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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a session of the Public Service  
Commission held at its office  
in Jefferson City on the 3rd  
day of February, 1993.

In the matter of The Kansas Power and Light Company of )  
Topeka, Kansas, for authority to file a tariff reflect- )  
ing a change in rates for its Missouri customers to be )  
reviewed in its 1989-1990 Actual Cost Adjustment filing ) Case No. GR-90-40  
in accordance with the Purchased Gas Adjustment on file )  
for the company. )  
)

In the matter of The Kansas Power and Light Company of )  
Topeka, Kansas, for authority to file a tariff reflect- )  
ing a change in rates for its Missouri customers to be )  
reviewed in its 1990-1991 Actual Cost Adjustment filing ) Case No. GR-91-149  
in accordance with the Purchased Gas Adjustment on file )  
for the company. )  
)

ORDER ADOPTING PROTECTIVE ORDER

On January 29, 1993, Western Resources, Inc., d/b/a Gas Service,  
A Western Resources Company (Gas Service), filed a Motion For Issuance Of A  
Protective Order in this case. Gas Service states that it understands that the  
Commission's Staff intends to include in its testimony certain confidential or  
proprietary information relating to issues in this proceeding. In order to allow  
the filing of such testimony and appropriately preserve the confidentiality of  
sensitive materials, Gas Service requests that the Commission issue a protective  
order in the form of its Attachment A and Appendices A and B to its Attachment A  
of its Motion. Gas Service states that the proposed protective order includes  
the one classification for "proprietary" information and does not utilize the  
two-tiered approach of designating sensitive material as either "highly confiden-  
tial" or "proprietary". Gas Service believes the one-tiered designation of  
sensitive material as "proprietary" will be sufficient in this proceeding to  
properly balance the various interests that are affected and expeditiously afford

access to such materials to interested parties. Gas Service states that the Staff does not oppose this motion.

After reviewing the Motion of Gas Service, the Commission is of the opinion that a protective order as requested is justified and will be authorized, and will adopt the protective order in the form of Attachment A, and Appendices A and B thereto, of Gas Service's Motion.

**IT IS THEREFORE ORDERED:**

1. That the Motion of Western Resources, Inc., d/b/a Gas Service, A Western Resources Company, for issuance of a protective order is hereby granted.

2. That the protective order with appendices attached hereto as Attachment A and incorporated herein by reference is hereby adopted for use in this case.

3. That this order shall become effective on the date hereof.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

McClure, Chm., Mueller, Rauch,  
Perkins and Kincheloe, CC., concur.

## PROTECTIVE ORDER

- A. The following definition shall apply to information which a party claims should not be made public.

PROPRIETARY: Confidential information concerning trade secrets, as well as confidential or private technical, financial and business information.

- B. During the course of discovery a party may designate information as PROPRIETARY (hereinafter, "designated information") and shall make such designated information available to the party seeking discovery, if such information is not objectionable on any other ground, under the restrictions set out in paragraph C. The party designating the information as PROPRIETARY shall provide to counsel for the requesting party, at the time the designation is made, the ground or grounds for the designation. The requesting party may then file a motion challenging the designation. The party designating the information confidential shall have five (5) days after the filing of the challenge to file a response. No other filings are authorized.

- C. Disclosure of PROPRIETARY information shall be made only to attorneys, and to such employees who are working as consultants to such attorney or intend to file testimony in these proceedings, or to persons designated by a party as outside experts. Employees to whom such disclosure is to be made must be identified to the other party by name, title and job classification prior to disclosure. Information designated as PROPRIETARY shall be served on the attorney(s) for the requesting party. On-premises inspection shall not be required for PROPRIETARY information, except in the case of voluminous documents (see paragraph J). Any employee of the party who wishes to review such PROPRIETARY materials shall first read this order and certify in writing that (s)he has reviewed same and consented to its terms.

