

**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 )

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

**MOTION FOR RECONSIDERATION**

COMES NOW the Office of the Public Counsel and for its Motion for Reconsideration states as follows:

1. The Commission issued its Report and Order in these cases on January 9, 2013. As part of that Report and Order, the Commission ordered that certain filings be made within certain times. Later that same day, it issued an Order Regarding Filings Related to Compliance Tariffs that shortened the time allowed for review of so-called "compliance tariffs." Public Counsel seeks reconsideration of the time allowed for review of the tariffs that Kansas City Power & Light Company and KCP&L Greater Missouri Operations Company (collectively, "the Companies") have been ordered to file.

2. The Commission ordered the Companies to file new tariffs to implement a rate increase on January 16, and, in its Report and Order, ordered that a response be filed no later than January 24 by the Commission Staff and presumably other parties. In its Order Regarding Filings Related to Compliance Tariffs, the Commission modified its Report and Order and ordered that any responses to the tariffs filed on January 16 be filed no later than noon on January 22.

3. The original filing date would have allowed eight calendar days and five business days<sup>1</sup> to review and analyze the tariffs, and formulate and file a response. The revised deadline allows only two and a half business days. There are a great number of tariff sheets that must be reviewed and analyzed (see Appendix E to the Report and Order), and all the calculations that underlie all the various rate elements must be verified. Two and a half days is simply not adequate. As the Commission is well aware, upon examination “compliance tariffs” frequently turn out to not be in compliance with the report and order to which they purportedly apply.<sup>2</sup>

4. There is no reason for the Commission’s unseemly haste to raise rates. Although the Companies initially sought a rate increase many months ago on February 27, 2012, the Commission found the requested rate increase not to be just and reasonable and explicitly rejected it. In fact, the Commission found the Companies’ request to be 40% more than justified.<sup>3</sup> Having made such a grossly inflated request, the Companies cannot object to a reasonable amount of time for review of an entirely new tariff filing. The law neither requires nor contemplates that the Commission, having rejected the Companies’ tariffs within the statutory timeframe,<sup>4</sup> must receive, process and approve an entirely new tariff filing within that same timeframe. The Commission has discharged its statutory obligations by timely acting upon the tariffs filed on February 27, 2012, and there is no legal obligation – or any other kind of obligation – to rush through an approval of a new request for a smaller rate increase.

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<sup>1</sup> Monday January 21 is a state and national holiday dedicated to the late Dr. Martin Luther King.

<sup>2</sup> See, *e.g.*, Case No. ER-2007-0004.

<sup>3</sup> Total requested increase of \$189 million minus Commission-authorized increase of \$113 million divided by \$189 million.

<sup>4</sup> Section 393.150 RSMo 2000.

5. Moreover, it appears that the Commission has perhaps ordered an unreasonably short tariff review and response period as part of a plan to approve the new tariffs by the original operation of law date for the now-rejected tariffs (January 26, 2012). The only way for the Commission to do so would be to unlawfully shorten the effective date of its order approving tariffs in addition to unreasonably shortening the tariff review and response period. If the Commission plans to issue an order on January 23 approving tariffs effective January 26, there would only be two business days to review the order and prepare and file an application for rehearing. The Courts have had several occasions recently to question – and even condemn – the Commission’s propensity to unduly shorten the effective dates of its orders.<sup>5</sup>

WHEREFORE, Public Counsel respectfully requests that the Commission reconsider the time it has allowed for tariff review and to set the deadline for responses to the Companies’ tariff filings ten days after the tariff filings.

Respectfully submitted,

OFFICE OF THE PUBLIC COUNSEL

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<sup>5</sup> The Western District Court of Appeals recently stated:

Though we are compelled to affirm in this case, we are not favorably impressed by the decision of the PSC to shorten the statutory thirty-day time period (before the order becomes effective) to a ten-day time period. The PSC does not articulate any exigent circumstance that **necessitated** shortening the time for the effective date of its order—creating an effective date for an order that occurs on a Saturday—and ordering that the file be closed on a Sunday. The fact that it took six months from the time the case was filed until it was heard, and then another four months from the date of hearing to the date of the order would appear to belie the existence of any such exigency. We hope that the PSC will give serious consideration to future decisions to shorten the section 386.490.3 thirty-day time frame when there does not appear to be any reason of exigency that **requires** such a time reduction nor any reason for declaring an effective date that falls on a weekend.... (Harter v. Mo. PSC, 361 S.W.3d 52, 55 (Mo. Ct. App. 2011); emphasis added).

See also State ex rel. Office of the Pub. Counsel v. PSC, 236 S.W.3d 632 (Mo. 2007)

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been emailed to all parties this 11th day of January 2013.

By: /s/ Lewis R. Mills, Jr.