

STATE OF MISSOURI
PUBLIC SERVICE COMMISSION

At a Session of the Public Service
Commission held at its office
in Jefferson City on the 4th
day of February, 1986

CASE NO. ER-85-265

In the matter of Arkansas Power &
Light Company of Little Rock,
Arkansas, for authority to file
tariffs increasing rates for
electric service provided to
customers in the Missouri service
area of the Company.

ORDER

On January 17, 1986, the Staff of the Commission filed its Motion For Further Leave To File Test Year And True-Up Recommendation Out Of Time And Recommendation On Test Year And True-Up. The recommended test year for accounting purposes is the year ending September 30, 1985, plus known and measurable changes through December 31, 1985, plus significant known and measurable changes in January, 1986, on which information is available to Staff prior to January 17, 1986. Staff states that examples of known and measurable changes in the last category are wage level and social security tax changes which become effective in early January, 1986. The Staff states that its recommended test year for rate design purposes is identical to that of APL.

The Staff's Motion also states that based on discussions with APL personnel and the relatively current nature of the Staff's prefiled case that it believes that a true-up of this case is unnecessary and opposes any true-up. No objection to the motion or response has been received from APL. In the Commission's opinion the Commission Staff's Motion should be adopted regarding the items of test year and true-up.

On January 22, 1986, the Commission Staff filed its Motion To Compel Complete Response To Data Request. The Motion concerns Staff's Data Request No. 348 seeking opinions of counsel which may have been requested in 1973 by Middle South Utilities and its separate operating companies concerning the advantages and disadvantages of separate generating company ownership of the Grand Gulf Nuclear Unit. APL had informally responded by objecting to the data request for the reason that if the attorney opinions do in fact exist, they are privileged and not subject to discovery. On January 29, 1986, APL filed a response to the Staff's motion concerning Data Request 348 in which APL's attorney recite that contact has been effected with counsel for Middle South Utilities as well as counsel for APL requesting a search of the files of counsel for references to any opinions that may have been created in response to any 1973 request. APL's response indicates that the search of the files of counsel for both APL and Middle South Utilities has failed to reveal the existence of any such opinions or any reference to whether or not such opinions have been created. In the Commission's opinion it would be improper for it to order the furnishing of documents, the existence of which has not been established.

Also on January 29, 1986, APL filed its Response To Motion To Consolidate And Motion To Dismiss relative to the complaint filed by the Staff and docketed as EC-86-107. APL's response concedes that counsel for APL has received copies of the complaint and an amended complaint by mail from counsel for the Staff, but that the same does not constitute service in the manner specified in 4 CSR 240-2.070(7) and APL denies that it has been properly served in the complaint. The response also states that the Staff's complaint is now moot since the Commission has issued its protective order under which APL has already offered to provide the subject material upon the Staff filing the required confidentiality agreement. For that reason, APL requests that the Commission dismiss Staff's complaint. In the Commission's opinion Company's motion to dismiss should be conditionally granted, and the Staff should

have a reasonable time to state why the dismissal should not be on a permanent basis. The Secretary of the Commission shall serve APL with a copy of the complaint which shall be answered in the event the Staff objects to the dismissal. The Commission is also of the opinion that it is unnecessary to further address the Staff's motion to consolidate which was previously addressed in the Commission's order issued herein on January 27, 1986.

On January 29, 1986, APL filed its Application For Rehearing concerning that portion of the Commission's order issued January 27, 1986, regarding Staff's Data Request No. 65 relating to workpapers of Deloitte, Haskins and Sells. In the Commission's opinion the Application For Rehearing recites no new reason to alter its opinion concerning Data Request No. 65, and the Application For Rehearing filed herein on January 29, 1986, concerning that data request should be denied.

On January 30, 1986, APL filed its Motion To Modify Order Granting Protective Order in which is recited the existence of some concern on the part of the Staff of the Public Service Commission that the Order Granting Protective Order of January 27, 1986, would require the Staff to hire outside consultants to examine the material involved. APL's motion recites that it was never its intention that the Staff be required to hire outside consultants to examine this materials or to require the Staff counsel alone to examine the material. In its motion APL suggests certain modifications to the protective order which are designed to allay the Staff's feelings in that regard. In the Commission's opinion the modification is reasonable and proper and shall be hereinafter ordered.