The acknowledgement so executed shall contain the signatory's full name, permanent address, title or position, date signed, and an affirmation that the signer is acting on behalf of his/her employer. Such acknowledgement shall be delivered to counsel for the party furnishing the information or documents before disclosure is made.

- D. Attorneys, in-house experts or outside experts who have been provided access to material or information designated PROPRIETARY shall be subject to the nondisclosure requirements set forth in paragraphs C and R.
- E. If material or information to be disclosed in response to a data request contains material or information concerning another party which the other party has indicated is confidential, the furnishing party shall notify the other party of the intent to disclose the information. The other party may then choose to designate the material or information as PROPRIETARY under the provisions of this Protective Order.
- F. Any party may use material or information designated as PROPRIETARY in prefiled or oral testimony at hearing provided that confidentiality is maintained, unless otherwise ordered by the Commission. In filing testimony all parties shall designate as PROPRIETARY only those portions of their testimony which contain information so designated by the furnishing party. If any party plans to use information and testimony which has been obtained outside this proceeding, it must ascertain from the furnishing party if any of such information is claimed to be PROPRIETARY prior to filing.
- G. A party may designate prefiled or live testimony, or portions thereof, submitted in this case as PROPRIETARY (hereinafter, "designated testimony"). Prefiled testimony designated as PROPRIETARY shall be filed under seal and served upon all attorneys of record. Only those portions of the

prefiled testimony designated as PROPRIETARY should be filed under seal, and should be marked in a manner which clearly indicates which materials are considered PROPRIETARY.

- H. Within five (5) days of the filing of designated testimony, the party asserting the claim shall file with the Commission the specific ground or grounds for each claim. Such filing shall show the nature of the information sought to be protected and specifically state the alleged harm of disclosure. Such filing shall be filed under seal only if it contains PROPRIETARY information and shall be served upon all attorneys of record.
- I. Attorneys upon whom prefiled testimony designated PROPRIETARY has been served shall make such testimony available only to those persons authorized to review such testimony under the restrictions in Paragraph C.
- J. If a response to a discovery request requires the duplication of voluminous material or material not easily copied because of its binding or size, the furnishing party may require the voluminous material be reviewed on its own premises. Voluminous material shall mean a single document, book or paper which consists of more than 150 pages.
- K. Attorneys of record in this case shall require that the in-house or outside expert read this Protective Order and certify in a written nondisclosure agreement that the person has reviewed the Protective Order and consented to be bound by its terms. The nondisclosure agreement shall contain the signatory's full name, permanent address, employer and the name of the party with whom the signatory is associated. Such agreement shall be filed with the Commission. Attached hereto as Appendix "A" and incorporated by reference herein is a form for use in complying with the terms of this paragraph.

- L. In the event a witness discloses the contents of designated prefiled testimony in his or her own prefiled testimony, such testimony shall also be designated in the same manner as the designated prefiled testimony and handled in accordance with this order.
- M. Unless good cause is shown, challenges to the confidential nature of prefiled designated testimony shall be filed with the Commission no later than ten (10) days after the grounds supporting the designations are filed or at the hearing, whichever occurs first. The party making the designation shall have five (5) days to respond to the challenge or may respond at the hearing, whichever occurs first.
- N. The Commission or hearing examiner may rule on the challenge to the designations prior to the hearing, or at the hearings.
- O. In the event no party challenges prefiled designated testimony, or in the event the Commission or its hearing examiner rules that testimony was properly designated, then such testimony shall be received into evidence, subject to any other objections being made and ruled upon, and kept under seal.
- P. In addition, all live testimony, including cross-examination and oral argument which reveals the content of prefiled designated testimony or which is otherwise held to be confidential, including any argument as to whether certain testimony is properly designated, shall be made only after the hearing room is cleared of all persons besides the Commission, its hearing examiners, court reporters, attorneys of record and witnesses to whom the designated information is available pursuant to the terms of this Protective Order. The transcript of such live testimony or oral argument shall be kept under seal and copies shall only be provided to the Commission, its hearing examiners, and attorneys of record. Such attorneys

shall not disclose the contents of such transcripts to anyone other than those who may have access to the designated information under the terms of this Protective Order. Persons who have access to the designated information under the terms of this Protective Order shall treat the contents of such transcript as any other designated information under the terms of this Protective Order.

