

**STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION  
JEFFERSON CITY  
June 1, 1999**

**CASE NO: EC-99-553**

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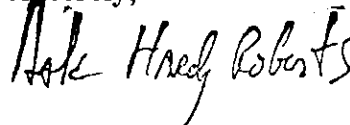
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P.O. Box 418679  
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**Enclosed find certified copy of an ORDER in the above-numbered case(s).**

**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 1st  
day of June, 1999.

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

**ORDER DENYING MOTION FOR IMMEDIATE RELIEF,**  
**DIRECTING EXPEDITED RESPONSE TO COMPLAINT,**  
**SETTING PREHEARING CONFERENCE**  
**AND REQUIRING FILING OF PROCEDURAL SCHEDULE**

On May 11, 1999, GST Steel Company (GST) filed a complaint with the Missouri Public Service Commission against Kansas City Power & Light Company (KCPL). GST's complaint prays that this Commission "take immediate steps to protect GST from unjust and unreasonable charges for electric service."<sup>1</sup> Specifically, GST asks the Commission (1) to prohibit KCPL from charging GST more for power than GST would have paid had KCPL's Hawthorn 5 generating plant not been indefinitely shut down; (2) to require KCPL to devote all insurance proceeds received with respect to the Hawthorn 5 shutdown to protect ratepayers from higher rates; and

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<sup>1</sup>The quotations in this paragraph are taken from the redacted version of GST's petition, at pp. 13-14.

9.

(3) to establish a formal investigation into the Hawthorn 5 incident and "the overall adequacy, reliability and prudence of KCPL's power supply[.]" Further, GST urges the Commission to do so without providing either prior notice or a hearing to KCPL. *Response of GST Steel Company*, at 4.

KCPL filed its reply to GST's request for immediate relief on May 18, 1999. KCPL contends that the circumstances do not support GST's request for immediate relief. GST filed its response to KCPL's reply on May 21, 1999. Therein, GST repeats its request for immediate, or at least expedited, relief.

#### **Discussion:**

GST is a steel producer in Kansas City, Missouri, and its industrial processes depend upon large amounts of electricity. GST is one of KCPL's largest single customers. GST purchases electricity from KCPL under a special contract, approved by the Commission; the contract is highly confidential and is covered by a protective order, issued by the Commission herein on May 26, 1999. The contract permits GST to purchase electricity at fluctuating, market-driven rates rather than at a fixed, tariffed rate.

One complaint of GST against KCPL is that alleged negligent and imprudent management by KCPL has caused significantly higher electricity prices for GST in that repeated outages of KCPL generation facilities, due to poor maintenance by KCPL, has led KCPL to purchase necessary power from other suppliers. The cost of the purchased power is greater than the cost of power generated by KCPL itself. KCPL responds that GST, in

entering into the special pricing contract with KCPL, gambled that the market price of power would be favorable and that its gamble has simply failed. KCPL further responds that the contract permits GST to switch to the tariffed electricity rate at any time.

Another, related complaint by GST against KCPL is that alleged poor maintenance practices have also resulted in a loss of reliability in the power furnished to GST. GST asserts that its production processes have been repeatedly disrupted by power failures of one sort or another, causing GST to lose large sums of money. KCPL responds that some of these failures were the fault of GST and that it has worked quickly to correct those failures that were its own fault.

GST asserts that the Commission has authority to waive prior notice and a hearing in this matter and provide relief on an emergency basis. GST relies on Section 386.310.1, RSMo Supp. 1998:

The commission shall have power, after a hearing had upon its own motion or upon complaint, by general or special orders, rules or regulations, or otherwise, to require every person, corporation, municipal gas system and public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers, and the public, and to this end to prescribe, among other things, the installation, use, maintenance and operation of appropriate safety and other devices or appliances, to establish uniform or other standards of equipment, and to require the performance of any other act which the health or safety of its employees, customers or the public may demand, including the power to minimize retail distribution electric line duplication for the sole purpose of providing for the safety of employees and the general public in those cases when, upon complaint, the commission finds that a proposed retail distribution electric line cannot be constructed in compliance with commission safety rules. **The commission may waive the requirements for notice and hearing and**

provide for expeditious issuance of an order in any case in which the commission determines that the failure to do so would result in the likelihood of imminent threat of serious harm to life or property, provided that the commission shall include in such an order an opportunity for hearing as soon as practicable after the issuance of such order.