On January 30, 1986, the Commission Staff filed its Motion For Leave To File Testimony One Day Out Of Time in which it requests to file testimony concerning the "Arkansas Settlement" on January 30, 1986, rather than on January 29, 1986, as directed in the Commission's order of January 14, 1986, in Case No. ER-86-52. In the Commission's opinion the Staff's motion is reasonable and should be granted as hereinafter ordered.

It is, therefore,

ORDERED: 1. That the Missouri Public Service Commission Staff's Motion For Further Leave To File Test Year And True-Up Recommendation Out Of Time And Recommendation On Test Year And True-Up filed on January 17, 1986, be, and the same is, hereby granted and the Staff's recommended test year, as well as recommendation that no true-up be held are hereby granted for the purposes of this case.

ORDERED: 2. That the Motion To Dismiss filed herein on January 29, 1986, requesting a dismissal of the Staff's complaint in Case No. EC-86-107 be, and is, hereby granted effective February 12, 1986, unless the Commission Staff files an objection to the dismissal on or before February 10, 1986. In the event the objection is filed, APL shall answer the complaint, a copy of which is to be served with this Order, within ten (10) days from the filing of the objection.

ORDERED: 3. That the Application For Rehearing filed herein on January 29, 1986, by Arkansas Power & Light Company regarding Staff's Data Request No. 65 be, and is, hereby denied.

ORDERED: 4. That the Motion To Modify Order Granting Protective Order filed herein by Arkansas Power & Light Company on January 30, 1986, be, and the same is, hereby granted and paragraph ORDERED: 2 of the Order Granting Protective Order issued herein on January 27, 1986, is hereby amended to read as follows:

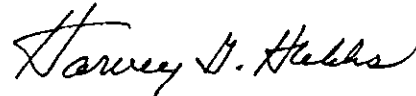
ORDERED: 2. That all Confidential Information produced pursuant to this order shall be made available solely to counsel for the parties, and shall not be used or disclosed except for purposes of this proceeding; provided, however, that access to any specified Confidential Information shall be authorized by said counsel, solely for the purposes of this proceeding and subject to the limitations and conditions set forth below, to those persons indicated by the parties as experts in this matter. Unless the Commission otherwise orders, any such expert may not be an officer, director, or employee of any party to this case, or a member of an association or corporation of which any party is a member, subsidiary or affiliate, nor shall such expert be an officer, director, employee, or a stockholder of a competitor of Arkansas Power & Light Company or of Energy Management Associates, Inc. This exclusion shall not apply to Arkansas Power and Light Company or to legal counsel for the parties. Nothing contained in this paragraph is intended, nor shall it be

construed, to require the Staff of the Missouri Public Service Commission to employ outside consultants to review any specified Confidential Information, it being the Commission's intent that Staff counsel may designate the appropriate Staff members to be authorized access to the Confidential Information pursuant to ORDERED: 3 hereof. Furthermore, in the event that there be more than one counsel for the parties, a lead counsel shall be designated, and he or she shall be personally responsible for his or her co-counsel's complying with the terms hereof. Also, in the event that it becomes necessary to engage the services of a court reporter, typist, or court reporting firm, the counsel securing or causing the need for such services shall be personally responsible for the protection and nondisclosure of the information disclosed to said court reporter, typist or court reporting firm.

ORDERED: 5. That the Motion For Leave to File Testimony One Day Out Of Time filed herein on January 30, 1986, by the Staff of the Missouri Public Service Commission be, and is, hereby granted.

ORDERED: 6. That this Order shall become effective on the date hereof.

BY THE COMMISSION



Harvey G. Hubbs
Secretary

(S E A L)

Steinmeier, Chm., Musgrave, Mueller,
Hendren and Fischer, CC., Concur.