- Q. References to designated testimony, whether prefiled or live and transcribed, in any pleadings before the Commission, shall be by citation only and not by quotation. Subject to the jurisdiction of any reviewing court, references to designated testimony in pleadings or oral arguments made to such reviewing court shall also be by citation only.
- R. All persons who are afforded access to information under the terms of this Protective Order shall neither use nor disclose such information for purposes of business or competition or any other purpose other than the purpose of preparation for and conduct of this proceeding and then solely as contemplated herein, and shall keep the information secure and in accordance with the purposes and intent of this order.
- S. Subject to the jurisdiction of any reviewing court, designated testimony constituting part of the record before the Commission shall be delivered to any reviewing court under seal upon service of the appropriate writ of review.
- T. The Commission may modify this order on motion of a party or on its own motion upon reasonable notice to the parties and opportunity for hearing.
- U. Within ninety (90) days after the completion of this proceeding, including judicial review thereof, all designated information, testimony, exhibits, transcripts or briefs in the possession of any party other than Staff or the Public Counsel shall be returned to the party claiming a confidential

interest in such information and any notes pertaining to such information shall be destroyed.

- V. The provisions of paragraphs C, I and K of this Protective Order do not apply to Staff or Public Counsel. Staff and Public Counsel are subject to the nondisclosure provisions of Section 386.480, R.S.Mo. 1986. Staff and Public Counsel shall provide a list of the names of their employees who will have access to the designated information.
- W. Outside experts of Staff or Public Counsel who have been contracted to be witnesses in this proceeding shall have access to designated information and testimony on the same basis as Staff and Public Counsel except the outside expert shall read this order and sign the nondisclosure agreement attached as Appendix "A" hereto.
- X. Outside experts of Staff and Public Counsel who have not been contracted to be witnesses in this proceeding are subject to the provisions of this Protective Order.
- Y. Prefiled testimony and exhibits, whether filed or offered at the hearing, shall be prepared in the manner described in Appendix "B".

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

NONDISCLOSURE AGREEMENT

I, \_\_\_\_\_,  
have been presented a copy of this Protective Order issued in Case  
No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_,  
19\_\_\_\_.

I have requested review of the confidential information produced  
in Case No. \_\_\_\_\_ on behalf of \_\_\_\_\_  
\_\_\_\_\_.

I hereby certify that I have read the above-mentioned Protective  
Order and agree to abide by its terms and conditions.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Signature and Title

\_\_\_\_\_  
Employer

\_\_\_\_\_  
Party

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone

1. If prefiled testimony contains parts which are classified as PROPRIETARY, it shall be filed with the Commission's Executive Executive Secretary's Office as follows:

- A. An original plus eight (8) copies of prefiled testimony with the PROPRIETARY portions obliterated or removed shall be filed.
- B. One (1) copy of those pages which contain information which has been designated as PROPRIETARY shall be filed in a separate envelope. The portions which are PROPRIETARY shall be indicated as described in C, below.
- C. Six (6) copies of the complete prefiled testimony to be filed under seal for the Hearing Examiner and Commissioners. The PROPRIETARY pages shall be stamped "P" and the PROPRIETARY information indicated by two asterisks before and after the information, \*\*PROPRIETARY\*\*.

Any deviations from this format must be approved by the Hearing Examiner.

2. Three (3) copies of exhibits, whether testimony or other, shall be filed at the hearing with the information separated as described in 1.A and 1.B above with each copy of the PROPRIETARY portion placed into separate envelopes to be marked as Exhibit \_\_ and Exhibit \_\_P.