(Emphasis added.)

Section 386.310, RSMo, pertains to health and safety. The emphasized language at Section 386.310.1, RSMo Supp. 1998, relied upon by GST, permits emergency action by the Commission where an imminent threat to "life or property" exists. The harm feared by GST, on the other hand, is purely economic. GST avers that the steel market is extremely competitive and that unexpectedly high electricity costs, as well as frequent production disruptions, may well force it to close its operation in Kansas City, Missouri, costing Missouri some 800 jobs. The Commission recognizes the gravity of the harm faced by GST but must nonetheless conclude that it is not the sort of harm that falls within the intendments of Section 386.310.1, RSMo Supp. 1998. Therefore, GST's request for immediate relief must be denied.

Likewise, the Commission will not conduct its investigation of the boiler explosion at Hawthorn within the context of this case. The Commission will establish a separate docket for that investigation.

However, the Commission is able to move this case to hearing expeditiously. GST asserts that it delivered a copy of its petition, with appendices, to KCPL on May 12, 1999. *Supplement to petition*, at p. 1. KCPL's reply, filed on May 18, 1999, is proof of its receipt. The Commission is authorized by Rule 4 CSR 240-2.070(7) to vary by order the

period of 30 days set for responding to a complaint. In view of the nature and circumstances of this matter, the Commission will shorten the response time to two weeks. Likewise, the Commission will set an early prehearing conference and a date by which the parties shall file a joint proposed procedural schedule.

At the prehearing conference, the parties' representatives should be prepared to discuss the nature of any discovery each will conduct and the interval necessary for its completion; the number of witnesses each expects to call at hearing; the number and nature of any exhibits each expects to offer at hearing; and the anticipated length of the hearing. The parties' representatives should also be prepared to discuss the current status of settlement negotiations.

The joint proposed procedural schedule will contain a statement of the issues to be submitted to the Commission for determination. The joint proposed procedural schedule shall also establish dates for the prefiling of direct, rebuttal and surrebuttal testimony according to Commission rule, as well as a date for the filing of position papers by each party, detailing the facts and law relied upon with respect to each issue set out in the joint proposed procedural schedule. The joint proposed procedural schedule shall also establish dates for the hearing of this matter.

**IT IS THEREFORE ORDERED:**

1. That the request of GST Steel Company for immediate relief is denied.

2. That Kansas City Power & Light Company shall file its response to the complaint of GST Steel Company on or before June 9, 1999.

3. That a prehearing conference shall be held on June 11, 1999, beginning at 1:30 p.m. The prehearing conference shall be held at the Commission's offices on the fifth floor of the Harry S Truman State Office Building, 301 West High Street, Jefferson City, Missouri. Anyone wishing to attend who has special needs as addressed by the Americans with Disabilities Act should contact the Missouri Public Service Commission at least ten (10) days before the prehearing conference at: Consumer Services Hotline - 1-800-392-4211 or TDD Hotline - 1-800-829-7541.

4. That the parties shall jointly prepare and file a joint proposed procedural schedule as described herein no later than June 18, 1999.

5. That this order shall become effective on June 8, 1999.

**BY THE COMMISSION**



**Dale Hardy Roberts**  
**Secretary/Chief Regulatory Law Judge**

( S E A L )

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

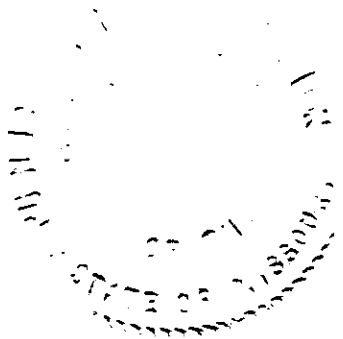
Thompson, Deputy Chief Regulatory Law Judge

**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 1ST day of JUNE, 1999.



*Dale Hardy Roberts*

**Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge**



Atty/Sec'y:

Thompson/Pope

5-27

Date Circulated

EC-99-553

CASE NO.

SL  
Lumpe, Chair

[Signature]  
Crumpton, Commissioner

Om  
Murray, Commissioner

OS absent  
Schemenauer, Commissioner

[Signature]  
Drainer, Vice-Chair

6-1  
Agenda Date

Action taken:

4-OAA

Must Vote Not Later Than

OK