

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY
October 19, 1999**

CASE NO: EC-99-553

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

General Counsel
Missouri Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

Paul S. DeFord, Esq.
Lathrop & Gage, L.C.
2345 Grand Boulevard, Ste 2800
Kansas City, MO 64108

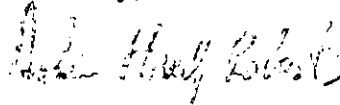
James M. Fischer
101 West McCarty Street, Suite 215
Jefferson City, MO 65101

William G. Riggins
Kansas City Power & Light Company
P.O. Box 418679
Kansas City, MO 64141

James W. Brew
Brickfield, Burchette & Ritts, P.C.
1025 Thomas Jefferson Street NW
8th Floor, West Tower
Washington, DC 20007

Enclosed find certified copy of an ORDER in the above-numbered case(s).

Sincerely,



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

Uncertified Copy:

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held at its office
in Jefferson City on the 19th
day of October, 1999.

GST Steel Company,)	
)	
Complainant,)	
)	
v.)	<u>Case No. EC-99-553</u>
)	
Kansas City Power & Light Company,)	
)	
Respondent.)	

**ORDER VACATING A PORTION OF A PREVIOUS
COMMISSION ORDER, GRANTING LEAVE TO
APPEAR PRO HAC VICE, AND RECEIVING
REVISED ANSWER**

On October 6, 1999, the Commission issued its Order Directing Filing. That Order was issued in reaction to the Request for Reconsideration and Reply to Kansas City Power and Light Company's (KCPL) Motion to Compel GST Responses to the First Set of Interrogatories and Requests for Production of Documents and Suggestions in Support filed by GST Steel Company (GST) on October 4, 1999. GST therein sought reconsideration of a portion of the Commission's Order of September 21, 1999, in which the Commission granted KCPL's First Motion to Compel because GST had failed to respond to the motion. In support of its request for reconsideration, GST averred that it had never been served with KCPL's motion. A review of KCPL's motion showed that attached to

it was a certificate of service in the standard form, executed by one of KCPL's attorneys. Such a certificate is *prima facie* proof of service.

By its Order of October 6, 1999, the Commission sought objective corroboration of GST's assertion. The Staff of the Commission (Staff) and the Office of the Public Counsel (OPC) were each directed to file a pleading advising the Commission as to whether or not a service copy of KCPL's motion had ever been received; and each of them did so. Counsel for GST were directed to file affidavits concerning their receipt - or non-receipt - of KCPL's motion. KCPL's certifying attorney was also directed to file his affidavit. None of these attorneys filed affidavits as directed, rather, they filed a Joint Response.

In their Joint Response, filed on October 14, 1999, these attorneys jointly state that none of them question the veracity or good faith of any of them. KCPL's attorneys state that the motion was processed in the normal course of business and they simply do not know why GST's attorneys did not receive service copies. They also state that they have no objection to permitting GST to respond to the merits of KCPL's First Motion to Compel.

The pleadings filed by OPC, on October 8, 1999, and by Staff, on October 14, 1999, state that neither Staff nor OPC ever received service copies of KCPL's Motion to Compel in the normal course of the United States Mail. Thus, the conclusion is inescapable that GST's attorneys, too, were never served with that motion. The Commission will vacate ordered paragraph 1 of its Order of September 21, 1999, and consider KCPL's Motion to Compel, and GST's Reply, on the merits. KCPL may file

a response to GST's Reply on or before October 22, 1999. The attorneys in question shall be relieved from the need to file affidavits.

The Commission has reviewed the application submitted by James W. Brew, Esq., of Brickfield, Burchette & Ritts, P.C., Washington, D.C., for leave to appear *pro hac vice* on behalf of GST. Leave shall be granted.

GST having made no objection, KCPL's Revised Answer shall be received into the record herein.

IT IS THEREFORE ORDERED:

1. That ordered paragraph 1 of the Commission's Order of September 21, 1999, in this matter, reading "That the motion to compel discovery filed by Kansas City Power & Light Company on August 31, 1999, is sustained. GST Steel Company shall have 15 days from the effective date of this Order within which to provide the requested discovery to Kansas City Power & Light Company." is hereby set aside.

2. That Kansas City Power and Light Company may file a response to the Reply of GST Steel Company to Kansas City Power and Light Company's First Motion to Compel Discovery on or before October 22, 1999.

3. That attorneys for Kansas City Power and Light Company and GST Steel Company need not file affidavits as directed herein in the Commission's Order of October 6, 1999.

4. That James W. Brew, Esq., of Brickfield, Burchette & Ritts, P.C., Washington, D.C., is granted leave to appear *pro hac vice* on behalf of GST Steel Company.

5. That the Revised Answer submitted by Kansas City Power and Light on September 9, 1999, is received and made a part of the record of this matter.

6. That this order shall become effective on October 19, 1999.

BY THE COMMISSION

A handwritten signature in black ink, reading "Dale Hardy Roberts". The signature is written in a cursive, slightly slanted style.

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Lumpe, Ch., Crumpton, Drainer,
and Murray, CC., concur.
Schemenauer, C., absent.

Thompson, Deputy Chief Regulatory Law Judge

ALLS

Thompson Pope

10-15
Date Circulated

EC-99-553
CASE NO.

SL
Lumpe, Chair

CD
Crumpton, Commissioner

CM
Murray, Commissioner

Absent
Schemenauer, Commissioner

DP
Draimer, Vice-Chair

10-19
Agenda Date

OK

Action taken: 4-0 AS

Must Vote Not Later Than _____

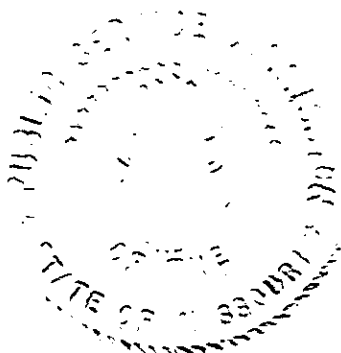
STATE OF MISSOURI
OFFICE OF THE PUBLIC SERVICE COMMISSION

I have compared the preceding copy with the original on file in this office and

I do hereby certify the same to be a true copy therefrom and the whole thereof.

WITNESS my hand and seal of the Public Service Commission, at Jefferson
City,

Missouri, this 19th day of October, 1999.



Dale Hardy Roberts

Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge