidence and arguments. Staff is correct and the Commission will not address that matter in these actions. (emphasis added)(footnotes omitted).

5. In the Joint Notice of Dispute Between Staff and KCPL Regarding Customer Opt Of Demand-Side Management Programs And Associated Programs' Costs filed on December 24, 2012, the Staff and KCP&L stated:

Staff and KCPL anticipate filing a separate joint pleading to open a separate contested case putting before the Commission this issue of which customers have the right under Section 393.1075.7 to elect to opt out of participation in DSM programs KCPL offers and avoid the costs associated with those DSM programs, and to explore the revenue impacts on KCPL associated with customers who opt out.

6. Staff and KCP&L filed a Joint Application to Establish a Proceeding to Review Kansas City Power & Light Company's Practices Regarding Customer Opt Out of Demand-Side Management Programs and Associated Programs' Costs and Revenue Impacts. The Joint Application requests the Commission establish a contested case to address these issues. In response to the Industrial Intervenors' Objection, the Commission should reaffirm that any issues related to the opt-out of demand-side management ("DSM") programs should be considered in the new separate proceeding rather in this rate case in which there is no competent and substantial evidence that addresses this issue.

7. 4 CSR 240-20.094(6)(F) mandates the procedures that are required to be utilized by eligible customers to elect not to participate in demand-side measures offered by an electrical corporation. Under this Commission rule, eligible customers must provide a customer notice to the utility indicating their intention to “opt-out” of DSM programs no earlier than September 1 and not later than October 30 to be effective for the following calendar year.<sup>1</sup>

8. KCP&L intends to follow the procedures required by 4 CSR 240-20.094(6)(F). As a result, KCP&L intends to allow eligible customers who follow these procedures to opt-out of participation in its DSM programs (whether initiated pursuant to the provisions of MEEIA,<sup>2</sup> or by other authority) for the following calendar year. In other words, any eligible customer that files a customer notice during the period mandated by 4 CSR 240-20.094(6)(F) will be allowed to opt out of DSM programs, including DSM programs not initiated pursuant to MEEIA, beginning January 1 of the following calendar year.

9. The Industrial Intervenors apparently believe that eligible customers should be allowed to opt-out of KCP&L’s DSM programs beginning January 1 of the following year that they opt-out, plus they should be allowed to opt-out of programs for prior years. The Company believes that this interpretation is not correct.

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<sup>1</sup> 4 CSR 240-20.094(6)(F) states:

(F) Timing and Effect of Opt-Out Provisions.

A customer notice shall be received by the utility no earlier than September 1 and not later than October 30 to be effective for the following calendar year. For that calendar year and each successive calendar year until the customer revokes the notice pursuant to subsection (6)(H), none of the costs of approved demand-side programs of an electric utility offered pursuant to 4 CSR 240-20.093, 4 CSR 240-20.094, 4 CSR 240-3.163, and 4 CSR 240-3.164 or by other authority and no other charges implemented in accordance with section 393.1075, RSMo, shall be assigned to any account of the customer, including its affiliates and subsidiaries listed on the customer’s written notification of opt-out. (emphasis added)

<sup>2</sup> At the present time, KCP&L does not have any DSM programs that have been established under the provisions of MEEIA.

10. It is important to understand that there are no costs associated with the Company's 2013 DSM programs ("the following calendar year") reflected in the KCP&L's compliance tariffs or current rates. The only costs which are currently included in the KCP&L's compliance tariffs and current rates relate to the amortization of costs of the demand-side programs that were implemented in the past.

11. In the past, KCP&L was authorized in the Regulatory Plan Stipulation and Agreement approved in Case No. EO-2005-0329 to implement certain demand-side programs. Initially, the costs of these programs were authorized to be amortized over a ten (10) year period. See Report & Order, Case No. EO-2005-0329, Attachment No. 1, p. 49. The Commission further explained the cost recovery mechanism as follows in the *Report and Order* in the Company's 2010 rate case:

251. Under the existing cost recovery mechanism, KCP&L first funds the DSM programs and the costs are placed into a regulatory asset account for consideration of recovery in the next rate case. Assuming the DSM costs are determined to be recoverable, those costs are then amortized over a ten-year period without the inclusion in rate base. See Report & Order, Case No. ER-2010-0355, p. 83.<sup>3</sup>

12. As a result of the deferral and amortization procedures approved by the Commission for KCP&L's DSM programs, KCP&L's DSM program costs for the 2013 calendar year will not be included in rates until KCP&L's next rate case. Therefore, there are no 2013 calendar year DSM program costs included in KCP&L's tariffs filed in this case. Since there are no 2013 DSM program costs included in KCP&L's rates, it is not appropriate

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<sup>3</sup> The amortization period was subsequently modified in the Company's 2010 rate case to six (6) years for DSM program costs subsequent to December 31, 2010:

The Commission . . . will direct that DSM program costs for investments made from December 31, 2010, until a future recovery mechanism is in place shall be placed in a regulatory asset account and amortized over six years with a carrying cost equal to the AFUDC rate applied to the unamortized balance.

See Report & Order, Case No. ER-2010-0355, p. 93.

for KCP&L to have a segregated pre-MEEIA energy efficiency rate in its tariffs, as suggested by the Industrial Intervenors. Once these costs begin to be recovered in rates, the Company intends to establish a rate for customers who have opted-out and those customers would not be required to pay for those programs as provided for in the statute and rules of the Commission.

13. KCP&L believes that it has followed the procedures required by 4 CSR 240-20.094(6)(F). As a result, KCP&L intends to allow eligible customers who follow these procedures to opt-out of participation in its DSM programs (whether initiated pursuant to the provisions of MEEIA, or by other authority) for the following year.

14. In any event, these issues may be considered and resolved in the new proceeding that KCP&L and Staff have requested to be opened. As the Commission has already determined, the Commission should “not address that matter in in these actions.” Report and Order, p. 8 (issued January 9, 2013).

**WHEREFORE**, for the foregoing reasons, KCP&L respectfully requests that the Commission deny the motion and dismiss the Objection To Tariff filed by the Industrial Intervenors on January 17, 2013.

Respectfully submitted,

*/s/ Roger W. Steiner*

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**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 18<sup>th</sup> day of January, 2013.

*/s/ Roger W. Steiner*

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Roger W. Steiner