

**STATE OF MISSOURI
PUBLIC SERVICE COMMISSION
JEFFERSON CITY**

July 9, 1999

CASE NO: EC-99-553

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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:

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

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

ORDER DENYING INTERIM RELIEF
AND EXPEDITED HEARING

On May 11, 1999, GST Steel Company (GST) filed a complaint with the Missouri Public Service Commission against Kansas City Power & Light Company (KCPL). In its Complaint, GST sought immediate relief, a request denied by the Commission in its order of June 1, 1999. The Commission did, however, direct that KCPL file its Answer on a shortened schedule and set an early prehearing conference. Thereafter, on June 11, 1999, the prehearing conference was held. The parties filed their joint proposed procedural schedule and preliminary statement of issues on June 18, 1999. The Commission adopted the procedural schedule proposed by the parties by its order issued on June 22, 1999.

On June 18, 1999, GST moved for interim relief and an expedited hearing. KCPL responded in opposition on June 28, 1999; the Staff of the Missouri Public Service Commission (Staff) responded on June 28,

1999, as well. The Commission will deny GST's motion for the reasons set out below.

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 special 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 points to the explosion at KCPL's Hawthorn generating plant on February 17, 1999, as both the culmination and most glaring example of the conduct it attributes to KCPL. Additionally, because the Hawthorn plant remains off-line, GST complains that KCPL's purchases of replacement power will be greater than ever, with consequent disastrous results for GST. The financial impact of KCPL's maintenance practices in general and the Hawthorn disaster in particular will be most exacerbated, GST alleges, during the upcoming summer months, when demand for power is greatest and prices are highest.

Therefore, on June 18, 1999, GST sought interim relief. GST requests that the Commission require KCPL to calculate its charges to GST for electric service under their special contract as though the Hawthorn plant were still on-line. GST, alleging that KCPL is the beneficiary of insurance proceeds in the amount of \$5 million with respect to the Hawthorn incident, also requests that the Commission order KCPL to apply the insurance proceeds to reduce the cost of power purchased by KCPL from other suppliers and resold to GST. GST seeks an expedited hearing on these issues - GST proposed a hearing on July 12, even before KCPL's response time to GST's motion had run.

KCPL opposes GST's motion. KCPL contends, first, that the Commission is without authority to order KCPL to calculate its charges

to GST for electric service under their special contract as though the Hawthorn plant were still on-line. KCPL also responds that the incremental cost of replacement power will exceed the \$5 million insurance proceeds. KCPL also responds that the expedited hearing schedule proposed by GST is unreasonable, particularly since it proposes that GST conduct discovery and KCPL not be permitted to conduct discovery. Finally, KCPL argues that no expedited hearing or interim relief is necessary as the parties' special contract permits GST to immediately opt for billing under KCPL's industrial tariff.

Staff also responded to GST's motion on June 28, 1999. Staff stated that an expedited hearing is unrealistic, but offered three options whereby interim relief could be afforded to GST, with a true-up after the hearing of the case in December.

The Commission will deny GST's motion. This case presents complex issues of both fact and law, on which turn large sums of money. The Commission believes the parties will need the full period to which they have agreed, as reflected in the joint proposed procedural schedule, adopted by the Commission on June 22, 1999, in which to prepare and try this case. The Commission believes that it, too, will benefit from the thorough preparation of the parties. Additionally, GST's plea for relief must be balanced against KCPL's right to due process. The Commission is moving this case to hearing as quickly as reasonably possible; the procedural schedule was jointly proposed by the parties. Finally, as KCPL points out, some relief is available to GST under the terms of the special contract.

IT IS THEREFORE ORDERED:

1. That the motion for interim relief and expedited hearing filed on June 18, 1999, by GST Steel Company is denied.
2. That this order shall become effective on July 20, 1999.

BY THE COMMISSION



Dale Hardy Roberts
Secretary/Chief Regulatory Law Judge

(S E A L)

Kevin A. Thompson, Deputy Chief
Regulatory Law Judge, by delegation
of authority pursuant to 4 CSR
240-2.120(1), (November 30, 1995)
and Section 386.240, RSMo 1994.

Dated at Jefferson City, Missouri,
on this 9th day of July, 1999.

ALJ/Sec'y: Thompson / Pope

7-6
Date Circulated

7-9
Return by 3 p.m.
10 a.m.

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SL p4
Lumpe, Chair

absent
Crumpton, Commissioner

CM
Murray, Commissioner

RS
Schemenauer, Commissioner

WJ p3
Drainer, Vice-Chair

OK

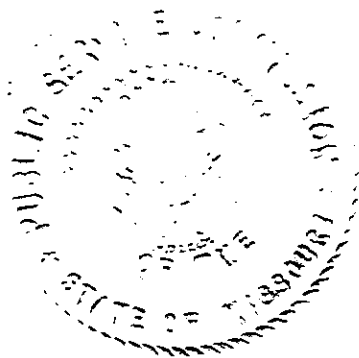
OFFICE OF THE PUBLIC SERVICE COMMISSION

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 9TH day of JULY, 1999.



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